

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

Ayoub Er Refai v. Farmville Detention Center, et al.

Er Refai · No. 2:26-cv-187 · Decided March 10, 2026

SUMMARY

The United States District Court for the Eastern District of Virginia granted Ayoub Er Refai’s habeas petition concerning his detention by Immigration and Customs Enforcement. The court held that 8 U.S.C. § 1226(a), rather than the mandatory-detention provision in § 1225(b)(2)(A), applies to Petitioner and ordered an individualized bond hearing before an Immigration Judge within fourteen days. Respondents were also ordered to file a status report after the hearing.

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	March 10, 2026
DOCKET	2:26-cv-187
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petitioner sought habeas relief under 28 U.S.C. § 2241, challenging his continued immigration detention and requesting release or, alternatively, a bond hearing under 8 U.S.C. § 1226(a).
STANDARD OF REVIEW	The Court reviewed the § 2241 habeas petition and the parties' filings to determine whether Petitioner's detention without a bond hearing was authorized by the applicable immigration detention statutes and consistent with due process.
PRECEDENTIAL VALUE	Unpublished district court memorandum order; precedential status not stated and identified as unknown in the source metadata.
PARTIES	Ayoub Er Refai v. Farmville Detention Center, et al.

TOPICS

immigration detention

procedural due process

immigration

statutory interpretation

due process

PRACTICE AREAS

immigration

immigration detention

habeas corpus

constitutional law

civil rights

QUESTIONS PRESENTED

1. Whether a noncitizen who entered the United States without inspection and is already present in the country is subject to discretionary detention under 8 U.S.C. § 1226(a), rather than mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
2. Whether Petitioner's continued detention without a bond hearing violated his due process rights.
3. Whether Petitioner was entitled to a bond hearing before an Immigration Judge.

HOLDINGS

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

KEY QUOTATIONS

“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).” (at 2)

“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.” (at 2)

FACTUAL BACKGROUND

Petitioner is a noncitizen detained by ICE at the Farmville Detention Center since December 7, 2025. He entered the United States without inspection and alleged that his continued detention was unlawful because he had been denied a bond hearing. He requested release or, alternatively, a bond hearing under 8 U.S.C. § 1226(a).

PROCEDURAL HISTORY

Ayoub Er Refai filed a § 2241 petition after ICE detained him at the Farmville Detention Center beginning December 7, 2025. The Court directed Respondents to state whether the factual and legal issues differed materially from those in *Duarte Escobar v. Perry*. Respondents stated that they did not and incorporated their arguments from *Duarte Escobar*. The Court granted the petition and ordered a bond hearing within fourteen days, followed by a status report.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

Respondents were ordered to provide Petitioner with a bond hearing before an Immigration Judge within fourteen days of the order. Respondents were further ordered to 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

Ayoub Er Refai v. Farmville Detention Center, et al.

PER CURIAM.

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Norfolk Division

AYOUB ER REFAI,

Petitioner, v. Civil Action No. 2:26-cv-187

FARMVILLE DETENTION CENTER,

et al., Respondents.

MEMORANDUM ORDER

Petitioner Ayoub Er Refai (“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 Farmville Detention Center since December 7, 2025. 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. 5; 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, and ORDER that Petitioner be provided a bond hearing pursuant to 8 U.S.C. § 1226(a) within fourteen (14) days of this Order. Respondents are ORDERED to file a status report with this Court within three (3) days of 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. Elizabeth W. Hanes United States District Judge Norfolk, Virginia Date: March 10, 2026