

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:25-cv-03688-SKC-SBP

DENIS ALEMAN HERNANDEZ

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as Warden of the Aurora Contract Detention Facility;  
ROBERT HAGAN, in his official capacity as Field Office Director, Denver Field Office of  
U.S. Immigration and Customs Enforcement;  
TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs  
Enforcement;  
KRISTI NOEM, in her official capacity as Secretary of U.S. Department of Homeland Security;  
and  
PAMELA BONDI, in her official capacity as Attorney General of the United States.

Respondents.

---

**PETITIONER'S MOTION TO HOLD IN ABEYANCE**

---

Petitioner, DENIS ALEMAN HERNANDEZ, by and through undersigned counsel respectfully moves the Court to hold this habeas matter in temporary, limited abeyance. A brief abeyance is warranted because the factual premises underlying the Immigration Judge's bond denial are currently under active review through an imminent Motion to Reconsider in the Immigration Court, and a short pause will allow the agency process to conclude before the Court determines its next steps.

The Court Ordered an 8 U.S.C. § 1226(a) bond hearing, and the issue presented is whether the hearing that occurred satisfies that Order in substance. If the Immigration Judge denies Petitioner's forthcoming Motion to Reconsider notwithstanding pending certified evidence confirming the absence of any pending prosecution, continued detention would rest on an abuse

of discretion implicating due process concerns and the APA. In that posture, the District Court would retain authority to enforce its Order, including by ordering a new bond hearing or directing release.

#### **CONFERRAL ON MOTION**

Pursuant to D.C.COLO.LCivR 7.1, undersigned counsel for Aleman Hernandez conferred with counsel for Respondents who indicated their position as opposed.

#### **PROCEDURAL HISTORY**

On December 23, 2025, this Court ordered Respondents to provide Aleman Hernandez with a bond hearing within seven (7) days of the Court's Order. ECF No. 11. The Court also ordered that within ten (10) days of that hearing, Respondents should provide the Court a status update as to 1) when the bond hearing occurred, 2) if bond was granted or denied, and 3) if bond was denied, the reasons for denial. ECF No. 11.

On January 2, 2026, Respondents filed their Status Report with the Court. ECF No. 12. The Status Report states that a bond hearing occurred on December 30, 2025, and that bond was denied, but does not state why bond was denied. ECF No. 12. Aleman Hernandez concurrently with this Motion submitted his response to the Status Report as the Court lacked information it expressly required. *See* ECF Nos. 11 and 12.

In the written decision dated December 31, 2025, and served to undersigned counsel on January 2, 2026, the Immigration Judge denied bond under 8 U.S.C. § 1226(a) after concluding that Aleman Hernandez failed to meet his burden to establish that he is not a danger to the community and not a flight risk. In denying bond, the Immigration Judge treated Aleman Hernandez's December 2022 arrest as indicative of serious and unresolved criminal conduct—

effectively crediting the arrest as either a pending prosecution or the functional equivalent of a conviction for purposes of the dangerousness and flight-risk analysis.

Aleman Hernandez respectfully notes that the Immigration Judge's denial rests on factual premises that are currently under review and correction. Specifically, Aleman Hernandez submitted to the Immigration Court the Kimble County Sheriff's Office offense report reflecting that *the December 2022 matter was "cleared by arrest."* Aleman Hernandez has also requested certified case-status confirmation from the Kimble County District Court regarding whether any criminal charges were ever filed, which remains pending. *If the certified record confirms that no criminal case exists, that evidence would directly negate the factual premise underlying the Immigration Judge's denial.*

The Immigration Judge further found that, notwithstanding Aleman Hernandez's family ties, business and property ownership, and U.S. citizen sponsor, he presented an unacceptably high risk of flight. That conclusion relied on the same arrest-related allegations and perceived uncertainty regarding Aleman Hernandez's eligibility for Non-LPR Cancellation of Removal under INA § 240A(b).

The Immigration Judge's analysis of his eligibility for relief characterized the hardship evidence as amounting to nothing more than ordinary family separation. In doing so, the Immigration Judge did not address *the un rebutted evidence specific to Aleman Hernandez* and his child diagnosed with Autism, including a letter from the child's teacher describing the child's developmental needs, reliance on Aleman Hernandez for emotional regulation, and the observable distress caused by Aleman Hernandez's detention.

By collapsing this evidence into a generic family-separation analysis, the Immigration Judge effectively treated Aleman Hernandez's case as indistinguishable from routine hardship

claims, notwithstanding record evidence demonstrating that his child has special needs requiring substantial support and stability. This omission materially affected the Immigration Judge's assessment of Aleman Hernandez's equities and, in turn, the flight-risk analysis, which relied in part on the perceived uncertainty of discretionary relief.

### ARGUMENT

While the Court would be precluded from reweighing discretionary factors, it is not precluded from reviewing whether the agency actually exercised discretion under 8 U.S.C. § 1226(a), and whether continued detention is lawful under 28 U.S.C. § 2241. Because the Immigration Judge's stated reasons for denying bond are based on pending certified records, the adequacy and finality of the bond determination remain unresolved. If the certified record confirms that no criminal case exists, that evidence would directly negate the factual premise on which the Immigration Judge's dangerousness and flight-risk findings were based.

The Court Ordered an 8 U.S.C. § 1226(a) bond hearing, and the issue presented is whether the hearing that occurred satisfies that Order in substance. A bond hearing that rests on a materially incorrect factual predicate and the disregard of unrebutted, highly probative evidence does not constitute a meaningful exercise of discretion, but rather an arbitrary deprivation of liberty within the core of habeas review.

If the Immigration Judge denies Petitioner's forthcoming Motion to Reconsider notwithstanding certified evidence confirming the absence of any pending prosecution, continued detention would rest on an abuse of discretion implicating due process concerns and the APA. In that posture, the District Court would retain authority to enforce its habeas order, including by ordering a new bond hearing or directing release.

The Court retains discretion to hold a habeas matter in temporary abeyance where doing so will promote judicial efficiency and ensure that exercises of discretionary determinations are made on a complete and accurate record. This is particularly appropriate in detention cases, where liberty interests are implicated and where brief agency proceedings may materially alter the basis for judicial review.

**REQUESTED RELIEF**

Aleman Hernandez respectfully advises the Court that upon receipt of certified court records confirming that no criminal charges were filed, he will seek reconsideration before the Immigration Court. Holding the case in abeyance would allow the Immigration Court the opportunity to address the corrected factual record before the District Court is asked to take any further action.

If the agency declines to correct the bond determination notwithstanding dispositive proof negating the basis for detention, Aleman Hernandez will promptly request this Court's intervention to order release or bond.

Therefore, in light of the procedural posture of this case, Aleman Hernandez moves the Court to hold this matter in temporary, limited abeyance to permit completion of imminent agency proceedings that directly bear on the factual and legal basis of the Immigration Judge's bond determination and the potential necessity of further intervention by this Court.

Dated this 2nd day of January 2026.

Respectfully submitted,

/s/ Skylar M. Larson

Skylar M. Larson, Esq.

8275 E. 11th Ave. # 200176

Denver, CO 80220

Tel: (970) 692-3156

Email: [skylarmlarsonesq@gmail.com](mailto:skylarmlarsonesq@gmail.com)

ATTORNEY FOR PETITIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on January 2, 2026, I electronically filed the foregoing **Petitioner's Motion to Hold in Abeyance** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Zeyen Julian Wu  
U.S. Attorney's Office  
1801 California Street, Suite 1600  
Denver, CO 80202  
[Zeyen.wu@usdoj.gov](mailto:Zeyen.wu@usdoj.gov)

/s/ Skylar M. Larson  
Skylar M. Larson, Esq.

ATTORNEY FOR PETITIONER