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

ARMANDO MONJARAZ RAMOS,

Petitioner,

v.

Warden, Otay Mesa Detention Center,

Respondents.

CASE NO.: 3:26-cv-03381-RSH-JLB

**Amended Petition for Writ of
Habeas Corpus and Motion to
Enforce Prior Judgment**

This Court previously granted Armando Monjaraz Ramos's habeas petition. *See Monjaraz v. LaRose*, No. 26-cv-47-RSH-MMP (Jan. 22, 2026, S.D. Cal.), ECF No. 8. It ruled that Respondents must provide Mr. Monjaraz with a bond hearing that comports with 8 U.S.C. § 1226(a). *Id.*

Although an immigration judge indeed denied bond on January 29, 2026, a hearing that complied with § 1226(a), corresponding regulations, and BIA precedent it was not. To the contrary, the IJ acknowledged that Mr. Monjaraz had strong family ties, employment history, lengthy residency of residence in the United States—all factors traditionally favor release on bond. *See Martinez v. Clark*, 124 F.4th 775, 783 (9th Cir. 2024).

Instead, as the concurrently filed transcript shows, the immigration judge ruled that Mr. Monjaraz's equities are what made him, paradoxically, a flight risk. The theory seemed to be that Mr. Monjaraz had such strong ties to this country that

1 he could not be trusted to continue to pursue his immigration appeal without fleeing.
2 That makes no sense. That legal error also creates a Catch-22 for noncitizens in
3 bond proceedings: If you have no ties to the United States, you are a flight risk
4 because you have nothing to lose. And if you *do* have ties to the United States, you
5 are a flight risk because you have “a lot to lose.” Ex. A at 5.

6 It has to be one or the other, it cannot be both. This Court should grant the
7 amended petition and order Mr. Monjaraz released. At a minimum, it should order
8 a new bond hearing before a new, and neutral, immigration judge.

9 **Statement of Facts**

10 The Court is aware of many of the underlying facts from Mr. Monjaraz’s
11 prior Petition. This Section is limited to procedural facts relevant to Mr. Monjaraz’s
12 latest Petition.

13 Mr. Monjaraz filed his first petition under 28 U.S.C. § 2241 on January 5,
14 2026. Respondents agreed that he was entitled to a bond hearing under 8 U.S.C.
15 § 1226(a). This Court ordered such a hearing.

16 Mr. Monjaraz received that hearing on January 29, 2026. It did not go well.

17 The immigration judge noted that, in December, Mr. Monjaraz petition to for
18 cancellation of removal was denied. Ex. A at 2. By way of background, 8 U.S.C. §
19 1229b authorizes the BIA to cancel the removal of a” noncitizen. *Lemus-Escobar*
20 *v. Bondi*, 158 F.4th 944, 952 (9th Cir. 2025). It requires a two-step analysis. *Id.* At
21 step one, “[a] nonpermanent resident is statutorily eligible for cancellation of
22 removal if four elements are met: (A) physical presence for ten years; (B) good
23 moral character; (C) no conviction for certain categories of crimes, including
24 crimes involving moral turpitude; and (D) exceptional and extremely unusual
25 hardship.” *Id.* (citing 8 U.S.C. § 1229b(b)(1)). If a person satisfies Step One, the IJ
26 or BIA considers whether the person “merits a favorable exercise of discretion.” *Id.*
27 (quoting 8 U.S.C. § 1229a(c)(4)(A)).

28 Mr. Monjaraz’s counsel acknowledged that the IJ denied relief. Ex. A at 3.

1 But she also noted that Mr. Monjaraz had timely appealed. Furthermore, she noted
2 Mr. Monjaraz's extensive equities—that also demonstrated he appeared to satisfy
3 the statutory requirements for cancellation of removal. *Id.* at 3.

4
5 My client has resided continuously in the United States since
6 2003, over 22 years, establishing roots here. He has no criminal history
7 ever of any kind which clearly demonstrates he presents no threat.
8 He's the father of as you mentioned of five U.S. citizen children
9 relying on him for emotional and financial support, very strong family
10 ties. He has all reasons to work on his 42-B denial to see what else he
11 can, how else he can, you know, continue those relationships in his
12 life. My client holds steady employment, consistently paid taxes
13 throughout his time in the United States, and which reflects his
14 stability and responsibility and adherence to U.S. laws.

15 *Id.*

16 The Department of Homeland Security's counsel responded that while “we
17 do not know what the decision will be on the appeal. However I will point to [the
18 IJ's denial] as a factor towards flight risk.” *Id.* at 4.

19 The IJ ruled that Mr. Monjaraz was a flight risk:

20 While the court recognizes that the respondent has equities and long
21 term residence in the United States, I also have to consider the fact that
22 an immigration judge just recently denied his 42-B cancellation
23 application leaving him only with a minimal form of relief which is
24 voluntary departure. Yes, he has appealed to the Board of Immigration
25 Appeals and that is pending. And the court does not know how long it
26 would be pending for but if he is detained typically they expedite those
27 appeals in a faster manner than in than if the respondent was non
28 detained. But the court is not considering the length of the appeal.
What the court is considering is that, at this juncture, the respondent
was denied significant relief, the cancellation relief, and only granted
a minimal form of relief which then leads the court to believe that the
respondent is a flight risk with that form of relief and the reality is he
has a lot to lose if that appeal is denied. He has his children here but
he's established a life here, so that actually works against him in terms
of flight risk because as any parent wouldn't want to be separated from
their children. So I am going to find that the respondent is a flight risk.

Id. at 5.

1 Mr. Monjaraz filed a motion to enforce the prior judgment with this Court.
2 Unlike here, neither he nor respondents provided a full transcript of the bond
3 hearing. Instead, Mr. Monjaraz argued that the IJ's comment that "the court is
4 finding that there is no amount of bond that would mitigate the flight risk"
5 suggested an irrebuttable presumption against bond. Order Denying Mot. to
6 Enforce at 2, *Monjaraz v. LaRose*, No. 26-cv-47-RSH-MMP (Feb. 20, 2026, S.D.
7 Cal.), ECF No. 14. He also argued the IJ failed to provide a "meaningful individual
8 custody determination." *Id.* After noting that it lacked a transcript of the entire bond
9 hearing, this Court denied the motion. *See id.*

10 Mr. Monjaraz then filed another petition for habeas corpus. ECF No. 1. This
11 Court found that "that representation is necessary given the complexity and
12 potential validity of the constitutional, statutory, and procedural issues presented"
13 and appointed the undersigned. ECF No. 2.

14 After procuring a complete transcript of Mr. Monjaraz's bond hearing, his
15 amended petition follows.

16 Argument

17 **I. Mr. Monjaraz's bond hearing was fundamentally unfair and violated** 18 **the Due Process Clause of the Fifth Amendment.**

19 In conducting the bond hearing this Court previously ordered Respondents
20 to provide, the IJ did not apply the factors used to determine whether an
21 individual is a danger to the community or a flight risk.

22 The Ninth Circuit has held that "[t]o determine whether an alien is a danger
23 to the community or a risk of flight, an IJ weighs nine factors under BIA
24 precedent." *Martinez v. Clark*, 124 F.4th 775, 783 (9th Cir. 2024) (citing *In Re*
25 *Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006)). These nine factors include:

26 (1) whether the alien has a fixed address in the United States; (2) the
27 alien's length of residence in the United States; (3) the alien's family
28 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

1 employment history; (5) the alien's record of appearance in court; (6)
2 the alien's criminal record, including the extensiveness of criminal
3 activity, the recency of such activity, and the seriousness of the
4 offenses; (7) the alien's history of immigration violations; (8) any
5 attempts by the alien to flee prosecution or otherwise escape from
6 authorities; and (9) the alien's manner of entry to the United States.

7 *Id.*

8 Here, the IJ at least nodded to these factors, but warped them to guarantee
9 that Mr. Monjaraz—or any other noncitizen—is detained. Every case of which the
10 undersigned is aware has found that a fixed address, long residence in the United
11 States; family ties to the United States; strong employment history; lack of
12 criminal history favor a finding that a noncitizen is not a flight risk. For example,
13 in *Escalante Perez v. Hernandez*, the district court ruled that the Petitioner
14 “unequivocally” was not a flight risk because she had “two children, one of whom
15 is a citizen of, and therefore rooted in, the United States, other family members in
16 the local area, steady employment, and community connections developed during
17 an over-ten-year period, . . . [and] no criminal history.” No. C26-0956 TSZ, 2026
18 U.S. Dist. LEXIS 81691, at *7 (W.D. Wash. Apr. 14, 2026). The district court
19 thus ruled that the IJ erred in denying bond. *Id.* Similarly, another judge in the
20 Western District of Washington ruled that “significant evidence showing
21 Petitioner is fixed and stable with his family in his community” categorically
22 weighs *in favor* of finding that someone is not a flight risk. *Soriano v. Hernandez*,
23 No. 2:26-cv-00900-DGE, 2026 U.S. Dist. LEXIS 79044, at *12 (W.D. Wash.
24 Apr. 10, 2026); *see also* Yan Lu v. L.A. Field Dir., No. 5:26-CV-00575-JAK
25 (SPx), 2026 U.S. Dist. LEXIS 114567, at *34 (C.D. Cal. Apr. 15, 2026) (ruling
26 that “significant connections in the United States” show that someone is not a
27 flight risk);
28

1
2 The BIA—which binds the IJ in this case—agrees. In Matter of R-A-V-P-,
3 the BIA affirmed an IJ’s flight-risk finding because the noncitizen
4 only recently arrived in the United States, having entered without
5 inspection, and he has made no claim to lawful status in this country,
6 either now or in the past. He also has no family ties, no employment
7 history, no community ties, or any record of appearances in court in
8 the United States. These factors militate against the respondent’s
9 release on bond because they indicate that he is less likely to appear
10 for his removal hearing.
11 27 I. & N. Dec. 803, 805 (BIA 2020).

12 The BIA contrasted such a case with someone who had “a probable path to
13 future lawful status, as well as immediate family members with whom he could
14 continue to reside in the United States, [who] did not present a flight risk.” *Id.* (citing
15 *Matter of Patel*, 15 I&N Dec. 666, 667 (BIA 1976)).

16 True, Mr. Monjaraz appears to have an order of removal. But the Ninth
17 Circuit has held, in an analogous context, that an *administratively final* order of
18 removal is insufficient for the government to prove that someone is a flight risk by
19 clear and convincing evidence. Here, although the burden is on Mr. Monjaraz, his
20 order of removal is not even administratively final. What is more, he appears to
21 satisfy the statutory requirements at “step one” of a cancellation of removal claim.

22 Mr. Monjaraz is not asking this Court to reweigh the factors entrusted to the
23 IJ. Rather, he is arguing that the IJ’s express warping of the governing law
24 amounted to a violation of due process.

25 Indeed, numerous district courts, including those cited above, have granted
26 habeas relief on the basis that an IJ’s failure to apply the correct legal standard
27 includes the failure to consider relevant factors and violates due process. First, in
28 *Miri v. Bondi*, a judge in the Central District of California reviewed a bond hearing
for an asylum seeker from Iran. No. 5:26-CV-00698-MEMF-MAR, 2026 WL
622302, at *1 (C.D. Cal. Mar. 5, 2026). The IJ’s verbal basis for finding flight risk

1 during the hearing was simply that there were “[t]oo many red flags here, counsel.
2 I’m not making any kind of judgment as to the strength of relief. Perhaps it gets
3 granted, perhaps not. I really don’t know at this point. But there are a number of
4 factors working against the respondent as it relates to the flight risk. So, the court
5 has denied the request for bond on that basis.” *Id.* at *2.

6 The district court granted the habeas petition and ordered the petitioner’s
7 immediate release. *Id.* at *12. The court first determined that under *Martinez*, 124
8 F.4th at 779–80, 783, “the question of whether a petitioner poses a flight risk is a
9 question of law that is reviewable by the Court.” *Id.* at *5. Thus, “the Court has
10 jurisdiction to review the Immigration Judge’s determination under an abuse of
11 discretion standard.” *Id.* True, the court “cannot reweigh evidence,” but it could
12 determine “whether the immigration judge ‘applied the correct legal standard.’” *Id.*
13 at *8 (quoting *Martinez*, 124 F.4th at 785). That included whether the IJ
14 “‘consider[ed] and address[ed] in its entirety the evidence submitted by a
15 petitioner’” and “‘issue[d] a decision that fully explains the [IJ’s] reasons.’” *Id.* at
16 *9 (quoting *Franco-Rosendo v. Gonzales*, 454 F.3d 965, 966 (9th Cir. 2006)).

17 The district court then concluded that the IJ “abused its discretion in denying
18 Miri’s bond.” *Id.* It noted that did the IJ did not “explain the reasons for denying
19 Miri’s bond” or show that it “relied on the appropriate factors.” *Id.* And the court
20 held that the IJ’s “conclusory statements about “red flags” and “factors working
21 against Miri” did not provide an adequate explanation for a finding of flight risk.
22 *Id.* at *8. Thus, the district court agreed that Mr. Miri’s detention was
23 “fundamentally unfair and thus violated the Due Process Clause of the Fifth
24 Amendment.” *Id.* at *5.

25 Similarly, the district court in *Zheng v. Rokosky, et al.*, concluded that
26 “Petitioner’s bond hearing was fundamentally unfair and violated his due process
27 rights.” No. 26-CV-01689, 2026 WL 800203, at *5 (D.N.J. Mar. 23, 2026). It
28 explained that while it was “not permitted to re-weigh evidence or determine

credibility,” it must ensure that the IJ “applies the correct legal standard” and “actually consider[s] the evidence and argument that a party presents.” *Id.* at *4, 5 (quotations omitted). But the court found that the IJ’s decision was “not supported by any detail or reference to *any* factual evidence in the record.” *Id.* at *6. The court noted that the IJ “did not provide even a minimal articulation of the basis of her decision” but “simply stated in mere conclusory fashion that Petitioner was a flight risk.” *Id.* The court thus held that this was “not an individualized assessment. This was not a fundamentally fair bond hearing.” *Id.*

Here, as in these two cases, Mr. Monjaraz’s bond hearing was “fundamentally unfair and violated his due process rights.” *Id.* at *5. First, the IJ did not apply the “correct legal standard” because she weighed factors that, as a matter of law, show someone is *not* a flight risk against Mr. Monjaraz. Under that reasoning, there was no way that Mr. Monjaraz could win.

Nor is it any answer that Mr. Monjaraz is, admittedly, in the country unlawfully. “A noncitizen’s unlawful status cannot provide a legitimate consideration upon which an Immigration Judge may deny a request for release on bond under § 1226(a) given that every individual who appears before an Immigration Judge for custody redetermination lacks lawful status. *Alvarado Lopez v. Dillman*, No. 1:25-CV-2456 (LMB/LRV), 2026 WL 688958, at *6 (E.D. Va. Mar. 11, 2026). “To consider this fact violates both § 1226(a)’s requirement of an individualized hearing and fundamental due process principles.” *Id.* The BIA similarly has cautioned against “[s]uch a broad interpretation of what constitutes an “adverse factor” . . . [that] could result in requiring a bond of almost every alien who is held in deportation proceedings.” *Matter of Patel*, 15 I. & N. Dec. 666, 667 (BIA 1976); *see also Chavarria Mejia v. Crawford*, No. 26-cv-253-LMB-LRV, 2026 WL 819603, at *5 (E.D. Va. Mar. 25, 2026); *Lemus Crispin v. Bondi*, No. 26-cv-191-LMB-WEF, 2026 WL 768859, at *5–6 (E.D. Va. Mar. 18, 2026); *Segura v. Bondi*, No. 26-cv-304-LMB-WEF, 2026 WL 688862, at *6 (E.D.

1 Va. Mar. 11, 2026); *See also See N.A. v. Warden*, No. 25-cv-03007-MBK, 2026
2 WL 734587, at *8 (C.D. Cal. Feb. 20, 2026), *report and recommendation adopted*
3 *sub nom. N.A. v. Warden*, No. 25-cv-03007-MBK, 2026 WL 734585 (C.D. Cal.
4 Mar. 12, 2026) (opining that factors that are true of “virtually every asylum seeker
5 apprehended at the border” cannot meet the DHS’s burden to show flight risk).

6 Because the IJ did not apply the correct legal standard under *Martinez*,
7 Mr. Monjaraz’s bond hearing was fundamentally unfair and violated due process.

8 **II. This Court should either order Mr. Monjaraz released or a new bond**
9 **hearing in front of a different IJ.**

10 Habeas courts confronted with IJ’s that fail to understand what constitutes a
11 flight risk repeatedly have ordered petitioners released. *Soriano*, 2026 U.S. Dist.
12 LEXIS 79044, at *17; *Yan Lu*, 2026 U.S. Dist. LEXIS 114567, at *41; *Escalante*
13 *Perez*, 2026 U.S. Dist. LEXIS 81691, at *8. This Court should do the same. That is
14 particularly so given Mr. Monjaraz’s allegations in the pro se petition, *see* ECF No.
15 1, that his initial detention did not comply with due process, either. *See Zheng*, 2026
16 WL 800203, at *11 (ruling that the respondents were “given an opportunity to cure
17 their earlier constitutional violation by providing Petitioner a fundamentally fair
18 bond hearing” but “woefully failed to do so” and ordering immediate release).

19 The unfair proceedings in this case echo recent news reports that IJ’s have
20 been directed—either directly or indirectly—not to grant noncitizens bond. An
21 alarming report from The New York Times documents not just how Respondents
22 have purged IJs seen as insufficiently supportive of the President but also
23 discourage those IJs who remain from granting bond. For example, the chief
24 immigration judge now “receive[s] daily reports about bond rulings.” Nicholas
25 Nehamas et al., *Immigration Judges Are Purged as Trump Speeds Deportations*,
26 N.Y. Times, April 12, 2026, at A1.1 “Her office has sometimes emailed judges
27 asking for an explanation about their decisions to grant bond,” while there is no
28 indication that the chief IJ seeks explanation for the denial of bond. *Id.* The message

1 is clear. As one IJ told the Times, “the pressure to deny bond is overt.” *Id.* That IJ
2 explained that “there was a requirement to inform a supervisor every time bond was
3 granted, underscoring how closely the administration was monitoring decisions.”
4 *Id.*

5 Thus, even if this Court is unwilling to grant release, it should order a second
6 bond hearing in front a new immigration judge with directions to correctly consider
7 what constitutes a flight risk under BIA and Ninth Circuit precedent.

8 **Claim and Prayer for Relief**

9 For these reasons, this Court should grant Mr. Monjaraz’s habeas petition
10 and order his immediate release. Should this Court decline to order immediate
11 release, it should at a minimum order a new bond hearing in front of a different IJ.

12 Respectfully submitted,

13 Dated: July 8, 2026

14 s/ Daniel J. Yadron, Jr.

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