

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Vishal Kumar v. Warden of Imperial Regional Detention Facility, et
al.

Kumar · No. 26-cv-0460-AGS-AHG · Decided January 26, 2026

SUMMARY

The United States District Court for the Southern District of California orders the government to respond to Vishal Kumar's 28 U.S.C. § 2241 petition challenging his immigration detention and denial of an individualized bond hearing. The court finds that the petition presents a sufficiently cognizable and potentially meritorious challenge, and directs respondents to state whether Kumar is a member of the Maldonado Bautista class and whether they will concede his right to a bond hearing, or otherwise answer the petition.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Andrew G. Schopler
JURISDICTION	United States District Court for the Southern District of California
DECIDED	January 26, 2026
DOCKET	26-cv-0460-AGS-AHG
DISPOSITION	other
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging immigration detention; the court ordered respondents to state whether they would concede petitioner's right to a bond hearing or, alternatively, answer the petition.
STANDARD OF REVIEW	At initial habeas screening, summary dismissal is appropriate only when the petition is plainly meritless or the claims are clearly not cognizable; a petition with any potential merit warrants a response.
PRECEDENTIAL VALUE	Unknown; interlocutory screening order requiring a government response.
PARTIES	Vishal Kumar v. Warden of Imperial Regional Detention Facility, et al.

TOPICS

immigration detention

federal habeas corpus

removal proceedings

immigration

class actions

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Kumar's § 2241 challenge to his immigration detention and denial of an individualized bond determination was sufficiently cognizable and potentially meritorious to require a response rather than summary dismissal.
2. Whether respondents should state whether Kumar is a member of the Maldonado Bautista class and whether they will concede his right to a bond hearing under that authority.

HOLDINGS

1. The petitioner's challenge to his immigration detention had sufficient potential merit to warrant a response and was not subject to summary dismissal at that stage.

KEY QUOTATIONS

“But “as long as a petition has any potential merit, it is not so frivolous or incredible as to justify summary dismissal[.]”” (at 1)

“This challenge has sufficient potential merit to warrant a response.” (at 2)

FACTUAL BACKGROUND

Kumar, an Indian citizen, entered the United States without inspection on November 11, 2023. The government initiated removal proceedings under 8 U.S.C. § 1229a and arrested him on December 5, 2025. After he sought a bond hearing, the Immigration Judge indicated that the request would be denied as a matter of law under *Matter of Yajure Hurtado* because the Immigration Court lacked authority to conduct an individualized custody determination.

PROCEDURAL HISTORY

Kumar filed a § 2241 habeas petition challenging his detention and the Immigration Judge's stated inability to conduct an individualized custody determination under *Matter of Yajure Hurtado*. At the initial screening stage, the court found that the challenge had sufficient potential merit to warrant a response and ordered the government to address class membership and possible concession, or otherwise answer the petition.

DISPOSITION

other

CASES CITED

- *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)

- Neiss v. Bludworth, 114 F.4th 1038, 1045 (9th Cir. 2024)
- Maldonado Bautista v. Noem, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025)
- Barco Mercado Francis, ___ F. Supp. 3d ___, No. 25-cv-6582 (LAK), 2025 WL 3295903, at *4 (S.D.N.Y. Nov. 26, 2025)
- Mosqueda v. Noem, No. 5:25-cv-02304 CAS (BFM), 2025 WL 2591530, at *5 (C.D. Cal. Sept. 8, 2025)
- Vazquez v. Feeley, No. 2:25-cv-01542-RFB-EJY, 2025 WL 2676082, at *11 (D. Nev. Sept. 17, 2025)
- Rodriguez v. Bostock, No. 3:25-cv-05240-TMC, 2025 WL 2782499, at *1 (W.D. Wash. Sept. 30, 2025)

OPINION

1 UNITED STATES DISTRICT COURT 2 SOUTHERN DISTRICT OF CALIFORNIA 3 Vishal KUMAR, Case No.: 26-cv-0460-AGS-AHG 4 Petitioner, ORDER REQUIRING RETURN 5 v. 6 WARDEN OF IMPERIAL REGIONAL DETENTION FACILITY, et al., 7 Respondents. 8 9 Petitioner Vishal Kumar seeks a writ of habeas corpus under 28 U.S.C. § 2241 10 challenging his immigration detention. At this stage, he need only make out a claim that is 11 sufficiently cognizable to warrant a response.

See Rules Governing Section 2254 Cases in 12 the United States District Courts, Rule 4 (authorizing summary dismissal “if it plainly 13 appears from the petition and any attached exhibits that the petitioner is not entitled to 14 relief”); *id.*, Rule 1(b) (permitting application of Rules Governing Section 2254 Cases to 15 any “habeas corpus petition”).

In this context, the relevant federal rules permit “summary 16 dismissal of claims that are clearly not cognizable.” *Neiss v. Bludworth*, 114 F.4th 1038, 17 1045 (9th Cir. 2024) (cleaned up). But “as long as a petition has any potential merit, it is 18 not so frivolous or incredible as to justify summary dismissal[.]” *Id.* 19 “On November 11, 2023,” Kumar, a citizen of “India,” entered the United States 20 “without inspection.” (ECF 1, at 10.)

Thereafter, respondents “initiated removal 21 proceedings against Petitioner under 8 U.S.C. § 1229a and filed his Notice to Appear.” (*Id.* 22 at 11.) Over two years after entering the United States, on “December 5, 2025,” 23 respondents arrested him, and he “has been in custody” since. (*Id.* at 5.) When he sought a 24 bond hearing, “the Immigration Judge expressly indicated that she would deny Petitioner’s 25 bond request as a matter of law pursuant to Matter of Yajure Hurtado, 29 I&N Dec.

216 26 (BIA 2025), on the asserted ground that the Immigration Court lacked authority to conduct 27 an individualized custody determination.” (*Id.* at 11.) In addition to other claims, he argues 28 1 || that this action “violates the Immigration and Nationality Act.” (*Id.* at 14.) 2 This challenge has sufficient potential merit to warrant a response. Functionally 3 || identical cases across the country have succeeded, including a class action dealing with 4 || this very question.

See *Maldonado Bautista v. Noem*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025) (class action final judgment); *Barco Mercado v. Francis*, ___ F. Supp. 3d. ___, No. 25-cv-6582 (LAK), 2025 WL 3295903, at *4 7 (S.D.N.Y. Nov. 26, 2025) (noting that, in “350” of the “362” opinions to address this issue, 8 ||the petitioners “prevailed, either on a preliminary or final basis,” and these cases were 9 || “decided by over 160 different judges sitting in about fifty different courts”); *Mosqueda v. Noem*, No. 5:25-cv-02304 CAS (BFM), 2025 WL 2591530, at *5 (C.D.

Cal. Sept. 8, 2025) 11 (“[P]etitioners are likely to succeed on the merits of their claims because section 1226(a), 12 || not section 1225(b)(2), likely governs their detention.”); *Vazquez v. Feeley*, No. 2:25-cv- 13 ||01542-RFB-EJY, 2025 WL 2676082, at *11 (D. Nev. Sept. 17, 2025) (same); *Rodriguez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 2782499, at *1 (W.D.

Wash. Sept. 30, 15 ||2025) (“[T]he government’s position belies the statutory text of the INA, canons of 16 statutory interpretation, legislative history, and longstanding agency practice.”). 17 Recently, respondents have routinely conceded these claims when brought by 18 petitioners who are members of the *Maldonado Bautista* class, as plaintiff asserts. (See 19 || ECF 1, at 2.)

So, by Friday, January 30, 2026, the government is ordered to file a brief 20 || stating whether it: (1) agrees he is part of that class and (2) intends to concede his right to 21 bond hearing under that authority. If respondents do not concede, they must answer the 22 || petition by January 30, 2026. 23 Dated: January 26, 2026 5 Hon. reu G. Schopler United States District Judge 26 27 28