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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ANGEL DE JESUS, Gustavo

Petitioner,

v.

CHRISTOPHER LAROSE, Warden at Otay Mesa Detention Center,

Respondents.

CASE NO. **3:26-cv-03245-BJC-DEB**

Petitioner's Motion to Enforce Judgment and for Immediate Release

Introduction

On June 11, 2026, the Federal District Court ordered Respondents to hold a bond hearing no later than Friday, June 26, 2026. See Doc 5 at 2. Respondents are in clear defiance of the court's timeline and have violated the Order of this court by not scheduling or holding a bond hearing by the deadline of June 26, 2026. See Exhibit A. Accordingly, the court should grant outright release.

Legal Standard

Federal courts have authority to grant writs of habeas corpus to individuals detained in "violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3); Yildirim v. Hermosillo, No. C25-2696-KKE, 2026 WL 111358, at *1 (W.D. Wash. Jan. 15, 2026). Habeas petitioners must prove by the preponderance of the evidence that they are entitled to habeas relief. Davis v. Woodford, 384 F.3d 628, 638 (9th Cir. 2004) (citation omitted). "In habeas cases,

federal courts have broad discretion in conditioning a judgment granting relief," Lujan v. Garcia, 734 F.3d 917, 933 (9th Cir. 2013), and may dispose of habeas matters "as law and justice require," 28 U.S.C. § 2243. Here, the writ had already been granted, an order issued, and Respondents are in violation of that order.

Argument

1. **Violation of Fifth Amendment Right to Procedural Due Process - Failure by DHS to conduct individualized determination**

The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." Zadvydas, 533 U.S. at 693. 88. Due process requires that government action be rational and nonarbitrary. See United States v. Trimble, 487 F.3d 752, 757 (9th Cir. 2007). 89. While the Government has discretion to detain individuals under 8 U.S.C. § 1226(a), this discretion is not "unlimited" and must comport with constitutional due process. See Zadvydas, 533 U.S. at 698. 90. Under the Due Process Clause, immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." Demore, 538 U.S. at 527 (quoting Zadvydas, 533 U.S. at 690)

Respondents were unambiguously ordered to provide a bond hearing. "Respondents shall hold a bond hearing **no later than June 26, 2026**, and cannot deny bond at the hearing based on § 1225." Doc 5 at 2. Respondents' continuing detention of petitioner is now completely unauthorized and unconstitutional. Respondent's failure to conduct an individualized custody determination in accordance with the court's order and provide an opportunity for Petitioner to be heard in that process prior to or contemporaneous with Petitioner's detention

violates his due process rights. The Fifth Amendment requires more than "a pro forma hearing with a predetermined outcome." Chavez Ochoa v. Mason, No. 2:26-CV-00130, 2026 WL 541144, at *2 n.4 (S.D.W. Va. Feb. 26, 2026).

Here, the government is actively obstructing the administration of justice and habeas review. There is no basis for Petitioner's continued detention. Every additional day of detention without the ordered hearing compounds the ongoing violation of the Petitioner's Fifth Amendment Due Process rights.

2. Petitioner is not a flight risk or a danger

Petitioner has no criminal convictions and is not a flight risk. He has two U.S. citizen children and has been residing in the United States for over 10 years, since January of 2016. He is eligible for 42B cancellation of removal, because he has resided in the U.S. for 10 years and has a qualifying relative, namely his U.S. citizen children, who would suffer hardship if he were removed. He therefore has every incentive to attend all his immigration court proceedings. Furthermore, he has never been in proceedings before. He has never been deported before or granted voluntary departure. He has no criminal bars or other bars to relief.

Conclusion

The District Court ordered a bond hearing no later than June 26, 2026. To date, no bond hearing has been scheduled. Petitioner requested that he be released if the court did not hold a bond hearing. See Doc 1 at 2 Paragraph 5. Respondents were silent on that issue. See Doc 4. Since Respondents have defied the court's unambiguous order, the Court order Petitioner's immediate release under reasonable conditions.

Prayer for Relief

1. Hold Respondents in Contempt.
2. Order the immediate release of Petitioner with reasonable conditions of supervision.

3. In the alternative, we ask this court to exercise its inherent powers and hold a hearing itself and set a reasonable bond.

Table of Exhibits

A Declaration of Ann Shelnut, confirming no Bond Hearing has been scheduled

B Petitioner's US citizen children's birth certificates

Respectfully submitted,

Dated: June 29, 2026

/s/ David Szeles
David Szeles,
Attorney for Petitioner

Exhibit A

DECLARATION OF ANN J. SHELNUTT

I, Ann J. Shelnutt, declare under penalty of perjury under the laws of the United States that the following is true and correct:

1. I am employed as a law clerk at Global Law Group San Diego PC. I have personal knowledge of the facts stated herein, and if called as a witness, I could and would testify competently thereto.
2. As part of my duties, I communicate with clients regarding their immigration matters and coordinate with their attorney of record to relay information.
3. On June 26, 2026, I spoke with Respondent Gustavo Angel de Jesus regarding his immigration case.
4. Mr. Angel de Jesus is represented in all removal and custody proceedings by David Szeles, Esq.
5. During that conversation, Mr. Angel de Jesus confirmed that he never received notice that a bond hearing had been scheduled in his case. He also confirmed that a bond hearing has not been held for him.
6. Mr. Angel de Jesus stated that, had he received notice of the bond hearing, he would have appeared and participated in those proceedings.
7. I make this declaration based on my personal communication with Mr. Angel de Jesus on June 26, 2026.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 26, 2026, at San Diego, California.

Ann J. Shelnutt