

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SANTIAGO ORTIZ MARTINEZ, et al.

Petitioner,

v.

CAMMILLA WAMSLEY, et al.,

Respondent.

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

ORDER GRANTING PETITION FOR
WRIT OF HABEAS CORPUS

I. INTRODUCTION AND BACKGROUND

Petitioners are five individuals who, at the time they brought this immigration habeas action through counsel, were detained at the Northwest Immigration and Customs Enforcement Processing Center (“NWIPC”) in Tacoma, Washington. Dkt. 1.

Petitioners, who entered the United States without inspection and have resided in the country for several years (and in some cases, decades) claim that they were unlawfully subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *Id.* ¶¶ 2–8; 16–20. Instead, they argue, they are subject to detention under a separate provision of the INA, 8 U.S.C. § 1226(a), under which they are entitled to a bond hearing before an Immigration Judge (“IJ”) with the possibility of release. *Id.* ¶ 6. Four Petitioners were denied bond under the rationale that the Tacoma Immigration Court lacks jurisdiction to grant bond for those mandatorily detained under section

1 1225(b)(2). Dkt. 4-4 at 2; Dkt. 4-9 at 2; Dkt. 4-11 at 2; Dkt. 21 ¶ 38. Although the fifth
2 Petitioner, Josefina Rojas, has not had a bond hearing before an IJ, she is mandatorily detained
3 under the same reasoning. Dkt. 1 ¶ 60; *see* Dkt. 21 ¶¶ 13–16; Dkt. 20 at 9. At the time of filing
4 this habeas petition, IJs had set bond in the alternative for three of the Petitioners—Santiago
5 Ortiz Martinez, Horacio Romero Leal, and Adolfo Barajas Cano—if the immigration court had
6 jurisdiction. Dkt. 4-4 at 2; Dkt. 4-9 at 2; Dkt. 4-11 at 2.

7 On September 30, 2025, this Court granted summary judgment to members of a certified
8 Bond Denial Class, entering final judgment and issuing the following declaratory relief:

9 The Court declares that Bond Denial Class members are detained under 8 U.S.C.
10 § 1226(a) and are not subject to mandatory detention under 8 U.S.C. § 1225(b)(2).
11 The Court further declares 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.

12 *Rodriguez Vazquez v. Bostock, et al.*, 3:25-CV-05240-TMC, 2025 WL 2782499 (W.D. Wash.
13 Sept. 30, 2025), at *27.

14 On October 6, 2025, Petitioners filed an Ex Parte Emergency Motion to Grant Habeas
15 Petition or to Issue Temporary Restraining Order (“TRO”). Dkt. 10. Petitioners asserted that they
16 are members of the Bond Denial Class. *Id.* at 1. They submitted evidence that the Tacoma
17 Immigration Court is continuing to deny bond to Bond Denial Class members under section
18 1225(b)(2) *Id.*; *see, e.g.*, Dkt. 11-3. Petitioners also emphasized that for those with alternative
19 bond orders, the only remaining reason for their detention is the Tacoma Immigration Court’s
20 decision not to follow the declaratory judgment order in *Rodriguez Vazquez*. Dkt. 10 at 6 (citing
21 *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013)). Based on these facts, Petitioners
22 requested emergency relief before final adjudication of their habeas petitions. *Id.*; *see* Dkt. 9.

23 One day later and following a TRO hearing and consideration of Federal Respondents’
24 opposition to the motion, this Court granted the TRO motion in part as to Ortiz Martinez,

1 Romero Leal, and Barajas Cano. Dkt. 18; Dkt. 17; Dkt. 15. The Court granted emergency relief
2 because “each of these Petitioners has already proven that they are not a danger to the
3 community and that any flight risk can be mitigated by the conditional bond amount set by the
4 IJ.” Dkt. 18 at 6 (citing Dkt. 4-4 at 2; Dkt. 4-9 at 2; Dkt. 4-11 at 2). The Court held that within
5 one day of the order, Respondents “must either release Petitioners Santiago Ortiz Martinez,
6 Horacio Romero Leal, and Adolfo Barajas Cano from detention or allow their release upon
7 payment of the bond amount found in the alternative by the Immigration Judge in their
8 respective bond hearings.” *Id.* at 7.

9 The Court denied the TRO as to Pepe Lopez Lopez and Josefina Rojas because
10 “[a]lthough they will likely succeed in establishing their entitlement to a bond hearing under
11 *Rodriguez Vazquez*, these Petitioners have not yet shown that they would be free from detention
12 absent the Respondents’ continued adherence to a policy the Court has already held is unlawful.”
13 *Id.* at 6. Because these petitioners did not make the necessary irreparable harm showing for
14 emergency relief, the Court determined it would rule on these petitioners’ underlying habeas
15 petitions after receiving Respondents’ opposition brief. *Id.*

16 On October 8, 2025, Respondents filed their opposition brief. Dkt. 20. Respondents
17 explain that while they “acknowledge the Court’s decision in *Rodriguez Vasquez*, Federal
18 Respondents continue to believe Petitioners are subject to mandatory detention pursuant to 8
19 U.S.C. § 1225(b).” Dkt. 20 at 3. They argue that the Court’s order granting temporary relief to
20 Petitioners Ortiz Martinez, Romero Leal, and Barajas Cano moots the habeas petition as to these
21 Petitioners because they have been released from custody after posting bond. *Id.* at 7–8; *see*
22 Dkt. 21 ¶¶ 9, 25, 32.

23 Concerning the remaining Petitioners, Respondents “do not object” that Lopez Lopez is a
24 member of the Bond Denial Class. *Id.* at 9–10. Although that same day an IJ had denied Lopez

1 Lopez’s bond based on an asserted lack of jurisdiction under section 1225(b)(2), the IJ found in
2 the alternative that it would grant bond in the amount of \$5,000 if it had jurisdiction. Dkt. 19-1.
3 Respondents thus conceded that if the Court were to grant habeas relief to Lopez Lopez, the
4 appropriate relief would be either a bond redetermination hearing under 8 U.S.C. § 1226(a) or
5 “release[] upon payment of the bond found in the alternative” by the IJ. Dkt. 20 at 9-10.
6 Respondents do, however, dispute that Petitioner Josefina Rojas is a *Rodriguez Vazquez* Bond
7 Denial Class member—and thus, entitled to habeas relief—on the sole basis that “there is no
8 evidence that Rojas has requested a bond hearing.” *Id.* at 9. However, Respondents
9 “acknowledge[d] that if and when Rojas properly requests a bond hearing, she will become a
10 member of the class” and the appropriate relief would be a bond hearing under 8 U.S.C.
11 § 1226(a). *Id.*

12 On October 9, 2025, Petitioners replied to Respondents’ opposition brief, first arguing
13 that the request for relief for Petitioners Ortiz Martinez, Romero Leal, and Barajas Cano is not
14 moot because the TRO “provides only *temporary* relief.” Dkt. 23 at 3 (emphasis in original).
15 Petitioners contend that absent a writ of habeas corpus and final judgment from this Court, and in
16 light of Respondents “not disavow[ing] their unlawful interpretation of the detention statutes,”
17 “nothing will stop Respondents from re-arresting Petitioners tomorrow, revoking their bond, and
18 declaring them subject to mandatory detention.” *Id.* at 2, 5–6. Petitioners describe certain
19 conditions imposed upon those released on bond that, at least in the case of Barajas Cano, were
20 not part of the alternative bond findings set by the IJ that this Court ordered to be followed. *See*
21 Dkt. 23 at 6; Dkt. 4-11 at 2; Dkt. 18 at 7–8. Petitioners also contend that Respondents refused to
22 return Ortiz Martinez’s employment authorization document (“EAD”) and his Alaska ID when
23 he was released on bond, which they state he is legally entitled to as an asylum applicant. Dkt. 23
24 at 6 n.3 (citing 8 C.F.R. 208.7); *see* Dkt. 24-2 at 2. Finally, Petitioners assert that Rojas is a Bond

1 Denial Class member regardless of whether she “has already received a bond hearing and been
2 denied, or whether [she] [is] requesting one now in a habeas petition.” Dkt. 23 at 7.

3 The habeas petitions are ripe for the Court’s review. Upon review of the relevant record,
4 the Court concludes that the temporary relief granted to the three Petitioners does not moot their
5 underlying application for a writ of habeas corpus. All five Petitioners are members of the Bond
6 Denial Class. Because the “Tacoma Immigration Court’s practice of denying bond to Bond
7 Denial Class members on the basis of § 1225(b)(2) violates the Immigration and Nationality
8 Act[,]” Petitioners are either unlawfully detained or were at the time of their application for
9 relief. *See Rodriguez Vazquez*, 2025 WL 2782499, at *27. The Court thus GRANTS Petitioners’
10 petition for a writ of habeas corpus. Dkt. 1.

11 II. LEGAL STANDARD

12 Writs of habeas corpus “may be granted by . . . the district courts . . . within their
13 respective jurisdictions.” 28 U.S.C. § 2241(a). To succeed on their habeas petition, Petitioners
14 “must show [they are] in custody in violation of the Constitution or laws or treaties of the United
15 States.” *Doe v. Bostock*, No. C24-0326-JLR-SKV, 2024 WL 3291033, at *5 (W.D. Wash. Mar.
16 29, 2024), *report and recommendation adopted*, No. C24-0326JLR-SKV, 2024 WL 2861675
17 (W.D. Wash. June 6, 2024) (citing 28 U.S.C. § 2241(c)(3)).

18 “The federal habeas corpus statute requires that the applicant must be ‘in custody’ when
19 the application for habeas corpus is *filed*.” *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968)
20 (emphasis added). “But the statute does not limit the relief that may be granted to discharge of
21 the applicant from physical custody.” *Id.* “Its mandate is broad with respect to the relief that may
22 be granted.” *Id.* “It provides that ‘(t)he court shall [. . .] dispose of the matter as law and justice
23 require.’” *Id.* (quoting 28 U.S.C. § 2243) (holding that petitioner, who filed a writ of habeas
24 corpus while in custody and was later released before his application was considered, is “entitled

1 to consideration . . . for relief on its merits” because he still bore the consequences of his
2 “assertedly unlawful conviction”). Here, it is undisputed that all Petitioners brought this habeas
3 action while under custodial detention at NWIPC. *See* Dkt. 1.

4 III. DISCUSSION

5 A. Petitioners Ortiz Martinez, Romero Leal, and Barajas Cano’s requests for relief are 6 not moot.

7 The Court’s grant of preliminary relief to three petitioners does not moot their underlying
8 requests for a writ of habeas corpus. Under Supreme Court and Ninth Circuit precedent,
9 temporary relief, up to and including a petitioner’s release, does not render a case moot. In
10 *Nielsen v. Preap*, a plurality of the Court explained that the release of noncitizen plaintiffs from
11 detention on bond under a preliminary injunction order did not moot their underlying claim that
12 their mandatory detention was unlawful. 586 U.S. 392, 403 (2019). As the Court reasoned,
13 “[u]nless that preliminary injunction was made permanent . . . these individuals faced the threat
14 of re-arrest and mandatory detention.” *See id.*; *see also Rodriguez Diaz v. Garland*, 53 F.4th
15 1189, 1195 n.2 (9th Cir. 2022) (holding that the government’s compliance with a district court
16 order that a noncitizen petitioner be released on bond “does not moot its appeal”); *Carafas*, 391
17 U.S. at 238 (explaining that “once the federal jurisdiction has attached in the District Court, it is
18 not defeated by the release of the petitioner prior to completion of proceedings on [a habeas]
19 application”). And while Respondents cite *Abdala v. I.N.S.* in support of their mootness
20 argument, the Ninth Circuit makes clear in that case that a habeas petition “continue[s] to present
21 a live controversy after the petitioner’s release” where there is “some remaining ‘collateral
22 consequence’ that may be redressed by success on the petition.” 488 F.3d 1061, 1064 (9th Cir.
23 2007) (quoting *Spencer v. Kemna*, 523 U.S. 1, 7 (1998)).
24

1 Here, Petitioners Ortiz Martinez, Romero Leal, and Barajas Cano were released on bond
2 under the Court’s TRO order. *See* Dkt. 18; Dkt. 21 ¶¶ 9, 25, 32. But that relief was, by definition,
3 temporary. *See* Fed. R. Civ. P. 65(b)(2) (“The order expires at the time after entry—not to
4 exceed 14 days[.]”). Once the TRO expires—and absent “permanent” relief from unlawful
5 detention in the form of a final judgment, *see Preap*, 586 U.S. at 403—Petitioners could suffer
6 “collateral consequences” and face an ongoing threat of actual injury. *See Abdala*, 488 F.3d at
7 1064; *Spencer*, 523 U.S. at 7–8. Namely, Petitioners “face[] the threat of re-arrest and mandatory
8 detention” under the same detention scheme this Court has already declared unlawful as applied
9 to them. *See Rodriguez Vazquez*, 2025 WL 2782499, at *27. This is especially true where, as
10 here, Respondents “continue to believe Petitioners are subject to mandatory detention” and the
11 Tacoma Immigration Court continues to deny bond to similarly situated Petitioners under the
12 same reasoning. Dkt. 20 at 3; *see, e.g.*, Dkt. 11-3. Accordingly, the Court will consider the
13 underlying writ of habeas corpus for all five Petitioners.

14 **B. Petitioners are entitled to relief.**

15 Petitioners argue that the application of 8 U.S.C. § 1225(b)(2) to them, noncitizens “who
16 entered the United States without inspection or parole” but were not apprehended upon arrival,
17 violates the INA by mandating their continued detention. Dkt. 1 ¶¶ 1–4, 85–86; *see* Dkt. 4-3;
18 Dkt. 4-6; Dkt. 4-8; Dkt. 4-12; Dkt. 4-10. Petitioners contend that they are instead subject to
19 discretionary detention under 8 U.S.C. § 1226(a), which entitles them to a bond hearing before
20 an IJ with the possibility of release. Dkt. 1 ¶ 6. Respondents make no other argument for
21 Petitioners’ mandated detention than one based on their statutory interpretation of the detention
22 authorities at issue. *See* Dkt. 20 at 3–4.

23 Whether Petitioners are lawfully detained under section 1225 presents the same legal
24 question that this Court recently answered in *Rodriguez Vazquez*, 2025 WL 2782499. The Court

1 granted summary judgment and entered a declaratory judgment for members of a certified Bond
2 Denial Class, declaring that the “Bond Denial Class members are detained under 8 U.S.C.
3 § 1226(a) and are not subject to mandatory detention under 8 U.S.C. § 1225(b)(2).” *Id.* at *27.
4 The Court further declared that “the Tacoma Immigration Court’s practice of denying bond to
5 Bond Denial Class members on the basis of § 1225(b)(2) violates the Immigration and
6 Nationality Act.” *Id.*

7 Here, Petitioners are members of the Bond Denial Class because at the time they filed
8 this petition for writ of habeas corpus, they were detained at NWIPC; entered the United States
9 without inspection; were not apprehended on arrival; and were not subject to detention under 8
10 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time they requested a bond hearing. *See id.*;
11 Dkt. 4-3; Dkt. 4-6; Dkt. 4-8; Dkt. 4-12; Dkt. 4-10; *see generally* Dkt. 21.

12 Respondents previously stated that they “do not object to Petitioners being considered
13 members of the Bond Denial Class for purposes of this case.” Dkt. 15 at 4 (footnote omitted).
14 But in the government’s latest filing, they argue that Petitioner Josefina Rojas is not a Bond
15 Denial Class member “[b]ecause there is no evidence that Rojas has requested a bond hearing.”
16 Dkt. 20 at 9. Respondents do not otherwise object to Rojas being considered a Bond Denial Class
17 member. *See id.* They further acknowledge that once Rojas requests a bond hearing and if the
18 Court were to grant her habeas petition, “the appropriate relief would be for Rojas to have a bond
19 hearing in the immigration court pursuant to 8 U.S.C. § 1226(a).” *Id.*

20 That Rojas has not yet requested a bond hearing is not a basis for denying her habeas
21 petition. Where, as here, an individual “is in custody in violation of the . . . laws . . . of the
22 United States,” the Court is empowered to grant the petitioner’s writ of habeas corpus. *See* 28
23 U.S.C. § 2241(a). Respondents do not dispute that Rojas is currently subject to mandatory
24 detention under section 1225(b)(2), which this Court has declared unlawful under the INA as

1 applied to her and others similarly situated. *See* Dkt. 20 a 9; *Rodriguez Vazquez*, 2025 WL
2 2782499, at *27. Rojas need not go through a futile exercise of requesting a bond hearing while
3 still subject to unlawful mandatory detention in order to gain the protection of the Court’s
4 declaratory judgment. *See Carafas*, 391 U.S. at 238 (explaining that under the federal habeas
5 statute, “(t)he court shall [. . .] dispose of the matter as law and justice require”) (quoting 28
6 U.S.C. § 2243). The Court can grant her petition because the current basis for her custody is
7 unlawful, and she should instead be detained under section 1226(a), which will entitle her to a
8 bond hearing on the merits once she requests one under 8 U.S.C. § 1226(a) and its implementing
9 regulations. *See* 8 C.F.R. §§ 236.1(d)(1), 1003.19.

10 Finally, the Court clarifies that the relief it grants to the four petitioners for whom IJs had
11 set bond in the alternative—Ortiz Martinez, Romero Leal, Barajas Cano, and Lopez Lopez—
12 includes adherence to *all* requirements of the IJ’s conditional bond orders under section 1226(a).
13 *See* Dkt. 4-4; Dkt. 4-9; Dkt. 4-11; Dkt. 19-1. In particular, the IJ’s alternative bond finding for
14 Petitioner Adolfo Barajas Cano does *not* impose “[a]ny conditions ICE deems necessary,”
15 including the requirement he wear an ankle monitor on his release. *See* Dkt. 4-11 at 2; Dkt. 24-3
16 at 2; Dkt. 23 at 6.

17 For the same reasons that this Court granted Bond Denial Class members declaratory
18 relief, the Court finds that Petitioners are detained under section 1226(a) and not subject to
19 mandatory detention under section 1225(b)(2). *See Rodriguez Vazquez*, 2025 WL 2782499, at
20 *27. Petitioners have thus shown they are “in custody in violation of the” INA. *See* 28 U.S.C.
21 § 2241(c)(3). Accordingly, Petitioners’ writ of habeas corpus is GRANTED.¹

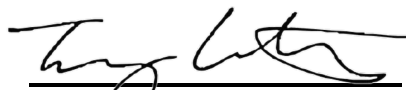
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23 ¹ Because the Court grants the petition based on Petitioners’ unlawful detention under the INA, it
24 declines to reach Petitioners’ constitutional claim, now moot, that mandatory detention violates
their right to due process. *See* Dkt. 1 ¶¶ 91–93.

IV. CONCLUSION

For the reasons explained above, the Court ORDERS as follows:

1. The petition for writ of habeas corpus (Dkt. 1) is GRANTED.
2. Within ONE day of this Order, Respondents must either release Petitioner Pepe Lopez Lopez from detention or allow Petitioner's release upon payment of the bond amount and all conditions found in the alternative by the Immigration Judge in her October 8, 2025 order. For Lopez Lopez, the bond amount found in the alternative is \$5,000 and the order allows that "[c]onditional release is granted under any conditions set by ICE/DHS." (Dkt. 19-1 at 2–3).
3. Within seven days of this Order, Respondents must comply with all conditions found in the alternative by the Immigration Judge in Petitioners' respective bond determination orders. Respondents are ordered to remove Petitioner Adolfo Barajas Cano's ankle monitor to comply with the Immigration Judge's June 23, 2025 order. (Dkt. 4-11 at 2).
4. Within seven days of this Order, Respondents must show cause why the Court should not order the return of Petitioner Santiago Ortiz Martinez's employment authorization document ("EAD") and Alaska ID.
5. Within fourteen days of receiving Petitioner Josefina Rojas's request for a bond redetermination, Respondents must either release her or provide her a bond hearing under 8 U.S.C. §1226(a).

Dated this 10th day of October, 2025.


Tiffany M. Cartwright
United States District Judge