

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Franklin SANCHEZ Henao

Petitioner,

v.

Julio HERNANDEZ et al.,

Respondents.

Case No. 2:26-cv-00707-LK

**MOTION TO ENFORCE PRIOR
COURT ORDER AND FOR
RELEASE FROM CUSTODY**

INTRODUCTION

On April 2, 2026 this Court granted Mr. Sanchez's petition for a writ of habeas corpus in part, ordering the respondents to provide a meaningful bond hearing within seven days wherein the government would bear the burden of establishing that Mr. Sanchez was a flight risk or danger to the community. If the respondents failed to do so they were ordered to immediately release Mr. Sanchez. The petitioner herein moves this Court to order the immediate release of Mr. Sanchez considering the government's failure to provide an adequate bond proceeding as ordered.

Mr. Sanchez was scheduled for a bond hearing on April 9, however, the Immigration Judge presiding over the hearing made no assessment of facts or evidence and summarily stated that the government had met its burden without any factual analysis or reasoned decision-making. Critically, the Immigration Judge failed to meaningfully hold the Respondents to their burden. In short, the Respondents failed to faithfully execute this Court's order and as a result the petitioner should be immediately released.

Mr. Sanchez was provided a bond hearing in name only. The respondent's failure to follow

this Court's order is a continuation of the due process violation that began when Mr. Sanchez was redetained without a hearing in January.

STATEMENT OF THE FACTS

Mr. Sanchez came to the United States with his wife and son to seek asylum in October of 2023 after suffering a series of escalating threats in their native Colombia. They entered without inspection and turned themselves over to Border Patrol. They were briefly detained and released with a Notice to Appear in Immigration Court.

The Sanchez family filed timely applications for asylum, withholding, and CAT. They complied with their "alternatives to detention" (ATD) and attended all hearings. Mr. Sanchez and his wife obtained employment authorization and worked together at an apple packing plant in Yakima, Washington.

In January of 2026 Mr. Sanchez received a notice to appear for a check-in at the Yakima ICE office, which he did. He was detained and told that he had violated the terms of his ATD program. To this date the respondents have provided no specific evidence of the alleged violations, simply that they took place in April, July, and August of 2025.

Mr. Sanchez denies having failed to upload his photo to the ISAP/ATD app, or having failed in any other aspect of his ATD program. Critically, the ISAP app used by respondents is no longer accessible to Mr. Sanchez, so he is unable to access the communications he had in the app's messenger function, or any other information about compliance. Such evidence is in the sole possession of the respondents in this case and has not been provided in this or any other proceeding.

Mr. Sanchez presented the merits of his asylum case before the Tacoma Immigration Court while in detention on February 27, 2026. The case was denied and he filed a timely appeal to the

Board of Immigration Appeals where the case remains pending.

Mr. Sanchez also filed this petition for a writ of habeas corpus arguing he was unlawfully redetained and that he was entitled to a *predetention* custody hearing to determine whether he was a flight risk or a danger before a neutral judge.

On April 2 the petition was granted in part, ordering the respondents to provide a bond hearing where “the government bears the burden of proving by clear and convincing evidence that Sanchez is a danger to the community or a flight risk.” *Habeas Order* at 16. The Judge added “If a bond hearing is not provided within seven days of the date of this Order, Sanchez shall be released from ICE custody immediately on the terms of his most recent OREC . . .” *Id.*

Mr. Sanchez was scheduled for a bond hearing on April 9. The government’s only evidence was the I-213. *See* Exhibit A. The Immigration Judge explained that it was the Department’s burden to show by clear and convincing evidence that Mr. Sanchez was flight risk or danger. The Department argued that Mr. Sanchez had violated his ATD on three occasions, and that the merits of his asylum case were denied and the case was on appeal. These two facts, according to the Department, made Mr. Sanchez a serious flight risk.

In response counsel for Mr. Sanchez explained that the Department had not provided any evidence of actual ATD violations, an allegation Mr. Sanchez denies. Furthermore, the alleged violations happened in April, July, and August of 2025. He was not detained until five months later. In the subsequent months Mr. Sanchez continued to check in with ICE, and even reported voluntary for an appointment that resulted in his ongoing detention.

Counsel explained that Mr. Sanchez has fixed address in Yakima, Washington where he lived with his wife and son prior to his detention. He maintained steady employment and his employer provided a letter of recommendation indicating that Mr. Sanchez is welcome back to work if he is released. *See*, Exhibit B at 20.

Counsel also argued that Mr. Sanchez and his family were overwhelmingly compliant with all requirements set by ICE. Indeed, Mr. Sanchez's wife Yeimmy was scheduled for an in-person ICE check-in with Yakima ICE on April 8. She was understandably nervous to attend this appointment since her husband was detained under similar circumstances months earlier. Nevertheless, she attended her appointment without incident. All evidence suggests that the family came to this country to pursue a legal claim to asylum, not to hide or violate the law.

The Immigration Judge asked if Mr. Sanchez had any family in the United States with legal status and counsel responded that he did not. Mr. Sanchez's family's asylum application remains pending.

At the close of the hearing the Immigration Judge stated that the government had met their burden by clear and convincing evidence that Mr. Sanchez was a flight risk. He did not explain the reasons for this finding. Counsel asked the Immigration Judge to explain his reasoning to the Respondent through the interpreter and the Judge simply repeated that he was denying bond as the government had met their burden in establishing that Mr. Sanchez was a flight risk.

ARGUMENT

An order requiring the government to bear the burden of proof is not satisfied by mere assertion or conclusory statements. Such an order necessarily contemplates two essential elements: (1) presentation of evidence and argument by the party bearing the burden, and (2) a reasoned evaluation of that evidence by an independent adjudicator. The respondents failed on both counts.

First, the Department submitted an I-213 alleging three ATD violations last year in April, July and August. They provided no actual evidence or support for this claim, however. Even if Mr. Sanchez had failed to upload a photo to the ISAP/ATD app in April, July, and August of last year, he continued to comply with the program for *five months* without incident before reporting to an appointment where he was detained. These are simply not the hallmarks of a so-called "flight risk."

The government also argued that Mr. Sanchez was a flight risk because his asylum case was denied by the Immigration Judge and is currently on appeal. However, cases are often won on appeal and remanded for new findings. Appealing to the BIA and the Circuit courts can take many months or years, and Mr. Sanchez has a vested interest in continuing to comply with all orders while his case works its way through this process.

Second, The Immigration Judge made no findings of fact addressing the statutory factors for detention, conducted no analysis of whether Respondents had presented sufficient evidence to meet their burden of proof, and offered no reasoned explanation for the bond determination.¹

The standard factors to considered in an immigration bond determination are spelled out in *Matter of Guerra*, a 2006 Board of Immigration Appeals case. These factors include but are not limited to: having a fixed address in the United States, length of residence in the U.S., family ties, employment history in the U.S., immigration record, attempts to escape from authorities, failure to appear at hearings, and criminal record. 24 I&N Dec. 37, 38 (BIA 2006). The majority of these factors tip in Mr. Sanchez's favor.

The Immigration Judge failed to hold the government to their burden in this case and did not engage in any meaningful discussion of the above-referenced factors. Indeed, the hearing was a farce, meant to satisfy this Court's order in form only but not in substance. A meaningful bond hearing requires more than the mere occurrence of a proceeding.

By failing to assess the evidence, the Immigration Judge did not engage in the evaluative

¹ Sadly these kinds of hollow bond proceedings are now common place as other Federal District Courts have found. See, Anna Alejo, *Federal judge in Colorado flags immigration bond hearings with "preordained outcomes," orders release of asylum seeker*, CBS News, April 9, 2026 (available at <https://www.cbsnews.com/colorado/news/federal-judge-colorado-flags-immigration-bond-hearings-preordained-outcomes/>).

In *Singh v. Valdez*, Judge Martinez held that "the mounting evidence that bond determination hearings conducted in Immigration Court under 1226(a) have preordained outcomes has become impossible to ignore." *Singh v. Valdez*, Case No. 1:26-cv-01109-WJM (District of Colorado).

process necessary to determine whether Respondents carried their burden of proof. The absence of findings and analysis means there is no record demonstrating that the Immigration Judge evaluated whether the required evidentiary standard was met.

Critically, the purpose of an immigration bond is to *offset* concerns about flight risk. In other words, the payment of the bond is meant to ensure and secure compliance with immigration orders in the future. The Immigration Judge's complete and total denial of bond suggests that no amount of money could secure Mr. Sanchez's future compliance, a plainly absurd outcome in light of the facts.

PRAYER FOR RELIEF

The Respondents have plainly failed to carry out the Order issued by this Court on April 2. The appropriate remedy is spelled out in the Order itself: immediate release, and we ask that the Court so order.

Dated: 04/10/2026

Respectfully submitted,

/s/Stephen C. Robbins
Stephen C. Robbins

Attorney for Petitioner

EXHIBIT	DOCUMENT DESCRIPTION
A	I-213
B	Petitioner's Bond Hearing Evidence Packet III
C	Singh v. Valdez Order Granting Petition for Writ of Habeas Corpus, Case No. 26-cv-1109-WJM (District Court of Colorado)