

The Honorable Jamal N. Whitehead
The Honorable Grady J. Leupold

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FERNANDO LEDESMA GONZALEZ,

Petitioner,

v.

CAMMILLA WAMSLEY, Seattle Field Office
Director of United States Immigration and
Customs Enforcement and Removal
Operations¹; TODD LYONS, Acting Director
of Immigration and Customs Enforcement;
KRISTI NOEM, Secretary of United States
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY, and; PAMELA BONDI, Attorney
General of the United States.

Respondents.

Case No. 2:25-cv-01404-JNW-GJL

FEDERAL RESPONDENTS' HABEAS
RETURN

Noted for Consideration:

October 6, 2025

Pursuant to this Court's Order (Dkt. 27), Federal Respondents submit the following
factual background as contained in the records of Petitioner Fernando Ledesma Gonzalez's
immigration case and as set forth in the Declaration of Supervisory Detention and Deportation
Officer Christopher Sica ("Sica Decl."), as well as the relevant detention authority. Federal
Respondents do not believe that an evidentiary hearing is necessary.

¹ Cammilla Wamsley is substituted for Drew Bostock pursuant to Fed. R. Civ. P. 25(d).

I. INTRODUCTION

To obtain habeas relief, Petitioner must demonstrate he is in custody in violation of the Constitution or the laws of the United States. 28 U.S.C. § 2241. Although the U.S. Department of Homeland Security (“DHS”) initially released Petitioner on his own recognizance when he was first apprehended, DHS recently revoked this release pursuant to 8 C.F.R. § 1236.1(c)(9) after an Immigration Judge (“IJ”) denied his application for asylum and ordered him removed. DHS then took Petitioner into custody.

II. STATEMENT OF FACTS

Petitioner is a native and citizen of Mexico who entered the United States in December 2017. Sica Decl., ¶¶ 4-5. DHS issued him a Notice to Appear on December 20, 2017, alleging he was subject to removal under INA § 212(a)(6)(A)(i) as a non-citizen present in the United States without being admitted or paroled. Sica Decl., ¶ 5; Strong Decl., Ex. A (Notice to Appear). DHS subsequently released Petitioner from custody on an Order of Release on Recognizance and instructed to report to an immigration office near his intended residence in Oregon. Sica Decl., ¶ 5; Strong Decl., Ex. B (Order of Release on Recognizance).

Petitioner’s mother subsequently applied for asylum, which an IJ denied on December 29, 2021, also ordering Petitioner removed to Mexico.² Sica Decl., ¶ 7. Petitioner appealed to the Board of Immigration Appeals (“BIA”), which remanded to the IJ. Sica Decl., ¶¶ 7-8. After remand, an IJ denied Petitioner’s asylum application on June 30, 2025, and ordered him removed to Mexico. Sica Decl., ¶ 9; Strong Decl., Ex. C (Order of the IJ). Petitioner appealed to the BIA on July 15, 2025. Sica Decl., ¶ 14. The matter remains pending before the BIA. Sica Decl., ¶ 14.

Petitioner checked in with the immigration office in Eugene, Oregon on July 1, 2025, in accordance with his conditions of release. Sica Decl., ¶ 10; Strong Decl., Ex. D (Record of

² Petitioner is a derivative beneficiary of his mother’s application. Strong Decl., Ex. C.

Deportable/Inadmissible Alien). Based on the IJ's order issued the day before,³ an officer at the Eugene ERO notified Petitioner that the agency had canceled his Order of Release on Recognizance and took him into custody. Sica Decl., ¶ 10; Strong Decl., Ex. D. ERO had determined Petitioner to be a flight risk after the IJ's removal order. Sica Decl., ¶ 10. That evening, ICE transferred him to the Northwest ICE Processing Center (NWIPC) because there was not an adequate facility for his continued detention in Eugene. Sica Decl., ¶¶ 11-12.

After being taken into custody and receiving formal notice of ERO's custody determination through service of the Form I-286, Petitioner indicated he was requesting an IJ review the custody determination made by ERO. Sica Decl., ¶ 13; Strong Decl., Ex. E (Notice of Custody Determination). The BIA will be provided notice of Petitioner's request for review. Sica Decl., ¶ 13. Petitioner has not otherwise requested a bond hearing before an IJ since arriving at the NWIPC. Sica Decl., ¶ 13.

Petitioner filed this habeas petition and a motion for temporary restraining order in the District of Oregon on July 2, 2025. Dkt. 1. The court later denied the TRO motion as moot. Dkt. 11. The court subsequently transferred this matter to the Western District of Washington. Dkts. 15, 20.

III. DETENTION AUTHORITIES

DHS detains Petitioner pursuant to either 8 U.S.C. § 1225 or 8 U.S.C. § 1226(a).

A. Detention Under 8 U.S.C. § 1225

Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure the Executive could "expedite removal of aliens lacking a legal basis to remain in the United States." *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Dep't of Homeland Sec. v. Thuraissigiam*,

³ While Petitioner is not subject to a final removal order now since he filed the BIA appeal, he was subject to the final order in the interim, including on July 1.

1 591 U.S. 103, 106 (2020) (“[Congress] crafted a system for weeding out patently meritless
2 claims and expeditiously removing the aliens making such claims from the country.”). Section
3 1225 applies to “applicants for admission” to the United States, who are defined as “alien[s]
4 present in the United States who [have] not been admitted” or noncitizens “who arrive[] in the
5 United States,” whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1). Applicants
6 for admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered
7 by § 1225(b)(2),” both of which are subject to mandatory detention. *Jennings v. Rodriguez*, 583
8 U.S. 281, 287 (2018) (“[R]ead most naturally, §§ 1225(b)(1) and (b)(2) mandate detention for
9 applicants for admission until certain proceedings have concluded.”).

10 Section 1225(b)(2) is the “broader” of the two provisions and “serves as a catchall
11 provision.” *Jennings*, 583 U.S. at 287. Under Section 1225(b)(2), a noncitizen “who is an
12 applicant for admission” is subject to mandatory detention pending full removal proceedings “if
13 the examining immigration officer determines that [the] alien seeking admission is not clearly
14 and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (requiring that such
15 noncitizens “be detained for a proceeding under section 1229a of this title”); *Matter of Q. Li*, 29
16 I&N Dec. 66, 68 (BIA 2025) (explaining that proceedings under section 1229a are “full removal
17 proceedings under section 240 of the INA”); *see also id.* (“[F]or aliens arriving in and seeking
18 admission into the United States who are placed directly in full removal proceedings, section
19 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention ‘until removal
20 proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299). Still, DHS has the sole
21 discretionary authority to temporarily release on parole “any alien applying for admission to the
22 United States” on a “case-by-case basis for urgent humanitarian reasons or significant public
23 benefit.” *Id.* § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

1 **B. Detention Under 8 U.S.C. § 1226(a)**

2 Section 1226(a) provides for the arrest and detention of noncitizens “pending a decision
3 on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Under
4 Section 1226(a), DHS may, in its discretion, detain a noncitizen during his removal proceedings,
5 release him on bond, or release him on conditional parole. By regulation, immigration officers
6 can release a noncitizen if he demonstrates that he “would not pose a danger to property or
7 persons” and “is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8). A noncitizen
8 can also request a custody redetermination (i.e., a bond hearing) by an immigration judge at any
9 time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1),
10 1236.1(d)(1), 1003.19. At a custody redetermination, the immigration judge may continue
11 detention or release the noncitizen on bond or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. §
12 1236.1(d)(1).

13 **IV. ARGUMENT**

14 **A. DHS relied on circumstances specific to Petitioner to decide to re-detain him**

15 Petitioner asserts DHS did not take into account his individualized circumstances when it
16 decided to re-detain him. Dkt. 1. DHS did consider a circumstance individual to Petitioner, *i.e.*,
17 that an IJ had denied his asylum application and ordered him removed. Sica Decl., ¶ 10; Strong
18 Decl., Ex. D. Petitioner recognizes this was a change in his circumstances, but alleges it is
19 insufficient to warrant re-detention. Dkt. 1, ¶ 6. Petitioner argues that DHS must make a finding
20 that he is a flight risk or danger to the community before it can decide to re-detain him. Dkt. 1,
21 ¶ 65. Here, the ERO determined that Petitioner was a flight risk based on the IJ’s order for
22 removal. Sica Decl., ¶ 10.

1 **B. Petitioner appealed his asylum application to the BIA, mooted that concern**

2 Petitioner claims “on information and belief” that Respondents “are using the
3 immigration detention system ... as a means to punish individuals for asserting rights under the
4 Refugee Act.” *Id.*, ¶ 50. Petitioner alleges he faces “severe obstacles to filing an appeal” of his
5 denied asylum application but does not specify what those obstacles are. *Id.*, ¶ 65. Petitioner’s
6 mother, however, leads the asylum application; he is a derivative beneficiary dependent on his
7 mother’s eligibility. Strong Decl., Ex. C, n. 1. Petitioner does not allege that his mother has been
8 detained or otherwise is unable to pursue an appeal to the BIA. Petitioner’s concerns should be
9 moot as an appeal to that order to the BIA was filed just two weeks after filing this habeas
10 petition. Sica Decl., ¶ 14.

11 **C. DHS has explained its decision to re-detain Petitioner**

12 Petitioner claims the revocation of his release was “arbitrary and capricious” because
13 there was no individual determination made. Dkt. 1, ¶ 58. DHS conducted an individual review
14 of Petitioner’s case, concluding he was a flight risk based on the IJ’s order of removal. Sica
15 Decl., ¶ 10. Although he has since appealed to the BIA, Petitioner was subject to that order in the
16 interim. Therefore, DHS made “a rational connection between the facts found and the choice
17 made,” as the APA requires. *Dep’t of Comm. v. New York*, 588 U.S. 752, 773 (2019) (quoting
18 *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43
19 (1983)).

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1 DATED this 8th day of September, 2025.

2 Respectfully submitted,

3 TEAL LUTHY MILLER
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5 s/ James C. Strong

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10 *Attorneys for Federal Respondents*

11 *I certify that this memorandum contains 1,595 words,*
12 *in compliance with the Local Civil Rules.*