MICHELE BECKWITH
Acting United States Attorney
MICHELLE RODRIGUEZ
Assistant United States Attorney
501 I Street, Suite 10-100
Sacramento, CA 95814

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JOHN DOE,

Petitioner,

v.

MOISES BECERRA, ET AL.,

Respondents.

CASE NO. 2:25-CV-00647-DJC-DMC

LIMITED SUPPLEMENTAL BRIEF IN OPPOSITION TO MOTION TO ENFORCE

The Ninth Circuit in *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011), held that a district court — after directing, through a 28 USC § 2241 habeas order, an Immigration Court to conduct a detention (bond) hearing — has authority to ensure compliance with its habeas order. *Id.* (citing *Gentry v. Deuth*, 456 F.3d 687, 692 (6th Cir.2006) (holding that a federal district court retains jurisdiction to determine whether a party has complied with the terms of a conditional order in a habeas case)). However, the Ninth Circuit recognized that the reviewing district court's authority is limited and does not include a requirement to address new arguments of the Petitioner under the ambit of ensuring compliance with its earlier habeas order. *Id.* at 1161.

While *Leonardo* made clear that a district court has limited § 2241 authority to review compliance with its habeas order directed to an Immigration Court, the district court in *Davis v. Garland*, 2023 WL 9474066, at *2-3 (W.D.N.Y. Dec. 21, 2023), recognized the well-established limits for such district court review, significantly in the context of compliance with a habeas order for Immigration Court detention (bond) hearing.

As a threshold concern, *Davis* is procedurally and factually identical to the instant matter. In *Davis*, as in this case, the petitioner demanded relief under § 2241. In fact, the petitioner identically demanded, as habeas relief, a compelled detention (bond) hearing in the Immigration Court before an Immigration Judge. In *Davis*, and in this case, a detention (bond) hearing was compelled via habeas relief. Also, the *Davis* district court, as here, compelled the Immigration Judge to ensure — at the compelled detention hearing — that the burden was upon the government to show clear and convincing evidence of dangerousness and risk of flight. Thereafter, as in this case, an Immigration Judge conducted a detention (bond) hearing with the result, also as in this case, of denial of bond because the non-citizen alien was both a danger and flight risk based on clear and convincing evidence shown by the government. In *Davis*, and here, the § 2241 petitioner, back at the district court, then filed a motion to enforce claiming the district court's order had not been followed based on evidentiary complaints and a process complaint (in *Davis* and here directed at the immigration court jurist).[1]

In addition to procedural and factual similarity, in *Davis*, the district court recognized its § 2241 review authority — as the Ninth Circuit in *Leonardo* held — was limited. *Compare Davis*, 2023 WL 9474066, at *5 *with Leonardo*, 646 F.3d at 1161. In *Davis*, the district court recognized its limited review as follows.

> But "[i]n reviewing [Petitioner's] motion to enforce, it is important to emphasize that the Court's task is narrow: it is to determine whether an IJ complied with the [Court's habeas order], not to review the hearing evidence *de novo*." *Blandon*, 434 F. Supp. 3d at 38 (citations and internal quotation marks omitted); *see Gutierrez Cupido*, 2020 WL 103477, at *3 (same); *see also Sol v. INS*, 274 F.3d 648, 651 (2d Cir. 2001) (declining to review a non-citizen's assertion that "the decisions of the IJ and BIA lacked adequate support in the record" because "federal jurisdiction over § 2241 petitions does not extend to review of discretionary determinations by the IJ and the BIA"). For that reason, an IJ's finding of "clear and convincing evidence" may be overturned only in limited circumstances, such as when "the evidence itself could not—as a matter of law—have supported the adjudicator's conclusion" or when it is "clear from the adjudicator's opinion itself that [the IJ] simply did not apply the correct standard to the facts." *Mathon*, 623 F. Supp. 3d at 213-14 (citation omitted).

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[1] The Federal Rules of Evidence do not apply in Immigration Court proceedings. *Hernandez-Guadarrama v. Ashcroft*, 394 F.3d 674, 681 (9th Cir. 2005). Accordingly, an Immigration Judge may proceed with declarations from Petitioner's own witnesses. *See id.* Also, Petitioner flatly misrepresents proceedings by claiming Petitioner himself was denied opportunity to provide testimony. *Compare* ECF 23, 33, *with* ECF 31-1 at 14 (transcript showing vague demand to buttress third-party declarations (already received into evidence) with redundant additional third-party (non-percipient) witness statements concerning "submitted" Red Notice and related police reports). Such embellishment — to the point of invention — should not again be tolerated by this Court.

Davis, 2023 WL 9474066, at *5. In *Davis*, the district court relied on *Mathon v. Searls*, 623 F. Supp. 3d 203, 213, 214 (W.D.N.Y. 2022), wherein — in conducting Immigration Court hearing review — the district court held it was not reviewing Immigration Judge discretionary assessments but merely checking to ensure the "conditions" in its habeas order were followed.

Also, very significantly, the *Davis* court relied upon the Second Circuit holding in *Sol v. INS*, 274 F.3d 648, 651 (2d Cir. 2001), which affirmed district court refusal to review a non-citizen's assertion that "the decisions of the IJ and BIA lacked adequate support in the record" because "federal jurisdiction over § 2241 petitions does not extend to review of discretionary determinations by the IJ and the BIA." In fact, coming full circle, in express agreement with the review limitations generally recognized in 2011 in *Leonardo*, the Second Circuit decision in *Sol*, 274 F.3d at 651, earlier had been followed and adopted by the Ninth Circuit. *See Gutierrez-Chavez v. I.N.S.*, 298 F.3d 824, 829 (9th Cir. 2002) (following — in 2002 — the "bounded scope of habeas review under § 2241" set forth by the Second Circuit in *Sol*).

Accordingly, this Court in reviewing the Immigration Court detention (bond) hearing that occurred pursuant to its § 2241 order, must — as in *Gutierrez-Chavez*, *Leonardo*, *Sol*, and *Davis* — conduct limited review of the Immigration Court proceedings, to wit: only as to whether the conditions of this Court's § 2241 order were followed. *Davis*, 2023 WL 9474066, at *5.

Against this background, as previously set forth through Respondents' brief and through argument, the Immigration Judge exactly followed this Court's habeas order, and its evidentiary assessments and discretionary determinations (including as to weight provided to evidence), all standing outside the habeas order's conditions, may not be reviewed or supplanted by this Court. Also, this Court may not engage in "got you" review against the Immigration Judge, as Petitioner demands in his claim the Immigration Judge abused her discretion in so-called failure to allow testimony or supposed failure to provide a detention hearing based on standards or conditions not present in this Court's § 2241 order.

Dated: April 28, 2025

MICHELE BECKWITH
Acting United States Attorney

/s/ *Michelle Rodriguez*
MICHELLE RODRIGUEZ
Assistant United States Attorney