

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Hernandez-Cruz v. De Anda-Ybarra

No. 2:26-cv-00486-JB-LF (D.N.M. Mar. 23, 2026) (proposed findings and recommended disposition) · No. 2:26-cv-00486-JB-LF · Decided March 23, 2026

SUMMARY

This proposed findings and recommended disposition addresses Jose Alfredo Hernandez-Cruz’s petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging his immigration detention. The magistrate judge recommends granting the petition in part, concluding that exhaustion should be excused as futile and recommending that detention be governed by 8 U.S.C. § 1226(a), rather than mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

CASE DETAILS

COURT	United States District Court for the District of New Mexico
WRITING FOR THE COURT	Laura Fashing, United States Magistrate Judge
JURISDICTION	U.S. District Court for the District of New Mexico
DECIDED	March 23, 2026
DOCKET	2:26-cv-00486-JB-LF
DISPOSITION	other
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging immigration detention, together with a motion for temporary restraining order. The magistrate judge issued proposed findings and a recommended disposition under 28 U.S.C. § 636(b), recommending that the district court grant habeas relief in part, deny EAJA fees, and grant the temporary restraining order.
STANDARD OF REVIEW	The magistrate judge reviewed the § 2241 detention challenge and made proposed findings and recommendations for de novo consideration by the district judge under 28 U.S.C. § 636(b)(1).
PRECEDENTIAL VALUE	Nonprecedential proposed findings and recommended disposition
PARTIES	Jose Alfredo Hernandez-Cruz v. Mary De Anda-Ybarra, in her official capacity as Field Office Director of Enforcement and Removal Operations, El Paso Field Office, Immigration and Customs Enforcement, Todd Lyons, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement, Kristi Noem, in her

official capacity as Secretary of the U.S. Department of Homeland Security, Pamela Bondi, in her official capacity as Attorney General of the U.S. Department of Justice, Warden of the Otero County Processing Center

TOPICS

immigration detention federal habeas corpus removal proceedings statutory interpretation due process

PRACTICE AREAS

Immigration law Federal habeas corpus Immigration detention Administrative law
Statutory interpretation

QUESTIONS PRESENTED

1. Whether exhaustion of administrative remedies should be excused as futile where immigration judges were likely to deny or lack jurisdiction over another bond redetermination hearing.
2. Whether Hernandez-Cruz's detention is governed by the mandatory-detention provision of 8 U.S.C. § 1225(b)(2)(A) or the discretionary detention-and-bond framework of 8 U.S.C. § 1226(a).
3. Whether Hernandez-Cruz was entitled to relief based on membership in the class certified in *Maldonado Bautista v. Santacruz*.
4. Whether Hernandez-Cruz was entitled to attorney fees and costs under the Equal Access to Justice Act.
5. Whether the requested temporary restraining order should be granted.

HOLDINGS

1. Exhaustion should be excused because further administrative efforts to obtain a bond hearing or appeal the immigration judge's jurisdictional ruling would be futile and would not provide adequate relief.
2. For a noncitizen who entered without inspection, has lived in the United States for many years, and seeks adjustment of status from within the country, the phrase "seeking admission" in 8 U.S.C. § 1225(b)(2)(A) refers to seeking admission at or near the border or port of entry, not seeking lawful status years later. Such detention is governed by 8 U.S.C. § 1226(a), rather than mandatory detention under § 1225(b)(2)(A).
3. Hernandez-Cruz is entitled to relief under § 1226(a), specifically reinstatement of the previously ordered \$2,000 bond or, alternatively, a bond hearing within seven days at which the government must prove by clear and convincing evidence that he is a flight risk or danger to the community.
4. EAJA fees and costs should be denied because Hernandez-Cruz originally proceeded pro se and pro se litigants may not recover attorney fees under the EAJA.

KEY QUOTATIONS

““Seeking admission” must be read in its context: it pertains to individuals who seek admission upon entry at or near a border or port of entry, not those who seek to obtain authorized status years or decades later.”
(Analysis Part III.E)

“Accordingly, Mr. Hernandez-Cruz’s Application for Cancellation of Removal and Adjustment of Status, which was received by the EOIR on October 1, 2025, when he already had lived in the United States for at least 15 years, does not constitute “seeking admission” and therefore does not subject him to mandatory detention under Section 1225(b)(2)(A).” (Analysis Part III.E)

FACTUAL BACKGROUND

Hernandez-Cruz, a Mexican citizen, entered the United States without inspection as a child in approximately 2009 and remained in the country thereafter. He married a U.S. citizen, helped raise her two U.S.-citizen children, and pursued immigration relief, including asylum and adjustment of status supported by an I-601A waiver. ICE arrested him in 2025, and although an immigration judge initially set bond at \$2,000, DHS’s appeal stayed release; he remained detained after subsequent immigration proceedings treated him as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

PROCEDURAL HISTORY

Hernandez-Cruz was detained by ICE on June 25, 2025. An immigration judge initially granted bond, but DHS appealed, triggering an automatic stay; a later immigration judge concluded that the court lacked jurisdiction to conduct a bond redetermination hearing under *Matter of Yajure Hurtado* and revoked bond. Hernandez-Cruz filed this § 2241 petition on February 19, 2026. The case was referred to Magistrate Judge Laura Fashing, who recommended partial relief subject to district-court review and objections.

DISPOSITION

other

REMAND INSTRUCTIONS

The recommendation would require respondents either to reinstate the \$2,000 bond and release Hernandez-Cruz upon posting it, or to provide a § 1226(a) bond hearing within seven days. At that hearing, the government would bear the burden of proving by clear and convincing evidence that Hernandez-Cruz is a flight risk or danger to the community; absent a timely hearing, immediate release would be required. The recommendations remained subject to district-court review and objections.

CASES CITED

- *Va. Beach Fed. Sav. & Loan Ass’n v. Wood*, 901 F.2d 849 (10th Cir. 1990)
- *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)
- *Herrera Torralba v. Knight*, 798 F. Supp. 3d 1184 (D. Nev. 2025)
- *M.P.L. v. Arteta*, No. 25-CV-5307 (VSB), 2025 WL 3288354, at *11 (S.D.N.Y. Nov. 25, 2025)
- *Merchan-Pacheco v. Noem*, No. 1:25-cv-03860-SBP, 2026 WL 88526, at *15 (D. Colo. Jan. 12, 2026)

- *Singh v. Castro*, No. 2:26-cv-00168 JB-JFR, 2026 WL 473203, at *3 (D.N.M. Feb. 19, 2026)
- *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004)
- *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001)
- *Rasul v. Bush*, 542 U.S. 466, 483-84 (2004)
- *Jennings v. Rodriguez*, 583 U.S. 281, 289, 303, 314 (2018)
- *Chavez ex rel. M.C. v. N.M. Pub. Educ. Dep't*, 621 F.3d 1275, 1280 (10th Cir. 2010)
- *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340-41 (1997)
- *Yates v. United States*, 574 U.S. 528, 537-45 (2015)
- *United States v. Quarrell*, 310 F.3d 664, 669 (10th Cir. 2002)
- *Cortez-Gonzalez v. Noem*, 2025 WL 3485771, at *4-5 (D.N.M. Dec. 4, 2025)
- *Salazar v. Dedos*, 2026 WL 555336, at *3-5 (D.N.M. Feb. 27, 2026)
- *Tanchez v. Noem*, 2026 WL 125184, at *8 (D.N.M. 2026)
- *Marinello v. United States*, 584 U.S. 1, 9-10 (2018)
- *Dubin v. United States*, 599 U.S. 110, 114, 120-21, 129-30 (2023)
- *Andrus v. Charlestone Stone Prods. Co.*, 436 U.S. 604, 610-11 (1978)
- *McBoyle v. United States*, 283 U.S. 25, 26-27 (1931)
- *Hernandez-Carrera v. Carlson*, 547 F.3d 1237, 1249 (10th Cir. 2008)
- *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025)
- *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 107 (2020)
- *Velasquez Salazar v. Dedos*, 806 F. Supp. 3d 1231, 1244-45 (D.N.M. 2025)
- *German Santos v. Warden Pike County Correctional Facility*, 965 F.3d 203, 209-11 (3d Cir. 2020)
- *Reid v. Donelan*, 17 F.4th 1, 7 (1st Cir. 2021)
- *Sessions v. Dimaya*, 584 U.S. 148, 146, 157 (2018)
- *Griffin v. Bryant*, 30 F. Supp. 3d 1139, 1170 (D.N.M. 2014)
- *Beltran v. Miller*, 699 F. Supp. 3d 785, 788-89 (D. Neb. 2023)
- *Texas v. United States*, 691 F. Supp. 3d 763 (S.D. Tex. 2023)
- *Texas v. United States*, 126 F.4th 392 (5th Cir. 2025)
- *Demarest v. Manspeaker*, 948 F.2d 655, 655-56 (10th Cir. 1991)
- *United States v. One Parcel of Real Prop., With Buildings, Appurtenances, Improvements, & Contents, Known as: 2121 E. 30th St., Tulsa, Oklahoma*, 73 F.3d 1057, 1060 (10th Cir. 1996)

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