

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

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.” *Khounmany 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