



**U.S. Department of Justice**

United States Attorney  
District of New Jersey  
*Civil Division*

*John T. Stinson*  
Assistant United States Attorney  
Deputy Chief, Civil Division

401 Market Street, 4<sup>th</sup> Fl.  
Camden, NJ 08101  
[john.stinson@usdoj.gov](mailto:john.stinson@usdoj.gov)

main: (856) 757-5026  
direct: (856) 757-5139

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**By ECF**

Hon. Michael E. Farbiarz, U.S.D.J.  
U.S. District Court for the District of New Jersey  
Frank Lautenberg Post Office & U.S. Courthouse  
2 Federal Square  
Newark, NJ 07102

**Re: *Martinez Ron v. Lyons*, No. 25-17359-MEF  
Response to Appeal of Magistrate Judge's Order**

Dear Judge Farbiarz:

This Office represents Respondents in this § 2241 habeas matter filed by a noncitizen challenging the legality of his detention by U.S. Immigration and Customs Enforcement ("ICE"). The Court ordered a bond hearing for Petitioner, which occurred. *See* ECF No. 15. We write in response to Petitioner's appeal (ECF No. 28) of Magistrate Judge Almonte's opinion denying Petitioner's request for discovery into a wide range of issues involving bond hearings in general and the innerworkings of the Executive Office of Immigration Review. ECF No. 27. The Court should overrule Petitioner's objections and affirm Judge Almonte because the decision was "not clearly erroneous or contrary to law."

**Petitioner Cannot Meet the Applicable Standard Here**

Objections to a magistrate judge's non-dispositive ruling are governed by Local Civil Rule 72.1. Under this rule, the party appealing the ruling must demonstrate that it is "clearly erroneous or contrary to law." L. Civ. R. 72.1(c)(1)(A). "A magistrate judge's order is clearly erroneous only when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *Wachtel v. Guardian Life Ins. Co.*, 232 F.R.D. 213, 217 (D.N.J. 2005). To be contrary to law, a magistrate judge's order must have "misinterpreted or misapplied applicable law." *Estate of Lagano v. Bergen Cnty. Prosecutor's Off.*, No. 12-cv-5441 (KSH) (CLW), 2021 WL 5494393, at \*3 (D.N.J. Nov. 23, 2021) (internal citations and quotations omitted). "The burden is on the appellant to show that the decision was clearly erroneous or contrary to law." *Id.*

Petitioner cannot satisfy this high bar. The Magistrate Judge here applied the correct legal standard, and Petitioner does not challenge that, much less prove the decision was “contrary to law.” The Court held that discovery in habeas matters is not available of right, but by leave of court on a showing of good cause. Opinion at 3 (citing *Bracy v. Gramley*, 520 U.S. 899, 904 (1997)).

The Court then set forth the standard for a showing of good cause and held that Petitioner failed to fall within that standard. Opinion at 3-4 (“Petitioner does not sufficiently establish how his requested discovery is pertinent to establish the allegations in his Amended Petition.”) (citing *Thompson v. Lappin*, No. 07–2694, 2008 WL 2559303, at \*2 (D.N.J. June 24, 2008)). The Court instead concluded that Petitioner’s broad requests amounted to a “fishing expedition.” *Id.*

Rather than demonstrate these findings as “clearly erroneous,” Petitioner’s appeal further demonstrates that Petitioner seeks to conduct a comprehensive forensic examination of all the work of the Executive Office of Immigration Review (“EOIR”). See ECF No. 28. For example, he insists that “Due Process and basic rights no longer exist in the EOIR” and “DOJ has ordered its employees to act contrary to law across the board and not to individually assess each case.” *Id.* In doing so, he admits that the discovery does not actually concern his individual bond hearing. *Id.* at 2 (“Petitioner’s argument is not that the immigration judge improperly evaluated the evidence”).

Finally, the Court observed that “Petitioner has an avenue of relief through an appeal with the BIA” to challenge the bond determination. Opinion at 4. Petitioner’s response is that the Board of Immigration Appeals is “spewing unlawful directives” and cannot be trusted. ECF No. 28. This does not serve to demonstrate that the Magistrate Judge’s decision was “clearly erroneous or contrary to law.”

Accordingly, Respondents respectfully request that the Court overrule Petitioner’s objections and affirm the decision of the Magistrate Judge.

Respectfully submitted,

TODD BLANCHE  
U.S. Deputy Attorney General

JORDAN FOX  
Chief of Staff & Associate Deputy  
Attorney General  
Special Attorney

By:  / s / John T. Stinson  
JOHN T. STINSON

Assistant United States Attorney  
Deputy Chief, Civil Division

cc: Counsel of Record