

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

NAFIOU LAMIDI,

Petitioner,

v.

E.L. TATUM, JR., Warden of the Federal Correctional Institute, Berlin; **PATRICIA H. HYDE**, Acting Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations, Boston Field Office; **TODD LYONS**, Acting Director, U.S. immigration and Customs Enforcement; **KRISTI NOEM**, Secretary of the U.S. Department of Homeland Security; **PAMELA BONDI**, U.S. Attorney General.

Respondents.

Civil No. 1:25-cv-297-LM-TSM

RESPONDENTS' REPLY IN SUPPORT OF MOTION TO DISMISS

Petitioner's habeas petition, filed August 8, 2025, contained a single request for relief: an order from this Court directing the Immigration Judge ("IJ") to conduct a bond hearing. *See* DN 1 at 5. Federal Respondents filed a motion to dismiss the petition on September 4, 2025, arguing that Petitioner was statutorily ineligible for a bond hearing, to which Petitioner responded on September 6, 2025. *See* DN 7; DN 9. In his response to Respondents' motion, Petitioner requests for the first time that this Court hold a bond hearing pursuant to its inherent

habeas authority because he has established “a clear case on the law and the facts” that he is entitled to the relief sought in the petition—that is, a bond hearing before the IJ. DN 9 at 12.

On September 8, 2025, this Court ordered the parties to be prepared to address at the upcoming hearing whether Petitioner is entitled to a bail hearing in this Court pursuant to this Court’s inherent authority to release habeas petitioners. Given the procedural posture of this case, (i.e., because the merits of this case have been fully briefed and are ripe for decision), the Court should decline to exercise its inherent authority to conduct a bond hearing. The Court can, and should, simply rule on the merits of the Petition.

I. LEGAL STANDARD

“[A] district court entertaining a petition for habeas corpus has inherent power to release the petitioner pending determination of the merits.” *Woodcock v. Donnelly*, 470 F.2d 93, 94 (1st Cir. 1972) (per curiam). In the First Circuit, a court may entertain the release on bond of a habeas petitioner pending a final decision only if: 1) the petitioner has a clear case on the law and facts, or 2) exceptional circumstances are present *and* the petitioner demonstrates a substantial claim of constitutional error. *Glynn v. Donnelly*, 470 F.2d 95, 98 (1st Cir. 1972); *Bader v. Coplan*, No. Civ. 02-508-JD, 2003 WL 163171, at *4 (D. NH Jan. 23, 2003). The court in *Glynn* explained that “in the absence of exceptional circumstances . . . the court will not grant bail prior to the ultimate final decision unless petitioner presents not merely a clear case on the law, . . . but a clear, and readily evident, case on the facts. Merely to find that there is a substantial question is far from enough.” *Id.* at 98. Similarly, the “ability to raise a substantial question of constitutional error, standing alone, is insufficient.” *Id.*

II. ARGUMENT

Petitioner has not alleged that exceptional circumstances are present in this case nor has he raised a substantial claim of constitutional error. Instead, he relies only on the first prong of the standard set forth in *Gomes*, arguing that he has made a clear case on the law and the facts that his detention is governed by § 1226 and that he is therefore entitled to a bond hearing before the IJ. DN 9 at 12. Respondent disagrees. That said, unlike other cases where this Court has considered whether to conduct a bond hearing in a habeas case, the merits of the instant case have been fully briefed and are ripe for decision. If the Court finds that Petitioner has established a clear case on the law and the facts that he is entitled to relief, the Court should decline to hold a bond hearing and should instead rule on the merits of the Petition. There is simply no need to conduct a bond hearing “pending a decision on the merits” if the Court has already decided the merits.

Accordingly, should the Court find that Petitioner has a “clear case on the law and the facts,” the Court should decline to order a bond hearing and should instead rule on the merits of the Petition.

Respectfully submitted,

ERIN CREEGAN
United States Attorney

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