

**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

**PETITIONER'S REPLY TO RESPONDENT'S RESPONSE TO MOTION
TO ENFORCE COURT ORDER**

I. INTRODUCTION

Petitioner Daniela Geraldine Sanchez Duque respectfully replies in support of her Emergency Motion to Enforce this Court's December 3, 2025 habeas Order and Judgment. This is an enforcement dispute—not a request for the Court to review discretionary bond factors. The Court made an express legal determination that “Petitioner’s detention is governed by 8 U.S.C. § 1226(a)” 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 at 2.

Respondents claim “compliance” because ICE produced Petitioner for a proceeding labeled a bond hearing. *See* Respondents' Opposition at 2, ECF No. 13 (asserting ICE “complied” by presenting Petitioner for a bond hearing and that

the Court did not order release). But the Immigration Judge (“IJ”) did not conduct the 8 U.S.C. § 1226(a) bond determination this Court ordered. He denied bond for lack of jurisdiction under 8 U.S.C. § 1226(c)(1)(E)—the Laken Riley Act (“LRA”)—based on a municipal matter he described in the past tense (“was charged”), and concluded Petitioner “failed to show” the Act did not apply. ECF No. 11-1 at 3. A § 1226(c) “no jurisdiction / mandatory custody” ruling is not the § 1226(a) bond determination this Court’s judgment required. The Court should therefore enforce its judgment by ordering Petitioner’s release as an enforcement measure or, at minimum, a time-certain § 1226(a)(2) bond hearing where Respondents are required to file with this Court a notice of compliance.

II. ARGUMENT

A. This Motion Seeks Enforcement Of The Court’s Judgment, Not Prohibited “Bond Review” Under 8 U.S.C. § 1226(E)

Respondents argue Petitioner is “plainly” seeking judicial review of the IJ’s bond denial and invoke 8 U.S.C. § 1226(e). ECF No. 13 at 5 n.3. That characterization is incorrect. Petitioner does not ask this Court to reweigh danger or flight risk, set a bond amount, or set aside a discretionary custody determination. Petitioner asks the Court to enforce its own judgment—specifically, its legal determination that detention is governed by §§ 1226(a)(2) and its remedial directive

that Respondents provide a bond hearing to determine whether Petitioner “may be released on bond under § 1226(a)(2).” ECF No. 9 at 2.

This distinction is critical. A motion to enforce does not require this Court to second-guess an IJ’s discretionary assessment; it asks whether the ordered remedy was implemented. When the “hearing” culminates in a threshold “no jurisdiction” ruling under a different detention statute, the Court is not being asked to review bond discretion—it is being asked to enforce its order requiring a § 1226(a)(2) bond determination.

Petitioner is not asking this Court to substitute its judgment for the IJ on discretionary bond factors. Petitioner seeks enforcement of the Court’s final judgment requiring a § 1226(a)(2) bond determination—through appropriate enforcement measures, including immediate release if necessary or, at minimum, a time-certain § 1226(a)(2) bond hearing and a compliance status report to be filed with the Court.

No finding of bad faith is necessary. The issue is effect, the government’s post-judgment approach produced a § 1226(c) “no jurisdiction” denial instead of the Court-ordered § 1226(a)(2) bond determination.

B. Respondents Did Not Comply Because The Proceeding Resulted In A § 8 U.S.C. 1226(c) “No Jurisdiction” Denial—Not The Ordered 8 U.S.C. § 1226(a)(2) Bond Determination

Respondents' core position is that the Court ordered only a hearing, not release, and ICE complied by producing Petitioner for a hearing. Petitioner agrees the Court did not order release outright. But the Court did order a specific statutory remedy: a bond hearing "to determine if Petitioner may be released on bond under § 8 U.S.C. 1226(a)(2) and the applicable regulations." ECF No. 9 at 2. The Court did not order a generic '§ 1226 hearing'; it ordered a determination of release eligibility under § 1226(a)(2).

Respondents' "any hearing equals compliance" theory cannot be squared with the text of this Court's order. The Court did not order merely that Petitioner be produced to Immigration Court; it ordered a bond hearing "to determine if Petitioner may be released on bond under § 1226(a)(2) and the applicable regulations." ECF No. 9 at 2. That phrase matters. A § 1226(a)(2) bond hearing is an adjudication of whether the noncitizen may be released on bond as a matter of discretion under § 1226(a)(2) and the governing bond regulations. A proceeding that ends with "the court lacks jurisdiction to consider bond" because § 1226(c) applies is, by definition, not a determination of whether the person may be released on bond under § 1226(a)(2). It is a statutory ruling that § 1226(a)(2) does not apply. ECF No. 11-1 at 3. Accepting Respondents' position would allow the Executive Branch to satisfy an Article III habeas judgment through a procedural appearance while denying the Court-ordered substantive remedy.

That remedy was not provided. The Immigration Judge did not exercise § 1226(a)(2) discretionary bond authority; he denied bond because he believed he lacked jurisdiction due to mandatory detention under § 1226(c)(1)(E). ECF No. 11-1 at 3. A proceeding that ends with a threshold “mandatory custody / no jurisdiction” ruling under § 1226(c) is not a determination of whether Petitioner “may be released on bond under § 1226(a)(2).” It is the opposite: a ruling that § 1226(a)(2) does not apply. Respondents’ compliance theory therefore collapses into formalism, that an appearance before an IJ satisfies the judgment even if the IJ applies a different detention statute that forecloses § 1226(a)(2). If accepted, that approach would allow the government to comply in form while defeating the substance of habeas relief, converting this Court’s remedy into a nullity.

This Court has already observed, in closely related § 1225/§ 1226 litigation, that even after the Court resolves the detention-authority question, “Respondents insist upon denying the relief that the Court has found is required.” *J.H.E.L., et al. v. Warden, Stewart Detention Ctr., et al.*, Case Nos. 4:25-cv-402-CDL-AGH, et al., Order at 2 n.3 (M.D. Ga. Jan. 2, 2026). This case presents the same practical problem in a different form, after the Court ordered a § 1226(a)(2) bond determination, the government implemented the “hearing” through a § 1226(c) no-jurisdiction ruling that foreclosed the ordered remedy. The Court should therefore enforce its judgment with clear, time-certain relief.

C. Respondents Cannot Defeat The Judgment Through A Post-Judgment Pivot To A New Detention Authority Never Raised Before Entry Of Final Judgment

Respondents concede they did not raise the LRA or § 1226(c) in response to the habeas petition and contend only that they were not required to. That misses the enforcement point. Petitioner is not arguing DHS must present identical evidence in every forum. Petitioner is arguing DHS cannot comply in form while defeating the remedy in substance by substituting a different detention authority after the Court has entered judgment.

Respondents fault Petitioner for not litigating the Laken Riley Act in the habeas proceedings, but DHS bore the burden of showing why habeas relief should be denied and was in the best position to raise any alternative detention authority. Having elected not to raise § 1226(c)(1)(E) before judgment, Respondents cannot treat the Court-ordered § 1226(a)(2) remedy as an occasion to shift that burden onto Petitioner after judgment.

Petitioner did not “ignore” § 1226(c) in habeas. The petition expressly addressed § 1226’s discretionary and mandatory provisions and cited the Laken Riley amendment to § 1226(c), including § 1226(c)(1)(E), as part of the statutory framework confirming § 1226(a) governed this detention. Pet., ECF No. 1 ¶¶ 26–27, 30, 42–44. Respondents were therefore on notice that § 1226(c) was part of the

statutory framework; they nevertheless chose not to litigate § 1226(c)(1)(E) prior to judgment.

Respondents' opposition concedes the critical timeline, they did not raise the Laken Riley Act or any shoplifting-based mandatory-detention theory in response to the habeas petition, and they contend only that they were not required to do so. But the municipal matter was not "new." It predated the habeas proceedings and is reflected in the state court records and disposition that Petitioner later filed on the docket as part of ECF No. 11-1 at 4–6 (Uniform Citation/Accusation & Summons dated June 11, 2024; dismissal dated March 13, 2025 after pretrial diversion). Respondents nevertheless chose to litigate detention authority solely under § 1225(b)(2) / INA § 235(b)(2)(A) and represented—based on sworn testimony—that Petitioner "is currently detained" under § 235(b)(2)(A). ECF No. 7 at 2–3; ECF No. 7-1 ¶ 7.

The timing that followed underscores the post-judgment pivot. This Court entered its habeas order on December 3, 2025. ECF No. 9. Only two days later, on December 5, 2025, DHS filed a Notice of Filing in the Immigration Court custody proceedings submitting criminal-history materials for consideration in support of a mandatory-detention theory. Petitioner does not present that filing to litigate its contents here, but as procedural context showing that the Laken Riley Act theory surfaced only after this Court granted habeas relief—followed by an IJ ruling

denying bond for lack of jurisdiction under § 1226(c)(1)(E) rather than conducting the Court-ordered § 1226(a)(2) bond determination. ECF No. 11-1 at 1–3.

Having litigated the case on the § 1225(b)(2) theory and lost, Respondents cannot implement the judgment by pivoting post-judgment to § 1226(c) in a manner that forecloses the Court-ordered § 1226(a) remedy. If Respondents believed § 1226(c) controlled, the proper course was to raise it before judgment or seek appellate relief—not to secure a post-judgment Immigration Court ruling that eliminates § 1226(a) jurisdiction altogether.

This Court’s order did more than direct a hearing date; it resolved the governing detention authority: “Petitioner’s detention is governed by 8 U.S.C. § 1226(a).” ECF No. 9 at 2. Respondents may not implement that judgment by channeling the case into a § 1226(c) mandatory-custody determination that eliminates § 1226(a) jurisdiction entirely.

Respondents argue that law-of-the-case principles are inapplicable because this habeas case has not gone up on appeal. That argument misses the point. This Court entered a final judgment determining that Petitioner’s detention is governed by § 1226(a)(2) and ordering a § 1226(a)(2) bond determination, and the Court retains authority to enforce that judgment on its own terms. Finality principles—often described as law-of-the-case—underscore that issues decided earlier in the

same litigation should remain settled absent narrow exceptions.¹ *See Lebron v. Secretary, Fla. Dep't of Children & Families*, 772 F.3d 1352, 1360 (11th Cir. 2014). Whatever label one uses, the result is the same, Respondents cannot defeat the Court's judgment by switching detention authority after judgment.

Respondents frame § 1226(c) as merely an 'alternative' basis that can be raised at the hearing. But detention authority is not cumulative in practice: once the IJ concludes § 1226(c) applies, § 1226(a)(2) bond jurisdiction is foreclosed. That is precisely why a § 1226(c) 'no jurisdiction' denial is not compliance with an order requiring a § 1226(a)(2) bond determination. Respondents' own narrative underscores the problem. They asked this Court to decide whether detention was authorized under § 1225(b)(2); the Court held it was not and ruled detention is governed by § 1226(a)(2). ECF No. 9. The government cannot treat the ordered § 1226(a)(2) bond determination as an opportunity to litigate an entirely new mandatory-detention statute post-judgment that forecloses the remedy.

D. Even If Reached, LRA Does Not Justify Denying § 1226(a) Relief. The

Court need not decide full LRA merits to enforce its judgment. But even on the face of the IJ's decision and the record DHS submitted, the asserted LRA

¹ The Eleventh Circuit recognizes narrow exceptions to the law-of-the-case doctrine where (1) new evidence is presented, (2) an intervening change in controlling law dictates a different result, or (3) the prior decision was clearly erroneous and would result in manifest injustice. *United States v Anderson*, 772 F.3d 662, 668–69 (11th Cir. 2014). None applies here. The municipal shoplifting matter predated the habeas proceedings and thus is not "new evidence"; there has been no intervening change in controlling law; and Respondents do not argue the Court's § 1226(a)(2) determination was clearly erroneous such that enforcement would cause manifest injustice

basis does not demonstrate that a § 1226(a)(2) bond determination was provided.

The IJ's reasoning rests on the past-tense premise that Petitioner "was charged with a shoplifting offense." ECF No. 11-1 at 3. Yet the record attached to ECF No. 11-1 shows the shoplifting matter was initiated by citation/summons on June 11, 2024 and later dismissed on March 13, 2025, after completion of pretrial diversion. ECF No. 11-1 at 4–6. Thus, at the time of the December 22, 2025 proceeding, Petitioner was not facing a pending charge. At minimum, this confirms that what occurred on December 22 was not the Court-ordered § 1226(a)(2) discretionary bond determination, but a categorical "mandatory custody" denial under a newly invoked statutory theory.

If the Court concludes the substantive applicability of § 1226(c)(1)(E) must be addressed to enforce the judgment, Petitioner respectfully requests leave to file a short supplemental memorandum on an expedited schedule focused solely on that question. Petitioner would address, at minimum: (i) the statute's present-tense trigger ("is charged with") versus the IJ's reliance on a past charge ("was charged"); (ii) the undisputed dismissal after diversion and the absence of any pending charge at the time of the custody determination; (iii) the fact that the municipal matter arose from a June 2024 citation/summons predating enactment of the Laken Riley Act and the resulting temporal/retroactivity concerns; (iv) the absence of any custodial arrest or

detention on the municipal matter (it was initiated by citation/summons), as well as the lack of any conviction or qualifying admission; and (v) the Act's statutory structure and prerequisites as applied to this record, including DHS's detainer-and-custody mechanism. This is a serious, outcome-determinative legal issue—but the enforcement violation is clear even without reaching the merits because Respondents implemented a § 1226(c) “no jurisdiction” denial rather than the Court-ordered § 1226(a) bond determination.

III. CONCLUSION

Respondents did not comply with the Court's December 3, 2025 judgment ordering a § 1226(a)(2) bond determination. They produced Petitioner for a proceeding where they belatedly asserted § 1226(c) and the IJ issued a “no jurisdiction / mandatory custody” denial based on a detention authority not raised before judgment was issued by the Court. The Court should grant Petitioner's motion to enforce and order immediate release or, alternatively, a prompt § 1226(a)(2) bond hearing and a time-certain compliance report.

Respectfully submitted this 13 day of January 2026.

/s/Jorge E. Munoz Leguizamo
Jorge E. Munoz Leguizamo (*pro hac vice*)
Jorge Munoz Law Firm PLLC
2100 W Loop S Ste 1125,
Houston, TX 77027
Email: jorge@jmimlaw.com
Tel: (346) 576-5000
Attorney for Petitioner