HABEAS MOTIONS BOILERPLATE LANGUAGE

By Becca Swaintek-Green
www.swaintek-green.com
becca@swaintek-green.com

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Motion to Expedite Habeas Decision

MOTION FOR EXPEDITED RULING ON PETITION

Petitioner, [name], through undersigned counsel, herein moves this Court to enforce the mandatory prompt-disposition requirements of 28 U.S.C. § 2243 and to issue an expedited ruling on the pending Petition for Writ of Habeas Corpus. In support, Petitioner states as follows:

1. Petitioner, [insert compelling facts about Petitioner, i.e. a 20-year-old unaccompanied minor who fled brutal violence in Honduras], has been detained in the custody of U.S. Immigration and Customs Enforcement (ICE) for # months, since [date]. *See* ECF No. #.
2. On [date], Petitioner filed his Petition for Writ of Habeas Corpus with this Court. *See* ECF No. #. [insert remaining procedural history of the habeas petition].
3. Petitioner remains detained at the [insert detention center]. *See* ECF No. #.
4. Petitioner has filed a petition for writ of habeas corpus to vindicate his/her/their rights under the Immigration and Nationality Act (INA) and his/her/their right to due process, and to seek relief from his/her/their continued arbitrary detention, which is nearing three months. He/She/They submits this motion to seek expeditious relief pursuant to 28 U.S.C. § 2243 and respectfully requests that the Court issue an expedited ruling for prompt resolution of his/her/their petition.
5. [Insert paragraph about any hardships caused by the ongoing detention and cite to supporting documents. I had one granted without hardship, but had another denied for lack of hardship, so try to outline how/why the family or the detainee is suffering and merits expedited treatment.]
6. Accordingly, this case is a habeas petition challenging executive detention under 28 U.S.C. § 2241. As the Supreme Court has explained, this habeas statute provides “a swift and

imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963), *overruled on other grounds, Wainwright v. Sykes*, 433 U.S. 72 (1977). Given its purpose, "[t]he application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. Immigr. and Naturalization Svc.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); *see also, e.g., Van Buskirk v. Wilkinson*, 216 F.2d 735, 737-38 (9th Cir. 1954) ("[R]emedy by petition for writ of habeas corpus . . . is a speedy remedy, entitled by statute to special, preferential consideration to insure expeditions hearing and determination.").

7. Petitioner's next hearing before an Immigration Judge is scheduled for [date]. Petitioner respectfully requests that the Court consider the present matter on an expedited basis so that any relief granted by the Court may be meaningfully implemented prior to his/her/their next hearing in immigration court.

8. No party will be prejudiced by the granting of this Motion. Petitioner, through undersigned counsel, has conferred with counsel for Respondents. Counsel for Respondents indicated that they take no position on this Motion.

WHEREFORE, Petitioner prays that this Court grant his/her/their Motion to Expedite Ruling on Petition for Writ of Habeas Corpus.

Motion to Enforce: § 1226(e) Does Not Bar Review w/Third Circuit Argument

I. This Court has Jurisdiction to Enforce its Order Granting Habeas Relief.

The Immigration and Naturalization Act ("INA") does not bar judicial review of the IJ's bond decision. 8 U.S.C. § 1226(e) states: "The Attorney General's discretionary judgment regarding the application of this section shall not be subject to review. No court may set aside any action or decision by the Attorney General under this section regarding he detention of any [noncitizen] or the revocation or denial of bond or parole."

However, the Supreme Court recently clarified the boundaries of judicial review in immigration cases by differentiating between what constitutes an unreviewable "discretionary judgment" and what constitutes a reviewable "question of law." *See Wilkinson v. Garland*, 601 U.S. 209, 217 (2024). The Court made clear that "[t]he application of a statutory legal standard . . . to an established set of facts is a quintessential mixed question of law and fact." *Id.* at 212. The Court concluded that "mixed questions of law and fact" are reviewable as "questions of law." *Id.* at 225; *see also Guerrero-Lasprilla v. Barr*, 589 U.S. 221, 228 (2020).

After issuing *Wilkinson*, the Supreme Court vacated an earlier Ninth Circuit ruling that found that, under 8 U.S.C. § 1226(e), a district court lacked jurisdiction to review an IJ's dangerousness determination in bond proceedings because it was "discretionary" in nature. *See Martinez v. Clark*, 36 F.4th 1219, 1228 (9th Cir. 2022), *cert. granted, judgment vacated*, 144 S. Ct. 1339 (2024). The Supreme Court remanded this case specifically "for further consideration in light of *Wilkinson*," highlighting the Supreme Court's view that mixed questions of law and fact in bond proceedings are reviewable even considering § 1226(e). *See Martinez v. Clark*, 144 S. Ct. 1339 (2024) (mem.). On remand, the Ninth Circuit reasoned that, after *Wilkinson*, the

determination over whether a noncitizen is "dangerous" for immigration-detention purposes is "a mixed question of law and fact and is reviewable as a 'question of law.'" *Martinez v. Clark*, 124 F.4th 775, 779 (9th Cir. 2024). Determining whether an individual poses a risk of flight is similarly a mixed question of law and fact and, accordingly, a matter over which this Court has jurisdiction.[1]

Furthermore, the Third Circuit has explicitly found—prior to the Supreme Court's ruling in *Wilkinson*—that there is jurisdiction to review challenges "that pertain to the adequacy of process [a noncitizen has] received at his bond hearing." *Quinteros v. Warden Pike Cty. Corr. Facility*, 784 Fed. Appx. 75, 78 (3d Cir. 2019). Numerous courts nationwide, including within this Court, have also found jurisdiction to review the adequacy of bond proceedings following a habeas grant. *See, e.g., A.D. v. Oddo*, No. 25-460J (W.D. Pa. Feb. 12, 2026) (citing *Ghanem v. Warden Essex Cty Corr. Facility*, No. 21-1908, 2022 WL 574624 (3d Cir. Feb. 25, 2022) for the premise that "although we lack jurisdiction to review any discretionary determinations underlying the IJ's bond decision, we may review whether the bond hearing was fundamentally unfair"); *Segura v. Bondi*, No. 1:26-CV-304 (LMB/WEF), 2026 WL 688862, at *5 (E.D. Va. Mar. 11, 2026) ("Taking *Jennings* and *Miranda* together, courts in this district have concluded

[1] Crucial to this Court's inquiry is the Ninth Circuit's holistic analysis of dangerousness—an analysis that runs directly parallel to the issue of flight risk:

> Earlier we concluded that the district court lacked jurisdiction to review a Board of Immigration Appeals ("BIA") determination that a[noncitizen] was a 'danger to the community' for immigration detention purposes. We relied on 8 U.S.C. § 1226(e), which precludes judicial review of a 'discretionary judgment' regarding the detention of a[noncitizen]. The dangerousness determination was discretionary, we said, because it was 'fact-intensive' and required 'the equities to be weighed.' No immigration law defined 'dangerousness,' and the BIA offered nine factors to consider in making the determination. So BIA precedent appeared to only provide 'malleable guidance' that did not demonstrate what was necessary to 'cross the line into dangerousness.' Thus, we held that federal courts lacked sufficient standards to review the agency's judgment. After our decision, the Supreme Court decided *Wilkinson v. Garland*, 601 U.S. 209 (2024). *Wilkinson* clarified the boundaries of judicial review in the immigration context. It explained that 'the application of a statutory legal standard . . . to an established set of facts is a quintessential mixed question of law and fact' and is reviewable. The Supreme Court then granted the petition for certiorari here, vacated our judgment, and remanded for further consideration of *Wilkinson's* impact on this case. After *Wilkinson*, the determination whether a[noncitizen] is 'dangerous' for immigration-detention purposes is a mixed question of law and fact and is reviewable as a 'question of law.'

Martinez v. Clark, 124 F.4th 775, 779 (9th Cir. 2024).

that § 1226(e) does not bar judicial review where a noncitizen asserts that the factors an Immigration Judge employed in denying his request for release on bond failed to comport with due process."); *Perez Velasquez v. Bondi*, No. 3:26-CV-01759-GPC-DDL (S.D. Ca. Apr. 16, 2026) (relying on *Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011) for the assertion that district courts retain habeas jurisdiction over "constitutional claims or questions of law" and collecting cases finding that "[s]uch jurisdiction extends to 'mixed questions' involving application of law to facts"); *Garcia Ortiz v. Henkey*, No. 1:26-CV-00043-BLW (D. Id. Apr. 7, 2026) ("[C]ourts may ensure that immigration hearings comply with the basic requirements of due process. In other words, district courts cannot review discretionary detention decisions but do have jurisdiction to consider related constitutional challenges and enforce court orders.").