UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Uriel MENDOZA ARAIZA,

Petitioners,

v.

Cammilla WAMSLEY, et al.,

Respondents.

Case No. 2:25-cv-2139

EX PARTE MOTION FOR ORDER TO SHOW CAUSE

Note on Motion Calendar:
October 30, 2025

INTRODUCTION

Petitioner Uriel Mendoza Araiza is a member of the certified Bond Denial Class in *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC (W.D. Wash. filed Mar. 20, 2025). On September 30, 2025, this Court entered final judgment declaring that all Bond Denial Class members are detained under 8 U.S.C. § 1226(a) and are thus entitled to a bond hearing before an immigration judge (IJ). *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC, --- F. Supp. 3d ----, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). Despite that ruling, Petitioner remains detained because of Respondents' outright refusal to comply with the judgment and their continuation of a policy already found unlawful by the Court.

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In addition to finding that Mr. Mendoza is detained under 8 U.S.C. § 1225(b)(2), the immigration judge (IJ) in this case also concluded that he is detained under § 1226(c)(1)(E).[1] That section of the Immigration and Nationality Act (INA) was added earlier this year as part of the Laken Riley Act (LRA or Act). But as the Department of Homeland Security (DHS) itself recognized at Mr. Mendoza's bond hearing, the LRA contains no retroactivity language that would make the Act applicable to Mr. Mendoza's 2006 shoplifting offense. Accordingly, Mr. Mendoza is *Rodriguez Vazquez* class member.

This Court should therefore issue an order to show cause requiring Respondents to explain within seven days why Petitioner is not a member of the Bond Denial Class. 28 U.S.C. § 2243. If Respondents fail to rebut Mr. Mendoza's claim to class membership, the Court should order that he must be released unless he receives a new bond hearing under § 1226(a) within seven days of this Court's order.

ARGUMENT

I. The Court should issue an order to show cause requiring a return from Respondents pursuant to 28 U.S.C. § 2243.

Habeas "is a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963), *overruled on other grounds by Wainwright v. Sykes*, 433 U.S. 72 (1977). The requirement for an expeditious remedy is codified by statute: once the court entertains an application, it "shall forthwith award the writ or issue an order directing the respondent to show cause," set a prompt return, and hold a hearing. 28 U.S.C. § 2243 (emphasis added). These requirements ensure that courts "summarily hear and determine the facts, and dispose of the matter as law and justice require." *Id.*

Expeditious consideration is particularly appropriate here because the Court has already resolved the primary, controlling legal issue for these parties: it has declared that § 1226(a)

[1] The IJ's order cites to the Laken Riley Act and § 1226(c)(2), but that paragraph simply defines the terms referenced in § 1226(c)(1)(E). Both subparagraph (c)(1)(E) and paragraph (c)(2) were added to the Immigration and Nationality Act with the passage of the Laken Riley Act. *See infra* p. 3.

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governs the detention of Bond Denial Class members and that Respondents' bond denial policy is unlawful. *Rodriguez Vazquez*, 2025 WL 2782499, at *27.

This case also presents the question of whether the Mr. Mendoza is precluded from class membership because of his 2006 shoplifting offense. To answer that question, the Court must determine whether the Laken Riley Act Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025) is retroactive. That issue presents a straightforward legal question on which DHS and the Department of Justice have already *agreed* with Petitioner. *See infra* pp. 4, 6. As detailed below, that is because the answer to this question is an easy one, and there is no support whatsoever for the IJ's legal conclusion (nor did the IJ provide any support for that conclusion.).

Consistent with this Court's longstanding practice and to facilitate expedited relief, Petitioner respectfully requests that the Court effectuate service of the petition on Respondents.[2] Respondents should then be required to file a return within seven days, *see* 28 U.S.C. § 2243, upon which the Court should promptly issue a decision on the merits of the petition.

II. The LRA is not retroactive.

Earlier this year, Congress amended the mandatory detention authority of 8 U.S.C. § 1226(c) by enacting the LRA. The relevant text of the LRA provides that a person who "is inadmissible under paragraph (6)(A), (6)(C), or (7) of section 1182(a) of this title" *and* who "is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of . . . shoplifting" is subject to mandatory detention. 8 U.S.C. § 1226(c)(1)(E). While the Act expands DHS's mandatory detention authority, the Act applies only to arrests, charges, or convictions that post-date its enactment. Nothing about the LRA suggests that Congress meant it to be retroactive and penalize noncitizens for past conduct.

This issue is relevant here because at Mr. Mendoza's October 24, 2025, bond hearing, the IJ held both that (1) Mr. Mendoza is detained under § 1225(b)(2), and (2) the LRA applies. *See*

[2] Service by the Court is also consistent with the practice in habeas proceedings under 28 U.S.C. §§ 2254 and 2255. *See* U.S. Courts, Rules Governing Section 2254 Cases and Section 2255 Proceedings (Dec. 1, 2019), at 3 ("In every case, the clerk must serve a copy of the petition and any order on the respondent . . . ."); *id.* at 9 (similar).

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Ex. C.[3] The IJ reached this conclusion even though at the bond hearing, DHS *agreed* with Petitioner's counsel that the LRA contains no retroactivity language. *See* Decl. of Stephen Robbins ¶ 12. Despite that agreement, the IJ concluded the Act is retroactive, that it covers Mr. Mendoza's 2006 shoplifting offense, and that § 1226(c) therefore applies. The IJ provided no reasoning in support of that conclusion. *See* Ex. C.

The IJ's conclusion plainly contradicts the law governing the retroactivity of legislation. The LRA is a short piece of legislation, *see* 139 Stat. at 3–6, and it contains no effective date nor any language stating the Act covers arrests, charges, and offenses that occurred prior to its enactment date, *see id.* This all but resolves the question of retroactivity. Time and again, the Supreme Court has explained that "courts read laws as prospective in application unless Congress has unambiguously instructed retroactivity." *Vartelas v. Holder*, 566 U.S. 257, 266 (2012); *see also Landgraf v. USI Film Prods.*, 511 U.S. 244, 265–73 (1994) (explaining the basis for this longstanding presumption). The Court has applied this principle in "several immigration cases," repeatedly holding that in this context too, congressional enactments are not retroactive unless Congress explicitly says so. *Reyes v. Garland*, 11 F.4th 985, 990 (9th Cir. 2021); *see also Vartelas*, 566 U.S. at 265–75 (holding that INA amendments regarding when lawful permanents residents (LPRs) with criminal histories are regarded as seeking admission did not apply to convictions prior to the amendments' enactment); *I.N.S. v. St. Cyr*, 533 U.S. 289, 315–26 (2001) (finding that 1996 amendments to INA did not retroactively eliminate a form of relief from removal for LPRs with certain pre-amendment convictions). As the Court explained in *Vartelas*, this "presumption against retroactive legislation . . . embodies a legal doctrine centuries older than our Republic." 566 U.S. at 266 (citation modified); *see also Landgraf*, 511 U.S. at 265 & n.17 (citing authorities that look to English common law and looking to several provisions of the Constitution to explain the basis for the presumption against retroactivity).

[3] All exhibit citations are to the authenticating declaration of Sydney Maltese filed contemporaneously with this motion.

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Where Congress has not explicitly spoken to when an Act becomes effective, *Landgraf* instructs that courts must

> determine whether the new statute would have retroactive effect, *i.e.,* whether it would impair rights a party possessed when he acted, increase a party's liability for past conduct, or impose new duties with respect to transactions already completed. If the statute would operate retroactively, our traditional presumption teaches that it does not govern absent clear congressional intent favoring such a result.

511 U.S. at 280. This "judgment whether a particular statute acts retroactively should be informed and guided by familiar considerations of fair notice, reasonable reliance, and settled expectations." *St. Cyr*, 533 U.S. at 321 (citation modified). Applying this test, and on at least two occasions, the Supreme Court has explained that immigration legislation lacking explicit retroactivity language is not retractive where the statute would create new immigration consequences for a conviction or guilty plea that occurred prior to the new law's enactment. *See Vartelas*, 566 U.S. at 265–75; *St. Cyr*, 533 U.S. at 315–26. Such situations, the Court has explained, "present[] a firm case for application of the antiretroactivity principle." *Vartelas*, 566 U.S. at 267.

The reason for this is rooted in due process. "Elementary considerations of fairness dictate that individuals should have an opportunity to know what the law is and to conform their conduct accordingly; settled expectations should not be lightly disrupted." *Landraf*, 511 U.S. at 265. "Even when the conduct in question is morally reprehensible or illegal, a degree of unfairness is inherent whenever the law imposes additional burdens based on conduct that occurred in the past." *Landgraf*, 511 U.S. at 282 n.35. Thus, in *St. Cyr*, the Court held that the 1996 INA amendments eliminating relief from removal for LPRs with certain convictions were not retroactive, as they otherwise would have created a "new disability" for such persons. 533 U.S. at 321 (citation omitted). The same was true in *Vartelas*. There, the Court held that the 1996 amendments defining when an LPR with certain convictions is deemed to seek admission were not retroactive to convictions from prior to the enactment of those amendments. 566 U.S. at 272.

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This case is no different than those cited above. As with the provisions at issue in *St. Cyr* and *Vartelas*, the LRA contains no language suggesting it is retroactive. And as in in *St. Cyr* and *Vartelas*, retroactive application would attach new, serious consequences—mandatory detention—to conduct and convictions that occurred long ago. The Court should therefore apply the presumption against retroactivity, which "accords with widely held intuitions about how statutes ordinarily operate" and "coincide[s] with legislative and public expectations." *Landgraf*, 511 U.S. at 272. Indeed, as noted above, at Mr. Mendoza's bond hearing, DHS agreed that the LRA contains no retroactivity language. And in litigation elsewhere, DHS and the Department of Justice have taken the position the LRA is not retroactive. *See* Gov't's Supp. Br., *Khamba v. Albarran*, No. 1:25-CV-01227-JLT-SKO (E.D. Cal. Oct. 9, 2025), Dkt. 13 at 1 ("The government does not believe that the LRA applies because it does not include an expressed effective date and therefore is not retroactive."). Only the IJ—who provided no reasoning for her decision—disagrees. Because there is no support for the conclusion that the LRA applies here, the Court should conclude that Mr. Mendoza is a *Rodriguez Vazquez* class member.

III. The Court should instruct that Respondents must provide notice prior to any transfer of Petitioner.

Finally, along with the order to show cause, the Court should require Respondents to provide at least 48 hours' notice (or 72 hours' notice if the period will include a weekend or holiday) prior to any action to transfer him from the Northwest ICE Processing Center (NWIPC). Petitioner seeks such an order in light of recent transfers from NWIPC. Providing such notice will ensure that Petitioner—who lived locally prior to his arrest—may seek immediate emergency relief from this Court, if necessary, to enjoin his transfer. Petitioner should not be forced to pay hundreds of dollars to return to this district should he be granted bond. Moreover, ensuring that Petitioner remains in this district is important to guarantee his access to counsel is not interrupted. For these reasons, notice prior to any transfer is warranted. *See, e.g.*, Order to Show Cause, *Kumar v. Wamsley*, No. 2:25-cv-2055-KKE (W.D. Wash. Oct. 22, 2025), Dkt. 7 (granting order requiring pre-transfer notice).

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CONCLUSION

For the reasons above, and in light of the Court's final judgment in *Rodriguez Vazquez,* Petitioner respectfully requests that the Court immediately effectuate service of the petition on Respondents and issue an order to show cause requiring Respondents' return within seven days. In addition, the Court should order that Respondents provide at least 48 hours' notice (or 72 hours' notice if the period will include a weekend or holiday) prior to any action to move or transfer Petitioner from NWIPC.

Respectfully submitted this 30th day of October, 2025.

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Counsel for Petitioners

I certify this motion contains 2,065 words in compliance with the Local Civil Rules.