

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

JOSUE ABNER GONZALEZ GARCIA,	)	
	)	
Petitioner,	)	C/A No. 3:26-cv-
	)	00156-KC
v.	)	
MARY DE ANDA-YBARRA, <i>in her official</i>	)	
<i>capacity as</i> Field Office Director of Enforcement	)	
and Removal Operations, El Paso Field Office,	)	EMERGENCY
Immigration and Customs Enforcement; Warden	)	MOTION FOR
of ERO El Paso Camp East Montana;	)	CONTEMPT
	)	
TODD M. LYONS, <i>in his official capacity as</i>	)	Agency # 
Acting Director, Immigration and Customs	)	
Enforcement, U.S. Department of Homeland	)	
Security;	)	
	)	
KRISTI NOEM, <i>in her official capacity as</i>	)	
Secretary, U.S. Department of Homeland Security;	)	
	)	
and	)	
	)	
PAMELA JO BONDI, <i>in her official capacity as</i>	)	
Attorney General of the United States;	)	
	)	
Respondents.	)	
_____	)	

EMERGENCY MOTION FOR CONTEMPT

Petitioner Josue Abner Gonzalez Garcia hereby moves on an immediate and emergency basis for a motion for contempt of the Court's order entered at ECF Doc. 4, consistent with Rule 70. The Court specifically ordered that "**on or before February 10, 2026**, Respondents shall either: (1) provide Gonzalez Garcia with a

bond hearing before an IJ, at which the Government shall bear the burden of justifying, by clear and convincing evidence of dangerousness or flight risk, Gonzalez Garcia's continued detention; or (2) release Gonzalez Garcia from custody, under reasonable conditions of supervision." ECF Doc. 4, at 2 (emphasis in original).

A bond hearing was subsequently scheduled for February 5, 2026, at 10:00 a.m. MST in El Paso, Texas, before Immigration Judge Stephen M. Ruhle. Petitioner is currently detained in Elk River, Minnesota.¹ See Exh. A. On February 4, 2026, Petitioner filed a separate request for a bond hearing, pursuant to this Court's order, in the Fort Snelling Immigration Court in Minnesota because he is detained in Minnesota. See Exh. B. On February 5, 2026, at 9:21 a.m. MST, the Fort Snelling Immigration Court rejected Petitioner's request for a bond hearing because "The Respondent has a Habeas bond hearing today in el paso." See Exhs. C, D.

Respondents failed to present Petitioner to the bond hearing in El Paso. Immigration Judge Ruhle began the bond hearing by stating that he would deny bond based on lack of jurisdiction because (1) Petitioner is detained in Minnesota and was not presented for the bond hearing due to Respondents' failure to present him, and (2) *Matter of A-W-*, 25 I&N Dec. 45 (BIA 2009), precludes jurisdiction

¹ Petitioner was moved to Minnesota after this Petition was filed.

(according to the immigration judge) because Respondents have not filed a Notice to Appear with the immigration court to initiate removal proceedings, and, as stated verbatim by the immigration judge, “a district court cannot give me authority that Congress does not grant me.” The bond hearing did not proceed. *See* Exh. E. Petitioner has no new bond hearing scheduled.

Respondents are openly violating this Court’s clear order to provide Petitioner a bond hearing in which the government has the burden to prove danger and flight risk by clear and convincing evidence. Respondents failed to present Petitioner for his bond hearing in El Paso. The Fort Snelling Immigration Court refused to schedule a bond hearing in Minnesota. Immigration Judge Ruhle violated regulations by claiming he had no jurisdiction over bond because Petitioner is detained in Minnesota. The Board of Immigration Appeals has squarely held that the location of the bond hearing is non-jurisdictional and instead relate to venue. *See Matter of Cerda Reyes*, 26 I&N Dec. 528 (BIA 2015); 8 C.F.R. § 1003.19(c). Immigration Judge Ruhle refused to proceed with a bond hearing despite this Court’s order to do so because he does not think the federal court can tell him what to do. Immigration Judge Ruhle placed no burden whatsoever on the government. This bald-faced defiance to this Court’s order cannot stand.

Petitioner accordingly is seeking an order to hold Respondents in contempt and to order his immediate release from Respondents’ custody.

This Court has already determined that Petitioner is subject to detention under 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225. Section 1226(a) requires a warrant of arrest. *See* 8 U.S.C. § 1226(a); 8 C.F.R. § 236.1(b). Immigration Judge Ruhle, in denying jurisdiction based on a lack of warrant or Notice to Appear, essentially confirmed that Petitioner's detention is unlawful. Petitioner specifically pleaded the issue of his warrantless arrest in his Petition and requested immediate release as a remedy. *See* Pet. ¶¶ 59-64, 84-93. Petitioner anticipated the problem of a lack of warrant and Respondents' withholding of the Notice to Appear. There are at least three cases in this District challenging the issue of immigration courts denying jurisdiction over bond because the government withholds the documents and refuses to articulate the legal basis for detention. *See Thu v. De Anda-Ybarra*, No. 3:26-cv-186-LS (W.D. Tex. Jan. 30, 2026); *Favela Rodriguez v. De Anda-Ybarra*, No. 3:26-cv-00184-LS (W.D. Tex. Jan. 30, 2026); *Apolinar Monte v. De Anda-Ybarra*, No. 3:26-cv-181-LS (W.D. Tex. Jan. 30, 2026). Other district courts have ordered immediate release because Federal Respondents are not complying with their regulatory mandate to issue timely warrants. *See, e.g., Avilez Aguinaga v. Warden et al.*, No. 4:26-cv-00137 (S.D. Tex. Feb. 2, 2026); *Ahmed M. v. Bondi*, No. 25-CV-4711 (ECT/SGE), 2026 WL 25627, at *3 (D. Minn. Jan. 5, 2026); *Chogllo Chafla v. Scott*, No. 2:25-CV-00437-SDN, 2025 WL 2688541, at *11 (D. Me. Sept. 21, 2025).

Respondents continue to violate the law and unabashedly violate this Court's order. Petitioner hereby moves as follows:

1. Petitioner seeks an order consistent with rule 70 of the Federal Rules of Civil Procedure holding Respondents in contempt for denying Petitioner a bond hearing in violation of this Court's order.
2. Petitioner seeks immediate release from Respondents' custody.

WHEREFORE, Petitioner respectfully requests this Court:

- A. Hold Respondents in contempt for violating this Court's order;
- B. Order Petitioner's immediate release from Respondents' custody; and,
- C. Grant such other and further relief as justice may require.

Respectfully submitted,

/s/ David L. Wilson

Date: February 5, 2026

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Admitted to the Western District of Texas

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