

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
OKLAHOMA

Jose de Jesus Gonzalez Cortes v. Russell Holt, et al.

Gonzalez Cortes v. Holt · No. CIV-25-1176-SLP · Decided January 20, 2026

SUMMARY

The United States District Court for the Western District of Oklahoma adopted a magistrate judge’s report and recommendation and granted in part Jose de Jesus Gonzalez Cortes’s petition for habeas corpus under 28 U.S.C. § 2241. The court held that 8 U.S.C. § 1226(a), rather than § 1225(b)(2), governs the petitioner’s detention and ordered respondents to provide an individualized bond hearing within seven days or release him. The court declined to decide the merits of the petitioner’s due process claim and dismissed that claim without prejudice.

CASE DETAILS

COURT	United States District Court for the Western District of Oklahoma
WRITING FOR THE COURT	Scott L. Palk
JURISDICTION	United States District Court for the Western District of Oklahoma
DECIDED	January 20, 2026
DOCKET	CIV-25-1176-SLP
DISPOSITION	granted in part
PROCEDURAL POSTURE	Petitioner sought habeas relief under 28 U.S.C. § 2241 challenging his immigration detention. After a magistrate judge recommended granting the petition in part, respondents objected, and the district court conducted de novo review of the challenged portions of the recommendation.
STANDARD OF REVIEW	De novo review of the portions of the magistrate judge's Report and Recommendation to which objections were made under 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b)(3); unobjected-to issues were deemed waived.
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential
PARTIES	Respondents Russell Holt, et al. v. Petitioner Jose de Jesus Gonzalez Cortes

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QUESTIONS PRESENTED

1. Whether 8 U.S.C. § 1252(g) deprived the district court of jurisdiction over a challenge to detention without a bond hearing.
2. Whether 8 U.S.C. § 1225(b)(2)(A), rather than § 1226(a), governed the detention of a noncitizen who had resided in the United States for many years without being admitted and was not affirmatively seeking admission.
3. Whether the court should reach the merits of petitioner's Fifth Amendment due process claim after ordering a bond hearing or release.

HOLDINGS

1. Section 1252(g) did not deprive the district court of jurisdiction because petitioner challenged the legality of his continued detention and lack of a bond hearing, not the commencement of removal proceedings, adjudication of removability, or execution of a removal order.
2. Section 1225(b)(2)(A) did not govern petitioner's detention because a noncitizen who had resided in the United States for many years and was not affirmatively taking present-tense steps to obtain lawful entry was not 'seeking admission' within the provision's plain language.
3. Because § 1225(b)(2)(A) did not apply, § 1226(a) governed petitioner's detention, entitling him to a prompt bond hearing before an immigration judge.
4. The court declined to reach the merits of petitioner's due process claim because the claim was premature after the court ordered a bond hearing or release; petitioner could renew the claim if respondents failed to provide the hearing or release him within seven days.

KEY QUOTATIONS

“It is implausible that the mention of three discrete events along the road to deportation was a shorthand way of referring to all claims arising from deportation proceedings.” (Discussion, Part II.A)

“The mere presence of Petitioner in the country does not mean he is “seeking admission.”” (Discussion, Part II.B.1)

“The difference is critical: “if detained under Section 1225(b)(2)(A), the noncitizen must remain in custody for the duration of their removal proceedings, but if detained under Section 1226, the noncitizen is entitled to a bond hearing before an [immigration judge].”” (Discussion, Part II.B.3)

FACTUAL BACKGROUND

Gonzalez Cortes, a Mexican citizen, entered the United States around 2001 without inspection or admission and had remained in the country for more than twenty years. ICE initiated removal proceedings in 2013, released him on bond after a custody redetermination, and later apprehended him again in Oklahoma on August 8, 2025. He remained detained without a bond hearing after that apprehension.

PROCEDURAL HISTORY

Gonzalez Cortes filed a § 2241 petition challenging detention without a bond hearing and asserting violations of the INA and the Fifth Amendment. Magistrate Judge Amanda L. Maxfield recommended that respondents provide an individualized bond hearing under 8 U.S.C. § 1226(a) within seven days or release petitioner, while declining to reach the merits of the due process claim. The district court overruled or rejected respondents' objections, adopted the Report and Recommendation in its entirety, granted the petition in part, ordered a bond hearing or release, and dismissed Count II without prejudice.

DISPOSITION

granted in part

REMAND INSTRUCTIONS

Respondents must provide petitioner with a bond hearing under 8 U.S.C. § 1226(a) within seven days of the order or release him if a lawful hearing is not provided within that period. Respondents must file a compliance status report within ten days detailing whether and when the hearing occurred.

CASES CITED

- Moore v. United States, 950 F.2d 656, 659 (10th Cir. 1991)
- United States v. 2121 E. 30th St., 73 F.3d 1057, 1060 (10th Cir. 1996)
- Tsering v. U.S. Immigration & Customs Enforcement, 403 F. App'x 339, 343 (10th Cir. 2010)
- Foster v. Townsley, 243 F.3d 210, 214 (5th Cir. 2001)
- Flores-Ledezma v. Gonzales, 415 F.3d 375, 380 (5th Cir. 2005)
- Jennings v. Rodriguez, 583 U.S. 281, 289, 294-95, 306 (2018)
- Reno v. American-Arab Anti-Discrimination Committee, 525 U.S. 471, 482 (1999)
- Potts v. Center for Excellence in Higher Education, Inc., 908 F.3d 610, 613 (10th Cir. 2018)
- Lawson v. FMR LLC, 571 U.S. 429, 440 (2014)
- Rodriguez v. Noem, No. 1:25-CV-1196, 2025 WL 3022212, at *5 (W.D. Mich. Oct. 29, 2025)
- Roberts v. Sea-Land Services, Inc., 566 U.S. 93, 101 (2012)
- TRW Inc. v. Andrews, 534 U.S. 19, 31 (2001)
- Duncan v. Walker, 533 U.S. 167, 174 (2001)
- United States ex rel. Polansky v. Executive Health Resources, Inc., 599 U.S. 419, 432 (2023)
- Castanon-Nava v. U.S. Department of Homeland Security, 161 F.4th 1048, 1061 (7th Cir. 2025)
- Fuller v. Norton, 86 F.3d 1016, 1024 (10th Cir. 1996)

- Diaz v. Holt, No. CIV-25-1179-J, 2025 WL 3296310, at *1 (W.D. Okla. Nov. 26, 2025)
- Pizarro Reyes v. Raycraft, No. 25-cv-12546, 2025 WL 2609425, at *8 (E.D. Mich. Sept. 9, 2025)
- Gonzalez Martinez v. Noem, No. EP-25-CV-430-KC, 2025 WL 2965859, at *2 (W.D. Tex. Oct. 21, 2025)
- Acxel S.Q.D.C. v. Bondi, 2025 WL 2617973, at *3 (D. Minn. Sept. 9, 2025)
- Alvarez v. U.S. Immigration & Customs Enforcement, 818 F.3d 1194, 1203 (11th Cir. 2016)
- Hernandez v. Baltazar, No. 1:25-CV-03094-CNS, 2025 WL 2996643, at *5, *7 (D. Colo. Oct. 24, 2025)
- Patel v. O'Neil, No. 3:25-CV-2185, 2025 WL 3516865, at *5 (M.D. Pa. Dec. 8, 2025)
- Issahaku v. Olson, No. CV 25-180-DLB, 2025 WL 3539290, at *4 (E.D. Ky. Dec. 10, 2025)
- Villa v. Normand, No. 5:25-CV-100, 2025 WL 3188406, at *6 (S.D. Ga. Nov. 14, 2025)
- Sandoval v. Acuna, No. 6:25-CV-1467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025)
- Urbina Garcia v. Holt, No. CIV-25-1225-J, 2025 WL 3516071, at *4 (W.D. Okla. Dec. 8, 2025)
- Colin v. Holt, No. CIV-25-1189-D, 2025 WL 3645176 (W.D. Okla. Dec. 16, 2025)
- Buenrostro-Mendez v. Bondi, No. H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025)
- Esperanza v. Francis, No. 25-CV-8727, 2025 WL 3513983, at *6 (S.D.N.Y. Dec. 8, 2025)
- Brito Hidalgo v. Raycraft, No. 25-CV-13588, 2025 WL 3473360, at *3 (E.D. Mich. Dec. 3, 2025)

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