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11 UNITED STATES DISTRICT COURT  
12 FOR THE EASTERN DISTRICT OF CALIFORNIA  
13 SACRAMENTO DIVISION

14 John DOE,

15 Petitioner-Plaintiff,

16 v.

17 MOISES BECERRA, Acting Field Office Director of  
18 Sacramento Office of Detention and Removal, U.S.  
19 Immigration and Customs Amendment; U.S.  
20 Department of Homeland Security; TODD M.  
21 LYONS, Acting Director, Immigration and Customs  
22 Amendment, U.S. Department of Homeland  
23 Security;<sup>1</sup> Kristi NOEM, in her Official Capacity,  
24 Secretary, U.S. Department of Homeland Security;  
25 Pam BONDI, in her Official Capacity, Attorney  
26 General of the United States; and Tonya ANDREWS,  
27 in her Official Capacity, Facility Administrator at  
28 Golden State Annex, McFarland, California;

Respondents-Defendants.

Case No. 2:25-cv-00647-DJC-DMC

**SUPPLEMENTAL PETITION  
FOR WRIT OF HABEAS  
CORPUS AND COMPLAINT  
FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

Challenge to Unlawful  
Incarceration Under Color of  
Immigration Detention Statutes;  
Request for Declaratory and  
Injunctive Relief

<sup>1</sup> Pursuant to Fed. R. Civ. P. 25(d), Respondent-Defendant Todd M. Lyons is automatically substituted for former Respondent-Defendant Caleb Vitello.

1 Pursuant to Federal Rule of Civil Procedure 15(d), Petitioner submits this filing to  
2 supplement his petition for writ of habeas corpus and complaint for declaratory and injunctive  
3 relief filed on February 24, 2025. Dkt. 1.

#### 4 ADDITIONAL LEGAL BACKGROUND

##### 5 **Review of Agency Bond Determinations**

6 113. District courts have jurisdiction to review challenges to immigration bond  
7 determinations in habeas proceedings. This Court likewise previously held, “Petitioner may  
8 challenge the adequacy under due process of the hearing and whether the IJ’s finding that the  
9 Government had met its burden was in error.” Dkt. 41 at 7.

10 114. In *Martinez v. Clark*, the Ninth Circuit concluded that whether a noncitizen “is  
11 ‘dangerous’ for immigration-detention purposes is a mixed question of law and fact and is  
12 reviewable as a ‘question of law.’” 124 F.4th 775, 779 (9th Cir. 2024) (citing *Singh v. Holder*,  
13 638 F.3d 1196, 1202 (9th Cir. 2011) (“Although [8 U.S.C.] § 1226(e) restricts jurisdiction in the  
14 federal courts ... [,] it does not limit habeas jurisdiction over constitutional claims or questions  
15 of law.”). The court further held that district courts should apply an abuse of discretion standard  
16 when reviewing an IJ’s bond determination in the context of a habeas petition. *Id.* Although  
17 *Martinez* only addressed dangerousness, the same reasoning applies to a determination of flight  
18 risk. Where the government has been ordered to show by clear and convincing evidence that the  
19 detainee presents a *current* flight risk or a danger to the community at the time of the bond  
20 hearing, the district court assesses whether the agency properly applied the clear and convincing  
21 standard. *Id.* at 784. If the agency misapplies the standard, it abuses its discretion in denying  
22 bond. *Id.* at 784.

23 115. District courts routinely review “the IJ’s factual findings, to determine whether  
24 the facts as legitimately found add up to clear and convincing evidence of dangerousness or flight  
25 risk.” *Ramos v. Sessions*, 293 F. Supp. 3d 1021, 1032 (N.D. Cal. 2018), *vacated and remanded*  
26 *on other grounds sub nom. Ramos v. Garland*, No. 18-15884, 2024 WL 933654 (9th Cir. Mar.  
27 1, 2024); *Obregon v. Sessions*, No. 17-CV-01463-WHO, 2017 WL 1407889, at \*7 (N.D. Cal.  
28 Apr. 20, 2017) (concluding that “the IJ may not have adequately considered all of the available

1 evidence in assessing petitioner’s present dangerousness,” by comparing the written  
2 memorandum to the evidence presented, and noting that the IJ gave “little attention” to the  
3 immigrant’s plan for rehabilitation and “other measures to justify that the least restrictive  
4 alternative was not further incarceration”); *Sales v. Johnson*, 323 F. Supp. 3d 1131, 1142 (N.D.  
5 Cal. 2017) (granting habeas because, “based on th[e] record, the government’s evidence did not  
6 establish clearly and convincingly that Petitioner was a poor bail risk,” and reviewing the facts  
7 before the IJ, and how the IJ assessed those facts, including whether the IJ focused on or ignored  
8 certain factors established in *Matter of Guerra*, 24 I & N Dec. 37, 40 (BIA 2006), and the main  
9 reason the IJ denied bond).

#### 10 **Due Process in Bond Proceedings**

11 116. The Fifth and Fourteenth Amendments extend to noncitizens physically present  
12 in the United States. *Mathews v. Diaz*, 426 U.S. 67, 77 (1975). “Due process requires ... at a  
13 minimum, includes a reasonable opportunity to present and rebut evidence and to cross-examine  
14 witnesses[.]” *Grigoryan v. Barr*, 959 F.3d 1233, 1240 (9th Cir. 2020). The Immigration and  
15 Nationality Act (INA) further provides respondents a statutory right to examine adverse  
16 evidence, present favorable evidence, and cross-examine government witnesses. 8 U.S.C. §  
17 1229a(b)(4)(B). An opportunity to confront and cross-examine “is even more important where  
18 the evidence consists of the testimony of individuals ... who, in fact, *might be perjurers or*  
19 *persons motivated by malice, vindictiveness, intolerance, prejudice, or jealousy.*” *Ching v.*  
20 *Mayorkas*, 725 F.3d 1149, 1158 (9th Cir. 2013).

21 117. Although the INA does not set forth criteria regarding the rights of a noncitizen  
22 during bond proceedings before the IJ as it does for removal proceedings, due process requires  
23 that the noncitizen’s right to be heard by a neutral arbiter during a constitutionally compliant  
24 hearing must be fulfilled. Given the particular facts and circumstances of Petitioner’s case, there  
25 exists no principled reason to not extend the fundamental rights afforded to noncitizens during  
26 removal proceedings to the custody redetermination context. This is especially true given that  
27 appellate courts have held that criminal defendants are afforded similar rights during bail  
28 revocation hearings. *See, e.g., United States v. Davis*, 845 F.2d 412, 414-15 (2d Cir. 1988).

1 “[D]ecisions defining the constitutional rights of prisoners establish a *floor* for the constitutional  
2 rights of [noncitizens in immigration custody,” who are “most decidedly entitled to *more*  
3 considerate treatment than those who are criminally detained.” *Unknown Parties v. Johnson*, No.  
4 cv-15-00250-TUC-DOB, 2016 WL 8188563, at \*5 (D. Ariz. Nov. 18, 2016), *aff’d sub nom. Doe*  
5 *v. Kelly*, 878 F.3d 710 (9th Cir. 2017) (cleaned up) (emphasis added).

6 118. An individual in a bond hearing therefore has the rights to present testimony and  
7 to cross-examine government witnesses and evidence, particularly where there is any indication  
8 that the government’s evidence is unreliable. There is such an indication here. In the analogous  
9 context of pre-trial detention, the Ninth Circuit has assumed that, when a defendant offers  
10 information that the government’s proffered evidence is incorrect, the judge is required to allow  
11 the defendant to cross-examine the government’s witnesses. *United States v. Winsor*, 785 F.2d  
12 755, 757 (9th Cir. 1986). Other courts of appeals have held that, even when Congress has  
13 authorized a judicial officer to consider hearsay evidence in a detention hearing, the judge has a  
14 “duty to require more when tendered hearsay evidence does not rise to the required level of  
15 reliability,” including by permitting cross-examination of witnesses. *United States v. Accetturo*,  
16 783 F.2d 382, 389 (3d Cir. 1986).

17 119. The Supreme Court has long held that “no person shall be deprived of his liberty  
18 without opportunity, at some time, to be heard.” *Yamataya v. Fisher*, 189 U.S. 86, 100–01  
19 (1903); *see also Joint Anti-Fascist Refugee Comm. v. McGrath*, 341 U.S. 123, 168 (1951)  
20 (Frankfurter, J., concurring) (“[T]he right to be heard before being condemned to suffer grievous  
21 loss of any kind, even though it may not involve the stigma and hardships of a criminal  
22 conviction, is a principle basic to our society.”). Ninth Circuit precedent similarly requires that,  
23 “[i]n *any contested administrative hearing*, admission of a party’s testimony is particularly  
24 essential to a full and fair hearing where credibility is a determinative factor[.]” *Oshodi v. Holder*,  
25 729 F.3d 883, 889-90 (9th Cir. 2013) (en banc) (emphasis added).

26 **Clear and Convincing Evidence is a High Burden for Respondents to Establish**

27 120. “Case law demonstrates that establishing dangerousness by ‘clear and convincing  
28 evidence’ is a high burden and must be demonstrated in fact, not ‘in theory.’” *Obregon v.*

1 *Sessions*, No. 17-CV-01463-WHO, 2017 WL 1407889, at \*7 (N.D. Cal. Apr. 20, 2017) (quoting  
2 *United States v. Patriarca*, 948 F.2d 789, 792 (1st Cir. 1991) (affirming the district court's  
3 conclusion that, although the government had demonstrated the defendant was a Mafia Boss and  
4 that, "in theory a Mafia Boss was an intimidating and highly dangerous character," it had failed  
5 to show that "this Boss posed a significant danger"). The Ninth Circuit has emphasized that the  
6 clear and convincing standard is a "heavy burden," and is "far in excess of the preponderance  
7 sufficient for most civil litigation." *Eastwood v. Nat'l Enquirer, Inc.*, 123 F.3d 1249, 1252 (9th  
8 Cir. 1997) (quoting *United States v. Motamedi*, 767 F.2d 1403, 1406 (9th Cir. 1985)).

9 121. Moreover, in assessing evidence during bond proceedings, neutral arbiters must  
10 consider whether the evidence presented by the government shows that the detainee is a *current*  
11 danger or flight risk, particularly where, as here, ICE previously made its own determination to  
12 release the noncitizen. *See, e.g., Ngo v. INS*, 192 F.3d 390, 398 (3d Cir. 1999) ("The assessment  
13 of flight risk and danger to the community must be made on a current basis."); *Obregon v.*  
14 *Sessions*, No. 17-cv-01463-WHO, 2017 WL 1407889, at \*7 (N.D. Cal. Apr. 20, 2017); *see also*  
15 *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for*  
16 *A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) ("Release reflects a determination by the  
17 government that the noncitizen is not a danger to the community or a flight risk."); *Singh v.*  
18 *Andrews*, No. 1:25-cv-00801-KES-SKO (HC), 2025 WL 1918679, \*2 (E.D. Cal. July 11, 2025)  
19 ("DHS, at least implicitly, made a finding that petitioner was not a flight risk when it released  
20 him.").

21 122. In reviewing whether an IJ correctly applied a burden of proof, "[i]t seems clear  
22 [] that a standard of review which asks only whether the IJ announced the correct legal standard  
23 is insufficient." *Ramos*, 293 F. Supp. 3d at 1030; *see also Obregon*, 2017 WL 1407889 at \*7 (IJ  
24 announced correct standard, but the district court went on to assess whether she correctly applied  
25 that standard). *See also Nat'l Res. Def. Council, Inc. v. Pritzker*, 828 F.3d 1125, 1135 (9th Cir.  
26 2016) ("An agency acts contrary to the law when it gives mere lip service or verbal  
27 commendation of a standard but then fails to abide the standard in its reasoning and decision.");  
28 *Cole v. Holder*, 659 F.3d 762, 771–72 (9th Cir. 2011) ("[W]here there is any indication that the

1 BIA did not consider all of the evidence before it, a catchall phrase does not suffice, and the  
2 decision cannot stand. Such indications include misstating the record and failing to mention  
3 highly probative or potentially dispositive evidence.”).

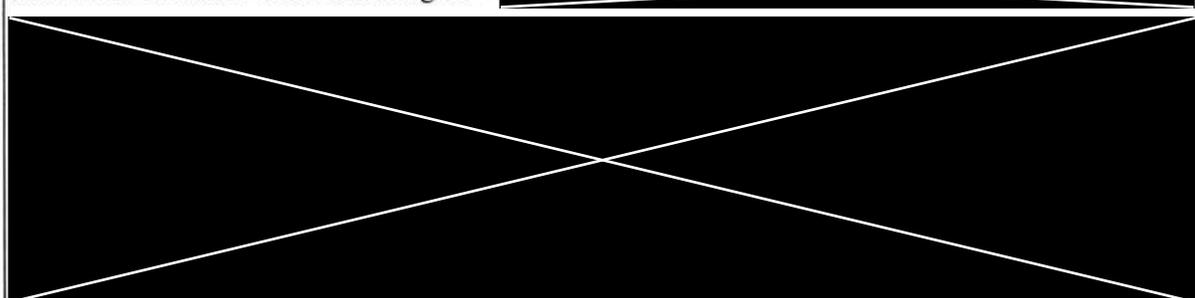
4 **ADDITIONAL FACTUAL ALLEGATIONS**

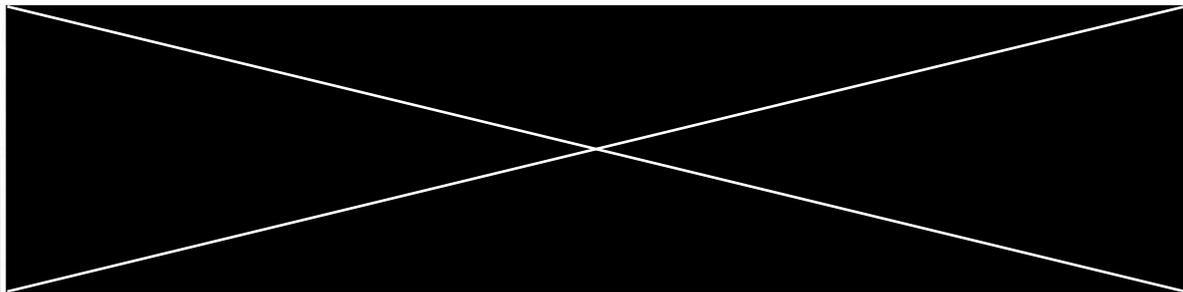
5 **Petitioner’s Bond Hearing Before the IJ on March 10, 2025**

6 123. Following the Court’s order, on March 5, 2025, Respondents scheduled  
7 Petitioner for a bond hearing before the Adelanto Immigration Court. Dkt. 23-1, Declaration of  
8 Johnny Sinodis dated Apr. 3, 2025 (Second Sinodis Decl.) at Exh. A (Notice of Custody  
9 Redetermination Hearing Scheduled for March 10, 2025).

10 124. In advance of the March 10 hearing, Petitioner submitted hundreds of pages of  
11 evidence in support of his motion for custody redetermination. This evidence included several  
12 expert reports, identity documents, evidence of Petitioner’s political participation, evidence that  
13 Petitioner suffered persecution in India, Petitioner’s medical records demonstrating that he is  
14 suffering irreparable harm in custody, affidavits from family members detailing how they had  
15 been physically and psychologically tortured due to their relationship with Petitioner, numerous  
16 letters of support from friends and community leaders, and country conditions evidence  
17 demonstrating the harm that Petitioner, a Sikh activist, would face if returned to India. Second  
18 Sinodis Decl. at Exh. B (Petitioner’s Evidence filed on March 7, 2025); *id.* at Exh. C (Country  
19 Conditions Evidence filed on March 7, 2025); *id.* at Exh. D (Expert Reports filed on March 7,  
20 2025); *id.* at Exh. E (Petitioner’s Witness List filed on March 9, 2025); *id.* at Exh. F (Petitioner’s  
21 Evidence filed on March 10, 2025).

22 125. As part of the evidence of the persecution he experienced in India, Petitioner  
23 submitted evidence demonstrating how 





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6 128. Additionally, Petitioner submitted an expert report from Dr. Theodore “Ted” R.  
7 Bromund regarding INTERPOL Notices and his professional opinion regarding Petitioner’s Red  
8 Notice. *Id.* at Exh. D at Tab A (Expert Report from Dr. Ted Bromund). Dr. Bromund’s  
9 declaration noted numerous procedural irregularities with the Red Notice, and explained that the  
10 Red Notice, far from serving as evidence of guilt, indicates that Petitioner has been targeted for  
11 transnational repression by the Indian government. *Id.* In fact, Dr. Bromund was shocked when  
12 he saw that the Indian government had somehow been able to locate Petitioner’s address in the  
13 United States, stating that he had “never seen, or heard of, a Red Notice that contained a home  
14 address for the sought individual.” *Id.* Petitioner also submitted a declaration from one of his  
15 attorneys, Sandra Grossman, who is representing him in proceedings before INTERPOL. *Id.* at  
16 Exh. C (Declaration from Sandra Grossman). Attorney Grossman explained the numerous  
17 irregularities in the INTERPOL notice and the steps her office was taking to have INTERPOL  
18 retract the notice because Petitioner is a bona fide asylum seeker. *Id.* As will be explained in  
19 more detail below, INTERPOL provisionally blocked Petitioner’s Red Notice on May 14, 2025.

20 129. Finally, prior to the hearing, Petitioner submitted a witness list informing the IJ  
21 that he intended to present testimony from both Dr. Cynthia Mahmood, country conditions  
22 expert, and Dr. Ted Bromund, expert on the abuse and misuse of Interpol Notices. *Id.* at Exh. E  
23 (Witness List).<sup>3</sup> Dr. Mahmood and Dr. Bromund would have testified regarding the Indian  
24 government’s endemic corruption, transnational repression, and its use of false criminal charges  
25 to silence dissidents. *Id.*

26  
27  
28 <sup>3</sup> Under Chapter 3.3(g) of the Immigration Court Practice Manual, witness lists are not supposed to include the  
noncitizen, which is why Petitioner’s name does not appear on the witness list. *See* Immigration Court Practice  
Manual, Ch. 3.3(g), <https://www.justice.gov/eoir/reference-materials/ic/chapter-3/3>.

1 130. In advance of the hearing, on March 7, 2025, DHS submitted evidence of an  
2 INTERPOL Red Notice from 2022 and the underlying criminal allegations on which the Red  
3 Notice was based. *Id.* at Exh. G (DHS Evidence). The allegations against Petitioner consisted of  
4 several police reports from India and press articles regarding incidents that he was allegedly  
5 involved in. *Id.* As described further below, these included the charges of which Petitioner had  
6 been acquitted after witnesses testified the police forced them to sign blank pieces of paper,  
7 charges based on evidence obtained by police torture, as testified to by numerous witnesses,  
8 including Petitioner's mother and brother, and charges that reflect that the Indian government  
9 has been stalking and surveilling Petitioner since he fled the country to save his life. *Id.*

10 131. On March 10, 2025, Petitioner appeared for his hearing before IJ Halperin<sup>4</sup> at the  
11 Adelanto Immigration Court. At the hearing, the IJ first briefly summarized the evidence  
12 submitted by Petitioner and Respondents, including the evidence submitted by Petitioner  
13 described above, and the Red Notice and criminal allegations against Petitioner from India  
14 submitted by Respondents. *See* Second Sinodis Decl. at Exh. H (Transcript of Bond Hearing),  
15 5:3-7:8. Petitioner, through counsel, objected to the submission of the Red Notice and the  
16 underlying criminal charges from India, on the grounds that: (1) Petitioner had a right to cross-  
17 examine the police and the witnesses who made these purported statements; (2) the documents  
18 had not been authenticated; and (3) the documents were unreliable as set out by Petitioner's  
19 experts. *Id.* at 7:17-8:3. Petitioner also identified some of the clear inconsistencies in the police  
20 reports that significantly undermined their reliability. These inconsistencies included submission  
21 of charges for which Petitioner had already been acquitted, the statements of numerous  
22 witnesses, including Petitioner's mother, that they had been forced to sign blank pieces of paper  
23 by Indian police that were later used to fabricate "witness statements" identifying Petitioner, and  
24 witness statements discussing Petitioner from various witnesses that were word-for-word  
25 identical, among other issues. *Id.* at 8:24-10:5.

26  
27 <sup>4</sup> The IJ, Ravit R. Halperin, who is an employee of the U.S. Department of Justice, denies relief to noncitizens seeking  
28 asylum in 90 percent of cases. *See* TRAC Immigration, Judge Ravit R. Halperin, FY 2019-2024, <https://tracreports.org/immigration/reports/judgereports/00822SMO/index.html/>. This is 33 percentage points *higher*  
than the national average of 57.7. *Id.*

1 132. The IJ did not respond to these evidentiary issues raised by Petitioner. Instead,  
2 without providing any basis for the determination, the IJ stated “the Court is not going to take  
3 testimony. The Court is going to find in this matter that the government has met its burden that  
4 respondent’s a danger, as well as a flight risk.” *Id.* at 11:18-11:21. Despite repeated requests by  
5 Petitioner to present testimony, the IJ did not permit Petitioner, his experts, or any other  
6 witnesses to testify. Petitioner, through counsel, repeatedly requested the full-blown evidentiary  
7 hearing to which he was entitled. *See id.* at 12:8-14.

8 [Petitioner] has the right to a full blown evidentiary hearing, Your Honor. This --  
9 this is not a customary [INA §] 236[a] bond hearing. We have the right to present  
10 evidence and testimony, particularly here, given that the information submitted by  
11 the department is unreliable, full stop. There's no reason to reject expert  
12 declarations from three individuals, and in – alone these police reports cannot rise  
13 to the level of clear and convincing evidence.

14 ...  
15 The allegations that [Petitioner] stole a truck were never proven. The allegations  
16 that he threatened anyone were never proven, nor even charged. And he hasn't had  
17 the opportunity to discuss any of this because the Court won't hear testimony. And  
18 the photos, there's an explanation for them. But again, absent testimony and the  
19 right to be heard, we're in a position where [all] we have[are] these inherently  
20 unreliable reports.

21 133. Notwithstanding the evidence and Petitioner’s arguments, the IJ did not budge,  
22 simply stating, “Again, I made my decision.” *Id.* at 14:20.

23 134. At no point during the hearing did the IJ provide an explanation for her finding  
24 that Petitioner was a danger or a flight risk. *See generally id.* Following the hearing, the IJ issued  
25 an Order on Petitioner’s motion for bond that stated, in its entirety, “Denied, because  
26 Danger/Flight.” *Id.* at Exh. I (IJ Decision, dated March 10, 2025).

### 27 **The IJ’s Written Decision on April 8, 2025**

28 135. Nearly a month after the March 10 hearing, the IJ issued a post hoc Memorandum  
that attempted to provide an explanation for her arbitrary decision to not hear any witness  
testimony, stating that she “determined that the evidence in the documentary record was  
sufficient to facilitate a fully informed decision in this matter, and thus that witness testimony  
was not necessary.” Dkt. 31-1, Appendix to Respondents’ Opposition to Petitioner’s Motion to  
Enforce (App’x) at 30. This reasoning was not set forth at the hearing nor in the IJ’s first written  
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1 order issued later that day. Second Sinodis Decl. at Exh. H (Transcript); Exh. I (First Written  
2 Order, writing only “Denied, because Danger/Flight”).

3 136. The IJ’s written decision contains numerous errors that rendered her decision to  
4 deny bond both arbitrary and capricious and an abuse of discretion.

5 137. First, the IJ impermissibly relied on a dismissed misdemeanor charge and photos  
6 of Petitioner without providing him any opportunity to respond, which was both an abuse of  
7 discretion and a violation of his due process rights. The IJ spent significant time analyzing  
8 uncorroborated allegations made by Petitioner’s former employer—allegations which the  
9 District Attorney never charged. *Id.* at 32 (stating, *inter alia*, that Petitioner “threatened to kill  
10 Bassi’s family”).<sup>5</sup> As Petitioner was never even charged for making the alleged threats, he has  
11 never had the opportunity (or need) to contest those claims, and the IJ denied him the forum to  
12 do so. *See* Second Sinodis Decl. at Exh. H (Transcript) at 11:18 (because the IJ refused to hear  
13 testimony, Petitioner could not provide any explanations on his own behalf). Additionally,  
14 despite refusing to allow Petitioner to testify, the IJ also faulted him for not submitting a written  
15 statement in which he addressed the alleged theft incident. App’x at 33. The IJ discredited  
16 Petitioner because he “did not submit his own written declaration, much less one that expressed  
17 remorse for his actions during the incident underlying his theft offense. *Matter of Mendez*, 21  
18 I&N Dec. 296, 304 (BIA 1996) (en banc) (“Taking responsibility and showing remorse for one’s  
19 criminal behavior does constitute some evidence of rehabilitation.”).” *Id.* Yet, the IJ never  
20 notified Petitioner that he needed to file a written declaration, and no such requirement exists.<sup>6</sup>

21 138. Similarly, the IJ relied on photos of Petitioner with firearms submitted by ICE,  
22 but expressly refused Petitioner the opportunity to explain the context for these photos at the  
23 hearing. App’x at 32 (“The Department also submitted evidence of Respondent’s access to  
24 firearms, which increases the credibility of his threats.”). Accepting ICE’s evidence at face value  
25 while denying Petitioner the chance to provide an explanation is a clear abuse of discretion and

26  
27 <sup>5</sup> In doing so, the IJ overlooked clear BIA precedent holding that it would be error to “give substantial weight to an  
28 arrest report, absent a conviction or corroborating evidence of the allegations contained therein.” *Matter of Arreguin*,  
21 I&N Dec. 38, 42 (BIA 1995).

<sup>6</sup> In removal proceedings, the BIA has held that noncitizens are not required to submit declarations. *See, e.g., Matter*  
*of C-A-R-R-*, 29 I&N Dec. 13 (BIA 2025); *Matter of Interiano-Rosa*, 25 I&N Dec. 264 (BIA 2010).

1 a violation of due process. *See* Second Sinodis Decl. at Exh. H (Transcript) 18:14-22 (“And he  
2 hasn’t had the opportunity to discuss any of this because the Court won’t hear testimony. And  
3 the photos, there’s an explanation for them.”).

4 139. Second, the IJ abused her discretion by mischaracterizing Petitioner’s criminal  
5 history, inaccurately writing in her post hoc Memorandum that “this record lacks sufficient  
6 evidence of rehabilitation following [Petitioner’s] criminal convictions.” App’x at 35. Petitioner,  
7 however, has *zero* criminal convictions in the United States or anywhere else in the world.  
8 Petitioner’s completion of a diversion program following his arrest for theft in the United States  
9 does not constitute a “conviction” under the INA because he never entered a guilty or nolo  
10 contendere plea on the record. 8 U.S.C. § 1101(a)(48)(A); *Matter of W*, 5 I&N Dec. 759 (BIA  
11 1954); *Matter of Roldan*, 22 I. & N. Dec. 512 (BIA 1999). Further, the IJ’s decision to hold him  
12 accountable for a crime he did not commit (and for allegations in the police report that were  
13 never even charged by the District Attorney), in a case that resulted in full dismissal, contradicted  
14 longstanding BIA precedent “to give due regard to executive as well as judicial clemency and  
15 not hold aliens responsible for crimes which have been ‘forgiven’ by the locality having  
16 jurisdiction over their punishment.” *Matter of C-Y-C-*, 3 I&N Dec. 623, 629 (BIA 1949).<sup>7</sup>

17 140. Similarly, although the IJ briefly noted Petitioner had been acquitted of several  
18 charges listed in the Red Notice, she characterized the evidence he presented of his actual  
19 innocence as an attempt to avoid responsibility. App’x at 33 (“Similarly, Respondent presented  
20 evidence indicating he was acquitted of the crimes identified in the Red Notice”) (citing *Matter*  
21 *of Roberts*, 20 I&N Dec. 294, 302 (BIA 1991) (noting the respondent did not show genuine  
22 rehabilitation where, among other things, he “appeared to be more intent on showing that he was  
23 ‘set up’ for the crime of which he was convicted, than in expressing remorse for his acts.”)).  
24 Petitioner has consistently maintained that the allegations against him in India are baseless and  
25 are instead part of a pattern of harassment by the Indian government, which is well known for  
26

27 <sup>7</sup> The IJ’s post hoc Memorandum cites *Jesus Melendez v. Gonzalez* as support, but that case dealt with whether the  
28 noncitizen qualified for treatment under the Federal First Offender’s Act even though he had twice been convicted  
of a controlled substance offense. 503 F.3d 1019, 1025-27 (9th Cir. 2007). It said nothing about bond and did not  
arise within the context of a hearing ordered by a district court following ICE’s unlawful arrest of a noncitizen.

1 targeting dissidents with specious criminal charges. Second Sinodis Decl. at Exh. F at Tab A  
2 (Expert Report of Dr. Mahmood). The IJ’s implication that Petitioner is required to show  
3 “genuine rehabilitation” or “express[] remorse” for actions he denies occurred, without  
4 interrogating whether the allegations were even plausible to begin with, was an abuse of  
5 discretion and violated Petitioner’s due process rights.

6 141. Third, the IJ still ignored critical evidence, including: (1) the expert reports from  
7 Dr. Mahmood and Dr. Bromund; (2) the sworn affidavits from Petitioner’s mother and brother;  
8 (3) evidence of Petitioner’s full compliance with ICE’s reporting requirements for two years  
9 preceding his re-arrest; (4) ICE’s decision to not take Petitioner into custody for two years despite  
10 knowing of Petitioner’s theft arrest, the Red Notice, and the underlying criminal allegations in  
11 India; and (5) evidence showing that the two criminal cases charged against Petitioner before he  
12 fled India resulted in acquittals because “complainants” testified he did nothing wrong and  
13 “witnesses” testified about how police misconduct led to the fabrication of their “statements.”

14 142. The IJ completely ignored the extensive evidence of police torture of Petitioner’s  
15 family members, who appeared at the hearing via video and submitted sworn declarations in  
16 advance. *Id.* at Exh. B at Tabs I, J (Declarations of Petitioner’s Mother and Brother). In her post  
17 hoc Memorandum on April 8—having had more than a month to review the evidence—the IJ  
18 still did not address the evidence that Petitioner’s brother and mother had been repeatedly  
19 arrested, beaten, sexually tortured, and forced to sign blank pieces of paper while being  
20 interrogated about Petitioner’s whereabouts and support for Khalistan. *Id.* Their uncontroverted  
21 statements undermine the credibility of *any* of the allegations against Petitioner from India and  
22 provide strong corroboration for his asylum claim. These sworn declarations were further  
23 corroborated by two Judgments of Acquittal that were issued in cases that were presented against  
24 Petitioner before he fled India in 2019. In each case—First Incident Report (FIR) 516 and FIR  
25 539—an Indian criminal court acquitted Petitioner of any wrong because (1) the complainants  
26 testified that Petitioner did not commit any crime and (2) witnesses testified that the police  
27 procured their signature on blank pieces of paper and then used those papers to fabricate false  
28 witness statements. *See* Second Sinodis Decl. at Exh. F at Tab C (Judgment of Acquittal in FIR

1 No. 516); *see also id.* at Tab N (Judgment of Acquittal in FIR No. 539).

2 143. The IJ's decision also largely ignored Petitioner's expert reports, failing to even  
3 mention the affidavit from Dr. Mahmood. To the extent the IJ did briefly reference Dr.  
4 Bromund's report, she grossly mischaracterized it. In her post hoc Memorandum, the IJ brushed  
5 aside Dr. Bromund's analysis because, "while the author of this report expressed doubts  
6 regarding the reliability of the Red Notice, he did not contest that the document contained  
7 identifying information related to Respondent." App'x at 31. Contesting whether the Red Notice  
8 referred to Petitioner was not the point of Dr. Bromund's report, and if the IJ thought his report  
9 was offered for that reason, she missed the mark by a wide margin. Dr. Bromund highlighted  
10 that information within the Red Notice demonstrates that Petitioner has been targeted by India  
11 as part of its transnational repression of dissidents and added that the numerous procedural  
12 irregularities in the Red Notice—including the addition of charges for which Petitioner had been  
13 acquitted and administrative charges that provide no basis for issuing a Red Notice—"create  
14 doubt about whether the Red Notice naming Petitioner reflects an honest and careful  
15 investigation of the fact that was unbiased by political considerations." Second Sinodis Decl. at  
16 Exh. D at Tab A (Expert Report of Dr. Bromund).

17 144. On April 3, 2025, Petitioner appealed the IJ's decision to the BIA. *See* Second  
18 Sinodis Decl. at Exh. J (Appeal of IJ's Bond Order). On May 19, 2025, Petitioner submitted his  
19 brief in accordance with the briefing scheduled issued by the BIA. *See* 42-1, Declaration of  
20 Johnny Sinodis dated Aug. 8, 2025 (Third Sinodis Decl.) at Exh. C. DHS did not file a brief with  
21 the BIA. *Id.*

22 **Petitioner's INTERPOL Red Notice is Blocked**

23 145. On May 14, 2025, the Commission for the Control of INTERPOL's Files (CCF)  
24 provisionally blocked the Red Notice regarding Petitioner. *See* Third Sinodis Decl. at Exh. A  
25 (Declaration of Sandra Grossman); *see also id.* at Exh. B (CCF Email to Sandra Grossman).<sup>8</sup>

26  
27 <sup>8</sup> Although Petitioner's counsel did not receive INTERPOL's decision until July 16, 2025, ICE would have learned  
28 about the provisional blocking in mid-May 2025. Third Sinodis Decl. at Exh. A (Declaration of Sandra Grossman)  
(stating, "given that the U.S. National Central Bureau (NCB) is co-managed by the Department of Homeland  
Security, the Department would have been informed automatically[] that[,] as of May 2025, the Red Notice against  
[Petitioner] is no longer active.") (emphasis added).

1 INTERPOL provisionally blocked the Red Notice due to “questions concerning the compliance  
2 of the data challenged with INTERPOL’s rules, and prevented [the CCF] from concluding, at  
3 this stage, that the data challenged meet the required criteria to be compliant with INTERPOL’s  
4 rules.” *Id.* at Exh. A (Declaration of Sandra Grossman). “The ‘data’ referred to in INTERPOL’s  
5 email refers to *any information* provided by India against [Petitioner] in its request for a Red  
6 Notice.” *Id.* (emphasis added). This includes the underlying police reports from the Haryana  
7 Police Department. Due to the provisional blocking, “there is not a Red Notice in circulation  
8 against [Petitioner] at this time.” *Id.*

9 146. Sandra Grossman adds:

10 The fact that the CCF has noted that India’s request “raised concerns” about  
11 compliance with INTERPOL’s rules is a weighty indicator that the Commission  
12 questions the legitimacy and reliability of the data submitted against [Petitioner]  
13 by India. In my opinion, given the strength of our filing and the numerous  
14 violations of INTERPOL’s foundational documents, the CCF is likely to  
permanently delete the Notice against [Petitioner] and will hopefully do so in short  
order.

15 *Id.*

### 16 **The BIA’s Decision**

17 147. On August 26, 2025, the BIA affirmed the IJ’s decision denying Petitioner bond  
18 and dismissed his appeal. *See* Declaration of Johnny Sinodis dated Sept. 3, 2025 (Fourth Sinodis  
19 Decl.) at Exh. A (BIA Decision). Petitioner has now exhausted all available administrative  
20 remedies. *See* Dkt. 41 at 7 (“Petitioner may challenge the adequacy under due process of the  
21 hearing and whether the IJ’s finding that the Government had met its burden was in error. ...  
22 Subsequent challenges to the sufficiency of the IJ’s determination constitute a new and separate  
23 basis for relief which must be brought in a habeas proceeding after Petitioner has exhausted his  
24 administrative remedies.”).

25 148. The BIA’s decision “affirmed the Immigration Judge’s danger finding based  
26 solely on the evidence of the respondent’s [September 2, 2022] arrest, charge, and participation  
27 in a diversion program for vehicle theft, and evidence presented showing the respondent holding  
28 firearms.” *Id.* at 4. The BIA did “not reach the Immigration Judge’s alternative findings regarding

1 flight risk.” *Id.* at 2.

2 149. In rendering its decision, the BIA relied on uncorroborated statements made by  
3 Petitioner’s former employer—the individual who accused Petitioner of “stealing” a trailer in  
4 September 2022 that he had rented for work—that Petitioner “threatened to kill his family a  
5 couple of days before the theft,” even though the District Attorney never filed any charges for  
6 this alleged conduct. *Id.* at 2. The BIA stated that, “[w]hile the respondent argues that the  
7 Immigration Judge erred in giving weight to unproven allegations related to vehicle theft, the  
8 Immigration Judge may consider any evidence regarding conduct underlying his offense,  
9 including police reports, as relevant to assessing his dangerousness.” *Id.* at 2 (citations omitted).

10 150. The BIA further found “no due process violation in the Immigration Judge’s  
11 denial of the respondent’s request to present witness testimony during the bond hearing.” *Id.* at  
12 3. According to the BIA, because the Immigration Court Practice Manual “states that[,] [a]t the  
13 Immigration Judge’s decision, witnesses may[]be placed under oath and testimony taken,” the IJ  
14 here did not err in prohibiting Petitioner or his witnesses from testifying. *Id.* The BIA does not  
15 explain how the IJ could have made factual or credibility findings absent testimony. Nor does  
16 the BIA acknowledge that the Immigration Court Practice Manual pertains to routine bond  
17 hearings under 8 U.S.C. § 1226(a) where the noncitizen bears the burden of proof and not  
18 circumstances where, like here, DHS unlawfully arrested a noncitizen in violation of due process  
19 and must establish, by clear and convincing evidence, the necessity of their continued  
20 incarceration pursuant to a district court’s order. Second Sinodis Decl. at Exh. H at 12:2-  
21 23(“[Petitioner] has the right to a full blown evidentiary hearing, Your Honor. This [] is not a  
22 customary 236(a) bond hearing. We have the right to present evidence and testimony.”).  
23 Although the Practice Manual states IJs have discretion to hear testimony during regular bond  
24 hearings, that discretion is constrained by the demands of due process which, based on the facts  
25 and circumstances of this case, required that Petitioner be able to present testimony. This is  
26 particularly true given that the IJ and the BIA both faulted Petitioner for not filing a declaration  
27 prior to the hearing. Fourth Sinodis Decl. at Exh. A at 4 n.4. The refusal to permit Petitioner’s  
28 testimony, in conjunction with faulting him for not filing a declaration prior to the hearing,

1 undoubtedly caused him prejudice.

2 151. The BIA then misconstrued Petitioner’s arguments on appeal, insinuating that he  
3 only sought to present testimony “about the evidence related to the Interpol Red Notice DHS  
4 submitted [and] the Indian government’s pattern and practice of presenting false criminal charges  
5 against political dissidents.” *Id.* at 3. Not so. Petitioner explicitly challenged the IJ’s refusal to  
6 permit him to testify as to (1) the uncharged and unproven allegations in the police report  
7 regarding his September 2022 theft arrest and (2) the photographs of him holding firearms.  
8 Fourth Sinodis Decl. at Exh. B at 23. Rather than address these arguments head on, the BIA  
9 urged that “on appeal the respondent has not articulated any specific additional testimony he or  
10 his expert witnesses would have offered at a bond hearing or how such testimony or cross-  
11 examination [] would have affected the dangerousness determination.” *Id.* at 3-4. This  
12 conclusion would be laughable but for its real-world consequence here.

13 152. The BIA’s order thus compounds the violation of Petitioner’s due process rights  
14 and demonstrates that the agency continues to abuse its discretion and engage in arbitrary and  
15 capricious decision-making. The bases on which the BIA based its decision—a September 2022  
16 arrest for theft that was dismissed, uncorroborated statements by Petitioner’s former employer  
17 about conduct that the District Attorney never even charged, and photos of Petitioner holding  
18 firearms—do not come close to rising to clear and convincing evidence that Petitioner is a danger  
19 or a flight risk to the community, especially where Petitioner was not offered the ability to  
20 respond to any of them.

21 153. First, the BIA, like the IJ, impermissibly relied on Petitioner’s dismissed  
22 misdemeanor charge and uncorroborated allegations from his former employer that were never  
23 prosecuted, which is both an abuse of discretion and a violation of due process. The BIA does  
24 not have discretion to base a dangerousness determination on a single arrest for which Petitioner  
25 was never convicted or on allegations that were never charged, particularly where, as here, he  
26 was denied the opportunity provide any testimony in response. *See, e.g., Ortega-Rangel v.*  
27 *Sessions*, 313 F. Supp. 3d 993, 1004 (N.D. Cal. 2018) (finding a due process violation when IJ  
28 concluded respondent was a danger to the community solely because of an arrest for which she

1 was not convicted, where respondent had no criminal history). Indeed, even “[t]he mere  
2 conviction of a crime is not an adequate basis for finding that an individual is a threat to the  
3 community.” *Judulang v. Chertoff*, 562 F. Supp. 2d 1119, 1124 (S.D. Cal. 2008) (quoting  
4 *Korkees v. Reno*, 137 F.Supp.2d 590, 598 (M.D. Pa. 2001)).

5 154. Respondents’ reliance on Petitioner’s arrest and his former employer’s baseless  
6 and uncharged allegations is particularly egregious because the IJ, and now the BIA, denied  
7 Petitioner any opportunity to rebut this evidence. *See* Second Sinodis Decl. at Exh. H (Transcript)  
8 at 11:18 (because the IJ refused to hear testimony, Petitioner could not provide any explanations  
9 on his own behalf).

10 155. Second, the only other basis for the BIA’s decision were photos of Petitioner with  
11 firearms submitted by ICE, which he never was given the opportunity to explain despite being  
12 prepared to do so at his bond hearing. *See* Second Sinodis Decl. at Exh. H (Transcript) 18:14-22  
13 (“And he hasn’t had the opportunity to discuss any of this because the Court won’t hear  
14 testimony. And the photos, there’s an explanation for them.”). The BIA inappropriately faults  
15 Petitioner for not providing an explanation for the photos in his BIA appeal. *See* Fourth Sinodis  
16 Decl. at Exh. A (“the respondent has not articulated any specific additional testimony he or his  
17 expert witnesses would have offered at a bond hearing”). But it is well settled that “counsel’s  
18 statements in [a] motion and subsequent briefs are not evidence,” *INS v. Phinpathya*, 464 U.S.  
19 183, 188 n.6 (1984), and the BIA lacks the ability to engage in fact finding, *Rodriguez v. Holder*,  
20 683 F.3d 1164, 1170 (9th Cir. 2012). The BIA, like the IJ, ignores that the *only* mechanism for  
21 Petitioner to provide an explanation for the photographs is to provide testimony *at his bond*  
22 *hearing*, which the IJ erroneously refused to allow. Utilizing these photos to find that DHS  
23 established its burden by clear and convincing evidence is an abuse of discretion and a violation  
24 of Petitioner’s due process rights.

25 156. The BIA’s decision notably also lacks any discussion of how Petitioner’s  
26 September 2022 arrest, his former employer’s uncorroborated and uncharged allegations, and  
27 his participation in a diversion program could possibly show that he is a *current* danger given  
28 that ICE knew of the arrest, the allegations, and Petitioner’s completion of a diversion program

1 for over two years but chose not to take him into custody. Dkt. 2 at 13. Despite the circumstances  
2 of the September 2022 arrest and charge, DHS simply scheduled Petitioner for check-in  
3 appointments, demonstrating that the agency had determined—on numerous occasions—that he  
4 was *not* a danger. *See Saravia*, 280 F. Supp. 3d at 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia*  
5 *for A.H.*, 905 F.3d 1137 (“Release reflects a determination by the government that the noncitizen  
6 is not a danger to the community or a flight risk.”); *Singh*, No. 1:25-cv-00801-KES-SKO (HC),  
7 2025 WL 1918679, \*2 (“DHS, at least implicitly, made a finding that petitioner was not a flight  
8 risk when it released him.”); *see also Arzate v. Andrews*, No. 1:25-cv-2411010, 2025 WL  
9 2411010, at \*7 (E.D. Cal. Aug. 20, 2025) (“[T]he contention that an arrest, without more,  
10 constitutes evidence of criminal activity is without merit.”) (citing *Duncan v. California*, No. S-  
11 04-523 LKK/PAN, 2006 WL 1883385, at \*2 (E.D. Cal. July 7, 2006) (internal quotation  
12 omitted).

13 157. In sum, the factors cited by the BIA in its August 26 order fall far short of what  
14 courts have found to constitute clear and convincing evidence of dangerousness or flight risk.  
15 *See, e.g., Perez v. Wolf*, 445 F. Supp. 3d 275, 290 (N.D. Cal. 2020) (finding clear and convincing  
16 evidence where Petitioner had been convicted of five DUIs, during one of which he was  
17 excessively speeding and another at which his wife was in the car). Noncitizens with much more  
18 significant criminal history have been ordered released by district courts in habeas proceedings.  
19 *See, e.g., Judulang*, 562 F. Supp. 2d 1119, 1126 (S.D. Cal. 2008) (finding that, in context of  
20 passage of time since convictions, government failed to meet burden to show dangerousness  
21 despite juvenile adjudications related to theft and a fight, a voluntary manslaughter conviction,  
22 a DUI conviction, and a conviction for grand theft); *Garcia v. Andrews*, No. 2:25-CV-01884-  
23 TLN-SCR, 2025 WL 1927596, at \*6 (E.D. Cal. July 14, 2025) (ordering immediate release of  
24 noncitizen with previous aggravated felony conviction for Cal. Penal Code § 664/288(A) (lewd  
25 and lascivious act with child under 14) after unlawful rearrest).

26 158. The BIA’s determination to dismiss Petitioner’s bond appeal on the stated bases  
27 was an abuse of discretion and a violation of due process. This Court’s intervention is therefore  
28 required.

1 **SECOND CAUSE OF ACTION**

2 **Procedural Due Process**

3 **U.S. Const. amend. V**

4 159. Petitioner re-alleges and incorporates herein by reference, as is set forth fully  
5 herein, the allegations in all the preceding paragraphs.

6 160. The Due Process Clause of the Fifth Amendment forbids the government from  
7 depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

8 161. “Due process ... at a minimum, includes a reasonable opportunity to present and  
9 rebut evidence and to cross-examine witnesses[.]” *Grigoryan*, 959 F.3d at 1240. This “is even  
10 more important where the evidence consists of the testimony of individuals ... who, in fact, *might*  
11 *be perjurers or persons motivated by malice, vindictiveness, intolerance, prejudice, or jealousy.*”  
12 *Ching*, 725 F.3d at 1158.

13 162. The IJ’s refusal to allow Petitioner to testify or present witnesses at his bond  
14 hearing was a violation of his procedural due process rights. *Davis*, 845 F.2d at 414–15 (holding  
15 that defendants are entitled to testify on their own behalf and present evidence to demonstrate  
16 that bail revocation is not merited). “Due process principles prohibit an IJ from declining to hear  
17 relevant testimony because of a prejudgment about the witness’s ‘credibility or the probative  
18 value of [the] testimony.’” *Lopez-Umanzor v. Gonzales*, 405 F.3d 1049, 1056 (9th Cir. 2005)  
19 (quoting *Kaur v. Ashcroft*, 388 F.3d 734, 737 (9th Cir.2004)). “Generally, a procedure is  
20 fundamentally fair if a party is given an opportunity to be heard ‘at a meaningful time and in a  
21 meaningful manner.’” *Black v. Atkins*, No. 2:21-CV-02371-DJC, 2023 WL 8233142, at \*6 (E.D.  
22 Cal. Nov. 28, 2023) (Calabretta, J.) (citations omitted). This Court has observed that a  
23 meaningful opportunity to be heard includes “the opportunity to present evidence and testify in  
24 the proceedings.” *Id.*

25 163. This violation was particularly egregious given that Petitioner (1) provided  
26 extensive, uncontroverted evidence that the documentation provided by DHS was obtained by  
27 torture and tainted by bias and prejudice as a result of his activism on behalf of the Sikh  
28 community and (2) was prepared to testify as to the circumstances of his September 2022 arrest

1 and the photographs submitted by DHS. Preventing Petitioner from presenting testimony during  
2 his bond hearing therefore violated due process and constituted an abuse of discretion.

3 164. This Court should therefore order Petitioner’s outright release, or, at a minimum,  
4 conduct its own custody redetermination hearing and review of the evidence under the clear and  
5 convincing standard.

6 **THIRD CAUSE OF ACTION**

7 **Substantive Due Process**

8 **U.S. Const. amend. V**

9 165. Petitioner re-alleges and incorporates herein by reference, as is set forth fully  
10 herein, the allegations in all the preceding paragraphs.

11 166. The Due Process Clause of the Fifth Amendment forbids the government from  
12 depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

13 167. Petitioner has a vested liberty interest in his conditional release. Due Process does  
14 not permit the government to strip him of that liberty without it being tethered to one of the two  
15 constitutional bases for civil detention: to mitigate against the risk of flight or to protect the  
16 community from danger.

17 168. For five years prior to his unlawful re-arrest in January 2025, Petitioner complied  
18 with the conditions of release imposed on him by ICE, thus demonstrating that he is neither a  
19 flight risk nor a danger. Since his re-arrest, the government has never demonstrated by clear and  
20 convincing evidence that Petitioner is either a flight risk or a danger to the community. His  
21 detention is punitive and violates his constitutional right to be free from the unjustified  
22 deprivation of his liberty.

23 169. This Court should therefore order Petitioner’s outright release, or, at a minimum,  
24 conduct its own review of the evidence under the clear and convincing standard.

25 **FOURTH CAUSE OF ACTION**

26 **Abuse of Discretion in Bond Determination by IJ**

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

28 113. Petitioner re-alleges and incorporates herein by reference, as is set forth fully

1 herein, the allegations in all the preceding paragraphs.

2 114. “The determination whether an alien is ‘dangerous’ for immigration-detention  
3 purposes is a mixed question of law and fact and is reviewable as a ‘question of law.’” *Martinez*,  
4 124 F.4th at 779 (quoting *Singh*, 638 F.3d at 1202). *See also Wilkinson v. Garland*, 601 U.S. 209  
5 (2024). Under *Martinez*, the district court’s review of the agency’s “dangerousness” or “flight  
6 risk” determination is for abuse of discretion. *Id.* Where the government has been ordered to  
7 show by clear and convincing evidence that the detainee presents a flight risk or a danger to the  
8 community at the time of the bond hearing, the district court assesses whether the agency  
9 properly applied the clear and convincing standard. *Id.* at 784. If the agency misapplies the  
10 standard, it abuses its discretion in denying bond. *Id.* at 784.

11 115. The IJ abused her discretion in denying Petitioner bond because she erroneously  
12 prevented him from providing any testimony, relied on unreliable evidence, and wrongly held  
13 that Respondents met their burden to demonstrate by clear and convincing evidence.

14 **FIFTH CAUSE OF ACTION**

15 **Abuse of Discretion in Bond Determination by BIA**

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

17 113. Petitioner re-alleges and incorporates herein by reference, as is set forth fully  
18 herein, the allegations in all the preceding paragraphs.

19 114. “The determination whether an alien is ‘dangerous’ for immigration-detention  
20 purposes is a mixed question of law and fact and is reviewable as a ‘question of law.’” *Martinez*  
21 *v. Clark*, 124 F.4th at 779 (quoting *Singh*, 638 F.3d at 1202). *See also Wilkinson*, 601 U.S. 209.  
22 Under *Martinez*, the district court’s review of the agency’s “dangerousness” or “flight risk”  
23 determination is for abuse of discretion. *Id.* Where the government has been ordered to show by  
24 clear and convincing evidence that the detainee presents a flight risk or a danger to the community  
25 at the time of the bond hearing, the district court assesses whether the agency properly applied  
26 the clear and convincing standard. *Id.* at 784. If the agency misapplies the standard, it abuses its  
27 discretion in denying bond. *Id.* at 784.

1 115. The BIA abused its discretion in affirming the IJ and dismissing Petitioner's  
2 appeal because it relied on (1) allegations for which Petitioner was never convicted, (2)  
3 uncorroborated and uncharged accusations made by his former employer that he was prevented  
4 from rebutting, and (3) photographs that he was prevented from explaining via testimony. The  
5 BIA further erroneously held that Respondents established their burden to demonstrate by clear  
6 and convincing evidence that Petitioner was a danger to the community.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, the Petitioner prays that this Court grant the following relief:

- 9 (1) Assume jurisdiction over this matter;
- 10 (2) Enjoin Respondents from transferring Petitioner outside the jurisdiction of the  
11 San Francisco Field Office and/or the Eastern District of California pending  
12 the resolution of this case;
- 13 (3) Order the immediate release of Petitioner from DHS custody on the conditions  
14 of his prior bond, or on reasonable conditions consistent with the Court's order,
- 15 (4) Enjoin Respondents from re-detaining Petitioner unless and until DHS proves  
16 to this Court by clear and convincing evidence that he is a danger or a flight  
17 risk;
- 18 (5) In the alternative, conduct an immediate bond hearing before this Court where  
19 DHS bears the burden of justifying Petitioner's continued detention by clear  
20 and convincing evidence and the Court takes into consideration alternatives to  
21 detention and Petitioner's ability to pay a bond;
- 22 (6) Award reasonable costs and attorney fees; and
- 23 (7) Grant such further relief as the Court deems just and proper.

24  
25 Dated: September 3, 2025

Respectfully submitted,

26 /s/ Johnny Sinodis

27 Johnny Sinodis

Oona Cahill

28 Attorneys for Petitioner

