

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Natasha Jetcay Cortez-Gonzalez v. Kristi Noem

Cortez-Gonzalez · No. 2:25-cv-00985-MLG-KK · Decided December 4, 2025

SUMMARY

The District of New Mexico held that the detention of Natasha Jetcay Cortez-Gonzalez, a noncitizen who had lived in the United States for nearly her entire life, was likely governed by 8 U.S.C. § 1226(a) rather than § 1225(b)(2)(A). The court concluded that she was entitled to an individualized bond hearing and that continued detention without one likely violated the Fifth Amendment. The court entered a second temporary restraining order requiring respondents to provide the hearing within seven days.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
WRITING FOR THE COURT	Matthew L. Garcia
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	December 4, 2025
DOCKET	2:25-cv-00985-MLG-KK
DISPOSITION	other
PROCEDURAL POSTURE	Petition for writ of habeas corpus and motion for a temporary restraining order by a detained noncitizen seeking an individualized bond hearing and protection from transfer or removal.
STANDARD OF REVIEW	Temporary restraining order and preliminary-injunction standard: the movant must show a substantial likelihood of success on the merits, irreparable injury absent relief, a balance of harms favoring relief, and that the injunction is not adverse to the public interest. Because the requested relief was mandatory, the court required a strong showing that the likelihood-of-success and balance-of-harms factors favored the petitioner.
PRECEDENTIAL VALUE	Unclear; district-court memorandum opinion granting interim relief, with no precedential-status designation in the source.
PARTIES	Natasha Jetcay Cortez-Gonzalez v. Kristi Noem, in her official capacity as Secretary of the Department of Homeland Security, Pamela Bondi, in her official capacity as U.S. Attorney General, Todd Lyons,

in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement, Mary De Anda-Ybarra, in her official capacity as Field Office Director of the El Paso Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, Dora Castro, in her official capacity as Warden of Otero County Processing Center

TOPICS

immigration detention removal proceedings procedural due process statutory interpretation
administrative law

PRACTICE AREAS

immigration immigration detention constitutional law administrative law remedies

QUESTIONS PRESENTED

1. Whether the pre-removal detention of a noncitizen who has lived in the United States for many years and is charged with removability is governed by 8 U.S.C. § 1225(b)(2)(A) or by the discretionary detention authority in 8 U.S.C. § 1226(a).
2. Whether a noncitizen detained under § 1226(a) is entitled to an individualized bond hearing as a matter of due process and the governing detention regulations.
3. Whether Cortez-Gonzalez satisfied the requirements for a temporary restraining order requiring Respondents to provide an individualized bond hearing.

HOLDINGS

1. Section 1226(a), rather than § 1225(b)(2)(A), governs the pre-removal detention of a noncitizen who has been present in the United States for decades and is not currently seeking admission.
2. The court was not bound by and declined to follow the Board of Immigration Appeals' interpretation in Matter of Yajure Hurtado because the court found that interpretation legally unsound and inconsistent with the governing statutory and regulatory framework.
3. Because § 1226(a) governed her detention, Cortez-Gonzalez was entitled to an individualized bond hearing, and her continued detention without such review constituted an ongoing violation of the Fifth Amendment Due Process Clause.
4. Cortez-Gonzalez satisfied the requirements for limited preliminary injunctive relief requiring Respondents to provide an individualized bond hearing.

KEY QUOTATIONS

“By contrast, § 1226(a) sets the “default rule” for detaining noncitizens “already present in the United States.”” (Discussion § II.A.1)

“Given that § 1226(a) is controlling, Cortez-Gonzalez is entitled—as a right—to an individualized bond hearing.” (Discussion § II.A.3)

“For the foregoing reasons, the Court entered a second temporary restraining order on October 24, 2025, requiring Respondents provide Cortez-Gonzalez an individualized bond hearing pursuant to § 1226(a) within seven days of the Order.” (Conclusion)

FACTUAL BACKGROUND

Cortez-Gonzalez, a native Mexican citizen, had lived continuously in the United States since infancy and had no criminal record. DHS arrested her in California in July 2025, served her with a Notice to Appear charging removability, and transferred her to the Otero County Processing Center in New Mexico. An immigration judge denied her request for custody redetermination, while her application for derivative T-nonimmigrant status remained pending. Her continued physical presence in the United States was important to preserving eligibility for the T-visa-related application.

PROCEDURAL HISTORY

Cortez-Gonzalez was detained by DHS, served with a Notice to Appear, and charged as removable under 8 U.S.C. § 1182(a)(6)(A)(i). An immigration judge denied her request for custody redetermination for lack of jurisdiction, and her appeal to the Board of Immigration Appeals remained pending. She filed this habeas action and moved for a temporary restraining order. The court first enjoined her transfer outside New Mexico or removal from the United States, then entered a second temporary restraining order requiring an individualized bond hearing under 8 U.S.C. § 1226(a); this opinion supplied the reasoning for that order.

DISPOSITION

other

CASES CITED

- Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025)
- Jennings v. Rodriguez, 583 U.S. 281 (2018)
- Zadvydas v. Davis, 533 U.S. 678 (2001)
- Reno v. Flores, 507 U.S. 292 (1993)
- Loper Bright Enters. v. Raimondo, 603 U.S. 369 (2024)
- Chevron Mining Inc. v. United States, 863 F.3d 1261, 1283 n.15 (10th Cir. 2017)
- Thuraissigiam v. Department of Homeland Security, 591 U.S. 103 (2020)
- First W. Cap. Mgmt. Co. v. Malamed, 874 F.3d 1136, 1139 n.2 (10th Cir. 2017)
- Free the Nipple-Fort Collins v. City of Fort Collins, 916 F.3d 792 (10th Cir. 2019)
- Salazar v. Dedos, 2025 WL 2676729 (D.N.M. Sept. 17, 2025)
- Rodriguez v. Bostock, 779 F. Supp. 3d 1239 (W.D. Wash. 2025)
- Martinez v. Hyde, 792 F. Supp. 3d 211 (D. Mass. 2025)

- Jimenez v. FCI Berlin, 2025 WL 2639390 (D.N.H. Sept. 8, 2025)
- Romero v. Hyde, 2025 WL 2403827 (D. Mass. Aug. 19, 2025)
- West Virginia v. EPA, 597 U.S. 697 (2022)
- Gamez Lira v. Noem, 2025 WL 2581710 (D.N.M. Sept. 5, 2025)
- Valdez v. Grisham, 559 F. Supp. 3d 1161 (D.N.M. 2021)
- Schrier v. University of Colorado, 427 F.3d 1253 (10th Cir. 2005)
- N.S. v. Albuquerque Public Schools Board of Education, 2025 WL 3215604 (D.N.M. Feb. 3, 2025)
- Greater Yellowstone Coalition v. Flowers, 321 F.3d 1250 (10th Cir. 2003)

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