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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
IMPERIAL COUNTY DIVISION

Juan Gabriel Dominguez Flores

Petitioner.

v.

Warden of Imperial Regional Detention Facility, **Patrick Divver,** Director of San Diego U.S. Immigration and Customs Enforcement Field Office; U.S. Immigration and Customs Enforcement; **Markwayne Mullin,** Secretary of the U.S. Department of Homeland Security; U.S. Department of Homeland Security (DHS); **Todd Blanche,** Attorney General of the United States, and **Todd Lyons,** Director of Immigration and Customs Enforcement; Executive Office for Immigration Review ("EOIR"),

Respondents.

Case No. **'26CV4339 AGS MSB**

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT 28 U.S.C. § 2241

ORAL ARGUMENT REQUESTED

INTRODUCTION

Petitioner, Juan Gabriel Dominguez Flores (Mr. Dominguez Flores), is a citizen of Honduras who has resided in the United States since October 2022. (See Exhibit 2). Respondents have unlawfully detained him at the Imperial Regional Detention Facility since March 17, 2026. Mr. Dominguez Flores, at the time of his arrest, was living with his U.S. Citizen fiancé who is currently pregnant with their first child. (Ex. J-M). He has no criminal history or negative immigration history in the U.S. or elsewhere.

On March 17, 2026, CBP officers subjected Mr. Dominguez Flores to an unlawful search and seizure in violation of his Fourth Amendment rights. (Ex. A, Q). Specifically, said CBP officers detained and interrogated Mr. Dominguez Flores after stopping a vehicle he was a passenger in. The officer's interrogation and subsequent arrest of Mr. Dominguez Flores occurred before they had any reasonable suspicion he had committed any crime or was in the U.S. unlawfully. *Id.*

At first, DHS held Mr. Dominguez Flores in so-called "mandatory detention" as an "applicant for admission" under 8 U.S.C. § 1225(b). Indeed, he was forced to file a petition for habeas corpus in this District Court, which was granted on May 18, 2026. *Dominguez Flores v. Cruz et al.*, 3:26-cv-02864-CAB-AHG. (Ex. C). The District Court ruled that Mr. Dominguez Flores was entitled to a constitutionally fair hearing on his bond. *Id.* On June 1, 2026, an Immigration Judge at the Imperial Immigration Court held a bond hearing pursuant to the District Court's order. (Ex. G). At the hearing, the IJ issued a "No Bond" order. (Ex. E). The IJ concluded that Mr. Dominguez Flores was a flight risk.

Said order, however, was the product derived from a constitutionally deficient hearing. Under the Due Process Clause of the Fifth Amendment, there are *no* circumstances

in which the IJ could have plausibly established that Mr. Dominguez Flores posed a flight risk, or that he was such an extreme flight risk that *no amount of* bond or set of conditions could possibly mitigate. Not only that, but the IJ failed to consider the factors required to make a bond determination under the Immigration and Nationality Act ("INA") and its implementing regulations. *See* 8 U.S.C. § 1226(a). The Immigration Judge's "no bond" order for flight risk subverts the statutory design.

Not only did the hearing fail to meet the constitutional standard and fail to comply with the statutory design, the IJ's reasoning seemed to require factors individuals in Mr. Dominguez Flores' position would find impossible to meet, such as already having a work permit, driver's license or a pending legal process. In addition, from the beginning of the bond hearing, the IJ made clear she had a negative view towards Mr. Dominguez Flores and his request for bond. This suggests she pre-determined to deny bond before the bond hearing even took place. The agency's own guidance requires that IJs review several factors in making bond determinations. *See Matter of Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006); *Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 805 (BIA 2020). Mr. Dominguez Flores asserts the Immigration Judge in his matter failed to seriously consider said factors when she denied his request for bond.

To restrain an individual's liberty, the Due Process Clause of the Fifth Amendment, the INA and agency rules all require that the Government and the Immigration Court do more than check boxes or justify detention based on a biased view of factors. This District Court should accordingly grant the instant petition for habeas corpus and order Mr. Dominguez Flores' immediate release under reasonable conditions.

JURISDICTION

1. Petitioner is in the physical custody of Respondents and Immigration and Customs Enforcement (ICE), an agency within the Department of Homeland Security (DHS). He is detained at the Imperial Regional Detention Facility in Calexico, California and is under the direct control of Respondents and their agents.
2. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*.
3. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, clause 2 of the United States Constitution (the Suspension Clause).
4. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writes Act, 28 U.S.C. § 1651.
5. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9), (f)(1), or 1226(e). Congress has preserved judicial review of challenges to prolonged immigration detention. *See Jennings v Rodriguez*, 138 S. Ct. 830, 839-41 (2018) (holding that 8 U.S.C. §§ 1252(b)(9) and 1226(e) do not bar review of challenges to prolonged immigration detention).

VENUE

6. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Southern District of California, the judicial district in which the Petitioner is currently in custody.
7. Venue is also properly vested in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies in the United States, and because

a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of California.

REQUIREMENTS OF 28 U.S.C. § 2241, 2243

8. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

9. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

PARTIES

10. Mr. Dominguez Flores, the Petitioner, is a citizen of Honduras who arrived to the United States in October 2022. (Ex. B). He has been in the custody of the Department of Homeland Security (DHS) since March 17, 2026. (Ex. A). Since that time, he has sought relief from removal in his immigration court case and is currently scheduled for a master hearing on July 29, 2026. (Ex. G).

11. Respondent Patrick Divver is the Director of the San Diego U.S. Immigration and Customs Enforcement Field Office. Said office has jurisdiction over detainees held at the Imperial Regional Detention Facility. As such, Mr. Divver is Petitioner's

immediate custodian. He is named in his official capacity.

12. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of ICE in general. Respondent Lyons is a legal custodian of Petitioner.

13. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Mullin is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

14. Respondent Todd Blanche is the acting Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

15. Respondent Warden of Imperial Regional Detention Facility oversees where Petitioner is detained. As such, said Warden is Petitioner's immediate custodian. Because the warden's name is not public information, Respondent is named by their official title herein.

16. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention of noncitizens.

17. Respondent U.S. Immigration Customs Enforcement (I.C.E.) is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

18. Respondent EOIR is the feral agency that has authority over the actions of the Immigration Court.

19. This action is commenced against all Respondents in their official capacities.

LEGAL FRAMEWORK

Detention Authority under the Immigration & Nationality Act

20. The Immigration and Nationality Act authorizes DHS to detain noncitizens who are in removal proceedings. This case concerns the detention provision at 8 U.S.C. § 1226(a) and its implementing regulations.

21. To be constitutional, civil immigration detention must be non-punitive. *Zadvydas v. Davis*, 533 U.S. 678, 690-92 (2001). The government may not detain a noncitizen unless needed to prevent flight or danger to society. *Id.* Due process requires both that immigration detention be "'reasonabl[y] relat[ed]'" to its purposes of preventing flight and danger to the community, and that it be accompanied by adequate procedures to ensure those purposes are met. *Id.* at 690-91 (citation omitted). *Accord Demore v. Kim*, 538 U.S. 510, 527 (2003).

22. In making release decisions under § 1226(a), the regulations provide that a noncitizen must demonstrate he or she does not pose a danger to property or persons, and that he or she is "likely to appear for any future proceeding." 8 C.F.R. § 1236.1(c)(8); *see also Matter of Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006).

23. The Government must consider a range of evidence, some of which is objective, and some of which may require the Government to evaluate the credibility of the noncitizen and other witnesses. The factors the Government should consider are:

    a) whether the noncitizen has a fixed address in the United States;

b) the noncitizen's length of residence in the United States;

c) the noncitizen's family ties in the United States, and whether they may entitle the noncitizen to reside permanently in the United States in the future;

d) the noncitizen's employment history;

e) the noncitizen's record of appearance in court;

f) the noncitizen's criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses;

g) the noncitizen's history of immigration violations;

h) any attempts by the noncitizen to flee prosecution or otherwise escape from authorities; and,

i) the noncitizen's manner of entry to the United States.

Matter of Guerra, 24 I&N Dec. at 38; *Matter of R-A-V-P-*, 27 I&N Dec. at 805.

24. For noncitizens who may present some level of flight risk, the Government must also consider the noncitizen's financial ability to pay a bond. *Hernandez v. Sessions,* 872 F.3d 976 (9th Cir. 2017). The Government should consider whether the noncitizen may be released on alternative conditions of supervision, alone or in combination with a lower bond amount, that are sufficient to mitigate flight risk. *Id.* at 986-87.

25. These factors all relate to the core inquiry in a custody determination proceeding before either DHS or EOIR. If the noncitizen is not a danger to the community, the DHS or EOIR must consider whether the noncitizen is a flight risk and, if so, what are the conditions of release that will best ensure the noncitizen will appear at future proceedings.

26. Because of the liberty interest, there are seldom circumstances where no combination of conditions, including bond, could mitigate any flight risk. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (recognizing the fundamental liberty interest at stake in civil detention); *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) (requiring consideration of financial circumstances and alternative release conditions to ensure detention is not used when less restrictive means can satisfy the government's interest); *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (requiring the government to prove by clear and convincing evidence that no conditions of release can reasonably assure future appearance). Detention without the possibility of posting bond for flight risk is, as a matter of constitutional law, rare.

Release/Custody Determinations by DHS & IJs

27. Individuals subject to the Government's § 1226(a) detention authority are entitled to a release determination made by DHS; if not released by DHS, they are also entitled to a custody redetermination made by an immigration judge. 8 C.F.R. § 1236.1(c)(8); 8 C.F.R. § 1236.1(d).

28. When purporting to assert initial detention over a noncitizen, DHS must make a custody (or release) determination. 8 C.F.R. § 1236.1(c)(8).

29. DHS documents its decision on ICE Form I-286, Notice of Custody Determination.

30. DHS may release the noncitizen on their own recognizance. 8 U.S.C. § 1226(a)(2)(B) (referring to "conditional parole"); *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) ("It is apparent that the INS used the phrase "release on recognizance" as another name for "conditional parole" under 1226(a)"); ICE Form I-220A Order of Release on Recognizance.

31. DHS may also release the noncitizen on the posting of a bond of at least $1,500. 8 U.S.C. § 1226(a)(2)(A); 8 C.F.R. § 103.6; ICE Form I-352, Immigration Bond.

32. Noncitizens are entitled to a meaningful opportunity to be heard on their custody status before DHS. 8 C.F.R. § 1236.1(c)(8). DHS is required to engage in a "deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause." *Gonzalez v. Joyce*, 2025 WL 2961626, *5 (S.D.N.Y. 2025). "That the Government may believe it has a valid reason to detain [a noncitizen] does not eliminate its obligation to effectuate the detention in a manner that comports with due process." *E.A.T.-B. v. Wamsley*, 795 F.Supp.3d 1316, 1322 (W.D. Wash. 2025). The availability of custody redetermination proceedings by immigration judges does not relieve the DHS from their obligation to follow the law. Any suggestion that "government agents may sweep up any person they wish without consideration of dangerousness or flight risk, so long as the person will, at some unknown future date, be allowed to ask some other official for his or her release, offends the ordered system of liberty that is the pillar of the Fifth Amendment." *Gonzalez*, 2025 WL 2961626 at *5.

33. If DHS does not grant release, a noncitizen is entitled to a meaningful opportunity to be heard on their custody status before an immigration judge. Immigration judges may also grant bond in this custody redetermination hearing. 8 C.F.R. § 1236.1(d); *W.T.M. v. Bondi*, 2026 WL 262583, *1 (W.D. Wash. 2026); *Garcia v. Hyde*, —F.Supp.3d—, 2025 WL 3466312, *8-9 (D.R.I. 2025).

34. The custody decisions—and the proceedings in which those decisions are made before the DHS or EOIR—must be constitutionally adequate and comply with the statute and

regulations. *W.T.M*, 2026 WL 262583 at *1; *Garcia*, 2025 WL 3466312, *8. For a noncitizen otherwise eligible for release under § 1226(a), custody proceedings and decisions may not be arbitrary, irrational, irrelevant or unreasonable. Custody proceedings and decisions must comport with the interest in being free from physical detention which is "most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

FACTUAL BACKGROUND

35. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including "Protecting the American People Against Invasion," an executive order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The "Protecting the American People Against Invasion" EO instructs the DHS Secretary "to take all appropriate action to enable" ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures including through the use of mass detention.

36. In late May, Respondent Secretary Noem and White House Deputy Chief of Staff Stephen Miller met with ICE leadership, setting a new arrest quota of 3,000 arrests per day and reportedly threatening job consequences if officials failed to meet arrest quotas. [1]

[1] Elizabeth Findell, et al., *The White House Marching Orders That Sparked the L.A. Migrant Crackdown*, The Wall Street Journal (June 9, 2025), https://www.wsj.com/us-news/protestslos-angeles-immigrants-trump-f5089877; Julia Ainsley, et al., *A sweeping new ICE operation shows how Trump's focus on immigration is reshaping federal law enforcement*, NBC News (June 4, 2025), https://www.nbcnews.com/politics/justicedepartment/ice-operation-trumpfocus-immigration-reshape-federal-lawenforcement-rcna193494; Brittany Gibson & Stef W. Kight,

37. On May 28, Miller confirmed that "[u]nder President Trump's leadership, we are looking to set a goal of a minimum of 3,000 arrests for ICE every day, and President Trump is going to keep pushing to get that number up higher each and every single day."[2]

38. Following the directive from Noem and Miller, ICE agents were instructed in an e-mail to "turn the creativity knob up to 11" and aggressively "push the envelope" in arrests, including by pursuing "collaterals"—individuals who by definition would not have warrants.[3] As another e-mail put it: "If it involves handcuffs on wrists, it's probably worth pursuing."[4]

39. The overriding message, communicated by and to Respondents, is that agents and officers carrying out immigration operations on the ground must prioritize arrest numbers, regardless of the law. As one ICE official put it earlier this year, all that matters is "numbers, pure numbers, [q]uantity over quality." [5]

Scoop: Stephen Miller, Noem tell ICE to supercharge immigration arrests, Axios (May 28, 2025), available at https://www.axios.com/2025/05/28/immigration-ice-deportationsstephen-miller.

[2] Hannity, *Stephen Miller says the admin wants to create the strongest immigration system in US History*, FOX NEWS (May 28, 2025), available at https://www.foxnews.com/video/6373591405112 (last visited Aug. 24, 2025).

[3] José Olivares, *US immigration officers ordered to arrest more people even without warrants*, The Guardian (June 4, 2025), https://www.theguardian.com/us-news/2025/jun/04/immigrationofficials-increased-detentions-collateral-arrests.

[4] José Olivares, *US immigration officers ordered to arrest more people even without warrants*, The Guardian (June 4, 2025), https://www.theguardian.com/us-news/2025/jun/04/immigrationofficials-increased-detentions-collateral-arrests.

[5] Jennie Taer, *Trump admin's 3,000 ICE arrests per day quota is taking focus off criminals and 'killing morale': insiders warn*, NY Post, June 17, 2025, https://nypost.com/2025/06/17/usnews/trump-admins-3000-ice-arrests-per-day-quota-is-taking-focus-off-criminals-and-killingmorale-insiders/, https://perma.cc/DB9R-MJUC (last visited Oct. 15, 2025) ("The Trump administration's mandate to arrest 3,000 illegal migrants per day is forcing ICE agents to deprioritize going after dangerous criminals and targets with deportation orders, insiders warn. Instead, federal immigration officers are spending more time rounding up people off the streets, sources said. 'All that matters is numbers, pure numbers. Quantity over quality,' one Immigrations and Customs Enforcement insider told The Post.").

40. The District Court for the District of Oregon recently found that DHS implemented these practices in Oregon. *M-J-M-A- v. Hermosillo*, 6:25-cv-02011-MTK, Dkt. 88 at 2 (D.Or. Feb. 27, 2026). The Court found that "[t]o serve the President's demands for 3,000 immigration arrests each day nationally" ICE officers deployed to Oregon communities and arrested an "extraordinary" number of Oregonians beginning in October 2025. *Id.* at 5.

41. The District Court for the District of Oregon found that "ICE officers traveled to Portland, Oregon from their usual duty stations in Arizona, California, Colorado, Minnesota, and Nebraska…to come to Oregon to assist with street arrests and conduct at-large enforcement—finding, locating, and targeting people that are undocumented here in the Portland, Oregon, or Washington area. *Id.* at 6. Enforcement operations in Oregon during this time were variously called "Operation Fortifying the Border," "Operation Black Rose," "Operation Portland Safe," and "Operation Portland Sweep." *Id.*

Petitioner's Background

42. Petitioner, Juan Dominguez Flores, is a 34-year-old native and citizen of Honduras who has resided continuously in the United States since October 2022. (Ex. B, I). Prior to his detention by CBP, he was living in Dallas, Texas with his United States Citizen fiancé Emily Keene. (Ex. J, K, M). Before his sudden arrest by CBP officers, Mr. Dominguez Flores had recently signed a lease agreement with Emily to rent their residence together. (Ex. M). Emily is currently pregnant with their first child with an expected due date in August 2026. (Ex. L).

43. Mr. Dominguez Flores has two minor children currently living in Honduras with their mother. Mr. Dominguez Flores and the mother of his two children have long been separated. However, Mr. Dominguez Flores continues to support his children financially through his work in the United States.

44. Mr. Dominguez Flores has a strong work history in the United States. (Ex. N). Several people depend on his income, including his U.S. citizen fiancée Emily Keene, his children in Honduras and his unborn child.

45. Mr. Dominguez Flores has absolutely no criminal history in the United States or elsewhere and no negative immigration history prior to his detention in March of this year. (Ex. A).

Petitioner's Arrest and Initiation of Removal Proceedings

46. On March 17, 2026, Mr. Dominguez Flores was travelling for work in California in a vehicle as a passenger. (Ex. A, Q). Said vehicle was subsequently stopped by Customs and Border Protection ("CBP"). *Id.* According to CBP's I-213 report, they stopped the vehicle Mr. Dominguez Flores was in initially because it had an out-of-state license plate. (Ex. A). CBP later allegedly ran the license plate number which showed the registered owner was undocumented. *Id.* It should be made clear that the registered owner of the vehicle was not Mr. Dominguez Flores and that Mr. Dominguez Flores was merely a passenger in said vehicle.

47. The I-213 form DHS submitted in Mr. Dominguez Flores case lacks any information regarding a traffic violation or any probable cause to follow or stop the vehicle, other than the initial reason stated that it had an out-of-state license plate. *Id.*

48. Once CBP stopped the vehicle, two armed CBP officers approached said vehicle and began to question the driver. They subsequently arrested the driver of the vehicle. (Ex. A, Q).

49. At the time, Mr. Dominguez Flores was seated in the back seat of the vehicle. *Id.* After the driver was detained, the CBP officers asked the passengers where they "were from" and demanded to see all their identity documents, Mr. Dominguez Flores included. Mr. Dominguez Flores believed he had no choice but to answer the officer's questions and comply with their demands. He also did not feel free to end the encounter with the CBP officer. (Ex. Q). The passengers stated they were from Honduras. However, no questions were asked regarding their legal status or if they had violated any immigration laws. *Id.*

50. The CBP officers further explained to the passengers that they were stopping vehicles to check if they were bringing drugs or weapons. It should be noted that there is absolutely no evidence that either of the two vehicles stopped during this incident carried any drugs or weapons. There is also no information given as to why the CBP officers thought there might be drugs or weapons in the vehicle prior to the stop.

51. Mr. Dominguez Flores again did not feel free to refuse CBP's demands and accordingly gave one of the CBP officers his identification document, as demanded. Mr. Dominguez Flores explained that the CBP officer demanded his identification document in an aggressive manner. (Ex. Q).

52. After Mr. Dominguez Flores gave the CBP officer his identification document, the officer demanded that all passengers exit the vehicle. Mr. Dominguez Flores complied

and exited the vehicle and was at that time handcuffed and arrested. He was then driven to a detention facility.

53. Other than asking where the passengers were from, the CBP officers did not ask any questions prior to arresting Mr. Dominguez Flores. Nonetheless, the I-213 form submitted by CBP states that the passengers, "all stated they were citizens and nationals of Honduras with no legal documents to be in the United States...all admitted to being illegally present in the United States." (Ex. A). This is in direct contradiction to Mr. Dominguez Flores' statements that no questions were asked regarding legal status and that he did not state any information about his legal status. (Ex. Q).

54. CBP had no warrant or probable cause to believe Mr. Dominguez Flores had committed any crime prior to their interrogation or his arrest. (Ex. A).

55. Mr. Dominguez Flores was then placed in removal proceedings by the issuance of a Notice to Appear ("NTA") dated March 18, 2026. (Ex. B). Said NTA charges Mr. Dominguez Flores with removal pursuant to INA § 212(a)(6)(A)(i), as an alien who entered the U.S. without inspection or parole and 212(a)(7)(A)(i)(I), for not having valid entry documents. *Id.*

56. Through Counsel, Mr. Dominguez Flores filed a motion to suppress the I-213 form filed in his matter and terminate his removal proceedings. His motion was based on the Fourth Amendment violations he suffered at the time of his arrest. (Ex. Q).

Petitioner's Hearing Regarding Motion to Suppress I-213 and Terminate Removal Proceedings

57. On June 16, 2026, Mr. Dominguez Flores and his Counsel appeared for a "prove-up" hearing in the Imperial Immigration Court for adjudication of his motion to suppress

the I-213 in his matter and terminate his removal proceedings. (Ex. G).

58. Mr. Dominguez Flores testified regarding his arrest, how he was subject to an interrogation prior to any reasonable suspicion by CBP officers and how he was then detained before CBP officer had any reason so suspect he had done anything unlawful.

59. The IJ denied Mr. Dominguez Flores' motion however. The IJ speculated that CBP officers did have probable cause to suspect that Mr. Dominguez Flores was unlawfully present in the U.S. (See DAR recording for 6/16/26 hearing, 29:58; Ex. S).

60. The IJ stated that the CBP officers likely had experience in what type of vehicles and clothes undocumented persons utilized in the U.S. *Id.*

61. The IJ also stated that factors such as proximity to the border, information about recent illegal border crossings and behavior of the driver could lead to reasonable suspicion. *Id.*

62. None of this information however was stated in the I-213 form CBP filed in Mr. Dominguez Flores' matter.

63. The IJ essentially speculated CBP's probable cause even though said reasons were not stated in Petitioner's I-213 form prepared by the CBP officers who arrested him.

64. Consequently, Mr. Dominguez Flores' proceedings were not terminated and the IJ found him removable for having entered the U.S. without inspection or parole. This is despite the fact that the only piece of evidence DHS submitted in support of the removal proceedings was a highly suspect I-213 form that had no information regarding reasonable suspicion prior to Mr. Dominguez Flores' arrest. (Ex. A).

65. Mr. Dominguez Flores, through Counsel, continued to deny and contest all allegations and charges in his NTA. As of this date, no concessions have ever been made

regarding Mr. Dominguez Flores' removability or legal status in his removal proceedings.

66. Mr. Dominguez Flores consequently remains detained after the IJ's ruling to deny his motion to terminate.

Petitioner's Prior Habeas Proceedings

67. I.C.E. never made a custody determination for Petitioner after he was arrested on March 17, 2026, in violation of regulations.

68. Mr. Dominguez Flores was also not given an opportunity to request a bond hearing in his case initially.

69. Indeed, beginning in July 2025, Respondent DHS adopted a policy of mandatory detention directly at odds with the INA. *Maldonado-Bautista v. Santacruz*, — F.Supp.3d—, 2025 WL 3713987 *12 (C.D. Cal. 12/28/2025).

70. Upon Mr. Dominguez Flores' arrest, DHS failed to conduct a meaningful, individualized custody determination as required by 8 U.S.C. § 1226(a) and § 8 C.F.R. § 1236.1(c)(8).

71. Accordingly, on May 6, 2026, Mr. Dominguez Flores filed a petition for writ of habeas corpus arguing that his detention violated the U.S. Constitution and the INA, and that he is entitled to release or a bond hearing under 8 U.S.C. § 1226(a). *Dominguez Flores v. Cruz et al.*, 3:26-cv-02864-CAB-AHG.

72. Respondents, on May 13, 2026, responded to Mr. Dominguez Flores' petition by conceding that he is a class member of *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, -- F. Supp. 3d --, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025) and is entitled to a bond hearing. (Ex. D).

73. On May 18, 2026, United States District Judge Hon. Cathy Ann Bencivengo granted Mr. Dominguez Flores' habeas petition. (Ex. C).

74. The Court held that Mr. Dominguez Flores was entitled to a bond hearing. *Id.*

75. The Court accordingly ordered Respondents to provide Mr. Dominguez Flores with a bond hearing under 8 U.S.C.§1226(a) by June 1, 2026. *Id.*

Petitioner's Post-Habeas IJ Custody Proceeding & Agency Decision

76. On June 1, 2026, Immigration Judge Anne Kristina Perry at the Imperial Immigration Court held a bond hearing pursuant to the district court's order. Mr. Dominguez Flores' primary witness, his U.S. Citizen partner Emily Keene, was included in a timely filed witness list. (Ex. R). Although she was present via video at the time of the hearing, the IJ did not allow her to testify and in fact instructed her to sign off the virtual courtroom before the hearing began. (Ex. S). Subsequently, at the hearing, the IJ issued a "No Bond" order. (Ex. E). The IJ concluded that Mr. Dominguez Flores was a flight risk and that no amount of bond could mitigate said risk. *Id.*

77. The record established the following uncontested facts: Mr. Dominguez Flores has lived in the United States since October of 2022 (Ex. B, I); he has a fixed address in Dallas, TX where he signed a lease with his U.S. Citizen partner Emily Keene (Ex. M); Ms. Keene is pregnant with Mr. Dominguez Flores' child with an expected due date in August 2026 (Ex. L); he and Emily Keene are planning to marry should he be released (Ex. J); Ms. Keene would be able to file an I-130 petition for Mr. Dominguez Flores should they marry and if he is able to legally divorce the mother of his children; Mr. Dominguez Flores supports his two minor children who currently live in Honduras (DAR recording for 6/1/26 hrg. at 20:00); Mr. Dominguez Flores has a

strong work history working in roofing (Ex. N); he has no criminal history in the U.S. or elsewhere and he has no negative immigration history prior to his detention (Ex. A); he filed a motion to suppress and terminate his removal proceedings based on the fourth amendment violations he suffered at the time of his arrest by CBP officers. (Ex. Q).

78. The bond evidence packet filed by Mr. Dominguez Flores and his Counsel further included a bond worksheet, a proposed witness list naming Ms. Keene as a witness (Ex. R), reference letters in support of his bond request (Ex. O), a copy of Mr. Dominguez Flores and Ms. Keene's lease agreement for his fixed address (Ex. M), Mr. Dominguez Flores' paystubs (Ex. N), identity documents (Ex. H), a signed affidavit from Ms. Keene (Ex. J), a signed declaration from Mr. Dominguez Flores (Ex. I), photos of Mr. Dominguez Flores and Ms. Keene (Ex. P), medical documents verifying Ms. Keene's pregnancy and the U.S. birth certificate for Ms. Keene. (Ex. L).

79. The information contained in Mr. Dominguez Flores' bond packet was testified to and verified through his testimony during his hearing. DHS did not contest the credibility of Petitioner's testimony.

80. DHS also did not file any documents in Mr. Dominguez Flores' bond proceedings.

81. It should be noted that no hearing transcript has been made available for this hearing. Thus, the citations to the hearing are made by Counsel after having listed to the DAR recordings. Counsel has submitted a signed declaration attesting to the accuracy of the DAR recording citations contained herein.

82. From the beginning of the hearing, it seemed that Judge Perry had a negative opinion towards Mr. Dominguez Flores personally.

83. Judge Perry began the hearing by diminishing the fact that Mr. Dominguez Flores and his partner Emily were expecting a child. Specifically, IJ Perry described the ultrasound documents submitted as, "An ultra sound of a baby that, I guess, someone is having with you." (See DAR recording of 6/1/26 hearing at 4:21).

84. IJ Perry then seemingly scolded Petitioner by stating, ""In case no one has ever told you this, having a USC child does not help you much unless they are old enough to help you adjust." (See DAR recording of 6/1/26 hearing at 4:38). This is despite the fact that no testimony or arguments had yet been presented to the Court in support of Petitioner's bond request or available relief.

85. IJ Perry then identified a copy of Mr. Dominguez Flores' motion to terminate, which was filed as evidence of available relief.

86. She stated, "Exhibit 3 is marked as evidence. It is a copy of a motion to terminate that has already been ruled upon by another Judge". (See DAR recording of 6/1/26 hearing at 5:01).

87. Instead of acknowledging the purpose of why the motion was filed, IJ Perry stated, "As I am not an appellate judge, I cannot make any changes in that order". (See DAR recording of 6/1/26 hearing at 5:30). This is despite the fact that said motion was still very much pending and had not yet been adjudicated by another Judge.

88. Counsel then clarified to IJ Perry that the motion was still pending, yet she had no reaction. (See DAR recording of 6/1/26 hearing at 5:30).

89. IJ Perry then stated, "Ex. 11 is a witness list – Emily as a witness, "I'm assuming she is going to say you are a wonderful person and she wishes for you to come back to her". (See DAR recording of 6/1/26 hearing at 9:07). It should be noted that IJ perry stated this in a condescending tone that suggested she didn't believe Emily, Mr. Dominguez Flores' USC partner and mother of his unborn child, was a significant factor in his bond proceeding. Again, this was before any testimony or arguments had been presented to the Court.

90. IJ Perry then thought it appropriate to inform Mr. Dominguez Flores that he couldn't get married in the U.S. without first getting divorced in Honduras and that working in the U.S. without authorization puts him and his employer at risk. (See DAR recording of 6/1/26 hearing at 13:21 and 17:42).

91. IJ Perry then questioned Mr. Dominguez Flores about whether he had a driver's license or a work permit, to which he answered "No" to both. (See DAR recording of 6/1/26 hearing at 16:22 and 17:10).

92. IJ Perry also stated to Mr. Dominguez Flores that, because he is still legally married in Honduras, his family in the U.S., "is not as much as a hook as it could possibly be". (See DAR recording of 6/1/26 hearing at 19:30).

93. Throughout the hearing in fact, IJ Perry, as if she was an attorney for DHS, specifically identified Mr. Dominguez Flores' evidence and then proceeded to discount and diminish each of them. And this was all before DHS had made any actual argument or had presented any piece of evidence in opposition.

94. IJ Perry also did not give Counsel an opportunity to question Mr. Dominguez Flores during the hearing, although she did give Counsel an opportunity to give a closing statement.

95. At the conclusion of the hearing, the Immigration Judge issued her decision that states, "the Court finds that the [Petitioner] poses a risk of flight and should be detained on that basis." (Ex. E).

96. In support of her final decision, IJ Perry made the following findings: 1) Mr. Dominguez Flores entered the United States illegally, 2) Mr. Dominguez Flores, "has a fixed address in the United States, but only had that address for a few days before he was detained.", 3) Mr. Dominguez Flores has not obtained a driver's license nor a work authorization document, 4) Mr. Dominguez Flores is still legally married to his wife in Honduras, and 5) Mr. Dominguez Flores has made no efforts to legalize his status until he was detained. (Ex. E).

97. Based on these factors, IJ Perry ruled that no amount of bond could ever mitigate Mr. Dominguez Flores' flight risk and that she had to therefore deny him bond.

98. The justifications for IJ Perry's ruling would, if applied to all detainees, have the effect of disqualifying almost everyone from ever receiving a bond. Detainees are usually detained because they do not have legal status, and therefore do not have work authorization. To deny bond on this basis would be to ensure that almost everyone, even those with positive equities, hardship to family and no criminal record would suffer prolonged and even indefinite detention.

99. To be clear, Mr. Dominguez Flores fulfilled the majority of the factors specified in *Matter of Guerra*, 24 I&N Dec. at 38. Specifically, he established he has a fixed

address in the U.S. that he shares with his U.S. Citizen partner Emily Keene, with whom he is expecting a child. (Ex. I-M). It is not his fault that he was unlawfully arrested only a few days after signing said lease, as IJ Perry suggested. Mr. Dominguez Flores also established that he has resided in the U.S. for almost four years with absolutely no criminal history or immigration violations. He also showed that he and Emily Keene are planning to marry once he legally divorces his wife, which would permit him to begin his legal process to obtain lawful permanent resident status in the U.S. (Ex. J). Mr. Dominguez Flores also submitted information showing he has a strong likelihood of success related to his pending motion to terminate his removal proceedings based on the violations of his Fourth Amendment rights. (Ex. Q). He also showed he has a very strong work history in the U.S. and uses the income from said work to support various individuals. (Ex. N).

100. Despite the fulfillment of these factors however, IJ Perry focused solely on facts that would justify a denial of Mr. Dominguez Flores' bond request. Specifically, the IJ justified her denial because Mr. Dominguez Flores "entered the U.S. illegally", only lived at his fixed address for a few days before he was arrested, has not obtained a driver's license or work permit, is still legally married to his ex in Honduras and has made no efforts to legalize his status until he was detained. (Ex. E).

101. IJ Perry's decision not only ignores the positive factors Mr. Dominguez Flores established in his case, but mischaracterizes the factors she relies on. Specifically, her reliance on the fact that Mr. Dominguez Flores does not have a driver's license, work permit or pending legal process, places an arbitrary and unfair burden on him to receive a bond grant. Indeed, in order to actually have a driver's license, work permit

or pending legal process, one must presumably have some sort of legal status. Therefore, to require said factors would result in an impossible burden for detainees to show they merit a bond. To be clear, most detainees are detained because they do not have the proper legal status to be able to obtain a driver's license, work permit or pending legal process. The IJ's decision to seemingly require these factors in order to grant a bond essentially means that she is unwilling to grant bonds to those who actually find themselves detained. It should also be noted that having a driver's license, work permit or pending legal process are NOT factors specified in *Matter of Guerra.* Yet IJ Perry nonetheless used these unfair requirements to justify her denial. IJ Perry also seemingly ignored Mr. Dominguez Flores' path to legal status through his U.S. Citizen fiancé and his pending motion to terminate, even though both options would result in avoiding a removal and could lead to legal status in the U.S. IJ Perry's reliance on Mr. Dominguez Flores' "illegal" entry also places an undue burden on detainees but also ignores the fact that it was never actually established that he entered the U.S. unlawfully. Indeed, this was not established during his bond hearing nor was it established in his removal proceedings because Mr. Dominguez Flores had filed a motion to suppress and terminate, which was still pending at the time of his bond hearing. Furthermore, he never conceded the government's charge of an unlawful entry. Again, because of the liberty interest, there are seldom circumstances where no combination of conditions, including bond, could mitigate any flight risk. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). In this matter, Mr. Dominguez Flores has shown a plethora of positive equities, hardship to family and pathways to relief that would entitle anyone else to a bond.

102. It is clear that Mr. Dominguez Flores fulfilled enough factors under *Matter of Guerra* to merit at least a bond in a certain amount. IJ Perry's decision that *no amount of bond* could ensure his appearance at future hearings is arbitrary and without foundation and was seemingly done in order to comply with the administration's policy of detaining as many noncitizens as possible. Again, Mr. Dominguez Flores has no immigration violations or any attempts to flee prosecution or otherwise escape from authorities. He complied with CBP demands although they subjected him to an unlawful search and seizure. At the very least, there was an amount of bond that could have been ordered to ensure his compliance with future requirements. The IJ's decision to the contrary is arbitrary, irrational, irrelevant and unreasonable, in violation of *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

103. The IJ's bond decision, coupled with DHS' refusal to even entertain release on bond, deprived Mr. Dominguez Flores of a meaningful opportunity to be heard on his custody status, in violation of 8 C.F.R. section 1236.1(c)(8).

104. The only remaining recourse for Mr. Dominguez Flores is the instant Petition for Habeas Corpus.

Petitioner's Continued Detention and the Futility of the Administrative Appeal

105. Mr. Dominguez Flores did reserve appeal and timely filed said appeal of the IJ's bond denial to the BIA. (Ex. F).

106. The Board of Immigration Appeals (BIA) is an administrative body within the Executive Office for Immigration Review, a Justice Department component. 8 C.F.R. § 1003.1(d)(1).

107. The BIA adjudicates administrative appeals of Immigration Judge bond decisions. 8 C.F.R. § 1236.1(d)(3).

108. The BIA process is long, and the lengthy delays in adjudication often moot pending bond appeals before they are adjudicated.

109. In 2024, EOIR data showed an average processing time of 204 days for bond appeals. *Rodriguez v. Bostock*, 802 F. Supp. 3d 1297, 1307 (W.D. Wash. 2025). Between 2015 and 2024, bond appeal cases took a year or longer to resolve. *Id.*

110. During the time it takes the BIA to resolve a bond appeal, most detainees' claims are mooted by adjudication in their removal proceedings. *Id.*

111. There is irreparable harm caused by Petitioner's unnecessary detention. Petitioner's U.S. citizen partner Emily Keene is suffering a great deal currently because she is suddenly without her partner to help her during her pregnancy. Mr. Dominguez Flores' children in Honduras are also suffering without the assistance he normally provides. Once Emily gives birth in August, her prejudice would be significantly increased as well.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Procedural Due Process

(Against Respondents Cruz, DHS, Lyons)

112. Petitioner restates and realleges all paragraphs as if fully set forth here.

113. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their

presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

114. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

115. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a), this discretion is not "unlimited" and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.

116. Under the Due Process Clause, immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore*, 538 U.S. at 527 (quoting *Zadvydas*, 533 U.S. at 690).

117. Petitioner's detention does not bear a "reasonable relation" to either preventing flight risk or preventing danger to the community.

118. Respondents' failure to conduct an individualized custody determination and provide an opportunity for Petitioner to be heard in that process prior to or contemporaneous with Petitioner's detention violates his due process rights.

COUNT TWO

Violation of Fifth Amendment Right to Procedural Due Process
Failure by Immigration Court to conduct fair custody redetermination
(Against Respondents EOIR, Blanche)

119. Petitioner restates and realleges all paragraphs as if fully set forth here.

120. Freedom from imprisonment—from government custody, detention or other forms of physical restraint—lies at the heart of the liberty that [Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

121. Under the Due Process Clause, immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore*, 538 U.S. at 527 (quoting *Zadvydas*, 533 U.S. at 690).

122. Petitioner's detention does not bear a "reasonable relation" to either preventing flight risk or preventing danger to the community.

123. The fact that the Immigration Judge had a negative and at times condescending attitude towards Petitioner in his bond proceedings, even before DHS made any argument or filed any evidence, violates the Petitioner's due process rights. There are no circumstances in which the IJ could plausibly establish that the Petitioner posed such a flight risk that no bond amount could mitigate it. The IJ seemingly refused to even consider the positive factors in Petitioner's bond hearing and took on the role of DHS counsel throughout the hearing. Her biased outlook and refusal to consider granting a bond violated Petitioner's due process rights.

COUNT THREE

Violation of the Immigration and Nationality Act and Bond Regulations-

Unlawful Denial of Release on Bond

(Against all Respondents)

124. Petitioner restates and realleges all paragraphs as if fully set forth here.

125. Section 1226(a) is the statutory authority for detaining Mr. Dominguez Flores "pending a decision on whether he is to be removed from the United States." It affords him a right to a fair, individualized bond hearing. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

126. The DHS has failed entirely to provide a reasoned basis for the exercise of its detention authority.

127. The Immigration Judge has failed to provide any facts or probative and reasonable basis for her "no bond" determination.

128. Respondents have violated §1226(a) and its implementing regulations by detaining Petitioner since his arrest without providing him a fair, individualized release determination that the statute and regulations mandate.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court grant the following:

1. Assume jurisdiction over this matter;
2. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
3. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA, and the implementing regulations;
4. Declare that Respondent EOIR violated Petitioner's constitutional and statutory rights by failing to consider his arguments and evidence in support of bond;
5. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody;
6. In the alternative, conduct a hearing before this Court to determine whether Petitioner presents a flight risk or danger that justifies continued detention;
7. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
8. Grant any further relief this Court deems just and proper. ////////

RESPECTFULLY submitted.

I remain, respectfully yours,

LAW OFFICES OF THOMAS D. PAMILLA, APC

/S/ Thomas D. Pamilla

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VERIFICATION BY SOMEONE ACTING N PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am the attorney for Petitioner. I have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: July 29, 2026

Respectfully submitted,

/s/

Thomas D. Pamilla, Esq.

Pro Bono Counsel for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system. I will furthermore mail a copy by USPS Certified Priority Mail with Return Receipts to each of the following individuals:

Warden of Imperial Regional Detention Facility
ATTENTION WARDEN: 1572 Gateway Rd., Calexico, CA 92231

Patrick Divver, Field Office Director of San Diego U.S. Immigration and Customs Enforcement Field Office
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U.S. Immigration and Customs Enforcement, Principal Legal Advisor
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Markwayne Mullin, Secretary of the U.S. Department of Homeland Security
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Todd Blanche, Attorney General U.S. Department of Justice
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Todd M. Lyons, Acting Director, U.S. Immigration and Customs Enforcement
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Executive Officer for Immigration Review (EOIR), 5107 Leesburg Pike, 25th Floor, Falls Church, VA 22041

Dated: July 22, 2026

Respectfully submitted,

/s/

Thomas D. Pamilla, Esq.

Pro Bono Counsel for Petitioner