

United States District Court  
Western District of Texas  
El Paso Division

Fadi Osama Ershid,  
Petitioner,

v.

Mary De Anda-Ybarra, Director of El Paso  
Field Office of Immigration and Customs  
Enforcement, *et al*,  
Respondents.

Case No. 3:25-CV-00557-LS

**Federal Respondents' Response to  
Petition for Writ of Habeas Corpus – Now Moot**

Federal<sup>1</sup> Respondents provide the following timely response to Petitioner's habeas petition. ECF No. 1. Petitioner's principal complaints are that ICE has not filed the Notice to Appear (NTA), or charging document, with the immigration court, and he challenges to this Court the immigration judge's decision to deny bond to Petitioner. ECF Nos. 1 at 2, 7. The NTA was filed on November 21, 2025, and that allegation is now moot. Exh. A at 1 (Notice to Appear, upper left-hand notation "Uploaded on: 11/21/2025..."); *see also* Automated Case Information System (last accessed Dec. 9, 2025). Petitioner's dispute over the immigration judge's findings regarding whether his conviction is a crime involving moral turpitude and thus makes him ineligible for release from custody should be administratively exhausted. Petitioner's motion should be denied<sup>2</sup>,

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<sup>1</sup> The Department of Justice represents only federal employees in this action.

<sup>2</sup> Petitioner's request for attorney fees under the Equal Access to Justice Act are foreclosed. *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023).

and any non-habeas claims<sup>3</sup> should be severed and dismissed.

## **I. Relevant Facts and Procedural History**

Petitioner is a citizen of Jordan who applied for admission to the United States on October 21, 2025. Exh. A at 1. On November 21, 2025, ICE filed the NTA alleging Petitioner is inadmissible to the United States because as a lawful permanent resident, his conviction for causing child abuse in Florida is a crime involving moral turpitude and makes him inadmissible to the United States. Exh. A at 1, 4; INA § 212(a)(2)(A)(i)(I); 8 U.S.C. § 1182(a)(2)(A)(i)(I). On November 4, 2025, an immigration judge conducted a custody redetermination hearing pursuant to 8 U.S.C. § 1236 and determined Petitioner was convicted of a crime involving moral turpitude and denied a change in custody status. ECF No. 1-3 at 1. To date, Petitioner has not filed an appeal of the immigration judge's decision to the Board of Immigration Appeals. *See* ECF No. 1.

## **II. Argument**

First, as Petitioner's NTA was filed on November 21, 2025, any allegations or demands for ICE to file the NTA are moot. *See Ndudzi*, 2020 WL 3317107 \*6 (citing *Campbell-Ewald Co.*, 136 S. Ct. 663, 669 (2016) an action becomes moot when it's impossible for a court to grant any effectual relief to the prevailing party.)

Second, Petitioner was denied bond because as a lawful permanent resident who is

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<sup>3</sup> Petitioner did not pay the filing fee for non-habeas claims. *See Ndudzi v. Castro*, No. SA-20-CV-0492-JKP, 2020 WL 3317107 at \*2 (W.D. Tex. June 18, 2020) (citing 28 U.S.C. § 1914(a)). "When a filing contains both habeas and on-habeas claims, 'the district court should separate the claims and decide the [non-habeas] claims' separately from the habeas ones given the differences between the two types of claims. *Id.* (collecting cases and further noting the "vast procedural differences between the two types of actions"). Given the differences, the Court should either sever the non-habeas claims or dismiss them altogether without prejudice if severance is not warranted. *Id.* at \*3. Any substantive response to Petitioner's non-habeas claims would be due 60 days from the date of proper service on each named Respondent/Defendant. *See* Rule 4(i). Fed. R. Civ. P.

convicted of a crime involving moral turpitude the immigration judge determined he should be detained under 8 U.S.C. § 1236(c); INA § 236(c). ECF No. 1-3 at 1 (emphasis added). Petitioner at one point alleges, ICE is denying Petitioner a bond hearing, which is inaccurate, *by their own filing* (ECF No. 1-3). Petitioner was afforded a bond hearing under 8 U.S.C. § 1226. *Id.* Petitioner alleges ICE is detaining Petitioner without a bond hearing [ECF No. 1 at 6], this is similarly inaccurate. *Id.* Then, Petitioner alleges ICE is detaining Petitioner under INA § 235(b), without proof, and again disproven by their own filing. ECF No. 1-3. From Petitioner's exhibits, the immigration judge afforded Petitioner the relief he seeks here, a bond hearing conducted under INA § 236; 8 U.S.C. 1226.

To the extent, Petitioner challenges the immigration judge's determination that after a bond hearing conducted pursuant to INA § 236(a), 8 U.S.C. § 1226(a), he is subject to mandatory detention because his conviction is a crime involving moral turpitude (CIMT), his challenge is administratively unexhausted. Challenges to the immigration judge's factual and legal determination of whether his conviction for child abuse is a CIMT, and whether Petitioner is properly described in INA § 236(c) is an issue properly addressed to the Board of Immigration Appeals (Board). *Hinojosa v. Horn*, 896 F. 3d 305, 314 (5th Cir. 2018); *see also Reno v American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (emphasis in original) Section 1252(g) applies, "to three discrete actions that the Attorney General may take: [the] 'decision or action' to 'commence proceedings, *adjudicate* cases, or *execute* removal orders.'" Petitioner's petition doesn't elaborate on why the immigration judge's determination is incorrect, and only summarily asks the Court to grant release or order Respondents to provide something that has already occurred, an INA § 236 bond hearing. Petitioner must first raise his challenges to the Board. Additionally, Petitioner has offered no reason why appeal to the Board is futile. *See* ECF

No. 1. On this issue, Petitioner's motion should be denied.

**III. Conclusion**

For the foregoing reasons, Petitioner's motion should be denied.

Respectfully submitted,

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