

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Rosaura Pablo Miguel v. Christopher LaRose, et al.

Case No. 25-cv-2644-AGS-MSB · No. 25-cv-2644-AGS-MSB · Decided October 7, 2025

SUMMARY

The United States District Court for the Southern District of California orders the respondent to respond to Rosaura Pablo Miguel’s 28 U.S.C. § 2241 habeas petition challenging mandatory immigration detention and denial of a bond hearing. The court finds that the petition has sufficient potential merit, particularly concerning whether 8 U.S.C. § 1226(a) or § 1225(b)(2)(A) governs the petitioner’s detention.

OPINION

1 UNITED STATES DISTRICT COURT 2 SOUTHERN DISTRICT OF CALIFORNIA 3
Rosaura PABLO MIGUEL, Case No.: 25-cv-2644-AGS-MSB 4 Petitioner, ORDER REQUIRING
RESPONSE 5 v. 6 Christopher LAROSE, et al., 7 Respondent. 8 9 Petitioner Rosaura Pablo
Miguel seeks a writ of habeas corpus under 28 U.S.C. 10 § 2241 challenging her immigration
detention. At this stage, she need only make out a 11 claim that is sufficiently cognizable to
warrant a response.

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

In this context, the relevant federal rules permit “summary dismissal of claims 16 that are clearly
not cognizable.” *Neiss v. Blutworth*, 114 F.4th 1038, 1045 (9th Cir. 2024) 17 (cleaned up). But
“as long as a petition has any potential merit, it is not so frivolous or 18 incredible as to justify
summary dismissal[.]” *Id.* 19 Petitioner claims to have been in immigration custody since “August
10, 2025.” 20 (ECF 1, at 2.)

She alleges that she has been “subject to mandatory detention pursuant to 8 21 U.S.C. § 1225(b)
(2)(A),” and thus denied bond during the pendency of removal 22 proceedings. (ECF 1, at 2) This
is due to a “new DHS policy issued on July 8, 2025, 23 instructing all Immigration and Customs
Enforcement (ICE) employees to consider anyone 24 inadmissible under 8 U.S.C. § 1182(a)(6)(A)
(i)—i.e., present without admission—to be an 25 ‘applicant for admission’ under 8 U.S.C. §
1225(b)(2)(A) and therefore subject to 26 mandatory detention during the removal hearing
process.” (ECF 1, at 3 (footnote omitted).)

27 Despite originally succeeding at a bond hearing, the immigration judge allegedly changed 28
course thereafter and determined that he “lacked jurisdiction to redetermine Respondent’s |
custody” “in light of’ the Board of Immigration Appeals’ opinion in “Matter of Yajure 2 ||
Hurtado.” (Id. at 4.) She charges that Yajure Hurtado and the “new legal interpretation of 3 INA is
plainly contrary to the statutory framework and contrary to decades of agency 4 ||practice applying
§ 1226(a) to people like Petitioner who are present within the 5 || United States.” Ud. at 5.)

6 This challenge has sufficient potential merit to warrant a response. The Court notes 7 ||
functionally identical ones across the country have been found to have a “likelihood of 8 ||success
on the merits” or have resulted in the writ being issued. See, e.g., *Mosqueda v. 9 || Noem*, No.
5:25-CV-02304 CAS (BFM), 2025 WL 2591530, at *5 (C.D. Cal. Sept. 8, 2025) 10 (‘T]he Court
concludes that petitioners are likely to succeed on the merits of their claims 11 || because section
1226(a), not section 1225(b)(2), likely governs their detention.”); *Vazquez 12 ||v.*

Feeley, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082, at *11 (D. Nev. Sept. 17, 13 ||2025)
(same); see also *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 14 2782499, at *1
(W.D. Wash. Sept. 30, 2025) (“Every district court to address this question 15 concluded that the
government’s position belies the statutory text of the INA, canons 16 statutory interpretation,
legislative history, and longstanding agency practice.”); *Luna 17 || Quispe v. Crawford*, No. 1:25-
CV-1471-AJT-LRV, 2025 WL 2783799, at *6 (E.D.

Va. 18 ||Sept. 29, 2025) (“Petitioner’s detention is governed by § 1226(a)’s discretionary 19 ||
framework, not § 1225(b)’s mandatory detention procedures, as at least thirty federal 20 || district
courts around the country, including two in this Circuit, have concluded when faced 21 || with
habeas petitions from comparably situated petitioners.”). 22 By October 28, 2025, respondent
must answer the petition.

Petitioner’s reply must 23 filed by November 18, 2025. 24 || Dated: October 7, 2025 Hon. rew G.
Schopler United States District Judge 27 28