

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

LUIS GONZALEZ TOMATZIN,)

Petitioner,)

v.)

Case No. 1:26-cv-00289-RMR

JUAN BALTAZAR, *in his official*)
capacity as Warden of the Aurora ICE)
Processing Center;)

GEORGE VALDEZ, *in his official*)
capacity as Field Office Director of the)
Aurora Field Office of Enforcement and)
Removal Operations, U.S. Immigrations)
and Customs Enforcement;)

TODD M. LYONS, *in his official capacity*)
as Acting Director, Immigration and)
Customs Enforcement,)

KRISTI NOEM, *in her official capacity* as)
Secretary, U.S. Department of Homeland)
Security; and)

PAMELA JO BONDI, in her official)
capacity as Attorney General of the United)
States;)

Respondents.)

MOTION TO MODIFY THE COURT’S MARCH 6, 2026 ORDER (ECF No. 11)

Petitioner, by and through undersigned counsel, respectfully submits this motion to modify the Court’s March 26, 2026 Order on the Petition for Writ of Habeas Corpus (ECF No. 11).

As Respondents’ counsel has informed the Court in the Status Report of March 8, 2026 (ECF No. 12), Petitioner was released from custody on March 6, 2026, pursuant to the Court’s

Order of the same day (ECF No. 11 at pg. 4). On March 9, 2026, Respondents filed a Motion to Partially Vacate the Court's March 6, 2026 Order, requesting that the Court vacate the portion of that order requiring that:

- (1) a bond hearing under 8 U.S.C. 1226(a) be held within five days of the date of that order,
- (2) at that hearing, the government bear the burden of justifying Petitioner's continued detention by clear and convincing evidence of dangerousness or flight risk, and
- (3) that Respondents file a status report within two days of the bond hearing to certify compliance, specifying if and when the bond hearing occurred, if bond granted or denied, the reasons for denial if it is denied, and any conditions of supervised release imposed.

ECF No. 11 at 4-5.

Petitioner agrees that, now that he has been released from custody, holding a bond hearing before an Immigration Judge is no longer necessary and "would not serve any functional purpose." *See* ECF No. 13 at pg. 3. However, to ensure that the circumstances that necessitated this habeas corpus proceeding are not repeated at a later date, Petitioner opposed Respondents' request to entirely vacate the portion of the Court's March 6, 2026 Order as Respondent's requested. *See* ECF No. 14.

Petitioner respectfully requests that the Court instead modify this portion of the order, such that the described bond hearing and conditions are no longer required within five days of the original order, but that such a hearing will be required as originally ordered if Petitioner is re-detained by Respondents at any future date. Petitioner respectfully requests that the Court order that:

- (1) in the event of Petitioner's re-detention, that a bond hearing under 8 U.S.C. 1226(a) be held within five days of the date of detention, and
- (2) that the requirements that the government bear the burden of justifying Petitioner's continued detention by clear and convincing evidence of dangerousness or flight risk, and that Respondents file a status report at the time and with the contents set forth in the March 6, 2026 Order, will also apply to that hearing, if it becomes necessary.

Date: March 9, 2026

Respectfully Submitted,

/s/ Scott Brian Petiya
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Attorney for the Petitioner

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)

I certify that, in accordance with D.C.COLO.LCivR 7.1(a), counsel for Petitioner conferred with counsel for Respondents on March 9, 2026, in an attempt to resolve the issues raised in Respondents' earlier Motion to Partially Vacate (ECF 13). Counsel for Respondents stated that Respondents opposed the modifications to the Court's March 6, 2026 order that Petitioner now requests in this motion.

/s/ Scott Brian Petiya
SCOTT BRIAN PETIYA

CERTIFICATE OF SERVICE

I certify that on March 9, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following recipients by email:

erika.kelley@usdoj.gov

/s/ Scott Brian Petiya

Scott Brian Petiya