

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Darian Bello Mena,

Petitioner,

vs.

Pamela Bondi, *et al.*,

Respondents.

Case No.: 5:26-cv-642-FB

**PETITIONER'S REPLY TO
RESPONDENTS' ADVISORY TO THE
COURT**

In their Advisory to the Court, Respondents advise the Court that on March 4, 2026, a bond hearing was conducted for Petitioner, before Immigration Judge Jennifer Mazza who denied a bond to the Petitioner. See ECF No. 10 at 1. Respondents attach a copy of the Immigration Judge's order and summarily cite that the Judge entered the order as "DHS did meet its burden to show Respondent [Mena] is a flight risk, that it cannot be mitigated by an appropriate bond by clear and convincing evidence." See Id at 1 and ECF No. 10.1

Petitioner contends and makes known to this Court that at Petitioner's bond hearing, Respondents did not meet their burden of justifying Petitioner's continued detention by clear and convincing evidence. Respondents' filed evidence only included this Court's Order Granting In Part Writ of Habeas Corpus and a copy the Form I-213, Record of Deportable/Inadmissible Alien, dated November 18, 2025, which contained Petitioner's biographic data, referenced his initial encounter with DHS Officers on 7/24/2022, that he claimed fear of returning to Cuba and most notably that "On 11/18/2025 [Petitioner] reported to the San Antonio Resident Office as instructed

as part of his purporting requirements under his Order of Supervised Release. Records checks indicated that he is a citizen and national of CUBA. [Petitioner] Order of Supervised Release was revoked, and he was taken into custody pending his court.”. See ECF No 11.1. During the bond hearing Respondents orally supported Petitioner’s continued detention citing Matter of R-A-V-P, 27 I&N Dec. 803 (BIA 2020). In Matter of Matter of R-A-V-P, the Board of Immigration Appeals held that: “The Immigration Judge properly determined that the respondent was a flight risk and denied his request for a custody redetermination where, although he had a pending application for asylum, he had no family, employment, or community ties and no probable path to obtain lawful status so as to warrant his release on bond.”

Petitioner on the other hand, through undersigned Counsel, prepared and presented to the Immigration Judge a 48-page packet of Exhibits A through C in Support of Bond Redetermination. See ECF No 11.2. Petitioner’s Counsel filed his supporting Exhibits on the morning of the hearing, as it was not until Petitioner alerted his spouse at 7am on Wednesday, March 4, 2026, through a phone call, that he had been told by detention center officers that he would be having a bond hearing that morning, and it was not until 8am that morning, upon the opening of the Immigration Court that Petitioner’s Counsel was able to confirm through phone call with Court staff that the bond hearing was in fact taking place that morning at 9:30am before Immigration Judge Mazza, and then after that conversation with Court staff, enter her appearance for the bond hearing. Petitioner’s Counsel had been vigilant as to a bond hearing, but the Immigration Court’s information system did not provide any information regarding a hearing date for Respondent. Neither Counsel nor Petitioner were given a written Notice of Hearing as to the set bond hearing, ahead of the scheduled date. Even on the day of the bond hearing, the informational system showed: “There are no future hearings for this case. The bond is pending.” See ECF No. 11.3 Regardless, Petitioner presented evidence in writing and summarized such evidence orally before

the Immigration Judge during the bond hearing. Evidence which included: proof of Petitioner's marriage to his lawful permanent resident spouse and her pending Form I-130 Petition for Alien Relative filed on his behalf with USCIS; proof of Petitioner's newborn US citizen daughter's recent birth; proof of Petitioner's valid TX driver license and employment authorization document; proof of Petitioner's employment prior to his detention, as well as his professional certifications and English classes enrollments, proof of Petitioner's spouse's earnings, numerous letter of support written on behalf of Petitioner detailing his good moral character and community ties; Petitioner also presented evidence of his timely filed and receipted pending appeal before the Board of Immigration Appeals See ECF No. 11.2 Petitioner also had his lawful permanent resident (LPR) spouse, listed as a witness as part of Exhibit C, See ID at 6, and available for the bond hearing, which occurred via tele-video. But although Petitioner's spouse was present and in the Immigration Judge's virtual waiting room, she was not admitted to witness the hearing, nor was she admitted or allowed to testify on Petitioner's behalf. As previously stated in Petitioner's writ, even with this Court's Order shifting the burden of proof the Respondents, it is clear that this did not in fact occur.

Petitioner at no point has denied that he arrived in the United States at any time or place other than designated by the Attorney General, that he sought refuge and protection from his native Cuba, and that his main forms of relief in Immigration Court were through asylum, withholding of removal and the protection under the CAT, as well as, Adjustment of Status under the Cuban Adjustment Act. Petitioner was detained on November 18, 2025, as he completed his reporting requirement at the San Antonio DHS ICE Resident Office, he attended and completed all the Immigration Court Hearings held for him and promptly appealed the Immigration Judge's pretermission and denials of his EOIR sought relief to the Board of Immigration Appeals, and his appeal remains pending. Petitioner has a separate marriage-based immigrant petition filed on his

behalf (Form I-130) by his lawful permanent resident spouse, which is currently pending adjudication with USCIS. Moreover, Petitioner's wife recently gave birth in Pflugerville, Texas to the couple's US citizen daughter and first child, on February 24, 2026. Petitioner's case can easily be distinguished from Matter of R-A-V-P. As a lawful permanent resident his spouse must remain in the United States for the majority of each year, her lawful status is dependent on her permanent residence in the United States, and having a newborn US citizen daughter only strengthens Petitioner and Petitioner's spouse's ties to the United States.

As previously stated by Petitioner, immigration detention must be reasonably related to the government's goals of preventing flight and protecting the community from harm and be accompanied by adequate procedural protections to ensure that those goals are being served. *See Zadvydas*, 533 U.S. at 690-91. Chief among these procedural protections is "the guarantee of an impartial and disinterested tribunal," which the Due Process Clause requires "in both civil and criminal cases." *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980). The immigration court system has been transformed into a body that is structurally incapable of upholding Petitioner's statutory and constitutional rights. In Petitioner's case, although his habeas mandated bond hearing did in fact take place, Petitioner remains detained in violation of the due process and was denied their fundamental right to have an impartial adjudicator determine whether their continued detention serves any legitimate purpose related to flight risk.

This Court should grant immediate release from Custody to Respondent.

Dated this 10th day of March 2026.

Respectfully submitted,

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Certificate of Service

I, the undersigned, hereby certify that on this date, I uploaded the foregoing, with all attachments thereto, to this Court's CM/ECF case management system, which will send a Notice of Electronic Filing (NEF) to all counsel of record.

Dated this 10th day of March, 2026.

Respectfully submitted,

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