UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

JOSE DE JESUS SAHAGUN ALERIANO, **Petitioner,** **v.** JUAN BALTASAR, Warden, GEO Group ICE Processing Center; GEORGE VALDEZ, Director of the Denver Field Office for U.S. Immigration and Customs Enforcement; DAVID VENTURELLA, Acting Director of U.S. Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; TODD BLANCHE, U.S. Attorney General; and, in their official capacities, **Respondents.**	Case No.: 1:26-cv-02502-STV

PETITIONER'S SECOND MOTION TO ENFORCE

INTRODUCTION

Petitioner respectfully moves this Court to enforce its prior Order, ECF No. 18, dated August 18, 2026, which remanded the matter back to the immigration court for a second bond hearing in which the Government was required to bear the burden by clear and convincing evidence, and where the Court required the Government to first meet its burden before the immigration judge considered evidence submitted by Petitioner.

While the bond hearing was held on August 21, 2026, ECF No. 19-1, the immigration judge ("IJ") failed to comply with this Court's order that "only after [the Government met its burden] should the Judge consider evidence submitted by Mr. Aleriano." ECF No. 18. In fact, the IJ relied on Petitioner's own evidence, repackaged as "DHS Evidence" to find that the Government had met its burden, ultimately denying bond. ECF No. 19-1.

Because the immigration court has repeatedly failed to comply with this Court's orders, Petitioner requests that this Court order his immediate release.

BACKGROUND

This Court granted Petitioner's Writ of Habeas Corpus on June 5, 2026, and ordered respondents to provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) with the Government bearing the burden of proving that the petitioner is a flight risk and/or a danger by clear and convincing evidence. ECF No. 11 at 3-4. The bond hearing held by the immigration court on June 25, 2026, failed to comply with this order, and Petitioner then filed a Motion to Enforce. ECF No. 14. On August 18,

2026, the Court held a hearing on Petitioner's Motion to Enforce, granting the Motion, in part, and remanding the case to the immigration court for another bond hearing. In so doing, the Court ordered that "[t]he clear and convincing [burden] must be met first and then only after it has been met should the Judge consider evidence submitted by Mr. Aleriano." ECF No. 18. The immigration court held a bond hearing on August 21, 2026, where it denied bond.

Prior to the August 21st bond hearing, the Department of Homeland Security ("DHS") submitted, as its "own" evidence, Petitioner's rebuttal evidence that Petitioner had previously submitted in the June 25, 2026, bond hearing. Ex. A, DHS Filing. Indeed, DHS submitted, page for page, the rebuttal evidence that Petitioner submitted on June 25, 2026. *Id.* In her decision denying bond, the IJ attempts to reason how Petitioner's own evidence is now DHS evidence:

> DHS submitted as its own evidence documents that had previously been submitted by the [Petitioner] during the earlier bond proceeding. Those documents are now contained in DHS's evidentiary submission, Part 01, admitted as Exhibit 3. . . . DHS itself offered these documents into the record at the present hearing. They therefore constitute evidence affirmatively presented by DHS in satisfaction of its burden of proof.

ECF No. 19-1 at 2.

Based upon this "DHS Exhibit 3," the IJ found that the Government established by clear and convincing evidence that the [Petitioner] was a danger and denied bond. *Id.* at 3. Having determined the Government had purportedly met its burden, the IJ did not consider whether any of Petitioner's rebuttal evidence of reform and rehabilitation countered the dangerousness finding. *Id.*

ARGUMENT

Respondents, again, have failed to adhere to this Court's orders when the IJ relied on Petitioner's own evidence, submitted under the guise of DHS evidence, to find that the Government had met its burden. In Petitioner's first Motion to Enforce, ECF No. 14, Petitioner explains that he preemptively submitted over 200 pages of rebuttal evidence in advance of the bond hearing. *See* ECF No. 14-2 and 14-3. Petitioner previously argued that because the IJ considered all evidence submitted by both parties interchangeably, "it is impossible to discern whether the government's evidence, standing along, satisfied its . . . burden." ECF No. 14 at 9 (quoting *Cervantes Arredondo v. Baltazar*, No. 25-cv-03040-RBJ, ECF No. 26, at *11).

During the August 18, 2026, motion hearing, the Court considered this argument and in response ordered that the Government must meet its burden first and "then only after it has been met should the Judge consider evidence submitted by Mr. Aleriano." ECF No. 18.

Here, Respondents failed to follow the Court's order where the IJ found that the Government met its burden based on DHS evidence that was simply Petitioner's own rebuttal evidence from the previous noncompliant bond hearing, repackaged with a new cover sheet.

IMMEDIATE RELEASE IS THE PROPER REMEDY

Courts in this district are increasingly expressing concern regarding the adequacy of immigration-court bond proceedings. *See Guillen Acosta v. Baltazar*,

No. 1:26-cv-03166-RMR, ECF No. 18 at 5–6 (D. Colo. Aug. 14, 2026) (noting that other judges in the District of Colorado have expressed 'concern that the immigration courts are not affording immigrants fair bond hearings,' and that 'the mounting evidence that bond determination hearings conducted in Immigration Court under § 1226(a) have preordained outcomes has become impossible to ignore'). Where Respondents have repeatedly failed to adhere to this Court's orders, immediate release is the proper remedy. *See Quintanilla Perez v. Baltazar*, No. 1:26-cv-00994-DDD-CYC, ECF No. 33 (D. Colo. Aug. 14, 2026) (ordering immediate release after two court-ordered bond hearings were noncompliant).

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court enter an order:

(1) GRANTING Petitioner's Motion to Enforce;

(2) ORDERING Respondents to release Petitioner from custody immediately;

(3) ENJOINING Respondents from re-detaining Petitioner under 8 U.S.C. § 1226 unless and until they demonstrate, by clear and convincing evidence at a pre-deprivation bond hearing at which the government bears the burden of proof, that Petitioner is a flight risk or a danger to the community such that his physical custody is legally justified; and

(4) GRANTING such further relief as the Court deems just and proper.

Respectfully submitted this 27th day of August 2026,

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CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following e-mail address:

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