

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

ERIC OMAR GARCIA

v.

PATRICIA HYDE, *et al.*

Civil Case No. 25-00585-JJM-PAS

**RESPONDENTS' OPPOSITION TO
PETITION FOR WRIT OF HABEAS CORPUS**

By and through their attorney, Acting U.S. Attorney Sara M. Bloom, Respondents Patricia Hyde, Todd Lyons, Kristi Noem, and Pamela Bondi, in their official capacities, oppose Eric Omar Garcia's Petition for Writ of Habeas Corpus (Dkt. No. 1 ("Petition")). Petitioner erroneously contends that his detention will interfere with proceedings before U.S. Citizenship and Immigration Services ("USCIS") and seeks immediate release to prevent the fictitious interference. (Petition at 6 ("Ground One"), 9-11 (memorandum)). As detailed below, Petitioner's detention will not interfere with USCIS's proceedings. With the Court's permission, Petitioner will be transported as necessary for proceedings before USCIS. Petitioner argues that the immigration judge ("IJ") erred in determining that he was a flight risk and denying him bond. (Petition at 6, 11-12). Petitioner did not appeal that decision and is here essentially asking this Court to make a substantive determine different from the IJ. As explained below, this is something this Court cannot do. Petitioner's remedy is to move before the IJ for reconsideration and to appeal to the Board of Immigration Appeals, if necessary.

Undersigned counsel has not yet received a signed declaration from United States Immigration and Customs Enforcement ("ICE") and accordingly is not in a position to respond completely. However, the Court's deadline for response is today. Accordingly, this abbreviated briefing is being submitted and will, if permitted by the Court, be supplemented once a declaration has been received.

1. Detention does not interfere with Petitioner's proceedings before USCIS.

It is anticipated that a declaration from ICE will detail that ICE, provided permission by this Court, is prepared to transport the Petitioner to and from the Wyatt as necessary to enable Petitioner to attend proceedings relating to his I-130 application before USCIS. Accordingly, Petitioner's detention does not interfere with or prevent USCIS's adjudication of the immediate relative petition.

2. The Court is not permitted to substitute its own judgment for the IJ's as to bond determination.

A. Standard of Review

It is axiomatic that "[t]he district courts of the United States . . . are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute." *Exxon Mobil Corp. v. Allopach Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). The Supreme Court has recognized that § 2241(c)(3) confers on the District Court jurisdiction to hear habeas corpus challenges to the legality of the detention of aliens. *See Rasul v. Bush*, 542 U.S. 466, 483-84 (2004) ("[Alien] Petitioners contend that they are being held in federal custody in violation of the laws of the United States. . . . Section 2241, by its terms, requires nothing more."); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) ("We note at the outset that the primary federal habeas corpus statute, 28 U.S.C. § 2241, confers jurisdiction upon the federal courts to hear these cases." (citing 28 U.S.C. § 2241(c)(3))).

To warrant a grant of writ of habeas corpus, the burden is on the petitioner to prove that his custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Espinoza v. Sabol*, 558 F.3d 83, 89 (1st Cir. 2009) ("The burden of proof of showing deprivation of rights leading to an unlawful detention is on the petitioner.") (citing *Walker v. Johnston*, 312 U.S. 275, 286, 61 S.Ct. 574, 85 L.Ed. 830 (1941); *see also Waddington v. Sarausad*, --- U.S. ---, 129 S.Ct. 823, 831, 172 L.Ed.2d 532

(2009); *Smith v. Robbins*, 528 U.S. 259, 285-86, 120 S.Ct. 746, 145 L.Ed.2d 756 (2000); *Bader v. Warden*, 488 F.3d 483, 488 (1st Cir. 2007)).

A district court should dismiss claims under Federal Rule of Civil Procedure 12(b)(1) when it lacks subject matter jurisdiction to decide them. “In ruling on a motion to dismiss for lack of jurisdiction, ‘the district court must construe the complaint liberally, treating all well-pleaded facts as true and indulging all reasonable inferences in favor of plaintiff.’” *Excel Home Care, Inc. v. U.S. Dep’t of Health & Human Servs.*, 316 B.R. 565, 568 (D. Mass. 2004) (quoting *Aversa v. United States*, 99 F.3d 1200, 1210 (1st Cir. 1996)). But “[t]hat is not to say that this leniency eliminates the plaintiff’s burden of proving an appropriate jurisdictional basis.” *Id.* “The party asserting subject matter jurisdiction has the burden of establishing its existence.” *Hamada v. Gillen*, 616 F.Supp.2d 177, 180 (D. Mass. 2009) (citing *McBee v. Delica Co., Ltd.*, 417 F.3d 107, 122 (1st Cir. 2005)).

B. Argument

This Court lacks jurisdiction to review the IJ’s decision to deny Petitioner bond because “Congress has eliminated judicial review of discretionary custody determinations.” *Pensamiento v. McDonald*, 315 F.Supp.3d 684 , 688 (D. Mass. 2018) (citing 8 U.S.C. § 1226(e)). Specifically, § 1226(e) provides:

The Attorney General’s discretionary judgment regarding the application of § 1226 shall not be subject to review. No court may set aside any action or decision by the Attorney General under this section regarding the detention or release of any alien or the grant, revocation, or denial of bond or parole. § 1226(e).

Though the IJ determined that Petitioner was eligible for a bond hearing under § 1226(a), the IJ ultimately denied bond on the basis of finding that Petitioner was a flight risk. This is precisely the type of discretionary judgment that is precluded from judicial review under § 1226(e). *See Hamada v. Gillen*, 616 F.Supp.2d 177, 181 (D. Mass. 2009) (holding that Section 1226(e) barred the district court from reviewing the

Immigration Judge and the BIA's decision to detain the petitioner, where the petitioner challenged the decision as "minimizing significant equitable factors in Petitioner's favor."). The Petition does not challenge the statutory framework governing immigration detention generally, but rather challenges the IJ's reasoning and analysis and essentially argues that the evidence presented to the IJ was insufficient to establish flight risk by a preponderance of evidence. *Id.* This argument ignores the clear mandate of § 1226(e) that "[n]o court may set aside *any action or decision* by the Attorney General under this section regarding the detention or release of any alien or the grant, revocation, or denial of bond or parole." 8 U.S.C. § 1226(e)(emphasis added). Because this Court lacks jurisdiction to review the IJ's ruling that Petitioner is a flight risk, the petition must be dismissed. *See* Fed. R. Civ. P. 12(b)(1). Petitioner's remedy for contesting the IJ's reasoning is to move for reconsideration and, if necessary, appeal to the BIA.

Respectfully Submitted,

UNITED STATES OF AMERICA
By its Attorney,

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CERTIFICATION OF SERVICE

On this 13th day of November 2025, I caused the within response to be filed electronically and it is available for viewing and downloading from the ECF system.

/s/ Milind Shah
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Assistant U.S. Attorney