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

DANIELA GERALDINE SANCHEZ-DUQUE,	:	
Petitioner,	:	
	:	Case No. 4:25-CV-395-CDL-AGH
v.	:	28 U.S.C. § 2241
WARDEN, STEWART DETENTION CENTER,[1]	:	
Respondent.	:	

RESPONSE TO MOTION TO ENFORCE COURT ORDER

The Court should deny Petitioner's motion because Respondent has complied with both the letter and the spirit of this Court's order.

INTRODUCTION

After ICE took Petitioner Daniela Geraldine Sanchez-Duque into custody and held her without bond, she petitioned this Court for a writ of habeas corpus and sought a bond hearing in Immigration Court before an Immigration Judge ("IJ"). ECF No. 1. This Court granted the petition in part. ECF No. 9. Specifically, the Court granted the petition "to the extent that the Court orders Respondents to provide Petitioner with a bond hearing to

[1] In addition to the Warden of Stewart Detention Center, Petitioner names other officials with the Department of Justice, Department of Homeland Security, and Immigration and Customs Enforcement as Respondents. "[T]he default rule [28 U.S.C. § 2241 petitions] is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official." *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) (citations omitted). Thus, Respondent has substituted the Warden of Stewart Detention Center as the sole appropriately named respondent in this action.

determine if Petitioner may be released on bond under § 1226(a)(2) and the applicable regulations. *See* 8 C.F.R. § 236.1 and 1236.1." ECF No. 9. The Court did not order Petitioner's release from custody, nor did it impose any other guidelines, limitations, or restrictions on Respondent as part of the Court's order that she receive a bond hearing.

ICE complied with that order and presented Petitioner for a bond hearing on December 22, 2025. ECF No. 11-1. At that hearing, an IJ denied Petitioner's request for bond because of uncontroverted evidence of a criminal charge for shoplifting that mandated her detention under the Laken Riley Act, 8 U.S.C. § 1226(c)(1)(E).

Petitioner nonetheless argues that Respondent has failed to provide her with a bond hearing as ordered by the Court. ECF No. 11. Petitioner is mistaken. Respondent's actions are consistent with both the text and spirit of the Court's order. This Court's order was about whether Petitioner was entitled to a bond *hearing* before an IJ, not about whether Petitioner was guaranteed release on bond. In effect, Petitioner seeks to use this Court's order to circumvent a statutory prohibition on her release that she never contested in the underlying habeas litigation. No violation of this Court's order occurred, and Petitioner's motion should be denied.

BACKGROUND

Petitioner is a native and citizen of Venezuela. ECF No. 7-1 at ¶ 3. She unlawfully entered the United States at or near Eagle Pass, Texas, and on July 28, 2022. *Id.* Most recently, Petitioner was detained by ICE for potential removal due to her lack of legal status. *Id.* at ¶¶ 6-8. She was initially detained without bond under 8 U.S.C. § 1225(b)(2), which states that aliens who are "applicants for admission" under § 1225(a)—a definition

that includes Petitioner—"shall be detained" pending a removal proceeding. *Id.* at ¶ 7. ICE has not historically used the detention authority provided by § 1225(b)(2) against aliens arrested in the interior who arrived more than two years ago. That policy changed in July 2025 when an agency memorandum instructed all ICE employees to begin utilizing § 1225 in this way. Petitioner was detained without bond under the new policy.

Petitioner petitioned this Court for a writ of habeas corpus. ECF No. 1. In her petition, she argued that § 1225 does not grant ICE authority to detain an alien like herself, who illegally entered the country years ago and who is not currently attempting to legalize her status. *Id.* She cited and critiqued the Board of Immigration Affairs' decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the administrative decision that upheld ICE's new policy. And she refers to other cases around the country where this exact same issue is being litigated. *Id.* at ¶ 37. In short, if one were to boil this case—and the many, many other cases presenting in the same posture—down to a single question, it would be, "Does 8 USC 1225(b)(2) allow ICE to detain without bond an alien who entered without inspection a long time ago?"

This Court answered the above question "no." Relying on its previous decision in *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025), the Court ruled that § 1225(b)(2) does not apply to an alien who entered the country long ago and who is not currently "seeking admission" within the meaning of § 1225(b)(2). ECF No. 9. The Court therefore granted the petition in part. As for a remedy, the Court 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. *See* 8 C.F.R. § 236.1 &

1236.1." ECF No 9 at 2.

ICE complied with that order and presented Petitioner for a bond hearing on December 22, 2025. ECF No. 11-1. At that hearing, the IJ acknowledged this Court's order entitling Petitioner to a bond hearing. *Id.* The IJ did not "refus[e] to conduct" the bond hearing or otherwise "disregard" the Court's ruling, as Petitioner alleges. ECF No. 11 at 8-9. To the contrary, the IJ expressly referenced the Court's order that it "hold a bond hearing to determine if Respondent may be released on bond under § 1226(a)(2) and the applicable regulations." ECF No. 11-1.

At that hearing, and based on the evidence then before it, the IJ reviewed Petitioner's bond eligibility in the same manner he would have for any other detainee held under § 1226—as the Court directed—and determined that Petitioner could not be released because she was subject to mandatory detention under the Laken Riley Act, § 1226(c)(1)(E), due to a shoplifting charge. *Id.* Based on this charge—which Petitioner does not dispute qualifies as a Laken Riley Act predicate—the IJ found that Petitioner was subject to mandatory custody and therefore denied bond for lack of jurisdiction. *Id.*

ARGUMENT

Much of Petitioner's motion is devoted to whether the Court has the ability—and under what authorities it may act—to ensure compliance with its previous order and judgment. ECF No. 11 at 5-9. Respondent does not disagree: the Court has the power to ensure compliance with its orders. Here, however, Respondent's actions conform with the Court's ruling, and there is no reason for the Court to invoke its awesome powers to

enforce compliance.[2]

While Petitioner makes a number of arguments in her motion, the crux of her position is this: Respondents "affirmatively represented" in response to her habeas petition that Petitioner was detained under 8 U.S.C. § 1225(b)(2)(A) and then, following this Court's adverse ruling, raised "new statutory grounds at the bond stage" in an attempt to "circumvent" this Court's ruling. ECF No. 11 at 3, 9.

Petitioner first argues that this alleged change in position violates the "law-of-the-case doctrine." ECF No. 11 at 9-11. Petitioner's argument is misplaced. To start, the Eleventh Circuit caselaw she cites in her motion clearly refutes her position. Even a cursory reading of *United States v. Jordan*, 429 F.3d 1032 (11th Cir. 2005), cited by Petitioner, shows that Petitioner's invocation of the law-of-the-case doctrine has no applicability here. "The law of the case doctrine bars relitigation of issues that were decided, either explicitly or by necessary implication, *in an earlier appeal of the same case*." *Jordan*, 429 F.3d at 1035 (emphasis added) (citing cases for the same proposition). The required procedural posture here is, of course, completely inapposite. This habeas case

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[2] Petitioner plainly seeks judicial review of the IJ's denial of bond. However, 8 U.S.C. § 1226(e) deprives the Court of jurisdiction to do so. That subsection provides in full:

> The Attorney General's discretionary judgment regarding the application of this section shall not be subject to review. No court may set aside any action or decision by the Attorney General under this section regarding the detention or release of any alien or the grant, revocation, or denial of bond or parole.

"§ 1226(e) precludes an alien from challenging a discretionary judgment by the Attorney General or a decision that the Attorney General has made regarding his detention or release." *Jennings v. Rodriguez*, 583 U.S. 281, 295 (2018) (quoting *Demore v. Kim*, 538 U.S. 510, 516 (2003)) (internal alterations and quotations omitted).

has never gone up on appeal, let alone been remanded back to district court where the doctrine could then be invoked. As such, there has been no attempt by any party to relitigate any issues that were decided "in an earlier appeal of the same case." *Id.* The law of the case doctrine offers Petitioner no relief.

Petitioner instead seems to take issue with that fact that she was caught off guard by the IJ's reliance on her shoplifting charge in determining that she was mandatorily detained under the Laken Riley Act and therefore not entitled to bond. Respondent acknowledges that he did not raise the Laken Riley Act, § 1226(c), or Petitioner's shoplifting charge when responding to the Petition. But this was because Respondent's position was that Petitioner is detained pursuant to § 1225(b)(2), not § 1226(c). Petitioner does not cite any authority—and Respondent is not aware of any—that requires DHS to rely on the same evidence and make the same argument in Immigration Court at a bond hearing that it relied on and made in an Article III court in response to a habeas petition. They are, obviously, separate courts and cases, with different attorneys and judges.

Most importantly, the questions presented to the Court in Petitioner's habeas case and to the Immigration Court at Petitioner's bond hearing are distinct. This Court was tasked with determining whether Petitioner was detained under § 1225(b)(2). The Court found that § 1225(b)(2) did not apply and that Petitioner had to be detained under § 1226. The IJ was tasked, pursuant to this Court's order, with determining whether Petitioner was actually entitled to bond under § 1226. DHS was free to present whatever evidence it deemed relevant to the IJ's bond determination. This Court did not make any ruling or statement suggesting that DHS was limited in any way as to what evidence it could

present in opposition to Petitioner's bond request. And the IJ was free to make its bond determination independently of any argument or evidence presented by DHS. That's what happened. Unfortunately for Petitioner, the clear evidence shows that she was charged with a shoplifting offense that results in her mandatory detention under § 1226(c)(1)(E). Indeed, that offense is specifically enumerated in the statute. *See* 8 U.S.C. § 1226(c)(1)(E)(ii) (providing mandatory detention where a non-citizen, *inter alia*, "is *charged with . . . shoplifting*" (emphasis added)). For this reason, the IJ was statutorily obligated with finding that Petitioner was not entitled to bond pursuant to § 1226(c)(1)(E).

Petitioner also argues that the IJ's denial of bond "effectively nullifies this Court's habeas relief and has resulted in Petitioner's continued detention without the individualized bond hearing ordered by this Court." ECF No. 11 at 4. That argument also misses the mark. This Court ordered Respondent "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 (emphasis added). Petitioner received her bond hearing on December 22, 2025. Her "individualized" circumstances were considered by the IJ. Under the "applicable regulations" this Court ordered the IJ to consider, the IJ reviewed the evidence relevant to whether Petitioner was entitled to bond. Based on the evidence presented, the IJ determined that Petitioner was not eligible for bond. In fact, the IJ was required to do so to comply with a clearly applicable statute promulgated by Congress.

The IJ held the required hearing, considered Petitioner's individual circumstances, and made a determination. Ultimately the IJ concluded that he could not set a bond for Petitioner because he lacked jurisdiction to "consider bond," based on Petitioner's

qualifying criminal charge. Although Petitioner strains this phraseology to suggest a different meaning, the IJ clearly found that Petitioner was ineligible for bond under § 1226(a). In taking these steps, the IJ complied with the relief ordered by the Court.

To be fair, the Court's order does include the finding that "Petitioner's detention is governed by 8 U.S.C. § 1226(a)." ECF No. 9 at 1. As the Court is no doubt aware, Respondent has responded to hundreds of habeas petitions over the last several months on an expedited time frame. It has done so in each of those cases based on the limited information available to him at the time the response came due, which is often received the same day as the deadline. Here, under those circumstances and based on the limited information then available, Respondent preserved his argument that Petitioner was detained under § 1225(b)(2)(A) but conceded that *J.A.M.* would apply if the Court adhered to its prior reasoning. ECF No. 7 at 2.

Ideally, Respondent would have been aware of and notified the Court of Petitioner's shoplifting charge in his response to Petitioner's habeas petition. Indeed, he has raised alternative grounds for detention in response to other, similar petitions. If that evidence had been raised in the response in this case, the Court likely would have found Petitioner subject to mandatory detention under § 1226(c). This likely result, coupled with the telling fact that Petitioner doesn't grapple with the merits of the IJ's ruling that her shoplifting charge subjects her to mandatory detention under the Laken Riley Act, reinforces that Petitioner's true complaint is not that Defendants acted in defiance of the Court's order but rather that she didn't expect her shoplifting charge to be an impediment to receiving bond.

What is clear is that there is no evidence that Respondent acted in bad faith in failing to raise § 1226(c) as an alternative basis for detention in Petitioner's habeas case. There is no evidence that Respondent or the IJ invoked the Laken Riley Act as some type of "gotcha" or "post-judgment administrative maneuver[ ]," as Petitioner contends. ECF No. 11 at 7. Rather, Respondent contested the sole claim in the Petition: whether Petitioner could be detained pursuant to § 1225(b)(2)(A). And there is no evidence whatsoever that Respondent "effectively instruct[ed] [the Immigration Judge] to disregard" this Court's determination. *Id.* at 6. Instead, the IJ dutifully applied the clear language of § 1226(c)(1)(E), as he was required to do. Petitioner received the same consideration in her bond hearing that any other detainee detained under § 1226 would have received. That is exactly what the Court ordered.

Finally, Petitioner's argument that immediate release is the appropriate remedy for any noncompliance with the Court's order should be rejected. This Court ordered a bond hearing, and Petitioner received a bond hearing. But in the event the Court finds Respondent is not in technical compliance with its order, the only appropriate remedy is an order for compliance with its previous order, not release from custody.

CONCLUSION

For all of the above reasons, Respondent respectfully requests that the Court deny the motion to enforce.

Respectfully submitted this 9th day of January, 2026.

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