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9 IN THE UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11 BULAT SAMBUEV,

12 Petitioner,

13 v.
14

15 TONYA ANDREWS, et al.,

16 Respondents.
17
18

CASE NO. 1:25-CV-01814-DJC-AC

RESPONDENTS' MOTION TO DISMISS
THE PETITION AND RETURN TO WRIT
OF HABEAS CORPUS; OPPOSITION TO
MOTION TO ENFORCE

19
20 Respondents move for an order dismissing the Petition for Writ of Habeas Corpus, (ECF 1), and
21 Motion to Enforce, (ECF 14), for lack of subject matter jurisdiction. In the alternative, the Petition and
22 Motion to Enforce should be denied.

23 **I. FACTUAL HISTORY SINCE THE COURT ORDERED A BOND HEARING**

24 On December 21, 2025, this Court ordered Petitioner be afforded a constitutionally adequate
25 bond hearing pursuant to 8 U.S.C. § 1226(a) before an Immigration Judge.

26 On December 23, 2025, the Immigration Judge conducted a bond hearing. This hearing
27 comported with this Court's order that the Petitioner must be afforded a "bond hearing pursuant to 8
28 U.S.C. § 1226(a) before an Immigration Judge. The Government shall bear the burden of establishing,

1 by clear and convincing evidence, that Petitioner poses a danger to the community or a risk of flight, and
2 petitioner shall be allowed to have counsel present.” ECF 9.

3 Petitioner appeared at the bond hearing with counsel. ECF 14 at 3. At the conclusion of the
4 hearing, the Immigration Judge ordered the Petitioner released upon the posting of a \$25,000 bond. Ex.
5 1. To date, Petitioner has not posted a bond and therefore remains in custody. Moreover, Petitioner has
6 not appealed the Immigration Judge’s order.

7 **II. NO REMAINING CASE OR CONTROVERSY**

8 Because Petitioner has received all of the relief he requested in his habeas petition, this matter is
9 now moot. As the Ninth Circuit made clear in *Leonardo v. Crawford*, 646 F.3d 1157, 1160–61 (9th Cir.
10 2011), once a district court orders a § 1226(a) bond hearing and that hearing is provided, the court’s
11 authority is strictly limited to confirming compliance with its order. With the ordered hearing
12 completed, there is no longer any live case or controversy for this Court to resolve, and the Court must
13 dismiss the petition. *Picrin–Peron v. Rison*, 930 F.2d 773, 776 (9th Cir.1991) (finding that because
14 petitioner only requested release from custody and had been released, the court could provide no further
15 relief and the petition was properly dismissed); *see also Abdala v. INS*, 488 F.3d 1061, 1064–65 (9th
16 Cir.2007) (discussing and collecting cases in which a petitioner’s release from detention, parole, or
17 removal rendered a habeas petition moot); *Flores–Torres v. Mukasey*, 548 F.3d 708, 710 n.3 (9th
18 Cir.2008) (dismissing as moot a challenge to immigration detention without a hearing because the alien
19 had subsequently received a hearing).

20 The Court does not have subject matter jurisdiction to consider a habeas claim that is moot.
21 *McCullough v. Graber*, 726 F.3d 1057, 1060 (9th Cir. 2013). Here, the Petitioner was afforded a bond
22 hearing that conformed with the Court’s order, which renders moot all of the claims raised in his habeas
23 petition. There is no remaining form of relief that this Court might give as pertains to Petitioner’s
24 original claims. The Court ordered a process, not a result. That process has been provided. The petition
25 is therefore moot.

26 **III. THE PETITIONER HAS NOT EXHAUSTED ADMINISTRATIVE REMEDIES**

27 Alternatively, the Court should dismiss the Petitioner’s motion to enforce as it is premature. The
28 Petitioner has not pursued his recourse of filing an administrative appeal of the Immigration Judge’s

1 order. Because this administrative appeal is available to him, he must file an appeal and await the
2 outcome of that appeal, rather than immediately seeking to resume litigation in this Court. “[Courts]
3 require, as a prudential matter, that habeas petitioners exhaust available judicial and administrative
4 remedies before seeking relief under § 2241.” *Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir.
5 2001), abrogated on other grounds, *Fernandez-Vargas v. Gonzalez*, 548 U.S. 30 (2006).

6 Because Petitioner has not appealed the Immigration Judge’s order to the BIA, he has not
7 exhausted administrative remedies, and this Court must dismiss the habeas petition.

8 **IV. THE BOND HEARING PETITIONER RECEIVED WAS MORE THAN ADEQUATE**

9 The United States maintains its position that no bond hearing was required under the statute or
10 Constitution for someone in Petitioner’s situation, having been re-detained pursuant to 8 U.S.C.
11 § 1225(b)(2). The United States does not concede that a bond hearing was constitutionally required
12 under the circumstances of this case. But, the government complied with the Court’s order and
13 Petitioner was given a bond hearing before an immigration judge. That bond hearing complied with the
14 Court’s order.

15 The fact that the Immigration Judge ultimately reached a bond decision other than the one
16 Petitioner wanted does not rise to the level of a constitutional violation. This Court lacks the authority
17 to reassess the evidence presented at the bond hearing or the bond amount necessary to ensure the
18 defendant’s appearance and protect the community, which is the thrust of what Petitioner is now
19 seeking, albeit cloaked in constitutional garb. “[D]iscretionary decisions granting or denying bond are
20 not subject to judicial review,” *Prieto-Romero v. Clark*, 534 F.3d 1053, 1058 (9th Cir. 2008), and “a
21 district court may not second guess the IJ’s weighing of the evidence,” *Quan v. Barr*, No. 20-cv08118-
22 LB, 2021 WL 308610, at *4 (N.D. Cal. Jan. 29, 2021).

23 Petitioner identifies no legal or constitutional error in the Immigration Judge’s hearing. He does
24 not allege that the Immigration Judge applied the wrong burden, ignored evidence, or violated the
25 Court’s order. Instead, he argues that the bond amount is too high for him to afford. That is a
26 quintessential discretionary determination that § 1226(e) shields from judicial review. *See Singh v.*
27 *Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011)

Courts have consistently held that due process requires an individualized bond determination, not a bond calibrated to ensure a detainee's ability to pay. *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (holding that due process requires consideration of ability to pay, but "does not guarantee a detainee's release or an affordable bond"). Indeed, a bond that a detainee cannot afford is not unconstitutional. *United States v. Salerno*, 481 U.S. 739, 751–52 (1987) (recognizing that there is no constitutional right to release on bail). Courts have repeatedly rejected the argument that an unaffordable bond violates due process. *Phipps v. Clark*, 2020 WL 3422163, at *4 (D. Minn. June 22, 2020) (holding that a bond amount does not violate due process merely because the detainee cannot pay it).

V. CONCLUSION

For the foregoing reasons, this Court should dismiss the habeas petition in its entirety as moot. Alternatively, this Court should dismiss the motion to enforce, as the Petitioner has not exhausted administrative remedies. Alternatively, because Petitioner has been granted a constitutionally adequate bond redetermination hearing, the Court should deny the petition and motion to enforce on the merits.

Respectfully submitted,

Dated: December 31, 2025

/s/ ANTONIO J. PATACA

By: _____
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