

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Sandro Valenzula Nunez
Petitioner-Plaintiff,

v.

Todd M. Lyons,
Acting Director
U.S. Immigration and Customs Enforcement;

Rose Thompson,
Facility Warden
Karnes County Immigration Processing Center

Respondents-Defendants

Civ. No. 5:26-cv-00676

DHS File Number: 

**MOTION TO ENFORCE FEBRUARY 24, 2026, ORDER AND FOR IMMEDIATE
RELEASE OR, AND IN THE ALTERNATIVE, TEMPORARY RESTRAINING ORDER**

Now comes, Petitioner, and respectfully moves this Court to enforce its February 24, 2026 Order granting habeas relief and requiring a constitutionally compliant bond hearing. Although a hearing was held, the Immigration Judge's written custody determination confirms that Respondents failed to comply with this Court's mandate.

I. THIS COURT'S ORDER REQUIRED A MEANINGFUL BOND DETERMINATION

On February 24, 2026, this Court ordered Respondents to either:

1. Provide Petitioner with a bond hearing at which Respondents bear the burden of proving, by clear and convincing evidence of dangerousness or flight risk, that continued detention is justified; or

2. Release Petitioner under reasonable conditions of supervision.

The Court's remedy was grounded in procedural due process principles repeatedly recognized in this District, including *Lopez-Arevelo v. Ripa*. The Court further required Respondents to inform the Court, in detail, of the reasons for the immigration judge's decision. The Order required substantive compliance — not mere procedural formality.

II. THE IMMIGRATION JUDGE'S WRITTEN ORDER

Attached for the Court's consideration is the Immigration Judge's written custody redetermination order denying the Petitioner's request for an immigration bond that states in full the following: *"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 of..... High flight risk."*

This written ruling is legally significant for what it omits.

It contains:

- No reference to the clear and convincing evidence standard;
- No articulation of specific factual findings;
- No explanation of why supervision conditions would be insufficient;
- No individualized analysis demonstrating a firm belief or conviction of future nonappearance.

The Immigration Court below held a sham hearing and failed to adhere to the orders of this Federal Court by making a conclusory determination and by failing to hold the Government to

their burden of "clear and convincing evidence" that the Petitioner is a "flight risk" or shows "dangerousness". Instead, the Immigration Judge included an emphatic "*high flight risk*" and *made a conclusory decision to deny* the Petitioner's Immigration bond. This is true even though the Petitioner has been here for nearly 30 years with a petition pending and extensive family ties.

The Petitioner's Counsel argued to the Immigration Court below that the following:

- No criminal history;
- Strong family ties;
- Approved I-130 Immigrant Petition approved in 2024;
- Stable residence and tax history;
- I-601A rejected (not denied);
- Eligibility for 42B relief;
- No history of failure to appear.

These are not cursory items to be easily controverted by the Government. Here, the Respondent's must show that he is a "flight risk and dangerousness" as required by this Court's Order. The fact that the Petitioner here, (Respondent below), is eligible to obtain a green card through an approved I130 is an overwhelming reason to return to immigration court in order to be allowed to proceed with his green card process.

Additionally, the Petitioner consistently filed his income taxes. Further, he is eligible for 42b Cancellation of Removal because of his extensive time in the United States and because he has qualifying relatives. This is a basis to obtain a work permit and an eventual path to a green card through the Immigration Court. The Respondent argued specifically that he attempted to continue his green card process by hiring a "notario" to finalize his 601A which was denied because they

were improperly prepared by the “notario” and this was explained in great detail to the Immigration Judge. Finally, there is no flight history where the Petitioner has failed to present himself to authorities when required to do so.

III. THE HEARING DID NOT COMPLY WITH THIS COURT’S MANDATE

A. Conclusory “High Flight Risk” Finding Does Not Satisfy Clear and Convincing Evidence

This Court ordered that detention may continue only if Respondents justify it by clear and convincing evidence.

A conclusory statement — “Denied, because High flight risk” — does not demonstrate:

- What evidence was credited;
- Why it meets the heightened evidentiary burden;
- How it outweighs undisputed mitigating evidence;
- Why less restrictive conditions would not suffice.

Clear and convincing evidence requires articulated reasoning that produces a firm belief or conviction. A bare conclusion does not demonstrate that the constitutional burden was meaningfully applied.

B. The Record Shows Reliance on Generalized Immigration History, Not Individualized Proof

At the hearing, the Government/Department of Homeland Security argued the following in order to diminish the plain facts cited above including the Petitioner’s long unlawful presence;

- Failure to pursue relief;- Incorrect, Petitioner has an approved I130
- Acting only after detention;- Incorrect, attempted to obtain a 601A Waiver through notario.
- Possible disregard for laws; no law violations cited and this assertion is speculative

- Facing removal increases incentive to flee.—This assertion is speculative

The IJ orally referenced:

- 29-year unlawful presence;
- Failure to diligently pursue status;
- Acting only after detention;
- No prima facie 42B hardship showing;
- Viewing long undetected presence as evasion.

The Immigration Judge below erred in making a determination of “speculative” relief when considering an Immigration bond. This is outside immigration bond considerations. None of these factors constitute individualized evidence of future nonappearance. They are generalized immigration history factors common to large classes of detainees.

Government’s Burden:

More specifically, where the Government bears the burden (as required by this federal court order federal habeas rulings), the IJ cannot:

- Require the respondent to prove viable relief;
- Treat lack of prima facie evidence as proof of flight risk.

The Government must prove flight risk by clear and convincing evidence. “Relief is speculative” is not evidence — it is an absence of evidence. If such generalized factors suffice, then the heightened burden imposed by this Court becomes meaningless.

C. The Written Order Confirms Lack of Detailed Findings Required by This Court

This Court required Respondents to inform it “in detail” of the reasons for the immigration judge’s decision. The IJ’s written ruling provides only “Denied, because High flight risk.”

That statement does not satisfy:

- The requirement of detailed explanation;
- The constitutional obligation to meaningfully apply a heightened burden;
- This Court's directive requiring compliance with due process standards.

A conclusory label is not the equivalent of clear and convincing proof.

IV. FAILURE TO COMPLY WITH THE COURT'S ORDER UNDERMINES ARTICLE III AUTHORITY

This Court granted habeas relief on procedural due process grounds. Its Order is binding on executive officials.

If an agency may nominally hold a hearing, recite the correct burden orally, and then issue a one-line conclusory denial, the constitutional protection ordered by this Court becomes illusory. Article III authority requires meaningful compliance — not symbolic adherence. Failure to apply the mandated evidentiary standard in substance undermines:

- The enforceability of habeas relief;
- The separation of powers;
- The supremacy of federal judicial orders.

This Court expressly warned that noncompliant proceedings would not satisfy its Order and would require release.

V. CONTINUED DETENTION IS UNLAWFUL

DHS did not argue that the petitioner is dangerous. The petitioner has no criminal history and no record of failing to appear. The written custody order does not provide any clear or convincing evidence supporting a finding of flight risk. Since the bond proceeding did not meaningfully comply with this Court's Order dated February 24, 2026, the continued detention is unlawful. Every additional day of detention results in ongoing and irreparable constitutional harm.

VI. RELIEF REQUESTED

Petitioner respectfully requests that this Court:

1. Find that Respondents failed to comply with the February 24, 2026 Order;
2. Order Petitioner's immediate release under reasonable conditions of supervision;

OR, in the alternative:

3. Issue a Temporary Restraining Order prohibiting continued detention unless a new bond hearing is conducted that:
 - o Requires clear and convincing evidence in substance;
 - o Requires written findings explaining the evidentiary basis;
 - o Requires individualized analysis tied to future nonappearance;
 - o Addresses why conditions short of detention would be insufficient.

VII. CONCLUSION

The Immigration Judge's order simply states: "Denied, because High flight risk." This statement fails to show that the required heightened burden was applied. The Constitution and this Court demand more. Respondents have not complied, so enforcement and immediate relief are necessary.

Respectfully submitted,

/s/ Rodolfo Castillo

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EXHIBITS

1. Exhibit A – IJ Order Bond denial