IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:26-cv-00186-CYC

Enrique Castro de Santiago,

Petitioner,

v.

Kristi Noem, United States Secretary, Department of Homeland Security;
Todd M. Lyons, Acting Director, United States Immigration and Customs Enforcement (ICE);
Marcos Charles, Acting Executive Associate Director, ICE Enforcement and Removal Operations;
Kelei Walker, ICE Denver Field Office Director;
Juan Baltasar, Warden, GEO-ICE immigration detention facility in Aurora, CO; and
Pamela Bondi, United States Attorney General.

Respondents.

RESPONDENT'S REPLY TO DHS RESPONSE TO ORDER TO SHOW CAUSE WHY THE PETITION FOR WRIT OF HABEAS CORPUS SHOULD NOT BE GRANTED

The Petitioner, Mr. Enrique Castro de Santiago ("Castro") by and through his undersigned counsel, hereby respectfully submits this reply to the Respondents' Response to Order to Show Cause Why the Petition for a Writ of Habeas Corpus Should not be Granted (ECF No. 14.).

Castro renews his arguments in ECF No. 1 and ECF No. 4 and replies herein to the Respondents' filing in ECF No. 14.

I. There has been no revocation of bond by DHS.

The Respondents correctly point out that Castro was granted bond on January 3, 2018, and again on August 22, 2019, by an Immigration Judge. The Respondents provide a bond cancellation notice from September 30, 2025 (ICE Form I-391) that they have never served on Castro, his bond obligor, or the Immigration Court. ECF 14-1.

ECF No. 14-1 makes clear that the bond obligor was also never notified, as noted by the blank space at the bottom of the document. Further, the cash bond has never been returned to the obligor. Importantly, the document itself reads: "U.S. Immigration and Customs Enforcement (ICE) has determined that the conditions of the immigration bond referenced above have been satisfied and the bond is cancelled." *Emphasis added.*

While the Respondents appear to argue that bond was somehow breached, their submitted Form I-391 states that bond has been "satisfied," therefore confirming that Castro never violated his immigration bond. Bond revocation and satisfaction of bond are two different things, and in this case, the Respondents' own admission is in Castro's favor.

ICE bond instructions make clear that "DHS shall send notice of a breach of the bond to the obligor on Form I-323, Notice-Immigration Bond Breached, at the address of record. DHS regulations provide that upon notification of a breach the obligor has 30 days in which to file an administrative appeal or motion for reconsideration of the breach...Judicial review of any administrative declaration of bond breach is pursuant to the Administrative Procedures Act, 5 U.S.C. § 701, et seq." Exhibit 15-1 at p. 2.

No such Form I-323 has ever been served on Castro, his bond obligor, or the Immigration Court. Thus, the Respondents confirm that Castro has to date never violated his immigration bond. Their alleged satisfactory release of bond, while appearing both incomplete and ineffective, confirms that there is no bond-related reason for his continued detention at the GEO-ICE detention facility in Aurora, Colorado.

The Respondents' continued argument (ECF No. 14 at pp. 3 – "[ICE] cancelled his bond", 4 – "revoke a bond," 7 – "revocation of bond," 8 – "bond was revoked") regarding bond revocation are all negated by the bond document they submitted to and for themselves (ECF No. 14-1) which clearly states that bond has been "satisfied," not canceled or revoked. Castro notes that no argument was presented by the Respondents regarding whether ICE could unilaterally revoke a bond set by an Immigration Judge, as he explained in ECF No. 9.

II. No valid appeal of Castro's grant for his defense from removal has ever been taken.

Even though Castro has repeatedly notified the Respondents that he has not been served notice of an appeal of his defense to removal, the Respondents continue to fail in this regard. Castro is detained by the Respondents, and service upon him for an alleged appeal could be as easy as serving him in detention or serving his counsel by U.S. Postal Service mail.

The Respondents have no answer to this problem, including, apparently, an inability or lack of desire to commit to basic due process requirements of process of service. Instead, they suggest that Castro is utilizing this habeas petition as a "substitute for direct appeal" to the Board of Immigration Appeals (BIA). ECF No. 14 at p. 8.

Castro does not need to make a direct appeal to the BIA for anything. He won his immigration court case. The requirements of process of service are fully upon the Respondents to effectuate a valid appeal. The lack of service is not only a complete failure of due process of law, but also evidence of no valid appeal pending before the BIA.

The fact that the Respondents continue to evade requirements of process of service demonstrates simply that no appeal to the BIA can be considered validly pending. The fact that the Respondents' appeal is impotent is only further evidence that their continued detention of Castro is *ultra vires* and unconstitutional. U.S. Const. amend V, XIV. *See also* APA § 555(c) (Process, requirement of a report, inspection, or other investigative act or demand may not be issued, made, or enforced except as authorized by law.").

Much like their alleged "satisfaction of bond" (ECF No. 14-1), the Respondent's "notice of appeal" has never been served upon Castro or his counsel (or his bond obligor, including a refund of the "satisfied" bond). The Respondents have no standing to make *sua sponte* rules for themselves, benefitting themselves, with no notice requirements to the affected party, as they are arguing they can in this case.

III. Because Castro's detention is *ultra vires* and unconstitutional, he renews his request for immediate release from detention.

In the past, the Respondents might have reasonably been counted on to faithfully apply the laws that apply to them. Today, no amount of righteous legal argument appears to be sufficient. No amount of equitable consideration appears to be sufficient. The Respondents acknowledge that Castro has so far won his defense to removal two times before the Immigration Judge. They acknowledge "satisfaction" of bond.

The Respondents are aware that his grant to removal from the United States was based on his demonstration of "extreme and unusual hardship" to his three American children in the event of his removal from the United States. 8 U.S.C. § 1229b(b)(1). Yet the Respondents are callous in their denial of Castro's release from detention based on the same hardship to the same American children.

The fact is that the Respondents have no grounds to hold Castro in detention. His bond has never been canceled or revoked. His win in Immigration Court is now final, considering the Respondents' failure to appeal that win in a constitutional manner, by providing notice of

service of that appeal at any time, including up to the current moment. *See* 8 C.F.R. § 1003.38 (an Immigration Judge's order becomes a final administrative decision if an appeal is not filed within 30 days).

Castro is under no obligation to enter into a BIA case where he has not been served notice of an appeal pending against him. It is the Respondents' obligation to properly serve him, not his to seek service to perfect it for them. In any case, their time for proper service is now 40 days late, and in their hubris, the Respondents continue to fail to serve him, even after being notified of their error in service, repeatedly.

For the following reasons, Castro seeks immediate release from detention, and an order for fees and costs pursuant to the Equal Access to Justice Act, if this Court deems it appropriate. 5 U.S.C. § 504, 28 U.S.C. § 2412.

February 17, 2026

Respectfully,

/s/ Catherine A. Chan
Catherine A. Chan
Chan Law Firm, PC
1737 Gaylord St.
Denver, CO 80206
Phone: (303) 586-5555
Fax: (303) 586-5727
cchan@chanimmigration.com
Pro Bono Attorney for Mr. Enrique Castro de Santiago

CERTIFICATE OF SERVICE

I hereby certify that on February 17, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

/s/ Catherine A. Chan
Catherine A. Chan
Pro bono Attorney for Mr. Enrique Castro de Santiago