

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

Carlos Enrique Velasquez v. Kristi Noem, et al.

Civil Action No. 3:25cv998 · No. 3:25cv998 · Decided February 3, 2026

SUMMARY

The United States District Court for the Eastern District of Virginia explains its decision granting Carlos Enrique Velasquez’s amended 28 U.S.C. § 2241 habeas petition and ordering an immigration bond hearing. The court holds that the jurisdiction-stripping provisions of the Immigration and Nationality Act do not bar review and that Velasquez’s detention was governed by the discretionary detention framework of 8 U.S.C. § 1226(a), rather than mandatory detention under § 1225(b)(2). The court also concludes that detention without a bond hearing violated Velasquez’s Fifth Amendment due process rights.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                         |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of Virginia,<br>Richmond Division                                                                                                                                                                                                 |
| WRITING FOR THE COURT | M. Hannah Lauck                                                                                                                                                                                                                                                                         |
| JURISDICTION          | United States District Court for the Eastern District of Virginia,<br>Richmond Division                                                                                                                                                                                                 |
| DECIDED               | February 3, 2026                                                                                                                                                                                                                                                                        |
| DOCKET                | 3:25cv998                                                                                                                                                                                                                                                                               |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | Petitioner sought habeas relief under 28 U.S.C. § 2241 from immigration detention without a bond hearing. The Court granted the amended petition, ordered an Immigration Judge to conduct a bond hearing under 8 U.S.C. § 1226(a), and then closed the case after the hearing occurred. |
| STANDARD OF REVIEW    | Under 28 U.S.C. §§ 2241 and 2243, a federal court may grant habeas relief when a petitioner is in custody in violation of the Constitution or laws of the United States, and the court must summarily determine the facts and dispose of the matter as law and justice require.         |
| PRECEDENTIAL VALUE    | unpublished district court memorandum opinion; precedential status unknown                                                                                                                                                                                                              |

## PARTIES

Carlos Enrique Velasquez v. Kristi Noem, et al.

## TOPICS

immigration detention

federal habeas corpus

removal proceedings

due process

statutory interpretation

## PRACTICE AREAS

immigration

federal habeas corpus

constitutional law

## QUESTIONS PRESENTED

1. Whether the Court retained jurisdiction under 28 U.S.C. § 2241 notwithstanding a nationwide class action and the jurisdiction-stripping provisions of 8 U.S.C. §§ 1252(b)(9) and 1252(g).
2. Whether Velasquez's detention was governed by the discretionary detention and bond-hearing framework of 8 U.S.C. § 1226(a), rather than the mandatory detention provision of 8 U.S.C. § 1225(b)(2)(A).
3. Whether detention without a bond hearing violated Velasquez's Fifth Amendment due process rights.

## HOLDINGS

1. The Court retained jurisdiction over Velasquez's individualized § 2241 habeas claim. The Bautista class judgment did not provide individualized habeas relief to Velasquez or strip this Court of jurisdiction, and 8 U.S.C. §§ 1252(b)(9) and 1252(g) did not apply because Velasquez did not seek review of a removal order and the case did not concern the commencement, adjudication, or execution of an immigration order.
2. Because Velasquez had been present in the United States since 1998 and was not actively seeking admission, his detention was governed by the discretionary detention framework of 8 U.S.C. § 1226(a), not the mandatory detention provision of § 1225(b)(2)(A). He was therefore entitled to a bond hearing under § 1226(a) and its implementing regulations.
3. Velasquez's continued detention without a bond hearing violated the Fifth Amendment's Due Process Clause. The Court determined that all three *Mathews v. Eldridge* factors favored him and ordered a bond hearing to vindicate his constitutional rights.
4. At a § 1226(a) bond hearing, the government must prove by clear and convincing evidence that the detainee poses a danger to the community, or by a preponderance of the evidence that the detainee is a danger or flight risk if the government seeks continued detention.

## KEY QUOTATIONS

*“Only this Court has jurisdiction to provide Mr. Velasquez with habeas relief.”* (at 10)

*“The Court concluded that 8 U.S.C. § 1226(a) and the Fifth Amendment entitled Mr. Velasquez to a bond hearing.”* (at 12)

*“He is thus not an “applicant for admission” subject to the mandatory detention provisions of § 1225 but rather falls within the discretionary detention provisions of § 1226(a) governing aliens who are already in the country.” (at 13)*

*“The Court therefore appropriately ordered the Immigration Court to provide Petitioner with another bond hearing in order to vindicate his Fifth Amendment rights.” (at 15)*

## FACTUAL BACKGROUND

Velasquez, a citizen of El Salvador, entered the United States without inspection in approximately 1998 and lived continuously in the country for more than twenty-seven years. After immigration proceedings that included an in-absentia removal order later reopened and dismissed, ICE detained him in September 2025. He remained detained without receiving a discretionary bond hearing under 8 U.S.C. § 1226(a) until the Court ordered one; the Immigration Judge ultimately denied bond based on flight risk and danger to the community.

## PROCEDURAL HISTORY

Velasquez filed a § 2241 petition challenging his detention by Immigration and Customs Enforcement and later filed an operative redacted amended petition. The Court incorporated briefing from *Duarte Escobar v. Perry*, rejected the government's jurisdictional and detention arguments, and on January 14, 2026 granted the petition and ordered a bond hearing. An Immigration Judge conducted the hearing on January 15, 2026 and denied bond based on flight risk and danger to the community; the memorandum opinion explained the prior grant of relief and directed closure of the case.

## DISPOSITION

other

## REMAND INSTRUCTIONS

The Court ordered the Immigration Court to provide Velasquez with a bond hearing under 8 U.S.C. § 1226(a). The hearing occurred on January 15, 2026, after which the Court directed the Clerk to close the case.

## CASES CITED

- *Hasan v. Crawford*, 800 F. Supp. 3d 641, 648 n.3 (E.D. Va. 2025)
- *Aguayo v. Harvey*, 476 F.3d 971, 976 (D.C. Cir. 2007)
- *Duarte Escobar v. Perry*, 2025 WL 3006742 (E.D. Va. 2025)
- *Bautista v. Santacruz*, 2025 WL 3713987 (C.D. Cal. 2025)
- *Rumsfeld v. Padilla*, 542 U.S. 426, 442-43 (2004)
- *Jennings v. Rodriguez*, 583 U.S. 281, 288-90, 294-95, 303 (2018)
- *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999)
- *Luna Quispe v. Crawford*, No. 1:25-cv-1471 (AJT), 2025 WL 2783799 (E.D. Va. Sept. 29, 2025)
- *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)

- *Martinez v. Hyde*, 792 F. Supp. 3d 211, 217-18 (D. Mass. 2025)
- *Soto v. Soto*, 2025 WL 2976572, at \*1 (D.N.J. 2025)
- *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 395-96 (2024)
- *Mathews v. Eldridge*, 424 U.S. 319 (1976)

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