

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

**Gustavo Castaneda Hernandez v. Kristi Noem, et al.**

No. CV-25-04786-PHX-KML (JFM) · No. No. CV-25-04786-PHX-KML (JFM) · Decided December 29, 2025

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OPINION

1 WO 2 3 4 5 6 IN THE UNITED STATES DISTRICT COURT 7 FOR THE DISTRICT OF  
ARIZONA 8 9 Gustavo Castaneda Hernandez, No. CV-25-04786-PHX-KML (JFM) 10 Petitioner,  
ORDER 11 v. 12 Kristi Noem, et al., 13 Respondents. 14 15 Petitioner filed a petition under 28  
U.S.C. § 2241. (Doc. 1.)

The petition presents 16 the recurring issue whether a particular individual is subject to mandatory  
detention under 17 8 U.S.C. § 1225(b)(2). District courts have split on this issue as set forth in  
Zepeda v. Noem, 18 CV-25-4236-PHX-KML (JFM), ECF No. 13 at 2–3 (D. Ariz. Dec. 11, 2025).

On 19 December 11, 2025, the Seventh Circuit concluded the Department of Homeland Security  
20 and the U.S. Immigration and Customs Enforcement were “not likely to succeed on the 21  
merits of their argument” regarding “mandatory detention under § 1225(b)(2)(A).” 22 Castanon-  
Nava v. U.S. Dep’t of Homeland Sec., No. 25-3050, 2025 WL 3552514, at \*9 23 (7th Cir.

Dec. 11, 2025). And on December 18, 2025, the Central District of California 24 entered judgment  
in a class action likely covering petitioner declaring “the Bond Eligible 25 Class members are  
detained under 8 U.S.C. § 1226(a) and are not subject to mandatory 26 detention under § 1225(b)  
(2)” and vacating “the Department of Homeland Security policy 27 described in the July 8, 2025,  
‘Interim Guidance Regarding Detention Authority for 28 Applicants for Admission’ under the  
Administrative Procedure Act as not in accordanc ☐ with law.

5 U.S.C. § 706(2)(A).” Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, 2|| Doc. 94 (C.D.  
Cal. Dec. 18, 2025). 3 Based on prior decisions in the District of Arizona, the Seventh Circuit’s  
opinion, 4|| and the final judgment entered by the Central District of California, respondents must  
show 5 || cause why the petition should not be granted to the extent that petitioner be released or 6  
|| provided a bond hearing under 8 U.S.C. § 1226.

7 Accordingly, 8 IT IS ORDERED: 9 1. Counsel for petitioner must immediately serve the  
petition upon respondents. 10 2. If not already issued, the clerk’s office must issue any properly  
completed 11 summonses. 12 3.

The clerk of court must immediately transmit by email a copy of this order and the 13 petition to  
the United States Attorney for the District of Arizona, to the attention of 14 Katherine Branch at  
katherine.branch@usdoj.gov, Melissa Kroeger at 15 melissa.kroeger@usdoj.gov, Lon Leavitt at  
lon.leavitt@usdoj.gov, and Theo 16 Nickerson at Theo.Nickerson2 @usdoj.gov.

17 4. Respondents must show cause no later than December 30, 2025 why the petition 18 should  
not be granted. Petitioner may file a reply no later than January 2, 2025. 19 Dated this 23rd day of  
December, 2025. 20 Honorable Krissa M. Lanham 23 United States District Judge 24 25 26 27 28  
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