

1 AMY KARLIN (Bar No. 150016)
Interim Federal Public Defender
2 MARA GONZALEZ SOUTO (Bar No. 349314)
(E-Mail: Mara_Gonzalez-Souto@fd.org)
3 Deputy Federal Public Defender
321 East 2nd Street
4 Los Angeles, California 90012-4202
Telephone: (213) 894-2854
5 Facsimile: (213) 894-0081

6 Attorneys for Petitioner
BERNARDO CARACHURE HERNANDEZ
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8

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 Bernardo Carachure Hernandez
12

13 Petitioner,

14 v.

15 Markwayne Mullin et al.
16

17 Respondents.
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Case No. 2:26-CV-7236

**PETITIONER BERNARDO
CARACHURE HERNANDEZ'S
REPLY IN SUPPORT OF
PETITION FOR WRIT OF HABEAS
CORPUS; SUPPLEMENTAL
EXHIBIT**

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INTRODUCTION

Petitioner Bernardo Carachure Hernandez hereby files this reply in support of his Petition for a Writ of Habeas Corpus. *See* Dkt. 1.

In his Petition, Mr. Carachure Hernandez detailed how he was entitled to a pre-deprivation hearing pursuant to his constitutional due process rights. Respondents concede as much. And because he did not receive such process, this was a violation of his procedural due process rights, and the only appropriate remedy is immediate release.

Further, as Respondents concede, Mr. Carachure Hernandez is a *Maldonado Bautista* class member who received a notice of his membership in the class and entitlement to process. However, although *Maldonado Bautista* class members are entitled to process, the government has been systematically denying such process to other similarly situated petitioners. And because immigration judges are systematically denying immigration bond, this Court should not require or await an immigration bond hearing before granting this petition. Instead, it should order Mr. Carachure Hernandez's forthwith release, and further prohibit Respondents from re-detaining him absent notice and a pre-deprivation hearing before a *neutral* immigration judge.

ARGUMENT

I. Respondents fail to address and thus concede the merits of Mr. Carachure Hernandez's claims.

In their Answer, Respondents did not challenge, and thus conceded, the merits of Mr. Carachure Hernandez's claims. Where an allegation is not contested, it is deemed admitted. *See* Fed. R. Civ. P. 8(b)(6) ("An allegation . . . is admitted if a responsive pleading is required and the allegation is not denied."); *Woodford v. Garceau*, 538 U.S. 202, 208 (2003) (holding that the Federal Rules of Civil Procedure apply to habeas suits). As other courts have ruled, "Respondents' failure to contest [the] Petitioner's claims in their Answer is a concession that the Petition should be granted." *Hernandez v. Janecka*, No. 5:26-cv-00710-MBK, 2026 WL 734524, at *7 (C.D. Cal. Mar. 4, 2026) (collecting cases); *Singh v. Chiang*, No. ED CV 25-3024 FMO (SP), 2025 WL 4058328, at *4 (C.D. Cal. Dec. 15, 2025) (construing

government's failure to "acknowledge—let alone rebut—petitioner's arguments" as "a concession" to those arguments); *Soleimani v. Larose*, No. 25-cv-3082-DMS-DEB, 2025 WL 3268412, at *3 (S.D. Cal. Nov. 24, 2025) (when the government is "silent" in response to habeas petition, it "ha[s] conceded the claims"); *Nguyen v. Warden of Golden State Annex Det. Facility*, No. 1:25-CV-1708 AC P, 2026 WL 292874, at *5 (E.D. Cal. Feb. 4, 2026) (concluding government's silence in habeas petition constituted an admission under Rule 8(b)(6)); *Mendez Oreilly v. Blanche*, No. 2:26-CV-00278-GMN-EJY, 2026 WL 1031192, at *2 (D. Nev. Apr. 16, 2026) ("Where the response to a petition for writ of habeas corpus does not refute a petitioner's allegations, those allegations must be taken as true." (citing *Carlson v. Landon*, 186 F.2d 183, 188 (9th Cir. 1950)); see also *United States v. Kimble*, 107 F.3d 712, 715 n.2 (9th Cir. 1997) (arguments not "coherently developed" are deemed "abandoned").

II. Respondents concede that Mr. Carachure Hernandez was detained without a pre-deprivation hearing in violation of his procedural due process rights.

Critically, Respondents entirely ignore Mr. Carachure Hernandez's core claims: that he was detained without a pre-deprivation hearing in violation of due process. See Dkt. 1 ("Pet."), at ¶¶ 29-61. Instead of addressing Mr. Carachure Hernandez's constitutional claims, Respondents justify their detention of him based solely on the statutory framework under 8 U.S.C. § 1226(a). This is entirely nonresponsive. Mr. Carachure Hernandez's "liberty interest in remaining out of custody is ... cognizable under the Due Process Clause whether or not Congress has provided a statutory process to vindicate that interest." *Pablo Sequen v. Albarran*, 806 F. Supp. 3d 1069, 1084–85 (N.D. Cal. 2025) (rejecting the position that the statutory framework governing the petitioners' detention was relevant in evaluating their due process claim); see also, e.g., *Domingo Aguilar v. Noem*, No. 5:26-CV-0683-JKP, 2026 WL 990023, at *5 (W.D. Tex. Apr. 13, 2026) (weighing *Mathews* factors, granting due process claim, and ordering release); *Ramirez-Serna v. Mullin*, 2026 WL 1514337, at *6-7 (C.D. Cal. May 28, 2026) (concluding that the arrest without notice or a pre-deprivation hearing for petitioner who entered without inspection decades prior was a violation of due process, and ordering

1 release); *Carbajal Torres v. Fereti*, No. 5:26-CV-03374-E, Dkt. 11, Order for Entry of
 2 Judgment, at *4 (C.D. Cal. June 29, 2026) (holding that detention violated due process and
 3 the “most appropriate remedy” was release); *Suastegui Moreno v. Mullin*, No. 5:26-cv-00548-
 4 KK-AJR, Dkt. 36 at *12-13 (C.D. Cal. July 20, 2026) (holding petitioner detained under §
 5 1226(a) was denied a pre-deprivation hearing in violation of due process and ordering his
 6 release); *Henriquez Garcia v. Albarran*, No. 26-CV-04839-EKL, 2026 WL 1879641, at *4 (N.D.
 7 Cal. June 30, 2026) (“Courts also apply this principle to individuals ‘who have never been in
 8 immigration custody,’ finding that ‘years of deliberate acquiescence by’ the government may
 9 give rise to a liberty interest in being free from detention”).

10 **III.A post-detention hearing cannot cure the constitutional violation.**

11 Respondents claim that Mr. Carachure Hernandez must request and obtain an
 12 immigration bond hearing, before filing for habeas relief. Yet, Respondents also concede
 13 that Mr. Carachure Hernandez is detained in violation of due process. Any post-detention
 14 process would necessarily be after he has suffered infringement on his liberty and the
 15 irreparable harms that come with being held in detention. *See Charaf*, 2026 WL 1270754, at
 16 *5 (citing *Mumaev v. Semaia*, No. 5:25-CV-03409-FLA-MAR, 2026 WL 530765 (C.D. Cal. Feb.
 17 20, 2026); *accord E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025) (“[A]
 18 post-deprivation hearing cannot serve as an adequate procedural safeguard because it is after
 19 the fact and cannot prevent an erroneous deprivation of liberty.”); *Montufar v. Mullin*, No.
 20 5:26-CV-01881-AJR, 2026 WL 1196003, at *4 (C.D. Cal. Apr. 24, 2026) (same). As multiple
 21 courts in this Circuit have ruled, the appropriate remedy [...] is to order Petitioner placed in
 22 the position he would have been absent the due process violation”. *Iurii Mazurov v. Desert*
 23 *Annex Det. Facility*, No. 5:26-CV-02236-BFM, 2026 WL 1365164, at *4 (C.D. Cal. May 8,
 24 2026) (citing cases); *see also Changoluiza Corrales v. D. Marin*, No. EDCV 26-01716-KK-
 25 RAOX, 2026 WL 1047934, at *6 (C.D. Cal. Apr. 15, 2026) (citing *Pablo Sequen v. Albarran*,
 26 806 F. Supp. 3d 1069, 1089 (N.D. Cal. 2025)); *Morales v. U.S. Immigr. & Customs Enft.*, No.
 27 5:26-CV-01404-DOC-MAR, 2026 WL 1026234, at *7 (C.D. Cal. Apr. 15, 2026) (“join[ing]
 28 numerous of its sister courts in finding that Petitioner’s detention is unlawful” due to

1 unlawful parole revocation and ordering release notwithstanding prior TRO providing a
 2 bond hearing and collecting cases); *Gutierrez v. Semaia*, No. 5:26-CV-01181-HDV, 2026 WL
 3 916773, at *2 (C.D. Cal. Mar. 27, 2026); *Domingo v. Kaiser*, No. 25-cv-05893 (RFL), 2025 WL
 4 1940179, at *3 (N.D. Cal. July 14, 2025).

5 **IV. Although Respondents claim Mr. Carachure Hernandez had a § 1226(a)**
 6 **process available, they also claim he is a *Maldonado Bautista* class**
 7 **member, and the government has denied bond to those individuals.**

8 Respondents want to have it both ways. In an effort to circumvent constitutional
 9 review under habeas, Respondents claim that Mr. Carachure Hernandez is subject to
 10 detention pursuant to § 1226(a), but at the same time argue that he is a *Maldonado Bautista*
 11 class member. *See* Answer at 5 (conceding that Mr. Carachure Hernandez’s claim in this
 12 action is “subject to the *Bautista* judgment, the order enforcing the same, and to any
 13 applicable appellate proceedings relating to it” and then arguing that if a bond hearing is
 14 ordered, to have it “be provided in seven days.”). Mr. Carachure Hernandez has received a
 class action notice pursuant to *Maldonado Bautista*. *See* Exhibit F, *Maldonado* Notice.

15 Mr. Carachure Hernandez is charged as removable under 8 U.S.C. § 1182(a)(6)(A)(i),
 16 as a noncitizen present without being admitted or paroled. Under Respondents’ novel policy,
 17 this renders him subject to mandatory detention under 8 U.S.C. § 1225(b)(2). *See Matter of*
 18 *Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In *Maldonado Bautista v. Santacruz*, District
 19 Judge Sykes rejected Respondents’ position and correctly held that petitioners like Mr.
 20 Carachure Hernandez are detained under § 1226(a). 813 F. Supp. 3d 1084, 1106 (C.D. Cal.
 21 2025). Judge Sykes also entered final judgment, issued class wide relief, and vacated *Yajure-*
 22 *Hurtado*. *See* *Bautista v. Santacruz*, 820 F. Supp. 3d 1016, 1032 (C.D. Cal. 2026).

23 However, Respondents conveniently omit that, to this day, the government continues
 24 to deny bond hearings to *Maldonado Bautista* class members like Mr. Carachure Hernandez,
 25 in violation of Judge Sykes’ orders. *See, e.g., Najera v. Santacruz*, No. 2:26-cv-06250-MAR,
 26 2026 U.S. Dist. LEXIS 151287, at *6 (C.D. Cal. July 2, 2026) (“However, the undisputed
 27 record indicates that Petitioner has been denied an opportunity for release on bond pursuant
 28

1 to *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 229 (BIA 2025) [...] This is contrary to
 2 Respondents' legal obligation to comply with the December 18, 2025 declaratory judgment
 3 in *Maldonado Bautista*."); *Zhang Zhiming v. Martin*, No. ED CV 26-01234-DMG (DTB), 2026
 4 WL 1651480, at *3, n.2 (C.D. Cal. June 5, 2026) ("To the extent immigration judges
 5 consistently invoke *Yajure-Hurtado* as governing authority to deny bond in analogous cases,
 6 ordering a section 1226(a) bond hearing as a remedial measure would likely be futile."); *Vega-*
 7 *Huerta v. Acting Director, U.S. Immigr. & Customs Enf't*, No. 5:26-cv-02366-DTB, 2026 U.S.
 8 Dist. LEXIS 118398, at *7 (C.D. Cal. May 28, 2026) ("[T]he Court agrees with Petitioner
 9 that a bond hearing would be futile [...] based on the government's stated position, as
 10 discussed above, as well as on the fact that many immigration judges in this District have
 11 improperly denied bond to noncitizen detainees under 8 U.S.C. § 1226(a) solely based on
 12 the alleged lack of jurisdiction ... Therefore, the Court finds that the proper remedy is
 13 Petitioner's immediate release from custody."); *Contreras v. Mullin*, No. 5:26-CV-01502-AJR,
 14 2026 WL 1679034, at *3 (C.D. Cal. Apr. 10, 2026) (undisputed record showing the IJ had
 15 denied bond based on a lack of jurisdiction pursuant to *Yajure-Hurtado*).

16 Thus, Respondents' reliance on § 1226(a) is no more than an attempt to evade the
 17 Court's review of Respondents' unlawful mandatory detention policy and their violation of
 18 Mr. Carachure Hernandez's due process rights.

19 **V. The Court should waive any prudential exhaustion requirement.**

20 In their Answer, Respondents rely on relief IJs and the BIA could give regarding Mr.
 21 Carachure Hernandez's claims. Answer at p. 4. This is unavailing.

22 *First*, far from having expertise, IJs and the BIA do not have the authority to rule on
 23 Mr. Carachure Hernandez's constitutional claims. *See, e.g., Wang v. Reno*, 81 F.3d 808, 814 n.
 24 (9th Cir. 1996) (per curiam). Nor does review of custody determinations require agency
 25 expertise—indeed, custody determinations are a role this Court routinely conducts. *See* 18
 26 U.S.C. § 3142.

27 *Second*, agency review by the IJ and BIA would be futile. *See Hernandez*, 872 F.3d at
 28 989 ("[W]here . . . it is 'very likely' what the result of recourse to administrative remedies

1 would be, such recourse would be futile and is not required.” (citation omitted)). For
2 instance, it is EOIR’s policy that people who, like Mr. Carachure Hernandez, are charged as
3 removable under § 212(a)(6)(A)(i) of the INA, 8 U.S.C. § 1182(a)(6)(A)(i), for being “[a]
4 [noncitizen] present in the United States without being admitted or paroled, or who arrives
5 in the United States at any time or place other than as designated by the Attorney General,”
6 are subject to 8 U.S.C. § 1225(b)(2)(A), and the IJ therefore lacks jurisdiction to consider
7 bond under BIA precedent. *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025); *see for*
8 *example Mendez Hipolito v. D. Marin*, No. 26-cv-02583-FLA-DTB, at *4 (C.D. Cal. July 7,
9 2026) (report and recommendation by Magistrate Judge, noting that when petitioner, who
10 was a *Maldonado* class member, received a bond hearing before an IJ, the IJ ruled he lacked
11 jurisdiction over petitioner’s custody re-determination because of the decision in *Matter of*
12 *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)). Moreover, the BIA grants appeals in only
13 about three percent of bond appeals filed by noncitizens.¹

14 *Third*, “even if the three *Puga* factors weigh[ed] in favor of prudential exhaustion,”
15 which they do not, “a court may waive the prudential exhaustion requirement if
16 administrative remedies are inadequate or not efficacious, pursuit of administrative remedies
17 would be a futile gesture, irreparable injury will result, or the administrative proceedings
18 would be void.” *Hernandez*, 872 F.3d at 988 (citation omitted).

19 As noted above and below, the Court should waive any such requirement because
20 doing so would prolong irreparable injury (Mr. Carachure Hernandez’s detention) and the
21 administrative remedies would be inadequate and inefficacious to mitigate or cease that
22 injury. Therefore, the Court should waive exhaustion here.

23 Yet another reason why the administrative process would be futile is that the
24 systematic transformation of the Executive Office for Immigration Review’s into an
25 enforcement arm would deprive Mr. Carachure Hernandez of a neutral adjudication. It has
26

27 ¹ See Srikantiah and Lukose, *The Board of Immigration Appeals Under the Second Trump*
28 *Administration: An Empirical Analysis of Grant Rates and DHS Appellate Behavior*, at 3,
<https://law.stanford.edu/documents/research-on-bia-decision-making/>.

1 been documented that EOIR has been unable to provide neutral adjudication, in violation
 2 of due process and “the guarantee of an impartial and disinterested tribunal.” *Marshall v.*
 3 *Jerrico, Inc.*, 446 U.S. 238, 242 (1980) (“This requirement of neutrality in adjudicative
 4 proceedings safeguards the two central concerns of procedural due process.”); *accord Reyes-*
 5 *Melendez v. INS*, 342 F.3d 1001, 1006 (9th Cir. 2003). The systematic transformation of EOIR
 6 into an instrument of the current administration’s enforcement agenda has made it
 7 structurally incapable of providing petitioners with the neutral tribunal and individualized
 8 assessment that due process requires. *See, e.g., Qazi v. Albarran*, No. 2:25-CV-02791-TLN-
 9 CSK, 2025 WL 3033713, at *6 (E.D. Cal. Oct. 10, 2025) (“Based on Petitioner’s request, the
 10 Court orders the hearing to occur before a neutral adjudicator. However, the Court
 11 expresses serious doubt as to whether the use of Immigration Officers to make factual
 12 findings and determinations comports with due process.”) (citation omitted); Memorandum
 13 Opinion and Order, *Avilez Aguinaga v. Warden*, No. 4:26-0137 (S.D. Texas Feb. 2, 2026)
 14 (ordering *immediate release rather than a bond hearing* after acknowledging the argument that
 15 “immigration courts have been systematically transformed and are no longer capable of
 16 providing an impartial tribunal and individualized assessment”); *Briceno Solano v. Mason*, No.
 17 2:26-CV-00045, 2026 WL 311624, at *20 (S.D.W. Va. Feb. 4, 2026) (ordering immediate
 18 release of re-detained petitioner initially released by DHS on own recognizance, and finding
 19 “there is no chance any [bond] hearing that occurred would comport with due process.”);
 20 *Umarov v. Mason*, No. 2:26-CV-00081, 2026 WL 381614, at *8 (S.D.W. Va. Feb. 11, 2026).

21 As a former senior EOIR official and military judge observed: “I don’t think the
 22 immigration-court system is a court system . . . What this Administration wants is a rubber
 23 stamp.”² District Courts around the country have recognized that immigration judges are
 24 failing to provide due process, even where federal courts order a bond hearing under
 25 habeas. *See Singh v. Valdez*, No. 26-CV-1109-WJM, 2026 WL 890240, at *5 (D. Colo. Apr. 1,

26
 27 ² Kim, Tammy E., “Inside Donald Trump’s Attack on Immigration Courts,” *The New*
 28 *Yorker* (Oct. 23, 2025), <https://www.newyorker.com/inside-donald-trumps-attack-on-immigration-court>.

2026); *Zheng v. Rokosky*, No. 26-cv-01689, ---F. Supp. 3d---, 2026 WL 800203, at *6 (D.N.J. Mar. 23, 2026) (holding that immigration court bond hearing was “the exact ‘rubber-stamp’ process that due process forbids”); *Montero-Martinez v. Mattos et al.*, 2026 WL 674497, at *1-2 (D. Nev. Mar. 9, 2026) (IJ revoking bond based on materially false information); *Rodriguez v. Greene*, 2026 WL 574961, at *12 (N.D. Ohio Mar. 2, 2026) (IJ decision made no reference to record or arguments by either party and supplied no reasoning).³

As reasoned by the District Court in *Singh*, the mounting evidence that bond determination hearings conducted in immigration court have “preordained outcomes has become impossible to ignore.” 2026 WL 890240, at *5. This conduct in immigration court “can no longer be attributed to mere negligence or ineptitude . . . and doing so would effectively allow the Government to transform an unlawful detention into a lawful one through post-hoc justifications.” *Zheng*, 2026 WL 800203, at *11.

The evidence that EOIR has transformed into an enforcement arm of DHS is evident through the ongoing mass-scale purge of IJs perceived as obstacles to the administration’s enforcement agenda, and their replacement by administration loyalists, and EOIR policy directives establishing expectations that adjudications favor the government over noncitizens, including when doing so defies federal court orders. Particularly when taken together, this evidence conclusively demonstrates the systematic destruction of EOIR’s ability to neutrally adjudicate cases, particularly those related to detention.

Since the current presidential administration took office in January 2025, it has fired IJs en masse, “many seemingly because their judicial philosophies did not align with the

³ See also Kyle Cheney, *Judges Keep Ordering Immigration Hearings — But Say the Results Are Often a Sham*, POLITICO (Mar. 6, 2026), <https://www.politico.com/news/2026/03/06/immigration-case-hearings-judges-00815660>.

1 administration's priorities."⁴ Former IJ Emmett Soper, who served in his position for *twenty*
 2 *years*, observed, "I think the current administration of the immigration courts does not
 3 fundamentally see the immigration courts as neutral decision-makers. I think that they see
 4 immigration courts as a tool for this administration to advance its policy objectives."⁵
 5 Former IJ Jeremiah Johnson also understood "the hint that they should be hearing cases a
 6 certain way, deciding cases a certain way. Move faster. Less due process,
 7 essentially."⁶ Former IJ George Pappas revealed: "We were told to facilitate
 8 deportation . . . Due process is dead in immigration courts."⁷ More recently, two judges who
 9 granted asylum to Palestinian students targeted by the Administration were abruptly fired.⁸

10 The mass purge has created a pervasive climate of fear designed to ensure compliance
 11 with favoring the government. Former IJ Anam Petit observed: "There's a climate of fear .
 12 . . Judges feel like, if they step a toe out of line right now . . . or they're one [asylum] grant
 13
 14

15 ⁴ Levin, Sam, "Hell on earth': immigrants held in new California detention facility beg for
 16 help," The Guardian (Sept. 27, 2025) [https://www.theguardian.com/us-](https://www.theguardian.com/us-news/2025/sep/27/immigrants-california-detention-facility)
 17 news/2025/sep/27/immigrants-california-detention-facility; Nicholas Nehamas et al.,
 18 "How Trump Purged Immigration Judges To Speed Up Deportations," The New York
 Times (Apr. 13, 2026) [https://www.nytimes.com/2026/04/09/us/politics/trump-miller-](https://www.nytimes.com/2026/04/09/us/politics/trump-miller-immigration-judges-purge.html)

19 ⁵ Bennett, Geoff and Ali Schmitz, "Ousted immigration judge describes deepening court
 20 backlog" PBS News Hour (Nov. 12, 2025), [https://www.pbs.org/newshour/show/ousted-](https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog)
 21 immigration-judge-describes-deepening-court-backlog.

22 ⁶ Hilda Gutierrez, Michael Bott & Son Vo, 'An all-out attack on immigration court.' SF
 23 immigration judges speak out after firings, NBC Bay Area (Nov. 25, 2025),
[https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-](https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-firings/3986850/)
 firings/3986850/.

24 ⁷ Marco Poggio, "Judges See an Immigration Court Guttled from Inside," Law 360, (Oct. 31,
 25 2025), [https://www.law360.com/articles/2381003/judges-see-an-immigration-court-](https://www.law360.com/articles/2381003/judges-see-an-immigration-court-guttled-from-inside)
 guttled-from-inside.

26 ⁸ Hamed Aleaziz, et al., Judges Fired After Blocking Deportations of Pro-Palestinian
 27 Students, The New York Times (Apr. 11, 2026)
 28 [https://www.nytimes.com/2026/04/11/us/politics/immigration-judges-deportations-](https://www.nytimes.com/2026/04/11/us/politics/immigration-judges-deportations-students.html)
 students.html.

1 away from being fired because of the arbitrary nature of the firings.”⁹ Former San Francisco
 2 IJ Elizabeth Young explained: “I’ve talked to many of [the judges still serving], and they’re
 3 like, ‘When I go into court, I am concerned about applying the law, but I’m also concerned
 4 that I should deny more, because if I don’t, then I’ll get fired.’”¹⁰ No adjudicator can remain
 5 impartial when faced with the choice between upholding due process and keeping their
 6 position. Former IJ Carla Espinoza corroborated the climate in her immigration court and
 7 its consequences on the IJs: “We as judges, were in fear, we were concerned . . . That makes
 8 it very difficult to be impartial.”¹¹

9 As it fires IJs at scale, EOIR is filling vacant seats with adjudicators loyal to the
 10 administration’s deportation agenda. The Government’s campaign to hire new IJs advertises
 11 the position as “deportation judges,” with *DHS* describing it in social media as an
 12 opportunity to “[b]ring the hammer down on criminal illegal aliens. Defend your
 13 communities, your culture, your very way of life.”¹²

14 But perhaps the clearest evidence that EOIR has abandoned neutrality is in its explicit
 15 coordination with ICE and refusal to comply with federal court orders. A leaked memo
 16 from DHS admitted its active coordination with DOJ to expand mandatory
 17

18 ⁹ Eric Katz, “Climate of Fear: Immigration Judges Say Functioning of Their Court System
 19 Is in Jeopardy Due to Trump’s Firings,” Gov’t Executive (Nov. 14, 2025),
 20 [https://www.govexec.com/management/2025/11/climate-fear-immigration-judges-say-](https://www.govexec.com/management/2025/11/climate-fear-immigration-judges-say-functioning-their-court-system-jeopardy-due-trumps-firings/409544/)
 21 [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/); *see also* Isabela Dias,
 22 “‘Fired for No Reason’: Former Immigration Judges Speak Out Against Trump’s Assault on
 23 the Courts,” Mother Jones (Oct. 9, 2025),
[https://www.motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-](https://www.motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-purge-dhs-ice/)
[purge-dhs-ice/](https://www.motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-purge-dhs-ice/).

24 ¹⁰ Marco Poggio, “Judges See an Immigration Court Gutted from Inside,” Law 360, (Oct.
 25 31, 2025), [https://www.law360.com/articles/2381003/judges-see-an-immigration-court-](https://www.law360.com/articles/2381003/judges-see-an-immigration-court-gutted-from-inside)
[gutted-from-inside](https://www.law360.com/articles/2381003/judges-see-an-immigration-court-gutted-from-inside).

26 ¹¹ DuBois, Maurice, “3 immigration judges speak out about their firings: ‘It was arbitrary,
 27 unfair,’” CBS News (July 24, 2025), [https://www.cbsnews.com/news/immigration-judges-](https://www.cbsnews.com/news/immigration-judges-speak-out-firings-arbitrary-unfair/)
[speak-out-firings-arbitrary-unfair/](https://www.cbsnews.com/news/immigration-judges-speak-out-firings-arbitrary-unfair/).

28 ¹² X, @DHSgov, (Nov. 21, 2025) <https://x.com/DHSgov/status/1991887545236701694>.

1 detention. Interim Guidance from U.S. Department of Homeland Security to All ICE
 2 Employees Re: “Detention Authority for Applications for Admission” (July 8, 2025),
 3 [https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-](https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission)
 4 [applications-for-admission](https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission). And in January 2026, Chief Immigration Judge Teresa L. Riley
 5 directed all IJs by email to ignore a district court order holding that one of the BIA’s efforts
 6 to expand mandatory detention was unlawful.¹³ The District Court Judge who issued the
 7 order subsequently issued a decision finding that the government was not merely disagreeing
 8 with her legal conclusions—it was engaged in “deliberate” defiance, “manufactur[ing]
 9 arguments,” and was instructing IJs to rely on “interpretations that were expressly found
 10 unlawful.” *Palomera Baltazar v. Janecka*, No. 5:26-cv-00019-SSS-BFM at *2-3 (C.D. Cal. Jan.
 11 16, 2026) (Sykes, J.). Thus, any bond hearing with the current EOIR would lack the central
 12 due process component of neutrality, and as such this Court need not require or contemplate
 13 a possible immigration bond hearing before ruling on this petition. Rather, it should release
 14 Mr. Carachure Hernandez.

15 **VI. Mr. Carachure Hernandez’s release is the appropriate remedy.**

16 Release is both appropriate and narrowly tailored to the violations Mr. Carachure
 17 Hernandez suffered at the hands of Respondents. The Supreme Court has repeatedly
 18 emphasized that “[h]abeas is at its core a remedy for unlawful executive detention,” and
 19 “[t]he typical remedy for such detention is, of course, release.” *Munaf v. Geren*, 553 U.S. 674,
 20 693 (2008) (citing *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) (“[T]he essence of habeas
 21 corpus is an attack by a person in custody upon the legality of that custody, and that the
 22 traditional function of the writ is to secure release from illegal custody.”)); *Dep’t of Homeland*
 23 *Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020) (“Habeas has traditionally been a means to
 24 secure release from unlawful detention.”).

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 26
 27
 28 ¹³ AILA, Practice Alert: EOIR Issues Nationwide Guidance on *Maldonado Bautista*, AILA
 Doc. No. 26011404 (Jan. 16, 2026), [https://www.aila.org/library/practice-alert-eoir-issues-](https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista)
[nationwide-guidance-on-maldonado-bautista](https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista).

1 The Ninth Circuit has likewise held that the purpose of habeas “to ‘put the [petitioner]
 2 back in the position he would have been in if the [constitutional] violation never occurred.”
 3 *Lujan v. Garcia*, 734 F.3d 917, 935 (9th Cir. 2013) (quoting *Nunes v. Mueller*, 350 F.3d 1045,
 4 1057 (9th Cir. 2003)); accord *Chioino v. Kernan*, 581 F.3d 1182, 1184 (9th Cir. 2009); *Changoluisa*
 5 *Corrales v. D. Marin*, No. EDCV 26-01716-KK-RAOX, 2026 WL 1047934, at *6 (C.D. Cal.
 6 Apr. 15, 2026) (citing *Sequen v. Albarran*, 806 F. Supp. 3d 1069, 1089 (N.D. Cal. 2025));
 7 *Morales v. U.S. Immigr. & Customs Enf’t*, No. 5:26-CV-01404-DOC-MAR, 2026 WL 1026234,
 8 at *7 (C.D. Cal. Apr. 15, 2026) (collecting cases); *Blandon Saavedra v. Dep’t of Homeland Security*,
 9 No. 5:26-cv-01670-AJR, Dkt. 20, at * 9-11 (C.D. Cal. June 1, 2026) (collecting cases).

10 As one court in this District has aptly put it, “[t]he Court must heed the language in
 11 *Mathews* that ‘[a] claim to a pre-deprivation hearing as a matter of constitutional right rests
 12 on the proposition that full relief cannot be obtained at a post-deprivation hearing.” *Villegas*
 13 *Molina v. Mullin*, No. 2:26-CV-04091-MWC-SP, 2026 WL 1182194, at *3 (C.D. Cal. Apr. 23,
 14 2026) (quoting *Mathews*, 424 U.S. at 331). The “irreparable harms imposed on anyone subject
 15 to immigration detention,” including “subpar medical and psychiatric care in ICE detention
 16 facilities,” *Hernandez*, 872 F.3d at 995, and the fact that “time in detention causes people to
 17 lose jobs that they may not be able to recover,” any possible or eventual immigration bond
 18 hearing would not be adequate relief. *See id.* “The argument that a post-deprivation hearing
 19 would provide full relief assumes that one can recover everything that comes with being free
 20 from detention, a dubious proposition.” *Villegas Molina*, 2026 WL 1182194, at *3.

21 Accordingly, various courts have ordered release even where a belated bond hearing
 22 took place. *See Charaf*, 2026 WL 1270754, at *6; *Mumaev v. Semaia*, No. 5:25-CV-03409-FLA-
 23 MAR, 2026 WL 530765, at *6 (C.D. Cal. Feb. 20, 2026); *see also Singh v. Janecka*, 5:26-cv-
 24 01414-ACCV, 2026 U.S. Dist. LEXIS 95798, at *16-17 (C.D. Cal. Apr. 29, 2026); *Medrano-*
 25 *Rocha v. Santacruz*, No. CV-26-00404-KK-AGRX, 2026 WL 411355, at *6 (C.D. Cal. Jan. 23,
 26 2026) (“Providing Petitioner with a post-detention hearing or other procedural remedy will
 27 not redress the constitutional violation Petitioner has suffered in being re-detained without
 28 a pre-deprivation hearing required by due process.”) (emphasis added); *Saballos Rosales v.*

1 *Noem*, No. 5:26-CV-00112-JWH-MBK, 2026 WL 761371, at *3 (C.D. Cal. Mar. 16, 2026)
 2 (“[T]he post-detention process that Rosales did receive, and will receive, ‘is no substitute for
 3 the pre-deprivation process she was owed.’” (quoting *Hasratyan v. Bondi*, No. 5:26-CV-00210-
 4 MCS-ADS, 2026 WL 288909, at *4 (C.D. Cal. Feb. 2, 2026))).

5 Put another way, a “bond determination by a DHS officer or an immigration judge
 6 would not remedy the core constitutional violation . . . [Mr. Carachure Hernandez’s]
 7 detention was unlawful from its inception because ICE detained [him . . .] without any notice
 8 or opportunity to be heard, much less the procedures required under Section 1226(a).” *See*
 9 *Rodriguez-Acurio v. Almodovar*, 811 F. Supp. 3d 274, 319 (E.D.N.Y. 2025); *Cruz-Reyes v. Bondi*,
 10 818 F. Supp. 3d 875, 884 (S.D. Tex. 2026) (“district courts across the country [have found]
 11 that the significant violation of Petitioner’s due process rights and other prudential concerns
 12 weigh in favor of ordering Petitioner’s immediate release.”); *Moctezuma v. Henkey*, No. 1:25-
 13 CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (collecting cases); *Santiago v.*
 14 *Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588, at *13 (W.D. Tex. Oct. 2, 2025) (“[M]any
 15 district courts have determined instead to order the immediate release of immigration habeas
 16 petitioners held in custody in violation of their due process rights.”).

17 CONCLUSION

18 For these reasons, the Court should grant Mr. Carachure Hernandez’s Petition, order
 19 his release forthwith, and prohibit Respondents from re-detaining him absent notice and a
 20 pre-deprivation hearing before a *neutral* immigration judge. *Charaf*, 2026 WL 1270754, at *6.

22 Respectfully submitted,

23 AMY KARLIN
 24 Interim Federal Public Defender

25 DATED: July 27, 2026

By /s/ Mara González Souto

26 Mara González Souto
 27 Deputy Federal Public Defender
 28 Attorney for Petitioner
 Bernardo Carachure Hernandez