

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
OKLAHOMA

Segundo Morocho Morocho v. Steve Kelley et al.

Morocho Morocho v. Kelley · No. CIV-25-1247-R · Decided December 22, 2025

SUMMARY

This Report and Recommendation addresses a 28 U.S.C. § 2241 habeas petition challenging the detention of an Ecuadorian noncitizen under 8 U.S.C. § 1225(b)(2) without a bond hearing. The magistrate judge recommends finding jurisdiction, concluding that detention is governed by § 1226(a), ordering a bond hearing within seven business days or release, and declining to reach the separate due process claim.

CASE DETAILS

COURT	United States District Court for the Western District of Oklahoma
WRITING FOR THE COURT	Shon T. Erwin
JURISDICTION	United States District Court for the Western District of Oklahoma
DECIDED	December 22, 2025
DOCKET	CIV-25-1247-R
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on a noncitizen's 28 U.S.C. § 2241 habeas petition challenging detention without a bond hearing.
STANDARD OF REVIEW	Habeas relief is available when a petitioner is in custody in violation of the Constitution or laws or treaties of the United States. The court interpreted the relevant immigration statutes beginning with their text, read in statutory context and in light of the overall statutory scheme.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Segundo Morocho Morocho v. Steve Kelley et al.

TOPICS

- immigration detention
- statutory interpretation
- subject matter jurisdiction
- removal proceedings
- due process

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether 8 U.S.C. § 1252(a)(5), (b)(9), or (g) stripped the district court of jurisdiction to consider a habeas challenge to detention without a bond hearing.
2. Whether Petitioner's detention was governed by the mandatory-detention provision in 8 U.S.C. § 1225(b)(2)(A) or by the discretionary detention and bond framework in § 1226(a).
3. Whether the court should decide Petitioner's constitutional due-process challenge to detention without a bond hearing.

HOLDINGS

1. The jurisdiction-stripping provisions of 8 U.S.C. § 1252(a)(5), (b)(9), and (g) do not bar review of Petitioner's claim because he challenged the manner and legality of his detention, not a removal order, the decision to commence removal proceedings, or the merits of his removability.
2. Petitioner was not subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) because, although he could technically qualify as an applicant for admission under § 1225(a)(1), he was not presently and actively seeking admission when arrested after living in the United States for many years. His detention was instead governed by § 1226(a), which entitles him to an individualized bond hearing.
3. The court recommended declining to reach the merits of Petitioner's due-process claim because the statutory interpretation of § 1226(a) supplied the requested relief.

KEY QUOTATIONS

“So the use of “seeking” “denotes an active and present effort.”” (Section IV.B)

“Petitioner is not “seeking admission” as he has been in the United States for over nineteen years.” (Section IV.B)

“The Court has jurisdiction over the petition as Petitioner is only challenging the way his detention is being conducted — the lack of bond hearing.” (Section IV.A)

FACTUAL BACKGROUND

Petitioner is a citizen of Ecuador who entered the United States in 2006 at age sixteen and had lived in Chicago for approximately ten years. He is married to a United States citizen, has one United States-citizen child, and has another child on the way. ICE arrested him on October 14, 2025, detained him without bond at the Kay County Detention Center, and charged him as inadmissible under 8 U.S.C. § 1182(a)(6)(A).

PROCEDURAL HISTORY

Petitioner filed a § 2241 petition after ICE arrested and detained him without bond. Respondents filed a response, and Petitioner replied. District Judge David L. Russell referred the matter to Magistrate Judge Shon T. Erwin for initial proceedings under 28 U.S.C. § 636(b)(1)(B) and (C). The magistrate judge recommended

granting habeas relief in part and requiring a § 1226(a) bond hearing or release, while declining to reach the due-process claim.

DISPOSITION

other

REMAND INSTRUCTIONS

The recommendation directs Respondents to provide Petitioner with a lawful bond hearing under 8 U.S.C. § 1226(a) within seven business days after adoption of the recommendation, or otherwise release him. Respondents should also certify compliance by filing a status report within ten business days of the court's order.

CASES CITED

- Preiser v. Rodriguez, 411 U.S. 475, 484 (1973)
- Zadvydas v. Davis, 533 U.S. 678, 687, 693 (2001)
- Reno v. American-Arab Anti-Discrimination Committee, 525 U.S. 471, 482-85 (1999)
- Jennings v. Rodriguez, 583 U.S. 281, 289, 294-95, 297, 303 (2018)
- Casanova v. Ulibarri, 595 F.3d 1120, 1123 (10th Cir. 2010)
- Whitmore v. Parker, 484 F. App'x 227, 231 & n.2 (10th Cir. 2012)
- BedRoc Ltd. v. United States, 541 U.S. 176, 183 (2004)
- King v. Burwell, 576 U.S. 473, 486 (2015)
- United States v. American Tobacco Co., 221 U.S. 106, 180 (1911)

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