

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
OKLAHOMA

Alejandro Antonio Rodriguez Hernandez v. Scarlet Grant, Warden,
et al.

Case No. CIV-25-1525-SLP (W.D. Okla. Jan. 7, 2026) (Report and Recommendation) · No. CIV-25-1525-SLP ·
Decided January 7, 2026

SUMMARY

This Report and Recommendation addresses a 28 U.S.C. § 2241 habeas petition challenging the detention of a Mexican national by U.S. Immigration and Customs Enforcement. The magistrate judge concludes that the district court has jurisdiction and recommends finding that 8 U.S.C. § 1226(a), rather than § 1225(b)(2)(A), governs the petitioner’s detention because he had entered and resided in the United States before being apprehended. The recommendation is to grant the petition in part and require respondents to provide a bond hearing within five business days or release the petitioner if no hearing occurs.

CASE DETAILS

COURT	United States District Court for the Western District of Oklahoma
JURISDICTION	United States District Court for the Western District of Oklahoma
DECIDED	January 7, 2026
DOCKET	CIV-25-1525-SLP
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought habeas relief under 28 U.S.C. § 2241 from immigration detention. The magistrate judge issued a Report and Recommendation recommending that the district court grant the petition in part and order a bond hearing under 8 U.S.C. § 1226(a), or release if no hearing occurred within five business days.
STANDARD OF REVIEW	Under 28 U.S.C. § 2241(c)(3), Petitioner had to show that he was in custody in violation of the Constitution or laws or treaties of the United States. The statutory issues were reviewed through interpretation of the INA, beginning with statutory text and considering context, structure, legislative history, and historical administrative practice.
PRECEDENTIAL VALUE	nonprecedential

PARTIES

Alejandro Antonio Rodriguez Hernandez v. Scarlet Grant, Warden, et al.

TOPICS

immigration detention

removal proceedings

statutory interpretation

due process

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the INA provisions governing judicial review of removal proceedings deprived the district court of jurisdiction over Petitioner's habeas challenge to his detention.
2. Whether 8 U.S.C. § 1225(b)(2)(A), rather than § 1226(a), governed the detention of a noncitizen who had entered the United States years earlier and was arrested while residing in the country.
3. Whether Petitioner was entitled to an individualized bond hearing under § 1226(a).
4. Whether the court should decide Petitioner's due process claim after granting statutory relief.

HOLDINGS

1. The INA's jurisdictional provisions, including 8 U.S.C. §§ 1252(a)(5), 1252(b)(9), and 1252(g), do not bar a district court from considering a habeas challenge directed at the legality of detention rather than at the commencement, adjudication, or execution of a removal order.
2. For a noncitizen who entered the United States years earlier and was arrested while residing in the country, 8 U.S.C. § 1226(a), rather than § 1225(b)(2)(A), governs detention.
3. Because § 1226(a) governs Petitioner's detention, he is entitled to a prompt individualized bond hearing before a neutral immigration judge.
4. The court should decline to decide the merits of Petitioner's due process claim because the recommended statutory relief provided the requested bond hearing.

KEY QUOTATIONS

“For the reasons set forth below, the undersigned recommends that the Court grant the Petition in part and order Respondents to provide Petitioner a bond hearing pursuant to 8 U.S.C. § 1226(a) within five business days or otherwise to release him if there is no hearing within that time.” (at 1)

“The undersigned agrees with the prevailing analysis from other district courts and concludes that § 1252(a)(5) and § 1252(b)(9) do not deprive the Court of jurisdiction.” (at 10)

“After carefully analyzing the statute’s text, structure, and history, along with longstanding immigration practices, the undersigned recommends that the Court apply § 1226(a) to govern Petitioner’s current detention.” (at 29)

“As such, Petitioner is entitled under § 1226(a) to a prompt individualized bond hearing before a neutral IJ.”
(at 30)

FACTUAL BACKGROUND

Petitioner, a Mexican national, entered the United States around 2005 and resided there for approximately two decades. ICE arrested him in Oklahoma on November 8, 2025, placed him in removal proceedings, and detained him under 8 U.S.C. § 1225(b)(2)(A). An immigration judge denied him a bond hearing because *Matter of Yajure Hurtado* treated noncitizens present in the United States without admission or parole as applicants for admission subject to mandatory detention.

PROCEDURAL HISTORY

ICE arrested Petitioner and detained him during removal proceedings under 8 U.S.C. § 1225(b)(2)(A). An immigration judge denied Petitioner a bond hearing based on *Matter of Yajure Hurtado*. Petitioner filed a § 2241 habeas petition challenging the statutory basis for his detention and asserting a due process violation. The matter was referred to a magistrate judge, who recommended partial habeas relief.

DISPOSITION

other

REMAND INSTRUCTIONS

The magistrate judge recommended that the district court order Respondents to provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) within five business days, or release him if no lawful hearing occurred within that period. Respondents should certify compliance by filing a status report within seven business days of the district court's order.

CASES CITED

- *Nasrallah v. Barr*, 590 U.S. 573, 578 n.2 (2020)
- *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004)
- *Niz-Chavez v. Garland*, 593 U.S. 155, 160 (2021)
- *Kamen v. Kemper Financial Services, Inc.*, 500 U.S. 90, 99 (1991)
- *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 482, 487 (1999)
- *Jennings v. Rodriguez*, 583 U.S. 281, 289, 294, 306 (2018)
- *Mukantagara v. U.S. Department of Homeland Security*, 67 F.4th 1113, 1116 (10th Cir. 2023)
- *BedRoc Ltd., LLC v. United States*, 541 U.S. 176, 183 (2004)
- *King v. Burwell*, 576 U.S. 473, 486 (2015)
- *United States v. Bishop*, 412 U.S. 346, 356 (1973)
- *United States v. Ceballos-Martinez*, 387 F.3d 1140, 1144 (10th Cir. 2004)
- *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001)

- Dubin v. United States, 599 U.S. 110, 121 (2023)
- Zadvydas v. Davis, 533 U.S. 678, 693 (2001)
- Loper Bright Enterprises v. Raimondo, 603 U.S. 369, 386, 413 (2024)
- Matter of Yajure Hurtado, 29 I. & N. Dec. 216, 220-229 (BIA 2025)
- Moore v. United States, 950 F.2d 656, 659 (10th Cir. 1991)

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