

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
OKLAHOMA

Jose Hernandez-Blanco and David Hernandez-Gomez v. Warden, Dr.
Scarlet Grant, et al.

Hernandez-Blanco · No. CIV-26-278-R · Decided March 17, 2026

SUMMARY

This Report and Recommendation addresses Jose Hernandez-Blanco’s 28 U.S.C. § 2241 habeas petition challenging his detention by U.S. Immigration and Customs Enforcement. The magistrate judge concludes that 8 U.S.C. § 1226(a), rather than the mandatory-detention provision in § 1225(b) (2)(A), governs the detention of a noncitizen who previously entered and resided in the United States. The recommendation is to grant the petition in part and require Respondents to provide a bond hearing within five business days or release Petitioner if no hearing occurs within that period.

CASE DETAILS

COURT	United States District Court for the Western District of Oklahoma
JURISDICTION	United States District Court for the Western District of Oklahoma
DECIDED	March 17, 2026
DOCKET	CIV-26-278-R
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on a 28 U.S.C. § 2241 habeas petition challenging immigration detention. The magistrate judge recommended granting the petition in part and ordering a bond hearing or release; the recommendation was subject to objections and had not yet become a final district-court disposition.
STANDARD OF REVIEW	Habeas relief under 28 U.S.C. § 2241 requires a showing that the petitioner is in custody in violation of the Constitution or laws or treaties of the United States. The report also applied statutory-interpretation principles, beginning with statutory text and considering context, structure, title, legislative history, and historical practice.
PRECEDENTIAL VALUE	nonprecedential

PARTIES

Jose Hernandez-Blanco, David Hernandez-Gomez v. Warden, Dr. Scarlet Grant, Attorney General of the United States, Secretary of Homeland Security, et al.

TOPICS

immigration detention removal proceedings statutory interpretation procedural due process
civil procedure

PRACTICE AREAS

immigration detention habeas corpus immigration law statutory interpretation federal civil procedure

QUESTIONS PRESENTED

1. Whether the district court had jurisdiction under § 2241 to consider a challenge to the petitioner's immigration detention notwithstanding 8 U.S.C. §§ 1252(g) and 1252(b)(9).
2. Whether the petitioner's detention was governed by 8 U.S.C. § 1225(b)(2)(A), which does not provide for a bond hearing, or by § 1226(a), which provides for discretionary detention and a bond hearing.
3. Whether the court should decide the petitioner's Fifth Amendment due-process claim after recommending a bond hearing under § 1226(a).

HOLDINGS

1. The court had jurisdiction under § 2241 because the petition challenged the legality of detention rather than the decision to commence, adjudicate, or execute removal proceedings.
2. The petitioner's detention was governed by § 1226(a), not § 1225(b)(2)(A), because he had already entered and resided in the United States and was not actively seeking admission at the border or port of entry.
3. The report recommended declining to reach the merits of the due-process claim because the recommended § 1226(a) bond hearing provided the relief sought.

KEY QUOTATIONS

“The plain meaning of the phrase ‘seeking admission’ requires that the applicant must be presently and actively seeking lawful entry into the United States.” (IV.B.1)

“After carefully analyzing the statute’s text, structure, and history, along with longstanding immigration practices and Petitioner’s prior release under § 1226(a), the undersigned recommends that the Court apply § 1226(a) to govern Petitioner’s current detention.” (IV.B.5)

FACTUAL BACKGROUND

Jose Hernandez-Blanco, a citizen of El Salvador, entered the United States near Hidalgo, Texas, without admission or inspection in November 2016 and was placed in removal proceedings. He applied for asylum and

withholding of removal, and an Immigration Judge ordered him removed in 2022; his appeal remained pending. ICE re-detained him in Oklahoma on January 20, 2026, under 8 U.S.C. § 1225(b)(2)(A), although he had previously been released from immigration custody and had been residing in the United States for years.

PROCEDURAL HISTORY

Jose Hernandez-Blanco filed a § 2241 petition challenging his detention by ICE. The matter was referred to a magistrate judge under 28 U.S.C. § 636(b)(1)(B)-(C), and the respondents filed a response without a reply from petitioner. The magistrate judge recommended that the district court grant relief in part by requiring a bond hearing under § 1226(a) within five business days or release, while declining to reach the due-process claim.

DISPOSITION

other

REMAND INSTRUCTIONS

The magistrate judge recommended that the district court order respondents to provide petitioner a lawful bond hearing under § 1226(a) within five business days, release him if no hearing occurred within that period, and require a compliance status report within seven business days of the district court's order.

CASES CITED

- Nasrallah v. Barr, 590 U.S. 573, 578 n.2 (2020)
- Soberanes v. Comfort, 388 F.3d 1305, 1310 (10th Cir. 2004)
- Zadvydas v. Davis, 533 U.S. 678, 687-88, 693 (2001)
- Jennings v. Rodriguez, 583 U.S. 281, 287-89, 306 (2018)
- BedRoc Ltd., LLC v. United States, 541 U.S. 176, 183 (2004)
- King v. Burwell, 576 U.S. 473, 486 (2015)
- United States v. Bishop, 412 U.S. 346, 356 (1973)
- United States v. Ceballos-Martinez, 387 F.3d 1140, 1144 (10th Cir. 2004)
- TRW Inc. v. Andrews, 534 U.S. 19, 31 (2001)
- Dubin v. United States, 599 U.S. 110, 121 (2023)
- Marx v. General Revenue Corp., 568 U.S. 371, 386 (2013)
- Loper Bright Enterprises v. Raimondo, 603 U.S. 369, 386, 413 (2024)
- Matter of Yajure Hurtado, 29 I. & N. Dec. 216, 220, 229 (BIA 2025)
- Colin v. Holt, CIV-25-1189-D, 2025 WL 3645176, at *2, *4-5 (W.D. Okla. Dec. 16, 2025)
- Gonzalez Cortes v. Holt, No. CIV-25-1176-SLP, 2026 WL 147435, at *3-7 (W.D. Okla. Jan. 20, 2026)
- Valdez v. Holt, No. CIV-25-1250-R, 2025 WL 3709021, at *1, *2-3 (W.D. Okla. Dec. 22, 2025)
- Urbina Garcia v. Holt, No. CIV-25-1225-J, 2025 WL 3516071, at *2-4 (W.D. Okla. Dec. 8, 2025)
- Gutierrez Sosa v. Holt, No. CIV-25-1257-PRW, 2026 WL 36344, at *3 (W.D. Okla. Jan. 6, 2026)
- Lepe v. Andrews, No. 25-CV-01163, 2025 WL 2716910, at *5 (E.D. Cal. Sept. 23, 2025)

- Caballero v. Baltazar, No. 25-CV-03120, 2025 WL 2977650, at *6 (D. Colo. Oct. 22, 2025)
- Malacidze v. Noem, No. CIV-25-1527-D, 2026 WL 227155, at *3 (W.D. Okla. Jan. 28, 2026)
- Li v. Grant, No. CIV-25-1426-HE, 2026 WL 147438, at *1 (W.D. Okla. Jan. 20, 2026)
- Pizarro Reyes v. Raycraft, No. 25-cv-12546, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025)
- Bello Chacon v. Hermosillo, No. 25-CV-02299, 2025 WL 3562666, at *2 (W.D. Wash. Dec. 12, 2025)
- Chen v. Soto, No. CV 25-17198, 2025 WL 3527239, at *3 (D.N.J. Dec. 9, 2025)
- Castanon-Nava v. U.S. Department of Homeland Security, 161 F.4th 1048, 1061-62 (7th Cir. 2025)
- Buenrostro-Mendez v. Bondi, 166 F.4th 494, 502-08 (5th Cir. 2026)
- Moore v. United States, 950 F.2d 656, 659 (10th Cir. 1991)

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