District Judge Tiffany M. Cartwright

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

CHRISTIAN JOSSUE MARTEO LOPEZ, Petitioner, v. WARDEN NORTHWEST ICE PROCESSING CENTER, Respondent.	Case No. 2:26-cv-00874-TMC INTERESTED NON-PARTY UNITED STATES'[1] RETURN MEMORANDUM Noted for Consideration: April 6, 2026

I. INTRODUCTION

U.S. Immigration and Customs Enforcement ("ICE") detains Petitioner Marteo Lopez at the Northwest ICE Processing Center pursuant to 8 U.S.C. § 1225(b).

In 2016, Petitioner entered the United States without being admitted or inspected, shortly prior to being encountered by U.S. Border Patrol ("USBP"). He was 16 years old at the time. He was released to his uncle. Although he was issued a notice to appear, this was not filed with the immigration court.

[1] For the purposes of this habeas brief, "Interested Non-Party" refers to the United States of America on behalf of U.S. Immigration and Customs Enforcement Acting Seattle Field Office Director Julio Hernandez; U.S. Department of Homeland Security ("DHS") Secretary Markwayne Mullin; DHS; and U.S. Attorney General Pamela Bondi. Respondent Bruce Scott is not represented by undersigned counsel.

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Petitioner was detained by immigration authorities in Florida on May 15, 2025, after he finished a 14-day sentence for a driving under the influence ("DUI") conviction. Petitioner was placed in immigration proceedings for the first time. Petitioner received a bond hearing before an immigration judge, where he was found to be a danger and flight risk. Petitioner's immigration hearing on his applications for relief is scheduled for March 31, 2026.

Petitioner asserts that he has been detained for nine months with the immigration judge telling him "I have to wait for my residency to be approved." Petition, Dkt. 1 ("Pet."), pg. 2. Petitioner requests release on bail. *Id.* Petitioner is awaiting approval of an application for lawful permanent residence. *Id.* at 7.

II. BACKGROUND

A. Petitioner Christian Marteo Lopez (aka Marteo Lopez)

On or about December 6, 2016, Petitioner was encountered by USBP shortly after he entered the United States. Declaration of Jordan Steveson ("Steveson Decl."), Exh. A, 2016 I-213.[2] Petitioner was 16 years old at the time and unaccompanied by any family member. *Id.*

Petitioner was issued a notice to appear, charging removal pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). Declaration of Deportation Officer Adrian Leyba ("Leyba Decl."), ¶ 3. However, this was not filed with the immigration court, another notice to appear was subsequently issued and filed in 2025. Steveson Decl., Exh. B, Notice to Appear. On January 21, 2017, Petitioner was released to his uncle on OREC. Leyba Decl., ¶ 4.

On April 18, 2018, Petitioner filed an application with U.S. Citizenship and Immigration Services ("USCIS") for special immigrant juvenile, which was approved on August 17, 2019.

[2] The undersigned does not have a scan of the A-file and has not reviewed the A-file.

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Leyba Decl., ¶ 5. On May 24, 2021, Petitioner filed an application to adjust his status to a lawful permanent resident with USCIS. Leyba Decl., ¶ 7.

Petitioner has repeated violated the law while in the United States. On February 28, 2019, Petitioner was convicted of operating a motor vehicle without a valid license in Bay County, Florida. Leyba Decl., ¶ 6; Steveson Decl., Exh. C, 2025 I-213. On July 29, 2021, Petitioner was charged with failure to appear. *Id.* On July 20, 2022, Petitioner was convicted of hit and run in Panama City, Florida. *Id.* On May 7, 2025, Petitioner was convicted in the Northern District of Florida of DUI and sentenced to 14 days jail. Leyba Decl., ¶ 8; Steveson Decl., Exh. C, 2025 I-213.

On May 22, 2025, following his most recent criminal conviction, ICE took Petitioner into custody upon his release from the Santa Rosa County Florida Jail. Leyba Decl., ¶ 9; Steveson Decl., Exh. C, 2025 I-213. On June 1, 2025, Petitioner was transferred to the Northwest ICE Processing Center ("NWIPC") in Tacoma, Washington. Leyba Decl., ¶ 9. Petitioner is charged with removal pursuant to 8 U.S.C. § 1182(a)(6)(A)(i).

On August 28, 2025, an immigration judge held a bond hearing. Steveson Decl., Exh. D, Bond Order; Leyba Decl., ¶ 10. The immigration judge found that Petitioner is subject to mandatory detention pursuant to 8 U.S.C. §§ 1225(b)(1), (b)(2)(A) and in the alternative, Petitioner is a danger and flight risk. *Id.*

On February 17, 2026, USCIS administratively closed Petitioner application for lawful permanent residence, instructing Petitioner to pursue his claims in immigration court. Steveson Decl., Exh. E, USCIS Closure. Petitioner's immigration hearing on his application for relief is scheduled for March 31, 2026.

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B. Detention Authority

Petitioner is an applicant for admission. ICE detains Petitioner pursuant to 8 U.S.C. § 1225(b)(2)(A). *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 498 (5th Cir. 2026) (affirming the government's position that aliens who have not been admitted or are not entitled to be admitted to the United States are "applicants for admission" who are subject to mandatory detention under Section 1225(b)(2)(A)). Section 1225 applies to "applicants for admission" to the United States, who are defined as "alien[s] present in the United States who [have] not been admitted" or noncitizens "who arrive[ ] in the United States," whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1).

As the Fifth Circuit recently found, aliens who are present without admission in the United States are "applicants for admission" as defined in Section 1225(a)(1). *Buenrostro-Mendez*, 166 F.4th at 502. The court clarified that an "applicant for admission" is a person "seeking admission" regardless of whether that person is actively engaged in admissions procedures when detained. *Id.*, at 502-06. The Eighth Circuit has agreed that the two terms are the same. *Avila v. Bondi*, No. 25-3248, 2026 WL 819258, at *3 (8th Cir. Mar. 25, 2026) ("[W]hile an alien remains an 'applicant for admission' so long as he is 'present in the United States [and] has not been admitted,' 8 U.S.C. § 1225(a)(1), he is also 'presently seeking admission' during this time, regardless of whether he takes "any further affirmative steps to gain admittance,' *Buenrostro-Mendez*, 166 F.4th at 402.").

The sole means of release from detention pursuant to Section 1225(b) is temporary parole "'for urgent humanitarian reasons or significant public benefit,' § 1182(d)(5)(A)." *Jennings v. Rodriguez*, 583 U.S. 281, 283 (2018). This parole terminates automatically at the expiration of the time for which parole was authorized, or upon service of a charging document for either expedited removal proceedings under Section 1225(b) or removal proceedings under Section

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1229a. 8 C.F.R. §§ 212.5(e)(1); (2)(i). Upon termination of parole, the applicant reverts to the status that he or she had at the time of parole. *See id.*

On July 8, 2025, DHS issued a memorandum to ICE employees explaining that DHS had revisited its legal position on detention and release authorities. *Rodriguez Vasquez v. Bostock*, 802 F. Supp. 3d 1297, 1308 (W.D. Wash. 2025). The memorandum defined an "applicant for admission" as "an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival." *Id.* (citing 8 U.S.C. § 1225(a)(1)). Prior to July 2025, DHS allowed discretionary releases of aliens that fit the definition of an applicant for admission pursuant to 8 C.F.R. § 1236.1(c)(8), instead of only utilizing parole, like what occurred here. But the memorandum clarified, "Effective immediately, it is the position of DHS that such aliens are subject to detention under [8 U.S.C. § 1225(b)] and may not be released from ICE custody except by [8 U.S.C. § 1182(d)(5)]." *Rodriguez Vasquez*, 802 F. Supp. 3d at 1308.

DHS's prior practice of OREC releases for applicants for admission does not mean that those aliens are no longer applicants for admissions. *Buenrostro-Mendez v. Bondi*, 166 F.4th at 506 ("While that is true, the government's past practice has little to do with the statute's text. The text says what it says, regardless of the decisions of prior Administrations. Years of consistent practice cannot vindicate an interpretation that is inconsistent with a statute's plain text."); *Avila*, 2026 WL 819258, at *5 ("[N]either *Jennings* nor the Government's history of enforcing § 1225 confines the Government's authority to detain aliens under § 1225(b)(2)(A) to the border.").

III. LEGAL STANDARD

"The district courts of the United States … are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute." *Exxon Mobil Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). "[T]he scope of habeas has been

tightly regulated by statute, from the Judiciary Act of 1789 to the present day." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020). Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions. To warrant a grant of habeas corpus, the burden is on the petitioner to prove that his or her custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

IV. ARGUMENT

Petitioner is not entitled to release. The government asserts that Petitioner is mandatorily detained pursuant to 8 U.S.C. § 1225(b)(2)(A). *Buenrostro-Mendez v. Bondi*, 166 F.4th at 506-508; *Avila v. Bondi,* 2026 WL 819258 at *3. The government is aware that courts in this district have found that individuals in similar situations to Petitioner are subject to Section 1226(a), not Section 1225(b). *See e.g., Herrera Gomez v. Wamsley,* No. 2:25-CV-02642-JNW, 2026 WL 279966, at *2 (W.D. Wash. Feb. 3, 2026). The government respectfully disagrees. Even if this Court were to find that Petitioner's detention is governed by Section 1226(a), his detention is lawful as an immigration judge has issued an alternate bond order finding him to be a flight risk and a danger to the community. Steveson Decl., Ex. D; *see Rivera Hernandez v. Hermosillo*, No. 2:26-cv-00341-TMC, 2026 WL 295709, at *2 (W.D. Wash. Feb. 4, 2026) (finding the alternate finding to be a separate basis of legality for the petitioner's custody).

The government asserts that due process does not compel Petitioner's release due to the circumstances of this case. "Due process is flexible and calls for such procedural protections as the particular situation demands." *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). *Mathews* calls for an analysis of (1) "the private interest that will be affected by the official action," (2) "the risk of an erroneous deprivation of such interest through the procedures used, and probable value, if

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any, of additional or substitute procedural safeguards," and (3) the Government's interest. *Id.*, at 334-35. Due process does not mandate a pre-detention hearing here.

As to the first *Mathews* factor, the government recognize the "weighty liberty interests implicated by the Government's detention of noncitizens." *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at *11 (S.D.N.Y. Aug. 20, 2021). But while many courts have recognized that noncitizens released from immigration detention have a protected liberty interest in remaining out of custody, the weight of that liberty must be considered in the broader picture of the immigration system, which has long acknowledged that an alien has a lesser liberty interest than a citizen. After all, "[t]he recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme Court has 'firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens.'" *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)). As the Supreme Court has explained, "[i]n the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens." *Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976). Indeed, the Supreme Court has repeatedly "recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process." *Demore*, 538 U.S. at 523. The Government recognizes that Petitioner has an interest in concluding his immigration proceedings prior to any removal from the United States and once released, he had some liberty interest.

Turning to the second *Mathews* factor, the risk of a constitutionally significant and erroneous deprivation of Petitioner's liberty is minimal here. Petitioner accrued multiple criminal convictions and arrests since his release. Petitioner was picked up from a jail facility after finishing a sentence on his most recent criminal conviction. Furthermore, Petitioner had a bond

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hearing before an immigration judge. The immigration judge made an alternative finding that Petitioner is a danger and a flight risk.

Regarding the third *Mathews* factor, the Ninth Circuit has emphasized that the *Mathews* test and procedural safeguards "must account for the heightened government interest in the immigration detention context." *Rodriguez Diaz*, 53 F.4th at 1206. Invoking the Supreme Court's 2003 *Demore* decision, the Ninth Circuit in *Rodriguez Diaz* recognized that "the government clearly has a strong interest in preventing aliens from 'remain[ing] in the United States in violation of our law.'" *Rodriguez Diaz*, 53 F.4th at 1208 (quoting *Demore*, 538 U.S. at 518). "This is especially true when it comes to determining whether removable aliens must be released on bond during the pendency of removal proceedings." *Rodriguez Diaz*, 53 F.4th at 1208.

The government recognizes that it has taken longer than normal for Petitioner to have his hearing before an immigration judge. However, Petitioner has shown disregard for following state criminal laws which are putting the public at risk. The government has a great interest in ensuring that Petitioner is detained while his applications for relief are considered, even if it takes some time.

Accordingly, Petitioner this Court should deny his request for release from immigration custody.

V. CONCLUSION

For the foregoing reasons, this Court should deny the Petition.

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DATED this 30th day of March, 2026.

Respectfully submitted,

s/ Jordan C. Steveson

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I certify that this memorandum contains 2,152 words, in compliance with Local Civil Rules

CERTIFICATE OF SERVICE

I hereby certify that I am an employee in the Office of the United States Attorney for the Western District of Washington and of such age and discretion as to be competent to serve papers;

I further certify that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to the following CM/ECF participant(s):

- 0 -

I further certify that on this date, I arranged for service of the foregoing on the following non-CM/ECF participant, via Certified Mail, return receipt requested, postage prepaid, addressed as follows:

Christian Jossue Marteo Lopez, *Pro Se Petitioner*
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DATED this 30th day of March, 2026.

s/ Katie Reed-Johnson
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