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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 ARTURO JOSE TABOADA VALDERRAMA,

12 Petitioner,

13 v.

14 WARDEN, *et al.*,

15 Respondents.
16

No. 1:26-CV-05257-DAD-CSK

**OPPOSITION TO MOTION FOR TRO AND
PETITION FOR WRIT OF HABEAS CORPUS**

17 The petition for writ of habeas corpus should be denied because Petitioner asks the Court only to
18 determine whether his detention is constitutional and it is: Petitioner is detained in accord with 8 U.S.C.
19 § 1226(a) and he has been provided due process. Accordingly, this case is factually and legally distinct
20 from the cases in the Court's Minute Order involving detention under 8 U.S.C. § 1225(b), and any case
21 where a noncitizen was previously "released" on supervision.

22 The parties agree that Petitioner overstayed a visa without authorization. ECF 1, Ex. 1 (I-213), 2
23 (notice to appear). Petitioner was encountered by local law enforcement on or about May 17, 2026,
24 during a traffic stop and identified as being present unlawfully. He was subsequently placed in
25 immigration detention. Accordingly, Petitioner is detained pursuant to 8 U.S.C. § 1226(a), and is
26 entitled to a bond hearing. Petitioner requested a bond hearing at the time he was redetained. Ex. 3 (I-
27 286). ERO-ICE filed that request with EOIR on May 20, 2026. Ex. 3. DHS followed up with EOIR
28 once notified of the instant petition and a bond hearing has been scheduled for July 17, 2026. Ex. 4.

Undersigned counsel has requested Petitioner's custodian promptly serve Petitioner with the notice, if service has not already been effectuated.

I. BACKGROUND

A. Detention Pursuant to 8 U.S.C. § 1226(a)

Section 1226, of Title 8 of the United States Code governs the detention of aliens who, like Petitioner, were initially lawfully admitted into the U.S. pursuant to a visa but are eligible for removal because they remained beyond the term of the visa without authorization. Section 1226(a) provides for the arrest and detention of these aliens "pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Under § 1226(a), DHS has "broad discretion" to detain an alien during his removal proceedings, release him on bond, or release him on conditional parole. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022) (citation and internal quotations omitted) (recognizing DHS's broad discretion).

Under § 1226(a) and its implementing regulations, an alien can request a custody redetermination (*i.e.*, a bond hearing) by an IJ at any time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1), 1003.19; 53 F.4th at 1197. Section 1226(a)'s implementing regulation provides that an application for a bond redetermination hearing may be made by a respondent (Petitioner in this case) orally, in writing, or, at the discretion of the immigration judge, by telephone. 8 C.F.R. § 1003.19(b). In a custody redetermination hearing under 8 U.S.C. § 1226(a), an alien "must establish to the satisfaction of the Immigration Judge and the Board that he or she does not present a danger to persons or property, is not a threat to the national security, and does not pose a risk of flight." *Matter of Siniauskas*, 27 I&N Dec. 207, 207–08 (discussing Respondent's burden) (BIA 2018); *Rodriguez Diaz*, 53 F.4th at 1197 (discussing detainee's burden). The IJ may continue detention or release the alien on bond or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1); *see In re Guerra*, 24 I&N Dec. 37, 39–40 (BIA 2006) (listing nine factors IJs may consider in determining eligibility for bond). The alien may be represented by counsel and submit evidence in support of his claims. 53 F.4th at 1197 (citing 8 C.F.R. § 1003.19(b); *Matter of Fatahi*, 26 I. & N. Dec. 791, 792 (B.I.A. 2016)). In addition, he can also appeal an adverse decision to the Board of Immigration Appeals ("BIA"). *Id.*

Moreover, an individual detained pursuant to § 1226(a) may request an additional bond hearing whenever he experiences a material change in circumstances. *Id.* (citing 8 C.F.R. § 1003.19(e)). The same procedures apply to this new hearing, and its outcome is also appealable to the BIA. *Id.* Thus, § 1226(a) provides “extensive procedural protections that are unavailable under other detention provisions.” 53 F.4th at 1202.

II. ARGUMENT

Petitioner’s detention is lawful and satisfies due process. The Court’s role in evaluating a due process challenge is “limited to determining whether the procedures meet the essential standard of fairness under the Due Process Clause and does not extend to imposing procedures that merely displace congressional choices of policy.” 53 F.4th at 1213 (citation to Supreme Court case omitted).

Petitioner has the right to a custody redetermination hearing pursuant to 8 U.S.C. § 1226(a) and its implementing regulations at his request. This is a hearing where Petitioner bears the burden of establishing that he does not constitute a danger or a flight risk. He requested a hearing and a hearing has been scheduled.¹ Thus, his detention is lawful and satisfies due process. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1207–08 (considering the process Rodriguez Diaz received including a bond hearing approximately two months after he was detained under section 1226(a)); 1213 (finding section 1226(a)’s procedures satisfy the constitution both facially and as applied to Rodriguez Diaz). Section 1226(a) does not provide for additional process, such as a pre-deprivation hearing. The Ninth Circuit has held that § 1226(a)’s procedures facially satisfy due process. *Id.* at 1213 (Finding section 1226(a)’s procedures satisfy due process, both facially and as applied to Rodriguez Diaz). Those procedures provide for a custody determination by DHS and a custody redetermination by an immigration judge. Both occurred here. Due process does not and should not be found to require more, particularly in a run of the mill case such as this one, or it would have the effect of nullifying the statute and its procedures. Petitioner needs to avail himself of the available processes.

¹ Petitioner has the opportunity to file evidence with the immigration court in advance of his bond hearing. *See for example* <https://www.justice.gov/eoir/policy-manual-eoir/part-II/icpm/chapter-8-3> (“If a document is filed in advance of the hearing but separate from the request for a bond hearing, it should be filed with a cover page labeled “BOND PROCEEDINGS.” *See* Appendix D (Cover Pages)”). Petitioner should follow all requirements for any submission including, but not limited to, service on the opposing party.

III. CONCLUSION

For the foregoing reason Petitioner's motion for a TRO should be denied and the petition dismissed or stayed pending confirmation that a bond hearing was held.

Dated: July 10, 2026

Respectfully submitted,

ERIC GRANT
United States Attorney

By: /s/ Shelley D. Weger
SHELLEY D. WEGER
Assistant United States Attorney

Attorneys for Respondents

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Eastern District of California and is a person of such age and discretion to be competent to serve papers. She also certifies that on July 10, 2026, a copy of the OPPOSITION was served by placing said copy in a postpaid envelope addressed to the person(s) hereinafter named, at the place(s) and address(es) stated below, which is/are the last known address(es), and by depositing said envelope and contents in the United States Mail at Sacramento, California.

Addressee Arturo Jose Taboada Valderrama



CENTRAL VALLEY ANNEX (ICE)
P.O. Box 637
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/s/ Shelley D. Weger
SHELLEY D. WEGER