

Rebecca Hufstader, Esq.
Oleksandra Byelyakova, Esq.
LEGAL SERVICES OF NEW JERSEY
100 Metroplex Drive, Suite 101
Edison, New Jersey 08817
rhufstader@lsnj.org
(732) 529-8236

Pro Bono Attorneys for Petitioner

**IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW JERSEY**

MAKSADDZHON AKHMEDOV,	)	
Petitioner,	)	
	)	CASE NO: 25-13734
	)	
v.	)	Hon. Madeline Cox Arleo
	)	
YOLANDA PITTMAN, et al.,	)	ELECTRONICALLY FILED
Respondents.	)	
	)	

**REPLY TO RESPONDENT’S OPPOSITION TO PETITIONER’S MOTION
TO ENFORCE**

TABLE OF CONTENTS

PRELIMINARY STATEMENT 1

ARGUMENT..... 3

 I. Section 1226(e) Does Not Deprive the Court of Jurisdiction to Review Mr. Akhmedov’s Bond Hearing..... 3

 II. The December 23 Bond Hearing was Fundamentally Unfair, and the Government’s Arguments to the Contrary Are Unavailing 7

 III. The Court Should Order Mr. Akhmedov’s Release or Hold its Own Custody Hearing14

CONCLUSION15

TABLE OF AUTHORITIES

Cases

<i>Abdulai v. Ashcroft</i> , 239 F.3d 542 (3d Cir. 2001).....	10
<i>Alvarado Vargas v. U.S. Dep’t of Homeland Sec.</i> , No. 18-03831, 2019 WL 13565712 (D.N.J. Nov. 25, 2019)	4
<i>Bastidas Cano v. Soto</i> , No. 25-18008, 2026 WL 63486 (D.N.J. Jan. 8, 2026).....	13
<i>Blandon v. Barr</i> , 434 F. Supp. 3d 30 (W.D.N.Y. 2020).....	9
<i>Boumediene v. Bush</i> , 553 U.S. 723 (2008)	2
<i>Brecht v. Abrahamson</i> , 507 U.S. 619 (1993)	4
<i>Cantor v. Freden</i> , 761 F. Supp. 3d 630 (W.D.N.Y. 2025).....	2, 12
<i>Carlos M.D. v. Anderson</i> , 460 F. Supp. 3d 535 (D.N.J. 2020).....	5
<i>Centeno-Martinez v. Jamison</i> , 25-3593, 2025 WL 2157711 (E.D. Pa. Nov. 12, 2025)	15
<i>Colorado v. New Mexico</i> , 467 U.S. 310 (1984)	8, 9
<i>Demore v. Kim</i> , 538 U.S. 510 (2003)	4
<i>Denneny v. Siegel</i> , 407 F.2d 433 (3d Cir. 1969)	6
<i>Dep’t of Homeland Sec. v. Thuraissigiam</i> , 591 U.S. 103 (2020).....	14
<i>Fernandez Aguirre v. Barr</i> , No. 19-cv-7048, 2019 WL 4511933 (S.D.N.Y. 2019)	10, 12
<i>Ford v. Bureau of Immigration and Customs Enforcement’s Interim Field Office Dir. for Det. & Removal</i> , 294 F. Supp. 2d 655 (M.D. Pa. 2003).....	6
<i>German Santos v. Warden Pike C’ty Corr. Facility</i> , 965 F.3d 203 (3d Cir. 2020)	passim
<i>Ghanem v. Warden Essex Cnty. Corr. Facility</i> , No. 21-1908, 2022 WL 574624 (3d Cir. Feb. 25, 2022)	10
<i>Gibbs v. Frank</i> , 500 F.3d 202 (3d Cir. 2007)	5
<i>Guerrero Sanchez v. Sabol</i> , No. 1:15-cv-2423, 2016 WL 7426129 (M.D. Pa. 2016)	6
<i>Haskell v. Folino</i> , 461 F. Supp. 3d 202 (W.D. Pa. 2020).....	5
<i>Hechavarria v. Whitaker</i> , 358 F. Supp. 3d 227 (W.D.N.Y. 2019).....	passim
<i>Jennings v. Rodriguez</i> , 583 U.S. 281 (2018)	3
<i>Latifi v. Gonzales</i> , 430 F.3d 103 (2d Cir. 2005)	11
<i>Liem v. Att’y Gen. of the U.S.</i> , 921 F.3d 388 (3d Cir. 2019)	11
<i>Luciano-Jimenez v. Doll</i> , 543 F. Supp. 3d 69 (M.D. Pa. 2021).....	9
<i>M.M. v. Rokosky</i> , No. 25-18547, 2025 WL 3687941 (D.N.J. Dec. 19, 2025).....	14
<i>Magassouba v. Holder</i> , No. 10-5989, 2011 WL 3859735 (D.N.J. Aug. 31, 2011) .	4

<i>Mateo v. Noem</i> , No. 25-151, 2025 WL 3499062 (W.D. Ky. Dec. 5, 2025).....	14
<i>Mathon v. Searls</i> , 623 F. Supp. 3d 203 (W.D.N.Y. 2022)	5, 7, 10
<i>Noori v. Att’y Gen. of the U.S.</i> , 193 F. App’x 181 (3d Cir. 2006).....	6
<i>Ousman D. v. Decker</i> , No. 20-9646, 2020 WL 5587441 (D.N.J. Sept. 18, 2020) ..	6, 12, 13
<i>Phifer v. Warden</i> , 53 F.3d 859 (7th Cir. 1995)	5
<i>Polat v. Soto</i> , No. 2:25-cv-16893, 2025 WL 3718768 (D.N.J. Dec. 17, 2025)	14
<i>Quinteros v. Warden Pike C’ty Corr. Facility</i> , 784 F. App’x 75 (3d Cir. 2019).....	4
<i>Salto Chiguano v. Lowe</i> , No. 1:24-cv-2210, 2025 WL 3187161 (M.D. Pa. Nov. 14, 2025).....	5
<i>Santos v. Lowe</i> , No. 1:18-cv-1553, 2020 WL 4530728 (M.D. Pa. 2020) (same)	9
<i>Sylvain v. Att’y Gen. of the U.S.</i> , 714 F.3d 150 (3d Cir. 2013)	5
<i>United States v. Rodriguez</i> , 342 F.3d 296 (3d Cir. 2003)	6
<i>Webster v. Fall</i> , 266 U.S. 507 (1925).....	4
<i>Wilkinson v. Dotson</i> , 544 U.S. 74 (2005).....	14

Statutes

8 U.S.C. § 1226(e)	3
--------------------------	---

Other Authorities

<i>Fairness to Freedom Campaign Warns of "Authoritarian Playbook" as Trump Administration Militarizes Immigration Courts</i> , Vera Institute of Justice (Sep. 4, 2025), available at https://www.vera.org/newsroom/fairness-to-freedom-campaign-warns-of-authoritarian-playbook-as-trump-administration-militarizes-immigration-courts	15
R. A. Reyes, <i>The Trump administration’s assault on immigration courts and judges</i> , The Hill (Dec. 11, 2025), available at https://thehill.com/opinion/immigration/5641257-deportation-judges-immigration-court-reform/	15
X. Bustillo, S. Simon, <i>The Trump administration fired nearly 100 immigration judges in 2025. What's next?</i> , NPR WNYC (Jan. 10, 2026), available at https://www.npr.org/2026/01/10/nx-s1-5672386/the-trump-administration-fired-nearly-100-immigration-judges-in-2025-whats-next	15

PRELIMINARY STATEMENT

Petitioner Maksaddzhon Akhmedov respectfully submits this reply in response to Respondents’ opposition to his motion to enforce the Court’s order in this habeas matter. *See* Resp. Opp. (Doc. No. 12). Respondents argue that despite this Court’s order that an immigration judge (“IJ”) “shall provide Petitioner with a bond hearing [...] at which the Government bears the burden of showing that Petitioner is either a danger to the community or a flight risk,” 8 U.S.C. § 1226(e) narrowly circumscribes this Court’s power to ensure compliance with that order. *See* Mem. Opinion & Order (Doc. No. 8). Respondents’ position is inconsistent with this Court’s inherent power to enforce its writs, and with the critical role of a habeas court in protecting individuals from unconstitutional detention.

Respondents’ position appears to rest on an erroneous belief that the December 23 bond hearing was a statutory hearing pursuant to § 1226(a) hearing. Doc. No. 12, at 4 (referencing § 1226(a) as governing authority). However, Mr. Akhmedov’s case involves an as-applied constitutional challenge to his prolonged detention pursuant to § 1225(b) without a bond hearing, and the hearing this Court ordered was a remedy for that constitutional violation, not a statutory entitlement. Doc. No. 8, at 5. As such, this Court’s habeas order, in conjunction with applicable Third Circuit precedents, required Respondents to do more than merely going through the motions of a § 1226(a) bond hearing. Instead, it required that “[t]o justify

his continued detention, [the government] must show, by clear and convincing evidence, that [Mr. Akhmedov] would likely flee or pose a danger to the community if released. If it cannot, it must release him.” *German Santos v. Warden Pike C’ty Corr. Facility*, 965 F.3d 203, 214 (3d Cir. 2020).

The IJ failed to comply with this Court’s order. First, the IJ’s decision on its face is deficient as it fails to delineate the correct standard of proof. Second, the record shows that the Department of Homeland Security (DHS) did not produce clear and convincing evidence to prove that Mr. Akhmedov was a flight risk. Lastly, the DHS could not meet its burden of proof without establishing that no alternatives to detention would mitigate a risk of flight. *See Cantor v. Freden*, 761 F. Supp. 3d 630, 637 (W.D.N.Y. 2025) (“When the government seeks someone’s civil detention to effect a compelling regulatory purpose, it must show by clear and convincing evidence that such detention is necessary to serve that compelling purpose. A neutral decisionmaker cannot possibly make that determination without considering less restrictive alternatives to detention.”). It failed to do so.

This Court has the power, and the responsibility, to enforce its prior order. *Boumediene v. Bush*, 553 U.S. 723, 745 (2008) (“The [Suspension] Clause protects the rights of the detained by affirming the duty and authority of the Judiciary to call the jailer to account.”). It should do so by granting Mr. Akhmedov’s motion to enforce and either ordering his immediate release or holding its own bond hearing.

ARGUMENT

I. Section 1226(e) Does Not Deprive the Court of Jurisdiction to Review Mr. Akhmedov’s Bond Hearing

While the Government acknowledges that this Court has some power to review whether Mr. Akhmedov’s bond hearing complied with due process, it attempts to recast his arguments as challenges to discretionary determinations that 8 U.S.C. § 1226(e) insulates from review. Doc. No. 12, at 2-3. Section 1226(e), however, does not apply to the December 23, 2025 bond hearing or constrain this Court’s disposition of this motion to enforce, because it only precludes judicial review of “[t]he Attorney General’s discretionary judgment regarding the *application of this section*.” 8 U.S.C. § 1226(e) (emphasis added); *see also Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 235 (W.D.N.Y. 2019). Mr. Akhmedov’s hearing was not an “application of [section 1226]” delegated to the agency’s discretion by Congress—indeed, 8 U.S.C. § 1225(b), the provision governing Mr. Akhmedov’s detention, expressly prohibited the agency from holding such a hearing. Doc No. 8, at 3; *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018).

Rather, this Court ordered the hearing as a remedy for a violation of Mr. Akhmedov’s constitutional rights. Doc. No. 8. As such, this hearing falls outside the scope of § 1226(e)’s plain language. The December 23 hearing was a judicially-created remedy for a constitutional violation, not a statutory procedure placed within

the discretion of the Executive Branch. Therefore, § 1226(e) does not apply.¹ The cases cited by Respondents in support of their argument are inapposite as they involved § 1226(a) bond hearings. Doc. No. 12, at 2-3; *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) (noting that the petitioner was afforded a bond hearing in removal proceedings, which indicates that he was detained under the discretionary detention statute); *Magassouba v. Holder*, No. 10-5989 (FSH), 2011 WL 3859735, at *2 (D.N.J. Aug. 31, 2011) (“Petitioner is currently detained pursuant to the discretionary detention provisions of 8 U.S.C. § 1226(a).”).

The authority to protect Mr. Akhmedov’s constitutional due process rights lies with this Court in the exercise of its habeas jurisdiction. *See Demore v. Kim*, 538 U.S. 510, 517 (2003) (holding that noncitizens may challenge the constitutionality of their immigration detention notwithstanding § 1226(e)). It would be nonsensical for this Court to have the power to declare § 1225(b) unconstitutional as applied to

¹ To the degree that the Third Circuit’s unpublished decision in *Quinteros v. Warden Pike C’ty Corr. Facility*, 784 F. App’x 75 (3d Cir. 2019) suggests that § 1226(e) limits the Court’s jurisdiction in this circumstance, it is not binding and is unpersuasive, since it does not address the argument above or consider whether a habeas-ordered bond hearing is an “application” of § 1226. *See Brecht v. Abrahamson*, 507 U.S. 619, 631 (1993) (recognizing that stare decisis is not applicable unless an issue was “squarely addressed”); *Webster v. Fall*, 266 U.S. 507, 511 (1925) (“Questions which merely lurk in the record, neither brought to the attention of the court nor ruled upon, are not to be considered as having been so decided as to constitute precedents.”).

Mr. Akhmedov but then have no power to ensure compliance with its order. *See Gibbs v. Frank*, 500 F.3d 202, 205 (3d Cir. 2007) (citing *Phifer v. Warden*, 53 F.3d 859, 865 (7th Cir. 1995) for the proposition that district courts have “continuing jurisdiction to address alleged noncompliance with conditional writ[s] of habeas corpus”). As another district court in this Circuit held, “[f]ederal district courts retain jurisdiction to review the Government’s compliance with the conditional grant of habeas relief, that is, to determine whether the Government properly cured the identified constitutional error.” *Haskell v. Folino*, 461 F. Supp. 3d 202, 210-11 (W.D. Pa. 2020); *see also Saltos Chiguano v. Lowe*, No. 1:24-cv-2210, 2025 WL 3187161, at *4 (M.D. Pa. Nov. 14, 2025) (“Federal district courts have the authority to enforce writs of habeas corpus and to conduct bond proceedings in habeas corpus cases brought by immigration detainees.”); *Mathon v. Searls*, 623 F. Supp. 3d 203, 213 (W.D.N.Y. 2022) (stating that “§ 1226(e) is no impediment to the Court’s review of the IJ’s decision in the context of the enforcement motion”); *Hechavarria*, 358 F. Supp. 3d at 235-236 (rejecting government’s argument that § 1226(e) precluded district court from entertaining motion to enforce conditional writ of habeas).

Even if § 1226(e) does apply, it does not bar review of legal and constitutional questions. *Carlos M.D. v. Anderson*, 460 F. Supp. 3d 535, 543 (D.N.J. 2020); *see Sylvain v. Att’y Gen. of the U.S.*, 714 F.3d 150, 155 (3d Cir. 2013). Mr. Akhmedov

challenges the IJ's adherence to this Court's Order, the Third Circuit's decision in *German Santos*, and the requirements of procedural due process. Pet'r's Mem. of Law (Doc. No. 10-1), at 10-17. Primarily, he challenges whether the IJ actually applied the "clear and convincing evidence" standard, and whether the evidence put forward by the DHS was sufficient to meet that burden. *See German Santos*, 965 F.3d at 214. Whether a party has presented sufficient evidence to meet its burden of proof is a question of law. *Denneny v. Siegel*, 407 F.2d 433, 439 (3d Cir. 1969); *see also Noori v. Att'y Gen. of the U.S.*, 193 F. App'x 181, 184 (3d Cir. 2006) ("Whether the petitioner presented evidence sufficient to astify the burden of proof is a question of law"); *United States v. Rodriguez*, 342 F.3d 296, 298 (3d Cir. 2003) (holding that a "determination about burden of proof [is] a question of law"); *Ford v. Bureau of Immigration and Customs Enforcement's Interim Field Office Dir. for Det. & Removal*, 294 F. Supp. 2d 655, 664 (M.D. Pa. 2003) (same). This Court therefore has jurisdiction to review the IJ's application of the burden of proof and other relevant legal standards through its "inherent power to enforce its habeas rulings." *Guerrero Sanchez v. Sabol*, No. 1:15-cv-2423, 2016 WL 7426129, at *6 (M.D. Pa. 2016); *see also Ousman D. v. Decker*, No. 20-9646, 2020 WL 5587441, at *3 (D.N.J. Sept. 18, 2020) (noting that misallocation of the burden of proof would make the bond hearing constitutionally deficient).

II. The December 23 Bond Hearing was Fundamentally Unfair, and the Government's Arguments to the Contrary Are Unavailing

Respondents argue that Mr. Akhmedov's bond hearing comported with due process because the IJ applied the correct standard, properly evaluated the record, and was not required to consider alternatives to detention. Doc. No. 12, at 3-4. These assertions are erroneous. The government was required to present clear and convincing evidence to justify Mr. Akhmedov continued detention. *See German Santos*, 965 F.3d at 214 (imposing the burden of proof required by due process). The IJ neither explicitly stated what standard she was applying, nor did she weigh the evidence presented by the DHS against Mr. Akhmedov's evidence or considered alternatives to detention, as the clear and convincing burden of proof required.

First, the IJ's decision is deficient on its face because she never delineated the standard of proof she was applying. *See Mathon*, 623 F. Supp. 3d at 214 (“[I]t may be clear from adjudicator's opinion itself that he or she simply did not apply correct standard to facts.”); *Hechavarria*, 358 F. Supp. 3d at 240 (same).

At the outset of the hearing, the IJ acknowledged that it was a habeas-ordered hearing and reminded that the burden was on DHS: “I’m sure the parties are aware the burden of proof in these proceedings pursuant to the district court’s order is a little bit different. The burden’s on the department, right?” Mot. to Enforce, Exh. B (Doc. No. 10-5) at 6. She ultimately concluded that the DHS “has met its burden of proof to demonstrate that this respondent is a flight risk.” *Id.* at 16, 18. However,

both her oral decision and her written order were silent as to the standard applied, and did not indicate that it is “highly probable” that Mr. Akhmedov will flee. *Id.*; Mot. to Enforce, Exh. A (Doc. No. 10-4), at 2; see *Colorado v. New Mexico*, 467 U.S. 310, 316 (1984) (describing the “clear and convincing” standard). As such, the face of the decision shows that Mr. Akhmedov’s hearing did not meet the constitutional requirements set forth in *German Santos*.

Respondents point to Mr. Akhmedov’s counsel’s statement from the bond hearing: “as Your Honor just stated, the burden is on the department by clear and convincing evidence.” Doc. No. 10-5, at 11; Doc. No. 12, at 2. Counsel indeed attempted to remind the IJ of the applicable standard. However, there is no indication that the IJ comported with that standard. At no point did the IJ verbalize what standard she was actually holding the DHS to or discuss the substance of the “clear and convincing evidence” standard.

Furthermore, it is clear from the IJ’s decision that she did not apply the correct standard to the facts. The clear and convincing standard is satisfied only when “the material [the proponent] offered instantly tilted the evidentiary scales in [its favor] when weighed against the evidence [the other party] offered in opposition.” *Colorado*, 467 U.S. at 316. Thus, the evidence the IJ relies on must be “individualized and support a finding that continued detention is needed to prevent him from fleeing or harming the community.” *German Santos*, 965 F.3d at 214. As

discussed above, this Court has the power to determine whether, as a matter of law, the DHS presented sufficient evidence to meet that burden. *Blandon v. Barr*, 434 F. Supp. 3d 30, 38 (W.D.N.Y. 2020) (“[T]he Court must now determine whether during Petitioner’s bond hearing the IJ relied upon proof that could not possibly establish by clear and convincing evidence—as a matter of law—that Petitioner was a danger to the community or a flight risk.”); *see also Luciano-Jimenez v. Doll*, 543 F. Supp. 3d 69, 72 (M.D. Pa. 2021) (granting a motion to enforce because the IJ relied on evidence that could not, as a matter of law, support her conclusion); *Santos v. Lowe*, No. 1:18-cv-1553, 2020 WL 4530728, at *3-4 (M.D. Pa. 2020) (same).

As detailed in Mr. Akhmedov’s memorandum, he presented ample evidence showing that he was not a flight risk. Doc. No. 10-1, at 8-10. Despite Mr. Akhmedov’s counsel’s repeated attempts to bring to the IJ’s attention the relevant facts, such as Mr. Akhmedov’s prior compliance with immigration laws and appearance in immigration court, the IJ did not explain how the DHS’s evidence “instantly tilted the evidentiary scales in [its favor] when weighed against the [Mr. Akhmedov’s] evidence.” Doc. No. 10-5, at 10-15 (counsel citing the evidence weighing against the factors underlined by the DHS as indicating the risk of flight); 16-18 (IJ focusing on DHS evidence in her decision and disregarding the counterweighing equities presented by Mr. Akhmedov); *see Colorado*, 467 U.S. at 316. The IJ’s confusion about the dates of Mr. Akhmedov’s residency further shows

that she did not consider evidence in the record. Specifically, when rendering her decision, the IJ mistakenly stated that Mr. Akhmedov was not residing at the address he reported to ICE when he was arrested. Doc. No. 10-5, at 15. She then adopted the argument of DHS counsel even though it was contrary to what she had previously said, suggesting that the outcome was “preordained and not based on thoughtful evaluation of the evidence presented.” *Id.* at 17; *see Hechavarria*, 358 F. Supp. 3d at 240 n.7.

Therefore, the IJ did not engage in a proper analysis under the “clear and convincing” standard by failing to consider Mr. Akhmedov’s evidence against the Government’s. *See Mathon*, 623 F. Supp. 3d at 214 (finding that the “evidence itself could not—as a matter of law—have supported the adjudicator’s conclusion”); *Fernandez Aguirre v. Barr*, No. 19-cv-7048, 2019 WL 4511933, at *7 (S.D.N.Y. 2019) (same). As the Respondents concede, due process requires “factfinding based on a record produced before the decisionmaker and disclosed to him or her.” Doc. No. 12, at 3; *see Abdulai v. Ashcroft*, 239 F.3d 542, 549 (3d Cir. 2001). Here, the IJ did not give Mr. Akhmedov’s evidence meaningful consideration despite admitting all evidence in the record and stating that her decision was based on the record as a whole.

Respondents rely on *Ghanem v. Warden Essex Cnty. Corr. Facility*, No. 21-1908, 2022 WL 574624, at *2 (3d Cir. Feb. 25, 2022) to argue that the IJ simply

gave different weight to evidence. Doc. No. 12, at 3-4. Their argument is unavailing, because *Ghanem* is not analogous to Mr. Akhmedov's case. The Petitioner in that case did not argue that the IJ overlooked or disregarded pertinent evidence, but only questioned whether the judge properly relied on police records in her finding of dangerousness. *Ghanem*, 2022 WL 574624, at *2. Here, the record contained evidence relevant to the issue of flight risk that the IJ chose to disregard. As such, contrary to Respondents' assertion, this is not a question of how two reasonable factfinders could weigh the evidence differently, but of the IJ's blatant disregard of probative evidence. *See Liem v. Att'y Gen. of the U.S.*, 921 F.3d 388, 395 (3d Cir. 2019) (holding that the agency may not ignore favorable evidence, and must provide "an indication that it considered such evidence, and if the evidence is rejected, an explanation as to why it was rejected"); *Latifi v. Gonzales*, 430 F.3d 103, 105 (2d Cir. 2005) (per curiam) ("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, omitting potentially significant facts[.]'" (citations omitted)).

Lastly, the IJ could not properly apply the required standard without considering the alternatives to detention (ATD). The Third Circuit's decision in *German Santos* makes clear that an IJ presiding over a constitutionally-required bond hearing must determine whether "continued detention is needed to prevent [the

noncitizen] from fleeing or harming the community.” 965 F.3d at 214. If alternative conditions could mitigate either of those risks, detention is not truly needed, and release is required. *See Cantor*, 761 F. Supp. 3d at 637 (concluding that “a neutral decisionmaker cannot possibly make” the determination of whether the government showed by clear and compelling evidence that a continued detention is necessary “without considering less restrictive alternatives to detention”).

Respondents contend that this argument is meritless because Mr. Akhmedov did not affirmatively request the ATDs at his hearing and, in any case, the IJ was not authorized to consider such request. Doc. No. 12, at 3-4. Respondents rely on 8 U.S.C. § 1226(a) to support their statements. However, this is not a case involving a § 1226(a) hearing. Mr. Akhmedov was subject to mandatory detention, which the Court determined had become unconstitutionally prolonged. Doc. No. 8. Therefore, Mr. Akhmedov’s hearing was subject to more stringent standards. *See German Santos*, 965 F.3d at 213–14 (“[W]hen someone stands to lose an interest more substantial than money, we protect that interest by holding the Government to a higher standard of proof.”). Consequently, the IJ was required to consider release subject to appropriate conditions. *Ousman D.*, 2020 WL 5587441, at *4 (finding that a bond hearing failed to comply with due process because the IJ did not consider less restrictive alternatives to detention); *see also Hechavarria*, 358 F. Supp. 3d at 241-42; *Fernandez Aguirre*, 2019 WL 4511933, at *5.

Respondents claim that *Ousman D.* is not instructive here because Mr. Akhmedov has not been detained for three years like the petitioner in that case. Doc. No. 12, at 4 (citing *Bastidas Cano v. Soto*, No. 25-18008, 2026 WL 63486, at *2 (D.N.J. Jan. 8, 2026)). However, Respondents’ focus on the length of detention is misleading and disregards the most critical fact of those cases—the statute of detention. *Bastidas Cano* referenced the length of detention only to underscore that his case was not a prolonged detention case like *Ousman D.*, but rather a case where the Court found that the petitioner was entitled to a § 1226(a) bond hearing in the first instance. *Bastidas Cano*, 2026 WL 63486, at *2 (“Petitioner has been detained just over two months and has not reached the point of prolonged detention requiring a different kind of review by an immigration judge.”). *Ousman D.* addressed the issue of alternatives to detention in the context of prolonged mandatory detention. 2020 WL 5587441, at *2-3. As such, *Ousman D.*, not *Bastidas Cano*, is analogous to this case. Therefore, this Court should similarly conclude that Mr. Akhmedov’s bond hearing failed to comply with due process because the IJ failed to consider less restrictive alternatives to detention.

As a result of the IJ’s errors, Mr. Akhmedov has been detained in ICE custody for sixteen months, without the Government ever having shown by clear and convincing evidence that his continued detention is necessary. Therefore, the Court

should hold that the bond hearing was not sufficiently individualized and grant the motion to enforce.

III. The Court Should Order Mr. Akhmedov's Release or Hold its Own Custody Hearing

As discussed in the brief in support of Mr. Akhmedov's motion and contrary to Respondents' position, this Court can and should order Mr. Akhmedov's release rather than deferring to an IJ for a second time. Doc. No. 10-1, at 19; *contra* Doc. No. 12, at 4. While "[h]abeas relief cannot fully remedy the indignities associated with" prolonged detention, "the writ's flexibility allows the Court to restore Petitioner to the position he would have occupied had DHS adhered to the law." *Polat v. Soto*, No. 2:25-cv-16893, 2025 WL 3718768, at *4 (D.N.J. Dec. 17, 2025). Indeed, release is the traditional habeas remedy. *M.M. v. Rokosky*, No. 25-18547, 2025 WL 3687941, at *2 (D.N.J. Dec. 19, 2025) (citing *Wilkinson v. Dotson*, 544 U.S. 74, 78 (2005)); *Mateo v. Noem*, No. 25-151, 2025 WL 3499062, at *7 (W.D. Ky. Dec. 5, 2025) (citing *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020)).

The Court's exercise of its power to order Mr. Akhmedov's release is particularly appropriate in light of serious concerns about the impartiality of the immigration courts. Experienced immigration judges are being fired or choosing to

resign, and are being replaced with under-qualified candidates.² “[N]o court can be fair when judges are operating in what they themselves describe as a ‘climate of fear’ and an ‘all-out attack on the immigration court.’”³ Instead of entrusting a petitioner’s liberty to an agency whose independence is compromised, federal courts can exercise their habeas jurisdiction to order immediate release or, in the alternative hold their own bond hearing. *See Centeno-Martinez v. Jamison*, No. 25-3593, 2025 WL 3157711, at *3 (E.D. Pa. Nov. 12, 2025); *L.G.M. v. LaRocco*, 788 F. Supp. 3d 401, 407 (E.D.N.Y. 2025).

CONCLUSION

For the foregoing reasons, Petitioner Maksaddzhon Akhmedov respectfully requests that the Court grant his motion to enforce, and and that it remedy the due process violations discussed above by ordering his release or holding its own custody hearing.

² *See Fairness to Freedom Campaign Warns of "Authoritarian Playbook" as Trump Administration Militarizes Immigration Courts*, Vera Institute of Justice (Sep. 4, 2025), available at <https://www.vera.org/newsroom/fairness-to-freedom-campaign-warns-of-authoritarian-playbook-as-trump-administration-militarizes-immigration-courts>; X. Bustillo, S. Simon, *The Trump administration fired nearly 100 immigration judges in 2025. What's next?*, NPR WNYC (Jan. 10, 2026), available at <https://www.npr.org/2026/01/10/nx-s1-5672386/the-trump-administration-fired-nearly-100-immigration-judges-in-2025-whats-next>

³ R. A. Reyes, *The Trump administration’s assault on immigration courts and judges*, The Hill (Dec. 11, 2025), available at <https://thehill.com/opinion/immigration/5641257-deportation-judges-immigration-court-reform/>

Dated: January 20, 2026

/s/Rebecca Hufstader
Rebecca Hufstader, Esq.
Oleksandra Byelyakova, Esq.
Legal Services of New Jersey
100 Metroplex Drive, Suite 101
Edison, New Jersey 08817
rhufstader@lsnj.org
(732) 529-8236