

**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 STATUS REPORT

Petitioner, DENIS ALEMAN HERNANDEZ, by and through undersigned counsel respectfully submits this status report regarding his Motion to Hold this Matter in Abeyance pending adjudication of a Motion to Reconsider before the immigration court.

BACKGROUND

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 further 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 a Status Report stating that a bond hearing occurred on December 30, 2025, and that bond was denied, but failed to provide the reasons for denial as expressly required by the Court's Order. ECF No. 12. Aleman Hernandez submitted his response providing the Court with information it Ordered. ECF No. 13.

In the written decision dated December 31, 2025, and served on 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.

On January 2, 2026, Aleman Hernandez moved this Court to hold these proceedings in abeyance while he filed a Motion to Reconsider with the immigration court. ECF No. 14. On January 12, 2026, Aleman Hernandez provided this Court with a copy of the Motion to Reconsider pending before Immigration Judge Tyler Wood. ECF No. 15.

While the Motion to Reconsider remained pending, on January 20, 2026, Aleman Hernandez moved this Court to enforce its prior Order. ECF No. 19. On January 20, 2026, the Court ordered Respondents to respond by the close of business on January 27, 2026. ECF No. 20. Respondents filed their opposition on January 27, 2026. ECF No. 22.

STATUS REPORT

On February 2, 2026, Immigration Judge Tyler Wood denied Aleman Hernandez's Motion to Reconsider in a summary order stating only that, "[a]fter reviewing the record in its entirety ... the court has not identified any material error in law or fact in its prior decision." *See Order of the*

Immigration Judge Denying Motion to Reconsider, dated February 2, 2026, attached hereto as Attachment A. That ruling does not remedy the constitutional deficiencies identified in Aleman Hernandez's Motion to Enforce. Instead, it confirms that Aleman Hernandez remains detained pursuant to a bond determination that was never conducted in compliance with this Court's Order or the requirements of due process.

Critically, the denial of reconsideration did not engage with—let alone correct—the core defects that rendered the bond hearing unlawful in the first instance. The Immigration Judge did not clarify the factual inaccuracies underlying the dangerousness and flight-risk findings, did not address the mischaracterization of arrest allegations as established conduct, did not engage with un rebutted mitigating evidence, and did not perform the individualized custody assessment required by this Court's habeas order. As a result, Respondents' continued detention of Aleman Hernandez rests on the same constitutionally deficient proceeding the Court has already been asked to enforce against.

As detailed in the Motion to Enforce, the bond hearing failed to satisfy minimum constitutional requirements because the factfinding was not grounded in the record before the decisionmaker, multiple categories of material, un rebutted evidence bearing on dangerousness, flight risk, and incentive to appear were wholesale ignored, and the Immigration Judge did not make an individualized custody determination tailored to Aleman Hernandez's circumstances. ECF No. 19.

The reconsideration denial did not address any of these failures. It did not correct the Immigration Judge's erroneous statement that Aleman Hernandez was charged with evading arrest. It did not explain how an uncorroborated arrest narrative could lawfully outweigh evidence of compliance with immigration authorities, voluntary appearance for Asylum interview, and years-

long pursuit of lawful relief. It did not revisit the reduction of documented Autism-related hardship to mere “family separation.” And it did not articulate how dangerousness could be found in the absence of any adjudicated criminal conviction.

The reconsideration denial itself underscores the lack of individualized adjudication. The order contains no discussion of the specific legal errors raised, no clarification of disputed facts, and no engagement with the evidentiary deficiencies identified in the Motion to Reconsider. *See Attachment A, attached hereto.* A conclusory assertion that the record was reviewed “in its entirety” cannot substitute for reasoned consideration of material evidence.

CONCLUSION

Due process requires more than a procedural formality. It requires that the decisionmaker meaningfully grapple with the individual before the court and the evidence presented. Where the Immigration Judge declines to do so—both at the bond hearing and on reconsideration—the resulting detention is not the product of lawful discretionary judgment but of constitutional error.

Because the same factual misstatements and failures of consideration remain operative, Respondents continue to detain Aleman Hernandez without a constitutionally valid custody determination. That ongoing detention violates due process and remains non-compliant with this Court’s Order.

Because the reconsideration denial does not cure the due process violations identified in the Motion to Enforce, enforcement relief remains necessary. Respondents continue to detain Aleman Hernandez based on a bond determination that was never lawfully conducted. This Court retains jurisdiction to enforce its habeas order and to ensure that its remedial directives are not rendered meaningless by post hoc administrative reaffirmation of an unconstitutional proceeding.

Accordingly, the Court should enforce its prior Order by directing Aleman Hernandez's immediate release or, at minimum, ordering a new bond hearing conducted in compliance with constitutional due process and this Court's directives wherein the government bears the burden of proof.

Dated this 3rd day of February 2026.

Respectfully submitted,

/s/ Skylar M. Larson

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ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2026, I electronically filed the foregoing **Petitioner's Status Report, with Attachment A** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Timothy Bart Jafek
U.S. Attorney's Office for the District of Colorado
1801 California Street, Ste. 1600
Denver, CO 80202
Email: timothy.jafek@usdoj.gov

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

ATTORNEY FOR PETITIONER

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Respondents.

PETITIONER'S ATTACHMENTS TO STATUS REPORT

ATTACHMENT A. Order of the Immigration Judge Denying Motion to Reconsider,
dated February 2, 2026

A



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
AURORA IMMIGRATION COURT

Respondent Name:

ALEMAN HERANDEZ, DENIS

To:

Larson, Skylar Madison
8275 E 11th Ave # 200176
Denver, CO 80220

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

02/02/2026

ORDER OF THE IMMIGRATION JUDGE

Respondent the Department of Homeland Security has filed a motion to reconsider.

Upon consideration of the motion, and any opposition from the non-moving party, the motion is
 granted denied for the following reason(s):

- The motion is numerically barred. *See* INA § 240(c)(6)(A); 8 C.F.R. § 1003.23(b)(1).
- The motion is untimely. *See* INA § 240(c)(6)(B); 8 C.F.R. § 1003.23(b)(1).
- The motion does not specify errors of law or fact in the previous order or is not supported by pertinent authority. *See* INA § 240(c)(6)(C); 8 C.F.R. § 1003.23(b)(2).
- Other:

On December 30, 2025, the court held a custody redetermination hearing and, at the conclusion of the hearing, found that the respondent had not established that his release would not pose or a danger to the community or flight risk.

On January 8, 2026, the respondent filed a motion to reconsider, arguing that the court erred in its consideration of an uncorroborated arrest report, that its flight risk finding rests on factual error and failed to meaningfully address material evidence, and in the cumulative, distorted the custody analysis.

The Court may upon its own motion at any time, or upon motion of either party, reconsider any case in which it has rendered a decision unless jurisdiction is vested with the Board of Immigration Appeals (Board). 8 C.F.R. § 1003.23(b)(1). A motion to reconsider is a “request that the [Court] reexamine its decision in light of additional legal arguments, a change of law, or perhaps an argument or aspect of the case which was overlooked.” *Matter of O-S-G-*, 24 I&N Dec. 56, 57 (BIA 2006) (quoting *Matter of Ramos*, 23 I&N Dec. 336,338 (BIA 2002)). “A motion to reconsider contests the correctness of the original decision based on the previous factual record, as opposed to a motion to reopen, which seeks a new hearing based on new or previously unavailable evidence.” *Id.* at 57-58. A motion to reconsider must be supported by pertinent authority and should specify any relevant change to regulation or law and any material error of fact or law in the prior decision.

Id. at 60; 8 C.F.R. § 1003.23(b)(2). A respondent may file only one motion to reconsider, and such motion must be filed within thirty days of the date of entry of a final administrative order of removal, deportation, or exclusion. 8 C.F.R. § 1003.23(b)(1).

After reviewing the record in its entirety, including the court's original decision based on the previous factual record, the court has not identified any material error in law or fact in its prior decision.

Accordingly, the motion to reconsider is denied.



Immigration Judge: Tyler Wood 02/02/2026

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved

Appeal Due:

Certificate of Service

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To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : ALEMAN HERANDEZ, DENIS | A-Number : 

Riders:

Date: 02/02/2026 By: Medelez, MaryAnn, Court Staff