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SOUTHERN DISTRICT OF CALIFORNIA
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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

CHILEL MONSON NICOLAS,

Petitioner,

Case No. No26-cv-3261

JEREMY CASEY WARDEN, Imperial Regional

Detention Facility,

Respondents.

PETITIONER'S MOTION TO ENFORCE THE COURT'S ORDERS AND FOR IMMEDIATE RELEASE, OR ALTERNATIVELY, FOR IMMEDIATE AND INJUNCTIVE RELIEF

Petitioner is an immigration detainee who received a bond hearing before an immigration Judge in response to this Court's Order to provide him with one. At the bond hearing, the IJ denied, concluding that Petitioner was a flight risk. Petitioner now files a motion to enforce the Court's Order challenging the bond he received, contending that it was constitutionally inadequate.

Petitioner Chilel Monson Nicolas, Proceeding Pro-Se, respectfully moves this Court to enforce its Order granting Habeas relief and its Order to SHOW CAUSE, and because the bond hearing Respondents provided June 18, 2026, did not comply with those Orders or with due process, to order his immediate release on his own recognizance, or on conditions of supervision including GPS monitoring, which Petitioner expressly accepts.

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I. INTRUDUCTION

This court ordered Respondent to provide petitioner Chilel Monson Nicolas a bond hearing at which the government would bear the burden of justifying his continued detention by clear and convincing evidence that he is a danger to the community or a flight risk, see Singh v. Holder, 638 F.3d 1196, 12o3-04 (9th Cir. 2011), and on June 18, 2026 ordered Respondents to show cause why petitioner should not be immediately released for want a compliant hearing.

At the hearing the government presented no evidence none on either dangerousness or flight risk. It argued only Petitioner manner of entry, the existence of removal order, his lack of employment history, lack of social security number, lack of driver's license and not paying his taxes and working on cash. The immigration judge found that petitioner is not a danger to the community. He found Petitioner sponsor, Pastor Juan C. Aquino a lawful permanent resident who himself immigrated lawfully through the diversity visa program to be credible and strong sponsor and found that Petitioner has a fixed address with him. Under the

law, that should have ended the matter: detention cannot be justified by clear and convincing evidence where the decision maker himself concludes that conditions of release could reasonably mitigate the asserted risk. See Hernandez V. Sessions, 872 F.3d 976, 990-91 (9th Cir 2017).

Because the hearing did not comply with the court's order, and because the Ij own findings foreclose any lawful basis for detention, Petitioner respectfully asks the court to enforce its orders and direct his immediate release.

II. FACTUAL BACKGROUND

Petitioner is a 60-years old citizen of Guatemala. He entered without inspection twenty-three (23) years ago and have been living in the interior of the United States. He has been detained at the IRDF for over thirteen (13) months and has not been release. Petitioner does not have any prior immigration encounters, and do not have any derogatory information, no criminal history, no prior or pending criminal proceedings and no claim to the United States Citizenship or any United States military. Petitioner Asylum was denied, and he is currently on appeal which is pending with the BIA. The court granted Habeas relief and ordered a bond hearing at which the government would bear the burden by clear and convincing evidence, and on June 18, 2026, ordered Respondents to SHOW CAUSE why petitioner should not be immediately release because he had not received a bond hearing comporting with the court's order.

The June 18, 2026, hearing was held before IJ Anne Kristina Perry. The government presented no documentary evidence. Its argument consisted of four points: Petitioner 's manner of entry, his lack of employment history, lack of social security, not paying taxes and working on cash and limited ties to the United States. The IJ found that Petitioner is not a danger to the community and has been living a stable life in Rancho Rd. Adelanto, California and has been residing in the country for over twenty-three (23) years.

III. JURISDICTION

This court possess the subject-matter jurisdiction over Emergency Petition Pursuant to 28 U.S.C § 2241 (application for the Writ of Habeas Corpus); 28 U.S.C § 1331 (federal question jurisdiction); 28 U.S.C. § 1651 (the All Writ); and Article 1, section 9, Clause 2 of the United States Constitution (the suspension clause).

2. This court further possess the inherent, independent equitable authority to fashion remedies for ongoing violations of the federal constitution by executive officers, including the power to order the absolute release of a civil detainee whose conditions of confinement cross the constitutional threshold into unlawful punishment. See e.g. Zadvydas v. Davis, 533 U.S. 678 (2001); Clark V. Martinez, 543 U.S. 371 (2005)

3. Venue is textually and structurally proper in the United States District Court for the District of California pursuant to 28 U.S.C § 110 and 28 U.S.C § 2241(d). I am currently, physically, and unlawfully confined by Respondent within the geographic boundaries of this judicial District at the Imperial Regional Detention Facility, CA

IV. EXHAUSTION IS NOT REQUIRED AND SHOULD BE EXCUSED

Petitioner has appealed the bond denial to the BIA, but he does not await its decision. Exhaustion before the BIA is prudential, not jurisdictional, in § 2241 proceedings, Singh, 638 F.3d at 1203 n.3, and may be excused where administrative remedies are inadequate, futile, or where 'irreparable injury will result. "Laing v. Ashcroft, 370 F.3d 994, 1000 (9th Cir. 2004); puga v. Chertoff, 488 F.3d 812, 815 (9th Cir. 2007). BIA bond appeals routinely take six months or more, see Rodriguez v. Bostock, 779 F. Supp. 3d 1239, 1248-49 (W.D. Wash. 2025) average processing exceeded 200days)- months of exactly the unconstitutional detention this Court's order was designed to end. "Loss of liberty is a ..... severe form of irreparable injury. "Ferrara v. United States, 370F. Supp. 2d 351, 360 (D. Mass. 2005). More fundamentally, this motion asks the Court to enforce its own order – authority that Leonardo itself confirms, 646 F.3d at 1161, and that does not depend on administrative exhaustion. See Hechavarria v. Whitaker, 358 F. Supp. 3d 227, 238-40 (W.D.N.Y 2019).

Although the government urges the puga factors favor requiring Petitioner to exhaust his administrative remedies before the BIA, this Court is still doubtful that agency expertise is necessary to resolve Petitioner's challenge to the bond determination that the BIA review would likely correct the IJ's errors. Federal courts routinely make independent detention determinations and assess many of the same consideration relevant to immigration bond proceedings. See United States V. Koenig, 912F. 2D 1190 (9th Cir. 1990), particularly in this District, where

the Court regularly adjudicates detention and bail determinations involving non-citizens. The BIA appears to have largely ceased functioning as a meaning check on lower-level agency errors, instead upholding b795 of all immigration appeals in 2025, including bond determinations, a rate exceeding, the 16- year historical average by at least 30% points. See Vasquez-Rodriquez v. Garland 7 F. 4th 888, 896 (9th Cir. 2021).

V. THE JUNE 18, 2026, HEARING DID NOT COMPLY WITH THE COURT'S ORDER

A. The Government Presented No Evidence, and the I J's Reliance on Categorical Factors Cannot Satisfy the clear-and-Convincing standard

The clear and convincing standard requires evidence of sufficient weight to make the need for detention "Highly Probable" Singh, 638 F. 3d at 1205. The government offered no evidence at all – no witnesses, no documents, nothing. It offered argument, and every point of argument is a circumstance shared by virtually every recently arrived asylum seeker in detention: an irregular manner of entry, an administrative order of removal, lack of employment authorization history, and limited ties to the U.S. Factors that would compel bond denial for an entire category of detainees are "so lacking in probative Value" that they cannot carry a clear and convincing burden as to any individual. See Aguilon Fuentes v. Bondi, No. 1:26-cv-167-AJT-WET (E.D Va. Feb. 24, 2026). A hearing at which the government prevails without introducing any evidence is not a hearing at which the government bore the burden of proof; it is a hearing at which the order's central command was ignored. See Pedroso de Oliveira v. Freden, No.6:25-cv-6663, 2025 at *1 (W.D.N.Y. Dec. 11, 2025); mathon v. searls,623 F. Supp. 3d 203, 208 (W.D.N.Y. 2022).

B. The I J's own Findings – No Danger, a strong Sponsor, a fixed address, and alternative that could "Offset" His Concerns – Compel Release

The IJ found that Petitioner poses no danger to the community. That concession is dispositive. Due process permits civil detention only where no less restrictive alternative can reasonably address the government's interest; where conditions of release can mitigate an asserted flight risk, continued detention is unjustified. See Hernandez v. Sessions; 872 F. 3d 976, 990-91 (9th Cir. 2017). An IJ who finds no dangerousness, credits the sponsor finds a fixed address, and acknowledges that conditions could offset his flight concerns has made the

findings that require release on conditions. Denying bond anyway – because of a prediction about the merits of appeal – is not a weighing of the Guerra factors; it is abandonment of them.

Notably, a removal Order is not even among the Nine Guerra factors, and petitioner stands ready to accept ankle monitoring and regular check-ins.

C. The "speculative" Appeal Rationale Inverted the Burden of proof and Is Wrong on Its Own Terms

The sole ground on which bond was actually denied that no condition "would ultimately overcome the speculative nature of the respondent winning his case" is a legal error

Firstly, it inverts the burden. This Court placed the burden on the government to prove flight risk by clear and convincing evidence. Making bond turn on Petitioner's likelihood of winning his appeal converts the government 's burden into Petitioner's obligation to demonstrate probable success on the merits – a framework drawn from Matter of R-A-V-P-, 27 I&N Dec. 803, 2020), and its progeny, which govern hearings at which the non-citizen bears the burden. Importing that framework into a court – ordered Singh hearing defies the order that mandated the opposite allocation.

Secondly, this court knew petitioner was subject to a removal order when it ordered the hearing and allocated the burden to the government anyway. Treating removal order as effectively dispositive nullifies the order. The Ninth Circuit rejected precisely this move in Singh itself, drawing on Diouf v. Napolitano, 634 F. 3d 1081 (9th Cir. 2011): whatever the stage of proceedings, "fundamentally the same interest "freedom from prolonged detention "is at stake" and a final order does not diminish the government's burden.

D. The IJ Ignored the most Probative Evidence of Appearance

The best evidence of whether a person will appear is what he has actually done. He has appeared at every hearing over Eleven months of detention. He has prosecuted his appeal, his BIA bond appeal, and this habeas action diligently and Pro Se. He has close family in the country and a court credited sponsor with a fixed address waiting for him. The record also reflects that similarly situated detainees with removal orders and no U.S. Criminal history, have been granted

bond by the same immigration court; identical treatment of identically situated persons is the least due process demands. An Order that acknowledges sponsor and the compliance history yet denies bond without weighing them has not applied the clear and convincing standard, it has recited it.

VI. THE VIOLATIONS WERE PREDUDICIAL

If the burden been applied as Ordered, the government would have lost it presented no evidence, (no danger, strong credible sponsor, fixed address, mitigated flight concerns) affirmatively establish that the clear and convincing evidence of flight risk was absent. Had the Guerra Factors been weighed without the burden -inverting merits prediction, the sponsor, family ties, perfect appearance court record, work history and willingness to accept GPS monitoring compel release on conditions. The outcome of a compliant hearing would have been different.

VII. THE REMEDY

"The traditional function of the Writ is to secure release from illegal custody" Preiser v. Rodriguez, 411 U.S. 475, 484 (1973). The habeas court must dispose of the matter as law and justice require, 28 U.S.C. § 2243, with all the "breadth and Flexibility inherent in equitable remedies. Petitioner has already been sent once for bond hearing that did not comply with this court's order; ordering a second bond hearing before the same immigration Court would reward non-compliance while Petitioner's unconstitutional detention now Eleven months continues. In the alternative, this court may conduct the bond hearing itself, See L, G.M. v. La Rocco, 788 F. Supp. 3D 401, 405-07 (E.D.N.Y. 2025), or remand with instructions that the hearing be held before a different IJ. If bond is set, due process requires consideration of Petitioner's financial circumstances and of alternative such as GPS monitoring, which Petitioner accepts. Hernandez, 872 F. 3d 990—91.

VIII. CONCLUSION AND PRAYER FOR RELIEF

The government was ordered to carry a heavy burden and carried none. The IJ made every finding that matters in Petitioner's favor -no danger to Community, a strong and credible sponsor, a fixed address, mitigated concerns and denied bond anyway, on merits prediction this Court's order did not permit to make. For the reasons stated above, Petitioner respectfully prays that this court:

1) Find that the June 18, 2026, bond hearing did not comply with the court's order granting habeas relief or its previous Order to Show Cause.

2) Order Respondent to immediately release Petitioner from custody on his own recognizance, on a reasonable bond set in light of his financial circumstances, or on conditions of supervision including GPS or ankle monitoring, which Petitioner's accepts.

3) In the alternative, conduct the bond hearing before this court, or order Respondent to provide, within seven (7) days, a constitutionally compliant, transcribed bond hearing before a different immigration judge, at which the government bears the burden of proof by clear and convincing evidence and the IJ considers Petitioner's financial circumstances and alternatives to detention.

4) Order that Respondents may not detain Petitioner during the pendency of his removal proceedings without first providing a constitutionally compliant bond hearing meeting the conditions of paragraph 3, with a declaration of compliance filed at least 48 hours before any re-detention; and

5) Grant any other relief that this court deems just and proper

I affirm, under the penalty of perjury, that the foregoing is true and correct 28 U.S.C. § 1746.

Dated: 08/12/,2026