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6 UNITED STATES DISTRICT COURT FOR THE
7 CENTRAL DISTRICT OF CALIFORNIA

8 MOISES GOMEZ MENDEZ, A 

Case No.5:25-cv-03401-DOC-E

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10 Petitioner,
11 v.

12 Kristi Noem, in her official capacity as Secretary
of the Department of Homeland Security;

13 PAMELA BONDI,
in her official capacity as Attorney General,

14
15 U.S. DEPARTMENT OF HOMELAND
SECURITY,

16 F. SEMAIA, in his official capacity as Warden of
17 Adelanto Detention Facility,

18 JAIME RIOS, in his official capacity as Acting
ICE Field Office Director,

19 Respondents.
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PETITIONER'S REPLY RE:
ORDER TO SHOW CAUSE
RE: MOOTNESS; REQUEST
TO ENFORCE
TEMPORARY
RESTRAINING ORDER

INTRODUCTION

On December 23, 2025, a bond hearing was held in the Adelanto Immigration Court in which the immigration judge denied bond on the determination that Petitioner is a flight risk. Although a bond hearing purporting to comport with 8 USC § 1226(a) was held as scheduled, this bond hearing did not comply with the temporary restraining order (TRO) issued by this Court in that it did not meet the minimal due process required for the government to continue to detain Petitioner. Accordingly, this Court should retain jurisdiction over this matter and issue an order to enforce the TRO.

ARGUMENT

I. This Matter is not Moot

To determine if a case is moot, a court must decide whether there is a present controversy as to which effective relief can be granted. *See Nw. Envtl. Def. Ctr. v. Gordon*, 849 F.2d 1241, 1244 (9th Cir. 1988). A case only becomes moot if the court is deprived of the ability to redress a party's injuries. *United States v. Alder Creek Water Co.*, 823 F.2d 343, 345 (9th Cir. 1987). This case is not moot because this Court still has authority to provide redress to Petitioner's injuries. Specifically, as argued in detail below, the bond hearing that took place on December 23, 2025 did not comply with the requirements of due process. Thus, it did not comply with this Court's TRO, which found that Petitioner's due process rights required a bond

1 hearing to be held. See Dkt. 11. This Court has authority to enforce that TRO, and
2 accordingly, this matter is not moot.

3 **II. Continued Jurisdiction is Not Precluded Under 8 U.S.C. 1226(e)**

4 The Ninth Circuit has clarified that, while § 1226(e) limits judicial review of
5 the government’s discretionary judgment regarding a noncitizen’s application for
6 bond, that section does *not* strip federal courts of “traditional habeas jurisdiction,”
7 or jurisdiction over constitutional claims or questions of law. *See, e.g., Martinez v.*
8 *Clark*, 124 F.4th 775, 781 (9th 2024). Moreover, the *Martinez* court found that the
9 determination whether a noncitizen is “dangerous” for detention purposes is a
10 mixed question of law and fact and is reviewable as a question of law. *Id.* at 779
11 (quotations omitted).

12 Like the “dangerousness” determination, the determination whether someone
13 is a flight risk is a mixed question of law and fact – it requires the “application of a
14 statutory legal standard ...to an established set of facts.” *Id.* (citing *Wilkinson v.*
15 *Garland*, 601 U.S. 209, 212 (2024)).

16 Here, Petitioner is challenging whether the bond hearing held on December
17 23, 2025 comports with his due process rights. As this Court has the authority to
18 review the substance of the immigration judge’s determination that Petitioner is a
19 flight risk, it also has authority to determine whether the hearing that led to that
20 determination comported with the due process rights protected by the Court’s TRO.
21

1 *See Ortega-Rangel v. Sessions*, 313 F.Supp.3d 993, 1001 (N.D. Cal. 2018) (finding
2 that the court had jurisdiction over claims that, by denying bond based solely on a
3 recent arrest for possession for sale, without further probative and specific
4 evidence, the government committed constitutional and legal error).

5 **III. The Dec. 23, 2025 Bond Hearing Violated Petitioner's Due Process**
6 **Rights**

7 Once the Court determines that it has continued jurisdiction to review
8 Petitioner's detention in this case, it must review the constitutionality of and
9 questions of law related to the underlying bond proceedings, including whether the
10 bond hearing vindicated the due process rights that this Court sought to protect in
11 its TRO. Here, the Immigration Judge failed to provide a constitutionally adequate
12 bond hearing because it denied bond based on a determination lacking the
13 impartiality of a neutral adjudicator and without providing a reasoned consideration
14 of all the factors relevant to whether Petitioner is a flight risk. *See* Exhibit K, Order
15 of IJ Denying Bond. Namely, the Immigration Judge should have considered, at a
16 minimum,

17 (1) whether [Petitioner] had a fixed address in the United States; (2)
18 [Petitioner's] length of residence in the United States; (3) [Petitioner's]
19 family ties in the United States, and whether they may entitle [Petitioner]
to reside permanently in the United States in the future; and (4)
[Petitioner's] manner of entry into the United States.

20 *Matter of Dobrotvorskii*, 29 I&N Dec. 211, 212 (BIA 2025) (citing *Matter of*
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1 *Guerra*, 24 I&N Dec. 37, 40 (BIA 2006)).

2
3 Had the Immigration Judge properly weighed all the factors, he would have
4 found Petitioner not to be a flight risk. He would have considered that Petitioner
5 has been in the United States since 2002, and he has a fixed address. *See* Exhibit L,
6 Bond Motion with Exhibits. He would have also found that Petitioner has three
7 U.S. citizen stepchildren over the age of twenty-one who are eligible to petition
8 Petitioner thereby increasing his likelihood to reside permanently in the United
9 States. Petitioner's only law enforcement encounters in his twenty-three (23) years
10 in the United States were the result of driving without a valid driver's license, the
11 consequences for which Petitioner readily complied with. The Immigration Judge
12 points to Petitioner's unlawful employment as a negative factor without considering
13 the fact that Petitioner had no legal means to obtain a work authorization and did
14 what he had to do in order to raise three children, one of whom suffers from severe
15 mental illness, and care for his immuno-compromised wife. Although he entered
16 without inspection in 2002, that entry was Petitioner's sole entry, and he has no
17 other immigration violations on his record.

18 Instead, the Immigration Judge's (IJ) bond denial rests on a circular
19 assessment that deprives Petitioner of a neutral evaluation. In assessing flight risk,
20 the Immigration Judge (IJ) expressly discounted the likelihood of success on appeal
21 because it challenges the same pretermission ruling that he himself issued. *See*

1 Exhibit M, Order Premitting Petitioner's Asylum Application. By treating his
2 premission as effectively conclusive, the IJ foreclosed any meaningful
3 consideration that appeal could succeed, not based on an objective assessment of
4 the appellate record, but on the fact that he does not believe his own decision to be
5 erroneous. When the same IJ who premitted the asylum application later
6 evaluates bond and predicates flight risk on his own confidence in that prior ruling,
7 the bond analysis becomes structurally predetermined and prejudices a fair and
8 impartial determination.

9
10 Furthermore, Petitioner respectfully contends that the premitted asylum
11 application is, in and of itself, a demonstration of this administration's penchant for
12 policy over law similar in nature to their new interpretation of mandatory detention
13 that led to this petition in the first place. Petitioner respectfully requests the Court to
14 take judicial notice of EOIR Policy Memo 25-28 effective April 11, 2025. *See*
15 Exhibit M, EOIR PM 25-28. The IJ denied Petitioner's asylum application without
16 a hearing on the merits in accordance with an agency decision that was issued only
17 after the EOIR policy memorandum encouraging Immigration Judges to premit
18 asylum applications rather than conduct a merits hearing. *Matter of H-A-A-V-*, 29
19 I&N Dec. 233 (BIA 2025); *see also*, EOIR PM 25-28, effective April 11, 2025.

20 Importantly, the strength of Petitioner's relief before the Immigration Court
21 is not a factor that is contemplated in *Guerra*. Here, it appears the IJ added that

1 factor to the *Guerra* determination of flight risk to the detriment of the previously
2 mentioned *Guerra* factors that weigh overwhelmingly in the Petitioner's favor.

3
4 Finally, there is the question of whether, under this administration, which has
5 so clearly and publicly placed political pressure on Article II Immigration Judges to
6 follow the administration's goal of deporting non-citizens en masse, it is even
7 possible to have a bond hearing heard by a neutral arbiter. Petitioner contends that
8 it is not, and he requests the Court to take judicial notice of the various instances of
9 reporting on this issue. *See* Isabela Dias, "'Fired for No Reason': Former
10 Immigration Judges Speak Out Against Trump's Assault on the Courts," Mother
11 Jones, Oct. 9, 2025, [motherjones.com/politics/2025/10/immigration-court-judge-](https://motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-purge-dhs-ice/)
12 [trump-assault-purge-dhs-ice/](https://motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-purge-dhs-ice/); E. Tammy Kim, "Inside Donald Trump's Attack on
13 Immigration Courts," The New Yorker, Oct. 23, 2025, [newyorker.com/inside-](https://www.newyorker.com/inside-donald-trumps-attack-on-immigration-court)
14 [donald-trumps-attack-on-immigration-court](https://www.newyorker.com/inside-donald-trumps-attack-on-immigration-court); Ximena Bustillo, "A deep drive into
15 the Trump administration's firing of immigration judges," NPR, Nov. 5, 2025,
16 [npr.org/2025/11/05/nx-s1-5584095/a-deep-dive-into-the-trump-administrations-](https://www.npr.org/2025/11/05/nx-s1-5584095/a-deep-dive-into-the-trump-administrations-firing-of-immigration-judges)
17 [firing-of-immigration-judges](https://www.npr.org/2025/11/05/nx-s1-5584095/a-deep-dive-into-the-trump-administrations-firing-of-immigration-judges).

18 Thus, the Immigration Judge's lack of impartiality, reliance on a non-*Guerra*
19 factor, and the related political pressure that has tainted the entirety of the
20 immigration court system, do not comport with this Court's order that Petitioner be
21 provided a bond hearing that complies with the Fifth Amendment right to due

1 process. Moreover, given the pervasive atmosphere of fear that has overtaken the
2 current immigration court system, Petitioner respectfully submits that this Court, in
3 order to meaningfully enforce its own TRO, should either order his release or
4 should conduct a bond hearing in the District Court, where Petitioner will have
5 access to a truly impartial adjudicator.

6 WHEREFORE, for the foregoing reasons, the Court should issue an order
7 enforcing its TRO.

8 **RESPECTFULLY SUBMITTED this 30th day of December, 2025.**

9 By: /s/ Jan Peter Weiss

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TABLE OF EXHIBITS

Exhibit K	Order of IJ Denying Bond by IJ Matthew Chan
Exhibit L	Bond Motion in Support of December 23, 2025 Bond Hearing with Exhibits
Exhibit M	Order Preterminating Petitioner's Asylum Application by IJ Matthew Chan
Exhibit N	EOIR PM 25-28