UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON

AT SEATTLE

JEFFERSONKING ANYANWU **Petitioner** **vs.** **PAMELA BONDI** **Respondent**	**Case No.:** 2:25-cv-00995-JLR-MLP **PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 USC 2241**

This is a federal habeas action proceeding under 28 USC 2241. I am currently held in custody of the Attorney General at Tacoma's Northwest ICE Processing Center in Tacoma Washington.

Here, I move this Court to issue an order commanding my release from the custody of ICE due to the fact that the Immigration Judge failed to apply the correct legal standard on my court ordered due process bond hearings which requires the government to show with clear and convincing evidence that I'm a danger to the community and flight risk, failure to apply the correct legal standard is a legal error which violates the due process.

FACTS

1. Plaintiff been detained by ICE since July 12 2023, and still currently in ICE custody.

2. Plaintiff filed a habeas action challenging detention which the court granted Petitioners Habeas petition, requiring the government to provide petitioner with an individualized bond hearing in accordance with the procedural requirement in Singh V. Holder, 638 F.3d 1196(9th Cir. 2011). see Anyanwu v. ICE Field Off. Dir., No. 2:24-CV-00964-TSZ,2024 WL 4626381 (W.D. Wa Oct.30, 2024).

3. on 11/06/ 2024 a bond hearing was held, and the IJ denied plaintiff bond, on 11/06/2024 plaintiff appealed the bond determination to the BIA(Board of immigration appeals), on 03/20/2025 Bond determination appeals was dismissed by the BIA, which the BIA reaffirmed the IJ decision.

4. On 03/20/2025 petitioner filled a motion to enforce the court previous order see (Anyanwu v. ICE Field Off. Dir., No. 2:24-CV-00964-TSZ,2024 WL 4626381 (W.D. Wa Oct.30, 2024) Docket #23)

5. On 04/11/2025 the court denied plaintiff motion to enforce which the court cited it previously found that Respondent complied with directive and close the case, and that the relief granted was limited and did not include ongoing judicial supervision or review of the outcome of the bond hearing, the court further concluded that such claims must be raised through appropriate immigration or appellate proceedings. see (Anyanwu v. ICE Field Off. Dir., No. 2:24-CV-00964-TSZ,2024 WL 4626381 (W.D. Wa Oct.30, 2024) docket No. 24).

JURISDICTION

Jurisdiction of the court is sought through 28 USC 2241,Federal district courts have habeas jurisdiction under § 2241 to review "bond hearing determinations for constitutional claims and legal error." Singh v. Holder, 638 F.3d 1196, 1200 (9th Cir. 2011) (citing Demore v. Kim, 538 U.S. 510, 516-17, 123 S. Ct. 1708, 155 L. Ed. 2D 724(2003)).Although the Attorney General's "discretionary judgment" is expressly precluded from judicial review, 8 U.S.C. § 1252(g), "claims that the discretionary process itself was constitutionally flawed are cognizable in federal court on habeas because they fit comfortably within the scope of § 2241. The district court also has jurisdiction to order aliens released in cases where aliens are in continued detention in violation of a constitutional protected right, the denial of bond occurred as a result of a defective constitutional bond hearing, or a bond hearing that did not comply with express terms of the district court's order. Where the district court has successfully issued a conditional writ in the petitioner's favor, like in my case, the noncitizen/petitioner "is entitled to the habeas court's continuing supervision to ensure the Government's [and the IJ's] compliance with the court's order. That is, [I am] entitled to a judicial determination as to whether the Government has established flight risk or dangerousness at the required [due process bail bond] hearing [ordered by the

district court]." Judulang v. Chertoff, 562 F. Supp. 2d 1119, 1127 (S.D. Cal. 2008). See also Ramos-Portillo v. McAleenan, 2019 U.S. Dist. LEXIS 121 821 (C.D. Cal. Jul. 19, 2019), Hechavarria v. Whitaker, 358 F. Supp. 3d 227, 241 (W.D.N.Y. 2019), Mathon v. Searls, 623 F. Supp. 3d 203, 2022 U.S. Dist. LEXIS 155606 (W.D.N.Y. August 26, 2022), etc. (The district court ordered petitioners released because the IJ at their court ordered due process bond hearings erred by relying solely on the petitioners past criminal convictions as the basis for their bond denial. Their bond denial was an error of law because there were no 'factual contention' as to the petitioners risk of flight and danger upon release nor did the IJ consider alternatives to mitigate such risk).

My October 30, 2024 court ordered due process bond hearing was constitutionally flawed because the IJ did not apply the correct legal standard of requiring the government to show clear and convincing facts that I pose a risk of flight and danger upon release nor does the balance of the *Singh* procedural due process requirements, as a matter of law support the IJ's conclusion that I am a danger and flight risk. Furthermore, the IJ did not consider alternatives that could have mitigated any perceived risk of flight and danger required in a court ordered due process bond hearing. The IJ at the bond hearing further violated my due process by ordering the government to submit a specific evidence that is not on record and making provision to accept such evidence after bond determination is made and not giving me same equal opportunity to provide evidence.

RELIEF REQUESTED

That the court should order lowest amount of bond available or order plaintiff release on appropriate condition.

ARGUMENTS

1. The IJ erred at my court ordered due process bond hearing by not complying with the District Court's Order in my case requiring the IJ to hold a due process bond hearing that "comports with the procedural due process requirements in Singh v. Holder, 638 F.3d 1196 (9th Cir. 2011). Also, the IJ did not apply the correct legal standard of proof ordered by the district court. The IJ also failed to consider alternatives to detention required in a court ordered due process bond hearing.

2. The IJ's conclusion that I am a danger and flight risk amounts to an error of law because his conclusion is not supported, as a matter of law, by the application of the procedural due process requirements in *Singh* and the evidence at my bond hearing.

Firstly, in light of the district courts ruling in Mathon v. Searls, 623 F. Supp. 3d 203, 2022 U.S. Dist. LEXIS 155606 (W.D.N.Y. August 26, 2022), Ramos-Portillo v. McAleenan, 2019 U.S. Dist. LEXIS 121821 (C.D. Cal. July 19, 2019), Hechavarria v. Whitaker, 358 F. Supp. 3d 227, 241 (W.D.N.Y. 2019), Judulang v. Chertoff, 562 F. Supp. 2d 1119, 2008 U.S. Dist. LEXIS 45603 (S.D. Cal. June 10, 2008), etc. (all held that the IJ at the petitioners court ordered bond hearings erred by denying bond relief to the petitioners relying solely on their past criminal convictions. The district courts issued an order of release, releasing petitioners on conditions appropriate because the IJ's reliance on past criminal convictions as the basis that petitioners were a flight risk and danger was an error of law and violated petitioners due process and the court's order). The IJ at my bond hearing erroneously concluded that I was a flight risk and danger even though the balance of the *Singh* procedural due process requirements, as a matter of law does not support this conclusion. The IJ also failed to consider alternatives at my bond hearing required as a matter of law, in a due process bond hearing. See Hechavarria, 358 F. Supp. 3d, at *242(granting motion to enforce where the IJ at the court ordered due process bond hearing "said not one word about any alternative to detention"). In a court ordered due process bond hearing for noncitizens detained under § 1226(c) including other INA statutes, an IJ's failure "to consider alternatives to detention, the IJ failed to comply with the requirements of due process." Fernandez-Aguirre v. Barr, 2019 U.S. Dist. LEXIS 160204.

IJ further violated my due process by not complying with the District Court's order in my case. The court in my case issued an order that the "Government '<u>SHALL</u>' within 30 days of this order, provide petitioner with a bond hearing before an immigration judge that comports with the procedural due process requirements in Singh v. Holder, 638 F.3d 1196 (9th Cir. 2011)" Anyanwu v. ICE Field Off. Dir., 2024 U.S. Dist. LEXIS 198560. At the start of the hearing, the IJ correctly recited the correct legal standard that the burden of proof was on the Government but, ultimately failed to apply the standard throughout my hearing. In *Ramos-Portillo*, the court held that the IJ's mere recitation of the applicable

legal standard is not enough when the IJ's decision makes it clear as it does in [my] case that [IJ] did not actually apply the standard in his reasoning and decision." Ramos-Portillo v. McAleenan, 2019 U.S. Dist. LEXIS 121821 (C.D. Cal. July 19, 2019). See also Natural Res. Def. Council, Inc. v. Pritzker, 828 F.3d 1125, 1135 (9th Cir. 2016); Calderon-Rodriguez v. Wilcox, 374 F. Supp. 3d 1024, 2019 WL 486409, at *8 (W.D. Wash. 2019); Ramos v. Sessions, 293 F. Supp. 3d 1021, 1030 (N.D. Cal. 2018), Cole v. Holder, 659 F.3d 762, 771-72 (9th Cir. 2011) ("[W]here there is any indication that the BIA did not consider all of the evidence before it, a catchall phrase does not suffice, and the decision cannot stand. Such indications include misstating the record and failing to mention highly probative or potentially dispositive{2020 U.S. Dist. LEXIS 19} evidence."); Hechavarria v. Whitaker, 358 F. Supp. 3d 227, 241 (W.D.N.Y. 2019) (held that the "mere utterance of the correct standard of proof early in an IJ's decision is insufficient to demonstrate that it was applied when the rest of that decision demonstrates otherwise.") The correct application of the procedural due process requirements in *Singh,* as a matter of law, does not support the IJ's conclusion that I am a danger and flight risk.

Moreover, the Government never argued or presented any witnesses or evidence that I am a danger and flight risk, on the record. As a result, the IJ's conclusion that I am a flight risk and danger and the denial of bond amounts to an error of law and further violated my due process. The IJ failed to abide by the correct legal standard of clear and convincing evidence. The evidence presented at the hearing was so minimal that it did not, as a matter of law, establish my risk of flight and danger by clear and convincing evidence. "The clear and convincing evidence... means something more than 'preponderance of the evidence,' and something less than 'beyond a reasonable doubt." Fernandez-Aguirre v. Barr, 2019 U.S. Dist. LEXIS 160204 (quoting United States v. Chimurenga, 760 F. 2d 400, 405 (2nd Cir. 1985),'The clear and convincing evidence standard is a high burden and must be demonstrated in fact'." Calderon-Rodriguez v. Wilcox, 374 F. Supp. 3d 1024, 1033 (W.D. Wash. 2019) (quoting Ramos v. Sessions, 293 F. Supp. 3d 1021, 1030 (N.D. Cal. 2018)). In finding that a noncitizen is a flight risk and danger under the clear and convincing standard, 'it requires that the evidence support such a conclusion with a high degree of certainty.' The IJ's conclusion that I am a danger and flight risk is speculative and predetermined on the basis of my criminal conviction and fails in the face of the clear and convincing legal standard. There are zero elements in my criminal conviction to infer or speculate that I am a danger and flight risk. The reality is, IJ failed to comply with this court's order and to hold the Government to its constitutionally required burden of proof.

Although the IJ correctly placed the burden on the Government at the beginning of my bond hearing, he ultimately did not require the Government to show clear and convincing evidence that I present a future risk of flight and danger upon release and that there were no alternatives that could mitigate such risks. The Government never presented any document or oral allegations/arguments that I indeed present future danger and flight risk upon release and there are no alternatives that would mitigate such risks nor does the evidence and the record supports the IJ's conclusion as a matter of law. The IJ's error shifted the burden from the Government of showing clear and convincing evidence that I am a flight risk and danger. When it comes to the clear and convincing legal standard, it is the application of the standard that matters not its mere recitation. See Singh V. Holder, 638 F.3d 1196. 1023 (9th Cir. 2011) and Diouf v. Napolitano, 634 F.3d 1081, 1092 (9th Cir. 2011).federal district courts do not evaluate "only whether the IJ announced the correct legal standard." Ramos, 293 F. Supp. 3d at 1030(citing Nat'l Res. Def. Council, Inc. v. Pritzker, 828 F.3d 1125, 1135 (9th Cir. 2016) ("An agency acts contrary to the law when it gives mere lip service or verbal commendation of a standard but then fails to abide the standard in its reasoning and decision.");

The IJ at my due process bond hearing relied on my single distant non-violent criminal conviction as the justification for his conclusion that I am a danger and a flight risk and the reason for my bond denial. The IJ also did not consider alternatives at my bond hearing required as a matter of law in a court ordered due process bond hearing. The correct application of the clear and convincing standard and the evidence at my bond hearing does not show a 'factual contention' that I am a danger and flight risk. IJ applied the wrong legal framework of a typical § 1226(a) bond hearing instead of that of a court ordered due process bond hearing. The IJ's error further violated my due process and did not comport with the express terms of the court's order. "A typical § 1226(a) bond framework in a court ordered due process bond hearing is no longer constitutionally adequate." Hechavarria, Supra at 2018 U.S. Dist. LEXIS 188499 WL, at *7-*9.

The IJ's erroneous conclusion that I am a danger and flight risk amounts to an error of law because the balance of the *Singh* procedural due process requirements does not support this conclusion as a matter of law. Furthermore, due process requires the IJ in a due process bond hearing to consider alternatives to detention that would mitigate risk of flight and danger. In a court ordered due process bond hearing like in my case, the IJ's failure to consider alternatives amounts to an error of law and a violation of my due process. The court in *Mathon* held that the IJ's failure "to consider alternatives to detention, the IJ disregarded the express terms of the court's order and improperly relieved the Government of the burden of proving by clear and convincing evidence that there were no alternatives to detention that could mitigate any risk of flight or danger to the community." Mathon v. Searls, 623 F. Supp. 3d 203, 2022 U.S. Dist. LEXIS 155606 (W.D.N.Y. August 26, 2022). See also Hayward v. Marshall, 512 F.3d 536 (9th Cir. 2008) holding that an alien's "past convictions [alone] are insufficient to establish present [and future] dangerousness [and flight risk]." A denial of bond solely on past distant nonviolent offenses alone would not always support a finding of future dangerousness and flight risk, such finding violates due process.

IJ conclusion that I was a danger and flight risk was based solely on my criminal conviction and goes against the district court ruling in *Singh* and the BIA's decision in the Matter of *Guerra* holding that 'criminal history alone would not always justify the denial of bond based on dangerousness and flight risk'. See Singh V. Holder, 638 F.3d 1196. 1023 (9th Cir. 2011) and Matter of Guerra, 24 I. & N. Dec. 37 (BIA 2016). I have zero history of violence, zero history of escape or any attempt to flee from prosecution, I do not have an extensive criminal record, I have zero mental health/medical issues, I have zero history of addiction, I have not engaged in any criminal conduct since 2019, I don't have any history of disruptive behavior. As a matter of fact and evidence I presented at my bond hearing clearly indicate that, I was released early from the BOP as a result of my good behavior, and the BOP Rehabilitation Classification record concluded that I'm at a Low Risk Ricividism. I have strong family ties in the United States among other factors that guarantee I will show up to all future court hearings including if I were to be removed. In *Reyes*, the court held that "when it comes to non-violent crimes, ... the passage of time does make a difference. ... Therefore, it violates due process to keep someone in immigration detention for more than one year on the basis of dangerousness [or flight risk] where the overriding reason is that a non-violent crime was committed [if the alien] has a viable plan for rehabilitation and compliance with pertinent conditions of release." Reyes v. Bonnar, 362 F. Supp. 3d

762. I have now been detained for over 20 months with zero infractions, the Government did not argue or present any evidence or witnesses that I present future danger to the community or flight risk, even IJ Floyd admitted during bond hearing that the government did not submit any evidence that I'm a danger to the community or pose flight risk. Furthermore in the IJ's memorandum the IJ admitted I was convicted of a non-violent crime but at same time concluded that non-violent crime like mines is being used to commit other crimes or fund terrorism without pointing to any specific facts or evidence that leads to such conclusion especially in this particular instant case, rather the IJ basis are pure speculation.'The clear and convincing evidence standard is a high burden and must be demonstrated in fact'." Calderon-Rodriguez v. Wilcox, 374 F. Supp. 3d 1024, 1033 (W.D. Wash. 2019) As a result, I'm entitled to an order of release because the IJ did not apply the correct legal standard at my bond hearing.

In *Mathon,* a noncitizen prolongly detained pursuant to § 1226(c), the district court held and issued an order of release to the noncitizen because the IJ erred at his court ordered due process bond hearing. The IJ relied on *Mathon's* multiple rap sheet and encounters with law enforcement, his previous parole violations, his previous conviction for an attempted third degree robbery, and his schizophrenia mental health diagnosis to conclude he was a danger and flight risk. See Mathon v. Searls, 623 F. Supp. 3d 203, 2022 U.S. Dist. LEXIS 155606 (W.D.N.Y. August 26, 2022). See also Hecchavarria v. Whitaker, 358 F. Supp. 3d 227, 2019 U.S. Dist. LEXIS 7779 (W.D.N.Y. Jan. 16, 2019); Ramos-Portillo v. McAleenan, 2019 U.S. Dist. LEXIS 121821 (C.D. Cal. July 19, 2019); Judulang v. Chertoff, 562 F. Supp. 2d 1119, 2008 U.S. Dist. LEXIS 45603 (S.D. Cal. June 10, 2008) (granting motion to enforce and held that an alien cannot remain in prolonged detention or be denied bond relying solely on past criminal offenses, including past violent offenses).

When due process has been found to have been violated, the Government must show a factual high contention that the noncitizen would pose a risk of flight or danger upon release. "The longer an immigrant is detained, the more robust the procedural protections governing their detention should be. Furthermore, ... evidence of criminal conduct grows less powerful as it becomes less current. Thus, the passage of time is undeniably relevant and the IJ [at a bond hearing] must consider it. ...The clear and convincing evidence standard is a high burden and must be demonstrated in fact, not in theory."

Ramos v. Sessions, 293 F. Supp. 3d 1021. There are no facts at my bond hearing or on the record supporting the IJ's conclusion that I am a danger and flight risk. The Government never presented any documentary evidence or claim that I am a danger and flight risk at my bond hearing. Alien's who are continued to be detained as a result of an insufficient due process bond hearing and an IJ's failure to apply the correct legal standard are entitled to habeas order of release.

Additionally, IJ failed to apply the clear and convincing legal standard required in a due process bond hearing as a matter of law. Instead, the IJ applied the legal analytical framework of a typical bond hearing under § 1226(a) and shifted the burden of proof to me. The clear and convincing standard requires the Government to show clear and convincing evidence that a 'factual contention' of my risk of flight and dangerousness are 'highly probable'. See Colorado v. New Mexico, 467 U.S. 310, 316, 104 S. Ct. 2433, 81 L. Ed 2d 247 (1984). See also United States v. Chimurenga, 760 F.2d 400, 405 (2nd Cir. 1985) (holding that the clear and convincing standard of proof "requires that the evidence support such a conclusion [(risk of flight and dangerousness)] with a high degree of certainty.") This legal standard is only satisfied when the preponderance of the evidence presented by the Government and the record tilts the evidentiary scales in the Government's favor when weighed against the evidence [I] presented in opposition. See Colorado, 467 U.S. at 316 (citation omitted). The court's order in my case explicitly directed the Government to produce clear and convincing evidence that I am a danger and flight risk and no alternatives to detention could mitigate those risks. The IJ treated my bond hearing like a typical § 1226(a) discretionary bond hearing governed by immigration law as determined by the BIA instead of a court ordered due process bond hearing. The IJ's application of a typical § 1226(a) discretionary bond legal framework "likewise disregarded the court's instructions that the Government-not i-must bear the burden of proof." See Mathon v. Searls, 623 F. Supp. 3d 203, 2022 U.S. Dist. LEXIS 155606 (W.D.N.Y. August 26, 2022).

Secondly, The IJ's conclusion that I am a danger and flight risk amounts to an error of law because this conclusion is not supported, as a matter of law, by the application of the procedural due process requirements in *Singh* and the evidence at my bond hearing: DHS's evidence of dangerousness and flight risk at my bond hearing did not meet the clear and convincing legal standard. The correct application of the due process safeguards ordered by the court, as a matter of law, does not support a

finding that I am a danger and flight risk. Like the court in *Mathon* recognized, "this is not a question of how two reasonable factfinders could weigh the evidence differently. Instead, it was a consistent misrepresentation of key pieces of evidence, which permeated [IJ Floyd's] findings as to dangerousness and risk of flight and amounted to an error of law." Mathon v. Searls, 623 F. Supp. 3d 203, 2022 U.S. Dist. LEXIS 155606 (W.D.N.Y. August 26, 2022). See also CF. Latifi v. Gonzales, 430 F.3d 103, 105 (2nd Cir. 2005) held that ("although it is the task of the agency to determine the appropriate weight to give such evidence, we may remand where the agency's determination is based on an inaccurate perception of the record.")

On 10/31/2024 the immigration court sent both I and the government a notice of the bond hearing scheduled on 11/05/2024, and the immigration court also instructed that all evidence must be received by the immigration court at least three calendar days prior to the hearing pursuant to the Tacoma immigration court standing order 01-20, and 8 C.F.R. § 1003.31(c). Which quotes that " UNTIMELY EVIDENCE IS NOT ENTITLED TO ANY EVIDENTIARY WEIGHT AND MAY NOT BE CONSIDERED AT THE BOND HEARING". See Taggar v. Holder, 736 F.3d 866, 889 (9th Cir. 2013). On 11/01/2024 both I and the government submitted our evidence to the immigration court. During course of the bond hearing the IJ clearly stated that the government did not submit any evidence to meet the burden of proof, but rather instructed the government on what specific type of evidence to submit, and made provisions for the government to submit additional evidence after he denied the bond. On 11/05/2024 the government submitted additional after the bond hearing was over and IJ decision to deny bond was already made, Which evidence the IJ used as reference in his memorandum. The fact IJ instructed the government to submit a specific evidence is evident that bond hearing was already predetermined, and also the fact that IJ made provision to accept additional evidence which was submitted by the government after the bond hearing was over which bond was denied, without giving me the equal opportunity to submit additional evidence is clearly a violation of my due process constitutional rights and shows prejudice on its face. The IJ's actions to accept late filed evidence without mentioning it in his memorandum but rather based his reasoning of bond denial on the late filed evidence to which he denied bond is in pure violation of Tacoma Immigration courts standing order 01-20, and also in direct violation of 8 C.F.R §1003.31(c), and in all violates my due process rights.

IJ finding of dangerousness amounts to an error of law because there is nothing on the record or evidence that suggest that there is a 'factual contention' that I would pose a danger to the community upon release. Even the IJ admitted at my bond hearing that the Government did not present any witnesses or arguments that I indeed pose a danger to the community at the bond hearing. The IJ's finding of dangerousness was speculative and based on my one non-violent distant criminal offense. Past criminal convictions alone would not always support a finding of future dangerousness. "It is elemental that due process is not satisfied by rubberstamp denials [of bond] based on temporally distant offenses." Chi Thon Ngo v. I.N.S., 192 F. 3d 390, 398 (3rd Cir. 1999). Due process requires an opportunity for an evaluation of an individual's present danger to the community and flight risk even to excludable aliens with serious violent criminal convictions.

My single criminal conviction One count of 18 USC 1956(a)(2)(B)(i) and(h), which I have tried to rehabilitate through prison programs and the fact that my conduct while incarcerated is consistent to the fact that my Rehabilitation classification records which indicates I'm a Low Risk Recidivism level further proves that I do not pose danger to anyone. There's nothing on the record that indicates dangerousness or future dangerousness. The IJ reasoning that I'm virtually no incentive to comply with further immigration order as it will likely result in immediate removal is clearly speculative and not supported by any evidence considering that part of the special condition on my 36 months supervise release conditions ordered by the federal court is to abide to every immigration rules and order if released, even in *Singhs* case the fact that Singh had already been ordered removed by final administrative order diminishing his incentive to appear for further removal proceedings, the court ultimately concluded that "Although this is a relevant factor in calculus, it does not constitute clear and convincing evidence that Singh presented a flight risk justifying denial of bond." See Singh v. Holder, 638 F.3d 1196,1208(9th Cir.2011). Therefore pursuant to this precedent the IJ conclusions in my case that I'm a flight risk and danger to the community does not constitute clear and convincing evidence standard.

According to the IJ, "the Board of Immigration Appeals stated there is no limitations on the "discretionary" factors that an Immigration Judge may consider when ruling on custody and bond issues." IJ's Memo. The IJ's assertion that my court ordered due process bond hearing was a

"discretionary" bond hearing meant that the IJ applied the legal standard of a typical § 1226(a) bond hearing in violation of the District Court's order and my due process. The district court has a long standing and has recognized that a court ordered due process bond hearing differs from a typical § 1226(a) bond hearing. See Mathon v. Searls, 623 F. Supp. 3d 203, 2022 U.S. Dist. LEXIS 155606 (W.D.N.Y. August 26, 2022) (granting petitioner's motion to enforce because the "IJ's application of the analytical framework used in a "discretionary" 8 U.S.C.S. § 1226(a) [bond hearing in a court ordered due process] hearing [like in my case,] represented a clear error of law. [My court ordered due process bond hearing] was not a typical § 1226(a) hearing, but a due process hearing and by refusing to consider alternatives to detention ... the IJ disregarded the express terms of the Court's order and improperly relieved the Government of the burden of proving clear and convincing evidence that there were no alternatives to detention that could mitigate any risk of flight or danger to the community.") IJ cited the same cases the IJ at *Mathon's* court ordered bond hearing relied on. IJ statements likewise disregarded the Court's instruction that the Government must bear the burden of proof and show that I am a flight risk and danger. The IJ's error relieved the Government the burden and his error amounts to an error of law and further violated my due process.

I have not engaged in any disruptive or criminal behavior throughout my incarceration/detention. I was released early from the BOP as a result of my good behavior, I have enrolled and completed multiple educational/rehabilitative classes throughout my incarceration/detention the Government did not provide any evidence or arguments, let alone clear and convincing proof that my risk of danger is 'highly probable' upon my release. The clear and convincing standard is a heavy burden and requires a factual showing of future dangerousness not just in theory or by past criminal convictions. "if the clear and convincing standard means what it says, it cannot permit detention based on mere speculation that an alien's release might possibly pose a danger." Addington v. Texas, 441 U.S. 418, 427, 99 S. Ct. 1804, 60 L. Ed. 2d 323 (1979). See also Ngo v. I.N.S., 192 F. 3d 390, 398 (3rd Cir. 1998) ("measures must be taken to assess the risk of flight and danger to the community on a current basis."); Korkees v. Reno, 137 F. Supp. 2d 590, 598 (M.D. Pa. 2001) ("The mere conviction of a crime is not an adequate basis for finding that an individual is a threat to the community.").

Like the court in *Judulang* recognized, the presumption of dangerousness and flight risk based on past criminal convictions would render the district court's order in my case 'effectively meaningless' because almost every noncitizen detained pursuant to § 1226(c) have engaged or sustained past criminal convictions. An IJ's reliance only on past distant offenses in supporting a conclusion of danger and flight risk "violates due process because petitioner's commitment offense has become such an unreliable predictor of his present and future dangerousness [and flight risk]." Hayward v. Marshall, 512 F. 3d 536, at 546 (9th Cir. 2008). The facts of my prior conviction amounted to no evidence for IJ to conclude that I am a flight risk and that my release "would reasonably endanger public safety." Additionally, the Government never presented evidence, arguments, or witnesses that I have engaged in any negative behavior that amounts to a finding of dangerousness or flight risk since my incarceration/detention, the fact that there is none, means additional support against a finding of dangerousness and flight risk. IJ's finding of present danger and flight risk was an error of law, further violated my due process, and the denial of bond was inappropriate. Furthermore, the Supreme Court in *Addington* held that "the individual interest in the outcome of a civil commitment proceeding is of such weight and gravity that due process requires the [Government] to justify confinement by proof more substantial than a mere preponderance of the evidence. [And also,] due process places a heightened burden of proof on the [Government] in civil proceedings in which the individual interest at stake ... are both particularly important and more substantial than mere loss of money." Addington v. Texas, 441 U.S. 418, 99 S. Ct. 1804, 60 L. Ed. 2d 323 (1979). I'm deeply sorry of the victims loss in my case, I'm committed to paying my court ordered restitution, and all other condition detailed on my special supervise release conditions which includes abiding by immigration rules. There is nothing on the record that infer that I am a flight risk and danger. The IJ's conclusion that I am a flight risk and danger was an error of law; the IJ did not comply with the district court's order and further violated my due process.

CONCLUSION

For all of the foregoing, because the Government did not meet the burden of establishing that I am a flight risk and danger and the fact that IJ did not comply with the explicit terms of the district court's order in my case nor was the correct legal standard applied at my hearing, and the immigration court provided me with an audio recording of the hearing which is attached to the previously filed motion to

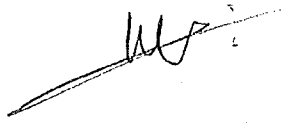
enforce see (Anyanwu v. ICE Field Off. Dir., No. 2:24-CV-00964-TSZ,2024 WL 4626381 (W.D. Wa Oct.30, 2024) Docket #23) because IJ incorrectly waived my rights to appeal on his initial order which contradicts what the audio record will show. I respectfully ask the court to review the IJ bond determination and if the this court finds that bond hearing was flawed the court to issue an order for my immediate release from Respondent's custody on conditions appropriate because a second bond hearing would be inadequate at this point and would further subject me to continued detention. I am not a flight risk or danger; my prolonged detention is unreasonable, unjustified, and violates due process. I respectfully ask the court to issue an order that does justice.

I, Jeffersonking Anyanwu certify under penalty of perjury that all the statements in this motion are true and correct to best of my knowledge.

Dated this 25th day of April 2025

Respectfully Submitted

Jeffersonking Anyanwu



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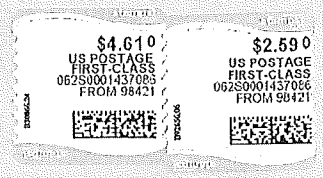

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