JAMES M. CHAVEZ
California State Bar No. 255766
Law Office of James M. Chavez
501 W. Broadway, Suite 240
San Diego, California 92101
Telephone: (619) 894-6464
james@jameschavezlaw.com
Counsel for Petitioner Pavel A[redacted] V[redacted]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PAVEL A[redacted] V[redacted] Petitioner, v. **WARDEN OF IMPERIAL REGIONAL DETENTION FACILITY, *et. al.* ;**	Civil Case No.: 3:26-cv-01495-BTM-SBC **PETITIONER'S SUPPLEMENTAL BRIEF RE: STANDARD OF REVIEW AND WHETHER THE IMMIGRATION JUDGE PROPERLY DENIED BOND** Hon. Barry Ted Moskowitz Due: May 13, 2026

INTRODUCTION

By its April 16, 2026 order, this Court directed supplemental briefing on two questions: (1) the applicable standard of review, and (2) whether the immigration judge ("IJ") properly denied bond. This brief addresses both questions.

As newly appointed CJA counsel, undersigned counsel discloses that the full record—including a transcript of the bond hearing recording, which counsel has reviewed in its entirety and attaches as Exhibit A—reveals arguments stronger than those raised in the existing filings. Consistent with counsel's obligations as an

officer of this Court, this brief raises those arguments.

In brief: the IJ denied bond with a single written conclusory sentence, failed to apply any identifiable legal standard, ignored exculpatory evidence that Voronin presented without contradiction, acknowledged uncertainty about the very facts he found dispositive, and misread the record on the assault arrests

The IJ denied bond with one conclusory sentence. He applied no identifiable legal standard. He ignored virtually every factor required by *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006). He failed to engage with Voronin's uncontradicted, coherent explanation for all three incidents. He acknowledged uncertainty about the very arrests he cited as dispositive. He never considered alternatives to detention. Every factor that matters favors release. All of that is an abuse of discretion under *Martinez v. Clark*, 124 F.4th 775 (9th Cir. 2024).

Pavel Voronin has now been detained for over six months. He has no convictions. He entered lawfully. He lived here for five years without a criminal record. He complied with every requirement. He has a pending asylum application. The agency that detained him reportedly found he posed no danger. The criminal court closest to his pending charges released him on zero bail. The IJ's finding that he is dangerous cannot be reconciled with that record. That is an abuse of discretion.

Additionally, newly appointed this counsel asks this Court to consider immediate release.

STATEMENT OF FACTS

A. Petitioner's Background and Immigration History.

Pavel A[redacted] V[redacted] is a 30-year-old Russian national who entered the United States lawfully on an F-1 student visa on February 29, 2020, following prior authorized entries in 2018 and 2019. He attended Brigham Young University–Idaho.

In October 2020, his F-1 status expired, but he promptly filed an affirmative I-589 application for asylum with USCIS. USCIS confirmed his authorization to remain in the United States pending adjudication and issued him work authorizations valid from 2021 through 2025. V[redacted] complied with every requirement: he notified DHS of his address changes, appeared at his biometrics appointment, and renewed his authorization. DHS never scheduled an asylum interview. For affirmatively-filed applications, DHS was required to process the case through an asylum officer interview—not through immigration court.

Over the five years that followed, V[redacted] built a life in this country. He lived here continuously, maintained lawful federal authorization, and worked. He accumulated no criminal convictions of any kind. These facts are undisputed and they are the baseline against which the IJ's dangerousness finding must be measured, and not just the June through October arrests that are all tied to one individual in Mr. V[redacted]'s life.

After V[redacted]'s October 2025 arrest, DHS issued a Notice to Appear charging him as deportable under § 237(a)(1)(B) for overstaying a nonimmigrant visa. That charge confirms he was lawfully admitted and is detained under 8 U.S.C. § 1226(a)—not § 1225(b). Exh. to Pet., ECF No. 1-2 at 24. Detention facility medical records confirm V[redacted] is HIV-positive and receiving Biktarvy, an antiretroviral medication costing approximately $4,500 per month, now funded by ICE.

B. The October 2025 Arrest and ICE Detention.

On October 30, 2025, in Salt Lake County, Utah, V[redacted] was pulled over for an expired vehicle registration while driving a car he was in the process of purchasing. Drugs were found in the vehicle. Four charges followed: DUI, possession of a controlled substance, possession with intent to manufacture/distribute, and operating without insurance. All charges remain

pending; no conviction has been entered. The following day, the county jail released V[redacted] on zero bail before ICE assumed custody.

ICE placed a detainer and assumed custody on November 3, 2025. A warrant for failure to appear later issued in the criminal matter—not because V[redacted] absconded, but because ICE had detained him and he was physically unable to appear. He attempted to notify the court. The warrant is a consequence of his immigration detention, not evidence of flight.

V[redacted]'s pro se petition states that at some point ICE conducted a biometric background check and concluded that he would not be a danger to the community if released from custody. Pet., ECF No. 1, at 6. That is a significant admission by the detaining agency itself.

V[redacted] has been detained since November 3, 2025—over six months as of this filing.

C. The Bond Hearing.

On February 6, 2026, an IJ at the Imperial Immigration Court held a custody redetermination hearing via WebEx. V[redacted] appeared unrepresented. DHS was represented counsel. The hearing was recorded; counsel has prepared a transcript of that recording, attached hereto as Exhibit A. All "Tr." citations refer to that transcript.

DHS presented three incidents, all involving the same individual: (1) a June 1, 2025 arrest in Utah for aggravated assault; (2) an August 16, 2025 arrest for domestic violence; and (3) the October 30, 2025 drug and DUI arrest. V[redacted] explained—without contradiction—that all three incidents were connected to the same person. Tr. at 4. As he stated at the hearing: "all of the three incidents are related to me being with the same individual." Tr. at 4. The June 1 and August 16 incidents both involved that partner calling police and then recanting both times, resulting in no charges on either occasion. The IJ acknowledged this on the record:

"So from June 1st, 2025, that is not a pending charge." Tr. at 3. As for the October 30 drug charges, V[redacted] explained he was driving the vehicle, that the drugs were also found "on the person who was driving with me," and that he is contesting the charges. Tr. at 5.

The narrative that V[redacted]'s uncontradicted testimony supported—and that the IJ never considered—is straightforward: V[redacted] was in a relationship with a partner who struggled with substance abuse. Two police calls, both recanted, consistent with the recognized pattern of troubled relationships involving addiction. Drugs found in a shared vehicle that were also found on the partner. The IJ was presented with a false binary: either the partner was "extremely delicate" or V[redacted] "really was beating that person up." Tr. at 5. He never considered the third and most plausible explanation, which was fully available on the record.

D. The IJ's Ruling.

The IJ's written order states, in its entirety: "Respondent has not sustained his burden of proof to show he would not be a danger to the community if released from detention." Order, ECF No. 1-2 at 48. Orally, the IJ cited "two arrests for aggravated assault" involving "the same alleged victim," called the drug and DUI charges "serious," remarked that "bad things seem to be within your personal space frequently," and stated of the assault arrests: "I don't know"—acknowledging uncertainty about the very basis for his finding. Tr. at 3–5.

V[redacted], unrepresented, waived appeal to the BIA and filed this pro se § 2241 petition on March 9, 2026. Federal Defenders appeared, filed a traverse, then withdrew due to a conflict. This Court appointed present counsel on April 30, 2026.

ARGUMENT

I. THE STANDARD OF REVIEW IS ABUSE OF DISCRETION, BUT THAT STANDARD STILL ALLOWS FOR MEANINGFUL REVIEW

A. Martinez Established Abuse of Discretion Review.

Martinez v. Clark is the controlling authority on both reviewability and the standard of review. 124 F.4th 775 (9th Cir. 2024). The Ninth Circuit held that a dangerousness determination under § 1226 is a reviewable mixed question of law and fact—not a purely discretionary determination shielded from review by § 1226(e). *Id.* at 783–84. The court further held that the applicable standard is abuse of discretion. *Id.* at 784–85. Under that standard, this Court cannot reweigh evidence, but can determine whether the IJ applied the correct legal standard, failed to consider important evidence, or made findings unsupported by the record. *Id.* at 785; *Miri v. Bondi*, 2026 WL 622302, at *8–9 (C.D. Cal. Mar. 5, 2026).

B. The Standard Should Be Applied With Genuine Rigor.

Martinez derived the abuse-of-discretion standard by analogy from *Konou v. Holder*, 750 F.3d 1120 (9th Cir. 2014), via a "cf." citation—an acknowledgment that the derivation was analogical, not statutory. 124 F.4th at 785. The APA, by contrast, commands that courts hold unlawful any agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). That standard requires the agency to "offer a rational connection between the facts found and the choice made." *Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 43 (1983). An agency that "entirely failed to consider an important aspect of the problem" has acted arbitrarily. *Id.* at 43.

There is also a structural asymmetry: the BIA reviews an IJ's bond determination de novo on "questions of law, discretion, judgment, and other issues." 8 C.F.R. § 1003.1(d)(3)(ii). Yet *Martinez* would have this Court review the same question more deferentially. This asymmetry is sharpest here, where there was no BIA review at all: Voronin waived appeal. This Court sits as the first reviewing court. The rationale for maximum deference does not apply with equal force in that posture.

Moreover, this case also arises in the wake of *Loper Bright Enterprises v.*

Raimondo, 603 U.S. 369 (2024), which overruled *Chevron U.S.A., Inc. v. Natural Resources Defense Council*, 467 U.S. 837 (1984), ending forty years of judicial deference to agency statutory interpretations. The Court held that the APA "requires courts to exercise their independent judgment in deciding whether an agency has acted within its statutory authority, and courts may not defer to an agency interpretation of the law simply because a statute is ambiguous." 603 U.S. at 412. The Court grounded that holding in Article III's core command—traced to *Marbury v. Madison*—that "[i]t is emphatically the province and duty of the judicial department to say what the law is." 1 Cranch 137, 177 (1803). *Loper Bright* does not govern the standard of review here directly; *Martinez* remains binding. But the animating principle reinforces the case for genuine rigor: where a court is the first tribunal reviewing a liberty deprivation and the agency action is a denial of physical freedom, the constitutional obligation to exercise real judgment is at its apex.

Counsel does not ask this Court to depart from *Martinez*. Counsel asks that the Court apply abuse of discretion with genuine rigor—informed by the APA's requirement of reasoned agency action and the post-*Loper Bright* recognition that independent judicial judgment, not reflexive deference, is the constitutional baseline. This Court need not break from *Martinez* to apply it with the rigor the facts demand.

II. THE IMMIGRATION JUDGE ABUSED HIS DISCRETION

Matter of Guerra, 24 I&N Dec. 37, 40 (BIA 2006), is the BIA's governing decision establishing the framework immigration judges must use when determining whether a noncitizen should be detained or released on bond. It is not optional background law. It is the test. *Martinez* recognized *Guerra* as the operative standard for the dangerousness determination that this Court is reviewing. 124 F.4th at 783–84. *Miri* applied it in granting habeas relief. 2026 WL 622302, at *7–9. Every error described below is an error under *Guerra* and, because it

reflects application of a wrong—or no—legal standard, constitutes an abuse of discretion under *Martinez*, 124 F.4th at 785.

Guerra directs that when deciding whether to detain or release a noncitizen, an IJ must conduct an individualized assessment considering the following factors to the extent applicable:

> (1) whether the alien has a fixed address in the United States; (2) the alien's length of residence in the United States; (3) the alien's family ties in the United States, and whether they may entitle the alien to reside permanently in the United States in the future; (4) the alien's employment history; (5) the alien's record of appearance in court; (6) the alien's criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses; (7) the alien's history of immigration violations; (8) any attempts by the alien to flee prosecution or otherwise escape from authorities; and (9) the alien's manner of entry to the United States.

Matter of Guerra, 24 I&N Dec. at 40.

An IJ "has broad discretion to weigh the listed factors and add any factors not mentioned or discount those that are less probative." *Martinez*, 124 F.4th at 784. But that discretion operates *within* the *Guerra* framework, not outside it. The IJ must apply the framework and explain how the relevant factors bear on the conclusion. An IJ who skips the framework entirely does not exercise discretion—he exercises nothing at all. *See Miri*, 2026 WL 622302, at *8–9; *Barrera-Leyva v. INS*, 653 F.2d 379, 380 (9th Cir. 1981) (IJ abused discretion by failing "to consider all of the relevant factors"); *Franco-Rosendo v. Gonzales*, 454 F.3d 965, 966 (9th Cir. 2006) (abuse of discretion where court fails to "consider and address in its entirety the evidence submitted by a petitioner").

Applied to these facts, virtually every *Guerra* factor counsels release. The IJ considered none of them.

A. The IJ Failed to Apply the Guerra Framework—and the Factors, Properly Applied, Favor Release.

Factor 1: Fixed address. V[redacted] had a fixed address in Salt Lake City, Utah. This factor favors release. The IJ never mentioned it.

Factor 2: Length of residence. V[redacted] had resided in the United States since 2020—over five years at the time of the bond hearing. He came lawfully. He remained under documented federal authorization throughout. Five years of continuous, documented presence is significant equitable weight. The IJ never mentioned it.

Factor 3: Family ties. The record contains no discussion of family ties. The IJ made no inquiry. This factor is neutral at worst. The IJ never mentioned it.

Factor 4: Employment history. V[redacted] held federal work authorization from 2021 through 2025 and worked throughout. He was registered with the federal government and authorized. This factor favors release. The IJ never mentioned it.

Factor 5: Record of court appearance. V[redacted]'s only failure to appear was caused by ICE's own detention of him—he attempted to notify the criminal court. A warrant that results directly from government detention is not evidence of voluntary court avoidance. This factor is at worst neutral. The IJ never mentioned it.

Factor 6: Criminal record. V[redacted] has no criminal convictions of any kind. None. The IJ focused on arrests—not convictions—while acknowledging that the assault arrests produced no charges and while expressing uncertainty about the underlying facts. The most probative aspect of Factor 6 is what is absent: any record of actual criminal activity. The IJ inverted this factor.

Factor 7: History of immigration violations. V[redacted] overstayed his F-1 status, but did so while timely filing an affirmative asylum application and maintaining continuous USCIS-issued work authorization. This was not clandestine violation; it was documented presence the government itself authorized.

This factor is at worst neutral. The IJ never addressed it.

Factor 8: Attempts to flee or evade authorities. None. V[redacted] filed affirmatively for asylum, notified DHS of address changes, appeared for biometrics, and renewed his authorization. This factor strongly favors release. The IJ never mentioned it.

Factor 9: Manner of entry. V[redacted] entered on a lawful F-1 visa after prior authorized entries. He did not enter illegally. This factor clearly favors release. The IJ never mentioned it.

Alternatives to detention. Under 8 C.F.R. § 236.1, an IJ conducting a custody redetermination must consider not only whether to detain but also whether conditions of supervision would adequately address any risk. The IJ never asked whether electronic monitoring, reporting requirements, or bond conditions could mitigate the concerns he identified. Failure to consider conditions of supervision as part of an individualized assessment is an independent legal error, and an additional basis on which the IJ failed to apply the correct legal standard under *Martinez*, 124 F.4th at 785.

The IJ's written ruling is one sentence. His oral ruling cited three arrests and expressed uncertainty about two of them. He did not identify a single *Guerra* factor. He did not acknowledge V[redacted]'s five-plus years of lawful, conviction-free presence. He did not mention the asylum application, the work authorization history, the compliance record, the medical condition, or the alternatives to detention. An IJ who denies bond without engaging the *Guerra* framework has failed to apply the correct legal standard. That is an abuse of discretion under *Martinez*, 124 F.4th at 785, and the error here is more egregious than in *Miri*, where the court granted relief on comparable facts. 2026 WL 622302, at *8–9.

B. The IJ Misread the Record on the Assault Arrests.

In his oral ruling, the IJ cited "two arrests for aggravated assault . . . regarding the same alleged victim" as a basis for the danger finding. But the IJ had moments

earlier acknowledged, on V[redacted]'s clarification, that the June 1 charge "is not a pending charge." Tr. at 3. Both arrests involved the same partner, who recanted both times, and neither resulted in charges. An IJ who acknowledges the weakness of evidence, then treats that evidence as dispositive while stating "I don't know" about the underlying facts, has not applied a legal standard. That is a coin flip, and it is an abuse of discretion.

More fundamentally, the IJ presented himself with a false binary—either the partner was "extremely delicate" or V[redacted] "really was beating that person up"—while ignoring the third and most plausible explanation: V[redacted] was in a relationship with a partner who struggled with substance abuse. Two police calls, both recanted. Drugs found in a shared vehicle, also found "on" the partner. A pattern consistent with what practitioners and courts routinely recognize in troubled relationships involving addiction. V[redacted] himself tied all three incidents together at the hearing, stating they were all "related to me being with the same individual." Tr. at 4. The IJ had every piece of this on the record. He never considered it.

Under *Martinez*, an IJ abuses discretion when he fails to mention "highly probative or potentially dispositive evidence." *Martinez*, 124 F.4th at 785 (quoting *Cole v. Holder*, 659 F.3d 762, 771–72 (9th Cir. 2011))). The unifying narrative tying all three incidents to one individual's substance abuse was highly probative. It was ignored. That satisfies the second prong of *Martinez*'s abuse-of-discretion standard.

C. The IJ Failed to Engage With V[redacted]'s Explanation for the Drug Charges.

V[redacted] told the IJ the drugs were also found "on the person who was driving with me" and that he is contesting the charges. Tr. at 5. The IJ said nothing about this explanation. An uncontradicted, potentially dispositive explanation—that drugs found in a shared vehicle also belonged to a passenger who had a documented pattern of substance use and whose prior accusations against V[redacted] had twice

proven unreliable—deserved engagement. The IJ gave the drug charges uncritical weight while ignoring the explanation entirely. That is an abuse of discretion: the IJ failed to consider important evidence. *Martinez*, 124 F.4th at 785.

The criminal court with firsthand jurisdiction over these very charges released V[redacted] on zero bail. That is not nothing—it is a direct assessment of dangerousness by the court most familiar with the charges, and it cut the other way. The IJ never addressed it.

D. The Burden Issue.

The IJ placed the burden on Voronin throughout. Under standard § 1226(a) procedure at the time of the hearing, that was technically correct—three months of detention was close to but had not clearly crossed the prolonged-detention threshold. But today, V[redacted] has been detained over six months. At any future hearing, the government must bear the burden of justifying continued detention by clear and convincing evidence. *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Singh v. LaRose*, 2026 WL 684654, at *4 (S.D. Cal. Mar. 10, 2026) (Moskowitz, J.) (ordering government to bear burden of clear and convincing evidence at bond hearing).

In any event, even accepting the IJ's burden formulation, V[redacted] met it. He gave uncontradicted, consistent explanations for every incident. The IJ did not engage with them. An unrepresented detainee who explains his circumstances and whose explanations go wholly unaddressed has been denied the individualized process *Guerra* requires, regardless of who bore the burden. Failure to engage with uncontradicted exculpatory evidence is an abuse of discretion under *Martinez*, 124 F.4th at 785, and the third ground on which the IJ failed to apply the correct legal standard.

III. THE COURT SHOULD ORDER PETITIONER'S IMMEDIATE RELEASE

A. Habeas Relief Is Broad and Equitable.

"[H]abeas corpus is, at its core, an equitable remedy." *Schlup v. Delo*, 513 U.S. 298, 299 (1995). The habeas statute's "mandate is broad with respect to the relief that may be granted." *Carafas v. LaVallee*, 391 U.S. 234, 239 (1968). Courts order outright release where a remand would be an inadequate remedy. *See, e.g.*, *Miri*, 2026 WL 622302, at *11.

B. Remanding to an Immigration Judge Would Not Reliably Remedy the Violation.

In *Singh v. LaRose*, this Court ordered a bond hearing before a "fair, neutral, and open-minded immigration judge" and expressed confidence that the government would respect that order. 2026 WL 684654, at *4–5. The Court also denied outright release "without prejudice," leaving that remedy available on different facts. *Id.* V[redacted]'s case presents those different facts.

In *Singh*, the petitioner had never received any bond hearing. The question was whether to provide process. Here, the question is whether the process provided was constitutionally adequate—and the answer is documented in the record before this Court. The IJ's errors are not speculative; they are established. Ordering a second hearing does not remedy a documented abuse of discretion. It creates a new opportunity to commit the same one.

The structural record makes that risk concrete. The Trump administration has terminated some 100 immigration judges for insufficient alignment with its deportation priorities. Former IJ George Pappas stated directly: "We were told to facilitate deportation . . . Due process is dead in immigration courts." The BIA has been reduced from 28 to 15 members, all Biden-era appointees removed.

The *Mathews v. Eldridge* framework governs the due process analysis of Pavel Voronin's continued detention. 424 U.S. 319, 335 (1976). *Mathews* balances three factors: (1) the private interest affected by the official action; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable

value of additional safeguards; and (3) the government's interest, including the burden that additional procedural requirements would entail. *Id.* Courts have applied *Mathews* directly in determining what process is constitutionally required before or after the government deprives a noncitizen of a government-sanctioned liberty interest. *See Ramirez-Bibiano v. LaRose*, 2025 WL 3632748, at *4–5 (S.D. Cal. Dec. 15, 2025) (applying *Mathews* to order immediate release of parolee re-detained without notice or hearing); *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032-33 (N.D. Cal. 2025). Applied to V[redacted]'s facts, all three factors support release.

Mathews Factor 1 is the weight of V[redacted]s liberty interest. That interest is substantial. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). It is "the most significant liberty interest there is." *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020). But V[redacted]'s liberty interest is not merely abstract. It is grounded in five years of government-sanctioned, documented presence in the United States. He entered lawfully. He filed for asylum affirmatively and on time. USCIS issued him work authorizations from 2021 through 2025, accepted his address changes, and maintained his file. He appeared for biometrics. He renewed his authorization every cycle. For half a decade, the government's own conduct confirmed that his presence was authorized and his liberty was his to keep. That conduct generated a reasonable reliance interest directly analogous to what courts have recognized in the parole context: the government's decision to maintain V[redacted]s authorized status "creates an implicit promise upon which that individual may rely, that their liberty will be revoked only if they fail to live up to the conditions of release." *Pinchi*, 792 F. Supp. 3d at 1032 (internal quotation marks omitted); *see also Velasco Lopez*, 978 F.3d at 851 (liberty interest of one released from immigration custody includes "the interest in being free from imprisonment"). V[redacted] failed nothing. He complied with every requirement. The government took his liberty anyway,

and when it finally gave him a hearing, that hearing was constitutionally inadequate. Factor 1 weighs heavily in his favor.

Mathews Factor 2—the risk of erroneous deprivation and the probable value of additional safeguards—is the decisive factor here. The risk of erroneous deprivation is not speculative; it is established on this record. The IJ acknowledged he did not know whether violence had actually occurred. He cited as dispositive two arrests that produced no charges, and applied no *Guerra* factor. That is not a close call on the merits; it is a documented failure of process. The question under Factor 2 is whether a remand to a new IJ would reduce that risk. The honest answer is that it would not. A remand sends Voronin's case to a randomly assigned IJ at the same court that produced the deficient hearing, in an institutional environment where around 100 immigration judges have been fired for insufficient alignment with deportation priorities, where the reconstituted BIA issues decisions favoring the government at a 97% rate, and where local practitioners attest that bond denials are being made for reasons unrelated to danger or flight. Where additional procedure provides no meaningful protection against the documented error, Factor 2 does not support remand. It supports release. *See Ramirez-Bibiano*, 2025 WL 3632748, at *4 (risk of erroneous deprivation is high where no adequate pre-deprivation process was provided).

As for Factor 3, the government's interest in V[redacted]'s continued detention is minimal: ICE's own background check reportedly found he would not be a danger to the community if released. The criminal court closest to his pending charges released him on zero bail. He has no convictions. Against his substantial liberty interest and the demonstrated risk of erroneous deprivation, the government's interest in continued detention without adequate process cannot withstand *Mathews* scrutiny. All three factors point to the same place: release.

C. Voronin's Individual Circumstances Support Release.

Against this backdrop, V[redacted]'s individual profile strongly supports

release. He has no criminal convictions—none. He entered the United States lawfully. He lived here for over five years without a single criminal charge, let alone a conviction. He filed for asylum affirmatively and timely. He has documented evidence of persecution. He complied with every immigration requirement: reported address changes, appeared for biometrics, renewed authorization. He is HIV-positive and stable on medication that costs approximately $4,500 per month, currently funded by ICE. The criminal court with firsthand knowledge of his pending charges set him free on zero bail. ICE's own background check reportedly found no danger. He has stated he will comply with any removal order. Outright release is "the remedy that will best return [him] to the status quo and restore his position as it was prior to the detention." *Miri*, 2026 WL 622302, at *11.

D. In the Alternative—A New IJ Hearing With the Safeguards This Court Has Already Approved.

Should the Court decline to order immediate release, counsel requests that the Court order a bond hearing with the safeguards this Court established in *Singh v. LaRose*: before a "fair, neutral, and open-minded immigration judge" who must make specific findings if bond is denied. 2026 WL 684654, at *4–5. Counsel further requests that the order specify: (1) the government bears the burden by clear and convincing evidence; (2) the IJ must apply and articulate the *Guerra* factors and engage with all evidence presented, including V[redacted]'s explanations for each incident; (3) alternatives to detention must be considered; (4) disruption to the hearing schedule is not a basis to deny bond; (5) the automatic stay under 8 C.F.R. § 1003.19(i)(2) is stayed pending further order; and (6) this Court retains jurisdiction to enforce compliance, including through sanctions.

Counsel also requests, as a further alternative, that the Court conduct its own bond hearing. *See L.G.M. v. LaRocco*, 788 F. Supp. 3d 401, 405–07 (E.D.N.Y. 2025).

CONCLUSION

Petitioner respectfully requests that the Court order his immediate release. In the alternative, Petitioner requests the further relief described in Section III above.

Dated: May 13, 2026

Respectfully submitted,

/s/ James M. Chavez
James M. Chavez
Attorney for Petitioner Pavel Aleksandrovich Voronin

Exhibit A: Transcript of IJ custody hearing as transcribed by Rev.com

This transcript was exported on May 08, 2026 - view latest version here.

Speaker 1 (00:02):

We are on the record. Today's date is February 6th, 2026. Immigration judge effort is at the Imperial Immigration Court. Custody history termination here in case of Pavo A [redacted] Respondent appears by WebEx in the Imperial Regional Detention Facility. Not represented, governor appears in court represented by Assistant Chief Counsel, Mr. Ryan Kopcha responds best language is English, which we will confirm Mr. V [redacted]. And good morning, we have the language you speak and understand the best as English, is that correct?

Speaker 2 (00:31):

That is correct, your Honor.

Speaker 1 (00:32):

Alright. Are you able to see, hear and under understand me?

Speaker 2 (00:37):

Yes sir.

Speaker 1 (00:38):

Okay. Do you have an attorney?

Speaker 2 (00:41):

No sir.

Speaker 1 (00:41):

Alright. You filed a motion to close this hearing, I imagine what you wanted to make sure is that there were no other detainees present. Was that what you were asking for?

Speaker 2 (00:53):

That is correct sir. Alright,

Speaker 1 (00:55):

So I'm going to grant the motion. You can turn around and you can obviously see there's no other detainees present. It's just the officer and he has to be in there per their own regulations. Okay?

Speaker 2 (01:08):

Yeah, yeah, I know. No problem. Thank you.

Speaker 1 (01:10):

Okay, give me a second. Does DHS oppose the bond?

Speaker 3 (01:24):

We do under danger to the community grounds.

This transcript was exported on May 08, 2026 - view latest version here.

Speaker 1 (01:28):

Okay. Just a minute.

(01:41):

All right sir, I'm going to mark your bond redetermination request as exhibit one. So that's 25 pages and the first page has a sort of a table of contents, but it starts out with commentary exhibit number four, and then it says, talks about exhibit five and exhibit six. Okay, so that's exhibit one. Let me just mark that. Okay. Then exhibit two is the other evidence that you filed. This is 26 pages. So it starts out with document one and then its about, there's a paragraph, then document two and there's a paragraph. Okay. So that is exhibit two. Alright. So sir, do you have any objection to the court admitting those into evidence as exhibits one and two?

Speaker 2 (02:49):

I do not, no, I don't have any objections sir.

Speaker 1 (02:51):

Alright, thank you. And Mr. Copak, any objection by DHS? No

Speaker 3 (02:55):

Objection.

Speaker 1 (02:55):

Alright, thank you there being no objection. Exhibits one and two are admitted into evidence. Just a minute. Okay sir. Under this bond proceeding, you have the burden of proof to prove that if released from detention you will not be a danger to the community or a flight risk. As you already heard, DHS opposes bond, they say you're going to be a danger to the community. So we'll talk about that in just a second. All right, sir, please raise your right hand so I can give you an oath. Do you swear or affirm the testimony you give today will be the truth, the whole truth, and nothing but the truth?

Speaker 2 (04:30):

I do. Your

Speaker 1 (04:31):

Thank you sir. Please put your hand down, please tell me your true and complete name.

Speaker 2 (04:37):

Kyle.

Speaker 1 (04:38):

Thank you sir. Okay. Mr. Ek, what is the objection regarding danger?

Speaker 3 (04:48):

So in addition to the August 16th, 2025 domestic assault arrest in Salt Lake City, in which the respondent has not provided the details surrounding the conduct for which he was arrested, he has an additional

This transcript was exported on May 08, 2026 - view latest version here.

arrest on June 1st, 2025 for aggravated assault also in Utah. And he's also been arrested on October 30th on four different charges, which include driving under the influence possession of a controlled substance and possession with intent to manufacture, produce, or distribute a controlled substance.

Speaker 1 (05:26):

October 30th of what year?

Speaker 3 (05:28):

2025. And that was in Salt Lake City and that case is pending. He has not been to court on that

Speaker 1 (05:38):

For charges. DUI, possession of controlled substance, what else? And

Speaker 3 (05:42):

Possession with intent to manufacture, produce, or distribute a controlled substance.

Speaker 1 (05:50):

Those are only three charges. DUI Possession of a controlled substance?

Speaker 3 (05:54):

Yes. The fourth is operating a vehicle without insurance.

Speaker 1 (05:58):

Okay. And those are pending those four in Salt Lake City? Correct.

Speaker 3 (06:10):

Along with the June 1st, 2025 aggravated assault arrest and the respondent is not accounted for any of those arrests?

Speaker 1 (06:25):

Is that in the record? All that

Speaker 3 (06:28):

I noticed an I two 13 was filed in the merits proceedings, the case in chief, we have that information. We can also file it in the bond proceeding if necessary. But the respondent has been served with that I two 13, which reflects those arrests.

Speaker 1 (06:47):

Okay. Alright sir. So did you just deal with the DHS counsel just said?

Speaker 2 (06:55):

Yes sir.

This transcript was exported on May 08, 2026 - view latest version here.

Speaker 1 (06:56):

Okay, so give me a second. Okay, so the, alright, that August 16th domestic violence incident. Okay, I got that. The individual recanted and said no big deal, which happens all the time. However, apparently you have pending charges for a June 1st, 2025 aggravated assault in Utah and pending charges in Utah based on October 30th, 2025 for DUI, possession of controlled substance possession with intent to manufacture an operating a vehicle without insurance. What would you like? Do you admit that you have those pending charges?

Speaker 2 (07:52):

Yes, your Honor. I do have the pending charges for the possession with intent to distribute DUI, the aggravated assault charge and the later domestic violence charge are with the same individual. So in the letter that I submitted to the court that the individual addresses, both arrests and the police records that I sent indicate that there was no prior connections and they were told that there was no prosecution for the aggravated assault charge either it was recanted almost immediately after that happened. And again, there was no serious bodily injury or anything like that involved. It was mostly, mostly an exaggeration of which that individual who was my partner at the time was my partner. As he has accounted that. As far as the last charges for the arrest on October 28th, the jail, I do not have any additional records for that. It is still pending. I have informed the court in Salt Lake City that I'm currently detained and I'll be attending the court later if I'm released from custody. What I want to point out is that the jail to which I was taken initially, the jail released me the following day with a zero bail just before ICE picked me up. So the jail and the court at the time did not consider me to be a threat enough to keep me in the jail until the court I was released from it and then ICE picked me up.

Speaker 1 (09:40):

Okay, sir, the court is not required to give any deference whatsoever to a civilian court's bond or parole decision or release decision. Alright. Is there the, let's see, okay, so obviously DUI possession, controlled substance, et cetera, aggravated assault are serious charges if they're pending, sir, I do not see how you can sustain your burden of proof to show that you are not a danger to the community. You have to prove a negative, which is always hard.

Speaker 2 (10:24):

Yes sir. Aggravated assault charge is not a pending charge from June 1st.

Speaker 1 (10:33):

So from June 1st, 2025, that is not a pending charge,

Speaker 2 (10:38):

That is not a pending charge. That charge initially was also classified as domestic violence because it was a fight with my partner. When the later accident happened. When we had the second fight and the second arrest for me, we were informed that well there was a restraining order issued after the first one and the restraining order was revoked almost immediately because the individual recanted the charges so that there was no pending charges from the aggravated assault charge because otherwise I would've been also arrested for violating the restraining order. But by that time there was no restraining order with the same individual. If I may also provide a comment to the DUI and possession charges, I was pulled over for an expired registration at the time at the vehicle that I was test driving and buying it at

This transcript was exported on May 08, 2026 - view latest version here.

that time and the drugs were found in the vehicle and on the person who was driving with me in the vehicle. But not only me, that's why the charges are still pending and that's why I'm going to court and I'm still fighting those as an unfortunate coincide of events rather than,

Speaker 1 (12:04):

Sir, do you appreciate that bad things seem to be within your personal space frequently

Speaker 2 (12:20):

The last year? Yes sir. I do see that pattern the last year I've had the two unfortunate rest and the last one that all of the three incidents are related to me being with the same individual.

Speaker 1 (12:35):

Yeah. Okay. Well perhaps you may want to change that, but on this record, the court cannot find that you have sustained your burden to show you will not be a danger to the community. DUI is a very serious charge and the court is allowed to consider the arrest possession of a controlled substance. I mean those are serious allegations. The fact that there were two arrests in the past for aggravated assault, two different arrests regarding the same alleged victim. Either that person is an extremely delicate human being and the slightest thing they call the police for or you really were beating that person up, I don't know. But you do have two arrests for aggravated assault, domestic violence, those are serious things. So those are violent episodes, violent crimes. And then with the DUI and the controlled substances, the court cannot find that you have sustained your burden and therefore the court is going to deny your request for bond finding you have not sustained your burden to show you will not be a danger to the community based on this record. So that is going to be the decision. Just a second. Officer, can you give him a BIA appeals packet please?

Speaker 2 (14:23):

I waive that.

Speaker 1 (14:25):

You do not want to appeal.

Speaker 2 (14:27):

No sir.

Speaker 1 (14:28):

Alright. There's no charge to appeal this bond decision. You don't want to appeal?

Speaker 2 (14:33):

I'm aware there's no charge, but no, I do not think I have. I don't see how I would appeal at that decision. So no, I will just continue with my immigration case and fight out of my custody that way. Thank you sir.

Speaker 1 (14:50):

This transcript was exported on May 08, 2026 - view latest version here.

I understand. Give me just a second. I'm going to type up a bond order. Okay sir, last opportunity. Do you want to appeal or not?

Speaker 2 (15:42):

No sir. Thank you. Alright,

Speaker 1 (15:43):

Thank you. Mr. Kuch does DHS wave of appeal? Yes. Alright, so I'm going to sign the bond order. You'll get a copy of this order. It simply shows that the court denied bond for the same reason that I just told you. Alright sir. Any questions or concerns today before we end the hearing?

Speaker 2 (16:02):

No sir. Alright.

Speaker 1 (16:03):

And from DHS?

Speaker 2 (16:04):

No thank you.

Speaker 1 (16:05):

Okay sir. Thank you very much for your time today. The hearing is adjourned.