

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

Joaquin Pacheco Tum v. Paul G. Perry, et al.

Pacheco Tum v. Perry · No. 3:26cv153 · Decided March 13, 2026

SUMMARY

The United States District Court for the Eastern District of Virginia grants Joaquin Pacheco Tum’s petition for a writ of habeas corpus under 28 U.S.C. § 2241. The court holds that his detention is governed by the discretionary detention framework of 8 U.S.C. § 1226(a), rather than the mandatory detention provisions of § 1225(b)(2), and that he is entitled to a bond hearing. The court orders Respondents to provide a bond hearing at which they must establish danger or flight risk by clear and convincing evidence.

CASE DETAILS

COURT	United States District Court for the Eastern District of Virginia, Richmond Division
JURISDICTION	United States District Court for the Eastern District of Virginia, Richmond Division
DECIDED	March 13, 2026
DOCKET	3:26cv153
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging immigration detention and the denial of a bond hearing.
STANDARD OF REVIEW	Under 28 U.S.C. § 2243, the court summarily hears and determines the facts and disposes of the matter as law and justice require. Habeas relief is available when the petitioner is in custody in violation of the Constitution or laws or treaties of the United States.
PRECEDENTIAL VALUE	unpublished, nonprecedential district-court opinion
PARTIES	Joaquin Pacheco Tum v. Paul G. Perry, Other named respondents

TOPICS

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

PRACTICE AREAS

immigration

constitutional law

habeas corpus

civil procedure

QUESTIONS PRESENTED

1. Whether the court had jurisdiction under 28 U.S.C. § 2241 notwithstanding the jurisdiction-stripping provisions in 8 U.S.C. §§ 1252(b)(9) and 1252(g).
2. Whether Pacheco Tum's detention was governed by the discretionary detention provisions of 8 U.S.C. § 1226(a) or the mandatory detention provisions of 8 U.S.C. § 1225(b)(2)(A).
3. Whether detention without a bond hearing violated Pacheco Tum's Fifth Amendment right to due process.
4. Whether the proper remedy was a bond hearing rather than immediate release, and which party should bear the burden of proof at that hearing.

HOLDINGS

1. The court had jurisdiction to consider Pacheco Tum's habeas petition because 8 U.S.C. §§ 1252(b)(9) and 1252(g) did not divest the court of jurisdiction over a challenge to detention and the denial of a bond hearing that did not seek review of a removal order or involve the commencement, adjudication, or execution of an immigration order.
2. Because Pacheco Tum had been present in the United States for at least ten years and was not actively seeking admission, his detention was governed by the discretionary detention framework in 8 U.S.C. § 1226(a), rather than the mandatory detention framework in § 1225(b)(2)(A).
3. Continued detention without a bond hearing violated Pacheco Tum's Fifth Amendment right to due process.
4. The proper remedy was a bond hearing before an Immigration Judge, not immediate release, and Respondents must prove by clear and convincing evidence that continued detention is justified because Pacheco Tum presents a danger to the community or a flight risk.

KEY QUOTATIONS

"The Court concludes that 8 U.S.C. § 1226(a) and the Fifth Amendment entitle Mr. Pacheco Tum to a bond hearing." (at 8)

"The Court owes the BIA no deference in its interpretation of the INA and interprets §§ 1225 and 1226 de novo." (at 9)

"Unless and until Respondents meet that burden, Mr. Pacheco Tum's continued detention is unlawful." (at 12)

FACTUAL BACKGROUND

Joaquin Pacheco Tum, an indigenous K'iche' person from Guatemala whose native language is Quiche, entered the United States without inspection and has lived in the country for at least ten years. He was placed in removal proceedings in 2013, appeared at his scheduled immigration hearings, and has pending applications for asylum,

withholding of removal, and protection under the Convention Against Torture. After missing an ICE check-in because he confused the date, he reported to an ICE office on January 27, 2026, where he was detained and held at the Caroline Detention Center without receiving a bond hearing.

PROCEDURAL HISTORY

Pacheco Tum filed a § 2241 habeas petition on February 25, 2026, challenging his detention by Immigration and Customs Enforcement. The court directed Respondents to state whether the factual and legal issues materially differed from those in *Duarte Escobar v. Perry*. Respondents stated that they did not differ, so the court incorporated the substantive filings from *Duarte Escobar*, dispensed with further briefing, granted the petition, and ordered a bond hearing before an Immigration Judge.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

Respondents must provide Pacheco Tum with a bond hearing before an Immigration Judge pursuant to 8 U.S.C. § 1226(a). At the hearing, Respondents must prove by clear and convincing evidence that Pacheco Tum poses a danger to the community or is a flight risk if they seek to continue detaining him. Unless Respondents meet that burden, his continued detention is unlawful.

CASES CITED

- *Hasan v. Crawford*, 800 F. Supp. 3d 641, 648 n.3 (E.D. Va. 2025)
- *Duarte Escobar v. Perry*, 807 F. Supp. 3d 564 (E.D. Va. 2025)
- *Torrence v. Lewis*, 60 F.4th 209, 213 (4th Cir. 2023)
- *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at *4-5 (E.D. Pa. Nov. 18, 2025)
- *Velasquez v. Noem*, No. 3:26-cv-998 (MHL), 2026 WL 279226, at *4 n.14 (E.D. Va. Feb. 3, 2026)
- *Chavez v. Noem*, 801 F. Supp. 3d 1133, 1140-41 (S.D. Cal. 2025)
- *Vargas Lopez v. Trump*, 802 F. Supp. 3d 1132, 1140-43 (D. Neb. 2025)
- *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026)
- *CASA de Maryland, Inc. v. Trump*, 971 F.3d 220, 260 (4th Cir. 2020)
- *Jennings v. Rodriguez*, 583 U.S. 281, 288-90, 303 (2018)
- *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999)
- *Luna Quispe*, 2025 WL 2783799, at *2-3
- *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 395-96 (2024)
- *Soto v. Soto*, 807 F. Supp. 3d 397, 401 (D.N.J. 2025)
- *Bautista v. Santacruz*, —F. Supp. 3d—, 2025 WL 3713987, at *12 (C.D. Cal. 2025)
- *Mathews v. Eldridge*, 424 U.S. 319 (1976)
- *Avelar Ramos v. Bondi*, No. 3:26-cv-112 (MHL), 2026 WL 614875, at *5-8 (E.D. Va. Mar. 4, 2026)

- *Miranda v. Garland*, 34 F.4th 338, 358-65 (4th Cir. 2022)
- *Pineda-Medrano v. Bondi*, No. 1:25-cv-01870 (AJT), 2025 WL 3472152, at *3 n.5 (E.D. Va. Dec. 3, 2025)
- *Perez-Gomez v. Warden*, 3:25-cv-773 (MHL), 2025 WL 3141103 (E.D. Va. Nov. 10, 2025)
- *Contreras-Perez v. Noem*, No. 3:25-cv-882 (MHL), 2025 WL 3281774 (E.D. Va. Nov. 25, 2025)
- *Campos Flores v. Bondi*, No. 3:25-cv-797 (MHL), 2025 WL 3461551 (E.D. Va. Dec. 2, 2025)
- *Espinoza Camacho v. Perry*, No. 3:26-cv-76 (MHL), 2026 WL 414937 (E.D. Va. Feb. 15, 2026)
- *Lopez-Diaz v. Crawford*, No. 3:25-cv-1039 (MHL), 2026 WL 625492 (E.D. Va. Mar. 6, 2026)

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