

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
ALABAMA, SOUTHERN DIVISION

Giorgi Toshkhua v. Barry Smith, et al.

Toshkhua · No. 2:26-cv-00194-MHH · Decided March 16, 2026

SUMMARY

The court grants Giorgi Toshkhua’s 28 U.S.C. § 2241 habeas petition challenging his immigration detention. It holds that 8 U.S.C. § 1226 governs his detention and that he was entitled to an individualized custody determination and bond hearing, rather than detention under the expedited-removal provisions of 8 U.S.C. § 1225(b)(1)(A)(iii)(II). The court also voids the February 4, 2026 Notice to Appear because it contained inaccurate information and prohibits DHS from transferring Toshkhua outside the district without court authorization.

CASE DETAILS

COURT	United States District Court for the Northern District of Alabama, Southern Division
WRITING FOR THE COURT	E. Hughes Haikala
JURISDICTION	United States District Court for the Northern District of Alabama, Southern Division
DECIDED	March 16, 2026
DOCKET	2:26-cv-00194-MHH
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging immigration detention, accompanied by a request for emergency injunctive relief.
STANDARD OF REVIEW	The court reviewed the § 2241 petition to determine whether the petitioner was in custody in violation of the Constitution or laws of the United States and whether habeas relief was available for unlawful executive detention.
PRECEDENTIAL VALUE	Unpublished federal district court memorandum opinion; persuasive rather than binding outside the case.
PARTIES	Giorgi Toshkhua v. Barry Smith, Mellissa Harper, Markwayne Mullin, Todd Lyons, Pamela Bondi

TOPICS

immigration detention

removal proceedings

asylum

procedural due process

statutory interpretation

PRACTICE AREAS

immigration law

habeas corpus

immigration detention

constitutional law

civil procedure

QUESTIONS PRESENTED

1. Whether the court had subject matter jurisdiction under 28 U.S.C. § 2241 over Toshkhua's challenge to his immigration detention.
2. Whether Toshkhua's detention was governed by 8 U.S.C. § 1225(b)(1)(A)(iii)(II) or 8 U.S.C. § 1226.
3. Whether a person who had been paroled into the United States, had a pending asylum application, and had been continuously present for more than three years was subject to detention under § 1225(b)(1)(A)(iii)(II).
4. Whether detention under § 1226 without a bond hearing violated the statute and the Fifth Amendment Due Process Clause.
5. Whether the February 4, 2026 Notice to Appear should be voided because it contained materially false information.

HOLDINGS

1. The district court had subject matter jurisdiction because Toshkhua was confined in the Northern District of Alabama and challenged the constitutionality of his confinement.
2. On the record presented, 8 U.S.C. § 1226, rather than 8 U.S.C. § 1225(b)(1)(A)(iii)(II), governed Toshkhua's detention.
3. Because Toshkhua was detained under § 1226, he was entitled to an individualized custody determination and a bond hearing.
4. The respondents violated Toshkhua's Fifth Amendment due process rights by detaining him under § 1226 without a bond hearing.
5. The February 4, 2026 Notice to Appear was void because it contained false information concerning Toshkhua's entry, parole, and asylum application.

KEY QUOTATIONS

“Habeas relief “is at its core a remedy for unlawful executive detention[;]” (at 5)

“Thus, the arresting officer and the immigration officer who issued the administrative warrant for Mr. Toshkhua’s arrest understood that they needed a warrant to detain Mr. Toshkhua.” (at 13)

“Consequently, the respondents have violated § 1226 and have violated Mr. Toshkhua’s right to due process by detaining him without a bond hearing.” (at 14-15)

FACTUAL BACKGROUND

Giorgi Toshkhua, a citizen of Georgia, entered the United States in September 2022 and was paroled by Border Patrol under 8 U.S.C. § 1182(d)(5)(A). He filed a pending application for asylum, received employment authorization, and remained continuously present in the United States for more than three years. ICE arrested him in Tennessee on February 4, 2026, initially without a warrant, later obtaining an administrative warrant, and detained him at the Etowah County Jail. The government's immigration documents contained conflicting and inaccurate information about his entry, parole, asylum application, and immigration status.

PROCEDURAL HISTORY

Toshkhua filed a § 2241 habeas petition on February 8, 2026, after ICE arrested and detained him. The court granted emergency relief prohibiting his transfer outside the Northern District of Alabama, extended that restriction, and ordered a response to the petition. After reviewing the parties' submissions, the court granted the petition and issued mandatory relief requiring an individualized custody determination and bond hearing, voiding the existing Notice to Appear, and prohibiting transfer without court authorization.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The respondents must provide Toshkhua an individualized custody determination and a bond hearing in the Northern District of Alabama within 48 hours. The February 4, 2026 Notice to Appear is void; if DHS continues removal proceedings, it must issue and file a new notice containing accurate information and notify the immigration court that the prior notice was voided. DHS must confirm compliance within 48 hours and may not transfer Toshkhua outside the district without court authorization.

CASES CITED

- Department of Homeland Security v. Thuraissigiam, 591 U.S. 103, 119 (2020)
- Munaf v. Green, 553 U.S. 674, 693 (2008)
- Zadvydas v. Davis, 533 U.S. 678, 687-88, 693 (2001)
- Rumsfeld v. Padilla, 542 U.S. 426, 447 (2004)
- Jennings v. Rodriguez, 583 U.S. 281, 288-89, 302, 306 (2018)
- Buenrostro-Mendez v. Bondi, 166 F.4th 494, 503 (5th Cir. 2026)
- Castanon-Nava v. United States Department of Homeland Security, 161 F.4th 1048, 1061-62 (7th Cir. 2025)
- Hechavarria v. Sessions, 891 F.3d 49, 57 (2d Cir. 2018)
- Labrada-Hechavarria v. United States Attorney General, Nos. 23-13664, 24-10645, 2026 WL 496486, at *2 (11th Cir. Feb. 23, 2026)
- Patel v. Hardin, Case No. 2:25-cv-870-JES-NPM, 2025 WL 3442706, at *5 (M.D. Fla. Dec. 1, 2025)
- TRW Inc. v. Andrews, 534 U.S. 19, 31 (2001)
- Leng May Ma v. Barber, 357 U.S. 185, 187 (1958)
- Barco Mercado, 2025 WL 329590, at *4

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-northern-district-of-al/2026/giorgi-toshkhua-v-barry-smith-et-al-zt69nt9s>