

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

Michael A. Martinez Aviles v. Immigration & Customs Enforcement,
et al.

Aviles · No. 2:26-cv-169 · Decided March 10, 2026

SUMMARY

The United States District Court for the Eastern District of Virginia held that Michael Alejandro Martinez Aviles, a noncitizen detained by ICE after entering the United States without inspection, was subject to discretionary detention under 8 U.S.C. § 1226(a), rather than mandatory detention under § 1225(b)(2)(A). The court granted the habeas petition and ordered Respondents to provide Petitioner with a bond hearing within fourteen days. Respondents were also ordered to file a status report within three days after the hearing.

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	March 10, 2026
DOCKET	2:26-cv-169
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	Unknown; memorandum order from a federal district court.
PARTIES	Michael A. Martinez Aviles v. Immigration & Customs Enforcement, et al.

TOPICS

- immigration detention
- procedural due process
- statutory interpretation
- removal proceedings
- immigration

PRACTICE AREAS

immigration detention

immigration habeas corpus

constitutional due process

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 was entitled to a bond hearing before an Immigration Judge under 8 U.S.C. § 1226(a).
3. Whether Petitioner's continued detention without a bond hearing violated due process.

HOLDINGS

1. Petitioner was not seeking admission for purposes of § 1225(b)(2) and was instead an alien already in the country subject to the discretionary detention provisions of § 1226(a).
2. Because § 1226(a) governed his detention, Petitioner was entitled to a bond hearing before an Immigration Judge.
3. Petitioner's continued detention without a bond hearing violated his due process rights.

KEY QUOTATIONS

“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).”

“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.”

FACTUAL BACKGROUND

Petitioner, a noncitizen detained by ICE, entered the United States without inspection and was taken into ICE custody on August 18, 2025. He had remained detained at the Washington Field Office without a bond hearing. He sought release or, alternatively, a bond hearing under 8 U.S.C. § 1226. The Court treated the factual and legal issues as materially indistinguishable from those addressed in Duarte Escobar.

PROCEDURAL HISTORY

Petitioner filed a § 2241 habeas petition alleging that ICE unlawfully detained him and denied him a bond hearing. The Court ordered Respondents to address whether the factual and legal issues differed materially from those in Duarte Escobar v. Perry. Respondents stated that there was no material difference and incorporated their arguments from that case. The Court granted the petition and ordered a bond hearing before an Immigration Judge within fourteen days.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

Respondents must provide Petitioner a bond hearing before an Immigration Judge within fourteen 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 provided 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

Aviles

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Norfolk Division

MICHAEL A. MARTINEZ AVILES,

Petitioner, v. Civil Action No. 2:26-cv-169

IMMIGRATION & CUSTOMS

ENFORCEMENT, et al., Respondents.

MEMORANDUM ORDER

Petitioner Michael Alejandro Martinez Aviles (“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 on August 18, 2025, and has been detained since that time at the Washington Field Office. 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, and ORDER that Petitioner be provided a bond hearing pursuant to 8 U.S.C. § 1226(a) within fourteen (14) days of 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. Elizabeth W. Hanes United States District Judge Norfolk, Virginia Date: March 10, 2026