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BY ECF

Honorable Madeline Cox Arleo
United States District Judge
Martin Luther King, Jr. Federal Courthouse
50 Walnut Street
Newark, New Jersey 07102

**Re: *Akhmedov v. Pittman, et al.*, Civil No. 25-13734 (MCA)
Response to Bond Hearing Challenge**

Dear Judge Arleo:

This Office represents Respondents in the above habeas matter filed by a noncitizen challenging the legality of his detention by U.S. Immigration and Customs Enforcement (“ICE”). We write in response to Petitioner’s Emergency Motion to Enforce, in which he argues that “Immigration Judge Ranasinghe failed to adhere to the appropriate burden of proof and disregarded individualized evidence in the record,” violating his right to a constitutionally sound bond hearing on December 23, 2025. ECF 10 at 2, 5. Petitioner asks this Court to release him from ICE custody or to conduct a bond hearing. *Id.* at 5. The Court should deny the motion because Petitioner received due process at the bond hearing and any challenge to Immigration Judge Arya Ranasinghe’s decision should be made to the Board of Immigration Appeals.

December 23, 2025 Bond Hearing

On December 23, 2025, Immigration Judge Ranasinghe held a bond hearing at which she reviewed the record evidence submitted by counsel for Petitioner and the Department of Homeland Security (“DHS”). ECF 10-5 (Transcript of Dec. 23, 2025 Bond Hearing) at 4. In the bond proceeding, Exhibit 1 was this Court’s December 17, 2025 Memorandum Opinion & Order, which Immigration Judge Ranasinghe received on December 17, 2025. *Id.* Exhibit 2 was DHS’s December 19, 2025 submission, Exhibit 3 was a submission made by Petitioner’s counsel on December 22, 2025, and Exhibit 4 was the legal brief filed by Petitioner’s counsel on December 22, 2025. *Id.* Both Petitioner’s counsel and DHS agreed that Immigration Judge Ranasinghe did not overlook any record evidence, and neither had any objections to the four exhibits.

Accordingly, Immigration Judge Ranasinghe admitted the exhibits into evidence. *Id.* at 4-5. The Immigration Judge permitted arguments by both parties' counsel.

Immigration Judge Ranasinghe explicitly recognized that DHS had the burden to prove that Petitioner posed a danger or a risk of flight, in order to sustain his continued detention. *Id.* at 5. Counsel for Petitioner stated, "as Your Honor just stated, the burden is on the department by clear and convincing evidence."¹ *Id.* at 10. The Immigration Judge permitted Petitioner's counsel to call Petitioner to testify, but counsel preferred to rest on her arguments. *Id.* at 14.

"After careful consideration of the record as a whole," Immigration Judge Ranasinghe denied Petitioner's request for release on bond, finding that DHS met its burden to demonstrate that Petitioner is a flight risk. *Id.* at 15. Immigration Judge Ranasinghe recognized and gave significant weight to the fact that Petitioner's asylum application was approved, albeit in a decision that was not final because it is on appeal. *Id.* However, as Immigration Judge Ranasinghe noted, Petitioner "has a history of traveling internationally as well as upon arrival in the United States." *Id.* at 15. Immigration Judge Ranasinghe found:

So, the driver's license was issued on October 10th, 2023 during a time when [Petitioner] was - - claims to have lived at 1340 East 9th Street. And that driver's license has that 1615 Quentin Road address. I think the department has demonstrated that [Petitioner] does not have a fixed address. And that there is it is unlikely that [Petitioner], if his application is denied would, or if the department's appeal is ultimately sustained would if necessary present himself a removal. So, the court finds today that the Department of Homeland Security has met its burden of proof as to demonstrating that [Petitioner] is a flight risk.

Id. at 17. Immigration Judge Ranasinghe did not find that Petitioner was a danger. *Id.* 15-17.

Argument

The Court should reject Petitioner's collateral attack on the December 23, 2025 bond hearing. "This Court does not have jurisdiction to review Petitioner's challenges to the denial of bond by the immigration judge or any of the ongoing immigration proceedings being conducted by the immigration judge." *Magassouba v. Holder*, No. 10-5989 (FSH), 2011 WL 3859735, at *2 (D.N.J. Aug. 31, 2011); see 8 U.S.C. § 1226(e) ("No court may set aside any action or decision by the Attorney General under this section regarding the detention of any alien or the revocation or denial of bond or

¹ Petitioner's counsel reiterated that DHS had the clear and convincing burden to sustain detention, ECF 10-5 at 13, and at no point did DHS counsel or Immigration Judge Ranasinghe disagree that was the appropriate standard.

parole.”); *see also Alvarado Vargas v. U.S. Dep’t of Homeland Sec.*, No. 18-03831 (CCC), 2019 WL 13565712, at *1 (D.N.J. Nov. 25, 2019) (“To the extent that Petitioner is seeking a review of the bond determination, this Court is without jurisdiction to review that determination.”).² Rather, the proper avenue for relief, as demonstrated by Petitioner, *see* ECF 10-4 (Dec. 23, 2025 IJ Order) at 3, is appellate review of Immigration Judge Ranasinghe’s December 23, 2025 Order to the Board of Immigration Appeals. To date, Petitioner has not sought such appellate review.

This case also does not fall under the “fundamentally unfair” exception to continued habeas jurisdiction. In *Ghanem v. Warden Essex Cnty. Corr. Facility*, No. 21-1908, 2022 WL 574624, at *2 (3d Cir. Feb. 25, 2022), the Third Circuit described this narrow exception and rejected its application in that case for similar reasons as here. A fundamentally fair bond hearing requires that the alien “(1) is entitled to factfinding based on a record produced before the decisionmaker and disclosed to him or her; (2) must be allowed to make arguments on his or her own behalf; and (3) has the right to an individualized determination of his [or her] interests.” *Id.* at *2.

In *Ghanem*, the Third Circuit panel found the proceedings were fair, and the same conclusion applies here. In *Ghanem*, the petitioner claimed the Immigration Judge relied on inadmissible and unreliable police reports when considering that petitioner posed a danger to the community. 2022 WL 574624, at *2. The petitioner argued that the Immigration Judge “should have weighed the police reports differently given concerns about hearsay and reliability.” *Id.* at *2-3. The petitioner further claimed that the Immigration Judge did not read the evidence submitted at the hearing and the court “did not conduct any individualized analysis of Ghanem’s evidence.” *Id.* at *3. The Third Circuit rejected the petitioner’s claim that the bond hearing was fundamentally unfair. It reasoned that a credibility determination is “a discretionary determination that we may not review,” that disputes over what documents the Immigration Judge considered and how he interpreted them were “evidentiary quibbles” that do not amount to fundamental unfairness, and that petitioner’s claim of not receiving an individualized analysis of evidence “amounts to an allegation of improper evidence weighing,” which is “not within our authority to consider.” *Id.* at *2-3. “Again, just because there are disagreements about the outcome of the bond hearing, this does not mean that the IJ violated due process in conducting the bond hearing.” *Id.* at *3.

The same reasoning applies here. On behalf of Petitioner, counsel presented evidence and made arguments, both parties engaged in an adversarial proceeding before the decisionmaker, and Immigration Judge Ranasinghe evaluated the record,

² *See also Asemani v. Att’y Gen. of U.S.*, 140 F. App’x 368, 376 (3d Cir. 2005) (“[T]he [Illegal Immigration Reform and Immigrant Responsibility Act] specifically prohibits direct review of bond orders.”); *Pena v. Davies*, No. 15-7291, 2016 WL 74410, at *2 (D.N.J. Jan. 6, 2016) (“This Court, does not have the power to second guess the discretionary decision of the IJ to deny Mr. Pena's release on bond.”).

finding that Petitioner is a flight risk. ECF 10-5 (Transcript of Dec. 23, 2025 Bond Hearing) at 3-17. Petitioner's disagreement with Immigration Judge Ranasinghe's decision does not make the bond proceeding fundamentally unfair. And Petitioner still has an avenue to challenge the bond decision through an appeal to the Board of Immigration Appeals.

Further, Petitioner argues that Immigration Judge Ranasinghe should have considered alternatives to detention ("ATD") and that her failure to do so deprived Petitioner of a constitutionally adequate hearing. First, Petitioner did not seek ATD during the bond hearing. Second, the Immigration and Nationality Act ("INA") does not authorize Immigration Judges to set ATD in custody determination hearings held pursuant to § 236(a) of the INA, 8 U.S.C. § 1226(a). An Immigration Judge's authority under the INA is to continue detention, release on bond, or release on conditional parole. 8 U.S.C. § 1226(a). Immigration Judge Ranasinghe's failure to consider ATD does not establish that Petitioner's bond proceeding was fundamentally unfair. As discussed, at the bond hearing, counsel presented evidence and made arguments, both parties engaged in an adversarial proceeding before the decisionmaker, and Immigration Judge Ranasinghe evaluated the record. Petitioner received his due process.

Although Petitioner cites to *Ousman D. v. Decker*, No. 20-9646, 2020 WL 5587441, at *4 (D.N.J. Sept. 18, 2020) for the proposition that the Immigration Judge was required to consider less restrictive ATD, a Court in this District has recently and persuasively distinguished *Ousman* on the ground that the noncitizen in that case was detained "for over three years," *Cano v. Soto*, No. 25-18008 (SDW), 2026 WL 63486, at *2 (D.N.J. Jan. 8, 2026), whereas here, the Petitioner has been detained for sixteen months.

However, if the Court finds that Immigration Judge Ranasinghe failed to afford Petitioner a constitutionally adequate hearing, the appropriate remedy is to order an Immigration Judge to conduct another bond hearing, not release Petitioner.

We thank the Court for its consideration of this matter.

Respectfully submitted,

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