UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

AHOKA ISAAC LOKOMBE,

Petitioner,

v.

DAVID WESLING, U.S. Immigration and Customs Enforcement and Removal Operations, Field Office Director;
TODD LYONS, Acting Director U.S. Immigrations and Customs Enforcement;
KRISTI NOEM, Secretary, U.S. Department of Homeland Security;
PAMELA BONDI, Attorney General, United States Department of Justice; and
CHRIS BRACKETT, Superintendent, Strafford County Department of Corrections

Respondents.

Civil No. 1:26-cv-00053-JL-AJ

FEDERAL RESPONDENTS' OPPOSITION TO PETITIONER'S MOTON FOR RCONSIDERATION (DOC. NO. 12)

Federal Respondents, David Wesling, U.S. Immigration and Customs Enforcement and Removal Operations, Field Office Director; Todd Lyons, Acting Director U.S. Immigrations and Customs Enforcement; Kristi Noem, Secretary U.S. Department of Homeland Security; and Pamela Bondi, Attorney General, United States Department of Justice, (collectively "Federal Respondents") hereby oppose Petitioner, Ahoka Isaac Lokombe's ("Petitioner), motion for reconsideration (Doc. No. 12). Petitioner seeks reconsideration of this Court's ruling which ordered a bond hearing before an Immigration Judge ("IJ"). (*See* Doc. No. 9.) Petitioner argues that a bond hearing was the incorrect remedy because this Court should have found Petitioner's detention to be under the automatic stay provision. Petitioner is incorrect. This Court provided the

correct remedy, which was to order a bond hearing because it is the only relief available from the petition. Federal Respondents contend that at the time the petition was filed, and currently, Petitioner is detained pursuant to 8 U.S.C. § 1225 (b)(2). Further, and as stated in their response to the petition, Federal Respondents acknowledge that Petitioner would likely be eligible for relief under *Loja v. FCI Berlin, Warden*, No. 1:25-CV-386-JL-TSM, 2025 WL 3079160 (D.N.H. Nov. 4, 2025). Regardless of whether Petitioner is detained under § 1225 or § 1226, the only remedy available from this Court is the ordering of a bond hearing, which is the relief that Petitioner received. Thus, for the reasons set forth below and incorporated by reference from Federal Respondents' response to petition for writ of habeas corpus (Doc. No. 6), this Court should deny the Petitioner's motion for reconsideration and dismiss this case.

I. The Court ordered the correct remedy because Petitioner's detention was not under the automatic stay provision at the time he filed his petition.

Before the filing of the petition in the instant case, from August 14, 2025 until sometime around November 25, 2025, Petitioner was detained under the automatic stay provision pursuant to 8 C.F.R. § 1003.19(i)(2). Petitioner was detained under the automatic stay provision because he was awarded bond on August 14, 2025 after being detained for reporting violations. (Doc. No. 1 at ¶¶ 26 and 28.) The Department of Homeland Security ("DHS") appealed the bond award on August 14, 2025, which invoked the automatic stay provision. (*Id.* at ¶ 30.) Petitioner was then held under the automatic stay provision up to sometime around November 25, 2025.[1] On December 2, 2025, the Board of Immigration Appeals ("BIA") sustained DHS's appeal and

[1] Petitioner argues that the automatic stay provision was *ultra vires*, but it was not. Pursuant 8 C.F.R. § 1003.6(c)(4), the stay will last for at least 90 days and there are other provisions of 8 C.F.R § 1003.6 that allow extensions of the stay under various circumstances.

vacated the IJ's decision granting bond pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). (*See* Doc. No. 6-1.)[2]

On December 22, 2025, Petitioner was then ordered removed. (Doc. No. 1-9.) Petitioner timely filed an appeal for his order of removal with the BIA. (Doc. No. 1-10.) Around the time of November 25, 2025, before the filing of the petition in this case, Petitioner was no longer being held under the automatic stay provision, but rather he was being detained pursuant to 8 U.S.C. § 1225(b)(2) because he is an applicant for admission subject to mandatory detention. *See Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026) (finding that "alien[s] present with in the United States who ha[ve] not been admitted" are mandatorily detained under 8 U.S.C. § 1225); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) (same); *see also Vargas Lopez v. Trump*, No. 25-526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025; *Barrios Sandoval v. Acuna*, No. 25-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Silva Oliveira v. Patterson*, No. 25-01463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Mejia Olalde v. Noem*, No. 25-00168, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025).

On January 30, 2026, Petitioner filed his petition in this case. (*See* Doc. No. 1.) Federal Respondents filed their response on February 9, 2026. (*See* Doc. No. 6.) In their response, Federal Respondents conceded pursuant to this Court's ruling in *Loja* that Petitioner would be entitled to a bond hearing after the automatic stay provision was removed from the analysis because Petitioner was originally released on an order of recognizance, which is a form of discretionary parole that

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[2] Petitioner argues that *Matter of Yajur Hurtado* has been vacated as a violation of the Administrative Procedures Act under *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2026 WL 468284, (C.D. Cal. Feb. 18, 2026), which makes the BIA's decision invalid. As of March 6, 2026, the Ninth Circuit has granted an administrative stay in *Maldonado Bautista* while the Court consider the Government's emergency motion for stay pending appeal, which any order vacating *Matter of Yajur Hurtado* is stayed.

arises under 8 U.S.C. §1226. As a result, the Court entered a summary order for a bond hearing on February 10, 2026. (Doc. No. 9.) A bond hearing was held on February 17, 2026, and the IJ denied bond on the grounds that Petitioner posed a flight risk. (Doc. No. 10-1.)

Petitioner now contends that outcome is unlawful and asks this Court to release him on the IJ order issued on August 14, 2025, which ordered him released on payment of $7,500 bond. While it is understandable that Petitioner is dissatisfied that his second bond hearing, unlike the first, did not grant release, the earlier order was vacated when the BIA sustained DHS's appeal and ordered Petitioner detained under *Yajure Hurtado*. It is not available to be reinstated. Moreover, although the latest IJ order does not include the IJ's reasoning (which is not put in written form unless and until the order is appealed to the BIA), Petitioner's circumstances have changed since his first bond hearing, given that an order of removal has been issued by the Immigration Court. Although that order is not yet final, and therefore Petitioner's detention authority has not yet changed to 8 U.S.C. § 1231, the fact that it has issued places Petitioner in different circumstances than at his first bond hearing.

Moreover, this Court does not have jurisdiction to review the grounds that the IJ denied bond on February 17, 2026. (*See* 8 U.S.C. § 1226(e) ("[n]o Court may set aside any action or decision by the Attorney General under this section regarding the detention or release of any alien or the grant, revocation, or denial of bond or parole.")) Petitioner's proper recourse for the denial of bond is to appeal to the BIA. Thus, the Court should deny the motion for reconsideration.

II. Conclusion.

For all the reasons stated above and incorporated by reference in Federal Respondents' response to the petition for writ of habeas corpus (Doc. No. 6), Federal Respondents request that this Court deny Petitioner's motion for reconsideration and dismiss the case.

Respectfully submitted,

Date: March 10, 2026

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CERIFICATE OF SERVICE

I, Bridget I. Davidson, hereby certify that on March 10, 2026, a true and accurate copy of this document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that paper copies will be sent to those indicated as non-registered participants.

/s/ *Bridget I. Davidson*
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