



U.S. Department of Justice

United States Attorney's Office
District of New Jersey
Civil Division

Alex Silagi
Assistant United States Attorney
Deputy Chief, Civil Division

970 Broad Street, Suite 700
Newark, NJ 07102
alex.silagi@usdoj.gov

main: (973) 645-2700
direct: (973) 353-6001
fax: (973) 297-2010

January 8, 2026

BY ECF

Honorable Evelyn Padin, U.S.D.J.
U.S. District Court for the District of New Jersey
50 Walnut Street
Newark, NJ 07102

**Re: *Goncalves Rufo v. Bondi*, No. 25-17418
Answer to Second Petition**

Dear Judge Farbiarz:

This Office represents Respondents in this habeas matter filed by a noncitizen challenging the legality of his detention by U.S. Immigration and Customs Enforcement ("ICE") pursuant to 8 U.S.C. § 1225(b)(2). We respectfully submit this answer to Petitioner's Second Petition, ECF No. 10, which challenges the result of his bond hearing before an immigration judge. The Court should deny the petition.

On November 25, 2025, the Court issued an order granting Petitioner's writ of habeas corpus. ECF No. 6. The Court found that Petitioner's detention under § 1225(b)(2) was unlawful, that he was detained under § 1226(a), and, accordingly, directed Respondents to facilitate Petitioner receiving a bond hearing before an immigration judge. ECF No. 6.

On December 2, 2025, Immigration Judge Tamar H. Wilson held a bond hearing and denied Petitioner's request for release under bond, finding Petitioner "has not established to the satisfaction of the court that he is not a flight risk." Ex 1, IJ Bond Order at 1. Petitioner acknowledges that IJ Wilson held the hearing, at which Petitioner's counsel submitted hundreds of pages of exhibits, including his recently rejected application for asylum, and that IJ Wilsons adjudicated the bond request based on specific aspects of Petitioner's immigration history. *See* Second Pet. ¶¶ 3-7. Petitioner has reserved appeal of the decision to the Board of Immigration Appeals ("BIA"). Ex 1, IJ Bond Order at 2. On December 11, 2025, Petitioner requested a bond redetermination based on a refiled asylum application. Second Pet. ¶ 7. On December 16, 2025, a different immigration judge, IJ Arya Ranasinghe, also denied bond, finding Petitioner failed to meet his burden of proving he was not a flight risk. *See*

Ex. I to Second Pet., IJ Ranasinghe Bond Order, ECF No. 10-1 at PageID: 728. Petitioner reserved appeal of that decision, as well. *Id.*

Petitioner filed the Second Petitioner on December 23, 2025. ECF No. 10. Petitioner claims the bond hearing before IJ Wilson violated his due process rights because it was fundamentally unfair under *Ghanem v. Warden Essex Cnty. Corr. Facility*, No. 21-1908, 2022 WL 574624 (3d Cir. Feb. 25, 2022), and because it allegedly placed the burden on Petitioner to prove he is not a flight risk or danger to the community. Second Pet. ¶¶ 8-10, 40-46. Petitioner also claims the bond redetermination hearing before IJ Ranasinghe was improper because she did not deem the refiled asylum application and a new letter from Petitioner's father (Ex. M to Second Pet., ECF No. 10-1 at PageID: 751) to be a material change in circumstances warranting release under bond. *Id.* ¶¶ 47-49. Petitioner seeks immediate release or a bond hearing conducted by this Court. *Id.* ¶ 10.

On December 26, 2025, the Court issued a Text Order stating it “lacks jurisdiction to review any discretionary determinations underlying the immigration judge’s bond decision, but it can review whether the bond hearing was fundamentally unfair,” citing to *Ghanem*. ECF No. 11. The Court also directed Petitioner to provide a copy of the hearing transcript by January 5, 2026. Petitioner provided a transcript only of IJ Wilson’s December 2 bond hearing, and not of IJ Ranasinghe’s December 16 bond redetermination hearing. ECF No. 23.¹

The Court should reject Petitioner’s collateral attack on the 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 parole.”); *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.”). Rather, the proper avenue for relief is appellate review of the IJ’s order to the BIA.

This case also does not fall under the “fundamentally unfair” exception to continued habeas jurisdiction. *Ghanem v. Warden Essex Cnty. Corr. Facility*, No. 21-1908, 2022 WL 574624, at *2 (3d Cir. Feb. 25, 2022) describes the narrow exception, and the Third Circuit 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

¹ The transcript was prepared by Petitioner’s counsel, not by a certified stenographer or court reporter. ECF No. 12 at 23. Respondents take the transcript as true for the purpose of this expedited answer.

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 interests.” *Id.* at *2.

There, the panel found the proceedings were fair. The petitioner claimed the IJ 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 claim, reasoning that, among other things, disputes over what documents the IJ considered and how he interpreted them were “evidentiary quibbles” that do not amount to fundamental unfairness, and that petitioner’s claims to 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. Petitioner made arguments on his own behalf through his counsel who submitted written submissions and exhibits, Petitioner and the Department of Homeland Security engaged in an adversarial proceeding before the IJ, and IJ Wilson reached a specific conclusion of flight risk. The transcript of the bond hearing shows that IJ Wilson made an individualized determination of Petitioner’s request. Specifically, IJ Wilson considered Petitioner’s entry without inspection, Tr. 4; lack of a pending asylum application, *id.* at 8; a timing issue with respect to any attempt to refile an asylum application and an unlikelihood of success on a country-conditions claim for Brazil, *id.* at 8-10; lack of a waiver to overcome his unlawful presences, *id.* at 10; procedural issues with his current Form I-130 petition, *id.* at 12; and constructive notice of his removal proceedings for several years without appearing in court or checking in with immigration authorities, *id.* at 14-21.

IJ Wilson recognized that Petitioner “established that he is not a danger” but that he was a flight risk. *Id.* at 21. IJ Wilson then provided a lengthy summary of the reasons why, based on Petitioner’s specific circumstances, he failed to establish he was not a flight risk. *Id.* at 21-23. That Petitioner believes IJ Wilson improperly weighed the record evidence and reached a conclusion with which Petitioner disagrees strongly does not make the proceeding fundamentally unfair. *See Perez Flores v. Rokosky*, No. 25-17865 (SDW), 2025 WL 3677304, at *1 (D.N.J. Dec. 18, 2025) (denying challenge to bond denial and noting Petitioner raises “challenges to discretionary determinations that are beyond this Court’s review”); *see also Ghanem*, 2022 WL 574624, at *2 (noting a motion in federal court “is not the proper avenue to relitigate the merits of a bond order”).

To the extent Petitioner still challenges the bond redetermination hearing before IJ Ranasinghe, Petitioner does not explain why that proceeding was fundamentally unfair. It appears that Petitioner’s main claim—i.e., that a pending asylum application and the new letter are changed circumstances warranting release under bond—fails the high bar set by *Ghanem*, too, because it “amounts to an

allegation of improper evidence weighing,” which is “not within our authority to consider.” *Ghanem*, 2022 WL 574624, at *2-3.²

We thank the Court for its attention to this matter.

Respectfully submitted,

TODD BLANCHE
U.S. Deputy Attorney General

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

By: s/ Alex Silagi
ALEX D. SILAGI
Assistant United States Attorney
Deputy Chief, Civil Division
Attorneys for Respondents

cc: Counsel of record (by ECF)

² Petitioner states at one point that IJ Wilson applied the burden wrong. That argument fails because IJ Wilson properly placed the burden on Petitioner, not DHS. *See Borbot v. Warden Hudson Cnty. Corr. Facility*, 906 F.3d 274, 278-79 (3d Cir. 2018) (holding that Due Process does not require the government to bear the burden of proof in bond hearings under 8 U.S.C. § 1226(a)).