

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Rogelio Torres Velasquez v. Kristi Noem, et al.

Case No. 25-cv-3046-AGS-DEB · No. 25-cv-3046-AGS-DEB · Decided November 13, 2025

SUMMARY

The United States District Court for the Southern District of California determines that Rogelio Torres Velasquez’s habeas challenge to his immigration detention has sufficient potential merit to warrant a response. The court orders respondents to answer by November 26, 2025, sets a petitioner reply deadline of December 10, 2025, schedules oral argument for December 17, 2025, and strikes its prior November 12, 2025 order.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Andrew G. Schopler
JURISDICTION	United States District Court for the Southern District of California
DECIDED	November 13, 2025
DOCKET	25-cv-3046-AGS-DEB
DISPOSITION	other
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging immigration detention; the court issued an amended order requiring respondents to answer.
STANDARD OF REVIEW	At the initial habeas screening stage, summary dismissal is appropriate only when it plainly appears from the petition and attached exhibits that the petitioner is not entitled to relief; a petition with any potential merit is not sufficiently frivolous or incredible to justify summary dismissal.
PRECEDENTIAL VALUE	Unpublished, nonprecedential interlocutory district court order
PARTIES	Rogelio Torres Velasquez v. Kristi Noem, et al.

TOPICS

- immigration detention
- immigration
- statutory interpretation
- due process
- civil procedure

PRACTICE AREAS

immigration

immigration detention

habeas corpus

civil procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether the § 2241 petition presented a sufficiently cognizable and potentially meritorious challenge to immigration detention to warrant a response rather than summary dismissal.
2. Whether the court should summarily dismiss the petition at the initial screening stage under Rule 4 of the Rules Governing Section 2254 Cases.

HOLDINGS

1. The petition presented sufficient potential merit to warrant a response and was not subject to summary dismissal at this stage.

KEY QUOTATIONS

“At this stage, he need only make out a claim that is sufficiently cognizable to warrant a response.” (at 1)

“But “as long as a petition has any potential merit, it is not so frivolous or incredible as to justify summary dismissal[.]”” (at 1)

“This challenge has sufficient potential merit to warrant a response.” (at 2)

FACTUAL BACKGROUND

Rogelio Torres Velasquez alleged that he had been in immigration custody since August 26, 2025. He claimed that he was subject to mandatory detention under 8 U.S.C. § 1225(b) and had been denied a meaningful opportunity for an individualized bond redetermination hearing. According to the petition, *Matter of Yajure Hurtado* eliminated Immigration Judge jurisdiction to redetermine custody for noncitizens who entered without inspection. He argued that detention based on that decision violated the text of the Immigration and Nationality Act, longstanding agency practice, and due process.

PROCEDURAL HISTORY

Torres Velasquez filed a § 2241 habeas petition alleging that his immigration detention was mandatory under the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado* and that he was denied an individualized bond redetermination hearing. At the preliminary screening stage, the court determined that the petition presented a sufficiently cognizable claim to warrant a response. The court ordered respondents to answer by November 26, 2025, permitted a reply by December 10, 2025, set oral argument for December 17, 2025, and struck its November 12, 2025 order.

DISPOSITION

other

REMAND INSTRUCTIONS

Respondents must answer the petition by November 26, 2025. Any reply by petitioner must be filed by December 10, 2025. Oral argument was set for December 17, 2025, at 10:00 a.m.

CASES CITED

- Neiss v. Bludworth, 114 F.4th 1038, 1045 (9th Cir. 2024)
- Matter of Yajure Hurtado
- Mosqueda v. Noem, No. 5:25-cv-02304 CAS (BFM), 2025 WL 2591530, at *5 (C.D. Cal. Sept. 8, 2025)
- Vazquez v. Feeley, No. 2025 WL 2676082, at *11 (D. Nev. Sept. 17, 2025)
- Rodriguez v. Bostock, No. 3:25-cv-05240-TMC, 2025 WL 2782499, at *1 (W.D. Wash. Sept. 30, 2025)
- Quispe v. Crawford, No. 1:25-cv-1471-AJT-LRV, 2025 WL 2783799, at *6 (E.D. Va. Sept. 29, 2025)

OPINION

1 UNITED STATES DISTRICT COURT 2 SOUTHERN DISTRICT OF CALIFORNIA 3 Rogelio TORRES VELASQUEZ, Case No.: 25-cv-3046-AGS-DEB 4 Petitioner, AMENDED ORDER REQUIRING RESPONSE 5 v. 6 Kristi NOEM, et al., 7 Respondents. 8 9 Petitioner Rogelio Torres Velasquez seeks a writ of habeas corpus under 28 U.S.C. 10 § 2241 challenging his immigration detention. At this stage, he need only make out a claim 11 that is sufficiently cognizable to warrant a response.

See Rules Governing Section 2254 12 Cases in the United States District Courts, Rule 4 (authorizing summary dismissal “if it 13 plainly appears from the petition and any attached exhibits that the petitioner is not entitled 14 to relief”); id., Rule 1(b) (permitting use of those Rules to any “habeas corpus petition”). 15 In this context, the relevant federal rules permit “summary dismissal of claims that are 16 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 Torres Velasquez alleges that he’s been in immigration custody since “August 26, 20 2025.” (ECF 1, at 2.) He claims to be subject to mandatory detention and denied a 21 “meaningful opportunity for an individualized bond redetermination hearing” per 8 U.S.C. 22 § 1225(b).

(ECF 1, at 8.) This is because a Board of Immigration Appeals’ opinion in 23 “Matter of Yajure Hurtado” “eliminat[ed] Immigration Judge jurisdiction to redetermine 24 custody for” “noncitizens who entered without inspection,” subjecting them “to mandatory 25 detention.” (ECF 1, at 5.) Petitioner charges that detention based on Yajure Hurtado 26 “violates the plain text of the INA, decades of longstanding agency practice, and the 27 constitutional guarantees of Due Process.” (Id. at 2.)

28 1 This challenge has sufficient potential merit to warrant a response. Functionally 2 ||identical cases across the country have been found to have a “likelihood of success on the 3 ||merits” or

have resulted in the writ being issued. See, e.g., *Mosqueda v. Noem*, No. 5:25- 4 || cv-02304 CAS (BFM), 2025 WL 2591530, at *5 (C.D. Cal. Sept. 8, 2025) (“[T]he Court 5 || concludes that petitioners are likely to succeed on the merits of their claims because section 6 || 1226(a), not section 1225(b)(2), likely governs their detention.”); *Vazquez v. Feeley*, No. 7 || 2025 WL 2676082, at *11 (D.

Nev. Sept. 17, 2025) (same); 8 ||see also *Rodriguez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 2782499, at *1 9 ||(W.D. Wash. Sept. 30, 2025) (“Every district court to address this question has concluded 10 ||that the government’s position belies the statutory text of the INA, canons of statutory 11 ||interpretation, legislative history, and longstanding agency practice.”); *Quispe v. 12 || Crawford*, No. 1:25-cv-1471-AJT-LRV, 2025 WL 2783799, at *6 (E.D.

Va. Sept. 29, 13 ||2025) (“Petitioner’s detention is governed by § 1226(a)’s discretionary framework, not 14 1225(b)’s mandatory detention procedures, as at least thirty federal district courts around 15 || the country, including two in this Circuit, have concluded when faced with habeas petitions 16 || from comparably situated petitioners.”). 17 By November 26, 2025, respondents must answer the petition.

Any reply by 18 || petitioner must be filed by December 10, 2025. The Court will hold oral arguments on the 19 || petition on December 17, 2025, at 10:00 a.m. The Court’s November 12, 2025 order (ECF 20 || 2) is stricken. 21 Dated: November 13, 2025 23 Hon. rew G. Schopler United States District Judge 24 25 26 27 28