

**UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
TEXAS, WACO DIVISION**

Rojas-Marcelo v. Noem

Rojas-Marcelo · No. 6:25-CV-00454-ADA-DTG · Decided December 22, 2025

OPINION

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS WACO DIVISION
Rojas-Marcelo, § § Petitioner, § § v. § CIVIL NO. 6:25-CV-00454-ADA-DTG § Noem et al., § §
Respondents. § § § § § § ORDER ADOPTING MAGISTRATE JUDGE’S REPORT AND
RECOMMENDATION Before the Court is the Report and Recommendation of United States
Magistrate Judge Derek T. Gilliland. ECF No. 13.

The report recommends that this Court grant Petitioner’s Writ of Habeas Corpus (ECF No. 1) and order Petitioner’s immediate release. The report and recommendation was filed on December 16, 2025. A party may file specific, written objections to the proposed findings and recommendations of the magistrate judge within fourteen days after being served with a copy of the report and recommendation, thereby securing de novo review by the district court.

28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A district court need not wait for a respondent to file objections prior to submitting an order if the Court conducts a de novo review. *Habets v. Waste Mgmt., Inc.*, 363 F.3d 378, 381 (5th Cir. 2004) (noting that Fifth Circuit case law “permits a district court to adopt a magistrate’s recommendation after one day before receiving any objections”).

The Court has conducted a de novo review of Petitioner’s Writ, Respondent’s Responses, the hearing recordings, and the applicable laws. After that thorough review, the Court is persuaded that the Magistrate Judge’s findings and recommendation should be adopted because Petitioner has shown that his continued detention under 8 U.S.C. § 1226 is unlawful. See ECF No. 13 at 6-8.

IT IS THEREFORE ORDERED that the Report and Recommendation of United States Magistrate Judge Derek T. Gilliland (ECF No. 13) is ADOPTED. IT IS FURTHER ORDERED that Respondents are DIRECTED to RELEASE Petitioner Juan Carlos Rojas Marcelo from custody, under appropriate conditions, to a public place by no later than 6:00 p.m. on December 23, 2025. Respondents must NOTIFY Petitioner’s counsel of the exact location and exact time of Petitioner’s release as soon as practicable and no less than two hours before the release.

If Petitioner is re-detained pursuant to 8 U.S.C. § 1226, all applicable procedures must be followed, including that Petitioner must be afforded a bond hearing. All other relief is DENIED AS MOOT. See ECF No. 12. SIGNED this 22nd day of December, 2025. (Yee Q\oc i ALAN D

AEFBRIGHT UNITED STATES DISTRICT JUDGE ' Respondent may still file objections during the 14-day period if desired.

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-western-district-of-tex/2025/rojas-marcelo-v-noem-bk1upao0>