

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

YIHUA CHEN,	:	
Petitioner,	:	
	:	
v.	:	Case No. 26-cv-0501
	:	
MICHAEL ROSE, <i>et al.</i> ,	:	
Respondents.	:	

RESPONDENTS' RESPONSE TO PETITIONER'S  
ARGUMENTS IN JOINT STATUS REPORT

Pursuant to this Court's January 29, 2026 Order (ECF No. 5), Respondents submit this response to Petitioner Yihua Chen's argument (*see* ECF No. 9) that the Court should order his immediate release because his February 4, 2026 bond hearing did not satisfy due process requirements.

On February 4, 2026, the Executive Office for Immigration Review provided Petitioner a bond hearing, as ordered by this Court, in accordance with 8 U.S.C. § 1226(a), and the opportunity to appeal the decision rendered following that hearing.<sup>1</sup> Petitioner's appeal—if timely made by March 6, 2026—will be heard by the Board of Immigration Appeals (BIA) in accordance with the applicable regulatory framework and consistent with this Court's Order. *See, e.g.*, 8 CFR § 1003.3. Petitioner nonetheless argues that the bond hearing provided did not meet

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<sup>1</sup> The Petitioner participated in a telephonic bond hearing on February 4, 2026. *See* Unofficial Transcript at 0:11 (Speaker 1 the Immigration Judge), PDF Unofficial Transcript filed through ECF and Audio File filed on a thumb drive with the Court and provided to Petitioner's counsel.

the due process requirements ordered by this Court and therefore asks for his immediate release. *See* ECF No. 9 at 2.

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. To the contrary, Petitioner contends that the Immigration Judge mischaracterized the evidence and did not make an individualized determination. *See* ECF No. 13 at 1-2. Rather than demonstrate the hearing was fundamentally unfair, Petitioner asks this Court to reweigh the evidence presented to, and considered by, the Immigration Judge. *See* ECF No. 13 at ¶¶ 21-29.

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.

Before and during the bond hearing Petitioner submitted evidence supporting his argument that he should be eligible for bond relief. *See* Unofficial Transcript of Audio file 03:50 – 04:16.<sup>2</sup> At the hearing, Petitioner’s counsel argued why Petitioner is not a flight risk. Unofficial Transcript 05:13 – 06:51. The audio files and unofficial transcript show that Petitioner was provided with a full and fair opportunity to present evidence to the immigration court. Based on the record before the immigration court, the Immigration Judge found that Petitioner entered the United States without inspection, circumventing lawful pathways, which is a presumptive bar to Petitioner’s asylum claim. Unofficial Transcript 08:23 – 10:04. The IJ further found that Petitioner conceded that the primary reason for his persecution claim is no longer a threat to him and has not been since 2011, and therefore that his asylum claim is speculative. *Id.* The immigration court concluded that a person who knows he is not eligible for asylum relief has no incentive to appear to ICE check-ins. *Id.* Finally, Petitioner now asks this Court to consider evidence—presented here for the first time—that the immigration court may be influenced by an alleged “purge” of immigration judges who go against the administration’s policies. ECF No. 9, at 2.

Petitioner nonetheless argues that the bond hearing did not comport with due process requirements because the Immigration Judge did not accept Petitioner’s representations and arguments for bond. The recording of the

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<sup>2</sup> The audio file of the hearing was submitted to the Court via thumb drive and the United States Attorney’s Office utilized AI technology and a manual review to generate transcripts of the audio files.

proceedings demonstrates that the Immigration Judge considered the arguments submitted by Petitioner. After considering those arguments and the evidence presented (or lack thereof), the Immigration Judge determined that Petitioner is a flight risk based upon Petitioner's circumstances.

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 and recording of the bond hearing demonstrate that Petitioner conceded that the basis of his asylum claim is no longer an active threat to him. The Immigration Judge considered Petitioner's arguments and the facts available to the immigration court. The denial of bond was based 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 12, 2026

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

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

/s/ Viveca D. Parker  
VIVECA D. PARKER  
Assistant United States Attorney

February 12, 2026