

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA**

Anthony Jose Mendoza Perez v. Christopher LaRose, et al.

Mendoza Perez v. LaRose · No. 25-cv-3845-AGS-MMP · Decided December 31, 2025

OPINION

1 UNITED STATES DISTRICT COURT 2 SOUTHERN DISTRICT OF CALIFORNIA 3
Anthony Jose MENDOZA PEREZ, Case No.: 25-cv-3845-AGS-MMP 4 Petitioner, ORDER
REQUIRING RESPONSE 5 v. 6 Christopher LaROSE, et al., 7 Respondents. 8 9 Petitioner
Anthony Mendoza Perez seeks a writ of habeas corpus under 28 U.S.C. 10 § 2241 to free her from
immigration detention. (See ECF 1.) 11 At this stage, he need only make out a claim that is
sufficiently cognizable to warrant 12 a response.

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

In 16 this context, the relevant federal rules permit “summary dismissal of claims that are clearly
17 not cognizable.” *Neiss v. Bludworth*, 114 F.4th 1038, 1045 (9th Cir. 2024) (cleaned up). 18 But
“as long as a petition has any potential merit, it is not so frivolous or incredible as to 19 justify
summary dismissal[.]” *Id.* 20 “On or about September 16, 2023,” Mendoza Perez, a “Venezuelan
asylum seeker” 21 “entered the United States and was released on his own recognizance.” (ECF 1,
at 2.)

After 22 some allegedly attorney-driven delays, on “September 18, 2025,” he filed his
“Application 23 for Asylum, Withholding of Removal, and Protection under the Convention
Against 24 Torture with the immigration court.” (*Id.*) Respondents then allegedly “dismissed” his
25 ongoing claim and placed him in “expedited removal” proceedings. (*Id.* at 3.) He was then 26
“redetained” “without a meaningful opportunity to seek a bond or custody redetermination 27
hearing” because of the government’s position that he is “subject to mandatory detention” 28
under “8 U.S.C. § 1225.” (*Id.* at 3.)

He asserts that, because he crossed into the United 1 || States in “2023,” he is not an applicant for
admission, and the governing statute is thus not 2 || § 1225, but “§ 1226(a),” which would allow
his release “on bond.” (*Id.* at 2-3, 7, 10.) This 3 || statutory misclassification, he argues, renders his
detention “unlawful.” *Id.* at 7.) 4 This challenge has sufficient potential merit to warrant a
response.

Functionally 5 identical cases across the country have been found to have a “likelihood of success on the merits” or have resulted in the writ being issued. See, e.g., *Barco Mercado v. Francis*, 7 F.Supp.3d.____, No. 25-cv-6582 (LAK), 2025 WL 3295903, at *4 (S.D.N.Y. Nov. 26, 2025) (noting that, in “350” of the “362” opinions to address this issue, the petitioners “have prevailed, either on a preliminary or final basis,” and these cases were “decided by 10 160 different judges sitting in about fifty different courts”); *Mosqueda v. Noem*, No. 11 ||/5:25-cv-02304 CAS (BFM), 2025 WL 2591530, at *5 (C.D.Cal.

Sept. 8, 2025) 12 || (“[P]etitioners are likely to succeed on the merits of their claims because section 1226(a), 13 ||/not section 1225(b)(2), likely governs their detention.”); *Vazquez v. Feeley*, No. 2:25-cv- 14 01542-RFB-EJY, 2025 WL 2676082, at *11 (D. Nev. Sept. 17, 2025) (same); *Rodriguez* 15 ||/v. *Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 2782499, at *1 (W.D.

Wash. Sept. 30, 16 ||/2025) (“[T]he government’s position belies the statutory text of the INA, canons of 17 statutory interpretation, legislative history, and longstanding agency practice.”). 18 By January 7, 2026, respondent must answer the petition and respond to the 19 ||/injunctive-relief motion. Any reply by petitioner must be filed by January 12, 2026.

The 20 ||/Court will hold oral arguments on the petition and injunctive-relief motion on January 14, 21 ||/2026, at 10:00 a.m. 22 ||/Dated: December 31, 2025 4 Hon. re w G. Schopler United States District Judge 25 26 27 28