

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JHAIR FRAN ALVAREZ NAVARRO,

Petitioner,

v.

DAVID O'NEILL, *et al.*,

Respondents.

Civil Action No. 26-cv-305

**RESPONDENTS' RESPONSE TO PETITIONER'S
MOTION TO ENFORCE THIS COURT'S JANUARY 30, 2026 ORDER**

Respondents submit this response to Petitioner Jhair Fran Alvarez Navarro's argument that his bond hearing did not comply with the Court's January 30, 2026 Order because it did not satisfy Due Process requirements.

On February 9, 2026, in compliance with this Court's January 30, 2026 Order, the Executive Office for Immigration Review provided Petitioner a bond hearing in accordance with 8 U.S. C. § 1226(a), and the opportunity to present evidence and argument regarding whether Petitioner is a danger to the community and presents a flight risk if not detained.¹ Petitioner was denied bond, and his appeal—if timely made—will be heard by the Board of Immigration Appeals (BIA) in accordance with the applicable regulatory framework. *See, e.g.*, 8 CFR § 1003.3. Petitioner nonetheless argues that the bond hearing provided did not meet the due process requirements ordered by this Court. *See* ECF No. 7-1.

¹ The Petitioner participated in a Webex virtual bond hearing on February 9, 2026. *See* Unofficial Transcript attached as Exhibit A. This transcript was generated using AI technology. Petitioner quotes from the hearing in his motion to enforce but does not attach a transcript. The language Petitioner quotes appears to be the same as contained in the version obtained by Respondents.

Respondents oppose Petitioner's request for two reasons. First, Petitioner's arguments regarding the outcome of the bond hearing are properly brought to the BIA in the first instance. *See, e.g., Ghanem v. Warden Essex Cnty. Corr. Facility*, No. 21-1908, 2022 WL 574624, at *1 (3d Cir. Feb. 25, 2022) (considering petitioner's allegations that bond hearing failed to provide due process after petitioner exhausted his appeal to the BIA). Here, Petitioner reserved his right to appeal to the BIA, and this Court should allow that established process to be completed.

Second, Petitioner has not shown that his bond hearing was fundamentally unfair, in violation of due process requirements. Petitioner challenges the Immigration Judge's evidentiary findings and the weight he applied to those findings. *See* ECF No. 7-1 at 1-2, 6-10. Rather than demonstrate the hearing was fundamentally unfair, Petitioner asks this Court to reweigh the evidence he presented. *See* ECF No. 7-1 at 6-12².

In a fundamentally fair bond hearing, due process requires that the individual seeking release: "(1) is entitled to factfinding based on a record produced before the decisionmaker and disclosed to him 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 [or her] interests." *Ghanem*, No. 21-1908, 2022 WL 574624, at *2 (citation omitted).

Petitioner's bond hearing met these requirements.

² Petitioner also argues that the immigration judge improperly entertained jurisdictional arguments this Court has rejected. This argument is without merit, as the unofficial transcript shows that the immigration judge did not consider jurisdictional arguments, and specifically noted that "I don't think there's a jurisdictional issue because there's a[n]...order directing a hearing to be held." Ex. A, at 8 (2:50). The immigration judge then denied bond due to his finding that Petitioner posed a flight risk after consideration of the evidence. Ex. A, at 11 (12:21).

Pursuant to this Court's January 30, 2026 Order, as Petitioner concedes, he had the opportunity to present evidence and argument during the bond hearing supporting his argument that he should be eligible for bond relief. *See* Mot. to Enforce, ECF 7-1 at 4. At the hearing, Petitioner's counsel had the opportunity to argue why Petitioner is not a flight risk or a danger to the community. Ex. A at 3-9. The unofficial transcript shows that Petitioner was provided with a full and fair opportunity to present evidence to the immigration court.

The transcript of the proceedings demonstrates that the Immigration Judge considered the arguments submitted by Petitioner. After considering those arguments and the evidence presented, the Immigration Judge determined that Petitioner is a flight risk. Ex. A at 10, 11:37-12:04.

While Petitioner may disagree with the Immigration Judge's conclusions, that disagreement is not enough to render the bond hearing unconstitutional on procedural due process grounds. The BIA—not this Court—is the proper tribunal to consider the substantive grounds of Petitioner's appeal. The transcript of the bond hearing demonstrates that Petitioner had the opportunity to present evidence in support of his arguments and that the Immigration Judge considered those arguments and the facts available to him, and he based his denial of bond on that record.

For these reasons, Respondents respectfully submit that no further action by the Court is required at this time, and this matter should be dismissed.

Dated: February 13, 2026

Respectfully submitted,

DAVID METCALF
United States Attorney

/s/ Stacey L. B. Smith
STACEY L. B. SMITH
Assistant United States Attorney
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106-4476
(215) 861-8348
stacey.smith@usdoj.gov

Counsel for Respondents

CERTIFICATE OF SERVICE

I certify that on this date, a true and correct copy of the foregoing Response to Petitioner's Motion to Enforce was filed electronically via the Court's CM/ECF system and served via CM/ECF on all counsel of record.

/s/ Stacey L. B. Smith
Stacey L. B. Smith
Assistant United States Attorney

February 13, 2026