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

ABURTO Lopez, Fernando,

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-02541-RSM

REPLY TO RESPONDENTS' RESPONSE
TO PETITION FOR WRIT OF HABEAS
CORPUS

I. INTRODUCTION

Petitioner respectfully submits this Reply to Respondents' Response to the Petition for Writ of Habeas Corpus. On January 7, 2026 an Immigration Judge conducted a custody hearing and stated that he lacked jurisdiction to consider bond based on DHS's asserted detention authority. As a result, Petitioner has not received a custody determination under the correct statutory framework.

Petitioner files this Reply promptly following the custody hearing and before this Court has ruled. As explained below, the Immigration Judge's lack-of-jurisdiction ruling underscores

REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS - 1

1 the statutory error at the heart of this habeas petition and confirms that Petitioner's continued
2 detention is unlawful.

3
4 Petitioner does not rely on any alternative or hypothetical custody findings referenced by
5 the Immigration Judge. The relevant and dispositive fact for purposes of this habeas petition is
6 that DHS's statutory position deprived Petitioner of a lawful custody determination under 8
7 U.S.C. § 1226(a).

8 **II. RESPONDENTS' ARGUMENT THAT THE PETITION IS DEFICIENT FAILS**
9 **UNDER CONTROLLING LAW**

10 Respondents argue that the Petition must be denied because Petitioner allegedly failed to
11 establish unlawful detention. That argument fails under controlling authority.

12
13 In *Rodriguez Vazquez v. Bostock*, this Court issued a final judgment declaring that Bond
14 Denial Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory
15 detention under 8 U.S.C. § 1225(b)(2). No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *27
16 (W.D. Wash. Sept. 30, 2025). The Court further held that the Tacoma Immigration Court's
17 practice of denying bond based on § 1225(b)(2) violates the Immigration and Nationality Act. *Id.*

18
19 Respondents are parties to *Rodriguez Vazquez* and are bound by that judgment, which has
20 the full force and effect of a final judgment. 28 U.S.C. § 2201(a). Continued detention under §
21 1225(b)(2) is therefore unlawful as a matter of law.

22 **III. THE IMMIGRATION JUDGE'S LACK-OF-JURISDICTION RULING CONFIRMS**
23 **THE UNLAWFUL DETENTION FRAMEWORK**

24 At the custody hearing, the Immigration Judge expressly stated that he lacked jurisdiction
25 to consider bond under DHS's asserted detention framework. That ruling flowed directly from
26 DHS's continued reliance on § 1225(b)(2), the very statutory interpretation this Court rejected in
27 *Rodriguez Vazquez*.
28

1 Because Petitioner has not yet received a custody determination under 8 U.S.C. §
2 1226(a), continued detention rests on an unlawful statutory framework and violates the
3 Immigration and Nationality Act. Habeas relief is appropriate where detention is based on an
4 incorrect interpretation of governing law. *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001); *Ex parte*
5 *Endo*, 323 U.S. 283, 304 (1944).
6

7 **IV. PETITIONER HAS MET THEIR BURDEN UNDER 28 U.S.C. § 2241**

8 To obtain habeas relief, a petitioner must show that they are “in custody in violation of
9 the Constitution or laws of the United States.” 28 U.S.C. § 2241(c)(3). Petitioner meets that
10 burden here because Respondents continue to detain him under a statutory interpretation declared
11 unlawful by this Court, while simultaneously preventing him from obtaining a lawful custody
12 determination under § 1226(a).
13

14 Where detention exceeds statutory authority or rests on an unlawful legal framework,
15 habeas relief is warranted. *Zadvydas*, 533 U.S. at 688; *Endo*, 323 U.S. at 304.
16

17 **V. CONCLUSION**

18 Because Petitioner is detained under a statutory interpretation rejected by this Court, and
19 because DHS’s position has prevented a lawful custody determination under 8 U.S.C. § 1226(a),
20 Petitioner’s continued detention violates the Immigration and Nationality Act and the Due
21 Process Clause.
22

23 Petitioner respectfully requests that the Court grant the Petition for Writ of Habeas
24 Corpus, declare that Petitioner is detained under § 1226(a), prohibit continued reliance on §
25 1225(b)(2), and order Respondents to provide a custody determination consistent with this
26 Court’s judgment in *Rodriguez Vazquez v. Bostock*, together with such other and further relief as
27 the Court deems just and proper.
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1 Respectfully submitted this 7th day of January 2026.

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3 /s/Vicky J Currie

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5 Vicky J Currie, WSBA #24192
6 Attorney for Petitioner
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CERTIFICATE OF SERVICE

I, Vicky J Currie, certify that on this 7th day of January, 2026, I served true and correct copies of the REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS, upon the following Respondents by electronic service as permitted:

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

DATED this 7th day of January 2026.

/s/Vicky J Currie

Vicky J Currie, WSBA #24192
Attorney for Petitioner