

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK

Seongnam Lee v. Warden, Buffalo Federal Detention Facility, et al.

Lee · No. 6:26-CV-6380 EAW · Decided May 20, 2026

SUMMARY

The United States District Court for the Western District of New York dismisses without prejudice Seongnam Lee’s 28 U.S.C. § 2241 petition challenging his continued immigration detention without a bond hearing. The court holds that Lee’s Visa Waiver Program final administrative removal order became effectively final when his asylum-only proceedings were dismissed, making his detention mandatory under 8 U.S.C. § 1231(a)(2) during the 90-day removal period. The court grants the respondents’ motion to dismiss as premature and denies Lee’s motion for a temporary restraining order as moot.

CASE DETAILS

COURT	United States District Court for the Western District of New York
WRITING FOR THE COURT	Elizabeth A. Wolford
JURISDICTION	United States District Court for the Western District of New York
DECIDED	May 20, 2026
DOCKET	6:26-CV-6380 EAW
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner brought a 28 U.S.C. § 2241 habeas petition challenging his continued immigration detention without a bond hearing and moved for a temporary restraining order. Respondents moved to dismiss the petition as premature.
STANDARD OF REVIEW	The court considered subject-matter jurisdiction under 28 U.S.C. § 2241 and reviewed respondents' motion to dismiss on the ground that the detention challenge was premature. The opinion does not identify a separate formal standard of review.
PRECEDENTIAL VALUE	Unknown; district court decision designated per curiam, with no reporter citation or stated precedential status in the opinion.
PARTIES	Seongnam Lee v. Warden, Buffalo Federal Detention Facility, et al.

TOPICS

immigration detention

removal proceedings

procedural due process

motions to dismiss

subject matter jurisdiction

PRACTICE AREAS

immigration

habeas corpus

constitutional law

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether the district court had subject-matter jurisdiction over Lee's § 2241 challenge to the constitutionality of his immigration detention.
2. Whether 8 U.S.C. § 1187(c)(2)(E) independently authorized detention of a Visa Waiver Program violator.
3. Whether Lee's Visa Waiver Program Final Administrative Removal Order constituted an effectively final order of removal after he withdrew his asylum-only proceedings.
4. Whether Lee's detention during the 90-day removal period was mandatory under 8 U.S.C. § 1231 and therefore rendered his due process and bond-hearing petition premature.
5. Whether Lee's motion for a temporary restraining order remained justiciable after dismissal of the habeas petition.

HOLDINGS

1. The district court had subject-matter jurisdiction under 28 U.S.C. § 2241 because Lee challenged the constitutionality of his detention rather than the underlying removal proceedings.
2. Section 1187(c)(2)(E) is not an independent statutory basis for detention of a Visa Waiver Program violator because the provision addresses program-country qualifications and does not authorize detention.
3. Because Lee withdrew his asylum-only proceedings and had no asylum application pending, the Visa Waiver Program Final Administrative Removal Order effectively constituted a final order of removal.
4. Lee was subject to mandatory detention under 8 U.S.C. § 1231(a)(2) during the 90-day removal period, which began on March 3, 2026, and ended on June 1, 2026. The court therefore lacked authority to order release under supervision or a bond hearing, and the petition was premature.
5. The motion for a temporary restraining order was moot because the habeas petition was dismissed.

KEY QUOTATIONS

“The text of § 1187(c)(2)(E) says nothing about DHS’s [or ICE’s] authority to arrest and detain a person who has overstayed under the [Visa Waiver Program].” (Discussion II.A)

“Perhaps the biggest roadblock to the government’s claim that § 1187(c)(2)(E) provides detention authority is the code section’s failure to mention detention at all.” (Discussion II.A)

“Because Petitioner’s asylum-only proceedings are no longer pending, the VWP FARO in his case constitutes a final order of removal making him subject to detention under 8 U.S.C. § 1231(a)(2).” (Discussion II.B)

FACTUAL BACKGROUND

Lee, a citizen and national of South Korea, entered the United States on March 3, 2012, under the Visa Waiver Program and overstayed his authorized period of admission. After withdrawing his asylum, withholding-of-removal, and Convention Against Torture applications, he was arrested by ICE on February 24, 2026, and served with a Visa Waiver Program Final Administrative Removal Order on March 3, 2026. He filed a § 2241 petition asserting that continued detention without a bond hearing violated his Fifth Amendment liberty interest, but at the time of filing he remained within the statutory 90-day removal period.

PROCEDURAL HISTORY

Lee entered the United States under the Visa Waiver Program, overstayed, withdrew his asylum-only applications, and was served with a Visa Waiver Program Final Administrative Removal Order on March 3, 2026. He filed this § 2241 petition on March 28, 2026. The district court granted respondents’ motion to dismiss, dismissed the petition without prejudice as premature, and denied the TRO motion as moot.

DISPOSITION

dismissed

CASES CITED

- Hamdi v. Rumsfeld, 542 U.S. 507, 525 (2004)
- Preiser v. Rodriguez, 411 U.S. 475, 484 (1973)
- L.G.M. v. LaRocco, 788 F. Supp. 3d 401, 404 (E.D.N.Y. 2025)
- Ozturk v. Hyde, 136 F.4th 382, 399-400 (2d Cir. 2025)
- Mahdawi v. Trump, 136 F.4th 443, 452 (2d Cir. 2025)
- Kanacevic v. I.N.S., 448 F.3d 129, 133-35 (2d Cir. 2006)
- Wigglesworth v. I.N.S., 319 F.3d 951, 956 (7th Cir. 2003)
- Itaeva v. I.N.S., 314 F.3d 1238, 1239 (10th Cir. 2003)
- Matter of A-W-, 25 I. & N. Dec. 45, 47-48 (BIA 2009)
- Gjergj G. v. Edwards, No. 19-5059, 2019 WL 1254561, at *2 (D.N.J. Mar. 18, 2019)
- Molina v. Soto, No. 25CV16880 (EP), 2025 WL 3281820, at *2-3 (D.N.J. Nov. 25, 2025)
- Malets v. Horton, No. 420CV01041-MHH-SGC, 2021 WL 11549981, at *2 n.7 (N.D. Ala. Jan. 11, 2021)
- Quispe v. Becerra, No. 1:25-CV-2002 CSK, 2025 WL 3774570, at *4-5 (E.D. Cal. Dec. 31, 2025)
- Romance v. Warden York Cnty. Prison, No. 3:20-cv-00760, 2020 WL 6054933, at *4 (M.D. Pa. July 28, 2020)
- Neziri v. Johnson, 187 F. Supp. 3d 211, 213 (D. Mass. 2016)
- Emila N. v. Ahrendt, Civ. Action No. 19-5060 (SDW), 2019 WL 1123227, at *3 (D.N.J. Mar. 12, 2019)

- Johnson v. Guzman Chavez, 594 U.S. 523, 533 (2021)
- Salomao v. Garland, No. 20-1856, 2022 WL 1301773, at *3 (4th Cir. May 2, 2022)
- Nicusor-Remus v. Sessions, 902 F.3d 895, 898 (9th Cir. 2018)
- Mitondo v. Mukasey, 523 F.3d 784, 787 (7th Cir. 2008)
- Shehu v. Att'y Gen. of U.S., 482 F.3d 652, 656 (3d Cir. 2007)
- Nreka v. Att'y Gen., 408 F.3d 1361, 1367 (11th Cir. 2005)
- O'Connor v. Dir., U.S. Citizenship & Immigr. Servs., No. SA-25-CV-00947-FB, 2025 WL 3855000, at *3 (W.D. Tex. Dec. 3, 2025)
- Harding v. Schmidt, No. 26-CV-323, 2026 WL 851240, at *1 (E.D. Wis. Mar. 27, 2026)
- Dambrosio v. McDonald, No. 25-CV-10782-FDS, 2025 WL 1070058, at *1-2 (D. Mass. Apr. 9, 2025)
- Neilova v. Noem, 812 F. Supp. 3d 836, 839 (N.D. Ill. 2025)
- Zadvydas v. Davis, 533 U.S. 678, 689, 701 (2001)
- Franklin v. Hudson, 579 F. App'x 50, 51 (2d Cir. 2014)
- Murphy v. United States, 199 F.3d 599, 601 n.2 (2d Cir. 1999)

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