

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
VIRGINIA, NORFOLK DIVISION

Jose Bonilla Giron v. Paul Perry, et al.

Civil Action No. 2:26-cv-585 (E.D. Va. June 15, 2026) · No. 2:26-cv-585 · Decided June 15, 2026

SUMMARY

The court granted Jose Bonilla Giron’s habeas petition under 28 U.S.C. § 2241, holding that his detention was governed by the discretionary detention provisions of 8 U.S.C. § 1226(a), rather than the mandatory detention provisions of § 1225(b)(2)(A). The court ordered Respondents to provide Petitioner with a bond hearing before an Immigration Judge within three days and to file a status report afterward.

CASE DETAILS

COURT	United States District Court for the Eastern District of Virginia, Norfolk Division
WRITING FOR THE COURT	Elizabeth W. Hanes
JURISDICTION	United States District Court for the Eastern District of Virginia, Norfolk Division
DECIDED	June 15, 2026
DOCKET	2:26-cv-585
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petitioner sought habeas relief under 28 U.S.C. § 2241, challenging his immigration detention and requesting release or a bond hearing.
STANDARD OF REVIEW	The Court reviewed the habeas petition and the parties' filings to determine whether Petitioner's detention complied with the governing statutory and constitutional provisions.
PRECEDENTIAL VALUE	Unknown; memorandum order from a federal district court
PARTIES	Jose Bonilla Giron v. Paul Perry, et al.

TOPICS

- immigration detention
- due process
- procedural due process
- statutory interpretation
- removal proceedings

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a noncitizen who entered the United States without inspection and is already physically present in the country is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) or discretionary detention under 8 U.S.C. § 1226(a).
2. Whether Petitioner is entitled to a bond hearing under 8 U.S.C. § 1226(a).
3. Whether continued detention without a bond hearing violates due process.

HOLDINGS

1. A noncitizen who entered the United States without inspection but is already in the country and is not seeking initial admission is subject to the discretionary detention provisions of 8 U.S.C. § 1226(a), rather than mandatory detention under § 1225(b)(2)(A).
2. Because § 1226(a) governs Petitioner's detention, Petitioner is entitled to a bond hearing before an Immigration Judge.
3. Petitioner's continued detention without a bond hearing violates his due process rights.

KEY QUOTATIONS

“But once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.”

“Therefore, the Court concludes that 8 U.S.C. § 1226(a) entitles Petitioner to a bond hearing before an Immigration Judge.”

FACTUAL BACKGROUND

Petitioner is a noncitizen who entered the United States without inspection and was detained by ICE at the Caroline Detention Center. He was detained under circumstances implicating the choice between discretionary detention under 8 U.S.C. § 1226(a) and mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Petitioner sought release or, alternatively, a bond hearing.

PROCEDURAL HISTORY

Jose Bonilla Giron, a noncitizen detained by ICE, filed a § 2241 petition alleging unlawful detention without a bond hearing. The Court directed Respondents to identify any material differences between this case and *Duarte Escobar v. Perry*. Respondents stated that there were no material differences and incorporated their arguments from *Duarte Escobar*. The Court granted the petition and ordered a bond hearing before an Immigration Judge.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

Respondents must provide Petitioner a bond hearing before an Immigration Judge within three days of the order. Respondents must file a status report within three days after the hearing stating whether bond was granted and, if denied, the case-specific reasons given by the Immigration Judge.

CASES CITED

- Duarte Escobar v. Perry, 807 F. Supp. 3d 564 (E.D. Va. 2025)
- Hasan v. Crawford, 800 F. Supp. 3d 641, 651-57 (E.D. Va. 2025)
- Landon v. Plasencia, 459 U.S. 21, 32 (1982)
- Zadvydas v. Davis, 533 U.S. 678, 693 (2001)

OPINION

FINO RT HTHE EU ENAITSETDE RSNTA DTIESTS RDIICSTT ROIFC VT ICROGUINRITA Norfolk Division JOSE BONILLA GIRON, Petitioner, v. Civil Action No. 2:26-cv-585 PAUL PERRY, et al., Respondents. MEMORANDUM ORDER Petitioner Jose Bonilla Giron (“Petitioner”), a noncitizen and detainee of the United States Immigration and Customs Enforcement (“ICE”), filed a Petition for Writ of Habeas Corpus (“Petition”) pursuant to 28 U.S.C. § 2241, alleging that he has been unlawfully detained and denied a bond hearing under 8 U.S.C. § 1226.

Dkt. No. 1. Petitioner was taken into ICE custody and has been detained at the Caroline Detention Center. Dkt. No. 1. Petitioner asks this Court to order his release from ICE custody or, in the alternate, to order a bond hearing under 8 U.S.C. § 1226.

The Petition turns on the resolution of an issue pending throughout the courts: whether Petitioner, as a noncitizen who entered the United States without inspection is entitled to a bond hearing under 8 U.S.C. § 1226(a), or whether he is subject to mandatory detention as provided for in 8 U.S.C. § 1225(b)(2)(A). Given the apparent similarities between this case and others pending before the Court, the Court ordered Respondents to file a notice indicating whether the factual and legal issues presented in the present Petition differ in any material fashion from those presented in Duarte Escobar v. Perry, et al., 807 F. Supp. 3d 564 (E.D.

Va. 2025). In response, Respondents notified the Court that “the factual and legal issues presented in the instant habeas petition do not differ in any material fashion from those presented in Duarte Escobar” and the Respondents incorporate their arguments from that case into the record here. Dkt. No. 6; see Duarte Escobar, No. 3:25-cv-758, Dkt. No. 18. Based on this Court’s review of the filings in this case and the arguments made in Duarte Escobar, Petitioner is not “seeking admission” for purposes of § 1225(b)(2) and instead falls into the category of “aliens already in the country” subject to the discretionary detention provisions in § 1226(a).

Therefore, the Court concludes that 8 U.S.C. § 1226(a) entitles Petitioner to a bond hearing before an Immigration Judge. Other jurists in this Court have previously addressed the same arguments concerning the application of 8 U.S.C. § 1226(a) in this context in cases such as *Hasan v. Crawford*, 800 F. Supp. 3d 641, 651–57 (E.D. Va. 2025), and the Court incorporates Hasan’s reasoning into this Order.

The Supreme Court has “long held that an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative.” *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). “But once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

Accordingly, the discretionary detention provisions of 8 U.S.C. § 1226(a) apply in this case, and therefore Petitioner’s continued detention without a bond hearing is unlawful and violates Petitioner’s due process rights.

For these reasons, the Court will GRANT the Petition, Dkt. No. 1, and ORDER that Petitioner be provided a bond hearing pursuant to 8 U.S.C. § 1226(a) within three (3) days of this Order. Respondents are ORDERED to file a status report with this Court within three (3) days of 2 the bond hearing, stating whether Petitioner has been granted bond, and, if his request for bond was denied, the case-specific reasons given by the Immigration Judge for that denial.

Let the Clerk of the Court send a copy of this Final Order to all counsel of record and to Petitioner at his address of record. It is SO ORDERED. Ly Elizabeth W. Hanes United States District Judge Norfolk, Virginia Date: June 15, 2026