

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)

OPINION

Hernandez Rodriguez v. Larose

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 ERICK ALEXANDER HERNANDEZ Case No.: 3:25-cv-01897-CAB-VET

RODRIGUEZ,

12

ORDER TO RESPOND

Petitioner, 13 v. 14 CHRISTOPHER J. LAROSE, et al., 15 Respondents. 16 17 On July 25, 2025, Petitioner Erick Rodriguez, a citizen of El Salvador, filed a 18 petition for a writ of habeas corpus (“Petition”) pursuant to 28 U.S.C. § 2241 against 19 Respondents Christopher J. Larose (Senior Warden, Otay Mesa Detention Center), Joseph 20 Freden (Acting Field Office Director, U.S. Immigration and Customs Enforcement 21 (“ICE”)), Todd M. Lyons (Acting Director, ICE), U.S. Secretary of Homeland Security 22 Kristi Noem, and U.S. Attorney General Pam Bondi. [Doc. No. 1.] 23 “The Rules Governing § 2254 cases in the United States Courts may be applied to 24 habeas corpus petitions filed pursuant to 28 U.S.C. § 2241.” *Khouanmany v. Painter*, No. 25 2:24-cv-01189-CKD, 2024 WL 4528162, at *1 n.1 (E.D. Cal. Oct. 18, 2024) (citing Habeas 26 Rule 1(b)). Under Habeas Rule 4, the Court must “conduct a preliminary review of each 27 28 1 || petition” and dismiss a petition if “it plainly appears . . . that the petitioner is not entitled 2 relief.” *Id.* 3 Petitioner alleges that on June 1, 2025, while driving two passengers for Uber, he 4 || accidentally crossed into Mexico after missing the last U.S. exit and was detained by U.S. 5 || Customs and Border Patrol upon attempting to re-enter the U.S. and placed into ICE 6 || custody. Petitioner alleges that the Department of Homeland Security has issued an 7 || expedited order for his removal. Petitioner asserts that he holds DACA status and is 8 || married to a U.S. citizen (who is pregnant and due any day) and has a U.S. citizen daughter. 9 || He seeks this Court to order that his detention is unlawful, and order either his release or 10 Respondents provide him a bond hearing. Having reviewed the Petition, the Court 11 || finds that summary dismissal is unwarranted at this time. See *Kourteva v. INS*, 151 F. 12 || Supp. 2d 1126, 1128 (N.D. Cal. 2001) (“Summary dismissal is appropriate only where the 13 || allegations in the petition are vague or conclusory, palpably incredible, or patently 14 || frivolous or false.”) (citing *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990)). 15 || Accordingly, the Court ORDERS Respondents to file a response to the Petition by August 16 2025. 17 It is SO ORDERED. 18 19 Dated: July 28, 2025 € 20 Hon. Cathy Ann Bencivengo 21 United States District Judge 22 23 24 25 26 27 28

