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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

GRISELDA JULIAN-VASQUEZ,

Petitioner,

v.

ROSE THOMPSON, WARDEN, et al.,

Respondents.

Case No. 5:26-cv-00276-OLG

PETITIONER'S REPLY TO RESPONDENTS' ABBREVIATED RESPONSE to PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner provides this Reply to the Respondents' Abbreviated Response filed with this Court on February 2, 2026. As Respondents have raised no new issues and have not distinguished the present case from prior similar decisions of this Court, Petitioner submits that this case is ripe for adjudication. Nevertheless, Petitioner remains disposed to provide additional briefing on any particular issue at the Court's request.

As the issues being addressed by the Court are relatively new to legal jurisprudence, and the government's actions that are leading to the swell of cases before this Court are ever evolving, Petitioner also respectfully submits this Reply to address in greater detail why immediate release from custody is the appropriate remedy for the constitutional and statutory violations in her case, and ordering a bond hearing before the EOIR is not an adequate remedy. As detailed in *Section II*, *infra*, the systematic transformation of the immigration court from a neutral adjudicatory body into an instrument of the current administration's enforcement agenda has rendered it structurally incapable of providing Petitioner with the impartial tribunal and individualized assessment that 1226(a) and due process requires. Accordingly, the Court should exercise its equitable authority to order Petitioner's immediate release. In the alternative, the Court should conduct its own bail hearing. At a minimum, if the Court declines to order release or conduct its own hearing, it should order a bond hearing before an immigration judge with explicit procedural safeguards and retain jurisdiction to review the determination to ensure compliance with due process. Such proposed remedies are addressed in more detail in *Section III*.

I. DUE PROCESS REQUIRES THAT AN IMPARTIAL ADJUDICATOR DECIDE IF PETITIONER'S CONTINUED DETENTION BEARS A REASONABLE RELATION FLIGHT RISK AND DANGER TO THE COMMUNITY

As relevant here, due process requires that immigration detention "'bear[] a reasonable relation to the purpose for which the individual was committed.'" *Demore v. Kim*, 538 U.S. 510, 527 (2003) (quoting *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001)). Specifically, immigration detention must be reasonably related to the government's goals of preventing flight and protecting the community from harm and be accompanied by adequate procedural protections to ensure that those goals are being served. *See Zadvydas*, 533 U.S. at 690-91. Chief among these procedural protections is "the guarantee of an impartial and disinterested tribunal," which the Due Process Clause requires "in both civil and criminal cases." *Marshall v. Jerrico*, Inc., 446 U.S. 238, 242 (1980). The immigration court system has been transformed into a body that is structurally incapable of upholding Petitioner's statutory and constitutional rights.

II. EOIR'S PROFOUND INSTITUTIONAL TRANSFORMATION PRECLUDES IMPARTIAL ADJUDICATION OF PETITIONER'S BOND REQUEST

"*I can tell you that today, the immigration courts are substantively dead. They are completely absent of due process. Of fair hearings. They exist only for show, and in name only. Period. The courts are dead. If you're concerned about doing due process of fair hearings, they're gone. So we can start from that position.*" - George Pappas, former New York Immigration Judge[1]

The immigration court system is not an independent adjudicative body. It operates under the Department of Justice ("DOJ"). In the last year the DOJ and its sub-agencies, the Executive Office for Immigration Review ("EOIR") and the Board of Immigration Appeals ("BIA"), in apparent coordination with the Department of Homeland Security ("DHS") have systematically dismantled the integrity of the immigration court system to turn it into an extension of DHS' deportation and detention operations. The evidence of EOIR's institutional capture falls into five

[1] Radley Balko, *"The courts are dead." An interview with a fired immigration judge*, The Watch (Jan. 8, 2026), https://radleybalko.substack.com/p/the-courts-are-dead-an-interview

categories, each independently sufficient to establish bias, but together demonstrating systematic destruction of judicial independence: (1) the ongoing mass-scale purge of immigration judges perceived as obstacles to DHS' enforcement agenda; (2) the parallel purge and reconstitution of the BIA, resulting in a 97% pro-government decision rate; (3) the recruitment and installation of explicitly enforcement-aligned "deportation judges" with dramatically reduced qualifications; (4) EOIR policy directives establishing expectations that adjudications favor the government over noncitizens; and (5) explicit instructions to defy district court rulings that impede DHS's enforcement goals. Each category is addressed in turn below.

1) The Ongoing, Mass-Scale Purge of Immigration Judges Perceived as Obstacles to Enforcement Agenda

As of September 26, 2025, the current administration had terminated 128 immigration judges ("IJs"). Former IJ David K.S. Kim explained the targeting criteria: "I do not know the exact reason for my termination, but most of those dismissed, including myself, were judges with high asylum approval rates."[2] This is not the complaint of disgruntled employees—these are career jurists with decades of combined experience who resigned or spoke out publicly rather than compromise judicial ethics.

The terminated and resigned judges report three consistent themes. **First, explicit pressure to serve as instruments of mass deportation rather than neutral adjudicators.** 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. I think that they see the immigration courts as a tool for this administration to advance its policy

[2] Woo-Sun Lim, *Former judge highlights legal failures in U.S. worker detentions*, The Dong-A Ilbo (Sept. 20, 2025), https://www.donga.com/en/article/all/20250920/5859412/1.

objectives."[3] Former San Francisco IJ George Pappas was even more direct: "We were told to facilitate deportation… Due process is dead in immigration courts."[4]

Second, a pervasive climate of fear designed to ensure compliance. Former Baltimore Immigration Judge David C. Koelsch described it as "an atmosphere of paranoia and fear, which is exactly what they want."[5] Former Annandale Immigration Judge Anam Petit observed: "There's a climate of fear…Judges feel like, if they step a toe out of line right now…or they're one [asylum] grant away from being fired because of the arbitrary nature of the firings."[6] Former New York Immigration Judge Carmen Maria Rey Caldas similarly described judges working "under 'constant threat' of getting fired if they don't follow certain rules from leadership."[7]

Third, the inevitable compromise of judicial independence when self-preservation requires favoring the government. Former San Francisco Immigration Judge Elizabeth Young explained: "I've talked to many of [the judges still serving], and they're like, 'When I go into court, I am concerned about applying the law, but I'm also concerned that I should deny more, because if I don't, then I'll get fired.'"[8] Former Boston Immigration Judge Sarah Cade reached her breaking point: "I felt I might have to compromise my ethics and might be put in a place where I felt like I was going to be asked to violate due process. So I left and I went to private practice."[9]

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[3] Geoff Bennett & Ali Schmitz, *Ousted Immigration Judge Describes Deepening Court Backlog*, PBS NewsHour (Nov. 12, 2025), https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog.
[4] Marco Poggio, *Judges See an Immigration Court Gutted from Inside*, Law360 (Oct. 31, 2025), https://www.law360.com/articles/2381003/judges-see-an-immigration-court-gutted-from-inside.
[5] Poggio, *supra* note 4.
[6] Eric Katz, *'Climate of Fear': Immigration Judges Say Functioning of Their Court System Is in Jeopardy Due to Trump's Firings*, Gov't Executive (Nov. 14, 2025), https://www.govexec.com/management/2025/11/climate-fear-immigration-judges-say-functioning-their-court-system-jeopardy-due-trumps-firings/409544/.
[7] Isabela Dias, *"Fired for No Reason": Former Immigration Judges Speak Out Against Trump's Assault on the Courts*, Mother Jones (Oct. 9, 2025), https://www.motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-purge-dhs-ice/.
[8] Poggio, *supra* note 4.
[9] Poggio, *supra* note 4.

The message to remaining immigration judges is unmistakable: neutrality is a terminable offense. No adjudicator can remain impartial when faced with the choice between upholding due process and keeping their position. Any immigration judge assigned to Petitioner's bond hearing now operates under the understanding that granting bond may cost them their livelihood.

2) The BIA Purge and Resulting Statistical Evidence of Bias

A parallel purge occurred at the BIA which was reduced from 28 members to 15 members. All Biden appointees on the BIA were fired.[10] The statistical impact is stark. In the twelve months following the administration's inauguration (January 20, 2025 through January 22, 2026), the reconstituted BIA issued 71 published decisions.[11] Of those:

- 69 decisions (97%) favored the administration
- 1 decision was neutral (involving attorney sanctions)
- 1 decision disfavored the administration (1.4%)

By contrast, during the entire four-year span of the prior administration, the BIA issued 76 published decisions.[12] Of those:

- 46 decisions (60%) favored the administration
- 27 decisions (35%) disfavored the administration
- 1 decision was neutral (attorney sanctions)
- 2 decisions were mixed

The transformation from 60% to 97% pro-government outcomes—achieved through wholesale termination of one administration's appointees and their replacement by the next—speaks for itself.[13]

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[10] Am. Imm. Council, *BIA Decision Strips Immigration Judges of Bond Authority, All but Guaranteeing Mandatory Detention for Undocumented Immigrants* (Sept. 12, 2025), https://www.americanimmigrationcouncil.org/blog/bia-ruling-immigration-judges-bond-mandatory-detention-undocumented-immigrants/.

[11] Exec. Off. for Immigr. Rev., *Volume 29*, U.S. Dep't of Just. (Jan. 21, 2025), https://www.justice.gov/eoir/volume-29.

[12] Exec. Off. for Immigr. Rev., *Volume 28*, U.S. Dep't of Just. (June 13, 2025), https://www.justice.gov/eoir/volume-28. (First decision, *Matter of DIKHTYAR*, 28 I&N Dec. 214 (BIA 2021), issued 01/22/2021)

[13] The BIA's shift from 35% rulings against the government to 1.4% against the government represents a 96% reduction in adverse outcomes for DHS.

3) *The Installation and Recruitment of Judges Aligned with Enforcement Agenda*

To replace purged judges, the DOJ launched recruitment for what it explicitly marketed not for "immigration" judges, but for "*deportation* judges"[14] (emphasis added). DHS–a party in immigration proceedings before EOIR– promoted these openings on social media with enforcement-focused language: "Bring the hammer down on criminal illegal aliens" and "Defend your communities, your culture, your very way of life."[15]

In addition, the DOJ has authorized up to 600 military lawyers to serve as temporary immigration judges for a renewable term not to exceed six months, while simultaneously eliminating requirements to serve as a temporary immigration judge.[16] Previously, temporary judge candidates were required to have served as a former immigration judge, appellate immigration judge, or administrative judge within another agency, or to have at least 10 years of immigration law experience. The administration removed those requirements entirely, allowing "any attorney" to be selected as a temporary immigration judge and reduced training to approximately two weeks—far less than the standard training for permanent immigration judges, which includes six weeks of initial training, one year of mentorship by an experienced judge, and two years of quarterly reviews.[17] Corey Lewandowski, an adviser to DHS Secretary Noem, responded to the announcement by posting: "I see more deportations of illegal immigrants in the near future"[18]—an explicit acknowledgment of the mass deportation policy objective underlying these appointments and the erosion of institutional boundaries between DOJ and DHS. In

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[14] Murphy Marcos *supra* note 2.
[15] dhsgov, Instagram (Nov. 21, 2025), https://www.instagram.com/p/DRVT8DmCQKD/?hl=en.
[16] Designation of Temporary Immigration Judges, 90 Fed. Reg. 41,883 (Aug. 28, 2025).
[17] Margy O'Herron, *Using Military Lawyers as Immigration Judges is Ill-Advised and Potentially Illegal*, Brennan Ctr. for Just. (Sept. 29, 2025), https://www.brennancenter.org/our-work/analysis-opinion/using-military-lawyers-immigration-judges-ill-advised-and-potentially.
[18] Corey R. Lewandowski (@CLewandowski_), X (Sept. 2, 2025, 1:47 PM), https://x.com/clewandowski_/status/1962950546652070269.

December, one of the appointed temporary judges was fired just a month into his six month term. "That judge, Christopher Day, had granted asylum claims in just over half the cases he heard."[19]

4) *A Barrage Of EOIR Policy Memoranda Establishing Expectations That Adjudications Favor The Government Over Noncitizens*

Beyond personnel changes, EOIR's new acting director, Sirce E. Owen, quickly "a string of sharply worded policy memos" that immediately "[set] the tone for her leadership."[20] "Sources familiar with Owen described her as a "restrictionist loyalist" with a reputation for denying cases."[21] The Catholic Legal Immigration Network (CLINIC) observed that "these memos also seem intended to reshape EOIR, which is meant to be a neutral arbiter, into a politically driven tool advancing the Trump administration's clearly anti-immigrant views."[22] The policy directives include: a memorandum dated June 27, 2025 warning judges not to demonstrate "bias directed against DHS" or to be "adjudicatory outliers," at risk of "close examination and potential action";[23] a memorandum encouraging judges to deny asylum applications without full evidentiary hearings, styled as efficiency guidance but functioning as a directive to reduce due process protections;[24] and memorandums restricting immigration judges' ability to grant continuances[25] and administrative closure.[26]

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[19] Balko, *supra* note 1.
[20] *US army lawyer fired as immigration judge after defying Trump deportation agenda*, The Guardian (Dec. 19, 2025), https://www.theguardian.com/us-news/2025/dec/19/army-lawyer-fired-immigration-trump-deportation.
[21] Dias, *supra* note 8.
[22] Cath. Legal Immigr. Network, Inc., *Navigating EOIR Directives Under Trump 2.0: Practical Guidance for Advocates and Programs* (Apr. 22, 2025), https://www.cliniclegal.org/file-download/download/public/77642.
[23] Exec. Off. for Immigr. Rev., Policy Memorandum 25-33, Neutrality and Impartiality in Immigration Court Proceedings (June 27, 2025), https://iptp-production.s3.amazonaws.com/media/documents/2025.06.27_EOIR_-_PM_25-33.pdf.
[24] Exec. Off. for Immigr. Rev., Policy Memorandum 25-28, Pretermission of Legally Insufficient Application for Asylum (Apr. 11, 2025), https://www.justice.gov/eoir/media/1396411/dl?inline.
[25] Exec. Off. for Immigr. Rev., Policy Memorandum 25-27, Cancellation of Director's Memorandum 23-01 and Reinstatement of Policy Memorandum 19-13 (Mar. 21, 2025), https://www.justice.gov/eoir/media/1394086/dl.
[26] Exec. Off. for Immigr. Rev., Policy Memorandum 25-29, Cancellation of Director's Memorandum 22-03 (Apr. 18, 2025), https://www.justice.gov/eoir/media/1397161/dl?inline.

5) *EOIR Has Issued Explicit Directives To Ignore District Court Rulings That Impede DHS's Policy Objectives*

The clearest evidence that EOIR has abandoned its role as a neutral tribunal comes from its response to federal court orders protecting bond hearing rights. In *Maldonado Bautista v. Santacruz*, the Central District of California issued both declaratory and injunctive relief holding that noncitizens who entered without inspection but were not apprehended at the border are detained under § 1226(a), not § 1225(b)(2), and are therefore entitled to bond hearings. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). Judge Sunshine Sykes certified a nationwide class and entered final judgment. *Id.* Rather than comply with the order, EOIR leadership directed all immigration judges to ignore the order. On January 13, 2026, Chief Immigration Judge Teresa L. Riley sent an email to all immigration judges instructing:

> "Please provide the following guidance to all immigration judges forthwith: *Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay, or enjoin *Yajure Hurtado*. Therefore *Yajure Hurtado* remains binding precedent on agency adjudications. For clarification, declaratory judgments differ from injunctions in that the former clarifies parties' legal rights and relationships without ordering specific action, while the latter is a court order compelling a party to do or stop doing a specific act. A declaratory judgment is not an equitable remedy and does not, by itself, have the effect of compelling specific action by a party. Thank you for your attention to this matter."[27]

The effect was immediate: ACLU lawyers reported that immigration judges who had begun granting bond hearings in compliance with Judge Sykes' ruling reversed course after receiving Chief Judge Riley's directive.[28] Immigration judges were placed in an impossible

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[27] Am. Immigr. Laws. Ass'n, 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-nationwide-guidance-on-maldonado-bautista.

[28] *Immigration judges told to ignore rulings on bond hearings, documents show,* Massachusetts Lawyer Weekly (Jan. 20, 2026), https://masslawyersweekly.com/2026/01/20/immigration-judges-ignore-bond-hearing-rulings/

position—comply with a federal district court order and risk termination, or defy the federal court and retain their positions.

On January 16, 2026, Judge Sykes issued a scathing order directly addressing the government's systematic defiance:

> "This matter is yet another in a slew of habeas petitions following the Court's ruling in *Bautista v. Santacruz* that has unfortunately become routine in this Court. ... But individuals filing these habeas petitions are not to blame; rather, the current volume of habeas petitions and temporary restraining orders being filed can be attributed to ***Respondents' deliberate choice to continue defying the final judgment entered in Bautista***. ...
>
> Despite the clarity of the Court's previous orders and legal doctrines that preclude Respondents from relitigating issues at the heart of these requests, Respondents continue to manufacture arguments for sake of opposition. At this point in time, ***the Court can no longer confer Respondents with the benefit of the doubt as to the intent of their filings.***
>
> Despite the final judgment in Bautista, it appears that immigration judges continue to rely on legal interpretations that were expressly found unlawful. ... Respondents are collaterally estopped from relitigating the issue as to whether Bond Eligible Class members are entitled to the exact relief as provided in the Bautista final judgment. Accordingly, Respondents are collaterally estopped from relitigating this issue against all members of the Bond Eligible Class."
>
> *Palomera Baltazar v. Janecka,* No. 5:26-cv-00019-SSS-BFM at *2-3 (C.D. Cal. Jan. 16, 2026). (emphasis added)

Judge Sykes' findings are devastating: the government is not merely disagreeing with her legal conclusions—it is engaged in "deliberate" defiance, "manufacturing arguments," and instructing immigration judges to rely on "interpretations that were expressly found unlawful." This is not a case of good-faith disagreement over statutory interpretation. It is systematic institutional defiance of federal court orders, orchestrated by EOIR leadership and enforced through the threat of termination. No clearer evidence of institutional capture could exist: when presented with a federal court order protecting noncitizens' rights, EOIR's response was to order judges to violate it. The ultimate victim is the detained noncitizen, who like Petitioner, remains

detained in violation of the due process and is denied their fundamental right to have an impartial adjudicator determine whether their continued detention serves any legitimate purpose related to flight risk or community safety.

III. PRAYER FOR RELIEF

As stated in Petitioner's original Petition, she asserts that the most appropriate remedy in her case is her immediate release. **ECF 1, p 16.** She has been mandatorily detained in spite of her extensive ties to the U.S. and in spite of the fact that she already had relief pending with DHS that would potentially allow her to obtain lawful permanent residence. **Id. and ECF 1-1, p. 4-6.** The "equitable and flexible nature of habeas relief" affords district courts significant discretion over the appropriate remedies for violations of law and the Constitution. V*elasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020); *see also Schlup v. Delo*, 513 U.S. 298, 319 (1995) ("[H]abeas corpus is, at its core, an equitable remedy"). This Court should order a remedy that fully addresses the statutory and constitutional violations in this case and is efficient to administer. *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968) (the habeas statute "does not limit the relief that may be granted to discharge of the applicant from physical custody. Its mandate is broad with respect to the relief that may be granted")."In recent months, courts across the country have ordered the release of detainees in similar situations." *Moctezuma v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (given that the government's repeated use of unlawful detention policies across the country, causing petitioners to "sit in jail waiting for a judicial decision," the court would order immediate release instead of causing additional delay through a bond hearing). (citing *Lepe v. Andrews*, 801 F. Supp. 3d 1104 (E.D. Cal. 2025); *J.U. v. Maldonado*, No. 25-cv-4836, 2025 WL 2772765, at *10 (E.D.N.Y. Sept.

29, 2025); *Rosado v. Figueroa*, No. 25-cv-2157, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025); Pinchi v. Noem, No. 25-cv-05632, 2025 WL 1853763, at *4 (N.D. Cal. July 4, 2025). *Santiago v. Noem*, No. EP-25-CV-361, 2025 WL 2792588, at *13-14 (W.D. Tex. Oct. 2, 2025)("Without a legitimate interest in her detention, immediate release appropriately remedies Respondents' violation of [Petitioner's] due process rights through her continued detention.")

In the alternative, Petitioner requests a custody hearing before this District Court. The habeas court can hold its own custody hearing and determine whether the government can prove by clear and convincing evidence that Petitioner must remain in custody, or whether she may be released on recognizance.[29]

Furthermore, at a bare minimum, the court should order that Petitioner be provided a 1226(a) bond hearing, *but with additional safeguards*. Specifically, the Court should order:

a. A bond hearing where the government shall bear the burden of establishing by clear and convincing evidence that Petitioner poses a danger or flight risk to "[reflect] the concern that '[b]ecause the alien's potential loss of liberty is so severe ... he should not have to share the risk of error equally.'" *See Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 688 (W.D. Tex. 2025).

[29] *See e.g. L.G.M. v. LaRocco*, 788 F.Supp.3d 401, 405-07 (E.D.N.Y. 2025) (ordering a bond hearing held by the habeas court, as this would be more efficient than delegating the task to the agency and ensure proper constitutional oversight); *Flores-Powell v. Chadbourne*, 677 F.Supp.2d 474-78 (D. Mass 2010) (granting petition and discussing at length habeas court's equitable power, which includes power to hold its own bail hearing); *see also Santos v. Lowe*, No. 1:18-CV-1553, 2020 WL 4530728, at *4 (M.D. Pa. Aug. 6, 2020) (finding that habeas court-ordered bond hearing was not individualized and did not comport with due process, and granting motion to enforce to hold the court's own bond determination); *Ramirez v. Watkins*, No. 10-cv-126, 2010 WL 6269226, at *19-20 (S.D. Tex. Nov. 3, 2010), *rep. and rec not reached,* (S.D. Tex. Dec. 8, 2010) (dismissing case as moot) (recommending the habeas court conduct its own bail inquiry, as it would be more efficient, ensure supervision over any compliance issues, and avoid further proceedings).

b. Provide that the habeas court shall retain jurisdiction to review the immigration judge bond decision to ensure compliance with the court's order and due process.

c. Prohibit ICE from invoking the automatic stay provisions under 8 C.F.R. § 1003.19(i)(2) because this court has ruled that their application violates the procedural due process rights of noncitizens granted bond. *See Gutierrez v. Thompson*, No. 4:25-4695, 2025 WL 3187521, at *8 (S.D. Tex. Nov. 14, 2025).

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Dated: February 2, 2026