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11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 VIKTOR RUSSU,
14 Petitioner,
15 v.
16 PAMELA BONDI, et al.,
17 Respondent.

Case No. 5:25-cv-03327-RGK-MAR

**ANSWER TO PETITION FOR WRIT
OF HABEAS CORPUS**

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1 **I. INTRODUCTION**

2 Petitioner Viktor Russu filed his Petition for Writ of Habeas Corpus under 28 U.S.C.
3 § 2241 requesting immediate release from immigration detention at the Adelanto
4 Immigration Processing Center. Respondent respectfully requests that the Court deny the
5 Petition because: (1) Petitioner's detention by Immigration and Customs Enforcement
6 pending removal is authorized by statute; (2) this Court lacks jurisdiction over the Petition
7 to the extent it seeks to review ICE's decisions to arrest, detain, and remove Petitioner; (3)
8 Petitioner has not submitted evidence sufficient to show that Respondents violated his
9 Fifth Amendment due process rights, or his Eighth Amendment rights for not providing
10 medical care to his satisfaction; and (4) complaints about conditions of confinement are
11 not a basis for habeas claims. As discussed below, Petitioner has received bond hearings
12 while in immigration detention, and he has been found to be a flight risk. Therefore he is
13 properly held in detention during his removal proceedings. He is currently appealing that
14 bond hearing ruling to the BIA, and he cannot collaterally attack it in a habeas petition in
15 District Court.

16 Accordingly, the Petition should be dismissed.

17 **II. STATEMENT OF FACTS**

18 Petitioner is a native and citizen of Ukraine. Petition at 10. Petitioner has been
19 residing in the United States since March 13, 2015. *Id.* Petitioner was in an approved
20 Temporary Protected Status (TPS) that was valid until April 19, 2025. *Id.* He has a
21 pending extension application for TPS. *Id.* Petitioner also has a pending asylum
22 application. *Id.* The Petitioner has never been convicted of any crime or offense. Petition
23 at 15. On August 27, 2025, Petitioner was apprehended by government agents. *Id.* at ¶ 17.
24 He was then initially held at Los Angeles ICE office for one day and subsequently
25 transferred to the Adelanto ICE Detention Center, where he is currently located. *Id.*

26 On or about September 15, 2025, a bond hearing for the Petitioner was held and
27 denied. The court found the totality of the circumstances to be sufficient to show his flight
28 risk. *See* Exhibit 4-2, pgs. 019-030. At this time, the Government submitted to the court

1 an I-213 (Record of Deportable/Inadmissible Alien), which states that upon encountering
2 the Petitioner, he initially fled from agents upon being told there was an arrest warrant for
3 his apprehension. Petition at 20. Once Petitioner was apprehended, he was taken into
4 custody without further incident. *Id.* The I-213 went on to report that the Government
5 received an anonymous tip that attributed illegal activity to Petitioner. *Id.* Over Petitioner's
6 objection, the document was admitted and considered by the immigration judge. *Id.* Citing
7 flight risk and lack of sufficient sponsorship or family ties, the court denied bond. *See*
8 Exhibit 4-2, pgs. 19-44. Further, the bond denial order indicated that the denial of the bond
9 was not based on the anonymous call. Petition at 20. On or about October 5, 2025,
10 Petitioner, through counsel, filed an appeal of the immigration judge's decision to deny
11 his bond. *See* Exhibit 4-3, pgs. 047-049. The appeal remains pending before the Board of
12 Immigration Appeals (BIA). *Id.*

13 On or about October 27, 2025, the Petitioner was hospitalized for Meniere's
14 syndrome. *See* Exhibit 4-1, pg. 14. The Petitioner claims that because of this, his health is
15 deteriorating. *Id.*

16 On or about November 21, 2025, Petitioner, through counsel, filed a Motion for
17 custody redetermination based on a material change in circumstances. *See* Exhibit 4-4,
18 pgs. 51-61. The court denied the Petitioner's motion. *See* Exhibit 4-6, pgs. 143-164. On
19 December 11, 2025, the Petitioner filed the instant Petition for Writ of Habeas Corpus.

20 **III. ARGUMENT**

21 **A. The Government is Authorized to Arrest and Detain Noncitizens in** 22 **Connection with Removal Proceedings and Following Removal Orders**

23 **1. Pre-Removal Order Arrest and Detention**

24 8 U.S.C. § 1226 provides for arrest and detention of non-citizens "pending a
25 decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a).
26 Under § 1226(a), the government may detain a non-citizen during his removal
27 proceedings, release him on bond, or release him on conditional parole. By regulation,
28 immigration officers can release a non-citizen if the non-citizen demonstrates that he

1 “would not pose a danger to property or persons” and “is likely to appear for any future
2 proceeding.” 8 C.F.R. § 236.1(c)(8). A non-citizen can also request a custody
3 redetermination (i.e., a bond hearing) by an IJ at any time before a final order of removal
4 is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19.

5 At a custody redetermination, the IJ may continue detention or release the non-
6 citizen on bond or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1). IJs
7 have broad discretion in deciding whether to release a non-citizen on bond. *In re Guerra*,
8 24 I. & N. Dec. 37, 39–40 (BIA 2006) (listing nine factors for IJs to consider). But
9 regardless of the factors IJs consider, a non-citizen “who presents a danger to persons or
10 property should not be released during the pendency of removal proceedings.” *Id.* at 38.

11 Non-citizens may also be detained pursuant to 8 U.S.C. § 1225, which applies to
12 “applicants for admission,” who are defined as “alien[s] present in the United States who
13 [have] not been admitted” or “who arrive[] in the United States.” 8 U.S.C. § 1225(a)(1).
14 Applicants for admission “fall into one of two categories, those covered by § 1225(b)(1)
15 and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

16 Section 1225(b)(1) applies to arriving non-citizens and “certain other” non-citizens
17 “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid
18 documentation.” *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These non-citizens are generally
19 subject to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if the non-
20 citizen “indicates an intention to apply for asylum . . . or a fear of persecution,”
21 immigration officers will refer the non-citizen for a credible fear interview. *Id.* §
22 1225(b)(1)(A)(ii). A non-citizen “with a credible fear of persecution” is “detained for
23 further consideration of the application for asylum.” *Id.* § 1225(b)(1)(B)(ii). If the non-
24 citizen does not indicate an intent to apply for asylum, express a fear of persecution, or is
25 “found not to have such a fear,” he is detained until removed. *Id.* §§ 1225(b)(1)(A)(i),
26 (B)(iii)(IV).

27 Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*, 583
28 U.S. at 287. It “applies to all applicants for admission not covered by § 1225(b)(1).” *Id.*

1 Under § 1225(b)(2), a non-citizen “who is an applicant for admission” shall be detained
2 for a removal proceeding “if the examining immigration officer determines that [the] alien
3 seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. §
4 1225(b)(2)(A); *see Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (“for aliens arriving
5 in and seeking admission into the United States who are placed directly in full removal
6 proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates
7 detention ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at
8 299). Still, DHS has the sole discretionary authority to temporarily release on parole “any
9 alien applying for admission to the United States” on a “case-by-case basis for urgent
10 humanitarian reasons or significant public benefit.” *Id.* § 1182(d)(5)(A); *see Biden v.*
11 *Texas*, 597 U.S. 785, 806 (2022).

12 2. Review at the BIA

13 The BIA is an appellate body within the Executive Office for Immigration Review
14 (“EOIR”). *See* 8 C.F.R. § 1003.1(d)(1). Members of the BIA possess delegated authority
15 from the Attorney General. 8 C.F.R. § 1003.1(a)(1). The BIA is “charged with the review
16 of those administrative adjudications under the [INA] that the Attorney General may by
17 regulation assign to it,” including IJ custody determinations. 8 C.F.R. § 1003.1(d)(1),
18 236.1; 1236.1. The BIA not only resolves particular disputes before it, but also “through
19 precedent decisions, [it] shall provide clear and uniform guidance to DHS, the immigration
20 judges, and the general public on the proper interpretation and administration of the [INA]
21 and its implementing regulations.” *Id.* § 1003.1(d)(1). “The decision of the [BIA] shall be
22 final except in those cases reviewed by the Attorney General.” 8 C.F.R. § 1003.1(d)(7).

23 **B. To the Extent Petitioner is Challenging his Immigration Court Bond** 24 **Rulings Determining That He is a Flight Risk, There Is No Jurisdiction** 25 **To Review Those Findings in Habeas, and Petitioner Also Fails to** 26 **Demonstrate the Merits of His Claim for TRO Relief**

27 Petitioner primarily complains that he should have been released on bond. But
28 habeas petitions are not a way of collaterally attacking Immigration Court bond hearing

1 decisions. To the contrary, 8 U.S.C. § 1226(e) precludes the merits of those decisions from
2 being revisited in District Court. 8 U.S.C. § 1226(e) provides that bond decisions “shall
3 not be subject to judicial review” and that “[n]o court may set aside any action or decision
4 . . . regarding the detention or release of any alien or the grant, revocation, or denial of
5 bond[.]” As the Supreme Court has recognized, “§ 1226(e) precludes an alien from
6 challenging a discretionary judgment by the Attorney General or a decision that the
7 Attorney General has made regarding his detention or release.” *Jennings v. Rodriguez*,
8 583 U.S. 281, 295 (2018) (internal quotations, alterations, and citations omitted).
9 Similarly, because section 1226(e) commits bond determinations to agency discretion by
10 statute, the Court also lacks jurisdiction pursuant to 8 U.S.C. § 1252(a)(2)(B)(ii). See
11 *Kucana v. Holder*, 558 U.S. 233, 241-52 (2009). Accordingly, the Court lacks jurisdiction
12 to review Petitioner’s custody determination and bond orders under both section 1226(e)
13 and section 1252(a)(2)(B)(ii).

14 For a recent example of this, on December 10, 2025, Judge Sykes issued an order
15 in *Salgado Valenzuela v. Semaia, et al.*, 5:25-cv-02853-SSS-RAO, in which the court
16 determined that it did not have jurisdiction under section 1226(e) to review an IJ’s
17 determination of a bond decision.

18 Moreover, with respect to complaining of Immigration Court bond hearing rulings,
19 Petitioner has also failed to exhaust his administrative remedies, and “[t]he Ninth Circuit
20 has stated that an alien dissatisfied with an [Immigration Judge’s] bond determination has
21 the option of appealing to the [Board of Immigration Appeals (“BIA”)].” *Cruz v. Sessions*,
22 No. 18-CV-06215-LHK, 2018 WL 6047287, at *4 (N.D. Cal. Nov. 18, 2018) (citing
23 *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011)); see also *Diaz Reyes v.*
24 *Mayorkas*, 854 Fed. App’x. 190, 191 (9th Cir. 2021) (“Under *Leonardo v. Crawford*, . . .
25 .[] a petitioner is generally required to exhaust administrative remedies before seeking
26 judicial review of challenges to an [Immigration Judge’s] denial of bond.”).

27 Furthermore, Petitioner fails to identify any cognizable putative defect in the bond
28 hearing decisions anyways. He just disagrees with them.

1 Accordingly, Petitioner fails to establish a meritorious habeas claim on this issue.

2 **C. Petitioner's Complaints About His Health Condition Are Not a Basis**
3 **For a Habeas Claim**

4 Petitioner complains about having Meniere's disease, and asserts that he is not
5 getting proper care for that. While medical care for detainees is indeed important, it is not
6 a basis for release. Detention centers are able to provide extensive medical services to
7 detainees, including medication, and including outpatient services for particular
8 extraordinary needs if that is warranted. *See, e.g.,* [https://www.ice.gov/detain/detention-](https://www.ice.gov/detain/detention-management/2025)
9 [management/2025](https://www.ice.gov/detain/detention-management/2025). More importantly here, the remedy for any such deficiency would be
10 to provide the treatment, not to order release. It is well-established that habeas claims
11 cannot be premised on complaints about conditions of confinement. *See Pinson v.*
12 *Carvajal*, 69 F.4th 1059, 1073 (9th Cir. 2023). As the Ninth Circuit held, such claims lie
13 outside the historic core of habeas corpus, for which the only available remedy is release,
14 and thus the district court lacked jurisdiction to hear the petition regarding conditions of
15 confinement. *Id.* at 1075. *See also Rhodes v. Pfeiffer*, No. CV 14-7687-JGB-KK, 2020 WL
16 4018608, at *2 (C.D. Cal. May 6, 2020) ("Petitioner's Motion essentially presents a
17 challenge to the conditions of his confinement, which may not be addressed in this habeas
18 corpus action.").

19 Furthermore, while Menier's disease is a significant condition that can negatively
20 impact an individual's enjoyment of life, it is not a life-threatening one. *See generally*
21 <https://www.nided.nih.gov/health/menieres-disease>,
22 <https://my.clevelandclinic.org/health/diseases/15167-menieres-disease>.

23 Accordingly, there is not a basis for granting release by habeas.

24 **IV. CONCLUSION**

25 Respondents respectfully request that the Court deny the habeas petition and dismiss
26 the action.

1 Dated: December 12, 2025

Respectfully submitted,

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17 * The undersigned, counsel of record for the Federal Respondents certifies that this brief
18 contains 2,032 words, which complies with the word limit of L.R. 11-6.1.
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