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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BULAT SAMBUEV,

Petitioner,

v.

TONYA ANDREWS, et al.,

Respondents.

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

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The Court should deny the petition for the reasons set forth below and those articulated in the Respondent's Response to the Petitioner's Motion for Temporary Restraining Order. ECF 6.

I. FACTUAL HISTORY

On October 22, 2025, the Immigration Judge ordered Petitioner removed to Russia but withheld removal. Gallenkamp Declaration ¶ 9; Exh. 1. On November 24, 2025, the DHS appealed the withholding of removal decision to the Board of Immigration Appeals (BIA), which was accepted by the BIA on December 15, 2025. Gallenkamp Declaration ¶ 15; Exh. 2.

On December 21, 2025, the District Court ordered Petitioner be afforded a constitutionally adequate bond hearing pursuant to 8 U.S.C. § 1226(a) before an Immigration Judge. ECF 9.

1 On December 23, 2025, the Immigration Judge conducted a bond hearing. ECF 11. This
2 hearing comported with the District Court's order that the Petitioner must be afforded a "bond hearing
3 pursuant to 8 U.S.C. § 1226(a) before an Immigration Judge. The Government shall bear the burden of
4 establishing, by clear and convincing evidence, that Petitioner poses a danger to the community or a risk
5 of flight, and petitioner shall be allowed to have counsel present." ECF 9.

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

10 On January 7, 2026, the District Court granted a preliminary injunction on the same terms as the
11 TRO. ECF 17.

12 On January 10, 2026, the Petitioner was released from ICE custody.

13 **II. THE PETITIONER HAS NOT EXHAUSTED ADMINISTRATIVE REMEDIES**

14 The Court should deny the Petitioner's Petition as it is premature. The Petitioner has not pursued
15 his recourse of filing an administrative appeal of the Immigration Judge's bond order. Because this
16 administrative appeal is available to him, he must file an appeal and await the outcome of that appeal,
17 rather than immediately seeking to resume litigation in this Court. "[Courts] require, as a prudential
18 matter, that habeas petitioners exhaust available judicial and administrative remedies before seeking
19 relief under § 2241." *Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001), abrogated on other
20 grounds, *Fernandez-Vargas v. Gonzalez*, 548 U.S. 30 (2006).

21 Because Petitioner has not appealed the Immigration Judge's bond order to the BIA, he has not
22 exhausted administrative remedies, and this Court should deny the habeas petition.

23 **III. THE BOND HEARING PETITIONER RECEIVED WAS MORE THAN ADEQUATE**

24 The United States maintains its position that no bond hearing was required under the statute or
25 Constitution for someone in Petitioner's situation, having been re-detained pursuant to 8 U.S.C.
26 § 1225(b)(2). The United States does not concede that a bond hearing was constitutionally required
27 under the circumstances of this case. But the Respondent complied with the Court's order and Petitioner
28

1 was given a bond hearing before an immigration judge. That bond hearing complied with the Court's
2 order. And, the Petitioner has now been released from custody.

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

11 Petitioner identifies no legal or constitutional error in the Immigration Judge's hearing. He does
12 not allege that the Immigration Judge applied the wrong burden, ignored evidence, or violated the
13 Court's order. Instead, he argues that the bond amount is too high for him to afford. That is a
14 quintessential discretionary determination that § 1226(e) shields from judicial review. *See Singh v.*
15 *Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011). The Petitioner was released from custody on January 10,
16 2026, rendering his argument on this point moot.

17 Nevertheless, courts have consistently held that due process requires an individualized bond
18 determination, not a bond calibrated to ensure a detainee's ability to pay. *Hernandez v. Sessions*, 872
19 F.3d 976, 991 (9th Cir. 2017) (holding that due process requires consideration of ability to pay, but
20 "does not guarantee a detainee's release or an affordable bond"). Indeed, a bond that a detainee cannot
21 afford is not unconstitutional. *United States v. Salerno*, 481 U.S. 739, 751–52 (1987) (recognizing that
22 there is no constitutional right to release on bail). Courts have repeatedly rejected the argument that an
23 unaffordable bond violates due process. *Phipps v. Clark*, 2020 WL 3422163, at *4 (D. Minn. June 22,
24 2020) (holding that a bond amount does not violate due process merely because the detainee cannot pay
25 it).

26 IV. CONCLUSION

27 For the foregoing reasons, this Court should deny the habeas petition.
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Respectfully submitted,

Dated: January 14, 2026

/s/ ANTONIO J. PATACA

By:

ANTONIO J. PATACA
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