IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MOISES ANTONIO PARADA HERNANDEZ et al.,

Petitioners,

v.

JOSHUA JOHNSON, et al.,

Respondents.

Civil Action No. 3:25-CV-2729-K-BN

RESPONDENTS' RESPONSE TO PETITIONERS' OBJECTIONS TO THE MAGISTRATE JUDGE'S FINDINGS, CONCLUSIONS AND RECOMMENDATION

This habeas case was filed by petitioner Moises Antonio Parada Hernandez, a native of El Salvador who entered the United States illegally and who was recently arrested and detained by U.S. Immigration and Customs Enforcement (ICE) in connection with his removal proceedings. Although the government has detained Parada Hernandez under the authority of 8 U.S.C. § 1225, which requires mandatory detention, Parada Hernandez claims that he is entitled to a bond hearing in immigration court, and the Magistrate Judge recently issued a findings, conclusions, and recommendation (FCR) agreeing that a bond hearing is required for Parada Hernandez, as a matter of procedural due process. (Dkt. No. 13.) The government objected to the FCR (*see* Dkt. No. 14), but Parada Hernandez and his co-petitioner wife, Ana Pineda, (collectively Petitioners) have also objected. (*See* Dkt. No. 16.) Because the relevant background information is already set forth in the government's own objections (Dkt. No. 14 at 2–3) and other filings, the government will omit that discussion here and proceed directly to

consideration of the arguments in Petitioners' objections.

I. Argument and Authorities

A. No issue of substantive due process is present.

Petitioners first argue that the FCR erred by not characterizing Parada Hernandez's ineligibility for a bond hearing as a denial of substantive due process, rather than simply a denial of procedural due process. (Dkt. No. 16 at 1–3.) But the issue raised by Petitioners' claims is of a classically procedural nature—are aliens in Petitioners' position entitled to a bond hearing when detained for removal proceedings? That is a procedural issue, relating to what process, in the form of a hearing, is provided (or not provided). In any event, the Supreme Court has explained that a substantive due process claim "has two primary features." *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997). First, the Court has "observed that the Due Process Clause specially protects those fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition . . . and implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed." *Id.* at 720–21 (internal quotation marks and citation omitted). Second, the Court has "have required in substantive-due-process cases a careful description of the asserted fundamental liberty interest." *Id.* at 721 (internal quotation marks and citation omitted).

Here, though, Petitioners fail to show any such claim. The administrative system for adjudicating immigration cases is a creature of statute and Petitioners cannot show that the question of whether certain aliens in those proceedings receive or do not receive bond hearings is deeply rooted in the Nation's history and tradition or otherwise triggers a substantive due process analysis. Moreover, even if Petitioners' argument may be taken to suggest that because bond hearings are available in certain other contexts (such as in criminal cases), they should also be

available here, the Supreme Court has made clear that "[i]n the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens." *Demore v. Kim*, 538 U.S. 510, 521 (2003) (internal quotation marks and citation omitted). It is thus the "longstanding view" of the Supreme Court that "the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings." *Id.* at 526. For this reason, Petitioners' substantive due process arguments do not warrant any relief in this case.

B. Petitioners' arguments about "reclassification" under § 1225 do not warrant relief.

As the government noted in its own objections, (Dkt. No. 14 at 6–7), the FCR ostensibly did not decide whether Parada Hernandez's detention falls under 8 U.S.C. § 1225 or 8 U.S.C. § 1226 because the FCR instead proceeding by "assuming that he is subject to Section 1225" and reasoning that "even if Parada-Hernandez was properly classified under Section 1225, detaining him without a bond hearing violates his Fifth Amendment rights." (Dkt. No. 13 at 8, 12.) Petitioners claim that the FCR erred by not squarely addressing the statutory issue of whether § 1225 applies to aliens like Parada Hernandez. (Dkt. No. 16 at 4.)

But by holding that a bond hearing was required (even though § 1225 does not provide for such hearings), the FCR did effectively rule that § 1225 is unconstitutional in this regard and thus grafted a bond-hearing requirement onto the statute. It is not clear what Petitioners' complaint is about the FCR's ruling in this regard; it appears to give them what they want—a bond hearing. Nevertheless, for all the reasons previously explained in the government's own briefing, aliens like Petitioners are properly subject to detention under § 1225 and if the Court determines to reach this issue, it should so hold. Put another way, Petitioners appear to be arguing that the FCR erred by not directly holding that they are subject to detention under § 1226

and not § 1225. But this is incorrect: Petitioners entered the country illegally without being inspected or paroled in by an immigration officer, and therefore they are applicants for admission who are subject to detention under 8 U.S.C. § 1225 (*see* Dkt. No. 10 at 8–14).

C. No temporary restraining order is warranted.

Petitioners also argue that the FCR erred by not recommending that a temporary restraining order be issued. (Dkt. No. 16 at 5–6.) But the FCR essentially consolidated the merits of Petitioners' habeas petition with their request for preliminary injunctive relief, in a manner consistent with Rule 65(a)(2), and then issued, on an expedited basis, a decision stating that a bond hearing is required. If the FCR had also characterized this recommended relief as manifesting a temporary restraining order, Petitioners would be in the exact same position they are in right now—this Court would be considering the parties' objections and determining whether to ultimately implement or reject the FCR's recommendation for a bond hearing. Petitioners have not shown any error or violation of their rights in connection with the FCR's conclusion that any requested temporary restraining order was seeking nothing other than the same ultimate relief that Petitioners sought with their petition. (*See* Dkt. No. 13 at 15.)

D. The FCR correctly noted that Pineda is not in custody.

The FCR found that any claim by Pineda—as opposed to Parada Hernandez—was not yet ripe because she "remains released on recognizance and is not in physical custody." (Dkt. No. 13 at 4.) Petitioners take issue with this characterization, but they fail to show any error. They cite a Fifth Circuit case in which the court "h[e]ld that an alien *who is subject to a final order of deportation* . . . is 'in custody' under § 2241," and therefore allowed such an alien to "challenge his final order of deportation" in a habeas proceeding. *Rosales v. ICE*, 426 F.3d 733, 734 (5th Cir. 2005) (emphasis added). Petitioners, however, are not yet subject to any final order of

deportation (removal), nor are they attempting, in this proceeding, to challenge any final order of removal. Accordingly, the FRC did not err in reasoning that Pineda's status did not constitute a form of custodial status for purposes of Petitioners' petition.

II. Conclusion

The Court should overrule Petitioners' objections to the FCR, but should ultimately reject the FCR and instead deny any relief in this action for the reasons previously noted by the government.

Respectfully submitted.

Ryan Raybould
United States Attorney

/s/ Brian W. Stoltz
Brian W. Stoltz
Assistant United States Attorney
Texas Bar No. 24060668
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699
Telephone: 214-659-8626
Facsimile: 214-659-8807
brian.stoltz@usdoj.gov

Attorneys for Respondents

Certificate of Service

On November 26, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Brian W. Stoltz
Brian W. Stoltz
Assistant United States Attorney