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6 **UNITED STATES DISTRICT COURT FOR THE**
7 **WESTERN DISTRICT OF WASHINGTON**
8 **SEATTLE DIVISION**

9 YIXO MORENO PORRA,

10 Petitioner,

Case No. 2:26-cv-01164

11 v.

PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. § 2241

12 JULIO HERNANDEZ, Seattle Field Office
13 Director, Immigration and Customs
14 Enforcement and Removal Operations
15 ("ICE/ERO"); TODD LYONS, Acting Director
16 of U.S. Immigration and Customs Enforcement
17 ("ICE"); TODD BLANCHE, Acting Attorney
18 General of the United States; BRUCE SCOTT,
19 Warden, Northwest ICE Processing Center
20 ("NWIPC"); U.S. Immigration and Customs
21 Enforcement, Executive Office for Immigration
22 Review, and U.S. Department of Homeland
23 Security,

24 Respondents.
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INTRODUCTION AND FACTUAL ALLEGATIONS

1. Petitioner, Yixo Jose Moreno Porra, (“Mr. Moreno”), is a longtime Washington resident, a husband, a father of three children, the owner of a construction and remodeling business, and a man with no criminal history who has been detained by the Department of Homeland Security (“DHS”) since December 18, 2025, at the Northwest ICE Processing Center in Tacoma, Washington. Ex. F (Petitioner’s Declaration) at ¶¶ 1–4, 7, 20–23; Ex. C (I-213) at 3–5; Ex. D (Petitioner Submitted Bond Evidence) at 35–52.

2. Petitioner last entered the United States lawfully on a tourist visa in mid-August 2016, after two earlier tourist visa visits in 2013 and 2014 that ended with timely departures, and DHS has charged him in removal proceedings only as a nonimmigrant who remained longer than permitted after admission. Ex. A (Notice to Appear) at 1; Ex. F ¶ 3.

3. On January 5, 2026, Immigration Judge Tammy Fitting denied bond on flight-risk grounds alone. The written order does not find that Petitioner is a danger to the community. Instead, it checks a box for “Flight Risk,” but the Order is ambiguous as to whether the Judge considered conditional release as neither the box for “granted”, “denied”, nor “was not requested” is checked. Ex. E (IJ Bond Order) at 1–2. On its face, the Order indicates that the Judge did not consider conditional release when determining flight risk, despite holding Respondent to be a flight risk. *Id.*

4. This Petition does not allege that Petitioner never received a hearing. It alleges that the hearing he received was unlawful. According to Petitioner and multiple witnesses present, the hearing lasted approximately ten to fifteen minutes, Petitioner was not meaningfully heard, counsel requested a bond of approximately \$7,500, and the court quickly adopted a flight-risk rationale centered on Petitioner’s prior visa entries and overstay without any meaningful

1 analysis of whether any bond amount or release conditions could address appearance concerns.
2 Ex. F ¶¶ 13–19; Ex. G (Declaration of Iris Sotelo) at ¶¶ 7–12; Ex. H (Declaration of Juan Pablo
3 Arroyos) at ¶¶ 7–10; Ex. I (Declaration of Stephan Edgardo Brown) at ¶¶ 11–20; Ex. J
4 (Declaration of Esperanza Arroyos) at ¶¶ 5–16.

5 5. The record further suggests that the custody inquiry was improperly collapsed
6 into skepticism about Petitioner’s immigration history and fear-based relief. According to
7 witnesses, the court repeatedly focused on Petitioner’s prior entries, his visa overstay, and the
8 view that Venezuela was not dangerous or no longer dangerous, rather than conducting a real
9 individualized § 1226(a) custody analysis. Ex. G ¶¶ 10–11; Ex. H ¶¶ 8–10; Ex. I ¶¶ 14, 18–19;
10 Ex. J ¶¶ 9–13, 15.

11 6. Petitioner does not ask this Court to decide the merits of removability or asylum.
12 He asks only that his liberty not continue to depend on an arbitrary, cursory, and constitutionally
13 inadequate custody proceeding.

14 7. Because Petitioner’s ongoing detention now rests on a legally defective no-bond
15 ruling, this Court should grant the writ and order his immediate release under reasonable
16 conditions. At minimum, the Court should order a prompt new, constitutionally adequate custody
17 redetermination hearing before a different Immigration Judge. Ex. E at 1–2; Ex. F ¶¶ 20–23; Ex.
18 G ¶ 14; Ex. J ¶ 17; Ex. K (Flight Risk Evidence) at 21–24.

19 PARTIES

20 1. Petitioner, Mr. Yixio Jose Moreno Porra, is a Venezuelan citizen and national
21 presently held at the Northwest ICE Processing Center in Tacoma, Washington. (Ex. F ¶¶ 1–2;
22 Ex. C at 3–5.)
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1 2. Respondent, Todd Blanche, is the Acting Attorney General of the United States,
2 and as such has authority over the Department of Justice ("DOJ") and is charged with faithfully
3 administering the immigration laws of the United States.

4 3. Respondent, Mr. Todd Lyons, is sued in his capacity as the Acting Director of
5 ICE, which is tasked with executing all immigration law enforcement in the United States.

6 4. Respondent, Julio Hernandez, is sued in his official capacity as the Field Office
7 Director of Seattle's ICE Field Office, which exercises control over the Spokane Field Office. He
8 bears responsibility for the apprehension, detention, and removal of noncitizens within her Field
9 Office's jurisdiction. Mr. Hernandez is the immediate legal custodian of the Petitioner, for
10 purposes of a federal habeas petition.

11 5. Respondent, Mr. Bruce Scott, is sued in his official capacity as the Warden of the
12 Northwest ICE Processing Center, the privately-operated immigration detention facility where
13 Petitioner is being held in custody. He exercises direct custody over the Petitioner.

14 6. Respondent ICE is the federal agency responsible for custody decisions relating to
15 noncitizens charged with being removable from the United States, including the arrest, detention,
16 and custody status of noncitizens.

17 7. Respondent DHS is the federal agency that has authority over the actions of ICE
18 and all other DHS Respondents.

19 8. Respondent EOIR is the federal agency that has authority over the actions of the
20 immigration court.

21 9. This action is commenced against all Respondents in their official capacities.
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JURISDICTION

10. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”). 8 U.S.C. § 1101 et. seq.; *see also Reno v. Flores*, 507 U.S. 292, 306 (1993) (affording immigrants Due Process under the Fifth Amendment).

11. The Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), the All Writs Act, 28 U.S.C. § 1651, and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

12. Petitioner does not ask this Court to reweigh evidence or substitute its judgment for the Immigration Judge’s discretionary assessment. *See Jennings v. Rodriguez*, 583 U.S. 281, 291, 138 S. Ct. 830, 200 L.Ed. 2d 724 (2003) (Under §1226(e) a non-citizen is “precluded... from ‘challenging a discretionary judgment by the Attorney General or a decision that the Attorney General has made regarding his detention or release.’”).

13. Instead, Petitioner challenges whether the custody redetermination complied with governing legal standards and the Fifth Amendment’s requirement of a meaningful, reasoned custody determination. The Ninth Circuit has made clear that §1226(e) “does not limit habeas jurisdiction over constitutional claims or questions of law.” *Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011).

14. This Court has jurisdiction to review bond hearings for errors of law, including as to whether the IJ properly concluded someone is a flight risk or danger to the community. *Martinez v. Clark*, 124 F.4th 775, 783 (9th Cir. 2024).

15. This Court has habeas jurisdiction to review legal and constitutional defects in the bond-hearing process, including whether the Immigration Judge applied the correct legal framework, considered only legally relevant factors, and provided a reasoned explanation

1 connecting the facts found to the ultimate custody determination. *Anyanwu v. Bondi*, No. C25-
2 995-JLR-MLP, 2025 U.S. Dist. LEXIS 226002, at *9. *Medina v. U.S. DHS*, No. C17-218-RSM-
3 JPD, 2017 U.S. Dist. LEXIS 114477, at *11.

4 16. Petitioner's claims are "colorable" because Petitioner alleges that the Immigration
5 Judge failed to render a legally sufficient custody determination by failing to provide
6 contemporaneous reasoning and by relying on legally improper considerations, thereby resulting
7 in continued detention without the process due. *See Hernandez v. Sessions*, 872 F.3d 976, 989
8 (9th Cir. 2017) (explaining that claims alleging the "discretionary process itself was
9 constitutionally flawed" remain cognizable on habeas notwithstanding jurisdictional limits on
10 review of discretionary decisions).

11 17. The defect is apparent from the Immigration Judge's own order. Although the
12 Immigration Judge found Petitioner to present a flight risk, the order does not reflect any
13 consideration of whether conditional release or other less restrictive alternatives could mitigate
14 that concern, as this Circuit requires. *Hernandez*, 872 F.3d at 986-87. Petitioner therefore
15 challenges not simply the result reached, but the Immigration Judge's failure to apply the
16 governing legal framework in making the custody determination.

17 18. Civil immigration detention must be non-punitive and bear a reasonable relation
18 to its purpose of ensuring compliance with immigration proceedings and preventing danger to
19 the community. *Zadvydas v. Davis*, 533 U.S. 678, 690-92 (2001); *Demore v. Kim*, 538 U.S. 510,
20 527 (2003). The government may not detain a noncitizen unless detention is reasonably
21 necessary to serve those purposes, and that necessity must be established through adequate
22 procedures at every stage. *Zadvydas*, 533 U.S. at 690-91; *Hamdi v. Rumsfeld*, 542 U.S. 507, 529
23 (2004) (recognizing freedom from physical detention as "the most elemental of liberty
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1 interests"). A no-bond order for flight risk is, as a matter of constitutional law, rare. *Zadvydas*,
2 533 U.S. at 690.

3 19. The Immigration Judge's failure to consider any bond amount or alternative
4 conditions violated both the statutory scheme and the Due Process Clause of the Fifth
5 Amendment. *Hernandez*, 872 F.3d at 994 (requiring consideration of financial circumstances and
6 alternative release conditions to ensure detention is not used when less restrictive means can
7 satisfy the government's interest); *Singh*, 638 F.3d at 1203 (requiring the government to prove by
8 clear and convincing evidence that no conditions of release can reasonably assure future
9 appearance).

10 20. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et.
11 seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C. §
12 1651.

13 VENUE

14 21. Venue is appropriate because the Petitioner is detained in this judicial district.
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16 *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973).

17 22. Venue is also properly with this Court under 28 U.S.C. § 1391(e) because
18 Respondents are employees, officers, and agencies of the United States, and a substantial part of
19 the events or omissions giving rise to this petition have occurred in the Western District of
20 Washington.

21 23. For the same reasons, divisional venue is proper under Local Rule 3-2.

22 REQUIREMENTS OF 28 U.S.C. §§ 2243, 2241

23 24. The Court must grant the petition for writ of habeas corpus or issue an order to
24 show cause ("OSC") to the Respondents "forthwith," unless the petitioner is not entitled to relief
25

1 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return
2 “within three days unless for good cause additional time, not exceeding twenty days, is allowed.”

3 *Id.*

4 25. Habeas corpus is “perhaps the most important writ known to the constitutional
5 law . . . as it [affords] a swift and imperative remedy in all cases of illegal restraint or
6 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
7 writ usurps the attention and displaces the calendar of the judge or justice who entertains it, and
8 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
9 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

10 26. Petitioner is “in custody” for the purpose of 8 U.S.C. § 2241 because he is
11 currently held at the Northwest ICE Processing Center. “[T]he Supreme Court has repeatedly
12 held that the in-custody requirement is met where the Government restricts a petitioner’s
13 freedom of action or movement.” *Doe v. Barr*, 479 F. Supp. 3d 20, 26 (S.D.N.Y. 2020), *citing*
14 *Jones v. Cunningham*, 371 U.S. 236 (1963) and *Spencer v. Kemna*, 523 U.S. 1, 7 (1998); *see*
15 *also, e.g., Devitri v. Cronen*, 290 F. Supp. 3d 86, 90 (D. Mass. 2017) (finding the same); *Alvarez*
16 *v. Holder*, 454 F. App’x 769, 772-72 (11th Cir. 2011) (same).

18 LEGAL FRAMEWORK

19 Detention Authority under the Immigration & Nationality Act

20 27. The Immigration and Nationality Act authorizes the DHS to detain
21 noncitizens who are in removal proceedings. This case concerns the detention provision at 8
22 U.S.C. § 1226(a) and its implementing regulations.

23 28. To be constitutional, civil immigration detention must be non-punitive.
24 *Zadvydas v. Davis*, 533 U.S. 678, 690-92 (2001). The government may not detain a noncitizen
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1 interests"). A no-bond order for flight risk is, as a matter of constitutional law, rare. *Zadvydas*,
2 533 U.S. at 690.

3 19. The Immigration Judge's failure to consider any bond amount or alternative
4 conditions violated both the statutory scheme and the Due Process Clause of the Fifth
5 Amendment. *Hernandez*, 872 F.3d at 994 (requiring consideration of financial circumstances and
6 alternative release conditions to ensure detention is not used when less restrictive means can
7 satisfy the government's interest); *Singh*, 638 F.3d at 1203 (requiring the government to prove by
8 clear and convincing evidence that no conditions of release can reasonably assure future
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17 22. Venue is also properly with this Court under 28 U.S.C. § 1391(e) because
18 Respondents are employees, officers, and agencies of the United States, and a substantial part of
19 the events or omissions giving rise to this petition have occurred in the Western District of
20 Washington.

21 23. For the same reasons, divisional venue is proper under Local Rule 3-2.

22 REQUIREMENTS OF 28 U.S.C. §§ 2243, 2241

23 24. The Court must grant the petition for writ of habeas corpus or issue an order to
24 show cause ("OSC") to the Respondents "forthwith," unless the petitioner is not entitled to relief.
25

1 unless needed to prevent flight or danger to society. *Id.* Due process requires both that
2 immigration detention be “‘reasonabl[y] relat[ed]” to its purposes of preventing flight and
3 danger to the community, and that it be accompanied by adequate procedures to ensure those
4 purposes are met. *Id.* at 690-91 (citation omitted). *Accord Demore v. Kim*, 538 U.S. 510, 527
5 (2003).

6 29. In making release decisions under § 1226(a), the regulations provide that a
7 noncitizen must demonstrate he or she does not pose a danger to property or persons, and that he
8 or she is “‘likely to appear for any future proceeding.” 8 C.F.R. § 1236.1(c)(8); *see also*
9 *Matter of Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006).

10 30. The Government must consider a range of evidence, some of which is
11 objective, and some of which may require the Government to evaluate the credibility of the
12 noncitizen and other witnesses. The factors the Government should consider are:

- 13
- 14 a. whether the noncitizen has a fixed address in the United States;
 - 15 b. the noncitizen’s length of residence in the United States;
 - 16 c. the noncitizen’s family ties in the United States, and whether they may entitle the
17 noncitizen to reside permanently in the United States in the future;
 - 18 d. the noncitizen’s employment history;
 - 19 e. the noncitizen’s record of appearance in court;
 - 20 f. the noncitizen’s criminal record, including the extensiveness of criminal activity,
21 the recency of such activity, and the seriousness of the offenses;
 - 22 g. the noncitizen’s history of immigration violations;
 - 23 h. any attempts by the noncitizen to flee prosecution or otherwise escape from
24 authorities; and,
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i. the noncitizen's manner of entry to the United States.

Matter of Guerra, 24 I&N Dec. at 38; *Matter of R-A-V-P-*, 27 I&N Dec. at 805.

31. For noncitizens who may present some level of flight risk, the Government must also consider the noncitizen's financial ability to pay a bond. *Hernandez v. Sessions*, 872 F.3d 976 (9th Cir. 2017). The Government should consider whether the noncitizen may be released on alternative conditions of supervision, alone or in combination with a lower bond amount, that are sufficient to mitigate flight risk. *Id.* at 986-87.

32. These factors all relate to the core inquiry in a custody determination proceeding before either DHS or EOIR. If the noncitizen is not a danger to the community, the DHS or EOIR must consider whether the noncitizen is a flight risk and, if so, what conditions of release will best ensure the noncitizen's appearance at future proceedings.

33. Because of the liberty interest, there are seldom circumstances where no combination of conditions, including bond, could mitigate any flight risk. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (recognizing the fundamental liberty interest at stake in civil detention); *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) (requiring consideration of financial circumstances and alternative release conditions to ensure detention is not used when less restrictive means can satisfy the government's interest); *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (requiring the government to prove by clear and convincing evidence that no conditions of release can reasonably assure future appearance). Detention without the possibility of posting bond for flight risk is, as a matter of constitutional law, rare.

Release/Custody Determinations by DHS & IJs

34. Individuals subject to the Government's § 1226(a) detention authority are entitled to a release determination made by DHS; if not released by DHS, they are also entitled to a

1 custody redetermination made by an immigration judge. 8 C.F.R. § 1236.1(c)(8); 8 C.F.R. §
2 1236.1(d).

3 35. When purporting to assert initial detention over a noncitizen, DHS must make a
4 custody (or release) determination. 8 C.F.R. § 1236.1(c)(8).

5 36. DHS documents its decision on ICE Form I-286, Notice of Custody
6 Determination.

7 37. DHS may release the noncitizen on their own recognizance. 8 U.S.C. §
8 1226(a)(2)(B) (referring to “conditional parole”); *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111,
9 1115 (9th Cir. 2007) (“It is apparent that the INS used the phrase “release on recognizance” as
10 another name for “conditional parole” under 1226(a)”); ICE Form I-220A Order of Release on
11 Recognizance.¹

12 38. DHS may also release the noncitizen on the posting of a bond of at least \$1,500.
13 8 U.S.C. § 1226(a)(2)(A); 8 C.F.R. § 103.6; ICE Form I-352, Immigration Bond.²

14 39. Noncitizens are entitled to a meaningful opportunity to be heard on their custody
15 status before DHS. 8 C.F.R. § 1236.1(c)(8). DHS is required to engage in a
16 “deliberative process prior to, or contemporaneous with, the initial decision to strip a person of
17 the freedom that lies at the heart of the Due Process Clause.” *Gonzalez v. Joyce*, 2025 WL
18 2961626, *5 (S.D.N.Y. 2025). “That the Government may believe it has a valid reason to detain [a
19 noncitizen] does not eliminate its obligation to effectuate the detention in a manner that
20 comports with due process.” *E.A.T.-B. v. Wamsley*, 795 F.Supp.3d 1316, 1322 (W.D. Wash.
21 2025). The availability of custody redetermination proceedings by immigration judges does not
22 relieve the DHS from their obligation to follow the law. Any suggestion that “government
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25 ¹ Available at https://www.ice.gov/doclib/detention/checkin/I_220A_OREC.pdf (last visited Mar. 22, 2026)

² Available at <https://www.ice.gov/doclib/forms/i352.pdf> (last visited Mar. 22, 2026)

1 irreparable injury will result, or the administrative proceedings would be void." *Hernandez v.*
2 *Sessions*, 872 F.3d 976, 988 (9th Cir. 2017).

3 43. Courts may impose prudential exhaustion where "(1) agency expertise makes
4 agency consideration necessary to generate a proper record and reach a proper decision; (2)
5 relaxation of the requirement would encourage the deliberate bypass of the administrative
6 scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes
7 and to preclude the need for judicial review." *Hernandez*, 872 F.3d at 988. These considerations
8 are commonly known as the Puga factors because they originate in *Puga v. Chertoff*, 488 F.3d
9 812, 815 (9th Cir. 2007). Even so, prudential exhaustion may be waived where administrative
10 remedies are inadequate or ineffective, pursuit of such remedies would be futile, irreparable
11 injury would result, or the administrative proceedings would be void. *Id.*

12 44. The first Puga factor weighs against requiring administrative exhaustion. That
13 factor asks whether "agency expertise makes agency consideration necessary to generate a
14 proper record and reach a proper decision." *Puga*, 488 F.3d at 815. Although the BIA may have
15 general subject-matter expertise in immigration custody and bond matters, it has no special
16 expertise in resolving the constitutional and legal questions presented here. *See W.T.M. v. Bondi*,
17 No. 2:25-CV-02428-RAJ-BAT, 2026 WL 262583, at *2 (W.D. Wash. Jan. 20, 2026). Those are
18 questions for the judiciary. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 401 (2024). Nor
19 is further agency consideration necessary to generate a proper record. Petitioner reserved appeal
20 of the Immigration Judge's bond decision, but no appeal to the BIA was ever filed. As a result,
21 the administrative record consists of the Immigration Judge's contemporaneous custody order
22 alone, and that order is itself the source of the defect challenged here: it reflects a conclusory no-
23 bond determination without contemporaneous, reasoned findings sufficient to permit meaningful
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1 review. Where the asserted statutory and constitutional defects arise from the face of the existing
2 custody order and the absence of any articulated reasoning at the time bond was denied, further
3 agency proceedings are unnecessary for this Court to reach a proper decision. *See Valenzuela v.*
4 *Semaia*, No. 5:25-cv-02853-SSS-RAO, 2025 WL 3635578, at *7 (C.D. Cal. Dec. 10, 2025). And
5 while one court has reasoned that a BIA appeal might expand the record by prompting the
6 Immigration Judge to provide a fuller written explanation, see *Martinez v. Scott*, No. 2:25-cv-
7 01538-TSZ-GJL, 2025 WL 2689844, at *5 (W.D. Wash. 2025), that possibility only underscores
8 the problem here: any such explanation would be post hoc and would not cure the absence of
9 contemporaneous reasoning in the original custody determination. Accordingly, additional
10 proceedings before the BIA would not materially aid the crystallization of a record for this
11 Court's review. *See Valenzuela*, 2025 WL 3635578, at *7.

12
13 45. The second Puga factor also weighs against requiring exhaustion. Petitioner seeks
14 resolution of a discrete legal and constitutional challenge, not a fact-bound reweighing of the
15 Immigration Judge's discretionary bond decision. *See Rodriguez Vazquez v. Bostock*, 779 F.
16 Supp. 3d 1239, 1251 (W.D. Wash. 2025); *cf. Martinez*, 2025 WL 2689844, at *5. Although
17 Petitioner reserved appeal, no appeal to the BIA was ever filed. But excusing exhaustion here
18 would not encourage deliberate bypass of the administrative scheme, because this petition does
19 not ask the Court to revisit the Immigration Judge's ordinary discretionary balancing or simply
20 substitute its judgment for that of the agency. Rather, Petitioner raises threshold legal questions
21 about whether the bond proceeding complied with governing statutory and constitutional
22 requirements at all. Resolution of those questions may provide concrete guidance for future
23 custody proceedings and thereby promote clarity rather than circumvention. *See Rodriguez*, 779
24 F. Supp. 3d at 1251-52. More specifically, this case asks whether a conclusory no-bond
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1 determination unsupported by contemporaneous, reasoned findings satisfies the requirements
2 governing custody redeterminations under § 1226(a), and whether bond may be denied on a
3 flight-risk rationale without meaningful consideration of release on conditions. Those are legal
4 questions of recurring significance, the resolution of which may reduce, rather than increase,
5 future habeas litigation. *See id.*; *see also W.T.M.*, 2026 WL 262583, at *2 (concluding that a
6 specific legal challenge to the basis for a flight-risk finding leaned against requiring exhaustion).

7 46. The third Puga factor also weighs against requiring prudential exhaustion.
8 Administrative review was not likely to allow the agency to correct its own mistake or to obviate
9 the need for judicial review. The defect alleged here is legal and structural: Petitioner challenges
10 ~~the constitutional and statutory~~ adequacy of the bond proceeding itself, including the absence of
11 ~~contemporaneous, reasoned findings~~ and the failure to meaningfully reflect consideration of
12 release on conditions. Further BIA review was especially unlikely to produce agency self-
13 correction in light of the Board's recent precedential treatment of bond and flight risk. The Board
14 recently sustained DHS's appeal from an Immigration Judge's bond grant and ordered detention
15 without bond based on perceived residence discrepancies, an unverified sponsor relationship, and
16 flight-risk concerns. *Matter of Z-N-L-*, 29 I&N Dec. 511 (BIA 2026). Against that backdrop, a
17 BIA appeal here was not likely to correct the legal defects at issue, but instead was likely to
18 reinforce the same no-bond approach Petitioner challenges. That conclusion is consistent with
19 recent district court decisions recognizing that exhaustion is disfavored where the BIA's own
20 precedents make meaningful administrative correction improbable. *See Perez v. LaRose*, No.
21 3:25-cv-02620-RBM-JLB, 2025 U.S. Dist. LEXIS 223769, at *10 (S.D. Cal. Nov. 13, 2025)
22 (waiving exhaustion as futile because the BIA was obligated to apply its own binding precedent
23 mandating detention); *Huerta v. Bondi*, No. 1:25-cv-00941-JLT-HBK, 2026 U.S. Dist. LEXIS
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1 4662, at *7 (E.D. Cal. Jan. 9, 2026) (finding pursuit of administrative remedies would “almost
2 certainly be futile” given the BIA’s recent precedential detention ruling); *Salvador v. Bondi*, No.
3 2:25-cv-07946-MRA-MAA, 2025 U.S. Dist. LEXIS 211770, at *14-16 (C.D. Cal. Sept. 2, 2025)
4 (observing there was no indication administrative review was likely to result in the agency
5 correcting its own mistake).

6 47. Additionally, exhaustion is not absolute where the challenge sounds in
7 constitutional defect rather than mere disagreement with the agency’s exercise of discretion. The
8 Ninth Circuit has recognized a futility exception for constitutional challenges to DHS and
9 removal-related procedures, including due process challenges to detention and bond-related
10 procedures. *Iraheta-Martinez v. Garland*, 12 F.4th 942, 949 (9th Cir. 2021) (quoting *Sola v.*
11 *Holder*, 720 F.3d 1134, 1135 (9th Cir. 2013) (per curiam)). In assessing whether such claims
12 must first be presented administratively, courts distinguish between procedural errors the agency
13 can correct and constitutional defects that lie outside the BIA’s institutional authority. *Sola*, 720
14 F.3d at 1135. Because Immigration Judges and the BIA lack authority to pass on the
15 constitutionality of the statutes they administer, administrative review may be inadequate or
16 futile where the claim is that the detention process itself failed to satisfy due process. *In re G-K-*,
17 26 I. & N. Dec. 88, 96–97 (BIA 2013).
18

19 48. The BIA process is long, and the lengthy delays in adjudication often moot
20 pending bond appeals before they are adjudicated. In 2024, EOIR data showed an average
21 processing time of 204 days for bond appeals. *Rodriguez*, 802 F. Supp. 3d at 1307. Between
22 2015 and 2024, bond appeal cases took a year or longer to resolve. *Id.* During the time it takes
23 the BIA to resolve the bond appeal, most detainees’ claims are mooted by adjudications in their
24 removal proceedings. *Id.*
25

49. Petitioner's continued detention is causing concrete and irreparable harm. Administrative delay here imposes immediate financial, practical, and emotional harm on Petitioner's spouse and children. *See Rodriguez*, 779 F. Supp. 3d at 1253-54 (recognizing that an individualized showing of harm supports waiver of prudential exhaustion notwithstanding the Puga factors); *W.T.M.*, 2026 WL 262583, at *3 (same). Before his detention, Petitioner was the family's primary earner. Since then, his wife has had to take over the family business while also caring for the children and the family—despite having purchased a home only days before the detention—has been unable to move in and has instead had to live with relatives for support. Ex. F ¶ 21-22; Ex. D ¶ 21-22; Ex. K at 23-24. The children have also suffered significant emotional harm. Jeremias, who has documented speech and communication needs, experienced panic attacks and severe stress after the detention and was identified as needing additional therapy and psychological support. Ex. F ¶ 21; Ex. K at 4-20. Petitioner's pediatrician likewise reports that all three children have shown notable emotional distress since their father's detention, including sadness, sleep disruption, concentration problems, recurrence of nervous tics for Jeremias, and disrupted sleep for Sienna, along with chronic household stress and increased financial strain. Ex. K at 21-22. Community witnesses similarly describe substantial emotional and practical harm to Petitioner's spouse and children resulting from his detention. Ex. G ¶ 14; Ex. J ¶ 17.

FACTUAL BACKGROUND

Petitioner's Identity, Residence, Family, and Equities

1. Petitioner is a Venezuelan citizen born on  He is married to Bianny Artigas, and together they have three children, the youngest two of whom are United States citizens. Ex. F ¶ 1; Ex. D at 10-12.

1 2. Petitioner has lived with his family in Washington, has recently purchased a
2 home, and has deep family and residence ties in this state. Ex. F ¶¶ 1, 4, 22–23; Ex. D at 21–22,
3 35–37, 38–52; Ex. K at 6, 21–24.

4 3. Petitioner owns and operates a Washington construction and remodeling business,
5  The business records in the bond packet show an
6 active Washington limited liability company, an active business license, and tax and insurance
7 registrations in active status. Ex. F ¶ 4; Ex. D at 33–37.

8 4. The bond record also contained multiple years of tax filings reflecting Petitioner's
9 Washington residence, joint tax filing history with his wife, and dependents in the household.
10 (Ex. D at 38–52.)

11 5. Petitioner also presented extensive community support. His bond packet included
12 support letters from family friends, customers, community members, and a proposed sponsor,
13 including Stephan Brown's statement that he was willing and able to sponsor Petitioner and to
14 pay an immigration bond in full if granted. Ex. D at 13–28; Ex. I ¶¶ 8–9.

15 6. Petitioner has no criminal history. He states that he has never committed a crime
16 in the United States and has never before been arrested or detained. DHS's own I-213 reflects
17 negative criminal-history and records checks, and multiple declarants likewise attest that they
18 know of no criminal history. Ex. F ¶ 7; Ex. C at 3–4; Ex. G ¶ 5; Ex. H ¶ 5; Ex. I ¶ 6; Ex. J ¶ 3.

19
20 **Lawful Admission and Overstay**

21 7. Petitioner last entered the United States lawfully on a tourist visa in August 2016
22 and has remained in the country since that entry. He previously entered the United States on
23 tourist visas in 2013 and 2014 and departed timely after each prior visit. Ex. F ¶ 3.
24
25

1 8. The Notice to Appear charges Petitioner as a nonimmigrant overstay after
2 admission, alleging admission as a B-2 nonimmigrant in August 2016 and removability under
3 INA § 237(a)(1)(B). Ex. A at 1.

4 9. This is therefore a lawful-entry overstay case, not a case in which DHS alleges
5 entry without inspection or treats Petitioner as an applicant for admission. Ex. A at 1.

6 **USCIS Asylum and Transition into Removal Proceedings**

7 10. Petitioner states that he filed for asylum with USCIS in 2017 and was still
8 awaiting an asylum interview when ICE detained him. Ex. F ¶ 8.

9 11. DHS's own I-213 corroborates that history. It records that Petitioner submitted an
10 I-589 asylum application on August 11, 2017 and that the asylum interview remained pending,
11 and it also notes that Petitioner's TPS approval was terminated in November 2025. Ex. C at 5.
12

13 12. Petitioner had remained in the affirmative asylum process awaiting USCIS
14 interview until DHS detained him and issued a Notice to Appear on December 18, 2025, which
15 placed him into section 240 removal proceedings before the Tacoma Immigration Court. Ex. A at
16 1.

17 13. The immigration court later denied Petitioner's asylum case, but Petitioner timely
18 appealed, and his appeal in the principal removal proceedings remains pending before the Board
19 of Immigration Appeals. Ex. B (BIA Filing Receipt).

20 **Arrest and Detention**

21 14. On December 18, 2025, Petitioner was working on a remodeling job in Renton,
22 Washington and driving one of his company vehicles when officers stopped and arrested him.
23 Petitioner describes being surrounded by multiple vehicles and armed officers after leaving
24
25

1 Home Depot with a client. DHS describes the arrest as part of a targeted enforcement operation
2 involving a vehicle stop in Renton. Ex. F ¶¶ 4–8; Ex. C at 4–5.

3 15. DHS's I-213 states that Petitioner complied without incident, was transported to
4 the Seattle ERO office for processing, and was then placed into immigration detention. (Ex. C at
5 4–5.)

6 16. Petitioner has remained detained since December 18, 2025 and is presently held at
7 NWIPC in Tacoma. Ex. F ¶ 2; Ex. C at 3–5.

8
9 **Immigration Court Bond Hearing**

10 17. The custody redetermination hearing took place on January 5, 2026, before
11 Immigration Judge Tammy Fitting in Tacoma. Ex. E at 1–2; Ex. F ¶ 13.

12 18. Before that hearing, DHS filed a notice of evidence identifying only the Form I-
13 213 as the document it intended to offer. By contrast, Petitioner submitted a substantial bond
14 packet containing family, residence, business, tax, and support materials. Ex. C at 1–2; Ex. D at
15 2; Ex. F ¶ 14.

16 19. According to Petitioner and the witnesses present, the hearing was very short,
17 lasting only about ten to fifteen minutes. Ex. F ¶ 15; Ex. G ¶ 12; Ex. H ¶ 10; Ex. I ¶ 20.

18 20. Petitioner states that he was not asked questions by the court and did not
19 meaningfully speak during the hearing; the only response he recalls giving was to counsel's
20 question confirming that his earlier entries had also been on visas. Ex. F ¶¶ 15, 17.

21 21. Witnesses recall that the hearing involved basic biographical questions through
22 counsel, including questions about Petitioner's family and prior entries, and that a Spanish
23 interpreter was present. Ex. G ¶¶ 7–8; Ex. H ¶¶ 7, 10; Ex. I ¶¶ 11–14; Ex. J ¶¶ 5–8.
24
25

1 22. Petitioner states that his attorney requested a bond of \$7,500. Witnesses recall a
2 bond request in the approximate range of \$5,000 to \$7,500. Ex. F ¶ 15; Ex. G ¶ 8; Ex. H ¶ 9; Ex.
3 I ¶ 12; Ex. J ¶ 8.

4 23. According to Petitioner, DHS argued that he was a flight risk because he had
5 entered the United States multiple times, overstayed his visa, and knew he was out of status.
6 Some witnesses also recall government counsel arguing danger. Ex. F ¶ 16; Ex. G ¶ 9; Ex. H ¶ 9;
7 Ex. I ¶ 15; Ex. J ¶¶ 10, 14.

8 24. According to Petitioner and witnesses present, the court repeatedly focused on
9 Petitioner's prior lawful entries, his 2016 overstay, and the premise that Venezuela was not
10 ~~dangerous~~ or no longer dangerous, thereby treating visa history and relief-related skepticism as
11 ~~reasons~~ to deny release. Ex. G ¶¶ 10–11; Ex. H ¶¶ 8–10; Ex. I ¶¶ 14, 18–19; Ex. J ¶¶ 9–13, 15.

12 25. According to multiple witnesses, the court did not propose a higher bond amount,
13 did not discuss any different bond figure, and did not address other release conditions. Ex. F ¶
14 18; Ex. G ¶¶ 8, 12; Ex. H ¶ 10; Ex. I ¶ 17; Ex. J ¶ 16.

16 The No-Bond Order

17 26. The Immigration Judge's written order dated January 5, 2026 denied Petitioner's
18 request for a change in custody status and ordered that Petitioner remain detained at no bond. Ex.
19 E at 1.

20 27. On the face of the order, the Immigration Judge checked only "Flight Risk" and
21 did not check "Danger to Community." Ex. E at 1.

22 28. Although the order indicates that "ability to pay" was considered, it does not state
23 whether release on alternative conditions was requested, considered, granted, or denied. The
24 form contains boxes relating to conditional release, but none are checked. Ex. E at 1.
25

1 29. The order provides no contemporaneous explanation beyond these checkboxes
2 and contains no reasoned findings identifying what evidence the Immigration Judge relied upon,
3 what legal standard was applied, or why Petitioner supposedly could not be released on bond or
4 other conditions. Ex. E at 1.

5 30. In this respect, the custody redetermination lacked the basic hallmarks of a
6 meaningful adjudication. The Immigration Judge issued a conclusory custody outcome without
7 contemporaneous, reasoned findings sufficient to explain the basis for continued detention. To
8 the extent the Immigration Court relied on a checkbox-style order or otherwise failed to
9 articulate its reasoning at the time of the hearing, that defect deprived Petitioner of a meaningful
10 opportunity to understand, challenge, and seek review of the basis for his continued detention.

11 31. If no recording of the hearing is available and no transcript can be obtained, that
12 absence further undermines meaningful review and compounds the due process violation,
13 because it prevents Petitioner and any reviewing body from determining what evidence was
14 considered, what standards were applied, and what findings, if any, were actually made.

15
16 **Evidence Negating Danger and Flight Risk**

17 32. The record before the Immigration Court showed that Petitioner last entered
18 lawfully on a tourist visa, had two earlier tourist-visa entries followed by timely departures, and
19 was charged only as an admitted nonimmigrant who overstayed after admission. Ex. A at 1; Ex.
20 F ¶ 3.

21 33. The bond record also showed that Petitioner had a fixed Washington residence, a
22 spouse and children in the United States, two U.S.-citizen children, a recently purchased home,
23 an active Washington business, active business licensing and registration, and years of tax
24 compliance. Ex. D at 10–12, 21–22, 33–37, 38–52; Ex. F ¶¶ 1, 4; Ex. K at 6, 21–24.
25

1 34. The bond record further included numerous support letters from community
2 members, customers, friends, and a sponsor willing to support Petitioner financially if released.
3 Ex. D at 13–28; Ex. I ¶¶ 8–9.

4 35. DHS’s own I-213 reflects no criminal history, negative NCIC and TECS checks,
5 and no gang affiliation, and the Immigration Judge herself made no dangerousness finding. Ex. C
6 at 3–5; Ex. E at 1.

7 36. Several witnesses who know Petitioner well describe him as hardworking, family-
8 oriented, trustworthy, and not dangerous or likely to flee. Ex. G ¶¶ 5, 15; Ex. H ¶¶ 5, 11; Ex. I ¶¶
9 6, 22; Ex. J ¶¶ 3–4, 18.

10 37. No administrative appeal was filed from the January 5, 2026 bond denial. Ex. F ¶
11 19. The Immigration Judge’s order reflects that appeal rights were reserved, not waived, for both
12 DHS and Respondent. Ex. E at 2.

13 38. Petitioner states that the day after the hearing, his attorney advised him not to
14 appeal because the appeal would take a long time and would likely be denied, and instead
15 advised him to focus on the underlying asylum case. Ex. F ¶ 19. Stephan Brown understood the
16 same advice to have been given after the hearing. Ex. I ¶ 21.

18 **Ongoing Harms from Detention**

19 39. Petitioner was the primary earner for his household. Since his detention, his wife
20 has had to take over the family business, including client communications, billing, employee
21 management, and ongoing jobs. Ex. F ¶ 20.

22 40. Petitioner states that the family bought a house only days before his detention, but
23 has not been able to move in and has instead been living with relatives for support because of the
24

1 financial and practical disruption caused by his detention. Ex. F ¶¶ 22–23; Ex. D at 21–22; Ex. K
2 at 23–24.

3 41. Petitioner's son [REDACTED] has speech and communication needs documented in
4 school records, and Petitioner states that after the detention, J [REDACTED] experienced panic attacks
5 and severe stress and was identified as needing additional therapy and psychological support. Ex.
6 F ¶ 21; Ex. K at 4–20.

7 42. Petitioner's pediatrician reports that all three children have shown notable
8 emotional distress since their father's detention, including sadness, sleep disruption,
9 concentration problems, recurrence of nervous tics for J [REDACTED] and disrupted sleep for Sienna,
10 and that the father's absence has also produced increased financial strain and chronic household
11 stress. Ex. K at 21–22.

12 43. Community witnesses likewise describe substantial emotional and practical harm
13 to Petitioner's spouse and children as a result of his detention. Ex. G ¶ 14; Ex. J ¶ 17.
14
15

16 CLAIMS FOR RELIEF

17 COUNT ONE

18 Violation of Fifth Amendment Right to Procedural Due Process 19 Failure by DHS to Conduct Individualized Determination

20 (Against Respondents Hernandez, DHS, Lyons)

21 44. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the
22 preceding paragraphs as if fully set forth herein.

23 45. The Due Process Clause of the Fifth Amendment to the U.S. Constitution
24 prohibits the federal government from depriving any person of "life, liberty, or property, without
25 due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the

26 PETITIONER REQUESTS THAT THE COURT GRANT THE FOLLOWING RELIEF:
27 1. A writ of habeas corpus.
28 2. A writ of mandamus.
29 3. A writ of prohibition.
30 4. A writ of certiorari.
31 5. A writ of amparo.
32 6. A writ of habeas data.
33 7. A writ of habeas corpus.

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1 United States, including [non-citizens], whether their presence here is lawful, unlawful,
2 temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

3 46. Due process requires that government action be rational and non-arbitrary. *See*
4 *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

5 47. While the government has discretion to detain individuals under 8 U.S.C. §
6 1226(a), this discretion is not “unlimited” and must comport with constitutional due process. *See*
7 *Zadvydas*, 533 U.S. at 698.

8 48. Under the Due Process Clause, immigration detention must always “bear[] a
9 reasonable relation to the purpose for which the individual was committed.” *Demore*, 538 U.S. at
10 527 (quoting *Zadvydas*, 533 U.S. at 690).

11 49. Petitioner’s detention does not bear a “reasonable relation” to either
12 preventing flight risk or preventing danger to the community.

13 50. Respondents’ failure to conduct an individualized custody determination and
14 provide an opportunity for Petitioner to be heard in that process prior to or contemporaneous with
15 Petitioner’s detention violates her due process rights.

16
17 **COUNT TWO**

18 **Violation of the Fifth Amendment Right to Procedural Due Process**

19 **Failure by Immigration Court to Conduct a fair Custody Redetermination**

20 (Against Respondents EOIR, Blanche)

21 51. Petitioner restates and realleges all paragraphs as if fully set forth here.

22 52. “Freedom from imprisonment—from government custody, detention or other
23 forms of physical restraint—lies at the heart of the liberty that [Due Process] Clause
24 protects.” *Zadvydas*, 533 U.S. at 690.
25

1 53. Under the Due Process Clause, immigration detention must always “bear[] a
2 reasonable relation to the purpose for which the individual was committed.” *Demore*, 538 U.S. at
3 527 (quoting *Zadvydas*, 533 U.S. at 690).

4 54. Petitioner’s detention does not bear a “reasonable relation” to either
5 preventing flight risk or preventing danger to the community.

6 55. Petitioner had a protected liberty interest in a lawful and non-arbitrary custody
7 determination under § 1226(a). Because the Immigration Judge did not find dangerousness, the
8 only asserted basis for continued detention was flight risk.

9 56. Although the order reflects that Petitioner’s ability to pay bond was considered, it
10 also shows on its face that bond was denied based on flight risk without any consideration of
11 release on conditions, as the law requires. That omission is further corroborated by
12 contemporaneous accounts from individuals who were present at the hearing.

13 57. Under *Hernandez*, an immigration judge must consider a noncitizen’s financial
14 circumstances and whether alternative conditions could mitigate flight risk. *Hernandez*, 872 F.3d
15 at 986-87.

16 58. Under *Singh*, the government must prove by clear and convincing evidence that
17 no conditions of release can reasonably assure future appearance. *Singh*, 638 F.3d at 1203. Here,
18 the Immigration Judge did neither. She simply checked a box stating “Ability to pay considered”
19 without providing analysis.
20

21 59. The Immigration Judge’s failure to provide a basis for her conclusion of “no bond”—a
22 *de facto* order of mandatory detention—violates the Petitioner’s due process rights. There are
23 no circumstances in which the IJ could plausibly establish that the Petitioner posed a flight risk.
24
25

1 No reasoned explanation was given to the Petitioner as to the no-bond holding, either at the
2 hearing or within the contents of the order itself.

3 60. Continued detention based on that cursory and conclusory proceeding violates the Fifth
4 Amendment.

5 **COUNT THREE**

6 **Violation of the Immigration and Nationality Act and Bond Regulations – Unlawful**

7 **Denial of Release on Bond**

8 (Against all Respondents)

9 61. Petitioner restates and realleges all paragraphs as if fully set forth here.

10 62. Section 1226(a) is the statutory authority for detaining Petitioner “pending a decision on
11 whether [she] is to be removed from the United States.” It affords him a right to a fair,
12 individualized bond hearing. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *Matter of Guerra*,
13 24 I&N Dec. 37 (BIA 2006).

14 63. The DHS has failed entirely to provide a reasoned basis for the exercise of its detention
15 authority.

16 64. The Immigration Judge has failed to provide any facts or probative and reasonable
17 basis for the IJ’s “no bond” determination.

18 65. The Immigration Judge nonetheless denied bond without explaining how those factors
19 were weighed, why they were insufficient, or why no amount of bond and no combination of
20 release conditions could reasonably assure appearance.

21 66. The hearing record, as described by Petitioner and witnesses present, indicates that the
22 court instead collapsed the custody inquiry into Petitioner’s visa history and perceived
23 weaknesses in his asylum claim.
24
25

1 67. Respondents have violated §1226(a) and its implementing regulations by detaining
2 Petitioner since her arrest without providing her a fair, individualized release
3 determination that the statute and regulations mandate.

4 68. Because the January 5, 2026 custody redetermination did not reflect an actual
5 individualized analysis under § 1226(a), did not meaningfully consider bond amount and
6 alternatives to detention, and did not provide a reasoned basis for continued detention,
7 Petitioner's ongoing detention is contrary to the INA and governing regulations.

8 **PRAYER FOR RELIEF**

9
10 WHEREFORE, Petitioner respectfully requests this Court to:

- 11 1) Assume jurisdiction over this matter;
- 12 2) Issue an Order to Show Cause ordering Respondents to demonstrate why this Petition
13 should not be granted within three days;
- 14 3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth
15 Amendment, the INA, and the implementing regulations;
- 16 4) Declare that Respondent EOIR violated Petitioner's constitutional and statutory rights
17 by failing to record the bond hearing and failing to provide any contemporaneous
18 decision explaining the results;
- 19 5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from
20 custody;
- 21 6) In the alternative, issue an order requiring Respondent DHS to provide Petitioner,
22 within three days, a constitutionally adequate individualized bond hearing before a
23 neutral decisionmaker, with a meaningful opportunity to be heard, limited to the
24 question of whether Petitioner poses a danger to the community, and prohibiting
25

1 denial of release on the basis of alleged flight risk;

2 7) In the alternative, conduct a hearing before this Court to determine whether Petitioner
3 presents a flight risk or danger that justifies continued detention;

4 8) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and
5 on any other basis justified under law; and

6 9) Grant any further relief this Court deems just and proper.

7 Respectfully submitted,

8
9 Dated: April 6, 2026

s/ Octavian Jumanca
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13 *Attorney for Petitioner*
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