

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**HUGO CERVANTES ARREDONDO,**

Petitioner,

v.

**JUAN BALTAZAR**, in his official capacity  
as warden of the Aurora Contract Detention  
Facility,

**ROBERT HAGAN**, in his official capacity  
as Field Office Director, Denver, U.S.  
Immigration and Customs Enforcement,

**KRISTI NOEM**, in her official capacity  
as Secretary, U.S. Department of Homeland  
Security;

**TODD LYONS**, in his official capacity  
as Acting Director of Immigration and Customs  
Enforcement,

**PAMELA BONDI**, in her official capacity  
as Attorney General of the United States

Respondents.

Case No. 1:25-cv-03040

**PETITIONER'S MOTION TO  
ENFORCE JUDGEMENT**

**INTRODUCTION**

Petitioner, Hugo Cervantes Arredondo, respectfully moves this Court for an expedited order enforcing its October 31, 2025, Order, ECF No. 21. This Court ordered Respondents to promptly provide Mr. Cervantes Arredondo with a bond hearing. This Court ordered that Respondents release Mr. Cervantes Arredondo if they could not prove at the bond hearing, by clear and convincing evidence, that he was a danger to the community or a flight risk. Although Respondents eventually conducted a bond hearing, they did not release Mr. Cervantes Arredondo

despite failing to prove by clear and convincing evidence that he was either a danger to the community or a flight risk. As discussed below, Respondents failed to comply with the Court's order by (1) permitting the IJ to conduct the bond hearing without requiring DHS to prove that Mr. Cervantes Arredondo was a danger to the community or a flight risk by clear and convincing evidence, and, instead, (2) effectively shifting the burden onto Mr. Cervantes Arredondo to demonstrate that he was not a danger or flight risk. As a result, Mr. Cervantes Arredondo's detention remains unlawful.

This Court's intervention is necessary to ensure compliance with its Order and to direct appropriate relief. Mr. Cervantes Arredondo respectfully requests that this Court order his immediate release. In the alternative, Mr. Cervantes Arredondo respectfully requests that this Court order the Executive Office for Immigration Review to conduct a new bond hearing consistent with the Court's instructions, ensuring that the government bears the burden of proof as required. To further safeguard compliance, Mr. Cervantes Arredondo also requests that the Immigration Judge be directed to make an oral finding at the conclusion of the government's case as to whether the government has met its burden. Respondents oppose this motion.

#### **FACTUAL AND PROCEDURAL BACKGROUND**

*Prior to Habeas Corpus Proceedings.* Mr. Cervantes Arredondo has been living in the U.S. since 1997, when he entered the U.S. without inspection. He has lived in Colorado for the last ten years. The last two years have been at one address with his U.S.-citizen fiancée in Highlands Ranch. There, he works as an independent carpenter and cares for his fiancée and her father. His fiancée suffers from complications relating to a cyst in her skull. Her father has health difficulties relating to his age. Mr. Cervantes Arredondo has a pending application for asylum. Once he and his fiancée marry, he would be eligible for further defenses to deportation.

On June 26, 2025, Respondents, specifically the Department of Homeland Security (DHS) detained Mr. Cervantes Arredondo. They detained him under 8 U.S.C. § 1226(a), ECF No. 17 at 7, a discretionary detention provision entitling Mr. Cervantes Arredondo to a bond hearing. Mr. Cervantes Arredondo promptly requested that bond hearing.

On September 25, 2025, Mr. Cervantes Arredondo appeared for his bond hearing, but the Immigration Judge (IJ) refused to consider his request for release. DHS claimed that it was now detaining Mr. Cervantes Arredondo under 8 U.S.C. § 1225(b), a mandatory detention provision. Relying on a decision of the Board of Immigration Appeals, the IJ concluded that Mr. Cervantes Arredondo was subject to section 1225(b) for having entered the U.S. without inspection.

***Habeas Corpus Proceedings and Order.*** On September 26, 2025, Mr. Cervantes Arredondo submitted a habeas corpus petition with this Court because Respondents were illegally detaining him without the prospect of release. Mr. Cervantes Arredondo demonstrated to this Court that he was only subject to discretionary detention under 8 U.S.C § 1226(a). He was entitled to a bond hearing like the other thousands of immigrants who had been provided one when DHS detained them in the U.S. interior long after they entered the country without inspection.

On October 31, 2025, this Court held that because Mr. Cervantes Arredondo's detention is governed by § 1226(a), "he is entitled to a bond hearing before an immigration judge." ECF No. 21 at 8. To remedy Mr. Cervantes Arredondo's extended, illegal detention, this Court ordered that "within seven (7) days of this ORDER, respondents must provide him with a bond hearing under that section. At that bond hearing, the government bears the burden of proving by clear and convincing evidence that if petitioner is released, he poses a danger to the community or a risk of flight." ECF No. 21 at 10.

***Immigration Bond Proceedings.*** On October 31, 2025, via EOIR’s electronic filing portal, counsel for DHS filed a motion with the Aurora Immigration Court requesting a bond hearing. The motion was silent about the procedures to be employed at that hearing but included this Court’s Order. On October 31, 2025, the Aurora Immigration Court issued a notice scheduling Mr. Cervantes Arredondo for a video bond hearing on November 3, 2025, with his original IJ, Nina Carbone. That hearing was cancelled for technical difficulties at the immigration court and then rescheduled for the following day with another IJ: Tyler Wood. Exh. 1, Decl. of Alexia Torres Ayala ¶ 5.

On November 2, 2025, DHS filed a packet labeled “Department of Homeland Security’s Submission of Evidence.” This packet consisted of four documents. *See* Exh. 2. First, a “Form I-213” report from Immigration Customs and Enforcement (ICE), dated June 26, 2025. *See id.* at 5-8. This document alleged Mr. Cervantes Arredondo had been arrested four times in the U.S.: for a “dangerous drugs” charge, a “narcotic equip – possession” charge, and otherwise for service of a warrant. *See id.* The form listed an incorrect date for Mr. Cervantes Arredondo’s entry into the United States. The government’s second document was an uncertified order apparently from Douglas County Court on June 26, 2025. *See id.* at 10. The document purported to sentence Mr. Cervantes Arredondo to probation on a conviction for misdemeanor unlawful use of a controlled substance. *See id.* The third document was a LexisNexis record-search printout, highlighting a failure to appear and subsequent service of the resulting warrant. *See id.* at 12-18. The last document was a Colorado Courts online record-search printout, which purported (somewhat illegibly) to summarize a filing and event history for a case number 24M07591. *See id.* at 20-23. The document noted a warrant had been issued, apparently on a date that Mr. Cervantes Arredondo was already in federal immigration custody.

On November 4, 2025, IJ Wood presided over Mr. Cervantes Arredondo's bond hearing. When asked if ready to proceed, Counsel for DHS stated that they were not aware of the case, as it did not appear on the docket they had printed that morning. Exh. 1, at ¶ 6. She requested a few minutes to review the file, which the IJ provided. After going back on the record, Counsel for Mr. Cervantes Arredondo either reminded, or informed the IJ for the first time, that DHS carried the burden pursuant to this Court's order. *Id.* at ¶ 7.

The government did not call any witnesses or introduce any new documentary evidence. The government only argued that Mr. Cervantes Arredondo presented a danger to the community based on prior convictions and that he posed a flight risk due to failures to appear, referencing only the aforementioned documents it had submitted. The government then rested its case. *Id.* at ¶ 8.

At this time, counsel for Mr. Cervantes Arredondo asked the IJ to determine whether the government had met its burden. The IJ refused to do this. Instead, the IJ demanded that Mr. Cervantes Arredondo provide any evidence in support of his bond request. *Id.* at ¶ 9.

Counsel for Mr. Cervantes Arredondo proffered as to the facts Mr. Cervantes Arredondo's testimony would show. This included his decades-long residence in the U.S., a long-term U.S.-citizen partner who relies on his daily care, steady work, having no history of violence, four certificates of completion for narcotics anonymous classes, and his fear of returning to Mexico. *Id.* at ¶ 10-13. The IJ accepted the proffer. Mr. Cervantes Arredondo had also submitted evidence, intended for rebuttal, containing a letter from his partner stating that she would be willing to sponsor him, his plea agreement, and his certificates of completion of courses at the detention facility. *See* Exh. 3. The IJ took the matter under consideration.

***Immigration Bond Order.*** Later that day, the IJ issued a written decision denying bond. The IJ found insufficient evidence that Mr. Cervantes Arredondo posed a danger to the community but said that the government met its burden to show by clear and convincing evidence that he was a flight risk. The Immigration Judge found this based on the record lacking evidence of family, property, employment, or other financial ties to the United States. The IJ cited *Matter of Siniauskas*, 27 I&N Dec. 207, 209 (BIA 2018), regarding factors relevant to assessing flight risk. The IJ focused on family ties, potential eligibility for discretionary relief, residence, and employment history, although DHS did not present evidence or argument on any of these factors. The Immigration Judge also referenced aspects of Mr. Cervantes Arredondo's asylum claim, even though the issue was similarly not raised by DHS at the hearing. Finally, the decision noted that Mr. Cervantes Arredondo's proposed sponsor, his U.S. citizen partner, Ms. Leah McClure, had not provided documentation regarding her income or ability to support him, and cited that absence as weighing against release.

Mr. Cervantes Arredondo now files this Motion to Enforce Judgment. Counsel for Mr. Cervantes Arredondo provided notice of his intent to seek enforcement of this Court's Order to counsel for Respondents at the U.S. Attorney's Office for the District of Colorado on November 10, 2025. Respondents oppose this motion.

### **ARGUMENT**

Respondents have failed to follow this Court's order, Mr. Cervantes Arredondo remains unlawfully detained, and this Court must intervene. Instead of requiring DHS to satisfy their burden of proof by clear and convincing evidence, the IJ placed a burden of proof on Mr. Cervantes Arredondo.

#### **I. The IJ did not hold DHS to the burden this Court ordered.**

This Court ordered Respondents to carry the burden of demonstrating by clear and convincing evidence at a bond hearing that Mr. Cervantes Arredondo was a flight risk or danger to the community if they were to detain him further. The Tenth Circuit has emphasized that clear and convincing evidence is a stringent burden of proof. *Cruz-Garza v. Ashcroft*, 396 F.3d 1125, 1130 (10th Cir. 2005). Clear and convincing means that the evidence is highly and substantially more likely to be true than untrue. See *Colorado v. New Mexico*, 467 U.S. 310 (1984). The Board of Immigration appeals has described this same standard in *Matter of H-A-*, 22 I&N Dec. 728 (BIA 1999), stating that a clear and convincing evidence is “that degree of proof, though not necessarily conclusive, which will produce in the mind of the trier of fact a firm belief or conviction.” The very limited evidence DHS submitted did not meet this burden.

DHS hardly submitted any evidence. DHS submitted four documents: DHS’ own report, two print-offs from online record searches, and a sentencing order for one instance of simple drug use. DHS did not call any witnesses.

DHS’ limited evidence was unreliable, nonprobative, irrelevant, or some combination thereof. To begin, DHS’s report was unreliable. The I-213 was an unsworn series of allegations from a party to the litigation. It was also outdated by four months. The document claimed Mr. Cervantes Arredondo had been charged with “dangerous drugs” in Colorado, which is not a Colorado offense, apparently referencing the instance of simple drug possession. The form was otherwise incorrect on routine matters, such as the date on which Mr. Cervantes Arredondo entered the country. The author of the I-213 was not present in court or otherwise presented for cross examination. It is unclear what their credentials were.

Regarding the online-record-search print-offs, these documents are also unreliable and contain nonprobative and irrelevant information. They are, of course, not official court

documents, and lack any sort of certification or authentication otherwise. They are informal printouts from commercial or public databases with little reliability. *See* Sarah Lageson, *Criminally Bad Data: Inaccurate Criminal Records, Data Brokers, and Algorithmic Injustice*, 2023 U. Ill. L. Rev. 1771, 1775-76 (2023) (discussing error in both public and commercial criminal-record databases). Further, the LexisNexis search was performed on August 12, 2025 and submitted for an early November bond hearing. Even if it were taken at face value, it would not contain any subsequent developments in the referenced case for the almost three months between the search and the bond hearing.

The sentencing order was the only apparently reliable document DHS submitted, but it was still largely irrelevant. One instance of simple drug use would do little to demonstrate danger to the community or a flight risk.

DHS' evidence would not otherwise clearly and convincingly demonstrate that Mr. Cervantes Arredondo was a flight risk or a danger to the community. A single instance of drug use does not create a firm conviction that one is a danger to the community. A pair of failures to appear in 27 years does not create firm conviction that one is a flight risk. That was all DHS claimed to have. The IJ clearly did not hold DHS to its burden.

**II. The IJ effectively placed the burden on Mr. Cervantes Arredondo in the first instance.**

Although the IJ states in his order that “the Department must prove by clear and convincing evidence that Respondent’s release would pose a danger to people or property or that the respondent poses a flight risk,” this is mere lip service. Neither the hearing process he imposed, nor the content of his written decision, substantiate his claim. *See Nat. Res. Def. Council, Inc. v. Pritzker*, 828 F.3d 1125, 1135 (9th Cir. 2016) (“An agency acts contrary to the

law when it gives mere lip service or verbal commendation of a standard but then fails to abide the standard in its reasoning and decision.”)

At the bond hearing, the IJ refused to hold DHS to its burden and, instead, effectively placed this burden on Mr. Cervantes Arredondo. As discussed above, DHS failed to present sufficient evidence to meet its burden. This was clear over the course of the hearing, but the IJ seemed to try to obfuscate it. Prior to the hearing, DHS presented its minimal documentation, discussed above. At the bond hearing, when DHS was called upon to present its case, DHS called no witnesses, presented no more evidence, and very briefly argued that it had met its burden on the basis of the documents submitted. When DHS rested its case, some five minutes into the hearing, counsel for Mr. Cervantes Arredondo immediately asked the IJ to formally determine the obvious. Counsel asked the IJ to determine whether DHS had met the burden ordered by this Court, so Mr. Cervantes Arredondo could be released. The IJ refused to make any determination on the subject. After refusing to apply the burden this Court ordered, the IJ instead demanded any evidence from Mr. Cervantes Arredondo in support of granting him a bond.

The written decision the IJ issued after the bond hearing further shows that the IJ improperly placed the burden on Mr. Cervantes Arredondo. As discussed above, DHS’ did not submit clear and convincing evidence showing Mr. Cervantes Arredondo to be a flight risk or danger to the community. Although the IJ claims in his decision that DHS had met its burden, the IJ did not try to deny Mr. Cervantes Arredondo based solely on DHS’ lacking evidence and case, nor could he.

Instead, the IJ denied bond mostly on the basis of factors about which DHS presented no evidence or argument. The IJ defaulted to the method of analyzing bond cases that he knows

best—where the burden of proof is placed on the noncitizen. The IJ’s order clearly demonstrates that the IJ expected Mr. Cervantes Arredondo to provide proof that he is not a danger and is not a flight risk, despite DHS not carrying its burden. This improperly places the burden of proof on Mr. Cervantes Arredondo and not DHS.

Specifically, the IJ’s decision rested mostly on the basis of factors about which DHS submitted no evidence or argument. DHS provided no evidence as to Mr. Cervantes Arredondo’s forms of relief or argue that his relief is unlikely. All the evidence regarding Mr. Cervantes Arredondo’s relief and sponsor was provided by him in his rebuttal evidence and during his counsel’s proffer.

Rather, the IJ shifted the burden to Mr. Cervantes Arredondo by improperly relying on case law placing the burden on the noncitizen. For example, citing *Matter of Siniauskas*, the IJ determined that “there is insufficient evidence of family, property, employment, or other financial ties to the United States.” Similarly, citing *Matter of R-A-V-P-*, the IJ found “the unlikelihood of being granted future relief from removal to contribute to Respondent’s risk of flight.” Quoting *Matter of R-A-V-P-*, the IJ was not persuaded that the evidence regarding Mr. Cervantes Arredondo’s parter “was sufficient to “adequately ensure [] [R]espondent’s appearance for his removal proceedings and, if necessary, his removal from the United States.” The IJ states “there is a lack of documentation to demonstrate mitigation of Respondent’s flight risk,” and that his sponsor “provided no indication of what her income looks like, nor how much is dispensable to support Respondent.”

The IJ’s reasoning is consistent with a typical bond hearing in immigration court, such as the hearing in *Matter of Siniauskas*, and *Matter of R-A-V-P-*, where the noncitizen carried the burden of proving they are not a danger to society or a flight risk. But this reasoning does not

comport with the burden that the IJ was ordered to apply in Mr. Cervantes Arredondo's bond hearing where the burden should have been on DHS to prove that Mr. Cervantes Arredondo is a danger to society and a flight risk.

### CONCLUSION

Mr. Cervantes Arredondo respectfully requests that this Court enforce its prior Order by directing his immediate release. In the alternative, Petitioner requests that the Court order a new bond hearing before the Aurora Immigration Court consistent with its instructions, including requiring the Immigration Judge to make an oral finding at the close of the government's case as to whether the burden has been met.

DATED this 16 of November, 2025.

Respectfully submitted,

/s/ Elizabeth Jordan

Elizabeth Jordan, Esq.

University of Denver Sturm College of Law

Pro Bono Counsel for Petitioner

### CERTIFICATE OF SERVICE

I, Elizabeth Jordan, certify that on November 16, 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following recipients by e-mail:

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