

Judge Cartwright

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

GERARDO CASTRO HERNANDEZ,

Petitioners,

v.

LAURA HERMOSILLO, Seattle Acting Field
Office Director, Enforcement and Removal
Operations, United States Immigration and
Customs Enforcement (ICE); KRISTI NOEM,
Secretary, U.S. Department of Homeland
Security; PAMELA BONDI, U.S. Attorney
General; TODD LYONS, Acting Director of
ICE; BRUCE SCOTT, Warden, Northwest
Detention Center¹; U.S. Department of
Homeland Security,

Respondents.

Case No. C25-2645-TMC

**FEDERAL RESPONDENTS'
RETURN MEMORANDUM**

Noted for Consideration:
January 12, 2026

Petitioners seek habeas relief from their mandatory immigration detention.

U.S. Immigration and Customs Enforcement (ICE) detains them pursuant to 8 U.S.C. § 1225(b).

Federal Respondents acknowledge that in *Rodriguez Vazquez v. Bostock*, this Court granted
summary judgment and found that detention pursuant to 8 U.S.C. § 1225(b)(2) of the Bond

¹ Bruce Scott is not a federal employee and is not represented by the undersigned in these proceedings. All other respondents, which are represented by the undersigned, are referred to as "Federal Respondents."

1 Denial Class is unlawful. *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL
2 2782499 (W.D. Wash. Sep. 30, 2025). That decision is presently on appeal. *Rodriguez Vazquez*
3 *v. Bostock*, No. 3:25-cv-05240-TMC, Dkt. # 71. Additionally, in *Maldonado Bautista v.*
4 *Santacruz*, the district court found the same and extended declaratory relief to a similarly defined
5 and certified nationwide Bond Eligible Class. *See Maldonado Bautista v. Santacruz*, No. 5:25-
6 CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025).

7 A. 8 U.S.C. § 1225(b)

8 While acknowledging the decisions in *Rodriguez Vazquez* and *Maldonado*, Federal
9 Respondents continue to believe Petitioners are subject to mandatory detention pursuant to
10 8 U.S.C. § 1225(b). *See Vargas Lopez v. Trump*, ___ F. Supp. 3d ___, 2025 WL 2780351
11 (D. Neb. Sep. 30, 2025) (holding petitioner detained under 8 U.S.C. § 1225(b)(2)); *Sixtos Chavez*
12 *v. Noem*, ___ F. Supp. 3d ___, 2025 WL 2730228 (S.D. Cal. Sep. 24, 2025) (same).

13 Noncitizens who are apprehended shortly after illegally crossing the border and who are
14 determined to be inadmissible due to lacking a visa or valid entry documentation, 8 U.S.C.
15 § 1182(a)(7)(A), may be removed pursuant to an expedited removal order unless they express an
16 intention to apply for asylum or a fear of persecution in their home country. 8 U.S.C.
17 §§ 1225(b)(1)(A)(i), (iii)(II). “The purpose of these provisions is to expedite the removal from
18 the United States of aliens who indisputably have no authorization to be admitted to the United
19 States, while providing an opportunity for such an alien who claims asylum to have the merits of
20 his or her claim promptly assessed by officers with full professional training in adjudicating
21 asylum claims.” H.R. Conf. Rep. No. 828, 104th Cong., 2d Sess. 209 (1996).

22 Applicants for admission fall into one of two categories. Section 1225(b)(1) covers
23 noncitizens initially determined to be inadmissible due to fraud, misrepresentation, or lack of
24 valid documentation, and certain other noncitizens designated by the Attorney General in her

1 discretion. Separately, Section 1225(b)(2) serves as a catchall provision that applies to all
 2 applicants for admission not covered by Section 1225(b)(1) (with specific exceptions not
 3 relevant here). *See Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

4 Congress has determined that all noncitizens subject to Section 1225(b) are subject to
 5 mandatory detention. Regardless of whether a noncitizen falls under Section 1225(b)(1) or
 6 (b)(2), the sole means of release is “temporary parole from § 1225(b) detention ‘for urgent
 7 humanitarian reasons or significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583 U.S. at 283.
 8 Further, several provisions at 8 U.S.C. § 1252 preclude review. First, 8 U.S.C. § 1252(g) bars
 9 review of Petitioners’ claims because they arise from the government’s decision to commence
 10 removal proceedings. Second, 8 U.S.C. § 1252(b)(9) bars the Court from hearing Petitioners’
 11 claims because his claims challenge the decisions and actions to detain him, which arises from
 12 the government’s decision to commence removal proceedings, thus an “action taken . . . to
 13 remove an alien from the United States.” Third and lastly, 8 U.S.C. § 1252(e)(3) applies and
 14 limits “[j]udicial review of determinations under section 1225(b) of this title and its
 15 implementation.” The plain language of the statute precludes judicial review for noncitizens
 16 determined to be detained pursuant to Section 1225(b)(2) and applies to a “determination under
 17 section 1225(b)” and to its implementation.

18 B. *Rodriguez Vazquez* Bond Denial *Maldonado Bautista* Bond Eligible Class
 19 Membership

20 Through this habeas action, Petitioner seeks relief as a member of the *Rodriguez Vazquez*
 21 Bond Denial and *Maldonado Bautista* Bond Eligible Classes. Again, Federal Respondents do
 22 not agree with the *Rodriguez Vazquez* or the *Maldonado Bautista* decisions. Alternatively, they
 23 do not oppose Petitioner being considered members of the *Rodriguez Vazquez* Bond Denial Class
 24 or the *Maldonado Bautista* Bond Eligible Class for purposes of this litigation.

1 **CONCLUSION**

2 If the Court were to grant the habeas, the appropriate relief is not release. Rather, this
3 Court should order the Immigration Judge to provide Petitioner a bond hearing pursuant to
4 8 U.S.C. §1226(a), consistent with the Court's judgement in *Rodriguez Vasquez*, 2025 WL
5 2782499, at *27, and *Maldonado Bautista*, 2025 WL 3678485.

6 **CERTIFICATION**

7 I certify that this memorandum contains 721 words in compliance with Local Civil Rule
8 LCR 7(e)(3).

9 DATED this 5th day of January, 2026.

10 Respectfully submitted,

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12 United States Attorney

13 s/ Brian C. Kipnis

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