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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PARDEEP SHARMA
aka PARDEEP SINGH

Petitioner,

v.

JEREMY CASEY, Warden, Imperial
Regional Detention Facility (or his
successor); DANIEL A. BRIGHTMAN,
Field Office Director, San Diego Field
Office, U.S. Immigration and Customs
Enforcement (or his successor); DAVID
VENTURELLA, Acting Director, U.S.
Immigration and Customs Enforcement;
MARKWAYNE MULLIN, Secretary of
the U.S. Department of Homeland
Security; and TODD BLANCHE,
Attorney General of the United States, *in
their official capacities*

Respondents.

Case No.: '26CV3643 RBM JAC

**PETITION FOR WRIT OF
HABEAS CORPUS;
REQUEST FOR IMMEDIATE
RELIEF AND ORDER TO SHOW
CAUSE**

PETITION FOR WRIT OF HABEAS CORPUS; REQUEST FOR IMMEDIATE RELIEF AND ORDER TO SHOW
CAUSE

NOTICE OF RELATED CASES

Pursuant to Civil Local Rule 40.1(f), Petitioner respectfully notifies the Court of the following related cases previously decided by Chief District Judge Cynthia Bashant: (1) *Sharma v. Casey et al.*, No. 3:25-cv-03335-BAS-DDL (S.D. Cal.) ("*Sharma I*") (habeas granted; bond hearing ordered within 14 days; Dec. 18, 2025); and (2) *Sharma v. Casey et al.*, No. 3:26-cv-00513-BAS-SBC (S.D. Cal.) ("*Sharma II*") (denied without prejudice on exhaustion grounds pending BIA bond appeal; Feb. 11, 2026). Both cases involve the same petitioner, the same respondents, the same detention facility, and overlapping legal questions.

INTRODUCTION

1. Petitioner Pardeep Sharma ("Petitioner") respectfully submits this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging his continued civil immigration detention at Imperial Regional Detention Facility ("IRDF") as unlawful under the Constitution, federal statutes, and a binding federal court order. Petitioner has been continuously detained for over seven months, since November 11, 2025, without constitutionally adequate justification. This Petition is supported by the Declaration of Martin O'Hara ("Counsel Declaration"), attached hereto as Exhibit J, and all exhibits thereto.
2. The history of this case illustrates a number of government failures. This Court granted habeas relief on December 18, 2025, ordering a constitutionally adequate bond hearing

1 within 14 days. *Sharma v. Casey et al.*, No. 3:25-cv-03335-BAS-DDL (“*Sharma I*”)
2 (S.D. Cal. Dec. 18, 2025) (Bashant, C.J.). The Government conducted a bond hearing
3 before Immigration Judge (“IJ”) Jeffrey Muñoz on January 23, 2026, but that hearing
4 was constitutionally defective: the IJ misallocated the burden of proof to Petitioner,
5 failed to apply the required *Matter of Guerra* factors, denied bond based on speculative
6 credibility assessments unrelated to flight risk or danger, and failed to consider
7 alternatives to detention.
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11 3. On February 11, 2026, this Court denied Petitioner's Second Habeas Petition without
12 prejudice on exhaustion grounds under *Leonardo v. Crawford*, 646 F.3d 1157 (9th Cir.
13 2011), because at that time, Petitioner had not yet filed an appeal of the bond denial
14 with the Board of Immigration Appeals (“BIA”). Petitioner appealed that bond denial
15 to the BIA on February 17, 2026. (Exhibit L). The BIA appeal brief was filed on May
16 8, 2026, and the appeal remains pending. Since then, three developments fundamentally
17 change the legal landscape and independently warrant habeas relief:
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21 (a) First, on May 20, 2026, the United States District Court for the Central District
22 of California issued a nationwide class certification order and preliminary injunction
23 in *Immigration Center for Women and Children v. Mullin* (f/k/a *v. Noem*), No. 2:25-
24 cv-09848-AB-AS (C.D. Cal. May 20, 2026) (“*ICWC v. Mullin*”). (See Exhibit K).
25 Petitioner, who has a pending I-918 Petition for U Nonimmigrant Status (Receipt
26 No. [REDACTED] filed April 22, 2025), is a member of the certified Pending
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1 Petition Class. The order stays the 2025 ICE Guidance and restores prior victim-
2 centered enforcement policies that prohibited ICE from detaining individuals in
3 Petitioner's position absent exceptional circumstances. ICE's refusal to release
4 Petitioner despite demand of counsel violates that order.
5

6 (b) Second, the BIA appeal of the IJ bond denial has now been fully briefed and
7 has been pending over four months, during which Petitioner has remained detained.
8 The BIA, which is structurally compromised and demonstrably rubber-stamping IJ
9 denials, cannot provide meaningful or constitutionally adequate review. Continued
10 detention pending a futile BIA appeal causes irreparable constitutional harm. Courts
11 in this district routinely waive exhaustion under these circumstances.
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14 (c) Third, the IJ denied asylum and ordered removal on February 23, 2026.
15 Petitioner timely appealed that decision to the BIA on March 16, 2026. (See Exhibit
16 M). That appeal is pending. Petitioner therefore has not been ordered removed by a
17 final order (the BIA appeal stays execution) and remains in pre-final-order § 1226(a)
18 detention. The pendency of that appeal further demonstrates Petitioner's
19 commitment to lawfully contesting his case through proper channels and directly
20 refutes any flight risk finding.
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25 4. Petitioner respectfully requests that this Court issue an Order to Show Cause and, upon
26 resolution, order his immediate release. The Government has already received one
27 opportunity to conduct a constitutionally adequate bond hearing and failed. No further
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1 agency proceedings will cure what the BIA cannot fairly adjudicate and what the *ICWC*
2 *v. Mullin* order independently prohibits. The appropriate remedy is Petitioner's
3 immediate release.
4

5 **CUSTODY**
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7 5. Petitioner is in the physical custody of Respondents at Imperial Regional Detention
8 Facility, located at 1572 Gateway Road, Calexico, California 92231, within the
9 Southern District of California. Petitioner is under the direct control of Respondents and
10 their agents. (See Exhibit A, ICE Form I-830.)
11

12 **JURISDICTION**
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14 6. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331
15 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension
16 Clause). A federal district court has habeas jurisdiction under 28 U.S.C. § 2241 to
17 review bond hearing determinations for constitutional claims and legal error. *Singh v.*
18 *Holder*, 638 F.3d 1196, 1200–01 (9th Cir. 2011). Section 1226(e) does not limit habeas
19 jurisdiction over constitutional claims or questions of law. *Id.* at 1202.
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21
22 7. This Court may also grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C.
23 §§ 2201- 2202, and the All Writs Act, 28 U.S.C. § 1651. This action arises under the
24 Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*
25

26 **VENUE**
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1 8. Venue lies in the Southern District of California pursuant to *Braden v. 30th Judicial*
2 *Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), as the judicial district in
3 which Petitioner is detained. Venue is also proper under 28 U.S.C. § 1391(e) because
4 Respondents are officers and agencies of the United States and a substantial part of the
5 events giving rise to these claims occurred in this District.
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8 **REQUIREMENTS OF 28 U.S.C. § 2243**

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10 9. The Court must grant the petition for writ of habeas corpus or order Respondents to
11 show cause "forthwith." 28 U.S.C. § 2243. If an order to show cause issues, the return
12 must be filed "within three days unless for good cause additional time, not exceeding
13 twenty days, is allowed." *Id.* Petitioner respectfully requests a three-day return.
14

15 **PARTIES**

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17 10. Petitioner Pardeep Sharma ("Petitioner"), [REDACTED] was arrested by ICE on
18 November 11, 2025, and has been continuously detained at IRDF since that date. He
19 has resided in the United States since December 3, 2022, has no criminal history, has
20 consistently complied with all immigration court and ICE directives since his initial
21 release on recognizance in December 2022, and has a pending I-918 Petition for U
22 Nonimmigrant Status (USCIS Receipt No. [REDACTED] filed April 22, 2025) as a
23 victim of a qualifying crime who cooperated with law enforcement.
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1 11. Respondent Jeremy Casey (or his successor) is the Warden of the Imperial Regional
2 Detention Facility, where Petitioner is incarcerated. He has immediate physical custody
3 of Petitioner and is sued in his official capacity.
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5 12. Respondent Daniel A. Brightman (or his successor) is the Field Office Director of the
6 San Diego Field Office, U.S. Immigration and Customs Enforcement. As the immediate
7 custodian responsible for Petitioner's detention and removal, he is sued in his official
8 capacity.
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10 13. Respondent David Venturella is the Acting Director of U.S. Immigration and Customs
11 Enforcement and is responsible for ICE policies governing Petitioner's detention. He is
12 sued in his official capacity.
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14 14. Respondent Markwayne Mullin is the Secretary of the Department of Homeland
15 Security, responsible for implementing and enforcing the INA and overseeing ICE. He
16 is sued in his official capacity.
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18 15. Respondent Todd Blanche is the Acting Attorney General of the United States,
19 responsible for the Department of Justice and EOIR. He is sued in his official capacity.
20

21 STATEMENT OF FACTS

22 A. Entry, Initial Release, and Re-Detention

23 16. Petitioner entered the United States near Lukeville, Arizona on December 3, 2022.
24 Upon encounter, DHS released Petitioner on a Form I-220A, Order of Release on
25 Recognizance, processed under INA § 236, 8 U.S.C. § 1226, and issued a Notice to
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1 Appear charging removability as an uninspected entrant. (See Exhibit B, I-220A;
2 Exhibit C, Notice to Appear.) For nearly three years, from December 2022 through
3 November 2025, Petitioner complied with every immigration court obligation and ICE
4 directive.
5

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7 17. On November 11, 2025, ICE re-arrested Petitioner without a warrant in Riverside,
8 California and transferred him to IRDF, where he has remained detained. (See Exhibit
9 A, I-830.)
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11 **B. First Habeas Petition and Constitutionally Defective Bond Hearing**

12 18. Petitioner filed his first habeas petition in this Court, and on December 18, 2025, Chief
13 Judge Bashant granted the petition, finding that § 1226(a), not § 1225(b)(2)(A), governs
14 Petitioner's detention, and ordered a bond hearing within 14 days. *Sharma v. Casey et*
15 *al.*, No. 3:25-cv-03335-BAS-DDL, ECF No. 9 (S.D. Cal. Dec. 18, 2025) ("*Sharma I*").
16
17 (See Exhibit D.)
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19 19. Immigration Judge ("IJ") Jeffrey Muñoz conducted bond hearings on December 30,
20 2025, January 6, 2026, and January 15, 2026, and issued a written bond denial on
21 January 23, 2026. (See Exhibit E, IJ Bond Order.) The IJ stated that "Respondent failed
22 his burden to prove that he would not be a danger or a flight risk." The IJ: (a) expressly
23 placed the burden on Petitioner rather than the government; (b) based the denial on
24 credibility assessments concerning Petitioner's testimony about past trauma and
25 speculative inferences about future employment conduct, neither of which constitutes a
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1 *Matter of Guerra* flight risk or danger factor; (c) made no finding of dangerousness
2 based on criminal history, violence, weapons, or gang affiliation; (d) made no finding
3 of flight risk based on prior failure to appear, false document use, or absconding; and
4 (e) did not address Petitioner's proposed conditions of release, including GPS
5 monitoring, CDL surrender, employment restrictions, and regular ICE reporting.
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8 20. At the bond hearing, the only evidence DHS submitted was a copy of Petitioner's
9 driver's license and excerpts from the California Commercial Driver Handbook. DHS
10 presented no evidence of criminal history, no evidence of violence, and no evidence
11 that Petitioner had ever failed to appear for any proceeding. (See Exhibit F, DHS Bond
12 Hearing Evidence.)
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14

15 **C. Second Habeas Petition and BIA Bond Appeal**
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17 21. Petitioner filed his second habeas petition on January 27, 2026, challenging the bond
18 hearing as constitutionally defective. This Court denied that petition without prejudice
19 under *Leonardo v. Crawford*, 646 F.3d 1157 (9th Cir. 2011), because Petitioner had not
20 yet filed an appeal of the bond denial with the BIA. *Sharma v. Casey et al.* ("*Sharma*
21 *II*"), No. 3:26-cv-00513-BAS-SBC (S.D. Cal. Feb. 11, 2026). (See Exhibit H, Order
22 Denying Without Prejudice.).
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25 22. On February 17, 2026, Petitioner filed a bond appeal with legal argument as to why the
26 IJ erred in denying bond. (See Exhibit L, Bond Appeal Receipt). On March 19, 2026,
27 Petitioner filed a Motion to Expedite a decision on the appeal. As of the date of this
28

petition, the BIA has not issued any decision on the appeal of the bond denial. Petitioner has been detained for over seven months with no final review of his bond denial.

D. IJ Removal Order and Pending BIA Merits Appeal

23. On February 23, 2026, the IJ denied Petitioner's asylum application and ordered him removed. Petitioner timely filed a BIA appeal on March 16, 2026, which is currently pending. (See Exhibit M, BIA Appeal Receipt). Because the BIA merits appeal stays execution of the removal order, Petitioner is not subject to a final order of removal and remains in pre-final-order detention under 8 U.S.C. § 1226(a). *Prieto-Romero v. Clark*, 534 F.3d 1053, 1060 (9th Cir. 2008) (§ 1231(a) "clearly does not provide any authority before the removal period"); *Padilla-Ramirez v. Bible*, 882 F.3d 826, 830-31 (9th Cir. 2017) ("If [the removal order is administratively final], then [S]ection 1231(a) controls. If not, then [S]ection 1226(a) provides the only authority to detain."); *Alvarez-Guatibonza v. Adelanto ICE Process Ctr.*, No. 5:26-cv-02157-KS (C.D. Cal. June 15, 2026) (same; pending BIA appeal stays removal period).

24. Petitioner's timely appeal of the removal order to the BIA is directly probative of his incentive to appear and his demonstrated commitment to contesting his case through the immigration system. A person who has timely pursued every available administrative remedy is not a flight risk.

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E. Pending U-Visa Petition and *ICWC v. Mullin*

25. On April 22, 2025, Petitioner filed a Form I-918 Petition for U Nonimmigrant Status

with USCIS (Receipt No. [REDACTED] Form I-192 Receipt No. [REDACTED]).

The petition remains pending. No bona fide determination has been made yet. (See Exhibit G, I-797C Receipt Notices.) This is not procedural; it is substantive. INA § 214(p)(6) mandates a bona fide determination before any removal may occur. The *Accardi* doctrine further requires that agencies follow their own internal procedures. *Morton v. Ruiz*, 415 U.S. 199 (1974); *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266-268 (1954). ICE has not sought an expedited USCIS review of Petitioner's petition as required under the reinstated 2021 ICE Directive 11005.3. This independent violation supports immediate release.

26. On May 20, 2026, the United States District Court for the Central District of California issued its class certification and preliminary injunction order in *Immigration Center for Women and Children v. Mullin* (f/k/a *v. Noem*), No. 2:25-cv-09848-AB-AS, 2026 WL 1455004 (C.D. Cal. May 20, 2026). The court certified, *inter alia*, a nationwide Pending Petition Class defined as "all individuals with pending principal or derivative U visa petitions . . . who ICE detains or seeks to detain for civil immigration enforcement." Petitioner is a member of this class.

27. Counsel for Petitioner sent a demand letter to the San Diego ICE Field Office on May 28, 2026, identifying Petitioner as a class member, attaching the I-797C receipt notice,

1 and requesting immediate release pursuant to the *ICWC v. Mullin* order. ICE has not
2 released Petitioner or responded to the demand in any way whatsoever. (See Exhibit I,
3 Demand Letter.).
4

5 LEGAL FRAMEWORK

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7 28. Petitioner was released on a Form I-220A under INA § 236 upon his entry in 2022,
8 placed in § 1229a removal proceedings, and re-detained by ICE warrant in 2025. This
9 Court has already determined (in *Sharma I*) that § 1226(a), not § 1225(b)(2)(A), governs
10 his detention. That determination is law of the case.
11

12 29. Under § 1226(a), an alien in removal proceedings is entitled to a bond hearing before
13 an IJ. *Singh v. Holder*, 638 F.3d at 1200. While § 1226(e) strips review of purely
14 discretionary bond decisions, it does not foreclose habeas review of constitutional or
15 legal errors in the bond determination. *Id.* at 1202.
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18 30. The Ninth Circuit requires an IJ, in determining whether a detainee poses a danger or
19 flight risk, to weigh the nine factors identified in *Matter of Guerra*, 24 I&N Dec. 37
20 (BIA 2006). *Martinez v. Clark*, 124 F.4th 775, 783 (9th Cir. 2024) (the *Martinez v.*
21 *Clark* nine factors include: (1) whether alien has prior failures to appear; (2) prior
22 criminal history; (3) immigration history; (4) attempts to flee or escape; (5) manner of
23 entry; (6) length of residence; (7) family ties; (8) community ties; and (9) length of
24 detention). An IJ abuses discretion when it fails to consider highly probative *Guerra*
25 factors. *Perez Velasquez v. Warden*, 2026 WL 1042479, at *6 (S.D. Cal. Apr. 4, 2026).
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CLAIMS FOR RELIEF

COUNT I

**Detention in Violation of *ICWC v. Mullin* Preliminary Injunction,
APA § 705, and Due Process**

31. Petitioner incorporates all preceding allegations.

32. Petitioner is a member of the Pending Petition Class certified in *ICWC v. Mullin*. The class includes "all individuals with pending principal or derivative U visa petitions . . . who ICE detains or seeks to detain for civil immigration enforcement." Petitioner's Form I-918 (Receipt No. ) was filed April 22, 2025 and remains pending. He is detained at IRDF. He is unambiguously a class member. Class membership is automatic; no separate affirmative action is required. Petitioner also has a cognizable protected liberty interest in pursuing his I-918 petition without government interference. Noncitizens who avail themselves of a legal process offered by USCIS should be entitled to complete that process without undue interference from the Government. ICE's continued detention of Petitioner, a pending U visa petitioner who cooperated with law enforcement, directly frustrates his congressionally created right to pursue this relief, and his liberty interest in doing so is constitutionally cognizable.

33. The May 20, 2026 order in *ICWC v. Mullin* stays the January 30, 2025 ICE Guidance (Policy No. 11005.4) as to all Pending Petition Class members, pursuant to APA § 705, 5 U.S.C. § 705. The order simultaneously reinstates ICE Directive 11005.3 (Dec. 2,

2021) and ICE Policy Statement 10076.1 (Jun. 17, 2011), which established a presumption of favorable enforcement discretion for individuals with pending U visa petitions absent exceptional circumstances, defined as national security concerns or an articulable risk of death, violence, or physical harm.

34. No exceptional circumstances apply here. The government may argue that Petitioner's I-918 can be processed even if he is removed. Courts have expressly rejected this argument: "Even if USCIS eventually approved [petitioner's] U-Visa application from abroad, there is no guarantee that he would be allowed back into the country" given the inadmissibility bar at 8 U.S.C. § 1182(a)(9) and the discretionary nature of waivers under § 1182(d)(14). *Osorio Gonzalez v. Wesling*, No. 26-cv-231-JJM-AEM, at *8 (D.R.I. June 19, 2026) (*persuasive authority*). Petitioner has no criminal history, no history of violence, and no public safety concerns of any kind. ICE's continued detention of Petitioner in the face of the *ICWC v. Mullin* order violates that order and the legal regime it restores. The *ICWC v. Mullin* order has not been stayed by the Ninth Circuit as of the date of this filing.

35. Additionally, INA § 214(p)(6) requires that USCIS make a bona fide determination on a pending I-918 before any removal may occur. No bona fide determination has been made. The I-918 has been pending for over 14 months without any USCIS action, notwithstanding that a detained petitioner's circumstances warrant expedition. ICE has

1 not sought an expedited USCIS review of Petitioner's petition, as required under the
2 reinstated 2021 Directive.

3
4 36. Petitioner brings Count I as an individual § 2241 habeas claim grounded in rights
5 established by the *ICWC v. Mullin* class order and APA § 705. This is not a request for
6 classwide injunctive relief, but rather it is an individual habeas petition invoking
7 Petitioner's established rights as a class member. Individual habeas relief is fully
8 available regardless of the posture of the class action appeal. *See Trump v. J.G.G.*, 604
9 U.S. 670 (2025) (individual habeas petitions challenging detention remain available in
10 the district of confinement).
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14 37. ICE's continued detention of Petitioner in violation of the *ICWC v. Mullin* order
15 constitutes unlawful custody in violation of federal law. Release is warranted.
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17 COUNT II

18 Violation of Due Process: Constitutionally Defective Bond Hearing / Exhaustion 19 Excused

20 38. Petitioner incorporates all preceding allegations.
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22 A. Exhaustion is Excused

23 39. There is no statutory exhaustion requirement in 28 U.S.C. § 2241. *Laing v. Ashcroft*,
24 370 F.3d 994, 1000 (9th Cir. 2004). Prudential exhaustion is excused where
25 administrative remedies are "inadequate or not efficacious, pursuit of administrative
26 remedies would be a futile gesture, irreparable injury will result, or the administrative
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proceedings would be void." *Id.*

40. While *Leonardo v. Crawford*, 646 F.3d 1157 (9th Cir. 2011), generally requires a BIA bond appeal before habeas, courts in this district "routinely" waive that requirement where irreparable harm from continued detention is demonstrated. Even if the *Puga* factors applied, all three weigh against requiring exhaustion here. First, agency expertise is not necessary. the questions before the Court are "purely legal question[s]" of constitutional and statutory law that the BIA lacks authority to resolve. *W.T.M. v. Warden*, 2026 WL 262583, at *3 (S.D. Cal. Jan. 22, 2026). Exhaustion is excused here on three independent grounds.

41. First, irreparable harm is manifest. Petitioner has been detained over seven months. He has a pending U visa petition, a pending BIA merits appeal of his removal order, and a sponsor, employment, and community ties to which he should be returned. The "numerous irreparable harms imposed on anyone subject to immigration detention", including "subpar medical and psychiatric care in ICE detention facilities" and "the economic burdens imposed on detainees" from loss of employment and inability to earn income, independently justify exhaustion waiver. *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017); *Singh v. LaRose*, No. 3:26-cv-01425-JLS-GC, slip op. at 7 (S.D. Cal. May 18, 2026).

42. Second, BIA review is futile empirically, institutionally, and structurally. The evidence is overwhelming. Between January 2025 and February 2026, the reconstituted

1 BIA issued 78 published decisions, of which 76 (or 97%) favored the government.
2 Every single published decision involving bond proceedings ruled against the
3 noncitizen; several reversed prior bond grants and ordered re-detention. By contrast,
4 during the entire prior four-year administration, 60% of BIA published decisions
5 favored the government. The shift from 60% to 97%, which was achieved immediately
6 after the firing of all prior-administration appointees and their replacement by five
7 former prosecutors and one former IJ who had denied 92% of all asylum claims, is not
8 a coincidence. It is institutional capture. *See Catholic Legal Immigration Network,*
9 *Precedent or Policy? A Quiet Transformation of the Board of Immigration Appeals*
10 (Aug. 22, 2025) (Available at: [https://www.cliniclegal.org/resources/precedent-or-](https://www.cliniclegal.org/resources/precedent-or-policy-quiet-transformation-board-immigration-appeals)
11 [policy-quiet-transformation-board-immigration-appeals](https://www.cliniclegal.org/resources/precedent-or-policy-quiet-transformation-board-immigration-appeals)).
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17 43. Requiring Petitioner to await BIA action is not invocation of a meaningful
18 administrative remedy. It is a fiction that delays federal review while inflicting ongoing
19 constitutional harm. The BIA has now also proposed a rule under which its default
20 practice is to summarily dismiss all appeals within 15 days unless a majority of its 15
21 members vote to review en banc. *Appellate Procedures for the Board of Immigration*
22 *Appeals*, 91 Fed. Reg. 5267 (Feb. 6, 2026) (amending 8 C.F.R. Parts 1003, 1208, 1240).
23 This rule will institutionalize what is already the BIA's practice. A futile administrative
24 remedy need not be exhausted. *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992); *Laing*
25 *v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004).
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1 44. Third, the BIA bond appeal has been pending over four months. Petitioner filed a
2 motion for an expedited decision with the BIA on March 19, 2026. Given documented
3 processing timelines and the BIA's structural incapacity to reverse IJ bond denials,
4 requiring Petitioner to continue to wait indefinitely "would risk continued irreparable
5 harm." *Perez Velasquez v. Warden*, 2026 WL 1042479, at *4 (S.D. Cal. Apr. 4, 2026);
6 *Soriano v. Warden*, 2026 WL 969764, at *4 (S.D. Cal. Mar. 27, 2026); *Doroteo-Chavez*
7 *v. Noem*, 2026 WL 1031190, at *6 (D. Nev. Apr. 16, 2026).

8 45. Additionally, where, as here, the Government fails to contest the merits of an IJ bond
9 denial, courts construe that failure as a concession warranting relief. *Nava Mojica v.*
10 *Semaia*, No. 5:26-cv-3028-MBK (C.D. Cal. June 12, 2026) (granting petition where
11 respondents failed to address petitioner's due process claim on the merits); *Rojas v.*
12 *Mullin*, 2026 WL 1105039, at *1 (C.D. Cal. Apr. 17, 2026) (same); *Khoury v. Noem*,
13 2026 WL 846040, at *3 (C.D. Cal. Jan. 22, 2026) (granting TRO where "Court
14 construes Respondents' failure to address this argument as a concession that Petitioner
15 is likely to succeed on the merits"); *Soleimani v. Larose*, 2025 WL 3268412, at *3 (S.D.
16 Cal. Nov. 24, 2025) (granting petition because "[b]y failing to respond to the claims
17 actually asserted, Respondents have conceded the claims"). In Sharma's prior
18 proceedings, the Government defended solely on jurisdiction and exhaustion and never
19 addressed the merits of the IJ's bond denial, never cited a *Matter of Guerra* factor, and
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1 never responded to Petitioner's proposed conditions of release. The same concession
2 applies here.
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4 **B. The January 23, 2026 Bond Hearing Had the Form But Not the Substance of Due**
5 **Process**

6 44. A bond hearing ordered by federal habeas court must satisfy constitutional due process
7 requirements. *Hernandez v. Sessions*, 872 F.3d at 986–88; *Singh v. Holder*, 638 F.3d at
8 1200. The January 23, 2026 hearing failed in at least four independently sufficient
9 respects.
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11 45. **Burden of Proof.** The IJ expressly stated that "Respondent failed his burden to prove
12 that he would not be a danger or a flight risk." Under *Singh v. Holder*, 638 F.3d at 1200,
13 and *Hernandez v. Sessions*, 872 F.3d at 991, in cases of prolonged § 1226(a) detention,
14 the government bears the burden of justifying continued detention by clear and
15 convincing evidence. Under the clear-and-convincing standard applicable at a hearing
16 ordered by federal habeas court, the Government must present evidence creating an
17 "abiding conviction that the truth of [the] factual contentions at issue is highly
18 probable." *Mondaca-Vega v. Lynch*, 808 F.3d 413, 422 (9th Cir. 2015) (en banc). This
19 "is a high burden and must be demonstrated in fact, not 'in theory.'" *Obregon v.*
20 *Sessions*, 2017 WL 1407889, at *7 (N.D. Cal. Apr. 20, 2017). DHS presented no
21 evidence meeting that standard: only a driver's license and commercial handbook
22 excerpts. Critically, IJ Muñoz's stated rationale, namely, adverse credibility findings
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1 about trauma testimony and speculative inferences about CDL employment, are factors
2 that apply to virtually every asylum applicant who receives a negative credibility
3 finding. Binding BIA precedent prohibits this. In *Matter of Patel*, 15 I&N Dec. 666,
4 667 (BIA 1976), the Board reversed a bond decision that relied on a visa overstay and
5 a denied visa petition, holding those factors “bear little if any relevance to the issue of
6 whether or not the [noncitizen] is likely to appear.” The Board warned that “[s]uch a
7 broad interpretation of what constitutes an ‘adverse factor’ in this context could result
8 in requiring a bond of almost every [noncitizen] who is held in deportation
9 proceedings.” *Id.* *Patel* remains binding. See *Matter of R-A-V-P-*, 27 I&N Dec. 803, 805
10 (BIA 2020). A respondent’s asylum credibility findings are no more probative of flight
11 risk than the status-based factors *Patel* condemned, and are similarly universal. If
12 adverse credibility from a merits hearing automatically forecloses bond, the result is de
13 facto mandatory detention of every asylum applicant who loses credibility, which §
14 1226(a) does not permit. Even assuming a preponderance standard applied at the initial
15 hearing, Petitioner’s demonstrated three-year compliance record (and DHS’s own 2022
16 judgment that he merited release on recognizance) gave rise to a protected liberty
17 interest under which the analytical frame demands particular scrutiny of the
18 government’s evidentiary showing. The IJ inverted this analysis.

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21 **46. Failure to Apply Matter of Guerra Factors.** The Ninth Circuit requires that, “[t]o
22 determine whether an alien is a danger to the community or a risk of flight, an IJ weighs
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1 nine factors under BIA precedent." *Martinez v. Clark*, 124 F.4th at 783. The IJ did not
2 cite *Matter of Guerra*, did not identify which factors were considered, and did not
3 analyze Petitioner's three-year compliance record, no criminal history, fixed residence,
4 community ties, pending relief applications (asylum and U visa), or proposed conditions
5 of release against the prescribed framework. An IJ's failure to "mention highly probative
6 . . . potentially dispositive evidence" is an abuse of discretion. Critically, an IJ abuses
7 its discretion when it gives "mere lip service or verbal commendation of a standard but
8 then fails to abide the standard in its reasoning and decision." *Nat'l Res. Def. Council,*
9 *Inc. v. Pritzker*, 828 F.3d 1125, 1135 (9th Cir. 2016). An Eastern District of California
10 court applied this precise standard on identical facts: where an IJ stated DHS had the
11 burden of proof by clear and convincing evidence but then inverted that burden in
12 practice, the court held the IJ's "reasoning and decision" paid mere "lip service" to the
13 heightened standard. *S.E. v. Noem*, No. 1:26-cv-00356-DAD-SCR, 2026 U.S. Dist.
14 LEXIS 46065, at *11 (E.D. Cal. Mar. 5, 2026) (quoting *Nat'l Res. Def. Council, Inc. v.*
15 *Pritzker*, 828 F.3d 1125, 1135 (9th Cir. 2016)). Here, the IJ's written order neither
16 identifies which *Guerra* factors were considered nor articulates any factual basis for the
17 flight risk finding tethered to those factors. *Perez Velasquez*, 2026 WL 1042479, at *6
18 (quoting *Cole v. Holder*, 659 F.3d 762, 771–72 (9th Cir. 2011)).

26 **47. Reliance on Irrelevant Credibility Findings.** The IJ's denial rested on credibility
27 assessments concerning Petitioner's testimony about past trauma and speculative
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1 inferences about future CDL employment conduct. Neither bears on any *Matter of*
2 *Guerra* factor. The IJ made no finding of dangerousness based on criminal history,
3 violent conduct, weapons, or gang affiliations. He made no finding of flight risk based
4 on prior failures to appear, access to false documents, or absconding history. Credibility
5 findings about merits-related testimony cannot substitute for the individualized *Guerra*
6 analysis that due process requires.
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9 **48. Failure to Consider Alternatives to Detention.** Petitioner proposed GPS electronic
10 monitoring, surrender of his commercial driver's license, employment restrictions, and
11 regular ICE reporting. The IJ did not address any of these proposed conditions. The
12 failure to consider less restrictive alternatives is independently reversible error.
13 *Mahashin v. Hernandez*, No. 2:26-cv-01804-JHC (W.D. Wash. June 16, 2026) (IJ
14 abused discretion in part because "Government failed to show that alternatives to
15 detention would be inadequate"); *Jimenez v. Wolf*, 2020 WL 1082648, at *4 (N.D. Cal.
16 Mar. 6, 2020) (finding legal error where IJ denied bond and "Government failed to show
17 that alternatives to detention would be inadequate"); *Harrington v. Albarran*, No. 26-
18 cv-01889-JST (N.D. Cal. Mar. 23, 2026) (ankle monitoring and ISAP enrollment
19 constitute conditions on liberty requiring a hearing before imposition; DHS has
20 available monitoring technologies that can be ordered as conditions of release).
21 Independently, the foregoing failures each constitute arbitrary agency action under the
22 APA. 5 U.S.C. § 706(2)(A) requires courts to hold unlawful agency action that is
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1 “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the
2 law.” An IJ is bound by regulation to follow BIA precedent. 8 C.F.R. § 1003.1(g). IJ
3 Muñoz’s failure to apply *Matter of Guerra* and *Matter of Patel* (both binding BIA
4 precedent) is agency action not in accordance with law, independent of the
5 constitutional violation.
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8 **C. The Remedy is Immediate Release, Not Another Bond Hearing**

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10 49. Alternatively, even if this Court declines to order immediate release, it should not order
11 another IJ bond hearing. Where, as here, Petitioner has established valid avenues for
12 relief (a pending BIA merits appeal and a pending I-918 U visa petition) and extensive
13 ties to the United States (three years of compliance, no criminal history, fixed residence,
14 community ties), the IJ was required to set a reasonable bond, at minimum the \$1,500
15 statutory floor under 8 U.S.C. § 1226(a)(2). See *Matter of R-A-V-P-*, 27 I&N Dec. 803,
16 807 (BIA 2020) (no-bond finding appropriate only where noncitizen had “limited
17 avenue for relief and minimal ties to the United States”). IJ Muñoz’s finding that no
18 bond amount would secure Sharma’s appearance is unsupportable on this record.
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20 Should the Court issue any bond-related alternative relief, the minimum required is
21 release on \$1,500 bond with conditions of supervision, not further immigration court
22 proceedings before a biased tribunal.
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27 50. This Court ordered the Government to cure the constitutional defect by conducting a
28 fundamentally fair bond hearing. The Government “woefully failed to do so.” *Zheng v.*

1 *Rokosky*, 2026 WL 800203, at *11. Ordering a second IJ bond hearing is no longer the
2 appropriate remedy; there is no reason to believe that a second hearing would be
3 fundamentally fair. *Id.* at *10 (quoting *Miri v. Warden*, 2026 WL 622302, at *10 (S.D.
4 Cal. Feb. 18, 2026)). Courts in this district consistently order immediate release rather
5 than remanding for additional agency proceedings where the government has already
6 been given and squandered one remedial opportunity. *See Singh v. LaRose*, slip op. at
7 10–11 (S.D. Cal. May 18, 2026) (ordering release rather than third bite at apple); *Miri*,
8 2026 WL 622302, at *11 (same).

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13 51. This result is reinforced by the comparable factual profile in *Nava Mojica v. Semaia*,
14 No. 5:26-cv-3028-MBK (C.D. Cal. June 12, 2026), where the court ordered immediate
15 release of a petitioner with 30 years of U.S. presence, a pending U visa, and old minor
16 criminal convictions, finding the government's flight risk determination an abuse of
17 discretion where the "record does not establish that Petitioner is a flight risk by 'clear
18 and convincing' evidence." Here, Petitioner's equities are stronger: no criminal history,
19 no DHS evidence whatsoever beyond a driver's license, and three prior years of
20 complete compliance. Immediate release is also the remedy that "will best return
21 [Petitioner] to the status quo and restore his position as it was prior to the detention."
22 *Miri*, 2026 WL 622302, at *11. Prior to his November 2025 re-detention, Petitioner had
23 been living in the United States for nearly three years in full compliance with
24 immigration authorities. He should be returned to that status.
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COUNT III

Violation of Due Process: Prolonged Pre-Final-Order Detention Without Constitutionally Adequate Process (As-Applied)

52. Petitioner incorporates all preceding allegations.

53. This Court, applying *Mathews v. Eldridge*, 424 U.S. 319 (1976), has already found that Petitioner's continued detention without a bond hearing was unconstitutional. *Sharma I*, slip op. at 4–5. As of the date of this petition, Petitioner has been detained over seven months. Nothing has changed to strengthen the government's position; everything has changed to weaken it.

54. Under *Mathews*, the three factors weigh decisively in Petitioner's favor. First, Petitioner's private liberty interest is substantial: he was previously a free person in this country for nearly three years. Critically, after ICE released Petitioner on recognizance in December 2022, he acquired a protected liberty interest in remaining free from detention. *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025) ("[E]ven when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody he has a protected liberty interest in remaining out of custody."); *Gutierrez-Paniagua v. Warden*, No. 26-cv-2512-GPC-JLB (S.D. Cal. June 17, 2026) (same; all three *Mathews* factors favored petitioner where released individual was re-detained without pre-deprivation hearing). ICE's 2022 recognizance release constitutes a prior DHS determination that Petitioner

1 was neither a flight risk nor a danger. *Pinchi*, 792 F. Supp. 3d at 1034; *Ortiz Calderon*
2 *v. Kaiser*, 2025 WL 2430609, at *2 (N.D. Cal. Aug. 22, 2025) (initial release "creates
3 an 'implicit promise' that the individual's liberty will be revoked only if they fail to
4 abide by the conditions of their release"). Second, the risk of erroneous deprivation is
5 high: DHS itself determined in 2022 that Petitioner could be released, he has now been
6 detained over seven months on the basis of a constitutionally defective bond hearing
7 that the IJ conducted without applying the required legal standards, the BIA is
8 structurally incapable of providing meaningful review, and USCIS has not acted on a
9 bona fide determination that would independently require his non-removal. Third, the
10 government's interest is minimal and does not counterbalance: release would save
11 detention costs, Petitioner poses no demonstrated danger or flight risk, and he has strong
12 incentives to appear, including a pending BIA merits appeal of his removal order and a
13 pending U visa petition that will be prejudiced if he absconds.

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15 Additionally, the *Zadvydas* due process framework is not limited to § 1231(a) post-
16 order detentions. It extends to § 1226(a) pre-final-order detention where removal is not
17 significantly likely in the foreseeable future. *Prieto-Romero*, 534 F.3d at 1062 ("[T]hat
18 [a noncitizen] is being held under § 1226(a), and not § 1231(a)(6), does not render
19 *Zadvydas* inapplicable."); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1078 (9th Cir. 2006)
20 (immigration statutes "permit detention only while removal remains reasonably
21 foreseeable"); *Alvarez-Guatibonza*, No. 5:26-cv-02157-KS (C.D. Cal. June 15, 2026)

1 ("Under Ninth Circuit precedent, the due process considerations under the Zadvydas
2 framework are not limited to § 1231(a) detentions."). Here, with a pending BIA merits
3 appeal of the removal order, Petitioner's removal is not foreseeable, and, as that court
4 further held, Petitioner's choice to pursue his appeal through proper channels does not
5 undermine his detention claim. *Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 964
6 (N.D. Cal. 2019) ("[I]t would be untenable for this Court to suggest that Petitioner's
7 'choice to appeal . . . adverse rulings weighs against any constitutional claim that he
8 may make regarding his detention during the course of the appeal.'"); accord *Alvarez-*
9 *Guatibonza*, No. 5:26-cv-02157-KS.

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11 55. This Count is pleaded as an as-applied due process challenge to Petitioner's individual
12 circumstances, consistent with *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir.
13 2022). It does not assert a categorical right to periodic bond hearings; it asserts that this
14 specific petitioner, in these specific circumstances, is being held in violation of the Due
15 Process Clause of the Fifth Amendment.
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21 COUNT IV

22 Denial of Neutral Adjudicator: Structural Bias in EOIR and BIA 23 Violation of Due Process, Fifth Amendment 24

25 56. Petitioner incorporates all preceding allegations.

26 57. "A neutral judge is one of the most basic due process protections." *Castro-Cortez v.*
27 *INS*, 239 F.3d 1037, 1049 (9th Cir. 2001). *See also Diouf v. Napolitano*, 634 F.3d 1081,
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1091–92 (9th Cir. 2011) (neutral adjudication decreases risk of erroneous deprivation). Due process is violated where “the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.” *Withrow v. Larkin*, 421 U.S. 35, 47 (1975). No showing of actual subjective bias is required; circumstances need only “offer a possible temptation to the average judge” to compromise neutrality. *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 883 (2009). Conditioning adjudicators’ employment on the frequency with which they deny relief and order removal injects a direct personal and pecuniary interest into their decision-making that is “a particularly egregious form of bias that disqualifies the decisionmaker.” *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 876 (2009). The structural conflict runs even deeper: in immigration proceedings, the same branch of government controls both the prosecutor (DHS/ICE, housed in the Department of Homeland Security) and the adjudicator (EOIR, housed in the Department of Justice). Such a forum where a single branch acts as both advocate and judge is indisputably partial, betrays the norm of bilateral dispute resolution, and is inherently biased.

58. **Systematic Destruction of IJ Independence.** The Trump Administration has conditioned IJs’ and BIA members’ continued employment on the frequency with which they deny relief and order removal. Former Baltimore IJ Emmett Soper stated: “I think the current administration of the immigration courts does not fundamentally see the immigration courts as neutral decision-makers; they see the immigration courts

1 as a tool for this administration to advance its policy objectives.” Former San Francisco
2 IJ George Pappas was more direct: “We were told to facilitate deportation. Due process
3 is dead in immigration courts.” Former IJ Jeremiah Johnson described receiving “the
4 hint that they should be hearing cases a certain way, deciding cases a certain way. Move
5 faster. Less due process, essentially.” Hilda Gutierrez, Michael Bott & Son Vo, “An
6 All-Out Attack on Immigration Court”: SF Immigration Judges Speak Out After
7 Firings, NBC Bay Area, 11/25/2025 ([https://www.nbcbayarea.com/investigations/san-](https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-firings/3986850/)
8 [francisco-immigration-judges-speak-out-firings/3986850/](https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-firings/3986850/).).

12 As of April 13, 2026, the Administration has dismissed more than 100 experienced
13 IJs out of approximately 750 in place at the start of 2025. The *New York Times*, after
14 interviewing more than 85 participants and analyzing millions of IC cases, found that
15 the Administration “has systematically pressured the nation’s immigration judges,
16 threatening them with disciplinary action if they do not deport more people and firing
17 those seen as insufficiently supportive of the president’s aggressive enforcement
18 agenda.” Nicholas Nehamas et al., *How Trump Purged Immigration Judges to Speed*
19 *Up Deportations*, N.Y. Times, Apr. 9, 2026. The Merit Systems Protection Board
20 confirmed on March 20, 2026, that IJs are at-will employees who may be fired for any
21 reason, including “relatively high grant rates.” *Jackler & Jaroch Consol. v. Dep’t of*
22 *Justice*, 2026 MSPB 3, at 4 (Mar. 20, 2026). The Administration simultaneously
23 recruited “deportation judges” through job advertisements promising candidates the
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1 opportunity to “Bring the hammer down on criminal illegal aliens,” eliminated the
2 requirement of ten years’ immigration experience, and authorized IJ service after just
3 two weeks of training. U.S. Dep’t of Justice (@thejusticedept), Instagram (Dec. 9,
4 2025), <https://www.instagram.com/p/DSDdnYugZeB/>; Gutierrez, Bott & Vo, NBC
5 Bay Area, Nov. 25, 2025, *supra*. In December 2025, EOIR fired a military attorney after
6 his first month on the bench because he had favored the noncitizen in six of eleven
7 cases. Associated Press, US Army Lawyer Fired as Immigration Judge After Defying
8 Trump Deportation Agenda, The Guardian, Dec. 19, 2025,
9 ([https://www.theguardian.com/us-news/2025/dec/19/army-lawyer-fired-immigration-](https://www.theguardian.com/us-news/2025/dec/19/army-lawyer-fired-immigration-trump-deportation)
10 [trump-deportation](https://www.theguardian.com/us-news/2025/dec/19/army-lawyer-fired-immigration-trump-deportation)). The message is unmistakable: neutrality is a terminable offense.
11 Former IJ Anam Petit described “a climate of fear” where “[j]udges feel like, if they
12 step a toe out of line right now, they’re one [asylum] grant away from being fired.” Eric
13 Katz, ‘Climate of Fear’: Immigration Judges Say Functioning of Their Court System Is
14 in Jeopardy Due to Trump’s Firings, Gov’t Executive, Nov. 14, 2025,
15 ([https://www.govexec.com/management/2025/11/climate-fear-immigration-judges-](https://www.govexec.com/management/2025/11/climate-fear-immigration-judges-say-functioning-their-court-system-jeopardy-due-trumps-firings/409544/)
16 [say-functioning-their-court-system-jeopardy-due-trumps-firings/409544/](https://www.govexec.com/management/2025/11/climate-fear-immigration-judges-say-functioning-their-court-system-jeopardy-due-trumps-firings/409544/)). Former IJ
17 Elizabeth Young reported sitting IJs telling her: “I am concerned about applying the
18 law, but I’m also concerned that I should deny more, because if I don’t, then I’ll get
19 fired.” Katz, Gov’t Executive, Nov. 14, 2025, *supra*. IJ Muñoz adjudicated Petitioner’s
20 bond hearing in this institutional environment.

1 **59. Reconstitution and Capture of the BIA.** The Administration purged the BIA from
2 26 members to 9, firing all members appointed by the prior administration. It then
3 appointed six new members: five former prosecutors and one former IJ who had
4 denied 92% of all asylum claims. U.S. Dep't of Justice, Board of Immigration
5 Appeals Member Biographies, [https://www.justice.gov/eoir/board-of-immigration-](https://www.justice.gov/eoir/board-of-immigration-appeals)
6 [appeals](https://www.justice.gov/eoir/board-of-immigration-appeals); TRAC Immigration, Judge Marcos Gemoets FY 2019-2024, Houston
7 Immigration Court,
8 (<https://tracreports.org/immigration/reports/judge2024/00501HOU/index.html>).

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12 The statistical impact is dispositive: during the four years of the prior
13 administration, the BIA issued 76 published decisions, approximately 60% of which
14 favored the government. In the 13 months from January 2025 through February 2026,
15 the reconstituted BIA issued 78 published decisions, 76 of which (or 97%) favored the
16 government. Every single decision involving bond proceedings ruled against the
17 noncitizen; several reversed prior bond grants and ordered re-detention. In the last
18 year, the BIA has issued no precedential bond decisions favoring the noncitizen. See
19 Catholic Legal Immigration Network, Precedent or Policy? A Quiet Transformation of
20 the Board of Immigration Appeals (Aug. 22, 2025),
21 [https://www.cliniclegal.org/resources/precedent-or-policy-quiet-transformation-board-](https://www.cliniclegal.org/resources/precedent-or-policy-quiet-transformation-board-immigration-appeals)
22 [immigration-appeals](https://www.cliniclegal.org/resources/precedent-or-policy-quiet-transformation-board-immigration-appeals); U.S. Dep't of Justice, Exec. Office for Immigration Review,
23 BIA Precedent Decisions, Vol. 28 & 29, <https://www.justice.gov/eoir/volume-28> &
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1 <https://www.justice.gov/eoir/volume-29>, *supra*; Catholic Legal Immigration Network,
2 Precedent or Policy? A Quiet Transformation of the Board of Immigration Appeals
3 (Aug. 22, 2025). The BIA's bond decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA
4 2025), *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and *Matter of*
5 *Akhmedov*, 29 I&N Dec. 166 (BIA 2025), were issued *post hoc* to ratify ICE
6 enforcement policies already in place, not as neutral adjudications of contested legal
7 questions. The BIA has now also proposed a rule under which appeals are dismissed
8 by default within 15 days unless a majority of its members vote to review en banc,
9 institutionalizing the rubber-stamp. *Appellate Procedures for the Board of*
10 *Immigration Appeals*, 91 Fed. Reg. 5267 (Feb. 6, 2026) (amending 8 C.F.R. Parts
11 1003, 1208, 1240).

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17 **60. EOIR's Directive to Defy Federal Court Orders.** On January 13, 2026, Chief
18 Immigration Judge Teresa L. Riley directed all EOIR personnel to ignore the
19 *Maldonado Bautista* declaratory judgment and continue applying the BIA's unlawful
20 mandatory detention interpretation, placing IJs in a choice between complying with a
21 federal court order and risking termination, or defying the court and keeping their jobs.
22 See Am. Immigr. Laws. Ass'n, Practice Alert: EOIR Issues Nationwide Guidance on
23 *Maldonado Bautista*, AILA Doc. No. 26011404 (Jan. 16, 2026),
24 [https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-](https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista)
25 [maldonado-bautista](https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista). On January 16, 2026, the court found that IJs were "continu[ing]
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1 to rely on legal interpretations that were expressly found unlawful” and that the
2 government was engaged in “deliberate defiance, manufacturing arguments, and
3 instructing IJs to rely on interpretations that were expressly found unlawful.” *Palomera*
4 *Baltazar v. Janecka*, No. 5:26-cv-00019-SSS-BFM, 2026 WL 413734, at *2–3 (C.D.
5 Cal. Jan. 16, 2026). A fourth enforcement order issued on February 18, 2026. *See*
6 *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, ECF No. 116 (C.D.
7 Cal. Feb. 18, 2026). EOIR’s own regulations expressly forbid this conduct: “The Chief
8 Immigration Judge shall have no authority to direct the result of an adjudication
9 assigned to another immigration judge.” 8 C.F.R. § 1003.9(c). Chief IJ Riley violated
10 that regulation and the Constitution. Federal courts have concluded that “the mounting
11 evidence that bond determination hearings conducted in Immigration Court under §
12 1226(a) have preordained outcomes has become impossible to ignore.” *Singh v. Valdez*,
13 No. 26-cv-1109-WJM (D. Colo. Apr. 1, 2026).

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19 **61. Remedy: Immediate Release or Bond Hearing Before This Court.** Federal courts
20 across the country have ordered immediate release rather than remanding for IJ bond
21 hearings precisely because EOIR is structurally incapable of providing neutral
22 adjudication. *See Avilez Aguinaga v. Warden*, No. 4:26-0137 (S.D. Tex. Feb. 2, 2026)
23 (granting immediate release where § 1225(b) inapplicable to long-term interior
24 resident); *Briceno Solano v. Mason*, No. 2:26-CV-00045 (S.D.W. Va. Feb. 4, 2026)
25 (ordering immediate release; “there is no chance any [bond] hearing that occurred
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1 would comport with due process”); *Umarov v. Mason*, No. 2:26-CV-00081, 2026 WL
2 381614, at *8 (S.D.W. Va. Feb. 11, 2026) (same); *Garcia Ortiz v. Henkey*, No. 26-cv-
3 00043, 2026 WL 948275, at *3 (D. Idaho Apr. 7, 2026) (immediate release; “across the
4 country the integrity of these bond proceedings has now been cast sharply into doubt”).
5 Alternatively, if this Court orders a bond hearing, it must occur before this Court as a
6 neutral adjudicator. This Court has authority to conduct that hearing in the first instance.
7 See *Roman v. Wolf*, 977 F.3d 935, 941 (9th Cir. 2020) (“once a constitutional right and
8 a violation have been shown, the scope of a district court’s equitable powers to remedy
9 past wrongs is broad”).
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14 PRAYER FOR RELIEF

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16 WHEREFORE, Petitioner respectfully prays that this Court:

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18 (a) Assume jurisdiction over this matter;
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20 (b) Issue an Order to Show Cause directing Respondents to show cause within three
21 days why this Petition should not be granted;
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23 (c) Order that Petitioner shall not be transferred outside the Southern District of
24 California while this Petition is pending;
- 25
26 (d) Issue a Writ of Habeas Corpus ordering Petitioner’s immediate release, with or
27 without conditions of supervision as the Court deems appropriate, and enjoining
28 Respondents from re-detaining Petitioner unless his re-detention is ordered at a

1 custody hearing before a neutral arbiter at which the Government demonstrates by
2 clear and convincing evidence that Petitioner is a flight risk or danger to the
3 community, in compliance with *Matter of Guerra*, *Matter of Patel*, and due process;

4
5 (e) In the alternative, if the Court declines to order immediate release, issue an order: (i)
6 requiring ICE to comply with the *ICWC v. Mullin* preliminary injunction as to
7 Petitioner, including requesting an expedited USCIS bona fide determination on
8 Receipt No. [REDACTED] (ii) prohibiting ICE from removing Petitioner pending
9 that determination and resolution of his BIA merits appeal; and (iii) if any bond
10 hearing is ordered, conducting that hearing before this Court as neutral adjudicator,
11 not before an immigration judge operating under the structural institutional pressures
12 documented in Count IV;
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17 (f) Declare that Petitioner's continued detention violates the Constitution, federal law,
18 and the *ICWC v. Mullin* preliminary injunction;
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20 (g) Award Petitioner reasonable attorney's fees and costs under the Equal Access to
21 Justice Act, 28 U.S.C. § 2412; and
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23 (h) Grant any other and further relief that this Court deems just and proper.
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1 DATED this 22nd of June, 2026
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5 s/ Martin O'Hara, Esq.

6 Martin O'Hara, Esq.

7 *Counsel for Petitioner*

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EXHIBIT A