

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

B.A.M.A.,	)	
	)	
Petitioner,	)	
	)	CASE NO.:
vs.	)	1:26-cv-00095-WLS-ALS
	)	
CODY YOUGHIN, <i>in his official capacity as</i>	)	
<i>Sheriff of Irwin Detention Center;</i>	)	
LADÉON FRANCIS, <i>Field Office Director for ICE</i>	)	
<i>Atlanta Field Office,</i>	)	
TODD LYONS, <i>in his official capacity as Acting</i>	)	
<i>Director of Immigration and Customs Enforcement;</i>	)	
MARK WAYNE MULLINS, <i>Secretary of Homeland</i>	)	
<i>Security; and</i>	)	
TODD BLANCHE, <i>Acting U.S. Attorney General.</i>	)	
	)	
Respondents.	)	
	)	

PETITIONER'S EMERGENCY MOTION TO ENFORCE JUDGMENT,
FOR PROSPECTIVE ORDER TO SHOW CAUSE, AND FOR IMMEDIATE RELEASE
OR INTERIM ENFORCEMENT RELIEF – IMMEDIATE HEARING REQUESTED

I. INTRODUCTION

Petitioner B.A.M.A., through undersigned counsel, respectfully moves this Court to enforce its May 13, 2026 Order granting habeas relief under 28 U.S.C. § 2241. The Court ordered Respondents to provide Petitioner a bond hearing under 8 U.S.C. § 1226(a)(2) within seven days and required DIIS to bear the burden of proving by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk. ECF No. 9. Respondents did not comply.

Respondents convened a proceeding labeled a bond redetermination on May 20, 2026, but DHS did not present individualized evidence sufficient to satisfy the clear and convincing burden this Court imposed. DHS argued only flight risk and relied on Petitioner's August 2022 entry, alleged limited community ties, his recent removal decision from an Immigration Judge (IJ), and the pendency of an I-130 petition. Ex. A, Weinstock Decl., Ex. B, May 20, 2026 Bond Hr'g Tr.¹ The IJ treated the recent, non-final removal order—that Petitioner has timely appealed to the Board of Immigration Appeals—as overriding all Petitioner's evidence of community ties and fixed residence, commitment to compliance, family support, sponsorship, pending visa petition relief, and lack of absconding history. Ex. A; Ex. B; Ex. C. The written order confirms that reasoning, stating that “having a removal order constitutes a dramatic flight risk,” even though the order was under timely appeal and Petitioner remained detained under § 1226(a), not § 1231. Ex. C.

That ruling was not an individualized custody determination under § 1226(a). The IJ impermissibly transformed a non-final removal order into a categorical presumption of flight risk, contrary to this Court's burden allocation and evidentiary standard. The error is especially stark because the removal order is not executable unless and until the BIA resolves Petitioner's pending

¹ Petitioner notes that DHS did not argue danger, and the IJ found that Petitioner was not a danger to persons, property, or national security. Ex. C, IJ Bond Order.

appeal; and the Executive Office of Immigration Review (EOIR) /BIA backlog data submitted with this Motion show that final administrative resolution is unlikely for years. Ex. F.

In addition to the constitutionally defective and noncompliant bond hearing, Petitioner's continued detention suffers from another, independent defect where it was unwarranted ab initio. This Court previously noted that Petitioner was inspected and paroled upon entry to the United States and later arrested by ICE in the interior while parked in a Walmart parking area in Charlotte, North Carolina, where he was working as a delivery driver. ECF No. 9. Contrary to their own regulations, Respondents have not produced written notice terminating that parole before Petitioner's arrest or evidence that an authorized official made the individualized determination required to revoke it before re-detention. Because Petitioner remains detained as a result of a proceeding that did not comply with the Court's May 13, 2026 Order, and because his present detention is independently unlawful absent proof of lawful parole termination, he requests immediate release or, at minimum, interim preservation relief and an immediate hearing, or a ruling on the papers if the Court finds the record sufficient.

II. SUMMARY OF ARGUMENT

The May 20, 2026 bond hearing was not the proceeding this Court ordered because DHS presented no individualized evidence of flight risk and the IJ arbitrarily treated a non-final, already-appealed removal order as dispositive. Ex. A; Ex. B; Ex. C; Ex. D, BIA Filing Receipt.

The non-finality problem is substantive, not technical. Section 1226(a) governs pre-final-order detention and authorizes release on bond or conditional parole, while § 1231 applies only after the removal order becomes administratively final. 8 U.S.C. § 1226(a); 8 U.S.C. § 1231(a); *Johnson v. Guzman Chavez*, 141 S. Ct. 2271, 2281–82 (2021). Under 8 C.F.R. § 1241.1, Petitioner's timely BIA appeal prevents administrative finality. Because there is no administratively final order to execute, and because BIA resolution is unlikely for years given the

documented backlog, continued jail-like detention cannot be justified as a civil measure to secure imminent removal. BIA resolution is not imminent, and the Government cannot execute the removal order while the timely appeal remains pending.

Separately, Petitioner's detention is unlawful because Respondents have not shown that his prior parole was lawfully terminated. The governing regulation requires, absent automatic termination, accomplishment of the parole purpose or an authorized official's determination that neither humanitarian reasons nor public benefit warrants continued presence, followed by written notice to the parolee. 8 C.F.R. § 212.5(e)(2)(i). Respondents have shown neither. The Court should therefore find noncompliance, order immediate release or Court-set bond, restore parole or impose reasonable conditions, preserve jurisdiction, and issue a prospective order to show cause if Respondents fail to comply within 24 hours.

III. PROCEDURAL POSTURE, JURISDICTION AND STANDARD FOR ENFORCEMENT

On May 13, 2026, this Court ordered Respondents to provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a)(2) within seven days and required DHS to prove by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk. ECF No. 9. The Court's Order was not satisfied by the mere convening of a hearing; the ordered remedy was a due-process-compliant § 1226(a) hearing applying the burden allocation and evidentiary standard the Court mandated.

A conditional habeas order is satisfied only by substantial compliance with its conditions, not by formal or pro forma steps that omit the safeguards the Court required. *Satterlee v. Wolfenbarger*, 453 F.3d 362, 369 n.5 (6th Cir. 2006); *Harvest v. Castro*, 531 F.3d 737, 741–42 (9th Cir. 2008). Here, the condition was not merely temporal. Respondents were required to

provide a bond hearing at which DHS bore the burden by clear and convincing evidence to prove danger or flight risk. ECF No. 9. That condition was not met.

Section 1226(e) limits review of discretionary custody judgments; it does not restrict this Court's power to enforce its own habeas judgment or to require that the procedures it ordered actually be followed. This Motion does not ask the Court to reweigh bond factors. It asks the Court to determine whether Respondents provided the type of hearing the Court ordered and whether Petitioner's present detention is otherwise lawful.

The parole issue is also properly before the Court. Petitioner raises unlawful parole revocation as an independent and alternative basis for the same relief he already seeks—immediate release from unlawful custody—and that issue falls within this Court's continuing habeas jurisdiction under 28 U.S.C. §§ 2241 and 2243 to determine the legality of present detention and dispose of the matter as law and justice require.

Civil contempt is warranted where the movant establishes by clear and convincing evidence that a valid and lawful court order was clear and unambiguous, the alleged contemnor had the ability to comply, and the alleged contemnor failed to comply. *See* 18 U.S.C. § 401(3); *Riccard v. Prudential Ins. Co.*, 307 F.3d 1277, 1296 (11th Cir. 2002). At this stage, Petitioner principally seeks enforcement and remedial relief. Civil-contempt sanctions are requested only prospectively, as a coercive mechanism if Respondents fail to comply with any enforcement order this Court issues.

IV. FACTUAL BACKGROUND

This Court issued its May 13, 2026 Order after determining that Petitioner was not properly subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). ECF No. 9. The Court ordered a § 1226(a) bond hearing within seven days, placed the burden on DHS to prove Petitioner's dangerousness or flight risk by clear and convincing evidence, and noted that Petitioner had been

inspected and paroled upon entry and later arrested by ICE in the interior while parked in a Walmart parking area in Charlotte, North Carolina, where he was working as a delivery driver. *Id.*

The Immigration Court convened Petitioner's custody proceedings on May 20, 2026 before IJ Amy Fairchild Haer. Ex. B; Ex. C. DIIS conceded bond jurisdiction and argued only flight risk, relying on Petitioner's August 2022 entry, alleged limited ties, the removal order, and the pending I-130 petition. Ex. C. DHS did not argue danger. *Id.*

Petitioner's counsel reminded the IJ that this Court's Order placed the burden on DIIS by clear and convincing evidence and advised that Petitioner had timely appealed the removal order and therefore remained detained under § 1226(a), not § 1231. Ex. B. The EOIR appeal submission reflects that Petitioner's appeal of the May 14, 2026 removal order was submitted on May 18, 2026, and the BIA filing receipt reflects that the Board acknowledged receipt on May 19, 2026. Ex. D. Counsel presented evidence and argument that Petitioner has lived continuously at the same Charlotte, North Carolina address with his United States citizen wife and United States citizen son since 2024; that the address was supported by a deed, utility bills, and other proof; and that Petitioner has nearby family support, a pending I-130 petition, prior employment as a delivery driver, a spouse willing to sponsor him, compliance with immigration reporting, and no history of absconding. Ex. B.

The IJ took administrative notice that Petitioner was ordered removed on May 14, 2026, found that DHS met its burden solely based on the removal order, and stated that the flight risk was "drastic, dramatic, however you wish to refer to it" and "large." Ex. B. The IJ further stated that the removal-order-based risk outweighed all positive factors. *Id.* The written order states that Petitioner is not subject to mandatory detention, is not a danger to persons, property, or national

security, but constitutes a flight risk because he has been ordered removed and because “having a removal order constitutes a dramatic flight risk.” Ex. C.

Neither the oral ruling nor the written order identified any missed hearings, prior absconding, supervision violations, false addresses, failures to report, disregard of court orders, or violations of immigration obligations. Exs. B and C. Neither explained why bond, reporting, supervision, sponsor support, GPS monitoring, or other conditions would be inadequate. *Id.*

V. GROUNDS FOR ENFORCEMENT AND PROSPECTIVE CIVIL CONTEMPT RELIEF

Civil contempt is warranted where the movant establishes by clear and convincing evidence that a valid and lawful court order was clear and unambiguous, the alleged contemnor had the ability to comply, and the alleged contemnor failed to comply. *See* 18 U.S.C. § 401(3); *Riccard v. Prudential Ins. Co.*, 307 F.3d 1277, 1296 (11th Cir. 2002).

Respondents may argue that DHS cannot be held responsible for the IJ’s independent decision. But DHS’s noncompliance is independent of the IJ’s ruling. DHS’s obligation under this Court’s Order was not merely to appear at a hearing; it was to present evidence sufficient to satisfy the clear-and-convincing standard. ECF No. 9. DHS instead relied on categorical argument rather than individualized proof. Ex. B. The IJ’s ruling confirms the inadequacy of DHS’s presentation, but the enforcement theory rests on DHS’s evidentiary failure as well as the resulting noncompliant proceeding. Respondents could have presented individualized, case-specific evidence that Petitioner was likely to abscond or that conditions would be inadequate. They did not. *Id.* DHS also could have acknowledged and admitted the practical reality that the removal order cannot be executed while the BIA appeal remains pending and that detention in a jail-like facility for the duration of that appeal would be excessive in relation to any civil purpose. It did not. *Id.*

The Court should therefore find noncompliance and enter an enforcement order providing the relief described below. The Court should also issue a prospective order to show cause directing Respondents to explain, if they do not comply within 24 hours of the enforcement order, why coercive civil-contempt sanctions should not be imposed. Petitioner seeks any contempt-related relief against Respondents in their official capacities and those officials they designate as responsible for compliance—not against the IJ personally.

VI. CONSTITUTIONAL AND STATUTORY DEFICIENCIES IN THE BOND HEARING

The May 20 bond hearing failed to comply with the Court's Order in four related ways: DHS presented no individualized, case-specific evidence sufficient to prove flight risk by clear and convincing evidence; the IJ treated the non-final removal order as effectively dispositive; the ruling inverted the burden this Court imposed; and neither DHS nor the IJ meaningfully addressed less restrictive alternatives to detention.

A. DHS did not satisfy the clear-and-convincing standard.

Clear and convincing evidence requires more than speculation, more than a preponderance, and more than a generalized inference. In *Hayes v. Sec'y, Fla. Dep't of Corr.*, 10 F.4th 1203, 1227 (11th Cir. 2021), the Eleventh Circuit described clear and convincing evidence as evidence that is precise, explicit, lacking in confusion, and of such weight that it produces a firm belief, without hesitation, about the matter in issue.

Under this Court's Order, DHS had to present individualized evidence sufficient to support a firm conviction that this Petitioner is likely to abscond. ECF No. 9. It did not. DHS presented no case-specific evidence of prior nonappearance, supervision violations, failures to report, false addresses, or other conduct suggesting Petitioner would not appear if released. Ex. B; Ex. C.

The removal-order rationale fails as a matter of logic. The existence of an IJ's removal order is common to every respondent in the same procedural posture. A fact that applies to virtually every respondent who receives and appeals an IJ removal order cannot produce a firm belief that this Petitioner will abscond. The written order does not identify any fact about Petitioner's conduct, history, or circumstances that distinguishes him from any other respondent with an appealed removal order. Ex. C.

Courts applying a clear-and-convincing burden in immigration detention cases have rejected precisely this kind of generalized reasoning. In *Sales v. Johnson*, 323 F. Supp. 3d 1131, 1141 (N.D. Cal. 2017), the court granted habeas relief where the IJ's flight-risk finding was not supported by clear and convincing evidence because the government failed to present evidence sufficient to carry its burden. In *S.E. v. Noem*, No. 1:26-cv-356, 2026 WL 627456 (E.D. Cal. Mar. 5, 2026), report and recommendation adopted in relevant part, 2026 WL 836327, at *2 n.1 (E.D. Cal. Mar. 26, 2026), the court rejected blanket characterizations about circumstances common to many people in immigration proceedings as a substitute for individualized determinations under a heightened evidentiary burden. In *Tavurov v. Noem*, No. 2:26-cv-668, 2026 WL 1283513, at *7 (W.D. Wash. May 11, 2026), the court held that a final order of removal, standing alone, was insufficient to establish flight risk by clear and convincing evidence. Likewise, in *Yan Lu v. Los Angeles Field Director*, No. 5:26-cv-575, 2026 WL 1455320, at *12 (C.D. Cal. Apr. 15, 2026), the court held that an immigration violation such as overstaying a tourist visa did not, without more, constitute clear and convincing evidence of flight risk.

Contrasting cases further confirm the deficiency here. In *Martinez v. Clark*, 124 F.4th 775, 785 (9th Cir. 2024), the evidence supporting detention included repeated convictions for conspiracy to distribute cocaine. In *Adejola v. Barr*, 439 F. Supp. 3d 120, 129 (W.D.N.Y. 2020),

the flight-risk finding rested on concrete conduct, including unauthorized work and evidence suggesting fabricated documents submitted to the immigration court. Whatever the outer bounds of those decisions, they involved individualized conduct-based evidence. This case does not. DHS identified no missed hearing, absconding, supervision violation, false address, reporting failure, fabricated document, criminal history, or comparable case specific fact. Exs. A, B. Instead, in B.A.M.A.'s case, DHS relied on generalized factors—entry date, limited ties, removal order, speculative relief, and pending I-130—rather than concrete misconduct. While the Government may argue that a removal order might give an individual a stronger incentive to flee, such a universal inference cannot satisfy an individualized clear-and-convincing standard. That generic inference applies to virtually every respondent with an IJ removal order whose case is on appeal and cannot support a finding that every individual thus is a flight risk and must be detained.

B. The timely BIA appeal is affirmative evidence against flight risk.

Petitioner did not flee when the removal order issued on May 14, 2026; he timely appealed it on May 18, 2026, and the BIA acknowledged receipt on May 19, 2026. Ex. D. He remains represented, has a pending I-130 petition, a United States citizen wife and child, and a fixed home address. Ex. B; Ex. C. The BIA receipt warns that departure after filing an appeal may cause the appeal to be deemed withdrawn. Ex. D. That warning gave Petitioner a concrete incentive to remain available and compliant. DHS never addressed this evidence. Ex. B. That omission was a failure of proof.

C. The Immigration Judge's reasoning inverted the burden.

The IJ acknowledged positive factors but concluded that the removal order created a flight risk that outweighed them. Ex. B. That framing treated the hearing as though Petitioner had to

overcome a presumption of flight risk triggered by the removal order. But under this Court's Order, DIIS bore the burden. ECF No. 9.

The Government may respond that the IJ was simply weighing factors under *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006). But *Guerra* describes factors relevant to the custody inquiry; it does not alter who bears the burden or what standard applies. The written order relied on *Guerra* for general custody factors, but nothing in *Guerra* authorizes IJs to presume flight risk from a single factor or shift to the respondent the burden this Court placed on DIIS. Ex. B. The IJ's written order identified general custody factors but applied them in the wrong direction, treating the removal order as a dominant negative factor that Petitioner's equities had to overcome. *Id.* *Guerra* does not assign dispositive weight to any single factor and calls for holistic weighing of all evidence combined. Here, the IJ overly relied on that one single factor as dispositive without balancing.

D. The ruling was categorical, not individualized.

Counsel presented evidence of Petitioner's fixed residence, United States citizen wife and child, family support, employment history, sponsorship, reporting compliance, pending I-130 petition, timely BIA appeal, and lack of absconding history. Ex. B; Ex. C; Ex. D. The IJ acknowledged positive factors but concluded that the appealed removal order created a dramatic flight risk that outweighed them all. Ex. B. The written order likewise reduced the analysis to the removal order, despite the pending appeal. Ex. C. That was categorical reasoning, not individualized custody adjudication. *Matter of Patel*, 15 I. & N. Dec. 666 (BIA 1976), confirms that custody determinations cannot rest on factors that would justify detention in nearly every case.

The appealed removal order may be considered as part of an individualized analysis, but it cannot substitute for individualized proof. That is the same defect identified in *S.E. v. Noem*, No. 1:26-cv-

356, 2026 WL 627456 (E.D. Cal. Mar. 5, 2026), report and recommendation adopted in relevant part, 2026 WL 836327, at *2 n.1 (E.D. Cal. Mar. 26, 2026), where blanket characterizations common to many immigration respondents were insufficient under a heightened evidentiary burden.

E. DHS failed to prove that detention was necessary.

Under this Court's Order, DHS bore the burden of establishing by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk. ECF No. 9. Because § 1226(a) authorizes release on bond or conditional parole, DHS also had to address why continued detention, rather than reasonable conditions, was necessary.

DHS addressed neither element adequately. It did not prove individualized flight risk, and it said nothing about the adequacy of conditions. Ex. B. Available alternatives included monetary bond, GPS monitoring, ICE check-ins, sponsor support, maintenance of the Charlotte residence, notice of address changes, and continued compliance before EOIR and the BIA. The written order contains no findings explaining why any such conditions would be inadequate. Ex. C. That silence is a complete failure of proof on a required element.

F. Section 1226(a) Does Not Authorize Detention Based Solely on a Non-Final Removal Order That Is Not Presently Executable.

Section 1226(a) governs pre-final-order discretionary detention and authorizes release on bond or conditional parole. 8 U.S.C. § 1226(a). Section 1231 applies only after a removal order becomes administratively final. 8 U.S.C. § 1231(a). In *Johnson v. Guzman Chavez*, 141 S. Ct. 2271, 2281–82 (2021), the Supreme Court explained that § 1226 governs detention pending a decision on whether the noncitizen is to be removed, while § 1231 governs after the removal order becomes administratively final. Under 8 C.F.R. § 1241.1, an IJ's order becomes final upon

dismissal of an appeal by the BIA, waiver of appeal, expiration of the time allotted for appeal when no appeal is taken, or other specified events not applicable here.

Because Petitioner timely appealed and the BIA acknowledged his appeal, the removal order is not administratively final, and this case remains in the § 1226(a) posture. Ex. D; 8 C.F.R. § 1241.1. While the Government may argue that a pending removal order is relevant under § 1226(a) discretionary detention determination, it may not be treated as a conclusive, unilateral, dispositive factor without any individualized assessment as was done here. This point is even stronger here because the removal order is not executable in any practical sense while the BIA appeal remains pending. The EOIR backlog materials submitted with this Motion reflect that EOIR's nationwide pending caseload is in the millions and that BIA merits appeals are subject to severe systemic delay, with current appeal-processing times commonly exceeding two years. Ex. E. That substantially weakens any claim that continued detention is necessary to effectuate imminent removal.

Civil immigration detention must remain reasonably related to a legitimate nonpunitive purpose. In *Zadvydas v. Davis*, 533 U.S. 678, 689–701 (2001), the Supreme Court construed post-removal-period detention to avoid serious constitutional concerns and held that detention is limited to the period reasonably necessary to bring about removal. The Court further recognized that where removal is remote, the flight-prevention rationale becomes weak. *Zadvydas*, 533 U.S. at 690.

That principle applies with more force here where Petitioner is not subject to an administratively final order; his BIA appeal is pending; and the Government cannot execute removal while the order remains non-final. Ex. D; 8 C.F.R. § 1241.1. Detaining him for years in a jail-like immigration facility based on a non-final order is excessive in relation to the Government's asserted appearance interest. The IJ's ruling effectively imported post-final-order

§ 1231 logic into a pre-final-order § 1226(a) hearing. That erroneously collapsed the statutory distinction between pending removal proceedings and final-order custody and replaced § 1226(a)'s release-authorizing structure with a presumption of detention. *See also Demore v. Kim*, 538 U.S. 510, 529–32 (2003) (addressing mandatory detention under § 1226(c) and finding it facially constitutional because it was brief—likely lasting only months—and not indefinite). If the expected brief duration of detention was important even in the mandatory-detention context, then prolonged detention under § 1226(a)—which expressly authorizes release on bond or conditional parole—raises even stronger due-process concerns. *See Demore*, 538 U.S. at 529–32.

G. The Mathews factors confirm the due-process violation.

The *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), factors underscore the due-process violation here. Petitioner's liberty interest, family unity, fixed residence, and ability to pursue his pending BIA appeal are weighty. Ex. B; Ex. D. The procedures used—categorical reliance on a non-final removal order without individualized evidence or consideration of conditions—created a high risk of erroneous deprivation. Ex. B; Ex. C. Without individualized evidence, there is no reliable basis for distinguishing respondents who will appear from respondents who will not. A hearing whose outcome turns on procedural posture rather than case-specific proof is not a meaningful safeguard against erroneous detention. The Government's appearance interest could have been addressed by bond or standard conditions, particularly where danger was expressly ruled out. Ex. B; Ex. C. The Government's asserted interest is further weakened because there is no final removal order to execute while the BIA appeal remains pending. Ex. D; 8 C.F.R. § 1241.1.

Continued detention in a jail-like setting for the duration of a delayed BIA appeal is excessive where DHS has not shown that Petitioner is dangerous, has not shown that he has ever

failed to appear, and has not shown that ordinary supervision conditions would be inadequate. Ex. B; Ex. C.

H. Exhaustion does not bar enforcement.

The Government may argue that Petitioner must exhaust a BIA bond appeal before returning to this Court. That argument fails. This Motion challenges Respondents' compliance with this Court's habeas order. The BIA cannot enforce this Court's Order, adjudicate civil contempt, impose coercive sanctions for violation of a federal court order, or provide the immediate enforcement relief requested here. Even if a BIA bond appeal were theoretically available and quick (current processing times are 6-12 months for bond appeals), exhaustion would be inadequate and futile because it would delay enforcement through the same administrative process that failed to implement the Court's Order.

VII. PETITIONER'S UNLAWFULLY REVOKED PAROLE SHOULD BE RESTORED

The bond-hearing defects described above are sufficient by themselves to require enforcement and immediate release. But they are not the only basis for relief. Independently and co-equally, Petitioner's present detention is unlawful because Respondents have not shown that his preexisting parole was lawfully terminated before his interior re-detention.

This Court already recognized that Petitioner was "inspected and paroled upon entry to the United States." ECF No. 9. The governing regulation provides that absent automatic termination, parole may be terminated only upon accomplishment of the purpose for which parole was authorized or when an authorized official determines that neither humanitarian reasons nor public benefit warrants continued presence, and termination occurs upon written notice to the parolee. 8 C.F.R. § 212.5(e)(2)(i).

This parole-revocation issue is raised here as an independent and alternative basis for the same relief Petitioner already seeks—immediate release from unlawful custody—and is properly before the Court under its continuing habeas jurisdiction under 28 U.S.C. §§ 2241 and 2243 to determine the legality of Petitioner’s present detention and to dispose of the matter as law and justice require. It is specifically raised in the Petition. See ECF No. 1.

As *Mata Velasquez v. Kurzdorfer*, explains, just as a grant of parole requires individualized review, revocation of parole requires a case by case assessment to comply with the statute. 794 F. Supp. 3d 128, 146 (W.D.N.Y. 2025). On materially similar records—entry on § 1182(d)(5)(A) parole followed by interior detention without proper parole termination—courts have granted habeas relief and ordered immediate release, often with restoration of prior parole conditions. *See, e.g., Hernandez v. Raycraft*, No. 1:25-CV-1719, 2025 WL 3730936, at *5 (W.D. Mich. Dec. 26, 2025); *Y-Z-L-H v. Noem*, 792 F. Supp. 3d 1125, 1137–47 (W.D. Mich. 2025).

More recent decisions likewise recognize that improper revocation or non-revocation of parole renders detention unlawful and supports immediate release. *See Kudyrkulov v. Martin*, No. 6:26-cv-3035, 2026 WL 312120 (W.D. Mo. Feb. 5, 2026); *Andreu v. Baltazar*, --- F. Supp. 3d ----, 2026 WL 1045187 (D. Colo. Apr. 17, 2026); *Chourio Herrera v. Bondi*, No. 0:26-cv-1895, 2026 WL 827571 (D. Minn. Mar. 25, 2026); *Camacho-Gutierrez v. Thompson*, No. 5:25-CV-01876-MA, 2026 WL 195758 (W.D. Tex. Jan. 16, 2026); *Naveda v. Noem*, No. 5:26-cv-18, 2026 WL 196394 (W.D. Tex. Jan. 15, 2026); *Aldana v. Collins*, --- F. Supp. 3d ----, 2026 WL 673827 (W.D. Tex. Mar. 9, 2026); *Torres Soria v. Bondi*, No. 1:26-cv-318, 2026 WL 751968 (W.D. Tex. Mar. 12, 2026); *Flores Molina v. Thompson*, No. 5:26-cv-631, 2026 WL 908556 (W.D. Tex. Mar. 27, 2026); *Rassul v. Field Office Director*, No. 25-cv-232, 2026 WL 834737 (E.D. Ky. Mar. 26,

2026); *Alcide v. de Anda-Ybarra*, No. 1:26-cv-249, 2026 WL 622663 (D.N.M. Mar. 5, 2026); *Suri v. Mullin*, No. 2:26-cv-543, 2026 WL 1329717 (D.N.M. May 13, 2026).²

Here, Respondents have not produced evidence in this record that an authorized official made the required individualized determination that the purpose of Petitioner's parole had been accomplished or that humanitarian or public benefit grounds no longer warranted his presence before re-detaining him in the interior. Nor have they shown that he received proper written notice of parole termination before arrest. Under the authorities above, those failures provide an independent basis for relief. They also reinforce why immediate release is appropriate here: Petitioner should be restored to the conditional liberty he possessed under his preexisting § 1182(d)(5)(A) parole, subject only to lawful conditions that existed before the unlawful re-detention or that are imposed through lawful procedures.

VIII. NEED FOR IMMEDIATE RELEASE AND INTERIM ENFORCEMENT RELIEF

Immediate release is the appropriate primary enforcement remedy because Respondents already received the opportunity this Court ordered: a constitutionally adequate § 1226(a) bond hearing at which DHS bore the burden by clear and convincing evidence. ECF No. 9. Respondents instead produced a hearing that treated a non-final removal order as dispositive. Ex. B; Ex. C.

² See also *Loaiza Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 WL 3295385, at *2–4 (S.D. Cal. Nov. 25, 2025); *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149, at *10–13 (S.D. Cal. Oct. 1, 2025); *Munoz Materano v. Arteta*, No. 25 Civ. 6137 (ER), 2025 WL 2630826, at *14–17 (S.D.N.Y. Sept. 12, 2025); *Gabriel B.M. v. Bondi*, No. 25-cv-4298 (KMM/EMB), 2025 WL 3443584, at *6–7 (D. Minn. Dec. 1, 2025); *Orellana v. Francis*, No. 25-cv-04212 (OEM), 2025 WL 2822640, at *2–3 (E.D.N.Y. Oct. 3, 2025); *Rodriguez Carmona v. Noem*, No. 1:25-cv-1131, 2025 WL 2992222, at *6 (W.D. Mich. Oct. 24, 2025). Additional cases have reached the same conclusion in § 1182(d)(5)(A) parole cases: *Kenzhebaev v. Noem*, No. 1:25-cv-1786, 2025 WL 3737975 (W.D. Mich. Dec. 29, 2025); *Tezara Munoz v. Lynch*, No. 1:25-cv-1632, 2025 WL 3687338 (W.D. Mich. Dec. 19, 2025); *Gil Pirona v. Noem*, No. 1:25-cv-1571, 2025 WL 3687339 (W.D. Mich. Dec. 19, 2025); *Infante Rodriguez v. Raycraft*, No. 1:25-cv-1560, 2025 WL 3673583 (W.D. Mich. Dec. 18, 2025); *Quintero-Martinez v. Raycraft*, No. 1:25-cv-1507, 2025 WL 3649515 (W.D. Mich. Dec. 17, 2025); *Puerta Marin v. Lynch*, No. 1:25-cv-1444, 2025 WL 3533028 (W.D. Mich. Dec. 10, 2025); *Parra Ocanto v. Lynch*, No. 1:25-cv-1447, 2025 WL 3522113 (W.D. Mich. Dec. 9, 2025); *Arevalo v. Lynch*, No. 1:25-cv-1365, 2025 WL 3522106 (W.D. Mich. Dec. 9, 2025); *Rodriguez Martinez v. Raycraft*, No. 1:25-cv-1504, 2025 WL 3511093 (W.D. Mich. Dec. 8, 2025); *Godoy Zelaya v. Lynch*, No. 1:25-cv-1355, 2025 WL 3496472 (W.D. Mich. Dec. 5, 2025); *Pablo-Mendoza v. Lynch*, 820 F. Supp. 3d 673 (W.D. Mich. 2026).

Where the government has already been afforded an opportunity to provide the specific process a habeas court ordered and fails to do so, release is an appropriate enforcement remedy rather than repeated remands. See *Harvest*, 531 F.3d at 742–44.

Immediate release is also warranted because there is no administratively final removal order to execute. Petitioner timely appealed the IJ's removal order to the BIA, and the BIA acknowledged receipt of that appeal. Ex. D. Under 8 C.F.R. § 1241.1, the order is not administratively final while the appeal remains pending. If the BIA appeal will remain pending for two years or more, continued detention in a jail-like facility becomes grossly disproportionate to any civil appearance interest—especially where DHS presented no evidence of danger, absconding, missed hearings, supervision violations, or inability to comply with conditions. Ex. B; Ex. C; Ex. E.

Immediate release is independently warranted because Respondents have not shown lawful termination of Petitioner's preexisting parole before interior re-detention. Restoration of that parole is therefore an appropriate alternative habeas remedy.

The Court should order Petitioner's immediate release on restored parole or reasonable conditions, or alternatively set bond itself. Appropriate conditions may include a modest bond, ICE check-ins, GPS monitoring if necessary, maintenance of Petitioner's Charlotte residence, continued representation and compliance before EOIR and the BIA, compliance with all immigration deadlines, and notice of any address change.

Section 2243 requires habeas courts to dispose of matters as law and justice require. Rule 65 authorizes interim injunctive relief where necessary to preserve meaningful review. The Eleventh Circuit recognizes district courts' equitable authority to preserve the status quo while

jurisdictional and remedial issues are resolved. *Fernandez-Roque v. Smith*, 671 F.2d 426 (11th Cir. 1982).

Petitioner does not ask this Court to enjoin execution of a final removal order on the merits. There is no administratively final order to execute while the BIA appeal remains pending. Ex. D, 8 C.F.R. § 1241.1. Petitioner seeks only interim preservation relief necessary to prevent Respondents from mooted or evading this Court's enforcement jurisdiction by removal or prejudicial transfer while this Motion is pending.

Unlawful detention is paradigmatic irreparable harm. *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Where the Government is the opposing party, the balance-of-equities and public-interest factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009); *Swain v. Junior*, 958 F.3d 1081, 1091 (11th Cir. 2020).

IX. REQUESTED RELIEF

Petitioner respectfully requests that the Court:

1. Retain jurisdiction to enforce its May 13, 2026 Order;
2. Find that Respondents failed to comply with the Court's May 13, 2026 Order requiring a due-process-compliant § 1226(a) bond hearing at which DHS bore the burden by clear and convincing evidence;
3. Find that Petitioner's pending BIA appeal prevents administrative finality and that detention cannot be justified as necessary to execute an imminent final order;
4. Find, independently and alternatively, that Respondents have not shown lawful termination of Petitioner's prior parole before re-detention;
5. Order Petitioner's immediate release, including restoration of prior parole or release on reasonable conditions, or alternatively set bond in the amount of \$5,000 or another

reasonable amount with consideration of Petitioner's ability to pay or with appropriate non-monetary conditions;

6. Enter interim preservation relief prohibiting prejudicial transfer absent prior notice to counsel and the Court, and prohibiting any transfer that would interfere with Petitioner's ability to appear, communicate with counsel, or obtain effective relief;
 7. Set an immediate hearing within three days, or rule on the papers if the Court determines that the record is sufficient,
 8. Order Respondents to produce Petitioner for any hearing by video unless the Court orders otherwise;
 9. Issue a prospective Order to Show Cause requiring Respondents, if they do not comply with any enforcement order within 24 hours, to appear and show cause why coercive civil-contempt sanctions should not be imposed;
 10. Direct Respondents to identify the officials responsible for ensuring compliance with this Court's Order and require a notice of compliance within 24 hours of any enforcement order;
 11. If Respondents fail to comply within 24 hours, impose coercive sanctions in the amount of \$1,000 per day, or such other amount as the Court deems sufficient, accruing until Petitioner is released or Respondents provide a hearing that complies with this Court's Order;
 12. Grant attorney's fees and costs associated with enforcement of the writ to the extent authorized; and
 13. Grant such other and further relief as the Court deems just and proper.
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X. CONCLUSION

This Court ordered a real, due-process-compliant § 1226(a) bond hearing. Respondents provided a proceeding that did not implement this Court's directives and did not satisfy due process. Thus, Petitioner respectfully requests that the Court grant this Motion, find noncompliance, enter an enforcement order, issue a prospective order to show cause regarding civil contempt if Respondents fail to comply, and order Petitioner's immediate release or, alternatively, set bond itself.

Respectfully Submitted,

This 3rd Day of June, 2026

/s/ Karen Weinstock

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CERTIFICATE OF SERVICE

I certify that on the 3rd Day of June, 2026, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to Respondents' attorney(s) of record.

/s/ Karen Weinstock

Karen Weinstock

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