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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

AVENDANO TORIBIO, ANDRES,

Petitioner,

v.

BRUCE SCOTT, Warden of the Northwest ICE
Processing Center;
ALEJANDRO MAYORKAS, Secretary of the
U.S. Department of Homeland Security

Respondents.

CIVIL ACTION NO. 2:25-CV-2540

**SECOND AMENDED PETITION
FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

I. INTRODUCTION

Petitioner brings this petition for a writ of habeas corpus to seek enforcement of their right as a member of the Bond Denial Class certified in *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. filed Mar. 20, 2025). Petitioner also requests that DHS/ICE not transfer him out of this jurisdiction without 48-hour notice to Petitioner and counsel.

On September 30, 2025, this Court issued a final judgment “declar[ing] that Bond Denial Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under 8 U.S.C. § 1225(b)(2).” *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC, --- F. Supp. 3d ----, 2025 WL 2782499, at *27 (W.D. Wash. Sept. 30, 2025).

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1 The Court further declared “that the Tacoma Immigration Court’s practice of denying
2 bond to Bond Denial Class members on the basis of § 1225(b)(2) violates the Immigration and
3 Nationality Act.” *Id.*

4 Petitioner is a member of the Bond Denial Class, as he:

5
6 (a) does not have lawful status in the United States and is currently detained at NWIPC
7 after being apprehended by DHS on or around November 12, 2025.

8 (b) last entered the United States without inspection more than twenty years ago and was
9 not apprehended upon arrival.

10 (c) is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

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12 On December 16, 2025 an IJ denied Petitioner’s bond request based on lack of
13 jurisdiction, finding that he is subject to mandatory detention under Matter of YAJURE
14 HURTADO, 29 I&N Dec. 216 (BIA 2025). The IJ ruled that, in the alternative, if mandatory
15 detention did not apply, the IJ would have set bond at \$7,500.

16 II. JURISDICTION & VENUE

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18 This Court has jurisdiction under 28 U.S.C. § 2241. Petitioner is currently detained at the
19 Northwest ICE Processing Center in Tacoma, Washington.

20 This Court has jurisdiction pursuant to 28 U.S.C. § 2241, 28 U.S.C. § 1331, and the Due
21 Process Clause of the Fifth Amendment to the United States Constitution.

22 Venue is proper in the Western District of Washington, Tacoma Division, because
23 Petitioner is physically detained within this District and his immediate custodian, the Warden of
24 the Northwest ICE Processing Center, resides here.
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III. PARTIES

Petitioner is a civil immigration detainee currently housed at the Northwest ICE Processing Center ("NWIPC") in Tacoma, Washington, within the jurisdiction of this Court. Respondent Bruce Scott is the Warden of the Northwest ICE Processing Center and Petitioner's immediate physical custodian. As the official with day-to-day authority over Petitioner's detention, Warden Scott is the primary and required Respondent under *Rumsfeld v. Padilla*, 542 U.S. 426 (2004).

Respondent Alejandro Mayorkas is the Secretary of the U.S. Department of Homeland Security, the federal agency responsible for overseeing immigration enforcement, detention, and removal operations nationwide. Secretary Mayorkas is a proper Respondent because DHS exercises legal authority over Petitioner's detention and has the power to direct or prevent Petitioner's transfer. The United States Attorney's Office for the Western District of Washington represents Secretary Mayorkas in this action.

IV. STATEMENT OF FACTS

Petitioner is a member of the "Bond Denial Class" certified in *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC.

Petitioner entered the U.S. without inspection on April 5, 2005 and has resided here since.

On December 16, 2025, an Immigration Judge ("IJ") in Tacoma found that Petitioner was mandatorily detained under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible for bond.

However, the IJ made an alternative bond finding, stating that if bond were available under § 1226(a), the IJ would set bond at \$7,500.

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V. CAUSE OF ACTION

Petitioner's detention under § 1225(b)(2)(A) is unlawful. As held in *Rodriguez Vazquez*, noncitizens apprehended in the interior United States are subject to the discretionary detention scheme of § 1226(a), not the mandatory detention of § 1225(b)(2)(A).

Continued detention despite the IJ's alternative finding of non-danger and non-flight-risk violates the Immigration and Nationality Act and the Due Process Clause.

VI. CLAIMS FOR RELIEF

Violation of the INA:

Request for Relief Pursuant to *Rodriguez Vazquez*

Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

As members of the Bond Denial Class, Petitioners are entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

The judgment in *Rodriguez Vazquez* makes clear that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

Respondents are parties to *Rodriguez Vazquez* and bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

By denying Petitioners a bond hearing under § 1226(a) and asserting that they are subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioners' rights under the INA and this Court's judgment in *Rodriguez Vazquez*.

VII. PRAYER FOR RELIEF

WHEREFORE, Petitioners pray that this Court grant the following relief:

WHEREFORE, Petitioner respectfully requests that this Court grant the Petition for Writ of Habeas Corpus and enter an order:

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1. assuming and retaining jurisdiction over this matter;
2. enjoining Respondents from transferring Petitioner outside the Western District of Washington or removing Petitioner from the United States **without a 48-hour notice** while his immigration proceedings are pending and until the relief ordered herein is effectuated;
3. issuing a writ of habeas corpus requiring Respondents to release Petitioner from custody within one (1) business day of the Court's order or within twenty-four (24) hours of the posting of the alternative bond amount of \$7,500 previously identified by the Immigration Judge in the alternative bond finding dated December 16, 2025, subject to any additional conditions set by the Immigration Judge;
4. prohibiting Respondents from re-detaining Petitioner based on the same statutory interpretation declared unlawful in *Rodriguez Vazquez v. Bostock*, including the interpretation that noncitizens apprehended in the interior are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A);
5. ordering Respondents, upon Petitioner's release, to promptly return all personal property, including personal identification documents (other than a passport) and employment authorization documents;
6. awarding Petitioner reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
7. granting such other and further relief as the Court deems just and proper.

VIII. SIGNATURE AND CERTIFICATION

The undersigned counsel certifies that she represents Petitioner and that this Petition is filed on the Petitioner's behalf pursuant to 28 U.S.C. § 2241.

1 Respectfully submitted this 18th day of December 2025.

2 /s/Vicky J Currie

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4 Vicky J Currie, WSBA #24192
5 Attorney for Petitioners
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CERTIFICATE OF SERVICE

I, Vicky J Currie, certify that on this 18th day of December, 2025, I served true and correct copies of the **SECOND AMENDED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**, together with all supporting exhibits, to be served upon the following Respondents by **electronic service** as permitted:

BRUCE SCOTT

Warden, Northwest ICE Processing Center
1623 East J Street
Tacoma, WA 98421

ALEJANDRO MAYORKAS

Secretary, U.S. Department of Homeland Security
245 Murray Lane SW
Washington, DC 20528

US ATTORNEY HABEAS

Email: usawaw.Habeas@usdoj.gov

Attorney for Respondents Bruce Scott and Alejandro Mayorkas

KATHERINE COLLINS

Assistant United States Attorney
United States Attorney's Office – Western District of Washington
700 Stewart Street STE 5220
Seattle, WA 98101
206.553.4356
katherine.collins@usdoj.gov

Attorney for Respondent Alejandro Mayorkas

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this 18th day of December 2025.

/s/Vicky J Currie

Vicky J Currie, WSBA #24192
Attorney for Petitioners