

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
(Baltimore Division)

Edin Josue Mejia Acosta,

\*

Petitioner,

\*

Case No. 8:26-cv-00086-MJM

v.

\*

Kristi Noem, *et al.*,

\*

Respondents.

\*

\* \* \* \* \*

JOINT NOTICE

Respondents, United States Department of Homeland Security Secretary Kristi Noem, United States Attorney General Pamela Bondi, United States Immigration and Customs Enforcement (“ICE”) Acting Director Todd M. Lyons, and ICE Baltimore Field Office Acting Director Vernon Liggins,<sup>1</sup> by and through counsel, Kelly O. Hayes, United States Attorney for the District of Maryland and Beatrice C. Thomas, Assistant United States Attorney for said district, here by submit this response to Petitioner’s Status Report (ECF No. 11), and in support thereof, state the following.

1. On February 9, 2026, the Immigration Court held a bond hearing for Petitioner consistent with 8 U.S.C. § 1226(a), 8 C.F.R. 236.1(d), 1003.19, and 1236.1(d). The Immigration Judge denied bond and determined that Petitioner was a flight risk. ECF No. 11, ¶ 2.
2. The Petitioner now asks this Court to “release Petitioner immediately.” *Id.* at ¶ 5. Petitioner makes this request notwithstanding the fact that an Immigration Judge has already conducted

<sup>1</sup> Pursuant to Federal Rule of Civil Procedure 25(d), upon the departure of a public officer sued in their official capacity, “[t]he officer’s successor is automatically substituted as a party.” FED. R. CIV. P. 25(d). Vernon Liggins has recently been named Acting Field Office Director for the ICE Baltimore Field Office. Thus, he is automatically substituted as the respondent for former-Acting Field Office Director Nikita Baker.

a bond hearing, in which he considered Petitioner's request for release and denied that request. *See id* ¶ 2.

3. No matter how Petitioner frames it, his new request, at its core, challenges and seeks to set aside the Immigration Judge's decision to deny Petitioner bond. *Id.* at ¶ 2 (taking issue with the Immigration Judge's decision, including his reliance on the fact that "Petitioner was a flight risk because no application for relief had yet been filed"), ¶ 4 ("Petitioner believes that it is a violation of due process for the immigration judge to deny bond where Petitioner has no criminal record....").
4. The plain language of 8 U.S.C. § 1226(e) provides: "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 of any alien or the revocation or denial of bond or parole.*" 8 U.S.C. § 1226(e) (emphases added). As the Supreme Court explained in *Demore v. Kim*, this provision blocks judicial review of discretionary judgments and decisions by immigration officials (including Immigration Judges) regarding the arrest, detention, and bond of aliens subject to 8 U.S.C. § 1226. 538 U.S. 510, 516–17 (2003); *see also, e.g., Jennings*, 583 U.S. at 295–96 (8 U.S.C. "§ 1226(e) precludes an alien from challenging a discretionary judgment by the Attorney General or a decision that the Attorney General has made regarding his detention or release."); *Pisciotta v. Ashcroft*, 311 F. Supp. 2d 445, 453 (D.N.J. 2004) ("Under Sections 1226(a) and (b), the Attorney General has the discretionary authority to arrest and detain, or release, or revoke the bond or parole status of an alien. Under Section 1226(e), no court has jurisdiction to set aside these discretionary determinations by the Attorney General. Therefore, to the extent the Petitioner's complaint

seeks relief from [ ] ICE's determination to detain him upon the reopening of his removal proceedings or to revoke his prior custody status as determined in 1996, this Court must dismiss this request for relief for lack of jurisdiction."); *Ginori v. Holder*, No. 13-cv-03099-MSK, 2014 WL 420444, at \*3–4 (D. Colo. Feb. 4, 2014) (finding that the Court lacked jurisdiction over any challenge to an Immigration Judge's discretionary decision to deny bond per 8 U.S.C. § 1226(e)).

5. Here, Petitioner plainly challenges a discretionary decision made by the Immigration Judge (who receives his authority from the Attorney General). *See* ECF No. 11 at ¶¶ 2, 4. Because 8 U.S.C. § 1226(e) prohibits judicial review and setting aside of the Immigration Judge's bond decision, the Court lacks subject-matter jurisdiction over the Petition.
6. In addition, 8 C.F.R. §§ 236.1(d)(3), 1003.19(f), 1003.38, and 1236.1(d)(3) provide that the appropriate path for review of an Immigration Judge's bond and custody determination is through an appeal to the BIA. *See* 8 C.F.R. § 236.1(d)(3) ("An appeal relating to bond and custody determinations may be filed to the [BIA] in the following circumstances: (i) In accordance with [8 C.F.R.] § 1003.38 . . . the alien or [DHS] may appeal the decision of an immigration judge . . ."); 8 C.F.R. § 1003.19(f) ("An appeal from the determination of an Immigration Judge [with respect to custody status or bond redetermination] may be taken to the [BIA] pursuant to [8 C.F.R.] § 1003.38."); 8 C.F.R. § 1003.38 (authorizing appeals of decisions by Immigration Judges to the BIA).
7. These statutes and regulations should resolve this case. Here, Petitioner challenges the Immigration Judge's decision to deny his bond. *See* ECF No. 11 at ¶¶ 2, 4. Petitioner can, and indeed, *must* challenge that decision through an appeal to the BIA, not by way of a habeas action filed with this Court. Notably, Petitioner could have—and should have—

reserved appeal of the Immigration Judge’s decision, but Petitioner’s attempt to seek release through this habeas action is an attempt to bypass the BIA that this Court should reject.

8. Indeed, this Court has already done just that. In *Chavez de Vasquez v. Baker et al.*, SAG-25-cv-03657 (D. Md. Dec. 23, 2025), Judge Gallagher held that this type of review—the review of an IJ’s decision as to bond—is barred by 8 U.S.C. § 1226(e). p. 3. Specifically, the Court held that “Petitioner’s recourse for what she believes to be an improper assessment of the merits of her entitlements to bond lies in her already pending appeal of the IJ’s decision before the Board of Immigration Appeals.” *Id.*
9. Given that the relief requested in the Petition was granted, *i.e.*, that Petitioner receive a bond hearing, Petitioner’s request for immediate release should be denied, and the Petition should now be dismissed as moot, as the Court has no further cause of action to entertain.

Dated: February 10, 2026

Respectfully submitted,

Kelly O. Hayes  
United States Attorney

By: /s/ Beatrice C. Thomas  
Beatrice C. Thomas (Bar No. 21969)  
Assistant United States Attorney  
U.S. Attorney’s Office, District of Maryland  
36 S. Charles Street, Suite 400  
Baltimore, Maryland 21201  
Telephone: (410) 209-4800  
Beatrice.Thomas@usdoj.gov  
*Counsel for Respondents*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 10th day of February 2026, a copy of the foregoing Notice was served via CM/ECF on all parties and counsel receiving electronic notice in this case.

/s/ Beatrice C. Thomas  
Beatrice C. Thomas  
Assistant U.S. Attorney