

1 Inna Parizher
2 Attorney for Petitioner
3 CA State Bar Number 270581
4 PO Box 43097
5 Los Angeles CA 90043
6 Tel (310) 630-9499
7 InnaParizher@ParizherImmigration.com

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA

10 Magomed Mumaev)
11)
12 Place of Confinement)
13 Adelanto ICE Processing Center)
14)
15 *Petitioner*)

16 v.)

17 FERETI SEMAIA Warden, Adelanto ICE)
18 Processing Center;)
19 ERNESTO SANTA CRUZ, Field Office)
20 Director, Los Angeles Field Office, United)
21 States Immigration and Customs)
22 Enforcement;)
23 TODD M. LYONS, Acting Director, United)
24 States Immigration and Customs)
25 Enforcement;)
26 KRISTI NOEM, Secretary of Homeland)
27 Security;)
28 PAMELA JO BONDI, Attorney General of)
the United States, in their official capacities,)

Respondents.)

Civil Action No.5:25-cv-03409-FLA
(MARx)

**PETITIONER'S RESPONSE TO
FEDERAL RESPONDENTS'
OPPOSITION TO
PETITIONER'S MOTION FOR
TEMPORARY RESTRAINING
ORDER**

Honorable Fernando L. Aenlle-
Rocha United States District Judge

1 Respondent Magomed Mumaev provides this response to Respondents'
2 Opposition to his Motion for Temporary Restraining Order. Mr. Mumaev notes that
3 Respondents have not formally provided an answer to his Petition for Habeas
4 Corpus.

5
6 Mr. Mumaev is currently detained in violation of his inherent liberty interest
7 and his due process rights. Every additional day that he is detained in violation of
8 these fundamental rights, he is experiencing immediate irreparable harm.
9 *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017).

10 Respondents wholly ignore Mr. Mumaev's substantial and straightforward
11 constitutional and due process claims. Rather than engaging with those valid
12 claims, they misconstrue and mischaracterize Mr. Mumaev's habeas petition and
13 Motion for a Temporary Restraining Order as a collateral or roundabout attempt to
14 relitigate the Immigration Court's bond determination. They are incorrect that this
15 is what Mr. Mumaev attempts to do.
16

17 Respondents' egregious constitutional violations against Mr. Mumaev began
18 on April 3, 2025, long before any bond hearing occurred. Those violations are
19 substantial and straightforward. Respondents further violated parole regulations by
20 arbitrarily revoking Mr. Mumaev's parole without a rational or lawful explanation.
21 They also violated governing regulations concerning the determination of whether
22 Mr. Mumaev is subject to mandatory detention.
23

24 The October 9, 2025, bond hearing was so deficient in due process, and its
25 outcome so untethered from the clear and convincing evidentiary record, that it
26 functioned only as a continuation of Respondents' ongoing due process violations.
27 Even under the most charitable interpretation, it cannot be considered a meaningful
28 or sincere assessment of Mr. Mumaev's eligibility for bond.

1 Accordingly, Mr. Mumaev reasserts his request that the Court act as soon as
2 possible to ameliorate the Respondents extensive and harmful violations. Mr.
3 Mumaev requests that the Court order his immediate release from detention on
4 conditions pending resolution. Or, in the alternative, order a prompt,
5 constitutionally adequate custody redetermination hearing, to take place within say
6 7–10 days, with evidence-based findings and consideration of alternatives to
7 detention.
8

9
10 **A. This Court has Jurisdiction to review the constitutionality of Mr.**
11 **Mumaev’s detention and the constitutionality of the Immigration**
12 **Court’s decision in the bond proceedings**

13 Respondents mischaracterize Mr. Mumaev’s petition and Motion for
14 Temporary Restraining order as simply a request for the District Court to review
15 the Immigration Court’s denial of bond. Notably, Respondents refuse to engage
16 and confront Mr. Mumaev’s meritorious constitutional claims.

17 Mr. Mumaev hereby makes clear that his petition and Motion for Temporary
18 Restraining Order are not a request for this Honorable Court to reassess and
19 reweigh bond factors or substitute its judgment for the Immigration Judge’s. Mr
20 Mumaev challenges the lawfulness of his detention and the constitutional adequacy
21 of the custody process that continues to deprive your client of liberty. The bond
22 hearing held on October 9, 2025 – 6 months after his inherent liberty interests had
23 been unlawfully deprived and after Respondents had violated applicable regulatory
24 and statutory procedures – did not ameliorate or cure those violations. To the
25 contrary, the bond hearing merely perpetuated and compounded the fundamentally
26 unlawful nature of his detention, which from its inception has been devoid of
27 meaningful constitutional protections.
28

1 The Immigration Court's conclusion that Mr. Mumaev was a flight risk, such
2 that no amount of bond could secure his attendance at future proceedings, was so
3 unsupported by the evidentiary record and failed to meet any applicable legal or
4 statutory standard. This arbitrary determination deprived Mr. Mumaev of a
5 meaningful bond hearing and constituted a denial of due process. *Martinez v.*
6 *Clark*, 124 F.4th 775, 783 (9th Cir. 2024). "In the absence of such evidence [that
7 Petitioners posed a danger to the community or a flight risk], subjecting Petitioners
8 to civil immigration detention does not bear a reasonable relation to the statutory
9 purposes motivating it. Such detention would lack a valid basis and violate
10 Petitioners' right to be free from impermissible government custody." *Valencia*
11 *Zapata v. Kaiser*, 801 F. Supp. 3d 919, 939 (N.D. Cal. 2025).

13 This Court has habeas jurisdiction to consider the extent to which the
14 Immigration Court's determination that Mr. Mumaev was a flight risk, and that,
15 therefore he merited continued detention, was a due process violation and resulted
16 in legal error. *Singh v. Holder*, 638 F.3d 1196, 1200 (9th Cir. 2011) ("[F]ederal
17 district court has habeas jurisdiction under 28 U.S.C. § 2241 to review [. . .] bond
18 hearing determinations for constitutional claims and legal error.") *Hernandez v.*
19 *Sessions* also affirms that Mr. Mumaev's constitutional claims regarding his bond
20 proceedings are "cognizable in federal court on habeas." *Hernandez v. Sessions*,
21 872 F.3d 976, 988 (9th Cir. 2017).

23 The Ninth Circuit in *Martinez v. Clark* provided that Federal Courts have
24 jurisdiction through a habeas petition to evaluate bond proceedings in order to
25 assess whether there were constitutional violations or whether there is a question of
26 law arising from the proceedings. In fact, the Ninth Circuit permitted federal courts
27 to assess bond proceedings for due process violations since *Singh v. Holder* in
28 2011. *Singh v. Holder*, 638 F.3d 1196, 1200–01 (9th Cir. 2011).

1 The Immigration Court's determination that Mr. Mumaev is a flight risk is a
2 "reviewable mixed question" of fact and law in as far as the "federal courts can
3 'assess whether an IJ correctly applied the statutory standard to a given set of
4 facts.'" *Martinez v. Clark*, 124 F.4th 775, 783 (9th Cir. 2024), quoting *Wilkinson v.*
5 *Garland*, 601 U.S. 209, 221 (2024). A decision that is not supported by the
6 evidence and that falls far below the required evidentiary standard constitutes a
7 "discretionary process [that] itself [is] constitutionally flawed." *Hernandez v.*
8 *Sessions*, 872 F.3d 976, 988 (9th Cir. 2017), quoting *Singh v. Holder*, 638 F.3d
9 1196, 1202 (9th Cir. 2011). When an Immigration Court simply rubberstamps the
10 Department of Homeland Security's demand that a noncitizen remain in their
11 custody, without proving their case with clear and convincing evidence, those
12 proceedings are rendered constitutionally deficient.
13

14 Here, the record before this Court shows that the Immigration Court's
15 decision was not supported by "clear and convincing" evidence that Mr. Mumaev
16 was a flight risk and that no amount of bond could secure his participation in his
17 removal proceedings. This rendered the bond proceedings "constitutionally
18 deficient." *Sales v. Johnson*, 323 F. Supp. 3d 1131, 1141–42 (N.D. Cal. 2017),
19 citing *Gianello v. Holder*, No. 11-CV-0180-LAB (JMA), 2014 WL 1255884, at *2-
20 *3 (S.D. Cal. March 23, 2014). This Court has jurisdiction to review the
21 constitutional questions raised by Mr. Mumaev.
22

23 Respondent's baselessly state that the Immigration Court adhered to
24 "applicable procedures" in its bond hearing. (Doc. 8, age 4). But don't actually
25 demonstrate how the Immigration Court's decision complied with due process or
26 required evidentiary standards.
27

28 Mr. Mumaev is not asking this Court to reweigh discretion, but only to
enforce due process and lawful detention authority. A bond hearing must be

1 constitutionally meaningful, and habeas is an appropriate vehicle to compel an
2 adequate hearing when the one provided is deficient.

3 Respondents also argue that this decision would have no precedential value.
4 (Document 8, page 5). This Court's reappraisal of the custody redetermination
5 hearing would provide guidance on the clear and convincing evidentiary standard
6 and on the due process requirements associated with meeting this high standard.
7 Mr. Mumaev is not asking the Court to conduct a redundant and frivolous
8 repetition of the Immigration Court's alleged fact-finding inquiry. He is requesting
9 the Court to decide a question of law regarding the sufficiency of evidence
10 required to prove by clear and convincing evidence that an individual is a flight
11 risk and merits no bond whatsoever.
12
13
14

15 **B. Mr. Mumaev's Detention Violates Due Process and Statutory**
16 **Requirements**

17 Mr. Mumaev clearly lays out that Respondents decision to detain him on
18 April 3, 2025, violated his fundamental liberty interest without due process,
19 violated the regulations applicable to revocation of parole, and violated the
20 applicable statutory requirements provided for by 8 U.S.C. §1226(a). Respondents
21 themselves acknowledge in their response that Mr. Mumaev was detained pursuant
22 to 8 U.S.C. §1226(a). (Document 8, page 1 and page 4).
23

24 Again, Respondents mischaracterize Mr. Mumaev's petition and Motion for
25 Temporary Restraining Order as merely asking the Court to reverse the
26 Immigration Court's bond determination based on the evidence.
27

28 Mr. Mumaev is not requesting that this Court re-adjudicate his bond
proceedings that were held on October 9, 2025, or assess whether he is in fact bond
eligible. Mr. Mumaev argues that his bond hearing violated due process and could

1 not be considered a meaningful assessment of whether he merits continued
2 detention. *Martinez v. Clark*, 124 F.4th 775, 779 (9th Cir. 2024). Mr. Mumaev is
3 requesting that this Honorable Court apply the due process standards established in
4 *Singh v. Holder* and clarified in *Martinez v. Clark* and make a determination
5 whether those standards were faithfully upheld in the course of his bond hearing,
6 which happened months after his unlawful detention by Respondents.
7

8 Upon a good-faith application of the law, Mr. Mumaev submits that the
9 Court will conclude that his bond hearing was not a genuine adjudication of his
10 eligibility for release, but rather Respondents' effort to rationalize his unlawful
11 detention, thereby perpetuating the same ongoing due process violations.
12

13 Respondents state that "the IJ applied the applicable procedures set forth by
14 8 U.S.C. §1226(a)," but provide no evidence from the record of the proceedings in
15 support of their claim. In contrast, Mr. Mumaev demonstrated how the evidence
16 filed by DHS did not support a clear and convincing finding that he was a flight
17 risk, resulting in a constitutionally defective proceeding. (Document 6, TRO
18 Exhibits 2-3).
19

20 The Immigration Court was required to apply nine factors established in
21 *Matter of Guerra* to assess whether the Respondents proved by clear and
22 convincing evidence that Mr. Mumaev was a flight risk. *See In re Guerra*, 24 I. &
23 *N. Dec. 37, 40* (BIA 2006) and *Martinez v. Clark*, 124 F.4th 775, 785 (9th Cir.
24 2024) ("[T]he BIA properly noted that the government bore the burden to establish
25 by clear and convincing evidence that [Respondent] is a danger to the
26 community.") The Respondents provided as evidence that Mr. Mumaev was a
27 flight risk (1) an application for fee waiver file by Mr. Mumaev and (2) form I-213.
28 The application for fee waiver was probative evidence of flight risk allegedly
because in the application Mr. Mumaev states that he was unemployed, whereas in

1 other applications filed with the court he stated that he had been employed in
2 “random jobs, moving and odd jobs.” According to Respondents, this is evidence
3 that Mr. Mumaev is not going to “comply with the rules.” (Document 8, page 7.)
4 The Immigration Court did not state how this document met the standard of clear
5 and convincing evidence against the pages of evidence demonstrated by Mr.
6 Mumaev that he had dutifully and lawfully complied with “the rules.” The
7 Immigration Court also did not state how this evidence clearly and convincingly
8 demonstrated flight risk when it was not a direct contradiction to Mr. Mumaev’s
9 other statements made to the Court about his employment history. Having random
10 jobs, including moving and odd jobs, is certainly not the equivalent of being full-
11 time or even part-time employed.
12

13 The other document provided to the Immigration Court as clear and
14 convincing evidence of flight risk was the form I-213. But during the bond hearing
15 – and in their opposition to Mr. Mumaev’s Motion for Temporary Restraining
16 Order – Respondents do not explain what part of this document provides clear and
17 convincing evidence of flight risk.
18

19 It is evident that the Immigration Court’s finding that Mr. Mumaev was a
20 flight risk rested on conclusory findings untethered to the record, and the result is
21 detention without the kind of evidence-based, reasoned custody determination
22 which due process requires. There was no reasoning in the Immigration Court’s
23 order regarding the weight given to various pieces of evidence and why some
24 evidence was less persuasive or disregarded. (Document 6, Exhibit 4). “To satisfy
25 the clear and convincing standard, overwhelming evidence is not required. Rather,
26 it is an ‘intermediate burden of proof’ that is above ‘preponderance of the
27 evidence’ but below that required to sustain a criminal charge. Such a standard
28 ensures that ‘after a lengthy period of detention, the government continues to have

1 a legitimate interest in the further deprivation of an individual's liberty.” *Sales v.*
2 *Johnson*, 323 F. Supp. 3d 1131, 1140 (N.D. Cal. 2017), quoting *Rodriguez v.*
3 *Robbins*, 804 F.3d 1060, 1090 (9th Cir. 2015).

4
5 Mr. Mumaev is requesting that this Court find that “the IJ had [not]
6 adequately considered the full record before her.” *Ramos v. Sessions*, 293 F. Supp.
7 3d 1021, 1033 (N.D. Cal. 2018), vacated and remanded sub nom. *Ramos v.*
8 *Garland*, No. 18-15884, 2024 WL 933654 (9th Cir. Mar. 1, 2024). Again, Mr.
9 Mumaev is not asking that this Court assess whether “the Government had [in fact]
10 met its burden as a matter of law,” but to evaluate whether Mr. Mumaev had
11 received a constitutionally and procedurally adequate bond hearing. *Ramos v.*
12 *Sessions*, 293 F. Supp. 3d 1021, 1033 (N.D. Cal. 2018), vacated and remanded sub
13 nom. *Ramos v. Garland*, No. 18-15884, 2024 WL 933654 (9th Cir. Mar. 1, 2024).
14 “[I]t is well-settled that ‘due process requires adequate procedural protections to
15 ensure that the government’s asserted justification for physical confinement
16 outweighs the individual’s constitutionally protected interest in avoiding physical
17 restraint.’” *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017), citing *Singh*
18 *v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011)

19
20 Respondent’s also fail to acknowledge that ICE/ERO already made an initial
21 custody determination with regard to Mr. Mumaev when he entered the United
22 States on May 17, 2023, and presented himself to officers of the Department of
23 Homeland Security. He was evaluated by officers at that time – ostensibly for
24 danger and flight risk - and granted parole. (See Document 1, Exhibit B). That
25 parole grant indicates that at the time the Department of Homeland Security
26 officers found that Mr. Mumaev was neither a danger nor a flight risk. *Helal v.*
27 *Janecka*, No. 5:25-CV-02650-HDV-JC, 2025 WL 3190132, at *1 (C.D. Cal. Oct.
28 24, 2025).

1 Thereafter, in order to detain Mr. Mumaev on April 3, 2025, ICE/ERO had
2 to show materially changed circumstances. 8 C.F.R. § 1003.19(e). At neither the
3 bond proceedings nor in their response to Mr. Mumaev's Motion for Temporary
4 Restraining Order have Respondents materially changed circumstances that
5 warranted re-detaining Mr. Mumaev. The consideration of materially changed
6 circumstances had to happen before Mr. Mumaev's detention on April 5, 2025.
7 "Respondents offer no evidence or argument indicating that any procedural
8 safeguards were employed prior to petitioner's re-arrest; more generally, they give
9 the court no reason to believe that any efforts were made to prevent erroneous
10 deprivation of petitioner's liberty." *ZOILA JUT SARAX DE VASQUEZ, Petitioner,*
11 *v. CHRISTOPHER CHESTNUT, et al., Respondents.*, No. 1:25-CV-1999-JDP, 2026
12 WL 25539, at *4 (E.D. Cal. Jan. 5, 2026) This is why Mr. Mumaev argues that his
13 current detention violates his due process.
14
15

16 17 C. Exhaustion

18 Mr. Mumaev appealed the Immigration Court's denial of bond to him and
19 that appeal is pending. But his habeas petition and Motion for Temporary
20 Restraining Order ask this Court to remedy the ongoing unconstitutional detention
21 while that appeal is pending.
22

23 Exhaustion does not require that Mr. Mumaev remain unconstitutionally
24 detained, especially because Mr. Mumaev is asking this Court to make a
25 determination regarding the constitutionality of his ongoing detention.
26 "[R]equiring Petitioners to remain in unlawful detention pending a BIA decision
27 would cause irreparable harm which is a separate basis to excuse administrative
28 exhaustion." *L.M., et al., Petitioners, v. KRISTI NOEM, et al., Respondents.*

Additional Party Names: R.L., V.M., No. 2:25-CV-02194-RFB-BNW, 2026 WL

1 103231, at *10 (D. Nev. Jan. 14, 2026). “Petitioner challenges not only the
2 statutory basis for his detention but also the constitutional basis for his detention.
3 Irreparable injury will result if Petitioner must wait for a BIA decision before being
4 permitted to file a habeas claim.” *Chaudhry v. Bondi*, No. 2:25-CV-02339-DGE,
5 2025 WL 3706534, at *3 (W.D. Wash. Dec. 22, 2025). *See also* Scott v. Wamsley,
6 No. 2:25-cv-1819, 2025 WL 3514304, at *4 (W.D. Wash. Dec. 8, 2025).

8 The appeal of the Immigration Court’s bond decision asks the board of
9 Immigration Appeals to evaluate the sufficiency of the Immigration Court’s
10 decision. It happens to be the case that in Mr. Mumaev’s situation, the Board of
11 Immigration Appeals will be deciding similar factors as this Court, but that is only
12 because of the extent of the constitutional violations and the extent to which the
13 bond determination was untethered from the evidence.

15 Furthermore, “[t]he Ninth Circuit has made clear that administrative
16 exhaustion will not deprive a court of jurisdiction to review an immigration bond
17 determination.” *Ramos v. Sessions*, 293 F. Supp. 3d 1021, 1029 (N.D. Cal. 2018),
18 vacated and remanded sub nom. *Ramos v. Garland*, No. 18-15884, 2024 WL
19 933654 (9th Cir. Mar. 1, 2024), citing *Hernandez v. Sessions*, 872 F.3d 976, 988–89
20 (9th Cir. 2017).

21 Mr. Mumaev does not have to wait for a decision from the Board of
22 Immigration Appeals where the relief requested in his habeas petition and Motion
23 for Temporary Restraining Order is narrow and time-sensitive. Irreparable harm is
24 straightforward: continued physical detention is a concrete, ongoing deprivation of
25 liberty. The equities and public interest also favor relief given no criminal history, a
26 strong sponsor, and the availability of conditions short of detention. “[T]he district
27 court, in its discretion, may ‘determine whether to excuse the faulty exhaustion and
28 reach the merits or require the petitioner to exhaust his administrative remedies

1 before proceeding in court.” *MARCELINO CERRO HUERTA, Petitioner, v.*
2 *PAMELA BONDI, et al., Respondents.*, No. 1:25-CV-00941-JLT-HBK (HC), 2026
3 WL 74152, at *2 (E.D. Cal. Jan. 9, 2026), quoting *Brown v. Rison*, 895 F.2d 533,
4 535 (9th Cir. 1990).

5
6 Granting Mr. Mumaev’s habeas petition does not allow him to bypass the
7 administrative scheme, as Respondent’s allege. This Court’s decision resists
8 squarely within its jurisdiction to assess the constitutionality and legality of Mr.
9 Mumaev’s detention. And the factors that make Mr. Mumaev’s detention
10 unconstitutional are many more than just the unsupported decision in the bond
11 hearing.

12
13
14 **D. Relief Requested**

15 Mr. Mumaev requests that the Court grant his Motion for Temporary
16 Restraining Order and order Respondents to immediately release him.

17 In the alternative, he requests that the Court order Respondents to conduct a
18 constitutionally adequate bond hearing, requiring Respondents to prove by clear
19 and convincing evidence that no amount of bond or conditions placed on him upon
20 release would prevent Mr. Mumaev from posing a danger to the community or
21 from fleeing his removal proceedings. Mr. Mumaev requests that if such a hearing
22 is ordered that it be ordered to be held no longer than 7-10 days from the date of
23 the Court’s order.

24
25 RESPECTFULLY SUBMITTED this 16th day of January, 2026.

26
27 /s/ Inna Parizher
28 Attorney for Petitioner
CA State Bar Number 270581
PO Box 43097

1 Los Angeles CA 90043
2 Tel (310) 630-9499
3 InnaParizher@ParizherImmigration.com
4

5 * The undersigned counsel or record for Petitioner Magomed Mumaev certifies that this
6 brief contains 3,090 words, which complies with the word limit provided in L.R. 11-6.1.
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