ADAM GORDON
United States Attorney
MICHAEL D. WALLACE
Assistant United States Attorney
Maryland Bar No. 9912160256
Office of the U.S. Attorney
880 Front Street, Room 6293
San Diego, CA 92101-8893
Telephone: (619) 546-8714
Email: Michael.Wallace4@usdoj.gov

Attorneys for Respondents

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

PAVEL A.V., Petitioner, v. WARDEN, Imperial Regional Detention Center, *et al.*, Respondents.	Case No.: 26-cv-1495-BTM-BLM **SUPPLEMENTAL BRIEFING (Second)**

I. INTRODUCTION

Pursuant to this Court's order on April 16, 2026, Respondents provide the following argument. While this Court does not have jurisdiction to review an immigration judge's bond ruling, the immigration judge held a proper hearing in accordance with this Court's order and issued a ruling after considering the evidence under the appropriate burden of proof. The abuse of discretion standard of review is appropriate to a review of a Board of Immigration Appeals ruling after a Petitioner has exhausted his administrative remedies. Therefore, this Court should dismiss this petition.

II. ARGUMENT

A. Abuse of Discretion standard applies to review of the BIA's decision.

Respondents argue that there is no applicable standard of review of the immigration judge's bond hearing ruling absent a ruling by the BIA as this Court does not have jurisdiction to review an immigration judge's discretionary factual findings and analysis nor the ultimate ruling. Petitioner continues to cite *Martinez v. Clark,* 124 F.4th 775 (9th Cir. 2024), as holding that the District Court has jurisdiction to review an immigration judge's denial of bond for an abuse of discretion. ECF No. 13 at page 6. The Ninth Circuit at no point in its opinion addresses District Court jurisdiction to hear appeals of an IJ's decisions but rather rules on the matter before it. In *Martinez,* the Petitioner had exhausted his administrative remedies through the BIA prior to filing a habeas petition with the District Court challenging the bond hearing. *See, generally, Martinez,* 124 F.4th 775. Here, Petitioner waived appeal and now attempts an end run directly to the District Court. The Ninth Circuit found they had jurisdiction to consider a challenge to the danger finding of the BIA not that the District Court may intervene in the appropriate administrative appeal process to the BIA. See i*d.* at 784 ("Because *we* have jurisdiction here, … (emphasis added)). As to District Court jurisdiction, the Ninth Circuit, citing to *Wilkinson v. Garland,* 601 U.S. 209 (2024), specifically stated that "the District Court's review of the **BIA's** "dangerousness" determination is for abuse of discretion…" *Martinez,* 124 F.4th at 779-780 (emphasis added). The District Court's jurisdiction to review a bond hearing, prior to a BIA appeal, is limited to whether the requirements of its order were followed. Here, Petitioner waived appeal, but he still has an administrative remedy in the form of a motion for the IJ to reopen or reconsider the bond hearing and, upon a ruling on the motion, may appeal to the BIA. Therefore, the Court should ensure Petitioner properly exhausts his administrative remedies before seeking the review of this Court.

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B. The immigration judge held a bond hearing in compliance with the Court's order.

Here the Court's review is limited to whether the immigration judge conducted the hearing in accord with its order. The immigration judge held the bond hearing in a timely fashion, applied the burden of proof required by this Court's order, and weighed the evidence presented in rendering a decision. DHS advanced an argument that the Petitioner should be denied bond as a danger to the community. The immigration judge asked for proof of the arrests from the DHS counsel which was provided. The immigration judge provided Petitioner with an opportunity to respond or explain the arrests in order to meet his burden to demonstrate he was not a danger to the community. The immigration judge then weighed that evidence and reached an appropriate decision. The record provides this Court with no reason to overrule IJ's decision.

Petitioner emphasizes that the immigration judge's ruling consists of one sentence. ECF No. 13 at pages 1, 5. Immigration judges are not required to issue written bond rulings until there is an appeal to the BIA. *See* EOIR Policy Manual, Part III – Board Practice Manual, 3.2(a)(1)(stating "The decision of an Immigration Judge may be rendered either orally or in writing) and Part II-OCIJ Immigration Court Practice Manual, 8.3 Bond Proceedings, para. (e)(7) (stating "Usually, the Immigration Judge's [bond] decision is rendered orally. If either party appeals, the Immigration Judge prepares a written decision based on notes from the hearing…" The language of the instant IJ bond order only serves to demonstrate the importance of requiring the exhaustion of administrative remedies in order to provide a full record for a competent review of the complete basis for the ruling, which is not present here, to include exhibits admitted at the hearing and any part of the IJ's decision contained in their notes. In addition, while Petitioner recognizes that the Court may not reweigh the evidence under an abuse of discretion standard, he proceeds to ask this Court to do just that. *See* ECF No. 13 at pages 8-12. Among the facts Petitioner wishes this Court to reweigh are the *Guerra* factors which Petitioner represents as required elements of a bond hearing. *Id.;*

Matter of Guerra, 24 I. & N. Dec. 37, 40 (BIA 2006). As the Ninth Circuit pointed out, the *Guerra* factors are not required by rather a list of "nine factors an IJ "may" consider [which] "include any or all of the following…" *Martinez,* 124 F.4th at 783 (quoting *Guerra,* 24 I. & N. Dec. at 40). The immigration judge is not required to specifically address each *Guerra* factor but may have documented the evidence before the immigration court and their ruling more fully had, as described above, Petitioner appealed to the BIA. Simply put, the immigration judge complied with the Court's order. There is no evidence provided by the Petitioner, or by the transcript, that the hearing was conducted in such an egregious manner so as to give rise to a due process violation or permit this Court to assert jurisdiction and substitute its assessment of the evidence for that of the immigration judge.

III. CONCLUSION

For the reasons stated herein, Respondents respectfully request that the Court dismiss the Petitioner's Habeas Petition.

Dated: May 26, 2026

Respectfully submitted,

ADAM GORDON
United States Attorney

s/ Michael D. Wallace
MICHAEL D. WALLACE
Assistant United States Attorney
Attorneys for Respondents