

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

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OPINION

Miguel v. LaRose

PER CURIAM.

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.*  
*Bludworth*, 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