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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GOMEZ-ORTIZ, MARCO ANTONIO Petitioner, v. BRUCE SCOTT, Warden of the Northwest ICE Processing Center; MARKWAYNE MULLIN, Secretary of the U.S. Department of Homeland Security Respondents.	CIVIL ACTION NO. 2:26-cv-02637 **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**

I. INTRODUCTION

COMES NOW, Petitioner Marco Antonio Gomez-Ortiz ("Petitioner") by and through undersigned counsel and brings this Petition for a Writ of Habeas Corpus before the Honorable Court to challenge his ongoing civil immigration detention, which is based on a legal framework this Court has already rejected.

Petitioner is 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), where this Court held that individuals like Petitioner are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Despite that binding authority, Petitioner has

been denied a meaningful bond hearing based on the same improper statutory classification that this Court has already declared unlawful. As a result, Petitioner remains detained without any individualized determination of whether he poses a danger to the community or a flight risk.

Because Petitioner's detention rests on a legal error already identified by this Court, and because he has been denied any meaningful custody review, his continued detention is unlawful and this Honorable Court should grant this petition and order his immediate release.

II. JURISDICTION AND VENUE

This Court has jurisdiction pursuant to 28 U.S.C. § 2241 because Petitioner is in custody under the authority of the United States and challenges the legality of that custody. Jurisdiction is also proper under 28 U.S.C. § 1331 and the Due Process Clause of the Fifth Amendment.

Venue lies in the Western District of Washington because Petitioner is detained at the Northwest ICE Processing Center in Tacoma, Washington.

III. PARTIES

Petitioner is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Northwest ICE Processing Center. Respondent Bruce Scott is the Warden of NWIPC and Petitioner's immediate physical custodian. He is the proper respondent under *Rumsfeld v. Padilla*, 542 U.S. 426 (2004). Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security.

IV. LEGAL STANDARD

The writ of habeas corpus permits individuals to challenge unlawful executive detention. 28 U.S.C. § 2241(c)(3). Federal courts retain jurisdiction to review the legality of immigration detention and to order release where that detention violates the Constitution or laws of the United States. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

Although immigration detention is civil in nature, it is subject to constitutional limitations. Detention must bear a reasonable relationship to its statutory purpose and may not become arbitrary or punitive. *Id.* at 690.

The Fifth Amendment further requires that any deprivation of liberty be accompanied by adequate procedural safeguards. The "fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

V. FACTUAL BACKGROUND

A. Immigration and Detention History

Petitioner is a member of the "Bond Denial Class" certified in *Rodriguez-Vazquez v. Bostock*, No. 3:25-cv-05240-TMC. Petitioner is a native and citizen of Mexico who last entered the United States without inspection in approximately 2003 and has remained in this country since that time. He has never previously been removed or deported.

On July 4, 2026, officers with U.S. Immigration and Customs Enforcement ("ICE") arrested Petitioner in Centralia, Washington. He was subsequently transferred to the NWIPC, where he remains detained.

B. Family and Community Ties

Petitioner has established meaningful ties to this country throughout his twenty-three years of residence in the United States and his close family relationships. He is the father of two United States citizen children, ages fifteen and ten, with whom he maintains a close relationship.

Petitioner is also in a committed relationship with his partner, who resides in the United States. His parents currently hold tourist visas, and one of his siblings is a United States citizen through marriage. These longstanding family relationships provide Petitioner with substantial

community support and strong incentives to comply with all immigration proceedings if released.

C. Removal Proceedings

Petitioner is currently in removal proceedings before the Immigration Court. He intends to pursue all forms of relief from removal for which he is eligible. His removal proceedings remain pending, and no final order of removal has been entered. Petitioner's initial master calendar hearing was scheduled for July 20, 2026.

D. Criminal History

Petitioner has no criminal history whatsoever. He has never been convicted of any criminal offense and presents no danger to the community.

E. Lack of Individualized Custody Determination

Despite his positive equities, Petitioner remains detained without a constitutionally adequate individualized custody determination required under 8 U.S.C. § 1226(a). There has been no meaningful finding that Petitioner poses either a danger to the community or a flight risk sufficient to justify his continued detention. As a result, Petitioner's ongoing detention has become excessive in relation to its civil purpose and violates the Due Process Clause of the Fifth Amendment.

VI. ARGUMENT

A. Petitioner Is a Member of the *Rodriguez-Vazquez* Bond Denial Class and Is Being Detained Under an Improper Statutory Framework

On September 30, 2025, this Court issued a final judgment declaring 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). The Court further held

that the Tacoma Immigration Court's practice of denying bond to such individuals based on § 1225(b)(2) violates the Immigration and Nationality Act. *Id.*

Petitioner falls squarely within the Bond Denial Class. He does not have lawful status, was apprehended in the interior of the United States, and has resided in this country for an extended period of time. He was not apprehended at or near the time of entry, and he is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

Consistent with the statutory framework and this Court's binding decision, Petitioner is subject, if at all, to discretionary detention under 8 U.S.C. § 1226(a), which requires an individualized custody determination. Nevertheless, Respondents have treated Petitioner as subject to § 1225(b), resulting in the categorical denial of bond and the absence of any meaningful custody review.

This erroneous statutory classification is the legal basis asserted for Petitioner's continued detention. Because Respondents are applying a legal framework that this Court has already rejected, Petitioner's detention lacks a lawful basis.

B. Respondents' Misclassification Violates the INA and Requires Release

The Court in *Rodriguez-Vazquez* made clear that Bond Denial Class members cannot be subjected to detention under § 1225(b)(2) and must instead be considered for release under the discretionary framework of § 1226(a). By continuing to detain Petitioner under an improper statutory scheme, Respondents are acting in direct violation of the Immigration and Nationality Act as interpreted by binding authority in this District.

Courts in this District have repeatedly granted habeas relief under materially indistinguishable circumstances. See, e.g., *Arias Perez v. Scott* (W.D. Wash. Jan. 20, 2026); *Avendano Toribio v. Scott* (W.D. Wash. Dec. 31, 2025). In those cases, as here, individuals with

long-term presence in the United States were detained at NWIPC, denied bond based on § 1225(b), and determined to be eligible for detention, if at all, under § 1226(a). Under those facts, this Court ordered release.

Courts outside this District have reached the same conclusion. In *Noe Vela Blanco v. Warden*, No. SA-26-CV-00747-XR (W.D. Tex. Apr. 1, 2026), *Lazo Sandoval v. Mullin*, No. 5:26-cv-02562-XR (W.D. Tex. July 2, 2026), *Valencia Reyes v. Noem*, No. SA-25-CV-1921-XR, 2026 WL 981034 (W.D. Tex. Feb. 25, 2026); *Gonzalez Carrillo v. Bondi*, No. SA-26-CV-778-XR, 2026 WL 981037 (W.D. Tex. Feb. 26, 2026) the Court rejected the Government's reliance on § 1225(b) to deny custody review to a noncitizen apprehended in the interior and ordered release from custody—not merely a bond hearing. The Court emphasized that individuals with substantial ties to the United States cannot be subjected to categorical detention without an individualized determination.

Petitioner's case is materially indistinguishable. His detention is not the result of a valid discretionary determination under § 1226(a), but of an unlawful statutory classification that forecloses the process required by law. Under these circumstances, the appropriate remedy is immediate release—not further proceedings that leave the underlying violation intact.

C. The Balance of Interests Under Mathews v. Eldridge Favors Release

"Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty." *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). At its core, due process requires "the opportunity to be heard at a meaningful time and in a meaningful manner." Id. at 333.

In determining what process is constitutionally required, courts apply the three-factor balancing test set forth in *Mathews*: (1) the private interest affected, (2) the risk of erroneous

deprivation through the procedures used and the value of additional safeguards, and (3) the government's interest. Id. at 335. The Ninth Circuit has confirmed that this framework applies in the immigration detention context.

First, Petitioner's private interest is fundamental. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. Petitioner has been subjected to civil detention—a severe deprivation of liberty that demands heightened procedural protections.

That deprivation is not diminished by the relative brevity of his detention; he has remained confined since his arrest without any meaningful opportunity to challenge the legal basis for his detention.

Second, the risk of erroneous deprivation is substantial. Petitioner's continued detention has not been supported by any individualized determination that he poses a danger or flight risk. Nor has he been afforded a meaningful opportunity to challenge the necessity of his detention before a neutral decisionmaker. This lack of individualized review creates a significant risk that Petitioner is being unnecessarily detained. Additional safeguards—such as a fair individualized custody determination or release under appropriate conditions—would substantially reduce that risk. However, here, since the damage has already been done, release is the appropriate remedy.

Third, the Government's interest does not justify continued detention under these circumstances. While the Government has an interest in ensuring compliance with removal proceedings, that interest is diminished where detention is not supported by a lawful statutory basis or any individualized determination. Detention under these circumstances is not meaningfully tied to removal. Moreover, the Government's interests can be fully served through less restrictive alternatives, including supervised release or other reasonable conditions.

Balancing these factors, Petitioner's continued detention—without individualized justification and without a meaningful opportunity for review—violates due process.

D. Exhaustion Is Not Required

Petitioner is not required to exhaust administrative remedies before seeking habeas relief under 28 U.S.C. § 2241. This Petition presents constitutional and statutory challenges to the legality of Petitioner's continued detention, not a routine challenge to an Immigration Judge's discretionary decision. Federal courts have long recognized that exhaustion is not jurisdictional in habeas proceedings and may be excused where administrative remedies are inadequate, futile, or incapable of providing meaningful relief. *McCarthy v. Madigan*, 503 U.S. 140, 146-49 (1992); *Laing v. Ashcroft*, 370 F.3d 994, 1000-01 (9th Cir. 2004).

Petitioner challenges Respondents' failure to provide the constitutionally required custody determination mandated by *Rodriguez-Vazquez v. Bostock*, No. 3:25-cv-05240-TMC, as well as the resulting violation of his Fifth Amendment right to due process. These are legal questions concerning the statutory authority for detention and the constitutional adequacy of the procedures employed, matters that Immigration Judges have no authority to resolve. See *Singh v. Holder*, 638 F.3d 1196, 1202-03 (9th Cir. 2011) (recognizing that habeas courts retain authority to remedy constitutional defects in immigration detention).

Moreover, requiring Petitioner to pursue additional administrative proceedings would be futile. Immigration Judges cannot determine the legality of DHS's detention authority, declare Respondents' detention framework unconstitutional, or grant the relief sought in this Petition. See *Laing*, 370 F.3d at 1000-01 (recognizing futility as an exception to exhaustion). Likewise, the Board of Immigration Appeals cannot provide the prompt judicial review necessary to remedy an ongoing deprivation of physical liberty. Requiring exhaustion under these

circumstances would merely prolong Petitioner's allegedly unconstitutional detention while delaying meaningful judicial review.

The Ninth Circuit has likewise recognized that prudential exhaustion should not be required where constitutional claims are presented, administrative remedies are inadequate, or irreparable injury would result from delay. See *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000); *Van Buskirk v. Wilkinson*, 216 F.2d 735, 737-38 (9th Cir. 1954). Because Petitioner's challenge concerns the legality of his present detention and seeks immediate relief from an ongoing deprivation of liberty, exhaustion serves no useful purpose and should be excused.

Furthermore, experience in this District demonstrates that ordering a bond hearing alone does not necessarily remedy the constitutional injury identified in *Rodriguez-Vazquez v. Bostock*. In numerous cases involving members of the Bond Denial Class, Courts in this District have ordered Respondents to provide a constitutionally adequate custody determination, only for Immigration Judges to subsequently deny release through conclusory or unsupported flight-risk findings. In response to those deficient custody determinations, courts in this District have recognized that due process requires more than a perfunctory hearing or a check-box order. Most recently, in *Saparali Uulu v. Scott*, No. 2:26-cv-01631-TL (W.D. Wash. July 10, 2026), Judge Lin held that an Immigration Judge's "unsubstantiated (and incomprehensible) 'flight risk' finding" could not justify continued detention and ordered the petitioner's immediate release.

Likewise, in *Vasquez Lopez v. Scott*, No. 2:26-cv-01590-TL, 2026 WL 984151 (W.D. Wash. Mar. 31, 2026), Judge Lin held that due process requires a reasoned, individualized custody determination supported by articulated findings rather than conclusory assertions. These decisions underscore that the constitutional guarantee recognized in *Bostock* is not satisfied by

merely convening a hearing; the hearing must provide a genuine, individualized assessment that meaningfully evaluates the evidence and explains why continued detention is necessary.

Under these circumstances, exhaustion should be excused, and the Court should order Petitioner's immediate release.

VII. REQUEST FOR RELIEF

Petitioner respectfully requests that this Court:

1. GRANT this Petition for Writ of Habeas Corpus;
2. ORDER Respondents to release Petitioner from custody within 24 hours of the Court's order;
3. In the Alternative, if the Court declines to order immediate release, ORDER Petitioner's release under appropriate conditions of supervision.

VIII. CONCLUSION

Petitioner is a member of the Bond Denial Class recognized in *Rodriguez-Vazquez v. Bostock*. Under binding authority from this Court, he is subject, if at all, to discretionary detention under 8 U.S.C. § 1226(a). Yet Respondents continue to detain him under an improper statutory framework that has already been declared unlawful.

As a result, Petitioner has been denied any meaningful opportunity for custody review. His detention is not the product of a valid discretionary determination, but of a categorical legal error that forecloses the very process the law requires.

That defect cannot be cured through post hoc proceedings or by directing Petitioner to seek relief before an Immigration Judge. The problem is not the absence of a bond hearing—it is that Respondents are detaining Petitioner without a lawful basis in the first place.

Where detention rests on an erroneous statutory classification and is imposed without constitutionally sufficient process, habeas relief is required. Under these circumstances, the appropriate remedy is immediate release—not further proceedings that leave the underlying violation intact.

IX. SIGNATURE AND CERTIFICATION

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

Respectfully submitted this 25th day of July 2026.

/s/Jennifer Lesmez

Jennifer Lesmez, WSBA #34547
Attorney for Petitioner

CERTIFICATE OF SERVICE

I, Jennifer Lesmez, certify that on this 25th day of July 2026, I served true and correct copies of the **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**, 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

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

Required Service on the United States

UNITED STATES ATTORNEY'S OFFICE
USAWAW.ImmigrationHabeasService@usdoj.gov
(Via email)

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 25th day of July 2026.

/s/Jennifer Lesmez

Jennifer Lesmez, WSBA #34547
Attorney for Petitioner