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IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

O.A.C.S., Petitioner, v. MINGA WOFFORD, et al. Respondents.	CASE NO. 1: 1:25-CV-01652-DAD-CSK RESPONDENT'S OPPOSITION TO MOTION TO ENFORCE JUDGMENT COURT: Hon. DALE A. DROZD

I. PROCEDURAL HISTORY

On December 4, 2025, this Court ordered that Respondents provide Petitioner with a bond hearing within five days of the entry of the order, and to file a status report. Doc. 13. The Court found that Petitioner is detained subject to the detention authority in 8 U.S.C. § 1226(a), and that due process requires that Petitioner be provided with a bond hearing. Doc. 13 at pp. 7-9. On December 15, 2025, Respondents filed a status report informing the Court that on December 8, 2025, an immigration judge held a custody redetermination proceeding (bond hearing) and denied bond because, "the Court determines that the Department has established by clear and convincing evidence that Respondent is such a significant risk of flight that no conditions of release are appropriate." Doc. 14. On January 3, 2026, the parties stipulated to a briefing schedule. Doc. 15.

I failed to calendar the Respondents' response date. As a result, I did not file a response to the habeas petition, and I apologize to the Court and opposing counsel for my failure. The only change from the briefing on the temporary restraining order is that the Petitioner has now received a bond

redetermination hearing before the Immigration Judge, who determined "that the Department has established by clear and convincing evidence that that [O.A.C.S.] is such a significant risk of flight that no conditions of release are appropriate." Doc. 14; Doc. 16-2 at p. 4. The bond hearing was the remedy for due process violation identified by the Petitioner and the Court. Doc. 13 at 8-9.

As reported in the status report, an Immigration Judge held a bond hearing on December 8, 2025 on an expedited basis. Doc. 16-1 ¶ 6. The Immigration Judge issued an order denying bond "the Court determines that the Department has established by clear and convincing evidence that Respondent is such a significant risk of flight that no conditions of release are appropriate." Doc. 14; Doc. 16-2 at p.4; *compare* Doc. 16-1 ¶ 7 ("At the close of the hearing, the IJ stated that DHS had met its burden of proof as to both Petitioner's risk of danger and flight."). Petitioner appealed the bond determination on December 13, 2025, but the appeal was initially rejected and had to be refiled on January 3, 2026. Doc. 16-1 at ¶ 7. On January 19, 2026, Petitioner filed a motion to enforce, alleging that the immigration judge did not provide a hearing according to this Court's order granting the temporary restraining order in part, ordering that "Respondents are ORDERED to provide petitioner a bond hearing within five (5) days of the date of entry of this order;". Doc. 16 at p. 11 (Conclusion 1(a)).

II. ARGUMENT

A. To the extent prudential exhaustion applies, this Court should deny the motion without prejudice to allow the Board of Immigration Appeals to hear the appeal.

1. If this is simply an appeal from the Immigration Judge's bond determination, this Court does not have jurisdiction to consider it.

"Section 1226(e) precludes jurisdiction over a claim that an IJ, exercising his statutorily-delegated discretion, 'set an excessively high bond amount'" or "an IJ's discretionary bond determination." *Perez v. Wolf*, 445 F.Supp.3d 275, 283-84 (N.D. Cal. 2020). This Court retains "habeas jurisdiction over constitutional claims or questions of law." *Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011) *abrogated on other grounds as recognized in Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1199 (9th Cir. 2022). "Of course, a habeas petitioner may not circumvent clear congressional intent to eliminate judicial review over discretionary decisions by "cloaking an abuse of discretion argument in constitutional garb." *Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001).

In this case, Petitioner made a due process claim, and this Court specified that the remedy was to order a bond hearing. Doc. 13 at pp. 8-9. Although the Court did not specify an evidentiary burden or burden of persuasion, the Immigration Judge ("IJ") understood that the burden would be by "clear and convincing evidence," and that it was the government's / Department of Homeland Security ("DHS")'s burden. Doc. 16-2 at p. 4. Thus, the motion to enforce judgment is simply an attempt to circumvent the normal appellate process for discretionary bond determinations, and this Court does not have jurisdiction to review the denial of bond. *Singh v. Holder*, 638 F.3d at 1200-03 (habeas jurisdiction vests after review by the BIA); *Prieto-Romero v. Clark*, 534 F.3d 1053, 1059 (9th Cir. 2008).

2. The principles of prudential exhaustion require this Court to allow Petitioner's BIA appeal to be heard.

In *Leonardo v. Clark*, 646 F.3d 1157, 1159 (9th Cir. 2011), the Ninth Circuit reviewed a case where, "[r]ather than appealing the IJ's adverse bond determination to the BIA, Leonardo filed a motion for review of the IJ's decision in his pending habeas case, arguing that the hearing failed to satisfy due process or conform to the district court's previous order." The district court denied the petition, in part because "the court concluded that the government had 'complied exactly with this Court's Order' by providing Leonardo a bond hearing before the immigration judge.'" *Id.* (quoting district judge's order). The petitioner also appealed the IJ's adverse bond determination to the BIA. *Id.* The Ninth Circuit concluded that, "the district court should have dismissed Leonardo's claims, without prejudice, for a failure to exhaust administrative remedies." *Id.* at 1160. The Ninth Circuit held that if an alien is dissatisfied with the IJ's bond determination, "they may file an administrative appeal so that 'the necessity of detention can be reviewed by ... the BIA.'" *Id.* (quoting *Prieto-Romero*, 534 F.3d at 1059). "If they remain dissatisfied, they may file a petition for habeas corpus in the district court." *Id.* Pursuing a motion to review (or in this case a motion to enforce judgment) is an improper short cut, and the alien "should have exhausted administrative remedies by appealing to the BIA before asking the federal district court to review the IJ's decision." *Id.* (citing *Rojas-Garcia v. Ashcroft*, 339 F.3d 814, 819 (9th Cir. 2003)).

"Administrative exhaustion can be either statutorily required or judicially imposed as a matter of prudence." *Puga v. Chertoff*, 488 F.3d 812, 814-15 (9th Cir. 2007) (citing *Noriega-Lopez v. Ashcroft*,

335 F.3d 874, 881 (9th Cir. 2003)). Although a court does have discretion to waive prudential exhaustion, "this discretion is not unfettered." *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). In general terms, exhaustion may be waived "where administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *S.E.C. v. G.C. George Sec., Inc.*, 637 F.2d 685, 688 (9th Cir. 1981); *Laing*, 370 F.3d at 1000.

In this case, Petitioner has not excused his failure to exhaust administrative remedies. His filings indicate that his initial appeal was rejected for technical problems with the filings. Doc. 16-2 at 2-3. Although Petitioner has submitted evidence that he successfully uploaded amended appeal documents, there is no indication that there is an active appeal. Doc. 16-3. Petitioner makes several attempts to argue that the BIA appeal would be inadequate, but does not cite any analogous cases. In *Perez*, the Court specifically stated that, "this Court holds that a petitioner seeking to enforce an earlier writ of habeas corpus must still exhaust (or be excused from exhausting) available direct appeals." 445 F.Supp.3d at 285. More importantly, Petitioner's procedural posture is essentially the same as in *Leonardo v. Crawford*, where the Ninth Circuit required the district court to dismiss the petition for failure to exhaust. *Leonardo*, 646 F.3d at 1160-61. Therefore, Respondents request that this Court dismiss the Petitioner's Motion to Enforce Judgement at this time to allow Petitioner to exhaust the appellate process before the BIA.

B. **The Immigration Judge complied with the Court's Order, therefore there was no violation of the Court's Order, and the motion to enforce should be denied.**

1. The Immigration Judge and Respondents complied with this Court's order.

In this Court's order, this Court stated, "The court therefore concludes, applying the reasoning in *Martinez* Hernandez and *J.S.H.M*, that petitioner is not entitled to immediate release but is entitled to an in-custody bond hearing." Doc. 13 at 9. This Court then ordered:

> Petitioner's motion for a temporary restraining order (Doc. No. 2) is GRANTED in part as follows:
>
> Respondents are ORDERED to provide petitioner a bond hearing within

> five (5) days of the date of entry of this order;[1]
>
> Within three days of the bond hearing, respondents shall file a status report in this case confirming that petitioner has been provided the bond hearing;[2] Doc. 13 at 11.

Petitioner acknowledges that the DHS moved for a bond redetermination hearing the next day, and that a bond hearing was actually held on December 8, 2025. Doc. 16 at 3-4. The Immigration Judge held a hearing, placed the burden of proof by clear and convincing evidence on the government, and made a ruling in which she "determines that the Department has established by clear and convincing evidence that Respondent is such a significant risk of flight that no conditions of release are appropriate." Doc. 16-2 at 4-5. This case is precisely like the situation in *Leonardo v. Crawford*, in that this Court should conclude that "the government 'complied exactly with this Court's Order' by affording a bond hearing before an immigration judge." 646 F.3d at 1161. Therefore, this Court is "under no obligation to address [Petitioner's] new arguments under the ambit of ensuring compliance with the earlier order." *Id.* Thus, the result should be the same, and this Court should deny the motion to enforce. *Id.*; *see also Doe v. Becerra*, 2024 WL 2304237 at *2 (N.D. Cal., May 21, 2024) (denying motion to enforce until administrative appeal is complete).

2. The Immigration Court went beyond normal procedure and found that the government established by clear and convincing evidence that the Petitioner was a risk of flight, therefore this Court should deny the motion to enforce.

The Petitioner argues for *de novo* review of the Immigration Judge's order, and cites *Mathon v. Searls*, 621 F.Supp.3d 203, 213 (W.D.N.Y. 2022) to support a district court reweighing the evidence. Doc. 16 at 9-11. Even in the Western District of New York, however, "an IJ's finding of 'clear and convincing evidence' may be overturned only in limited circumstances, such as when 'the evidence itself could not – as a matter of law – have supported the adjudicator's conclusion' or when it is 'clear from the adjudicator's opinion itself that [the IJ] simply did not apply the correct standard to the facts." *Davis v. Garland*, 708 F.Supp.3d 283, 294-95 (W.D.N.Y. 2023) (quoting *Mathon*, 623 F.Supp.3d at

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[1] Date of entry was December 4, 2025.

[2] This Court did not mandate a specific burden of proof or procedure outside of the immigration court's regular bond redetermination hearing. Doc. 13 at 11.

213-14). As the Ninth Circuit clarified in *Martinez v. Clark*, 124 F.4th 775, 780, 784 (9th Cir. 2024), a determination by the BIA that the alien is dangerous or a flight risk for the purposes of continued detention is reviewed for abuse of discretion. The Respondents agree that the Immigration Judge may consider the *Guerra* factors when determining whether release on bond and / or conditions would be appropriate. *See Martinez*, 124 F.4th at 783; Doc. 16 at 7 (citing *In Matter of Guerra*, 24 I&N Dec. 36, 40 (BIA 2006)). District courts that engage in *de novo* review of bond determinations, commit error because the proper standard of review is abuse of discretion. *Id.* at 784. Therefore, this Court "cannot reweigh evidence" rather it can only "determine whether the BIA[3] applied the correct legal standard." *Konou v. Holder*, 750 F.3d 1120, 1127 (9th Cir. 2014).

This case is not similar to *Mathon v. Searls*, but closer to *Davis v. Garland*, 708 F.Supp.3d at 295-98.[4] In *Davis*, the district court properly narrowed its review "to determine whether an IJ complied with the [Court's D&O], not to review the hearing evidence *de novo*." *Id.* at 294 (quoting *Blandon v. Barr*, 434 F.Supp.3d 30, 38 (W.D.N.Y. 2020)). As a result, the district court denied the motion to enforce, because it declined to reweigh the evidence. *Id.* On the record provided, the district court could not find that the immigration judge's factual finding was unsupported as a matter of law or that the immigration judge actually applied the wrong standard, and therefore it denied the motion because the immigration judge had complied with its order. *Id.* at 294-95 (correct standard), 295-99 (factual findings supported by evidence "even if this Court may have reached a different conclusion"). This is the same standard applied in *Perez v. Wolf*, summarized as "[t]his Court's review is limited to determining whether or not there is sufficient evidence in the record to support the IJ's dangerousness finding." 445 F.Supp.3d at 291. Petitioner's citation to *Y.S.G. v. Andrews*, is inapposite, because despite stating that the court is not allowed to reweigh the evidence, the magistrate judge proceeded to reweigh the evidence and import of the Petitioner's prior convictions. 2025 WL 2979309 at *8 (stating incorrectly that abuse of discretion review "does involve 'reweigh[ing] evidence'"), *9-11 (reweighing

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[3] This suggests, again, that the Board of Immigration Appeals should be given the opportunity to rule on the appeal from the Immigration Judge's bond redetermination decision.

[4] The Respondents note that even in *Davis*, the district court's decision and order placed specific conditions on the bond hearing. *Davis*, 708 F.Supp.3d at 292 (requiring burden on the government and neutral decisionmaker).

the import of Petitioner's prior convictions).

There is a presumption that the immigration judge satisfies the due process requirement to consider all the evidence presented, and the immigration judge is not required to address every piece of evidence submitted. *See Larita-Martinez v. INS*, 220 F.3d 1092, 1096 (9th Cir. 2000); *Almaghzar v. Gonzales*, 457 F.3d 915, 922 (9th Cir. 2006) (a "general statement that [the agency] considered all the evidence before [it]" may be sufficient). Although the Petitioner alleges that the Immigration Judge applied an incorrect standard of proof to Petitioner's bond proceedings, the immigration judge's order clearly indicates that the burden of proof was on the DHS and that the standard of proof was clear and convincing evidence. Doc. 16 at 8-10; Doc. 16-2 at 4-6. An immigration judge's procedural statement that a bond hearing is governed by the INA and the regulations does not mean that another standard is being applied. *See Davis*, 708 F.Supp.3d at 295-96 (general statement regarding evidentiary and other procedures governing hearing did not mean another legal standard was applied). DHS was entitled to submit the documentation of Petitioner's ISAP violations as evidence, because hearsay is admissible, and the evidence was probative and its admission was fundamentally fair. *Rojas-Garcia v. Ashcroft*, 339 F.3d 814, 823 (9th Cir. 2003) (immigration judge is allowed to rely on hearsay and the government's evidence); Doc. 16 at 10-12 (arguing that the DHS submitted insufficient evidence). Petitioner argues on the one hand that the immigration judge was required to accept Petitioner's declaration and required to reject the DHS's submissions regarding the Petitioner's violations, and that the immigration judge shifted the burden by requiring Petitioner to produce more persuasive evidence. Doc. 16 at 10-12. An immigration judge is allowed to draw adverse inferences against the alien and weigh evidence. *Rojas-Garcia*, 339 F.3d at 822-24 (noting immigration judge's ability to evaluate credibility of evidence and importance of hearsay submissions). In this case, despite this Court's order not specifying an evidentiary burden or standard, the immigration judge required the government to show by clear and convincing evidence that the Petitioner was a flight risk, and so concluded after evaluating all the submissions. This Court cannot require more. *Leonardo*, 646 F.3d at 1161.

Furthermore, the Petitioner's history of violations while on Alternatives to Detention / ISAP program was sufficient to support a finding that Petitioner is a flight risk. *See Perez*, 445 F.Supp.3d at 290 ("Petitioner's DUI history *could* support a finding that Petitioner represents a danger to the

community."); Doc. 16-2 at 15. In addition, the 13 violations, including two failed home visits within one calendar year could support a finding that the Petitioner was a flight risk. Doc. 16-2 at 15 (documentation of frequency and nature of violations); 34-35 (explaining he entered ISAP on September 9, 2024 and circumstances of detention). Therefore, the Immigration Judge's decision was not unsupported as a matter of law, and this Court cannot find an abuse of discretion. *Martinez*, 124 F.4th at 784.

III. CONCLUSION

This Court should apply prudential exhaustion and deny the motion (until Petitioner's BIA appeal is final). In the alternative, this Court should find that the immigration judge complied with its prior order on the temporary restraining order by giving Petitioner a bond redetermination hearing, and that the immigration judge's decision was supported by sufficient evidence, and that the immigration judge applied the correct legal standard. Therefore, the immigration judge complied with this Court's order and the motion to enforce should be denied.

Dated: January 26, 2026

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By: /s/ ROGER YANG
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