

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

Civil Action No. 1:26-cv-312-PAB-NRN

CARLOS MARTINEZ CRUZ

Petitioner,

v.

MARKWAYNE MULLIN,¹ Secretary, Department of Homeland Security,
PAMELA BONDI, U.S. Attorney General;
GEORGE VALDEZ, Field Office Director, Denver Field Office, Immigration and Customs
Enforcement; and
JUAN BALTAZAR, Warden of Denver Contract Detention Facility,

Respondents.

MOTION TO ENFORCE

On March 18, 2026, this Court granted Petitioner Carlos Martinez Cruz's ("Mr. Martinez") petition for habeas corpus and ordered Respondents to conduct a bond hearing within seven (7) days. ECF No. 19, at 5 (Order). Respondents failed to hold a bond hearing within the ordered timeframe, but after a one-day extension, an immigration judge conducted a bond hearing on March 26, 2026. *See* ECF No. 21 at 1 (motion); ECF No. 22 (order). The immigration judge denied bond, finding that Mr. Martinez, a noncitizen who has lived in the United States for more than 20 years, is married to a U.S. citizen and has four U.S. citizen children, is a flight risk such that no amount of bond would guarantee his appearance for his removal proceedings. Because

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Secretary Mullin is substituted as a party in this action.

Respondents failed to conduct a constitutionally compliant bond hearing, Mr. Martinez now seeks an order of immediate release.

FACTUAL BACKGROUND

Mr. Martinez's bond hearing took place on March 26, 2026. The Department of Homeland Security ("DHS") submitted a Form I-213, Record of Inadmissible Alien. Mr. Martinez submitted documentation of Mr. Martinez's application for relief; proof that the \$1,640 filing fee had been paid; a copy of his 2003 marriage certificate to his U.S. citizen wife, Maria Martinez; the birth certificates for his four U.S. citizen children; 25 letters of support from his family and neighbors; tax returns for 2015-2024; proof of his property ownership; his children's education records, demonstrating that two of his children were enrolled in the "gifted" program; business documents related to his construction company, which he and his wife own together; and a psychological evaluation. Ex. 1, Declaration of Aaron Lawee, ¶ 9. Mr. Martinez also disclosed his criminal history, which included five convictions for driving without a license between 2010 and 2021. In each case, he paid a fine less than \$400. *Id.* ¶ 10.

At the bond hearing, the DHS attorney conceded that Mr. Martinez was not a danger to society but argued that because he had several traffic citations for driving without a license, he had a pattern of disregarding the law. *Id.* ¶ 13. The DHS attorney further argued that Mr. Martinez's application for relief was weak. Based on these factors, the government argued that Mr. Martinez was a flight risk. *Id.*

In light of these claims, the immigration judge placed Mr. Martinez under oath and questioned him about his driving citations, his unauthorized employment, and his failure to legalize his status in the United States. *Id.* ¶ 14. The immigration judge was not receptive to Mr. Martinez's explanation that he drove and worked without authorization because he was unable to obtain

documentation permitting him to do so. Mr. Martinez explained that he did have a driver's license at one time, but that Florida had cancelled it due to changes in state law. Her questioning regarding his failure to legalize his status reflected a misunderstanding of the immigration laws. *Id.* ¶ 15.

Mr. Lawee was also able to question Mr. Martinez, highlighting that one of Mr. Martinez's family members would drive him were he released on bond. *Id.* ¶ 16. Mr. Martinez also testified as to the basis of his cancellation of removal application in response to the government's claim that it was weak. *Id.* Mr. Lawee tried to argue that Mr. Martinez met the factors in *Matter of Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006), and should be released on bond, but the immigration judge cut off the argument stating that she did not want to go into the merits of the underlying application for relief. *Id.* ¶ 17. Thus, Mr. Lawee was not able to finish discussing the Guerra factors that are relevant to an individualized bond determination. *Id.*

Later that same day, the immigration judge issued a written decision denying bond. Ex. 2, Order of the Immigration Judge. The Order states, "The Department of Homeland Security concedes bond jurisdiction based on the Habeas Order issued pursuant to Civil Action No. 26-cv-00312-PAB-NRN (District of Colorado). The Court has conducted an individualized bond hearing. After considering the totality of the circumstances and all relevant factors, the Court finds that the respondent has not met his burden to establish that he [sic] not a significant flight risk such that release from custody is warranted. Accordingly, the Court denies the respondent's request for a change in custody status." *Id.* This immigration judge had issued the exact same order, which includes the same grammatical error, in at least one other case. Ex. 3.

ARGUMENT

I. This Court Has Jurisdiction to Review the Bond Determination

This Court retains jurisdiction to review this motion because the Court possesses inherent authority to enforce its own orders. *See Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991) (“[C]ourts of justice are universally acknowledged to be vested, by their very creation, with power to impose ... submission to their lawful mandates”) (internal citation omitted). This authority derives not “by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *Id.* (quoting *Link v. Wabash R. Co.*, 370 U.S. 626, 630-31 (1962)). And while 8 U.S.C. § 1226(e) precludes jurisdiction to review an IJ’s bond determination, “district courts do have jurisdiction under 28 U.S.C. § 2241 to consider any error of law in Petitioner’s agency proceedings, including any claimed due process violation.” *L.G. v. Choate*, 744 F. Supp. 3d 1172, 1178 (D. Colo. 2024); *see Martinez Rodriguez v. Castro*, No. 2:25-CV-01294-KG-JFR, 2026 WL 252503, at *2 (D.N.M. Jan. 30, 2026) (holding that while § 1226(e) prevents a district court from reviewing an IJ’s discretionary judgment, it does not preclude “habeas jurisdiction over constitutional claims or questions of law”); *Salvador F.-G. v. Noem*, No. 25-CV-0243-CVE-MTS, 2025 WL 1669356, at *5 (N.D. Okla. June 12, 2025) (noting § 1226(e)’s restrictions but concluding that “[t]o the extent petitioner’s claims challenge his detention as unconstitutional and challenge the extent of DHS’s statutory authority to revoke a bond issued by an immigration judge, the Court finds that it has subject-matter jurisdiction”).

This Court may also review this motion without requiring Mr. Martinez to exhaust his claim before the Board of Immigration Appeals. As another judge in this district has held, “in the immigration context, ‘exhaustion of remedies is statutorily required only for appeals of final orders of removal.’” *Cervantes Arredondo v. Baltazar*, No. 1:25-cv-03040-RBJ, Dkt. 26 (citing *Quintana*

Casillas v. Sessions, Civ. 17-01039-DME-CBS, 2017 WL 3088346, at *9 (D. Colo. Jul. 20, 2017) (internal citations omitted) (attached as Exhibit 4). “Here, exhaustion is merely prudential, not mandatory.” *Id.* (citing *Molina Ochoa v. Noem*, 1:25-cv00881-JB-LF, 2025 WL 3125846, at *9 (D.N.M. Nov. 7, 2025) (finding that exhaustion was not a bar to consideration of habeas petition challenging denial of a bond hearing); *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). Exhaustion in this case would unconditionally add to Mr. Martinez’s lengthy time in detention and is unnecessary where this Court is able to review Respondents’ noncompliance. *L.G. v. Choate*, 744 F. Supp. 3d 1172, 1181 (D. Colo. 2024); *see also Luciano-Jimenez v. Doll*, 543 F. Supp. 3d 69, 71 n.1 (M.D. Pa. 2021) (“district courts have continuing jurisdiction to address alleged noncompliance with writs of habeas corpus.”) (citations omitted).

II. The Immigration Judge Violated Mr. Martinez’s Due Process Rights

This Court should grant Mr. Martinez’s habeas petition and order his release from detention. The bond hearing conducted by the immigration judge was not individualized and therefore, was not constitutionally compliant.

As an initial matter, an immigration judge must sufficiently explain their reasoning to permit appellate or judicial review of their decisions. *Barnica-Lopez v. Garland*, 59 F.4th 520, 530 (1st Cir. 2023). Here, the immigration judge provided no analysis in her decision, and instead simply stated that Mr. Martinez constitutes a flight risk. However, based on Mr. Lawee’s explanation of the hearing, the immigration judge focused heavily on Mr. Martinez’s unauthorized driving and employment in the United States and his inability to regularize his status through his

U.S. citizen wife. Ex. 1, ¶¶ 14-15. Without any explanation in the decision itself, it can only be assumed that these factors are what led the immigration judge to determine that Mr. Martinez is a flight risk.

However, each of these factors is inextricably tied to Mr. Martinez's unlawful status and does not establish flight risk. The district court judges in the Eastern District of Virginia have aptly identified the constitutional problem with this type of bond analysis. "A bond hearing fails to comport with due process where the Immigration Judge relies on considerations that would lead to an automatic denial of bond in almost all cases, for such a hearing is not individualized or rationally related to whether a petitioner is a flight risk" as required by 8 U.S.C. § 1226(a). *Sierra-Cerritos v. Simon*, No. 1:25-cv-2380 (RDA/LRV) (E.D. Va. March 18, 2026), ECF No. 17, Order (attached as Exhibit 4). Pursuant to this reasoning, Mr. Martinez's unlawful status does not provide a legitimate reason for the immigration judge to deny a request for release on bond. Indeed, "every individual who appears before an Immigration Judge for custody redetermination lacks lawful status. To consider this fact violates both § 1226(a)'s requirement of an individualized hearing and fundamental due process principles." *Chavarría Mejía v. Crawford, et al*, No. 1:26-CV-253 (LMB/LRV), 2026 WL 819603, at *5 (E.D. Va. Mar. 25, 2026). And as another judge stated, "[w]ere a noncitizen's unlawful status, and the unauthorized employment that often, if not typically attaches to it, in and of itself, a proper basis upon which to deny bond, the discretionary detention under § 1226(a), with its prescribed bond hearing, which allows for a noncitizen to be released if they are not a danger to the community or a flight risk, 8 C.F.R. § 236.1(c)(8), would become a de facto mandatory § 1225 detention." *See Mendez Trigueros v. Guadian*, No. 1:26-cv-205 (AJT-WPB) (E.D. Va. Feb. 18, 2026), ECF No. 13, Order ("Moreover, it is difficult to see how any reasonable inference of flight risk could be drawn from a history of steady employment, even if

unauthorized; if anything, such employment undercuts any finding of flight risk.”) (attached as Exhibit 4). Finally, citations for driving without a license alone, “do not provide the evidentiary support constitutionally required to deny a noncitizen’s request for release on bond, particularly given that the Immigration Judge did not consider any condition or set of conditions that will reasonably ensure [petitioner’s] appearance at future proceedings.” *Chavarria Mejia*, 2026 WL 819603, at *6. Here, the immigration judge did not provide any basis, let alone a constitutionally sufficient one to find that Mr. Martinez is such a flight risk that he no amount of bond or other conditions would guarantee his appearance at future hearings. Accordingly, the bond hearing was not constitutionally compliant. Without access to sufficient due process, this Court should order Mr. Martinez’s release.

CONCLUSION

The bond proceeding held on March 26, 2026, did not comply with the Constitution. Mr. Martinez requests that this Court order his immediate release. *See* ECF No. 1, Prayer for Relief ¶ 5; *Pena-Gil v. Lyons*, No. 25-CV-03268-PAB-NRN, 2026 WL 25143, at *2 (D. Colo. Jan. 5, 2026) (“[B]ecause a federal court always retains jurisdiction to enforce its lawful judgments, including habeas judgments, the court has the authority to see that its judgment is fully effectuated.”) (quoting *Gall v. Scroggy*, 603 F.3d 346, 352 (6th Cir. 2010)). Respondents should not be provided a second opportunity to conduct a bond hearing when it is clear that the immigration judge is predisposed to rule against Mr. Martinez. Due process requires a neutral adjudicator and a fair hearing. Mr. Martinez received neither.

Dated: March 31, 2026

Respectfully submitted,

/s/ Sarah L. Vuong
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CERTIFICATE OF COMPLIANCE

In accordance with D.C.COLO.LCivR 7.1(a), I certify that on March 31, 2026, during discussions with counsel for Respondents on the joint status report, I indicated that I would be filing a motion to enforce. The parties were unable to come to agreement on how to proceed without the Court's involvement.

Dated: March 31, 2026

/s/ Sarah L. Vuong
SARAH L. VUONG
Counsel for Petitioner