

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW YORK**

DANIEL SILVA CAIRES

Petitioner,

V.

KURZDORFER, et. al.

Respondents.

No. 1:25-cv-01169-LJV

PETITIONER’S MOTION TO SHOW CAUSE AND TO ENFORCE COURT’S ORDER

Petitioner hereby files this Motion to Show Cause and to Enforce Court's Order from November 20, 2025, stating as follows:

1. On November 20, 2025, this Court issued an Order granting Petitioner's habeas petition for the Respondents to conduct a bond hearing for the Petitioner within seven days of the order. The Court further ordered that the government would have the burden to demonstrate dangerousness or flight risk **by clear and convincing evidence**, and that the Immigration Judge would have to consider non-bond alternatives to detention.
2. Respectfully, Petitioner submits that the government **has not fully complied with the terms of the order.**
3. A bond hearing was scheduled for November 26, 2025, before Immigration Judge Brian J. Counihan. Prior to the hearing, Petitioner's counsel submitted evidence in support of his release, and the government submitted only one document: Form I-213, Record of Deportable/Inadmissible Alien. *See* Exhibit B.

4. The I-213 contained the following sentence: “On September 29, 2025, an Operation Patriot Field Team was conducting an operation at Malden District Court located at 4040 Mystic Valley Parkway, Medford, MA, in search of a at large criminal alien, SILVA Caires, Daniel A216 902 148. SILVA had a hearing scheduled at Malden District Court for the offense of leaving the scene of property damage.” *See* Exhibit B. Based only on this statement, the government argued that Petitioner was a danger to the community. It should also be noted that the I-213 states that Petitioner has no criminal records. *Id.*
5. Petitioner, through Undersigned Counsel, informed the Immigration Court that no other evidence had been submitted to the Court — no police report, no court docket, no sworn statement, and no corroborating documentation. Counsel further informed the Court that the charge remains pending, and that Petitioner had been arrested while voluntarily appearing in District Court. Petitioner also provided more information about the incident through his counsel, including the fact that the incident occurred during a snowstorm, nobody was injured, Petitioner tried to locate the owner of the vehicle but was not able to find him, and also that he offered to pay for all the damage as soon as he was contacted. Petitioner was present at the hearing, but the Immigration Judge chose not to take his testimony.
6. However, the Immigration Judge (“IJ”) stated that based solely on the unsworn statement in the I-213 and the recency of the charge, the government had met its burden to show dangerousness to property, and would deny Petitioner’s bond.
7. Respectfully, Petitioner maintains that the government did not comply with the Court’s Order. The IJ did not require the government to meet the mandated clear and

convincing evidence standard. The IJ treated the I-213—an unsworn document prepared by DHS, a party to the bond proceedings—as complete and sufficient proof of dangerousness, despite the absence of any corroborating evidence and despite conducting any testimony from Petitioner, who was present at the hearing, or analyzing further evidence in his case.

8. By failing to analyze any other evidence and even refusing to hear Petitioner's testimony, Petitioner argues that the Immigration Judge failed to conduct a bond hearing following the requirements set by this Court.
9. In light of these circumstances, Petitioner respectfully requests that this Court order Respondents to release him from custody under reasonable conditions of supervision during the pendency of his removal proceedings. Petitioner also informs the Court that he is scheduled for an Individual Calendar Hearing on December 15, 2025, which would be a final hearing before the Immigration Court that could cause him to receive a removal order.
10. It should be noted that Undersigned Counsel has requested the audio recording of the hearing from the Immigration Court, but to this date, has not received it, so considering the urgency of the case, Petitioner is filing this motion without it.

Respectfully submitted,

/s/ Vinicius Damasceno

Vinicius Damasceno, Esq.

Counsel for Petitioner

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Dated: December 5, 2025

CERTIFICATE OF SERVICE

I, Vinicius Damasceno, hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the NEF (NEF), and paper copies will be sent to those indicated as non-registered participants.

Dated: December 5, 2025

/s/ Vinicius Damasceno
Vinicius Damasceno, Esq.