

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. Civil No. 26-CV-00903 (DWF-EMB)

Jafet Lezama Carrasco,

Petitioner,

v.

**FEDERAL RESPONDENTS'
RESPONSE TO PETITION FOR
WRIT OF HABEAS CORPUS**

Pamela Bondi, *et al.*,

Respondents.

Petitioner filed this petition for a writ of habeas corpus to secure a bond hearing in connection with Petitioner's detention by the U.S. Immigration and Customs Enforcement.

BACKGROUND

Petitioner, a citizen and native of Mexico, entered the United States at an unknown time or place without inspection, and does not presently have legal status. Department of Homeland Security records show that Respondent was issued a U-visa in September 2014, but that such visa has since expired. On or about January 30, 2026, the Department of Homeland Security detained Respondent and he remains in custody in Minnesota.

ARGUMENT

A. Petitioner's detention pending removal is proper under 8 U.S.C. § 1226(a).

Petitioner's continuing detention is proper and specifically authorized by statute. Congress has enacted a multi-layered statutory scheme that provides for the continued civil detention of aliens who are pending a final decision on removal or seeking administrative and judicial review of final removal orders. *See* 8 U.S.C. §§ 1226, 1231. Where an alien falls within this scheme determines whether the alien's detention is

discretionary or mandatory, as well as the type of review process available. *Id.* Section 1226 is the *pre-removal* provision applicable to Petitioner’s case and “generally governs the process of arresting and detaining . . . aliens pending their removal.” *Jennings v. Rodriguez*, 138 S. Ct. 830, 837 (2018). It provides that “an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Under 1226(a), when detention is not mandatory, DHS may either continue to detain the alien or release the alien on bond or conditional parole. *Id.*

When an alien is detained under 8 U.S.C. § 1226(a), as is the case here, immigration officials make an initial custody determination, including a decision about release on bond. 8 C.F.R. § 1236.1(d). If the alien objects to the initial custody decision, including any bond determination, the alien may request a bond redetermination hearing before an immigration judge. *Id.* The IJ may “exercise the authority” under the statute to “detain the alien in custody, release the alien, and determine the amount of bond, if any,” under which the alien may be released. *Id.*; *see Jennings*, 138 S. Ct. at 837. After a decision has been rendered, the alien may request a review by the district director (now a field office director) of the conditions of release or may appeal the bond determination to the BIA. 8 C.F.R. § 1236.1(d)(2)-(3).

At a custody redetermination hearing before an immigration judge, the alien bears the burden of justifying his discretionary release by showing that he is not a flight risk or a danger to the community. *Matter of Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006). The immigration judge then decides whether to release the alien or to modify

any release conditions, based on a variety of factors that are pertinent to whether the alien will endanger the community or abscond before the removal. *See id.* at 40 (listing factors to consider such as length of residence in the United States, family ties, and the alien's history of immigration violations). In addition, if denied bond, an alien can subsequently request a bond redetermination hearing before an Immigration Judge. 8 C.F.R. § 1003.19(e).

Here, the proper remedy is for a bond hearing to be held before the Immigration Court. Petitioner's detention under § 1226(a), as a visa overstay, is otherwise lawful. The government recommends against an evidentiary hearing, as the record submitted provides sufficient basis for a decision.

Dated: February 2, 2026

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