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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

EMIR EDUARDO SANCHEZ MENDEZ,

Petitioner,

v.

JEREMY CASEY, et al.,

Respondents.

Case No.: 26-cv-03196-JLS-DEB

RESPONSE TO MOTION TO ENFORCE JUDGMENT

Petitioner requests this Court to enforce its judgement, claiming that he has proven "by clear and convincing evidence" that Respondents violated this Court's order. *Stone v. City & Cty. of San Francisco, 968 F.2d 850, 856 (9th Cir. 1992)*. For the foregoing reasons, this Court should deny Petitioner's motion.

I. Argument

A. Respondent's Complied with the Court's Order

Petitioner claims that Respondents violated this Court's order as the bond hearing provided by Respondents was constitutionally defective because Petitioner's "bond hearing was fundamentally unfair and violated the Due Process Clause of the Fifth Amendment." *Ramos v. U.S. ICE*, ECF No. 11 at 4. However, contrary to Petitioner's claim, Respondent's complied with the order.

In a custody redetermination under section 236(a) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1226(a) (2000), where an alien must establish to the satisfaction of the Immigration Judge that he or she does not present a danger to others, a threat to the national security, or a flight risk, **the Immigration Judge has wide discretion in deciding the factors that may be considered**. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006)(emphasis added). The **INA does not limit the discretionary factors that may be considered** by the Attorney General in determining whether to detain an alien pending a decision on asylum or removal. *See id* (emphasis added).

Here, Petitioner does not dispute that the burden was properly placed on him to show he was not a danger to the community or a flight risk. Rather, Petitioner contests the IJ's finding that Petitioner was a flight risk. The IJ has wide discretion to make the determination as to whether Petitioner is a flight risk as established by *Matter of Guerra*. As part of that discretion, the IJ can consider whether or not petitioner has an adequate sponsor. At Petitioner's bond hearing, the IJ allowed both parties to present evidence and make arguments. After considering the evidence and arguments, the IJ held that Petitioner had not met his burden to show he is not a "flight risk." *See* Exhibit 1 (IJ Order).

Therefore, given that this finding was within the IJ's discretion, Respondent's did not violate the District Court's order and provided Petitioner with a bond pursuant to 8 U.S.C. § 1226(a).

B. Administrative Remedies Should Be Exhausted

The Court should ensure Petitioner properly exhausts administrative remedies. The Ninth Circuit requires that "habeas petitioners exhaust available judicial and administrative remedies before seeking relief under § 2241." *Castro–Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001). "When a petitioner does not exhaust administrative remedies, a district court ordinarily should either dismiss the petition without prejudice or stay the proceedings until the petitioner has exhausted remedies, unless exhaustion is excused." *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *see also Alvarado v. Holder*, 759 F.3d 1121, 1127 n.5 (9th Cir. 2014) (issue exhaustion is a jurisdictional requirement); *Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no jurisdiction to review legal claims not presented in the petitioner's administrative proceedings before the BIA).

Here, Petitioner was already provided with a bond hearing pursuant to 8 U.S.C. § 1226(a). Petitioner yet to appeal his bond denial to the Board of Immigration Appeals (BIA). *See* Exhibit 2 (EOIR Portal Printout). Accordingly, the Court should dismiss without prejudice or stay these proceedings until a bond appeal is filed and decided before the BIA.

II. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court dismiss this action.

DATED: July 24, 2026

ADAM GORDON
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s/ Antonio Estrada
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