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FAYISA GAMACHU DANGIA

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

FAYISA GAMACHU DANGIA
(inadvertently named in immigration
proceedings as Feayisae Dangia
Gaminachuu),

Petitioner,

v.

SIXTO MARRERO, Warden, Imperial
Regional Detention Facility; et al.,

Respondents.

Case No.: 26-cv-1810-RBM-MSB

**PETITIONER'S TRAVERSE IN
SUPPORT OF PETITION FOR
WRIT OF HABEAS CORPUS**

Petitioner submits this expedited traverse in response to Respondents' return, filed on April 8, 2026, ahead of Respondents' filing deadline. (ECF 4.) Petitioner respectfully requests the opportunity to file an amended traverse, or other appropriate filing, should future circumstances warrant.

Petitioner appreciates Respondents have conceded this Court should order "that Petitioner receive a bond hearing, where the government would bear the burden of proof of establishing, by clear and convincing evidence, that Petitioner poses a danger to the community or a risk of flight." (ECF 4 at 2:6-9.)

The purpose of this traverse is to flag the additional requests for relief included in the petition and not mentioned in Respondents' return.

Specifically, the petition argued immediate release is the appropriate remedy because “due process cannot be safeguarded in a hearing before an immigration judge, as immigration courts are currently constituted and operating.” (ECF 1 at ¶¶ 94–99.) This request for relief was specifically flagged in this Court’s order to show cause. (ECF 3 at 1:22–24.) Respondents’ return is silent as to this request.

Notably, the petition included multiple citations to evidence to establish immigration judges cannot be considered neutral arbiters for the purpose of due process, all of which were ignored by Respondents’ return. For instance:

1. Public reporting has indicated in immigration courts “bond hearings [are], effectively, stacked against detainees from the start.” Kyle Cheney, *How ICE Defies Judges’ Orders to Release Detainees, Step by Step*, Politico (Feb. 10, 2026), <https://www.politico.com/news/2026/02/10/ice-immigration-detention-court-orders-00771727>. (ECF 1 at ¶ 58.)
2. Local immigration attorneys have submitted declarations to this Court establishing a pattern of immigration judges resisting habeas orders. *Elsayed v. Noem*, Case No. 26-cv-368, Doc. 5-2 at ¶ 7 (S.D. Cal. Feb. 9, 2026). (ECF 1 at ¶ 59.)
3. Other district courts have explicitly noted a pattern of immigration judges resisting or disregarding habeas orders. *See Briceno Solano v. Mason*, ___ F. Supp. 3d ___, No. 26-CV-00045, 2026 WL 311624; *Yin v. Moldanado*, No. 26-CV-0103 (PKC), 2026 WL 295389, at *3 (E.D.N.Y. Feb. 4, 2026); *Said v. Noem*, No. 3:25-CV-938-MOC, 2026 WL 295651, at *5 (W.D.N.C. Feb. 4, 2026); *Picado v. Hyde*, No. 26-CV-065-JJM-PAS, 2026 WL 352691, at *7 (D.R.I. Feb. 9, 2026). (ECF 1 at ¶¶ 60–63.)
4. Indeed, additional district court orders finding the same have been identified since the instant petition was filed. *See Rosales v. Simon*, No. 1:26-CV-86 (LMB/WEF), 2026 WL 688858 (E.D. Va. Mar. 11, 2026); *Barry v. Cabezas*,

2:26-cv-01351-BRM (ECF 13) (D.N.J., March 16, 2026); *A.D. v. Oddo*, No. 25-460J (ECF 40) (W.D. Pa. Feb 12, 2026).

5. Further, the petition cited to statements from former immigration judges themselves describing how immigration courts, as currently constituted and operating, should not be considered neutral arbiters for the purpose of due process. *See* Geoff Bennett & Ali Schmitz, *Ousted Immigration Judge Describes Deepening Court Backlog*, PBS NewsHour (Nov. 12, 2025), <https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog>; Hilda Gutierrez, Michael Bott & Son Vo, “*An All-Out Attack on Immigration Court*”: *SF Immigration Judges Speak Out After Firings*, NBC Bay Area (Nov. 25, 2025), <https://www.nbcbayarea.com/investigations/san-francisco-immigration-judgesspeak-out-firings/3986850/>; Isabela Dias, “*Fired for No Reason*”: *Former Immigration Judges Speak Out Against Trump’s Assault on the Courts*, Mother Jones (Oct. 9, 2025), <https://www.motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-purge-dhs-ice/>; Marco Poggio, *Judges See an Immigration Court Gutted from Inside*, Law360 (Oct. 31, 2025), <https://www.law360.com/articles/2381003/judges-see-an-immigration-courtguttled-from-inside>. (ECF 1 at ¶¶ 66-67).
6. Lastly, actual policy memoranda themselves originating from the Executive Office of Immigration Review encourage immigration judges to be non-neutral. *See* E. Tammy Kim, *Inside Donald Trump’s Attack on Immigration Courts*, New Yorker, <https://www.newyorker.com/inside-donald-trumps-attack-on-immigration-court>. (ECF 1 at ¶ 68.)

In sum, undisputed evidence before this Court establishes Petitioner cannot get a fair hearing before an immigration court. In this context, immediate release is a reasonable remedy, as a hearing before an immigration court would be futility void of

1 due process. Alternatively, the petition argued an appropriate remedy may be a custody
2 hearing before *this* Court. (ECF 1 at ¶ 98.) Again, Respondents' return is silent as to this
3 request.

4 Finally, the petition argued this Court should order additional specific procedural
5 safeguards should a bond hearing go forward in front of an immigration judge. (ECF 1 at
6 ¶ 99.) Again, Respondents' return is silent as to this request.

7 Accordingly, Petitioner respectfully requests any resultant order by this Court
8 consider the full scope of relief requested by this petition, or at a minimum explicitly
9 retains jurisdiction over this petition such that Petitioner will be able to seek further relief
10 therefrom should a subsequent bond hearing before an immigration judge fail to comport
11 with due process for the reasons stated in the petition. (See ECF 1 at ¶¶ 57-71.)
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13 Dated: April 8, 2026

14 By: /s/ Mitchell B. Malachowski
15 MITCHELL B. MALACHOWSKI
16 Attorney for Petitioner
17 FAYISA GAMACHU DANGIA
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