

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION**

DANIELA GERALDINE SANCHEZ  
DUQUE

Petitioner,

v.

JASON STREEVAL, Warden,  
Stewart Detention Center, in his  
official capacity,

Respondent.

Civil Action No.: 4:25-cv-395-CDL-  
AGH

**EMERGENCY EX PARTE MOTION TO ENFORCE COURT ORDER,  
ECF NO. 9 AND TO COMPEL COMPLIANCE**

**I. INTRODUCTION**

Petitioner Daniela Geraldine Sanchez Duque respectfully moves this Court for emergency ex parte relief to enforce the Court's December 3, 2025 order and compel Respondents' compliance with that binding order. This Court granted Petitioner's writ of habeas corpus and ordered Respondents to "provide Petitioner with a bond hearing to determine if Petitioner may be released on bond under § 1226(a)(2) and the applicable regulations." ECF No. 9.

Respondents' principal position in this matter was that Petitioner's detention was governed by 8 U.S.C. § 1225(b)(2). ECF No. 7. In support of their position, Respondents provided a declaration from Deportation Officer Lukeisha Atkinson

where she states that Petitioner was detained “under authority of INA § 235(b)(2)(A). ECF No. 7-1, ¶ 7. Based on the Court’s reasoning in *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025), this Court expressly determined that Petitioner’s detention is governed by 8 U.S.C. § 1226(a) and ordered Respondents to provide her with a bond hearing under that provision.

Notwithstanding that ruling, the Immigration Judge (“IJ”) denied Petitioner’s bond request on December 22, 2025, concluding that he lacked jurisdiction to consider bond based on the Laken Riley Act, INA § 236(c)(1)(E), 8 U.S.C. § 1226(c)(1)(E)—a detention theory never presented to this Court during the habeas proceedings. *See* Immigration Judge Bond Decision dated Dec. 22, 2025 (“IJ Decision”), Ex. A, ECF No. 11-1. That ruling directly conflicts with this Court’s determination and Respondents’ arguments before this Court, and has resulted in Petitioner’s continued detention contrary to the relief ordered.

Because Petitioner remains detained despite a final habeas judgment in her favor, and because the government has failed to implement the relief this Court ordered, emergency intervention is warranted. This motion is brought pursuant to the Court’s inherent authority to enforce its judgments, 28 U.S.C. § 2243, and the All Writs Act, 28 U.S.C. § 1651, to prevent continued frustration of the Court’s habeas remedy and further unlawful deprivation of liberty.

## II. PROCEDURAL HISTORY

Petitioner Daniela Geraldine Sanchez Duque is a native and citizen of Venezuela who entered the United States without inspection on July 28, 2022, and was apprehended by U.S. Border Patrol near Eagle Pass, Texas. *See* Petition ¶¶ 2–3, ECF No. 1. Petitioner was subsequently taken into custody by Immigration and Customs Enforcement (“ICE”) and released to her mother’s care on August 7, 2022, pursuant to the Trafficking Victims Protection Reauthorization Act. *See* Petition ¶¶ 4–6, ECF No. 1. On October 27, 2025, during a routine ICE check-in in Savannah, Georgia, Petitioner was taken into custody.

On November 19, 2025, Petitioner filed a petition for writ of habeas corpus challenging the legality of her detention and asserting that her detention is governed by 8 U.S.C. § 1226(a), which entitles her to a bond hearing. *See* Petition, ECF No. 1. On December 2, 2025, the government responded, acknowledging that this Court’s prior ruling in *J.A.M. v. Streeval* would control the detention-authority analysis, while noting its intent to preserve appeal. Notably, the government asserted detention authority under § 1225(b)(2) and did not invoke the Laken Riley Act or reference any shoplifting charge or other criminal basis for mandatory detention. *See* Resp’ts’ Resp. at 2–3, ECF No. 7

In responding to the Court’s Order to Show Cause, Respondents affirmatively represented—based on a sworn declaration—that Petitioner was detained pursuant

to INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A). *See* Resp'ts' Resp. at 3, ECF No. 7 (citing Atkinson Decl. ¶ 7, ECF No. 7-1). Respondents submitted this declaration as evidence in support of their position and did not present any declaration or evidence asserting an alternative statutory basis for detention prior to entry of final judgment.

This representation is significant because it conflicts with the IJ's subsequent reliance on the Laken Riley Act, INA § 236(c)(1)(E), 8 U.S.C. § 1226(c)(1)(E), as the asserted basis for mandatory detention. *See* IJ Decision at 2–3, Ex. A, ECF No. 11-1

On December 3, 2025, this Court granted Petitioner's habeas petition, expressly finding that her detention is governed by 8 U.S.C. § 1226(a) and ordering Respondents to provide her with a bond hearing under that provision. *See* Order Granting Habeas, ECF No. 9; Judgment, ECF No. 10. Despite this clear order, on December 22, 2025, Immigration Judge Steven Fuller denied Petitioner's bond request, stating that "the court lacks jurisdiction to consider bond" due to Petitioner's alleged mandatory detention under the Laken Riley Act, INA § 236(c)(1)(E), based on an alleged shoplifting offense. *See* IJ Decision, Ex. A, ECF No. 11-1.

The Immigration Judge's denial effectively nullifies this Court's habeas relief and has resulted in Petitioner's continued detention without the individualized bond

hearing ordered by this Court. Petitioner remains detained at Stewart Detention Center in violation of the Court's December 3, 2025 order and final judgment.

### **III. SUMMARY OF ARGUMENT**

This Court should grant emergency ex parte relief to enforce its December 3, 2025 habeas judgment for three independent reasons. *First*, this Court retains both inherent and statutory authority to enforce its habeas judgment and to ensure that executive branch officials comply with binding orders of an Article III court. *Second*, the IJ's refusal to consider bond—based on the Laken Riley Act and a detention theory never presented during the habeas proceedings—directly contravenes this Court's determination that Petitioner's detention is governed by 8 U.S.C. § 1226(a) and frustrates the relief ordered. *Finally*, emergency relief is warranted because the government has failed to implement the Court's judgment, Petitioner remains unlawfully detained as a result, and immediate enforcement is necessary to prevent continued deprivation of liberty and to preserve the integrity of this Court's judgment.

### **IV. ARGUMENT**

#### **A. This Court Has Broad Authority To Enforce Its December 3, 2025 Habeas Judgment**

This Court retains both inherent and statutory authority to enforce its December 3, 2025 judgment granting habeas relief and ordering the government to provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a). Where, as here,

post-judgment conduct by the government frustrates the relief ordered, the Court may take whatever action is necessary to ensure that its judgment is effectuated and not rendered meaningless.

Federal courts possess inherent authority to enforce compliance with their lawful orders. That authority is essential to the exercise of Article III power and is particularly important in habeas cases, where the relief ordered directly implicates physical liberty. *See United States v. Caceres*, 440 U.S. 741, 749 (1979). Once a court has resolved the governing legal framework and entered judgment, executive officers may not disregard that determination through subsequent administrative action.

The Supreme Court has also recognized that federal courts have “broad discretion in conditioning a judgment granting habeas relief.” *Hilton v. Bruns*, 481 U.S. 770, 775 (1987). Congress codified that principle in 28 U.S.C. § 2243, which directs courts to dispose of habeas matters “as law and justice require.” That mandate necessarily includes the authority to ensure compliance when the government fails to implement the relief ordered.

Other federal courts confronting similar post-order agency noncompliance have recognized that judicial relief is undermined when the government (or its litigating components) effectively instructs adjudicators to disregard a court’s determination. In *Maldonado Bautista*, the court treated as “more troubling” the

emergence of evidence that respondents directed IJs to disregard the court’s orders, and relied on those newly emerged facts of noncompliance as a material changed circumstance warranting reconsideration and further judicial action. *Lazaro Maldonado Bautista, et al. v. Ernesto Santacruz Jr., et al.*, No. 5:25-cv-01873-SSS-BFM, Order Granting in Part and Denying in Part Petitioners’ Ex Parte Application for Reconsideration or Clarification at 9–10 (C.D. Cal. Dec. 18, 2025), ECF No. 92 (describing evidence that respondents directed IJs to disregard the court’s orders and noting “new facts indicate Respondents have counseled the noncompliance with the Court’s orders”).

The same principle applies here: Petitioner does not seek to relitigate the merits of habeas relief. She seeks enforcement of what this Court already ordered—an individualized bond determination under 8 U.S.C. § 1226(a)—and the Court may act to ensure its judgment is implemented rather than nullified through post-judgment administrative maneuvering

**B. The Court May Use The All Writs Act And Its Inherent Power To Effectuate Its Habeas Judgment And Prevent Post- Judgment Evasion Of The Ordered § 1226(A) Bond Hearing**

The Court’s authority to enforce its December 3, 2025 habeas judgment is supported both by its inherent power to enforce compliance with its orders and by the All Writs Act, 28 U.S.C. § 1651(a), which authorizes “all writs necessary or

appropriate in aid of” the Court’s jurisdiction. The Eleventh Circuit recognizes that this authority extends not only to ongoing proceedings, but also to protecting and effectuating already-issued judgments. *Rohe v. Wells Fargo Bank, N.A.*, 988 F.3d 1256, 1267 (11th Cir. 2021); *Burr & Forman v. Blair*, 470 F.3d 1019, 1028 (11th Cir. 2006).

That is precisely what is occurring here. On December 3, 2025, this Court resolved the detention-authority question presented by the habeas petition and ordered Respondents to provide Petitioner a bond hearing under 8 U.S.C. § 1226(a). (ECF No. 9.) Yet when Petitioner appeared for the ordered hearing, the Immigration Judge refused to conduct the § 1226(a) determination, concluding he lacked jurisdiction based on the Laken Riley Act and an alleged shoplifting offense that was never presented to this Court during the habeas proceedings. *See* Immigration Judge Bond Decision at 2–3, Ex. A (ECF No. 11-1). If accepted, that maneuver would permit the Executive Branch to comply in form while defeating the remedy in substance—rendering this Court’s judgment a nullity.

The All Writs Act exists to prevent exactly that kind of frustration of judicial relief. Where post-judgment conduct threatens to defeat the Court’s remedy, the Court may issue orders necessary to effectuate its judgment and protect its jurisdiction from being undermined by collateral administrative action. *Rohe*, 988 F.3d at 1267; *Burr & Forman*, 470 F.3d at 1028. The Immigration Judge’s refusal to

conduct the Court-ordered § 1226(a) bond hearing is therefore not merely an adverse discretionary decision; it is a direct conflict with the judgment this Court entered and warrants immediate enforcement relief.

Executive officials, including immigration adjudicators, may not disregard binding orders of Article III courts. *See Cooper v. Aaron*, 358 U.S. 1, 18 (1958). And where an agency attempts to “sidestep” controlling legal determinations through internal process, courts may intervene to ensure compliance with the governing legal framework already adjudicated. *See United States v. Caceres*, 440 U.S. 741, 749 (1979)

In its December 2, 2025 response to the Court’s Order to Show Cause, the government acknowledged that this Court’s prior ruling in *J.A.M. v. Streeval* controlled the detention-authority analysis and affirmatively represented—based on sworn testimony—that Petitioner was detained under INA § 235(b)(2)(A). *See* Resp’ts’ Resp. at 2, ECF No. 7 (citing Atkinson Decl. ¶ 7, ECF No. 7-1). The government did not invoke the Laken Riley Act, INA § 236(c)(1)(E), or any shoplifting offense as a basis for mandatory detention prior to entry of final judgment.

Raising new statutory grounds at the bond stage—after judgment—was not compliance with this Court’s order. It was an attempt to circumvent it.

The Immigration Judge’s decision operates as an impermissible collateral attack on this Court’s judgment. A collateral attack occurs when a party seeks to undermine a judgment through separate proceedings rather than through direct appeal. *See Travelers Indem. Co. v. Bailey*, 557 U.S. 137, 152 (2009). The proper avenue for disagreement with this Court’s ruling was appeal—not administrative nullification.

Federal courts are not required to tolerate post-judgment conduct that frustrates their decrees. Enforcement powers, including coercive remedies, are ancillary to the Court’s authority to grant relief in the first instance. *See Frew v. Hawkins*, 540 U.S. 431, 440 (2004).

**C. Law-Of-The-Case Principles And Finality Preclude A Post-Judgment Shift That Nullifies The Habeas Remedy**

The law-of-the-case doctrine independently requires enforcement of this Court’s judgment. That doctrine bars relitigation of issues decided explicitly or by necessary implication earlier in the same case. *See United States v. Jordan*, 429 F.3d 1032, 1035 (11th Cir. 2005). Its purposes—finality, judicial economy, and respect for judicial decisions—would be defeated if the government could avoid an adverse ruling by shifting theories at the administrative level.

This Court determined that Petitioner’s detention is governed by 8 U.S.C. § 1226(a) and ordered a bond hearing under that provision. The Immigration Judge had no authority to revisit or override that determination by invoking 8 U.S.C. §

1226(c) or INA § 236(c)(1)(E). Doing so directly contravenes the law of the case. *See This That & the Other Gift & Tobacco, Inc. v. Cobb Cnty.*, 439 F.3d 1275, 1283 (11th Cir. 2006).

The law-of-the-case doctrine “requires a court to follow what has been explicitly or by necessary implication decided by a prior appellate decision.” *A.A. Profiles, Inc. v. City of Fort Lauderdale*, 253 F.3d 576 (11th Cir. 2001). This Court has already determined that Petitioner’s detention is governed by § 1226(a) and ordered a bond hearing under that provision. The Immigration Judge’s contrary determination that detention is mandatory under 8 U.S.C. § 1226(c) or INA § 236(c)(1)(E) directly contravenes this Court’s prior ruling and violates the law-of-the-case doctrine.

**D. Even If The Court Reaches The Immigration Judge’s Laken Riley Determination, It Confirms Noncompliance And Is Legally Erroneous**

Respondents contend they complied with this Court’s December 3, 2025 habeas judgment by producing Petitioner to the Immigration Court for a “bond hearing.” They did not. The government cannot contend that they complied with the Court’s order merely because they produced Petitioner for a “bond hearing” when that bond hearing was conducted based on a separate mandatory detention provision that the government never asserted in these habeas proceedings. The IJ did not conduct the bond hearing this Court ordered under 8 U.S.C. § 1226(a). Instead, he

invoked a new post-judgment mandatory-detention theory under the Laken Riley Act and denied bond for lack of jurisdiction. *See* IJ Decision, Ex. A, ECF No. 11-1

The IJ Decision expressly acknowledges this Court's order directing a bond hearing under § 1226(a), then pivots to INA § 236(c)(1)(E), 8 U.S.C. § 1226(c)(1)(E) and concludes: "Respondent's evidence indicates she entered the U.S. without inspection and was charged with a shoplifting offense," and "Respondent failed to show the Laken Riley Act does not apply and render her subject to mandatory custody." *Id.* That is not compliance with this Court's judgment; it is an administrative substitution of a new detention authority after final judgment.

Even if the Court were to reach the IJ's Laken Riley analysis, the IJ misapplied the statute as enacted. The Laken Riley Act added a conjunctive mandatory detention category requiring DHS to establish both: (i) inadmissibility under specified provisions and (ii) a listed criminal trigger. Specifically, 8 U.S.C. § 1226(c)(1)(E) applies only where a noncitizen: (i) "is inadmissible" under INA § 212(a)(6)(A), (6)(C), or (7), and (ii) "is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of" specified offenses, including "shoplifting." The IJ collapsed this framework into a conclusory statement that Petitioner "entered ... without inspection and was charged with shoplifting." *See* IJ Decision, Ex. A, ECF No. 11-1. That is not the statutory analysis required by the text.

Critically, the IJ relied on the past-tense proposition that Petitioner “was charged” with shoplifting. *See Id.* But the statutory trigger he quoted is written in the present tense: the provision applies when a person “is charged with” a listed offense. 8 U.S.C. § 1226(c)(1)(E)(ii). The Supreme Court has repeatedly instructed that Congress’s verb tense choices are meaningful and that present-tense language generally does not sweep in the past absent clear indication. *See United States v. Wilson*, 503 U.S. 329, 333 (1992); *Carr v. United States*, 560 U.S. 438, 448 (2010);

On this record, Petitioner is not presently “charged with” any shoplifting offense. The underlying municipal matter was initiated by citation/summons in June 2024—well before enactment of the Laken Riley Act—and was later resolved by pretrial diversion and dismissal. *See State Citation/Summons and Dismissal/Disposition*, Ex. B, ECF No. 11-2. Accordingly, Petitioner is not “charged with” (present tense) shoplifting at the time of the custody/bond determination; and she is not “convicted of” shoplifting and has made no admission establishing the essential elements of a qualifying offense within the meaning of § 1226(c)(1)(E)(ii). *Id.*

The June 2024 timing underscores an additional defect in the IJ’s approach. The IJ’s reasoning effectively attaches a new mandatory-detention consequence to a municipal matter that predates the statute, without identifying any clear congressional statement that the Laken Riley Act’s expanded mandatory detention

category applies retroactively to pre-enactment arrests/charges—an interpretation that raises serious retroactivity concerns. *See Landgraf v. USI Film Prods.*, 511 U.S. 244, 280 (1994).

The IJ further failed to address Congress’s express detainer-and-custody mechanism enacted for this new category. The Laken Riley Act added a mandatory detainer provision stating: “The Secretary of Homeland Security shall issue a detainer for an alien described in paragraph (1)(E) . . . .” 8 U.S.C. § 1226(c)(3). Yet there is no evidence that DHS issued any detainer in connection with the June 2024 municipal matter, and the IJ Decision makes no finding addressing § 1226(c)(3) at all. *See* IJ Decision, Ex. A, ECF No. 11-1. Invoking § 1226(c)(1)(E) post-judgment—without any analysis of § 1226(c)(3) and without record support for a detainer—underscores why Respondents’ approach cannot be characterized as lawful “compliance” with this Court’s habeas judgment.

Finally, the IJ’s burden framing confirms the compliance defect. The IJ ruled that Petitioner “failed to show the Laken Riley Act does not apply.” *See Id.* But Respondents did not invoke § 1226(c)(1)(E) before final judgment in this habeas case, and nothing in this Court’s order required Petitioner to disprove a newly asserted mandatory-detention theory after judgment. The only question in this enforcement posture is whether Respondents implemented the relief this Court ordered—i.e., a bond hearing under § 1226(a). They did not.

**E. Immediate Release Is The Appropriate Remedy; A Bond Hearing Is Appropriate Only In The Alternative**

Habeas relief is designed to end unlawful detention—not to supervise prolonged noncompliance. Once a habeas court has entered judgment and ordered a specific remedy, the Court retains authority to ensure the relief is actually implemented and not frustrated by post-judgment maneuvering. Congress expressly directs that habeas matters be resolved “as law and justice require.” 28 U.S.C. § 2243.

Where compliance with the Court’s habeas judgment has failed, release is an appropriate—and often necessary—means of giving effect to the judgment. Courts addressing motions to enforce immigration habeas relief recognize that the enforcement inquiry is narrow—whether the Government complied with the prior order—and that when the immigration adjudicator’s decision contradicts the express terms of the habeas order, enforcement relief may include release. *See, e.g., Mathon v. Szarls*, 623 F. Supp. 3d 203 (W.D.N.Y. 2022) (granting a motion to enforce where the immigration judge’s decision did not comply with the court’s bond-hearing requirements and ordering relief accordingly).

Here, the Court’s December 3, 2025 judgment ordered a bond hearing under 8 U.S.C. § 1226(a). Yet the Immigration Judge declined to conduct the hearing the Court ordered, instead invoking a new mandatory-detention theory under the Laken

Riley Act that was not presented to this Court before final judgment and that the Government's sworn submissions did not identify as the basis for detention. Under these circumstances, continuing to detain Petitioner while the Government "tries again" with a new theory would invert habeas: it would postpone the relief the Court already granted rather than effectuate it.

Accordingly, Petitioner requests that the Court order immediate release to enforce its judgment. In the alternative—if the Court determines conditional relief is sufficient—Petitioner requests an order requiring Respondents to provide a bond hearing strictly under § 1226(a) within a short, definite period, and prohibiting reliance on any detention authority inconsistent with the Court's December 3, 2025 judgment.

To ensure prompt implementation, Petitioner further requests a status-report requirement. Respondents should be ordered to file a Notice of Compliance/Status Report on the docket by a date certain (e.g., within 48 hours of the Court's order), confirming (a) Petitioner's release or (b) the date/time of the § 1226(a) bond hearing and the identity of the decisionmaker, and attaching any written custody determination issued.

## V. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant this Motion and order Petitioner's immediate release forthwith to effectuate the Court's December 3, 2025 judgment. In the alternative, the Court should order Respondents to provide a bond hearing strictly under 8 U.S.C. § 1226(a) within a time certain, prohibit Respondents' reliance on the Laken Riley Act or any detention authority inconsistent with the Court's ruling, and require Respondents to file a notice of compliance by a set deadline.

Respectfully submitted this 29 day of December 2025.

/s/Jorge E Munoz Leguizamo  
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