

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ADEILSON SANTANA DA CRUZ,

Petitioner,

v.

DAVID O'NEILL, et al.

Respondents.

CIVIL ACTION
NO. 25-6286

ORDER

AND NOW, this 22nd day of December 2025, upon consideration of Petitioner Adeilson Santana Da Cruz's Petition for Writ of Habeas Corpus (Doc. No. 1), Respondents' Response in Opposition to Petitioner's Writ of Habeas Corpus (Doc. No. 5), Petitioner's First Motion for a Temporary Restraining Order (Doc. No. 6), Respondents' Response in Opposition to the Motion for a Temporary Restraining Order (Doc. No. 7), and Petitioner's Second Motion for a Temporary Restraining Order (Doc. No. 8), is **ORDERED** that Petitioner's Petition for Writ of Habeas Corpus (Doc. No. 1) is **GRANTED** and Petitioner's Motions for a Temporary Restraining Order (Doc. Nos. 6, 8) are **DENIED as moot**.¹ It is **FURTHER ORDERED** as follows:

¹ Petitioner Adeilson Santana Da Cruz ("Petitioner") is a citizen of Brazil who entered the United States in May of 2022 without inspection. (Doc. No. 5 at 4.) Petitioner lives in Philadelphia, Pennsylvania. (Doc. No. 1 ¶ 61.) In February 2025, Petitioner filed an Application for Asylum (Form I-589) along with one for his wife, their child, and his stepchild. (Doc. No. 1 ¶ 64.) The applications are still pending. During his time in Philadelphia, United States Immigration and Customs Enforcement ("ICE") required him to check in annually at the Philadelphia ICE office. (Doc. No. 5 at 3.) During his most recent check-in on November 5, 2025, Petitioner was detained by ICE agents and placed in removal proceedings. (*Id.*) Initially Respondents reported Petitioner was detained at the Moshannon Valley Processing Center. (*Id.*) However, based upon the information in Petitioner's Second Motion for a Temporary Restraining Order, Petitioner has remained at the Federal Detention Center in Philadelphia. (Doc. No. 8 at 1.)

On November 5, 2025, Petitioner filed a Petition for Writ of Habeas Corpus (Doc. No. 1), which is now before the Court. In that Petition, he asks the Court to order his release, or—in the alternative—to be given a bond hearing before an Immigration Judge. (*Id.* at 21.) On November 21, 2025, Respondents filed an Answer in Opposition to Petitioner’s Habeas Petition. (Doc. No. 5). On December 3, 2025, Petitioner filed his First Motion for a Temporary Restraining Order (“TRO”), again requesting the Court to order his immediate release. (Doc. No. 6.) On December 5, 2025, Respondents filed their Response in Opposition to Petitioner’s Motion for a TRO. (Doc. No. 7.) Subsequently, on December 15, 2025 Petitioner filed his Second Motion for a TRO, arguing Petitioner’s continued detention violates Due Process and that Respondents cannot claim statutory authority to detain Petitioner when they are unable to accurately track his location. (Doc. No. 8 at 2–3.) To date, Respondents have not filed a Response to the Second Motion for a Temporary Restraining Order. Despite this omission, the Petition and the Motions for a TRO are now ripe for disposition.

In his Petition, Petitioner submits that Respondents are detaining him in violation of 8 U.S.C. § 1226(a). (Doc. No. 1 at 10–12.) Respondents first counter this submission with a series of jurisdictional defenses, claiming that district courts cannot hear cases like Petitioner’s. (*See* Doc. No. 5 at 5–10) (arguing that 8 U.S.C. § 1252(g), 8 U.S.C. § 1252(b)(9), and 8 U.S.C. § 1252(a)(2)(B)(ii) divest district courts of jurisdiction to hear habeas petitions related to removal proceedings). Second, Respondents claim that the Court should dismiss Petitioner’s case because he failed to exhaust his administrative remedies through the immigration appeals system. (*See id.* at 10–12.)

Finally, Respondents assert that their authority to detain Petitioner stems not from 8 U.S.C. § 1226(a), but instead from 8 U.S.C. §1225(b)(2). (Doc. No. 5 at 12–19.) That distinction matters because Section 1226(a) provides procedural protections for detainees—protections that Section 1225(b)(2) lacks. *See* 8 C.F.R. § 1236.1(d), (c)(8) (providing those detained under Section 1226(a) with individualized custody determinations, bond hearings, and rights of appeal); *see also Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018) (“Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention.”). If, instead, Respondents are correct that Section 1225(b)(2) applies to Petitioner, then Petitioner’s continued detention is not only mandatory, but Petitioner’s request for a bond hearing is baseless.

This Court previously addressed each of Respondents’ three contentions in *Nogueira-Mendes v. McShane*, No. CV 25-5810, 2025 WL 3473364, at *1–3 (E.D. Pa. Dec. 3, 2025). Because the facts and legal issues raised in the present case and in *Nogueira-Mendes* are virtually the same, the Court will adopt the reasoning outlined in that prior case. Consequently, here, the Court holds as follows: (1) the Court has jurisdiction to hear Petitioner’s case, (2) Petitioner was not required to exhaust his remedies before bringing his Petition, and (3) Section 1226(a) governs Petitioner’s detention. Because Section 1226(a) provides for a bond hearing and Petitioner has not received one, Petitioner has demonstrated that his continued detention violates his rights under that provision.

- 1) By January 12, 2026, Respondents must provide Petitioner with a bond hearing under 8 U.S.C. 1226(a), in which the parties will be allowed to present evidence and argument regarding whether Petitioner is a danger to the community and presents a flight risk if not detained.
- 2) If Respondents fail to hold a bond hearing by January 12, 2026, they must release Petitioner from detention while he awaits the bond hearing.
- 3) By January 15, 2026, the parties shall provide the Court with a status update concerning the results of any bond hearing conducted pursuant to this Order, or if no bond hearing was held, advise the Court regarding Petitioner's release. Further, the parties shall advise the Court whether any additional proceedings in this matter are required and submit any proposals for the scope of further litigation.

BY THE COURT:

/s/ Joel H. Slomsky, J.
JOEL H. SLOMSKY, J.

Accordingly, Petitioner is entitled to the procedural protections afforded by Section 1226(a)—namely, a bond hearing before an Immigration Judge. As such, the Court will order Respondents to provide Petitioner with a bond hearing under Section 1226(a) by January 12, 2026. If Respondents do not hold a bond hearing by January 12, 2026, Petitioner must be released from detention while he awaits that hearing.

For the foregoing reasons, the Court will grant Petitioner Adeilson Santana Da Cruz's Petition for Writ of Habeas Corpus (Doc. No. 1). Because Petitioner's Motions for a Temporary Restraining Order (Doc. Nos. 6, 8) rely on the same statutory claims alleged in his Petition, Petitioner's Motions for a Temporary Restraining Order (Doc. Nos. 6, 8) will be denied as moot.