District Judge Tiffany M. Cartwright

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

PEDRO ZAMORA-CERVANTES, *et al.*, Petitioners, v. JULIO HERNANDEZ, *et al.*, Respondents.	Case No. 2:26-cv-02540-TMC FEDERAL RESPONDENTS' RETURN MEMORANDUM Noted for Consideration: July 23, 2026

U.S. Immigration and Customs Enforcement ("ICE") detains Petitioners pursuant to 8 U.S.C. § 1225(b). Petitioners challenge their mandatory detention as unlawful and "seek enforcement of their rights as members of the Bond Denial Class certified in *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC (W.D. Wash. filed Mar. 20, 2025)." Pet., ¶ 1. As described below, Federal Respondents agree that Petitioners fall within the Bond Denial Class definition.[1]

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[1] "Bond Denial Class: All noncitizens without lawful status detained at the Northwest ICE Processing Center who (1) have entered or will enter the United States without inspection, (2) are not apprehended upon arrival, (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the noncitizen is scheduled for or requests a bond hearing." *Rodriguez Vasquez v. Bostock*, 802 F. Supp. 3d 1297, 1309 (W.D. Wash. 2025).

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A. 8 U.S.C. § 1225(b)

Federal Respondents' position is that Petitioners are mandatorily detained 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)). Applicants for admission fall into one of two categories. Section 1225(b)(1) covers noncitizens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation, and certain other noncitizens designated by the Attorney General in her discretion. Separately, Section 1225(b)(2) serves as a catchall provision that applies to all applicants for admission not covered by Section 1225(b)(1) (with specific exceptions not relevant here). *See Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Congress has determined that all noncitizens subject to Section 1225(b) are subject to mandatory detention. Regardless of whether a noncitizen falls under Section 1225(b)(1) or (b)(2), the sole means of release is "temporary parole from § 1225(b) detention 'for urgent humanitarian reasons or significant public benefit,' § 1182(d)(5)(A)." *Jennings,* 583 U.S. at 283.

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 Denial Class is unlawful. *Rodriguez v. Bostock*, 802 F. Supp. 3d 1297, 1336 (W.D. Wash. 2025). That decision is presently on appeal. *Rodriguez Vazquez v. Bostock*, No. 25-6842 (9th Cir.).

Respectfully, Federal Respondents do not agree with the *Rodriguez Vazquez* decision. As the Fifth and Eighth Circuits 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; *Avila v. Bondi*, 170 F.4th 1128, 1135-36 (8th Cir. 2026). These

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decisions held that an "applicant for admission" is a person "seeking admission" regardless of whether that person is actively engaged in admissions procedures when detained. *Buenrostro-Mendez*, 166 F.4th at 502-06. The Supreme Court's interchangeable use of "applicant for admission" and applicant or alien "seeking admission" in a recent decision further supports the Government's interpretation. *Compare Blanche v. Lau*, No. 25-429, 2026 WL 1791339, at *4 (U.S. June 23, 2026) ("At step one, the Government properly regarded him as an alien seeking admission . . ."); *with id.*, at *5 ("But, it nowhere says that the Government has the burden to establish by clear and convincing evidence that the alien is an applicant for admission"); *see id.*, at *4 ("The Government correctly regarded Lau as an applicant for admission"); *accord id.*, at *3 ("the officer did not regard Lau as already admitted, but instead as an applicant seeking admission"); *see also Mullin v. Al Otro Lado*, No. 25-5, 2026 WL 1825741, at *3 (U.S. June 25, 2026) (using the phrase "seeking admission" to characterize all applicants for admission).

Although other circuits have reached contrary conclusions, *see Barbosa da Cunha v. Freden*, 175 F.4th 61 (2d Cir. 2026); *Castañon-Nava v. U.S. Dep't of Homeland Sec.*, 175 F.4th 828 (7th Cir. 2026); *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami*, 175 F.4th 1258 (11th Cir. 2026); *Lopez-Campos v. Raycraft*, 175 F.4th 713 (6th Cir. 2026); *Santillan Quiroz v. Mullin*, No. 26-6019, 2026 WL 1876709 (10th Cir. June 30, 2026), Federal Respondents respectfully maintain that the better reading of the statute supports mandatory detention under 8 U.S.C. § 1225(b)(2) for inadmissible aliens present without admission or parole.

While Federal Respondents do not concede that *Rodriguez Vasquez* was correctly decided, Federal Respondents do not oppose Petitioners being considered members of the *Rodriguez Vazquez* Bond Denial Class for purposes of this litigation.

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B. Petitioners[2] Zamora-Cervantes, Vasquez-Sanchez, Ballard-Soto, Torres-Montes, Juarez Serrano, Morales-Urieta, Montez Jimenez, Godinez Godinez, Estrada-Lopez, Cruz Medina, Chavero Corona, and Calmo-Ramirez

Petitioners are Bond Denial Class members and have not yet had bond determination hearings where an immigration judge has issued bond decisions on the merits. If this Court were to grant the habeas petition, the appropriate relief would not be release from detention. Rather, this Court should order the immigration court to provide Petitioners with bond hearings pursuant to 8 U.S.C. § 1226(a), consistent with the district court's decision in *Rodriguez Vasquez. Castulo-Cerro v. Hermosillo*, No. 2:26-CV-00437-TMC, 2026 WL 395324, at *3 (W.D. Wash. Feb. 12, 2026) (ordering Section 1226(a) bond hearings for Bond Denial Class petitioners who have not yet had bond hearings).

DATED this 22nd day of July, 2026.

Respectfully submitted,

s/ Michelle R. Lambert

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I certify that this memorandum contains 915 words, in compliance with Local Civil Rules

[2] Petitioners Mario Martinez Alcaraz and Jaime Cortes Cortes have both been granted voluntary departure and waived appeal of the orders. Petitioners' counsel Leila Kang has informed undersigned counsel that these Petitioners will be dismissed from this litigation.