

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Alvarado Tello v. Barr

Alvarado Tello · No. 19-cv-01312-CRB · Decided July 29, 2025

SUMMARY

The United States District Court for the Northern District of California denied Fredy Porfirio Alvarado Tello’s amended petition for a writ of habeas corpus challenging the Board of Immigration Appeals’ reversal of an immigration judge’s bond determination. The court held that the BIA properly reviewed the IJ’s determination that Tello was not a danger to the community de novo because it was a mixed question of law and fact, while reviewing underlying factual findings for clear error. The court concluded that Tello’s challenge therefore failed.

CASE DETAILS

COURT	United States District Court for the Northern District of California
JURISDICTION	United States District Court for the Northern District of California
DECIDED	July 29, 2025
DOCKET	19-cv-01312-CRB
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Petitioner sought habeas relief under 28 U.S.C. § 2241 from a Board of Immigration Appeals decision vacating an immigration judge's bond determination and ordering continued detention during removal proceedings.
STANDARD OF REVIEW	The BIA reviews an immigration judge's factual findings for clear error and reviews the IJ's ultimate discretionary decisions de novo. The district court reviewed the legal question whether the BIA applied the correct standard of review.
PRECEDENTIAL VALUE	unknown
PARTIES	Fredy Porfirio Alvarado Tello v. William Barr, et al.

TOPICS

- federal habeas corpus
- immigration detention
- removal proceedings
- due process
- judicial review of agency action

PRACTICE AREAS

immigration law

federal habeas corpus

administrative law

constitutional law

QUESTIONS PRESENTED

1. Whether the district court had jurisdiction under 28 U.S.C. § 2241 to review Tello's challenge to the BIA's standard of review and danger-to-the-community determination.
2. Whether the BIA properly reviewed de novo the immigration judge's determination that Tello did not pose a danger to the community, rather than reviewing that determination for clear error.

HOLDINGS

1. The district court had jurisdiction to review Tello's habeas challenge because it presented a question of law concerning whether the BIA applied the correct standard of review, notwithstanding statutory limits on review of discretionary judgments.
2. The BIA properly reviewed de novo the IJ's determination that Tello did not pose a danger to the community because that determination was a mixed question of law and fact and constituted an ultimate discretionary decision, rather than a purely factual finding.

KEY QUOTATIONS

"Because the BIA applied the correct standard of review, the Court DENIES Tello's petition." (at 1)

"Thus, the BIA's review of the IJ's determination that Tello would not pose a threat to the community was a mixed review of law and fact, and de novo review was appropriate." (at 4-5)

FACTUAL BACKGROUND

Tello, a Guatemalan native who had lived in California since 1987, was lawfully admitted in 2012 on a U visa. He had four misdemeanor driving-under-the-influence convictions spanning 1993, 2002, 2013, and 2018. After his U visa expired, DHS detained him in June 2018 and reinstated removal proceedings; an immigration judge granted bond, but the BIA vacated that determination and ordered detention without bond. The BIA later clarified that it accepted the IJ's factual findings but reviewed de novo the determination that Tello was not a danger to the community.

PROCEDURAL HISTORY

DHS detained Tello and initiated removal proceedings after his U visa expired. An immigration judge granted bond, but DHS appealed and the BIA vacated the bond determination and ordered detention without bond. After Tello filed a habeas petition and obtained a temporary restraining order, the BIA reconsidered and clarified that it reviewed the IJ's factual findings for clear error but reviewed the IJ's danger-to-the-community determination de novo. Tello amended his petition, and the district court denied it.

DISPOSITION

writ_denied

CASES CITED

- *Rumsfeld v. Padilla*, 542 U.S. 426, 437 (2004)
- *Nakaranurack v. United States*, 68 F.3d 290
- *Jones v. Cunningham*, 371 U.S. 236, 239-40 (1963)
- *Singh v. Holder*, 683 F.3d 1196, 1202
- *Aroldo Rodriguez Diaz v. Merrick Garland, Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022)
- *Afridi v. Gonzalez*, 442 F.3d 1212, 1218
- *Estrada-Espinoza v. Mukasey*, 546 F.3d 1147 (en banc)
- *Rodriguez v. Holder*, 683 F.3d 1164, 1169-70
- *Wilkinson v. Garland*, 601 U.S. 209, 212 (2024)
- *Martinez v. Clark*, 124 F.4th 775, 779 (9th Cir. 2024)
- *Demore v. Kim*, 538 U.S. 510, 523 (2003)
- *United States v. Santos-Flores*, 794 F.3d 1088, 1090
- *Ridore v. Holder*, 696 F.3d 907, 915-16
- *Kaplun v. Attorney General*, 602 F.3d 260, 271
- *Torres-Aguilar v. INS*, 246 F.3d 1267, 1271