

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

KENNI L. ESCOBAR CHANG,
Petitioner,

V.

KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security, et al.,
Respondents.

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Case No. 5:25-CV-01259-FB-HJB

PETITIONER'S ADVISORY TO THE COURT

TO THE HONORABLE HENRY J. BEMORAD, UNITED STATES MAGISTRATE JUDGE:

Kenni L. Escobar Chang, Petitioner, files his Advisory to the Court:

On November 19, 2025, the Court ordered the parties "to advise whether there are any material differences between the facts of this case and those presented in *Becerra Vargas*." ECF Doc. 12.

Petitioner Escobar Chang asserts that (1) the *Becerra Vargas* petitioner was denied a bond hearing pursuant to *Matter of Yajure Hurtado* and (2) Petitioner Escobar Chang was provided a bond hearing and granted a bond, vacated by the Board of Immigration Appeals citing *Matter of Yajure Hurtado*. The *Becerra Vargas* petitioner requested and obtained his immediate release from custody, so requests Mr. Escobar Chang. Petitioner presents no other material differences for the facts between this case and *Becerra Vargas*.

EAJA Fee Request

The Court's Report and Recommendation in *Becerra Vargas* included denial of reasonable attorney's fees pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. *Report and Recommendation of United States Magistrate Judge, p. 10*. Undersigned counsel and Petitioner are cognizant of the Fifth Circuit's opinion in *Barco v. White*, 65 F.4th 782, 785 (5th Cir. 2023), *cert.*

denied, 144 S. Ct. 533 (2024) (denying attorney fees because habeas proceedings are “not purely civil actions.”) The Court’s recommendation is correct based on the Fifth Circuit precedent. Nevertheless, Federal Respondents should answer to (1) Mr. Escobar for the prolonged and unlawful detention and (2) U.S. taxpayers for its cost, solely on *Matter of Yajure Hurtado*’s absurd, runaway departure from established policy and legal precedent. As stated in *Becerra Vargas*, “this is not a case of first impression.” *Report and Recommendation of United States Magistrate Judge*, p. 7. Federal Respondents must be held to account.

Date: November 20, 2025

Respectfully submitted,



Stephen W. Spurgin

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CERTIFICATE OF SERVICE

I, Stephen W. Spurgin, certify that a true and correct copy of the Petitioner’s Advisory to the Court was delivered to Federal Respondents’ attorneys via the Court’s ECF portal on November 20, 2025.



Stephen W. Spurgin