

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

NOEL JUNIOR TCHANGO,

Petitioner,

v.

WARDEN MARCELLO VILLEGAS,

Respondent

Civil Action No. 1:25-CV-200-H
ECF

RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

In his petition for a writ of habeas corpus, Noel Junior Tchango seeks release from detention pending his removal from this country by United States Immigration and Customs Enforcement (ICE). He asserts that he has been detained without any criminal charges and without bond beyond the time limit allowed by *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). The Petition should be dismissed as Petitioner is not entitled to habeas relief.

I. FACTS

Petitioner is a native and citizen of Gabon. App. p. 24. Petitioner entered the United States at Washington, D.C., on or about December 28, 2014, as an F-1 non-immigrant student with authorization to remain in the United States for the duration of his academic status. *Id.* On October 12, 2015, Petitioner's academic status was terminated due to dismissal from school. *Id.*

On November 29, 2024, Petitioner was placed into removal proceedings through issuance of a Notice to Appear and was charged as removable under INA § 237(a)(1)(C)(I). App. p. 24. INA § 237(a)(1)(C)(I) states in relevant part that “after admission as a nonimmigrant under § 101(a)(15) of the Act, you failed to maintain or comply with the conditions of the nonimmigrant status under which you were admitted.” *Id.*

On March 12, 2025, Petitioner was granted bond by the Immigration Judge. App. p. 4. Thereafter on, October 7, 2025, Petitioner filed his EOIR 42-B, Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents, with the Immigration Court. App. p. 2. Petitioner also filed his I-589, Application for Asylum and for Withholding of Removal, with the Immigration Court on this same day. App. p. 12. On November 5, 2025, Petitioner filed an updated I-589, Application for Asylum and for Withholding of Removal, as well as an updated EOIR 42-B, Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents with the Immigration Court. App. pp. 28; 30. Petitioner sought a custody redetermination on November 13, 2025. App. p. 9. After the hearing, the Immigration Judge withdrew his previous bond order. *Id.* Petitioner waived appeal of this decision. App. p. 10. On December 17, 2025, Petitioner had an individual merits hearing and the Immigration Judge ordered Petitioner removed to Gabon. App. pp. 15-19. Petitioner reserved appeal at the December 17, 2025, hearing. Therefore, his removal proceedings are ongoing.

II. ARGUMENT AND AUTHORITIES

PETITIONER IS NOT ENTITLED TO RELIEF

The Supreme Court has held that an alien does not have a constitutional right to be released from detention during the limited period in which removal proceedings are pending. *Demore v. Kim*, 538 U.S. 510, 531 (2003); *Carlson v. Zydok*, 342 U.S. 524, 545-46 (1952). The right to release, therefore, is a right granted and controlled by statute. *See generally Carlson v. Zydok*, 342 U.S. 524. Specifically, when and under what circumstances an alien may be released while removal proceedings are pending is governed by 8 U.S.C. § 1226(a). Section 1226(a) provides for release in the discretion of the Attorney General “except as provided in subsection (c),” which subsection requires that certain categories of aliens “shall” be taken into custody. 8 U.S.C. § 1226(a), (c). If an alien is not subject to mandatory detention, he may be released on a bond of at least \$1,500 or detained as a matter of discretion (“discretionary detention”). 8 U.S.C. § 1226(a)(1)–(2). This discretionary decision depends on whether the alien can “demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8); *Matter of DJ*, 23 I&N Dec. 572, 576 (A.G. 2003). The discretionary decision to detain or release an alien on bond represents the “initial custody determination,” and bond may be revoked at any time. *See* 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9), (d)(1).

If an alien detained as a matter of discretion under section 1226(a) is not satisfied with the initial custody determination, he may seek review (an “initial bond

redetermination”) by an immigration judge. 8 C.F.R. §§ 236.1(d), 1003.19(e). The immigration judge has broad discretion to decide whether the alien “is a threat to national security, a danger to the community at large, likely to abscond, or otherwise a poor bail risk.” *Guerra*, 24 I&N Dec. at 40–41; *Matter of Fatahi*, 26 I&N Dec. 791, 793–94 (BIA 2016). The alien has the burden to prove the appropriateness of release on bond. *Id.* If bond is denied, the alien may file an appeal with the Board of Immigration Appeals (BIA).

The alien also may petition the immigration judge for a “subsequent bond redetermination” upon a showing of changed circumstances. 8 C.F.R. § 1003.19(e). Absent from these procedural rights, however, is any right to judicial review in federal district court of custody decisions of this type pending removal; instead, Congress has by statute precluded such review, *see* 8 U.S.C. § 1226(e), and thus there is no basis for Petitioner to request release on bond in this Court. *See also Maramba v. Mukasey*, No. 3:08-CV-351-K, 2008 WL 1971378, at * (N.D. Tex. Apr. 28, 2008) (citing section 1226(e) when explaining that there was no jurisdiction for a habeas petitioner’s claims “seeking release on supervision or a lower bond”).

Petitioner asks that the Court grant habeas relief and order the government to grant him an individualized custody review. But Petitioner was granted bond on March 11, 2025. However, he did not pay the bond, so he was not released. Subsequently, he asked for a bond redetermination and on November 11, 2025, his bond was withdrawn. App. p. 9. He did not appeal this decision by the Immigration Judge. App. p. 10. Petitioner has

clearly received all the due process to which he is entitled and this Court is precluded from reviewing the Immigration Judge's decision.

Petitioner also argues that he should be released based on the length of his detention. The Supreme Court, however, has clearly rejected this argument, noting that nothing in 1226(a)'s text indicates that the length of detention should be a determination in whether an alien is released on bond. *Jennings v. Rodriguez*, 138 S. Ct. 830, 847–48 (2018). Additionally, it should be noted that Petitioner fails to allege that he has a lawful right to remain in the United States. Petitioner was admitted to the United States on a nonimmigrant visa, but he has remained longer than permitted. App. p. 24. Petitioner has attempted to adjust his status, but the Immigration Court denied those petitions. App. pp. 16-17. Petitioner has received notice of the denials as well as the order finding him removable and ordering him removed to Gabon. App. pp. 16-18. Petitioner has reserved his right to appeal, therefore his removal proceedings remain ongoing.

III. CONCLUSION

Petitioner fails to show that he had been unlawfully detained or that he is otherwise entitled to any relief in this Court. Accordingly, the petition for habeas corpus relief should be dismissed or otherwise denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On December 23, 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/ Ann E. Cruce-Haag
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