UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

ELDAR MURATOV,

Petitioner,

v.

Case No.: 3:26-cv-01110-JEP-PDB

WARDEN RONNIE WOODALL, et al.,[1]

Respondents.
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RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Eldar Muratov challenges the immigration judge's denial of bond based upon a finding that Petitioner is danger to the community, or, in the alternative, that Petitioner poses a flight risk. The Court lacks jurisdiction over Petitioner's claim pursuant to 8 U.S.C. § 1226(e).

To avoid the jurisdictional bar, Petitioner alleges that he is not challenging the immigration judge's finding but rather is challenging "the constitutionality of the process by which his continued detention was authorized." Doc. 1 at ¶ 56. Specifically, Petitioner challenges the lack of a "detailed individualized explanation of the factual basis for finding Petitioner to be a danger to the community or a flight risk[, and . . .] not identify[ing] what conditions of release, if any, were considered before continued

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[1] The Petition also names Garrett J. Ripa, Todd M. Lyons, and Markwayne Mullin. Undersigned counsel represents the Federal Respondents. Undersigned counsel does not represent the Respondent Woodall.

detention was ordered." Doc. 1 at ¶¶ 33, 34. He does not cite anything to support his claim that a detailed individualized explanation is required, and the rejection of alternatives is a discretionary decision.

I. FACTUAL BACKGROUND

Petitioner is a native of Kazakhstan and citizen of Russia who entered the United States on or about June 20, 2024, as a nonimmigrant temporary visitor for pleasure/tourism using a B-2 visa. Doc. 1-2 at 1. Under the terms of his visa, Petitioner was authorized to remain in the United States until December 19, 2024. *Id.* Petitioner did not depart as required and was issued a Notice to Appear on April 9, 2026, that charged him with being an alien who was admitted to the United States but who is removable under 8 U.S.C. § 1227(a)(1)(B) for overstaying his visa. *Id.*

Petitioner received a bond hearing before an immigration judge on April 21, 2026, pursuant to 8 U.S.C. § 1226(a) and 8 C.F.R. § 1236. Doc. 1-4 at 3. The immigration judge denied bond finding that Petitioner had not proven he was not a danger to the community or a flight risk. *Id.* According to information provided by Immigration and Customs Enforcement ("ICE"), as of today's date, Petitioner has not appealed the immigration judge's order to the Board of Immigration Appeals ("BIA").

Petitioner has been detained since April 9, 2026. Petitioner has applied for relief from removal. Petitioner's removal proceedings are ongoing, and his individual merits hearing is scheduled for May 28, 2026. Doc. 1-5.

II. CERTIFIED HABEAS RETURN

Federal courts may grant writs of habeas corpus for a petitioner "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Petitioner bears the burden of proving his custody violates federal law. *Whitfield v. United States Sec'y of State*, 853 F. App'x 327, 329 (11th Cir. 2021).

In a habeas case, the respondent "shall make a return certifying the true cause of the detention." 28 U.S.C. § 2243 ("The person to whom the writ or order is directed shall make a return certifying the true cause of the detention."). Petitioner is detained pursuant to 8 U.S.C. § 1226(a).

III. LEGAL BACKGROUND

A. Bond hearing framework

The Immigration and Nationality Act ("INA") is a multi-layered statutory scheme for the civil detention of noncitizens pending a decision on removal, both during the administrative and judicial review of removal orders as well as in preparation for removal. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. The time and circumstances of entry, as well as the stage of the removal process, determine where an alien falls within this scheme and whether detention of the alien is discretionary or mandatory.

An alien who was admitted to the United States may still be removed if he falls within one or more classes of deportable aliens, which includes aliens who were violate nonimmigrant status of condition of entry, including those who overstay their visas. 8 U.S.C. § 1227(a)(1). *See also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (discussing statutory scheme). 8 U.S.C. § 1226 "generally governs the process of arresting and detaining that group of aliens pending their removal." *Jennings*, 583 U.S. at 289. Within § 1226, subsection (a) provides that an alien "may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). In contrast, if the alien has been convicted of certain enumerated criminal offenses, 8 U.S.C. § 1226(c) mandates their detention during removal proceedings with limited exceptions. *See* 8 U.S.C. § 1226(c); *Demore v. Kim*, 538 U.S. 510, 513 (2003)). Here, Plaintiff was charged with removability under 8 U.S.C. § 1227(a)(1)(B) for having overstayed the allotted time authorized by his nonimmigrant tourist visa. *See* Doc. 1-2.

ICE makes the initial custody determination when an alien is arrested. *See* 8 C.F.R. § 236.1(c)(8). If the alien is not released on bond or conditional parole, the alien may request that an immigration judge conduct a bond hearing. 8 C.F.R § 1236.1(d)(1). At the bond hearing, the alien bears the burden of proving that he is not a danger or a flight risk. 8 C.F.R. § 1236.1(c)(8); *In re Guerra*, 24 I. & N. Dec. 37, 39 (BIA 2006); *In re Adeniji*, 22 I. & N. Dec. 1102, 1112 (BIA 1999). The immigration judge may continue the alien's detention or release the alien on bond or conditional parole. 8 C.F.R. § 1236.1(d)(1). The alien does not have a right to be released on bond pending resolution of his immigration proceedings. *Matter of D-J-*, 23 I. &. N Dec. 572, 575 (Op. Att'y Gen. 2003); *In re Guerra*, 24 I. & N. Dec. at 39. An immigration judge has broad discretion when deciding whether to release an alien on bond. *In re Guerra*, 24 I. & N. Dec. at 39. The immigration judge considers multiple, nonexclusive factors. *Id.* at 40 (listing factors); *see also* 8 C.F.R. § 1003.19(d) ("The determination of the Immigration Judge as to custody status or bond may be based upon any information that is available to the Immigration Judge or that is presented to him or her by the alien or [ICE]."). An alien may appeal the immigration judge's bond decision to the Board of Immigration Appeals. 8 C.F.R. § 1236.1(d)(3)(i). If the alien is denied bond, he may request a bond redetermination hearing from the immigration judge if he can show materially changed circumstances. 8 C.F.R. §1003.19(e).

B. Limited judicial review

As the Supreme Court has explained, 8 U.S.C. § 1226(e) strips courts of jurisdiction when a noncitizen challenges a "'discretionary judgment' by the Attorney General or a 'decision' that the Attorney General has made regarding his detention or release." *Demore*, 538 U.S. at 516. Section 1226(e) does not, however, bar jurisdiction of a challenge to "the extent of the Government's detention authority under the statutory framework as a whole" or to a challenge as to "the constitutionality of the entire statutory scheme under the Fifth Amendment." *Jennings*, 583 U.S. at 296-97; *see also Hernandez v. Sessions*, 872 F.3d 976, 987 (9th Cir. 2017) (observing federal courts retain "habeas jurisdiction over constitutional claims or questions of law." (quoting *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011))); *Quinteros v. Warden Pike Cnty. Corr. Facility*, 784 F. App'x 75, 78-79 (3d Cir. 2019) ("Though we may not review discretionary decisionmaking involved in denial of a bond, we retain the power to review the legal standard underlying immigration officials' actions and to evaluate legal and constitutional claims on that basis."). While a district court has jurisdiction to review mixed questions of law and fact, it must be careful not to encroach upon "the [immigration judge]'s discretionary weighing of the evidence." *Slim v. Nielson*, No. 18-CV-02816-DMR, 2018 WL 4110551, at *4 (N.D. Cal. Aug. 29, 2018); *see also Prieto-Romero v. Clark*, 534 F.3d 1053, 1058 (9th Cir. 2008) ("[D]iscretionary decisions granting or denying bond are not subject to judicial review.") (citing 8 U.S.C. § 1226(e)). Accordingly, where a habeas petitioner "asks the Court to second-guess the [immigration judge]'s weighing of the evidence, that claim is directed solely to the [immigration judge]'s discretion and is unreviewable." *De La Cruz Sales v. Johnson*, 323 F. Supp. 3d 1131, 1139 (N.D. Cal. 2017). In reviewing the sufficiency of the evidence within the confines of 8 U.S. C. § 1226(e), the question is not "whether this Court believes that the proof establishes, by clear and convincing evidence, that [the petitioner] is a danger to the community" or a flight risk. *Nguti v. Sessions*, No. 16-CV-6703, 2017 WL 5891328, at *3 (W.D.N.Y. Nov. 29, 2017). Rather, the Court must decide whether the IJ "relied upon proof that – as a matter of law – could not establish" that conclusion. *Id.*

IV. PETITIONER CHALLEGES THE IMMIGRATION JUDGE'S DISCRETIONARY DETERMINATION, WHICH THE COURT LACKS JURISDICTION TO REVIEW.

Petitioner appeared at his bond hearing with counsel and offered evidence of his continued residence, community ties, work history, character references, and evidence of Russia's use of Interpol Red Notices and diffusions against political dissidents. Prior to the hearing, Petitioner submitted to the immigration judge a lengthy brief with 60 exhibits. DHS did not submit any.

Undersigned counsel has listened to the recording of the proceeding before the immigration judge and avers that at the hearing, Petitioner's counsel, Daryna Semeniuk of Ballon Stoll, P.C., argued that Petitioner has many letters of reference and U.S. citizen sponsors, has a stable household with a wife and 2 children, is fully integrated into his community, and has a valid Employment Authorization Document, but that the only derogatory information about Petitioner is in an INTERPOL Red Notice. DHS did not introduce the issue, did not submit the Red Notice to the immigration judge, and referenced only what had been stated by Petitioner's counsel – that a Red Notice had been issued which was DHS's "only concern" regarding bond. The immigration judge then said that under *Matter of W-E-R-B-*, 27 I. & N. Dec. 795 (BIA 2020), the Red Notice may constitute evidence of a serious nonpolitical crime, but stated that he did not know what the Red Notice said and asked Petitioner's counsel what Petitioner was accused of in the Red Notice. Petitioner's counsel responded that it was not one crime, it was "like four charges" but that it was a common scenario that Russia uses against political dissidents. Because Petitioner's counsel would not answer the immigration judge's question regarding what crimes Petitioner was accused of, the immigration judge determined that Petitioner had not offered sufficient evidence that allowed him to make a finding that Petitioner was not a danger or, in the alternative, a flight risk. The immigration judge then permitted Petitioner to address the court directly. Petitioner informed the court that he is a law-abiding citizen, that Russia uses Interpol to crack down on political dissidents, that his application for relief includes all of the information, and that the charges against him are rigged and politically motivated. A copy of the audio record of proceeding can be provided to the Court upon request.

In the Petition, Petitioner alleges that "Respondents' apparent reliance on INTERPOL-derived information underscores the constitutional defect in Petitioner's continued detention[,]" Doc. 1 at ¶ 89, and alleges that "Respondents must identify the actual information relied upon, disclose the underlying documentation, show that the information remains valid and active, establish that it is not politically motivated or otherwise abusive, and provide Petitioner with a meaningful opportunity to rebut it. Doc. 1 at ¶ 92. Petitioner does not cite any authority for the contention that the burden is on the Government to establish the validity of the information in the Red

Notice, or to establish that the Red Notice is not politically motivated or otherwise abusive in order to satisfy due process, and counsel can find none. Moreover, there is no requirement that the immigration judge's order mention specific evidence in order to overcome the presumption that the immigration judge reviewed all relevant evidence. *See Larita-Martinez v I.N.S.*, 220 F.3d 1092, 1095-96 (9th Cir. 2000). And due process is not violated if the immigration judge gives some weight to a Red Notice – "even one originating from Russia" – when determining if an immigration detainee poses a flight risk. *Kharis v. Sessions*, No. 18-cv-048000-JST, 2018 WL 5809432, at *8 (N.D. Cal. Nov. 6, 2018).

Petitioner misleads this Court by implying that DHS provided the Red Notice to the immigration judge without producing it to Petitioner or providing Petitioner with an opportunity to rebut the information contained in it, and fails to disclose that it was Petitioner's counsel who disclosed the existence of the Red Notice to the immigration judge and then dismissed his questions about the charges alleged in it. DHS did not rely on the Red Notice, except to the say the Government's only concern is the Red Notice brought up by Petitioner's counsel.

Although the immigration judge's written decision is not particularly robust, the recording of the record of proceeding makes clear that the immigration judge fully considered the evidence presented by Petitioner prior to reaching his decision. Petitioner does not dispute that fact. He does not allege that the IJ wholly failed to consider the evidence he offered or that the hearing was procedurally improper. Instead, he argues that the immigration judge erred in weighing the evidence. Thus, the Petition raises quintessentially factual arguments about the immigration judge's decision. And factual challenges to an act of administrative discretion fall outside the bounds of the Court's jurisdiction. *See Nielsen v. Preap*, 586 U.S. 392, 401 (2019) (noting that 8 U.S.C. § 1226(e) bars review of discretionary applications of § 1226); *Hernandez-Gabriel v. Tate*, No. 25-cv-5687-H, 2026 WL 161192, at *4 (S.D. Tx. Jan. 20, 2026) (holding that a district court lacked jurisdiction to consider a petitioner's challenge to the correctness of an immigration judge's determination that the petitioner posed a flight risk).

At bottom, the Petition challenges the immigration judge's decision, not the constitutionality of the bond hearing procedures. Although Petitioner "couches his [p]etition in the language of a . . . constitutional critique, his [p]etition ultimately takes issue with the [immigration judge's] discretionary decision to deny bond." *Guiracocha v. Noem*, Civil Action No. 26-62-DLB, 2026 WL 622860, at *2 (E.D. Ky. Mar. 5, 2026); *see also Alabdulaziz v. Tindall*, No. 3:26-CV-178-CHB, 2026 WL 973278, at *4 (W.D. Ky. Apr. 10, 2026) (denying petition that was an attack on the immigration judge's discretionary bond determination despite the fact that the petition alleged constitutional infirmities in the bond hearing). For example, Petitioner asserts that he has strong reasons to appear at future proceedings, undermining any claim he is likely to abscond, thereby rendering the flight-risk finding "deficient." Doc. 1 at ¶ 106. Petitioner spends the most of his petition rehashing the evidence presented and arguments made at his bond hearing and critiquing the immigration judge's bond decision. To the extent Petitioner attacks the immigration judge's individual determination that Petitioner presented a danger to persons or property, or was a flight risk, and was thus not entitled to bond, the Court lacks jurisdiction over such claims, and Petitioner has not exhausted them because he has not appealed the immigration judge's decision to the BIA.

V. CONCLUSION

Although couched as a constitutional challenge to the procedures employed at the bond hearing, the Petition is fundamentally a challenge to the immigration judge's decision to deny Petitioner bond based upon the evidence introduced by his own counsel at the bond hearing. The petition should be denied.

Dated: May 18, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2026, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system.

/s/ Katherine Branch
KATHERINE BRANCH
Assistant United States Attorney