REILLY
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VIA ECF

Honorable Julien Xavier Neals, U.S.D.J.
United States District Court for the District of New Jersey
50 Walnut Street
Newark, NJ 07102

RE: Letter brief in support of Motion to Enforce; *Benitez Castro v. Bondi*, Case No. 25-17598

Dear Judge Neals:

Petitioner, through counsel, respectfully submits this letter brief in support of his motion to enforce and for immediate release from immigration custody. Given the exceptional circumstances and the Executive Office of Immigration Review's ("EOIR") clear abuse of discretion, immediate release is the only appropriate remedy.

While the Immigration Judge ("IJ") conducted a bond hearing on January 6, 2026, it was only after four separate attempts by the petitioner to request a custody determination unsuccessfully, demonstrating the current practice of the EOIR of attempting to sideline and prevent individuals in immigration detention from accessing the possibility of release. At the January 6 hearing, the denial of bond was based solely on a finding that Petitioner was a danger to society due to two Driving While Intoxicated ("DWI") convictions from 2018 and 2025. This decision was a manifest abuse of discretion, as the IJ failed to meaningfully consider or weigh the substantial evidence presented by Petitioner demonstrating strong community ties, rehabilitation efforts, and compliance with prior court orders. Additionally, the record is clear that neither DWI incident involved damage to persons or property. Exhibit A, Copy of the Order of the Immigration Judge (dated 01/06/26); Exhibit B,

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Copy of New York State Unified Court System, Criminal Disposition Information for Jose A. Benitez Castro

Crucially, the IJ acknowledged the extensive documentation of Petitioner's community ties and compliance with the conditions and requirements imposed by the municipal courts for his prior offenses. However, the IJ placed an impossibly high standard on the Petitioner to prove he was no longer a danger, effectively ignoring the evidence submitted in his favor and determining with no justification that since the Petitioner was arrested for DWI twice, that he must have driven while intoxicated on other occasions and simply not been caught. Furthermore, the IJ did not question the Petitioner himself, or listen to testimony from a witness who was present and willing to speak on his behalf.

This denial is not an isolated incident. The EOIR in Elizabeth, New Jersey, has recently demonstrated a pattern of unwillingness to consider alternative safeguards in lieu of outright bond denials and has established an unwritten, nearly insurmountable standard for bond eligibility. This systemic issue is detailed in the accompanying affidavits from three experienced New Jersey immigration attorneys, attached as Exhibits C, D, and E, which summarize their consistent, recent experiences regarding arbitrary bond denials.

The IJ's refusal to exercise discretion in a reasonable manner, ignoring key evidence and adhering to a new, heightened, and extralegal standard, constitutes an abuse of discretion warranting this Court's intervention. For the reasons stated above, Petitioner respectfully requests this Court grant the motion to enforce and order the immediate straight release of Petitioner from immigration detention.

Dated: January 8, 2026

Respectfully submitted,

/s/Catherine E. Reilly

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EXHIBIT	DOCUMENT DESCRIPTION
A	Copy of the Order of the Immigration Judge (dated 01/06/26)
B	Copy of New York State Unified Court System, Criminal Disposition Information for Jose A. Benitez Castro
C	Copy of Attorney Affidavit, Noemi C. Simbron
D	Copy of Attorney Affidavit, Matthew J. Archambeault
E	Copy of Attorney Affidavit, Eric Mark

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Exhibit A

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
ELIZABETH IMMIGRATION COURT

Respondent Name:
BENITEZ CASTRO, JOSE AMILCAR

To:
Reilly, Catherine Elizabeth
3 World Trade Center
175 Greenwich St., 38th Floor
New York, NY 10007

A-Number:
[redacted]

Riders:
In Custody Redetermination Proceedings

Date:
01/06/2026

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

☑ Denied, because
Respondent has failed to establish he does not pose a danger to property and the community.

☐ Granted. It is ordered that Respondent be:
- ☐ released from custody on his own recognizance.
- ☐ released from custody under bond of $
- ☐ other:

☐ Other:

Immigration Judge: Chen, Shana 01/06/2026

Appeal: Department of Homeland Security: ☑ waived ☐ reserved
Respondent: ☐ waived ☑ reserved
Appeal Due: 02/05/2026

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Respondent Name : BENITEZ CASTRO, JOSE AMILCAR | A-Number : [redacted]
Riders:
Date: 01/06/2026 By: MUNOZ, ISSAYANA, Court Staff

Exhibit C

LAW OFFICES OF NOEMI C. SIMBRON
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PATERSON, NEW JERSEY 07505

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NOEMI.SIMBRON@GMAIL.COM

AFFIDAVIT OF NOEMI C. SIMBRON IN HER CAPACITY AS AN IMMIGRATION ATTORNEY

I have been a member of the New Jersey Bar of Attorneys and of the New Jersey Federal District Court since 2016. I have been a solo practitioner concentrating mainly in representing immigrants before the USCIS and in Removal Proceedings in immigration Court. Before I was admitted to the Bar, I worked as a legal assistant for respected counsels also from our district for 8 years. Accordingly, I have personally handled and participated in documenting hundreds of cases before immigration courts all over the country.

I am writing this statement in good faith to provide the Federal Court with my testimony of the obvious change in impossible standards that immigration judges are currently applying to individuals who are seeking release under bond. Over the course of my career, I have witnessed individuals being provided with a fair opportunity to be released under bond when they are able to show that there is neither a danger to the community nor a flight risk. Whenever an adjudicator immigration judge found that an individual had less than ideal ties to the community, he or she would even grant a larger amount so as to secure their continued appearances at future hearings. This practice seems to have been eradicated since July of 2025.

There seems to be internal instructions to judges to find ways to deny release under bond which were never there before. For instance, I recently represented a 42-year-old Mexican lady, Ms. Eva Alvarez Coeto, before the immigration court [redacted]) and this honorable tribunal (2:25-cv-17789-B). Ms. Alvarez entered the United States without inspection in the year 2002. Over the course of her 22-year life span in the U.S., she bore four U.S.C. children (ages 21, 18, 13 and 12)– all of whom resided with her up until the time she was detained. The two youngest children have learning and speech disabilities. Also, she heavily cooperated with the Passaic Police Department in prosecuting the father of her younger children when he showed pornographic videos to her oldest daughter. This participation led to the criminal conviction of this individual, thereby making Ms. Alvarez Coeto also eligible to apply for U visa status. In August of 2025, Ms. Alvarez moved into the father of her older children's father's home following a reduction of her hours at work. The father of her children attempted to kiss Ms. Alvarez against her will and she slapped him once due to unwanted advances before leaving his house. This incident was reported to the police by the father of Ms. Alvarez's children and she was charged with simple assault in the city of Clifton, NJ on or about August 27, 2025. Ms. Alvarez was arrested pursuant to that incident for the first and only time after being present in

the United States for 22 years. She was then referred to immigration detention and is currently being held at the Delaney Hall Detention Center.

On November 20, 2025, this counsel was retained to represent Ms. Alvarez Coeto for a Petition for Habeas Corpus. In preparation for the petition for Habeas Corpus, this counsel requested a bond hearing before the Immigration Court. The immigration Court scheduled a bond redetermination hearing on December 9, 2025. This counsel provided the Court with the children's birth certificates, their medical records showing that the youngest 2 suffer from learning disabilities, evidence of Ms. Alvarez Coeto's work history in the 22 years she has lived here, and a statement from Ms. Alvarez Coeto describing the underlying circumstances leading to the arrest as well as the consequences of her detention, including the fact that custody of the youngest children is being handled by the State's Children's Services because their father is prohibited from approaching them due to the existence of his record as a sexual predator. After hearing legal arguments, Immigration Judge Shana Chen found that she lacked jurisdiction pursuant to Yajure-Hurtado, 29 I&N 216 (BIA 2025) and Maldonado Bautista "not controlling on [that] Court." In the alternative, Judge Chen found that the Respondent "only acknowledged what she could not hide [from the arrest]," and that she was a danger to the community based upon this sole isolated incident in 22 years of history of hard work and raising American children. She also found that Ms. Alvarez Coeto was a flight risk despite her undeniable ties to the community due to the existence of minor children, and her eligibility to obtain status through the U visa statute for indirect victims of crimes as well as through Cancellation of Removal for Nonimmigrants.

In the past, such mild criminal offense would have never been the basis to find an individual such as Ms. Alvarez to be a danger to the community– especially in light of the obvious isolated nature of this offense. Most importantly, the extent of ties that Ms. Alvarez has to this community in her children and the heightened responsibilities of addressing their disabilities *on her own* because the father is under a permanent restraining order and is required to be registered as a sexual predator pursuant to Meghan's Laws is undeniable. In the past, a reasonable finder of fact would have considered that this woman would have a great incentive to pursue relief because her circumstances squarely fit eligibility for U visa status and Cancellations of Removal. Even the most conservative of judges in the country would have at least considered release under higher bond to assure the Respondent's future appearances and to discourage any further potential criminal actions. But this is not the case now. As I waited for my case to be called, I have heard other hearings handled by colleagues who are also being denied release due to absurd reasons which would have never led to denials in the past. This sort of stories about denials are also being shared by numerous of my colleagues within our listserve in the American Immigration Attorneys Association (AILA).

This internal change in the standards for release under bond has to be merely a plot to have immigrants be denied their due process rights because they know individuals who are hard-working and that do not engage in criminal conduct will not be able to withstand being in detention for extended periods of time. They also know that cutting those individuals' access to earn a living will cripple their ability to be represented by counsel causing a flood of them to give up their rights and just ask to voluntarily depart or be deported. And what happens with our

judicial system? Our constitutional rights? Our communities? As this Court is aware, access to bond has been cut by recently published case law to several categories of immigrants who would've been able to be released and to have a real opportunity to exercise their due process rights. For instance, under Qu Li, 29 I&N Dec. 66 (BIA 2025), there are no more bonds for individuals who are deemed "applicants for admissions," that if they had a stop and/or were processed near the border or a port of entry. Under Matter of M-S-, 27 I&N Dec. 509 (A.G. 2019), there is no more access to bond for individuals who were placed in expedited removal, or subjected to administrative deportation, even after they obtain a favorable result of a filter mechanism to be able to see a judge called a credible fear interview. Now, under Yajure-Hurtado, the government sought to subject every immigrant who may have entered without status at any time to mandatory detention. It is solely because of the intervention of the Federal Courts that this smaller group of individuals– those who are present unlawfully but are not deemed applicants for admission because they were arrested within the territory and are here for a lengthy period of time after their initial entry– have now access to bond when a Petition for Habeas is granted. But, what good does it do if the cases fall back into the same pattern through (presumably) unpublished instructions being received by the immigration judges who are still being mandated to find alternate ways to deny our clients of their due process rights?

Through this letter, I unite my plea to my colleagues to please order our clients released after conducting a fair analysis through this tribunal as we had in the immigration court before the current impossible standards for release were internally mandated. Thank you in advance for your attention.

Respectfully,

/s/ Noemi C. Simbron
Noemi C. Simbron, Esq

Exhibit D

Law Office of
Matthew J. Archambeault
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December 12, 2025

AFFIDAVIT OF MATTHEW J. ARCHAMBEAULT

I swear, under the penalty of perjury, the following is true and correct. I have been a practicing immigration attorney for over 23 years. I practice primarily in removal defense, including the representation of detained individuals. I have appeared in immigration courts in Pennsylvania, New Jersey, New York, Maryland, Florida, Georgia, North Carolina, Texas, Louisiana, Colorado, California, Washington, Puerto Rico, St. Thomas, and St. Lucia over my career. I have also represented immigrants in federal court at both the District and Circuit levels.

I write this affidavit for general use for my colleagues for submission in any court proceedings they feel appropriate.

I have represented hundreds of clients over the years and done scores of bond redetermination hearings. Under the current administration, bond redeterminations have undergone a noticeable shift, most notably in the issuance of the BIA precedent decision *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) . This decision illegally concluded that a vast swath of immigrants, who entered without inspection, were subjected to mandatory detention pursuant to INA 235(b)(2), and not eligible for bond. Decades of practice and legal precedent found the same individuals eligible for bond and detained under INA 236(a). Hundreds of federal district courts have ruled against the administration following a flood of habeas corpus petitions nationwide. The result of this litigation has been that immigrants are either released or afforded an opportunity to have a bond hearing before an immigration judge.

I represent Jorge Perez Florez in both immigration court and the New Jersey District Court (case no. 2-25-cv-17865-SDW). Mr. Perez Florez was detained by ICE on November 24, 2025, and transported to the Elizabeth Detention Center in Elizabeth, New Jersey. I filed a habeas corpus petition on his behalf on the same day, and the Honorable Susan D. Wigenton of the New Jersey District Court issued a text order directing that a bond hearing be held by December 1, 2025. Immigration Judge Ramin Rastegar conducted a bond hearing on December 1, 2025, at the Elizabeth Immigration Court in Elizabeth, New Jersey.

Mr. Jorge Perez Florez is a Mexican immigrant who has been in the United States for more than 18 years, lives with his long-term partner and their 15-year-old U.S. citizen daughter in Maple Shade, New Jersey. Mr. Perez Florez has resided at the Maple Shade, New Jersey, address for more than 8 years and in the immediate area for the entirety of his time in the United States. Mr. Perez Florez has never been arrested in the United States or anywhere else in the world. Mr. Perez Florez is eligible to apply for Cancellation of Removal for Certain Non-

Permanent Residents, as he has been in the United States for more than ten years, has a US citizen child who would suffer extreme and unusual hardship if he were removed, and has been a person of good moral character and worthy of discretion. Mr. Perez Florez's US citizen daughter had been recently hospitalized for anxiety disorder and was beginning treatment. Mr. Perez Florez had numerous persons write on his behalf, and a US citizen sponsor was prepared to post any bond issued by the immigration judge.

The Department of Homeland Security raised the following negative factor: Mr. Perez Florez had previously attempted to enter the United States more than 18 years ago, was voluntarily returned, and then re-entered undetected. DHS also concluded that Mr. Perez had received a traffic ticket in 2009, when it appears he did not have a license, as an indicator of dangerousness. DHS further questioned a "learner's permit" from Maryland obtained by Mr. Perez Florez, despite his never appearing to live in Maryland.

These sets of facts would traditionally have earned Mr. Perez Florez a bond, as his lack of criminal history indicates he is not a danger to the community, and his long-term, stable residency in the United States with a family, relief from removal available, and support from the community would indicate he is not a flight risk. In my professional experience, one would expect a bond ranging from $2,500 to $10,000. This was not the case this time.

Immigration Judge Rastegar ruled that he posed a danger to the community and a flight risk so significant that no amount of bond would ensure his appearance for deportation if he lost his case. Immigration Judge Rastegar refused to explain why Mr. Perez Florez was a flight risk, indicating we could read it in his bond memorandum if we appealed. He did explain that Mr. Perez Florez's long-term residency here was a negative factor, as he never attempted to "fix" his immigration status, despite the fact that no options for doing so existed. After extensive questioning, Judge Rastegar concluded that Mr. Perez Florez was not credible based on his receiving a "driver's license" from Maryland, even though it was apparent he never lived there, and questions regarding an educational program Mr. Perez Florez completed in Camden, NJ. Judge Rastegar also held the fact that no applciation for relief had not been submitted to the immigraiton court, despite the fact that he had yet to appear for his first initial master calendar hearing (bond proceedings are separate and distinct from removal proceedings), which was scheduled for December 8, 2025 and pleadings on the allegations alleged by the Department of Homeland Security had not been completed. Judge Rastegar refused to recognize Mr. Perez Florez's long-term, committed relationship with the mother of their child because they were not married. Lastly, Judge Rastegar concluded that, because there was scant documentation of the medical condition affecting his 15-year-old USC daughter, he could not meet his burden to approve any Cancellation of Removal Application submitted, and that no amount of bond would be sufficient to ensure Mr. Perez Florez would appear for his ordered removal. Judge Rastegar did not even consider other restrictions on Mr. Perez Florez's liberty that could have ensured his compliance, such as electronic monitoring and/or reporting to ICE.

In my 23-year professional career, I have never had a bond flatly denied under similar facts. It is clear that I am not alone. The New Jersey AILA listserve is replete with similar, and even more egregious examples of bond denials from the judges at the Elizabeth Immigration Court and other courts across the country. I observed a bond hearing for an immigrant who has been in the United States for over 20 years, several US citizen children, one with a serious heart

condition, and no criminal record, denied a bond by Immigration Judge Wilson, finding he was a flight risk because he resided so long in the United States without being detected and that no amount of bond would be sufficient to ensure he complied with a deportation order. Now immigration judges are using immigrants' long-term residency and deep ties to the community as evidence of their flight risk. This is not normal.

Despite the losses of over 200 federal district court cases on the issue of detention pursuant to INA 235(b)(2), DHS persists in illegally denying immigrants their statutory right to a bond hearing, causing the current flood of litigation that is taking the time of US Attorneys who could be working on essential cases affecting our security as a nation, and time away from District Court judges and their staff. DHS has no incentive to change its practice if the result is immigrants spending thousands of dollars for legal representation and a rigged bond hearing, designed only to deny deserving immigrants the ability to receive a bond and return to their families and community as Congress intended.

We implore District Court judges to address this issue by either ordering the straight release from detention when it is shown that the detention is illegal, or conducting their own bond analysis and making their own determination regarding the issuance of bond, the amount, and any other restrictions the Court deems necessary.

We sincerely appreciate the Court's attention to this matter.

Respectfully,
/s/Matthew J. Archambeault
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Exhibit E

AFFIDAVIT OF ERIC M. MARK, ESQ.

I have been practicing criminal defense and immigration for more than 15 years and have represented dozens, or hundreds, of clients during bond proceedings before the Immigration Court.

Presently, I am the attorney representing Pablo Martinez Ron before the Immigration Court and before the U.S. District Court for the District of New Jersey before the Hon. Michael E. Farbiarz on a Petition for Habeas Corpus.

Judge Farbiarz ordered a bond hearing for Mr. Martinez Ron that was conducted by Immigration Judge Counihan of the Batavia Immigration Court. Mr. Martinez Ron has been present in the United States for approximately two years. He has no criminal history. He was initially on the docket in Maryland and appeared there once for a hearing. Subsequently, he changed his address with the court and venue was transferred to New Jersey. He was awaiting a hearing in New Jersey. Substantial documentary evidence was submitted demonstrating that he was engaged to be married and lived with his fiancé and his fiance's mother in a house owned by his fiance's mother. The couple had begun IVF treatments, including blood draws and payments and this was also documented to the court. His fiancé was present at the bond hearing.

Despite this evidence, the immigration judge found Mr. Martinez Ron did not have a meaningful family tie in the United States, and that he might have such a tie if he got married. The immigration judge found he did not have a fixed address in the U.S. because he had previously lived at other addresses, was not on the deed and there was no lease. The judge also held against him, without articulating why, that he made $500 - $700 per week.

In the past, such facts would have resulted in a low bond based on decades of caselaw. Her the immigration judge created an impossible standard. Evidence of stable employment was somehow held against the non-citizen. Living with a fiancé and going through IVF was somehow not sufficient to establish a meaningful tie to the U.S. Merely having prior addresses, something that virtually every person on the face of the Earth has, was held against him even though he updated the court when he moved and appeared in court when scheduled.

It is evident that immigration judges have been instructed not to issue bonds and what rationales to rely on to do so. Judges who have been issuing bonds for years, if they have not been terminated, have suddenly stopped issuing bonds. Facts and evidence that were sufficient evidence in 2024 are completely discarded or held against the non-citizens in

2025. The burden of proof has been elevated to such a level that it is impossible to meet and is far beyond what is constitutionally permissible or statutorily authorized.

I affirm that the foregoing statements are true and correct and that any willfully false statement is punishable under the penalty of perjury.

Dated: Decemeber 11, 2025

/s/ Eric M. Mark

Eric M. Mark, Esq.