

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

LEONARDO GUILLEN-CATOTA

Petitioner

V.

Case No. 3:25-cv-00720

Agency File



PAMELA BONDI, et. al.;

Defendants-Respondents

**PETITIONER'S TRAVERSE IN RESPONSE TO RESPONDENTS'
RETURN TO ORDER TO SHOW CAUSE**

The petitioner, Leonardo Guillen Catota, submits this Traverse in Response to Respondents' Return to Order to Show Cause, by and through undersigned counsel, and alleges as follows:

I. INTRODUCTION

Respondents' Return mischaracterizes both the nature of Petitioner's claim and the relief sought. Petitioner does not dispute that he received a bond hearing under 8 U.S.C. § 1226(a), nor does he ask this Court to reweigh the Immigration Judge's discretionary flight-risk determination. Rather, Petitioner challenges the subsequent deprivation of due process that occurred when an intervening agency decision—*Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—issued the same day as his bond denial and retroactively extinguished any ability to appeal, renew, or meaningfully challenge that custody determination.

Because Petitioner is now detained under a statutory interpretation that renders bond categorically unavailable, his prior bond hearing does not moot this case. Instead, it underscores the constitutional violation: Petitioner was deprived of any meaningful opportunity for review of an adverse custody decision through no fault of his own.

II. RELEVANT BACKGROUND CLARIFIED

The relevant facts are not disputed:

1. Petitioner was placed in full removal proceedings under 8 U.S.C. § 1229a.
2. The Immigration Judge exercised custody jurisdiction on September 5, 2025, under § 1226(a) and conducted a bond hearing.
3. On the same day the Immigration Judge denied bond, the Board of Immigration Appeals issued *Matter of Yajure Hurtado*, holding that certain noncitizens in removal proceedings are subject to mandatory detention under § 1225(b)(2)(A) and are therefore ineligible for bond.
4. As a result of *Yajure Hurtado*, Petitioner was immediately foreclosed from: a.) appealing the bond denial, b.) filing a renewed bond motion based on changed circumstances, or c.) seeking further custody review in immigration court.
5. On December 15, 2025, the petitioner again filed a bond motion with changed circumstances of new USC relative and ineffective assistance of counsel claim that prior attorney had not provided adequate representation. The immigration judge denied even a hearing and denied the custody redetermination.

Thus, although a bond hearing technically occurred, the issuance of *Yajure Hurtado* rendered that hearing a procedural dead end.

III. THE PETITION IS NOT MOOT

A. Mootness Requires the Absence of Any Effective Relief

A case is moot only when it is “impossible for a court to grant any effectual relief whatever.” *Chafin v. Chafin*, 568 U.S. 165, 172 (2013). That standard is not met here.

Petitioner seeks relief from ongoing detention maintained without any avenue for individualized custody review.

B. A Bond Hearing Does Not Moot a Claim That the Government Later Eliminated All Review

Respondents argue that Petitioner’s claim is moot because he “already received a bond hearing.” That argument misunderstands the injury.

The constitutional violation is not the denial of bond. It is the loss of any meaningful opportunity to challenge or seek review of that denial due to an intervening agency decision. A hearing that is immediately insulated from review by a change in law does not satisfy due process. *Boumediene v. Bush*, 553 U.S. 723, 779, 782-783 (2008).

IV. MATTER OF YAJURE HURTADO RETROACTIVELY DEPRIVED PETITIONER OF DUE PROCESS

A. Due Process Requires a Meaningful Opportunity for Review

Due process requires “the opportunity to be heard at a meaningful time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). A procedure that exists only momentarily and is immediately nullified by an intervening rule change is not meaningful. At the time of Petitioner’s bond hearing the immigration Judges exercised §

1226(a) custody jurisdiction, bond denials were subject to appeal or renewal; and Habeas review remained available.

Yajure Hurtado abruptly altered that framework, converting Petitioner's detention into mandatory detention and stripping immigration courts of custody jurisdiction. This change did not merely affect future cases—it retroactively nullified Petitioner's ability to pursue review of an already-issued bond denial.

B. The Timing of *Yajure Hurtado* Is Constitutionally Significant

The fact that *Yajure Hurtado* issued the same day as Petitioner's bond denial is critical. Petitioner was denied bond under one legal regime and immediately subjected to another that foreclosed all further review.

As a result an appeal became legally unavailable; a renewed bond motion became jurisdictionally barred; and the original bond denial became unreviewable as a matter of law. This sequence deprived Petitioner of due process through retroactive elimination of procedural rights, a practice the Supreme Court has repeatedly condemned. See *INS v. St. Cyr*, 533 U.S. 289, 300–01 (2001).

C. Petitioner Exhausted Available Custody Procedures Before *Yajure Hurtado* Eliminated Any Avenue for Review

After the initial bond denial, Petitioner sought further custody review through the procedures available at the time. The Immigration Judge adjudicated a second bond motion and expressly exercised custody jurisdiction under § 1226(a), stating:

“Prior bond hearing held, and no new and previously unavailable material facts or evidence is presented in the current motion that would change the Court’s original finding that the respondent poses a flight risk if released on bond and should be denied bond for that reason.”

Although *Matter of Yajure Hurtado* had already issued by the time of Petitioner’s second bond motion, the Immigration Judge nonetheless exercised custody authority under 8 U.S.C. § 1226(a) and adjudicated the motion on the merits. In doing so, the Immigration Judge necessarily acted with the understanding that any appeal to the Board of Immigration Appeals would be futile, as *Yajure Hurtado* foreclosed appellate jurisdiction over custody determinations because the petitioner, by his manner of entry, must be deemed subject to § 1225(b) pursuant to the BIA’s decision in *Yajure Hurtado*.

The Immigration Judge denied the second bond motion on discretionary grounds, stating that no new and previously unavailable material facts or evidence were presented that would alter the prior flight-risk determination. But the existence of a discretionary ruling does not cure the constitutional defect. A custody determination rendered in a regime where appellate review is unavailable by design does not provide a meaningful opportunity to be heard. The petitioner does not ask this Court to revisit the Immigration Judge’s factual findings. Rather, the adjudication of two bond motions underscores the due-process injury: Petitioner fully utilized the custody procedures that existed, and an intervening agency decision then retroactively foreclosed all avenues of review.

Petitioner does not ask this Court to second-guess the Immigration Judge’s findings. Rather, the second bond denial illustrates the due-process violation: Petitioner was subjected

to custody adjudications that were effectively insulated from any review, leaving him without a mechanism to challenge the legal basis for detention, the application of *Yajure Hurtado*, or the classification of his detention under § 1225 versus § 1226.

Due process requires more than a hearing whose outcome is final by default. Where the Government permits custody adjudications to proceed while simultaneously foreclosing any avenue for appellate or judicial review, the resulting process is constitutionally inadequate.

Due process is not satisfied by having multiple unreviewable decisions.

D. At Minimum, a Live and Unresolved Question Remains Whether Petitioner Is Detained Under § 1225 or § 1226

Respondents' position depends on the application of *Matter of Yajure Hurtado* and the assumption that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b). Yet the record reflects that the Government repeatedly treated Petitioner as subject to discretionary detention under § 1226(a), including by conducting a bond hearing and exercising custody jurisdiction under that statute.

These inconsistent classifications underscore that, at minimum, a live legal question remains as to the statutory basis for Petitioner's detention. That unresolved question bears directly on the availability of custody review and appellate procedures. Under § 1226(a), adverse custody determinations are subject to review and renewal; under § 1225(b), they are not.

Petitioner does not ask this Court to resolve that statutory question in the first instance. Rather, the uncertainty itself highlights the due-process problem: Petitioner's

detention status was reclassified in a manner that extinguished existing avenues of review without affording any mechanism to contest that reclassification or obtain appellate review.

Where the Government's own actions create ambiguity as to the governing detention authority, due process requires a meaningful opportunity to be heard and to seek review before that ambiguity is resolved to the detainee's detriment. The absence of any such opportunity confirms that Petitioner's continued detention is constitutionally deficient.

V. HABEAS JURISDICTION PROPERLY LIES

Petitioner's claim falls squarely within habeas jurisdiction because it challenges the lawfulness of detention and the elimination of any mechanism to contest it. *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001).

A. § 1252(g) Does Not Apply

Petitioner does not challenge the decision to commence removal proceedings or to execute a removal order. He challenges custody without review, which is outside the scope of § 1252(g). *Jennings v. Rodriguez*, 583 U.S. 281, 294-95 (2018).

B. § 1252(b)(9) Does Not Channel This Claim

Section 1252(b)(9) does not bar habeas claims that are collateral to removal proceedings. *Nielsen v. Preap*, 586 U.S. 392, 402 (2019). The loss of custody review is such a collateral claim.

VI. RESPONDENTS' RELIANCE ON *THURAISSIGIAM* IS MISPLACED

DHS v. Thuraissigiam, 591 U.S. 103 (2020), involved an arriving alien in expedited removal seeking additional asylum procedures. Petitioner here seeks freedom from detention not authorized by a constitutionally adequate process.

Even under *Thuraissigiam*, detention must be lawful and consistent with due process. *Id.* at 118. The Constitution does not permit the Government to provide a hearing and then, through an intervening reinterpretation of the statute, extinguish all avenues of review.

VII. CONCLUSION

Petitioner does not seek reconsideration of the Immigration Judge's discretionary bond determination. He challenges the procedural deprivation that occurred after that determination, when *Matter of Yajure Hurtado* issued the same day as his bond denial and retroactively eliminated any meaningful opportunity to appeal, renew, or obtain review of that custody decision.

Although Petitioner technically received a bond hearing under 8 U.S.C. § 1226(a), due process requires more than a one-time proceeding that is immediately rendered unreviewable by an intervening change in law. By applying *Yajure Hurtado* to foreclose all avenues of custody review, the Government transformed Petitioner's bond hearing into a procedural nullity and deprived him of the meaningful opportunity to be heard and to seek review that the Constitution requires.

That deprivation is ongoing. Petitioner remains detained under a detention regime that affords no mechanism to challenge or obtain review of an adverse custody

determination, through no fault of his own. The existence of a prior bond hearing does not moot a claim that the Government later extinguished all avenues of review.

Accordingly, the Court should reject Respondents' mootness and jurisdictional arguments and grant the Petition by ordering relief sufficient to restore Petitioner's meaningful opportunity for custody review. The petitioner respectfully asks this Court to:

- 1.) order relief sufficient to restore a meaningful opportunity for custody review;
- 2.) order that *Yajure Hurtado* not be applied retroactively to extinguish Petitioner's existing custody-review rights;
- 3.) conditional release unless the Government provides a constitutionally adequate custody review mechanism within a set time consistent with due process; or
- 4.) any such relief as the Court deems necessary to remedy the loss of Petitioner's ability to appeal or seek review of his bond denial.

Respectfully Submitted

Dated January 10, 2026

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CERTIFICATE OF SERVICE

I certify that on January 10, 2026, I filed the foregoing Petitioner's Traverse using the Court's CM/ECF system, which will serve all counsel of record who are registered CM/ECF users.

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