IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WILLIAM VASQUEZ ROSARIO, *Petitioner*, v. KRISTI NOEM, *et al.*, *Respondents*.	Civil Action No. 2:25-cv-7427-CFK

RESPONDENTS' RESPONSE TO PETITIONER'S ARGUMENTS IN JOINT STATUS REPORT

Pursuant to this Court's February 3, 2026 Order (ECF No. 14), Respondents submit this response to Petitioner William Vasquez Rosario's argument that the Court should order his immediate release because his February 2, 2026 bond hearing did not satisfy Due Process requirements.

On February 2, 2026, the Executive Office for Immigration Review provided Petitioner a bond hearing, as ordered by this Court, in accordance with 8 U.S.C. § 1226(a), and the opportunity to appeal the decision rendered following that hearing.[1] Petitioner's appeal—if timely made by March 4, 2026—will be heard by the Board of Immigration Appeals (BIA) in accordance with the applicable regulatory framework and consistent with this Court's Order. *See*, *e.g.*, 8 CFR § 1003.3. Petitioner nonetheless argues that the bond hearing provided did not meet the due process requirements ordered by this Court and therefore asks for his immediate release. *See* ECF No. 13 at ¶¶ 3-5.

[1] The Petitioner participated in a telephonic bond hearing on February 2, 2026. *See* Transcript pts 1 -3, PDF Unofficial Transcript filed through ECF and Audio File filed on a thumb drive with the Court.

Respondents oppose Petitioner's request for two reasons. First, Petitioner's arguments regarding the outcome of the bond hearing are properly brought to the BIA in the first instance. *See, e.g.*, *Ghanem v. Warden Essex Cnty. Corr. Facility*, No. 21-1908, 2022 WL 574624, at *1 (3d Cir. Feb. 25, 2022) (considering petitioner's allegations that bond hearing failed to provide due process after petitioner exhausted his appeal to the BIA). Here, Petitioner reserved his right to appeal to the BIA, and this Court should allow that established process to be completed.

Second, Petitioner has not shown that his bond hearing was fundamentally unfair, in violation of due process requirements. To the contrary, Petitioner contends that the Immigration Judge gave improper weight to his criminal proceedings and not enough weight to his application for asylum. *See* ECF No. 13 at ¶¶ 5, 10, 15-18. Rather than demonstrate the hearing was fundamentally unfair, Petitioner asks this Court to reweigh the evidence he presented (and some additional evidence that was not presented to the Immigration Judge). *See* ECF No. 13 at ¶¶ 21-29.

In a fundamentally fair bond hearing, due process requires that the individual seeking release: "(1) is entitled to factfinding based on a record produced before the decisionmaker and disclosed to him or her; (2) must be allowed to make arguments on his or her own behalf; and (3) has the right to an individualized determination of his [or her] interests." *Ghanem*, No. 21-1908, 2022 WL 574624, at *2 (citation omitted). Petitioner's bond hearing met these requirements.

Though he did not do so, Petitioner had the opportunity before the bond hearing to submit evidence supporting his argument that he should be eligible for bond relief.

See Unofficial Transcript #2, Audio file 01:16-01:58[2]. At the hearing, Petitioner's counsel had the opportunity to argue why Petitioner is not a flight risk and informed the IJ that Petitioner filed a timely application for relief from removal. Unofficial Transcript #2, 02:21; 03:51-04:14. The audio files and unofficial transcript show that Petitioner was provided with a full and fair opportunity to present evidence to the immigration court. Based on the record before the immigration court, the Immigration Judge found that Petitioner was a flight risk and potential danger to the community because he had a recent driving under the influence arrest; the immigration court had no evidence of the details by which to evaluate the severity of his behavior underlying his arrest. Tr. #3 at 02:29. The IJ further found that he could not evaluate Petitioner's claim for relief from removal because Petitioner did not supply any evidentiary details to support that claim. Tr. #3 at 03:20 Finally, Petitioner now asks this Court to consider evidence—presented here for the first time—that Petitioner has a family member with lawful immigration status who will support him upon release. ECF #13, ¶ 15. This evidence was never submitted to the Immigration Judge.

Petitioner nonetheless argues that the bond hearing did not comport with due process requirements because the Immigration Judge did not accept Petitioner's unsubstantiated representation that his criminal drunk driving charge was a minor proceeding. Unofficial Transcript #2, 02:21, ECF 13, ¶ 25-27. Petitioner presented no documentary evidence to support that claim. *Id.* Likewise, in arguing he was not a flight

[2] The audio file of the hearing was submitted to the Court via thumb drive and the United States Attorney's Office utilized AI technology and a manual review to generate transcripts of the audio files.

risk, Petitioner submitted no evidence of his community ties and informed the IJ that no one in his family had lawful immigration status. *Id*. at 03:51-03:56.

The recording of the proceedings demonstrates that the Immigration Judge considered the arguments submitted by Petitioner. After considering those arguments and the evidence presented (or lack thereof), the Immigration Judge determined that Petitioner is a flight risk and risk to the community. *See* Tr. 3, at 02:29, 03:20 (noting the lack of supporting evidence and the lack of any evidence that Petitioner had connections to the community).

While Petitioner may disagree with the Immigration Judge's conclusions, that disagreement is not enough to render the bond hearing unconstitutional on procedural due process grounds. The BIA—not this Court –is the proper tribunal to consider the substantive grounds of Petitioner's appeal. The transcript and recording of the bond hearing demonstrate that Petitioner did not submit evidence but instead relied entirely on argument. The Immigration Judge considered Petitioner's arguments and the facts available to him, and he based his denial of bond on that record.

For these reasons, Respondents respectfully submit that no further action by the Court is required at this time, and this matter should be dismissed.

Dated: February 9, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on this date, a true and correct copy of the foregoing Response to Petitioner's Arguments in Joint Status Update was filed electronically via the Court's CM/ECF system and served via CM/ECF on all counsel of record.

/s/ Anthony St. Joseph
ANTHONY ST. JOSEPH
Assistant United States Attorney

February 9, 2026