

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:26-cv-00777

JOSE MILLAN OLIVAS,

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as Warden of the Denver Contract Detention Facility;  
ROBERT HAGAN, in his official capacity as Field Office Director, Denver Field Office of U.S.  
Immigration and Customs Enforcement;  
TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs  
Enforcement;  
MARKWAYNE MULLIN, in his official capacity as Secretary of U.S. Department of Homeland  
Security; and  
PAMELA BONDI, in her official capacity as Attorney General of the United States.

Respondents.

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**PETITIONER'S MOTION TO ENFORCE COURT ORDERS ECF NOS. 11 AND 13**

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**INTRODUCTION**

Petitioner JOSE MILLAN OLIVAS, by and through undersigned counsel, respectfully moves this Court to enforce its Orders at ECF Nos. 11 and 13, and order his immediate release, and resolve the remaining Fourth Amendment issue the Court previously reserved in the event Respondents failed to comply.

The bond hearing held on March 17, 2026, did not comply with what this Court ordered for at least three independent reasons. First, the Immigration Judge did not treat jurisdiction as settled and did not proceed as though she was unequivocally conducting the § 1226(a) bond hearing this Court required. Instead, she repeatedly framed her authority in conditional terms—i.e., “if” the habeas order provided jurisdiction—and the written order later misstated the hearing

record on that point. Second, even assuming the proceeding could somehow be treated as a § 1226(a) hearing, it still did not operate under the burden-shifting framework this Court expressly imposed. The Immigration Judge questioned whether the burden had shifted at all, invited DHS to argue that it had not, and issued alternative findings under both possible burdens rather than conducting the hearing under the one this Court required. Third, even assuming DHS bore the burden, DHS did not carry it. DHS presented no meaningful new evidence of dangerousness or flight risk and instead relied largely on a cursory oral summary of material already before the court through Olivas's own evidentiary submission. For those reasons, Respondents did not comply with this Court's Orders. Olivas therefore requests immediate release under the terms of those Orders and further requests that this Court now resolve the remaining Fourth Amendment issue the Court previously reserved in the event Respondents failed to comply.

#### **CONFERRAL ON MOTION**

Pursuant to D.C.COLO.LCivR 7.1, undersigned counsel for Olivas conferred with counsel for Respondents on March 18, 2026, via video teleconferencing. In advance of that conferral, undersigned counsel provided Respondents with Attachments A-C and outlined the basis for the anticipated Motion. Respondents oppose the Motion.

#### **ARGUMENTS**

##### **I. The March 17 Hearing Did Not Comply with the Court's Order Requiring a § 1226(a) Bond Hearing.**

This Court ordered that Olivas receive a bond hearing under 8 U.S.C. § 1226(a). That Order required more than simply holding a hearing and discussing bond. It required the Immigration Judge to proceed on the premise that the immigration court had authority to conduct the ordered hearing and to adjudicate bond under the framework this Court prescribed. That did not occur here.

At the hearing, jurisdiction was raised directly. DHS stated on the record that “there is jurisdiction,” and the Immigration Judge initially acknowledged: “The Department concedes jurisdiction.” *See transcript of bond hearing, attached hereto as Attachment A.* But the hearing did not continue on that basis. Instead, the Immigration Judge repeatedly framed her authority in conditional terms, stating, in substance, that she would rule only “if” the habeas order provided jurisdiction or “should” the habeas order provide authority to set bond. *See Attachment A, attached hereto.* That phrasing matters. It shows the Immigration Judge did not actually treat jurisdiction as established for purposes of carrying out the Court’s directive. She did not proceed from accepted authority to conduct a § 1226(a) hearing. She proceeded conditionally, as though the existence of jurisdiction remained unresolved.

The transcript reflects that she did not accept jurisdiction clearly. Although the Immigration Judge initially recognized DHS’s concession, she later walked that back, stating: “The court finds that the Department has conceded jurisdiction based on—well, I shouldn’t say that.” *See Attachment A, attached hereto.* She then reformulated the issue in hypothetical terms and stated that “for all intents and purposes” the court would find that “should the habeas order provide this court with the authority to set bond . . . .” *See Attachment A, attached hereto.* The Immigration Judge’s statements confirm that the hearing was not conducted from the firm legal premise that the Court’s Order vested the immigration court with authority to hold the required bond hearing. Instead, the Immigration Judge treated jurisdiction as a contingent proposition and ruled accordingly.

Because the Immigration Judge did not treat jurisdiction as established, the proceeding did not function as the § 1226(a) hearing this Court ordered. The problem is structural. The Court ordered a hearing under a specific detention framework. But where the adjudicator proceeds only

on the hypothetical assumption that she may have authority to act, the hearing is not actually being conducted under that framework. It is being conducted subject to an unresolved threshold doubt about whether the court has authority to apply that framework at all. That is why the repeated references to “if” jurisdiction existed are so significant: they reveal that the ordered legal premise of the hearing was never fully accepted.

The discrepancy between the hearing transcript and the written order further confirms the problem. The written order states that DHS contested jurisdiction. *See Order of the Immigration Judge, dated March 17, 2026, attached hereto as Attachment D.* But that is not what happened on the record. At the hearing, DHS stated, “there is jurisdiction,” and the Immigration Judge herself said, “The Department concedes jurisdiction.” *See Attachment A, attached hereto.* The written order therefore does not accurately describe the exchange that occurred in open court. On a point as central as the immigration court’s authority to conduct the ordered hearing, that inconsistency is material. The contemporaneous transcript controls over a later written characterization that conflicts with what both DHS and the Immigration Judge actually said during the proceeding.

Taken together, the transcript and written order show that the March 17 hearing did not comply with the District Court’s directive. The Immigration Judge did not treat jurisdiction as settled, did not proceed as though she was unequivocally conducting the ordered § 1226(a) hearing, and later issued a written order that does not match the actual hearing record on the jurisdiction question. For that reason alone, Respondents did not provide the hearing this Court ordered.

**II. Even Assuming the March 17 Hearing Was a § 1226(a) Hearing, It Did Not Operate Under the Burden-Shifting Framework Ordered by This Court.**

Even if this Court were to conclude that the March 17 proceeding could somehow be treated as a § 1226(a) hearing, the hearing still failed for a separate reason. DHS did not bear the

burden as the Court expressly imposed. This Court Ordered a hearing at which Respondents, not Olivas, were required to justify continued detention by clear and convincing evidence. The record demonstrates that the hearing did not meaningfully operate with that burden shifted to the Government and therefore independently failed to comply with this Court's Order.

When undersigned counsel invoked the Court's burden-shifting directive, the Immigration Judge did not accept and apply that framework. Instead, when undersigned counsel stated that "it is the Department's burden to prove by clear and convincing evidence," the Immigration Judge questioned the source of that requirement, repeatedly reduced the order to "a Magistrate Judge's order," and then invited DHS to argue "that the burden has not shifted in this case." *See Attachment A, attached hereto.*

Rather than requiring DHS to affirmatively justify continued detention by clear and convincing evidence, the Immigration Judge permitted DHS to present only a brief oral summary of the I-213 and generalized assertions about entry without inspection, alleged unlawful presence, lack of family ties on the I-213, and the dismissed DUI-related arrest. *See DHS Form I-213, dated March 17, 2026, attached hereto as Attachment C.* That presentation was not structured as an effort to carry the heightened burden imposed by the District Court; it was ordinary opposition to bond under the wrong framework. Especially where Olivas had already presented in his own evidentiary submission everything included in the I-213. *See Olivas's Evidentiary Submission, dated March 12, 2026, attached hereto as Attachment B.* A hearing cannot be said to comport with the Court's order where the adjudicator declines to adopt the ordered burden at the outset, allows DHS to proceed as though no burden shift occurred, and only later attempts to salvage the ruling through alternative findings.

That is exactly what occurred here. In her oral ruling, the Immigration Judge did not state that she had applied the Court's framework and found DHS had carried its burden. Instead, she said that "should the habeas order provide this court with the authority to set bond," she would issue alternative findings and then found that "even assuming the court had jurisdiction," Olivas had not met his burden. *See Attachment A, attached hereto*. When counsel requested clarification as to which party bore the burden, the Immigration Judge stated that "if the Department bears the burden, I find that the Department has met its burden. If the respondent bears the burden, I find that the respondent has not met his burden." *See Attachments A and D, attached hereto*. That is not compliance with the Court's order. It is an expressly conditional, alternative ruling designed to deny bond under either standard, without ever committing to the one this Court actually required.

A hearing does not satisfy the District Court's order merely because the Immigration Judge eventually uttered the words that DHS would prevail even if it bore the burden. The question is whether the hearing actually proceeded with DHS bearing the burden from the outset and being required to justify continued detention by clear and convincing evidence. This one did not. The Immigration Judge questioned the applicability of the burden-shifting directive, permitted DHS to argue as though no burden shift had occurred, and then issued an alternative ruling that avoided committing to the framework the Court ordered. For that reason as well, the March 17 hearing did not comply with the Court's order.

**III. Even Assuming the Burden Shifted to DHS, the Record Does Not Establish by Clear and Convincing Evidence That Continued Detention Was Warranted.**

Even if the Court were to accept the Immigration Judge's alternative statement that DHS bore the burden, the hearing still did not satisfy the Court's Order because DHS did not carry that burden. Clear and convincing evidence requires an affirmative evidentiary showing sufficient to firmly convince the adjudicator that continued detention is necessary. DHS made no such showing

here. Instead, it relied on a brief oral summary of the I-213 and generalized assertions regarding entry without inspection, alleged unlawful presence, family ties, and a DUI-related arrest. But critically, the factual material DHS referenced was not new evidence developed or introduced by the Government to justify detention. The information contained in the I-213 had already been submitted by Olivas as part of the hearing record. DHS therefore did not meaningfully carry its burden through independent proof; it merely repackaged information already before the court and still failed to establish by clear and convincing evidence that continued detention was warranted.

DHS's dangerousness showing was especially weak. DHS relied on a single DUI-related arrest that DHS was uncertain of what the charge actually was, describing it only as "a unique charge" that "does look like it's a form of a DUI." *See Attachment A, attached hereto*. That is not clear and convincing proof of present dangerousness. More importantly, the underlying circumstances reflected in the record already before the court—including the materials submitted by Olivas—undercut any claim of danger: the incident arose from a welfare check, there was no report of reckless driving, no accident, no injuries, and no conduct threatening the public, and the charge was dismissed in its entirety. *See Attachments A and B, attached hereto*. On this record, DHS did not establish dangerousness; at most, it pointed to a limited and resolved arrest that did not result in a conviction.

Its flight-risk showing was no better. DHS argued that Olivas was a flight risk because he entered without inspection, had likely accrued years of unlawful presence, and the I-213 did not reflect family ties. Those arguments are overstated and unsupported. First, undersigned counsel noted at the hearing that the I-213 in fact did reflect family ties. *See Attachments A and C, attached hereto*. Second, the broader record submitted by Olivas that was already before the court showed the opposite of flight risk: Olivas is only eighteen years old, he entered the United States as a one

(1) year-old child through no voluntary act of his own, he has lived in the United States for nearly his entire life, he has parents and a younger brother in Cheyenne, he has a U.S. citizen sponsor offering housing, he has a U.S. citizen girlfriend and cousins in the area, he was enrolled in school, and he had been employed. Those concrete and longstanding ties to family, community, education, housing, and employment sharply undercut any claim that DHS clearly and convincingly established a serious risk of flight.

The manner in which DHS presented its case further confirms that it did not carry the burden this Court imposed. Rather than coming forward with developed evidence demonstrating why continued detention remained necessary despite the favorable equities and community ties already shown by Olivas, DHS simply relied on a cursory oral recitation of facts already in the record—including facts introduced through Olivas’s own evidence—and invited the Immigration Judge to draw detention-supporting inferences from them. That is not the kind of affirmative evidentiary showing that a clear-and-convincing standard requires. The information contained in the I-213 had already been submitted by Olivas as part of the hearing record, so DHS did not carry its burden through affirmative proof; it merely repackaged evidence already before the court.

Even assuming DHS bore the burden at the hearing, it did not meet it. DHS presented no meaningful new evidence of dangerousness or flight risk, relied instead on information already submitted by Olivas, and offered only speculative assertions regarding unlawful presence and a dismissed arrest. That is not clear and convincing evidence that continued detention was warranted. By contrast, the record already before the court demonstrated Olivas’s youth, his near-lifelong residence in the United States, his close family and community ties, his school and employment history, and the availability of stable housing upon release. On this record, DHS did not prove that continued detention was necessary under the heightened standard this Court ordered.

**PRAYER FOR RELIEF**

For the foregoing reasons, Olivas respectfully requests that this Court enforce its March 10 and 11, 2026, Orders and grant the following relief:

- 1) Find that Respondents have failed to comply with the Court's March 10 and 11, 2026, Orders requiring that Olivas be provided a bond hearing under 8 U.S.C. § 1226(a), and that the March 17, 2026, hearing did not satisfy that directive because it was not conducted under the ordered legal framework;
- 2) Order Olivas's immediate release from custody, because Respondents did not provide the bond hearing required by this Court within the meaning of its prior Order, which expressly provided that if Respondents failed to provide Olivas with a bond hearing under § 1226(a) as required, he must be immediately released from detention;
- 3) Decide Olivas's remaining claim regarding the lawfulness of his warrantless arrest and transfer into ICE custody, because the condition identified in the Court's Order has now occurred: Respondents failed to provide Olivas with a § 1226(a) bond hearing within seven (7) days, and the Court expressly stated that under that circumstance it "may issue an order or hold a hearing on these issues"; and
- 4) Hold that Respondents' warrantless arrest and transfer of Olivas into ICE custody was unlawful, resolve that claim now as contemplated by the Court's March 10 and 11, 2026, Orders, and order Olivas's immediate release on that independent ground as well.

**CONCLUSION**

Respondents did not provide the hearing this Court ordered. The March 17, 2026, proceeding was not the § 1226(a) bond hearing required by this Court because the Immigration Judge did not treat jurisdiction as settled and instead proceeded in expressly conditional terms.

Even if the proceeding could be characterized as a § 1226(a) hearing, it still was not conducted under the burden-shifting framework this Court ordered, because DHS was not required from the outset to justify continued detention by clear and convincing evidence. And even if the Court were to credit the Immigration Judge's alternative statement that DHS bore that burden, DHS did not meet it: it offered no meaningful affirmative evidence sufficient to clearly and convincingly establish dangerousness or flight risk, and largely repackaged information already submitted by Olivas. Under any of those three paths, the result is the same: Respondents failed to comply with this Court's Orders. The Court should therefore enforce those Orders, order Olivas's immediate release, and resolve the remaining Fourth Amendment issue now that the condition identified in the Court's prior Orders has occurred.

Dated this 19th day of March 2026.

Respectfully submitted,

/s/ Skylar M. Larson

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ATTORNEY FOR PETITIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on March 19, 2026, I electronically filed the foregoing **Petitioner's Motion to Enforce Court Orders ECF Nos. 11 and 13** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

E. Garreth Winstead  
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/s/ Skylar M. Larson  
Skylar M. Larson, Esq.

ATTORNEY FOR PETITIONER

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**PETITIONER'S ATTACHMENTS TO MOTION TO ENFORCE  
COURT'S ORDER (ECF NOS. 11 AND 13)**

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ATTACHMENT A.	Transcript of Bond Hearing <sup>1</sup>
ATTACHMENT B.	DHS' Evidentiary Submission, dated March 17, 2026
ATTACHMENT C.	Order of the Immigration Judge, dated March 17, 2026
ATTACHMENT D.	Olivas's Evidentiary Submission, dated March 12, 2026

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<sup>1</sup> The transcript was prepared by undersigned counsel from the Digital Audio Recording ("DAR") of the March 17, 2026, bond hearing. Because immigration bond hearings are not transcribed and the DAR is the only official record available, Olivas has prepared the attached transcript from the recording to facilitate the Court's review. Although it is not an official certified transcript, it is submitted as undersigned counsel's best good-faith effort to accurately reflect the contents of the DAR.

**A**

**COMPLETE TRANSCRIPT OF BOND HEARING MARCH 17, 2025**

Minute	Speaker	Statement
00:00 – 00:33	Immigration Judge Irene Feldman	Ok this is the matter of Jose Millan Olivas, <del>XXXXXXXXXX</del> Respondent is present and is represented by counsel. Counsel, would you kindly state your appearance for the record, please?
00:34 – 00:36	Attorney Skylar M. Larson	Skylar Larson for Mr. Millan Olivas.
00:37- 00:38	IJ Feldman	And for the Department?
00:39 – 00:40	Mr. Greg Jensen	Greg Jensen.
00:41 – 00:46	IJ Feldman	To the respondent through the interpreter, good afternoon, is Spanish your best language or do you prefer English?
00:48 – 00:53	Mr. Olivas	English.
00:53 – 00:56	IJ Feldman	Ok. Do you authorize Ms. Larson to speak for you today?
00:57 – 00:59	Mr. Olivas	No, your honor.
1:00 – 1:02	IJ Feldman	No, you don't want her to speak for you?
1:03 – 1:07	Mr. Olivas	Can you repeat that again?
1:08 – 1:14	IJ Feldman	Do you want—you have to listen—do you want the attorney who is seated next to you to speak for you today?
1:15 – 1:16	Mr. Olivas	Yes, your honor.
1:23 – 1:38	IJ Feldman	Ok. The documents contained in the administrative record include the following: bond redetermination request, which consists of 61 pages and then the I-213. So they'll be marked respectively as Exhibits 1 and 2. Any objection Ms. Larson to the admission of the marked documents?
1:38 – 1:40	Ms. Larson	No, your honor.
1:41 – 1:44	IJ Feldman	Mr. Jensen, any objection to the admission of the marked documents?
1:45 – 1:47	Mr. Jensen	No objection your honor.
1:49 – 2:06	IJ Feldman	Ok Mr. Jensen it would appear that the United States District Court for the District of Colorado issued an order pertaining to this matter, as a result does the Department object—well does the Department concede that there is jurisdiction for the court to hear the bond hearing?
2:10 – 2:11	Mr. Jensen	This is for 164 your honor?
2:12 – 2:16	IJ Feldman	164. I'm sorry—no, 659. 659.
2:17 – 2:23	Mr. Jensen	Um let me verify that your honor. I had him down as EWI.
2:24 – 2:50	IJ Feldman	Well yes, the habeas order has nothing to do with his manner of entry into the United States. It merely means that a magistrate judge has made a ruling which may have been

		adopted by a federal district court judge but be that as it may, counsel if you need time to review the documents, I can recall the case.
2:50 – 2:51	Mr. Jensen	There's nothing in the file for 659 your honor.
2:52 – 3:15	IJ Feldman	Ok if you look counsel at the bond redetermination request referring to pages—let's see well there are multiple page numbers—but I believe it is pages 12, 13, 14, 15, 16, 17, Attachment A of Respondent's submission.
3:15 – 3:18	Mr. Jensen	I do see that now your honor, I apologize.
3:19 – 3:30	IJ Feldman	That's ok. Do you need me to recall the case and give you a moment to review it? Because I know this case was scheduled for 2 pm so I don't know if you need a little bit more time.
3:34 – 3:40	Mr. Jensen	Your Honor I've seen the habeas order but um there is jurisdiction.
3:42 – 3:51	IJ Feldman	Ok great. So, the documents are admitted. The Department concedes jurisdiction. Ms. Larson do you wish to be heard as to the appropriateness of a bond?
3:52 – 4:05	Ms. Larson	Uh yes, your honor but I would like to draw the court's attention to the fact that this is a burden shifting case. So, it is the Department's burden to prove by clear and convincing evidence.
4:05 – 4:06	IJ Feldman	Under what case counsel?
4:07 – 4:09	Ms. Larson	This is actually Attachment B.
4:10 – 4:13	IJ Feldman	Are you referring to exhibit number one, your submission?
4:14 – 4:15	Ms. Larson	Yes, your honor.
4:18 – 4:19	IJ Feldman	Yes, I saw the brief are you relying on the brief?
4:20 – 4:31	Ms. Larson	No, it's a minute order from the District Court of Colorado saying that the Department bears the burden of proof by clear and convincing evidence at the hearing.
4:33 – 4:41	IJ Feldman	I understand that but is there any particular case to which you refer, other than a Magistrate Judge's order?
4:42 – 4:47	Ms. Larson	I mean other than the fact that it is a district court judge's order-
4:48 – 4:55	IJ Feldman	It's a magistrate judge's order. It's an order from a United States magistrate judge—has it been adopted by a federal district court judge?
4:58 – 5:00	Ms. Larson	No, your honor.
5:00 – 5:14	IJ Feldman	That's fine. You can make your argument counsel. I'll be happy to hear from you after the government if you are asserting that the United States magistrate judge has the authority to shift the burden, let's hear from the government.
5:15 – 5:27	Mr. Jensen	Uh your honor because it is not an order from a district court judge, the burden has not shifted in this case. It has come from a magistrate judge not a district court judge.

5:29 – 5:45	IJ Feldman	Counsel if you wouldn't mind just for the sake of argument state your position regarding the respondent's bond eligibility? And I won't get into an assessment of the United States magistrate judge's familiarity with immigration law.
5:47 – 6:48	Mr. Jensen	Ok, I guess our position would be that we are opposing bond in this case. Um, according to the 213 he entered on an unknown date or location. He was picked up for—he was encountered in the interior in August 2025 during a jail check. He was picked up on a DUI Youthful Offender/Alcohol Underage Serving Alcohol in an Establishment is what I am reading. Um so, your honor, he did not enter at a port of entry, likely indicating many years of unlawful presence. According to the 213, I don't see he has any family. And we would argue that he is a flight risk due to the years of unlawful presence.
6:49 – 6:56	IJ Feldman	And are you also arguing danger as a result of the DUI, or not, I'm not sure I understood you?
6:57 – 7:22	Mr. Jensen	Uh yes your honor we'd say that's a danger. It doesn't seem like it was a per se DUI. It's a unique charge. So it does look like it's a form of a DUI from August 24, 2025.
7:24 – 7:41	IJ Feldman	Yes. In regard to Exhibit 1, the respondent's submission, I believe the respondent addresses the DUI incident on page 4 referring to paragraph 16, but that's fine, 16, 17, and so forth. Uh, anything else Mr. Jensen?
7:49 – 7:52	Mr. Jensen	Your honor, uh, yeah, nothing further.
7:52 – 7:57	IJ Feldman	That's fine. Anything further Ms. Larson? You're welcome to make whatever argument you wish to make.
7:58 – 10:03	Ms. Larson	<p>Ok, thank you, your honor. Mr. Olivas is only 18 years old, and the United States is truly the only home he's ever known. The Department wants to fault him for his entry, but his entry was through no fault of his own. He was brought here and has since resided here with his parents and younger brother. He has deep ties to the Wyoming community. He's been enrolled in school up there.</p> <p>He was about to start his senior year of high school. We included the factual circumstances of the DUI. I don't think that the charge supports the factual basis—his circumstances. Additionally, it was dismissed in its entirety. We also believe that the time that he has spent incarcerated from August until now has been rehabilitative for him.</p> <p>Additionally, he has a U.S. citizen sponsor. She is here today and to help support him. She has offered her home for him as well. But like I mentioned he has parents and a little brother waiting for him in Cheyenne. He also has a U.S. citizen</p>

		<p>girlfriend. They have been together since 2023. He also has U.S. citizen cousins that live in the area. He was gainfully employed while also keeping up with his studies.</p> <p>Regarding the DUI, the factual basis for it was a welfare check. There was no report of reckless driving, no accident, no injuries, no conduct threatening the public. Officers responded to a call of someone sleeping at a gas station. The car was not on. The keys were not in the ignition. So, um, I don't think that those facts can support a dangerousness finding.</p>
10:03 – 10:05	IJ Feldman	One moment please, thank you.
DAR AUDIO SKIPPED		After being interrupted by the Immigration Judge, undersigned counsel proceeded to speak again, when the Judge told her to wait like she had said. This portion has been cut from the Digital Audio Recording.
10:09 – 10:11	IJ Feldman	Please continue counsel, go right ahead.
10:12 – 10:35	Ms. Larson	Mr. Olivas is not a flight risk. He is certainly not a danger. He's a young man who is just starting his life. He'd be returning to his community in Cheyenne. He has every reason to appear before the court. So, he would respectfully request that the court grant a minimal bond today.
10:37 – 10:53	IJ Feldman	Alright, thank you. Alright, to the respondent, sir do you have work authorization? Mr. Millan, do you have work authorization issued to you by the government of the United States?
10:54 – 10:55	Mr. Olivas	No, your honor.
10:56 – 10:57	IJ Feldman	Do you have a driver's license?
10:59 – 11:00	Mr. Olivas	No, your honor.
11:01 – 11:02	IJ Feldman	Do you own any property?
11:04 – 11:05	Mr. Olivas	No, your honor.
11:06 – 11:09	IJ Feldman	Do you have a vehicle you drive or use of a vehicle?
11:11 – 11:13	Mr. Olivas	No, your honor.
11:14 – 11:16	IJ Feldman	Were you found in a vehicle when you were arrested?
11:18 – 11:19	Mr. Olivas	Yes, your honor.
11:21 – 11:23	IJ Feldman	Were you asleep behind the wheel or somewhere else in the vehicle?
11:24 – 11:26	Mr. Olivas	Behind the wheel, your honor.
11:28 – 11:31	IJ Feldman	Ok, thank you. Anything further based on my questions Ms. Larson?
11:35 – 11:46	Ms. Larson	Um just that given his age I don't think it would be a realistic expectation that he owns property as a high school student but nothing further your honor.

11:48 – 12:47	IJ Feldman	Thank you. Alright, um, the court will render its ruling now. The court finds that the Department has conceded jurisdiction based on—well, I shouldn't say that. The Department has not necessarily conceded jurisdiction but for all intents and purposes, the court will find that should the habeas order provide this court with the authority to set bond, the court will issue a bond and after considering the circumstances and all relevant factors, even assuming the court had jurisdiction, the court finds the respondent has not met his burden to establish that he is neither a danger to the community nor a significant flight risk such that release from custody is warranted. Therefore, the court denies the respondent's request for a custody status. So I am making alternative findings, shall I reserve appeal for both parties?
12:48 – 12:58	Ms. Larson	Yes, your honor. And if you also wouldn't mind indicating in your order which party bore the burden of proof at this hearing, that would be helpful.
12:58 – 13:46	IJ Feldman	Counsel. Counsel. You've made your argument. I will issue a decision. If you file an appeal, the court will issue a formal decision. But I find that if the court has jurisdiction, the court declines to set jurisdiction because I find that the respondent to be a danger and a flight risk and so therefore if the Department bears the burden, I find that the Department has met its burden. If the respondent bears the burden, I find that the respondent has not met his burden. So to that extent I will clarify the various burdens held by the parties. But either way, bond has been denied. Appeal is due at the Board of Immigration Appeals on or before April 17, 2026. Thank you that's all for today.
<b>Total Audio Recording</b>		<b>13:46</b>

**B**

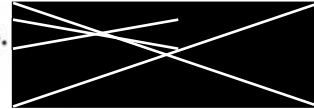
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**DETAINED**

**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
DENVER, COLORADO**

\_\_\_\_\_)  
**In the Matter of:** )  
 )  
**MILLAN-OLIVAS, JOSE** )  
 )  
**In Removal Proceedings** )  
\_\_\_\_\_)

**File No.**



**DEPARTMENT OF HOMELAND SECURITY'S  
FORM I-213, RECORD OF DEPORTABLE/INADMISSIBLE ALIEN**

U.S. Department of Homeland Security

Subject ID : ~~XXXXXXXXXX~~

Record of Deportable/Inadmissible Alien

Family Name (CAPS) <b>MILLAN-OLIVAS, JOSE</b>		First	Middle
Country of Citizenship <b>MEXICO</b>	Passport Number and Country of Issue <del>XXXXXXXXXX</del>		ED-Number <del>XXXXXXXXXX</del>
U.S. Address			
Date, Place, Time, and Manner of Last Entry <b>Unknown Date Unknown Time, UNK, WI-Without Inspection</b>			Passenger Boarded at
Number, Street, City, Province (State) and Country of Permanent Residence <b>FAILED TO PROVIDE ADDRESSMEXICO</b>			
Date of Birth <del>XXXXXXXXXX</del>	Age: 18	Date of Action <b>02/05/2026</b>	Location Code <b>CHY/DEN</b>
City, Province (State) and Country of Birth <b>Chihuahua, CHIHUAHUA, MEXICO</b>		AR <input checked="" type="checkbox"/>	Form : (Type and No.) Lifted <input type="checkbox"/> Not Lifted <input type="checkbox"/>
NIV Issuing Post and NIV Number		Social Security Account Name	
Date Visa Issued		Social Security Number	

Sex <b>M</b>	Hair <b>BLK</b>	Eyes <b>BRO</b>	Cmplxn <b>LBR</b>
Height <b>71</b>	Weight <b>215</b>	Occupation <b>Unknown</b>	
Scars and Marks			
FBI Number <del>XXXXXXXXXX</del>		<input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Married <input type="checkbox"/> Widower <input type="checkbox"/> Separated	
Method of Location/Apprehension <b>CA</b>			
At/Near <b>See I-831</b>	Date/Hour <b>02/05/2026 07:58</b>		
By <b>ALEJANDRO PENA</b>			
Status at Entry		Status When Found	
Length of Time Illegally in U.S.			

Immigration Record <b>NEGATIVE</b>	Criminal Record <b>See Narrative</b>	
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)		Number and Nationality of Minor Children <b>None</b>
Father's Name, Nationality, and Address, if Known		Mother's Present and Maiden Names, Nationality, and Address, if Known

Monies Due/Property in U.S. Not in Immediate Possession <b>None Claimed</b>	Fingerprinted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Systems Checks <b>See Narrative</b>	Charge Code Words(s) <b>See Narrative</b>
Name and Address of (Last/Current) U.S. Employer <b>. . . CHEYENNE, WYOMING, 82001, UNITED STATES</b>	Type of Employment <b>Employee</b>	Salary	Employed from/to <b>Hr 08/24/2025</b>

Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)

FIN: ~~XXXXXXXXXX~~      Left Index fingerprint      Right Index fingerprint



**FAMILY INFORMATION**  
 Father: Subject has not provided information for Father.  
 Mother: Subject has not provided information for Mother.  
 Spouse: Subject is not married.  
 Child: Subject does not have children or dependents.

**SUBJECT HEALTH STATUS**  
 The subject claims good health. ... (CONTINUED ON I-831)

Alien has been advised of communication privileges \_\_\_\_\_ (Date/Initials)

L RECKKER  
Deportation Officer

\_\_\_\_\_  
(Signature and Title of Immigration Officer)

Distribution:	Received: (Subject and Documents) (Report of Interview) Officer: <b>L RECKKER</b> on: <b>February 5, 2026</b> (time) Disposition: <b>Other</b> Examining Officer: <b>PENA, ALEJANDRO</b>
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EOIR - 2 of 5

U.S. Department of Homeland Security


Continuation Page for Form I-213

Alien's Name MILLAN-OLIVAS, JOSE	File Number 	Date 02/05/2026
CURRENT CRIMINAL CHARGES ----- 08/24/2025 - 8 USC 1182 - ALIEN INADMISSIBILITY UNDER SECTION 212 ----- CURRENT ADMINISTRATIVE CHARGES ----- 08/24/2025 - 212a6Ai - ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAs) ----- RECORDS CHECKED ----- CLAIM checked on 02/05/2026 with Negative result. CIS checked on 02/05/2026 with Negative result. NCIC checked on 02/05/2026 with Negative result. NLETS checked on 02/05/2026 with Positive result. TECS checked on 02/05/2026 with Negative result. ----- ARRESTED AT/NEAR ----- 1910 PIONEER AVE, CHEYENNE, WYOMING,  UNITED STATES ----- RECORD OF DEPORTABLE/EXCLUDABLE ALIEN: ----- ***** On February 25, 2026, The Class Action Notice was served on the Subject in the English language, and was provided interpretation in Spanish, at approximately 1000. ***** ENCOUNTER DATA On 08/24/2025, Subject Jose Daniel MILLAN-OLIVAS was encountered at the Laramie County Jail during jail checks. Subject was in custody on charge(s) of DUI-Youthful Offender/Alcohol and Underage individual in an alcohol serving establishment with adult entertainment. Officer Sipes from the Cheyenne ERO office interviewed Subject. Subject claims to be a citizen and national of Mexico by virtue of birth. Subject was not in possession of valid immigration documents that would allow Subject to be in or remain in the United States legally. On 08/24/2025, a detainer was lodged. On 02/05/2026, Subject was released to ICE custody. ----- ENTRY DATA Subject claims to have last entered the United States without inspection by U.S. Immigration Officers at or near unknown location, on or about unknown date. This location was not designated as a port of entry by the Attorney General or the Secretary of the Department of Homeland Security. This date and location cannot be verified; there is no record of lawful entry. Subject claimed no other entries. ----- IMMIGRATION HISTORY ICE/CIS database checks indicate Subject has no pending or approved petitions or applications. Subject has no previous removals/returns. ----- FAMILY INFORMATION (AS REPORTED BY SUBJECT): Subject's father, Malcovia MILLAN, is a citizen of Mexico, and has no status in the United States. Subject's mother, Sylvia OLIVAS, is a citizen of Mexico, and has no status in the United States. Subject claims to be single. Subject claims no children.		
Signature X L RECKKER	Title Deportation Officer	

X  
X  
X  
X

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name MILLAN-OLIVAS, JOSE	File Number 	Date 02/05/2026
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**CRIMINAL HISTORY**  
Subject was, on 2/2/2026, charged in the Cheyenne Municipal Court, Laramie County, Wyoming for the offense of DUI-Youthful Offender/Alcohol, in violation of Wyoming State Statute 10-08-010-31-5-234(b), a misdemeanor, and charges were dismissed.

Subject was, on 2/2/2026, convicted in the Cheyenne Municipal Court, Laramie County, Wyoming for the offense of Underage Individual in an Alcohol Serving Establishment with Adult Entertainment, in violation of Wyoming State Statute 5-12-140(A)(2), a misdemeanor, and charges dismissed.

SQ-11/NN-13 records checks for outstanding wants, warrants and lookouts were negative.

**BASIS FOR ICE CHARGES**  
Subject makes no claim to USC or LPR and is amenable to removal under Section 212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that Subject is an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

**GANG AFFILIATION/PUBLIC SAFETY THREAT**  
No claimed or verified gang affiliation. No suspected gang tattoos indicated.

**U.S. MILITARY HISTORY**  
Subject claims no membership in the United States military and stated that no immediate family member is now or was previously in the United States military.

**DISPOSITION**  
Subject has been advised of the right to speak to a consulate officer from Mexico.  
Subject claims fear of persecution or torture if removed to Mexico.  
Subject has no immigration petitions or applications pending or approved.  
Subject has been provided a detainee handbook in the English language.  
Subject was given a copy of the ODLs privacy notice.  
Subject was offered a Stipulated Order of Removal and a Voluntary Departure.  
Subject Charges dismissed.

**OTHER IDENTIFYING NUMBERS**  
-----  


Signature L RECKKER	Title Deportation Officer
------------------------	------------------------------

**MILLAN-OLIVAS, JOSE**



**CERTIFICATE OF SERVICE**

On March 17, 2026, I, Elizabeth Allen served a copy of this **I-213** to respondent's attorney's address of record:

Skylar Larson  
Skylar M. Larson, Esq.  
8275 E 11th Ave # 200176,  
Denver, CO 80220

- by first-class mail, postage pre-paid.
- by first-class mail, postage pre-paid by placing into my office's receptacle designated for official "out-going" first class mail.
- by personally delivering a true copy thereof to the person set forth above.
- by electronic service, with prior consent, at the following e-mail address: [email address of party served].
- by eService pursuant to the Terms and Conditions agreed to between the parties.
- through the EOIR Courts and Appeals System (ECAS), which will automatically send service notifications to both parties that a new document has been filed.

/s/ Elizabeth Allen  
Elizabeth Allen  
Counsel  
Department of Homeland Security  
Immigration and Customs Enforcement

**C**



UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
AURORA IMMIGRATION COURT

Respondent Name:

MILLAN-OLIVAS, JOSE

To:

Larson, Skylar Madison  
8275 E 11th Ave # 200176  
Denver, CO 80220

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

03/17/2026

**ORDER OF THE IMMIGRATION JUDGE**

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

- Granted. It is ordered that Respondent be:
- released from custody on his own recognizance.
  - released from custody under bond of \$
  - other:

Other:

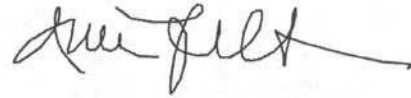
The Department of Homeland Security (DHS) contests jurisdiction despite the federal habeas order issued by a federal magistrate judge, pursuant to Civil Action No. 26-cv-00777-NRN, District of Colorado.

After considering the totality of the circumstances and all relevant factors, the Court denies bond.

If DHS bears the burden, the Court finds that DHS has met its burden to establish that the respondent is both a danger and a flight risk.

If the respondent bears the burden, the Court finds that the respondent has not met his burden to establish that he is neither a danger to the community nor 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.



Immigration Judge: Feldman, Irene 03/17/2026

Appeal: Department of Homeland Security:  waived  reserved  
Respondent:  waived  reserved

Appeal Due:04/17/2026

**Certificate of Service**

This document was served:

Via: [ M ] Mail | [ P ] Personal Service | [ E ] Electronic Service | [ U ] Address Unavailable

To: [ ] Alien | [ ] Alien c/o custodial officer | [ E ] Alien atty/rep. | [ E ] DHS

Respondent Name : MILLAN-OLIVAS, JOSE | A-Number :



Riders:

Date: 03/17/2026 By: Medelez, MaryAnn, Court Staff

**D**

Skylar M. Larson, Esq.  
8275 E 11th Ave. # 200176  
Denver, CO 80220  
Tel: (970) 692-3156  
Email: [skylarmlarsonesq@gmail.com](mailto:skylarmlarsonesq@gmail.com)  
Attorney for Respondent

**DETAINED**

**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
AURORA, COLORADO**

\_\_\_\_\_)  
**In the matter of:** )  
 )  
**Jose MILLAN OLIVAS** )  
 )  
**In Bond Proceedings** )  
\_\_\_\_\_)

File No.: 

Immigration Judge: Ivan Gardzelewski

Master Hearing: April 1, 2026

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**RESPONDENT'S BRIEF IN SUPPORT OF BOND ELIGIBILITY  
PURSUANT TO DISTRICT COURT OF COLORADO ORDER & 8 U.S.C. § 1226(a)**

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Respondent, Jose Millan Olivas, by and through undersigned counsel, respectfully submits this brief and evidence in support of his request for a custody redetermination pursuant to 8 U.S.C. § 1226(a), and as grounds thereof, states as follows.

### Introduction

1. On March 10, 2026, the United States District Court for the District of Colorado granted Mr. Olivas's Petition for Writ of Habeas Corpus and ordered a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven (7) days, by March 17, 2026. *See Order of the United States District Court for the District of Colorado, Millan Olivas v. Baltazar, et al., No. 1:26-cv-00777-NRN, dated March 10, 2026, attached hereto as Exhibit A.*
2. The District Court further ordered that the Department of Homeland Security (DHS) bear the burden of justifying Mr. Olivas's continued detention by *clear and convincing evidence* of dangerousness or flight risk. *See Minute Order of the United States District Court for the District of Colorado, Millan Olivas v. Baltazar, et al., No. 1:26-cv-00777-NRN, dated March 11, 2026, attached hereto as Exhibit B.*
3. That burden matters here. The evidence submitted with this brief shows a young man of only 18 years who was trying to finish high school, work, and build a future for himself before his immigration detention. Mr. Olivas has a family and community waiting for him in Cheyenne, Wyoming.
4. Mr. Olivas is in immigration detention following his unlawful transfer from Laramie County Sheriff's custody to Immigration and Customs Enforcement custody. Mr. Olivas was transferred more than 48 hours after he was free to leave Larimer County custody following the dismissal of his pending criminal charge for Driving Under the Influence.
5. The dismissed DUI charge does not outweigh the substantial evidence showing that Mr. Olivas is neither a danger to the community nor a flight risk. Under these facts, continued detention is not justified and DHS cannot meet its burden. Mr. Olivas respectfully requests that the Court grant the relief sought and permit him to return to his community while his case moves forward.

### Facts

6. Mr. Olivas is only 18 years old. He was brought to the United States when he was just one year old, and this country is the only home he has ever truly known. He was raised here, educated here, formed his closest relationships here, and built the beginnings of his adult life here. By every meaningful measure, his life has been rooted in the United States since infancy. *See letter of support from U.S. citizen cousin, Lillyana Millan, attached hereto as Exhibit O.*
7. His school records reflect a long history of enrollment in Wyoming schools, including East High School and Triumph High School, where he was actively working toward graduation. *See Triumph High School, Enrollment History, dated February 9, 2026, attached hereto as Exhibit H.*

8. A school counselor explained that Jose transferred to Triumph in search of a smaller and more supportive educational environment and planned to return for the 2025–2026 school year but was unable to do so because he was taken into custody just before the start of school. The same counselor described Jose as hard-working, intentional, thoughtful, kind, positive, and polite, and noted that Jose had no disciplinary issues while attending Triumph. *See letter of support from Triumph High School Counselor, John M. Ellis, attached hereto as Exhibit I.*
9. Other educators echoed the same picture. One teacher described Jose as a young man who kept a small circle of friends, sought help when he needed it, and built relationships through honesty, trust, and effort. Rather than presenting as reckless or defiant, Jose came across as a teenager trying to stay on track. He spoke about school, work, football, and practical goals for his future. He wanted to complete the credits he needed, keep moving forward, and build something for himself. *See letter of support from teacher, Meghan Horton, attached hereto as Exhibit K.*
10. Jose’s support system is substantial and real. Nicole Vigil, a United States citizen and longtime family friend who has known Jose since he was in the fifth grade, offered him a stable residence in her home in Cheyenne if he is released. She stated she is prepared to provide housing, food, transportation, and emotional and financial support, and to ensure that he attends all immigration court hearings, ICE check-ins, and required appointments. *See letter of support from U.S. citizen sponsor, Nicole Vigil, dated March 11, 2026, with Wyoming Driver’s License, attached hereto as Exhibit F; see also 2024 tax return for Nicole Vigil, attached hereto as Exhibit G.*
11. Jose’s loved ones also describe a young man whose life has been shaped by work, loyalty, and family. His girlfriend, who has known him since childhood and has been in a committed relationship with him since 2023, described him as responsible, respectful, and hardworking, noting that he worked long days doing asphalt and seal coating, managed Little Caesars at night, and worked weekends to earn extra money. In her words, he is someone who wanted a better future for himself and his family, and detention has visibly changed him—leaving him less hopeful and taking a serious toll on his emotional well-being. *See letter of support from U.S. citizen girlfriend, Ava Roybal, dated February 16, 2026, attached hereto as Exhibit M.*
12. His family members tell the same story. They describe Jose as kind, compassionate, family-oriented, and deeply connected to the United States, the only place he remembers as home. Their letters reflect not only affection, but concern over the profound hardship caused by separating such a young man from the only community, family structure, and stability he has ever known. *See letter of support from U.S. citizen cousin, Abel Millan, attached hereto as Exhibit N; see Exhibit O, attached hereto.*
13. Jose has also been gainfully employed for the past two years with Elite Asphalt. The owner of Elite Asphalt described how Jose has demonstrated a strong work ethic, is hardworking, reliable, and an honorable individual with exemplary character. *See letter of support from Elite Asphalt, dated March 12, 2026, attached hereto as Exhibit L.*
14. The timeline of Jose’s immigration custody is especially troubling. The municipal court in Cheyenne entered an order dismissing his criminal case without prejudice on February 2, 2026.

*See Cheyenne Municipal Court, Order to Dismiss Case, dated February 2, 2026, attached hereto as Exhibit C.*

15. Yet he was not allowed to walk free when that case ended. Instead, on February 5, 2026, he was transferred to ICE custody. *See Laramie County Sheriff's Department, Booking Card, dated February 25, 2026, attached hereto as Exhibit E.* In other words, after the criminal matter had been dismissed, Jose was not restored to liberty. He was simply funneled from local custody directly into immigration detention. For an eighteen-year-old high school student who should have been preparing to return to school and resume his life, that transfer was not just administrative. It was life-altering.
16. The DUI charge arose from a welfare-check situation involving a young man found asleep in a parked vehicle at a gas station, not from any report of reckless driving, an accident, injuries, or conduct threatening the public. As the municipal court order reflects, officers responded to a call about someone sleeping in a black Subaru at the Maverik, found Mr. Olivas asleep in a vehicle that was not running, and then developed the DUI investigation from observations made only after waking him. *See Cheyenne Municipal Court, Order Denying Defendant's Motion to Suppress, dated January 15, 2026, attached hereto as Exhibit D.*
17. These facts matter because they place the allegation in its proper context. This was not a case involving dangerous driving observed by law enforcement or harm to others, but rather an inference-based DUI arrest stemming from a welfare check in a parked car.
18. Taken together, the exhibits present a consistent and compelling picture of who Jose is. He is not a transient figure with no ties and no direction. He is a teenager raised in the United States since infancy, still trying to finish school, supported by family and community, with a verified home to return to and multiple adults willing to help him comply with every court requirement. The record shows a young man with deep roots, real promise, and meaningful support—not someone who should remain locked away while his case proceeds.

#### Law

19. The United States District Court of Colorado Ordered that DHS bear the burden of proving by clear and convincing evidence that Mr. Olivas's continued detention is justified. *See Exhibit B, attached hereto.*
20. Clear and convincing evidence requires more than a preponderance. It means that the party must present evidence that leaves the factfinder with a firm belief or conviction that it is highly probable that the factual contentions are true. *See Colorado v. New Mexico, 467 U.S. 310, 316 (1984).*
21. This standard does not permit speculation, assumptions, or reliance on untested allegations. Where the evidence is conflicting, incomplete, or inferential, the standard is not met, and bond *must* be granted.

22. Factors the Court considers in determining whether a respondent is a flight risk include: (1) whether a respondent has a fixed address in the United States; (2) length of residence in the United States; (3) family ties in the United States, and whether they may entitle the respondent to reside permanently in the United States in the future; (4) employment history; (5) record of appearance in court; (6) criminal history and the seriousness and recency of the offenses; (7) history of immigration violations; (8) any attempts to flee prosecution or otherwise escape from authorities; and (9) the manner of entry into the United States. *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006).

### Arguments

#### **I. DHS cannot establish that Mr. Olivas is a danger to the community where his only criminal charge was dismissed.**

23. DHS bears the burden of proving by clear and convincing evidence that Mr. Olivas poses a present danger to the community. DHS will fail to meet its burden.
24. Mr. Olivas's charge for Driving Under the Influence was dismissed by the Cheyenne Municipal Court on February 2, 2026, and as it was dismissed, should not serve as relevant evidence of dangerousness. *See Exhibit C, attached hereto.*
25. The underlying facts of the criminal charge do not reflect the sort of conduct that would support a finding that Mr. Olivas poses a present threat to public safety. He was not driving the vehicle, and the keys were not in the ignition. This was not a case involving actual operation of a motor vehicle, reckless driving, an accident, injuries, or any harm to another person. These factual distinctions matter, and they significantly undercut any claim that this incident demonstrates a genuine risk to the community. *See Exhibit D, attached hereto.*
26. Mr. Olivas's age is also a factor that weighs in not finding him a danger to the community. He is only eighteen years old and at the very beginning of his adult life. The Court should not define him by a dismissed allegation, particularly one unsupported by facts showing actual dangerous conduct. Rather, the Court should recognize that he is a young man with his whole life ahead of him, and that continued detention based on a dismissed charge would impose disproportionate consequences at a formative point in his life. An eighteen-year-old should not be branded as dangerous based on an incident where he was not even driving, and the vehicle was not in operation.
27. There is also no showing here of a sustained pattern of dangerous or violent behavior. Nothing before the Court suggests that Mr. Olivas presents an ongoing threat to others or that his release would endanger the public. To the contrary, the record reflects at most a dismissed allegation that, on its own facts, falls well short of establishing dangerousness.
28. Under these circumstances, DHS cannot prove by clear and convincing evidence that Mr. Olivas is a danger to the community.

**II. DHS cannot establish that Mr. Olivas is a flight risk where the *Guerra* factors overwhelmingly favor him.**

29. DHS cannot meet its burden of establishing by clear and convincing evidence that Mr. Olivas presents a flight risk. Moreover, the following *Guerra* factors overwhelmingly favor Mr. Olivas's release:
30. **U.S. Citizen Sponsor:** Nicole Vigil, a United States citizen and longtime family friend, has offered Mr. Olivas a stable residence in her home at 1306 Concerto Lane Cheyenne, Wyoming 82007, for as long as necessary. Ms. Vigil has provided a fixed address, identification, and supporting documentation, and she is prepared to provide housing, food, transportation, financial assistance, and oversight to ensure that Mr. Olivas appears for all future immigration proceedings and complies with any reporting obligations. *See Exhibit F, attached hereto.*
31. **Fixed Address:** Ms. Vigil has agreed that Mr. Olivas may reside with her for the foreseeable future at her fixed residence located at 1306 Concerto Lane Cheyenne, Wyoming 82007. *See Exhibit F, attached hereto.*
32. **Length of Residence:** Mr. Olivas has resided continuously in the United States since he was approximately one year old and has now resided here for roughly seventeen years. This is the only country he has ever truly known. His life, relationships, education, and support system are all here. That length of residence weighs heavily against any finding that he would abscond. *See Exhibits F, H, and M, attached hereto.*
33. **Academic History:** While not an explicit *Guerra* factor, Mr. Olivas's academic history further undercuts any suggestion that he poses a flight risk. Before his detention, he was actively working toward finishing high school. His school records and supporting letters show that he was enrolled, engaged, and intending to continue his education before that path was interrupted by detention. *See Exhibits H, I, J, and K, attached hereto.*
34. **Employment History:** Mr. Olivas also has a history of employment, including work at Little Caesar's and Elite Asphalt, reflecting responsibility, routine, and commitment to building a stable future. A young person trying to finish school and maintain employment with the support of his community is not someone positioning himself to disappear. *See Exhibit L, attached hereto.*
35. **Application for Relief:** Mr. Olivas has not yet entered pleadings to the Notice to Appear. He intends to seek termination based on the unlawful manner of his arrest and transfer into immigration custody. Mr. Olivas also has viable forms of relief available to him, including Asylum, Withholding of Removal, and Protection Pursuant to the Convention Against Torture. *See Exhibit E, attached hereto.*
36. **Record of Appearance in Court and Attempts to Flee Prosecution:** There is no record that Mr. Olivas has ever failed to appear for any court proceeding, nor is there any evidence that he has ever attempted to flee prosecution, evade supervision, or otherwise avoid legal process. The absence of any history of nonappearance is especially important here. Flight risk cannot



be based on speculation alone. It must be grounded in facts, and the facts here point in the opposite direction.

37. **Criminal History:** Mr. Olivas has no criminal history. The sole criminal matter identified in this record was dismissed. Even apart from the dangerousness analysis, the absence of any conviction or pattern of criminal conduct removes one of the principal indicators sometimes relied upon to suggest instability or disregard for legal obligations. Nothing about this record suggests that Mr. Olivas is someone who ignores court processes or legal requirements.
38. **History of Immigration Violations/Manner of Entry:** To the extent the Court considers his manner of entry, that factor should be given limited weight under these facts. Mr. Olivas did not recently enter the United States, nor does he have a pattern of immigration violations. He was brought here as a one-year-old child and has now lived here for essentially his entire life. His sole immigration violation is therefore inseparable from his infancy and cannot reasonably be treated as evidence that he would abscond as an adult. This factor does not outweigh the many concrete facts showing stability, accountability, and strong incentives to appear.
39. In sum, the *Guerra* factors overwhelmingly favor release. Mr. Olivas has a fixed address, a committed U.S. citizen sponsor, extensive family and community ties, a lengthy residence in the United States, a history of school and work, no criminal history, no failures to appear, and no attempts to flee. For an eighteen-year-old with deep roots and a verified support structure, continued detention is not necessary to secure his future appearances. The record establishes that any concern regarding appearance can be adequately addressed through bond and appropriate conditions of release.

#### Conclusion

40. Immigration detention under 8 U.S.C. § 1226(a) serves a narrow and specific purpose. It exists only to ensure a respondent's appearance at proceedings or to protect the community from demonstrable danger. It is not punitive, it is not preventative in the abstract, and it is not authorized where those purposes are not affirmatively shown.
41. That is why Congress structured § 1226(a) as a discretionary release statute, and why the District Court in this case imposed a clear and convincing burden on DHS. Detention is permitted only where the government can prove it is necessary to serve one of those limited goals. When detention no longer advances appearance or public safety, the statute requires release.
42. Here, continued detention serves neither purpose. The record shows no evidence of danger, and no evidence that detention is necessary to ensure appearance. Detention in this posture does not further the goals of § 1226(a); it undermines them by transforming a regulatory statute into a punitive measure untethered from its justification.
43. The clear and convincing standard does not permit detention based on generalized concerns or speculation untethered to record evidence. Any remaining doubts must be resolved in favor of Mr. Olivas's release.

44. Because DHS has failed to meet its burden on either dangerousness or flight risk, continued detention is unjustified. Mr. Olivas respectfully requests that the Court grant his request for custody redetermination and order his release on reasonable conditions consistent with due process and fundamental fairness.

Dated this 12th day of March 2026.

Respectfully submitted,

/s/ Skylar M. Larson

Skylar M. Larson, Esq.

8275 E 11th Ave. # 200176

Denver, CO 80220

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Email: [skylarmlarsonesq@gmail.com](mailto:skylarmlarsonesq@gmail.com)

Attorney for Respondent



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Tel: (970) 692-3156  
Email: [skylarmlarsonesq@gmail.com](mailto:skylarmlarsonesq@gmail.com)  
Attorney for Respondent

**DETAINED**

**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
AURORA, COLORADO**

\_\_\_\_\_  
**In the matter of:** )  
 )  
**Jose MILLAN OLIVAS** )  
 )  
**In Bond Proceedings** )  
\_\_\_\_\_ )

File No.: 

Immigration Judge: Ivan Gardzelewski

Master Hearing: April 1, 2026

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**RESPONDENT'S INDEX OF EXHIBITS IN SUPPORT OF  
BOND ELIGIBILITY PURSUANT TO DISTRICT COURT OF COLORADO ORDER  
& 8 U.S.C. § 1226(a)**

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Exhibit		Page(s)
<b>Granted Petition for Writ of Habeas Corpus in the United States District Court for the District of Colorado</b>		
<b>A</b>	Order from the United States District Court for the District of Colorado, <i>Millan Olivas v. Baltazar, et al.</i> , No. 1:26-cv-00777-NRN, dated March 10, 2026	<b>12-17</b>
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**A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 26-cv-00777-NRN

JOSE MILLAN OLIVAS,

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as Warden of the Denver Contract Detention Facility;  
ROBERT HAGAN, in his official capacity as Field Office Director, Denver Field Office of U.S. Immigration and Customs Enforcement;  
TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;  
MARKWAYNE MULLIN,<sup>1</sup> in his official capacity as Secretary of U.S. Department of Homeland Security; and  
PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

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**ORDER**

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**N. REID NEUREITER**  
**United States Magistrate Judge**

This case is before the Court on Jose Millian Olivas's ("Petitioner") Petition for Writ of Habeas Corpus (the "Petition"). ECF No. 1. Petitioner is a detainee at the Denver Contract Detention Facility. *Id.* ¶ 3. The Petition challenges (1) the lawfulness of Petitioner's continued detention over 48 hours following dismissal of his criminal case, (2) his warrantless arrest by Respondents, and (3) his ongoing confinement under an improper mandatory detention classification under 8 U.S.C. § 1225(b)(2), when his

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<sup>1</sup> Pursuant to Fed. R. Civ. P. 25(d), Markwayne Mullin, in his official capacity as Secretary of U.S. Department of Homeland Security, has automatically been substituted as a party to this action.

detention is actually governed by § 1226(a). See *id.* ¶ 2. Because this is a fundamentally legal debate, there is no need for a hearing on the Petition. See 28 U.S.C. § 2243. For the reasons that follow, the Court **GRANTS IN PART** the Petition.

### BACKGROUND

This case is one of numerous cases in this District and across the country seeking habeas relief for immigrants detained within the United States and denied bond hearings under a new interpretation of 8 U.S.C. §§ 1225, 1226. *E.g.*, *Vasquez Gomez v. Bondi*, No. 26-CV-00489-NRN, 2026 WL 482677 (D. Colo. Feb. 20, 2026); *Diaz Marquez v. Baltasar*, No. 26-cv-00293-CYC, 2026 WL 370864 (D. Colo. Feb. 10, 2026); *Abarca v. Baltasar*, No. 25-cv-04086-CYC, 2026 WL 309198 (D. Colo. Feb. 5, 2026); *Hernandez-Redondo v. Bondi*, No. 25-cv-03993-2 PAB, 2026 WL 290989 (D. Colo. Feb. 4, 2026); *Jimenez Facio v. Baltasar*, No. 25-cv-03592-CYC, 2025 WL 3559128 (D. Colo. Dec. 12, 2025); *Garcia Cortes v. Noem*, No. 25-cv-02677-CNS, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Batz Barreno v. Baltasar*, No. 25-cv-03017-GPG-TPO, 2025 WL 3190936 (D. Colo. Nov. 14, 2025); *Loa Caballero v. Baltasar*, No. 25-cv-03120-NYW, 2025 WL 2977650 (D. Colo. Oct. 22, 2025). Petitioner asks that he be immediately released from unlawful detention or that Respondents provide a prompt bond hearing under § 1226(a). ECF No. 1 at 21–22.

Petitioner is an 18-year-old citizen and national of Mexico who entered the United States when he was one year-old. *Id.* ¶ 20. He has lived his entire life in Cheyenne, Wyoming, where he attended school full-time and worked the night shift at Domino's pizza. *Id.* ¶ 21. The night before he was supposed to start his senior year of high school, he was arrested by Cheyenne police officers after he was observed sleeping his parked



car at a gas station. *Id.* ¶ 22. On the advice of counsel, he did not post bond and was held in custody during the pendency of his criminal case. *Id.* ¶ 24. After six months, all charges were dismissed. *Id.* ¶ 25. However, he was not released from custody; instead, he was detained for three additional days and then transferred—without a warrant—into the custody of U.S. Immigration and Customs Enforcement (“ICE”). *Id.* ¶¶ 26–28. He has been held without bond since February 5, 2026.

Petitioner first argues that his detention beyond the expiration of the regulatory 48-hour detainer period after the dismissal of his criminal charges violated his Fifth Amendment rights. Second, Petitioner states that ICE did not obtain a Form I-200, Warrant for Arrest of Alien, prior to arresting and detaining him, and did not have grounds for a warrantless arrest. Finally, Petitioner contends that he is entitled to a bond hearing under 8 U.S.C. § 1226(a).

Respondents state<sup>2</sup> that the Court does not have jurisdiction to decide the first two questions. As to the third, Respondents argue that Petitioner is subject to mandatory detention under § 1225(b). Respondents’ statutory interpretation has been rejected by this Court as well as several other judges in this District. *See Vasquez Gomez*, 2026 WL 482677, at \*2; *Jimenez Facio*, 2025 WL 3559128, at 2 (recognizing that “every decision in this District addressing the issue” has determined that § 1225(b)(2)(A) does not apply to persons, like Petitioner, who have already been residing in the United States for years). Indeed, Respondents concede

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<sup>2</sup> The parties disagree on the calculation of Respondents’ response deadline. However, Petitioner does not ask the Court to strike the response or otherwise argue that Respondents waived any arguments in their purportedly untimely brief. Therefore, the Court does not need to address this issue.



that until the Tenth Circuit rules on this issue, this Court's prior ruling on this issue would lead the Court to reach the same result here if the Court adheres to that decision, as the facts of this case are not materially distinguishable from that case for purposes of the Court's decision on the legal issue of whether Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

ECF No. 9 at 3.

### ANALYSIS

A district court may grant a writ of habeas corpus to any person who demonstrates he is "in custody in violation of the Constitution or laws . . . of the United States." 28 U.S.C. § 2241. This includes "[c]hallenges to immigration detention." *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004). The individual in custody bears the burden of proving that their detention is unlawful. *Walker v. Johnston*, 312 U.S. 275, 286 (1941). To meet that burden, Petitioner argues, in part, that 8 U.S.C. § 1226(a) applies to him; "that aliens detained under § 1226(a) receive bond hearings at the outset of detention," *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018) (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)); see 8 U.S.C. § 1226(a) (providing for discretionary detention); see also 8 C.F.R. § 1003.19 (providing framework for requesting a bond determination); and that he has received no such hearing.

As this Court and others in this District have repeatedly found in similar cases, Petitioner has met his burden showing that his continued detention without a bond hearing is unlawful. See *Diaz Marquez*, 2026 WL 370864, at \*1 ("The Court remains firmly convinced that it and the other judges in the District who have addressed this issue have correctly decided those cases."). Accordingly, the Court finds that Petitioner has a statutory right to a bond hearing that has not been provided, in violation of Petitioner's Fifth Amendment substantive due process rights. See *Jimenez Facio*, 2025



WL 3559128, at \*3 (“Resolution of the due-process question may be unnecessary[,] . . . [b]ut to the extent it is, ‘the Court agrees with other courts that have, against substantially similar factual backgrounds, concluded that detention without a bond hearing amounts to a due process violation.’”) (quoting *Garcia Cortes v. Noem*, No. 25-cv-02677-CNS, 2025 WL 2652880, at \*4 (D. Colo. Sept. 16, 2025)).

At this time, the Court will not reach the lawfulness of Petitioner’s post-dismissal detention or his transfer to ICE custody. See *Hernandez v. Baltazar*, No. 26-cv-0276-WJM-TPO, 2026 WL 304362, at \*1 n.1 (D. Colo. Feb. 5, 2026) (“Because the Court concludes that section 1226(a) controls here, it need not base its Order on whether Alvarez Hernandez’s other arguments are availing.”); *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.”). Should Petitioner not be released after the bond hearing, the Court may issue an order or hold a hearing on these issues.

Lastly, Petitioner requests attorney fees and costs. ECF No. 1 at 22. But D.C.COLO.LCivR 54.3(a) requires that “a motion for attorney fees . . . be supported by affidavit,” and no such affidavit supported the request. Further, “a motion involving a contested issue of law shall . . . be supported by a recitation of legal authority in the motion.” D.C.COLO.LCivR 7.1(d). As a result, the Court denies this portion of the Petition without prejudice. If the Petitioner chooses to file a motion for attorney fees, it must comply with all applicable rules and provide legal authority for the request. See *L.G. v. Choate*, 744 F. Supp. 3d 1172, 1187 (D. Colo. 2024).



### CONCLUSION

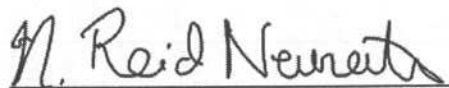
For the foregoing reasons, it is hereby **ORDERED** that the Petition, ECF No. 1, is **GRANTED IN PART** as follows.

It is further **ORDERED** that

- 1) Respondents shall provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) within seven days of this Order. **If Respondents to not do not provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) as required herein, Petitioner must be immediately released from detention;**
- 2) Respondents are **ENJOINED** from denying bond to Petitioner on the basis that he is detained pursuant to 8 U.S.C. § 1225(b)(2)(A); and
- 3) Respondents shall file a status report within three days of Petitioner's bond hearing, stating whether he has been granted bond, and, if his request for bond was denied, the reasons for that denial.

Dated: March 10, 2026.

BY THE COURT:



N. Reid Neureiter  
United States Magistrate Judge



**B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 26-cv-00777-NRN

JOSE MILLAN OLIVAS,

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as Warden of the Denver Contract Detention Facility;  
ROBERT HAGAN, in his official capacity as Field Office Director, Denver Field Office of U.S. Immigration and Customs Enforcement;  
TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;  
MARKWAYNE MULLIN, in his official capacity as Secretary of U.S. Department of Homeland Security; and  
PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

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MINUTE ORDER

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Entered by Magistrate Judge N. Reid Neureiter

It is hereby ORDERED that Petitioner's Emergency Motion to Clarify Court Order (ECF No. 12) is GRANTED as follows. At the bond hearing ordered by the Court, see ECF No. 11, Respondents bear the burden of proving by clear and convincing evidence that Petitioner's continued detention is justified due to dangerousness or flight risk. See *Abanil v. Baltazar*, No. 25-cv-04029-WJM-STV, 2026 WL 100587, at \*8 (D. Colo. Jan. 14, 2026) ("[T]he weight of authority in this District is clear: it is the Government's burden to 'justify[ ] a noncitizen's continued detention at a bond hearing.'" (quoting *Arauz v. Baltazar*, No. 25-cv-03260-CNS, 2025 WL 3041840, at \*4 n.3 (D. Colo. Oct. 31, 2025)); see also *Espinoza Ruiz v. Baltazar*, 25-cv-03642-CNS, 2025 WL 3294762, at \*2 (D. Colo. Nov. 26, 2025) (ordering that the Government would carry the burden for bond hearing under § 1226(a); *Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 WL 2977650, at \*9 (D. Colo. Oct. 22, 2025) ("During such [bond] hearing, the Respondents bear the burden of justifying detention.")).

Date: March 11, 2026

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**C**

**FILED**

FEB 0 2 2026

**IN THE MUNICIPAL COURT  
FOR THE CITY OF CHEYENNE, WYOMING**

CHRISTINA WOODHOUSE  
CLERK OF MUNICIPAL COURT  
CHEYENNE, WY

*W*

CITY OF CHEYENNE,  
Plaintiff,

vs.

JOSE DANIEL MILLAN OLIVAS  
Defendant.

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Docket No. 2025-COM-991

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**ORDER GRANTING MOTION TO DISMISS**

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THIS MATTER, came before this Court upon the City's Motion to Dismiss. This Court has reviewed the pleadings, file, and is otherwise informed in this matter. For the reasons stated in the City's Motion to Dismiss, a dismissal is appropriate.

**IT IS SO ORDERED, ADJUDGED, AND DECREED,** this matter is hereby dismissed without prejudice.

DATED this 2 day of February, 2026.

*[Signature]*  
MUNICIPAL COURT JUDGE

**RECEIVED**

FEB 0 2 2026 *[Signature]*

MUNICIPAL COURT  
CITY OF CHEYENNE



**D**

IN THE MUNICIPAL COURT FOR THE CITY OF CHEYENNE  
STATE OF WYOMING, COUNTY OF LARAMIE

FILED

JAN 15 2026 *WJ*

CHRISTINA WOODHOUSE  
CLERK OF MUNICIPAL COURT  
CHEYENNE, WY

City of Cheyenne,

Plaintiff

vs.

Docket No. 2025-COM-991

Jose Daniel Millan Olivas,

Defendant

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**ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS**

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This matter came before this Court upon Defendant's *Motion to Suppress and Request for Evidentiary Hearing*, filed December 1, 2025. The City filed its *City's Response to Defendant's Motion to Suppress and Request for Evidentiary Hearing* on December 23, 2025, and an evidentiary hearing was held on January 2, 2026. Defendant, Jose Olivas ("Olivas"), claims the officer did not have (1) reasonable suspicion to stop him; and (2) did not have probable cause to arrest him; therefore violating Olivas' rights. Olivas asks this Court to suppress evidence obtained by law enforcement as a result of constitutional violations. The City disagrees.

**ISSUES PRESENTED**

1. Whether Officer Laporta's initial seizure of Olivas was permissible under the Fourth Amendment.



2. Whether Officer Laporta had reasonable suspicion to expand the scope of the seizure into a DUI investigation.
3. Whether Officer Laporta had probable cause to formally arrest Olivas.

### **FINDINGS OF FACT**

This Court reviewed and considered Olivas' motion, the City's response to Olivas' motion, heard and considered the testimony of Officer Laporta and Mr. Mark Yocum<sup>1</sup>, and received and reviewed Officer Laporta's body camera footage<sup>2</sup> as admitted at the evidentiary hearing. The below are what this Court utilized to make the following findings of fact.

#### **I. Officer Laporta's background and education.**

Officer Laporta had been an officer for approximately 14 months at the time of the evidentiary hearing. In his 14 months as a patrol officer, he has investigated somewhere under 10 DUIs.

#### **II. Initial interaction with Olivas and investigation.**

On the morning of August 24, 2025, Officer Laporta responded to a dispatch call for a "welfare check" on a report of an individual sleeping in their car at the Maverik gas station. The reporting person identified the individual as sleeping in a black Subaru. Upon arriving at the Maverik, Officer Laporta parked his patrol vehicle near the gas pumps,

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<sup>1</sup> The Court heard testimony from Mr. Yocum, former law enforcement, who testified as an expert over the City's objection. He testified as to his observations of Olivas from his review of Officer Laporta's body camera. He also testified as to his time as a DUI instructor at the police academy in Wyoming and what he would teach officers to look for during a DUI investigation. This Court finds Mr. Yocum's testimony is either largely irrelevant or invades on the purview of the Court and has not considered his testimony.

<sup>2</sup> Officer Laporta's body camera footage was admitted as and has been identified as City's Exhibit 1.



some distance away from the black Subaru, and not blocking in the Subaru. Officer Laporta did not activate his overhead emergency lights.

Officer Laporta exited his patrol vehicle and approached the driver side front door of the vehicle. He shined his flashlight in the window and repeatedly knocked on the window in order to wake the driver. Once the driver, later identified as Olivas, was awake, Officer Laporta ordered him to roll down his window. Olivas proceeded to open his door.

Upon Olivas opening his door, Officer Laporta ordered him to stay in the vehicle, explained who he was, and asked Olivas "what's going on tonight boss?"<sup>3</sup>. Olivas responded incoherently with "it's uh...what you called...a six speed."<sup>4</sup> When Olivas was attempting to answer Officer Laporta's question, he leaned back, allowing Officer Laporta to clearly see two alcoholic Buzzball drinks on the passenger seat<sup>5</sup>. Officer Laporta proceeded to ask Olivas his name, whether he had a driver's license with him, and if the vehicle was off. Olivas responded to these questions promptly and clearly. Officer Laporta then asked where the keys were at, to which Olivas responded by moving in his seat, apparently reaching for the keys<sup>6</sup>, at which point Officer Laporta instructed him that he did not need to be getting out.

Officer Laporta pulled out a spiral bound notepad and asked Olivas a series of routine investigatory questions<sup>7</sup>. Olivas was slow to answer these questions and his speech was slurred.

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<sup>3</sup> City's Exhibit 1, mm 01:04-01:08.

<sup>4</sup> City's Exhibit 1, mm 01:08-01:15. Olivas words are slurred and mumbled during this statement; this quote is the Court's best understanding of what he said.

<sup>5</sup> City's Exhibit 1, mm 01:26

<sup>6</sup> The keys were later found laying in the center console.

<sup>7</sup> City's Exhibit 1, mm 01:51-03:01.



Officer Laporta then informed Olivas he was going to wait for his partner and then they were going to keep talking. He instructed Olivas to put his phone and vape on the dashboard, which Olivas did. Officer Laporta asked Olivas what time it was. Olivas responded that it was 4 or 5; it was 5:38 a.m. at the time. Olivas' was slow to respond and his speech was slurred. Officer Laporta instructed Olivas to put his hands on the steering wheel. Officer Laporta then walked to the back of the vehicle to meet with his partner. Officer Laporta returned to the driver's door of the vehicle and instructed Olivas to exit the vehicle. While exiting the vehicle, Olivas stumbled, caught himself on the vehicle, and exhibited poor balance. Officer Laporta performed a pat down of Olivas and asked Olivas if he would consent to standardized field sobriety tests to which Olivas said no. Officer Laporta then arrested Olivas for driving under the influence.

#### DISCUSSION

Defendant Olivas argues in his motion that Officer Laporta violated his Fourth Amendment right under the United States Constitution to remain free from unreasonable seizures. Specifically, that Officer Laporta did not have reasonable suspicion to stop Olivas, nor probable cause to arrest him. Therefore, the stop was illegal, and he asks this Court to suppress all evidence obtained after the stop.

The City resists Olivas' motion and his rationale. Essentially, the City argues Officer Laporta was performing a community caretaking function when Officer Laporta initially interacted with Olivas, developed reasonable suspicion to expand the scope of the stop during that interaction, and finally had probable cause to arrest Olivas.

**I. The seizure of Olivas is subject to Fourth Amendment protections, however the community caretaking exception applies.**

The Fourth Amendment to the United States Constitution shields citizens from unreasonable searches and seizures. U.S. Const. amend. IV; *Simmons v. State*, 2020 WY 132, ¶ 11, 473 P.3d 1259, 1262 (Wyo. 2020). Under the Fourth Amendment, there are three levels of interaction between law enforcement and citizens. *Levenson v. State*, 2022 WY 51, ¶ 30, 508 P.3d 229, 240 (Wyo. 2022). Those are: consensual encounters, investigatory detentions, and arrests. *Id.* This case is most analogous to an investigative detention and the Court finds that Olivas was seized per the Fourth Amendment; “[a] person has been seized within the meaning of the Fourth Amendment if, ‘in view of all the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave.’” *McChesney v. State*, 988 P.2d 1071, 1074 (Wyo. 1999), citing *Wilson v. State*, 874 P.2d 215, 220 (Wyo. 1994). A seizure under the Fourth Amendment requires reasonable suspicion. *Jennings v. State*, 2016 WY 69, ¶ 9, 375 P.3d 788, 790-91 (Wyo. 2016). Whether reasonable suspicion exists is analyzed under the two-prong *Terry* test. The facts of this case do not meet the *Terry* standard. However, the community caretaking exception to the Fourth Amendment applies.

The community caretaker exception “pertains to police encounters with citizens in public places and in their vehicles under circumstances giving rise to concerns about their welfare or safety, even though the circumstances do not present an emergency.” *Allgier v. State*, 2015 WY 137, ¶ 28, 358 P.3d 1271, 1279, citing *Campbell v. State*, 2014 WY 156, ¶ 18, 339 P.3d 258, 263 (Wyo. 2014). The reasonableness of a seizure for purposes of a community caretaking function is evaluated by a totality of the circumstances test.

[T]he totality of the circumstances must be examined at the inception of the officer's action to determine whether the search and/or seizure was



reasonably related in scope to the circumstances.” *Morris v. State*, 908 P.2d 931, 936 (Wyo.1995). Moreover, the analysis under the community caretaker exception is fact-based, ultimately requiring a determination \*1280 of whether the officer's action was reasonable under the circumstances. *Id.* at 937.

*Allgier v. State*, 2015 WY 137, ¶ 28, 358 P.3d 1271, 1279-1280 (Wyo. 2015).

Further, “[t]he community caretaker exception does not require a belief that immediate aid is necessary, rather, it requires a specific and articulable concern for public safety requiring the officer's general assistance.” *Id.* at ¶ 32, 358 P.3d at 1280, citing *Campbell v. State*, 2014 WY 156, ¶ 18, 339 P.3d 258, 263 (Wyo. 2014).

This Court finds Officer Laporta seized Olivas. The question then becomes whether the community caretaking exception applies.

Here, Officer Laporta had a specific and articulable concern for the welfare or safety of Olivas and was acting pursuant to his community caretaking functions as law enforcement officer. Officer Laporta testified that he received a call for an “urgent welfare check” due to someone either asleep or passed out in their vehicle and the caller was concerned about their welfare. The evidence presented at the evidentiary hearing also showed that the vehicle’s headlights and taillights were on but the vehicle was not running. This set of facts establishes a specific and articulable concern for the welfare of Olivas; an individual passed out or asleep in their car, with the lights on, but the car off, is sufficient to create a concern regarding the individual’s welfare. Therefore, this Court finds Officer Laporta appropriately seized Olivas under the community caretaking doctrine. *See generally Allgier, supra*, ¶ 28, 358 P.3d at 1279 (Wyo. 2015), citing *Campbell*, 2014 WY 156, ¶ 18, 339 P.3d at 264 (Wyo. 2014).

The question for this Court then becomes whether, under the totality of the circumstances, “the . . . seizure was reasonably related in scope to the circumstances,” and

“whether the officer’s action was reasonable under the circumstances.” *Allgier, supra*, ¶ 28, 358 P.3d at 1279-1280. This is a fact-based inquiry. *Id.*

This Court finds that the seizure was reasonably related in scope to the circumstances. Checking on the welfare of someone passed out or asleep in a vehicle necessarily requires approaching that vehicle and attempting to make contact with the individual.

As to whether the officer’s action was reasonable under the circumstances, this Court finds that it was. As it pertains exclusively to the community caretaking function, Officer Laporta’s knocking on the window in an attempt to wake Olivas, ordering him to open his window<sup>8</sup>, and inquiring about “what’s going on tonight” are all reasonable actions in order to fulfill the community caretaking role and ascertain the welfare and safety of Olivas.

As such, this Court finds that Officer Laporta’s initial seizure of Olivas was reasonably related in scope to the circumstances and the officer’s actions were reasonable under the circumstances; thus the community caretaking exception is applicable. The Court must now turn to the issue of whether Officer Laporta had reasonable suspicion to expand the scope of the initial seizure into a DUI investigation.

**II. Officer Laporta had reasonable suspicion to expand the scope of the seizure into a DUI investigation.**

“In the absence of the particular individual’s valid consent, an officer may expand an investigative detention only if there exists an ‘objectively reasonable and articulable

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<sup>8</sup> In response to which, Olivas actually opened his door.



suspicion' that criminal activity has occurred or is occurring." *Damato v. State*, 2003 WY 13, ¶ 13, 64 P.3d 700, 706 (further citations omitted).

Here, neither party has briefed nor argued on the issue of valid consent, thus the only issue before this Court is whether there exists an objectively reasonable and articulable suspicion that criminal activity has occurred or is occurring.

An investigatory detention is a seizure under the Fourth Amendment. However, because of its limited nature, a law enforcement officer is only required to show 'the presence of specific and articulable facts and rational inferences which give rise to a reasonable suspicion that a person has committed or may be committing a crime' in order to justify the detention.

*Mills v. State*, 2020 WY 14, ¶ 22, 458 P.3d 1, 10, citing *Harris v. State*, 2018 WY 14, ¶ 15, 409 P.3d 1251, 1254 (Wyo. 2018) (internal citations omitted).

In this case, the question is essentially whether Officer Laporta had reasonable suspicion to expand the stop immediately after Olivas answered his question about "what's going on tonight boss" and Officer Laporta observed the two Buzzball alcoholic beverages on the passenger seat of Olivas' vehicle. That is the temporally relevant instance in which the reasonable suspicion issue exists.

This Court finds that yes, Officer Laporta had reasonable suspicion to expand the scope of the seizure into a DUI investigation. Officer Laporta asked Olivas "what's going on tonight boss," to which Olivas replied with an incoherent and nonsensical answer that "it's uh...what you called...a six speed." Olivas was slow to answer this question and his speech was slurred. Further, Officer Laporta observed two large Buzzball alcoholic drinks on the passenger seat of Olivas' vehicle, and he testified that one of them was open and appeared half drunk. Additionally, the car was parked with its headlights and taillights on, but the car was not running. Taken together, these specific and articulable facts give rise to a reasonable suspicion that Olivas had been or may have been committing the



crime of DUI. Therefore, expansion of the seizure into a DUI investigation was appropriate.

### III. Officer Laporta had probable cause to arrest Olivas.

The Wyoming Supreme Court has addressed probable cause numerous times; going so far as to address it specifically in the DUI context.

To support an arrest for a violation of § 31-5-233, a peace officer must have probable cause to believe that the individual was driving or had actual physical control of a motorized vehicle while his BAC was 0.08% or more or while he was under the influence of alcohol to an extent rendering him incapable of safely driving. Probable cause is shown when the facts and circumstances within the peace officer's knowledge and of which he had reasonably trustworthy information would warrant a reasonably cautious or prudent man to believe that the person arrested has committed an offense. *Mascarenas v. State*, 2003 WY 124, ¶ 10, 76 P.3d 1258, 1261 (Wyo.2003). The standard is an objective one which is not subject to police discretion. *Id.* Whether probable cause existed is determined from the vantage point of a prudent, reasonable, cautious peace officer on the scene at the time of the arrest. *Mickelson v. State*, 2008 WY 29, ¶ 19, 178 P.3d 1080, 1086 (Wyo.2008). Its existence depends upon the facts as they apparently existed at the time, and not upon the ultimate determination of the facts. *Id.*

*Michaels v. State ex rel. Dept. of Transp.* 2012 WY 33, ¶ 23, 271 P.3d 1003, 1011.

The Wyoming Supreme Court has addressed probable cause where the arresting officer did not observe the suspect driving in *Kimsey v. Wyoming Dept. of Transp.* In *Kimsey*, the defendant arrived at the Cody Law Enforcement Center ("Law Center") to check on his wife after receiving a phone call that she had been arrested. Officer Johnson had left the Law Center prior to the defendant's arrival, and when he returned to speak with the defendant he noticed the defendant's vehicle in the parking lot. He did not observe the defendant driving. Officer Johnson began to question the defendant. The defendant admitted the vehicle was his and he drove it to the Law Center but later changed his answer saying that he did not drive the vehicle to the Law Center and did not

know how it got there. During the questioning, Officer Johnson noticed slurred speech, instability, and the strong odor of alcohol. *See generally Kimsey v. Wyoming Dept. of Transp.*, 2002 WY 15, ¶ 17-18, 39 P.3d 425, 428-429 (Wyo. 2002).

The *Kimsey* court held that “. . . the confusing nature of Kimsey’s statements, along with his slurred speech, instability, and the strong odor of alcohol . . . coupled with the presence of Kimsey’s vehicle in the parking lot, encompass the reasonable conclusion that Kimsey was intoxicated and that he had driven his vehicle to the Law Center . . .” *Id.* at ¶ 18, 39 P.3d at 429. The *Kimsey* court went on to hold that “the totality of the circumstances were adequate to cause a reasonable police officer to believe Kimsey had driven while under the influence of alcohol even though no one actually saw him driving the vehicle.” *Id.* at ¶ 20, 39 P.3d at 429.

Here, Officer Laporta observed the presence of two alcoholic beverages, one of which appeared half drunk, bloodshot watery eyes, the odor of alcohol, slurred speech, poor balance, confusing answers, and Olivas in the driver’s seat of his car with the lights on. These indicia of intoxication are similar to what the officer observed in *Kimsey*. *Id.* at ¶ 17-18, 39 P.3d 428-429. This set of facts gives rise to a prudent, reasonable, and cautious peace officer believing that Olivas had committed an offense, and as such Officer Laporta had probable cause to arrest Olivas for DUI. *See Kimsey*, 2002 WY 15, ¶ 20, 39 P.3d at 429.

### CONCLUSION

For the foregoing reasons, this Court having found that Officer Laporta’s initial seizure of Olivas was permissible pursuant to the community caretaking exception to the Fourth Amendment, having found that under the totality of the circumstances that



reasonable suspicion existed to expand the scope of the seizure, and having found that probable cause existed to arrest Olivas, Defendant Olivas' *Motion to Suppress and Request for Evidentiary Hearing* is hereby **DENIED**.

Dated this 15 day of January, 2026.

  
\_\_\_\_\_  
Honorable Municipal Court Judge

cc: City Attorney – Luke Plumb  
Defense Counsel – Melinda Godwin and Ben Sherman



**F**

March 11, 2026

To Whom It May Concern:

My name is Nicole Vigil, and I am a United States citizen. I am writing this letter in support of Jose Millan Olivas and to ask that he be granted bond and released from detention.

I am a family friend of Jose and have known him since he was in the 5th grade. As a mother of five children, family values and the people I allow into my home are extremely important to me. Jose has always been a close friend of our family and built a strong friendship with my older sons. About two years ago, he began dating my daughter, and during that time I have seen firsthand the type of person he is. His behavior has consistently reflected kindness, responsibility, and good judgment.

If Jose is released, he will live with me at [REDACTED]. This is a stable place for him to stay, and he will have my full support. I will make sure he has a safe home and that he follows all requirements in his immigration case.

I understand how serious these proceedings are. If he is released, I will help him get to all of his immigration court hearings, ICE check-ins, and any other appointments he is required to attend. I will also help him keep track of dates, paperwork, and transportation so that he stays in compliance with everything that is asked of him.

I am willing and able to support him financially and emotionally while his case is pending. I can help him with housing, food, transportation, and other daily needs. He will not be left without support.


Based on my knowledge of Jose, I do not believe he is a danger to the community in any way. He is respectful, peaceful, and family-oriented. In my experience, he has always shown care and concern for the people around him. I trust him, and I would not offer my home and support if I believed he would put anyone at risk.

I also do not believe he is a flight risk. He has every reason to appear for his court hearings and continue with his case. He wants the opportunity to be with his family and properly fight his case the right way. If he is released, he will have a stable address, support from me, and every reason to comply with the Court's orders.

I am writing this letter because I truly believe Jose should be given the chance to return home and continue his case outside of detention. His release would mean that he can be with the people who care about him and that he can prepare for his case with the support he needs.

Thank you for your time and consideration.

Sincerely,

  
Nicole Vigil Mar 11 2026 09:58:25 MDT

Nicole Vigil

Tel: [REDACTED]

**I**



**TRIUMPH HIGH SCHOOL**  
**LARAMIE COUNTY SCHOOL DISTRICT NUMBER ONE**  
**Mike Maloney, Principal**

1250 West College Drive  
Cheyenne, WY 82007  
307.771.2500

To Whom It May Concern:

I am writing to inform you of my history with Jose Millan Olivas. From April of 2024 to June of 2025, I served as Jose's Guidance Counselor at Triumph High School. Jose transferred to Triumph in April of 2024 from Cheyenne East High School in an effort to seek a smaller and more supportive educational environment. Jose planned to attend Triumph in August of 2025 to resume the 2025-2026 School Year, following the Summer Break, but was unable to do so due to his being in custody prior to the start of school.

During his attendance at Triumph, Jose never received any form of disciplinary action while attending. I experienced Jose as a very hard-working and intentional student, [REDACTED] Also, in the time that I have known Jose, I have known him to be well-mannered, thoughtful, kind, positive, and polite. At present, Jose is a Senior in high school and needs only 6.25 Credits to Graduate according to the Requirements of Laramie County School District Number One.

I hope this letter at least gives you a brief glimpse of the caliber of person I have known Jose to be. Please do not hesitate to contact me if you would like any further information regarding this young man.

Most Sincerely,

A handwritten signature in black ink, appearing to read "John M. Ellis".

John M. Ellis  
Counselor  
Triumph High School  
1250 West College Drive  
Cheyenne, Wyoming 82007  
307.771.2500



**J**

To Whom it May Concern,

of 89

I am pleased to write this letter on behalf of Jose Milan, who was enrolled at our school from August 2024 to August 2025. During his time with us, Jose consistently demonstrated strong character, responsibility, and respect toward both staff and peers.

Jose needs only 6.25 credits to complete his graduation requirements, and throughout his enrollment, he remained focused on reaching that goal. He maintained a positive attitude and showed determination in his academic efforts.

In addition to his academic commitment, Jose distinguished himself through his behavior and conduct. He had no behavior referrals during his time with us. He is consistently kind, polite, and helpful. Jose treats others with respect and demonstrates maturity in his interactions. He is the type of student who contributes positively to the school environment and supports those around him.

It has been a pleasure having Jose as part of our school community. I am confident that he will continue to demonstrate the same character, integrity, and perseverance in his future endeavors.

If you require any additional information, please do not hesitate to contact me.

Sincerely,  
Laramie Ringolsby



**K**

To Whom It May Concern,

I am writing on behalf of Jose Millan Olivas. I currently serve as a Special Education Teacher at East High School in Cheyenne, Wyoming. I began my career at East High School as a Behavior Interventionist, which is where I first met Jose. Although my role typically involved supporting students who were experiencing behavioral challenges, that was not the reason I came to know Jose.

Jose is a young man who often keeps to himself and maintains a small, close-knit circle of friends. One day while he was in the cafeteria with his peers—several of whom were involved in football—I stopped by their table to check in and ask how school and football was going. Most of the students engaged in casual small talk, but Jose asked if he could speak with me about some of his assignments. He frequently shared his goals about playing on the 9th grade football team and understood that academic success was essential for him to stay on the field with his teammates.

Later that same day, Jose sought me out for help with a math assignment. I remember initially thinking, “Math isn’t my strongest subject,” but it quickly became clear that what Jose needed most was not content-specific support—he needed a safe, trusted adult in the school building. From that point forward, Jose demonstrated initiative, responsibility, and a willingness to seek help when needed, qualities that speak volumes about his character and determination.

Jose and I built our relationship on honesty. His transparency about where he was academically allowed me to support him throughout the day at East. Through the trust we established, I was able to provide guidance with his teachers, schoolwork, and even socially with his peers.

During his junior year, Jose made the decision to attend a neighboring high school to complete the remaining credits needed for graduation. He continued to email me often—sometimes to check in on how my year was going, but mostly to share his achievements. He was proud to tell me about his progress in school, how well work was going, and he always circled back to the car or motorcycle he was excited to purchase

Thank you for taking the time to read this letter and I will  
always feel comfortable supporting Jose.

Sincerely,  
Meghan Horton



**L**

3/12/2026

To Whom It May Concern,

My name is Nathan Melchior, and I am the owner of Elite Asphalt. I am writing on behalf of Jose Daniel Millan Olivas, whom I have had the opportunity to employ over the past two years. The purpose of this letter is to attest to his character, which, from my experience working with him, has been exemplary.

Jose has been a dependable member of my crew during his time working for me. The work we do is physically demanding and often involves early mornings, long days, and difficult conditions. In this type of work environment, employee turnover can be high. Despite these challenges, Jose has consistently proven himself to be reliable and hardworking. He shows up on time, works diligently, and approaches his responsibilities with a positive attitude.

Throughout his employment, Jose has demonstrated a strong work ethic and a willingness to do whatever is necessary to help the team accomplish the goals of the day. He has also stepped into leadership roles when needed and has shown a natural ability to recognize what needs to be done and take initiative to do it. He works well with others, communicates respectfully, and contributes positively to the work environment.

Based on my experience working with Jose, I believe him to be a respectful, trustworthy, and honorable individual. He conducts himself with professionalism and treats others with kindness and respect. In my opinion, he is someone who contributes positively to those around him and to the community through his actions and his work.

If you have any questions or would like additional information, please feel free to contact me. Thank you for your time and consideration.

Sincerely,

Nathan Melchior  
Owner, Elite Asphalt



**M**

Ava Roybal

of 89



02/16/2026

To Whom It May Concern,

My name is Ava Roybal, and I am writing this letter in support of Jose Millan-Olivas, whom I have known for the majority of my life. I respectfully ask that you consider this letter as a reflection of my personal knowledge of Jose's character and history.

I have known Jose since I was in the fourth grade. We grew up together and remained close friends for many years. Jose and I have been in a committed relationship since 2023. Having known him for so long, I can confidently say that Jose has always been respectful, responsible, and very hardworking.

Jose has lived in the United States since the age of one, and this is the only home he truly knows. He is currently 18 years old and still attending high school, working toward his education and future. He has no prior arrests or criminal convictions, and the recent charges that led to his detention have been dismissed. I firmly believe those charges do not reflect who he truly is as a person.

Jose is someone who values responsibility, family, and personal growth. He is one of the most hardworking people I know not because he was forced to be, but because he wanted to build a better future for himself and his family. He worked long days doing asphalt and seal coating in the sun, managed Little Caesars at night, and welded on the weekends to earn extra money. Despite his demanding schedule, he remained committed to school and never complained. Jose has always been generous and selfless with what he earned.

Jose's only wish right now is to come home. He is not trying to avoid responsibility or the legal process he simply wants the opportunity to be released on bond so he can be with his loved ones, continue his education, and face his case from a place of stability and support. Home represents safety, guidance, and the structure he needs to continue moving forward.

Since Jose has been detained, I have seen a noticeable change in him. He is no longer the motivated, hopeful person he was before. Detention has taken a visible toll on his emotional and mental well-being, especially given his young age and the fact that this is the first time he has ever been separated from his support system for such a long period.

Jose is no danger to anyone. Watching someone so young, driven, and full of potential slowly lose hope has been heartbreaking. I truly believe that continued detention will only cause further emotional harm, while releasing him on bond would allow him to regain stability, return to school, and meaningfully participate in his case.

I respectfully ask the court to grant Jose bond so he may return home while his immigration case proceeds. Thank you for taking the time to consider this letter and for allowing me to share the impact Jose's detention has had on his life and on the people who love him.

Sincerely,  
Ava Roybal



**N**

To Whom It May Concern,

of 89

I am writing this letter on behalf of my cousin, Jose. Jose has lived in the United States since he was just one year old. America is the only home he remembers " it is where he was raised, educated, formed lasting friendships, and built his life.

Jose is a genuinely kind and compassionate person who consistently puts others before himself. He is someone our family deeply depends on, always stepping in to help when anyone is in need. He treats everyone with respect and demonstrates strong values and integrity in his daily life.

Jose is not a danger to the community. He is peaceful, hardworking, and strongly family-oriented. He is committed to continuing a productive and positive life in the country he calls home. Separating him from the only home he has ever known would cause profound emotional hardship for both him and our entire family.

I respectfully ask that you carefully consider Jose's character, his contributions, and the life he has established here. He deserves the opportunity to remain in the country that has been his home for nearly his entire life.

Thank you very much for your time, consideration, and understanding.

Sincerely,  
Abel Millan



**O**

Dear Honorable Judge,

My name is Lillyana Millan, and I am writing this letter in strong support of Jose Millan-Olivas, my cousin, whom I have known my entire life. We grew up together and share many memories from as early as I can remember.

Throughout the years, I have come to know Jose as a responsible, caring, and exceptionally hardworking individual. He is deeply committed to his family and community and has consistently demonstrated good character and respect for the law. Jose has lived in the United States since the age of one; this is the only home he has ever known. During his time here, he has worked hard in school and built meaningful friendships and relationships with those around him, including myself.

Because of our lifelong relationship, I firmly believe that Jose is not a flight risk and poses no danger to the community. He has strong ties to this country, including close family relationships, connections with friends, and ongoing educational commitments.

For these reasons, I respectfully ask the Court to grant Jose bond so that he may return home while his immigration case continues. Thank you for your time and consideration of this request.

Sincerely,  
Lillyana Millan

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12th day of March 2026, I uploaded a true and correct copy of the foregoing **Respondent's Brief and Index of Exhibits in Support of Bond Eligibility Pursuant to District Court of Colorado Order & 8 U.S.C. § 1226(a)**, regarding **Jose MILLAN OLIVAS**, ~~XXXXXXXXXX~~, electronically through ECAS and both parties are participating in ECAS. Therefore, as specified under 8 C.F.R. § 1003.32(a) no separate service is required, and service has been completed.

/s/ Skylar M. Larson

Skylar M. Larson, Esq.

Attorney for Respondent