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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
CALIFORNIA

O.A.C.S.,
Petitioner-Plaintiff,

v.

Minga WOFFORD, Field Office Director, Mesa Verde, Office of Detention and Removal, U.S. Immigrations and Customs Enforcement; U.S. Department of Homeland Security;

Sergio ALBARRAN, Acting Field Office Director of the San Francisco Immigration and Customs Enforcement Office

Todd M. LYONS, Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security;

Kristi NOEM, in her Official Capacity, Secretary, U.S. Department of Homeland Security; and

Pam BONDI, in her Official Capacity, Attorney General of the United States;

Respondents-Defendants.

Case No. 1:25-CV-01652-DAD-CSK

MOTION TO ENFORCE

NOTICE OF MOTION[1]

PLEASE TAKE NOTICE that Petitioner O.A.C.S. will move the Court to enforce its grant of the Ex-Parte Preliminary Injunction, and order Respondents to immediately release Petitioner from immigration custody. The reasons in support of this Motion are set forth in the accompanying Memorandum of Points and Authorities. This Motion is based on the attached Declaration of Natalia Santanna with Accompanying Exhibits in Support of Petitioner's Motion to Enforce Preliminary Injunction. As set forth in the Points and Authorities in support of this Motion, Petitioner establishes that Respondents failed to comply with the Court's order to provide a hearing before an Immigration Judge at which the government bore the burden to demonstrate by clear and convincing evidence that he is either a flight risk or a danger to the community. Because Respondents failed to provide a constitutionally compliant hearing as ordered by this Court, Petitioner respectfully submits that he is entitled to immediate release.

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[1] Respondents, in a footnote of their status report, purport to move to "dismiss all unlawfully named officials." ECF 9 * 1 fn 1. Petitioner opposes such a motion because the named respondents are not tangentially related to Petitioner's detention; they form a direct chain of command legally responsible for it. The warden's role is to follow the directives issued by the Attorney General, the Department of Homeland Security, and ICE. Therefore, a TRO and writ of habeas corpus directed only at the warden would be ineffective, as the warden lacks the power to provide the ultimate relief sought. The government's reliance on *Rumsfeld v. Padilla* and *Doe v. Garland* is misplaced, as those cases are factually and legally distinguishable from the circumstances here. The "immediate custodian" rule from *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), which typically points to a warden, does not create an inflexible jurisdictional requirement. The Supreme Court established this rule in the context of a U.S. citizen military detainee, where the chain of command and the nature of custody are fundamentally different from immigration detention. In the immigration context, the "custodians" are the entity with legal, dispositive control over the detention. That entity necessarily includes ICE and its leadership, and they are the ones who can order Petitioner released. Likewise, *Doe v. Garland*, 109 F.4th 1188 (9th Cir. 2024), does not preclude naming the respondents listed here. While *Doe* held that a warden of a private facility must be named as a proper respondent, it does not hold that the warden is the *only* proper respondent. In addition, the Respondents' request is procedurally improper because a "request for court order must be made by motion." *Ortega v. Kaiser*, No. 25-CV-05259-JST, 2025 WL 2243616, at *4 (N.D. Cal. Aug. 6, 2025). "[A] request for affirmative relief is not proper when raised for the first time in an opposition." *Id.*

If the Court deems oral argument necessary, Petitioner requests to appear by video.

Dated: January 19, 2025

Respectfully submitted,

/s/ Natalia Vieira Santanna
Natalia Vieira Santanna
Attorney for Petitioner O.A.C.S.

INTRODUCTION

Petitioner O.A.C.S. ("Petitioner") moves the Court to enforce its Order Granting Preliminary Injunction. The Court enjoined Respondents from continuing Petitioner's detention unless and until they provide him with "a bond hearing within five (5) days of the date of entry of this order." While Respondents provided Petitioner with a hearing before the Immigration Judge, that hearing was perfunctory at best. The Immigration Judge failed to demonstrate impartiality, misapplied the law, and failed to hold the government to its heavy burden of proof. As such, the Immigration Judge's decision denying Petitioner bond and the government's subsequent detention of Petitioner based on that decision constitute violations of this Court's Order. The government did not provide any opposition to the grant of a preliminary injunction, which was due on January 12, 2026. Accordingly, this court should grant Petitioner's preliminary injunction and order that he must be immediately released from immigration custody.

RELEVANT STATEMENT OF FACTS AND PROCEDURAL HISTORY

On December 4, 2025, the Court issued granted Petitioner's ex parte motion for a temporary restraining order, ordering that: "Respondents are ORDERED to provide petitioner a bond hearing within five (5) days of the date of entry of this order" See ECF No. 13 at 11 (hereinafter "Order").

On December 5, 2025, the Department of Homeland Security ("DHS") moved for a bond redetermination hearing before the Adelanto Immigration Court. See Exh. A, Bond Record of Proceedings. The Immigration Court scheduled a bond hearing for December 8, 2025, before Immigration Judge Katie G. Mullins. *Id.* Petitioner filed around 50 pages of evidence in support of his continued release, including: (1) letters of support from his sister, who lived with him; (2)

proof of employment and availability of employment upon release; (3) proof of residence; (4) a sponsor's letter, taxes, proof of immigration status and residence. *Id.* DHS provided a Form I-213 and a print-out list of ISAP violations. *Id.* On December 8, 2025, Petitioner and counsel appeared via Webex for the bond hearing, as did DHS counsel. Petitioner was ready and available to testify. *Id.* At the hearing, the IJ admitted evidence, took argument from the parties, and declared she would not take testimony. Vieira Santanna Decl.

At the close of the hearing, the IJ stated that DHS had met its burden of proof as to both Petitioner's risk of danger and flight. *Id.* On December 13, 2025, Petitioner filed an appeal with the Board of Immigration Appeals ("BIA"). *Id.* On December 31, 2025, the BIA rejected the appeal. *Id.* On January 3, 2026, Petitioner refiled his appeal curing any alleged defects and still within the appeal window. Exhibit B (Appeal pending acceptance since 01/07/26). The BIA still has not processed the re-filing of the appeal and issued a receipt, even though more than two weeks have elapsed. *Id.* Bond appeals are currently taking at least six months for the BIA to adjudicate. Vieira Santanna Decl. Petitioner has yet to receive a receipt, memorandum of decision, and briefing scheduled from the BIA. *Id.*

LEGAL STANDARD

A court has "inherent power to enforce its judgments[.]" *California Dep't of Soc. Servs. v. Leavitt*, 523 F.3d 1025, 1033 (9th Cir. 2008). "[H]abeas courts are empowered to make an assessment concerning compliance with their mandates." *Judulang v. Chertoff*, 562 F. Supp. 2d 1119, 1126 (S.D. Cal. 2008). This includes continuing jurisdiction to enforce an injunction. *United States v. Bryan*, No. CIV. 2:04-2363 WBS, 2010 WL 4312866, at *1 (E.D. Cal. Oct. 25, 2010) (*quoting Hangarter v. Paul Revere Life Ins. Co.*, 289 F.Supp.2d 1105, 1107 (N.D.Cal.2003)). District courts in the Ninth Circuit and across the country regularly grant

detained noncitizen habeas petitioners release under adequate conditions of supervision when the government fails to provide them with a hearing consistent with prior orders of the court. *See, e.g., Mau v. Chertoff*, 562 F. Supp. 2d 1107, 1119 (S.D. Cal. 2008) (ordering petitioner's release when "the evidence before the IJ failed, as a matter of law, to prove flight risk or danger pursuant to the Court's order"); *Sales v. Johnson*, No. 16-CV-01745-EDL, 2017 WL 6855827, at *7 (N.D. Cal. Sept. 20, 2017) (ordering petitioner's release under appropriate conditions of supervision when IJ failed to correctly apply clear and convincing standard in violation of court order); *Ramos v. Sessions*, 293 F. Supp. 3d 1021, 1036 (N.D. Cal. 2018), vacated and remanded sub nom. *Ramos v. Garland*, No. 18-15884, 2024 WL 933654 (9th Cir. Mar. 1, 2024) (granting motion to enforce and ordering release under appropriate conditions of supervision when government failed to meet clear and convincing burden).

Federal courts have jurisdiction to review whether the agency properly applied the burden of proof. *Martinez v. Clark*, 124 F.4th 775, 784 (9th Cir. 2024). The agency abuses its discretion when it acts "arbitrarily, irrationally, or contrary to the law" and when it "fails to provide a reasoned explanation for its actions." *Tadevosyan v. Holder*, 743 F.3d 1250, 1252–53 (9th Cir. 2014). The agency also abuses its discretion where it fails to consider probative evidence. *Franco-Rosendo v. Gonzales*, 454 F.3d 965, 966 (9th Cir. 2006). A "standard of review which asks only whether the IJ announced the correct legal standard is insufficient." *Ramos*, 293 F. Supp. 3d at 1030. *See Nat'l 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."

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ARGUMENT

I. Respondents Violated the Court's TRO order When the IJ Erroneously Denied Bond Despite DHS's Failure to Prove Flight Risk by Clear and Convincing Evidence, and this Court Should Order Petitioner Released.

A. The Clear and Convincing Standard is a Heavy Burden that Must be Demonstrated in Fact, Not in Theory, Because the Loss of Freedom from Confinement is Significant.

The clear and convincing standard requires that evidence must establish "an abiding conviction that the truth of [the] factual contentions at issue is highly probable." *Mondaca-Vega v. Lynch*, 808 F.3d 413, 422 (9th Cir. 2015) (en banc). This standard sets a "high burden and must be demonstrated in fact, not 'in theory.'" *Obregon v. Sessions*, No. 17-CV-01463-WHO, 2017 WL 1407889, at *7 (N.D. Cal. Apr. 20, 2017) (quoting *United States v. Patriarca*, 948 F.2d 789, 792 (1st Cir. 1991) (affirming the district court's conclusion that, although the government had demonstrated the defendant was a Mafia Boss and that, "in theory a Mafia Boss was an intimidating and highly dangerous character," it had failed to show that "this Boss posed a significant danger")). The clear and convincing standard is used "because it is improper to ask the individual to share equally with society the risk of error when the possible injury to the individual— deprivation of liberty—is so significant." *Singh v. Holder*, 638 F.3d 1196, 1203-04 (9th Cir. 2011) (cleaned up). "Rather, when a fundamental right, such as individual liberty, is at stake, the government must bear the lion's share of the burden." *Tijani v. Willis,* 430 F.3d 1241, 1245 (9th Cir. 2005) (Tashima, J., concurrence). Indeed, "[d]eprivation of liberty should be a rare circumstance for non-citizens in immigration detention, reserved only for those who are a threat to national security or poor bail risks." *Obregon*, 2017 WL 1407889 at *9. In the context of criminal pretrial detention, the Supreme Court has provided that the clear and convincing evidence standard requires the government to prove that the detained person "presents an

identified and articulable threat to an individual or the community," and "no conditions of release can reasonably assure the safety of the community or any person." *United States v. Salerno*, 481 U.S. 739, 750-51 (1987). *In Matter of Guerra*, the BIA established several factors the IJ should consider when assessing an individual's risk of flight and dangerousness, including: (1) whether the immigrant has a fixed address in the United States; (2) the immigrant's length of residence in the United States; (3) the immigrant's family ties in the United States, (4) the immigrant's employment history, (5) the immigrant's record of appearance in court, (6) the immigrant's criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses, (7) the immigrant's history of immigration violations; (8) any attempts by the immigrant to flee prosecution or otherwise escape from authorities; and (9) the immigrant's manner of entry to the United States. 24 I & N Dec. 36, 40 (BIA 2006). The decision was made in the context of discretionary relief under 8 U.S.C. § 1226(a) and establishes the floor for factors to consider in immigration custody determinations.

Federal courts have jurisdiction to review whether the agency properly applied the burden of proof. *Martinez v. Clark*, 124 F.4th 775, 784 (9th Cir. 2024) (asserting jurisdiction over whether the immigration judge applied the correct burden of proof)). The Court in *Martinez* further noted that where the agency decision raises "red flags," it need not take the agency "at its word" that it applied the correct standard. *Id.* A "red flag" indicates that something is "amiss," such as where the agency misstates the record, fails to mention probative and potentially dispositive evidence, or fails to mention or apply relevant case law in its decision. *Id.* at 1230-31 (citing *Cole v. Holder*, 659 F.3d 762, 771 (9th Cir. 2011)). Where, "there is any indication that the agency did not consider all the evidence before it, a catchall phrase does not suffice, and the decision cannot stand. *See Cole,* 659 F.3d at 771.

Here, the IJ's gesture to the clear and convincing evidence standard does not insulate her decision from reversal, given the many "red flags" in her ruling and hearing administration. Petitioner challenges both the standard applied by the IJ and her determination that DHS met its high burden of proof. *Mathon v. Searls*, 623 F. Supp. 3d 203, 214 (W.D.N.Y. 2022). See *infra* Section I.B (standard) and Sections I.C-I.D (evidentiary burden).

For these reasons, as well as those more fully explained below, this Court must find that Respondents have failed to comply with the Court's temporary restraining order and grant Petitioner's immediate release from custody.

B. The Immigration Judge Applied the Wrong Standard at the Bond Hearing.

The Court ordered that DHS must provide Petitioner with a constitutionally compliant bond hearing. Order at 11. This included a hearing before an IJ to determine whether detention is warranted, with DHS bearing the burden of proof by clear and convincing evidence. See ECF 2. The basis for this order and process provided by the Court was the Fifth Amendment's Due Process Clause. *Id.*

The IJ did not apply the correct law in the Petitioner's custody hearing. Here, "[t]he IJ made numerous comments indicating that she was, in fact, treating the hearing as a bond redetermination request governed by immigration law as determined by the BIA." *Mathon*, 623 F. Supp. 3d at 214. For instance, the IJ expressed disapproval regarding the urgency of a TRO when she stated that the federal district judge "in his infinite wisdom" ordered a five-day deadline for bond hearing, and that was "frankly ridiculous" before she trailed the case to give DHS time to prepare. Vieira Santanna Decl. DHS in fact claimed not knowing about the bond hearing, even though DHS was the party who requested the hearing per the TRO order and the bond record. *Id.*; See also Exh 2. When back on the record, the IJ stated that the TRO did not

specify which party had the burden. Vieira Santanna Decl. Petitioner, through counsel, explained that the TRO order was clearly granting an Ex-Parte TRO request that specified that the burden was on DHS. *Id.* The Immigration judge stated she disagreed. *Id.* She did not decide the issue at the outset of the hearing but stated she was inclined to agree with the DHS' argument that Petitioner would bear the burden of proof. *Id.* At the end of the hearing, the IJ stated that "even assuming" that the government met their burden, she determined that no amount of bond or alternative conditions would be appropriate any flight risk Petitioner posed. *Id.* The Immigration Judge denied Petitioner's request for a bond and set an appeal due date due for January 7, 2026. *Id.*

In addition, the Immigration Judge said that she has "extremely broad discretion in deciding whether to release a [noncitizen] on bond." Vieira Santanna Decl. (citing *Matter of Guerra*, 24 I&N. Dec. at 40). But that is not what the Constitution mandates. As explained in Mathon, "*Guerra*, however, is an agency case setting forth the factors an IJ should consider in reviewing a detainee's request for discretionary release under [] 8 U.S.C. § 1226(a). The IJ's statements that she had 'discretion' to determine 'whether a detainee merits release from bond,' likewise disregarded the Court's instructions that the government—not *Petitioner*—must bear the burden of proof." *Mathon,* 623 F. Supp. 3d at 214. Here, the Court did not provide the IJ with discretion to determine whether Petitioner should be released. Rather, the Court ordered that DHS bear the burden; the IJ statement that she has discretion to review factors demonstrates that she did not comply with the order. This court has recently grappled with a similar case, *See Y.S.G. v. Andrews*, No. 2:25-CV-1884-SCR, 2025 WL 2979309, at *9 (E.D. Cal. Oct. 22, 2025). In Y.S.G., this court ordered the government to release the petitioner and to re-detain him only if they comply with the requirements for such re-detention as set out in the preliminary injunction

order. This court found that the IJ abused her discretion by failing to meaningfully apply the clear and convincing standard, and that the "IJ erred by proceeding as if this were a generic bond hearing in which an IJ exercises broad discretion." *Y.S.G.*, No. 2:25-CV-1884-SCR, 2025 WL 2979309, at *9.

The errors committed by the IJ appear to have infected the IJ's findings regarding flight risk. Crucially, the IJ's affirmation that the clear and convincing evidentiary standard was applied does not serve as a sufficient remedy for these errors.

Again, this comment, along with the other comments mentioned supra, establishes that, in fact, the IJ was treating Petitioner's bond hearing as 8 U.S.C. § 1226(a), not a constitutionally mandated hearing where the government would have the burden of proof.

C. The IJ erroneously required Petitioner, not DHS, to proffer evidence pertaining to flight risk.

1. Despite DHS raising Petitioner's alleged ISAP violations, the IJ erroneously required Petitioner, not DHS, to proffer evidence pertaining to current flight risk. In so doing, the IJ improperly flipped the burden of proof to Petitioner. Here, the only evidence DHS produced was a Form I-213 and a list of alleged ISAP violations. *See Blandon v. Barr*, 434 F. Supp. 3d 30, 40 (W.D.N.Y. 2020) ("The IJ's improper allocation of the burden of proof is further demonstrated by his emphasis on Petitioner's failure to present evidence at the bond hearing."). Respondent's allegations were thus unsupported by any evidence that Petitioner could meaningfully confront. The documents did not specify where the officer obtained the information regarding the allegations, did not provide an explanation of what the violation actually meant, nor did it provide any actual records from ISAP. *Id.* O.A.C.S. explained via declaration that he experienced several technical and compliance issues related to his weekly check-in application. ECF 1-2, Exh. 2. On multiple occasions, after submitting his required weekly photo on time, he would receive a

notification one to two hours later asking him to resubmit it. *Id.* One day, he forgot to submit the photo at the scheduled time, prompting an officer to call him that afternoon to request the submission. *Id.* On another occasion, he missed a scheduled video call with an ISAP officer, leading the officer to call him directly. *Id.* Crucially, he did not receive any formal warnings, threats of arrest, or formal noncompliance notices from ISAP officials regarding these sporadic incidents. *Id.* Petitioner has been forthcoming, and none of those technical issues and violations establish that he would attempt to abscond immigration enforcement.

For the IJ to find the evidence presented sufficient to establish DHS's burden of proof that there is clear and convincing evidence that Petitioner would abscond flies in face of this country's constitutional protections and legal precedent. *See Y.S.G.*, No. 2:25-CV-1884-SCR, 2025 WL 2979309, at *11 (E.D. Cal. Oct. 22, 2025) ("the IJ failed to meaningfully discuss the probative evidence petitioner submitted demonstrating his significant ties to the community.").

D. The Immigration Judge Failed to Hold the Government to the Clear and Convincing Standard as to Flight Risk.

In November 2023, Respondents determined that the Petitioner was not a flight risk and released the Petitioner under an order of supervision. Assuming arguendo that facts support the above allegations by Respondents, the question regarding flight risk is whether custody is reasonably necessary to secure a person's appearance at immigration court hearings and related check-ins. *See Hernandez*, 872 F.3d at 990-91. Here, there is no basis to argue that J.E.H.G., who was arrested by Respondents *while appearing at a scheduled in-person ICE appointment and has never missed a court hearing*, is a flight risk. Now, despite Petitioner's established record of attendance at ICE check-ins, IJ Mullins determined that Petitioner was a flight risk for which no bond could mitigate. Memo at 4.5. In so holding, IJ Mullins committed several legal errors and failed to apply the clear-and-convincing standard to the government.

1. The IJ failed to consider probative and meaningful evidence related to Petitioner's immigration case and his compliance with ICE since he was released on an order of supervision

The failure to meaningfully consider highly probative evidence alone is reversible legal error. *See Cole v. Holder*, 659 F.3d 762, 771-72 (9th Cir. 2011) ("[W]here there is any indication that the BIA did not consider all of the evidence before it, a catchall phrase does not suffice, and the decision cannot stand. Such indications include misstating the record and failing to mention highly probative or potentially dispositive evidence."); *Kharis v. Sessions*, No. 18-CV-04800JST, 2018 WL 5809432, at *10 (N.D. Cal. Nov. 6, 2018) (holding that "[d]ue process obligated the IJ to mention [highly probative] evidence" in a bond memorandum and as such, the agency's failure to "expressly grapple with a substantial, well-supported argument" relating to bond violated due process). Notably, the IJ did not consider, let alone mention, Petitioner's evidence of compliance with court appearances and ICE appointments. Even though it was not his burden, in abundance of caution, Petitioner filed around 50 pages of evidence in support of his continued release, including: (1) letters of support from his sister, who lived with him; (2) proof of employment and availability of employment upon release; (3) proof of residence; (4) a sponsor's letter, taxes, proof of immigration status and residence. *Id.* DHS provided a Form I-213 and a print-out list of ISAP violations. See Exh. B, Bond Record of Proceedings This is legal error and an abuse of discretion. Cole, 659 F.3d at 771-72. There is no question that Petitioner's compliance with his ICE check ins and court hearings is probative and material to the question of flight risk and the viability of alternatives to detention. The IJ's failure to consider this evidence, material and probative to the issue of flight risk, is reversible error. Further, the IJ erred in failing to consider that Petitioner has secured counsel and has been diligently working on his case. Likewise, this failure is reversible legal error. See *Cole*, 659 F.3d at 772. 3.

Due process requires a "minimum degree of clarity in dispositive reasoning." *Su Hwa She v. Holder*, 629 F.3d 958, 963 (9th Cir. 2010). The IJ did not cite to any evidence or provide any explanation; moreover, the evidence in the record are dispositive of the exact opposite, that Petitioner has sufficient evidence that he is not a flight risk. See Exh. A, Bond Record of Proceedings. Each of the above errors independently establish that the IJ erred in determining that the government demonstrated clear and convincing evidence of flight risk.

D. Had the Immigration Judge Properly Analyzed the Record, Petitioner Would Have Been Granted Bond or Alternatives to Detention.

A full and fair analysis of the record would have led the IJ to conclude that Petitioner is neither a flight risk nor a danger. *See Matter of Guerra*, 24 I&N Dec. at 40 (providing a nonexclusive list of factors to be considered when evaluating whether to grant release on bond). Petitioner is clearly not a flight risk. He has resided in the United States since 2023, and has significant family and community ties, including his sister. Petitioner filed around 50 pages of evidence in support of his continued release, including: (1) letters of support from his sister, who lived with him; (2) proof of employment and availability of employment upon release; (3) proof of residence; (4) a sponsor's letter, taxes, proof of immigration status and residence. See Exh. A, Bond Record of Proceedings.

Furthermore, many far less restrictive alternatives to detention would be sufficient to protect the community from whatever perceived danger the government believes Petitioner poses, including a reasonable bond amount or an ankle monitor and the continuance of mandatory check ins. *See Obregon*, 2017 WL 1407889, at *7 (critiquing the "little attention" given to whether "the least restrictive alternative was not further incarceration"); *Sales*, 2017 WL 6855827, at *7 (ordering immigrant released on conditions "such as an ankle monitor and reporting requirements").

Given Petitioner's established history of compliance with his appointments, these safeguards would be more than sufficient to mitigate any perceived risk of flight.

II. The Court Should Order Petitioner's Immediate Release from Custody Because He Remains Unlawfully Detained.

In sum, Respondents violated this Court's order in multiple ways. They denied Petitioner bond despite DHS's utter failure to establish by clear and convincing evidence that he is an unmitigable flight risk. As a result, Petitioner continues to be held in violation of the Constitution and should be released. Where an IJ has failed to hold a hearing that comported with due process following a district court order, courts have ordered release. For example, in *Mau*, the court initially ordered the government to provide the petitioner with a bond hearing. After the IJ committed "an error of law" by improperly "rel[ying] on two misdemeanor DUI convictions and one felony DUI conviction to deny bond," the court ordered the petitioner released. *Mau*, 562 F. Supp. 2d at 1118-19. With nearly identical procedural history, the court in *Judulang* ordered the petitioner released after finding that "the government did not meet [the] burden imposed" by the court's prior order requiring a hearing. *Judulang*, 562 F. Supp. 2d at 1126-1127. *See Swann v. Charlotte Mecklenburg Bd. of Ed.*, 402 U.S. 1, 15 (1971) ("Once a right and a violation have been shown, the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies."). In fact, district courts in the Ninth Circuit and across the country regularly grant detained noncitizen habeas petitioners release under adequate conditions of supervision when the government fails to provide them with a hearing consistent with the court's orders. *See, e.g., Sales*, No. 16-CV-01745-EDL, 2017 WL 6855827, at *7 (ordering petitioner's release under appropriate conditions of supervision when IJ failed to correctly apply clear and convincing standard in violation of court order); *Ramos*, 293 F. Supp. 3d at 1036 (granting motion to enforce and ordering release

under appropriate conditions of supervision when government failed to meet clear and convincing burden); *Mathon*, 623 F. Supp. at 218.

Respondents have had multiple opportunities to afford Petitioner the due process he is entitled to and have failed to do so at every turn. For that reason, Petitioner seeks this Court's intervention again. This Court should not permit Respondents to continue violating both Petitioner's due process rights and the orders of this Court. The Court should instead put an end to the unlawful incarceration of Petitioner by ordering his immediate release.

CONCLUSION

For all the above reasons, the Court should order Petitioner's immediate release from custody and enjoin Respondents from detaining him during the pendency of these proceedings. Without such an order, Petitioner will continue to suffer an unlawful deprivation of his liberty with no end in sight and with no constitutionally valid justification.

Dated: January 19, 2026

Respectfully submitted,

/s/Natalia Vieira Santanna

Attorney for Petitioner