IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

JORGE MIGUEL JUAN,	§	**Civ. No. 3:26-cv-00454-KC**
	§	
Petitioner,	§	DHS File Number: [redacted]
	§	
vs.	§	
	§	
PAMELA BONDI, et al.,	§	
	§	
Respondents.	§	
	§	

PETITIONER'S REPLY ADDRESSING THE SIGNIFICANCE OF A SEPTEMBER 5, 2025 BOND PROCEEDING

Filed Pursuant to the Court's Order

I. INTRODUCTION

This Court ordered Petitioner to address whether a September 5, 2025 bond proceeding resolves the constitutional claims raised in his writ of Habeas Corpus. The record now before this Court demonstrates that it does not. That proceeding, far from supplying the missing constitutional foundation for continued detention, confirms the absence of any meaningful individualized review.

Three independent sources of documentary evidence establish that the September 5, 2025 proceeding was constitutionally deficient. First, the EOIR Electronic Case Adjudication System (ECAS) record for Petitioner (A-Number [redacted] shows that the September 5 bond case lists both the Hearing Location and Hearing Medium as "-- NA --." *See* Ex. 5 (ECAS Record, Bond Case, Charging Doc. Date 08/12/2025, Bond Request Date 08/25/2025). Second, an examination of the Digital Audio Recording (DAR) system maintained by EOIR for this case reveals that no audio recording exists for September 5, 2025. The DAR system lists recordings for five bond hearing dates: 08/26/2025, 10/08/2025, 10/17/2025, 12/09/2025, and 02/03/2026. September 5, 2025 is conspicuously and entirely absent from that record. *See* Ex. 4 (DAR Export, A-Number [redacted]. Third, the only document attributable to September 5, in the form of the Immigration Judge's order submitted by Respondents as Exhibit C, is a pre-printed checkbox form bearing nothing more than the bare notation that the respondent is a "flight risk." It contains no factual findings, no evidentiary analysis, and no legal reasoning.

Taken together, these three evidentiary points compel a single conclusion: whatever occurred on September 5, 2025 did not constitute a constitutionally adequate individualized custody determination. Petitioner's due process claims are not extinguished by a proceeding where the Government's own official records provide no evidence it meaningfully occurred. This Court should therefore grant habeas relief.

II. ARGUMENT

A. Section 1226(e) Does Not Bar This Court's Jurisdiction.

The Court's Order cites *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 678–79 (W.D. Tex. 2025), for the proposition that this Court "cannot sit in review of the IJ's decision" if Petitioner "has received an individualized custody determination." That principle derives from 8 U.S.C. § 1226(e), which restricts judicial review of discretionary decisions made under § 1226. Respondents have argued throughout this proceeding, however, that Petitioner is detained under § 1225(b)(2)(A)—not § 1226—and that INA § 236(a) does not apply to him. Respondents cannot simultaneously invoke § 1226(e)'s jurisdiction-stripping provision as a shield while maintaining that § 1226 confers no rights on Petitioner. If § 1226 does not govern his detention, § 1226(e) does not bar review. This Court's jurisdiction under 28 U.S.C. § 2241 is unimpaired.

B. The September 5, 2025 Proceeding Was Not a Constitutionally Adequate Individualized Custody Determination.

Even if § 1226(e) were applicable, the September 5, 2025 proceeding does not qualify as the kind of individualized custody determination that would trigger its protections or satisfy due process. The official EOIR record for this case, now submitted as exhibits, documents the inadequacy of that proceeding across three independent dimensions.

1. The EOIR ECAS Record Shows No Designated Location or Medium.

The EOIR Electronic Case Adjudication System (ECAS) for Petitioner's completed bond case (Bond Request Date: 08/25/2025; IJ Decision Date: 09/05/2025) reflects "– NA –" in both the Hearing Location and Hearing Medium fields. *See* Ex. 5. These fields, which in a properly convened proceeding identify the courtroom and the modality (in-person, video conference, telephonic), are blank. The absence of any designated hearing location or medium is consistent

with no formal court proceeding having been convened and is inconsistent with the Government's representation that Petitioner received a meaningful individualized bond hearing.

2. No Digital Audio Recording Exists for September 5, 2025.

The EOIR Digital Audio Recording (DAR) system for this case (A-Number [redacted]) reveals that recordings exist for exactly five hearing dates: 08/26/2025, 10/08/2025, 10/17/2025, 12/09/2025, and 02/03/2026. *See* Ex. 4 (DAR Export); Ex. 4 (DAR Player Screenshot). September 5, 2025 does not appear anywhere in the DAR system. It is not listed as a hearing with a missing or corrupted recording. It is simply absent. (Of note, while 12/09/2025 is listed among the audio recordings, the actual audio portion of that hearing is also missing. But at least the date of that hearing appears in the DAR System).

The absence of a September 5 recording, while recordings exist for the hearing dates in this case, is not an ordinary administrative gap. It means there is no record of what evidence was presented, what arguments were made, what the government was required to show, or how the Immigration Judge reached the conclusion reflected in the checkbox order. A proceeding that leaves neither an audio recording nor a reasoned written record cannot satisfy due process.

3. The IJ's Written Order Is a Bare Checkbox Devoid of Factual Findings or Legal Analysis.

The written output of the September 5 proceeding, submitted by Respondents as Exhibit C, is a pre-printed form. The entirety of the Immigration Judge's reasoning is a single checked box and the notation that the respondent is a "flight risk." There are no findings of fact, no identification of evidence relied upon, no legal standard articulated, and no explanation of why Petitioner's documented equities—nearly two decades of physical presence in the United States, homeownership, three United States citizen children including one with developmental disabilities

requiring ongoing therapy, full-time employment, and no criminal history—did not rebut a finding of flight risk. There is no consideration of whether less restrictive alternatives to detention were adequate.

Due process requires, at minimum, a decision by a neutral adjudicator with reasons adequate to permit meaningful review. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). An unexplained checkbox is not a finding. It is indistinguishable in substance from the absence of a hearing.

4. The Proceeding Was a Legal Nullity Under Respondents' Own Theory.

There is a fourth and independently dispositive problem. The EOIR record reflects that the September 5 bond proceeding was captioned as a custody redetermination "pursuant to 8 C.F.R. § 1236." At the same time, DHS and Respondents have maintained throughout this litigation that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), under which immigration judges lack jurisdiction to conduct bond proceedings or grant bond. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). If Respondents are correct that the IJ lacked jurisdiction to grant bond under § 1225, the September 5 proceeding was a legal nullity from the outset, one in which from the Government's statutory interpretation, the adjudicator could not, as a matter of law, order Petitioner's release regardless of the evidence presented. Respondents cannot simultaneously argue that the law prohibited a meaningful bond hearing and rely on that same hearing to defeat Petitioner's constitutional claims.

C. The Totality of the Record Warrants Habeas Relief.

Considered individually, each of the four deficiencies above would raise serious constitutional concerns. Taken together, they establish that September 5, 2025 provided no constitutionally adequate individualized custody determination: no designated hearing room or

medium; no audio recording despite this court's practice of recording bond proceedings; a bare checkbox order with no findings, analysis, or consideration of alternatives; and a tribunal that, under Respondents' own legal theory, lacked authority to grant the relief due process demands. A proceeding of which no recording exists, at which no hearing medium was memorialized, culminating in a form order with no reasoning, before a tribunal the government argues lacked authority to act, is not a hearing. It is the form of process without legal substance. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

D. Clarification of the Record Regarding Petitioner's Entry History.

Respondents' brief references Petitioner's 2008 voluntary departure order. The original petition described Petitioner's initial entry into the United States as a minor in 2006. To clarify the complete record: the Government's own I-213 narrative confirms that "on August 23, 2008, MIGUEL-JUAN, Jorge's Voluntary Departure to Guatemala was confirmed." *See* Government's I-213 Narrative (ECF No. 3-3). Petitioner complied with that order. He subsequently re-entered the United States and has been continuously present since that re-entry—a period exceeding fifteen years at the time of his 2025 apprehension.

Compliance with a voluntary departure order is an affirmative equity, not a negative one, and does not preclude eligibility for cancellation of removal for nonpermanent residents under INA § 240A(b), 8 U.S.C. § 1229b(b). While a prior grant of voluntary departure may foreclose a second grant of that specific form of relief, it does not bar his application for lawful permanent resident status through a cancellation of removal and adjustment of status application. Petitioner's continuous presence since his last entry, combined with his three qualifying United States citizen children—including his youngest child, who requires ongoing speech and developmental therapy—as well as the absence of any criminal history, forms the factual basis for that pending

application. Removal is not imminent; his next master calendar hearing is April 1, 2026. The legitimate purposes of civil detention could be fully served through less restrictive conditions as an alternative to detention.

III. CONCLUSION

The September 5, 2025 bond proceeding does not resolve Petitioner's constitutional claims. The EOIR's own official systems (the ECAS record, the DAR record, and the judicial checkbox order) establish that due process has not been satisfied. Each deficiency standing alone would warrant serious scrutiny. Together, they confirm that Petitioner has never received a constitutionally adequate individualized custody determination. Petitioner respectfully requests that this Court grant habeas relief.

Respectfully submitted,

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