

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

LUIS ALBERTO BEJERANO
AMADOR

Petitioner,

v.

Case No. 2:26-cv-619-JES-NPM

WARDEN, FLORIDA SOFT SIDE
SOUTH, ET. AL.,

Respondents.

PETITIONER'S MOTION TO ENFORCE JUDGEMENT

Petitioner hereby submits this Motion to Enforce Judgment for the Court's "Opinion and Order" (Doc. 11).

Respondents have failed to abide by this Court's "Opinion and Order" (Doc. 11), and Petitioner now seeks to have this Court's "Opinion and Order" enforced.

INTRODUCTION

Petitioner, Luis Alberto Bejerano Amador, by and through undersigned counsel, respectfully moves this Court to enforce its "Opinion and Order" (Doc. 11) ("Order").

In the Order, dated March 25, 2026, this Court unambiguously held that "[w]ithin **TEN (10) DAYS** Respondents shall either provide Bejerano Amador with the statutory process required under § 1226 – which includes a merit-

based bond hearing – or release him under reasonable conditions of supervision.” *See* Doc 11 at pg. 7 (emphasis in original). The Court’s ten (10) day deadline has passed, however, Petitioner has not been afforded statutory process required under § 1226, and Respondents continue to hold Petitioner in an immigration detention facility.

STATEMENT OF FACTS

On March 27, 2026, the Miami Immigration Court issued a “Notice of Custody Redetermination Hearing” (“Bond Hearing”) for Petitioner’s case. *See Exhibit (“Exh.”) A*, copy of Petitioner’s Bond Hearing Notice. Petitioner’s Bond Hearing was scheduled for March 30, 2026, at 8:30AM with the Miami Krome Immigration Court. *Id.*

On March 30, 2026 – five days after this Court’s Order – Petitioner’s counsel appeared for Petitioner’s scheduled Bond Hearing. However, Petitioner was not in attendance; Respondents failed to ensure Petitioner’s presence for his Bond Hearing. *See Exh. B*, Petitioner’s Counsel’s Affidavit.

At the Bond Hearing, DHS counsel informed Petitioner’s Counsel and the Immigration Court that Petitioner would not be in attendance for the bond hearing, and that he was being transferred to another detention facility on the west coast. *Id.*

Because Petitioner was moved out of the state of Florida, the Immigration Judge presiding over the Bond Hearing stated that he no longer

had jurisdiction over the Bond Hearing, he issued a “No Action” on the Bond Hearing case and closed the Bond Hearing case. *Id.*

Later that same day, DHS filed with the Immigration Court “Notice to EOIR: Alien Address,” informing the Immigration Court, and Petitioner’s Counsel, for the very first time, that on March 26, 2026, Petitioner was transferred to the “Golden State Annex” ICE Detention Facility in McFarland, California. *See Exh. C*, ICE Form I-830E, Notice to EOIR: Alien Address. Petitioner was initially detained at the “Florida Soft Side South” ICE Detention Facility in Ochopee, FL. *See Doc. 1-2* at page 2. Petitioner is currently being detained at the “Golden State Annex” ICE Detention Facility in McFarland, CA. *See Exh. D*, copy of Petitioner’s ICE Detention Information.

To this date, Respondents have not provided Petitioner with statutory process required under § 1226. *See Exh. B*, Petitioner’s counsel’s Affidavit. Respondents have taken no steps to release Petitioner, and, absent this Court’s immediate intervention, Petitioner will continue to be detained in violation of a lawful federal court order.

ARGUMENT

I. Respondents’ Failure to Produce Petitioner at the Bond Hearing Constitutes Violation of This Court’s Order and Petitioner’s Due Process Rights

At Petitioner’s scheduled March 30, 2026 bond hearing, ICE and the Department of Homeland Security (“DHS”) never brought Petitioner to the

scheduled bond hearing. *See Exh. B-C*. The March 25 Order directed Respondents to provide Petitioner “statutory process requires under § 1226.” *See* Doc. 11 at pg. 7.

Respondents scheduled the bond hearing and then failed to produce the one person whose liberty was at stake. Because Respondents failed to ensure Petitioner’s attendance, and failed to make Petitioner available, the bond hearing could not move forward. *See Exh. B*.

The entire purpose of an individualized bond hearing—as required by this Court’s Order – is to assess the individual’s flight risk, danger to the community, ties to the community, and equities specific to his circumstances. None of those assessments can be made without the individual present. Without Petitioner before the court, there could be no questioning of Petitioner about his circumstances, no opportunity to present evidence on his behalf in his presence, and no meaningful individualized determination. Due process requires, at minimum, that a person be present and afforded an opportunity to be heard before a court rules on his continued detention. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Respondents cannot schedule a bond hearing, fail to transport the detainee to that hearing, and then claim compliance with this Court’s Order. That is not compliance – it is evasion wearing the mask of process. The

March 25 Order required Petitioner to receive an individualized bond hearing; it cannot reasonably be read to permit Respondents to hold a hearing about Petitioner in Petitioner's absence. The failure to produce Petitioner at the March 30 bond hearing renders that proceeding a nullity and triggers the fallback provision requiring Petitioner's immediate release.

II. The Immigration Court's Refusal to Conduct a Bond Hearing Does Not Excuse Respondents' Failure to Comply with This Court's Order

In addition to not ensuring Petitioner's presence at his scheduled bond hearing, DHS and ICE moved Petitioner out of state and literally across the country. *See Exh. B-C*. Because of these two actions from DHS and ICE, failing to ensure Petitioner's presence at the bond hearing and moving Petitioner to an out of state ICE detention facility, Petitioner's bond hearing could not move forward. *Id.* The Immigration Judge stated that because Petitioner was not in attendance, and because he no longer had jurisdiction over Petitioner since Petitioner was now out of the state of Florida, he had to declare a "No Action" on the bond hearing and close the bond case. *See Exh. B.*

Respondents cannot hide behind the immigration court's jurisdictional ruling to avoid their obligations under this Court's Order, especially when their actions and inactions caused that very result. The March 25 Order imposed the compliance obligation on Respondents – the federal officials

responsible for Petitioner's custody – not on EOIR, not on the Immigration Court. The Order specifically contemplated that EOIR might decline to hold a compliant hearing, or otherwise decline to consider bond, and it expressly required Respondents to release Petitioner in that event. *See* Doc. 11 at pg. 6 n. 3. That contingency has now materialized, through the actions and inactions of Respondents, and Respondents cannot treat the Immigration Court's "No Action" ruling as an excuse for failing to comply with this Court's Order. The obligation to release Petitioner is not conditioned on EOIR's cooperation; it is triggered precisely by EOIR's failure to act.

III. Petitioner's Ongoing Detention Is Unlawful and Causes Irreparable Harm

This Court has already adjudicated that Petitioner's detention under § 1225(b)(2) is unlawful. Every additional day of detention thus constitutes an ongoing constitutional violation. The Eleventh Circuit has consistently recognized that "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury," *Elrod v. Burns*, 427 U.S. 347, 373 (1976), and this principle applies with equal, if not greater, force to the deprivation of physical liberty. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.").

There is no legitimate governmental interest in continuing to detain Petitioner in defiance of this Court's Order, let alone an interest that could outweigh the ongoing and compounding harm to his liberty.

IV. This Court Should Order Immediate Release

The March 25 Order set out a clear and binary structure: hold a compliant bond hearing within ten days, or release Petitioner. *See* Doc. 11 at pg. 7. Respondents have failed the first prong. The hearing on March 30 was not a bond hearing – it was a jurisdictional refusal dressed up as one.

The immigration court stated that they did not have jurisdiction over the Petitioner or over the bond hearing since DHS informed the Immigration Court that Petitioner would not be in attendance and that Petitioner was being moved to an out of state ICE detention facility. *See* Exh. B. The Immigration Judge ruled “No Action” on the March 30 bond hearing, and closed the bond case. *Id.* There was no weighing of flight risk, no consideration of community ties, no evaluation of Petitioner's pending adjustment application, and no individualized finding of any kind. The proceeding was a nullity for purposes of this Court's Order.

The fallback provision has therefore been triggered by operation of this Court's own language. *See* Doc. 11 at pg. 7. Petitioner must be released. This is not a close call. Respondents were given ten days and a clear roadmap. They have produced nothing that satisfies this Court's Order. Allowing the

deadline to expire while Petitioner remains unlawfully detained – in direct contravention of a federal court judgment – would render this Court’s Order a nullity and reward a pattern of administrative evasion that this Court’s habeas jurisdiction exists to check.

Courts in this district and across the Eleventh Circuit have ordered immediate release in materially identical circumstances. *See Alvarez Puga v. Assistant Field Office Director*, No. 1:25-cv-24535 (S.D. Fla. Oct. 15, 2025) (ordering release where immigration court refused bond hearing for parolee detained under § 1225(b)(2) theory); *Hinojosa Garcia v. Noem*, No. 2:25-cv-879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025) (same); *Vasquez Carcamo v. Noem*, No. 2:25-cv-922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 2025) (same). This Court relied on those very decisions in granting habeas relief. It should reach the same result now in enforcing it.

Courts in this district have previously been asked to consider and grant Motions to Enforce Judgment in Habeas Corpus cases. *See Cuevas Medina v. Noem*, No. 2:26-CV-00116-SPC-NPM, 2026 WL 496755, at *1 (M.D. Fla. Feb. 23, 2026) (“[t]he only appropriate habeas relief now is release from custody.”); *see also Fernandez Alvarez v. Noem*, No. 2:26-CV-00313-SPC-DNF, 2026 WL 598614, at *1 (M.D. Fla. Mar. 4, 2026) (“[t]he Court’s prior Opinion and Order thus requires the respondents to release [Petitioner] from custody.”).

Petitioner is not a flight risk. He is not a danger to the community. There is no legitimate governmental interest – none – in keeping him detained one day longer. Respondents must immediately release Petitioner.

CONCLUSION

For the foregoing reasons, Petitioner Luis Alberto Bejerano Amador respectfully requests that this Court find that Respondents have failed to comply with this Court's March 25, 2026 Order, order Petitioner's immediate release under reasonable conditions of supervision, consistent with the fallback provision of that Order, and grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

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Counsel for Petitioner

Dated: April 9, 2026

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on **April 9, 2026**, a true and correct copy of the foregoing **PETITIONER'S MOTION TO ENFORCE JUDGEMENT** was filed via CM/ECF, which will automatically serve all counsel of record.

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