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

HAMED ASADIMOFARAH,

Petitioner,

v.

CHRISTOPHER LAROSE, Warden at
Otay Mesa Detention Center,

Respondents.

Case No.: 26-cv-2442-BTM-SBC

**Traverse in support of petition for
writ of habeas corpus**

I. Introduction

This Court should order that Mr. Asadimofarah be immediately released, receive a new bond hearing, or both. It should do so because the immigration judge's "finding that [he] poses a flight risk" constituted an "abuse of discretion." *Perez Velasquez v. Bondi*, No. 26-cv-1759-GPC-DDL, 2026 WL 1042479, *5 (S.D. Cal. April 16, 2026). An immigration judge abuses his discretion in denying a bond when he "fail[s] to mention highly probative or potentially dispositive evidence," when he does not "apply[] the correct legal standard," and when "there is an indication that something is amiss." *Martinez v. Clark*, 124 F.4th 775, 785 (9th Cir. 2024) (establishing jurisdiction and the standard of review for immigration court bond decisions challenged through § 2241 litigation).

The IJ committed all three of these forms of an abuse of discretion here. In early April, the immigration court was ordered to hold a bond hearing for

1 Mr. Asadimofarah as a matter of due process. *Asadimofarah v. LaRose*, 26-cv-
2 618-RBM-BJW, ECF No. 9 Order (attached here at Exhibit A). At that hearing,
3 the immigration judge denied bond for the following reason: “You’ve been
4 granted withholding of removal to Iran but this does not preclude the government
5 from sending you to another country that would accept you. . . . The possibility
6 that you might be sent to another country I believe makes you a flight risk to the
7 degree that no bond is appropriate.” Exhibit B (transcript of bond hearing).

8 The IJ did not consider any of Mr. Asadimofarah’s individual
9 circumstances: That he had a sponsor, a release plan, no criminal history, and a
10 very strong incentive to stay in the United States while his appeal seeking the
11 affirmative benefit of asylum remains pending. Nor did the IJ consider that, if
12 Mr. Asadimofarah had *not* appealed, he would soon be required to be released
13 from detention into the United States under *Zadvydas*. Only because he seeks to
14 obtain the lawful status of asylum is his case still pending and does he remain
15 detained.

16 Instead, the IJ found him a flight risk solely because of his removal order,
17 issued alongside withholding of removal. This, too, was legal error. A
18 “noncitizen’s unlawful status cannot provide a legitimate consideration upon
19 which an Immigration Judge may deny a request for release on bond . . . given
20 that every individual who appears before an Immigration Judge for custody
21 redetermination lacks lawful status.” *Alvarado Lopez v. Dillman*, No. 25-cv-2456-
22 LMB-LRV, 2026 WL 688958, at *6 (E.D. Va. Mar. 11, 20026). To rely on this
23 fact alone “violates . . . [the] requirement of an individualized hearing.” *Id.*
24 Regardless, the possibility that Mr. Asadimofarah will be sent to a third country is
25 relatively low. As the Supreme Court recently recognized, “alternative-country
26 removal is rare.” *Johnson v. Guzman-Chavez*, 594 U.S. 523, 537 (2021).

27 Finally, contrary to the government’s arguments, this Court clearly has
28 jurisdiction. And it should not—as a prudential matter, not required by statute—

1 first make Mr. Asadimofarah complete a bond appeal to the Board of Immigration
2 Appeals. “[R]equiring Petitioner to remain in detention pending the BIA’s
3 decision would cause irreparable harm, which is a separate basis to waive
4 exhaustion.” *Dorotheo-Chavez v. Noem*, No., 2026 WL 1031190, *6 (D. Nev.
5 Apr. 16, 2026). For this reason, “district courts in this circuit have routinely
6 waived prudential exhaustion requirements for noncitizens . . . facing prolonged
7 detention while awaiting administrative appeals.” *Rodriguez v. Bostock*, 779 F.
8 Supp. 3d 1239, 1253–54 (W.D. Wash. 2025) (collecting cases).

9 It often takes “up to six months to receive a decision” from the Bureau of
10 Immigration Appeals. *Y.S.G. v. Andrews*, No. 25-cv-1884-SCR, 2025 WL
11 2979309, *7 (E.D. Cal. Oct. 22, 2025). In the most recent quarter of 2026 for
12 which data are available, the median BIA appeal for a detained person doubled
13 from the amount of time it took two years ago. Exhibit E.

14 Because the IJ’s failure to apply the correct legal standard was error—and it
15 violated due process yet again—this Court should order grant this petition and
16 order Mr. Asadimofarah’s immediate release. At a minimum, it should order
17 another bond hearing.

18 **II. Statement of Facts**

19 Mr. Asadimofarah is a computer scientist from Iran who has long been
20 opposed to Islamic rules. Exhibit C at 13. In 2016, he began his mandatory
21 military service in Iran’s traditional military ground forces, within the
22 conventional military known as the Artesh. *Id.* at 14–15; Exhibit B at 4, 7.¹ He
23 was repeatedly punished for not participating in daily prayers, and was punished

24
25 ¹ Iran has two separate military forces. The conventional military force is known
26 in Farsi as the “Artesh.” A second, parallel military force, the Islamic
27 Revolutionary Guard Corps (IRGC), is the force that “violently suppress[es]
28 social unrest.” Nicholas Carl, *Explainer: the Iranian Armed Forces*, Institute for
the Study of War (June 17, 2025), [https://understandingwar.org/research/middle-
east/explainer-the-iranian-armed-forces/](https://understandingwar.org/research/middle-east/explainer-the-iranian-armed-forces/). Mr. Asadimofarah was a part of the
Artesh and was persecuted by the IRGC.

1 several times before he fled military service. Exhibit C at 15. He eventually
2 learned he could not marry unless he completed his military service, so he
3 returned, subject to continued punishment and harassment due to his religion. *Id.*
4 He began learning about Christianity in 2023 and converted. He found, “[w]hen I
5 started reading the Bible, I felt peace for the first time. Christianity teaches love
6 and forgiveness, not punishment and fear. There was no forced prayer or fasting,
7 covering hair, or using violence to enforce religious rules.” *Id.* at 17.

8 In early 2024, Mr. Asadimofarah was arrested and had a bag placed over
9 his head. He was held for more than two days in a cell in which he could not tell
10 day from night. He was tortured for the names of other Christians. He was
11 released and fled. The following month, IRGC guards arrived at his house with a
12 search and arrest warrant. Exhibit C at 17–19.

13 Mr. Asadimofarah arrived at the U.S. border in May 2025 and asked for
14 asylum. He was detained under 8 U.S.C. § 1225(b). Exhibit A at 1–2. In
15 September 2025, DHS initiated removal proceedings against him. ECF No. 7 at
16 Exhibit 1. In January 2026, he filed a petition for a writ of habeas corpus. *Id.* at 2.

17 On March 13, 2026, an immigration judge denied his application for
18 asylum. Exhibit C at 9. However, the immigration judge also found that it was
19 more likely than not that Mr Asadimofarah’s “life or freedom would be
20 threatened” if he were deported to Iran. 8 U.S.C. § 1231(b)(3); *see Al-Harbi v.*
21 *INS*, 242 F.3d 882, 888–89 (9th Cir. 2001) (noting the standard for withholding of
22 removal); *see* Exhibit C at 9. As a result, the judge ordered Mr. Asadimofarah
23 deported to Iran but also granted him statutory withholding of removal from Iran.
24 Exhibit C at 9.

25 That said, seeking a path to permanent residence in the United States,
26 Mr. Asadimofarah appealed the immigration judge’s denial of asylum. That
27 appeal is pending. Exhibit B at 7.

28

1 On April 1, 2026, this Court granted Mr. Asadimofarah's petition and
2 found that his "unreasonably prolonged" mandatory statutory detention violated
3 due process. Exhibit A at 3. It ordered Respondents to "arrange an individualized
4 bond hearing for Petitioner," at which they would "bear the burden of
5 establishing, by clear and convincing evidence, that Petitioner poses a danger to
6 the community or a risk of flight." *Id.* at 6.

7 An immigration judge held that hearing and denied Mr. Asadimofarah bond
8 on April 6, 2026. The judge did so solely based on the risk of flight the
9 immigration judge thought was posed by being ordered removed and receiving
10 withholding of removal. *See* Exhibit B (transcript of hearing).² The government
11 had submitted the equivalent of a CBP police report, a Form I-213, indicating
12 Mr. Asadimofarah had entered without inspection. It had also submitted the
13 immigration judge's order denying asylum and granting withholding;
14 Mr. Asadimofarah's declaration in support of his asylum application explaining
15 his religious persecution in Iran in detail; and reports about the IGRC, the military
16 entity that tortured Mr. Asadimofarah, and of which he was not a member. Exhibit
17 B at 3; *see* Exhibit C (government evidence). At the hearing, Mr. Asadimofarah
18 submitted a letter from his bond sponsor, Casa Marinella in Austin, Texas, who
19 agreed to provide him housing, medical resources, food, clothing, English classes,
20 and essential services. Exhibit B at 6.³ Appearing *pro se*, he also emphasized that
21 his mental health was poor in detention. *Id.* He explained, "I want to get the
22 permission to be released until they need me to go back to the court. I believe that
23

24 ² Bond hearings in immigration court do not have court reporters. Counsel for the
25 Respondents provided the undersigned counsel with the audio recording of the
26 hearing and counsel ordered and provides a transcript of the recording, attached to
this filing as Exhibit B. Should this Court prefer to receive the audio recording
itself, counsel can submit the recording to the Court on DVD.

27 ³ Counsel is currently seeking access to that document and will submit it to the
28 court as a supplemental exhibit once she obtains it. General information about
Casa Marinella is available here: <https://www.casamarianella.org/>.

1 my court proceeding over here has been finished already.” *Id.* “I am waiting to
2 hear from the BIA the result of my appeal.” *Id.* at 7.

3 After Mr. Asadimofarah submitted his evidence and explained this, and
4 after DHS asked him several questions about his military service, the immigration
5 judge denied bond. He explained:

6 Sir, I think the government has met their burden in terms of flight
7 risk in your case. In the removal phase of your case, you have been
8 ordered removed. You’ve been granted withholding of removal to
9 Iran, but this does not preclude the government from sending you to
10 another country that would accept you. The possibility that you
might be sent to another country I believe makes you a flight risk to
the degree that no bond is appropriate.

11 Exhibit B at 9 (interpretations omitted).

12 Mr. Asadimofarah filed the instant petition updating this Court regarding
13 his bond hearing. *See* ECF No. 1. He remains detained at the Otay Mesa
14 Detention Center. Exhibit D ¶ 1. He explains, “It is like a prison here.” *Id.* ¶ 2.

15 While Mr. Asadimofarah is detained, he has faced the unusual hardship of
16 not being able to speak to his family still in Iran who is living in the midst of war.
17 He explains,

18 It has been two months since I have been able to contact my family
19 in Iran. I have not been able to even try to use WhatsApp or other
20 programs to try to contact them. Not hearing from them and not
21 knowing what’s going on during the war is awful. I don’t know if
22 they’re alive or if anything has happened to them. It’s hard to
tolerate every day in here not knowing and not having access to the
full Internet to try contacting them.

23 My dad was diagnosed with prostate cancer about four months
24 ago. I have not been able to talk to him to learn how he is doing,
how treatment is going, and if his treatment is affected by the war.

25 *Id.* ¶ 3.

26 **III. This Court has jurisdiction.**

27 This Court has jurisdiction under 28 U.S.C. § 2241. There is no
28 immigration statute that “strip[s] federal courts of ‘traditional habeas

jurisdiction.” *Martinez*, 124 F.4th at 781. While this Court does not have jurisdiction over the “‘executive’s exercise of discretion[,]’ . . . that discretionary judgment does not include constitutional claims or questions of law.” *Id.* at 782. And as the Ninth Circuit held in *Martinez*, the question of whether a noncitizen is ultimately “a danger to the community or a risk of flight”—as well as the question whether something procedurally was “amiss” during that determination—is “a reviewable mixed question” of law. *Id.* at 783, 785; *see, e.g., Perez-Velasquez*, 2026 WL 1042479 at *2 (collecting cases explaining this point). As a result, this Court has jurisdiction over Mr. Asadimofarah’s claims.

In arguing otherwise, the government confuses exhaustion with jurisdiction. ECF No. 7 at 2–3. The two are separate doctrines. *See, e.g., Miri v. Bondi*, No., 2026 WL 622302, *5–*6, *10–*11 (C.D. Cal. Mar. 5, 2026) (analyzing the two distinct issues separately).

IV. This Court should not require prudential exhaustion to the BIA.

There is no exhaustion provision in 8 U.S.C. § 1226(a) or any other immigration statute regarding bond. *See Picado v. Hyde*, No. 26-cv-65-JJM-PAS, 2026 WL 352691, *5 (D.R.I. Feb. 9, 2026) (explaining this statutory point). As a result, courts have prudential discretion to decide whether to require exhaustion or not as to an immigration judge’s abuse of discretion in a bond hearing. *Id.*

Here—when Mr. Asadimofarah was detained in violation of due process without any individualized bond hearing before this Court ordered the bond hearing at issue; when the BIA is both overwhelmed with appeals and staffed at half-capacity, such that bond appeals will likely take even longer than the average 200-day period from years past; and when it is irreparable harm to continue to be detained in immigration custody when a constitutionally adequate bond hearing could and should result in his release—this Court should not require exhaustion.

Courts generally begin their prudential exhaustion analysis as to any agency determination by looking to the *Puga* factors: “1) whether agency expertise makes

1 agency consideration necessary to generate a proper record and reach a proper
2 decision; 2) whether relaxation of the requirement would encourage the deliberate
3 bypass of the administrative scheme; and 3) whether administrative review is
4 likely to allow the agency to correct its own mistakes and preclude the need for
5 judicial review.” *Miri*, 2026 WL 622302 at *10 (citing *Puga v. Chertoff*, 488 F.3d
6 812, 815 (9th Cir. 2007)). “Nonetheless, even if the three *Puga* factors weigh in
7 favor of prudential exhaustion, a court may waive the prudential exhaustion
8 requirement if ‘administrative remedies are inadequate or not efficacious, pursuit
9 of administrative remedies would be a futile gesture, irreparable injury will result,
10 or the administrative proceedings would be void.” *Hernandez v. Sessions*, 872
11 F.3d 976, 988 (9th Cir. 2017) (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th
12 Cir. 2004)).

13 None of the three *Puga* factors favor exhaustion. The first *Puga* factor does
14 not favor exhaustion: “the Board of Immigration Appeals is not a ‘fact-finding
15 authority’ and would only be reviewing ‘legal error,’ [so] there is no ‘further
16 development of the record needed’ to resolve the issues.” *Miri*, 2026 WL 622302
17 at *10. “And, in any event, the underlying factual record is straightforward and
18 undisputed.” *Gomes v. Hyde*, 804 F. Supp. 3d 265, 273 (D. Mass. 2025). Neither
19 does the second factor favor exhaustion: whether Mr. Asadimofarah is a flight
20 risk is “a mixed question of fact and law” that “resolution by this Court can
21 provide guidance for future detainees.” *Miri*, 2026 WL 622302 at *11. Neither
22 does the third factor favor exhaustion: While the BIA is theoretically capable of
23 correcting its own mistakes, it does not appear likely to do so before it fully
24 resolves the merits of his asylum appeal and would thus significantly prolong his
25 illegal detention by many, many months. *Miri*, 2026 WL 622302 at *11.

26 Regardless, even if *all* of the *Puga* factors favored exhaustion, the
27 prolonged irreparable injury that has already resulted and will continue to result
28 counsel in favor of not requiring exhaustion in Mr. Asadimofarah’s case. Indeed,

1 the Ninth Circuit has recognized “the irreparable harms imposed on anyone
2 subject to immigration detention.” *Hernandez*, 872 F.3d at 995.” Courts have also
3 “found that continued detention after a potentially legally inadequate hearing may
4 constitute such irreparable harm.” *Perez Velasquez*, 2026 WL 1042479 at *4
5 (collecting cases). For both of these reasons, “district courts in this circuit have
6 routinely waived prudential exhaustion requirements for noncitizens . . . facing
7 prolonged detention while awaiting administrative appeals.” *Rodriguez*, 779 F.
8 Supp. 3d at 1253–54 (collecting cases).

9 Finally, it is worth noting how long a BIA appeal takes, and the deck that is
10 currently stacked against immigrants at the BIA. “According to data released by
11 the Executive Office for Immigration Review, the average processing time for
12 bond appeals exceeded 200 days in 2024.” *Gomes*, 804 F. Supp. 3d at 273 (citing
13 *Rodriguez*, 779 F. Supp. 3d at 1248–49).

14 And that is the case even when the BIA is fully staffed. At present, the BIA
15 has been reduced from 28 members to 15. Current reporting provides “evidence
16 that BIA has been drastically reshaped within the past year, such that the BIA
17 now functions to rubberstamp IJ bond denials.” *Perez Velasquez*, 2026 WL
18 1042479 at *3. As NPR reported in late March 2026, BIA decisions “backed
19 Department of Homeland Security lawyers in 97% of publicly posted cases; that’s
20 at least 30 percentage points higher than the average from the last 16 years.”
21 Ximena Vustillo & Rahul Mukherjee, *An immigration court few have heard of is*
22 *quietly shaping policy behind the scenes*, NPR (Mar. 20, 2026).⁴

23 In the meantime, with firings, case processing times have dramatically
24 increased. Recent data on merits appeals shows that the median time for a merits
25 appeal in the first quarter of 2026 doubled from what it was two years ago.
26 Exhibit E.

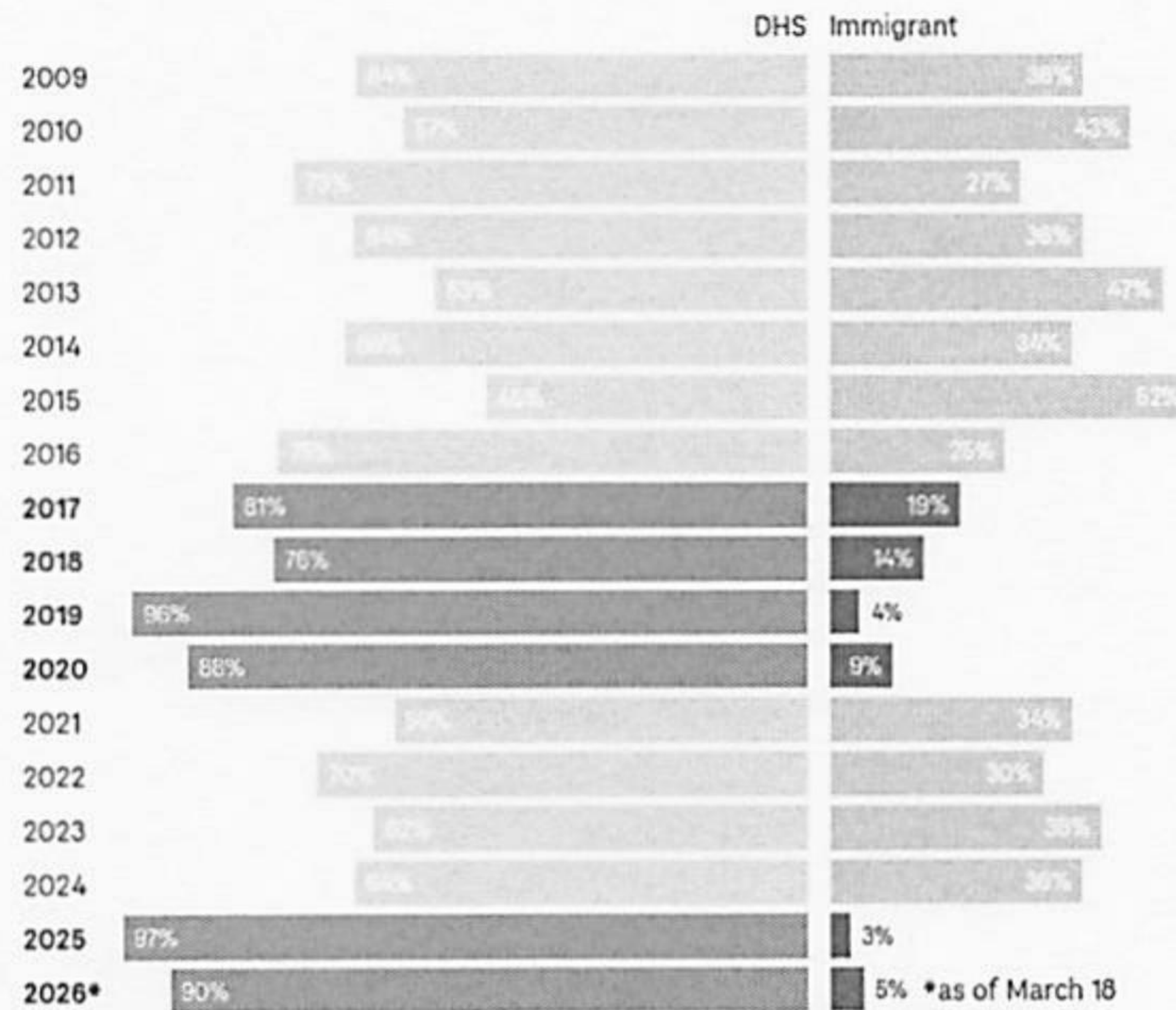
27 _____
28 ⁴ Available at <https://www.npr.org/2026/03/20/nx-s1-5707535/trump-immigration-detention-appeals-board-deportation>.

A graphic of the turn-around at the BIA is striking:

Board of Immigration Appeals has overwhelmingly sided with DHS during the Trump administrations

Percentage of court cases that sided with either the Department of Homeland Security (DHS) or the immigrant, by year

Years in **bold** are during both Trump administrations



Notes

The cases above include only publicly published BIA precedent decisions. Numbers do not add up to 100%. NPR excluded one case in 2026 where the petitioner is appealing the approval of their own spouse's green card, which was referred to U.S. Citizenship and Immigration Services. In other years, other cases were excluded from the analysis because the filings were procedural requests.

Source: NPR analysis of Executive Office for Immigration Review decisions

Credit: Rahul Mukherjee and Ximena Bustillo/NPR

At the end of the day, Mr. Asadimofarah's petition—a petition arising from standards identified in this Court's prior order identifying a legal violation stemming from his due-process violating detention, and a motion regarding the irreparable harm he has continued to face during his year in immigration detention—is not an appropriate one in which to require exhaustion to the BIA as a prudential matter.

V. The immigration judge abused his discretion.

In conducting the bond hearing this Court previously ordered Respondents to provide, the immigration did not apply the factors used to determine whether an individual is a flight risk. The IJ did not address Mr. Asadimofarah's sponsor and fixed address, his appeal seeking entitlement to reside permanently in the United States through asylum, and his lack of criminal record. *See* Exhibit B.

Instead, the IJ found that Mr. Asadimofarah was a flight risk based solely on the fact that he was issued a removal order that also withheld his removal. Exhibit B at 9. This was an abuse of discretion.

The Ninth Circuit has held that "[t]o determine whether an alien is a danger to the community or a risk of flight, an IJ weighs nine factors under BIA precedent." *Martinez*, 124 F.4th at 783. These nine factors include:

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

Id.

Here, the IJ did not apply a *single one* of these factors. Instead, he simply stated: "You've been granted withholding of removal to Iran but this does not preclude the government from sending you to another country that would accept

1 you. . . . The possibility that you might be sent to another country I believe makes
2 you a flight risk to the degree that no bond is appropriate.” Exhibit B at 9.

3 By failing to consider every other factor relevant in Mr. Asadimofarah’s
4 case, “the proceeding lacked the individualized custody determination required by
5 due process.” *Mejia v. Bondi*, No., 2026 WL 752560, *4 (D.N.J. Mar. 17, 2026)
6 (ordering immediate release due to a due-process-violating bond hearing that had
7 been ordered in a grant of a prior habeas petition).

8 As district courts have recent explained, a “noncitizen’s unlawful status
9 cannot provide a legitimate consideration upon which an Immigration Judge may
10 deny a request for release on bond . . . given that every individual who appears
11 before an Immigration Judge for custody redetermination lacks lawful status.”
12 *Alvarado Lopez*, 2026 WL 688958 at *6; *accord Chavarria Mejia v. Crawford*,
13 No. 26-cv-253-LMB-LRV, 2026 WL 819603, at *5 (E.D. Va. Mar. 25, 2026);
14 *Lemus Crispin v. Bondi*, No. 26-cv-191-LMB-WEF, 2026 WL 768859, at *5–6
15 (E.D. Va. Mar. 18, 2026). An individual’s bond hearing cannot be individualized
16 and “comport with due process where an Immigration Judge relies on
17 considerations that would lead to an automatic denial of bond in all cases.”
18 *Argueta-Portillo*, No. 26-cv-122-MSN-LRV, ECF No. 1. Factors that are true of
19 “virtually every asylum seeker apprehended at the border” cannot meet the DHS’s
20 burden to show flight risk. *N.A. v. Warden*, No. 25-cv-03007-MBK, 2026 WL
21 734587, at *8 (C.D. Cal. Feb. 20, 2026), *report and recommendation adopted sub*
22 *nom. N.A. v. Warden*, No. 25-cv-03007-MBK, 2026 WL 734585 (C.D. Cal. Mar.
23 12, 2026).

24 Further, if anything, Mr. Asadimofarah is *better positioned* than a
25 noncitizen who lacks all status. He received relief from removal to the only
26 country to which he has been ordered removed. As the Supreme Court recently
27 recognized, contrary to the immigration judge’s order, “alternative-country
28 removal is rare.” *Johnson v. Guzman-Chavez*, 594 U.S. 523, 537 (2021).

1 **VI. As in *Miri*, *Zheng*, and *Perez Velasquez*, this Court should order**
2 **Mr. Asadimofarah's immediate release.**

3 After finding that the IJ's failure to apply the correct legal standard
4 violated due process, district courts in *Miri*, *Zheng*, and *Perez Velasquez* then
5 considered the appropriate remedy. In *Miri*, the court ordered the petitioner's
6 "prompt release" and prohibited the government from redetaining him "absent
7 compliance with due process and his legal protections." 2026 WL 622302, at
8 *11. The court found this to be "the remedy that will best return Miri to the
9 status quo and restore his position as it was prior to the detention." *Id.*

10 The court in *Zheng* similarly held that the petitioner's five-month detention
11 had "become so unreasonable" that "the only just remedy in these circumstances
12 is immediate release." *Id.* at *8. It explained that "Respondents have now
13 violated Petitioner's due process rights twice: first when they initially detained
14 him unlawfully under § 1225(b), and then again when they deprived him of a
15 constitutionally adequate bond hearing." *Id.* It noted that "[c]ourts across the
16 country confronting due process violations akin to that here have recognized that
17 a new hearing would either be unnecessary, futile, or an inadequate remedy." *Id.*
18 at *10 (collecting cases). Not only was the record "entirely devoid of any
19 individualized justification for Petitioner's continued detention," there was no
20 longer "any reason to believe that a second hearing would be fundamentally fair."
21 *Id.* Given that Respondents were "given an opportunity to cure their earlier
22 constitutional violation by providing Petitioner a fundamentally fair bond
23 hearing" but "woefully failed to do so," the court declined to give them a "third
24 bite at the apple" and ordered immediate release. *Id.* at *11. And the court in
25 *Perez Velasquez* surveyed recent cases to this point and concluded that it would
26 order "immediate release with reasonable conditions of supervision [a]s the
27 appropriate remedy." 2026 WL 1042479 at *7 (internal quotation marks omitted).
28

1 Here, Mr. Asadimofarah has been detained for a year. Had he chosen not to
2 appeal—and thus not to pursue a pathway to lawful status in the United States
3 through asylum, and remain content with withholding of removal—he would be
4 required to be released under *Zadvydas* very soon.

5 As in *Zheng*, Mr. Asadimofarah’s detention has “become so unreasonable”
6 that “the only just remedy in these circumstances is immediate release.” *Id.* at *8.
7 His bond hearing was “entirely devoid of any individualized justification” for his
8 continued detention” such that there is no “reason to believe that a second hearing
9 would be fundamentally fair.” *Id.* at *10. Respondents were “given an opportunity
10 to cure their earlier constitutional violation by providing [Mr. Asadimofarah]” a
11 fundamentally fair bond hearing” but “woefully failed to do so,” and this Court
12 should decline to give them a “third bite at the apple.” *Id.* at *11. Immediate
13 release is “the remedy that will best return [Mr. Asadimofarah] to the status quo
14 and restore his position as it was prior to the detention.” *Miri*, 2026 WL 622302,
15 at *11. *Id.*

16 **VII. Claim and Prayer for Relief**

17 For these reasons, this Court should grant Mr. Asadimofarah’s habeas
18 petition and order his immediate release. Should this Court decline to order
19 immediate release, it should at a minimum order a new bond hearing in front of a
20 different IJ.

21 Respectfully submitted,

22
23 Dated: May 15, 2026

s/ Jessie Agatstein

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