

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

VINAYKUMAR PATEL, Petitioner	:	No. 1:25-cv-2271
	:	
	:	
v.	:	(Judge Jennifer P. Wilson)
	:	
PAMELA BONDI, ¹ et al., Respondent	:	(Electronically Filed)

RESPONSE TO THE PETITION FOR WRIT OF HABEAS CORPUS

I. Introduction

This is a habeas action filed by Petitioner Vinaykumar Patel, who is currently in separate removal proceedings before the Executive Office of Immigration Review Immigration Court and is challenging his detention. (Doc. 1 (Pet.) at 6.) As relief, Patel is requesting that this Court release him from custody on bond. (*Id.* at 6-7.)

Patel has failed to exhaust his administrative remedies. He has skipped the administrative process by not asking for a bond redetermination based on changed conditions and rather, asks this Court to release him on bond, which completely ignores the whole immigration bond process.

¹ Although Patel named several other government officials, the only proper respondent in this case is Angela Hoover, the Warden of Clinton County Correctional Facility. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004) (“In habeas challenges to present physical confinement – ‘core challenges’ – the default rule is that the proper respondent is the warden of the facility where the prisoner is being held.”). Patel requests release from confinement. *See* Doc. 1.

Alternatively, if this Court ignores Patel's failure to exhaust his administrative remedies, his Habeas Petition should still be denied as Patel is being lawfully detained under 8 U.S.C. §1226(a).²

II. Factual and Procedural Background

Patel is a native and citizen of India who entered the United States on September 24, 2015, at Chicago, Illinois, as a nonimmigrant B-2 with authorization to remain in the United States for a temporary period not to exceed March 21, 2016. (Doc. 1 (Pet.) at 5; Ex. 1 (Record of Deportable/Inadmissible Alien) at 2; Ex. 2 (Notice to Appear).) The Notice to Appear charges the Petitioner as inadmissible pursuant to § 237(a)(1)(B) because he remained in the United States beyond what was permitted. (Ex. 2.)

On May 14, 2024, Patel was encountered pursuant to the Criminal Alien Program while incarcerated within Federal Correctional Institute Allenwood, White Deer, Pennsylvania. (Ex. 1 at 2.) Agents established probable cause indicating Patel is an alien who is removable from the United States. (*Id.*) Based on these facts, ERO Williamsport CAP issued an Immigration Detainer and warrant for arrest for Patel. (*Id.*)

² While Petitioner claims he is being detained under 8 U.S.C. §1231(a)(6), he is not. Section 1231(a)(6) applies to aliens who are ordered removed (*id.*) and Petitioner is pre-removal as he has not been ordered to be removed yet. (Doc. 1 (Pet.) at ¶10.; Ex. 7 (BIA Decision and Order).)

Patel has been detained in ICE custody since December 17, 2024. (Ex. 8 (I-830).)

On September 11, 2025, Patel was denied relief and was found removable under 237(a)(1)(B). (Ex. 3 (Order of the Immigration Judge) at 1.) Patel has appealed the Immigration Judge's ruling which is pending before the Board of Immigration Appeals (BIA). (Ex. 4 (Notice of Appeal).)

Additionally, Patel had a bond hearing on January 27, 2025. (Ex. 5 (Order of the Immigration Judge). The Immigration Judge denied bond finding he was a danger to the community. (*Id.*) Patel appealed this denial, and the BIA dismissed his appeal finding the Immigration Judge did not err in the decision. (Ex. 6 (Notice of Appeal); Ex. 7 (BIA Decision and Order).) The BIA found that Patel was being detained pursuant to 8 U.S.C. §1226(a). (Ex. 7.)

Petitioner is challenging his detention by filing a habeas action on November 26, 2025. (Doc. 1 (Pet.)) On December 3, 2025, this Court directed Respondent to file a response to the habeas Petition by December 18, 2025. (Doc. 4 (Order).) This response is timely filed to the Habeas Petition.

III. Arguments

A. Standard of Review.

In a petition for a writ of habeas corpus, Patel is challenging the legality of his restraint or imprisonment. *See* 28 U.S.C. § 2241. The burden is on the Petitioner to show the confinement is unlawful. *See Walker v. Johnston*, 312 U.S. 275, 286 (1941). Specifically, here, Patel challenges his temporary civil immigration detention pending his removal proceeding.

Judicial review of immigration matters, including of detention issues, is limited. *I.N.S. v. Aguirre-Aguirre*, 526 U.S. 415, 425 (1999); *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 489-492 (1999); *Miller v. Albright*, 523 U.S. 420, 434 n.11 (1998); *Fiallo v. Bell*, 430 U.S. 787, 792 (1977); *Reno v. Flores*, 507 U.S. 292, 305 (1993); *Hampton v. Mow Sun Wong*, 426 U.S. 88, 101 n.21 (1976) (“the power over aliens is of a political character and therefore subject only to narrow judicial review”). The Supreme Court has thus “underscore[d] the limited scope of inquiry into immigration legislation,” and “has repeatedly emphasized that over no conceivable subject is the legislative power of Congress more complete than it is over the admission of aliens.” *Fiallo*, 430 U.S. at 792 (internal quotation omitted); *Matthews v. Diaz*, 426 U.S. 67, 79-82 (1976); *Galvan v. Press*, 347 U.S. 522, 531 (1954).

The plenary power of Congress and the Executive Branch over immigration necessarily encompasses immigration detention, because the authority to detain is elemental to the authority to deport, and because public safety is at stake. *See Shaughnessy v. United States*, 345 U.S. 206, 210 (1953) (“Courts have long recognized the power to expel or exclude aliens as a fundamental sovereign attribute exercised by the Government's political departments largely immune from judicial control.”); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) (“Detention is necessarily a part of this deportation procedure.”); *Wong Wing v. United States*, 163 U.S. 228, 235 (1896) (“Proceedings to exclude or expel would be vain if those accused could not be held in custody pending the inquiry into their true character, and while arrangements were being made for their deportation.”); *Demore v. Kim*, 538 U.S. 510, 531 (2003) (“Detention during removal proceedings is a constitutionally permissible part of that process.”)

Petitioner is detained pursuant to 8 U.S.C. § 1226(a) and must therefore make a strong showing to demonstrate that his continued detention violates the Constitution or laws of the United States. *See United States v. Five Gambling Devices*, 346 U.S. 441, 449 (1953) (“This Court does and should accord a strong presumption of constitutionality to Acts of Congress. This is not a mere polite gesture. It is a deference due to deliberate judgment by constitutional majorities of the two Houses of Congress that an Act is within their delegated power or is

necessary and proper to execution of that power”); *Zenith Radio Corp. v. Matsushita Elec. Indus. Co.*, 402 F. Supp. 251, 254 (E.D. Pa. 1975) (“[D]efendants here carry a heavy burden, for a strong presumption of validity attaches to an Act of Congress.”).

Patel Habeas Petition should be dismissed because he has failed to exhaust administrative remedies and alternatively, he is lawfully detained pursuant to 8 U.S.C. § 1226(a).

B. This Court should dismiss the Habeas Petition because Patel failed to exhaust available administrative procedures before petitioning the Court for relief.

Here, once the BIA upheld the Immigration Judge’s decision to deny bond to Patel, he could have requested a bond re-determination based upon changed conditions, but he did not. The BIA’s decision to detain or release an arrested noncitizen on bond is discretionary and is not subject to judicial review. 8 U.S.C. § 1226(e).

If denied bond, a noncitizen can subsequently request an additional bond redetermination hearing before an immigration judge, which he must make in writing. 8 C.F.R. §1003.19(e). This request “shall be considered only upon a showing that the alien’s circumstances have changed materially since the prior bond redetermination.” *Id.* As such, Patel should not be able to skip the administrative process entirely and proceed directly to the district court for immediate review, especially in light of Section 1226(e).

The regulatory process Congress created affords Patel the opportunity to redress his concerns administratively. Following it would provide the court of appeals a complete record should he ultimately seek review. *See Santos-Zacaria v. Garland*, 598 U.S. 411, 418 (2023) (“exhaustion promotes efficiency, including by encouraging parties to resolve their disputes without litigation”); *Laguna Espinoza v. Director of Detroit Field Office*, Civ. No. 25-2107, 2025 WL 2878173, at *3 (N.D. Cal. Oct. 9, 2025) (dismissing habeas petition challenging detention under § 1225(b) for failure to exhaust). Patel’s failure to exhaust should cause this Court to dismiss his Habeas Petition in favor of the administrative process.

Exhaustion is particularly appropriate because agency expertise is required. “[T]he BIA is the subject-matter expert in immigration bond decisions.” *Aden v. Nielsen*, Civ. No. 18-1441, 2019 WL 5802013, at *2 (W.D. Wash. Nov. 7, 2019).

Allowing a skip the administrative process and go straight to federal court strategy would needlessly increase the burden on district courts. Indeed, exhaustion promotes judicial efficiency by reserving the courts’ resources for matters that cannot be resolved administratively. *MacKay v. U.S. Veterans Admin.*, Civ. No. 03-6089, 2004 WL 1774620, at *4, n. 8 (E.D. Pa. Aug. 5, 2004), *aff’d*, 115 F. App’x 601 (3d Cir. 2004); *Biear v. Att’y Gen. United States*, 905 F.3d 151, 156 (3d Cir. 2018) (“Generally, the law requires exhaustion of administrative remedies before a

plaintiff may seek relief in district court.”); *see also Santos-Zacaria v. Garland*, 598 U.S. 411, 418 (2023) (noting “exhaustion promotes efficiency”).

Because Patel has not exhausted his administrative remedies, this matter should be dismissed.

C. Alternatively, this Court should deny Patel’s Habeas Petition because his detention is lawful.

Alternatively, this Court should deny the Habeas Petition because Patel’s detention is lawful and does not offend due process because the Attorney General of the United States is authorized to detain noncitizens during determination of their removal status, and Patel will be provided a chance to administratively contest his detention.

Section 1226(a) of Title 8, United States Code, provides that the Attorney General “may” issue a warrant for the arrest and detention of a noncitizen pending a decision on whether the noncitizen is to be removed. Provided the noncitizen is not subject to mandatory detention under Section 1226(c), the Attorney General, through the DHS district director, makes an initial custody determination as to whether it should detain a noncitizen pending completion of the removal proceedings, or whether it should release the noncitizen on bond. *See* 8 C.F.R. § 236.1(c).

If the district director denies bond and the noncitizen is not subject to an administratively final order of removal, the noncitizen may seek his release by requesting an initial bond redetermination hearing before an immigration judge. *See*

8 C.F.R. § 236.1(d), 1003.19. A noncitizen may appeal an immigration judge's decision on a bond redetermination to the BIA. *See* 8 C.F.R. § 236.1(d)(3). The BIA's decision to detain or release an arrested noncitizen on bond is discretionary and is not subject to judicial review. 8 U.S.C. § 1226(e).

If denied bond, a noncitizen can subsequently request an additional bond redetermination hearing before an immigration judge, which he must make in writing. 8 C.F.R. §1003.19(e). This request "shall be considered only upon a showing that the alien's circumstances have changed materially since the prior bond redetermination." *Id.*

Patel is being held pursuant to 8 U.S.C. § 1226(a), as he is alleged to have failed to follow the conditions of his nonimmigrant status and is removable. (*See* Ex.7.) Patel is entitled to his administrative process before the EOIR, at which DHS must establish that he is removable, and Patel may request forms of relief against removal. Because Patel is considered to be in pre-removal detention, "decisions concerning his ongoing detention are at the discretion of the immigration judge." *Perez-Cobon v. Bowen*, No. 1:CV-17-1550, 2017 WL 6039733, at *3 (M.D. Pa. Dec. 6, 2017).

Here, the Attorney General has the statutory authority and discretion to detain Patel pending a decision on his potential removal. *See* 8 U.S.C. § 1226(a). Notwithstanding that fact, Patel could seek a custody redetermination hearing, which

he has failed to do. Because Patel's detention is lawful and statutorily authorized, his petition is premature and should be denied.

Courts may only grant habeas relief if a petitioner can establish that his present detention is unlawful. 28 U.S.C. § 2241(c)(3). As repeatedly recognized by the Supreme Court, “[i]n the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens.” *Demore v. Kim*, 538 U.S. 510, 522 (2003) (quoting *Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976)); *Reno v. Flores*, 507 U.S. 292, 305-306 (1993). Therefore, while the Fifth Amendment entitles noncitizens to due process in deportation proceedings, “detention during deportation proceedings is a constitutionally valid aspect of the deportation process.” *Demore*, 538 U.S. at 523; *see also Reno*, 507 U.S. 292 (upholding INS's detention policies regarding juvenile aliens with its “blanket” presumption of the unsuitability of custodians other than parents, close relatives, and guardians). Here, as indicated above, Patel is being held pursuant to statutory and discretionary authority. Moreover, he is being offered an opportunity to contest his detention. Therefore, Patel cannot demonstrate that his detention is currently unlawful, or his due process is being violated, and his Habeas Petition must be denied.

Numerous courts, including the Supreme Court, have looked favorably on the procedures governing section 1226(a). For example, the Third Circuit rejected a due

process challenge to detention under section 1226(a). *See Borbot v. Warden Hudson Cty. Corr. Facility*, 906 F.3d 274 (3d Cir. 2018). In *Borbot*, a habeas petitioner argued that, based on the *length* of his detention under section 1226(a) – over one year – he was constitutionally entitled to a second bond hearing at which the Government would bear the burden of proof. *Id.* at 276-77. The Third Circuit rejected petitioner’s argument, which relied on cases involving prolonged detention under the mandatory detention statute, *see* 8 U.S.C. § 1226(c), and noted that, “unlike § 1226(c) detainees . . . who were detained for prolonged periods without being given any opportunity to apply for release on bond, [petitioner] *was granted meaningful process* prior to filing his habeas petition.” *Id.* at 279 (emphasis added).

The alien in *Borbot* predicated his challenge to section 1226(a) on the length of his detention and did not take issue with his initial bond hearing like Patel here. The Third Circuit’s central holding was that no additional procedures were required because the existing procedures for bond hearings under section 1226(a) are constitutionally adequate. 906 F.3d at 278-29. The Third Circuit specifically noted that “*Borbot* was afforded a prompt bond hearing, *as required by § 1226(a) and its implementing regulations*,” and it was on this basis that the court concluded he was “granted meaningful process.” *Id.* (emphasis added). *Borbot* thus stands for the proposition that section 1226(a) and its implementing regulations fully satisfy the requirements of due process. Here, ICE provided Patel the same type of process that

was afforded the petitioner in *Barbot*. Moreover, it cannot be said that Patel's detention has been prolonged. *See Contant v. Holder*, 352 F. App'x 692 (3d Cir. 2009) (affirming denial of a petitioner's habeas where he had received process under 8 U.S.C. § 1226(a) and his 19 months' detention was not overly prolonged). Thus, Patel's Habeas Petition must be denied.

IV. Conclusion

This Court should dismiss Patel's Habeas Petition because he failed to exhaust administrative remedies. Alternatively, this Court should deny his Habeas Petition as his detention is lawful.

Respectfully submitted,

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Date: December 18, 2025

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Petitioner	:	
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v.	:	(Judge Jennifer P. Wilson)
	:	
PAMELA BONDI, et al.,	:	
Respondent	:	(Electronically Filed)

CERTIFICATE OF SERVICE VIA ELECTRONIC CASE FILING

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers. That on December 18, 2025, she served a copy of the attached

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By electronic service pursuant to Local Rule 5.7 and Standing Order 05-6, & 12.2 to the following individual[s].

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