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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 VIKTOR, RUSSU, an Individual

12 Petitioner,

13 vs.

14 PAMELA BONDI, ATTORNEY
15 GENERAL OF THE UNITED STATES;
16 KRISTI NOEM, SECRETARY OF THE
17 UNITED STATE DEPARTMENT OF
18 HOMELAND SECURITY; TODD
19 LYONS, ACTING DIRECTOR OF
20 IMMIGRATION AND CUSTOMS
21 ENFORCEMENT; SEMAIA FERETI,
22 IMMEDIATE CUSTODIAN FOR
23 IMMIGRATION AND CUSTOMS
24 ENFORCEMENT AT THE ADELANTO
25 DETENTION CENTER

26 Respondents.

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

) **PETITIONER’S REPLY TO THE
GOVERNMENT’S ANSWER TO
HABEAS CORPUS PETITION**

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1 **I. PRELIMINARY STATEMENT**

2 Petitioner Viktor Russu (“Petitioner” or “Mr. Russu”) respectfully submits his
3 reply to the Government’s Answer (“Answer”) to his Habeas Corpus Petition
4 (“Habeas Petition”) that he filed on December 10, 2025, pursuant to 28 U.S.C. §2241.

5 **II. PROCEDURAL HISTORY**

6 On December 10, 2025, Petitioner filed his Habeas Petition with this Court
7 asserting violations of his Fifth and Ninth Amendment rights and seeking release
8 from immigration custody.

9 On December 11, 2025, Petitioner filed a request for Temporary Restraining
10 order. The Court DENIED the request on December 12, 2025.

11 On December 12, 2025, the Government filed an Answer.

12 On December 22, 2025, the Court DENIED Petitioner’s request for
13 Preliminary Injunction.

14 **III. ARGUMENT**

15 **A. The Court has Jurisdiction Over Petitioner’s Habeas Petition**

16 In its Answer, the Government first argues that it is authorized to arrest and
17 detain “non-citizens” while removal proceedings are pending, pursuant to 8 U.S.C.
18 §1226 (e) and that the Court has no jurisdiction over Petitioner’s Habeas Petition.
19 (Answer at pages 5-6).

20 The Government is incorrect. When a non-citizen’s challenge to his
21 immigration detention is based on due process rights under the U.S. Constitution, 8
22 U.S.C. §1226 (e) does not preclude judicial review in habeas proceedings. *Singh v.*
23 *Barr*, 400 F. Supp. 3d 1005, 1017, U.S. Dist.LEXIS 149761, WL 4168901 (S.D.C.A.
24 2019). A violation of constitutional rights under the Fifth and Eight Amendments is
25 exactly what Petitioner asserted in his Petition. (Habeas Petition at pages 4; 9,
26 Motion for Preliminary Injunction at pages 3; 6-7).

27 **B. Exhaustion**

28 The Government further argues that Petitioner failed to exhaust his

1 administrative remedies with the Board of Immigration Appeals. (Answer at page 6).

2 In his Habeas Petition, Petitioner did allege that he filed an appeal for his first
3 bond hearing denial with the Board of Immigration Appeals, and that appeal remains
4 pending. (Habeas Petition at pages 5; 8). Petitioner further argued that it would be
5 futile for him to continue awaiting the pendency of his appeal with the Board of
6 Immigration Appeals given his current serious medical condition and due to the fact
7 that the Board of Immigration Appeals has no authority to rule on constitutional
8 questions, as held by the Court in *Wang v. Reno*, 81 F.3d 808, 815-816 (9th Cir.
9 1996). (Id. at page 5). See also *Singh v. Barr*, 400 F. Supp. 3d, supra at 1013)
10 (holding that exhaustion can be waived under the ground of “futility”).

11 Therefore, based on the totality of the circumstances in this case including the
12 length of time the Board of Immigration Appeals has taken to decide the bond appeal,
13 the Court should excuse exhaustion for the purpose of the Habeas Petition for these
14 reasons.

15 **C. Petitioner’s Medical Condition is Sufficient Reason to Grant this Petition**
16 **and the Government Has Not Disputed the Factual Basis of Petitioner’s**
17 **Medical Condition**

18 As argued in Petitioner’s Habeas Petition, he suffers from serious medical
19 conditions for which he has been denied adequate treatment, if any, and was not
20 provided medication for his heart condition following his hospitalization while in
21 detention. (Habeas Petition at pages 4-5; 8-10; 14; 81-102; 105).

22 The Government does not dispute Petitioner’s factual assertions. Instead, the
23 Government argues that such facts are not basis for release. (Answer at page 7).

24 Case law holds otherwise. As argued in Petitioner’s Habeas Petition, this
25 Court can determine whether an immigration detainee’s serious health circumstances
26 warrant release from detention. (Habeas Petition at page 10 citing to *Coronel v.*
27 *Decker*, 449 F. Supp.3d 274, 282-283, 2020, U.S. Dist. LEXIS 53954 WL 147274
28 (S.D.N.Y 2020)).

1 The Government cites to *Pinson v. Carvajal*, 69 F.4th 1059, 1079 (9th Cir.
2 2023) as standing for the proposition “that habeas claims cannot be premised on
3 complaints about conditions of confinement.” (Answer at page 7). *Pinson* is not on
4 point because it did not address circumstances such as those present here. Petitioner
5 is not merely challenging about the general condition of confinement; rather, he is
6 complaining about the due process violations of the Immigration Judge in failing to
7 consider his hospitalization while in detention and his medical risk as material change
8 in circumstances, and in failing to conduct a hearing on the new bond hearing request.
9 (Habeas Petition at page 10). Moreover, the facts in *Pinson* do not even come close
10 to Petitioner’s case, as Petitioner is experiencing life-threatening medical conditions.
11 Further, the holding in *Pinson* did not fully foreclose habeas corpus in all cases
12 concerning “location, or conditions of the sentence’s execution.” *Id.* at 1068.

13 Also inapposite is the holding in *Rhodes v. Pfeiffer*, No CV 14-7687-JGB-KK,
14 220 WL 4018608, which is also relied upon by the Government, as that case involved
15 a general concern about COVID-19 transmission and other allegations of retaliation
16 against a prisoner unrelated to medical or health conditions. *Id.* at *3.

17 As demonstrated by evidence with his Habeas Petition, Petitioner faces serious
18 risk of harm due to his current medical condition and the continued neglect of his
19 medical needs by the Adelanto Detention Facility. Since being detained, he has
20 submitted numerous requests for medical care, all of which have fallen on deaf ears.

21 Even after his Habeas Petition was filed and the Government submitted an
22 answer, the Government has not presented any evidence showing that it has
23 attempted to address or rectify Petitioner’s medical needs, which should be sufficient
24 for this Court to draw inferences regarding the lack of care.

25 This Court has jurisdiction to review the Immigration Judge’s due process
26 violations of refusing to conduct a new bond hearing based on material change
27 circumstances. See *Obregon v. Sessions*, 2017 U.S. Dist.LEXIS 60552, 2017 WL
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1 140889, *7 (N.D.Cal. April 20, 2017) (holding that it was error not to consider as
2 changed circumstances for purpose of a bond hearing including support letters from
3 community members and a respondent's testimony regarding his commitment to stay
4 sober and entering a program).

5 **IV. CONCLUSION**

6 For the forgoing reasons, Petitioner Viktor Russu implores the Court to hold an
7 evidentiary hearing or make other fair and just orders in connection with this petition.
8

9 DATED: December 29, 2025

Respectfully submitted,

10 /s/ Nabil E. Chelico

11 Nabil E. Chelico

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13 * Counsel for Petitioner certifies that this pleading contains 1,060 words which is in
14 compliance with the word limit of Local Rule 11-6.1.
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