

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

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GILBERTO ALVILLAR QUINTANA,

Petitioner,

v.

No. 2:26-cv-00141-MLG-GBW

KRISTI NOEM, Secretary, U.S. Department of Homeland Security; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement; MARY DE ANDA-YBARRA, Director, El Paso ICE Field Office; PAMELA BONDI, Attorney General, U.S. Department of Justice; DORA CASTRO, Warden, Otero County Processing Center,

Respondents.

**ORDER FOR SERVICE AND TO SHOW CAUSE**

Petitioner Gilberto Alvillar Quintana, a Mexican citizen, is detained at the Otero County Processing Center in Chaparral, New Mexico. Doc. 1 ¶¶ 36, 41. He seeks a writ of habeas corpus under 28 U.S.C. § 2241 directing federal immigration authorities to release him from custody, or, in the alternative, to conduct a bond hearing pursuant to 8 U.S.C. § 1226(a) within fifteen days. Doc. 1 at 15. He further requests that the Court issue an order to show cause “ordering Respondents to justify the basis of Petitioner’s detention in fact and in law” and that the Court grant injunctive relief, including enjoining Respondents from transferring him outside of the District of New Mexico during the pendency of this proceeding. *Id.* Alvillar Quintana also seeks an award of costs. *Id.* at 16.

It appears Respondents have not yet been served in this matter. In the interest of judicial efficiency, the Court orders the Clerk’s Office to serve this Order and Alvillar Quintana’s Petition

for Writ of Habeas Corpus (“Petition”), Doc. 1, on the United States, its agencies, its officers, and Respondent Dora Castro, Warden of the Otero County Processing Center.<sup>1</sup> The Clerk’s Office must also e-mail courtesy copies of the Petition, *id.*, and this Order to the United States Attorney’s Office for the District of New Mexico (“USAO”) via the Civil Immigration mailbox.

Within three days of receipt of the Order and Petition,<sup>2</sup> the United States Attorney’s Office for the District of New Mexico must respond to the Petition and show cause why this Court should not grant the requested relief. *See* 28 U.S.C. § 2243. Under similar circumstances, this Court has granted requests for individualized bond hearings pursuant to 8 U.S.C. § 1226(a). *See Cortez-Gonzalez v. Noem*, No. 2:25-cv-00985-MLG-KK, 2025 WL 3485771, at \*3-4, \*6 (D.N.M. Dec. 4, 2025); *Gonzalez Ramos v. Dedos*, No. 1:25-cv-00975-MLG-KRS, 2025 WL 3653928, at \*2-5 (D.N.M. Dec. 17, 2025); *Diaz-Cruz v. Dedos*, No. 1:25-cv-01117-MLG-JMR, 2025 WL 3628517, at \*2 (D.N.M. Dec. 12, 2025). In doing so, the Court joins the “vast majority” of courts that have concluded that § 1226(a)—not § 1225(b)(2)—governs the detention of noncitizens like Alviljar Quintana, who has been residing in the United States for at least six years. Doc 1. ¶ 36; *see, e.g., Bethancourt Soto v. Soto*, No. 25-CV-16200, 2025 WL 2976572, at \*7 (D.N.J. Oct. 22, 2025) (collecting cases concluding that “§ 1225(b)(2)(A) applies only to noncitizens who are actively, *i.e.*, affirmatively, ‘seeking admission’ to the United States” and not to noncitizens who have been

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<sup>1</sup> The Rules Governing Section 2254 Cases (“Section 2254 Rules”) permit district courts to “apply any or all of these rules to a habeas petition not covered [under 28 U.S.C. § 2254].” Section 2254 Rule 1(b); *accord Boutwell v. Keating*, 399 F.3d 1203, 1210-11 n.2 (10th Cir. 2005) (observing that district courts have discretion to apply Section 2254 Rules to petitions for writs of habeas corpus brought pursuant to § 2241). Section 2254 Rule 4 requires service to be effectuated by the clerk of the court. *See id.* (“In every case, the clerk must serve a copy of the petition and any order on the respondent and on the attorney general or other appropriate officer of the state involved.”).

<sup>2</sup> The deadlines in this order are to be calculated in accordance with Federal Rule of Civil Procedure 6.

residing in the United States for several years). Any response filed by Respondents must therefore demonstrate why the specific facts or procedural posture of this case warrant a departure from the Court's prior rulings on this issue.

If Alvillar Quintana wishes to file a reply, he must do so within three days of the filing of any response. The Court will determine whether a hearing is necessary once briefing is complete.<sup>3</sup>

While this proceeding is pending, Respondents are enjoined from removing Alvillar Quintana from the United States or transferring him outside the District of New Mexico.

It is so ordered.



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UNITED STATES DISTRICT JUDGE  
MATTHEW L. GARCIA

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<sup>3</sup> The Court generally does not permit remote appearances, so all interested counsel must appear for hearings in person.