

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

RODRIGO GERARD MARATUECH
ARENAS,

Petitioner,

Case No. 2:26-cv-617-SPC-DNF

v.

SECRETARY KRISTI NOEM, et al.,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Rodrigo Gerard Maratuech Arenas (“Petitioner”) challenges his detention by U.S. Immigration and Customs Enforcement, arguing he is entitled to a bond hearing under 8 U.S.C. § 1226. Notably, Petitioner has already received a bond hearing by an Immigration Judge who took no action because of the Petitioner’s driving history. Petitioner did not appeal that decision and therefore failed to exhaust his administrative remedies; the District Court does not have jurisdiction in this matter and is not the proper vehicle for challenging the bond determination. Pursuant to 8 U.S.C. §§ 1226(e) and 1252(a)(2)(B)(ii), the Court is precluded from reviewing this decision. As such, the Petitioner received the process he is entitled to. *See Salazar v. Noem, et al*, No. 2:26-cv-00433-SPC-NPM (M.D. Fla. Mar. 5, 2026).

FACTS

Rodrigo Gerard Maratuech Arenas is a national and citizen of Peru who was admitted to the United States at Miami International Airport on or about August 11, 2015 as a nonimmigrant Visitor For Pleasure with authorization to remain in the United States until February 10, 2016. (*See* Composite Ex. A at 2.) The Petitioner remained in the United States beyond February 10, 2016 and is charged with violation section 237(a)(1)(B) of the Immigration and Nationality Act. (*Id.*).

On January 21, 2026, the Petitioner was encountered by immigration authorities in Miami, Florida after an arrest for an out-of-county warrant. (*Id.*). On January 22, 2026, a Notice to Appear was issued to the Petitioner and filed with the immigration court on March 4, 2026, placing him in removal proceedings. (*Id.* at 4). On February 9, 2026 a bond hearing was held before Immigration Judge which was closed as No Action due to Petitioner's traffic history¹. (*Id.* at 8; *see also* Doc. 1 at ¶ 17). The Petitioner did not appeal that Immigration Judge's determination. (Composite Ex. A at 9).

On March 5, 2026, Rodrigo Gerard Maratuech Arenas filed a petition for writ of habeas corpus alleging his custody violates the Immigration and Nationality Act

¹ Upon request, the United States can attempt to provide the Court with audio from the hearing.

and the Due Process Clause of the Fifth Amendment. (Doc. 1.) Petitioner is currently detained at Florida Soft Side South. (*Id.*)

CERTIFIED HABEAS RETURN

ICE is detaining Rodrigo Gerard Maratuech Arenas under the mandatory detention provisions of 8 U.S.C. § 1226. *See* 28 U.S.C. § 2243 (“The person to whom the writ or order is directed shall make a return certifying the true cause of the detention.”). Rodrigo Gerard Maratuech Arenas bears the burden to prove his custody violates federal law. *Whitfield v. U.S. Sec’y of State*, 853 F. App’x 327, 329 (11th Cir. 2021).

ARGUMENT

Petitioner has no lawful immigration status that allows him to permanently remain in this country at this time. He entered the United States on a visitor visa and his presence here became unlawful on February 11, 2016 when he remained in the United States beyond the period for which he was permitted to stay. As conceded by Petitioner, **there was a bond hearing before an Immigration Judge** which was closed as No Action due to Petitioner’s traffic. (*Id.* at 8; *see also* Doc. 1 at ¶ 17). Petitioner did not appeal that bond determination. (Composite Ex. A at 9).

This Court is jurisdictionally barred from reviewing that decision. The Attorney General’s “discretionary judgment . . . regarding the detention or release of any alien or the grant, revocation, or denial of bond or parole” is not reviewable by the courts.

8 U.S.C. § 1226(e). As determined by the Supreme Court, the statute precludes an alien from “challeng[ing] a ‘discretionary judgment’ by the Attorney General or a ‘decision’ that the Attorney General has made regarding his detention or release.” *Jennings*, 138 S. Ct. 830, 841 (2018) (quoting *Demore*, 538 U.S. at 516).

Similarly, 8 U.S.C. § 1252(a)(2)(B)(ii) bars judicial review of discretionary decisions including bond determinations under § 1226(a):

Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision . . . regardless of whether the judgment, decision, or action is made in removal proceedings, no court shall have jurisdiction to review . . . any other decision or action of the Attorney General or the Secretary of Homeland Security the authority for which is specified under this subchapter to be in the discretion of the Attorney General or the Secretary of Homeland Security, other than the granting of relief under section 1158(a) of this title.

Courts are precluded under § 1252(a)(2)(B)(ii) from reviewing any “decision or action” that is committed to the agency’s discretion by statute. *See Kucana v. Holder*, 558 U.S. 233, 241-52 (2009). The “key to [section] 1252(a)(2)(B)(ii) lies in its requirement that the discretion giving rise to the jurisdictional bar must be specified by statute, and that whether such a specification has been made is determined by examining the statute as a whole.” *Jilin Pharm. USA, Inc. v. Chertoff*, 447 F.3d 196, 200 (3d Cir. 2006) (internal quotations omitted).

Moreover, the regulations provide that an alien denied bond may seek further administrative review of the bond redetermination before the Board of

Immigration Appeals at any time before a final order of removal. 8 C.F.R. §§ 1003.1(b)(7), 1003.19(f), 1003.38, 1236.1(d)(3). Petitioner did not appeal the IJ bond order and in fact waived his right to do so. As such, Petitioner failed to exhaust his administrative remedies and received the process he is entitled to. *See Salazar v. Noem, et al*, No. 2:26-cv-00433-SPC-NPM (M.D. Fla. Mar. 5, 2026).

CONCLUSION

The Petition for Writ of Habeas Corpus should be denied.

DATED this 13th day of March, 2026.

Respectfully submitted,

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