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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SHEVCHUK, SERGEY MIKHAYLOVICH, Petitioner, v. BRUCE SCOTT, Warden of the Northwest ICE Processing Center; MARKWAYNE MULLIN, Secretary of the U.S. Department of Homeland Security Respondents.	CIVIL ACTION NO. 2:26-cv-01872 **SECOND PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241** **(CHANGED CIRCUMSTANCES: DEFECTIVE BOND HEARING AND CONTINUED UNLAWFUL DETENTION)**

I. INTRODUCTION

COMES NOW, Petitioner Sergey Mikhaylovich Shevchuk ("Petitioner"), by and through undersigned counsel, and respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging his continued and unconstitutional immigration detention arising from an abuse of discretion by an Immigration Judge ("IJ") at a bond hearing after this Court's prior grant of habeas relief.

This case therefore presents a straightforward question: whether the Government may continue to detain a noncitizen based on a bond determination that is **arbitrary, conclusory,**

determinations where they are legally erroneous or constitutionally deficient, including where they are "arbitrary" or unsupported by the record. The Court found that the IJ's flight risk determination constituted an abuse of discretion because it relied on incorrect factual assumptions, failed to properly apply the *Matter of Guerra* factors, and lacked an objective evidentiary basis.

Critically, the Court rejected the Government's argument that a subsequent bond hearing cured the constitutional violation, holding that detention imposed without due process cannot be justified by post hoc proceedings and that the IJ's deficient ruling "does not provide an independent basis for detention." As in *Brambila Sanchez*, any reliance on a defective bond determination here cannot justify Petitioner's continued detention.

The failure of the bond proceeding does more than invalidate that hearing—it confirms that the constitutional violation identified by this Court was never cured. The Government was given an opportunity to justify Petitioner's detention through a constitutionally adequate process and failed to do so. As a result, Petitioner's continued detention—and the period of confinement following this Court's prior order—has remained unsupported by a lawful basis and has been constitutionally deficient since the outset.

Petitioner has now been detained for over two months, his petitions for relief in Immigration Court are pending, and there is no end in sight to his confinement. The IJ's abuse of discretion—reflected in a conclusory and unsupported "no bond" determination—cannot sustain continued detention. Under these circumstances, which are materially identical to *Escalante Perez v. Hernandez* and *Brambila Sanchez v. Scott*, release is the only adequate remedy.

Because Petitioner remains detained following a constitutionally deficient bond hearing and faces ongoing harm due to his medical condition, expedited consideration is warranted.

violates due process and actively exacerbates a serious medical condition, prompt judicial intervention is necessary. Courts routinely recognize that habeas petitions challenging unlawful detention—particularly where health and safety are at issue—require expedited resolution.

The Government was given an opportunity to cure the constitutional violation and failed. Continued detention under these circumstances is unlawful, and delay would only prolong both the constitutional violation and the ongoing harm to Petitioner's health.

Accordingly, Petitioner respectfully requests that the Court set an expedited briefing schedule and order Respondents to respond within a shortened timeframe, not to exceed five (5) days, in light of the ongoing constitutional violation and risk of further irreparable harm. Petitioner further requests that the Court order Respondents to show cause, on an expedited basis, why immediate release should not be granted.

III. JURISDICTION AND VENUE

This Court has jurisdiction pursuant to 28 U.S.C. § 2241 because Petitioner is in custody under the authority of the United States and challenges the legality of that custody.

Jurisdiction is also proper under 28 U.S.C. § 1331 and the Due Process Clause of the Fifth Amendment.

Venue lies in the Western District of Washington because Petitioner is detained at the Northwest ICE Processing Center in Tacoma, Washington.

IV. PARTIES

Petitioner is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Northwest ICE Processing Center.

Respondent Bruce Scott is the Warden of NWIPC and Petitioner's immediate physical custodian. He is the proper respondent under *Rumsfeld v. Padilla*, 542 U.S. 426 (2004).

seek to remain in the United States. Petitioner's pursuit of relief further underscores his strong incentive to comply with all court requirements and appear for future proceedings.

D. Medical Condition and Treatment

Petitioner has been diagnosed with schizophrenia, major depressive disorder, and insomnia and requires continuous treatment with antipsychotic medication. Schizophrenia is a chronic and serious mental health condition that affects a person's ability to think clearly, manage emotions, and maintain a connection with reality. Individuals with schizophrenia may experience symptoms such as hallucinations, delusions, disorganized thinking, and impaired functioning in daily activities. The condition typically requires consistent treatment, including medication, ongoing psychiatric care, and structured therapeutic support to manage symptoms and maintain stability.

In order to treat his conditions, Petitioner visits his psychiatrist, attends group-based mental health care, and has consistent support from his family. His treating psychiatrist prescribed Aripiprazole (Abilify), Quetiapine (Seroquel) and Trazodone, and warned that interruption of antipsychotic medication will result in worsening symptoms and delayed recovery. Despite this, Petitioner has not been given Seroquel, placing Petitioner at risk of psychiatric deterioration.

E. Prior Habeas Proceeding

Petitioner previously filed a petition for writ of habeas corpus in this Court, Case No. 2:26-cv-01408-SAB. On May 20, 2026, the Court granted the petition and ordered Respondents to provide Petitioner with a bond hearing before an IJ within seven (7) days of the Order, at which the government bore the burden of proof, **by clear and convincing evidence**, that Petitioner is a danger to the community or poses a risk of flight. The order further states that the

Courts routinely entertain renewed habeas challenges where continued detention renders previously lawful confinement unconstitutional. See *Barapind v. Reno*, 225 F.3d 1100, 1110–11 (9th Cir. 2000) (recognizing continued application of equitable principles in § 2241 cases).

Courts evaluating immigration detention must assess its reasonableness in light of current conditions, not merely its initial justification. See *Banda v. McAleenan*.

This Court has jurisdiction to review immigration custody determinations for legal error, including whether an IJ's bond decision was arbitrary, applied the wrong legal standard, or violated due process. See *Martinez v. Clark*, 124 F.4th 775, 783 (9th Cir. 2024).

VII. ARGUMENT

A. The Petition Is Properly Before the Court

This Petition arises from events occurring after this Court granted habeas relief and ordered the Government to provide a constitutionally adequate bond hearing with an IJ. That process has now occurred, and it failed.

Should Respondents argue that this Petition is barred as an abuse of the writ, that argument fails. Neither case law nor statutes expressly define what constitutes a second, successive, or subsequent habeas petition. *Barapind v. Reno*, 225 F.3d 1100, 1111-12 (9th Cir. 2000). Additionally, Petitioner could not have raised this claim previously because it arises directly from the IJ's post-habeas bond determination. See *McCleskey v. Zant*, 499 U.S. 467, 493–95 (1991).

Because this Petition challenges the adequacy of that subsequent proceeding and the Government's failure to cure the constitutional violation identified by this Court, it presents a new and continuing injury.

This is precisely the type of conclusory determination that *Singh* prohibits. A bare assertion that the burden has been met—without identifying what evidence supports that conclusion or how it was weighed—does not constitute a constitutionally adequate bond determination.

The deficiency is further compounded by the IJ's failure to address alternatives to detention. The order summarily concludes that no condition of release would mitigate any risk, yet provides no explanation for rejecting the extensive evidence presented by Petitioner, including his stable residence, strong family ties, medical condition, and willingness to comply with all conditions of supervision.

Under *Singh*, such omissions render the hearing constitutionally inadequate. A decision that fails to engage with the evidence, fails to explain its conclusions, and fails to provide a basis for review does not constitute a meaningful hearing.

Accordingly, the bond proceeding did not cure the due process violation previously identified by the District Court. Instead, it perpetuated it.

C. The Government Failed to Cure the Constitutional Violation

This Court previously determined that Petitioner's detention violated due process and afforded the Government an opportunity to cure that violation by providing a constitutionally adequate bond hearing at which the government bears the burden of proof, by clear and convincing evidence, that the Petitioner is a danger to the community or poses a risk of flight, comporting with the procedural requirements of *Singh v. Holder* 638 F.3d 1196 (9th Cir. 2011), and allowing Petitioner to present evidence of financial circumstances or alternative conditions of release that would mitigate any potential dangerousness or risk of flight. That process has now occurred, but it did not cure the violation, it compounded it.

In these circumstances, the defective bond proceeding confirms that Petitioner has been detained without a lawful basis throughout this period of confinement. The Government was given a full and fair opportunity to justify detention and failed to do so. The Constitution does not permit continued detention under such conditions.

E. The IJ's Bond Determination Was Arbitrary and an Abuse of Discretion

The IJ's bond determination fails at every level: it provides no reasoning, applies no identifiable legal standard, and disregards undisputed evidence demonstrating that Petitioner is not a danger or a flight risk. The IJ's decision was essentially a boilerplate, checked-box determination that reflects a predetermined outcome rather than a meaningful exercise of discretion.

1. The Bond Hearing and Resulting Decision

On May 27, 2026, seven days after this Court's order granting Petitioner's first habeas petition, Petitioner was provided a bond hearing before an IJ at the Tacoma Immigration Court. At the conclusion of the hearing, the IJ issued the following written decision:

> **Order:**
>
> [X] ORDERED that the request for a change in custody status be denied. No bond.
>
> [X] DHS has met its burden to show by clear and convincing evidence that Respondent is a danger to the community and a flight risk. The court further finds that DHS has shown by clear and convincing evidence that no condition of parole or amount of bond will adequately mitigate the danger and flight risk.
>
> [X] OTHER: Conditional release is: denied.
>
> [X] OTHER: Ability to pay considered.

device had not been installed. This explanation directly addressed the Government's concern. However, the IJ's order contains no indication that this explanation was considered or evaluated.

Petitioner's last DUI-related conviction occurred in 2015—over a decade ago. More recent allegations were limited to a conviction for driving with a suspended license, a non-violent offense. The IJ's apparent reliance on such conduct—without addressing its age, context, or Petitioner's explanation—fails to establish that Petitioner presently poses a danger to the community.

Absent any discussion of these issues, the record does not support a finding that Petitioner presently poses a danger or that no conditions of release could mitigate any risk. A determination of dangerousness must be grounded in current, individualized evidence, not generalized or outdated conduct. Where an IJ relies on stale or mischaracterized criminal history without addressing its relevance, recency, or severity, the resulting decision cannot satisfy due process.

A determination of this magnitude—denying release under any circumstances—requires a reasoned explanation grounded in the record. None was provided. A valid custody determination requires a reasoned application of law to fact, and a decision consisting of a checked box does not meet that standard. See *Judulang v. Holder*, 565 U.S. 42, 53 (2011); *Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 43 (1983).

The absence of any articulated reasoning, combined with the lack of a meaningful record, renders the decision effectively unreviewable and confirms that no lawful exercise of discretion occurred.

significant family ties, including a United States citizen wife and two United States citizen children; a long history of working in the United States with the ability to resume lawful employment in construction upon release; no evidence that Respondent has failed to appear for immigration proceedings; non-violent criminal history, with no significant conduct within the past decade; no immigration violations; no attempts to flee or escape authorities; and was lawfully admitted to the United States as a refugee in 1997.

Because of the liberty interest, there are seldom circumstances where no combination of conditions, including bond, could mitigate any flight risk. See, e.g., *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017); *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). Detention without the possibility of posting bond for flight risk is, as a matter of constitutional law, rare.

The same is true with respect to dangerousness. Civil detention is permissible only where the Government demonstrates, by clear and convincing evidence, that a noncitizen presently poses a real and articulable threat to the community. See *Addington v. Texas*, 441 U.S. 418, 427 (1979); *Singh*, 638 F.3d at 1203–04. Such determinations must be grounded in current, individualized evidence—not generalized, speculative, or outdated conduct. See *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). Where detention is imposed without such justification, it becomes punitive rather than regulatory and violates due process. See *Zadvydas*, 533 U.S. at 690; *Bell v. Wolfish*, 441 U.S. 520, 535 (1979).

Here, the IJ's conclusion that no amount of bond or conditions could mitigate risk is irreconcilable with these factors and unsupported by the record. Petitioner's positive equities overwhelmingly support release and directly contradict the IJ's conclusion that no conditions could mitigate risk.

but also that he has a stable and immediate path back into the workforce—further reinforcing his ties to the community and his incentive to comply with all legal obligations.

Petitioner also presented a comprehensive and structured plan for release that directly addressed any concerns regarding supervision and compliance. He expressed a willingness to comply with any and all conditions of supervision the Government may require, including regular reporting to Immigration and Customs Enforcement, participation in the Intensive Supervision Appearance Program (ISAP), release under an Order of Supervision (OSUP), and, if required, electronic monitoring. This plan provided multiple layers of oversight and demonstrated that any perceived risk could be effectively mitigated through less restrictive means than continued detention.

Despite this extensive and unrebutted evidence, the IJ's decision contains no indication that these factors were meaningfully considered. There is no discussion of Petitioner's family hardship, no acknowledgment of his daughter's special needs, no evaluation of his employment prospects, and no explanation as to why his detailed plan for supervised release was insufficient.

This omission is not a minor oversight—it is a fundamental defect. An IJ must consider and weigh the evidence presented, particularly where it directly addresses the core factors governing release. The absence of any such analysis confirms that the decision was not the product of a reasoned, individualized determination, but rather a conclusory outcome.

Where a Petitioner presents substantial, unrebutted evidence demonstrating strong community ties, significant family obligations, and a viable plan for supervised release, a finding that no condition of release could mitigate risk must be supported by a reasoned explanation grounded in the record. No such explanation was provided here.

Petitioner has now been detained for over two months. His applications for relief remain pending with the Immigration Court, and there is no defined endpoint to his confinement. The IJ's abuse of discretion at the bond hearing further underscores that his continued detention violates due process, confirms that it has been constitutionally deficient since its inception, and eliminates any lawful basis for his continued detention.

Civil immigration detention is lawful only if it remains reasonably related to its purpose and is accompanied by adequate procedural safeguards. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Here, neither requirement is satisfied. The Government has failed to provide a lawful and reasoned basis for continued detention, and the procedural safeguards required to justify that detention were not meaningfully provided.

Under these circumstances, Petitioner's continued detention is arbitrary and unconstitutional and he should be released.

H. Release Is the Only Adequate Remedy

Because the Government failed to cure the constitutional violation, the only remaining question is remedy. The answer is clear: release.

The Supreme Court has made clear that "the typical remedy for unlawful detention is… release." *Munaf v. Geren*, 553 U.S. 674, 693 (2008). Other courts have reached the same conclusion. See *Brambila Sanchez v. Scott*, Case No. 2:26-cv-00948-RAJ (W.D. Wash. May 15, 2026), *Torres Ferrera v. Scott*, No. 2:26-cv-00583-TL (W.D. Wash. 2026); *Hernandez-Munoz v. Scott*, No. 2:26-cv-00964-KKE (W.D. Wash. 2026); *Noe Vela Blanco v. Warden*, No. SA-26-CV-00747-XR (W.D. Tex. Apr. 1, 2026) (ordering release where continued detention lacked a constitutionally adequate basis and rejecting additional process as a cure).

6. Order that Respondents are PROHIBITED from re-detaining Petitioner after release absent a lawful basis and individualized determination consistent with due process.

IX. CONCLUSION

This case presents a simple question: Can the Government continue to detain a noncitizen based on a bond determination that is arbitrary, conclusory, and unsupported by any reasoned or individualized analysis? No, it may not.

This Court has already determined that Petitioner's detention violated due process and afforded the Government a full and fair opportunity to cure that violation. The IJ bond hearing failed to justify Petitioner's detention and exacerbated the Government's violation. The IJ's conclusory "no bond" determination, devoid of reasoning and unsupported by the record, reflects an abuse of discretion and fails to provide any lawful basis for continued detention.

As this Court recognized in *Escalante Perez v. Hernandez* and *Brambila Sanchez v. Scott*, where an IJ's bond determination is an abuse of discretion and does not justify detention, continued confinement cannot stand. In such circumstances, release—not further process—is required. The same result is required here.

Accordingly, the Petition should be granted, and Petitioner should be ordered immediately released.

X. SIGNATURE AND CERTIFICATION

The undersigned counsel certifies that she represents the Petitioner and that this Petition is filed on his behalf pursuant to 28 U.S.C. § 2241.

Respectfully Submitted this 29th day of May 2026.

/s/Vicky J Currie
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Attorney for Petitioner