

United States District Court
Western District of Texas
San Antonio Division

Aina Barreto-Santamaria,
Petitioner,

v.

Field Office Director, et. al.
Respondents.

No. 5-25-CV-01774-XR

**Federal Respondents' Response to
Petition for Writ of Habeas Corpus**

Federal Respondents provide this response to Petitioner's habeas petition. Any allegations that are not specifically admitted herein are denied. Petitioner is not entitled to the relief she seeks, and this Court should deny this habeas petition without the need for an evidentiary hearing.

Petitioner seeks this Court order her immediate release ICE custody or order a bond hearing. ECF No. 1 at 4. **Petitioner is eligible to seek a custody redetermination hearing before the immigration court but simply hasn't requested a hearing.** *See* Immigration Court Practice Manual (describing requests for a bond hearing may be in writing or orally to the immigration judge) (last accessed Jan. 07, 2026).

I. Relevant Facts

Petitioner is a native and citizen of Columbia who entered as a nonimmigrant with permission to stay for a temporary period not to exceed January 29, 2022. See Ex A. (Notice to Appear). He is charged as removable pursuant to INA 237(a)(1)(B) of the Immigration and Nationality Act. **Petitioner was inspected and admitted to the United States (see NTA), she can seek a custody redetermination hearing from the immigration judge under 8 USC 1226. Petitioner has not requested a bond hearing after her most recent detention, for unknown**

reasons.

II. Argument

Whether Petitioner merits release on bond under 8 U.S.C. § 1226(a), or should be detained pending further proceedings, is a mixed factual and legal question that is not ripe for review before this court. Respondents agree she can seek a bond hearing before the immigration judge under 8 U.S.C. 1226. If the immigration judge denies bond, Petitioner can seek review of the immigration judge's decision from the Board of Immigration Appeals.

Petitioner must exhaust administrative remedies prior to raising this issue in district court. *Hinojosa v. Horn*, 896 F. 3d 305, 314 (5th Cir. 2018). Appealing to the BIA is not futile in this case, because the issue on appeal would be whether, as a factual matter, he poses a danger to persons or property or poses a risk of failure to appear that cannot be mitigated under 8 USC 1226. If the BIA grants any appeal, he would be released. In other words, the BIA can provide Petitioner the remedy he seeks, such that exhaustion of remedies is not futile in this case. *See Petgrave v. Aleman*, 529 F.Supp.3d 665, 672 n. 14 (S.D. Tex. 2021) (finding futility where the BIA could not remedy the constitutional claim and where the detention had already become prolonged). This habeas petition is premature and must be denied.

While “the Fifth Amendment entitles aliens to due process of law in deportation proceedings, ... this Court has recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process.” *Demore v. Kim*, 538 U.S. 510, 523 (2003). While as-applied constitutional challenges to immigration detention may be brought under certain circumstances, there is no colorable claim articulated in this habeas petition that Petitioner's detention is unconstitutional. *See, e.g., Jennings v. Rodriguez*, 583 U.S. 281, 312 (2018). Petitioner is being lawfully detained and has not requested a bond hearing before the immigration court.

Petitioner has been detained two months as of the date of this filing while she is pending removal proceedings. ECF No. 1 at 3. Her detention is not prolonged, and she has not shown her claim for release is properly before this Court. At most, Petitioner claims she is entitled to a bond hearing, which Respondents agree she can seek, but she hasn't asked the immigration judge for such a hearing.

III. Petitioner's Motion for TRO should be Denied

As outlined above, Petitioner does not and should not prevail on the merits of her claims. Even the remaining factors to determine whether the extraordinary grant of a temporary restraining order should be granted weigh in the government's favor here. With respect to the balancing of the equities and public interest, it cannot be disputed that (1) Petitioner is in removal proceedings; and (2) both the government and the public at large have a strong interest in the enforcement of the immigration laws, especially when it comes to maintaining border security. Moreover, Petitioner has provided no basis for this Court to determine that her continued detention pending the conclusion of her removal proceedings will cause her irreparable harm. The Court should therefore deny the TRO and dismiss this case in its entirety.

IV. Conclusion

Petitioner is lawfully detained pending removal proceedings, and she does not claim any immigration status that would entitle her to immediate release from custody. Accordingly, the Court should deny this petition for failure to exhaust administrative remedies, lack of jurisdiction, and ripeness.

Respectfully submitted,

Justin R. Simmons
United States Attorney

By: /s/ Jennifer Mazza

Jennifer Mazza
Special Assistant United States Attorney
Texas Bar 24099298
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216
(210) 384-7100 (phone)
(210) 384-7312 (fax)
Jennifer.mazza2@usdoj.gov

Attorneys for Federal Respondents

Certificate of Service

I certify that on January 7, 2026, I mailed a copy of Response in Opposition to Petition for Writ of Habeas Corpus to Petitioner (*pro se*) at the following address:

Ania Barreto-Santamaria
Dilly Immigration Processing Center
300 El Rancho Way
Dilly, Texas 78017
PRO SE

/s/ Jennifer Mazza
Jennifer Mazza
Special Assistant United States Attorney