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7 *Attorney For Petitioner*

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

10 **Abdoul Rahimy Bah,**

11 *Pettitioner,*

12 v.

13 **Patrick Divver, Field Office Director of**
14 **Enforcement and Removal Operations, San Diego**
15 **Field Office, Immigration and Customs**
16 **Enforcement; Jeremy Casey, Facility**
17 **Administrator, Imperial Regional Detention**
18 **Facility,**

19 *Respondents*

PETITIONER'S MOTION TO ENFORCE COURT ORDER

Case No. 26-CV-1453-BAS-DDL

20 **PETITIONER'S MOTION TO ENFORCE COURT ORDER**

21 Petitioner Abdoul Rahimy Bah, through undersigned counsel, respectfully moves this Court
22 to enforce its prior order entered on March 17, 2026, to order Petitioner's immediate release, or in the
23 alternative, to set a reasonable bond to secure Petitioner's release, pending final disposition of his
24 immigration proceedings. This Court ordered the government to bear the burden by clear and
25 convincing evidence that Petitioner is a danger to the community or a flight risk, such that *no amount*
26 *of bond or monitoring* can protect the public or ensure his appearance at future proceedings. A bond
27 hearing was conducted on March 23, 2026. For the reasons set forth below, that hearing did not
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1 comply with this Court order, constitutional or statutory requirements, and Petitioner respectfully
2 requests that this Court order his immediate release, or in the alternative, order a new bond hearing
3 for this Court to conduct that comports with due process.

4 **I. Relevant Factual and Procedural Background**

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- 6 1. Petitioner Abdoul Rahimy Bah is in the physical custody of Respondent at the Imperial
7 Regional Detention Center. He has been detained since his entry to the U.S. on December
8 13, 2024, for nearly 16 months, to date. On March 6, 2026, he filed a Petition for Writ of
9 Habeas Corpus seeking his immediate release, or in the alternative, a bond hearing where
10 the government bears the burden by clear and convincing evidence that he is a flight risk
11 or a danger to the community, and at which the adjudicator considers the suitability of
12 alternative conditions of supervision and Petitioner's ability to pay bond.
- 13
- 14 2. On March 17, 2026 the Honorable Cynthia Bashant ordered Respondents to provide
15 Petitioner with a bond hearing, where the government has the burden of proof at that
16 hearing to demonstrate by clear and convincing evidence that Petitioner is a danger to the
17 community or a flight risk, such that no amount of bond or monitoring can protect the
18 public or ensure his appearance at future proceedings.
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- 20 3. Petitioner's bond hearing was subsequently scheduled for March 23, 2026.
- 21
- 22 4. Prior to the scheduled bond hearing, Petitioner filed evidence regarding his lack of flight
23 risk and danger to the community, including several letters of support from his U.S. lawful
24 permanent resident sister and her U.S. citizen partner, their work, their home ownership,
25 their ties to the United States and their ability and willingness to sponsor the Petitioner. *See*
26 *Exh. A (Bond Evidence, filed 03/22/2026).*
- 27
- 28 5. The Immigration Judge ("IJ") denied bond, finding that Petitioner was a flight risk. Despite
evidence of his lawful permanent resident sister and her U.S. citizen partner's willingness
to sponsor Petitioner, the IJ found that since Petitioner had never been released from

1 detention, he had no “actual address” in the U.S. or work history. Ultimately, the IJ found
2 that *no amount of bond* could mitigate the flight risk in Petitioner’s case. *See* Exh. B. (IJ
3 Order Denying Bond, dated 03/24/2026)

4 6. Petitioner has not had the opportunity to live outside of detention in the U.S., but provided
5 evidence of regarding his sister, who is a lawful permanent resident, and her U.S. citizen
6 partner, who own a home in the U.S., have stable work, and who have demonstrated their
7 commitment to supporting Petitioner while his case is on appeal at the Board of
8 Immigration Appeals (“BIA”).

9 7. Further, while it was the government’s burden to demonstrate Petitioner posed flight risk
10 or danger by clear and convincing evidence, the government did not submit *any* evidence
11 prior to or during the bond hearing.

12 8. Additionally, Petitioner must note that the IJ demonstrated visible displeasure and animus
13 towards this Honorable Court and its order to hold a burden-shifted bond hearing before
14 the immigration court. At the outset of the bond hearing, while the IJ was placing Petitioner
15 under oath, Petitioner responded and affirmed that he would tell the truth in the
16 proceedings. His statement was interpreted from his native Fulani language to English by
17 the court interpreter as, “I swear to tell the truth in this American court.” Upon hearing
18 Petitioner’s statement, the IJ became visibly angry and reprimanded Petitioner, stating that
19 “this is not the American court. This is immigration court,” and further stated that she was
20 pointing out this distinction because “you [Petitioner] went to the US court to tell this court
21 what to do.”¹

22 Accordingly, the IJ’s reasoning was constitutionally deficient for the reasons set forth below.
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28 ¹ While a written transcript of this bond hearing is not available at this time, this exchange was simultaneously recorded
in counsel’s notes taken during the March 23, 2026 bond hearing

1 **II. The IJ Failed to apply the proper burden shift and standard to the**
2 **government under this Court's order and *Singh v. Holder***

3 Under the Court's order and binding Ninth Circuit precedent in *Singh v Holder*, the
4 government bears a burden of clear and convincing evidence to show that Petitioner is a flight
5 risk or a danger to the community such that no amount of bond or alternatives to detention would
6 ameliorate it. 638 F.3d 1196 (9th Cir. 2011). Here, while the government had the burden of
7 proof, it did not submit *any* evidence showing that Petitioner was a danger or a flight risk.
8 Instead, the IJ and government attorney questioned Petitioner about his manner of entry into the
9 U.S. when he was just nineteen years old, after fleeing persecution in his home country in Guinea
10 and multiple attempted kidnappings in Mexico. The IJ did not properly apply the burden shifting
11 framework to the government. "Due process requires 'adequate procedural protections' to ensure
12 that the government's asserted justification for physical confinement 'outweighs the individual's
13 constitutionally protected interest in avoiding physical restraint.'" *Singh*, 638 F.3d at 1203 (citing
14 *Zadvydas v Davis*, 533 U.S. 678, 690 (2001)). As the Ninth Circuit emphasizes in *Singh*, "the
15 Supreme Court has repeatedly reaffirmed the principle that "due process places a heightened
16 burden of proof on the State in civil proceedings in which the 'individual interests at stake . . . are
17 both particularly important and more substantial than mere loss of money.'" *Id* at 1204 (citing
18 *Cooper v Oklahoma*, 517 U.S. 348, 363 (1996). As Petitioner's liberty is at stake, the heightened
19 standard is necessary.
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22 Here, the IJ did not properly apply the correct standard or burden shift to the government,
23 and its outcome was prejudicial against Petitioner. The IJ failed to properly evaluate Petitioner's
24 flight risk regarding a fixed address, community ties and work history of Petitioner under the
25 *Guerra* factors and in light of the evidence presented by Petitioner. Further, the government did
26 not submit any evidence at all. As Petitioner has been detained since his entry to the U.S., the IJ
27 did not properly analyze his case in light of this fact, and the fixed address, ties, and work history
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1 of his bond sponsor sister and her fiancé. The government, in not submitting any evidence and
2 conducting a brief cross examination, did not meaningfully meet its high burden by clear and
3 convincing evidence that Petitioner is a flight risk, and the IJ failed to properly hold the
4 government to the proper standard, or meaningfully examine the evidence presented by Petitioner
5 whatsoever.

7 III. The IJ Failed to Conduct a Meaningful Analysis Under *Matter of Guerra*

8 In making a bond determination, the IJ must sufficiently explain the reasoning to permit
9 judicial review. *Garcia v. Hyde*, No. 25-cv-585-JJM-PAS, 2025 WL 3466312, at *1 (D.R.I. Dec. 3,
10 2025) (providing nonprecedential but instructive reasoning for this Court in the Third Circuit) (citing
11 *Barnica-Lopez v. Garland*, 59 F.4th 520, 530 (1st Cir. 2023)). While the IJ “need not discuss ad
12 nauseam every piece of evidence,” the IJ “may not simply ignore substantial testimonial and
13 documentary proof.” *Barnica-Lopez*, 59 F.4th at 530.

15 Here, The IJ improperly found that Petitioner was a flight risk because he had “no actual
16 address” in the U.S. and “no work history”. *See* Exh. B. However, this finding is based upon a logical
17 fallacy, as it fails to address that the Petitioner has not had an opportunity to obtain an address or to
18 work in the U.S., as he has been detained ever since his entry. Moreover, the IJ did not engage with
19 the evidence of his lawful permanent resident sister and her family, including her fiancé who is a U.S.
20 citizen, their ties to the community and ability and willingness to ensure that Petitioner continues to
21 comply with the conditions of his release from detention. The IJ conducted a cursory review of the
22 comprehensive evidence for flight risk during each bond hearing, then issued a conclusory denial that
23 did not meaningfully engage with any of the *Guerra* factors—including Petitioner’s sister’s fixed
24 address, length of residence, family ties, employment history, and manner of entry. *See Matter of*
25 *Guerra*, 24 I&N Dec. 37 (BIA 2006) (listing factors IJs may consider in determining whether
26 noncitizens merit release on bond).
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28 Crucially, the IJ not only failed to properly engage with the *Guerra* factors in her flight

1 risk analysis, but also she failed to properly hold the government to its burden of proof to
2 demonstrate that Petitioner was a danger or flight risk by clear and convincing evidence, as it was
3 ordered to do so by this Court. The government did not submit any evidence that Petitioner was a
4 flight risk, although it conceded that Petitioner is not a danger. Finally, the IJ improperly noted
5 that due to Petitioner's removal order (which is not final, as it is on appeal), that Petitioner is an
6 "extreme flight risk." **This fails to engage with precedent in this Circuit, as "regardless of the
7 stage of proceedings, the same important interest is at stake—freedom from prolonged
8 detention." *Singh*, 638 F.3d at 1205.** Petitioner exercised his right to appeal his case, which adds
9 an indefinite period of time to his detention. This fundamental interest in freedom is at stake for
10 Petitioner, and due to the pending appeal, he is only marginally closer to "actual removal from
11 the U.S." *Id.*

12 13 **IV. The Hearing Amounted to a Rubberstamp Denial That Violated Due Process**

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15 Federal courts have consistently held that due process requires more than perfunctory bond
16 proceedings. "[D]ue process is not satisfied ... by rubberstamp denials [of bond]." *Chi Thon Ngo v.*
17 *INS*, 192 F.3d 390, 398 (3d Cir. 1999). "The stakes are high and . . . grudging and perfunctory review
18 is not enough to satisfy the due process right to liberty, even for [noncitizens]." *Id.* That court found
19 that a mere presumption of dangerousness or flight risk, without an individualized current assessment,
20 violates due process. *Id.* at 398–99.

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22 The District of Rhode Island recently confronted analogous circumstances. In *Garcia v Hyde*,
23 Chief Judge McConnell found that the Immigration Judge's failure to meaningfully engage with the
24 evidence constituted a due process violation warranting immediate release. 2025 WL 3466312, at
25 *11–12 (citing Third Circuit precedent *Chi Thon Ngo*, 192 F.3d at 398). The court specifically noted
26 that it does not "challenge the IJ's discretionary judgment" but rather "whether the IJ provided him
27 with a constitutionally adequate bond hearing." *Id.* at *5. Like in Petitioner's case, the IJ in *Garcia*
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1 issued a denial without meaningfully analyzing the evidence, and the court concluded that this was
2 “an error of law” violating due process. *Id.* at *11 (citing *Chi Thon Ngo*, 192 F.3d at 398)

3 The *Garcia* court further observed that “in recent months, IJs have faced enormous pressure
4 from the Executive Branch to dismiss cases quickly and rule in certain ways,” but that this did not
5 absolve IJs of their constitutional obligations. *Id.* at *11–12. This observation is further supported by
6 the Declaration of Jorge E. Artieda, Esq., attached as Exhibit C, in which an attorney with over two
7 decades of immigration experience—including service as an ICE prosecutor—describes a “seismic
8 shift” in bond hearing outcomes beginning in January 2026, with IJs systematically denying bond in
9 post-habeas cases using rationales that “appear to bear little relationship to genuine individualized risk
10 assessment.” Exh. C (Artieda Decl.), at ¶¶ 8–11, 16–18.

12 **V. Immediate Release Is the Appropriate Remedy under *Sales* and *Ramos***

13 Where a bond hearing is constitutionally inadequate, federal courts have broad discretion to
14 fashion appropriate relief, including ordering immediate release. *See Garcia*, 2025 WL 3466312, at
15 *11 (ordering immediate release where “due process violations ... pervaded his bond hearing”);
16 *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972). Because the hearing that was conducted did not
17 comport with due process, Petitioner respectfully submits that release is now warranted.

18 Courts in this Circuit have found that where the IJ did not properly apply the correct burden
19 of proof on the government the appropriate relief is immediate release. *See Ramos v. Sessions*, 293 F.
20 Supp. 3d 1021, 1038 (N.D. Cal., March 13, 2018) (granting motion to enforce and ordering immediate
21 release when the IJ failed to apply the proper burden); *Sales v. Johnson*, 2017 WL 6855827 at *7
22 (N.D. Cal., Sept. 20, 2017) (same). In both *Ramos* and *Sales*, the IJ impermissibly applied the
23 incorrect standard. *Id.* The court in *Ramos* notes the “high burden” that clear and convincing evidence
24 is, and that it must be “demonstrated in fact, not theory.” 293 F. Supp. 3d at 1036 (citing *U.S. v.*
25 *Patriarca*, 948 F.2d 789, 792 (1st Cir. 1991)) Here, as in *Sales* and *Ramos*, the government did not
26 meet their high burden to establish that Petitioner is a flight risk, and the IJ did not properly shift the
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1 burden onto the government, who provided no evidence. As the Ninth Circuit has found, the longer a
2 noncitizen is detained, the more robust the procedural protections should be. *Rodriguez v. Robbins*,
3 804 F.3d 1060, 1077 (9th Cir. 2015). Petitioner has been detained for nearly 16 months, with no end
4 to his detention in sight, without relief from this Court.

5
6 Moreover, the pattern of constitutionally deficient bond hearings is not unique to Petitioner’s
7 case and with EOIR. In January 2026, Chief Judge Patrick J. Schiltz of the District of Minnesota—a
8 conservative jurist appointed by President George W. Bush—found that ICE had violated 96 court
9 orders across 74 immigration cases since January 1, a tally he described as “almost certainly
10 substantially understated.” Exh. D (Feuer, N.Y. Times, dated 01/28/2026). Judge Schiltz admonished
11 that ICE had disobeyed more judicial directives in a single month than “some federal agencies have
12 violated in their entire existence,” and warned: “ICE is not a law unto itself.” *Id.*

13
14 Concurrent with this pattern of noncompliance, there is mounting evidence that the Executive
15 Branch is exerting direct pressure on IJs to reach predetermined outcomes.² Immigration attorney
16 Matthew Hoppock reported on February 4, 2026, that every Somali client he represents in
17 immigration court—eight individuals—had their hearings simultaneously cancelled and their cases
18 reassigned to a single Immigration Judge presiding by video from Louisiana. *See* Exh. E (Hoppock,
19 Bluesky, Feb. 4, 2026); Exh. F (Biography of Matthew Hoppock). Multiple other immigration
20 attorneys reported the same reassignment pattern affecting all of their Somali clients. *Id.* This same
21 judge’s bond decision in another high-profile case was later overturned by a federal district court for
22 due process violations *Id.*

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27 ² A former judge in the Chelmsford Immigration Court recently stated in an interview that he “was told to rule
28 in a certain way” by his superiors, who “also had pressure from above” *Romero*, 2025 WL 2403827, at *7
(citing Oscar Margain, *Fired Immigration Judges Describe Threat to Judicial Independence from Justice
Dept.*, NBC Boston (July 25, 2025), <https://www.nbcboston.com/news/local/fired-us-immigration-judge-interviews/3776340>)

1 These developments underscore the need for robust federal judicial oversight to ensure that
2 habeas relief ordered by this Court is not rendered meaningless. When IJs face documented pressure
3 to deny bond and dismiss cases, and when ICE has demonstrated a pattern of defying federal court
4 orders, the only adequate remedy is one that does not depend on agency compliance with
5 constitutional norms it has already shown a willingness to disregard.³
6

7 VI. Conclusion

8 “The fact that some aliens posed a risk of flight in the past does not mean they will forever
9 fall into that category. Similarly, presenting danger to the community at one point by committing
10 crime does not place them forever beyond redemption.” *Chi Thon Ngo*, 192 F.3d at 398. The current
11 politicization and hollowing out of the immigration court system, replete with mass firings of
12 immigration judges who fail to deny or restrict relief to noncitizens, requires judicial intervention
13 until the presumption of regularity returns.⁴ This Court should order immediate release.
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15 Petitioner’s liberty interest and the presumption in favor of the least restrictive means of
16 ensuring appearance outweigh the concern of flight risk, particularly given Petitioner’s history of
17 compliance, community ties, and proposed conditions. The public interest is served by ensuring that
18 detention is not more restrictive than necessary and that constitutional principles are upheld.
19 Accordingly, this Court should set a bond that reasonably assures Petitioner’s appearance and
20 compliance.
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25 ³ Undersigned counsel also requests that this Honorable Court take judicial notice of the number of FBI agents,
26 DOJ attorneys, and federal employees who have resigned over concerns that they be forced to act in a manner
contrary to law.

27 ⁴ Ximena Bustillo and Scott Simon, *The Trump administration fired nearly 100 immigration judges in 2025.*
28 *What’s next?*, NPR News (Jan. 10, 2026), available at <https://www.npr.org/2026/01/10/nx-s1-5672386/the-trump-administration-fired-nearly-100-immigration-judges-in-2025-whats-next> (“The DOJ’s own hiring campaign calls these positions deportation judges, not immigration judges. And the DOJ is expected to bring on more military lawyers as temporary immigration judges this month.”).

1 WHEREFORE, Petitioner respectfully requests that the Court grant this Motion to Enforce the
2 Court's Order.

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4 Dated. April 13, 2026

Respectfully submitted,

s/ Curtis Lee Morrison, Esq.
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CERTIFICATE OF SERVICE

I hereby certify that on April 13, 2026, I caused the foregoing Petitioner’s Motion to Enforce Court Order to be filed via the Court’s CM/ECF system, which will send notice to all counsel of record:

Adam Gordon, Esq.
Antonio Estrada, Esq.
United States Attorney's Office
Southern District of California
880 Front St., Rm. 6293
San Diego, CA 92101-8893

Date: April 13, 2026

s/ Curtis Lee Morrison, Esq
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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

Abdoul Rahimy Bah,
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v.
Patrick Divver, Field Office Director of Enforcement and Removal Operations, San Diego Field Office, Immigration and Customs Enforcement; Jeremy Casey, Facility Administrator, Imperial Regional Detention Facility,

Respondents.

Case No. 26-CV-1453-BAS-DDL

**LIST OF EXHIBITS
IN SUPPORT OF PETITIONER'S
MOTION TO ENFORCE COURT
ORDER**

EXH.	DESCRIPTION
A	Petitioner's Bond Evidence, filed 03/22/2026
B	Order of the Immigration Judge Denying Bond, dated 03/24/2026
C	Declaration of Jorge E. Artieda, Esq.
D	Feuer, NY Times, dated 01/28/2026
E	Hoppock, Bluesky, dated 02/04/2026
F	Biography of Matthew Hoppock