UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Juan LEON FIGUEROA, et al.,

Petitioners,

v.

Cammilla WAMSLEY, et al.,

Respondents.

Case No. 2:25-cv-2228

EX PARTE MOTION FOR ORDER TO SHOW CAUSE AND INTERIM RELIEF PREVENTING TRANSFER

Note on Motion Calendar:
November 7, 2025

INTRODUCTION

Petitioners are members 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 class members are detained under 8 U.S.C. § 1226(a) and 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, Respondents continue applying their unlawful bond policy to detain Petitioners. Petitioners therefore seek an order to show cause under 28 U.S.C. § 2243 requiring Respondents to explain, within three days, why each Petitioner is not a member of the Bond Denial Class; failing such a showing, the Court should immediately grant the petition.

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For all Petitioners who have received alternative bond orders, the Court should order *unconditional* release—i.e., release without posting bond or additional conditions—given Respondents' flagrant violations of the *Rodriguez Vazquez* summary judgment. Alternatively, the Court should order release unless Respondents, within one day of the Court's order, permit Petitioners to post their alternative bond amount. As to all Petitioners still awaiting bond hearings, the Court should order that Respondents provide them with bond hearings under 8 U.S.C. § 1226(a) and prohibit application of § 1225(b)(2) to deny their bond requests.

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 no more than five days after the return. 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 controlling legal issue for these parties: it has declared that § 1226(a) governs the detention of Bond Denial Class members and that Respondents' bond denial policy is unlawful. *Rodriguez Vazquez*, 2025 WL 2782499, at *27. Thus, the sole question the Court must decide in order to grant relief is whether Petitioners are members of the Bond Denial Class—a question that the government records submitted with the petition demonstrate.

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Consistent with this Court's longstanding practice and to facilitate expedited relief, Petitioners respectfully request that the Court effectuate service of the petition on Respondents.[1] Respondents should then be required to file a return "within three days," 28 U.S.C. § 2243, upon which the Court should promptly issue a decision on the merits of the petition. Further, the Court should direct Respondents to address only whether Petitioners are members of the Bond Denial Class and the relief to which they are entitled; Respondents are bound by the classwide judgment in *Rodriguez Vazquez* and not entitled to re-litigate the merits questions resolved in that case.

II. The Court should order immediate release as to the Petitioners with alternative bond orders.

Respondents' defiance of the declaratory judgment in *Rodriguez Vazquez* calls for the immediate and unconditional remedy of release as to those Petitioners with alternative bond orders. As detailed below, this response to Respondents' flagrant defiance of the *Rodriguez Vazquez* summary judgment order is appropriate because Respondents have not taken steps to remedy their willful violation of the law and unlawful detention of Petitioners.

Petitioners' request is consistent with longstanding habeas practice. Historically, "[g]iven th[e] function of the writ [of habeas corpus], courts . . . confined habeas relief to orders requiring the petitioner's unconditional release from custody." *Harvest v. Castro*, 531 F.3d 737, 741 (9th Cir. 2008). But in "modern practice," including in certain immigration detention habeas cases, "courts employ a conditional order of release . . . , which orders the [detaining authority] to release the petitioner unless the [detaining authority] takes some remedial action." *Id.* Such writs merely "provide[] the [detaining authority] with a window of time within which it might cure the [unlawful detention]." *Gibbs v. Frank*, 500 F.3d 202, 208 (3d Cir. 2007). Or put another way, conditional writs are "essentially accommodations accorded to the [detaining authority]," allowing the custodian to quickly remedy the unlawful detention rather than immediately release

[1] 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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an individual. *Harvest*, 531 F.3d at 742 (quoting *Phifer v. Warden*, 53 F.3d 859, 864–65 (7th Cir. 1995)); *see also, e.g.*, *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987) ("[T]his Court has repeatedly stated that federal courts may delay the release of a successful habeas petitioner in order to provide the State an opportunity to correct the constitutional violation found by the court."); *see also Cardozo v. Bostock*, No. 2:25-CV-00871-TMC, 2025 WL 2592275, at *2 (W.D. Wash. Sept. 8, 2025) (similar).

A conditional writ, however, is not appropriate where the custodian "fails to comply with the district court's order." *Rose v. Guyer*, 961 F.3d 1238, 1246 (9th Cir. 2020) (citation modified). Instead, "a district court *must* decide whether a [detaining authority] has complied with the remedy designed by the district court in the underlying habeas proceedings." *Id.* (emphasis added). Where the custodian "fails to cure the . . . error, i.e., when it fails to comply with the order's conditions, . . . the conditional grant of habeas corpus *requires* the petitioner's release from custody." *Id.* (alteration in original) (quoting *Harvest*, 531 F.3d at 750); *see also Wilkinson v. Dotson*, 544 U.S. 74, 87 (2005) (Scalia, J., concurring) (observing that the remedy is "always release" for failure to comply with a conditional writ). Indeed, this is precisely how the Supreme Court itself has structured writs of habeas corpus. *See, e.g.*, *Chessman v. Teets*, 354 U.S. 156, 166 (1957) (remanding and ordering release if the detaining authority did not comply with the court's order within a reasonable time); *Dowd v. United States ex rel. Cook*, 340 U.S. 206, 210 (1951) (similar).

Here, *Rodriguez Vazquez* plainly informs Respondents—who are also Defendants in *Rodriguez Vazquez*—that they are unlawfully detaining Petitioners under § 1225(b)(2). The summary judgment decision "declares 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)" and that "the Tacoma Immigration Court's practice of denying bond to Bond Denial Class members on the basis of § 1225(b)(2) violates the Immigration and Nationality Act." 2025 WL 2782499, at *27. Faced with that order, Respondents had two options: comply with the final judgment and recognize Petitioners are being detained under § 1226(a), or defy it and bear the consequences

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that result. They have repeatedly chosen the latter. *See, e.g.*, Ng Decl. Exs. C, F; *see also, e.g.*, Order Granting Petition for Writ of Habeas Corpus, *Ortiz Martinez v. Wamsley*, No. 2:25-cv-01822-TMC (W.D. Wash. Oct. 10, 2025), Dkt. 25; Order Granting Petition for Writ of Habeas Corpus, *Garcia v. Wamsley*, No. 2:25-cv-01980-TMC (W.D. Wash. Oct. 21, 2025), Dkt. 11.

Having "fail[ed] to comply with the order[]," Respondents must now release these Petitioners without further conditions. *Rose*, 961 F.3d at 1246; *see also Harvest*, 531 F.3d at 750 (similar). The fact that the prior decision was a declaratory judgment, rather than a conditional writ, makes no difference. *Rodriguez Vazquez* explains in exacting detail why class members are detained under § 1226(a) and declares their rights to that effect. That decision was "a real judgment, not just a bit of friendly advice." *Florida ex rel. Bondi v. U.S. Dep't of Health & Hum. Servs.*, 780 F. Supp. 2d 1307, 1316 (N.D. Fla. 2011). And it is a judgment with which courts rightly assume that "government officials . . . will comply." *Aeronautical Corp. v. United States Air Force*, 80 F.4th 1017, 1031 (9th Cir. 2023); *see also, e.g., Sanchez-Espinoza v. Reagan*, 770 F.2d 202, 208 n.8 (D.C. Cir. 1985) (Scalia, J.) ("[T]he discretionary relief of declaratory judgment is, in a context such as this where federal officers are defendants, the practical equivalent of specific relief such as injunction or mandamus, since it must be presumed that federal officers will adhere to the law as declared by the court."), *abrogated on other grounds as recognized by*, *Schieber v. United States*, 77 F.4th 806 (D.C. Cir. 2023), *cert. denied*, 144 S. Ct. 688 (2024). Accordingly, the Court should order the immediate release of those Petitioners with alternative bond orders.

Finally, as part of the release order, the Court should specify that Respondents may not set additional conditions of release—including GPS monitoring or monitoring via the Intensive Supervision Appearance Program—other than requiring that Petitioners attend their immigration

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court hearings and update their address with the immigration court and Immigration and Customs Enforcement (ICE), should they move to a new residence. *See* 8 C.F.R. 265.1.[2]

III. The Court should order § 1226(a) bond hearings for the Petitioners who have not yet received a full custody redetermination hearing.

Respondents continue to disregard declaratory judgment in *Rodriguez Vazquez* by denying bond on purported lack of jurisdiction, as shown by the recent denials for Petitioners Leon Figueroa and Gudiño Herrera. *See* Ng Decl., Ex. C (November 3, 2025 bond denial based on jurisdiction), Ex. F (October 30, 2025 bond denial based on jurisdiction). Respondents have repeatedly confirmed they have no intention of conforming to the declaratory judgment or remedying their willful and unlawful detention policy. Therefore, as to Petitioners who have yet to receive bond hearings, the Court should order that Respondents may not deny bonds on the ground 8 U.S.C. § 1225(b)(2) applies and require full bond hearings in their cases.

IV. The Court should instruct that Respondents must not transfer Petitioners from this district during the pendency of these proceedings.

Finally, for all the reasons stated in Petitioners' accompanying Motion for a Temporary Restraining Order, the Court should require that Respondents refrain from transferring any Petitions out of the Western District of Washington while this petition is ongoing. In the alternative, 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 them from the Northwest ICE Processing Center (NWIPC).

Petitioners seek these protections because of recent, repeated transfers from NWIPC to other facilities. Advance notice allows Petitioners—some of whom lived locally prior to their arrest—to seek immediate emergency relief from this Court, if necessary, to enjoin any transfer. Petitioners should not be forced to spend hundreds of dollars to return to this district after their release, particularly where they should have been released on bond here. Ensuring Petitioners'

[2] Should the Court deny the request for immediate release, then Petitioners request that the Court order that Respondents release them unless within one day of the Court's order they allow Petitioners to be released upon payment of their alternative bond amount.

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presence in this district preserves to their (mostly local) immigration counsel. 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 (requiring "Respondents [to] provide Petitioner and Petitioner's counsel in this habeas action at least 48 hours' notice (or 72 hours' notice if the period extends into the weekend) prior to any action to move or transfer him from the [NWIPC] or to remove him from the United States.").

CONCLUSION

For the foregoing reasons, Petitioners respectfully request that the Court immediately effectuate service of the petition on Respondents and issue an order to show cause requiring that:

- Respondents' return be filed within three days;
- Respondents are not to transfer any Petitioners from this district while it considers this petition, so as to not impede their access to counsel while pursuing their claims;
- or, Respondents must provide Petitioners at least 48 hours' notice (or 72 hours' notice if the period will include a weekend or holiday) prior to any action to transfer them from the NWIPC.

Respectfully submitted this 7th day of November, 2025.

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I certify that this motion contains 2,095 words in compliance with the Local Civil Rules.

Counsel for Petitioners

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