

**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

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