

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

|                            |   |                       |
|----------------------------|---|-----------------------|
| JUAN JOSÉ PARAMO BIESTRA,  | § |                       |
|                            | § |                       |
| Petitioner,                | § | CASE NO. 4:25-cv-5286 |
|                            | § |                       |
| v.                         | § |                       |
|                            | § |                       |
| PAM BONDI, <i>et al.</i> , | § |                       |
|                            | § |                       |
| Respondents.               | § |                       |

**FEDERAL RESPONDENTS' OPPOSITION TO PETITION FOR WRIT OF  
HABEAS CORPUS AND MOTION TO DISMISS**

Defendants Pamela Bondi, in her capacity as United States Attorney General, Kristi Noem, in her capacity as Secretary of the U.S. Department of Homeland Security, and Bret Bradford, in his capacity as Houston Field Office Director, Immigration and Customs Enforcement, (“Federal Respondents”) file this opposition to the Petition for Writ of Habeas Corpus and for Emergency Temporary Injunctions (the “Petition”) (Dkt. No. 1), and pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) move to dismiss the Petition for lack of subject matter jurisdiction and failure to state a claim.

**SUMMARY**

Petitioner Juan José Paramo Biestra, a Mexican citizen with two arrest warrants pending in Mexico, is currently detained by Immigration and Customs Enforcement pending a final order of removal. While a habeas action is intended to challenge an unlawful detention, the Petition challenges the merits of his immigration bond hearing. The Petition does not otherwise provide a proper basis to challenge his detention. Because the Court lacks subject matter jurisdiction to hear a challenge to the discretionary decision of issuing an immigration

bond, the Petition should be denied. Alternatively, the Petition fails to state a claim for unlawful detention.

### STANDARD OF REVIEW

**12(b)(1).** Jurisdiction is a threshold question. *See Florida v. Thomas*, 532 U.S. 774, 777 (2001) (“we must first consider whether we have jurisdiction to decide this case.”). “Within constitutional bounds, Congress decides what cases the federal courts have jurisdiction to consider.” *Bowles v. Russell*, 551 U.S. 205, 212 (2007); *see also Stockman v. Fed. Election Comm'n*, 138 F.3d 144, 151 (5th Cir. 1998) (“Federal courts are courts of limited jurisdiction, and absent jurisdiction conferred by statute, lack the power to adjudicate claims.”)(citing *Veldhoen v. United States Coast Guard*, 35 F.3d 222, 225 (5th Cir. 1994)); *cf. Rubrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583–84 (1999) (“Subject-matter limitations . . . keep the federal courts within the bounds the Constitution and Congress have prescribed. Accordingly, subject-matter delineations must be policed by the courts on their own initiative even at the highest level.” (citations omitted)).

**12(b)(6).** To survive a Rule 12(b)(6) motion to dismiss, the plaintiff must plead enough facts to “state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is facially plausible when the plaintiff pleads facts that allow the court to “draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* Dismissal is warranted if the pleading lacks a factual allegation regarding any required element necessary to obtain relief. *Rios v. City of Del Rio, Tex.*, 444 F.3d 417, 421 (5th Cir. 2006).

## FACTUAL BACKGROUND

Paramo arrived in the United States via a B1/B2 visa on November 27, 2022. Dkt. No. 1, p. 14. Soon after, the Mexican government issued two arrest warrants against Paramo related to financial fraud. Dkt. No. 1, p. 5; Dkt. No. 1-1, p. 2; Ex. 1, June 4, 2025 Bond Memorandum, pp. 1-2. As claimed by the Petition, Paramo has been involved in extensive legal disputes with Mexican financial institutions, including a civil discovery action filed by a Mexican bank in this Court (*Banco Mercantil del Norte, et al., v. Paramo, et al.*, Case No. 4:23-MC-1188 (S.D. Tex.)). *See* Dkt. No. 1, p. 4; *see also Banco Mercantil de Norte, et al., v. Paramo*, Case No. 24-20007 (5th Cir.). Paramo has applied for asylum to remain in the United States and avoid the litigation in Mexico. Dkt. No. 1, p. 5.

Following his detention by ICE, Paramo requested a bond, and a hearing was held on the matter on May 29, 2025 by an Immigration Judge. Ex. 1, p. 1; Dkt. No. 1-1. In the first bond memorandum, the Immigration Judge noted that the crimes that Paramo is accused of involved claimed losses of \$5,660,606.11. Ex. 1, p. 4. However, to allow Paramo more time to rebut the evidence provided by DHS, including the existence of the arrest warrants, the Immigration Judge gave Paramo the option to withdraw the bond request to avoid a denial. Ex. 1, p. 4. Paramo did so.

On June 30, 2025, Paramo then filed a second request for a bond, and on July 10, 2025, a second bond hearing was held. Dkt. 1-1, p. 1. The bond was denied on July 14, 2025, and following Paramo's appeal of the denial, the Immigration Judge adopted its previous ruling. Dkt. 1-1. In the Final Bond Memorandum affirming the bond denial, the Immigration Judge cited to uncontroverted evidence that Paramo has two arrest warrants pending in Mexico. Dkt.

No. 1, p. 14. While Paramo claimed at the bond hearing that these warrants are civil, not criminal, he did not present evidence at the hearing to support this. Dkt. No. 1, p. 14. Through this lawsuit, Paramo continues to claim that the warrants are not criminal but has not alleged facts to support this contention. *See* Dkt. No. 1, p. 5 (“Paramo maintains, and the facts show, that they are more like civil summonses than they are like criminal warrants.”). As the Immigration Judge recognized, “the distinction does not seem particularly significant—the fact remains that authorities in Mexico want and may be demanding that Responses appear to face serious claims and/or charges.” Dkt. 1-1, p. 4. The Immigration Judge further noted concerns that Paramo will flee and not willingly put himself in a position to be returned to Mexico to face prosecution. Dkt. No. 1, p. 14. The Final Bond Memorandum thus concluded that “[t]he crimes alleged involve significant criminal punishment and civil proceedings, all of which [he] is resisting...and the lack of sufficient evidence to overcome the flight risk created by the arrest warrants means he has not met his burden [of proving entitlement to bond].” Dkt. No. 1, p. 18.

Disagreeing with the Immigration Judge’s decision, Paramo has now filed this habeas action to improperly challenge the merits of his bond hearing.

### **ARGUMENT**

In a proper petition for a writ of habeas corpus, the petitioner challenges the legality of the restraint or imprisonment. *See* 28 U.S.C. § 2241. The burden is on the petitioner to show the confinement is unlawful. *See, e.g., Walker v. Johnston*, 312 U.S. 275, 286 (1941). When a person is detained during removal proceedings, it is well-established that “[d]etention is necessarily a part of th[e] deportation procedure.” *Carlson v. Landon*, 342 U.S. 524, 538 (1952);

see *Wong Wing v. United States*, 163 U.S. 228, 235 (1896) (“Proceedings to exclude or expel would be vain if those accused could not be held in custody pending the inquiry into their true character, and while arrangements were being made for their deportation.”). As the Supreme Court has stated, “[d]etention during removal proceedings is a constitutionally permissible part of that process.” *Demore v. Kim*, 538 U.S. 510, 531 (2003). The “sole function” of habeas relief is to “grant relief from unlawful imprisonment or custody and it cannot be used properly for any other purpose,” which means that it “is not available to review questions unrelated to the cause of detention.” *Pierre v. United States*, 525 F.2d 933, 935–36 (5th Cir. 1976).

The Court does not have jurisdiction to review Paramo’s habeas claim because it challenges an immigration judge’s discretionary denial of his bond pending his final order of removal. The detention of an alien who was admitted into the United States, such as Paramo, prior to a final order of removal is generally governed by INA § 236, 8 U.S.C. § 1226, which provides that an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. And § 1226(e) provides that:

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.

8 U.S.C. § 1226(e). Thus, as this Court has stated, “district courts do not have jurisdiction to review discretionary decisions made by an Immigration Judge regarding bond.” *Fuentes v. Lyons*, No. 5:25-CV-00153, 2025 WL 3022478, at \*3 (S.D. Tex. Oct. 29, 2025); see *Nielsen v. Preap*, 586 U.S. 392, 401 (2019) (“As we have held, this limitation applies only to ‘discretionary’ decisions about the ‘application’ of § 1226 to particular cases.”).

While 8 U.S.C. § 1226 does not strip courts of jurisdiction of constitutional questions, Paramo does not otherwise allege a plausible claim for relief. *See Diallo v. Pitts*, 2020 WL 714274, at \*6 (S.D. Tex. Jan. 15, 2020), *R & R adopted*, 2020 WL 709326 (S.D. Tex. Feb. 12, 2020). “[Section 1226(e)] does not block lawsuits over ‘the extent of the Government’s detention authority under the ‘statutory framework’ as a whole.” *Nielsen*, 586 U.S. at 401 (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 295–96 (2018)); *see Demore v. Kim*, 538 U.S. 510, 517 (2003); *see also Oyelude v. Chertoff*, 125 F. App’x 543, 546 (5th Cir. 2005) (unpublished op.) (“Section 1226(e) may strip [courts] of jurisdiction to review judgments designated as discretionary under the pertinent language of the statute, but it does not deprive [courts] of all authority to review statutory and constitutional challenges. [Courts] retain jurisdiction to review [a noncitizen’s] detention insofar as that detention presents constitutional issues, such as those raised in a habeas petition.”) (citation omitted). The Petition argues that Paramo is not a flight risk as the Immigration Judge determined. Dkt. No. 1, p. 7. This is nothing more than a disagreement with the merits of a discretionary decision to deny his bond. Thus, this challenge is not subject to review pursuant to § 1226(e). *See e.g., Al-Siddiqi v. Nehls*, 521 F. Supp. 2d 870, 875 (E.D. Wis. 2007) (holding that the decision to disregard the IJ’s order and refuse to accept the bond was subject to § 1226(e)).<sup>1</sup>

Because this Court lacks authority to preside over this issue raised in the Petition, the Court should dismiss the Petition for lack of jurisdiction.

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<sup>1</sup> On appeal, the Seventh Circuit held that the petitioner in *Al-Siddiqi* had pled a Due Process claim which overcame § 1226(e). *Al-Siddiqi v. Achim*, 531 F.3d 490, 493 (7th Cir. 2008).

## CONCLUSION

For the foregoing reasons, the Court lacks subject matter jurisdiction and should deny the Petition for Writ of Habeas.

Dated: November 27, 2025

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I certify that on November 27, 2025, the foregoing was filed and served on counsel of record through the Court's CM/ECF system.

/s/ Lisa Luz Parker  
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