

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

**Rolando Chach-Ciprian v. Kristi Noem; Todd Lyons; Patrick Divver;
Christopher Larose; Sirce Owens; Pamela Bondi**

Chach-Ciprian v. Noem · No. 3:25-cv-3233-JES-VET · Decided December 2, 2025

OPINION

Chach-Ciprian

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 ROLANDO CHACH-CIPRIAN, Case No.: 3:25-cv-3233-JES-VET 12 Petitioner,

ORDER GRANTING PETITION

13 v. FOR WRIT OF HABEAS CORPUS

PURSUANT TO 28 U.S.C. § 2241

14 KRISTI NOEM; TODD LYONS;

PATRICK DIVVER; CHRISTOPHER

15 [ECF NO. 1]

LAROSE; SIRCE OWENS; PAMELA

16 BONDI,

17 Respondents. 18

Before the Court is Petitioner Rolando Chach-Ciprian’s (“Petitioner”) Petition for a 19 Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. ECF No. 1. Pursuant to the Court’s 20 order to show cause (ECF No. 2), Respondents filed a return to the petition. ECF No. 5. 21 The deadline to file an optional traverse has passed, and Petitioner did not file any traverse. 22 For the reasons set forth below, the Court GRANTS the petition. 23

I. BACKGROUND

24 Petitioner, a native of Guatemala, entered the United States in 2013 without 25 inspection. ECF No. 1 ¶ 31. On August 3, 2025, Petitioner was apprehended in Maryland 26 by Immigration and Custom Enforcement (“ICE”) while he was on his way to work. Id. 27 ¶ 35. He is currently being detained at the Otay Mesa Detention Center. Id. ¶ 37. 28 1 Removal proceedings are now pending for Petitioner before Otay Mesa Immigration 2 Court. Id. ¶ 37. On September 19, 2025, Petitioner states that he was given a bond 3 redetermination hearing, but the Immigration Judge denied the request on the basis that it 4 lacked jurisdiction to redetermine bond under Matter of Yajure-Hurtado, 29 I&N Dec. 216 5 (BIA 2025). Id. ¶ 40. 6 Petitioner alleges in his complaint that he

should not be subject to mandatory 7 detention under 8 U.S.C. § 1225(b)(2), and should rather be subject to § 1226(a). *Id.* ¶¶ 43- 8 49. As such, his detention without a meaningful bond hearing violates § 1226. He seeks 9 either release or that the Court order a bond hearing pursuant to § 1226.

10 II. LEGAL STANDARD

11 A writ of habeas corpus is “available to every individual detained within the United 12 States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art I, § 9, cl. 2). 13 “The essence of habeas corpus is an attack by a person in custody upon the legality of that 14 custody, and ... the traditional function of the writ is to secure release from illegal custody.” 15 *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). A court may grant a writ of habeas corpus 16 to a petitioner who demonstrates to be in custody in violation of the Constitution or federal 17 law. 28 U.S.C. § 2241(c)(3). Traditionally, “the writ of habeas corpus has served as a means 18 of reviewing the legality of Executive detention, and it is in that context that its protections 19 have been strongest.” *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001). Accordingly, challenges 20 to immigration-related detention are within the purview of a district court's habeas 21 jurisdiction. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); see also *Demore v. Kim*, 538 22 U.S. 510, 517 (2003).

23 III. DISCUSSION

24 In Respondents’ return to the petition, they raise several issues: (1) Petitioner’s claim 25 and requested relief is jurisdictionally barred by 8 U.S.C. § 1252; (2) alternatively, if not 26 barred, Petitioner must exhaust administrative remedies; and (3) Petitioner is lawfully 27 detained under § 1225 and it is that section, rather than § 1226, that applies to his detention. 28 ECF No. 3. 1 Respondents’ arguments with regards to jurisdiction, administrative exhaustion, and 2 applicability of § 1225 versus § 1226 are identical to those recently addressed by the 3 undersigned in *Martinez Lopez v. Noem et al.*, No: 25-cv-2717-JES-AHG, 2025 WL 4 3030457, at *2-3 (S.D. Cal. Oct. 30, 2025). In that decision, this Court held that the Court 5 finds that the jurisdiction stripping provisions of 8 U.S.C. § 1252 do not strip it of 6 jurisdiction to hear similar claims challenging detention without an adequate bond hearing, 7 and that any further administrative exhaustion requirements are waived in light of *Matter 8 of Yajure Hurtado*. Further, the Court, along with many others, held that it is § 1226 that 9 applies to noncitizens that have been detained when after residing in the United States for 10 a period of time. The Court adopts its reasoning as to these issues and incorporates it by 11 reference. See also *Beltran et al. v. Noem et al.*, No. 25CV2650-LL-DEB, 2025 WL 12 3078837, at *3-4 (S.D. Cal. Nov. 4, 2025) (holding same). 13 As applied here, there is no dispute that Petitioner was detained by ICE after having 14 already resided in the United States for many years. Therefore, it is § 1226’s discretionary 15 detention that applies to him, rather than § 1225’s mandatory discretion as Respondents 16 urge and Petitioner is entitled to a meaningful bond determination, not solely based on 17 *Matter of Yajure Hurtado*. Accordingly, the Court GRANTS Petitioner’s petition on this 18 ground.

19 IV. CONCLUSION

20 For the reasons discussed above, the Court ORDERS as follows: 21 (1) Petitioner's petition for writ of habeas corpus is GRANTED; 22 (2) The Court ORDERS Respondents to provide Petitioner with a bond 23 redetermination hearing under 8 U.S.C. § 1226(a) within ten days of this 24 Order. At the hearing, Respondents may not deny Petitioner bond on the basis 25 that he is detained under 8 U.S.C. § 1225(b)(2); 26 // 27 // 28 // 1 (4) Respondents are ORDERED to File a Notice of Compliance within ten days 2 of providing Petitioner with a bond redetermination hearing; 3 (5) The Clerk of Court SHALL enter judgment in Petitioner's favor and close 4 this case. 5 IT IS SO ORDERED. 6 || Dated: December 2, 2025 8 Honorable James E. Simmons Jr. 9 United States District Judge 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28