

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
KENTUCKY, OWENSBORO DIVISION

Brenda Flor Martinez Herrera v. Samuel Olson, Field Office
Director, Chicago Field Office, Immigration and Customs
Enforcement et al.

No. 4:26-cv-52-DJH (W.D. Ky. Feb. 27, 2026) · No. No. 4:26-cv-52-DJH · Decided February 27, 2026

SUMMARY

The United States District Court for the Western District of Kentucky grants Brenda Flor Martinez Herrera’s habeas petition challenging her immigration detention. The court holds that, because Herrera had previously been paroled into the United States and was not arriving when re-detained, mandatory detention under 8 U.S.C. § 1225(b)(1) did not apply; instead, she was detained under 8 U.S.C. § 1226 and was entitled to a bond hearing. The court also concludes that her detention violated the Fifth Amendment’s Due Process Clause and orders her immediate release or a bond hearing upon any re-detention.

CASE DETAILS

COURT	United States District Court for the Western District of Kentucky, Owensboro Division
WRITING FOR THE COURT	David J. Hale
JURISDICTION	United States District Court for the Western District of Kentucky, Owensboro Division
DECIDED	February 27, 2026
DOCKET	No. 4:26-cv-52-DJH
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging immigration detention during removal proceedings; the parties submitted briefing and waived a show-cause hearing because there was no material factual dispute.
STANDARD OF REVIEW	The court applied the three-factor balancing test from Mathews v. Eldridge to evaluate the due process challenge to civil immigration detention and interpreted the relevant provisions of the Immigration and Nationality Act de novo.

PRECEDENTIAL VALUE	unpublished district court opinion
PARTIES	Brenda Flor Martinez Herrera v. Samuel Olson, Field Office Director, Chicago Field Office, Immigration and Customs Enforcement, Todd Lyons, Acting Director of Immigration and Customs Enforcement, Kristi Noem, Secretary of the Department of Homeland Security, Pamela Bondi, United States Attorney General, Jason Woosley, Grayson County Jailer

TOPICS

immigration detention removal proceedings due process statutory interpretation equitable relief

PRACTICE AREAS

immigration detention habeas corpus removal proceedings constitutional law civil procedure

QUESTIONS PRESENTED

1. Whether Herrera was subject to expedited removal and mandatory detention under 8 U.S.C. § 1225(b)(1)(A)(i) as a noncitizen arriving in the United States.
2. Whether Herrera was subject to expedited removal and mandatory detention under 8 U.S.C. § 1225(b)(1)(A)(iii)(II) despite having previously been paroled into the United States.
3. Whether the expiration of humanitarian parole restored Herrera to mandatory detention under 8 U.S.C. § 1225(b)(1), or instead required detention under 8 U.S.C. § 1226 with access to a bond hearing.
4. Whether Herrera's detention without a bond hearing violated the Fifth Amendment Due Process Clause.

HOLDINGS

1. Herrera was not 'arriving in the United States' when she was re-detained nearly three years after entering the country and therefore was not subject to expedited removal or mandatory detention under § 1225(b)(1)(A)(i).
2. Herrera was not subject to expedited removal and mandatory detention under § 1225(b)(1)(A)(iii)(II) because she had previously been paroled into the United States.
3. Expiration of Herrera's humanitarian parole did not restore her to mandatory detention under § 1225(b)(1). Because she was detained under § 1226, she was entitled to a bond hearing.
4. Herrera's detention violated the Fifth Amendment because all three *Mathews v. Eldridge* factors favored providing a bond hearing before a neutral immigration judge.

KEY QUOTATIONS

“Sections 1225 and 1226 are ‘mutually exclusive—a noncitizen cannot be subject to both mandatory detention under § 1225 and discretionary detention under § 1226.’” (Section II.A)

“Thus, because all three Mathews factors weigh in Herrera’s favor, the Court concludes that her detention violates due process.” (Section II.B)

FACTUAL BACKGROUND

Herrera, a citizen of Peru, entered the United States in April 2023 and was issued a Notice and Order of Expedited Removal based on alleged inadmissibility for lacking valid entry documents. She was released on one year of humanitarian parole under 8 U.S.C. § 1182(d)(5)(A), later applied for asylum, and was re-detained by ICE in January 2026 while attending a required check-in. Although an administrative arrest warrant cited 8 U.S.C. § 1226, the government argued that she was subject to mandatory detention and expedited removal under 8 U.S.C. § 1225(b)(1).

PROCEDURAL HISTORY

Herrera filed a habeas petition alleging that her detention violated the Immigration and Nationality Act and the Fifth Amendment Due Process Clause. The court previously granted in part a temporary restraining order and stay of removal. After briefing, the court granted the habeas petition, ordered immediate release, and required a bond hearing before a neutral immigration judge if Herrera were arrested and detained again; her temporary-restraining-order motion was denied as moot.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

Respondents were directed to immediately release Herrera and, if she is arrested and detained again, provide a bond hearing before a neutral immigration judge under 8 U.S.C. § 1226(a). Respondents were required to certify compliance by filing on the docket no later than March 2, 2026.

CASES CITED

- Rodriguez-Acurio v. Almodovar, No. 2:25-cv-6065 (NJC), 2025 WL 3314420 (E.D.N.Y. Nov. 28, 2025)
- Hyppolite v. Noem, No. 25-CV-4304 (NRM), 2025 WL 2829511 (E.D.N.Y. Oct. 6, 2025)
- Coal. for Humane Immigrant Rts. v. Noem, 805 F. Supp. 3d 48 (D.D.C. 2025)
- United States v. Fitzgerald, 906 F.3d 437, 442 (6th Cir. 2018)
- Loper Bright Enters. v. Raimondo, 603 U.S. 369, 394 (2024)
- Lopez Benitez v. Francis, 795 F. Supp. 3d 475 (S.D.N.Y. 2025)
- Jennings v. Rodriguez, 583 U.S. 281, 288 (2018)
- Chanaguano Caiza v. Scott, No. 1:25-cv-00500-JAW, 2025 WL 3013081 (D. Me. Oct. 28, 2025)
- Singh v. Lewis, No. 4:25-cv-133-DJH, 2025 WL 3298080 (W.D. Ky. Nov. 26, 2025)
- Lopez v. Olson, No. 3:25-cv-654-DJH, 2025 WL 3217036 (W.D. Ky. Nov. 18, 2025)
- Alonso v. Tindall, No. 3:25-cv-652-DJH, 2025 WL 3083920 (W.D. Ky. Nov. 4, 2025)

- Salgado Bustos v. Raycraft, No. 25-13202, 2025 WL 3022294 (E.D. Mich. Oct. 29, 2025)
- Barrera v. Tindall, No. 3:25-cv-541-RGJ, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025)
- Plyler v. Doe, 457 U.S. 202, 210 (1982)
- A.A.R.P. v. Trump, 605 U.S. 91, 94 (2025) (per curiam)
- Mathews v. Eldridge, 424 U.S. 319, 335 (1976)
- Lopez-Campos v. Raycraft, 797 F. Supp. 3d 771, 785 (E.D. Mich. 2025)

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