Hannah Kazim (SBN 318656)
hkazim@immdef.org
IMMIGRANT DEFENDERS LAW CENTER
634 S. Spring St.
Los Angeles, CA 90014
Telephone: (213) 224-0363

Pro Bono Attorney for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Mohammed Awal ABDUL RAHMAN, Petitioner, vs. JEREMY CASEY, Warden, Imperial Regional Detention Facility; GREGORY J. ARCHAMBEAULT, Field Officer Director for the San Diego Immigration and Customs Enforcement Office; TODD LYONS, Acting Director of United States Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary of the United States Department of Homeland Security, TODD BLANCHE, Acting Attorney General of the United States, acting in their official capacities Respondents.	Case No. 3:26-cv-01418-RSH-BJW **PETITIONER'S EX-PARTE MOTION TO ENFORCE HABEAS ORDER**

Petitioner Mohammed Awal Abdul Rahman moves this Court to enforce its March 18, 2026 Order granting his petition for writ of habeas corpus. In its Order, this Court directed Respondents to "arrange a bond hearing for petitioner before an immigration court pursuant to 8 U.S.C. § 1226(a) within ***seven (7) days*** of this order, at which the government bears the burden of establishing by clear and convincing evidence that Petitioner poses a danger to the community or a risk of flight." (Doc. 7).

On March 24, 25, and 27, 2026, Immigration Judge Stuart Zander ("IJ") at the Imperial court conducted three separate installments of a bond redetermination hearing. In total, these hearings lasted roughly six hours. At the conclusion of the March 27, 2026 hearing, the IJ denied bond.

The manner in which these hearings proceeded was not only extreme and out of the ordinary for bond hearings before the Executive Office for Immigration Review ("EOIR," or "Immigration Court") but also did not comport with the basic principles of due process or the evidentiary burden this Court held DHS was required to meet. Accordingly, the bond hearing did not comply with this Court's order, and Mr. Abdul Rahman remains unlawfully detained. This Court should enforce its order by directing Petitioner's immediate release on appropriate conditions, or, in the alternative, ordering a new bond hearing before a different and neutral adjudicator with specific instructions to meaningfully apply and require DHS to meet the ordered burden of clear and convincing evidence.

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II. STATEMENT OF FACTS

A. This Court's Order

On March 18, 2026, this Court issued an order granting Mr. Abdul Rahman's petition for writ of habeas corpus. The Court's order explicitly placed the burden of proof on the Government to justify continued detention by providing clear and convincing evidence that Mr. Abdul Rahman presents either a danger or a risk of flight. The order directed that a bond hearing be "arranged" within seven days—the seventh day falling on March 25, 2026. *See* Doc. 7 (Order Granting Petition for Writ of Habeas Corpus).

B. The Bond Hearing(s)

a. March 24 Hearing

Mr. Abdul Rahman was initially scheduled for a bond hearing on March 24, 2026. This hearing began just after 2 p.m. On this date, the IJ stated on the record that the district court had placed the burden on the government to justify continued detention by clear and convincing evidence. *See* March 24 Tr. at 1:05–2:30; 4:11–5:20. The Department of Homeland Security ("DHS") thus began the hearing by questioning Mr. Abdul Rahman about his citizenship, his absence of criminal history, his manner of entry to the United States, his intention to comply with conditions of release, and his post release living plans. Undersigned counsel asked Mr. Abdul Rahman a few clarifying questions, and DHS' "re-direct" questioning of Petitioner concluded just before 3 p.m. on March 24. *See* March 24 Tr. at 36:35.

At or around 3 p.m. on March 24, the IJ began directly questioning Mr. Abdul Rahman. *See* March 24 Tr. at 36:40. The IJ questioned Mr. Abdul Rahman with only minor interruptions until the hearing concluded for the day at 4 p.m. *See id* at 1:23:48. This questioning was focused exclusively on Mr. Abdul Rahman's journey to the United States from Ghana and through South America. The IJ questioned Mr. Abdul Rahman about which countries he traveled through, whether he had visas, his methods of travel, and his interactions with people and immigration officials in other countries. At the conclusion of the March 24 proceedings, the IJ noted he had "concerns about [Mr. Abdul Rahman's] course of travel and statements." *Id.* at 1:22:08–1:23:48. The IJ reset the case to return the next day, March 25, at 2 p.m.

Of note, at the conclusion of the hearing on March 24, Mr. Abdul Rahman's sponsor, Ms. Marleen Adkins, noted that she was not available at the reset time of 2 p.m. the next day. In response, DHS noted that the Department did not anticipate having questions for Ms. Adkins, and that they would accept a proffer of her testimony. The IJ denied this request and stated that he preferred Ms. Adkins present to testify in person, noting that he had questions for her. *See* March 24 Tr. at 1:29:54–1:32:15.

b. March 25 Hearing

On March 25, the hearing began just after 2 p.m., and the IJ allowed Ms. Adkins to testify first, as she had made herself available, but did not have much time. Ms. Adkins was questioned by undersigned counsel, DHS counsel, and briefly by the IJ, before concluding her testimony just after 2:30 p.m. Ms. Adkins testified that she resides at a fixed address in Placentia, CA, in a home that she has owned for decades. *See* March 25 Tr. at page 2, 3:33–24:32. She testified that she is financially secure, that she has a bedroom just for Petitioner, that she has welcomed and housed many individuals from other countries in the past, and that she was prepared to assume custodial and financial responsibility for Petitioner. *Id.* She testified as to the communication she had with Petitioner prior to the hearing, and the conditions of his living with her. *Id.*

Of note, after DHS' counsel questioned Ms. Adkins, the IJ told Ms. Adkins that due to the timeline for immigration appeals, she would potentially be financially responsible for Mr. Abdul Rahman for "years." *See* March 25 Tr. at page 10, 18:55–19:28. Ms. Adkins indicated hesitance about this, and that she had not considered the possibility of "years and years" of financial responsibility. *See id.*

At or around 2:40 p.m. on March 25, the IJ resumed his questioning of Mr. Abdul Rahman, continuing to elicit testimony about Petitioner's journey to the United States. *See* March 25 Tr. at page 13–14, 24:56. This questioning continued, with minimal interruption, until 4:40 p.m.—well after the immigration court's scheduled end time of 4 p.m. At the conclusion of this hearing, the IJ reset the hearing to continue on March 27 at 1 p.m. *See* March 25 Tr. at page 40.

Over the course of these hearings, the IJ frequently stated that Mr. Abdul Rahman was not answering his questions,[1] or that he was contradicting his own testimony.[2] The IJ also expressed disbelief at numerous points of Mr. Abdul Rahman's testimony, and repeated the same or similar questions multiple times.[3] At various points the IJ asked Mr. Abdul Rahman to speculate—such as when he asked why Mr. Abdul Rahman was turned away from jobs in Mexico or whether it would have been a good idea to get a hotel room at a certain point. *See* March 25 Tr. at page 30, 20:35. At various points the IJ also put into the record his own knowledge in order to question Mr. Abdul Rahman's testimony.[4] This hearing concluded with the IJ resetting the case to Friday, March 27 at 1 p.m. to take additional testimony.

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[1] As one example, *see* March 25 Tr. at page 29, 15:20–16 01

[2] On March 24, the IJ asked Mr. Abdul Rahman whether in traveling "between each country" he had gone through "ports of entry" *See* March 24 Tr. at 53·41–54 06 Through the interpreter, Mr. Abdul Rahman responded "I used the port of entry." When Mr. Abdul Rahman subsequently testified that he went through the "bushes and mountains" in Panama, the IJ stated that Mr. Abdul Rahman had testified that he "**traveled by vehicle through every single country through a port of entry**"

When on March 25, the IJ again began to question Mr. Abdul Rahman about ports of entry, undersigned counsel requested, off the record, that the Court clarify with Mr. Abdul Rahman what a port of entry is *See* March 25 Tr. at page 15, 31·44 - 31.49. After going back on the record, the IJ provided Mr Abdul Rahman with a definition of a Port of Entry and Mr. Abdul Rahman noted he understood *See* March 25 Tr at page 15, 32:15–33 00. However, Mr Abdul Rahman also noted that he had never heard of the term "port of entry" before March 24. *Id.* at 35 06. The IJ at this point stated again that Mr Abdul Rahman had testified he "**went through ports of entry in every single country.**" *Id.* at 35.25.

Soon after, on undersigned counsel's request, the interpreter clarified that he had been using the term "point of entry" rather than "port of entry." March 25 Tr. at page 17, 39 56. The interpreter stated that "point of entry" and "port of entry" would be interchangeable in Hausa. March 25 Tr. at page 18, 41 06.

[3] *See* March 24 Tr. at 46 41 - 49 21.

[4] *See* March 25 Tr at page 26, 1 18 17 - 1 19 04 ("Tapachula is a huge choke point for migrants coming to the United States. Migrants from all over the world travel up through South America to Tapachula. You never used the services of any smuggling network to travel from Ghana to Tapachula, Mexico?")

That is, by the end of the seventh day from this Court's order, no bond determination had been made.

c. March 27 Hearing

The March 27 hearing began with the IJ noting he had no further questions for Mr. Abdul Rahman. Although the attorney representing DHS on March 24 had asked Mr. Abdul Rahman about his sponsor and his living plans, the DHS attorney present on March 27 asked the same or substantially similar questions, before asking more detailed questions about Mr. Abdul Rahman's journey to the United States. *See* March 27 Tr. at 3:37. At one point, the DHS attorney indicated that she was reading from the declaration that Mr. Abdul Rahman submitted in support of his application for asylum—which had not been entered into the record of bond proceedings. *See* March 27 Tr. at 27:05 –30:35. The IJ paused the hearing at this point to allow DHS to file Respondent's declaration, which they submitted without a cover sheet, signature of the filer, proof of service, or any of the other procedural or formatting requirements for filings in Immigration Court. *See* EOIR Policy Manual Part 2.3 (Documents). The DHS attorney then parsed a few paragraphs of this declaration with Mr. Abdul Rahman.[5]

[5] [Jodie Miller] (44.42 - 44 55)
Okay. And in your declaration, starting at paragraph 46, you saw a taxi driver and you told him you wanted to go to Mexico City. Did that happen?

[Interpreter] (45.12 - 45 17)
Yes, that happened. Okay.

[Jodie Miller] (45 18 - 45 26)
Well then why did you tell the judge that you took a bus to Mexico City instead of a taxi to Mexico City?

d. IJ's Reasoning

At the conclusion of the March 27 hearing, the IJ found Mr. Abdul Rahman does not present a danger to the community. March 27 Tr. at 1:23:30 - 1:44:57. The IJ then listed a number of pieces of Mr. Abdul Rahman's testimony as being the basis underlying his decision that Mr. Abdul Rahman presents a flight risk.[6]

In sum, the IJ noted his belief that Mr. Abdul Rahman had not been truthful, on multiple occasions had refused to answer questions, and "consistently" changed his story. This caused the IJ to find that "he would not follow court orders." The IJ did not consider less restrictive alternatives to detention, or a particular bond amount, before denying bond outright. *See* Exh, E (IJ's March 27 Order).

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[Jodie Miller] (46 37 - 46 50)
Okay, and in paragraph 46 of your declaration, you state that the taxi driver took you to Mexico City and left me at a hotel Do you remember writing that?

[Interpreter] (46 50 - 47·11)
. . Yes, I remember

[Jodie Miller] (47.12 - 47:46)
Okay. Now, why did you tell the judge that you took a bus to Mexico City and it was night and you booked the first hotel you saw, but in your declaration, it states that you took a taxi and he dropped you off at a hotel?

[Interpreter] (48 06 - 48.22)
When he asked me, I said I got in a car and I arrived in Mexico City.

[6] These included the fact that the sponsor was "very concerned" about financially caring for Mr Abdul Rahman "beyond just a few months," that Mr. Abdul Rahman stated he'd never been arrested for a crime which is "just not true" since he was in the custody of immigration officials in other countries, and that Mr Abdul Rahman made "inconsistent statements" throughout the proceedings.

III. ARGUMENT

A. The Bond Hearing Mr. Abdul Rahman was Provided did not Comport with Basic Principles of Due Process

"The procedures used by federal immigration officials to deny a noncitizens' request for release on bond always must comply with fundamental principles of due process." *CATHERINE YANIRA ALVARADO LOPEZ, Petitioner, v. JEFFREY N DILLMAN, et al., Respondents*, No. 1:25-CV-2456 (LMB/LRV), 2026 WL 688958, at *2 (E.D. Va. Mar. 11, 2026). Due process requires not merely the formal recitation of the correct legal standard, but its genuine application by an impartial adjudicator who has actually internalized it. *See Withrow v. Larkin*, 421 U.S. 35, 46–47 (1975); *see also Goldberg v. Kelly*, 397 U.S. 254, 271 (1970); *HAIGUANG ZHENG, Petitioner, v. ERIC ROKOSKY, et al., Respondents*., No. 26-CV-01689, 2026 WL 800203, at *4 (D.N.J. Mar. 23, 2026).

a. The IJ assumed the role of prosecutor, depriving Mr. Abdul Rahman of a neutral decisionmaker

In its description of bond hearings, the Immigration Court Policy Manual notes, "At the Immigration Judge's discretion, witnesses **may** be placed under oath and testimony taken. However, parties should be mindful that bond hearings are generally **briefer** and less formal than hearings in removal proceedings." EOIR Policy Manual 8.3(e)(6) (emphasis added). This is in fact how most bond hearings proceed in Immigration Court—it is extremely unusual for a bond hearing to last more than one hour, and more unusual still for a hearing to proceed over the course of three separate days before a determination is made. *See* Exh. F. Many bond hearings proceed without any testimony being taken. Occasionally during these proceedings, an IJ will ask the noncitizen some questions related to the *Matter of Guerra* factors,[7] or criminal history, however it is also common for the IJ to not ask any questions at all. *See id.*

Though caselaw regarding the neutrality of Immigration Judges is sparse, the Ninth Circuit has held in other cases that a "judge's participation oversteps the bounds of propriety and deprives the parties of a fair trial. . . when 'the record discloses actual bias or leaves the reviewing court with an abiding impression that the judge's remarks and questioning of witnesses projected. . . an appearance of advocacy or partiality." *United States v. Parker,* 241 F.3d 1114, 1119 (9th Cir.2001) (quoting *United States v. Mostella,* 802 F.2d 358, 361 (9th Cir.1986)). "[I]n some cases. . . the trial judge's inquiries and suggestions may cross the line and affect the judge's role as an impartial participant in the [] process." *United States v. Lopez-Martinez*, 543 F.3d 509, 513–14 (9th Cir. 2008).

There can be no reasonable argument that the IJ was an impartial participant in this process. Critically, when the DHS prosecutor noted that the Department did

[7] These factors may include any or all of the following. (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; (4) the alien's employment history; (5) the alien's record of appearance in court, (6) the alien's criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses; (7) the alien's history of immigration violations; (8) any attempts by the alien to flee prosecution or otherwise escape from authorities, and (9) the alien's manner of entry to the United States *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006)

not anticipate having questions for Ms. Adkins and that they would accept a written proffer of her testimony, the IJ denied this request and himself determined which witnesses would testify in support of the government's case. *See* March 24 Tr. at 1:29:54–1:32:15. However the clearest indicator of the lack of a neutral decisionmaker is the IJ's questioning of Mr. Abdul Rahman.

Allowing for errors in the transcription and recording, it is safe to say that the IJ questioned Mr. Abdul Rahman for over twice as long as DHS did. The IJ's questioning of Mr. Abdul Rahman lasted at least three hours, his questions going back and forth in time and jumping from country to country on Mr. Abdul Rahman's two-month-long journey. *See, e.g.*, March 25 Tr. at page 18, 43:30–46:54. The IJ selected small details—such as what type of vehicle Mr. Abdul Rahman used at a certain point, or whether he encountered foreign immigration officials—as sufficiently relevant to the analysis of flight risk to merit multiple, repeated questions. *See, e.g.*, March 24 Tr. at 58:14–1:01:53; March 25 Tr. at page 18, 41:15–57:59. Even when faced with evidence of unreliable or unclear interpretation, the IJ continued to repeatedly declare that Mr. Abdul Rahman was being unresponsive or inconsistent. *See e.g.*, March 25 Tr. at page 22, 58:00.

The nature and duration of the IJs questioning cannot be characterized as neutral or impartial, and in fact makes clear that the IJ disregarded this Court's order that the government bear the burden of proof. This Court should find that the bond hearing Mr. Abdul Rahman was provided lacked an impartial decisionmaker.

b. The facts the IJ relied on were so lacking in probative value that it deprived Mr. Abdul Rahman of a fair bond hearing

As noted above, in the oral analysis supporting his decision, the IJ cited his "perspective" that Ms. Adkins was concerned about financially supporting Mr. Abdul Rahman for "years." March 27 Tr. at 1:23:30 - 1:44:57. While the presence of a credible sponsor may go to the question of flight risk, Petitioner here notes that there is no requirement—statutory or otherwise—that a noncitizen have a sponsor at all, and there is no requirement that a willing sponsor be "financially responsible" for the noncitizen for years. *See Matter of Dobrotvorskii,* 29 I&N Dec. 211 (BIA 2025). The information the IJ provided the witness was misleading, and served to color her testimony with "hesitance."

Outside of this note about the sponsor, the IJ's rationale for his decision otherwise focused entirely on purported inconsistencies and implausibilities in Mr. Abdul Rahman's testimony regarding his travel to the United States. While credibility may certainly be one of the "unenumerated" factors an IJ may consider, the record of these proceedings makes clear that credibility is the only factor to which the IJ gave any real weight. Coupled with the confusing nature of the questioning, and evidence of problems with interpretation, this does not constitute clear and convincing evidence that Mr. Abdul Rahman presents a flight risk.

Of note, in his decision, the IJ listed purported issues with Mr. Abdul Rahman's testimony that he did not give Mr. Abdul Rahman the opportunity to explain.[8] In making any negative credibility determination "the IJ must give the petitioner the opportunity to provide an explanation of an apparent inconsistency." *Rizk v. Holder*, 629 F.3d 1083, 1088 (9th Cir. 2011) (citing *Guo v. Ashcroft*, 361 F.3d 1194, 1200 (9th Cir. 2004). Considering the fact that the IJ determined Mr. Abdul Rahman lacked credibility without properly applying the standards laid out in the REAL ID Act and subsequent caselaw, this Court should find that the IJ relied on facts so lacking in probative value that it deprived Mr. Abdul Rahman of a fair bond hearing.

B. The Burden of Proof, as Ordered by this Court, was Misplaced

This Court ordered that the government must justify continued detention of Mr. Abdul Rahman by clear and convincing evidence of danger or flight risk. The Ninth Circuit has described the "clear and convincing" standard as requiring "an abiding conviction that the truth of the factual contentions is highly probable." *Mondaca-Vega v. Lynch*, 808 F.3d 413, 422 (9th Cir. 2015) (en banc) (cleaned up); *see also Obregon v Sessions*, No. 17-cv-01463-WHO, 2017 WL 1407889, at *7 (N.D. Cal. Apr. 2017) (describing this as "a high burden and must be demonstrated

[8] The IJ noted that Mr. Abdul Rahman stated he had never been arrested for a crime, but in fact had been detained several times by immigration officials in other countries. *See* March 27 Tr at (1:23:30 - 1:44.57) ("He stated in the beginning that he had never been arrested for a crime. That's just not true Yes, in his mind, he may not have been arrested for a specific crime, but he was arrested numerous times in his journey from Ghana to the United States He was arrested by immigration officials He was told that he was not allowed to be in the country and then released That's just not the only inconsistency in the record He also stated, and was very adamant in the beginning, that he traveled by vehicle through each country. He may have. He also traveled by boat Small inconsistency.")

Mr. Abdul Rahman was not asked or given the opportunity to explain why he testified he'd never been arrested, or traveled in vehicles Petitioner notes that there is a difference between being arrested for a crime and being detained by immigration officials.

in fact, not 'in theory'") (quoting *United States v. Patriarca*, 948 F.2d 789, 792 (1st Cir. 1991)).

Outside the bond context, the Ninth Circuit has explained that an "agency acts contrary to the law when it gives mere lip service or verbal commendation of a standard but then fails to abide the standard in its reasoning and decision." *See e.g.*, *Nat'l Resc's Defense Council v. Pritzker*, 828 F.3d 1125, 1135 (9th Cir. 2016). That is, the clear and convincing standard is "stringent" and requires an "abiding conviction" grounded in evidence *actually presented by the party bearing the burden*; it cannot be satisfied by an IJ's independent reasoning in the absence of such evidence. *Cruz-Garza v. Ashcroft*, 396 F.3d 1125, 1130 (10th Cir. 2005) (emphasis added); *Colorado v. New Mexico*, 467 U.S. 310, 316 (1984); *see also Cervantes Arredondo v. Baltazar*, No. 25-cv-03040-RBJ, ECF No. 26 at *7–15.

The IJ noted this standard at the outset of the proceedings, and again at the conclusion. However, an IJ who recites the correct burden of proof but proceeds to fill the evidentiary gap left by DHS with his own questioning and arguments has not applied the correct burden, but merely paid it lip service. The substance of the proceeding controls.

Here, DHS submitted the order denying Mr. Abdul Rahman's asylum claim, and, when pushed, the declaration supporting his asylum claim. DHS presented no independent evidence: no documents, no expert testimony, and no witnesses other than its examination of Petitioner and the proposed sponsor.

At the conclusion of the March 27 hearing, the DHS attorney made a very brief closing argument stating concerns with Mr. Abdul Rahman's sponsor, including the **incorrect** statement that Mr. Abdul Rahman had no fixed address. March 27 Tr. at 1:11:15 - 1:13:48. The DHS attorney noted that "credibility is very important when considering whether respondent can be trusted" and Mr. Abdul Rahman was "inconsistent many times in his testimony and that weighs greatly on him being a flight risk." *Id.*

Had the IJ not elicited three hours of testimony and required the in-person testimony of Ms. Adkins, the Government would not have had support for either of its noted concerns. The bulk of the evidence that the IJ later relied on in his reasoning was also elicited by the IJ himself, and included the IJ's own knowledge that had been introduced into the record.[9] The IJ in this case supplied, from his own assessment of Petitioner's circumstances, what DHS did not prove—exactly the sort of impermissible burden-shifting that is improper after a federal court has ordered the burden to rest with the Government. *See Cervantes Arredondo* at *7–15. In substance, this hearing proceeded as if the burden had never been shifted, and the decision was based on Mr. Abdul Rahman's failure to prove to the IJ's "satisfaction" that he merited release. *See Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

[9] *See, e g*, March 27 Tr at 1.23 30 - 1 44.57. ("Many of the countries he passed through have millions and millions of people in numerous metropolitan communities He could have found a job any which way. I find it very confusing that he never found a job, never put any effort into finding a job, and never did it throughout his journey. . . . He mentions from going from to Tapachula that he was stopped by gang members. They took his money but then they took him from their country into Mexico, dropped him off and told him to walk to Tapachula If you are being extorted for money, **that is not what the gangs do** ").

a. IJ did not consider Alternatives to Detention or a high bond amount

As noted, the IJ expressly found on the record that Mr. Abdul Rahman poses no danger to the community. That finding eliminates one of the only two independent grounds for civil immigration detention under 8 U.S.C. § 1226. The sole remaining question was whether any amount of bond or conditions of supervision could adequately mitigate flight risk.

However, the IJ then denied bond categorically—setting no bond amount and considering no alternative conditions of release such as GPS monitoring, periodic check-ins, or supervision. This is legally insufficient. *Hernandez v Sessions*, 872 F.3d 976, 991–92 (9th Cir. 2017), requires that bond hearings produce an individualized determination as to whether conditions of release can address the Government's interest in ensuring appearance. A categorical denial, issued without any analysis of conditions, is not an individualized determination, it is a *per se* outcome disguised as one. *See Singh v. Holder,* 638 F.3d 1196, 1203–04 (9th Cir. 2011), abrogated on other grounds by *Jennings v. Rodriguez,* 583 U.S. 281 (2018); *Casas-Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942, 951 (9th Cir. 2008).

The IJ was required, at minimum, to set a bond amount and explain why no lesser amount would be sufficient, or to articulate, with record support, why no conditions of release whatsoever could mitigate the flight risk he identified. *See Rodriguez v. Robbins,* 804 F.3d 1060, 1087–88 (9th Cir. 2015), rev'd on other grounds by *Jennings v. Rodriguez,* 583 U.S. 281 (2018) (requiring consideration of reasonable conditions of supervision at *Rodriguez* bond hearings). The IJ did neither. He offered no analysis of what bond amount would or would not secure Petitioner's appearance. He made no finding that GPS monitoring, regular check-ins, or any other supervisory mechanism would be inadequate. The Government similarly offered no evidence that any specific bond amount would be insufficient.

Such a failure is fatal to a categorical denial of bond in a case where the IJ has expressly found no danger to the community. *See Hernandez*, 872 F.3d at 991–92. The IJ's failure to set any bond amount or consider conditions of release again supports the conclusion that the IJ had a predetermined outcome in mind at the outset of the hearing, and did not appropriately hold the government to its burden of proof, and is an independent ground for finding that the bond hearing did not comply with this Court's order.

C. This Court has the Authority to Enforce its own Order

a. This Court has jurisdiction to review the government's compliance with its order

In *Martinez v. Clark*, 124 F.4th 775 (9th Cir. 2024), the Ninth Circuit confirmed that federal district judges have jurisdiction to review agency decisions denying bond based on dangerousness, because whether an individual poses a danger to the community is a mixed question of law and fact. The same reasoning applies to IJ flight risk determinations. *See N A v. Warden, Adelanto Detention Facility*, No. 5:25-CV-03007-CV-MBK, 2026 WL 734587, at *6 (C.D. Cal. Feb. 20, 2026);

report and recommendation adopted, No. 5:25-CV-03007-CV-MBK, 2026 WL 734585 (C.D. Cal. Mar. 12, 2026)

This court may also review whether a bond hearing was fundamentally unfair and thus violated the Due Process Clause of the Fifth Amendment. *See, e g , Ghanem v. Warden Essex Cnty. Corr. Facility*, No. 21-1908, 2022 WL 574624, at *2 (3d Cir. Feb. 25, 2022). This "preserves a district court's inherent power to enforce its habeas orders by ensuring that the individualized bond hearings are not shams and otherwise comply with the detainee's due process rights." *Shonhai v. Lowe*, No. 24-229, 2026 WL 538865, at *10 (M.D. Pa. Feb. 26, 2026).

The Supreme Court has confirmed that courts' inherent powers are "governed 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." *Chambers v. NASCO*, Inc., 501 U.S. 32, 43 (1991) (quoting *Link v. Wabash R. Co.*, 370 U.S. 626 (1962)). Courts of justice have the power to impose submission to their lawful mandates. *See United States v. Hudson*, 11 U.S. 32, 34 (1812).

This Court's prior habeas order is a valid, binding judgment. The bond proceeding did not comply with that judgment in substance. The Court accordingly has both authority and obligation to enforce its order. *See Stone v. City & County of San Francisco*, 968 F.2d 850, 856 (9th Cir. 1992). To hold otherwise would produce an absurd result: the Government could comply with a habeas order in form—by staging a hearing in which the IJ states the correct burden—while defeating the order in substance by reverting to a framework in which the detainee effectively bears the burden of proof. Under that logic, this Court's order would be reduced to a suggestion. Compliance with a court order is not a matter of agency discretion. *See Cervantes Arredondo v. Baltazar*, No. 25-cv-03040-RBJ, ECF No. 26 (D. Colo. Dec. 18, 2025). Petitioner is not asking this Court to reweigh the bond factors in the first instance. He is asking this Court to hold the Government to the terms of an order it has already issued, which fits squarely within this Court's inherent authority.

The Court retains jurisdiction over Petitioner's habeas proceeding until the constitutional violation it identified has been actually and substantively remedied. *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001). A hearing that complies only formally with the constitutional standard the Court prescribed does not discharge the Government's obligation. *See e.g. Garcia v. Hyde*, 2025 U.S. Dist. LEXIS 253787 at *2 (D.R.I. 2025) (granting habeas and ordering immediate release where petitioner "did not receive the due process he was owed at his bond hearing").

b. Administrative Exhaustion is not Required and Would be Futile

> The federal habeas statute under which this case was filed does not require exhaustion of administrative remedies. *Compare* 28 U.S.C. § 2241 with 28 U.S.C. § 2254(b)(1)(A) (requiring exhaustion of state court remedies). Courts may require exhaustion as a prudential matter when "(1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review." *Noriega-Lopez v. Ashcroft*, 335 F.3d 874, 881 (9th Cir. 2003) (citation omitted). The exhaustion requirement may be

> waived if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void."

Y.S.G. v. Andrews, No. 2:25-CV-1884-SCR, 2025 WL 2979309, at *7 (E.D. Cal. Oct. 22, 2025) (citing *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)); *see also Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007); *Hernandez*, 872 F.3d at 988. District courts have excused the exhaustion requirement based on the irreparable injury that an individual will suffer if forced to remain in detention while waiting for the BIA to adjudicate a bond appeal and where noncitizens are seeking to enforce prior federal court orders. *Ortega-Rangel v. Sessions*, 313 F. Supp. 3d 993, 1003 (N.D. Cal 2020); *see Mau v. Chertoff*, 562 F.Supp.2d 1107, 1113–14 (S.D. Cal. 2008) (holding that noncitizen was not required to exhaust at the BIA before asking the district court to enforce its judgment because "[i]t should not fall to the BIA to review [the government's] compliance with this Court's judgment").

This motion does not arise from an initial habeas petition but from a request to enforce this Court's existing order. The Government cannot invoke exhaustion to insulate the Executive Branch's noncompliance with a judicial order from federal court review. *See Mau,* 562 F.Supp.2d at 1113–14; *Sales v. Johnson,* No.16-cv-01745-EDL, 2017 WL 6855827 (N.D. Cal. Sept. 20, 2017) ("Respondents have cited no authority for the proposition that a litigant must exhaust administrative remedies before filing a motion to enforce a final judgment. Furthermore, Petitioner contends that there is no administrative agency process through which Mr. Sales can seek compliance with a federal court order."); *Cervantes Arredondo*, No. 25-cv-03040-RBJ, ECF No. 26 at *5–6 (distinguishing initial-petition exhaustion cases from post-grant enforcement motions).

Further, a BIA appeal would be both untimely and institutionally futile. According to EOIR's own statistics, detained BIA appeals take an average of 190 days to complete. *See Cervantes Arredondo*, No. 25-cv-03040-RBJ, ECF No. 26 at *7. Petitioner has already been detained for over 15 months. Moreover, the BIA operates under the very bond framework this Court corrected—its bond-related precedent places the burden on the noncitizen, not the Government. *Id* at *6–7. The BIA therefore lacks both the institutional framework and the authority to order compliance with this Court's order.

Lastly, Petitioner has a strong independent interest in prompt federal access. This Court, unlike the BIA, has both the relevant experience to assess whether the Government's burden was properly applied and the institutional authority to compel compliance with its own order. The interests of justice require that this Court exercise that authority now. *See Cervantes Arredondo*, No. 25-cv-03040-RBJ, ECF No. 26 at *7.

D. This Court Should Order Mr. Abdul Rahman's Release

This Court has the authority to make an order for immediate release, and courts in this jurisdiction regularly do in similar situations. *See Judulang v. Chertoff*, 562 F. Supp. 2d 1119, 1126–27 (S.D. Cal. 2008) (ordering release where evidence did not satisfy the government's evidentiary burden at a bond hearing post grant of writ of habeas); *Mau v. Chertoff*, 562 F.Supp.2d 1107, 1118-19 (S.D. Cal. 2008); *Singh v. Warden of the Golden State Annex Detention Facility*, 2026 WL 171952 at *7 (E.D. Cal., Jan. 22, 2026).

Mr. Abdul Rahman has been subjected to prolonged and punitive detention, in violation of the Due Process Clause of the Fifth Amendment, for over 15 months. He has now endured multiple hours of questioning and a multi-day hearing that did not comport with constitutional requirements. There is substantial reason to believe that an additional bond hearing would not remedy the constitutional violations he has endured.[10] He has indicated his willingness to participate in alternatives to detention programs, including location monitoring, and his eagerness to continue his immigration case with the assistance of undersigned counsel and extensive community support. Mr. Abdul Rahman has a detailed release plan that includes housing, communication, transportation, and educational opportunities. *See* Exh. G. He has no criminal convictions, anywhere in the world, and has exhibited exclusively exemplary behavior during his time in detention. This Court should find that he merits immediate release.

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[10] *See Singh v Valdez*, No 26-CV-1109-WJM, 2026 WL 890240, at *5 (D. Colo Apr. 1, 2026) ("[T]he mounting evidence that bond determination hearings conducted in Immigration Court under § 1226(a) have preordained outcomes has become impossible to ignore As a result, courts across the country have, with increasing frequency, ceased "order[ing] even initial bond hearings in cases like this one involving unlawful detention under § 1225(b) because Respondents' conduct can no longer be attributed to mere negligence or ineptitude,...and doing so would effectively allow the Government to transform an unlawful detention into a lawful one through post-hoc justifications " *Zheng*, 2026 WL 800203, at *11 (collecting cases). Given this reality, the Court will order Singh's immediate release ")

PRAYER FOR RELIEF

Given the foregoing, Mr. Abdul Rahman respectfully requests that this Court:

1. Order Respondents to release Mr. Abdul Rahman from custody forthwith.

2. In the alternative, order Respondents to provide Mr. Abdul Rahman with a new, constitutionally compliant bond hearing before a new and impartial Immigration Judge.

3. Grant such further relief as the Court deems just, equitable, and Appropriate.

Dated: 04/07/2026

Respectfully submitted,
s/ Hannah Kazim

Hannah Kazim
Immigrant Defenders Law Center
Pro Bono Attorney for Petitioner

Table of Exhibits

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