

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Davit Tophuria v. Warden, Otero County Processing Center, Mary De Anda-Ybarra, Todd Lyons, Kristi Noem, and Pamela Bondi

No. 26-cv-0374-JB-GJF · No. No. 26-cv-0374-JB-GJF · Decided February 12, 2026

SUMMARY

The United States District Court for the District of New Mexico orders the respondents to answer Davit Tophuria’s pro se petition for a writ of habeas corpus challenging his continued immigration detention and the adequacy of his bond hearing. The court adds federal immigration officials as respondents, directs the United States Attorney’s Office to respond within ten business days, and permits an optional reply. The court also grants Tophuria’s motion to proceed in forma pauperis.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
WRITING FOR THE COURT	Gregory J. Fouratt
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	February 12, 2026
DOCKET	No. 26-cv-0374-JB-GJF
DISPOSITION	other
PROCEDURAL POSTURE	Pro se petitioner filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging continued immigration detention and the alleged failure to provide an adequate bond hearing. On preliminary review under Habeas Rules 1 and 4, the court ordered the United States Attorney's Office to answer and granted petitioner in forma pauperis status.
STANDARD OF REVIEW	Preliminary review under Habeas Rules 1 and 4.
PRECEDENTIAL VALUE	Nonprecedential district court order addressing preliminary habeas review, service, proper respondents, and in forma pauperis status.
PARTIES	Davit Tophuria v. Warden, Otero County Processing Center, Mary De Anda-Ybarra, Field Office Director of Enforcement and Removal Operations, El Paso Field Office, Immigration and Customs Enforcement, Todd Lyons, Acting Director, Immigration and Customs

TOPICS

immigration detention

immigration

civil procedure

PRACTICE AREAS

immigration law

federal habeas corpus

civil procedure

QUESTIONS PRESENTED

1. Whether the habeas petition should be served and the respondents required to answer after preliminary review under Habeas Rules 1 and 4.
2. Whether the proper government officials and entities should be added as respondents in the immigration habeas action.
3. Whether petitioner should be granted leave to proceed in forma pauperis.

HOLDINGS

1. The court determined that the petition should proceed and ordered the United States Attorney's Office to answer and show cause why the requested relief should not be granted.
2. The court added the federal respondents identified in the order's caption rather than proceeding solely against the facility warden named in the pro se petition.
3. The court granted petitioner's motion to proceed in forma pauperis.

KEY QUOTATIONS

“Within ten (10) business days of entry of this Order, the United States Attorney’s Office (USAO) must respond to the Petition and show cause why the Court should not grant the requested relief.”

FACTUAL BACKGROUND

Davit Tophuria was detained at the Otero County Processing Center in Chaparral, New Mexico. He challenged his continued immigration detention and alleged that the government had failed to provide an adequate bond hearing. He also submitted a motion to proceed in forma pauperis, which reflected that he could not afford to prepay the habeas filing fee.

PROCEDURAL HISTORY

Tophuria filed a pro se habeas petition while detained at the Otero County Processing Center. The court reviewed the petition under Habeas Rules 1 and 4, added federal respondents to the case, ordered the United States Attorney's Office to respond within ten business days, allowed an optional reply, and granted the motion to proceed in forma pauperis.

DISPOSITION

other

CASES CITED

- Torres-Torres v. Miller, No. CIV 20-118 JB/KRS, 2020 WL 4430519 (D.N.M. July 31, 2020)
- Lowmaster v. Dir., Bureau of Prisons, Case No. 24-3178-JWL, 2024 WL 5135970 (D. Kan. Dec. 17, 2024)
- Danderson v. Page, Case No. 24-CV-208-JFH-GLJ, 2024 WL 3913051 (E.D. Okla. Aug. 20, 2024)

OPINION

Tophuria

PER CURIAM.

UNITED STATES DISTRICT COURT

DISTRICT OF NEW MEXICO

DAVIT TOPHURIA,

Petitioner, v. No. 26-cv-0374-JB-GJF WARDEN, Otero County Processing Center, MARY DE ANDA-YBARRA, Field Office Director of Enforcement and Removal Operations, El Paso Field Office, Immigration and Customs Enforcement; TODD LYONS, Acting Director Immigration and Customs Enforcement; KRISTI NOEM, Secretary, U.S. Department Of Homeland Security; AND PAMELA BONDI, U.S. Attorney General, Respondents,¹

ORDER TO ANSWER

THIS MATTER is before the Court on Petitioner Davit Tophuria's pro se Petition for Writ of Habeas Corpus (Dkt. No. 1) (Petition). Petitioner is detained at the Otero County Processing Center in Chaparral, New Mexico. He challenges his continued immigration detention and, in particular, the Government's failure to provide an adequate bond hearing. Petition 2, Dkt. No. 1. Having reviewed the Petition pursuant to Habeas Rules 1 and 4, the Court will order an answer. The Clerk's Office has electronically served Respondents - including the federal Respondents added in this Order - by Notice of Electronic Filing (NEF) using the CM/ECF system. ¹ While the form pro se Petition names the Warden, which is standard in non-immigration cases, the Court will add the above-mentioned parties as Respondents in this case. See Torres-Torres v. Miller, No. CIV 20—118 JB\KRS, 2020 WL 4430519 (D.N.M. July 31, 2020) (discussing the party respondents in an immigration habeas case); Lowmaster v. Dir., Bureau of Prisons, Case No. 24-3178-JWL, 2024 WL 5135970, at *1 (D. Kan. Dec. 17, 2024) ("the Court notes that it routinely substitutes the" proper parties as "respondent in habeas cases"); Danderson v. Page, Case No. 24-CV-208-JFH-GLJ, 2024 WL 3913051, at

*2 (E.D. Okla. Aug. 20, 2024) (substituting the proper party respondent in a habeas case).

See Notice, Dkt. No. 3; Standing Order, In re Service of Process in Immigration Habeas Petitions Filed Pursuant to §§ 2241 et seq., No. 1:26-mc-00004 (D.N.M. Jan. 28, 2026). Respondents'

attorneys have also been added as notice-recipients through the CM/ECEF system, consistent with the Standing Order, and will receive electronic notice of all filings in this case. Within ten (10) business days of entry of this Order, the United States Attorney's Office (USAO) must respond to the Petition and show cause why the Court should not grant the requested relief. Petitioner may file an optional reply within seven (7) days after the answer is filed. Finally, the Court will grant Petitioner's Motion to Proceed In Forma Pauperis (Dkt. No. 2), which reflects that he cannot afford to prepay the habeas filing fee. IT IS ORDERED that the USAO shall answer the Petition within ten (10) business days of entry of this Order; and Petitioner may file an optional reply within seven (7) days after the response is filed. IT IS FURTHER ORDERED that Petitioner's Motion to Proceed In Forma Pauperis (Dkt. No. 2) is GRANTED. IT IS FINALLY ORDERED that the Clerk's Office shall ADD the additional party Respondents set forth in the caption of this Order. □□□ □□

THE HONORABLE GREGORY J. FOURATT
UNITED STATES MAGISTRATE JUDGE