

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF FLORIDA**

CARLOS A. HERNANDEZ ESCALONA,)

Petitioner)

Case No. 2:26-cv-00769-SPC-NPM

v.)

KRISTI NOEM, DHS SECRETARY)

et. al.)

Respondents)

**PETITIONER'S MOTION TO ENFORCE COURT ORDER AND
FOR IMMEDIATE RELEASE**

COMES NOW Petitioner, Carlos A. Hernandez Escalona, by and through undersigned counsel, pursuant to 28 U.S.C. §§ 1651, 2241, and 2243, and respectfully moves this Court to enforce its prior Order granting habeas relief, to issue all writs necessary and appropriate in aid of this Court's jurisdiction, and to order Petitioner's immediate release from immigration detention.

I. INTRODUCTION

On April 1, 2026, this Court granted Petitioner's petition for writ of habeas corpus and ordered Respondents, within ten days, either to provide Petitioner with an individualized bond hearing before an Immigration Judge or to release Petitioner from custody under reasonable conditions of supervision. The Court further determined that Petitioner's detention is governed by 8 U.S.C. § 1226(a), not § 1225, and that he is therefore entitled to a bond hearing.

On April 10, 2026, Petitioner was brought before an Immigration Judge for what purported to be the habeas-ordered custody hearing. The Immigration Judge denied bond. The written decision demonstrates on its face that the Immigration Court did not provide the hearing required by this Court's Order. The Immigration Judge concluded that Petitioner is an "arriving alien" and that the Court "does not have jurisdiction" to grant bond under 8 C.F.R. § 1003.19(h)(2)(i)(B), while simultaneously stating that the Court considered the request pursuant to the federal court's Order.

Accordingly, Respondents have not complied with this Court's conditional habeas order. This Court retains jurisdiction to determine compliance and to execute its judgment. Because the condition was not satisfied, immediate release is the appropriate remedy.

II. FACTUAL BACKGROUND

Petitioner filed this habeas action challenging the legality of his continued immigration detention. On April 1, 2026, this Court granted the petition and ordered Respondents, within ten

days, either to provide Petitioner with an individualized bond hearing before an Immigration Judge or to release him from custody. The Court specifically held that Petitioner's detention is governed by 8 U.S.C. § 1226(a) and that he is entitled to a bond hearing.

On April 10, 2026, Petitioner appeared before the Immigration Court for what purported to be the required custody hearing. In a written order dated April 10, 2026, the Immigration Judge denied bond. The order states that Petitioner is an "arriving alien" and therefore ineligible for bond and that the Immigration Judge lacks authority to grant bond pursuant to 8 C.F.R. § 1003.19(h)(2)(i)(B).

The written order contains no indication that the hearing was conducted under the statutory framework mandated by this Court. To the contrary, the decision rests entirely on the same legal premise this Court rejected—namely, that Petitioner is subject to mandatory detention as an arriving alien and is not eligible for bond.

Petitioner remains detained in immigration custody. Because Respondents have not provided the hearing this Court ordered, Petitioner continues to suffer unlawful detention in violation of this Court's April 1, 2026 Order.

III. ARGUMENT

A. This Court Retains Jurisdiction to Determine Whether Respondents Complied with Its Conditional Habeas Order and to Execute Judgment if They Did Not.

A conditional grant of habeas relief remains subject to the district court's continuing authority to determine whether the condition imposed by the court has been satisfied. Where the government complies, the matter is resolved. Where it does not, the district court retains jurisdiction to enforce its judgment and release follows.

That is precisely the situation here. This Court ordered either release or a lawful bond hearing under § 1226(a). Respondents did neither. Instead, the Immigration Court conducted a proceeding that applied a legal framework inconsistent with this Court's Order and continued Petitioner's detention. Because the condition imposed by this Court was not satisfied, this Court retains jurisdiction to enforce its judgment and order Petitioner's release.

B. The April 10, 2026 Immigration Court Proceeding Did Not Comply with This Court's Order.

This Court's April 1 Order required a bond hearing consistent with its determination that Petitioner is detained under § 1226(a). The Immigration Court's decision does not reflect compliance with that requirement. Instead, the Immigration Judge applied the arriving-alien jurisdictional bar, concluded that no bond authority exists.

That is not a mere procedural defect. The Immigration Judge's decision rests on the same statutory interpretation this Court rejected. By treating Petitioner as an arriving alien ineligible for bond and applying the wrong legal standard, the Immigration Court failed to provide the hearing required by this Court.

A hearing conducted under an incorrect statutory framework does not cure the constitutional violation identified in the habeas order. It perpetuates it.

C. The Immigration Judge's Express Assertion That He Lacked Authority to Grant Bond Confirms Non-Compliance.

The Immigration Judge expressly stated that the Court "does not have jurisdiction" to grant bond. A tribunal that disclaims authority to grant the relief required by this Court has not provided a meaningful hearing.

The Immigration Court's attempt to simultaneously deny jurisdiction and purport to comply with this Court's Order does not cure the defect. A proceeding in which relief is legally unavailable cannot satisfy a federal habeas mandate requiring a bond hearing.

D. Respondents Failed to Cure the Constitutional Violation Identified by This Court.

This Court already determined that Petitioner is detained under § 1226(a) and is entitled to a bond hearing. The Immigration Court's decision ignores that holding and instead applies § 1225-based reasoning to deny bond altogether.

By applying the same legal framework this Court found unlawful, Respondents failed to cure the due process violation. Petitioner's detention continues under the same defective premise.

E. Immediate Release Is the Proper Remedy.

This Court afforded Respondents an opportunity to cure the violation by providing a lawful bond hearing. They failed to do so. The April 10 order demonstrates that the condition imposed by this Court was not satisfied.

Under settled habeas principles, once the government fails to comply with the terms of a conditional habeas order, release is the appropriate remedy. Petitioner remains detained solely because Respondents failed to carry out the relief this Court ordered.

IV. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Enforce its April 1, 2026 Order granting habeas relief;
2. Find that Respondents failed to comply with the conditions set forth in that Order;
3. Issue all writs necessary and appropriate in aid of this Court's jurisdiction pursuant to 28 U.S.C. § 1651;

4. Order the immediate release of Petitioner Carlos A. Hernandez Escalona from immigration detention under reasonable conditions of supervision;
5. And Grant such other and further relief as the Court deems just and proper.

DATED this 14th day of April, 2026.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2026, I electronically filed the foregoing MOTION TO ENFORCE with the Clerk of Court using the CM/ECF system.

DATED this 14th day of April, 2026.

Respectfully submitted,



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