

United States District Court
Western District of Texas
San Antonio Division

Blaise Kebeuto Tchana
Petitioner,

v.

No. 5:25-cv-01574-JKP

Rose Thompson, Warden, Karnes
Immigration Processing Center, *et al*,
Respondents.

**Response in Opposition to
Petitioner's Writ of Habeas**

Federal¹ Respondents provide the following timely response to Petitioner's habeas petition. Any allegations that are not specifically admitted herein are denied. Petitioner is not entitled to the relief he seeks, including attorney's fees under the Equal Access to Justice Act ("EAJA")², and this Court should deny this habeas petition as moot without the need for an evidentiary hearing.

Federal Respondents respectfully submit this response in opposition to Petitioner's petition for writ of habeas corpus. Federal Respondents urge the Court deny the petition in its entirety. Petitioner's claims in district court fail for two distinct reasons: (1) 8 U.S.C. § 1226(e) bars the district court from vacating any administrative order under the INA related to the granting or revocation of a bond; (2) Petitioner had a bond hearing which was ultimately denied because Petitioner was a flight risk. Ex. A, Bond Decision. Therefore, the petition should be denied on either jurisdictional grounds or as moot.

I. Introduction

Petitioner has received his bond hearing. The immigration judge denied bond and found

¹ The Department of Justice represents only federal employees in this action.

² *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023).

Petitioner to be a flight risk. Ex. A, Bond Decision. As such, he remains detained.

Additionally, Federal Respondents argue that the Court lacks jurisdiction under 8 U.S.C. § 1226(e) to review the immigration judge's discretionary decision.

Additionally, under the Constitution Petitioner has been granted due process. That the outcome may not be what the Petitioner envisioned is neither here nor there. The process has been provided and there is no longer a live controversy and as such this petition is moot.

For these reasons and those that follow, this Court should deny this habeas petition.

II. Relevant Background

Petitioner is a native and citizen of Cameroon. ECF No. 1 at ¶ 12. Petitioner concedes he entered the country in 2015. *Id.* ¶ 20. He is currently detained in ICE custody pending his removal proceedings. *Id.* ¶¶ 28, 43. Petitioner was placed into removal proceedings after his arrest. ECF No. 1-1. ICE encountered Petitioner on his way to work. *Id.* ¶ 23. Petitioner was given a bond hearing by an immigration judge on or around December 8, 2025, which was denied, because the Response is a "high flight risk." Ex. A, Bond Decision.

III. Argument

A. Petitioner Does Not Overcome Jurisdictional Hurdles.

Respondents provided a bond hearing after both counsel conferred. ECF No. 6.. At the conclusion of the hearing the immigration judge found Petitioner to be a flight risk and denied bond. Ex. A, Bond Decision.

Petitioner cannot now use this petition as a vehicle to dispute the immigration judge's discretionary findings. 8 U.S.C. § 1226(e). 8 U.S.C. § 1226 strips this Court of jurisdiction to hear such a challenge. Section 1226(e) states:

"(e) Judicial review

“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.”

The bar to judicial review was discussed and analyzed by the Supreme Court and also found that 8 U.S.C. § 1226(e) barred challenges to discretionary decisions. *See Demore v. Kim*, 538 U.S. 510, 516, 123 S.Ct. 1708, 155 L.Ed.2d 724 (2003) (explaining that 8 U.S.C. § 1226(e) bars an alien's challenge to “a discretionary judgment by the Attorney General or a decision that the Attorney General has made regarding his detention or release” (internal quotation marks omitted)); *Pensamiento*, 315 F. Supp. 3d at 688 (“Congress has eliminated judicial review of discretionary custody determinations); *See Blandon v. Barr*, 434 F. Supp. 3d 30, 36 (W.D.N.Y. 2020) (while the Court may consider whether the IJ complied with the Court-ordered procedural protections, it does not reweigh the evidence nor consider whether it would have made the same determination as the IJ).

There is no longer a constitutional challenge as to Respondent's classification of the Petitioner as an alien subject to detention under 8 U.S.C. § 1225. To the extent that Petitioner asks the Court to second-guess the IJ's weighing of the evidence, that claim is directed solely to the IJ's discretion and is unreviewable.

B. The Petition is Moot.

On the record before the Court, there is simply no live controversy regarding the procedural protections afforded to Petitioner and Petitioner's procedural due process claim is accordingly moot.

IV. Conclusion

The Court should deny the Petition in its entirety. The Court (1) is stripped of jurisdiction to review the discretionary determination of the immigration judge and may not consider whether it would have made the same finding [§ 1226(e)]; and (2) Petitioner has been provided with the specific due process this Court found to be necessary under the Constitution.

As such the Court no longer has jurisdiction on the matter, and there is no longer a live controversy regarding the procedural protections provided to the Petitioner. Due process has been provided. Petitioner can not now claim that the only outcome the immigration judge could have found is release, nor that this Court's order for a bond hearing really was an order for release.

Respectfully submitted,

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