

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Orvin Rodolfo Fajardo-Aguilar v. Kristi Noem, et al.

Fajardo-Aguilar · No. CV-26-00579-PHX-MTL (ASB) · Decided March 23, 2026

OPINION

Fajardo-Aguilar

PER CURIAM.

1 WO 2 3 4 5

6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 Orvin Rodolfo Fajardo-Aguilar, No. CV-26-00579-PHX-MTL (ASB) 10 Petitioner, ORDER
11 v. 12 Kristi Noem, et al., 13 Respondents. 14 15 I. 16 Petitioner, a citizen of Honduras, has
17 been present in the United States since 2006. 17 (Doc. 1 ¶ 19.) Respondents arrested Petitioner in
18 December 2025. (Id. ¶ 20.) Petitioner 18 filed this habeas corpus action challenging his
19 immigration detention and seeking a bond 19 determination hearing under 8 U.S.C. § 1226(a).
20 Respondents argue that Petitioner is 20 subject to mandatory detention without bond under 8
21 U.S.C. § 1225(b)(2)(A). (Doc. 7.) 21 II. 22 For the reasons explained in *Chavez v. Noem*, — F.
23 Supp. 3d —, 2026 WL 381618, 23 at *1-2 (D. Ariz. Feb. 9, 2026), the Court finds that a person
24 who entered the United States 24 illegally and is clearly and beyond a doubt not entitled to
25 admission, is subject to mandatory 25 detention under § 1225(b)(2)(A). See also *Buenrostro-*
26 *Mendez v. Bondi*, 166 F.4th 494 (5th
26 Cir. 2026).

27 Based on this record, the Court finds that Petitioner is present without having been 28 admitted
and is therefore treated as an applicant for admission under 8 U.S.C. § 1225(a)(1). 1 The Court
further finds that an immigration officer has not determined Petitioner clearly 2 and beyond a
doubt entitled to be admitted, and therefore mandatory detention under 8 3 U.S.C. § 1225(b)(2)(A)
applies. Petitioner’s statutory and regulatory claims must be 4 denied. 5 As far as Petitioner
alleges that his detention violates his due process rights, he is 6 mistaken. The government began
removal proceedings against Petitioner under procedures 7 set forth in the Immigration and
Nationality Act (“INA”). An alien unlawfully present in 8 the United States “has only those rights
regarding admission that Congress has provided 9 by statute.” *Dep’t of Homeland Sec. v.*
Thuraissigiam, 591 U.S. 103, 140 (2020); see also 10 *Espinoza Lopez v. Noem*, 26 Civ. 00345
(JHR), 2026 WL 266597, at *3 (S.D.N.Y. Feb. 2, 11 2026). 12 In this case, Petitioner received due
process in two respects. First, he was afforded 13 the procedural protection of the INA. Second, he
was subject to the determination 14 procedures established by Congress in the Illegal Immigration
Reform and Immigration 15 Responsibility Act where an immigration officer determined that he

was not entitled to a 16 bond hearing. These procedures represent the due process as provided by Congress in 17 statute. Petitioner is entitled to nothing further under the Constitution. 18 Finally, the Court also rejects Petitioner’s argument that relief should be granted 19 here because he is a member of the Bautista class. See *Calderon Lopez v. Lyons*, — F.

20 Supp. 3d —, 2025 WL 3683918, at *1 (N.D. Tex. Dec. 19, 2025). On March 6, 2026, the 21 Ninth Circuit Court of Appeals temporarily stayed the Bautista declaratory judgment, 22 pending a ruling on the Government’s emergency motion for a stay pending appeal. See 23 *Bautista v. U.S. Dep’t of Homeland Sec.*, No. 26-1044 (9th Cir. Mar. 6, 2026). If Petitioner 24 believes he is entitled to further relief under the judgment in Bautista, he must seek relief 25 in the Central District of California. 26 27 28 1 IT IS THEREFORE ORDERED Petitioner’s Petition for Writ of Habeas Corpus 2|| (Doc. 1) is DENIED. This action is dismissed, all pending motions are denied as moot, 3 || and the Clerk of Court must enter judgment accordingly. 4 Dated this 23rd day of March, 2026. 5 Michael T. Liburdi 8 United States District Judge 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 _3-