

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**RODOLFO CORONA ARCINIEGA,**  
Petitioner,

v.

**JUAN BALTAZAR**, in his official capacity  
as warden of the Aurora Contract Detention  
Facility,

**ROBERT GUADIAN**, in his official capacity  
as Field Office Director, Denver, U.S.  
Immigration and Customs Enforcement,

**KRISTI NOEM**, in her official capacity  
as Secretary, U.S. Department of Homeland  
Security;

**PAMELA BONDI**, in her official capacity  
as Attorney General of the United States

Respondents.

Case No. 26-cv-00598-CYC

**PETITIONER'S MOTION TO  
ENFORCE JUDGEMENT**

**INTRODUCTION**

Petitioner Rodolfo Corona Arciniega, through counsel, respectfully moves this Court to enforce its March 3, 2026 Order granting habeas relief and directing that Petitioner receive a constitutionally adequate bond hearing under 8 U.S.C. § 1226(a). The Immigration Judge did not conduct a fair and impartial bond hearing required by this Court's Order. Instead, despite overwhelming evidence demonstrating that Petitioner is neither a danger to the community nor a flight risk, the Immigration Judge did not hold a fair and impartial bond hearing and denied bond and failed to provide any meaningful justification for concluding that Petitioner presented a risk of flight. In doing so, the Immigration Judge disregarded un rebutted evidence demonstrating that Petitioner is

neither a danger to the community nor a flight risk. Petitioner therefore requests that the Court enforce its Order and grant appropriate relief, including ordering a new bond hearing conducted in compliance with due process.

On March 3, 2026, this Court granted Petitioner's habeas petition and held that he is detained under 8 U.S.C. § 1226, not § 1225. The Court ordered that Petitioner receive a bond hearing consistent with § 1226(a) and due process. That order was intended to remedy Petitioner's unlawful detention without a bond hearing. Instead, the hearing that followed failed to provide the meaningful process required by the Court's Order. Despite extensive documentary evidence demonstrating Petitioner's strong community ties, long-term residence in the United States, lack of criminal history, and eligibility for relief, the Immigration Judge denied bond solely on the basis that Petitioner had "failed to demonstrate that he is not a flight risk," without explaining how the record supported that conclusion.

This Court's intervention is necessary to ensure compliance with its Order and to direct appropriate relief. Mr. Corona Arciniega respectfully requests that this Court order his immediate release. In the alternative, Mr. Corona Arciniega respectfully requests that this Court order the Executive Office for Immigration Review to conduct a new bond hearing consistent with the Court's instructions, ensuring that the government bears the burden of proof as required. To further safeguard compliance, Mr. Corona Arciniega also requests that the Immigration Judge be directed to make an oral finding at the conclusion of the government's case as to whether the government has met its burden.

In the alternative, Petitioner asks the Court to require that the Government bear the burden to prove flight risk or danger by clear and convincing evidence. The Department of Justice ordinarily places the burden of proving that one is not a danger to the community and not a flight risk on the respondent. *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006). Although it is the district court

judge's ultimate decision whether to shift the burden of proof, "[t]he overwhelming majority of courts" have "held that the government must bear the burden by clear and convincing evidence" when there is a due process violation stemming from prolonged detention. *Pedro O. v. Garland*, 543 F. Supp. 3d 733, 742 (D. Minn. June 14, 2021) (citing *German Santos*, 965 F.3d at 213–14) (explaining that the government bears the burden of proof by clear and convincing evidence because the noncitizen's "potential loss of liberty is so severe" in the § 1226 context); see also *Salazar v. Dedos*, 2025 WL 2676729 (D.N.M. Sept. 17, 2025) (granting habeas and ordering a bond hearing with the burden placed on the government); but see *Zarate v. Choate*, 2023 WL 2574370, at \*5 (D. Colo. Mar. 20, 2023) (finding a due process violation and ordering a bond hearing but declining to place the burden of proof on the government); *Martinez Viguierias v. Ceja*, No. 24-cv-03056-PAB (D. Colo. Dec. 19, 2024) (same).

In this district, courts regularly require the burden to be placed on the government. See, e.g., *L.G. v. Choate*, 744 F. Supp. 3d 1172, 1185 (D. Colo. 2024) (noting that under the Mathews factors, the government "must bear the burden to justify...detention" under § 1226(a)); *Juarez v. Choate*, 2024 WL 1012912, at \*8 (D. Colo. Mar. 8, 2024) (explaining that the government bears the burden of proof by clear and convincing evidence); *Garcia Cortes v. Noem*, 2025 WL 2652880, at \*7 (D. Colo. Sept. 16, 2025) (same); *Daley v. Choate*, 2023 WL 2336052, at \*5 (D. Colo. Jan. 6, 2023) (same); *Viruel Arias v. Choate*, 2022 WL 4467245, at \*3 (D. Colo. Sept. 26, 2022) (same); *Sheikh v. Choate*, 2022 WL 17075894, at \*4 (D. Colo. July 27, 2022) (same); *Villaescusa-Rios v. Choate*, 2021 WL 269766, at \*5 (D. Colo. Jan. 27, 2021) (same); *Singh v. Choate*, 2019 WL 3943960, at \*7 (D. Colo. Aug. 21, 2019) (same).

### FACTUAL AND PROCEDURAL BACKGROUND

Petitioner is a citizen of Mexico who has lived in the United States for more than two decades. According to the immigration record, he last entered the United States in 2004 and has lived here continuously since that time. He resides in Colorado Springs with his family at: [REDACTED]

[REDACTED] Petitioner is the father of two United States citizen children, Julian Corona Diaz (DOB: [REDACTED]) and A [REDACTED] (DOB: [REDACTED]) who depend on him emotionally and financially. Petitioner has deep community ties in Colorado, including longstanding residence, family connections, and substantial documentary evidence of good moral character. Petitioner has maintained consistent employment for years and has been employed by Lindsay Precast in Colorado Springs since at least 2014, earning approximately \$900 per week. Petitioner has filed U.S. tax returns for many years, including from 2014 through 2024, demonstrating consistent compliance with U.S. laws and financial stability. These tax filings further confirm his residence and work history in Colorado. Petitioner has no criminal record, aside from a minor traffic violation more than fifteen years ago. In support of his bond request, Petitioner submitted numerous letters from community members attesting to his character, including letters from educators, neighbors, family members, and community leaders. These submissions collectively demonstrate that Petitioner poses no danger to the community. Petitioner has applied for Cancellation of Removal under INA §240A(b) based on his decades-long residence and the extreme hardship that removal would impose on his U.S. citizen children. The pending relief application further reduces any risk of flight because Petitioner has a strong incentive to remain in the United States to pursue lawful status. On March 3, 2026, this Court granted habeas relief and held that Petitioner's detention is governed by 8 U.S.C. §1226, not §1225. The Court

further concluded that Petitioner's continued detention without a bond hearing violated due process and ordered that he receive a bond hearing.

Following the Court's order, the Immigration Judge conducted a bond hearing on March 3, 2026. However, the Immigration Judge denied bond, stating that the respondent had "failed to demonstrate that he is not a flight risk." *See*: Exhibit C, IJ Order. The order did not identify any evidence supporting a finding of flight risk and did not address the extensive evidence submitted by Petitioner. *See*: Exhibits D-H. Instead, the ruling simply placed the burden on Petitioner and concluded that he had not satisfied it. *See*: Exhibit C.

### **LEGAL STANDARD**

Federal courts retain jurisdiction to enforce compliance with their habeas orders. When an agency fails to implement the relief ordered by the court, the court may issue additional orders necessary to ensure compliance. A bond hearing ordered by a federal court must be meaningful and consistent with due process. A hearing that merely replicates the same flawed process that gave rise to the habeas violation does not satisfy the court's order. Mr. Corona Arciniega now files this Motion to Enforce Judgment. Counsel for Mr. Corona Arciniega provided notice of his intent to seek enforcement of this Court's Order to counsel for Respondents at the U.S. Attorney's Office for the District of Colorado.

### **ARGUMENT**

Respondents have failed to follow this Court's order, Mr. Corona Arciniega remains unlawfully detained, and this Court must intervene. Instead of requiring DHS to satisfy their burden of proof by clear and convincing evidence, the IJ placed a burden of proof on Mr. Corona Arciniega.

The DOJ normally places the burden of proving that one is not a danger to the community and is not a flight risk on the respondent. *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006).

Although it is the district court judge's ultimate decision whether to shift the burden of proof, "[t]he

overwhelming majority of courts” have “held that the government must bear the burden by clear and convincing evidence” when there is a due process violation stemming from prolonged detention.

*Pedro O. v. Garland*, 543 F. Supp. 3d 733, 742 (D. Minn. June 14, 2021) (citing *German Santos*, 965 F.3d at 213-14) (explaining that the government bears the burden of proof by clear and convincing evidence because the noncitizen’s “potential loss of liberty is so severe” in the § 1226 context); see also *Salazar v. Dedos*, 2025 WL 2676729 (D.N.M. Sept. 17, 2025) (granting habeas, ordering bond hearing with shifted burden of proof); but see *de Zarate v. Choate*, 2023 WL 2574370, at \*5 (D. Co. March 20, 2023) (finding a due process violation and ordering a bond hearing but declining to place the burden of proof on the government); *Martinez Viguerias v. Ceja*, No. 24-cv-03056-PAB (D. Colo. Dec. 19, 2024) (same).

In this district, courts regularly require the burden to be placed on the government. *See, e.g., L.G. v. Choate*, 744 F. Supp. 3d 1172, 1185 (D. Colo. 2024) (noting that under the *Mathews* factors, the government “must bear the burden to justify...detention” under § 1226(a)); *Juarez v. Choate*, 2024 WL 1012912, at \*8 (March 8, 2024) (explaining that the government bears the burden of proof by clear and convincing evidence); *Garcia Cortes v. Noem*, 2025 WL 2652880, at \*7 (D. Colo. Sept. 16, 2025) (same); *Daley v Choate*, 2023 WL 2336052, at \*5 (January 6, 2023) (same) ; *Viruel Arias v. Choate*, 2022 WL 4467245, at \*3 (September 26, 2022) (same); *Sheikh*, 2022 WL 17075894, at \*4 (July 27, 2022) (same); *Villaescusa-Rios v. Choate*, 2021 WL 269766, at \*5 (January 27, 2021) (same); *Singh v. Choate*, 2019 WL 3943960, at \*7 (August 21, 2019) (same).

On March 3, 2026, this Court granted Petitioner’s habeas petition and held that he is detained under 8 U.S.C. §1226, not §1225. The Court ordered that Petitioner receive a bond hearing consistent with §1226(a) and due process. That order was intended to remedy Petitioner’s unlawful detention without a bond hearing. Instead, the hearing that followed failed to provide the meaningful process required by the Court’s order. Despite the extensive documentary evidence submitted

demonstrating Petitioner's strong community ties, long-term residence in the United States, lack of criminal history, and eligibility for relief, the Immigration Judge denied bond solely on the basis that Petitioner had "failed to demonstrate that he is not a flight risk."

This Court's intervention is necessary to ensure compliance with its Order and to direct appropriate relief. Mr. Corona Arciniega respectfully requests that this Court order his immediate release. In the alternative, Mr. Corona Arciniega respectfully requests that this Court order the Executive Office for Immigration Review to conduct a new bond hearing consistent with the Court's instructions, ensuring that the government bears the burden of proof as required. To further safeguard compliance, Mr. Corona Arciniega also requests that the Immigration Judge be directed to make an oral finding at the conclusion of the government's case as to whether the government has met its burden.

This Court ordered that Petitioner receive a bond hearing consistent with §1226(a) and due process. Instead, the Immigration Judge issued a summary order concluding that Petitioner "failed to demonstrate that he is not a flight risk." This ruling failed to engage with the evidence presented and effectively required Petitioner to prove a negative despite overwhelming evidence demonstrating stability and community ties. Such a cursory denial does not constitute the meaningful bond determination required by this Court's order. The record before the Immigration Judge (Exhibits D-I) contained extensive evidence demonstrating that Petitioner is not a flight risk, including: over twenty years of residence in the United States, stable employment history in Colorado, filing of U.S. tax returns for many years, U.S. citizen children and family ties, lack of criminal history, community support letters. These factors are precisely the types of considerations immigration courts rely on when determining bond eligibility.

Nothing in the record suggests that Petitioner has ever failed to appear in court or attempted to evade immigration authorities.

The Immigration Judge's order placed the entire burden on Petitioner to disprove flight risk without requiring the Government to present any evidence. Where detention becomes prolonged, courts increasingly recognize that due process requires the Government to justify continued detention. Without such safeguards, the bond hearing ordered by this Court becomes an empty formality.

Because the Immigration Judge failed to meaningfully apply the Court's order, enforcement relief is necessary. Federal courts routinely order **new bond hearings** when immigration courts fail to comply with habeas rulings.

#### **REQUESTED RELIEF**

Petitioner respectfully requests that the Court:

1. Find that Respondents failed to comply with the Court's March 3, 2026 Order and/or order Petitioner's immediate release from detention.
2. In the alternative, order Respondents to provide Petitioner with a new bond hearing before an Immigration Judge.
3. Order that at the new bond hearing the Government bear the burden of proving by clear and convincing evidence that Petitioner poses a danger or flight risk.
4. Grant any additional relief the Court deems appropriate.

#### **CONCLUSION**

Petitioner complied with this Court's order and presented overwhelming evidence demonstrating that he is not a danger to the community and not a flight risk. The Immigration Judge nevertheless denied bond without meaningful consideration of that evidence. Because the bond hearing failed to implement the relief ordered by this Court, enforcement is necessary to protect Petitioner's due process rights and ensure compliance with the Court's March 3, 2026

Order.

Dated: March 12, 2026

Respectfully submitted,  
/s/ Inga Bergel  
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**CERTIFICATE OF SERVICE**

I certify that on March 12, 2026, I filed the foregoing with the Clerk of the Court for the District of Colorado using the CM/ECF system. All Participants in the case are registered with the CM/ECF and will be served by the CM/ECF system.

Respectfully submitted,

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