

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Hernandez Rodriguez v. Larose

Hernandez Rodriguez · No. 3:25-cv-01897-CAB-VET · Decided July 28, 2025

SUMMARY

The United States District Court for the Southern District of California declined to summarily dismiss Erick Alexander Hernandez Rodriguez’s 28 U.S.C. § 2241 habeas petition challenging his immigration detention and expedited removal. The court ordered the respondents to file a response by August 2025.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Cathy Ann Bencivengo
JURISDICTION	United States District Court for the Southern District of California
DECIDED	July 28, 2025
DOCKET	3:25-cv-01897-CAB-VET
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner filed a 28 U.S.C. § 2241 habeas petition challenging his immigration detention and seeking release or a bond hearing. On preliminary review, the court declined to summarily dismiss the petition and ordered respondents to respond.
STANDARD OF REVIEW	Under Habeas Rule 4, the court conducts a preliminary review and may dismiss a petition when it plainly appears that the petitioner is not entitled to relief; summary dismissal is appropriate only when the allegations are vague or conclusory, palpably incredible, or patently frivolous or false.
PRECEDENTIAL VALUE	Unknown; district court order directing a response and declining summary dismissal at preliminary review.
PARTIES	Erick Alexander Hernandez Rodriguez v. Christopher J. Larose, Joseph Freden, Todd M. Lyons, Kristi Noem, Pam Bondi

TOPICS

- immigration detention
- federal habeas corpus
- removal proceedings
- immigration

PRACTICE AREAS

immigration

federal habeas corpus

immigration detention

removal proceedings

QUESTIONS PRESENTED

1. Whether the § 2241 petition should be summarily dismissed at the preliminary-review stage under Habeas Rule 4.
2. Whether the allegations concerning petitioner's immigration detention and request for release or a bond hearing warranted a response from the respondents.

HOLDINGS

1. Summary dismissal was unwarranted because the petition did not plainly show that petitioner was not entitled to relief.
2. Respondents were ordered to file a response to the petition by August 15, 2025.

KEY QUOTATIONS

“Under Habeas Rule 4, the Court must “conduct a preliminary review of each petition” and dismiss a petition if “it plainly appears . . . that the petitioner is not entitled relief.”” (at 1)

“Summary dismissal is appropriate only where the allegations in the petition are vague or conclusory, palpably incredible, or patently frivolous or false.” (at 1-2)

FACTUAL BACKGROUND

Petitioner alleged that he accidentally crossed into Mexico on June 1, 2025, while driving passengers for Uber after missing the last United States exit. He alleged that U.S. Customs and Border Protection detained him when he attempted to reenter the United States and that he was then placed in ICE custody. He further alleged that the Department of Homeland Security issued an expedited removal order, that he held DACA status, and that he had a pregnant U.S.-citizen wife and a U.S.-citizen daughter.

PROCEDURAL HISTORY

On July 25, 2025, Erick Alexander Hernandez Rodriguez filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241. The district court conducted preliminary review under Habeas Rule 4 and determined that summary dismissal was unwarranted at that stage. The court ordered respondents to file a response by August 15, 2025.

DISPOSITION

other

CASES CITED

- *Khouanmany v. Painter*, No. 2:24-cv-01189-CKD, 2024 WL 4528162, at *1 n.1 (E.D. Cal. Oct. 18, 2024)

- *Kourteva v. INS*, 151 F. Supp. 2d 1126, 1128 (N.D. Cal. 2001)
- *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990)

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