

United States District Court
Western District of Texas
San Antonio Division

MIGUEL ALFONSO CEBALLOS
HERNANDEZ,
Petitioner,

v.

PAM BONDI, et al.,

Respondents.

No. SA-26-CA-00602-XR

Federal Respondents' Response to Petition for Writ of Habeas Corpus

Federal¹ Respondents provide the following timely response to Petitioner's habeas petition. Any allegations that are not specifically admitted herein are denied. Petitioner is not entitled to the relief he seeks, including attorney's fees under the Equal Access to Justice Act ("EAJA")², and this Court should deny this habeas petition as moot without the need for an evidentiary hearing. Petitioner's claims in district court fail because 8 U.S.C. § 1226(e) bars the district court from vacating any administrative order under the INA related to the granting or revocation of a bond.³ Therefore, the petition should be denied or rendered moot.

I. Introduction

An immigration judge conducted a bond hearing on January 15, 2026, and the judge denied

¹ The Department of Justice represents only federal employees in this action.

² *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023).

³ Pursuant to the Court's Order For Service (ECF No. 3), Respondents reviewed the cases cited by the Court and note said cases were decided prior to the Fifth Circuit's decision in *Buenrostro v. Bondi*, No. 25-20496, --- F.4th --- 2026 WL 323330, (5th Cir. Feb. 6, 2026), as such, there has been a material change to the legal landscape applicable to this case. These cases are also distinguishable to the instant case because Petitioner has already been provided a bond hearing pursuant to 8 C.F.R. § 1236.

bond, finding that Petitioner did not demonstrate that he is not a danger to the community. *See* Exh. A (IJ Order). As such, he remains detained. Federal Respondents maintain that the Court lacks jurisdiction under 8 U.S.C. § 1226(e) to review the immigration judge's discretionary decision. Additionally, due process has been provided to the Petitioner. The decision of the immigration judge may not be what Petitioner wanted but that is irrelevant. Since due process has been provided, there is not a live controversy and as such this petition should be denied or rendered moot for the following reasons.

II. Relevant Facts and Procedural History

Petitioner is a native and citizen of Mexico. Exh. B (I-213) at 3. Petitioner last entered the United States on June 14, 2018, under an H2A work visa valid through November 20, 2018. *Id.* He is currently detained in ICE custody pending his removal proceedings. ECF No. 1 ¶ 1. Petitioner requested a custody redetermination pursuant to 8 C.F.R. § 1236 and it was held on January 15, 2026. *See* Exh. A. The immigration judge found that Petitioner did not meet his burden in showing that he is not a danger to the community and denied bond. *Id.* at 3. Petitioner reserved the right to appeal. *Id.* at 4.

III. Argument

A. Petitioner Does Not Overcome Jurisdictional Hurdles.

Due process has already been provided to the Petitioner; he was provided the bond hearing that he requested. *See* Exh. A. Petitioner cannot now use this petition as a vehicle to dispute the immigration judge's discretionary findings. 8 U.S.C. § 1226(e). 8 U.S.C. § 1226 strips this Court of jurisdiction to hear such a challenge. Section 1226(e) states:

“(e) Judicial review

“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 or release of any alien or the grant, revocation, or denial of bond or parole.”

The bar to judicial review was discussed and analyzed by the Supreme Court and also found that 8 U.S.C. § 1226(e) barred challenges to discretionary decisions. *See Demore v. Kim*, 538 U.S. 510, 516, 123 S.Ct. 1708, 155 L.Ed.2d 724 (2003) (explaining that 8 U.S.C. § 1226(e) bars an alien's challenge to “a discretionary judgment by the Attorney General or a decision that the Attorney General has made regarding his detention or release” (internal quotation marks omitted)); *Pensamiento*, 315 F. Supp. 3d at 688 (“Congress has eliminated judicial review of discretionary custody determinations); *See Blandon v. Barr*, 434 F. Supp. 3d 30, 36 (W.D.N.Y. 2020) (while the Court may consider whether the IJ complied with the Court-ordered procedural protections, it does not reweigh the evidence nor consider whether it would have made the same determination as the IJ).

There is not and never was a constitutional challenge as to Respondent’s classification of Petitioner as an alien subject to detention under 8 U.S.C. § 1225. The immigration judge did not base her finding on any statutory or jurisdictional issues. To the extent that Petitioner asks the Court to second-guess the IJ's weighing of the evidence, that claim is directed solely to the IJ's discretion and is unreviewable.

Lastly, Petitioner’s Motion for Temporary Restraining Order and Preliminary Injunction [ECF No. 2] should be denied. Respondents additionally oppose this requested relief as part of their general response in opposition to the petition and show herein that Petitioner is unlikely to succeed on the merits of his claims. As argued *supra*, Petitioner’s claims in district court fail because 8 U.S.C. § 1226(e) bars the district court from vacating any administrative order under

the INA related to the granting or revocation of a bond, and any remaining challenges must first be raised to the immigration judge and channeled through to the circuit court.

A preliminary injunction is an “extraordinary and drastic remedy.” *Canal Auth. v. Callaway*, 489 F.2d 567, 573 (5th Cir. 1974). As such, it is “not to be granted routinely, but only when the movant, by a clear showing, carries [the] burden of persuasion.” *Black Fire Fighters Ass’n v. City of Dallas*, 905 F.2d 63, 65 (5th Cir. 1990) (quoting *Holland Am. Ins. Co. v. Succession of Roy*, 777 F.2d 992, 997 (5th Cir. 1985)). Importantly, temporary restraining orders are ordinarily aimed at temporarily preserving the status quo. *Foreman v. Dallas Cty.*, 193 F.3d 314, 323 (5th Cir. 1999), *abrogated on other grounds by Davis v. Abbott*, 781 F.3d 207 (5th Cir. 2015). “The four prerequisites are as follows: (1) a substantial likelihood that plaintiff will prevail on the merits, (2) a substantial threat that plaintiff will suffer irreparable injury if the injunction is not granted, (3) that the threatened injury to plaintiff outweighs the threatened harm the injunction may do to defendant, and (4) that granting the preliminary injunction will not disserve the public interest.” *Canal Auth.*, 489 F.2d at 572. A preliminary injunction should be granted only if the movant has “clearly” carried the burden of persuasion on all four of these prerequisites. *Id.* at 573.

With respect to the balancing of the equities and public interest, it cannot be disputed that (1) Petitioner is in removal proceedings, which entitles the government to detain him, either on a mandatory basis under § 1225(b) or in the exercise of discretion; and (2) both the government and the public at large have a strong interest in the enforcement of the immigration laws. Moreover, Petitioner has provided no basis for this Court to determine that his continued detention pending the conclusion of his removal proceedings will cause him irreparable harm. Indeed, Petitioner can apply for relief before an immigration judge, and because of his detention, his

removal proceedings will advance more quickly than they would on the non-detained docket. The annual cap that would normally limit the type of relief that Petitioner can claim to seek in immigration court do not apply to those on the detained docket, meaning that he is much more likely to obtain relief more quickly on the detained docket than the non-detained docket, assuming his claim has any merit. The Court should therefore deny the requests for injunctive relief and dismiss this case in its entirety.

B. The Petition is Moot.

Petitioner has received precisely the process that this Court has previously found the Constitution requires. On the record before the Court, there is simply no live controversy regarding the procedural protections afforded to Petitioner and Petitioner's procedural due process claim should be rendered moot.

IV. Conclusion

The Court should deny the Petition in its entirety. The Court (1) is stripped of jurisdiction to review the discretionary determination of the immigration judge and may not consider whether it would have made the same finding [§ 1226(e)]; and (2) Petitioner has been provided with the specific due process this Court has found to be necessary under the Constitution. As such, the Court does not have jurisdiction in this matter, and there is not a live controversy regarding the procedural protections provided to the Petitioner. Due process has been provided. If Petitioner wants to seek review of the immigration judge's decision, he may appeal the bond decision to the Board of Immigration Appeals (BIA).

Respectfully submitted,

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