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8
9 **UNITED STATES DISTRICT COURT FOR THE**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 Luis Antonio MENDOZA GONZAGA,

12 Petitioner,

13 vs.

14 Christopher J. LAROSE, et al.,

15 Respondents.
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Case No.: 3:26-cv-02941-RFL-BJW

PETITIONER'S NOTICE OF
MOTION AND MOTION TO
ENFORCE HABEAS ORDER AND
FOR IMMEDIATE RELEASE;
MEMORANDUM OF POINTS AND
AUTHORITIES

Date: July 28, 2026

Time: 10:00 a.m.

Before: Honorable Judge Rita F. Lin

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NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that, on Tuesday, July 28, 2026, at 10:00 a.m. before the Honorable Rita F. Lin in Courtroom 15, Mr. Mendoza will move the Court to enforce its Habeas Order, and order Respondents to immediately release Mr. Mendoza from immigration custody.

The reasons in support of this Motion are set forth in the accompanying Memorandum of Points and Authorities. This Motion is based on the attached Accompanying Exhibits in Support of Mr. Mendoza's Motion to Enforce Habeas Order. As set forth in the Points and Authorities in support of this Motion, Mr. Mendoza establishes that Respondents failed to comply with the Court's order to provide a hearing before an Immigration Judge at which the government bore the burden to demonstrate by clear and convincing evidence that he is either a flight risk or a danger to the community. Because Respondents failed to provide a constitutionally compliant hearing as ordered by this Court, Mr. Mendoza respectfully submits that he is entitled to immediate release.

WHEREFORE, Mr. Mendoza prays that this Court grant his Motion to Enforce the habeas order issued by this Court on May 21, 2026, and order his immediate release from unlawful detention.

Dated: June 24, 2026

Respectfully submitted,

/s/ Meredith Sullivan
Meredith Sullivan

INTRODUCTION

Petitioner Luis Antonio Mendoza Gonzaga (“Mr. Mendoza” or “Petitioner”) moves the Court to enforce its order granting petition for writ of habeas corpus. Mr. Mendoza has been detained for nearly eleven months by Immigration and Customs Enforcement (“ICE”) at a privately-run prison. The Court ordered that Respondents (the “Government”) provide Mr. Mendoza with a bond hearing at which the Government has the burden of establishing, by clear and convincing evidence, that he poses a danger to the community or a risk of flight such that detention is warranted.

While Respondents gave Mr. Mendoza a hearing, it failed to satisfy due process. Lasting fifteen minutes, the Immigration Judge (“IJ”) failed to consider, let alone mention, any of Mr. Mendoza’s favorable evidence—ten years as an asylee, thirteen total years of residence, his ten-year-old United States citizen son, a fixed address with his mother, employment history, a release plan, a psychological evaluation, and numerous letters of support—demonstrating that he is neither a flight risk nor danger. The IJ ignored all positive factors and focused solely on nonviolent criminal history stemming from Mr. Mendoza’s past substance abuse that a recent psychological evaluation deemed to be in “sustained remission.” The IJ also discounted the psychologist’s conclusion, based on objective testing, that Mr. Mendoza has strong protective factors that make him at low risk of reoffense. The IJ’s decision denying bond thus violates this Court’s order to provide a hearing that complies with due process. Accordingly, Mr. Mendoza moves this Court to grant his immediate release from ICE detention.

RELEVANT STATEMENT OF FACTS AND PROCEDURAL HISTORY

Mr. Mendoza is an asylee who suffered severe childhood abuse in his native Mexico. He has resided in the United States with asylee status for over a decade and arrived as an unaccompanied minor thirteen years ago; he has spent his entire adult life in the United States.

1 Mr. Mendoza started a business here and has a minor U.S. citizen son. By the time of hearing on
2 this motion, he will have been detained by ICE for mere days short of an entire year.

3 For the last eleven months, Mr. Mendoza has been fighting to preserve his asylee status
4 from ICE detention. On August 1, 2025, ICE initiated removal proceedings and sought to
5 terminate his asylee status based on convictions it alleges are particularly serious crimes.
6 *See* Dkt. 1-4, Exh. B, Notice to Appear; Dkt. 1-5, Exh. C, Notice of Intent to Terminate Asylum
7 Status. Mr. Mendoza was detained by ICE on August 1, 2025, upon release from state prison.

8
9 Mr. Mendoza has been diligent in defending himself from removal to a country where he
10 was found to have a well-founded fear of persecution. From detention, Mr. Mendoza secured pro
11 bono immigration counsel, Hector Vega, who has helped him file applications for relief from
12 removal. Dkt. 1-12, Decl. of Counsel, Hector Vega at ¶¶ 3, 7.

13 Mr. Mendoza is also pursuing vacatur of the convictions upon which DHS has
14 predicated removal proceedings. Through pro bono counsel, Mr. Mendoza moved to vacate his
15 2019 and 2022 pleas related to possession of controlled substances as legally invalid under
16 California law. Dkt. 1-12 at ¶¶ 4-5. The motion remains pending, with a next scheduled hearing
17 set for July 22, 2026. *Id.* at ¶ 5; *see also* Authenticating Decl. of Counsel at ¶ 4.

18
19 The parties agree that the pending motion for vacatur will determine whether Mr.
20 Mendoza can keep his asylee status or whether he will pursue withholding of removal and relief
21 under the torture convention. Dkt. 1-12 at ¶ 10; *see also* Dkt. 5, Order Granting Petition for Writ
22 of Habeas Corpus (hereinafter “Order”) (finding “reasonable” Mr. Mendoza’s continuances as
23 the “Government does not dispute that his removal proceedings depend on the adjudication of his
24 asylee status and consequently, the validity of his past criminal convictions”); Authenticating
25 Decl. of Counsel at ¶ 5 (DHS did not oppose Mr. Mendoza’s request for continuance).
26 Respondents also do not dispute that Mr. Mendoza’s removal proceedings before the IJ will
27 extend for months, if not longer, before the agency issues a final decision. *See* Dkt. 5, Order
28

1 (“The Government offers no argument suggesting that this estimate is inaccurate.”). Appellate
2 proceedings by either party will further extend his detention. *See* Authenticating Decl. of
3 Counsel at ¶ 6; *see also* Dkt. 5, Order.

4 After nine months detained without a bond hearing, Mr. Mendoza filed a petition for
5 habeas corpus challenging his prolonged detention without any neutral review as a violation of
6 his right to due process. Dkt. 1. On May 21, 2026, the Court granted Mr. Mendoza’s petition for
7 habeas corpus, finding that his detention had become “unreasonable” and ordering Respondents
8 to provide him with a bond hearing, wherein the government would shoulder the burden of
9 proof. Dkt. 5, Order. The Court ordered that this bond hearing be conducted within fourteen days
10 of its order and that Respondents satisfy a burden of clear and convincing evidence that Mr.
11 Mendoza is a flight risk or a danger to the community. *Id.*

13 The Immigration Court scheduled a bond hearing for June 2, 2026, before Immigration
14 Judge (“IJ”) Mark Sameit. *See* Authenticating Decl. of Counsel at Exh. L, Hearing Notice. Mr.
15 Mendoza filed supporting exhibits, including declarations from Mr. Mendoza and his mother, ten
16 letters of support, a psychological evaluation and recidivism risk analysis, photos of him and his
17 family, and his criminal records and filed motions for post-conviction relief. *See* Authenticating
18 Decl. of Counsel at Exh. M, Evidence in Support of Release on Bond.

20 The un rebutted evidence reflects that Mr. Mendoza has lived with his mother for the past
21 thirteen years since arriving in the United States. His mother describes him as a “boy with a
22 noble heart, who trusts people a lot and likes to help others.” She also acknowledges that he has a
23 “lot of trauma” stemming from her relationship with his father. *See id.* at Tab D, Declaration of
24 María Luisa Gonzaga Bandera; *see also id.* at Tab E, Psychological Evaluation (noting that Mr.
25 Mendoza both witnessed and experienced severe violence as a child). Mr. Mendoza’s younger
26 cousins describe him as someone with a “deep sense of responsibility, loyalty, and care” and
27 who provided support and structure in their upbringings like that of an “older brother.” *See id.* at
28

1 Tab O, Letter of Alexis Estrada Mendoza, at 138 (describing growing up together in Mexico,
2 making the “extremely challenging” journey to the United States together as minors, and
3 “continu[ing] to be someone [he] could depend on” in the United States); *see id.* at Tab O, Letter
4 of Aaron Gomez, at 136 (describing how when Mr. Mendoza used to live with him and his
5 mother in San Francisco, he often would take care of him after school and “helped [him] stay on
6 track with [his] schoolwork, and encouraged [him] to take his education seriously”).

7
8 Mr. Mendoza’s aunt wrote about living with him, having observed his “daily behavior
9 and values,” and noting how he “treats others with kindness, and is always willing to help
10 whenever someone is in need.” *See id.* at Tab O, Letter of Amparo Mendoza, at 139. As a small
11 business owner, his aunt mentioned how Luis had helped her many times where clients needed
12 work around the house, emphasizing his “reliability and strong work ethic.” *See id.*

13 Friends and community members echo that Mr. Mendoza is a “good worker” and a
14 respectful and “resilient” person. *See, e.g., id.* at Tab O, Letter of Daniel Mendez Lopez, at 143,
15 Letter of Fernanda Esparza Serrano, at 145, Letter of Jamie Rios, at 139. A former employer
16 described Mr. Mendoza, who worked under him for three years, as demonstrating “strong work
17 ethic, reliability, and professionalism,” and as a “valued worker.” *See id.* at Tab O, Affidavit of
18 Personal Knowledge of Hameed Aziz, at 138.

19
20 Mr. Mendoza feels great remorse about the harm that he caused his family through his
21 past substance use, stemming from untreated trauma, and has used his time in custody “to reflect
22 on [his] past mistakes.” *See id.* at Tab C, ¶¶ 15, 25–26. While incarcerated, Mr. Mendoza
23 prioritized sobriety and would continue treatment upon release, noting that “now that [his] mind
24 is clear,” he wants nothing more than the chance to “prove that [he] can be a decent, responsible
25 man who can give his family what they so desperately need.” *See id.* at Tab C, ¶ 31. Sobriety and
26 therapy sessions have enabled Mr. Mendoza to speak about difficult topics with his mother, such
27 as the abuse they both suffered from his father and uncle, and recognize the hardships that they
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1 each faced but never discussed. *See id.* at Tab C, ¶ 26. Despite limited treatment options in
2 prison, Mr. Mendoza has made the most of the available options and is eager to continue his
3 sobriety at home with his family. *See id.* (“I took advantage of the addiction recovery program,
4 which provided me with therapy sessions and medication[.]”) Mr. Mendoza’s top priority is to be
5 present for his son. *See id.* at Tab E, Confidential Report of Psychological Evaluation, dated May
6 28, 2026, ¶ 21 (“Luis knows how important it is to have a loving and attentive father at home,
7 because he could not have one.”). Additionally, he worries for his aging mother and wants to
8 support her. *See id.* at Tab C, ¶ 27 (“I now want to be the son she deserves and be there for her so
9 that I can provide her with financial and emotional support. My mother is alone, and I want to
10 give her the peace of mind and security that she has never been able to attain on her own.”). Mr.
11 Mendoza is committed to staying sober to support his family. *See id.* ¶ 25.

13 Mr. Mendoza also submitted a recent psychological evaluation and recidivism assessment
14 by Dr. Luis A. Pérez Ramírez confirming that with continued treatment and his support system
15 in the United States, he would have little risk of recidivism. *See id.* at Tab E (noting his “strong
16 protective factors and an absence of the personality features most predictive of reoffending”). Dr.
17 Pérez found that Mr. Mendoza’s history reflects the “well-established link between childhood
18 trauma and later substance dependence, which in his case served as a means of self-medicating
19 unaddressed emotional pain.” *Id.*; *see id.* at Tab C (“I drank so as to not feel sad and not think
20 about my suffering.”). He further concluded based on objective psychological testing that Mr.
21 Mendoza “has achieved sustained remission of his substance use disorders and has demonstrated
22 genuine insight into, and motivation to treat, the trauma underlying them[.]” *Id.* at Tab E. Dr.
23 Pérez Ramírez utilized structured risk assessment tools like Historical-Clinical-Risk
24 Management 2.0 (HCR-20) and the Hare Psychopathy Checklist (PCL) and found Mr. Mendoza
25 to be low risk for recidivism. *Id.*

1 ICE filed Form I-213, the Notice to Appear, a query of “EARM Immigration History,”
2 and a download of Mr. Mendoza’s FBI RAP sheet. *See* Authenticating Decl. of Counsel at Exh.
3 O, DHS’s Submission of Evidence.

4 On June 2, 2026, Mr. Mendoza and DHS counsel appeared in person, and Mr. Mendoza’s
5 counsel appeared via Webex for the bond hearing. At the hearing, the IJ admitted evidence and
6 heard argument from the parties. The hearing lasted approximately fifteen minutes. The IJ stated
7 that DHS met its burden as to both danger and flight risk. *See* Authenticating Decl. of Counsel at
8 Exh. P, Transcript; Exh. Q, Bond Order. The IJ did not provide an explanation for his cursory
9 flight risk determination and, for danger, pointed only to Mr. Mendoza’s convictions for
10 possession of a controlled substance with intent to sell and evading police in a vehicle arising
11 from conduct in 2021 and 2022, respectively. *See* Exh. P. The IJ’s check-box order denying bond
12 provides no further illumination. *See* Exh Q (finding that ICE met its burden for both danger and
13 flight risk “given his criminal history as articulated on the record.”). The IJ failed to mention a
14 single piece of mitigating evidence, like strong family ties including a minor United States
15 citizen son, a fixed address where he has resided with his mother since 2018, numerous letters of
16 support from family and community members, a recent psychological evaluation showing a low
17 risk of recidivism and contextualizing his nonviolent criminal history as stemming from
18 substance use issues, and a release plan.
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22 LEGAL STANDARD

23 A court has “inherent power to enforce its judgments[.]” *California Dep’t of Soc. Servs. v.*
24 *Leavitt*, 523 F.3d 1025, 1033 (9th Cir. 2008). “[H]abeas courts are empowered to make an
25 assessment concerning compliance with their mandates.” *Judulang v. Chertoff*, 562 F. Supp. 2d
26 1119, 1126 (S.D. Cal. 2008). This includes “continuing jurisdiction to enforce [its]
27 injunctions.” *Crawford v. Honig*, 37 F.3d 485, 488 (9th Cir. 1994); *see also Leonardo v.*
28

1 *Crawford*, 646 F.3d 1157, 1160–61 (9th Cir. 2011) (a district court retains jurisdiction to “review
2 compliance with its earlier order conditionally granting habeas relief”); *Sales v. Johnson*, No. 16-
3 CV-01745-EDL, 2017 WL 6855827, 4–6 (N.D. Cal. Sept. 20, 2017) (finding jurisdiction to
4 review whether an IJ complied with the court's order to apply the correct legal standard at a bond
5 hearing).

6 Federal courts have jurisdiction to review whether an immigration judge applied the clear
7 and convincing evidence standard on DHS at a bond hearing. *Martinez v. Clark*, 124 F.4th 775,
8 784 (9th Cir. 2024). Whether the agency applied the correct legal standard is a question that
9 federal courts review *de novo*. *Id.* at 785 (quoting *Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir.
10 2011)). An IJ’s failure to consider evidence in a bond hearing is also legal error reviewed *de*
11 *novo*. *See id.* Indications that the agency failed to consider evidence include “misstat[ing] the
12 record” and “fail[ing] to mention highly probative or potentially dispositive evidence.” *Id.*
13 (citation omitted).

14
15 Federal courts are also empowered to review the contents of an IJ’s bond decision
16 itself. An IJ’s determination of whether a noncitizen is dangerous or a flight risk is a mixed
17 question of law and fact reviewable in habeas. *See Martinez*, 124 F.4th at 784. In the wake of the
18 Ninth Circuit’s decision in *Martinez*, district courts review danger and flight risk findings under
19 an abuse of discretion standard. *See, e.g., Tiboko-Tifuh v. Noem*, No. 26-CV-1215-JO-DEB,
20 2026 WL 1603795, at *1 (S.D. Cal. June 4, 2026); *Mendoza v. Noem*, No. CV 25-3227-
21 MWF(AGR), 2026 WL 923311, *2 (C.D. Cal. 2026). Under an abuse of discretion standard, a
22 reviewing court should “assess whether [the *Guerra* factors were] correctly applied.” *Tiboko-*
23 *Tifuh*, 2026 WL 1603795, at *1; *Martinez*, 124 F.4th at 785; *Hernandez v. Warden of Adelanto*
24 *ICE Processing Ctr.*, No. 5:26-CV-02231-AJR, 2026 WL 1362396, at *1, *4 (C.D. Cal. May 11,
25 2026).
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1 While abuse of discretion is deferential to the agency, “deference does not mean
2 blindness.” *Parada v. Sessions*, 902 F.3d 901, 909 (9th Cir. 2018) (quoting *Nguyen v. Holder*,
3 763 F.3d 1022, 1029 (9th Cir. 2014) (discussing the even more lenient “substantial evidence”
4 review given to agency factual determinations). “[T]he government’s discretion to incarcerate
5 non-citizens is always constrained by the requirements of due process.” *Hernandez v. Sessions*,
6 872 F.3d 976, 981 (9th Cir. 2017); *see also Safinejad v. Larose*, No. 3:26-cv-00531-JES-
7 AHG, Dkt. 15 (S.D. Cal. June 9, 2026) (order granting motion to enforce) (“[T]he government’s
8 discretion in immigration bond hearings remains constrained by the requirements of
9 constitutional due process limits.”). Due process requires an IJ to consider relevant evidence and
10 apply the correct legal standard in its reasoning and decision. *See Vilchez v. Holder*, 682 F.3d
11 1195, 1198 (9th Cir. 2012) (“[D]ue process requires [an] IJ to consider the relevant evidence[.]”)
12 (citing *Larita-Martinez v. I.N.S.*, 220 F.3d 1092, 1095 (9th Cir. 2000). “An agency acts contrary
13 to the law when it gives mere lip service or verbal commendation of a standard but then fails to
14 abide the standard in its reasoning and decision.” *See Nat’l Res. Def. Council, Inc. v. Pritzker*,
15 828 F.3d 1125, 1135 (9th Cir. 2016).

16
17
18 Courts have found that IJs abused their discretion by denying noncitizens bond on flight
19 risk grounds by ignoring mitigating evidence, failing to consider *Guerra* factors, and
20 disregarding a petitioner’s status and potential forms of relief. *See, e.g., Perez Velasquez v.*
21 *Bondi*, No. 26-CV-01759-GPC-DDL, 2026 WL 1042479, at *7 (S.D. Cal. Apr. 16, 2026 (failing
22 to consider multiple U.S. citizen children, 25 years of residence, and stable employment history);
23 *Tiboko-Tifuh*, 2026 WL 1603795, at *2–*3 (failing to consider all evidence submitted by
24 petitioner); *Singh v. LaRose*, No. 26-CV-1425 JLS (GC), 2026 WL 1387428, at *5 (S.D. Cal.
25 May 18, 2026) (failing to consider U.S. citizen daughter, decades of residence, stable
26 employment, and pending permanent residency application); *see also Hernandez Arechiga v.*
27 *Bowen*, No. EDCV 26-1516-AS, 2026 WL 1500398, at *2 (C.D. Cal. May 26, 2026) (failing to
28

1 consider family ties, residence since he was a young child, stable employment, and U.S.
2 children); *Soriano v. Hernandez*, No. 2:26-CV-00900-DGE, 2026 WL 969764, at *5 (W.D.
3 Wash. Apr. 10, 2026) (failing to consider twenty-five years of residence, U.S. citizen children,
4 and deep community ties).

5 Courts have also found that IJs abused their discretion in finding noncitizens a danger
6 through focusing exclusively on past convictions and failing to consider mitigating or
7 rehabilitating evidence. *See, e.g., Judulang*, 562 F. Supp. 2d at 1126–27 (finding that petitioner
8 was not a present danger where he had multiple, decades-old, convictions for offenses including
9 manslaughter, and recent DUI and grand theft convictions but the government had presented no
10 evidence of *recent* dangerous conduct); *Nola v. Dep't of Homeland Sec.*, No. 5:26-CV-02180-
11 MBK, 2026 WL 1330294, at *9 (C.D. Cal. May 13, 2026) (finding that IJ abused discretion in
12 finding petitioner to be a present danger where he had a speed contest conviction and a felony
13 child endangerment conviction in light of strong evidence of rehabilitation); *see also Zavala*
14 *Sandoval v. Hernandez*, No. 2:26-CV-01198-JNW, 2026 WL 1661379, at *5 (W.D. Wash. June
15 9, 2026) (finding an IJ had abused its discretion by finding danger where petitioner only had
16 temporally remote convictions or dismissed charges and had failed to meaningfully engage with
17 mitigating evidence).
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19

20 ARGUMENT

21 **I. Respondents violated the Court's order when the IJ erroneously denied bond** 22 **despite DHS having failed to prove either present danger or flight risk by clear** 23 **and convincing evidence.**

24 The IJ abdicated his duty to apply the exacting clear and convincing evidence standard
25 and hold the government to its burden for both flight risk and danger determinations. “Where the
26 record evidence regarding flight risk or dangerousness falls short of the required standard, the
27 government does not carry its burden and cannot prevail.” *Tiboko-Tifuh*, 2026 WL 1603795, at
28

1 *2 (citing *Singh*, 638 F.3d at 1205). The IJ thus abused his discretion. *See Martinez*, 124 F.4th at
2 785.

3 **A. The clear and convincing evidence standard is an exacting standard that must be**
4 **demonstrated in fact, not theory, due to Mr. Mendoza's exceedingly strong**
5 **interest in freedom from detention.**

6 To satisfy the clear and convincing standard, the evidence must establish “an abiding
7 conviction that the truth of [the] factual contentions at issue is highly probable.” *Mondaca-Vega*
8 *v. Lynch*, 808 F.3d 413, 422 (9th Cir. 2015) (en banc). This standard sets a “high burden and
9 must be demonstrated in fact, not ‘in theory.’” *Obregon v. Sessions*, No. 17-CV-01463-WHO,
10 2017 WL 1407889, at *7 (N.D. Cal. Apr. 20, 2017) (quoting *United States v. Patriarca*, 948 F.2d
11 789, 792 (1st Cir. 1991)).

12 The clear and convincing standard is used “because it is improper to ask the individual to
13 share equally with society the risk of error when the possible injury to the individual—
14 deprivation of liberty—is so significant.” *Singh*, 638 F.3d at 1203–04 (cleaned up). “Rather,
15 when a fundamental right, such as individual liberty, is at stake, the government must bear the
16 lion’s share of the burden.” *Tijani v. Willis*, 430 F.3d 1241, 1245 (9th Cir. 2005) (Tashima,
17 J., concurring). Indeed, “[d]eprivation of liberty should be a rare circumstance for non-citizens in
18 immigration detention, reserved only for those who are a threat to national security or poor bail
19 risks.” *Obregon*, 2017 WL 1407889 at *9. In the context of criminal pretrial detention, the
20 Supreme Court has provided that the clear and convincing evidence standard requires the
21 government to prove that the detained person “presents an identified and articulable threat to an
22 individual or the community,” and “no conditions of release can reasonably assure the safety of
23 the community or any person.” *United States v. Salerno*, 481 U.S. 739, 750–51 (1987).

24 In *Matter of Guerra*, the Board of Immigration Appeals (BIA) created a framework
25 for an IJ in evaluating whether a noncitizen poses either a flight risk or danger to the community,
26 including:
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(1) whether the immigrant has a fixed address in the United States; (2) the immigrant's length of residence in the United States; (3) the immigrant's family ties in the United States, (4) the immigrant's employment history, (5) the immigrant's record of appearance in court, (6) the immigrant's criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses, (7) the immigrant's history of immigration violations; (8) any attempts by the immigrant to flee prosecution or otherwise escape from authorities; and (9) the immigrant's manner of entry to the United States."

24 I & N Dec. 36, 40 (BIA 2006).

District courts have found that failure to consider or meaningfully engage with favorable—and probative—*Guerra* factors is an abuse of discretion. *See, e.g., Perez Velasquez*, 2026 WL 1042479, at *1 (finding an IJ's failure to mention any of the *Guerra* factors and petitioner's related evidence to be an abuse of discretion); *Hosseini Miri v. Bondi*, No. 5:26-cv-00698-MEMF-MAR, 2026 WL 622302, at *7–9 (C.D. Cal. Mar. 5, 2026) (IJ abused discretion by inter alia failing to consider the evidence or describe what evidence "what evidence was relied" upon). For example, "[m]eaningful evaluation of mitigation evidence relevant to danger is necessary to ensure that the high burden of the clear and convincing standard is demonstrated in fact, not in theory." *Y.S.G. v. Andrews*, No. 2:25-cv-1884-SCR, 2025 WL 2979309, at *10 (E.D. Cal. Oct. 22, 2025) (internal citations omitted).

Courts will reverse an IJ bond denial where there are "red flags" signaling that the IJ did not adequately consider the record. Such red flags include where the immigration adjudicator "misstates] the record or fail[s] to mention highly probative or potentially dispositive evidence," or misapplies or fails to mention relevant case law; there, a "catch-all phrase does not suffice." *Martinez*, 124 F.4th at 785 (citing *Cole v. Holder*, 659 F.3d 762, 771 (9th Cir. 2011)).

B. The IJ failed to hold the government to the clear and convincing standard as to flight risk.

The IJ abused his discretion in finding Mr. Mendoza a flight risk by ignoring *all* mitigating evidence and failing to consider probative *Guerra* factors.

District courts in this circuit routinely find that an IJ's failure to mention favorable evidence when evaluating flight risk is an abuse of discretion. *See, e.g., Perez Velasquez*, 2026 WL 1042479, at *7; *Tiboko-Tifuh*, 2026 WL 1603795, at *2–*3; *Singh v. LaRose*, WL 1387428, at *5; *see also Hernandez Arechiga*, 2026 WL 1500398, at *2; *Soriano*, 2026 WL 969764, at *5.

First, the IJ abused his discretion by rendering a flight risk finding without “engaging with the evidence” filed by Mr. Mendoza. *See Tiboko-Tifuh*, 2026 WL 1603795, at *1–*3 “Where the government prevails after presenting virtually no individualized evidence of flight risk, with no explanation from the IJ as to why he disregarded Petitioner's substantial evidence to the contrary, only one conclusion follows: the IJ did not place the burden on the government at all, much less to the clear and convincing evidence standard.” *Id.* at *3 (granting motion to enforce and ordering release where IJ had ignored evidence submitted by petitioner including fixed address, recent lack of record, community ties, and documentation of her fear-based claim).

Mr. Mendoza presented overwhelming evidence of strong family ties, a fixed address, over thirteen years of living in the United States, with ten of those years as an asylee, past employment, a plan to address past substance-use issues, and a desire to resume working in flooring upon release. Mr. Mendoza was granted asylum in 2016. A prior finding of asylum supports that, even if Mr. Mendoza were to lose his asylum status, that another form of relief could be available. *See Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 805 (BIA 2000) (an IJ “may consider the likelihood that relief from removal will be granted in determining whether a[] [noncitizen] warrants a bond”); *see also Singh v. LaRose*, 2026 WL 1387428, at *1, *5 (S.D. Cal. May 18, 2026) (considering eligibility for lawful permanent residency as a factor militating against flight risk). The IJ also neglected to mention the clear incentives that Mr. Mendoza has to return to court to protect this asylee status and his future in the country where his son lives and he has spent his entire adult life.

1 Mr. Mendoza enjoys strong family and community support. His mother, his U.S. citizen
2 minor son, and extended family live in the San Francisco Bay Area. He submitted ten letters of
3 support from extended family, community members, and a local church leader attesting to his
4 kindness and work ethic. A younger cousin wrote that while growing up, Mr. Mendoza would
5 take care of him when his mother worked late, making sure he was safe and completing his
6 schoolwork, and describing Mr. Mendoza “like an older brother.” *See* Exh. M, Tab O, at 136.
7 Another cousin detailed how Mr. Mendoza cared for him when they traveled to the United States
8 together as teenagers and later helped him “adjust to a new country” and “continued to be
9 someone [he] could depend on.” *Id.* at 138. Mr. Mendoza’s aunt describes him as “humble,
10 hardworking, and respectful,” noting how he often helped out her cleaning company clients with
11 carpentry or small jobs. *Id.* at 139. Mr. Mendoza’s friend Luis describes him as “deeply valu[ing]
12 family, friendship, and community” and having a “willingness to help others, even when he
13 himself is facing difficult circumstances.” *Id.* at 149.

14
15 Multiple individuals who reside at the same address as Mr. Mendoza and his mother
16 wrote letters of support mentioning his “love and respect” for his mother and his “honesty and
17 empathy.” *Id.* at 145, *see also* 154. Mr. Mendoza is eager to get back to work and has the support
18 of former colleagues and employers in the flooring industry. *See id.* at 143 (describing Mr.
19 Mendoza as “sincere, honest, and a good worker”), *see also* at 138.

20
21 In finding that the government had met its burden on flight risk, the IJ only referenced
22 Mr. Mendoza’s “criminal convictions” as a rationale. He did not mention a single favorable
23 factor, undermining his blanket assertion that he considered the *Guerra* factors and Mr.
24 Mendoza’s mitigating evidence. Exh. P, Transcript (“the court does consider the factors laid out
25 in Matter of Guerra” and “considering the all the facts and circumstances, the court did consider
26 the other mitigating evidence submitted”). *See Cole*, 659 F.3d at 771–72 (“[W]here there is any
27 indication that the BIA did not consider all of the evidence before it, a catchall phrase does not
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1 suffice, and the decision cannot stand. Such indications include misstating the record and failing
2 to mention highly probative or potentially dispositive evidence.”); *see also Franco-Rosendo v.*
3 *Gonzales*, 454 F.3d 965, 966 (9th Cir. 2006) (finding that the agency abuses its discretion when
4 it fails to consider evidence submitted by the petitioner).

5 Besides returning to a fixed address with family and community support, Mr. Mendoza
6 would still be under court supervision and regular drug testing from parole, increasing his
7 incentives to attend future court dates. The Court should find that the IJ abused his discretion by
8 “seemingly ignor[ing] all evidence in Petitioner’s favor.” *Perez Velasquez*, 2026 WL 1042479, at
9 *1, *6 (finding abuse of discretion where IJ ignored 25 years of residence, a fixed address, four
10 minor U.S. citizen children with complex medical needs, and steady employment); *see also*
11 *Tiboko-Tifuh*, 2026 WL 1603795, at *1–*3 (granting motion to enforce and ordering release
12 where IJ had found flight risk based only on manner of entry and “without engaging with the
13 evidence” submitted by petitioner addressing fixed address, recent lack of record, community
14 ties, and documentation of her fear-based claim for relief); *Singh v. LaRose*, 2026 WL 1387428,
15 at *5 (ordering release on amended habeas petition after “eighteen minutes” of a bond hearing
16 wherein there was “no evidence that the IJ considered the *Guerra* factors” or considered
17 mitigating evidence, including his minor U.S. citizen daughter, strong community ties, stable
18 employment history, fifteen years of residence in the United States, and eligibility for lawful
19 permanent residency); *Soriano*, 2026 WL 969764, at *5 (finding the IJ abused his discretion
20 where he failed to consider petitioner’s decades of residence, fixed address, multiple U.S. citizen
21 children, and steady employment with the same employer, and ordering immediate release).

22 Second, DHS’s proffered evidence was insufficient to meet the clear and convincing
23 standard. Courts, including in this district, have found an IJ to have erred where the evidence
24 itself could not, as a matter of law, have supported the adjudicator’s decision. *See, e.g., Perez*
25 *Velasquez*, 2026 WL 1042479, at *5; *Singh v. LaRose*, 2026 WL 1387428, at *4; *Mau v.*

1 *Chertoff*, 562 F. Supp. 2d 1107, 1119 (S.D. Cal. 2008); *Kharis v. Sessions*, No. 18-CV-04800-
2 JST, 2018 WL 5809432, at *5 (N.D. Cal. Nov. 6, 2018); *Villa v. Mullin*, No. 5:26-CV-01690-
3 JDE, 2026 WL 1583941, at *2 (C.D. Cal. June 2, 2026). Here, the Government alleged that Mr.
4 Mendoza is a flight risk based on his “manner of entry,” the apparent denial of his I-485, and
5 probation violations.

6 However, DHS misstated his manner of entry; Mr. Mendoza did not enter the country
7 without inspection, but instead, presented himself at the border as an unaccompanied minor and
8 was later was granted asylum. Even if Mr. Mendoza had entered without inspection in 2013,
9 manner of entry is insufficient to sustain a flight risk. *See Tiboko-Tifuh*, 2026 WL 1603795, at *1
10 (holding that IJ’s flight risk finding, based on only “manner of entry,” indicates he failed to hold
11 government to the clear and convincing standard). Entering without inspection is common
12 among asylum seekers and cannot suffice as an individualized reason to deny bond. *See id.* at *2;
13 *see also Singh*, 638 F.3d at 1205 (evidence that is “common to all detainees” fails to meet the
14 clear and convincing standard); *Mejia v. Bondi*, No. CV 26-1592, 2026 WL 752560, *4 (D.N.J.
15 Mar. 17, 2026) (“[r]eliance on generalized assumptions regarding manner of entry—without
16 meaningful consideration of the individual’s circumstances—undermines [the] requirement” of
17 an individualized assessment).

18 Moreover, the only other reasons proffered by the Government cannot suffice to show
19 that Mr. Mendoza poses a flight risk. The Government argued that Mr. Mendoza’s application
20 for adjustment of status was denied, and thus, serves to justify his flight risk. However, the
21 application was not denied on the merits, but was deemed abandoned since he did not appear at
22 his adjustment interview. The Government failed to mention that this failure to appear was due to
23 Mr. Mendoza’s criminal detention at the time of the scheduled interview. Nonetheless, the
24 termination of an application for adjustment has no bearing on flight risk when Mr. Mendoza
25 currently has asylee status. Lastly, the Government’s reliance on probation violations is also
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1 insufficient, where they failed to present any evidence of any failures to appear or bench
2 warrants. These two putative reasons have minimal bearing, if at all, on whether Mr. Mendoza is
3 a flight risk. *See Perez Velasquez*, 2026 WL 1042479, at *6 (finding abuse of discretion where
4 “[t]he IJ’s failure to consider or apply any of the *Guerra* factors and decision to instead rely on
5 three pieces of evidence that bear little if any relevance to Petitioner’s risk of flight . . . while
6 seemingly ignoring all evidence in Petitioner’s favor constitutes a misapplication of the legal
7 standard to the facts” despite a “vague assertion that she considered all the evidence”) (citations
8 omitted).

9
10 As manner of entry alone is insufficient to show flight risk—even if the Government had
11 correctly characterized how Mr. Mendoza arrived—and the other stated reasons also falter, the
12 government’s evidence could not have, as a matter of law, met the clear and convincing standard.
13 “Even if such scant evidence could support an inference of flight risk, it was outweighed by
14 evidence submitted by Petitioner.” *Tiboko-Tifuh*, 2026 WL 1603795, at *2. So too here. The IJ
15 thus abused his discretion.
16

17 **C. The IJ failed to hold the government to the clear and convincing standard as to**
18 **present danger.**

19 The IJ abused his discretion in finding that the Government had met its burden by clear
20 and convincing evidence to show that Mr. Mendoza presents a *current* risk of danger. *See Singh*,
21 638 F.3d at 1206 (individualized bond hearings [are required] to ensure that the government’s
22 purported interest in . . . protecting the community from danger is actually served by detention in
23 this case”) (emphasis in the original) (cleaned up); *Doe v. Chestnut*, 810 F. Supp. 3d 1169, 1197
24 (E.D. Cal. 2025) (finding IJ had erred by determining danger based solely on 2010 convictions
25 for felony child endangerment and lewd acts upon a child, for which he served ten years in state
26 prison, and noting that the convictions were old, he served his entire sentence, and his current
27 detention did not arise from new conduct). By focusing exclusively on past criminal contacts, the
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1 IJ failed to evaluate prospective danger by ignoring mitigating evidence and expert testimony.

2 *See Singh*, 638 F.3d at 1205–06; *see also Doe v. Chestnut*, 810 F.Supp.3d at 1196–97.

3 “Dangerousness is a ‘fact-intensive’ inquiry that requires the ‘equities be weighed.’”

4 *Martinez v. Clark*, 36 F.4th 1219, 1229 (9th Cir. 2022) (quoting *Torres-Valdivias v. Lynch*, 786

5 F.3d 1147, 1153 (9th Cir. 2015)) (finding no abuse of discretion where an IJ considered

6 “mitigating evidence” such as his pre-incarceration release, “efforts at rehabilitation,” family

7 ties, and community support). While the *Guerra* factor “most pertinent to assessing

8 dangerousness” is the noncitizen’s criminal record—including extensiveness, recency, and

9 seriousness—that is not dispositive as criminal history “alone will not always be sufficient to

10 justify denial of bond on the basis of dangerousness.” *Singh*, 638 F.3d at 1205. “[N]ot all

11 criminal convictions conclusively establish that a[] [noncitizen] presents a danger to the

12 community, even where the crimes are serious enough to render the [noncitizen] removable.” *Id.*

13 at 1206 (citing *Foucha v. Louisiana*, 504 U.S. 71 at 82–83 (1992) (requiring a showing of

14 dangerousness beyond that “of any convicted criminal” to justify civil detention of the criminally

15 insane).

16 Furthermore, equivocal evidence of dangerousness is insufficient to deny bond. *Id.* at

17 1206. “If the clear and convincing standard means what it says, it cannot permit detention based

18 on mere speculation that an [noncitizen’s] release might possibly pose a danger.” *Hechavarria v.*

19 *Whitaker*, 358 F. Supp. 3d 227, 241 (W.D.N.Y. 2019). That is because, even if the record shows

20 that Petitioner might pose *some* risk of danger, that would not amount to clear and convincing

21 evidence of danger. To put it another way, “if the IJ was ‘forced to speculate’ about whether

22 [Petitioner] was a danger, then there was not clear and convincing evidence that [Petitioner’s]

23 continued detention was necessary to serve the government’s interest in minimizing danger to the

24 community.” *Id.* at 241.

1 First, the IJ abused his discretion by failing to consider highly probative evidence that
2 Mr. Mendoza does not pose a current or future danger. *See Cole*, 659 F.3d at 771–72 (finding the
3 agency’s failure to mention probative evidence and misstating the record as indicia that it did
4 not consider all the evidence); *Kharis*, 2018 WL 5809432, at *10 (holding that “[d]ue process
5 obligated the IJ to mention [highly probative] evidence” in a bond memorandum and as such, the
6 agency’s failure to “expressly grapple with a substantial, well-supported argument” relating to
7 bond violated due process); *Y.S.G.*, 2025 WL 2979309, at *9–11 (finding the IJ abused discretion
8 by failing to consider the mitigating evidence bearing on present dangerousness). In so doing, the
9 IJ neglected to consider multiple relevant *Guerra* factors. The IJ’s passing reference to “the other
10 mitigating evidence” without any specific mention of *anything* Mr. Mendoza submitted belies
11 the IJ’s insistence that he “consider[ed] all the facts and circumstances,” let alone weighed the
12 equities. Exh. P, Transcript at 5; *see Martinez*, 36 F.4th at 1229 (the dangerousness inquiry
13 “requires” an IJ to weigh the equities). “Simply acknowledging contrary evidence is not enough;
14 the IJ must meaningfully engage with it.” *Zavala Sandoval*, 2026 WL 1661379, at *5.
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16

17 The IJ failed to consider probative expert testimony that Mr. Mendoza poses a low-risk of
18 recidivism due to his strong protective factors. *Velasquez-Samayoa v. Garland*, 49 F.4th 1149,
19 1156-57 (9th Cir. 2022); *Castillo v. Barr*, 980 F.3d 1278 (9th Cir. 2020) (“If the [Agency] rejects
20 expert testimony, it must state in the record why the testimony was insufficient to establish the
21 probability of torture.”) (cleaned up). Mr. Mendoza provided a recent psychological evaluation
22 by Dr. Luis A. Pérez Ramírez confirming that with continued treatment and his support system
23 in the United States, he would have little risk of recidivism. *See* Tab E. Noting Mr. Mendoza’s
24 “history of chronic, cumulative trauma beginning in early childhood-including sustained physical
25 and emotional abuse by his father, life-threatening abuse by his paternal uncle, and witnessing
26 severe violence against his mother,” Dr. Pérez Ramírez opined that he meets the full DSM-5-TR
27 criteria for Posttraumatic Stress Disorder, Major Depressive Disorder, and Generalized Anxiety
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1 Disorder. *See* Tab E. Further, he described Mr. Mendoza's past substance use as self-medication
2 and characterized his methamphetamine dependence as stemming from trauma and untreated
3 psychiatric disorders, not "any antisocial disposition." *Id.* To evaluate Mr. Mendoza, Dr. Pérez
4 Ramírez employed structured risk assessment tools like Historical-Clinical-Risk Management
5 2.0 (HCR-20) and the Hare Psychopathy Checklist (PCL), finding that he showed "no significant
6 clinical or future-oriented risk factors," and noting that he had no current symptoms of major
7 mental illness, articulated realistic goals for the future, no history of violent offenses, and enjoys
8 strong family support. *Id.* Dr. Pérez Ramírez further noted Mr. Mendoza's "meaningful insight"
9 into his past behavior and "genuine remorse" for his past actions and his commitment to
10 receiving treatment and reunifying with his family. *See id.* It was an abuse of discretion for the IJ
11 to not consider the psychological evaluation.
12

13 The IJ additionally did not engage at all with Mr. Mendoza's strong family and
14 community ties as demonstrated through ten letters of support, his history of employment, the
15 release plan, or the psychiatric evaluation. The IJ's blanket assertion that he considered
16 "mitigating evidence" rings hollow when he failed to mention any probative evidence. *See*
17 *Martinez*, 124 F.4th at 785. Merely mentioning evidence would also not have been enough; an IJ
18 abuses their discretion where they acknowledge the existence of mitigating factors but fail to
19 "actually analyze any of this evidence or attempt to explain why it did not mitigate danger."
20 *Y.S.G.*, 2025 WL 2979309, at *10. Here, the IJ did not acknowledge favorable evidence, like that
21 Mr. Mendoza has resided in the United States for thirteen years and has had asylee status for a
22 decade. Mr. Mendoza understands that his reliance on substances stems from untreated trauma,
23 and that to stay sober he must address this root issue. *See* Exh. M, Tab C, ¶¶ 25-26. Mr. Mendoza
24 sought out an addiction recovery program while in criminal custody, receiving therapy and
25 medication. *See* Exh. M, Tab C, at ¶ 25; *see also Y.S.G.*, 2025 WL 2979309, at *10 (finding the
26 IJ abused her discretion where she only nominally mentioned mitigating evidence of educational
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1 programs, sex offender treatment, completion of state parole, and an eighteen-month DUI
2 program but “did not actually analyze any of this evidence”). Mr. Mendoza is committed to
3 sobriety; he has been sober since 2024, with the support of opioid suppressant medication, and
4 also sought acceptance into a residential treatment program. His family remains committed to
5 supporting his sobriety and healing.

6 Second, in disregarding the above mitigating evidence, the IJ solely focused on Mr.
7 Mendoza’s criminal record, emphasizing severity and recency. It is “not constitutional error for
8 an IJ to base [a detention] decision on [a] petitioner’s criminal record, so long as the IJ analyzes
9 the recency of the crimes *and what (if any) actions the petitioner has taken to rehabilitate*”
10 himself. *Perez v. Wolf*, 445 F. Supp. 3d 275, 287 (N.D. Cal 2020) (emphasis added). But the IJ’s
11 complete failure to consider evidence of rehabilitation and mitigation presented by Mr. Mendoza
12 demonstrates a failure to weigh the equities. *See Singh*, 638 F.3d at 1205 (under the clear and
13 convincing standard, “bad acts do not demonstrate a propensity for dangerousness, in view of
14 evidence showing that . . . the impetus for his previous offenses, has ceased.”); *see also Chi Thon*
15 *Ngo v. I.N.S.*, 192 F.3d 390, 398 (3d Cir. 1999), amended (Dec. 30, 1999) (“to presume
16 dangerousness to the community . . . solely on his past conduct does not satisfy due process”);
17 *Obregon*, 2017 WL 1407889 at *7 (“Courts must consider . . . intervening events that might
18 undermine a finding of dangerousness”). *But see Martinez*, 124 F.4th at 785–86 (finding no
19 abuse of discretion where IJ explicitly credited Martinez’s significant rehabilitation efforts, like
20 keeping a clean record on pretrial release and prison and several years of sobriety but found such
21 equities outweighed by multiple drug trafficking convictions thirteen years apart).

22 As the Ninth Circuit found in *Singh*, “largely nonviolent prior bad acts do not
23 demonstrate a propensity for future dangerousness, in view of evidence showing that his drug
24 use, which was the impetus for his previous offenses, has ceased.” 638 F.3d at 1205. Courts in
25 this district have found an IJ’s bond denial based on danger to be an abuse of discretion and
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1 ordered outright release even where noncitizens have criminal convictions. *See, e.g., Judulang*,
2 562 F. Supp. 2d at 1126–27 (finding that petitioner was not a present danger where he had
3 multiple, but decades-old, convictions for offenses, including manslaughter, and more recently,
4 DUI and grand theft); *Nola*, 2026 WL 1330294, at *9 (finding that IJ abused discretion in finding
5 petitioner to be a danger where he had a speed contest conviction and a felony child
6 endangerment conviction in light of strong evidence of rehabilitation); *see also Zavala Sandoval*,
7 2026 WL 1661379, at *5 (finding an IJ had abused their discretion by finding danger where
8 petitioner only had temporally remote convictions or dismissed charges).
9

10 In *Mau*, the detained noncitizen had two misdemeanor DUI convictions and one felony
11 DUI with bodily injury conviction. *Mau*, 562 F. Supp. 2d at 1109. While those convictions were
12 serious, “the Government presented no evidence tending to show that, even with appropriate
13 conditions of release, Petitioner would pose a threat to the community if released.” *Id.* at 1118.
14 Moreover, the court found that these convictions did not independently justify continued
15 detention given petitioner’s lack of any history of violent conduct, record of institutional
16 compliance while detained, and that the detention period had surpassed the length of the sentence
17 that petitioner received for the crime. *Id.*
18

19 Like in *Mau*, Mr. Mendoza has no history of violent conduct. *See id.* He has now spent
20 nearly an extra year in ICE custody following release from state criminal custody—more actual
21 custody time than he served on any prior conviction. *See Doe v. Chestnut*, 810 F.Supp.3d at 1197
22 (cleaned up) (noting “[p]etitioner has served a full criminal sentence for his offense and his
23 current detention does not arise from new or unpunished conduct” in the danger analysis). Mr.
24 Mendoza’s convictions all stem from his struggles with drug use over the past decade and most
25 arrests and convictions involve possession of a controlled substance for personal use and related
26 paraphernalia or misdemeanor theft-related offenses. Mr. Mendoza regrets the conduct leading to
27 his conviction for possession for sale and fleeing from an officer and acknowledges the harm that
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1 his substance abuse has caused. However, no one was injured and there is no indication that he
2 would revert to this kind of behavior if released from ICE detention. Like in *Mau*, Mr.
3 Mendoza's past convictions do not support a finding of present dangerousness by clear and
4 convincing evidence.

5 **II. This Court should order Mr. Mendoza's immediate release because he remains**
6 **unlawfully detained.**

7 "Federal courts have a fair amount of flexibility in fashioning specific habeas relief."
8 *Burnett v. Lampert*, 432 F.3d 996, 999 (9th Cir. 2005); *see also Munaf v. Green*, 553 U.S. 674,
9 693 (2008) ("Habeas is at its core a remedy for unlawful executive detention. The typical remedy
10 for such detention is, of course, release." (citation omitted)). "Once a right and a violation have
11 been shown, the scope of a district court's equitable powers to remedy past wrongs is broad, for
12 breadth and flexibility are inherent in equitable remedies." *Swann v. Charlotte-Mecklenburg Bd.*
13 *of Ed.*, 402 U.S. 1, 15 (1971).

15 Here, Respondents have violated the Court's habeas order in multiple ways. The IJ
16 ignored probative, mitigating evidence and failed to hold Respondents to the stringent clear and
17 convincing evidence standard. In the end, the hurried bond hearing that Mr. Mendoza received
18 was a rubber stamping of Mr. Mendoza's detention, rather than a meaningful assessment of
19 danger and flight risk by a neutral adjudicator. Mr. Mendoza continues to be held in violation of
20 the Constitution, eleven months after he was detained by ICE, and without any end in sight. The
21 IJ's bond analysis, or lack thereof, amounted to legal errors and an abuse of discretion.
22 Accordingly, this court must provide a remedy.

24 Where a court-ordered bond hearing proved deficient, courts in this district have ordered
25 outright release. *See, e.g., Mau*, 562 F. Supp. 2d at 1119 (ordering petitioner's release after a
26 legally deficient bond hearing); *Perez Velasquez*, 2026 WL 1042479, at *1; *Singh v. Larose*,
27 2026 WL 1387428, at *1 (same); *Judulang*, 562 F. Supp. 2d at 1127 (same). So too do other
28

1 courts in the Ninth Circuit. *See, e.g., Soriano*, 2026 WL 969764, at *5 (ordering immediate
2 release after a bond hearing); *Nola*, 2026 WL 1330294, at *9; *Zavala Sandoval*, 2026 WL
3 1661379, at *5; *Y.S.G.*, 2025 WL 2979309, at *11 (finding that IJ abused discretion in finding
4 both danger and flight risk where petitioner had a felony sex offense conviction, a parole
5 violation, and multiple misdemeanors, and ordering release and mandating a pre-deprivation
6 hearing if Respondents wished to re-detain).

7
8 Furthermore, district courts in the Ninth Circuit and across the country regularly grant
9 detained noncitizen habeas petitioners release under adequate conditions of supervision when the
10 government fails to provide them with a hearing consistent with orders of the court. *See, e.g.,*
11 *Sales*, 2017 WL 6855827, at *7 (ordering petitioner's release under appropriate conditions of
12 supervision when IJ failed to correctly apply clear and convincing standard in violation of court
13 order); *Mathon v. Searls*, 623 F. Supp. 3d 203, 218 (W.D.N.Y. 2022) (granting motion to enforce
14 and ordering immediate release on specific conditions).

15
16 Respondents had an opportunity to provide Mr. Mendoza with an individualized and
17 meaningful assessment of his custody status. They failed to do so, violating both Mr. Mendoza's
18 due process rights and this Court's orders. The Court should order immediate release and prevent
19 the government from further infringing upon Mr. Mendoza's rights.

20 CONCLUSION

21
22 For the above reasons, the Court should order Mr. Mendoza's immediate release from
23 custody and enjoin Respondents from re-detaining him during the pendency of these
24 proceedings. Without such intervention, Petitioner will continue to be unconstitutionally—and
25 indefinitely—deprived of his liberty without any valid justification.

26
27 Dated: June 24, 2026

Respectfully submitted,

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/s/ Genna Beier
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