

United States District Court
Western District of Texas
San Antonio Division

Chanchal Singh,
Petitioner,

v.

Markwayne Mullin, *et. al.*,
Respondents.

No. 5:26-CV-681-FB

**Federal Respondents' Response to Motion for Enforcement of Habeas Order and Order
for Show Cause**

Federal¹ Respondents provide this response to Petitioner's Motion for Enforcement of Habeas Order. ECF No. 10.

On March 12, 2026, the Court granted Petitioner's Petition for Writ of Habeas Corpus in part and ordered a bond hearing or release on or before March 18, 2026. See ECF No. 7 at 6. On March 20, 2026, an Immigration Judge provided Petitioner with a bond hearing. *See* Pet. Ex. B (IJ Bond Order). The bond hearing was inadvertently delayed because ICE believed in good faith that the deadline was March 23, 2026, instead of March 18, 2026. On March 20, 2026, after full consideration of the evidence presented, the Immigration Judge denied bond, making the discretionary determination that Petitioner is a flight risk. *See* Pet. Ex. B (IJ Bond Order). Petitioner reserved appeal and had up until April 20, 2026, to file notice of an appeal with the Board of Immigration Appeals (BIA). *See* Pet. Ex. B (IJ Bond Order). Based upon information and belief, no appeal has been filed and Petitioner's time to file an appeal has expired.

On April 18, 2026, Petitioner filed a Motion to Enforce the Court's Order and for Order

¹ The Department of Justice represents only federal employees in this action.

to Show Cause, alleging that the hearing was not in compliance with the Court's order. *See generally* ECF No. 10. Petitioner claims the motion should be granted on the timeliness violation alone. *Id.* at 2. Petitioner references Respondents' advisory to the Court, which acknowledges an inadvertent failure to conduct the bond hearing on March 18, 2026, as opposed to March 20, 2026. ECF No. 10 at 4; *see also*, ECF No. 9. Respondents remedied the inadvertent failure to provide a bond hearing as directed by the Court on March 20, 2026.

Petitioner further characterizes the bond hearing as involving a "generic" presentation of flight risk by DHS counsel. ECF No. 10 at 2. However, Petitioner concedes that counsel for DHS later asked leave to articulate his argument for the record. *Id.* Respondents argue that the DHS met its burden by clear and convincing evidence. *See* Pet. Ex. A. The Immigration Judge considered factors as to flight risk and determined the Petitioner to be a flight risk. *See* Pet. Ex. A; *see also*, Pet. B (IJ bond Order). These findings establish that a hearing was held pursuant to the Courts order. ECF No. 10

This Court does not have jurisdiction to review the immigration judge's decision or reweigh the evidence and find this Court would have ruled differently. 8 U.S.C. § 1226(e); *Demore v. Kim*, 538 U.S. 510, 516, 123 S.Ct. 1708, 155 L.Ed.2d 724 (2003) (explaining that 8 U.S.C. § 1226(e) bars an alien's challenge to "a discretionary judgment by the Attorney General or a decision that the Attorney General has made regarding his detention or release" (internal quotation marks omitted)).

Other Courts in this District have agreed that there is no judicial review of IJ bond determinations. *See, e.g., Leon-Gonzalez v. Anda-Ybarra, et al.*, 3-26-cv-00026-KC (W.D. Tex. February 10, 2026) (ECF No. 12) ("This Court lacks jurisdiction to sit in review of an IJ's discretionary finding that an alien is a flight risk and therefore should be denied bond."); *Gonzalez*

Cambar v. Bondi, 5:26-CV-210-OLG (W.D. Tex. Dec. February 20, 2026) (ECF No 11) (“While petitioner may be frustrated with the result of that hearing, this Court lacks jurisdiction to review the discretionary judgment of the immigration judge.”).

As such, this Court should deny this motion without the need for an evidentiary hearing.

I. Argument

A. The Court Lacks Jurisdiction to Review a Discretionary Decision regarding Detention.

We start, as always, with jurisdiction.” *Texas v. Biden*, 20 F.4th 928, 947 (5th Cir. 2021), as revised (Dec. 21, 2021), rev'd and remanded, 597 U.S. 785, (2022). Before addressing any other matters before the Court, jurisdiction must first be established.

Petitioner cannot now use this motion in habeas proceedings as a vehicle to dispute the Immigration Judge’s discretionary findings. *Saint Fort v Ashcroft*, 329 F.3d 191, 200 (1st Cir. 2003)(noting that the Supreme Court has “read the jurisdiction-limiting provision in § 1226(e) as applying only to review of the Attorney General's discretionary judgment”) (citing *Demore v. Kim*, 538 U.S. 510, 516–517(2003)); *see also Loa-Herrera v. Trominski*, 231 F.3d 984, 991–992 (5th Cir.2000); 8 U.S.C. § 1226(e).

8 U.S.C. § 1226(e) strips this Court of jurisdiction to hear such a challenge. Section 1226(e) states:

“(e) Judicial review

“The Attorney General's discretionary judgment regarding the application of this section shall not be subject to review. No court may set aside any action or decision by the Attorney General under this section regarding the detention or release of any alien or the grant, revocation, or denial of bond or parole.”

The bar to judicial review was discussed and analyzed by the Supreme Court and also found that 8 U.S.C. § 1226(e) barred challenges to discretionary decisions. *See Demore v. Kim*, 538 U.S. 510, 516, 123 S.Ct. 1708, 155 L.Ed.2d 724 (2003) (explaining that 8 U.S.C. § 1226(e) bars an alien's challenge to “a discretionary judgment by the Attorney General or a decision that the Attorney General has made regarding his detention or release” (internal quotation marks omitted)); *Pensamiento*, 315 F. Supp. 3d at 688 (“Congress has eliminated judicial review of discretionary custody determinations); *See Blandon v. Barr*, 434 F. Supp. 3d 30, 36 (W.D.N.Y. 2020) (while the Court may consider whether the IJ complied with the Court-ordered procedural protections, it does not reweigh the evidence nor consider whether it would have made the same determination as the IJ).

Petitioner is not entitled to judicial review of his most recent bond decision. The finding makes clear that a hearing was held under §1226 standard set by this court, the Petitioner is subject to detention pursuant to §1226 as a flight risk. To the extent that Petitioner asks the Court to second-guess the Immigration Judge's weighing of the evidence, that claim is directed solely to the Immigration Judge's discretion and is unreviewable.

B. Contempt

Willfulness is an element of criminal contempt and must be shown beyond a reasonable doubt. *United States v. Remini*, 508 F.2d 529, 531 (7th Cir. 1974). A finding of civil contempt may be rebutted upon a showing of mitigating circumstances and good faith attempts to comply. *Carter v. Local 556, Transport Workers Union of America*, 156 F.4th 459, 502 (5th Cir. 2025). The Court has discretion to hold a party in contempt. *Gashco v. Global Fitness Holdings, LLC*, 875 F.3d 795, 800 (6th Cir. 2017). However, contempt is a sanction that should be used with caution and as a measure of last resort. *Id.* at 799.

In the present case, as set forth above, the Respondents inadvertently failed to hold a bond hearing on March 18, 2026, as ordered by the Court. ECF No. 7. Respondents in good faith remedied its failure to comply with the Court's order by providing Petitioner with a bond hearing on March 20, 2026. *See* Pet. Ex B (IJ Bond Order).

Respondents unintentionally and without purposeful intention violated the Court's order, believing a bond hearing was ordered to be held on or before March 23, 2026. Respondents remedied their failure to comply with the Court's order by providing a bond hearing on March 20, 2026. Thus, Petitioner fails to make a showing sufficient to warrant a finding of contempt.

II. Conclusion

The Court should deny the motion in its entirety. The Court is stripped of jurisdiction to review the discretionary determination of the immigration judge and may not consider whether it would have made the same finding. 8 U.S.C § 1226(e).

This Court may be concerned how § 1226(e) effects the remedying of harms from illegal detention, but the Third Circuit's reasoning regarding another jurisdictional stripping statute 8 U.S.C. 1252(b)(9) rings true here. "Congress has the power to balance the orderly adjudication of claims with concerns about remedying harms from illegal detention." *Khalil v. President, United States of Am.*, No. 25-2162, 2026 WL 111933, at *10 (3d Cir. Jan. 15, 2026). The balance that Congress struck in § 1226(e), removed jurisdiction from this Court to review these discretionary determinations.

Additionally, other decisions within the Western District of Texas support this finding. *See, e.g., Leon-Gonzalez v. Anda-Ybarra, et al.*, 3-26-cv-00026-KC (W.D. Tex. February 10, 2026) (ECF No. 12) ("This Court lacks jurisdiction to sit in review of an IJ's discretionary finding that an alien is a flight risk and therefore should be denied bond."); *Gonzalez Cambar*

v. Bondi, 5:26-CV-210-OLG (W.D. Tex. Dec. February 20, 2026) (ECF No 11) (“While petitioner may be frustrated with the result of that hearing, this Court lacks jurisdiction to review the discretionary judgment of the immigration judge.”). Further, Petitioner has failed to make a showing of contempt, and that the Court should deny Petitioner’s motion for Order to Show Cause.

Date: April 27, 2026

Respectfully submitted,

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