

**UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
MICHIGAN, SOUTHERN DIVISION**

Jose Samuel Pacheco-Ascencio v. Kevin Raycraft et al.

Pacheco-Ascencio · No. 1:26-cv-289 · Decided January 28, 2026

OPINION

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION _____ JOSE SAMUEL PACHECO-ASCENCIO, Petitioner, Case No. 1:26-cv-289 v. Hon. Hala Y. Jarbou KEVIN RAYCRAFT et al., Respondents. _____/ OPINION Petitioner, a United States Immigration and Customs Enforcement (ICE) detainee currently detained at the North Lake Processing Center located in Baldwin, Lake County, Michigan, initiated this action by filing a counseled petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.1 (Pet., ECF No. 1.)

For the following reasons, the Court will conditionally grant Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Discussion I. Relevant Procedural History In Petitioner's § 2241 petition, Petitioner challenges the lawfulness of his current detention and asks the Court to, inter alia, accept jurisdiction over this action and issue a writ of habeas 1 This action was initially filed in the United States District Court for the Eastern District of Michigan by five individuals detained by ICE, challenging the lawfulness of Petitioners' current detention.

(Pet., ECF No. 1.) On December 29, 2025, the Eastern District of Michigan transferred the claims of Petitioners Cuevas-Enciso, Pacheco-Ascencio, and Beltran-Ardon to this Court. (Transfer Order, ECF No. 10.) Thereafter, pursuant to a stipulation by the parties, the Court dismissed Petitioner Beltran-Ardon from this matter without prejudice. (Order, ECF No. 14.)

The Court then severed the claims of Petitioners Cuevas-Enciso and Pacheco-Ascencio. (Order, ECF No. 15.) Petitioner Pacheco-Ascencio's claims proceed in this case. corpus pursuant to 28 U.S.C. § 2241 ordering Respondents to release Petitioner or to conduct a bond hearing for Petitioner's removal proceedings. (Pet., ECF No. 1, PageID.35–36.)

In an order entered on December 19, 2025, the United States District Court for the Eastern District of Michigan directed Respondents to respond to the petition by December 29, 2025, and directed Petitioner to file any reply within three business days of Respondents' response. (Order, ECF No. 7.) Respondents filed their response on December 29, 2025. (ECF No. 8.)

That same day, the Eastern District of Michigan transferred the claims of Petitioner to this Court. (Transfer Order, ECF No. 10.) The following day, December 30, 2025, Petitioner filed his reply.

(ECF No. 9.) II. Factual Background Petitioner is a native and citizen of El Salvador. (Pet., ECF No. 1, PageID.7; Notice to Appear (NTA), ECF No. 8-5, PageID.239.)

Petitioner entered the United States in June 2005 without inspection. (Pet., ECF No. 1, PageID.7, 16; NTA, ECF No. 8-2, PageID.239.) Prior to Petitioner's present detention, he resided in Michigan with his common-law spouse, a lawful permanent resident, and three United States citizen children. (Pet., ECF No. 1, PageID.16–17.) Petitioner "is gainfully employed and has a stable home address that he shares with his family." (Id.)

On November 25, 2025, "while on his way to work," Petitioner was stopped by ICE and taken into custody. (Id.) At that time, ICE issued Petitioner a Form I-862, NTA, charging Petitioner with inadmissibility under §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (INA) because Petitioner is an immigrant "present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General," and "who, at the time of application for admission, is not in possession of a valid unexpired [immigration or travel document]." (NTA, ECF No. 8-2, PageID.239, 242.)

Petitioner is scheduled for a hearing on February 25, 2026, in the Detroit Immigration Court. (Id., PageID.239.) III. Habeas Corpus Legal Standard The Constitution guarantees that the writ of habeas corpus is "available to every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art I, § 9, cl. 2).

Section 2241 of Title 28 confers the federal courts with the power to issue writs of habeas corpus to persons "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241. This includes challenges by non-citizens in immigration- related matters. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); see also *A. A. R. P. v. Trump*, 145 S. Ct.

1364, 1367 (2025). IV. Exhaustion Respondents argue that the Court should deny Petitioner's request for habeas corpus relief because Petitioner has not exhausted his administrative remedies. Specifically, Respondents argue that Petitioner should pursue a bond hearing and, if necessary, appeal any unfavorable decision to the Board of Immigration Appeals (BIA).

However, Respondents state that "the agency acknowledges that petitioner[is] ultimately unlikely to obtain the relief [he] seek[s] through the administrative process based on a recent decision by the [BIA] in *Matter of Yajure Hurtado*." (Resp., ECF No. 8, PageID.206.)

The Court declines to enforce the doctrine of prudential exhaustion against Petitioner, and even if the Court were to conclude that exhaustion is warranted, the Court concludes in the alternative that waiver of exhaustion is appropriate, for the reasons set forth in the Court's exhaustion analysis in each of the following cases: *Antele Cobix v. Raycraft*, No. 1:25-cv-1669, 2025 WL 3562651, at *2–3 (W.D.

Mich. Dec. 12, 2025); *Candela Bastidas v. Noem*, No. 1:25-cv- 1528, 2025 WL 3562638, at *2–4 (W.D. Mich. Dec. 12, 2025); *Acuna Sanchez v. Noem*, No. 1:25- cv-1442, 2025 WL 3562577, at *2–4 (W.D. Mich. Dec. 12, 2025); *Penagos Robles v. U.S. Dep’t of Homeland Sec.*, No. 1:25-cv-1578, 2025 WL 3558128, at *2–3 (W.D. Mich. Dec. 12, 2025).

Accordingly, the Court will proceed to address the merits of Petitioner’s § 2241 petition. V. Merits Discussion A. Statutory Basis for Petitioner’s Detention Petitioner contends that Respondents have violated the INA by concluding that Petitioner is detained pursuant to the mandatory detention provisions set forth in 8 U.S.C. § 1225(b)(2). Respondents, however, contend that Petitioner meets every element for detention under § 1225(b)(2), and that the statute’s structure and history support Respondents’ interpretation.

The Court concludes that § 1226(a), not § 1225(b)(2)(A), governs noncitizens, such as Petitioner, who have resided in the United States and were already within the United States when apprehended and arrested for the reasons set forth in the Court’s statutory analysis in each of the following cases: *Antele Cobix v. Raycraft*, No. 1:25-cv-1669, 2025 WL 3562651, at *3–6 (W.D.

Mich. Dec. 12, 2025); *Candela Bastidas v. Noem*, No. 1:25-cv-1528, 2025 WL 3562638, at *4–6 (W.D. Mich. Dec. 12, 2025); *Acuna Sanchez v. Noem*, No. 1:25-cv-1442, 2025 WL 3562577, at *4–7 (W.D. Mich. Dec. 12, 2025); *Penagos Robles v. U.S. Dep’t of Homeland Sec.*, No. 1:25- cv-1578, 2025 WL 3558128, at *3–6 (W.D. Mich. Dec. 12, 2025). B. Fifth Amendment Due Process Considerations Petitioner also argues that his detention violates the Fifth Amendment’s Due Process Clause.

Respondents counter Petitioner’s arguments by stating that Petitioner has received notice of the charges against him, has access to counsel, is scheduled to attend hearings with an immigration judge, has the right to appeal the denial of any request for bond, and has been detained by ICE for a short period time.

The Court concludes that Petitioner’s current detention under the mandatory detention framework set forth in § 1225(b)(2)(A) violates Petitioner’s Fifth Amendment due process rights for the reasons set forth in the Court’s constitutional analysis in each of the following cases: *Antele Cobix v. Raycraft*, No. 1:25-cv-1669, 2025 WL 3562651, at *6–8 (W.D. Mich. Dec.

12, 2025); *Candela Bastidas v. Noem*, No. 1:25-cv-1528, 2025 WL 3562638, at *7–8 (W.D. Mich. Dec. 12, 2025); *Acuna Sanchez v. Noem*, No. 1:25-cv-1442, 2025 WL 3562577, at *7–9 (W.D. Mich. Dec. 12, 2025); *Penagos Robles v. U.S. Dep’t of Homeland Sec.*, No. 1:25-cv-1578, 2025 WL 3558128, at *6–8 (W.D. Mich. Dec. 12, 2025). VI. Other Claims and Other Forms of Relief Because the Court will conditionally grant Petitioner’s § 2241 petition as set forth herein, the Court does not address other claims and other requested relief in Petitioner’s § 2241 petition.

VII. Proper Respondents Respondents argue that the Warden of North Lake Processing Center or the Detroit ICE Field Office Director are the only proper Respondents in this action, and they seek the dismissal of the other named Respondents.

The Court concludes that the Detroit ICE Field Office Director is not the only proper Respondent for the reasons set forth in the Court's analysis of the same argument in each of the following cases: *Antele Cobix v. Raycraft*, No. 1:25-cv-1669, 2025 WL 3562651, at *8–9 (W.D. Mich. Dec. 12, 2025); *Candela Bastidas v. Noem*, No. 1:25-cv-1528, 2025 WL 3562638, at *8–9 (W.D.

Mich. Dec. 12, 2025); *Acuna Sanchez v. Noem*, No. 1:25-cv- 1442, 2025 WL 3562577, at *9–10 (W.D. Mich. Dec. 12, 2025); *Penagos Robles v. U.S. Dep't of Homeland Sec.*, No. 1:25-cv-1578, 2025 WL 3558128, at *9–10 (W.D. Mich. Dec. 12, 2025).

To ensure that this Court's orders regarding a hearing or release will bind at least one Respondent with authority to act in the event that Petitioner is transferred out of the Western District of Michigan, the Court will retain the Detroit ICE Field Office Director and the United States Secretary of Homeland Security as Respondents.

The Court will dismiss the United States Department of Homeland Security, the United States Attorney General, and the Executive Office for Immigration Review as Respondents. Conclusion For the reasons discussed above, the Court will enter a judgment conditionally granting Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. (ECF No. 1.)

The Court will order Respondents to provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) within five business days of the date of this Court's opinion and judgment or, in the alternative, immediately release Petitioner from custody.² The Court will also order Respondents to file a status report within six business days of the date of this Court's opinion and judgment to certify compliance with this opinion and the corresponding judgment.

The status report shall include if and when the bond hearing occurred, if bond was granted or denied, and if bond was granted, the conditions of the bond, or if bond was denied, the reasons for the denial. Further, the Court will dismiss the United States Department of Homeland Security, the United States Attorney General, and the Executive Office for Immigration Review as Respondents.

Dated: January 28, 2026 /s/ Hala Y. Jarbou HALA Y. JARBOU CHIEF UNITED STATES DISTRICT JUDGE 2 This Court has adopted a standard practice of requiring such a hearing within five business days, even if the Petitioner requests a deadline that is shorter or longer.