

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
VIRGINIA, NORFOLK DIVISION

Jose Guzman Marquez v. Paul Perry, et al.

Marquez · No. 2:26-cv-536 · Decided June 9, 2026

SUMMARY

The Eastern District of Virginia granted Jose Guzman Marquez’s petition for a writ of habeas corpus under 28 U.S.C. § 2241. The court held that, as a noncitizen already present in the United States, Marquez was subject to discretionary detention under 8 U.S.C. § 1226(a), rather than mandatory detention under § 1225(b)(2)(A). The court ordered Respondents to provide him with a bond hearing within five days and to file a status report afterward.

CASE DETAILS

|                       |                                                                                                                                      |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of Virginia, Norfolk Division                                                  |
| WRITING FOR THE COURT | Elizabeth W. Hanes                                                                                                                   |
| JURISDICTION          | United States District Court for the Eastern District of Virginia, Norfolk Division                                                  |
| DECIDED               | June 9, 2026                                                                                                                         |
| DOCKET                | 2:26-cv-536                                                                                                                          |
| DISPOSITION           | writ_granted                                                                                                                         |
| PROCEDURAL POSTURE    | Petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging immigration detention and seeking release or a bond hearing. |
| PRECEDENTIAL VALUE    | nonprecedential                                                                                                                      |
| PARTIES               | Jose Guzman Marquez v. Paul Perry, et al.                                                                                            |

TOPICS

- immigration detention
- procedural due process
- statutory interpretation
- immigration
- civil procedure

PRACTICE AREAS

- immigration
- habeas corpus
- constitutional law

## QUESTIONS PRESENTED

1. Whether a noncitizen who entered the United States without inspection is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) or discretionary detention under 8 U.S.C. § 1226(a).
2. Whether Petitioner is entitled to a bond hearing before an Immigration Judge under § 1226(a).
3. Whether continued detention without a bond hearing violates due process.

## HOLDINGS

1. A noncitizen who entered the United States without inspection but is already in the country and is not seeking initial admission falls within the discretionary detention provisions of 8 U.S.C. § 1226(a), rather than the mandatory-detention provision of § 1225(b)(2)(A).
2. Because § 1226(a) governs, Petitioner is entitled to a bond hearing before an Immigration Judge, and his continued detention without a bond hearing is unlawful and violates due process.

## KEY QUOTATIONS

*“Therefore, the Court concludes that 8 U.S.C. § 1226(a) entitles Petitioner to a bond hearing before an Immigration Judge.”* (at 2)

*“Accordingly, the discretionary detention provisions of 8 U.S.C. § 1226(a) apply in this case, and therefore Petitioner’s continued detention without a bond hearing is unlawful and violates Petitioner’s due process rights.”* (at 2)

## FACTUAL BACKGROUND

Petitioner is a noncitizen detained by ICE at the Caroline Detention Center after entering the United States without inspection. He alleged that his continued detention was unlawful because he had not received a bond hearing. The Court treated the factual and legal issues as materially indistinguishable from those addressed in *Duarte Escobar and Hasan*.

## PROCEDURAL HISTORY

Marquez, a noncitizen detained by ICE, filed a § 2241 habeas petition alleging unlawful detention without a bond hearing. The Court ordered Respondents to identify whether the factual and legal issues differed materially from those in *Duarte Escobar v. Perry*; Respondents stated that they did not and incorporated their arguments from that case. The Court granted the petition and ordered a bond hearing before an Immigration Judge.

## DISPOSITION

writ\_granted

## REMAND INSTRUCTIONS

Respondents must provide Petitioner a bond hearing pursuant to 8 U.S.C. § 1226(a) within five days of the Order. Respondents must file a status report within three days after the hearing stating whether bond was granted

and, if denied, the case-specific reasons given by the Immigration Judge.

#### CASES CITED

- Duarte Escobar v. Perry, et al., 807 F. Supp. 3d 564 (E.D. Va. 2025)
- Hasan v. Crawford, 800 F. Supp. 3d 641, 651-57 (E.D. Va. 2025)
- Landon v. Plasencia, 459 U.S. 21, 32 (1982)
- Zadvydas v. Davis, 533 U.S. 678, 693 (2001)

#### OPINION

FINO RT HTHE EU ENAITSETDE RSNTA DTIESTS RDIICSTT ROIFC VT ICROGUINRITA Norfolk Division JOSE GUZMAN MARQUEZ, Petitioner, v. Civil Action No. 2:26-cv-536 PAUL PERRY, et al., Respondents. MEMORANDUM ORDER Petitioner Jose Guzman Marquez (“Petitioner”), a noncitizen and detainee of the United States Immigration and Customs Enforcement (“ICE”), filed a Petition for Writ of Habeas Corpus (“Petition”) pursuant to 28 U.S.C. § 2241, alleging that he has been unlawfully detained and denied a bond hearing under 8 U.S.C. § 1226.

Dkt. No. 1. Petitioner was taken into ICE custody and has been detained at the Caroline Detention Center. Dkt. No. 1. Petitioner asks this Court to order his release from ICE custody or, in the alternate, to order a bond hearing under 8 U.S.C. § 1226.

The Petition turns on the resolution of an issue pending throughout the courts: whether Petitioner, as a noncitizen who entered the United States without inspection is entitled to a bond hearing under 8 U.S.C. § 1226(a), or whether he is subject to mandatory detention as provided for in 8 U.S.C. § 1225(b)(2)(A). Given the apparent similarities between this case and others pending before the Court, the Court ordered Respondents to file a notice indicating whether the factual and legal issues presented in the present Petition differ in any material fashion from those presented in Duarte Escobar v. Perry, et al., 807 F. Supp. 3d 564 (E.D.

Va. 2025). In response, Respondents notified the Court that “the factual and legal issues presented in the instant habeas petition do not differ in any material fashion from those presented in Duarte Escobar” and the Respondents incorporate their arguments from that case into the record here. Dkt. No. 5; see Duarte Escobar, No. 3:25-cv-758, Dkt. No. 18. Based on this Court’s review of the filings in this case and the arguments made in Duarte Escobar, Petitioner is not “seeking admission” for purposes of § 1225(b)(2) and instead falls into the category of “aliens already in the country” subject to the discretionary detention provisions in § 1226(a).

Therefore, the Court concludes that 8 U.S.C. § 1226(a) entitles Petitioner to a bond hearing before an Immigration Judge. Other jurists in this Court have previously addressed the same arguments concerning the application of 8 U.S.C. § 1226(a) in this context in cases such as Hasan v.

Crawford, 800 F. Supp. 3d 641, 651–57 (E.D. Va. 2025), and the Court incorporates Hasan’s reasoning into this Order.

The Supreme Court has “long held that an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative.” *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). “But once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

Accordingly, the discretionary detention provisions of 8 U.S.C. § 1226(a) apply in this case, and therefore Petitioner’s continued detention without a bond hearing is unlawful and violates Petitioner’s due process rights.

For these reasons, the Court will GRANT the Petition, Dkt. No. 1, and ORDER that Petitioner be provided a bond hearing pursuant to 8 U.S.C. § 1226(a) within five (5) days of 2 this Order. Respondents are ORDERED to file a status report with this Court within three (3) days of the bond hearing, stating whether Petitioner has been granted bond, and, if his request for bond was denied, the case-specific reasons given by the Immigration Judge for that denial.

Let the Clerk of the Court send a copy of this Final Order to all counsel of record and to Petitioner at his address of record. It is SO ORDERED. Oy □ Elizabeth W. Hanes United States District Judge Norfolk, Virginia Date: June 9, 2026