

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

United States Courts
Southern District of Texas
FILED

APR 28 2026

Nathan Ochsner, Clerk of Court

ANDREA ARAUJO,

Petitioner,

v.

MARTIN FRINK, et al.,

Respondents.

Case No. 4:26-cv-02344

**PETITIONER'S RESPONSE IN OPPOSITION TO RESPONDENTS' MOTION TO
DISMISS**

I. PRELIMINARY STATEMENT

Petitioner respectfully submits this response as soon as practicable following Respondents' filing and requests that the Court accept this filing in the interest of justice given Petitioner's ongoing detention and the significant liberty interests at stake.

Respondents move to dismiss this habeas action as moot based on the entry of a voluntary departure order. That argument is legally incorrect. Petitioner remains detained and continues to suffer the exact injury challenged in her petition: detention without an individualized bond hearing. The case is therefore not moot.

II. THE PETITION IS NOT MOOT

A. Petitioner Remains Detained

Respondents' mootness argument fails at the threshold.

Petitioner is currently detained by ICE. The central injury challenged in this action; unlawful detention without a bond hearing is ongoing.

Because Petitioner remains in custody, there is a live case or controversy.

B. Voluntary Departure Does Not Eliminate the Injury

Respondents argue that Petitioner's agreement to voluntary departure renders the petition moot. That is incorrect.

The injury is not merely the existence of removal proceedings; it is continued detention without process. The voluntary departure order does not provide Petitioner with a bond hearing, nor does it remedy the lack of custody review.

In addition, Petitioner has filed an appeal before the Board of Immigration Appeals challenging the underlying order, including the circumstances under which voluntary departure was entered. Because that order is currently under review, it cannot serve as a basis to render this habeas petition moot.

Moreover, because Petitioner remains detained and subject to removal, dismissal on mootness grounds would improperly insulate unlawful detention from judicial review.

Therefore, the underlying constitutional violation remains.

C. The Entry of a Final Order Strengthens, Not Moots, the Claim

Following the denial of Petitioner's Motion to Reopen, she is now subject to a final order of removal.

This does not moot her claim. Instead, it underscores the severity of the deprivation:

- Petitioner has never received an individualized bond hearing;
- She remains detained;
- Her detention is now tied to a final order entered without meaningful process.

The absence of any custody determination renders this case more compelling, not moot.

The Government's position would effectively allow continued detention without review, even after entry of a final order, which is precisely the type of constitutional concern habeas review is designed to address.

III. PETITIONER'S CLAIMS REMAIN JUSTICIABLE

A. The Court Retains Jurisdiction Under 28 U.S.C. § 2241

This Court has jurisdiction over challenges to the legality of detention.

Petitioner challenges the statutory and constitutional basis for her custody. That claim remains live so long as she is detained.

B. The Government's Mootness Argument Improperly Relies on a Contested Voluntary Departure Order

Respondents rely on the voluntary departure order to argue mootness.

However:

- That order is being challenged;
- It was entered under coercive circumstances;
- It does not address or cure the unlawful detention.

The Government cannot rely on a disputed procedural outcome to defeat jurisdiction over a live constitutional claim.

Further, Petitioner's appeal before the Board of Immigration Appeals remains pending. The existence of an ongoing appeal confirms that the legal and factual issues surrounding Petitioner's detention and the voluntary departure order remain unresolved.

IV. PETITIONER CONTINUES TO SUFFER IRREPARABLE HARM

Petitioner is a victim of a severe violent crime and has a pending U visa petition, for which USCIS has issued a Bona Fide Determination and deferred action.

Despite this, she remains detained without any bond hearing.

This ongoing detention constitutes irreparable harm that cannot be remedied after the fact.

This harm is particularly acute given that Petitioner is a documented victim of a life-threatening violent crime who has already received favorable discretionary protection from USCIS.

V. CONCLUSION

Respondents' motion to dismiss should be denied.

Petitioner remains detained and continues to suffer the precise injury challenged in her habeas petition. The case is not moot.

Dismissal at this stage would leave Petitioner detained without any meaningful judicial review of her custody, contrary to the fundamental purpose of habeas corpus.

VI. RELIEF REQUESTED

Petitioner respectfully requests that this Court:

1. Deny Respondents' Motion to Dismiss;
2. Allow this case to proceed on the merits;
3. Grant such further relief as the Court deems just and proper.

Dated this 04/27/2026



ANDREA ARAUJO