

The Honorable Tiffany M. Cartwright

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

SANTIAGIO ORTIZ MARTINEZ, JOSEFINA
ROJAS, HORACIO ROMERO LEAL,
ADOLFO BARAJAS CANO, PEPE LOPEZ
LOPEZ,

Petitioners,

v.

CAMMILLA WAMSLEY, Field Office
Director of Enforcement and Removal
Operations, IMMIGRATION AND CUSTOMS
ENFORCEMENT (ICE); BRUCE SCOTT,
Warden, Northwest ICE Processing Center;
KRISTI NOEM, Secretary, U.S. Department of
Homeland Security; PAMELA BONDI, U.S.
Attorney General; U.S. DEPARTMENT OF
HOMELAND SECURITY; EXECUTIVE
OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No. 2:25-cv-01822-TMC

NOTICE OF FEDERAL
RESPONDENTS'¹ PRELIMINARY
RESPONSE TO PETITIONERS'
MOTION FOR A TEMPORARY
RESTRAINING ORDER

Federal Respondents file this preliminary response to Petitioners' motion for a temporary
restraining order (TRO), Dkt. 10. If the Court requires an additional response following today's
hearing, Federal Respondents respectfully request meaningful time to respond. Dkt. 12.

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office

1 However, the Court should deny the TRO motion without requiring a response because
 2 Petitioners have failed to present any basis for the extraordinary relief they seek. This is
 3 particularly true because Petitioners' habeas corpus petition is noted for consideration on October
 4 14—one week from today. They do not allege that any emergency will occur in the next week.
 5 See Dkts. 2, 9.

6 A TRO is “an extraordinary remedy that may only be awarded upon a clear showing that
 7 the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008);
 8 see also *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001)
 9 (TRO standard is “substantially identical” to the preliminary injunction standard). Petitioners
 10 have made no such showing here.

11 Petitioners' motion appears to be premised on two inadequate and unavailing grounds:
 12 (1) Petitioner Ortiz Martinez's scheduled immigration court proceeding on October 9, 2025; and
 13 (2) an allegation that the Government is not complying with the declaratory relief order issued in
 14 *Rodriguez Vazquez v. Bostock*.

15 1. An Immigration Court Hearing Is Not Grounds for Emergency Relief

16 An immigration court hearing is not irreparable harm. If Ortiz Martinez is unprepared to
 17 proceed as scheduled, he may request a continuance from the immigration court. However, it is
 18 improper for him to try to evade his immigration court hearing by seeking a TRO motion from
 19 this Court.

20 Moreover, Petitioners delayed mentioning this hearing until after the Court set the current
 21 expedited briefing schedule on the habeas petition. Petitioners failed to raise this issue in their
 22 September 19, 2025, motion for expedited briefing. See Dkt. 2. The Court subsequently granted
 23 the expedited schedule. Dkt. 9. Petitioners now seek to circumvent that schedule by introducing
 24 new, untimely allegations that could have been raised earlier but were not.

On September 16, 2025, Ortiz Martinez’s individual hearing in immigration court was scheduled for October 9, 2025. Declaration of Alixandria K. Morris (Morris Decl.), Ex. 1 (Ortiz Martinez’s Hearing Notice). Three days later, Petitioners filed their Ex Parte Motion for an expedited briefing schedule on September 19, 2025—omitting any mention of the removal proceeding. Dkt. 2. The Court granted in part Petitioner’s motion for expedited briefing on September 24, 2025. Dkt. 9. Twelve days after the Court’s Order and 20 days after his immigration court hearing was scheduled, Petitioners filed their emergency TRO motion at least in part on the basis of Ortiz Martinez’s upcoming immigration court hearing. Dkt. 13, pg. 2.

A scheduled immigration court hearing is not irreparable harm and does not constitute an emergency justifying a TRO. Moreover, Petitioners’ failure to raise the issue when requesting the schedule undercuts any claim of urgency.

2. Mischaracterization of Rodriguez Vazquez Does Not Support TRO Relief

Petitioners’ assertion that the Government is violating the declaratory relief issued in *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1262 (W.D. Wash. 2025), is both legally inaccurate and insufficient to justify emergency relief. *See* Dkt. 10 at 4–7.² In *Rodriguez Vazquez*, this granted summary judgment and found that detention pursuant to 8 U.S.C. § 1225(b)(2) of the defined class is unlawful. However, under 8 U.S.C. 1252(f)(1), it could not issue injunctive relief for the class. Instead, if class members so choose, they may seek relief under *Rodriguez Vazquez* in their own proceedings, as Petitioners have done here. But the *Rodriguez Vazquez* ruling, in and of itself, does not create an emergency for each class member. While they may file habeas corpus petitions, the mere fact of their detention is not imminent, irreparable harm justifying a TRO.

² The undersigned counsel are not counsel in *Rodriguez Vazquez*.

Here, Respondents' habeas return is due tomorrow, and Respondents will address the *Rodriguez Vazquez* arguments there. The habeas return is noted for October 14, 2025, one week from today.

3. Conclusion and Respondents' Request for Alternative Relief

Respondents respectfully request that the Court deny Petitioners' TRO motion without requiring further briefing and proceed with the existing expedited habeas schedule set forth in Dkt. 9.

If the Court does not deny the TRO, Respondents acknowledge that, following the filing of this habeas action, the Court granted summary judgment and found that detention pursuant to 8 U.S.C. § 1225(b)(2) of the defined class in *Rodriguez Vasquez* is unlawful. *See Rodriguez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). While the Government respectfully disagrees with that decision and continues to evaluate its legal options, Respondents do not object to Petitioners being considered members of the Bond Denial Class³ for purposes of this case.

Accordingly, the appropriate relief would be for the Court to order the immigration court to conduct bond hearings for Petitioners, or to be released pursuant to alternative bonds issued under 8 U.S.C. § 1226(a). With respect to Petitioner Pepe Lopez Lopez—who has no alternative bond—Respondents submit that the Court should order the immigration court to conduct a bond hearing. Similarly, for Petitioner Josefina Rojas, who has not yet requested a bond hearing, Ms. Rojas should request such a hearing from the immigration court. Finally, with respect to Petitioners Horacio Romero Leal and Adolfo Barajas Cano, Immigrations and Customs Enforcement filed Motions to Remand today with the Board of Immigration Appeals to be

³ “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*, 2025 WL 2782499, at *6.

1 provided an opportunity to raise materially changed circumstances since the immigration court
2 issued the alternative bond. Morris Decl., Exs. 2, 3. For Petitioners Leal and Cano, Respondents
3 request the Court order the immigration court to conduct bond hearings.

4 Dated October 7, 2025.

5 Respectfully submitted,

6 TEAL LUTHY MILLER
Acting United States Attorney

7 /s/ Alixandria K. Morris

8 ALIXANDRIA K. MORRIS

9 /s/ Michelle R. Lambert

10 MICHELLE R. LAMBERT

Assistant United States Attorneys

Western District of Washington

700 Stewart Street, Suite 5220

Seattle, WA 98101-1271

Tel: (206) 553-7970

Fax: (206) 553-4073

Email: alixandria.morris@usdoj.gov

13 *Counsel for Respondents*

14
15 I certify this document contains 1027 words,
16 in compliance with the Local Civil Rules.