UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

M.G., A# [redacted], Petitioner, vs. JASON STREEVAL, in his official capacity as *Warden of Stewart Detention center*; and LADEON FRANCIS, *Field Office Director for ICE Atlanta Field Office*, and TODD LYONS, in his official capacity as *Acting Director of Immigration and Customs Enforcement*; and KRISTI NOEM, *Secretary of Homeland Security*; and PAMELA BONDI, *U.S. Attorney General*. Respondents.	)	CASE NO.: 4:26-cv-00098-CDL-AGL

MOTION TO ENFORCE JUDGMENT AND TO SHOW CAUSE RE: CONTEMPT
IMMEDIATE HEARING REQUESTED

I. INTRODUCTION AND BACKGROUND

Petitioner, M.G., through undersigned counsel, respectfully moves this Court to enforce its Order of January 27, 2026 [ECF Dkt. 6]. In that Order, this Court granted Petitioner's Habeas Petition and ordered Respondents to "provide Petitioner with a bond hearing to determine if the Petitioner may be released on bond under § 1226(a)(2) and the applicable regulations. *See* 8 C.F.R. §§ 236.1 & 1236.1." This motion seeks immediate enforcement of the Court's Order because Respondents failed to provide Petitioner with a **constitutionally valid** bond hearing. Specifically, the immigration judge (IJ) who had been substituted at the last minute and did not meaningfully engage with the record, failed to conduct an individualized assessment of Petitioner's circumstances, did not adequately consider his strong community ties or years-long record of compliance with ICE supervision, and made a baseless risk of flight finding by summarily dismissing his pending applications for relief as "speculative." The IJ then denied bond entirely, resulting in Petitioner's continued unlawful detention. *See* Exhibit 1 – IJ Decision; Exhibit 2 – Weinstock Declaration; Exhibit 3 –Hearing Transcript; Exhibit 4 – Adams Affidavit.

Therefore, Petitioner requests an immediate hearing on this motion and/or an Order for Petitioner's immediate release from detention **without bond** or, alternatively, with a reasonable bond amount of $1,500, as allowed by 8 U.S.C. § 1226(a)(2)(A). This motion does not ask the Court to reweigh the IJ's *discretionary* balancing; it asks the Court to enforce its conditional grant of habeas by requiring the kind of hearing the Court ordered and due process demands.

As set out below, Petitioner's primary request is immediate release (or Court-set bond of $1,500) as the only effective enforcement of the January 27, 2026 Order; in the alternative, he seeks a new bond hearing with a properly allocated burden of proof on the government and a required consideration of ability to pay and alternatives to detention.

In seeking this relief, Petitioner invokes this Court's inherent authority to enforce its own orders and protect the integrity of its judgments, as well as its powers under the All Writs Act, 28 U.S.C. § 1651(a), its contempt authority under 18 U.S.C. § 401, and its authority under Federal Rule of Civil Procedure 70 to ensure specific performance of its January 27, 2026 Order. The legal grounds for this Motion are set forth more fully in the accompanying Brief in Support of Petitioner's Motion to Enforce Judgment and to Show Cause re: Contempt.

II. FACTUAL ALLEGATIONS SUPPORTING ENFORCEMENT

Petitioner is a noncitizen who entered the United States several years ago in November 2023 while seeking asylum in the U.S. and was apprehended at the border upon entry. After a full interview and determination by DHS that he was not a flight risk or danger, he was **released from DHS custody on an Order of Release on Recognizance (OREC) pursuant to 8 U.S.C. § 1226(a) and its implementing regulation, 8 C.F.R. § 236.1(c).** He has been fully compliant with all immigration supervision requirements since his entry until his sudden and unlawful OREC revocation and detention in December 2025 when he went in person for what he thought was a normal check-in with ICE.

As part of the OREC compliance requirements, ICE required him to be enrolled in ISAP and he has fully complied with all conditions imposed by ICE for several years. As part of ISAP, Petitioner initially wore an electronic ankle monitor, submitted photographs and random location check-ins through the ISAP application when required, complied with both in-person and telephonic reporting requirements, and permitted ISAP officers to conduct home visits. At no point did Petitioner violate any condition of supervision. ICE's continued placement of Petitioner in ISAP demonstrates the agency's determination that he was neither a flight risk nor a danger to the community and that the ISAP monitoring was sufficient to ensure he would attend future court

dates and hearings. In October 2024, Petitioner filed an I-589 Application for Asylum and Withholding of Removal, within the 1-year statutory time limit to file for such application. This application has been pending with the immigration court. He lives at a fixed address, has been employed with authorization as a driver for Amazon pursuant to a valid Employment Authorization Document (EAD).

Petitioner has been fully compliant with all immigration supervision requirements, including participation in the Intensive Supervision Appearance Program (ISAP), prior to his sudden and unlawful detention in early December 2025 when he went to check in. In early December 2025, Petitioner received a message on his ISAP app on his phone to come in for a check-in at the ICE office in North Carolina. He thought it was a routing check-in. However, Respondents detained him during that appointment without notice, without any changed circumstances and without an opportunity to be heard. Petitioner was never given a reason for his sudden arrest. He was not shown a warrant. He was detained while voluntarily complying with the very supervision conditions meant to ensure his appearance at future proceedings. At no point was he informed of any alleged violation of his supervision. He was subsequently transferred to the Stewart Detention Center.

Upon filing a habeas petition, this Court, on January 27, 2026, ordered Respondents to provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a). Pursuant to the Court's Order, an IJ conducted a bond hearing on January 30, 2026. However, that hearing was constitutionally defective and failed to comply with this Court's mandate. The hearing was constitutionally defective under 8 U.S.C. § 1226(a) and the regulations at 8 C.F.R. §§ 236.1 & 1236.1 and violated Petitioner's due process rights. The IJ did not provide a fundamentally fair hearing and impermissibly found Petitioner to be a "flight risk" based on a cursory and legally

insufficient rationale, against the evidence of years of compliance with ISAP and denying bond altogether.

III. PETITIONER'S BOND HEARING DID NOT COMPLY WITH THIS COURT'S ORDER

A. The Immigration Judge Did Not Provide Bond Hearing that Comported with § 1226(a)(2) or Due Process.

The immigration court did not provide the requisite bond hearing ordered by this Court. Instead of conducting a § 1226(a)(2) bond determination under 8 C.F.R. §§ 236.1 and 1236.1.

The record shows a straightforward three-step mismatch between what this Court ordered and what the IJ—controlled by the Executive Office of Immigration Review (EOIR), which falls under the Department of Justice, a named party in the habeas action—actually provided. As a result of this constitutionally defective hearing, Petitioner remains detained in violation of this Court's Order.

1. What the Court ordered

The Order ordered "a bond hearing to determine if the Petitioner may be released on bond under § 1226(a)(2) and the applicable regulations. *See* 8 C.F.R. §§ 236.1 & 1236.1." *M.G. v. Warden, Stewart Detention Center, et al.*, No. 4:26-cv-00098-CDL-AGL (M.D. Ga. Jan. 27, 2026). In light of *J.G.* and the authorities discussed above, that meant a bond proceeding before a neutral IJ that: (a) applied the § 1226(a) / 8 C.F.R. §§ 236.1, 1236.1 framework (including the *Matter of Guerra* factors (24 I. & N. Dec. 37, 40 (BIA 2006)); (b) required the Government to justify continued detention with individualized, record-based evidence of flight risk or danger; (c) allowed Petitioner to present testimony and documentary evidence; and (d) set any bond amount only after considering Petitioner's financial circumstances and less restrictive alternatives to detention.

2. What actually happened at the January 30, 2026 hearing

On January 30, 2026, the immigration court convened a proceeding labeled as a § 1226(a) bond hearing pursuant to this Court's Order. Exhibit 2 – Weinstock Declaration and Exhibit 3 - Bond Hearing Transcript. See also Exhibit 4 – Adams Affidavit (he was the attorney who attended the bond hearing in person at the Stewart Immigration Court that morning on behalf of another client, R.R.C.).

Earlier that morning, the detained docket on which Petitioner's case appeared had been assigned to Immigration Judge Fuller. When attorney Adams arrived at the Stewart Immigration Court for another habeas-ordered bond hearing (in the case of R.R.C.), he and his client were informed that Judge Fuller was not present and that Immigration Judge Bianca Brown would preside over the docket. When IJ Brown entered the courtroom, she was informed by the clerk that she would be hearing Judge Fuller's bond docket and appeared surprised and frustrated by the last-minute reassignment. See Exhibit 4, Adams Affidavit. As explained in the Weinstock Declaration, M.G.'s case was on that same bond docket, and his hearing followed after R.R.C.'s. At some point after R.R.C.'s hearing concluded, IJ Brown opened the Webex courtroom for attorneys appearing remotely for other noncitizens.

On January 30, 2026, IJ Bianca H. Brown convened a custody redetermination (bond) hearing in M.G.'s case at the Stewart Immigration Court. The IJ noted that the federal habeas petition had been granted, marked the habeas petition as Exhibit 1, and marked Petitioner's supplemental bond submissions as Exhibit 2. She then asked DHS to state its position on bond. DHS counsel conceded that the immigration court had jurisdiction in light of the federal court's order and requested "no bond," asserting only that government records reflected that M.G. had "recently entered the country in 2023" and asking the court to "hold him to his burden," without submitting any documentary evidence or identifying specific conduct suggesting flight risk or danger.

In response, Petitioner's counsel, Ms. Weinstock, argued that DHS was estopped from claiming flight risk because DHS had itself released M.G. on an Order of Release on Recognizance (OREC) upon entry, after finding merit to his asylum claim; that M.G. had timely filed his asylum application; that he had been living at a fixed address and working with authorization as an Amazon driver; and that he had been enrolled in and fully complying with ISAP reporting requirements for approximately two to three years, until ICE re-detained him at a routine in-person check-in in December 2025 under a new "arriving alien" interpretation later rejected in habeas. She referenced the bond redetermination filing, including W-2s, pay stubs, and other documents showing his employment and compliance history. During counsel's argument, the IJ twice indicated she was having difficulty hearing due to audio problems, briefly allowed counsel to adjust, and then cut off further explanation.

Despite this proffer, IJ Brown took no testimony from M.G., did not solicit any evidentiary proffer from DHS beyond its brief oral request for "no bond," and issued a short oral ruling from the bench. She found that M.G. had not met his burden to show that he is not a "significant flight risk," stated that he had "tenuous ties to the United States" and was a "relatively recent entrant," and characterized his "relief before the court" as "speculative," and on that basis denied bond. When counsel attempted to respond further, the IJ again stated that she could not hear counsel, remarked that she "must move on," unilaterally reserved appeal on M.G.'s behalf, announced an appeal deadline of March 2, 2026, and concluded the hearing, which lasted only a few minutes from start to finish. The brevity of the hearing, the absence of any testimony, and the IJ's failure to address Petitioner's documentary submissions on the record—as reflected in the Weinstock Declaration and the transcript—strongly suggest that IJ Brown did not meaningfully review the evidence presented in Petitioner's case. The Adams Affidavit further corroborates that, earlier that

same morning on the same bond docket, IJ Brown had only just learned she was taking over Judge Fuller's docket, reinforcing concerns about her preparation.

3. Why this proceeding failed to satisfy the ordered standard

The proceeding on January 30, 2026, was not the constitutionally valid bond hearing this Court ordered. Due process in § 1226(a) bond proceedings requires, at a minimum: (1) a neutral, impartial adjudicator who develops a sufficient record; (2) an individualized, evidence-based assessment of flight risk and danger under Matter of Guerra; (3) procedures that place the ultimate burden on the government to justify continued confinement; and (4) consideration of less restrictive alternatives to detention. The bond hearing for Petitioner failed on all four counts.

(a) ***The IJ Was Not a Neutral, Prepared Adjudicator and Failed to Develop the Record***.

DHS requested "no bond" and asked the Court to "hold him to his burden," but offered no documentary evidence and identified no specific conduct suggesting that Petitioner was a flight risk or danger, relying only on a bare assertion that "he recently entered the country in 2023."

The "guarantee of an impartial and disinterested tribunal" is a core requirement of due process. *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980). Here, the circumstances of the hearing call that neutrality and preparedness into serious question. Although the IJ stated that she had received and marked the federal habeas petition as Exhibit 1 and Petitioner's supplemental bond submissions as Exhibit 2, she proceeded to decide custody after only a few minutes on the record, without taking any recess and without asking a single question about the extensive documentary evidence Petitioner had filed. During counsel's argument, the IJ twice stated that she could not hear due to audio problems and then cut off further explanation, stating that she "must move on," before issuing her ruling.

The IJ failed to develop the record, taking no testimony from Petitioner, who was present and prepared to testify, and declining to solicit any sworn testimony or detailed proffer from DHS regarding the basis for its "no bond" position. This cursory process—conducted without live testimony, without meaningful engagement with Petitioner's exhibits, and under conditions where counsel's argument could not be fully heard—was not the fair and impartial hearing that due process requires. The IJ disregarded unrebutted evidence of Petitioner's long-term compliance and community ties and then denied bond. By doing so, the IJ ceased to function as a neutral adjudicator testing the government's justification for detention and instead effectively ensured continued confinement. See Exhibit 2 – Weinstock Declaration; Exhibit 3 – Bond Hearing Transcript. Taken together, these features show that the January 30, 2026 proceeding was not the individualized, evidence-based § 1226(a)(2) bond hearing this Court ordered. It omitted the required Guerra analysis, placed no meaningful burden on the government to justify detention, and ignored Petitioner's years-long compliance with OREC and ISAP supervision.

As a result, Respondents have not complied with the January 27, 2026 Order, and Petitioner remains detained without ever having received the constitutionally adequate bond hearing that this Court's conditional grant of habeas relief requires. Petitioner is not asking for error-correction on a discretionary bond decision, but for enforcement of a specific mandate—consistent with courts' distinction between non-reviewable *discretionary* determinations and reviewable fundamental-fairness, Due Process and enforcement questions. *Morgan v. Oddo*, No. 3:24-CV-221, 2025 WL 2653707, at *4 (W.D. Pa. Sept. 16, 2025) ("[E]ven in the wake of Section 1226(e), and on a motion to enforce a grant of habeas relief, federal courts retain the authority to review whether a resulting immigration bond hearing is fundamentally unfair.");

De Souza v. Soto, No. CV 25-18734 (JXN), 2026 WL 102946, at *3 (D.N.J. Jan. 14, 2026) ("This Court lacks jurisdiction to review any discretionary determinations underlying the immigration judge's bond decision, but it can review whether the bond hearing was fundamentally unfair in violation of this Court's order.") citing *Ghanem v. Warden Essex Cnty. Corr. Facility*, No. 21-1908, 2022 WL 574624, at *2 (3d Cir. Feb. 25, 2022).[1]

(b) ***The IJ Failed to Conduct an Individualized, Guerra-Based Risk Analysis.*** Bond determinations under § 1226(a) require an individualized assessment of specific factors, including family ties, length of residence, compliance history, and avenues for relief. *See Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006). The IJ ignored this mandate. Petitioner presented overwhelming, unrebutted evidence of his low flight risk: he entered the United States through a port of entry, was released on an Order of Release on Recognizance (OREC) after passing a credible fear screening, timely filed his asylum application, has been living at a fixed address, has been working with authorization as a driver for Amazon, and has approximately three years of perfect compliance with OREC and ISAP reporting requirements, including appearing for every scheduled check-in until ICE re-detained him at an in-person check-in in December 2025.

The IJ disregarded this evidence. Instead, she denied bond based on a single, legally insufficient rationale: that Petitioner had "tenuous ties," was a "relatively recent entrant," and that his "relief before the Court is speculative." This is not an individualized analysis; it is a categorical, pretextual rule that improperly dismisses a valid form of relief and substitutes a premature merits prediction for a genuine bond assessment focused on actual risk of flight. An IJ's findings must be based on "reasonable inferences from direct and circumstantial evidence of the record as a whole,"

[1] The *Ghanem* court explained that in a fundamentally fair bond hearing, due process has three essential elements. The noncitizen "(1) is entitled to factfinding based on a record produced before the decisionmaker and disclosed to him or her; (2) must be allowed to make arguments on his or her own behalf; and (3) has the right to an individualized determination of his [or her] interests." 2022 WL 574624, at *2.

not on "rank speculation and conjecture." See *Matter of D-R-*, 25 I. & N. Dec. 445, 454 (BIA 2011). By converting Petitioner's pending asylum application and recent entry into automatic grounds for detention, without weighing his concrete compliance and equities, the IJ violated the core tenets of *Guerra* and rendered the hearing an empty formality.

(c) ***The IJ Improperly Relieved the Government of its Burden of Proof.*** The Due Process Clause requires the government to justify continued civil detention, typically by clear and convincing evidence of flight risk or dangerousness. *See J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1341 (M.D. Ga. 2020); *Velasco Lopez v. Decker*, 978 F.3d 842, 855–57 (2d Cir. 2020); *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 213–14 (3d Cir. 2020). Here, the government utterly failed to meet that burden. DHS submitted no documentary evidence at all and its entire opposition consisted of a brief oral request for "no bond," coupled with the assertion that Petitioner "recently entered the country in 2023" and the request that the Court "hold him to his burden." DHS identified no specific facts suggesting that Petitioner was likely to abscond, and it did not dispute his history of compliance with supervision.

Rather than hold the government to any evidentiary showing, the IJ adopted DHS's bare request, explicitly framed the inquiry in terms of Petitioner's failure to meet "his burden," and denied bond based solely on generalized characterizations of "tenuous ties," recent entry, and "speculative" relief. In doing so, she effectively shifted the entire risk of error to Petitioner, requiring him to disprove flight risk despite the government's failure to produce evidence, and supplied the rationale for continued detention that DHS had not substantiated. This role reversal—where the IJ relieves DHS of any meaningful burden and denies bond on a perfunctory record—is the antithesis of a fair hearing and squarely at odds with the burden-of-proof framework this Court and others have mandated in habeas-ordered § 1226(a) bond proceedings.

(d) ***The IJ Failed to Consider Any Alternatives to Detention***. Due process requires consideration of less restrictive alternatives before ordering detention. *See Hernandez v. Sessions*, 872 F.3d 976, 991–92 (9th Cir. 2017). This principle applies with special force where, as here, Petitioner has a proven track record of complying with such alternatives. Before his re-detention, ICE had already determined that community supervision was appropriate by releasing him on OREC and later supervising him through ISAP, and Petitioner complied with those conditions for approximately three years, including appearing for the December 2025 check-in at which he was arrested. The IJ nonetheless denied bond outright without any on-the-record consideration of whether a reasonable bond amount or non-monetary conditions—such as continued ISAP supervision—could ensure his appearance. She did not inquire into his financial circumstances, did not discuss any potential conditions of release, and did not explain why no combination of bond and supervision could mitigate any perceived risk. The decision to deny bond entirely, in the face of an unbroken history of successful community supervision, without articulating any reason why those same tools would now be inadequate, renders the detention order arbitrary and punitive rather than a legitimate regulatory measure tied to the statute's limited purposes.

B. Petitioner's Bond Hearing Was Constitutionally Defective

As explained above, and as explained in further detail in Petitioner's Brief in Support, due process was not afforded to Petitioner in the bond hearing.

1. Bond Consideration Under 8 U.S.C. § 1226(a)

Under § 1226(a) and its implementing regulations, detention is discretionary; an IJ may release a noncitizen on bond during this period pending resolution of removal proceedings. *J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 3d at 1334. Importantly, the statute at § 1226(a) authorizing detention has two regulatory goals: "ensuring the appearance of aliens at future

immigration proceedings" and "[p]reventing danger to the community." *Zadvydas*, 533 U.S. at 690.[2] As interpreted by the BIA, "[s]ection 1226 provides for the release on bond for all persons—except [for certain situations not applicable here]—unless there is a finding that the alien is either a threat to the public safety, a threat to national security, or is likely to abscond." *Jimenez v. Decker*, 2021 WL 826752, at *5 (S.D.N.Y. Mar. 3, 2021) (citing *Matter of Patel*, 15 I. & N. Dec. 666 (B.I.A. 1976)).

In determining whether an alien poses a flight risk, an IJ may consider (1) whether the alien has a fixed address in the United States; (2) the alien's length of residence in the United States; (3) the alien's family ties in the United States, and whether they may entitle the alien to reside permanently in the United States in the future; and (4) the alien's manner of entry into the United States. *Matter of Guerra*, 24 I. & N. Dec. at 40. Importantly, the "evidence must be individualized and support a finding that continued detention is needed to prevent him from fleeing or harming the community." *German Santos v. Warden Pike Cnty. Corr. Fac.*, 965 F.3d 203, 214 (3d Cir. 2020). An IJ's findings may be "based on reasonable inferences from direct and circumstantial evidence of the record as a whole," but not on "rank speculation and conjecture". *See Matter of D-R-*, 25 I. & N. Dec. 445, 454 (BIA 2011) (citation omitted), remanded on other grounds by *Radojkovic v. Holder*, 599 F. App'x 646 (9th Cir. 2015); *see also Coalition For Humane Immigrant Rights v. Noem*, No. 25-CV-872 (JMC), 2025 WL 2192986, at *3 (D.D.C. Aug. 1, 2025) (an IJ must be a licensed attorney and "has a duty to develop the record").

[2] The Supreme Court has explained that by definition, the first justification—preventing flight—is weak or nonexistent where removal seems a remote possibility at best. *Zadvydas*, 533 U.S. at 690. As to the second, the Supreme Court stated that preventive detention based on dangerousness should be limited to especially dangerous individuals and subject to strong procedural protections. *Id*. at 691-92 (also noting "the alien's removable status itself, bears no relation to a detainee's dangerousness.").

2. Petitioner demonstrated he is not a flight risk or danger to society

"In a fundamentally fair bond hearing, due process has three essential elements. An alien: (1) is entitled to factfinding based on a record produced before the decisionmaker and disclosed to him or her; (2) must be allowed to make arguments on his or her own behalf; and (3) has the right to an individualized determination of his [or her] interests." *Ghanem*, 2022 WL 574624, at *2.

In advance of his bond hearing, Petitioner submitted substantial evidence of his strong ties to the community and proof that he is not a flight risk and has no criminal history. Specifically, Petitioner submitted evidence that, after entering through a port of entry, DHS released him on an Order of Release on Recognizance (OREC) based on the merits of his asylum claim; that he timely filed his asylum application; that he has been living at a fixed address; that he has been working with authorization as a driver for Amazon; and that he has been fully complying for approximately three years with OREC and ISAP reporting requirements, including appearing for the very in-person check-in in December 2025 at which ICE re-detained him. He supported these facts with a bond redetermination filing that included, among other things, W-2s, pay stubs, and proof of residence.

3. DHS claimed flight risk and offered no evidence into the record.

DHS did not submit any documentary evidence in advance of the hearing or during the hearing. At the hearing, DHS counsel conceded that the immigration court had jurisdiction in light of the federal habeas order, then simply requested "no bond," asserting only that government records showed Petitioner had "recently entered the country in 2023" and asking the Court to "hold him to his burden." DHS identified no specific conduct suggesting that Petitioner was likely to abscond or that he posed any danger, and it did not dispute his history of compliance with

supervision. In other words, DHS claimed flight risk but offered no evidence into the record to substantiate that claim. *See* Exs. 2-3.

4. The IJ failed to serve as a neutral arbiter at the bond hearing.

"[A]n immigration judge has a responsibility to function as a neutral, impartial arbiter and must be careful to refrain from assuming the role of advocate for either party." *Islam v. Gonzales*, 469 F.3d 53, 55 (2d Cir. 2006); *Kamara v. Garland*, No. 24-CV-743-LJV, 2025 WL 1651063, at *2 (W.D.N.Y. June 11, 2025). IJ Brown failed to uphold this responsibility here.

The record shows that IJ Brown did not function as a neutral, prepared adjudicator but instead aligned herself with DHS's position and failed to develop an adequate record. At the outset of the hearing, she marked the federal habeas petition as Exhibit 1 and Petitioner's bond submissions as Exhibit 2, but then proceeded to resolve custody after only a few minutes on the record, without taking any recess and without asking a single question about Petitioner's extensive documentary evidence. Based on the Weinstock Declaration (Exh. 2), it is clear that the IJ did not meaningfully review or engage with the bond documents (the Adams Affidavit confirms that IJ Brown had just learned a few minutes prior that she was taking over IJ Fuller's bond docket for that morning). During counsel's argument, the IJ twice stated that she could not hear because of audio problems and ultimately cut off further explanation, stating that she "must move on," before issuing her ruling. She took no testimony from Petitioner himself, who was present and prepared to testify, and did not solicit any sworn testimony or detailed proffer from DHS beyond its bare oral request for "no bond."

As Weinstock attests, the IJ "did not address or meaningfully engage" with the unrebutted evidence that Petitioner had been released on OREC upon entry after DHS found merit in his asylum claim, had timely filed his asylum application, had maintained a fixed address, had been

working with authorization as an Amazon driver, and had an approximately three-year record of perfect compliance with OREC and ISAP reporting, including appearing for the December 2025 check-in at which he was arrested. The unofficial hearing transcript corroborates that the IJ took no testimony, limited the proceeding to a brief colloquy with counsel, and then summarily concluded that Petitioner "has not met his burden to show that he is not a significant flight risk," characterizing him as having "tenuous ties" and being a "relatively recent entrant," and stating that his "relief before the court is speculative," before denying bond.

Taken together, these features—the IJ's refusal to take testimony, her failure to recess or meaningfully review Petitioner's bond record, her disregard of undisputed evidence of long-term compliance and community ties, and her crediting of DHS's unsupported "no bond" request—show that she did not function as a neutral, impartial arbiter at Petitioner's bond hearing. Instead of testing whether DHS could justify continued detention on an adequate evidentiary record, she effectively assumed the role of advocate for detention, filling in gaps in the government's proof and denying bond on a perfunctory, categorical rationale that bore little relation to the actual record.

5. The IJ's Bond Decision Lacks Neutrality, Ignores Petitioner's Evidence and Equities, Gives Unwarranted Weight DHS Allegations Without Evidence.

The IJ's subsequent written bond memorandum further demonstrates the constitutionally defective hearing and decision. The IJ's decision (Ex. 1) states, in substance, that "respondent has not met his burden to show that he is not a significant flight risk," and characterizes his "relief before the Court" as "speculative."

First, the IJ's conclusion that Petitioner's asylum relief is "speculative" is not supported by the record. DHS itself previously determined that his asylum claim had sufficient merit to warrant his release on an Order of Release on Recognizance when he entered at a port of entry,

and he timely filed his asylum application thereafter. While the BIA has recognized that the likelihood of relief may be one relevant consideration, *see Matter of Andrade*, 19 I. & N. Dec. 488, 490 (BIA 1987) (stating that the likelihood of being granted relief from removal may indicate a stronger motivation to appear for a removal hearing), it has never treated that factor as dispositive of flight risk, and it has remanded where IJs failed to consider "all relevant factors" and whether some bond amount would suffice to secure appearance. *See In re Lildio Castro-Hernandez*, No. AXXX XX8 396 – POM, 2009 WL 2437195, at *1–2 (DCBABR July 31, 2009); cf. *In re Gilberto Gaspar-Gerbacio*, No. AXXX XX8 175 – BAT, 2010 WL 5559174, at *2 (DCBABR Dec. 20, 2010).

Notably, because removal proceedings are separate and distinct from bond proceedings, an individual's removability or possible avenues for relief is not directly applicable or particularly informative as to whether the person is a flight risk. This separation is reflected in 8 C.F.R. § 1003.19(d), which requires that custody and bond determinations be "separate and apart from, and [] form no part of, any deportation or removal hearing or proceeding," underscoring that speculative merits predictions cannot substitute for an individualized bond assessment focused on flight risk and danger.

Moreover, Petitioner's removal proceedings have only just begun. Petitioner has not yet had an individual merits hearing or the opportunity to present applications for relief. The IJ's conclusion that Petitioner lacks any good-faith basis to contest removability or any significant prospect of relief is therefore speculative and premature, and it cannot substitute for the required individualized evaluation of actual risk of flight. *See also Zadvydas*, 533 U.S. at 690 (detention to "prevent[] flight [] is weak or nonexistent where removal seems a remote possibility at best").

Furthermore, not only is the IJ's conclusion speculative, but it is also contradicted by the record where Petitioner fully complied with every ISAP condition and every check-in with DHS while on his OREC for the past several years, including appearing voluntarily at the very appointment where ICE arrested him. *See Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 687 (W.D. Tex. 2025) ("But the decision to release [petitioner] on his own recognizance three years ago, in and of itself, 'reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk.'" (citation omitted)).

Second, the IJ discounted Petitioner's extensive evidence of community ties, residence, stable address, and steady employment. Those factors lie at the core of the flight-risk inquiry under *Matter of Guerra*, a binding BIA precedent on the IJ, yet the written decision does not even consider them. The decision does not explain why these substantial equities, together with Petitioner's perfect record of appearances, do not demonstrate that he is likely to appear as required. All noncitizens in removal proceedings are subject to the same inherent risks.

Third and most egregious, the IJ completely ignored 3 years of OREC and ISAP compliance and decided to deny bond based on no evidence from DHS as to "flight risk."

The IJ offered no real or proper justification to deny bond, failed to explain why a lower amount or ISAP compliance would not alleviate any flight-risk concern, and failed to consider or make any findings regarding Petitioner's actual individual circumstances. Petitioner highlights that the statute allows for release on bond beginning at only $1,500. 8 U.S.C. § 1226(a)(2)(A), and nothing in the record suggests that such a lower amount, combined with conditions of supervision if needed, would be inadequate to ensure Petitioner's appearance. Historically, IJs have set bond, if any, between $1,500 and $10,000. Congress and the agencies anchored non-criminal bonds at a $1,500 statutory minimum. 8 U.S.C. § 1226(a)(2)(A) and (B) (the Attorney General "may release

the alien on— bond of at least $1,500 []. . . or conditional parole"). BIA decisions over time include multiple examples of IJs and the BIA setting or approving bonds in the $1,000–$7,500 range as sufficient for appearance. *See, e.g.*, recent bond determinations (first two cases are undersigned counsel's, and these bond amounts were set for noncitizens who do not have Petitioner's 3-year OREC compliance history): *B.D.V.S. v. Forestal*, No. 1:25-cv-01968-SEB-TAB, 2025 WL 2855743 (S.D. Ind. Oct. 8, 2025) ($1,500 bond issued for a non-criminal with pending asylum petition); *Campos Leon v. Forestal*, No. 1:25-cv-01774-SEB-MJD, 2025 WL 2694763 (S.D. Ind. Sept. 22, 2025) ($7,500 bond issued for non-criminal with pending EOIR-42B application); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924, at *7 (D. Mass. Sept. 9, 2025) ($3,500 bond determined); *Garcia Picazo v. Sheehan*, No. 5:25-cv-4057-LTS-MAR (N.D. Iowa Sept. 19, 2025) ($6,000 bond determined). When bonds are granted even in more serious cases, IJs still often operate within that low to mid-thousands band, reserving higher or "no bond" findings for exceptional flight-risk or danger cases. Given that Petitioner has a perfect record of compliance with his OREC since 2023, and significant community ties, the IJ should have authorized either no bond, or a minimal bond in the amount of $1,500.

Because of this, Petitioner remains in detention. Such punitive action further violates Petitioner's due process rights and does not serve the only two permissible purposes of civil immigration detention. *See Zadvydas*, 533 U.S. at 690 (immigration proceedings "are civil, not criminal, and we assume that they are nonpunitive in purpose and effect"; rather, the statute has only two regulatory goals: "ensuring the appearance of aliens at future immigration proceedings" and "[p]reventing danger to the community").

Taken together, these errors show that the IJ did not conduct the individualized, evidence-based bond assessment that § 1226(a), the governing regulations, and due process

require. Instead, the IJ relied on a generalized presumption of "inherent" flight risk from the mere fact of pending removal proceedings, disregarded unrebutted evidence of long-term compliance and deep community ties, speculated about future eligibility for relief, denied bond without analyzing Petitioner's ability to pay or considering less restrictive alternatives.

C. The IJ's Conduct Violated Petitioner's Due Process

The IJ decision's shortcomings are particularly incompatible with the now-settled due process principle that, at a § 1226(a) (or analogous) bond hearing, the government—not the detainee—must justify continued civil detention, typically by clear and convincing evidence, through individualized proof of flight risk or dangerousness. *See Velasco Lopez v. Decker*, 978 F.3d 842, 855–57 (2d Cir. 2020); *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 213–14 (3d Cir. 2020); *Mbalivoto v. Holt*, 527 F. Supp. 3d 838, 852–53 (E.D. Va. 2020); *Oscar M-S. v. Garland*, 21-cv-1341 (WMW/KMM), 2021 WL 6063232, at *4–6 (D. Minn. Dec. 20, 2021); *Ranchinskiy*, 422 F. Supp. 3d at 800; *Banegas*, 2021 WL 1997033, at *8–10.

The reasoning in those cases stemmed from the fact that the liberty interest at stake—freedom from physical incarceration—is so fundamental; a detained noncitizen faces serious practical obstacles to gathering evidence while incarcerated; and that the government, by contrast, has substantial resources available and ready access to the very information bearing on flight risk and danger. *See id.; J.G. v. Warden,* 501 F. Supp. 3d at 1337–39; *see also Soto-Medina v. Lynch*, No. 1:25-CV-1704, 2026 WL 161002, at *10-11 (W.D. Mich. Jan. 21, 2026) (holding that the government must show by clear and convincing evidence that petitioner is a flight risk or danger to the community and noting that ICE is required by federal law to keep detailed statistics regarding detainees, including comprehensive information about their criminal history and attendance in immigration proceedings). Further, it is very hard for a noncitizen to prove a negative rather than

making the government justify detention by presenting evidence of danger to society or likelihood of absconding, especially where the only purpose of immigration detention is to effectuate removal if and after the noncitizen is ordered removed.

In addition, due process requires that, once release on bond is deemed appropriate, the bond amount be set only after consideration of the individual's financial circumstances and less restrictive alternatives to detention. Courts have repeatedly recognized that a bond determination process that disregards a detainee's financial circumstances and available alternative conditions of release is unlikely to produce an amount reasonably related to the government's legitimate interests in ensuring appearance and protecting the community, and instead risks accomplishing little more than detaining people because of their poverty. *See Hernandez v. Sessions*, 872 F.3d 976, 991–92 (9th Cir. 2017); *Ranchinskiy v. Barr*, 422 F. Supp. 3d 789, 800 (W.D.N.Y. 2019); *Banegas v. Decker*, 21-CV-2359 (VEC), 2021 WL 1997033, at *10 (S.D.N.Y. May 7, 2021); *Diaz v. Genalo*, 22-CV-3063 (VSB) (BCM), 2023 WL 3818464, at *7 (S.D.N.Y. July 6, 2023).

In *Abdi v. Nielsen*, the court held that an IJ "must consider the detainee's ability to pay, as well as alternative conditions of release, in setting the amount of bond," because a bond set beyond a person's means is "for all practical purposes, a denial of bond" and raises serious due process concerns. 287 F. Supp. 3d 327, 334–42 (W.D.N.Y. 2018). The Ninth Circuit likewise affirmed a class-wide injunction requiring IJs to consider detainees' financial circumstances and non-monetary alternatives, emphasizing that "no person may be imprisoned merely on account of his poverty." *Hernandez v. Sessions*, 872 F.3d 976, 990–96 (9th Cir. 2017). And applying *Mathews* in the asylum seeker context, a court held that detained noncitizens are entitled to bond hearings at which the decisionmaker considers ability to pay and alternatives to detention, because detention is permissible only when it actually serves the government's interests in

ensuring appearance and protecting the community. *Padilla v. U.S. Immigr. & Customs Enf't*, 387 F. Supp. 3d 1219, 1235–38 (W.D. Wash. 2019).

Abdi further explained that, once an IJ determines that release is appropriate, the bond amount must be "appropriate" and "necessary" to ensure the person's appearance, so that setting bond at a level plainly outside the individual's reach—without considering ability to pay and alternative conditions—"amounts, for all practical purposes, to a denial of bond" unmoored from the government's legitimate interests in preventing flight or danger. That requirement is especially salient where Congress has authorized release on bond in amounts beginning at $1,500 for individuals detained under § 1226(a)(2)(A).

In sum, the aggregate of the IJ's errors demonstrates that Petitioner was not afforded a constitutionally valid bond hearing. He did not receive a full and fair hearing, and the bond denial decision violates his due process right to freedom. Again, the Supreme Court has repeatedly affirmed that "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). For this reason, "civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 425 (1979).

D. EOIR's Institutional Bias Prevents Petitioner from Receiving a Constitutionally Valid Bond Hearing.

These case-specific defects align point-for-point with the systemic problems documented in the Weinstock Declaration (Ex. 2), Adams Affidavit (Ex. 4), a former IJ (Exh. 5) and other attorneys (Exh. 6-13): IJs discouraged from providing robust due process, pressured to prioritize DHS enforcement positions, and instructed—explicitly or implicitly—to resist adverse federal-court rulings that constrain detention authority. Far from being an isolated misstep, IJ

Brown's conduct is a concrete manifestation of those broader institutional failures, underscoring why a remand to EOIR for yet another bond hearing would be an illusory remedy.

As the Weinstock Declaration and hearing transcript details, IJ Brown's foregoing of live testimony, her willingness to entertain DHS allegations that were unsupported by the record yet ignore Petitioner's evidence in the record and her final decision to deny bond are not aberrations; they reproduce the very institutional pressures, expectations, and practices the Declaration documents nationwide. In light of that record, a remand for yet another EOIR bond hearing would not meaningfully reduce the risk of the same structural defects recurring; it would simply send Petitioner back into the same compromised system this Court is now being asked to enforce against. Rather, it confirms the necessity of this Court's exercise of its habeas enforcement authority, including its inherent power, the All Writs Act, 28 U.S.C. § 1651(a), its contempt authority under 18 U.S.C. § 401, and Rule 70, to ensure that its January 27, 2026 Order is given effect and that Petitioner's liberty is not conditioned on proceedings before a structurally compromised tribunal.

Further, as outlined in Petitioner's accompanying Brief in Support of this Motion, EOIR has recently taken actions that demonstrate an institutional willingness to disregard federal court rulings that protect noncitizens' bond-hearing rights. As detailed in the Declaration of Weinstock Ex. 2, as well as a Declaration from a retired IJ (Exhibit 5) and several other Attorney Declarations (Exhibits 6-13), these institutional developments are not abstract; they manifest in day-to-day custody adjudications, including Petitioner's own January 30, 2026 bond hearing, where the IJ mirrored the very patterns of deference to enforcement priorities and disregard of federal-court mandates that the Declaration documents. These actions prove that EOIR and the IJs within it are no longer neutral arbiters. Rather, they collaborate and cooperate with DHS and its enforcement

objectives. As a result of this shift, district court judges have been changing their ordered relief from previously granting a § 1226(a) bond hearing to immediate release. *See*, *e.g*., Judge George C. Hanks, Jr.'s decision in *Avilez Aguinaga v. Warden, Joe Corley Processing Center, et. al.,* No. 4:26-0137, (S.D. Tex., Feb 2, 2026).

IV. RELIEF SOUGHT AND ENFORCEMENT REQUEST

A. This Court Should Issue an Order to Show Cause and Schedule an Immediate Hearing

The Court should issue an order to show cause, as Petitioner can demonstrate by clear and convincing evidence that the January 27, 2026 Order was clear and unambiguous, that Respondents failed to comply with its straightforward mandate, and that they have not taken all reasonable steps within their power to do so.

To succeed on an inability defense, the alleged contemnor must demonstrate that they have made in good faith all reasonable efforts to meet the terms of the court order. It is impossible to conclude that an experienced IJ with many years of experience as an IJ did not understand how to conduct the constitutionally adequate § 1226(a)(2) bond hearing this Court ordered. Furthermore, counsel for DHS, Assistant Chief Counsel Campbell, should likewise be required to show cause why he should not be held in civil contempt, because he persisted in objecting to bond despite having DHS record of compliance for Petitioner. Despite advancing no evidence that Petitioner was a flight risk, he perpetrated and participated in a proceeding that plainly failed to provide the individualized § 1226(a) bond determination, with proper allocation of the burden and consideration of alternatives to detention, that the Order requires. Thereafter, an immediate Show Cause hearing should be scheduled.

B. This Court Should Order Petitioner's Immediate Release from Detention

Respondents' constitutionally defective bond hearing constitutes a flagrant violation of this Court's January 27, 2026 Order. Where the government fails to comply with a conditional grant of habeas relief, federal courts have not hesitated to employ the full range of enforcement tools—ordering the petitioner's immediate release, directing specific-performance–style relief under Rule 70, and imposing civil contempt sanctions as necessary to secure compliance with their prior judgments. *See, e.g.*, *Solis v. Koresko*, Civ. No. 09-988, 2016 WL 4547167, at *6–8 (E.D. Pa. Aug. 31, 2016) (discussing inherent enforcement power, civil contempt, and the All Writs Act as mechanisms to compel obedience to a prior injunction). Other courts likewise recognize that a district court retains continuing jurisdiction to address noncompliance with habeas writs and to ensure that the relief it ordered is actually provided. *See Sanchez v. Sabol*, No. 1:15-CV-2423, at *5–7 (M.D. Pa. Dec. 23, 2016). *See also Calderon-Rodriguez v. Wilcox*, 374 F. Supp. 3d 1024, 1035 (W.D. Wash. 2019) (rejecting "the Government's position [ ] that the court's only job is to ensure that the immigration courts recite the correct legal standard").

In *Y.S.G. v. Andrews*, No. 2:25-cv-1884-SCR, 2025 WL 2979309 (E.D. Cal., Oct. 22, 2025) the court grappled with a similar issue. A noncitizen filed and was granted a writ of habeas and a subsequent bond redetermination hearing was ordered. Unfortunately, the IJ's decision was deficient and the court ordered immediate release. Ordering a new bond hearing before EOIR is not a sufficient remedy in light of the patently deficient first hearing and the institutional pressures described above that systematically skew adjudications in DHS's favor. Furthermore, in Petitioner's case, the Court has a transcript of the hearing and DHS presented no documentary evidence or specific adverse factors beyond his alleged 'recent entry' in 2023. The Weinstock Declaration and attached exhibits supply detailed, unrebutted evidence that the structural changes

within EOIR—personnel purges, enforcement-oriented recruitment, and policy directives discouraging "outlier" adjudications—have already shaped how IJs handle cases like Petitioner's, including IJ Brown's conduct at the January 30, 2026 hearing, making it unreasonable to expect that a second EOIR bond hearing would cure the very systemic defects this Court has now seen firsthand.

In these circumstances, this Court's habeas enforcement authority—including its inherent power, the All Writs Act, 28 U.S.C. § 1651(a), its contempt power under 18 U.S.C. § 401, and its authority under Rule 70—fully supports ordering Petitioner's immediate release or, at a minimum, setting a constitutionally reasonable bond amount itself rather than remanding him to another unreliable administrative proceeding. It is also not a sufficient remedy in light of the plethora of evidence of bias generally by EOIR that prevents Petitioner from receiving a fair hearing before a neutral arbiter.

C. Alternatively, A Bond Hearing Where the Government Bears the Burden and the IJ Must Consider Ability to Pay

If the Court is not inclined to grant either of those requests for relief, at a minimum, this Court should Order Respondents to provide Petitioner with a new—constitutionally valid—bond hearing at which the government bears the burden of proof by clear and convincing evidence to show Petitioner is a flight risk and where the IJ must consider Petitioner's individual circumstances and ability to pay the bond as well as alternatives to detention that would also guarantee his appearance at his removal proceedings.

1. Due Process Requires Government Carry the Burden of Proof

The weight of authority of federal courts holds that when ordering a bond hearing under § 1226(a) as a habeas remedy, the burden of proof should be on the government to prove by clear and convincing evidence that the detainee poses a danger or flight risk. *See*, e.g., *Trejo v. Warden*

of ERO El Paso E. Montana, No. EP-25-CV-401-KC, 2025 WL 2992187, at *10 (W.D. Tex. Oct. 24, 2025). This Court already decided that the government must bear the burden of proof to justify a noncitizen's detention pending removal proceedings. *J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. at 1335. In doing so, it joined several Circuit courts and an overwhelming majority of district courts that have held the same.[3] "Allocating the burden in this manner reflects the concern that '[b]ecause the alien's potential loss of liberty is so severe ... he should not have to share the risk of error equally.'" *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d at 688 (quoting *German Santos*, 965 F.3d at 214). As the Second Circuit has explained, due process calls for the burden-shifting in a bond hearing because "the Government had substantial resources to deploy" and "to the extent the Government did not have the necessary information at its fingertips, it had broad regulatory authority to obtain it." *Velasco Lopez*, 978 F.3d at 853. Conversely, for a petitioner to prove the

[3] *See e.g.*, *Velasco Lopez v. Decker*, 978 F.3d 842, 853 (2d Cir. 2020); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 39 (1st Cir. 2021); *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 214 (3d Cir. 2020); *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 688 (W.D. Tex. 2025) (As of 2020, the "vast majority" of courts granting immigration detainees' habeas petitions have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk.); *Dubon Miranda v. Barr*, 463 F. Supp. 3d 632, 646–47 (D. Md. 2020); *Chavero v. Bondi*, No. EP-25-CV-00638-DB, 2025 WL 3679768, at *5 (W.D. Tex. Dec. 18, 2025); *Acosta Dominguez v. Noem*, No. EP-25-CV-00741-DB, 2026 WL 67200, at *4 (W.D. Tex. Jan. 8, 2026); *Velasquez Salazar v. Dedos*, No. 25-CV-835, 2025 WL 2676729, at *1, *9 (D.N.M. Sept. 17, 2025); *Morgan v. Oddo*, No. 24-CV-221, 2025 WL 2653707, at *1 (W.D. Pa. Sept. 16, 2025); *J.M.P. v. Arteta*, No. 25-CV-4987, 2025 WL 2614688, at *1 (S.D.N.Y. Sept. 10, 2025); *Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025 WL 2581185, at *1, *14 (E.D. Cal. Sept. 5, 2025); *Arostegui-Maldonado v. Baltazar*, 2025 WL 2280357, at *1, *12 (D. Colo. Aug. 8, 2025); *Cruz-Zavala v. Barr*, 445 F. Supp. 3d 571, 576 (N.D. Cal. 2020) ("[A]t a § 1226(a) bond hearing, the government must prove by clear and convincing evidence that an alien is a flight risk or a danger to the community to justify denial of bond.") (internal quotation omitted); *Vargas v. Wolf*, No. 2:19-cv-02135-KJD-DJA, 2020 WL 1929842, at *7 (D. Nev. Apr. 21, 2020) ("In sum, the Fifth Amendment's Due Process Clause requires the government to prove a detainee's flight risk or dangerousness, by clear and convincing evidence, to justify continued detention."); *Diaz-Ceja v. McAleenan*, No. 19-cv-00824-NYW, 2019 WL 2774211, at *7 (D. Colo. July 2, 2019) ("Requiring a non-criminal alien to prove that he is not dangerous and not a flight risk at a bond hearing violates the Due Process Clause. The clear weight of authority from courts to have considered the question after the Jennings Court's deferral and remand of the constitutional question have come to the same conclusion.") (internal citation omitted); *Al-Sadeai v. USCIS*, 540 F. Supp. 3d 983, 991 (S.D. Cal. 2021) ("[N]oncitizens still face such a significant possible deprivation of liberty at the time of their initial bond hearing under Section 1226(a) that the Due Process Clause requires the burden of proof to justify detention to be placed on the Government ...."); *Darko v. Sessions*, 342 F. Supp. 3d 429, 435 (S.D.N.Y. 2018); *M. D. v. Garland*, No. 21-CV-1343 (NEB/TNL), 2021 WL 7161831, at *10 (D. Minn. Dec. 29, 2021), report and recommendation adopted, No. 21-CV-1343 (NEB/TNL), 2022 WL 542426 (D. Minn. Feb. 23, 2022) ("[D]ue process requires the Government prove by clear and convincing evidence that his detention is necessary to justify his confinement under Section 1226(a).").

negative as to risk of flight (or danger) can be difficult. *See Elkins v. United States*, 364 U.S. 206, 218 (1960) ("[A]s a practical matter it is never easy to prove a negative."). The Second Circuit further concluded that requiring the government to prove that the noncitizen was a danger to the community or a flight risk *by clear and convincing evidence* to justify his continued detention "strikes a fair balance between the rights of the individual and the legitimate concerns of the state." *Velasco Lopez*, 978 F. 3d at 857 (quoting *Addington v. Texas*, 441 U.S. 418, 431 (1979)).

In *J.G. v. Warden,* this Court applied the *Mathews v. Eldridge* balancing test and emphasized three features of § 1226(a) bond proceedings: (1) the liberty interest at stake—freedom from physical incarceration—is fundamental; (2) a detained noncitizen faces serious practical obstacles to gathering evidence, contacting witnesses, and obtaining records while incarcerated; and (3) the government, by contrast, "has substantial resources available" and ready access to the very information bearing on flight risk and danger. 501 F. Supp. 3d at 1337–39. The court concluded that placing the burden on the detainee in this setting creates a high risk of erroneous deprivation and that due process therefore requires the ***government***—not the noncitizen—to justify continued detention at a § 1226(a) bond hearing. *Id*. at 1341.

Other courts addressing immigration detention have explained why the government must meet a clear and convincing standard, rather than a mere preponderance, when it seeks to continue depriving a person of physical liberty. The First Circuit, applying *Mathews,* affirmed that the Due Process clause of the Fifth Amendment entitled the petitioner—a noncitizen detained under § 1226(a)— to a bond hearing at which the government must bear the burden of proving danger or flight risk by clear and convincing evidence. *Hernandez-Lara*, 10 F.4th at 46; *Brito v. Garland*, 22 F.4th 240, 244 (1st Cir. 2021) (affirming on a class-wide basis that noncitizens "detained pursuant to 8 U.S.C. § 1226(a) are entitled to receive a bond hearing at which the Government

must prove the alien is either dangerous by clear and convincing evidence or a risk of flight by a preponderance of the evidence."). Related, the Third Circuit, applying *Mathews* in the § 1226(c) context, held that because "the alien's potential loss of liberty is so severe, he should not have to share the risk of error equally" with the government, and required the government to justify continued detention once it has become unreasonably prolonged, "by clear and convincing evidence." *German Santos*, 965 F.3d at 213–14 (citing *Zadvydas* and *Addington*). District courts applying the same reasoning in pre-removal detention cases have likewise required the government to prove flight risk or dangerousness by clear and convincing evidence at bond hearings ordered to remedy unlawful or unreasonable detention. *See, e.g.*, *Sanchez v. Sabol,* No. 1:15-CV-2423, at *7–9 (M.D. Pa. Dec. 23, 2016).

Although *J.G.* arose after detention had already become prolonged, the court's *Mathews* analysis does not turn on a formal time threshold; it turns on the nature of the interest (freedom from physical confinement) and the structural risk of error when an incarcerated noncitizen is tasked with disproving flight risk or danger despite severe informational and logistical constraints, while the government has superior access to the relevant evidence. 501 F. Supp. 3d at 1337–39. Those same features are present here. Petitioner is incarcerated; DHS offered no evidence of flight risk at the court-ordered bond hearing; and the IJ again placed the entire risk of error on Petitioner. There is no principled basis to dilute the standard now that this Court is enforcing its own habeas judgment. To make the January 27, 2026 Order effective, the same due process framework that governed *J.G.*—including a clear-and-convincing burden on the government at a § 1226(a)(2) bond hearing—must apply in this enforcement posture as well.

2. Due Process Requires IJs to Consider Ability to Pay

This Court should also order that the IJ must assess Petitioner's ability to pay when setting any bond amount. In *Hernandez v. Sessions*, 872 F.3d 976, 1000 (9th Cir. 2017), the Ninth Circuit affirmed a preliminary injunction requiring IJ's to consider detainees' financial circumstances or alternative conditions of release in making bond determinations.[4] The court explained that "[w]hile the temporary detention of non-citizens may sometimes be justified by concerns about public safety or flight risk, the government's discretion to incarcerate non-citizens is always constrained by the requirements of due process: no person may be imprisoned merely on account of his poverty." *Id*. at 991. Similarly, the Second Circuit in *Black v. Decker*, 103 F.4th 133, 155 (2d Cir. 2024), also concluded that the district court properly directed the government to justify Black's continued detention (under § 1226(c)) by clear and convincing evidence and the IJ to consider both Black's ability to pay and any alternatives to detention. The court reasoned that "refusing to consider ability to pay and alternative means of assuring appearance creates a serious risk that the noncitizen will erroneously be deprived of the right to liberty purely for financial reasons." *Id.* at 158. District courts have held the same. *See e.g.*, *Baghdasaryan v. Warden of CA City Detention*, No. 1:25-CV-01555-KES-EPG-HC, 2026 WL 381620, at *8 (E.D. Cal. Feb. 11, 2026) (holding that IJs should consider a petitioner's financial circumstances or alternative conditions of release);

[4] Upon remand to the district court, the parties agreed to a settlement in which he IJ will (1) consider the detainee's financial circumstances and financial ability to pay a bond; (2) not set bond at a greater amount than necessary to ensure the detainee's appearance at all future immigration proceedings, including for removal if so ordered; and (3) consider whether the detainee may be released on alternative conditions of release, alone or in combination with a lower bond, that are sufficient to mitigate flight risk. The agreement further required that the IJ must affirmatively inquire into the detainee's financial circumstances and make an individualized assessment of the detainee's current ability to pay the bond amount to be set. And in assessing a detainee's ability to pay, the IJ should consider all relevant evidence in the record—including any information solicited by ICE—and may inquire into any additional evidence presented relevant to an ability to pay. Also, the IJ may assess a detainee's financial circumstances based on their sworn testimony alone or, where necessary, may require the detainee to provide corroborative evidence concerning the detainee's financial circumstances. Finally, when rendering a decision in which a bond is set, if the parties have not stipulated to the bond amount or conditions of release, the IJ should explain why—whether orally or in writing—the bond amount is appropriate in view of any evidence of the detainee's financial circumstances. *Hernandez v. Garland*, No. EDCV16620JGBKKX, 2022 WL 1176752, at *4 (C.D. Cal. Mar. 28, 2022).

Abdi v. Nielsen, 287 F. Supp. 3d 327, 338 (W.D.N.Y. 2018) (holding IJs must consider the detainee's financial situation in setting bond and noting that "when a judge fails to consider ability to pay and alternative conditions of release and sets a bond amount plainly outside the reach of an individual's financial resources, such a decision amounts, for all practical purposes, to a denial of bond."); *Yuehua Li v. Noem at al.*, No. 26-CV-00989 (JAV), 2026 WL 366849, at *2 (S.D.N.Y. Feb. 10, 2026) (ordering a bond hearing at which "the Immigration Judge must also consider non-bond alternatives to detention or, if setting a bond, Petitioner's ability to pay.); *Imran H., v. Warden of Golden State Annex Detention Facility, et al.*, No. 1:25-CV-01710-JLT-SAB-HC, 2026 WL 366750, at *6 (E.D. Cal. Feb. 10, 2026) (ordering bond hearing where the IJ "should consider Petitioner's financial circumstances and alternative conditions of release.").

V. CONCLUSION

WHEREFORE, for the reasons stated herein, Petitioner respectfully requests that this Court enforce its January 27, 2026 Order and grant the following relief:

1. **An Order retaining jurisdiction over this matter** to ensure compliance;
2. **An Order to Show Cause**: Issue an order compelling Respondents, Immigration Judge Bianca Brown, and DHS Assistant Chief Counsel Paul Campbell to appear and show cause why they should not be held in civil contempt for violating this Court's clear and unambiguous January 27, 2026 Order, and set the matter for an emergency hearing this week;
3. **Immediate Release:** As the primary and most effective remedy, issue an immediate and unconditional order directing Respondents to release Petitioner from custody**;**

4. **An Order requiring Respondents to file a notice of compliance** with this Court within twenty-four (24) hours of this Order's entry;
5. Grant Petitioner his attorney's fees expended in the preparation of this motion; and
6. Grant any and all other relief this Court deems just and proper.

For the foregoing reasons, Respondents have acted in clear violation of this Court's lawful Order and have unlawfully deprived Petitioner of his liberty. To protect the integrity of the judicial process and vindicate Petitioner's rights, this Court should grant the requested relief and enforce its prior judgment.

Respectfully submitted this 17th Day of February, 2026.

/s/ Karen Weinstock
Karen Weinstock
Attorney for Petitioner
Weinstock Immigration Lawyers, P.C.
1827 Independence Square
Atlanta, GA 30338
Phone: (770) 913-0800
Fax: (770) 913-0888
kweinstock@visa-pros.com

CERTIFICATE OF SERVICE

I certify that on February 17, 2026, I electronically filed the foregoing Motion with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to Respondents' attorney(s) of record.

/s/ Karen Weinstock
Karen Weinstock
Attorney for Petitioner
Weinstock Immigration Lawyers, P.C.
1827 Independence Square
Atlanta, GA 30338
Phone: (770) 913-0800
Fax: (770) 913-0888
kweinstock@visa-pros.com

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

M.G., A# [redacted], Petitioner, vs. JASON STREEVAL, in his official capacity as *Warden of Stewart Detention center*; and LADEON FRANCIS, *Field Office Director for ICE Atlanta Field Office*, and TODD LYONS, in his official capacity as *Acting Director of Immigration and Customs Enforcement*; and KRISTI NOEM, *Secretary of Homeland Security*; and PAMELA BONDI, *U.S. Attorney General*. Respondents.	CASE NO.: 4:26-cv-00098-CDL-AGL

BRIEF IN SUPPORT OF PETITIONER'S MOTION TO ENFORCE JUDGMENT AND TO SHOW CAUSE RE: CONTEMPT
IMMEDIATE HEARING REQUESTED

In this Brief, Petitioner shows that: First, this Court has ongoing habeas and enforcement jurisdiction, including contempt and Rule 70 authority, to ensure that its conditional writ is given effect. Second, Respondents did not provide the ordered § 1226(a)(2) bond hearing: the January 30, 2026 hearing omitted an individualized *Guerra* analysis, failed to take testimony or evaluate the equities, accepted DHS's unsupported "no bond" request without requiring any evidence, and then denied bond altogether. Third, due process in § 1226(a) bond proceeding requires a neutral arbiter, individualized evidence-based findings, a government burden, and ability to pay/alternatives—none of which were honored here. Given both the defective hearing and structural problems within EOIR, the only adequate remedy is immediate release or, at minimum, a tightly-cabined new hearing. Petitioner incorporates by reference the factual background set forth in his Motion to Enforce.

I. ENFORCEMENT AUTHORITY AND HABEAS JURISDICTION

This Court has both the inherent and statutory authority to enforce its January 27, 2026 Order and to ensure that Petitioner receives a constitutionally compliant § 1226(a)(2) bond hearing. A federal court possesses the inherent power "to enforce compliance with its lawful orders" and to protect the integrity of its judgments. *Fernandez Aguirre v. Barr*, No. 19-CV-7048, 2019 WL 4511933, at *3 (S.D.N.Y. Sept. 18, 2019) (recognizing that a habeas court "retains jurisdiction to enforce compliance with an order conditionally granting the writ"). This inherent authority includes the power to hold parties in civil contempt where they fail to take all reasonable steps to comply with a clear and unambiguous order, and to fashion coercive and remedial relief to secure obedience. *See Landmark Legal Found. v. Envtl. Prot. Agency*, 272 F. Supp. 2d 70, 75 (D.D.C. 2003); *Satterlee v. Wolfenbarger*, 453 F.3d 362, 369 (6th Cir. 2006).

Congress has confirmed that authority in several statutes and rules. The All Writs Act authorizes federal courts to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). That power extends to non-parties who are "in a position to frustrate the implementation of a court order or the proper administration of justice." *United States v. New York Telephone Co*., 434 U.S. 159, 174 (1977). The contempt statute, 18 U.S.C. § 401, empowers courts to punish "[d]isobedience or resistance to [a court's] lawful writ, process, order, rule, decree, or command" by fine or imprisonment, or both. *See Henson v. CIBA-GEIGY Corp.*, 261 F.3d 1065, 1068 (11th Cir. 2001); *Coleman v. Espy*, 986 F.2d 1184, 1190 (8th Cir. 1993). And Federal Rule of Civil Procedure 70 provides a specific mechanism for enforcing judgments that require a party to perform a specific act, authorizing the Court to direct that the act "be done—at the disobedient party's expense—by another person appointed by the court."

In the habeas context, courts have repeatedly recognized that jurisdiction under 28 U.S.C. § 2241 includes the power to police compliance with conditional grants of relief and to ensure that the ordered remedy is actually provided. *See Boumediene v. Bush*, 553 U.S. 723, 771, 781 (2008) (scope of habeas review and resulting relief depends in part on the rigor of prior proceedings); *Velasco Lopez v. Decker*, 978 F.3d 842, 850–52 (2d Cir. 2020) (habeas review available to challenge ongoing immigration detention that has become unlawful); *Thompson v. Choinski*, 525 F.3d 205, 209 (2d Cir. 2008) (habeas lies to challenge the "administration" and "type" of detention, not only initial imposition). Section 1226(e) bars review of the immigration court's discretionary weighing of bond factors, but it does not preclude habeas review of "constitutional claims or questions of law," including whether the government has complied with the terms of a habeas

order or afforded the fundamentally fair bond hearing that due process requires. *See I.N.S. v. St. Cyr*, 533 U.S. 289, 301–02 (2001); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003).

Consistent with those principles, multiple courts have held that a district court enforcing a conditional habeas grant may review whether the resulting bond hearing was fundamentally fair and satisfied due process, as opposed to re-weighing the IJ's discretionary judgment. In *Dela Cruz v. Napolitano*, the district court explained that § 1226(e) does not deprive a court of jurisdiction to determine the legal sufficiency of a petitioner's bond hearing and habeas review is available to claim that discretion was not exercised in accordance with federal law or in a constitutional manner. 764 F. Supp. 2d 1197, 1200 (S.D. Cal. 2011), citing *Gutierrez–Chavez v. I.N.S.*, 298 F.3d 824, 828 (9th Cir. 2002). There, the district court found that the petitioner has stated at least a colorable claim that his constitutional right to due process was violated, that the petitioner's due process rights in fact were violated by the IJ's failure to articulate the standard of proof to which he was holding respondents, and that a new bond hearing was appropriate on this basis. *Id*. at 1202. In *Ghanem v. Warden Essex County Correctional Facility*, the Third Circuit explained that while § 1226(e) forecloses review of a bond amount as such, a habeas court "may review whether the bond hearing was fundamentally unfair" when enforcing its prior order. 2022 WL 574624, at *2–3, (3d Cir. Feb. 25, 2022).[1]. Likewise, in *Velasco Lopez*, the Second Circuit held that "claims that the discretionary process itself was constitutionally flawed are cognizable in federal court on habeas because they fit comfortably within the scope of § 2241," and required a new § 1226(a)

[1] Petitioner asks this Court to review the IJ's hearing for compliance with this Court's Order for a bond hearing pursuant to 8 U.S.C.§ 1226(a). There is nothing left for Petitioner to exhaust. *See, e.g., Luciano-Jimenez v. Doll*, 543 F. Supp. 3d 69, 71 n.1 (M.D. Pa. 2021). Moreover, to the extent that any exhaustion issue exists, exhaustion in this context is not mandatory, but prudential, and may be excused. *Chajchic v. Rowley*, No. 1:17-CV-457, 2017 WL 4401895, at *4 (M.D. Pa. July 25, 2017), report and recommendation adopted, 2017 WL 4387062 (M.D. Pa. Oct. 3, 2017); *see also P.M. v. Joyce*, No. 22-CV-6321, 2023 WL 2401458, at *1 n.2 (S.D.N.Y. Mar. 8, 2023) ("[F]ailure to appeal the denial of bond does not preclude [a petitioner] from seeking a writ of habeas corpus for the unconstitutional deprivation of a bond hearing" especially if appealing to the Board of Immigration Appeals is futile).

bond hearing at which the Government bore the burden of proof by clear and convincing evidence. 978 F.3d at 852–57. This Court has already adopted the same framework in *J.G. v. Warden,* applying *Mathews v. Eldridge* and holding that due process in § 1226(a) bond proceedings requires the government to justify continued detention. 501 F. Supp. 3d 1331, 1337–41 (M.D. Ga. 2020).

District courts have also emphasized that habeas jurisdiction necessarily carries with it a continuing enforcement power: a conditional writ "would be meaningless if a habeas court could not order a noncompliant state to release a prisoner." *Satterlee*, 453 F.3d at 369; *see Sanchez v. Sabol*, No. 1:15-CV-2423, 2016 WL 7650595, at *5–7 (M.D. Pa. Dec. 23, 2016) (retaining jurisdiction to determine whether a post-writ bond hearing complied with *Diop/Chavez-Alvarez* standards and ordering relief where it did not). That same logic applies here. This Court's January 27, 2026 Order conditionally granted habeas relief by directing Respondents to provide Petitioner with a § 1226(a)(2) bond hearing under 8 C.F.R. §§ 236.1 and 1236.1. If the proceeding that EOIR actually conducted omitted the required individualized assessment, misallocated the burden of proof, and disregarded Petitioner's ability to pay and alternatives to detention, then Respondents have not complied with the condition the Court imposed, and the Court's habeas judgment has not been given effect. Accordingly, this Court has jurisdiction and authority to: (1) determine whether the January 30, 2026 bond hearing satisfied the minimum procedural and substantive requirements of due process and of the January 27, 2026 Order; (2) enforce compliance through appropriate remedial orders, including immediate release or court-set bond; and (3) employ its inherent power, the All Writs Act, 28 U.S.C. § 1651(a), the contempt statute, 18 U.S.C. § 401, and Rule 70 as necessary to prevent Respondents from nullifying its prior judgment through noncompliant or illusory bond proceedings.

II. CONTEMPT STANDARDS

Civil contempt is appropriate where the movant proves by clear and convincing evidence that: (1) the underlying order was clear and unambiguous; (2) the alleged contemnor violated the order; and (3) the contemnor did not take all reasonable steps within its power to comply. Civil contempt does not require a showing of subjective bad faith; the focus is on objective noncompliance with a clear directive. Once a prima facie violation is established, **the burden shifts to the Respondent**s (contemnor) to demonstrate either substantial compliance—by proving it took all reasonable steps to comply—or a present inability to comply despite diligent efforts.

Because civil contempt is a "severe remedy," courts require that the order allegedly violated be clear and unambiguous, and they construe substantial ambiguities or omissions in the underlying order in favor of the alleged contemnor. The Supreme Court has emphasized that civil contempt "should not be resorted to where there is [a] fair ground of doubt as to the wrongfulness of the defendant's conduct." *California Artificial Stone Paving Co. v. Molitor*, 113 U.S. 609 (1885). Principles of basic fairness require that those subject to an order receive explicit notice of what conduct is prohibited before they can be held in contempt. *Taggart v. Lorenzen*, 587 U.S. 554 (2019). Accordingly, the standard for civil contempt is an objective one: a party's subjective belief that it was complying with an order will not ordinarily preclude a contempt finding if that belief was objectively unreasonable, but the absence of a clear, definite command or the existence of a fair ground of doubt as to the order's meaning will weigh against imposing contempt sanctions.

On the record here—where the Court's January 27, 2026 Order required a § 1226(a)(2) bond hearing under 8 C.F.R. §§ 236.1 & 1236.1, and Respondents instead provided a proceeding that omitted the required individualized assessment and denied based on an unsupported flight risk and "speculative" relief—each element of civil contempt is satisfied.

The purposes of civil contempt are coercive and remedial: to compel obedience to the Court's order and to compensate the party injured by noncompliance, not to punish past conduct. In enforcing its January 27, 2026 Order, this Court may employ civil contempt sanctions, including coercive per-diem fines, compensatory sanctions, or other measures tailored to secure compliance.

The Court's enforcement power extends to government agencies and officials. *See, e.g.*, *J.L. v. Cuccinelli*, No. 18-cv-04914-NC, 2020 WL 718386, at *3 (N.D. Cal. Feb. 14, 2020) (holding DHS in contempt for failing to comply with a preliminary injunction); *Diaz-Calderon v. Barr*, 2:20-CV-11235-TGB (E.D. Mich. Sept. 22, 2020). As the D.C. Circuit has explained, "courts are presumed to possess the full range of remedial powers—legal as well as equitable—unless Congress has expressly restricted their exercise." *Ramirez v. U.S. Immigr. & Custom Enf't*, 568 F. Supp. 3d 10, 26 (D.D.C. 2021). Petitioner primarily seeks **civil** contempt/coercive enforcement, with any criminal consequence left entirely to the Court's discretion.

III. DUE PROCESS REQUIREMENTS IN § 1226(a) BOND PROCEEDINGS.

The Fifth Amendment's Due Process Clause protects noncitizens in removal proceedings from arbitrary deprivations of liberty and constrains the Government's power to detain pending removal. *See J.G. v. Warden,* 501 F. Supp. 3d at 1334 (recognizing due process protections for noncitizens in § 1226(a) detention); *Frech v. U.S. Att'y Gen*., 491 F.3d 1277, 1281 (11th Cir. 2007) (citing *Reno v. Flores*, 507 U.S. 292, 306 (1993)). Detention under 8 U.S.C. § 1226(a) is civil and non-punitive, and is constitutionally permissible only insofar as it bears a reasonable relation to the statute's two recognized regulatory goals: ensuring appearance at future proceedings and protecting the community. *See Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001); *Demore v. Kim*, 538 U.S. 510, 527 (2003).

The Supreme Court has repeatedly held that non-punitive detention violates due process unless it is strictly limited and typically accompanied by a prompt, individualized hearing before

a neutral decisionmaker to ensure that confinement serves the government's legitimate purposes. *See United States v. Salerno*, 481 U.S. 739, 750–51 (1987); *Foucha v. Louisiana*, 504 U.S. 71, 79–83 (1992); *Kansas v. Hendricks*, 521 U.S. 346, 360–64 (1997); *Zadvydas*, 533 U.S. at 690–92. Applying *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts have required "strong procedural protections" where the government seeks civil detention, because "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690; *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017).

The Supreme Court has also addressed the requirement of a neutral decisionmaker specifically in the immigration and supervision context. In *Wong Yang Sung v. McGrath*, 339 U.S. 33 (1950), the Court held that when the Constitution requires a hearing in deportation proceedings, **it must be a fair hearing conducted before a tribunal that meets then-prevailing standards of impartiality, and disapproved commingling of prosecutorial and adjudicative functions inconsistent with the Administrative Procedure Act** (APA). In *Morrissey v. Brewer*, 408 U.S. 471 (1972), the Court held that revocation of conditional liberty (parole) requires an opportunity to be heard before a "neutral and detached" hearing body. These principles apply with full force where DHS both initiates detention and seeks to justify its continuation: due process demands that the ensuing custody determination be made by an independent adjudicator, not by the enforcement arm itself. In this setting, due process requires at minimum: (1) a neutral, impartial adjudicator; (2) an individualized, evidence-based assessment of flight risk and danger tied to the statutory purposes of detention; (3) procedures that place the ultimate burden on the Government to justify continued confinement; and (4) consideration of the detainee's financial circumstances and less restrictive alternatives where release on bond is deemed appropriate.

A. Neutral, Impartial Adjudicator

The "guarantee of an impartial and disinterested tribunal" is a core requirement of due process in civil as well as criminal proceedings. *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980). The Eleventh Circuit has emphasized that any judge—or anyone discharging a judicial function—must be impartial. *Brucker v. City of Doraville*, 38 F.4th 876, 882 (11th Cir. 2022); *Harper v. Prof'l Prob. Servs. Inc*., 976 F.3d 1236, 1241 (11th Cir. 2020).[2] That obligation extends to officials acting in a "judicial or quasi-judicial capacity," including immigration judges deciding custody. *See Tumey v. Ohio*, 273 U.S. 510, 522 (1927).

In *Concrete Pipe & Products of California, Inc. v. Construction Laborers Pension Trust*, 508 U.S. 602, 618–19 (1993), the Court underscored that where an initial determination is made by an enforcement actor, due process requires neutral review, not commingling of prosecutorial and adjudicative functions. The BIA has similarly recognized that immigration proceedings "must conform to the basic notions of fundamental fairness" and be conducted before a fair and impartial arbiter. *See Matter of G-*, 20 I. & N. Dec. 764, 780 (BIA 1993); *Matter of Exame*, 18 I. & N. Dec. 303, 306 (BIA 1982).[3] District courts applying these principles in the immigration bond context have required hearings "before a neutral decisionmaker" to ensure that detention serves legitimate purposes, not enforcement convenience. *See Padilla v. ICE*, 704 F. Supp. 3d 1163, 1172–74 (W.D. Wash. 2023); *Doe v. Becerra*, No. 2:25-cv-00647, slip op. at 6–7 (E.D. Cal. Mar. 3, 2025).

---

[2] "[T]he Due Process Clause 'entitles a person to an impartial and disinterested tribunal in both civil and criminal cases'—or, stated differently, it imposes a 'requirement of neutrality in adjudicative proceedings.'")' *id*. ("I]t is by now well-settled that any judge—or, [ ], anyone discharging a judicial function—must be impartial."

[3] In *Matter of Exame*, the Board explained that a finding that an immigration judge is disqualified from hearing a case must be supported by a demonstration that the immigration judge had a personal bias stemming from an "extrajudicial" source which resulted in an opinion on the merits on some basis other than what the immigration judge learned from his participation in the case." 18 I. & N. Dec. at 306. The Board also noted that an "exception to the general rule that bias must stem from an 'extrajudicial' source may arise where 'such pervasive bias and prejudice is shown by otherwise judicial conduct as would constitute bias against a party.'" *Id.* (*quoting Davis v. Board of School Comm'rs*, 517 F.2d 1044 (5th Cir. 1975)).

B. Individualized, Evidence-based Assessment Tied to Statutory Purposes

Immigration detention is constitutional only if it is reasonably related to the legitimate purposes of ensuring appearance at future proceedings and protecting the community, and not based on categorical assumptions or speculation. *Zadvydas*, 533 U.S. at 690–91; *Demore*, 538 U.S. at 527. Courts thus required "adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint," including "prompt individualized hearing[s] before a neutral decisionmaker." *Hernandez*, 872 F.3d at 990; *Padilla*, 704 F. Supp. 3d, 1172–74.

In the immigration bond context, this means that an IJ must make "individualized determination[s] as to the necessity of detention," based on the particular record in the case, not generalized fears or boilerplate. *See Padilla v. Immigration & Customs Enf't*, 953 F.3d 1134, 1143–45 (9th Cir. 2020); *Ranchinskiy v. Barr*, 422 F. Supp. 3d 789, 799–800 (W.D.N.Y. 2019). District courts have held that bond decisions must rest on "reasonable inferences" from the record as a whole, not "rank speculation," and must weigh the specific factors bearing on flight risk and danger—such as family ties, length of residence, prior compliance, and criminal history—on an individualized basis. *See*, *e.g., Ranchinskiy*, 422 F. Supp. 3d at 799–800; *Diaz v. Genalo*, 2023 WL 3818464, at *6–7 (S.D.N.Y. July 6, 2023).

C. Government's Burden to Justify Continued Detention

Because the liberty interest at stake—freedom from physical incarceration—is fundamental, and detained noncitizens face severe practical obstacles to gathering evidence while incarcerated, courts applying *Mathews* have held that the government must bear the burden to justify continued detention at a § 1226(a) bond hearing, typically by clear and convincing evidence. In *Velasco Lopez*, 978 F.3d at 842, the Second Circuit held that a noncitizen detained

under § 1226(a) for fifteen months was entitled to a new bond hearing at which the government bore the burden of proving by clear and convincing evidence that he was a danger or flight risk. The court emphasized that it is improper to allocate the risk of error equally when the potential injury is physical liberty rather than money.

The First, Second, and Third Circuits—and an overwhelming majority of district courts—have reached the same conclusion in immigration detention cases. See *Hernandez-Lara v. Lyons*, 10 F.4th 19, 31–33 (1st Cir. 2021) (government must bear burden to justify continued § 1226(a) detention); *Velasco Lopez*, 978 F.3d at 855–57; *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 213–14 (3d Cir. 2020). Following this consensus, district courts across the country have held that under the Fifth Amendment it is the Government's burden to justify an immigrant's detention at a § 1226(a) bond hearing. See, e.g., *Ranchinskiy v. Barr*, 422 F. Supp. 3d 789, 800 (W.D.N.Y. 2019); *Constant v. Barr*, 409 F. Supp. 3d 159, 170–72 (W.D.N.Y. 2019); *Alfaro v. Barr*, 426 F. Supp. 3d 6, 13–15 (W.D.N.Y. 2019); *Diaz v. Genalo*, 2023 WL 3818464, at *6–7 (S.D.N.Y. July 6, 2023); *Oscar M-S. v. Garland*, 2021 WL 6063232, at *4–6 (D. Minn. Dec. 20, 2021).[4]

This Court has already adopted that framework in *J.G.*, applying Mathews and holding that due process in § 1226(a) bond proceedings requires placing the burden on the *government* to prove that ongoing detention is warranted. 501 F. Supp. 3d at 1337–41. Other courts have done the same even where detention arose under § 1226(c), reasoning that once detention becomes prolonged, the government must show by clear and convincing evidence that no conditions of release can reasonably assure appearance or safety. *See Barrie v. Barr*, 409 F. Supp. 3d 159, 170–72

[4] But the Fourth and Ninth circuits have held that due process does not require shifting the burden from the noncitizen to the government in a section 1226(a) bond hearing. *See Miranda v. Garland*, 34 F.4th 338, 366 (4th Cir. 2022); *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1213 (9th Cir. 2022) (however in this case the noncitizen had a substantial criminal history for drug trafficking).

(W.D.N.Y. 2019); *Rosales v. Searls*, 2021 WL 19517, at *6–8 (W.D.N.Y. Jan. 15, 2021); *Fallatah v. Barr*, 2020 WL 432380, at *5–7 (W.D.N.Y. Jan. 28, 2020).

D. Consideration of Ability to Pay and Less Restrictive Alternatives

Where an IJ determines that release on bond is appropriate, due process requires consideration of the detainee's financial circumstances and less restrictive alternatives to detention. Courts have recognized that a bond determination that disregards ability to pay and non-monetary conditions is unlikely to yield an amount reasonably related to the government's interests and instead risks detaining individuals solely because of poverty. See *Hernandez v. Sessions*, 872 F.3d 976, 991–92 (9th Cir. 2017); *Abdi v. Nielsen*, 287 F. Supp. 3d 327, 335–39 (W.D.N.Y. 2018); *Ranchinskiy*, 422 F. Supp. 3d at 800; *Constant*, 409 F. Supp. 3d at 170–72; *Alfaro*, 426 F. Supp. 3d at 14–15; *Diaz*, 2023 WL 3818464, at *7.

In *Abdi*, the court held that an IJ "must consider the detainee's ability to pay, as well as alternative conditions of release, in setting the amount of bond," because a bond set beyond a person's means is "for all practical purposes, a denial of bond." The Ninth Circuit in *Hernandez* likewise affirmed a class-wide injunction requiring IJs to consider detainees' financial circumstances and non-monetary alternatives, emphasizing that "no person may be imprisoned merely on account of his poverty." More recently, courts applying *Mathews* in both § 1226(a) and § 1226(c) contexts have held that to justify prolonged civil detention, the Government must show by clear and convincing evidence, in a "full-blown adversary hearing," that no conditions of release—including lower bond or supervision—can reasonably assure appearance or public safety. *See Barrie*, 409 F. Supp. 3d at 170–72; *Rosales*, 2021 WL 19517, at *6–8; *Fallatah*, 2020 WL 432380, at *5–7; *Cantor v. Freden*, No. 24-CV-764-LJV, 2025 WL 40620, at *6–8 (W.D.N.Y. Jan. 7, 2025). These courts uniformly recognize that setting a bond at a level plainly outside the

detainee's reach, without considering ability to pay and alternatives such as supervision, "amounts, for all practical purposes, to a denial of bond" and is inconsistent with the limited, regulatory purposes of civil immigration detention. *See Abdi*, 287 F. Supp. 3d at 335–39; *Ranchinskiy*, 422 F. Supp. 3d at 800; *Diaz*, 2023 WL 3818464, at 7. Taken together, these authorities establish that, where an IJ determines release on bond is appropriate, due process under § 1226(a) requires an individualized assessment that includes the detainee's financial circumstances and less restrictive alternatives when setting any bond amount. Therefore, Petitioner's January 30, 2026 bond hearing—at which the IJ denied bond outright without addressing his financial circumstances or any less restrictive alternatives—was not a constitutionally adequate § 1226(a)(2) hearing of the kind this Court's January 27, 2026 Order, and the due process principles reflected in *Abdi* and *Hernandez*, require. Accordingly, to the extent this Court orders a new § 1226(a)(2) bond hearing as an alternative remedy, these authorities establish the baseline procedural protections that must govern that proceeding: the Government must bear the ultimate burden to justify continued detention, the IJ must make explicit findings regarding Petitioner's ability to pay, and the IJ must consider non-monetary alternatives to detention before denying or restricting release.

IV. EOIR's RECENT CONDUCT AND BIAS

EOIR[5] has recently taken actions that demonstrate an institutional willingness to disregard federal court rulings that protect noncitizens' bond-hearing rights. As detailed in the Weinstock Declaration, and the declarations of a retired Immigration Judge and other attorneys (M. to Enf. Exs. 2, 4–13), these institutional developments are not abstract; they manifest in day-to-day custody adjudications, including Petitioner's own January 30, 2026 bond hearing, where the IJ

[5] The immigration court system is not an independent adjudicative body. It operates under the Department of justice ("DOJ"). In the last year the DOJ and its sub-agencies, the Executive Office for Immigration Review ("EOIR") and the Board of Immigration Appeals ("BIA"), in apparent coordination with DHS have systematically dismantled the integrity of the immigration court system to turn it into an extension of DHS' deportation and detention operations.

mirrored the very patterns of deference to enforcement priorities and disregard of federal-court mandates that these declarations describe. These actions prove that EOIR and the IJs within it are no longer neutral arbiters. Rather, they collaborate and cooperate with DHS and its enforcement objectives. As a result of this shift, district court judges have been changing their ordered relief from previously granting a § 1226(a) bond hearing to immediate release. *See*, *e.g.*, Judge George C. Hanks, Jr.'s decision in *Avilez Aguinaga v. Warden, et. al.,* No. 4:26-0137, (S.D. Tex., Feb 2, 2026). *See* also Chief Judge Hale's new decision in undersigned counsel's case *Coronel-Hernandez v. Woosley*, No. 4:26-cv-20-DJH, 2026 WL 227011 (W.D. Ky., Jan 28, 2026).

A. EOIR's Explicit Directives to Ignore District Court Rulings That Impede DHS's Policy Objectives.

The clearest evidence that EOIR has abandoned its role as a neutral tribunal comes from its response to federal court order in *Maldonado Bautista v. Santacruz*, Judge Skyes in the Central District of California entered final declaratory relief and certified a nationwide class of noncitizens who entered without inspection but were not apprehended at the border, declaring they are detained under 8 U.S.C. § 1226(a), not § 1225(b)(2), and are therefore entitled to bond hearings. *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713987, at *32 (C.D. Cal. Dec. 18, 2025), judgment entered sub nom. *Maldonado Bautista v. Noem*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025). As part of the final judgment, the Court declared that 8 U.S.C. § 1226(a) was the proper governing authority for those in the Bond Eligible Class, and that the noncitizens were not subject to mandatory detention under 8 U.S.C. § 1225(b)(2). *Id*. The Court **vacated** the DHS policy described in the July 8, 2025, "Interim Guidance Regarding Detention Authority for Applicants for Admission" under the APA as not in accordance with law. *Id*.

Rather than comply with the order, EOIR leadership directed all immigration judges to ignore the order. Specifically, on January 13, 2026, Chief Immigration Judge Teresa Riley emailed

all IJs instructing that *Maldonado Bautista* was "not a nationwide injunction," that *Yajure Hurtado* remained binding, and that a declaratory judgment "does not, by itself, have the effect of compelling specific action." [6] Exhibit A. IJ's who had begun providing bond hearings in compliance with Judge Sykes's ruling reportedly reversed course after receiving this directive.[7] In doing so, EOIR did not merely disagree with a sister court's statutory analysis; it instructed its adjudicators to act in direct tension with a final federal judgment, forcing detainees to seek repetitive individual habeas relief. IJ were placed in an impossible position—comply with a federal district court order and risk termination or defy the federal court and retain their positions.

On January 14, 2026, Judge Sykes issued a decision in *Rios Vega v. Noem*, No. 5:26-CV-00058-SSS-BFM, 2026 WL 136227, at *4 (C.D. Cal. Jan. 14, 2026) wherein she noted that the government "now renew the same arguments that have been rejected numerous times" as well as explicitly decided in *Maldonado Bautista*'s final judgment. Judge Sykes emphasized that "Respondents' continued defiance of valid court orders and its final judgment has resulted in unnecessary, voluminous filings of ex parte temporary restraining orders. Should Respondents continue to detain members of the Bond Eligible Class and deny them bond hearings, the Court will set hearings for contempt." *Id*. The attorney declarations—particularly the Weinstock Declaration in this case—explain that EOIR's internal guidance following *Maldonado Bautista* placed IJs in precisely this posture, caught between DOJ leadership's insistence on adherence to *Yajure Hurtado* and their duty to obey federal court orders, and that IJ Brown's January 30, 2026

[6] Am. Immigr. Laws. Ass'n, Practice Alert: EOIR Issues Nationwide Guidance on *Maldonado Bautista*, AILA Doc. No. 26011404 (Jan. 16, 2026), https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista (last visited Feb. 10, 2026).

[7] *Immigration judges told to ignore rulings on bond hearings, documents show,* Massachusetts Lawyer Weekly (Jan. 20, 2026), https://masslawyersweekly.com/2026/01/20/immigration-judges-ignore-bond-hearing-rulings/ (last visited Feb. 10, 2026).

bond order in Petitioner's case exemplifies that institutional conflict playing out in an individual bond proceeding.

This defiance of federal court orders occurs against the backdrop of structural changes that have undermined EOIR's neutrality. Over the past year, DOJ and EOIR leadership have removed or forced out large numbers of IJs with higher grant rates and installed enforcement-aligned "deportation judges." The new IJs include temporary judges with markedly reduced experience and training, including military judges, while signaling that judges whose decisions disfavor DHS risk heightened scrutiny or termination. At the appellate level, a parallel purge at the BIA has produced a dramatically lopsided published decision rate in favor of the government, reinforcing the perception that adherence to enforcement priorities is expected at every tier.

EOIR leadership has simultaneously issued policy memoranda warning IJs against being "adjudicatory outliers," narrowing the availability of continuances and administrative closure, and encouraging denial of protection claims without full evidentiary hearings under the rubric of efficiency. Taken together with the response to *Maldonado Bautista*, these measures communicate that IJs are expected to prioritize DHS's enforcement agenda over individualized adjudication, and that compliance with adverse federal court rulings can have professional consequences.

B. The Ongoing, Mass-Scale Purge of IJs Perceived as Obstacles to Enforcement Agenda

As of September 26, 2025, the administration had terminated 128 IJs.[8] Former New York IJ David K.S. Kim explained the targeting criteria: "I do not know the exact reason for my termination, but most of those dismissed, including myself, were judges with high asylum approval rates."[9] This is not the complaint of disgruntled employees, but rather career jurists.

[8] Trump Administration Continues Firing Immigration Judges -- IFPTE responds, IFPTE (Sept. 26, 2025), https://www.ifpte.org/news/trump-administration-continues-firing-immigration-judges-ifpte-respondsnbsp. (last visited February 10, 2026).

[9] Woo-Sun Lim, Former judge highlights legal failures in U.S. worker detentions, The Dong-A Ilbo (Sept. 20,

They are attorneys with decades of experience who felt compelled to speak out publicly. The terminated and resigned IJs report three consistent themes. First, explicit pressure to serve as instruments of mass deportation rather than neutral adjudicators. Former Baltimore IJ Emmett Soper stated: "I think the current administration of the immigration courts does not fundamentally see the immigration courts as neutral decision-makers. I think that they see the immigration courts as a tool for this administration to advance its policy objectives."[10] Former San Francisco IJ Jeremiah Johnson similarly understood "the hint that they should be hearing cases a certain way, deciding cases a certain way. Move faster. Less due process, essentially."[11] Former San Francisco IJ George Pappas was even more direct: "We were told to facilitate deportation… Due process is dead in immigration courts."[12]

Second, a pervasive climate of fear designed to ensure compliance. Former Baltimore IJ David C. Koelsch described it as "an atmosphere of paranoia and fear, which is exactly what they want."[13] Former Annandale IJ Anam Petit observed: "There's a climate of fear…Judges feel like, if they step a toe out of line right now…or they're one [asylum] grant away from being fired because of the arbitrary nature of the firings."[14] Former New York IJ Carmen Maria Rey Caldas similarly described judges working "under 'constant threat' of getting fired if they don't follow

---

2025), https://www.donga.com/en/article/all/20250920/5859412/1. (last visited February 10, 2026).

[10] Geoff Bennett & Ali Schmitz, Ousted Immigration Judge Describes Deepening Court Backlog, PBS NewsHour (Nov. 12, 2025), https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog. (last visited February 10, 2026).

[11] Hilda Gutierrez, Michael Bott & Son Vo, 'An all-out attack on immigration court:' SF immigration judges speak out after firings, NBC Bay Area (Nov. 25, 2025), https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-firings/3986850/ (last visited February 10, 2026).

[12] Marco Poggio, Judges See an Immigration Court Gutted from Inside, Law360 (Oct. 31, 2025), https://www.law360.com/articles/2381003/judges-see-an-immigration-court-gutted-from-inside. (Feb. 10, 2026).

[13] Poggio, supra note 8.

[14] Eric Katz, 'Climate of Fear': Immigration Judges Say Functioning of Their Court System Is in Jeopardy Due to Trump's Firings, Gov't Executive (Nov. 14, 2025), https://www.govexec.com/management/2025/11/climate-fear-immigration-judges-say-functioning-their-court-system-jeopardy-due-trumps-firings/409544/. (Feb. 10, 2026).

certain rules from leadership."[15] Third, the inevitable compromise of judicial independence when self-preservation requires favoring the government. Former San Francisco IJ Elizabeth Young explained: "I've talked to many of [the judges still serving], and they're like, 'When I go into court, I am concerned about applying the law, but I'm also concerned that I should deny more, because if I don't, then I'll get fired.'" *See* fn 14. Former Boston IJ Sarah Cade reached her breaking point: "I felt I might have to compromise my ethics and might be put in a place where I felt like I was going to be asked to violate due process. So I left and I went to private practice." *Id*. [16]

Former IJs describe pressure to grant DHS oral motions to dismiss, so that after they are granted, DHS officers can detain noncitizens in the hallway and placed in expedited removal proceedings rather than litigate removal in court. These IJs describe an EOIR memo accuses IJs of favoring "aliens" over DHS and tells any IJ who wants to be a "policy advocate" for either side to consider "alternate career paths." IJs describe this as a clear signal that rulings perceived as too favorable to noncitizens will be treated as improper bias, and that they are expected to correct that by ruling more in DHS's favor. IJs also describe a memo instructing them pretermit asylum applications if incomplete or "legally insufficient," meaning deny without ever hearing the person or taking testimony. IJs characterize this as "don't think, don't assess, just push this button," and as cutting off the chance to present evidence and obtain a full hearing.[17] The message to remaining IJs is unmistakable: neutrality is a terminable offense. No adjudicator can remain impartial when faced with the choice between upholding due process and keeping their position. Any IJ assigned to a bond hearing now operates under the threat that granting bond may cost them their livelihood.

---

[15] Isabela Dias, "Fired for No Reason": Former Immigration Judges Speak Out Against Trump's Assault on the Courts, Mother Jones (Oct. 9, 2025), (last visited February 10, 2026) https://www.motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-purge-dhs-ice/.

[16] Murphy Marcos *supra* note 2. *See* Designation of Temporary Immigration Judges, 90 Fed. Reg. 41,883 (Aug. 28, 2025). (last visited Feb. 10, 2026).

[17] https://www.thisamericanlife.org/868/transcript (last visited February 14, 2026)

C. The BIA Purge and Resulting Statistical Evidence of Bias

A parallel purge occurred at the BIA, which was reduced from 28 members to 15 members despite a sharp increase of immigration cases and appeals estimated in the millions of cases. All former President Biden's appointees on the BIA were fired.[18] The statistical impact is stark. As of January 27, 2026, the reconstituted BIA has issued 71 published decisions.[19] Of those, 69 decisions (97%) favored the administration.[20] By contrast, during the entire four-year span of the prior administration, the BIA issued 76 published decisions.[21] Of those, 46 decisions (60%) favored the administration. The transformation from 60% to 97% pro-government outcomes—achieved through wholesale termination of one administration's appointees—speaks for itself.

D. The Installation and Recruitment of Judges Aligned with Enforcement Agenda

To replace purged judges, the DOJ launched recruitment for what it explicitly marketed as "deportation judges." This screenshot was obtained by undersigned counsel from the DOJ's IJ "apply for a position" on February 14, 2026:

DHS–a party in immigration proceedings before EOIR– promoted these openings on social media with enforcement-focused language: "Bring the hammer down on criminal illegal aliens" and "Defend your communities, your culture, your very way of life."[22]

---

[18] Am. Imm. Council, *While Federal Firings Focus on Immigration Processing, Funding for Immigration Enforcement Expands* (March 6, 2025), https://www.americanimmigrationcouncil.org/blog/federal-firings-immigration-processing-enforcement-expands/ . (last visited Feb. 10, 2026).

[19] Exec. Off. for Immigr. Rev., *Volume 29*, U.S. Dep't of Just. (Jan. 21, 2025), https://www.justice.gov/eoir/volume-29 (last visited Feb. 10, 2026).

[20] Other 2: 1 decision was neutral (involving attorney sanctions) and 1 decision disfavored the administration.

[21] Exec. Off. for Immigr. Rev., *Volume 28*, U.S. Dep't of Just. (June 13, 2025), https://www.justice.gov/eoir/volume-28 (First decision, *Matter of DIKHTYAR*, 28 I&N Dec. 214 (BIA 2021), issued 01/22/2021)

[22] dhsgov, Instagram (Nov. 21, 2025), https://www.instagram.com/p/DRVT8DmCQKD/?hl=en (Feb. 12, 2026).

In addition, the DOJ has authorized up to 600 military lawyers to serve as temporary immigration judges for a renewable term not to exceed six months, while simultaneously eliminating requirements to serve as a temporary immigration judge.[23] Previously, temporary judge candidates were required to have served as a former immigration judge, appellate immigration judge, or administrative judge within another agency, or to have at least 10 years of immigration law experience. The administration removed those requirements entirely, allowing "any attorney" to be selected as a temporary immigration judge and reduced training to approximately two weeks—far less than the standard training for permanent immigration judges, which includes six weeks of initial training, one year of mentorship by an experienced judge, and two years of quarterly reviews.[24] Corey Lewandowski, an adviser to DHS Secretary Noem, responded to the announcement by posting: "I see more deportations of illegal immigrants in the near future"[25]—an explicit acknowledgment of the mass deportation policy objective underlying these appointments and the erosion of institutional boundaries between DOJ and DHS. In December, one of the appointed temporary judges was fired just a month into his six-month term. "That judge, Christopher Day, had granted asylum claims in just over half the cases he heard."[26]

E. A Barrage of EOIR Policy Memoranda Show Expectation For Adjudications Favoring the Government Over Noncitizens

Beyond personnel changes, EOIR's new acting director, Sirce E. Owen, quickly issued "a string of sharply worded policy memos" that immediately "[set] the tone for her leadership." "Sources familiar with Owen described her as a "restrictionist loyalist" with a reputation for

[23] Designation of Temporary Immigration Judges, 90 Fed. Reg. 41,883 (Aug. 28, 2025). (last visited Feb. 10, 2026).
[24] Margy O'Herron, *Using Military Lawyers as Immigration Judges is Ill-Advised and Potentially Illegal*, Brennan Ctr. for Just. (Sept. 29, 2025), https://www.brennancenter.org/our-work/analysis-opinion/using-military-lawyers-immigration-judges-ill-advised-and-potentially (last visited Feb. 10, 2026).
[25] Corey R. Lewandowski (@CLewandowski_), X (Sept. 2, 2025, 1:47 PM) https://x.com/clewandowski_/status/1962950546652070269 (last visited Feb. 10, 2026).
[26] *US army lawyer fired as immigration judge after defying Trump deportation agenda*, The Guardian (Dec. 19, 2025), https://www.theguardian.com/us-news/2025/dec/19/army-lawyer-fired-immigration-trump-deportation

denying cases."[27] The Catholic Legal Immigration Network (CLINIC) observed that "these memos also seem intended to reshape EOIR, which is meant to be a neutral arbiter, into a politically driven tool advancing the Trump administration's clearly anti-immigrant views."[28] The policy directives include: a memorandum dated June 27, 2025 warning judges not to demonstrate "bias directed against DHS" or to be "adjudicatory outliers," at risk of "close examination and potential action";[29] a memorandum encouraging judges to deny asylum applications without full evidentiary hearings, styled as efficiency guidance but functioning as a directive to reduce due process protections;[30] and memorandums restricting IJs' ability to grant continuances[31] and administrative closure.[32] *See* Exhibit A hereto which contains a printout of all the aforementioned links and articles.

V. CONCLUSION

For these reasons, the Court should grant Petitioner's Motion to Enforce and the relief set forth in the Motion's Conclusion.

Respectfully submitted this 17th Day of February, 2026.

---

[27] Isabela Dias, "Fired for No Reason": Former Immigration Judges Speak Out Against Trump's Assault on the Courts, Mother Jones (Oct. 9, 2025), (last visited Feb. 10, 2026): https://www.motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-purge-dhs-ice/..

[28] Cath. Legal Immigr. Network, Inc., *Navigating EOIR Directives Under Trump 2.0: Practical Guidance for Advocates and Programs* (Apr. 22, 2025), https://www.cliniclegal.org/file-download/download/public/77642 ((last visited Feb. 10, 2026).

[29] Exec. Off. for Immigr. Rev., Policy Memorandum 25-33, Neutrality and Impartiality in Immigration Court Proceedings (June 27, 2025), https://iptp-production.s3.amazonaws.com/media/documents/2025.06.27_EOIR_-_PM_25-33.pdf (last visited Feb. 10, 2026).

[30] Exec. Off. for Immigr. Rev., Policy Memorandum 25-28, Pretermission of Legally Insufficient Application for Asylum (Apr. 11, 2025), https://www.justice.gov/eoir/media/1396411/dl?inline (last visited Feb. 10, 2026).

[31] Exec. Off. for Immigr. Rev., Policy Memorandum 25-27, Cancellation of Director's Memorandum 23-01 and Reinstatement of Policy Memorandum 19-13 (Mar. 21, 2025), https://www.justice.gov/eoir/media/1394086/dl

[32] Exec. Off. for Immigr. Rev., Policy Memorandum 25-29, Cancellation of Director's Memorandum 22-03 (Apr. 18, 2025), https://www.justice.gov/eoir/media/1397161/dl?inline

/s/ Karen Weinstock
Karen Weinstock
Attorney for Petitioner
Weinstock Immigration Lawyers, P.C.
1827 Independence Square
Atlanta, GA 30338
Phone: (770) 913-0800
Fax: (770) 913-0888
kweinstock@visa-pros.com

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

Respondent Name:
[redacted]

To:
Weinstock, Karen
1827 Independence Square
Atlanta, GA 30338

A-Number:
[redacted]

Riders:
In Custody Redetermination Proceedings

Date:
01/30/2026

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 not met his burden to show that he is not a significant flight risk. Respondent has tenuous ties to the United States and is a relatively recent entrant to the United States.

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

☑ Other:
On the 27th day of January, 2026, Clay D. Land, U.S. District Court Judge, Middle District of Georgia granted Respondent's petition for a writ of habeas corpus to the extent that the Court ordered a bond hearing to determine if Respondent may be released on bond under § 1226(a)(2) and the applicable regulations. This order is pursuant to that habeas grant.

Immigration Judge: Brown, Bianca 01/30/2026

Appeal: Department of Homeland Security: ☑ waived ☐ reserved
Respondent: ☐ waived ☑ reserved
Appeal Due: 03/02/2026

Certificate of Service

This document was served:
Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable
To: [ ] Alien | [ ] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS
Respondent Name : [redacted] | A-Number : [redacted]
Riders:
Date: 01/30/2026 By: Corbin,T, Court Staff

DECLARATION OF KAREN WEINSTOCK

I, Karen Weinstock, declare as follows under penalty of perjury pursuant to the laws of the United States:

I. PROFESSIONAL BACKGROUND AND QUALIFICATIONS

1. I am an attorney licensed to practice law in the States of New York and Georgia and am admitted to practice before the United States District Courts in many jurisdictions as well as most Circuit Courts of Appeals.

2. I have almost 25 years of experience in immigration law and have been continuously practicing immigration law since August 2001.

3. For the past two decades, I have been in private practice as a managing immigration attorney and have supervised attorneys in my firm specializing in detention and removal defense, including routine representation of detained individuals in bond proceedings before Immigration Judges (IJs) mainly in the immigration courts in Georgia.

4. Based on this extensive experience with immigration enforcement, removal, and litigation, I am intimately familiar with the standards, practices, and norms governing bond determinations in immigration proceedings in this district.

5. I offer the opinions in this declaration based on my training and experience to assist the Court in understanding current bond-hearing practices and their practical effect on habeas relief.

II. PURPOSE OF THIS DECLARATION

6. I submit this declaration to provide the Court with direct, firsthand observations of a dramatic and systematic change in bond hearing outcomes that have occurred since late December 2025 in immigration bond proceedings in Georgia, particularly before Immigration Judges assigned to the detained docket in Stewart Detention Center, Irwin Detention Center, and the Atlanta Immigration Court, whose judges adjudicate detainee cases located at the D. Ray James and Folkston detention center in South Georgia.

7. While I generally do not participate in bond hearings because I mostly work in a supervisory role over immigration attorneys (including removal defense attorneys) and I have been focusing on leading federal court litigation actions over the past few months, I have attended several recent bond hearings in immigration court because my firm's primary removal defense attorney was out on maternity leave.

8. I provide these observations to assist federal courts in determining whether ordering additional 8 U.S.C. § 1226(a) bond hearings—rather than directing immediate release or imposing specific procedural safeguards—constitutes an effective or meaningful remedy for individuals who have already been unlawfully detained and sought and obtained habeas relief.

9. This declaration is based on: (a) my personal observations of bond hearings I have attended, which include cases I observed the immigration judges conduct for my firm's clients and other attorneys appearing before me in bond dockets for their clients; (b) my review of written bond decisions issued to clients; (c) communications with numerous immigration attorneys practicing in this district; and (d) my professional knowledge of historical bond practices in this jurisdiction spanning more than two decades.

10. More specifically, this Declaration is made in support of a Motion to Enforce and to Show Cause re: Contempt in the matter of ***M.G. v. Warden*, Case No. 4:26-cv-00098-CDL-AGH**. As I represented Mr. M.G. in his bond hearing before Immigration Judge Bianca H. Brown on January 30, 2026, I can attest to what happened in the hearing. I am also enclosing a true transcript of the audio recordings from that hearing that my staff members downloaded from the Immigration Court's electronic system and converted it into a written transcript as **Exhibit A** hereto. The transcript is incorporated herein by reference and this Declaration authenticates it. All proceedings before the immigration court are now recorded and the attorney of record is able to download them from the electronic system.

III. THE SEISMIC SHIFT: SYSTEMATIC DENIAL OF BOND IN POST-HABEAS CASES

11. Historically, prior to 2025, the vast majority of noncitizens pending removal proceedings were not detained, with the exception of people with serious criminal offenses detained pursuant to 8 U.S.C. § 1226(c).

12. If a client was detained and a bond hearing requested, the IJ would apply bond factors in *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006) at 40-41. Those include: (1) whether the noncitizen has a fixed address in the United States; (2) the noncitizen's length of residence in the U.S.; (3) the noncitizen's family ties in the U.S. and whether they may entitle the person to permanently reside in the U.S. in the future; (4) the noncitizen's employment history; (5) the noncitizen's record of appearance in court; (6) the noncitizen's criminal record, including the extensiveness of the criminal activity, recency and seriousness of the offenses; (7) the noncitizen's history of immigration violations; (8) any attempt of the noncitizen to flee from prosecution or escape from authorities; and (9) the noncitizen's manner of entry to the U.S. The IJ may also consider the likelihood of whether relief from removal will be granted, meaning whether the noncitizen is prima facie eligible for relief from removal. However, the IJ is not supposed to conduct a merits analysis in a bond hearing because relief is not yet filed or completed so early in the process. Historically, an IJ would just ask what kind of relief would be filed with the immigration court. And the IJ's findings must be based on reasonable inferences drawn from the record as a whole, rather than on speculation or conjecture.

13. Beginning in or around late December 2025, I began observing what can only be described as a seismic shift in bond hearing outcomes for individuals who had been granted federal habeas relief and ordered § 1226(a) bond hearings by this Court and several other Federal district courts in which I have received habeas grants on behalf of detained clients.

14. Prior to this shift, while bond amounts had increased in recent months to a "normal" around $4,000-$5,000 (from lower amounts of $2,000-$3,000 previously), bond was routinely granted in cases where individuals demonstrated: (a) lack of significant criminal history; (b) strong family ties in the United States; (c) lengthy residence in the country; (d) prima facie

eligibility or claims for relief from removal; (e) stable housing and employment; and (f) community support and involvement. There was never a requirement to obtain a U.S. citizen or Lawful Permanent Resident (LPR) sponsor.

15. Beginning in January 2026, this pattern ***abruptly and uniformly*** ceased. In numerous cases I have personally observed or learned about from colleagues, IJs have denied bond based on alleged flight risks and other reasons such as "speculative relief" in circumstances that, weeks earlier, would have resulted in bond being set.

16. In my professional observation, the consistency, timing, and uniformity of these denials cannot be readily explained by coincidence, changes in individual case facts, or independent judicial decision-making. The pattern appears systematic and, in my professional judgment, is best explained by an institutional or policy shift rather than case-by-case independent adjudication.

17. Prior to this shift, the immigration judges were conducting what appeared to be meaningful individualized bond assessments in post-habeas cases. They were granting bonds in most cases, as neutral arbitrators should. Only one case stands out in my mind prior to January 2026, when a bond under 8 U.S.C. § 1226(a) was denied in a post-habeas grant.

18. In my recent observations, immigration judges on these detained dockets no longer appear to function as neutral arbiters. They rarely question DHS's detention positions, even where the factual record does not appear to justify continued custody. Sometimes, they conduct the role of prosecutor as well as a judge, for example, denying for "flight risk" when DHS does not allege a flight risk exists.

19. Attorneys for DHS now claim in nearly every case that bond should be denied for clients based on flight risk or danger or both. DHS makes this claim even when there is no criminal history for the client, or where there is very minor criminal history comprised of traffic offenses such as driving without a license. Moreover, DHS often make a claim of flight risk without any

justification and in direct contradiction to evidence of the noncitizen's family and community ties. For example, DHS may argue "flight risk" even despite years of prior compliance with an Order of Release on Recognizance by the noncitizen.

20. Since late December 2025, many IJs on the detained docket in Stewart and Atlanta immigration courts have, based on my observations, *systematically denied bond or issued extraordinarily high bonds which are tantamount to denial of bond* in post-habeas cases. This pattern suggests an institutional or policy shift that has the practical effect of ensuring predetermined outcomes—continued detention—regardless of individual circumstances and neutral, independent, and unbiased review.

21. Based on this pattern, it is my professional assessment that for individuals who have already received a bond hearing ordered by a federal habeas court under 8 U.S.C. § 1226(a) but that was constitutionally defective, ordering yet another bond hearing under the same current practices is unlikely to provide any meaningful opportunity for release. In practice, these post-habeas bond hearings have operated as illusory proceedings that preserve the appearance of due process while virtually foreclosing any realistic possibility of release. In other words, I do not believe that IJs are neutral arbiters any longer and many bond hearings conducted under these IJs purportedly under 8 U.S.C. § 1226(a) do not comport with due process under the Fifth Amendment. Binding Supreme Court and other case law mandates a fair hearing before a tribunal that is impartial, conducting individualized and evidence-based assessment tied to statutory purposes and consideration of a noncitizen's ability to pay and less restrictive alternatives. This results in many bonds now being denied.

IV. PRETEXTUAL AND LEGALLY INSUFFICIENT RATIONALES FOR DENYING BOND

22. Since January 2026, IJs have, in my observation, relied on a remarkably narrow and predictable set of rationales to deny bond—rationales that appear to bear little relationship to genuine individualized risk assessment and that would not have been deemed sufficient to justify denial just weeks earlier.

23. These rationales, which I believe to be pretextual, include, but are not limited to:

a. Treating the absence of a financial sponsor as dispositive of flight risk, even when other equities (family ties, length of residence, employment history, community support) overwhelmingly favor release;[1]

b. Finding that a sponsor who is not a strong *financial* sponsor is insufficient, despite no legal requirement that sponsors provide financial guarantees, only that they post the bond through a wire transfer or cashier's check;

c. Treating the fact that an individual did not seek relief from removal until after being detained as evidence of a lack of intent to comply with immigration proceedings;

d. Pre-determining that eligibility for or applications for relief that are filed or about to be filed, such as asylum or cancellation of removal is "speculative" and therefore cannot mitigate flight risk, despite the fact that all immigration relief applications involve some degree of uncertainty and detailed, individualized merits assessment (which is not required to be assessed at the bond stage so early in the proceedings, particularly when no individualized merits hearings have even been scheduled);

e. Characterizing unlawful entry into the United States—*by itself*—as establishing flight risk, a rationale that would render bond impossible for the vast majority of detained individuals (while the manner of entry is a consideration, one illegal entry into the country would never have disqualified someone from being granted a bond previously);

[1] There is no requirement in the regulations or caselaw to provide a sponsor for a bond, only that a U.S. citizen or Lawful Permanent Resident post a bond after one is given. Having a sponsor with a fixed address and financial ability can be a factor to mitigate flight risk in some circumstances (for example when someone entered recently or has minimal ties such as no family members) but is not required or a deciding factor. In previous years, a sponsor was not required to be filed with a bond motion, however recently IJs have been denying bonds for lack of a "sponsor" or taking a sponsor's income into consideration, even in cases where noncitizens have spent years in the country and have been supporting themselves and their families throughout

f. Treating the accumulation of unlawful presence (which is a civil violation, not a crime) as evidence of danger or disregard for the law;

g. Treating minor offenses with pending charges, dismissed cases, or cases resolved with probation only or light sentences as supporting "dangerousness";

h. Finding that unauthorized employment—a status violation shared by millions of undocumented immigrants—constitutes a significant negative factor warranting denial of bond (in my view, treating unauthorized employment as a negative factor departs from prior practice, where stable work and ability to self-support was generally viewed as mitigating flight risk and many clients pay taxes on this unauthorized work and file tax returns using Tax Identification Numbers);

i. Failing to consider years of consistent reporting to ICE on an Order of Release on Recognizance (OREC) or ISAP or other previous reporting compliance;

j. Questioning the accuracy of tax returns and suggesting "underreporting" based on subjective assessments of lifestyle, without any actual evidence of fraud or misrepresentation;

k. Imposing on noncitizens the burden of proving that they will appear for future court proceedings—an impossible burden that requires proving a negative—even though many noncitizens have never failed to appear for any prior proceeding because they have never been required to appear until being placed in removal proceedings or when they previously appeared to state court and complied with probation or payment of fines (in the past 25 years prior to this shift this was never done in practice cases that I am familiar with);

l. Denying bonds for "driving without a license" offenses as "danger to the community" despite knowing that undocumented individuals are not able to obtain licenses in many states and despite having no record of

accidents or reckless driving throughout years of driving in the country (lack of accidents or citations over years would actually indicate that they are driving safely); This, while other IJs grant bonds for noncitizens arrested for driving without a license but some IJs may set a bond condition that the noncitizen would not drive without a license;

m. Denying bonds for "violating the law" or "disregarding the law" for multiple traffic offenses, which is the incorrect legal standard (which, in my professional view, is not an appropriate standard because it is not, by itself, indicative of danger or flight risk); and

n. Denying bonds for a single DUI arrest (without requiring a conviction) or a single DUI conviction relying on *Matter of Siniauskas*, 27 I&N Dec. 207 (BIA 2018), even though a single arrest, without conviction or aggravating factors (such as damage to property or hurting others), does not automatically prove ongoing dangerousness (*Siniauskas* involved an arrest for a ***fourth*** DUI offense; two of the prior convictions and the new DUI charge involved traffic *accidents*).

24. In my professional assessment, these rationales do not appear to be grounded in legitimate risk assessment. They appear to be pretexts designed to ensure denial of bond regardless of the individual facts of each case.

25. The rationales being employed to deny bond appear to depart significantly from the standards articulated in BIA precedents governing bond determinations and prior bond determinations even from the same IJs in the past.

26. The rationales I have observed recently—having no evidence but establishing flight risk, dismissing relief applications as inherently "speculative," requiring financial sponsorship as a prerequisite, and treating any traffic violation negatively—appear to represent a departure from these precedential standards and undermine Due Process.

27. BIA case law requires that IJs consider the ***specific circumstances*** of each case and weigh multiple factors in reaching bond determinations. The

systematic application of categorical exclusions based on status violations common to the detained population does not appear consistent with the individualized, fact-specific analysis that BIA precedent mandates.

28. In many of the bond hearings I observed, the bond hearings and decisions are very swift, with IJs taking only a few minutes to review the documents submitted by attorneys and discussing the merits on the record, which are insufficient, in my opinion, to thoroughly review all documents submitted and conduct a thorough analysis.

V. OBSERVATIONS AND EXAMPLES FROM SPECIFIC BOND PROCEEDINGS ON THE DETAINED DOCKET IN GEORGIA

29. Immigration bond hearings on the detained dockets in the Atlanta and Stewart Immigration Courts are conducted via Webex in an open-court format: all attorneys log into the same Webex session, and the Immigration Judge calls cases one after another on a single bond calendar. Because of this structure, I was present in the virtual courtroom and was able to hear each bond hearing for noncitizens whose attorneys appeared before me in the court that day.

30. On several occasions, I personally observed a detained bond docket before Immigration Judge Bianca Brown by Webex in the Stewart Immigration Court. During those sessions, Judge Brown denied bond in every case I observed. By way of example (this is not a complete list, just a sample):

a. IJ Bianca Brown denied bond for a client of another attorney who has been in the United States for approximately two decades, has U.S. citizen children in their teens, and had filed an EOIR-42B non-LPR cancellation application; IJ Brown characterized that application as "speculative" and relied on that characterization in finding flight risk and denying bond.

b. In another matter involving a client of mine (R.R.C., who was represented by attorney Adams in the bond hearing for whom I have obtained a Declaration and later reviewed the hearing transcript) for whom I filed for and was granted a habeas by Judge Land, IJ Brown denied bond based on "flight risk" and "speculative relief" even though he entered the

United States through a port of entry several years ago, applied there for asylum, was released on his own recognizance by the government, and faithfully complied with reporting requirements for several years until he was unlawfully detained under 8 U.S.C. § 1225 at his most recent reporting appointment.

c. In another matter involving IJ Brown, I witnessed her deny a bond for another noncitizen represented by another attorney who came up before my client based on him being a "danger" for a second driving without a license without any proof or reckless driving or dangerous driving conduct. She stated to the record something to the effect that to get a license the noncitizen has to pass a road test and secure insurance, without questioning whether the noncitizen did in fact have insurance and without taking into account exemplary driving record for more than a decade other than driving without a license (which undocumented noncitizens cannot obtain in Georgia). Other judges have granted bonds in similar situation, with a condition not to drive unlicensed.

31. IJ Jerrica Harness at the Stewart Immigration Court, who up until a few months ago was approving bonds in similar circumstances, also changed course. In another matter involving a client of mine for whom I filed for and was granted a writ of habeas, IJ Jerrica Harness denied bond notwithstanding no criminal history and nearly 20 years in the U.S. with U.S. citizen children in their late teens, stable address and stable employment for the same employer for years because the "sponsor" did not make a lot of money, notwithstanding that Petitioner was fully self-supporting and a sponsor is not required, although sometime necessary to mitigate flight risk (for example for people who recently entered the country and do not have a history of compliance or have no U.S. citizen family). The full circumstances surrounding this denial are referenced in a Declaration by attorney Nikita Modi who attended that hearing following a habeas grant for my client.

32. In another matter involving a client of mine for whom I filed and obtained a writ of habeas, I attended a post-habeas bond hearing before Immigration Judge James Ward. That client had lived in the United States for more than a decade, was engaged to a U.S. citizen whom he had been dating for

approximately four years and had two minor driving-without-a-license offenses (and other minor convictions) from about a decade earlier as well as a more recent driving-without-a-license offense. At that session, I observed Judge Ward deny multiple bonds for other noncitizens on the detained docket based on driving-without-a-license offenses, characterizing them as "danger" because, in his view, those individuals "kept breaking the law," even though conditions of release such as a no-driving condition could have addressed that concern. Based on those denials and the reasons given, I withdrew my client's bond request at that time, intending to refile in hopes of being assigned a different bond judge. I was later informed by another attorney who reported being present at a subsequent master calendar hearing (at which my client was unrepresented) that, before the next bond hearing could occur, Immigration Judge Bianca Brown told my client that, because he had entered without inspection, he was ineligible for bond, and that he was then pressured to sign voluntary departure paperwork and remain detained after ICE allegedly promised prompt removal to Mexico if he did so, despite his having had a habeas petition granted. I did not personally witness that later hearing, and I relate these events as they were described to me by that attorney to illustrate how other practitioners are observing post-habeas practices being handled in similar cases.

33. In another client bond hearing on January 28, 2026 before IJ Blake Doughty, I observed that the proceeding did not resemble the individualized, evidence-based bond assessment that I understand § 1226(a) and due process to require. Although we had submitted extensive documentary evidence in advance—including proof of his nearly three years of full compliance with his OREC and ISAP reporting requirements—and, in fact, that client was detained by ICE as he reported as requested by ICE in December 2025, IJ Doughty failed to consider the client's U.S. citizen fiancée's sponsorship and fixed address, evidence of his employment, and multiple letters of support—IJ Doughty did not take live testimony from the client or his fiancée, did not meaningfully address this evidence on the record, and did not engage in a *Guerra*-type analysis of his fixed address, long-term residence, family and community ties, employment history, or perfect appearance and compliance history. DHS submitted no advance evidence of flight risk and, at the hearing, did not argue that my client was a flight risk, yet IJ Doughty

nonetheless relied on "flight risk" as the basis for setting an extraordinarily high $40,000 cash-only bond, without asking any questions about my client's financial circumstances, without considering that such an amount was far beyond his means, and without discussing less restrictive alternatives to detention such as continued ISAP supervision. Based on my observations, the bond amount imposed functioned, in practice, as a denial of bond and ignored both his three-year record of perfect OREC and ISAP compliance and his inability to pay such a sum.

34. Multiple cases that, under the standards applied in this district as recently as early December 2025, previously would have resulted in bond being set were instead denied. The denials were based on the same rationales I have described above: lack of a financial sponsor, unauthorized work, the "speculative" nature of relief applications, and immigration violations that are endemic to the detained population. "Flight risk" was invoked repeatedly to justify denial for individuals with no criminal record, often without any individualized negative flight-risk factors, based solely on the IJ's speculation and DHS's assertion that the person was a flight risk. Several of these individuals, including my own client, had just obtained federal habeas relief on the question of their detention authority and were appearing for the § 1226(a) bond hearings ordered by the district court, yet bond was denied on these categorical grounds. Therefore, the post-habeas bond hearings did not function as meaningful mechanisms for release. For example, one of my clients was found to be a "flight risk" even though he had previously been released by ICE on his own recognizance, had complied with ICE reporting for years, had a U.S. citizen fiancée with a fixed address, and was detained while he was complying with ICE reporting at his most recent check-in at the ICE office.

35. In each instance I observed, the IJ was applying factors that, if consistently applied, would make bond impossible for virtually any detained individual in removal proceedings. There did not appear to be meaningful individualized assessment or a neutral adjudication of factors. The hearings appeared to be perfunctory exercises designed to create a veneer of Due Process while ensuring predetermined outcomes.

36. The cases I observed involved individuals with no criminal history, or only minor criminal history unrelated to violence or flight (such as driving without a license). These individuals had family members present in court or U.S. citizen children, stable housing, stable employment, and pending applications or eligibility for relief from removal. Under the standards that prevailed in this district for years—and indeed, as recently as December 2025—these individuals would have been granted bond.

37. In Mr. M.G.'s case, IJ Bianca Brown denied bond even though he entered the United States through a port of entry several years ago, applied there for asylum, was released on his own recognizance by the government, and faithfully complied with reporting requirements for several years until he was unlawfully detained under 8 U.S.C. § 1225 at his most recent reporting appointment. In the January 30 hearing, DHS requested "no bond" but did not present any documentary evidence of flight risk or danger, instead offering only a brief assertion that my client had entered in 2023 and asking the Court to "hold him to his burden." In response, I explained that DHS itself had previously released M.G. on an OREC when he entered, that he had timely filed his asylum application, had maintained a fixed address, had been working with authorization as a driver for Amazon, and had been in full compliance for approximately three years with ISAP and all reporting requirements before he was re-detained at a routine check-in in December 2025 based on the government's new "arriving alien" theory later rejected in habeas. I also referenced the documentary evidence we had filed in support of bond, including pay stubs, W-2s, and evidence of his residence, which in my view showed he met the *Guerra* factors for release and had a strong compliance history. IJ Brown did not take any testimony from my client who was there to testify, did not meaningfully address this evidence on the record, did not discuss less restrictive alternatives to detention, and did not solicit or require any specific evidentiary proffer from DHS regarding flight risk. Instead, in a very brief ruling, she concluded that my client had not met his burden to show that he was not a "significant flight risk," characterizing him as having "tenuous ties" and being a "relatively recent entrant," and stating that his release before the Court was "speculative," and she denied bond on that basis. When I attempted to further explain and to address the Court's reference to "speculative" relief and flight risk, persistent audio problems led IJ Brown to

state that she could not hear me and that she "must move on," after which she reserved appeal on my client's behalf and concluded the hearing. Based on my observations, this bond hearing lasted only a few minutes, did not involve any individualized analysis of the full record of M.G.'s compliance and equities, and functioned in practice as a summary denial of bond on boilerplate "flight risk" grounds despite years of prior OREC and ISAP compliance.

38. Although I reserved my client's right to appeal IJ Brown's bond denial to the Board of Immigration Appeals, in my professional judgment pursuing such an appeal would be effectively futile in practice. The filing fee for a Form EOIR-26 appeal in most categories was recently increased to $975, and EOIR-related filings now also trigger an additional $30 DHS–EOIR biometric services fee, so that many BIA appeals require payment of over $1,000 before accounting for attorney's fees and related litigation costs. For indigent detained noncitizens like M.G., who are already unable to pay the cash bonds being set, those costs are prohibitive. In addition, published information and my own experience from recent months indicate that BIA appeals commonly take many months to more than a year to resolve, during which time the noncitizen remains detained, meaning that an appeal would likely prolong my client's custody for a substantial period with little realistic prospect of a different result.

VI. CORROBORATION FROM THE IMMIGRATION LEGAL COMMUNITY

39. My observations are not isolated. In recent weeks, I have communicated with numerous immigration attorneys practicing all over the United States who handle detention cases. These colleagues have described experiencing similar patterns in their own matters. I relate these conversations solely to illustrate how other practitioners are perceiving current bond-hearing practices, not to attest to the truth of the underlying facts in each individual case.

40. Colleagues have reported to me that clients who were granted federal habeas relief and ordered § 1226(a) bond hearings are now being systematically denied bond based on rationales that, in their experience, would not have been deemed sufficient weeks or months earlier.

41. According to these attorneys, bond hearings often appear to be "pro forma" exercises where the outcome seems predetermined. They report that meaningful individualized review appears to have been replaced by boilerplate language and cookie-cutter denials utilizing the smallest of reasons to deny bond to non-criminals.

42. Several of these attorneys—particularly those with less experience in federal court—have asked me to assist them in preparing motions to enforce prior habeas orders, based on what they view as pro forma denials using rationales such as "flight risk," "speculative relief," or findings of danger that they believe are unsupported by the record.

43. In my professional judgment, based on the patterns described above and the consistent reports of other practitioners, the developments of the past few months are not merely the product of individual judicial discretion or case-specific circumstances. Rather, the immediate and uniform shift to systematic denial of bond or the imposition of very high cash bonds, the reliance on a narrow set of recurring rationales across multiple judges and cases, and the abrupt firing or reassignment of judges who were granting bond and questioning government positions together appear, in practice, to reflect an institutional pattern within the Executive Office for Immigration Review (EOIR) and the Department of Justice that has the effect of keeping noncitizens detained despite habeas grants and undermining the practical effectiveness of federal habeas relief.

VII. PROFESSIONAL ASSESSMENT AND CONCLUSION

44. In my professional judgment, based on the patterns described above, what I have witnessed over the past couple of months appears, in practice, to function as a systematic effort to nullify the constitutional protections that federal courts have recognized and enforced through habeas corpus. The current approach to post-habeas bond hearings—characterized by routine denials or effectively unattainable bonds and reliance on a narrow set of recurring rationales—has the effect of rendering meaningless the bond hearings that this Court and others have ordered for many detained noncitizens.

45. In my professional judgment, based on the patterns described above, noncitizens are now being denied those hearings in any meaningful sense, and are being held in detention not because they truly pose a danger or a flight risk, but because, in my observation, the Executive Branch appears to have decided to circumvent federal court orders through institutional means—via its administrative law judges (IJs)—or "hearing officers" as called by EOIR—by denying bonds for whatever plausible reason can be mustered, often invoking "flight risk" or "speculative relief" without evidentiary support. In my view, this pattern is likely to advance the current administration's agenda of deporting as many noncitizens as possible in the fastest time possible.

46. I do not have access to EOIR's or the DOJ's internal deliberations or directives, and I do not know whether any relevant changes have been formally memorialized in internal policy memoranda that would be subject to FOIA. My assessment is based on the consistent patterns I have personally observed in bond hearings and decisions across multiple dockets and judges, as well as reports from other practitioners. In my professional judgment, this institutional pattern is the most plausible explanation for the level of uniformity in outcomes and reasoning I have observed, which is not typical of independent, case-by-case adjudication.

47. The bond hearings being provided to individuals who have been granted federal habeas relief do not, in my observation, function as genuine adjudications of bond eligibility under 8 U.S.C. § 1226(a) and implementing regulations at 8 C.F.R. §§ 236.1 and 1236.1. Instead, they appear in practice to operate as illusory remedies designed to create the appearance of due process while ensuring that individuals remain detained for prolonged periods, and they fall far short of the basic procedural safeguards that I understand due process to require.

48. Additionally, in my professional judgment, for noncitizens who have already obtained habeas relief and a resulting § 1226(a) bond hearing, directing additional bond hearings before the same institution, under the same practices I describe above, is not an effective way to vindicate the writ. Under current conditions, the only reliable means for a federal court to ensure that

its habeas rulings are implemented is to order release directly. Alternatively, at minimum, due process requires district courts to impose specific, enforceable standards and burdens of proof that meaningfully constrain the conduct and outcomes of post-habeas bond hearings (such as the government bears the burden by clear and convincing evidence that a noncitizen is a flight risk or danger and IJs must consider the noncitizen's ability to pay and alternatives to detention).

49. I am profoundly concerned by what I have witnessed. As an attorney who has dedicated my career to the fair administration of immigration law, I find what appears to be a coordinated effort to undermine judicial authority and deny Due Process to be deeply troubling and inconsistent with the values of the United States. In my professional opinion these IJs are denying these bonds in a biased predetermined manner and not by true exercise of discretion pursuant to the law, regulations or binding BIA caselaw.

50. The individuals affected by this systematic denial of bond are not abstractions. They are human beings with families, with children, with jobs, with lives in this country. They have been detained pursuant to the wrong statute (as "arriving aliens" under 8 U.S.C. § 1225(b)) and thus should not have been detained in the first place. Many of them were on OREC reporting and were fully compliant for years. While federal courts found that they are entitled to bond hearings under 8 U.S.C. § 1226(a) and implementing regulations, the assumption that underlies that is that those bond hearings would be fair and unbiased and Due Process will be afforded. Unfortunately, that is no longer the reality in many cases.

51. I submit this declaration in the hope that it will assist courts in understanding the reality of what appears to be occurring in immigration proceedings in this district and in ensuring that the constitutional right to release from unlawful detention through habeas corpus is not rendered meaningless.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

12/17/2026

Date

Karen Meinstock

Signature

Adams Law
Immigration Results

W. Patrick Adams, Esq.
(Admitted in GA)
Office: (404) 912-8244
Fax: (404) 912-8245

AFFIDAVIT OF W. PATRICK ADAMS, ESQ.

I, William Patrick Adams, declare as follows under penalty of perjury of the laws of the United States:

1. I am an attorney licensed to practice law in the State of Georgia. I have three (3) years of experience practicing immigration law, which I practice exclusively. I am counsel of record for R.R.C. (A# [redacted]) in his removal proceedings, asylum application, and bond proceedings. I make this declaration based on my personal knowledge and observations.
2. On the morning of **January 30, 2026**, I appeared **in person** at Stewart Detention Center for Mr. Chamberlain's custody redetermination (bond) hearing under 8 U.S.C. § 1226(a) (INA § 236(a)). The hearing had been scheduled before Immigration Judge Fuller.
3. Upon arrival at the detention facility, both I and my client were notified that Immigration Judge (IJ) Fuller was not present and that Immigration Judge Bianca Brown would be assuming his docket for that session to conduct the bond hearings.
4. When Immigration Judge Brown entered the courtroom, I observed the Court's clerk inform her that she would be presiding over Immigration Judge Fuller's bond docket for the morning. Immigration Judge Brown appeared surprised and expressed frustration upon learning of the reassignment.
5. Immigration Judge Brown called my client R.R.C.'s case first since I was attending in person. At that time, myself and government counsel were the only attorneys present in the courtroom.
6. Prior to the hearing, I had filed approximately **seventy-five (75) pages** of exhibits and briefing in support of R.R.C.'s bond motion. These materials addressed jurisdiction, flight risk, danger, supervision history, family ties, and compliance with ICE requirements. Among the documents filed were copy of a marriage certificate of R.R.C. to his U.S. citizen wife, proof of fixed address, documents relating to his Order of Release on Recognizance (OREC). My client was ordered released on his own recognizance by ICE and has been compliant with his OREC for several years. IJ Brown acknowledged receipt and review of all filings.
7. From the time R.R.C's case was called until judge Brown announced her decision to deny bond in R.R.C.'s case, approximately **three to four minutes** elapsed. **During that time, IJ Brown did not take a recess or break to review the**

filed materials off the record. A true transcript of the hearing's audio recording (which I downloaded from the EOIR ECAS system) is attached hereto.

8. On the record, Immigration Judge Brown stated that she had reviewed R.R.C.'s filings and briefing. Given the short duration of the hearing and absence of any recess, there was no indication that she conducted a detailed review of the approximately seventy-five pages (75 pages) I filed in the case in 3-4 minutes or that she conducted any meaningful review of the evidence.
9. Immigration Judge Brown acknowledged jurisdiction pursuant to the federal habeas corpus order granting R.R.C. a bond hearing.
10. The Court briefly heard argument from the undersigned counsel. **DHS did not submit any documentary evidence in advance of the hearing. At the hearing, DHS did not offer exhibits or testimony opposing bond, apart from DHS counsel's assertion that R.R.C. had failed to appear for a check-in. DHS did not submit any documentation to support that assertion, and that assertion was inconsistent with the fact that R.R.C. was detained during an in-person check-in with ICE at 180 Ted Turner Drive SW, Atlanta, Georgia.** Similar to other courts, counsel's assertions are not considered evidence in immigration court.
11. Immigration Judge Brown denied bond, finding R.R.C. to be a flight risk based solely on the conclusion that R.R.C.'s only form of relief pending before the Immigration Court was an I-589 application for asylum, which the Court characterized as "speculative" and insufficient to rebut flight risk.
12. The Court did not address or meaningfully engage with the following undisputed facts in the record:
    - R.R.C. has **no criminal history**.
    - R.R.C. is **married to a United States citizen** and is the beneficiary of a **pending Form I-130**, filed more than one year prior to the bond hearing and still pending adjudication with USCIS and he has been living with his wife at a fixed address since they married.
    - R.R.C. filed an **I-589 application for asylum**, which remains pending before the Immigration Court and has an avenue for relief. An immigration judge cannot determine that a properly filed application is "speculative" because they are not supposed to conduct a full merits hearing in bond proceedings, only to determine whether there is any relief from removal available. That is because bond proceedings are separate from removal proceedings and all evidence in support of someone's application only need to be filed 15 days before the final individual merits hearing in the case. Only a prima facie application is filed in the initial stages.
    - R.R.C. complied with **Intensive Supervision Appearance Program (ISAP)** requirements for multiple years, after ICE/DHS released him on his own recognizance.

- ICE had initially and previously placed R.R.C. on an ankle monitor and later **affirmatively removed the ankle monitor**, determining that a lower level of supervision was sufficient due to his record of compliance (and possibly due to his marriage to a U.S. citizen).
- R.R.C. consistently complied with in-person reporting requirements and appeared for the very last ISAP appointment that resulted in his detention, after being instructed by ISAP personnel to delay his reporting and report on the following day.

13. R.R.C. was taken into ICE custody after reporting as instructed at the ICE offices, rather than avoiding contact with ICE.
14. R.R.C. has no negative 'flight risk' factors, other than his length of time in the U.S. He has no criminal history, lives with his U.S. citizen wife at a fixed address, has pending I-130 and asylum applications, and has complied for years with ICE supervision, including release on recognizance and ISAP reporting. Under the BIA's own bond precedents, those are exactly the kinds of equities that cut against a flight-risk finding: in *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006), the Board identifies a fixed address, length of residence, family ties that may lead to lawful status, employment history, and record of appearances as the relevant factors in assessing whether a respondent is "likely to abscond." In *Matter of R-A-V-P-*, 27 I. & N. Dec. 803 (BIA 2020), the Board found a "significant risk of flight" where the respondent had recently entered unlawfully, had no family, employment, or community ties, and no probable path to lawful status, expressly contrasting that with a prior case in which a respondent with lawful admission, a U.S. citizen child, and a viable route to status "did not present a flight risk." [2], [3] Likewise, in *Matter of Siniauskas*, 27 I. & N. Dec. 207 (BIA 2018), the Board emphasized that family and community ties are primarily relevant to whether a respondent is a flight risk. Measured against those standards, R.R.C.'s strong ties, long-term compliance, and multiple pending avenues for relief align with the low-flight-risk profiles that BIA precedent has treated as warranting release rather than detention.
15. Based on the timing of the docket reassignment, the volume of materials submitted, the absence of DHS opposition, and the rapid issuance of the decision, the bond denial did not reflect a meaningful individualized custody determination as ordered by the district court. The Court did not take any testimony from R.R.C. or from his U.S. citizen wife. R.R.C. was present and it would have been easy to add his wife via Webex to take her testimony as well. **In my professional view, the hearing did not provide a genuine opportunity for R.R.C. to present and have considered the full range of his equities and history of compliance**.
16. After the hearing, I spoke with other attorneys who appeared before IJ Brown on the bond docket that day, and **they informed me** that IJ Brown denied bond in

all of their clients' cases as well for 'speculative relief' reasons or 'flight risk' reasons.

17. In previous months at Stewart Immigration Court, respondents with R.R.C.'s profile **would typically have been granted a low bond in similar circumstances.**
18. I submit this declaration in support of R.R.C.'s motion to enforce the habeas order and request appropriate relief, including immediate release, to effectuate the remedy ordered by this Court. **In my opinion, based on what I observed at the January 30, 2026 hearing, another bond hearing under current practices would not remedy his unlawful detention or the lack of due process in his prior bond hearing.**

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on February 6, 2026, at Atlanta, Georgia.

Signed,

W. Patrick Adams, Esq.
Georgia Bar No.: 239823

WITNESS CERTIFICATION

STATE OF: GEORGIA
COUNTY OF: FULTON
SIGNED OR ATTESTED BEFORE ME ON: 02/04/2026

BY: BONNIE ADAMS

(SIGNATURE OF NOTARY PUBLIC)

OFFICIAL SEAL
BONNIE ADAMS
NOTARY PUBLIC-GEORGIA
FULTON COUNTY
My Comm. Expires March 11, 2028

[SPACE FOR STAMP]

AFFIDAVIT OF LAWRENCE O. BURMAN

I, Lawrence O. Burman, swear under penalty of perjury, that the following information is true and correct to the best of my knowledge, information, and belief:

Experience

1. I am over 18 years of age, and a citizen of the United States.
2. I was admitted to the Maryland Bar in November 1978 and have maintained active status since that time.
3. I was employed by the United States Department of Justice from September 1988 until my retirement on December 31, 2025.
4. I served as an Immigration Judge from my appointment in April 1998 until my retirement.
5. Before that, I worked as an assistant district counsel for the former Immigration and Naturalization Service (INS) in Baltimore, Maryland, from 1991 to 1998 – a role now absorbed by the Department of Homeland Security.
6. Prior to that, from 1990 to 1991, I served as assistant general counsel at INS Headquarters in Washington, D.C.
7. From 1988 to 1990, I worked as a general attorney for INS in Baltimore.

Experience as an Immigration Judge

8. During my 27 years as an Immigration Judge, I presided over both detained and non-detained dockets in Memphis TN and NorthernVirginia. I also heard detained cases on detail to detention facilities in Texas, California, New Mexico, Louisiana and Pennsylvania. I was assigned to the Annandale VA detained docket most recently in December 2025 for a short period to cover judges who were on leave.
9. While presiding over the detained docket, I adjudicated requests for custody redetermination (also known as bond hearings). In making these adjudications, I considered whether the alien was a flight risk or a danger to the community.
10. I have been asked to prepare this affidavit to explain my decades of experience as an Immigration Judge regarding the application of "flight risk" when denying a bond, as well as my professional observations regarding recent adjudicatory patterns and their potential implications.
11. Over my time on the bench, I found that concerns about flight risk were usually addressed by setting an appropriate bond amount. It was rare for a bond to be denied solely based on flight risk; more often, a higher bond amount was imposed to ensure the individual's appearance at future hearings.
12. In my experience, bond was not denied solely due to a person's manner of entry into the United States or because they had not yet applied for relief before being encountered by immigration officials. Such factors werer never the main reason for denial, and generally not considered at all.

13. It was also extremely rare to see a bond denial based on flight risk where the alien had a fixed address, a job, a proposed application for relief, or family ties to the United States.
14. In my experience, bonds in excess of $15,000 were relatively uncommon on the dockets on which I served. This is largely because a person's ability to pay a bond should be considered when adjudicating a bond request, and because immigration delivery bonds generally require payment of the full amount to post.
15. Earlier in my tenure, judges typically maintained a regular detained docket. In the last decade, the Immigration Court in Annandale, Virginia, assigned certain judges to detained matters on a full-time basis, while others would substitute when needed.
16. Since around 2017, Immigration Judges Raphael Choi and Karen Donoso-Stevens had been assigned to the detained dockets. IJ Choi was previously the Chief Counsel of the Office of Principal Legal Advisor for Arlington, Virginia, and IJ Donoso-Stevens was a senior attorney for the detained docket for the Office of Principal Legal Advisor for Arlington, Virginia
17. I recently learned that both IJ Choi and IJ Donoso-Stevens were abruptly removed from the detained docket in January 2026, in the middle of their morning dockets, and were replaced by newly-appointed judges.

Concerns about the Immigration Court System

18. Since January 2025, I have observed a troubling trend of Immigration Judges being terminated without explanation or notice. In all my years on the bench, I have never witnessed such a high level of turnover.
19. From conversations within the immigration bench and professional organizations, including the National Association of Immigration Judges (of which I was an officer), it is clear that judges were removed for their strong commitment to due process for those appearing before them.
20. Although immigration judges are expected to act as neutral adjudicators, I have noticed increasing concern among members of the bench about institutional intimidation and the perception that decisions unfavorable to the government could negatively affect judicial tenure.
21. I am concerned that the notable rise in bond denials and adverse case outcomes undermines due process and erodes confidence in the Immigration Court system.

Signed this 14th day of February 2026 in the County of Arlington, Commonwealth of Virginia.

February 14, 2026 _____

Lawrence O.Burman

ATTORNEY DECLARATION

1. My name is Carolina Antonini. I am an immigration attorney. I have been practicing immigration law for thirty years. I am a founding partner in Antonini and Cohen Immigration Law Group. We are located in 2751 Buford Highway, Suite 500, Atlanta GA 30324. Our phone number is 404-523-8141. My email is antonini@antoniniandcohen.com. Our website is www.antoniniandcohen.com.

2. For the thirty years of my practice, I have represented detained non-citizens in immigration bond proceedings. I have presented scores ofof bond requests before immigration judges all over the state of Georgia.

3. My statements are based on my personal observations at the hearing, my review of the bond order, the police report, and my client's husband's notarized letter.

4. On Friday, January 13, 2026, I presented a bond case before Immigration Judge Bianca H. Brown, at the Stewart Immigration Court. My client was denied bond. Judge Brown denied her bond finding her a danger to the community. In the bond order Judge Brown wrote that my client was "arrested for assault. The 911 caller indicates that Respondent Struck the victim in the face."

5. This denial and finding that my client is a danger to the community is surprising and completely contrary to all my past experiences for several reasons. My client has resided in the USA for over thirteen years and has had no prior arrests. She was not arrested for assault, she was arrested for simple assault under the Georgia statute, a charge which does not require any physical contact or injury.. The purported victim was her husband. While the husband initially told the 911 operator that my client had struck him in the face, he walked that accusation back when the police arrived. He admitted she had not touched him.

6. The police report also states that when asked for details, the husband refused to answer and asked the officers why they were asking so many questions. The husband then wrote a notarized letter stating that the truth was that he called the police to make his wife stop screaming at him. Finally, this arrest has not resulted in criminal charges filed against my client, assuming the State would file such charges given the victim's changing story.

7. Judge Brown ignored my client's long history of lawful behavior, she ignored the husband's progressive recantation and the fact that my client has not been charged with a crime. Judge Brown appears to have made an assumption of my client's guilt and ignored all other evidence that pointed to a woman who is not a danger. Judge Brown did not address any other fact when hearing and deciding the case. As her decision states, it is based solely on the 911 call. This decision is substantially outside the norm, even for an immigration judge. In my professional opinion, this decision reflects an unwillingness to consider the full evidentiary record and is substantially outside the norm of bond determinations I have observed in thirty years of practice.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signed this 16th day of February, 2026, in Atlanta, Georgia.

Carolina Antonini

Carolina Antonini, Attorney at law
Georgia Bar 178029

Declaration Of Martin M. Rosenbluth

I, Martin M. Rosenbluth, declare as follows under penalty of perjury pursuant to the laws of the United States:

I. PROFESSIONAL BACKGROUND AND QUALIFICATIONS

1. I am an attorney licensed to practice law in the State of North Carolina.

2. I have over 18 years of experience in immigration law.

3. For the past 18 years, I have been in private practice as an immigration attorney specializing in detention and removal defense, including routine representation of detained individuals in bond proceedings before Immigration Judges at the Stewart Immigration Court in the Middle District of Georgia, as well as the immigration court in Atlanta.

4. Based on this extensive experience with immigration enforcement, removal, and litigation, I am intimately familiar with the standards, practices, and norms governing bond determinations in immigration proceedings in this district.

5. I offer the opinions in this declaration based on my training and experience to assist the Court in understanding current bond-hearing practices and their practical effect on habeas relief.

II. PURPOSE OF THIS DECLARATION

6. I submit this declaration to provide the Court with direct, firsthand observations of a dramatic and systematic change in bond hearing outcomes that have occurred over the past several months in immigration proceedings in Georgia, particularly before Immigration Judges assigned to the detained docket, and to assist federal courts in determining whether ordering additional 8 U.S.C. § 1226(a) bond hearings, rather than directing immediate release, constitutes an effective or meaningful remedy for individuals who have already obtained habeas relief.

7. In particular, I offer these observations in support of a Motion to Enforce and request for my client's immediate release in case number 4:26-cv-00076-CDL-AGH, *Garcia v. Streeval*, so the Court can assess whether ordering yet another

bond hearing in Mr. Garcia's case would provide any realistic prospect of release or would instead replicate the illusory and perfunctory bond proceedings I describe below.

8. This declaration is based on: (a) my personal observations of bond hearings I have attended; (b) my review of written bond decisions issued to clients; (c) communications with numerous immigration attorneys practicing in this district; and (d) my professional knowledge of historical bond practices in this jurisdiction spanning more than 18 years.

9. I understand that other attorneys representing detained individuals may also seek to use this declaration to illustrate bond-hearing practices I have observed. Any such use is solely for the purpose of describing my general observations and opinions; the case-specific facts I describe below are based on matters in which I have personally participated or reviewed transcripts or sworn declarations.

III. THE SEISMIC SHIFT: SYSTEMATIC DENIAL OF BOND IN POST-HABEAS CASES

10. Historically, prior to 2025, the vast majority of noncitizens in removal proceedings were not detained with the exception of people with serious criminal offenses detained pursuant to 8 U.S.C. § 1226(c).

11. If a client was detained and a bond hearing requested, the Immigration Judge (IJ) would apply bond factors in *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006) at 40-41. Those include: (1) whether the noncitizen has a fixed address in the United States; (2) the noncitizen's length of residence in the U.S.; (3) the noncitizen's family ties in the U.S. and whether they may entitle the person to permanently reside in the U.S. in the future; (4) the noncitizen's employment history; (5) the noncitizen's record of appearance in court; (6) the noncitizen's criminal record, including the extensiveness of the criminal activity, recency and seriousness of the offenses; (7) the noncitizen's history of immigration violations; (8) any attempt of the noncitizen to flee from prosecution or escape from authorities; and (9) the noncitizen's manner of entry to the U.S. The IJ may also consider the likelihood of whether relief from removal will be granted, however, the IJ is not supposed to conduct a merits analysis in a bond hearing

because relief is not yet filed or completed so early in the process. Historically, an IJ would just ask what kind of relief would be filed. And the Immigration Judges' findings must be based on reasonable inferences drawn from the record as a whole, rather than on speculation or conjecture.

12. Beginning in or around December 2025 I began observing what can only be described as a seismic shift in bond hearing outcomes for individuals who had been granted federal habeas relief and ordered § 1226(a) bond hearings by this Court and other judges in the Middle District of Georgia (Stewart immigration court) as well as the Immigration court in Atlanta, Georgia which oversees detained cases from Folkston Detention Center in South Georgia.

13. Prior to this shift, while bond amounts had increased in recent months, bond was *routinely granted* in cases where individuals demonstrated: (a) lack of significant criminal history; (b) strong family ties in the United States; (c) lengthy residence in the country; (d) prima facie claims for relief from removal; (e) stable housing and employment; and (f) community support and involvement.

14. Beginning approximately December 2025, this pattern *abruptly and uniformly ceased*. In numerous cases I have personally observed or learned about from colleagues, Immigration Judges have denied bond in circumstances that, weeks earlier, would have resulted in bond being set.

15. In my professional observation, the consistency, timing, and uniformity of these denials cannot be readily explained by coincidence, changes in individual case facts, or independent judicial decision-making. The pattern appears systematic and, in my professional judgment, is best explained by an institutional or policy shift rather than case-by-case, independent adjudication.

16. Prior to this shift, the immigration judges were conducting what appeared to be meaningful individualized bond assessments in post-habeas cases. They were granting bond in appropriate cases, as neutral arbitrators should.

17. The immigration judges no longer even question the government's blanket detention positions and the Department of Justice's insistence on maintaining detention under circumstances that appeared not to justify continued custody.

18. Since December 2025, some Immigration Judges on the detained docket have, based on my observations, systematically denied bond or issued extraordinarily high bonds in post-habeas cases. This pattern suggests, in my professional judgment, **an institutional or policy shift that has the practical effect of ensuring predetermined outcomes—continued detention—**regardless of individual circumstances and neutral, independent and unbiased review. **In my professional judgment, under these current practices, directing additional § 1226(a) bond hearings in post-habeas cases like those I describe here is unlikely to result in actual release, because the hearings are being conducted in a manner that functionally precludes bond regardless of the individual's equities**.

19. Based on this pattern, it is my professional assessment that, for individuals who have already received a § 1226(a) bond hearing following a grant of federal habeas relief, like Mr. Garcia, ordering yet another bond hearing under the same current practices is not an adequate or meaningful remedy. In practice, these post-habeas bond hearings have operated as illusory proceedings that preserve the appearance of due process while virtually foreclosing any realistic possibility of release.

IV. PRETEXTUAL AND LEGALLY INSUFFICIENT RATIONALES FOR DENYING BOND

20. Over the past several months Immigration Judges have, in my observation, relied on a remarkably narrow and predictable set of rationales to deny bond—rationales that appear to bear little relationship to genuine individualized risk assessment and that would not have been deemed sufficient to justify denial just weeks earlier.

21. These rationales, which I believe to be pretextual, include but are not limited to:

    a. Treating the absence of a financial sponsor as dispositive of flight risk, even when other equities (family ties, length of residence, employment history, community support) overwhelmingly favor release;[1]

[1] There is no requirement in the regulations or caselaw to provide a sponsor for a bond, only that a U.S. citizen or Lawful Permanent Resident post a bond after one is given. Having a sponsor with a fixed address

b. Finding that a sponsor who is not a *financial* sponsor is insufficient, despite no legal requirement that sponsors provide financial guarantees;

c. Treating the fact that an individual did not seek relief from removal until after being detained as evidence of lack of intent to comply with immigration proceedings;

d. Finding that applications for relief such as asylum or cancellation of removal are "speculative" and therefore do not mitigate flight risk, despite the fact that all immigration relief applications involve some degree of uncertainty and merit assessment (which is not required at the bond stage early in the proceedings);

e. Characterizing unlawful entry into the United States—*by itself*—as establishing flight risk, a rationale that would render bond impossible for the vast majority of detained individuals;

f. Treating the accumulation of unlawful presence (which is a civil violation, not a crime) as evidence of danger or disregard for the law;

g. Finding that unauthorized employment—a status violation shared by millions of undocumented immigrants—constitutes a significant negative factor warranting denial of bond;

h. Treating minor discrepancies in addresses listed on various documents as evidence of "deceitfulness," even when such discrepancies are readily explained and do not reflect any intent to mislead;

i. Questioning the accuracy of tax returns and suggesting "underreporting" based on subjective assessments of lifestyle, without any actual evidence of fraud or misrepresentation;

j. Imposing on respondents the burden of proving that they *will* appear for future court proceedings—an impossible burden that requires proving a negative—even though many respondents have never failed to appear for

---

can be added to mitigate flight risk in some circumstances (for example when someone entered recently) but is not required or a deciding factor. In previous years, a sponsor was not required to be filed with a bond motion, however recently IJs have been denying bonds for lack of a "sponsor" or taking a sponsor's income into consideration, even in cases where noncitizens have spent years in the country and have been supporting themselves and their families throughout

any prior proceeding because *they have never been required to appear* until being placed in removal proceedings; and

k. Denying bonds for "driving without a license" offenses as "danger to the community" despite knowing the undocumented individuals are not able to obtain them and despite having no record of accidents or reckless driving.

22. In my professional assessment, these rationales do not appear to be grounded in legitimate risk assessment. They appear to be pretexts designed to ensure denial of bond regardless of the individual facts of each case.

23. The rationales being employed to deny bond appear to depart significantly from the standards articulated in BIA precedent governing bond determinations and prior bond determinations even from the same immigration judges in the past.

24. The rationales I have observed over the past several months—having no evidence but establishing flight risk, dismissing relief applications as inherently "speculative," requiring financial sponsorship as a prerequisite, and treating any traffic violation negatively—appear to represent a departure from these precedential standards and from basic Due Process principles.

25. BIA case law requires that Immigration Judges consider the *specific circumstances* of each case and weigh multiple factors in reaching bond determinations. The systematic application of categorical exclusions based on status violations common to the detained population does not appear consistent with the individualized, fact-specific analysis that BIA precedent mandates.

V. OBSERVATIONS AND EXAMPLES FROM SPECIFIC BOND PROCEEDINGS ON THE DETENTION DOCKET

26. On January 30, 2026 I personally observed bond hearings before IJ Bianca H. Brown at the Stewart Immigration Court. What I witnessed confirmed the systematic pattern of denial that has emerged, especially in Judge Brown's detained docket.

27. Multiple cases that would have resulted in bond being set just weeks or months earlier were denied. The denials were based on the same rationales I have described above: lack of financial sponsors, unauthorized work, the "speculative" nature of relief applications, and immigration violations that are endemic to the detained population. "Flight risk" is a particularly potent reason to deny relief for people with no criminal record, and is a determination made often without *any* negative flight risk factors, just based on the IJ's ***speculation*** and DHS' assertion that someone is a flight risk (which they now assert in all hearings I observed). In fact, one of my clients was found a "flight risk" even though he was released by ICE on his own recognizance, has complied with ICE reporting for years, had a U.S. citizen fiancée with a fixed address and was detained while he was complying with ICE's reporting at his most recent check-in at the ICE office.

28. In each instance I observed, the Immigration Judge appeared to apply factors that, if consistently applied, would make bond impossible for virtually any detained individual in removal proceedings. There did not appear to be meaningful individualized assessment or a neutral adjudication of factors. The hearings appeared to be perfunctory exercises designed to create a veneer of due process while ensuring predetermined outcomes.

29. The cases I observed involved individuals with no criminal history, or only minor criminal history unrelated to violence or flight (such as driving without a license). These individuals had family members present in court or U.S. citizen children, stable housing, stable employment, and pending applications or eligibility for relief from removal. Under the standards that prevailed in this district for years—and indeed, as recently as November 2025, these individuals would have been granted a low bond under $5,000.

30. I should note that immigration bonds must be paid all in cash, so they differ significantly from surety bonds in criminal cases. Normally, a bond higher than $10,000 means the person would remain detained. Very few bonds were previously set higher than $10,000 (and those high bonds were reserved for people with either significant criminal history or true history of flight).

31. In my client's recent case, Mr. Garcia, his bond was denied based on "flight risk" since his relief was "speculative". This is in spite of the fact that IJ knew

that he had a pending application for Cancellation of Removal (Form EOIR-42B) which would make him immediately eligible upon release to obtain a work permit, a driver's license and a social security number for the duration of his proceedings. This is in addition to his not wanting to risk losing his three U.S. citizen children. To assume anyone would risk losing these benefits and their children by not attending their hearings defies all logic and reason. He had no arrest history other than driving without a license. In 18 years of practice, none of my clients have ever been denied a bond under these or similar circumstances. In my experience, a noncitizen with Mr. Garcia's equities would previously have been granted a low bond, and his denial of bond under current practices exemplifies why additional bond hearings are unlikely to secure his release.

32. In Mr. Garcia's case I submitted over 60 pages of evidence as well as an eight-page legal brief explaining why my client should be granted a low bond.

33. Mr. Garcia's case was initially scheduled before IJ Steven B. Fuller and was switched to IJ Brown at the last minute because Judge Fuller was not in court that day.

34. A separate Declaration has been prepared for this Court by Attorney W. Patrick Adams, Esq., who was physically present in the Stewart Immigration Court on January 30, 2026 and also had a bond hearing that was switched from Fuller to Brown at the last moment.

35. In his Declaration, Attorney Adams explains that when he and his client arrived at Stewart that morning, they were informed that IJ Fuller was not present and that IJ Brown would be assuming his bond docket. He states that when IJ Brown entered, the clerk informed her she would be presiding over IJ Fuller's bond docket, that she appeared surprised and expressed frustration at the reassignment, and that she took no break or recess to review the files before calling the cases. I rely on Attorney Adams's sworn description of those events, and his affidavit is submitted separately to the Court.

36. I am attaching a true and correct copy of the transcript of the bond hearing before IJ Brown from January 30, 2026. The transcript was prepared by my paralegal after she downloaded the audio recording from the immigration court

electronic system (called ECAS) and transcribed the audio into a written transcript. I confirm that this is a true and correct copy of the audio file obtained from the bond hearing in Mr. Garcia's case, attached hereto as Exhibit A.

37. As the attached transcript illustrates, Judge Brown was initially confused as to the procedural posture of the case. IJ Brown stated: "Mr. Rosenbluth, the court did receive your request for bond, which is marked as Exhibit Number 1. The court also received your supplemental documents, which are marked as Exhibit 2. I'm sorry, the bond redetermination request actually was filed by the government. That is the federal district court's order in the habeas petition."

38. This clearly illustrates that IJ Brown gave my client's file a cursory glance at best.

39. From the time my client's case was called until IJ Bianca H. Brown issued her decision less than five minutes elapsed. And as stated above, IJ Brown took no time at all to review Mr. Garcia's file. Based on attorney Adams' Declaration, IJ Brown did not even know she was assigned to IJ Fuller's bond docket that day until she entered the courtroom a few minutes prior. After she denied Attorney Adams's client's bond, she proceeded to deny my client's (Mr. Garcia's) bond. I understand from other attorneys who attended her bond docket that day that she proceeded to deny all bonds.

40. In light of these facts, it is clear that my client did not in fact receive a true bond hearing as directed by the federal Court that granted my client a writ of habeas. IJ Brown is an experienced IJ so she knows what the statutory and case law requirements of conducting a bond hearing pursuant to 8 C.F.R. §§ 236.1 and 1236.1.

41. I have also witnessed immigration judges order a bond amount and then put in their order that DHS may impose an ankle monitor device or other electronic monitoring after they have found the client eligible for a bond and not a flight risk. In my observation, layering such restrictive conditions of supervision on top of a finding that bond is warranted functions to maximize confinement and control rather than to implement the habeas remedy, and further illustrates how these post-habeas bond hearings operate as illusory compliance with federal court orders rather than meaningful avenues to secure release.

42. I also observed in another master calendar hearing, on February 4, 2026, IJ Bianca Brown telling a pro se Respondent that the court cannot give him a bond since he came in without inspection. That is in direct contravention of all the habeas grants that the courts in Georgia have been granting to my clients.

VI. CORROBORATION FROM THE IMMIGRATION LEGAL COMMUNITY

43. My observations are not isolated. In recent weeks, I have communicated with numerous immigration attorneys practicing all over the United States who handle detention cases. I relate these conversations solely to illustrate how other practitioners are perceiving current bond-hearing practices, not to attest to the truth of the underlying facts in each individual case.

44. Colleagues have reported the same experience: clients who were granted federal habeas relief and ordered § 1226(a) bond hearings are now being systematically denied bond based on rationales that would not have been deemed sufficient weeks or months earlier.

45. These attorneys have described bond hearings as appearing to be "pro forma" exercises where the outcome seems predetermined. Meaningful individualized review appears to have been replaced by boilerplate language and cookie-cutter denials utilizing the smallest of reasons to deny bond to non-criminals.

46. In my professional judgment, based on both my own observations and these practitioner reports, this does not appear to be merely a matter of individual judicial discretion or case-specific circumstances. Rather, as perceived by many practitioners, it appears in practice to reflect an institutional pattern that keeps noncitizens detained despite habeas grants by federal district courts.

VII. PROFESSIONAL ASSESSMENT AND CONCLUSION

47. Based on my 18 years of experience in immigration law, and in my professional judgment based on the patterns described above, the events of the past several months—the immediate and uniform shift to systematic denial of bond, and the reliance on a narrow set of rationales across multiple judges and cases—suggest what appears, in practice, to be an institutional pattern within EOIR and the

Department of Justice, acting through immigration judges, that has the effect of undermining federal habeas relief.

48. In my professional judgment, this apparent coordination is the most plausible explanation for what I and my colleagues have observed. Independent unbiased adjudication does not typically produce this level of uniformity in outcome and reasoning across multiple judges and cases in such a compressed timeframe.

49. The bond hearings being provided to individuals who have been granted federal habeas relief do not appear to be genuine adjudications of bond eligibility under 8 U.S.C. § 1226(a) and implementing regulations at 8 C.F.R. §§ 236.1 and 1236.1. They appear to be illusory remedies designed to create the appearance of due process while ensuring that individuals remain detained indefinitely. In fact, there is no semblance of due process in these proceedings. DHS often presents no evidence just argues to deny bond due to flight risk or danger even in cases where there are deep community ties and no criminal record, or minor traffic offenses.

50. In my expert opinion, for noncitizens like Mr. Garcia who have already obtained habeas relief and received a § 1226(a) bond hearing pursuant to that relief, directing additional bond hearings under current practices is not an effective way to vindicate the writ. Under the conditions I have observed, the only reliable way for a federal court to ensure that its habeas rulings are implemented in such cases is to order the individual's release directly, or at a minimum to impose specific, enforceable standards and burdens of proof that meaningfully constrain the manner in which post-habeas bond hearings are conducted.

51. In my professional judgment, based on the patterns described above, what I have witnessed over the past several months appears in practice to function as a systematic effort to nullify the constitutional protections that federal courts have recognized and enforced through habeas corpus. It has the practical effect of rendering meaningless the bond hearings that this Court and others have ordered.

52. I am profoundly concerned by what I have witnessed. As an attorney who has dedicated my career to the fair administration of immigration law, I find what appears to be a coordinated effort to undermine judicial authority and deny due process to be deeply troubling and inconsistent with the values of the United States.

53. The individuals affected by this systematic denial of bond are not abstractions. They are human beings with families, with children, with jobs, with lives in this country. They have been detained pursuant to the wrong statute (as "arriving aliens" under 8 U.S.C. § 1225(b)) and thus should not have been detained in the first place. While federal courts found that they are entitled to bond hearings, the assumption that underlies that is that those bond hearings would be fair and unbiased. Unfortunately, that is no longer the case in many cases.

54. In my professional judgment, based on these patterns, noncitizens are now being denied those hearings in any meaningful sense, and are being held in detention not because they pose a genuine danger or flight risk, but because, in my observation, the Executive Branch appears to be circumventing federal court orders through institutional means.

55. Although I reserved my client's right to appeal IJ Brown's bond denial to the Board of Immigration Appeals, in my professional judgment pursuing such an appeal would be effectively futile in practice. The filing fee for an appeal requires a payment of over $1,000 before accounting for attorney's fees and related litigation costs. For detained noncitizens like Mr. Garcia, who are already unable to pay the cash bonds being set, those costs are prohibitive. In addition, published information and my own experience indicate that BIA appeals commonly take many months to more than a year to resolve, during which time the noncitizen remains detained, meaning that an appeal would likely prolong my client's custody for a substantial period with little realistic prospect of a different result.

56. I submit this declaration in the hope that it will assist courts in understanding the reality of what appears to be occurring in immigration proceedings in this district and in ensuring that the constitutional right to release from unlawful detention through habeas corpus is not rendered meaningless.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

02 / 16 / 2026

Date

Martin M. Rosenbluth

Signature

DECLARATION OF COUNSEL REGARDING SHAM BOND HEARINGS PERFORMED BY IMMIGRATION JUDGES

I, **Dustin Reed Baxter**, declare as follows:

1. I am an attorney licensed to practice law in the states of Oregon and Georgia.
2. I am the managing partner and owner of Kuck Baxter LLC, a law firm dedicated solely to the practice of immigration law.
3. I have personally been practicing immigration law for over twenty years and have participated in hundreds of bond hearings during that time.
4. Based on my professional experience in this district, I have observed a complete 180 over the last three weeks by immigration judges in post-habeas bond cases, characterized by a systematic and uniform denial of bond without meaningful analysis of facts and law.
5. These denials overwhelmingly involve individuals with little to no criminal history other than driving infractions. The judges are almost uniformly denying bond, almost as if reading from a script, based on their finding of flight risk based on "speculative relief" as an inherent "incentive to flee".
6. In these cases, counsel for the government has not submitted any evidence at all, let alone evidence probative of whether a person is actually a flight risk.
7. In most cases, the individuals have submitted applications for relief and are at least prima facie eligible for the relief they are seeking, yet the judge disregards all relevant bond factors and specific evidence to the contrary in summarily issuing their denials based on one or two factors: relatively short amount of time in the U.S., or "speculative relief".
8. While not all immigration judges deny all bonds, several judges, including Judge Brown, Judge Hewitt, Judge Coaxum, and Judge Harness, are denying bonds in nearly 100% of the cases before them, including cases that I have personally handled, observed, or have been observed and reported on by court observers. These same judges were approving reasonable bonds just three to four weeks ago.
9. In cannot possibly be a coincidence that the above-listed judges are now being assigned the bulk of post-habeas bonds over the last three weeks.
10. There is reason to believe that the judges have been instructed to deny bonds, as they all seem to be reading from a similar script as they deny bonds, and their shifts to summary denial occurred at approximately the same point in time.
11. The following case examples illustrate the extent to which post-habeas bond hearings have become a sham, not adjudicated by neutral magistrates:
    1. [redacted]Hernandez [redacted] – Immigration Judge Brown denied bond for an individual from Cuban, who has been in the United States three years, no criminal record, consistently reporting with ICE and appearing before immigration court, previously released by ICE on her own recognizance after determination she was not a flight risk, clearly eligible for Cuban Adjustment of Status – thus every incentive to appear before immigration if released, valid work authorization and lawful employment. Bond was denied due to short time in the U.S. and no kids or spouse with status – flight risk.
    2. [redacted]Jimenez [redacted] – Immigration Judge Brown denied bond for an individual from Venezuela. Present in the United States for several years with wife and two children, asylum application pending the entire time they have been

in the U.S., all with valid work authorization, reporting to ICE for years as required, immense amount of community support, no arrests or criminal record, ICE previously released on his own recognizance as a non-flight risk, TPS status, lawfully employed, property owner, health issues. Bond was denied due to "speculative relief" without weighing any of the bond factors.

3. [redacted] Moreno [redacted] – Immigration Judge Coaxum denied bond for individual from Guatemala, no criminal history, present in U.S. more than two years with wife and child, timely filed for asylum, released by ICE on own-recognizance as non-flight risk, reporting regularly to immigration, lawfully and gainfully employed, brutally assaulted by ICE during encounter despite the fact that he was lawfully working with work authorization and had application pending with the court, employment offer upon release, regular church attendance and strong community support. Bond denied in vague finding of lack of ties to the U.S. and short time present – flight risk.
4. [redacted] Moreno [redacted] – Immigration Judge Brown denied bond for individual from Venezuela, no criminal history, timely filed application for relief, no evidence of flight risk submitted by government, previously released on own recognizance by ICE as non-flight risk, detained while complying with ICE request to report for check-in, several years in U.S. without missing appointment or court date. Bond denied for no U.S. citizen ties and speculative relief – flight risk.

12. Attorneys at my office have represented numerous other individuals before these judges in the past three weeks, and are preparing affidavits that illustrate the futility of bond hearings before the immigration court.
13. As a general theme, there is no meaningful weighing of applicable factors in these cases. Bond hearings have been rendered pro forma, a pointless remedy. In at least one of my cases the judge waited until just seconds after my explanation of the facts of the case to hit send and upload the order denying bond before the hearing was even complete.
14. Inasmuch as the immigration court has become a participant in the violation of bond seekers' due process rights, the only effective means to enforce the Court's authority would be to order immediate release from custody.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 11th day of February, 2026.

Dustin R. Baxter

EMMA E CARTER NOTARY PUBLIC CHEROKEE COUNTY, GEORGIA MY COMMISSION EXPIRES AUGUST 22, 2027

DECLARATION OF COUNSEL REGARDING SHAM BOND HEARINGS PERFORMED BY IMMIGRATION JUDGES

I, **Thomas Andres Sanchez Evans**, declare as follows:

1. I am an attorney licensed to practice law in the state of Georgia.
2. I am an associate attorney of Kuck Baxter LLC, a law firm dedicated solely to the practice of immigration law.
3. I have been an attorney since 2022. I worked as a staff attorney at the Eleventh Circuit Court of Appeals for two years, where I was one of the lead attorneys on immigration cases before the Court. After that, I have been practicing solely immigration law.
4. While at Kuck Baxter, I have primarily worked on detention and bond cases. I have almost 1 00 habeas cases filed in federal district courts across the country challenging unlawful detention. I have also observed dozens of bond hearings before and after the government's new "interpretation" of bond eligibility for individuals who have entered without inspection.
5. While bond hearings have been difficult under the current administration, there has been a sharp increase of denials for individuals who entered without inspection, especially after habeas grants. These denials have been in cases that historically would have resulted in a minimal bond. In most cases, the government has provided little to no evidence of flight risk beyond stating that relief is "speculative." Several judges are denying bond in every single case.
6. The worst offenders in my experience have been Judge Jerrica Harness from the Lumpkin Immigration Court and Judge Ghunise Coaxum, Judge Andrew Hewitt, and Judge James Crofts that hear cases out of the Folkston ICE Processing Center. I have also filed habeas petitions for several clients that have had bond hearings before Judge Bianca Brown in the Lumpkin Immigration Court. While I have not personally appeared in front of her, she has denied bond in every single case.
7. In one case that I had with Judge Harness, she denied bond for an individual who had been in the country for over twenty years and was only convicted of minor traffic offenses. He has a [redacted], and his wife was pregnant with their second baby. [redacted] ss. Judge Harness denied bond, going on a tirade that my client refused to get a driver's license, which is impossible for most undocumented people in the state of Georgia. She told him he should have moved to an area with better public transportation but chose not to. She then stated that while his wife was pregnant, it was speculative that his child would be a U.S. citizen even though his wife is a long-term resident of the United States. This client decided to voluntarily return to Guatemala, and his wife is forced to raise her newborn **U.S. citizen** child and her toddler as a single mother.
8. In 2025, I had several bonds with Judge Hewitt, all of which were granted between $3,000 and $7,500. Starting in January 2026, however, he has started to deny bond in almost every single case. In the most egregious case, Judge Hewitt denied bond for a client who has been present in the United States for around twenty years. The client has no criminal history, he has a U.S. citizen daughter, and he is engaged to a lawful permanent resident. I presented evidence that the client's [redacted] started to slit her wrists due to her father's detention and there was concern [redacted]

[redacted] The client already had a pending application for cancellation of removal and had submitted proof of prima facie eligibility. The only evidence the government submitted was that cancellation of removal is "speculative" and "very had to win." The government provided no other evidence and nothing specific to my client's case. Judge Hewitt denied bond, finding that relief was "speculative" and that his daughter could simply live with his ex-wife in the United States. At the same hearing, Judge Hewitt also denied bond for a man with a severely disabled U.S. citizen wife and several U.S. citizen children. Judge Hewitt reasoned that because his wife was a naturalized citizen from the same country, she could simply return with him to that country so that relief was speculative. Again, the only argument the government made was that relief was "speculative" and "hard to win." The government provided no evidence as to the individualized facts of that person's case.

9. In a second case, despite a clear federal court order that stated that the court had jurisdiction to hear a bond hearing, Judge Hewitt denied bond based on lack of jurisdiction. I threatened to file a motion to enforce the judgment of the habeas case ordering a bond hearing, and ICE agreed to hold another bond hearing, conceding that the court had jurisdiction. At the second hearing, even though the government conceded that the court had jurisdiction, Judge Hewitt denied bond again based on jurisdiction in clear violation of the court order which plainly stated that the court had jurisdiction to hold a bond hearing. Judge Hewitt's denial of almost all bonds started right after reports that immigration judges received phone calls instructing them to deny bonds in all cases, especially ones involving habeas petitions.
10. I have had several cases before Judge Coaxum. In one case, the client has been in the country for over 20 years and has three U.S. citizen children. He has two minor traffic offenses for which he paid fines, and his FBI background check showed a third unknown charge that was dismissed. The client has three U.S. citizen children and is eligible for cancellation of removal. The government stated that relief was "speculative" and that my client was a flight risk and erroneously stated that my client had three criminal convictions. I stated that there were only two convictions for minor offenses. Judge Coaxum denied bond, regurgitating the government's arguments, including the erroneous statement that my client had three convictions.
11. In a second case, Judge Coaxum denied bond for a client who was detained at the Hyundai raid in Southern Georgia. I have represented around 10 of those individuals, all of which have been granted minimal bonds in between $1,500 and $5,000. All have similar facts: they are recent entrants, they were working lawfully at the time of their detention, and they have pending asylum applications. In the case before Judge Coaxum, the government provided minimal evidence of flight risk, stating that relief was speculative and my client was a recent entry and therefore had minimal ties to the community despite many letters of support from U.S. citizen community members and further evidence of his ties to the community. Judge Coaxum denied bond, only stating that because my client did not have a U.S. citizen child, he was a flight risk. This client had identical facts as another client who, just before the reported calls to immigration judges to deny bonds, was granted a $1,500 bond with a different judge.
12. While I have not had a bond hearing in front of Judge Crofts recently, I have worked closely with attorneys and have filed habeas cases for these clients. Two clients are brothers with nearly identical facts. They entered the U.S. as unaccompanied minors and

have several lawful permanent resident relatives. Judge Crofts granted a bond of $7,500 to the first brother. Several days later, after the reported calls to immigration judges to deny more bonds, Judge Crofts denied bond for the second brother, simply repeating the government's arguments that the client was a flight risk. In another case, despite a clear court order that the immigration judge had jurisdiction to hold a bond hearing, Judge Crofts denied bond anyway for lack of jurisdiction.

13. As reported throughout the country, due process is dead in immigration court. It is abundantly clear that immigration judges prioritize their job security over serving as neutral magistrates at the expense of some of the world's most vulnerable people. These judges simply repeat the government's arguments, do not look at the facts in front of them, and deny bond with conclusory and unsupported statements like "flight risk" or "speculative relief" with no engagement with the facts of the case whatsoever.
14. Bond hearings as a remedy for the government's continued violation of the laws of this country are no longer a proper remedy and continue to result in unnecessary litigation clogging federal courts across the country. The only way to ensure compliance with habeas grants is to order immediate release from custody.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.
Executed this 13th day of February, 2026.

Thomas Evans

JENNIFER G TOBAR
NOTARY PUBLIC
GWINNETT COUNTY, GEORGIA
My Commission Expires 08-19-2028

AFFIDAVIT OF ATTORNEY MAURA FINN

I am over the age of 18 and competent to make this affidavit. I swear and affirm that the following is true and correct to the best of my knowledge:

1. My name is Maura Finn. I have been an immigration attorney, licensed in the state of Georgia, since 2013. I have been an Associate Attorney with Diaz & Gaeta Law since September 2024, before which I was a Senior Lead Attorney at the Southern Poverty Law Center.

2. I have appeared regularly before the Stewart Immigration Court in bond and removal proceedings since 2013.

3. I appeared before Judge Brown at the Stewart Immigration Court for a bond hearing on January 30, 2026 at 1pm. Judge Brown heard 11 bond cases including my own, of which I observed all but one.

4. Judge Brown denied bond in every case I observed. All the denials were perfunctory and lacked individualized analyses of flight risk and danger to the community. None of the cases involved criminal history beyond traffic citations; most had no criminal history. Most of the detained individuals were detained while dutifully reporting to their check-ins with ICE. Judge Brown denied based on flight risk in all cases on which she reached a decision on the merits. She did not find that any of the detained individuals were a danger to the community.

5. In one particularly egregious denial, the detained individual had a pending EOIR-42B Application and had resided in the United States for more than 10 years. He had several U.S. citizen children, one of whom had been diagnosed with a tumor. It was clear from the oral record that the attorney had filed substantial evidence supporting her client's physical presence, family ties, and the medical diagnoses of the child. Judge Brown stated on the record that the child appeared to be healthy "other than the tumor" before denying bond.

Maura Finn, Esq.

GABRIELA ALBERTO NOTARY PUBLIC WALTON COUNTY, GEORGIA COMMISSION EXPIRES DECEMBER 16, 2029

02/02/2026

my commission expires: 12/16/2029

Attorney Declaration

I, the undersigned, Nikita Modi, am writing this declaration under penalty of perjury of the laws of the United States.

1. I am an associate attorney with The Kennedy Immigration Firm, LLC, practice immigration law and am a licensed attorney in good standing with the state of Georgia.
2. I represented Mr. [redacted] in the bond hearing with the immigration court, held December 29, 2025 before the Immigration Judge Jerrica Harness.
3. Prior to the bond hearing we presented a packet of documentation, which included proof of: Mr. [redacted]'s identity (passport biographic page and consular ID); immediate family members who are U.S. citizens (children's birth certificates, pictures of Mr. [redacted] with his children); a fixed, stable address within the United States (lease renewal agreement, bills); stable, gainful employment (letters of support from coworkers); ties to the community (letters of support from family and friends); and sponsorship (a letter from a lawful permanent resident with a copy of their lawful permanent resident card and their 2024 income tax return).
4. I argued Mr. [redacted] entered in or around 2015, he has 2 USC daughters ages 13 and 4 with the same long-term partner of over 13 years. His youngest daughter's birth certificate along with his consular ID, bills, and lease agreement show that he has resided in the same residence for at least 4 years. Mr. [redacted] has held steady employment for over 4 years as demonstrated by numerous letters from employers and coworkers submitted with the bond package. The letters of support from Mr. [redacted]'s daughter and friends express sadness at his separation from family and importance of his reunification with them. Mr. [redacted] provided a sponsor letter from a lawful

permanent resident which states he will help Mr. [redacted] with anything he needs to ensure Mr. [redacted] will attend all hearings. As such, I argued he is not a flight risk because he appears eligible for cancellation of removal for certain nonpermanent residents, he has 2 U.S. citizen children, long term partner, fixed address, steady employment, and a LPR sponsor to ensure he attends all future hearing dates.

5. DHS Assistant Chief Counsel Meredith Sharpe did not argue that Mr. [redacted] is a danger to the community, but that he is a flight risk because the sponsor indicated Mr. [redacted] will live with his family instead of with him; and Mr. [redacted] failed to establish significant ties to the community. DHS has not presented any evidence, just made oral arguments to this effect.
6. Judge Harness agreed that Mr. [redacted] is not a danger. Judge Harness said on the record that he has demonstrated significant ties to community through his 2 U.S. citizen children, fixed address proven, continuous physical presence from birth certificates of children, and letters of support. However, the Judge noted that Mr. [redacted] s permanent resident sponsor does not make a lot of money to help support him; there is no evidence of how he lawfully works in the U.S.; and Mr. [redacted] does not have a pending application. The judge said he has not demonstrated ties to the community. Based on this, she denied bond based on a high risk of flight.
7. In the past, my firm and I had many bond hearings granted before the immigration court based on similar circumstances, and even for clients with less ties and equities in the recent past.
8. Based on 8 U.S.C. § 1226(a), the factors an Immigration Judge should consider the in deciding whether to issue a bond, include, but are not limited to, the following factors: (1) whether the noncitizen has a fixed address in the United

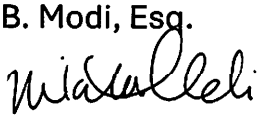
States; (2) the noncitizen's length of residence in the United States; (3) the noncitizen's family ties in the United States, and whether they may entitle the noncitizen to reside permanently in the United States in the future; (4) the noncitizen's employment history; (5) the noncitizen's record of appearance in court; (6) the noncitizen's criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses; (7) the noncitizen's history of immigration violations; (8) any attempts by the noncitizen to flee prosecution or otherwise escape from authorities; and (9) the noncitizen's manner of entry to the United States. *Matter of Guerra,* 24 I&N Dec. 37, 40 (BIA 2006); *Matter of Andrade*, 19 I&N Dec. 488, 490 (BIA 1987).

9. The Immigration Judge failed to consider any of the foregoing positive factors in the case and denied bond as a "flight risk" utilizing two impermissible factors. One, that he does not have a pending application, which is not part of the requirements (as he was only recently detained and was not ordered yet to file one). The Immigration Judge may only consider the noncitizen's family ties in the United States, and whether they may entitle the noncitizen to reside permanently in the United in the future – not whether the noncitizen has filed an application for immigration benefits by the time of the custody redetermination hearing. The judge completely ignored all the ties to the community. Whether Mr. [redacted] works legally or not is also not one of the factors, the factor to consider based on the applicable law is whether there is evidence of stable employment.
10. Based on the above, it is clear that the Immigration Judge failed to consider any of the relevant enumerated factors properly prior to denying the bond for Mr. [redacted].

11. Unfortunately, this incident is a common occurrence in immigration courts around the country where immigration judges are no longer neutral arbitrators as they fear retaliation and firing by the executive branch.

January 6, 2026

Name: Nikita B. Modi, Esq.

SIGNATURE: 

DECLARATION OF SHIRLEY ZAMBRANO

I, Shirley Zambrano, declare under penalty of perjury pursuant to the laws of the United States as follows:

I. PROFESSIONAL BACKGROUND AND QUALIFICATIONS

1. I am an attorney licensed to practice law in the State of Georgia and admitted to practice before the United States District Courts for the Northern, Middle, and Southern Districts of Georgia.

2. I have practiced immigration law for approximately twelve (12) years.

3. For the past decade, I have been in private practice as an immigration attorney specializing in detention and removal defense, including routine representation of detained individuals in bond proceedings before Immigration Judges at the Atlanta and Stewart Immigration Courts in the Middle and Southern Districts of Georgia.

4. Through this work, I have developed extensive familiarity with immigration enforcement, detention practices, removal proceedings, and the standards, practices, and norms governing bond determinations in this jurisdiction.

II. PURPOSE OF THIS DECLARATION

5. I submit this declaration to provide the Court with my direct, firsthand observations of a dramatic and systemic change in immigration bond hearing outcomes that has occurred over the past several weeks in Georgia, particularly on the detained docket.

6. This declaration is based on:
   a. My personal observations of bond hearings I have attended;
   b. My review of written bond decisions issued to my clients;
   c. Communications with numerous immigration attorneys practicing in this district and nationwide; and
   d. My professional knowledge of historical bond practices in this jurisdiction over more than twelve years.

7. I authorize any attorney representing detained individuals in habeas corpus proceedings or emergency motions for release to use and file this declaration in support of their clients' cases.

III. SYSTEMATIC SHIFT IN POST-HABEAS BOND DETERMINATIONS

8. Historically, prior to 2025, the majority of noncitizens in removal proceedings were not detained, except for individuals subject to mandatory detention under 8 U.S.C. § 1226(c) due to serious criminal convictions.

9. When a detained individual sought bond, Immigration Judges applied the factors articulated in *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006), including residence, family ties, employment, court appearance history, criminal history, immigration violations, and manner of entry. Although the likelihood of relief could be considered, Immigration Judges historically did not conduct merits determinations at the bond stage. Findings were required to be based on reasonable inferences from the record—not speculation or conjecture.

10. Beginning in or around January 2026, I began observing a profound and abrupt shift in bond outcomes for individuals who had been granted federal habeas relief and ordered § 1226(a) bond hearings by federal district courts.

11. Prior to this shift, bond—though increasingly expensive—was routinely granted where individuals demonstrated minimal or no criminal history, strong family and community ties, lengthy residence, stable employment and housing, and prima facie eligibility for relief.

12. Beginning approximately January 7, 2026, this pattern abruptly ceased. In numerous cases I personally observed or learned about through colleagues, Immigration Judges denied bond in circumstances that would have resulted in release only weeks earlier.

13. The timing, uniformity, and consistency of these denials cannot reasonably be explained by coincidence or case-specific factual differences. Instead, they suggest a systemic and coordinated change in adjudicatory practice.

14. Previously, Immigration Judges appeared to conduct meaningful individualized assessments and to act as neutral adjudicators in post-habeas cases.

15. Since January 2026, Immigration Judges on the detained docket have largely ceased questioning the government's blanket detention positions and have routinely adopted DHS's assertions without independent analysis.

16. Based on my observations, bond is now being systematically denied—or set at extraordinarily high amounts—in post-habeas cases, suggesting the existence of an internal mandate to ensure continued detention regardless of individual circumstances.

IV. PRETEXTUAL AND LEGALLY INSUFFICIENT GROUNDS FOR DENIAL OF BOND

17. Over the past several weeks, Immigration Judges have relied on a narrow and repetitive set of rationales to deny bond—rationales that bear little relation to genuine individualized risk assessment and that previously would not have justified denial.

18. These rationales include, but are not limited to:
    a. Treating the absence of a financial sponsor as dispositive of flight risk despite overwhelming countervailing equities;
    b. Rejecting non-financial sponsors despite no legal requirement of financial guarantees;
    c. Inferring lack of compliance from the timing of relief applications filed after detention;
    d. Dismissing asylum or cancellation claims as "speculative," contrary to established bond standards;
    e. Treating unlawful entry alone as proof of flight risk;
    f. Treating unlawful presence—a civil violation—as evidence of danger or disregard for law;
    g. Treating unauthorized employment as a significant negative factor;
    h. Characterizing minor address discrepancies as "deceit";
    i. Questioning tax filings based on subjective lifestyle assessments without evidence;
    j. Imposing an impossible burden on respondents to prove future appearance; and
    k. Treating driving-without-a-license offenses as danger to the community despite no evidence of reckless conduct.

19. In my professional judgment, these rationales function as pretexts designed to ensure denial of bond rather than legitimate assessments of danger or flight risk.

20. These practices represent a marked departure from BIA precedent and from the same Immigration Judges' prior decisions.

21. The categorical exclusion of respondents based on status violations common to nearly all detained individuals is inconsistent with the individualized, fact-specific analysis required by governing law.

V. OBSERVATIONS FROM SPECIFIC BOND PROCEEDINGS

22. On January 20, 2026, I personally observed bond hearings before Immigration Judge Andrew Hewitt at the Stewart Immigration Court.

23. Multiple cases that would have resulted in bond weeks earlier were denied based on the same repetitive rationales described above.

24. In one case denied by Immigration Judge Andrew Hewitt, the respondent, my client, has resided in the United States for nearly three decades, having entered as a child. He has no criminal history, owns and operates a successful construction company, and has deep and longstanding community ties. His wife, a U.S. citizen, suffers from lupus and is currently undergoing a clinical trial for her condition. Despite these extraordinary equities and the absence of any factors traditionally associated with flight risk or danger to the community, bond was denied.

25. In another case denied during the same period, the respondent, also my client, has likewise lived in the United States for approximately thirty years, has consistently paid taxes, and maintains stable employment. He is the father of three U.S. citizen children and the stepfather of a U.S. citizen stepdaughter who suffers from depression and panic attacks. The record reflected no criminal history and substantial evidence of family dependence and hardship. Nonetheless, bond was denied.

26. Under the bond standards that governed this district for years—and as recently as late 2025—both of these individuals would have been considered paradigmatic candidates for release on bond. The denial of bond in these cases further confirms that the current adjudicatory framework no longer reflects individualized risk assessment, but instead operates to ensure continued detention regardless of compelling humanitarian, medical, family, and community equities.

27. The hearings appeared perfunctory and outcome-driven, lacking meaningful individualized analysis and functioning as a veneer of due process.

28. The respondents had no criminal history or only minor traffic offenses, strong family ties, stable housing and employment, and viable relief. Under long-standing standards in this district, they would have been granted bond.

VI. CORROBORATION FROM THE IMMIGRATION BAR

29. My observations are corroborated by numerous immigration attorneys across the country who report identical experiences.

30. Attorneys consistently report systematic bond denials in post-habeas cases using rationales that previously would not have sufficed.

31. Bond hearings are now described as "pro forma," employing boilerplate reasoning and predetermined outcomes.

32. The breadth and consistency of these reports strongly suggest institutional coordination rather than independent judicial discretion.

VII. PROFESSIONAL ASSESSMENT AND CONCLUSION

33. Based on my experience, the abrupt, uniform denial of bond—combined with judge reassignments and the abandonment of prior practices—strongly suggests coordinated action by EOIR and the Department of Justice to undermine federal habeas relief.

34. Independent adjudication does not produce such uniformity across judges and cases in such a short timeframe.

35. The bond hearings now provided do not appear to be genuine adjudications under 8 U.S.C. § 1226(a) and 8 C.F.R. §§ 236.1 and 1236.1, but rather illusory remedies designed to preserve detention.

36. This practice effectively nullifies constitutional protections recognized by federal courts through habeas corpus.

37. As an attorney committed to the fair administration of immigration law, I find this apparent circumvention of judicial authority deeply troubling.

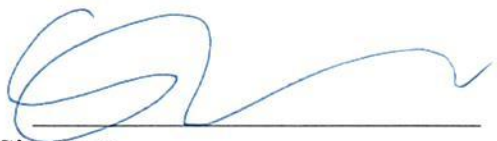
38. The individuals affected are human beings with families, children, and lives in this country—many detained under the wrong statutory authority and later found entitled to bond hearings that are no longer meaningful.

39. In my observation, continued detention is no longer based on danger or flight risk, but on an institutional decision to circumvent federal court orders.

40. I submit this declaration to assist the Court in understanding these realities and to ensure that habeas relief is not rendered meaningless.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

2/2/26
Date


Signature

DECLARATION OF JORGE E. ARTIEDA

I, Jorge E. Artieda, declare as follows under penalty of perjury pursuant to 28 U.S.C. § 1746:

I. PROFESSIONAL BACKGROUND AND QUALIFICATIONS

1. I am an attorney licensed to practice law in the Commonwealth of Virginia and am admitted to practice before the United States District Courts for the Eastern and Western Districts of Virginia.

2. I have over two decades of experience in immigration law and federal law enforcement, including:

a. Service as a prosecutor in New York City;

b. Service as legal counsel to Immigration and Customs Enforcement (ICE) Headquarters in Washington, D.C.;

c. Service as Assistant Chief Counsel for ICE in Virginia;

d. Service as a Special Assistant United States Attorney in Virginia; and

e. For the past decade, private practice as an immigration attorney specializing in detention and removal defense, including routine representation of detained individuals in bond proceedings before Immigration Judges in the Eastern District of Virginia.

3. I am proud of my years of service as a government attorney. My time working within the City of New York, Immigration and Customs Enforcement, and as a federal prosecutor was among the most meaningful work of my career. I remain grateful for the opportunity to have served the public in those capacities and continue to hold deep respect for the dedicated public servants who work within these institutions to faithfully administer our immigration laws.

4. Based on this extensive experience on both sides of immigration enforcement and litigation, I am intimately familiar with the standards, practices, and norms governing bond determinations in immigration proceedings in this district.

II. PURPOSE OF THIS DECLARATION

5. I submit this declaration to provide the Court with direct, firsthand observations of a dramatic and systematic change in bond hearing outcomes that have occurred over the past three weeks in immigration proceedings in Virginia and Maryland, particularly before Immigration Judges assigned to the detained docket.

6. This declaration is based on: (a) my personal observations of bond hearings I have attended; (b) my review of written bond decisions issued to clients; (c) communications with numerous immigration attorneys practicing in this district; and (d) my professional knowledge of historical bond practices in this jurisdiction spanning more than a decade.

7. I authorize any attorney representing detained individuals in habeas corpus proceedings or emergency motions for immediate release to use and file this declaration in support of their clients' cases.

III. THE SEISMIC SHIFT: SYSTEMATIC DENIAL OF BOND IN POST-HABEAS CASES

8. Beginning in or around the first week of January 2026, I began observing what can only be described as a seismic shift in bond hearing outcomes for individuals who had been granted federal habeas relief and ordered § 1226(a) bond hearings by this Court and other judges in the Eastern District of Virginia.

9. Prior to this shift, while bond amounts had increased in recent months, bond was *routinely granted* in post-habeas cases where individuals demonstrated: (a) lack of significant criminal history; (b) strong family ties in the United States; (c) lengthy residence in the country; (d) viable claims for relief from removal; and (e) community support including stable housing and employment prospects.

10. Beginning approximately three weeks ago, this pattern *abruptly and uniformly ceased*. In numerous cases I have personally observed or learned about from colleagues, Immigration Judges have denied bond in circumstances that, weeks earlier, would have resulted in bond being set.

11. In my professional observation, the consistency, timing, and uniformity of these denials cannot be readily explained by coincidence, changes in individual case facts, or independent judicial decision-making. The pattern appears systematic and suggests coordinated institutional direction.

IV. THE REASSIGNMENT OF IMMIGRATION JUDGES CHOI AND DONOSO-STEVENS

12. What I believe to be compelling evidence of possible institutional coordination occurred in early January 2026, when two Immigration Judges who had been assigned to the Annandale detained docket for years—Immigration Judge Raphael Choi and Immigration Judge Karen Donoso-Stevens—were abruptly reassigned to the non-detained docket.

13. Prior to their reassignment from the detained docket, these judges were conducting what appeared to be meaningful individualized bond assessments in

post-habeas cases. They were granting bond in appropriate cases and, critically, had begun questioning—*on the record*—the government's blanket detention positions and the Department of Justice's insistence on maintaining detention under circumstances that appeared not to justify continued custody.

14. The timing and circumstances of their reassignment are, in my view, extraordinary. Judges who appeared to be fulfilling their duty to conduct individualized bond assessments and who were openly questioning government positions were removed from the very docket where such assessments are most critical.

15. Since their reassignment, the Immigration Judges who replaced them on the detained docket have, based on my observations, *systematically denied bond* in post-habeas cases. This pattern suggests that the reassignment may not have been administrative happenstance but rather a deliberate effort to ensure predetermined outcomes—continued detention—regardless of individual circumstances.

V. PRETEXTUAL AND LEGALLY INSUFFICIENT RATIONALES FOR DENYING BOND

16. Over the past three weeks, Immigration Judges have, in my observation, relied on a remarkably narrow and predictable set of rationales to deny bond—rationales that appear to bear little relationship to genuine individualized risk assessment and that would not have been deemed sufficient to justify denial just weeks earlier.

17. These rationales, which I believe to be pretextual, include but are not limited to:

a. Treating the absence of a financial sponsor as dispositive of flight risk, even when other equities (family ties, length of residence, employment history, community support) overwhelmingly favor release;

b. Finding that a sponsor who is not a *financial* sponsor is insufficient, despite no legal requirement that sponsors provide financial guarantees;

c. Treating the fact that an individual did not seek relief from removal until after being detained as evidence of lack of intent to comply with immigration proceedings;

d. Finding that applications for relief under INA § 240A(b) (cancellation of removal) are "speculative" and therefore do not mitigate flight risk, despite the fact that all immigration relief applications involve some degree of uncertainty and merit assessment;

e. Characterizing unlawful entry into the United States—*by itself*—as establishing flight risk, a rationale that would render bond impossible for the vast majority of detained individuals;

f. Treating the accumulation of unlawful presence (which is a civil violation, not a crime) as evidence of danger or disregard for the law;

g. Finding that unauthorized employment—a status violation shared by millions of undocumented immigrants—constitutes a significant negative factor warranting denial of bond;

h. Treating minor discrepancies in addresses listed on various documents as evidence of "deceitfulness," even when such discrepancies are readily explained and do not reflect any intent to mislead;

i. Questioning the accuracy of tax returns and suggesting "underreporting" based on subjective assessments of lifestyle (such as photographs showing children at Disneyland or a respondent in a vehicle), without any actual evidence of fraud or misrepresentation;

j. Imposing on respondents the burden of proving that they *will* appear for future court proceedings—an impossible burden that requires proving a negative—even though many respondents have never failed to appear for any prior proceeding because *they have never been required to appear* until being placed in removal proceedings; and

k. Dismissing applications for cancellation of removal as "pro forma" when they have not been fully completed or developed, even though detained individuals often lack access to the resources and legal support necessary to perfect such applications while in custody.

18. In my professional assessment, these rationales do not appear to be grounded in legitimate risk assessment. They appear to be pretexts designed to ensure denial of bond regardless of the individual facts of each case.

19. The rationales being employed to deny bond appear to depart significantly from the standards articulated in BIA precedent governing bond determinations.

20. The rationales I have observed over the past three weeks—treating unlawful entry alone as establishing flight risk, dismissing relief applications as inherently "speculative," requiring financial sponsorship as a prerequisite, and treating any immigration violation as dispositive—appear to represent a departure from these precedential standards. BIA case law requires that Immigration Judges consider the *specific circumstances* of each case and weigh multiple factors in reaching bond

determinations. The systematic application of categorical exclusions based on status violations common to the detained population does not appear consistent with the individualized, fact-specific analysis that BIA precedent mandates.

VI. OBSERVATIONS FROM JANUARY 14 and JANUARY 28, 2026, DETENTION DOCKET

21. On January 14 and January 28, 2026, I personally observed bond hearings before Immigration Judge Gardey at the Annandale Immigration Court. What I witnessed confirmed the systematic pattern of denial that has emerged over the past three weeks.

22. Multiple cases that would have resulted in bond being set just weeks earlier were denied. The denials were based on the same rationales I have described above: lack of financial sponsors, unauthorized work, the "speculative" nature of relief applications, and immigration violations that are endemic to the detained population.

23. In each instance I observed, the Immigration Judge appeared to apply factors that, if consistently applied, would make bond impossible for virtually any detained individual in removal proceedings. There did not appear to be meaningful individualized assessment. The hearings appeared to be perfunctory exercises designed to create a veneer of due process while ensuring predetermined outcomes.

24. The cases I observed on the above dates, involved individuals with no criminal history, or only minor criminal history unrelated to violence or flight. These individuals had family members present in court, stable housing, employment prospects, and pending applications for relief. Under the standards that prevailed in this district for years—and indeed, as recently as three weeks ago—these individuals would have been granted bond.

VII. CORROBORATION FROM THE IMMIGRATION LEGAL COMMUNITY

25. My observations are not isolated. In recent weeks, I have communicated with numerous immigration attorneys practicing all over the United States who handle detention cases. These conversations have confirmed that the pattern I have observed is widespread and consistent.

26. Colleagues have reported the same experience: clients who were granted federal habeas relief and ordered § 1226(a) bond hearings are now being systematically denied bond based on rationales that would not have been deemed sufficient weeks earlier.

27. These attorneys have described bond hearings as appearing to be "pro forma" exercises where the outcome seems predetermined. Meaningful individualized

review appears to have been replaced by boilerplate language and cookie-cutter denials.

28. The consistency of these reports across multiple practitioners, representing different clients before different Immigration Judges, suggests that this is not a matter of individual judicial discretion or case-specific circumstances. It appears to be a coordinated institutional effort.

VIII. PROFESSIONAL ASSESSMENT AND CONCLUSION

29. Based on my two decades of experience in immigration law, including my service within the ICE, the pattern of events over the past three weeks—the abrupt reassignment of judges who were granting bond and questioning government positions, the immediate and uniform shift to systematic denial of bond, and the reliance on a narrow set of rationales across multiple judges and cases—suggests what appears to be a coordinated effort by the Executive Office for Immigration Review (EOIR) and the Department of Justice to undermine federal habeas relief.

30. In my professional judgment, this apparent coordination is the most plausible explanation for what I and my colleagues have observed. Independent adjudication does not typically produce this level of uniformity in outcome and reasoning across multiple judges and cases in such a compressed timeframe.

31. The bond hearings being provided to individuals who have been granted federal habeas relief do not appear to be genuine adjudications. They appear to be illusory remedies—proceedings designed to create the appearance of due process while ensuring that individuals remain detained indefinitely.

32. What I have witnessed over the past three weeks appears to be a systematic effort to nullify the constitutional protections that federal courts have recognized and enforced through habeas corpus. It appears to be a deliberate campaign to render meaningless the bond hearings that this Court and others have ordered.

33. I am profoundly concerned by what I have witnessed. As an attorney who has dedicated my career to the fair administration of immigration law—having served both as a government attorney enforcing those laws and as a private practitioner defending individuals subject to them—I find what appears to be a coordinated effort to undermine judicial authority and deny due process to be deeply troubling and inconsistent with the values I learned and embraced during my years of public service.

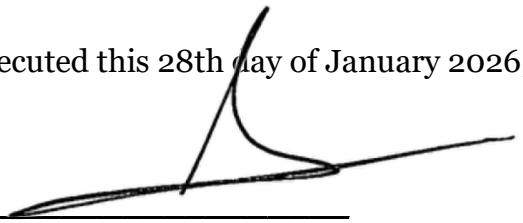
34. The individuals affected by this systematic denial of bond are not abstractions. They are human beings with families, with children, with jobs, with lives in this country. They have been found by federal courts to be entitled to bond hearings.

They are now being denied those hearings in any meaningful sense, held in detention not because they pose a danger or a flight risk, but because, in my observation, the Executive Branch appears to have decided to circumvent federal court orders through institutional means.

35. I submit this declaration in the hope that it will assist courts in understanding the reality of what appears to be occurring in immigration proceedings in this district and in ensuring that the constitutional right to habeas corpus is not rendered meaningless.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 28th day of January 2026, in Arlington, Virginia.



Jorge E. Artieda, Esq.
Va. Bar # 82963
P.O. Box 343
Falls Church, VA 22040
(703) 388-6055 (telephone)
(703) 649-6491 (facsimile)
jorge@artiedalaw.com