

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

MARIO PONCE )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 JOE M. SMITH, Warden, )  
 JOE CORLEY DETENTION FACILITY; )  
 GABRIEL MARTINEZ, )  
 Acting Director of Houston Field Office, )  
 U.S. Immigration and Customs Enforcement; )  
 KRISTI NOEM, )  
 Secretary of the U.S. Department of )  
 Homeland Security; and )  
 PAM BONDI, )  
 Attorney General of the United States, )  
 in their official capacities, )  
 )  
 Respondents. )  
 \_\_\_\_\_ )

Case No. 4:25-cv-05797  
  
EMERGENCY MOTION  
TO COMPEL ENFORCEMENT  
OF THIS COURT'S ORDER  
DATED DECEMBER 15, 2025  
  
ORAL ARGUMENT  
REQUESTED  
  
EXPEDITED HEARING  
REQUESTED

EMERGENCY MOTION  
TO COMPEL ENFORCEMENT OF THIS COURT'S DECEMBER 15, 2025  
ORDER GRANTING PETITION FOR WRIT OF HABEAS CORPUS

1. On December 15, 2025, this Court entered an order granting Petitioner Mario Ponce's petition for writ of habeas corpus. Ex. A. *Order Granting Petition for Writ of Habeas Corpus*
2. The order mandated that "The respondents must provide Ponce with a bond hearing under § 1226(a) by December 29, 2025, or release him. The parties are to update the court on the status of his bond hearing no later than January 2, 2026." See Ex. A, *Order Granting Petition for Writ of Habeas Corpus*.
3. On December 19, 2025, Petitioner filed a *Bond Redetermination Request* with the Executive Office of Immigration Review ("EOIR"). Ex. B, *Bond Redetermination Request*.

4. The same day, EOIR scheduled a hearing to take place on December 22, 2025 at 2:00 pm on Petitioner's *Bond Redetermination Request*. Ex. C, *Case Notice*.

5. On December 22, 2025, at around 3:00 pm, a hearing was held before Immigration Judge Scott Greenbaum("IJ") on Petitioner's *Bond Redetermination Request*.

6. Regrettably, notwithstanding this Court's determination (cited below) that Petitioner was subject to 8 U.S.C. § 1226(a), the IJ determined that Petitioner was subject to 8 U.S.C. § 1225(b)(2) and that IJ did not have jurisdiction to adjudicate Petitioner's *Bond Redetermination Request*.

"As this court and other courts have articulated in numerous decisions, Ponce is properly subject to 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2). *See, e.g., Buenrostro-Mendez v. Bondi*, Civ. Action No. H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Gutierrez v. Thompson*, Civ. Action No. 4:25-4695, 2025 WL 3187521 (S.D. Tex. Nov. 14, 2025); *Buestan v. Chu*, No. 25-cv-16034, 2025 WL 2972252 (D.N.J. Oct. 21, 2025); *see also Kyle Cheney, More Than 100 Judges Have Ruled Against the Trump Admin's Mandatory Detention Policy*, POLITICO (Oct. 31, 2025), <https://perma.cc/H6MZ-VC2Z>. The court also notes that a district court in the Central District of California certified a class of petitioners similarly situated to Ponce and granted summary judgment in their favor, holding that § 1226, not § 1225, applies to those in Ponce's position. *See, e.g., Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873, --- F. Supp. 3d ----, 2025 WL 3289861, at \*11 (C.D. Cal. Nov. 20, 2025); *Maldonado Bautista v. Santacruz*, No. 5:25-cv- 01873, --- F. Supp. 3d ----, 2025 WL 3288403, at \*9 (C.D. Cal. Nov. 25, 2025). The court has found no reason to depart from its prior decisions or the decisions of dozens of other courts.

*See, Ex. A, Order Granting Petition for Writ of Habeas Corpus*. Emphasis added.

7. More importantly, this Court ordered that, "The respondents must provide Ponce with a bond hearing under § 1226(a) by December 29, 2025, **or release him.**" *See, Ex. A, Order Granting Petition for Writ of Habeas Corpus*. Emphasis added.

8. The IJ has refused to provide Petitioner with a hearing under § 1226(a), EOIR continues to maintain that Petitioner is subject to 8 U.S.C. § 1225(b)(2). The IJ did not provide a written order.

9. Petitioner hereby respectfully requests that the Honorable Court enforce its order dated December 15, 2025 and require Respondents to release Petitioner immediately.

Respectfully submitted,  
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