

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

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.” (/d. 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. rewr G. Schopler United States District Judge 26 27 28