

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

ERIK IVAN RODRIGUEZ FLORES,
Petitioner,

v.

PAMELA BONDI, *Attorney General, et*
al.
Respondents.

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EP-26-CV-00338-DB

AMENDED MOTION CHALLENGING BOND DECISION AND
TO ENFORCE HABEAS JUDGMENT
EXPEDITED HANDLING REQUESTED

Petitioner Erik Ivan Rodriguez Flores by and through the undersigned attorney hereby files this Amended Motion Challenging Bond Decision and to Enforce Habeas Judgment.

INTRODUCTION

1. Mr. Rodriguez Flores filed his Verified Petition for Writ of Habeas Corpus (Petition) on February 5, 2026. ECF No. 1. On February 11, 2026, this Court granted in part his Petition “on procedural due process grounds.” ECF No. 6 at 4.

2. In its Order, the Court ordered Respondents to provide Mr. Rodriguez Flores “with a bond hearing before an immigration judge” or “release [him] from custody . . . no later than February 13, 2026.” *Id.*

3. The Court also ordered that Respondents file an advisory informing the Court when the bond hearing would be. *Id.* at 5. A redetermination hearing before an immigration judge was scheduled for February 13, 2026. ECF No. 7-1.

The constitutionally deficient bond redetermination hearing

4. It appears a bond hearing occurred as scheduled. *See* Dkt. 8-1. Troublingly, there is almost no information about what took place at the hearing, including whether the Government carried its burden to present clear and convincing evidence that Mr. Rodriguez Flores poses a flight risk.

5. The only information Mr. Rodriguez Flores, counsel, and the Court has about the hearing is that “[Mr. Rodriguez Flores] is a flight risk as he has a final order of removal (as of 2/5/2026), and no amount of bond or other conditions will ensure [his] appearance for his removal.” Dkt. 8-1.

6. Respondents Advisory, Dkt. 8, certainly does not “inform[] the Court, **in detail**, of the reasons for the IJ’s bond hearing decision.” Dkt. 6 at 5 (emphasis added).

7. Mr. Rodriguez Flores did not have advance notice of the hearing, much less time to meaningfully prepare for the hearing.

8. He did not have telephonic or videoconferencing contact with the undersigned counsel prior to the hearing. Inability to access counsel apparently is typical ERO East Montana. Publicly available reporting indicates that Respondents’ own inspectors have found at least 60 violations of federal standards for immigrant detention at ERO East Montana, including not providing detainees with means to contact attorneys or access information about their cases.¹

¹ Douglas MacMillan, *ICE taking steps to close detention center at Fort Bliss, document shows*, WASH. POST, Mar. 5, 2026, at A1.

9. After the redetermination hearing, counsel was able to confer with Mr. Rodriguez Flores. It is not clear whether an interpreter was provided at the hearing or whether the IJ ensured Mr. Rodriguez Flores understood the proceedings. A U.S. district judge recently reviewed a bond hearing audio recording and concluded that the hearing was constitutionally deficient.²

10. Mr. Rodriguez Flores reported that he was not represented by counsel at the bond hearing.

11. Little information—much less detailed information—is known about the hearing, including what evidentiary standard the IJ applied when making her decision; what evidence Respondents presented in support of continued detention; how the IJ considered the evidence; whether Mr. Rodriguez Flores had the opportunity to present evidence; or whether he was afforded the opportunity to make any statement on his own behalf.

12. No information is known about what conditions of release the IJ considered and rejected or whether the IJ determined an amount of bond would ensure Mr. Rodriguez Flores's appearance.

13. The sole basis for the IJ's bond determination is that he has an order of removal ("Removal Order"). Dkts. 8 & 8-1.

² A U.S. district judge recently reviewed an audio recording of a bond hearing and concluded, "the considerations upon which it was determined that [p]etitioner constitutes a flight risk were so lacking in probative value as to that issue that their use in determining flight risk failed to provide the [p]etitioner with constitutionally sufficient due process." *Mendez Trigueros v. Guadian*, No. 1:26-cv-00205-AJT-WBP, ECF No. 13, 6–7 (E.D. Va. Feb. 18, 2026).

The problematic proceedings underlying the Removal Order

14. Mr. Rodriguez Flores had a pending asylum claim when he was detained in Minnesota on January 7, 2026. He was transferred to Texas the very next morning, January 8, 2026. He did not have a final order of removal when he was detained in Minnesota or when he arrived in Texas.

15. According to Respondents' Advisory, Mr. Rodriguez Flores became subject to an order of removal ("Removal Order") on February 5, 2026. *See* Dkt. 8-1. It appears from Respondents' Advisory to the Court that the only basis for denying him bond is the recently issued Removal Order. Dkts. 8 & 8-1.

16. Counsel for Mr. Rodriguez Flores did not see the Removal Order until yesterday, March 4, 2026. A true and correct copy of the Removal Order is attached hereto as Exhibit A. Notably, the Removal Order indicates that it is only a "summary [issued] for the convenience of the parties" rather than the "official opinion" of the immigration court. Removal Order at 1.

17. The summary of the Removal Order indicates that Mr. Rodriguez Flores withdrew his asylum claim *with prejudice*; his claim for withholding of removal under the Immigration and Nationality Act *with prejudice*; and his claim for withholding of removal under the Convention Against Torture *with prejudice. Id.* He also waived his right to appeal, again, *with prejudice. Id.* at 4.

18. "With prejudice" is a legal term of art with significant legal effect. *See Semtek Int'l Inc. v. Lockheed Martin Corp.*, 531 U.S. 497, 505 (2001) (analyzing "prejudice" language in the Fed. R. Civ. P. 41 context).

19. The procedures for removal proceedings are in Title 8 U.S.C. § 1229a. The procedures require, *inter alia*, “the alien shall have the privilege of being represented, at no expense to the Government, by counsel of the alien’s choosing who is authorized to practice in such proceedings” and “a reasonable opportunity to examine the evidence against the alien, to present evidence on the alien’s own behalf, and to cross-examine witnesses” 8 U.S.C.A. § 1229a(4)(A–B).

20. Mr. Rodriguez Flores does not speak or read English. He was not represented by counsel at the removal proceedings. It is not known whether he was afforded the opportunity to contact counsel prior to the hearing.

21. This Court’s Order granting in part Mr. Rodriguez Flores’s Petition required Respondents file “an advisory informing the Court, in detail, of the reasons for the [immigration judge’s] bond hearing decision no later than February 17, 2026.” *Id.* The only reason provided to this Court for the decision is the existence of the Removal Order.

22. Based on the limited information that counsel has learned raises serious due process issues about Mr. Rodriguez Flores’s treatment and the facts giving rise to his (continuing) detention, including procedures at the bond redetermination hearing as well as during the removal proceedings. Thus, Respondents have not complied with the Court’s Order.

23. Because Mr. Rodriguez Flores remains in Respondents’ custody in violation both of his due process rights and this Court’s Order, he now moves to challenge the IJ’s bond determination and enforce this Court’s judgment; he respectfully requests that the Court order Respondents release him in accordance with its Order.

ARGUMENT

24. “It is axiomatic that federal courts possess ‘inherent power to enforce their judgments.’” *Thomas v. Hughes*, 27 F.4th 363, 368 (5th Cir. 2022) (quoting *Peacock v. Thomas*, 516 U.S. 349, 356, (1996) (cleaned up)); *Johnson v. Hankook Tire Am. Corp.*, 449 F. App’x 329, 334 (5th Cir. 2011) (affirming imposition of sanctions for not complying with district court’s order). “Included in a district court’s power to administer its decrees is the power to construe and interpret the language of the original order.” *Cdm Holding Grp. v. Tidal Commerce*, No. 8:21-cv-1204-CJC (DFMx), 2023 WL 5167357, at *1 (C.D. Cal. July 3, 2023) (quoting *SEC v. Hermil, Inc.*, 838 F.2d 1151, 1153 (11th Cir. 1988)). “A motion to enforce judgment is the usual method for requesting a court to interpret its own judgment.” *Heartland Hosp. v. Thompson*, 328 F. Supp. 2d 8, 11 (D.D.C. 2004), *aff’d sub nom. Heartland Reg’l Med. Ctr. v. Leavitt*, 415 F.3d 24 (D.C. Cir. 2005) (citing *Hermil*, 838 F.2d at 1153).

25. “The Supreme Court has held that the inherent power ‘reaches both conduct before the court and that beyond the court’s confines’ such that courts may achieve ‘submission to their lawful mandates.’” *Blanco River v. Green*, 457 F. App’x 431, 438 (5th Cir. 2012) (quoting *Chambers v. NASCO*, 501 U.S. 32, 43–44 (1991)). These powers include a court’s “ability to fashion an appropriate sanction for conduct which abuses the judicial process.” *Chambers*, 501 U.S. at 44–45. “This power reaches both conduct before the court and that beyond” when there is “disobedience [of] the orders of the Judiciary, regardless of whether such disobedience interfered with the conduct of trial.” *Id.* at 44 (cleaned up).

26. “[I]n habeas cases where the [c]ourt finds an ongoing detention unlawful, ‘the typical remedy for such detention is, of course, release.’” *Ochoa v. Vergara*, No. 1:26-CV-266-RP, 2026 WL 482211, at *4 (W.D. Tex. Feb. 20, 2026) (quoting *Munaf v. Geren*, 553 U.S. 674, 693 (2008)). “[B]ond hearings are ‘no substitute for the requirement that ICE 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.’” *Longoria Mendoza v. Noem et al.*, No. 5:26-cv-728-JKP, at 17 (Feb. 26, 2026) (quoting *Cruz-Reyes v. Bondi*, No. 5:26-CV-60, 2026 WL 332315, at *5 (S.D. Tex. Feb. 3, 2026)). Indeed, courts in the Western District of Texas have “upon further consideration . . . join[ed] other district courts across the country in finding that the significant violation of [p]etitioner’s due process rights and other prudential concerns weigh in favor of ordering [p]etitioner’s immediate release.” *Id.* at 16 (quoting *Cruz-Reyes*, 2026 WL 332315, at *5).

27. The Court previously determined that Mr. Rodriguez Flores is entitled to habeas relief. ECF No. 6 at 4. The Court ordered that Mr. Rodriguez Flores be provided either (1) a bond hearing before an immigration judge; or (2) that he be released from custody “**no later than February 13, 2026.**” *Id.* at 4 (emphasis in original).

28. On February 13, 2026, the Immigration Court in El Paso, Texas conducted a custody redetermination hearing. Respondents have not provided any evidence that they complied with the requirements of the Court’s February 5, 2026 Order, including that “the government shall bear the burden of justifying, by clear and convincing evidence, the dangerousness or flight risk for [Mr. Rodriguez Flores’s] continued detention,” ECF No. 6 at 4, as well as fundamental constitutional principles of due process.

29. There is no evidence that the necessary *individualized* determination was made. The sole basis for the IJ’s bond redetermination is the existence of the Removal Order. But the Removal Order itself is suspect.

30. The Removal Order—for which we have only a summary—was issued after a proceeding at which Mr. Rodriguez Flores was not represented by counsel and where he—a non-English speaker—withdrew various claims and rights with prejudice. There is no indication that the immigration court explained or that Mr. Rodriguez Flores understood the legal significance of the legal term of art “with prejudice.” This raises further significant concerns about violations of his due process rights.

31. Moreover, in light of recent orders issued in the Western District of Texas, it is not clear that bond hearings are adequate to protect detainee’s constitutional rights. *See, e.g., Acosta Espana v. Ortega, et al.*, No. 1:26-CV-300-DAE, 2026 WL 594362, at *5 (W.D. Tex. Mar. 2, 2026); *Longoria*, No. 5:26-CV-728-JKP, Dkt. #9, at 17–18; *Villegas Angel v. Noem, et al.*, No. 1:26-CV-00384-DAE, 2026 WL 594368, at *5 (W.D. Tex. Mar. 3, 2026); *Azua-Zuniga v. Bondi*, No. 1:26-CV-287-RP, 2026 WL 482453, at *4 (W.D. Tex. Feb. 20, 2026); *Gomez Alvarado v. Vergara, et al.*, No. 1:26-CV-00309-DAE, 2026 WL 594366, at *5 (W.D. Tex. Mar. 2, 2026); *and see Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588, at *13–14 (W.D. Tex. Oct. 2, 2025) (collecting cases and finding that “immediate release appropriately remedies Respondents’ violation of [] due process rights through [] continued detention.”).

32. Thus, in keeping with the conclusions of federal courts around the United States and in the Western District of Texas, Mr. Rodriguez Flores asserts that the “hearing”

conducted by the Immigration Court failed to comply with this Court's Order. And he further contends the sole basis for his continued detention, the Removal Order, is legally suspect.

33. The Court's Order was clear that if Respondents did not provide Mr. Rodriguez Flores a bond hearing in compliance with the Court's requirements, Respondents were to release him from custody **by February 13, 2026**. ECF No. 6 at 4.

34. Mr. Rodriguez Flores remains in Respondents' custody nearly two weeks after the Court's February 13, 2026 deadline passed.

35. Accordingly, Mr. Rodriguez Flores respectfully moves this Court to issue an order directing Respondents to comply immediately with the Court's Order and release him.

PRAYER FOR RELIEF

WHEREFORE, Mr. Rodriguez Flores prays that this Court grant the following relief:

(1) Issue an order requiring Mr. Rodriguez Flores's immediate release;

(2) Issue an order specifying relief to ensure a safe return home, including release:

(a) In Minnesota;

(b) At a safe time and place communicated in advance to counsel; and

(c) With all of Mr. Rodriguez Flores's personal effects, such as driver's license, immigration papers, passport, cell phone, and keys.

(3) Enjoin Respondents from implementing any condition of release, including ICE's "Alternatives to Detention" measures, which include ankle monitors, body-worn GPS, telephonic tracking, or use of the SmartLINK Mobile Application; and

(4) Grant any other and further relief that this Court may deem just and proper.

Respectfully submitted,

Date: March 5, 2026

/s/ María Amelia Calaf

María Amelia Calaf

State Bar No. 24081915

Jennifer Rappoport

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Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on March 5, 2026, I caused a copy of the foregoing Motion to be served on Respondents through counsel via the Court's CM/ECF system.

/s/ María Amelia Calaf
María Amelia Calaf

EXHIBIT A



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
EL PASO SPC IMMIGRATION COURT

Respondent Name:

RODRIGUEZ FLORES, ERIK

To:

RODRIGUEZ FLORES, ERIK
EL PASO CAMP EAST MONTANA
6920 DIGITAL RD
EL PASO, TX 79936

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

02/05/2026

ORDER OF THE IMMIGRATION JUDGE

- ☒ This is a summary of the oral decision entered on 02/05/2026. The oral decision in this case is the official opinion, and the immigration court issued this summary for the convenience of the parties.
- ☐ Both parties waived the issuance of a formal oral decision in this proceeding.

I. Removability

The immigration court found Respondent ☐ removable ☐ inadmissible under the following Section(s) of the Immigration and Nationality Act (INA or Act): 212(a)(7)(A)(i)(II)

The immigration court found Respondent ☐ not removable ☐ not inadmissible under the following Section(s) of the Act:

II. Applications for Relief

Respondent's application for:

A. Asylum/Withholding/Convention Against Torture

- ☒ Asylum was ☐ granted ☐ denied ☒ withdrawn with prejudice ☐ withdrawn without prejudice
- ☒ Withholding of Removal under INA § 241(b)(3) was ☐ granted ☐ denied ☒ withdrawn with prejudice ☐ withdrawn without prejudice
- ☒ Withholding of Removal under the Convention Against Torture was ☐ granted ☐ denied ☒ withdrawn with prejudice ☐ withdrawn without prejudice
- ☒ Deferral of Removal under the Convention Against Torture was ☐ granted ☐ denied ☒ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Respondent knowingly filed a frivolous application for asylum after notice of the consequences. *See* INA § 208(d)(6); 8 C.F.R. §1208.20

B. Cancellation of Removal

- ☐ Cancellation of Removal for Lawful Permanent Residents under INA § 240A(a) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Special Rule Cancellation of Removal under INA § 240A(b)(2) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

C. Waiver

- ☐ A waiver under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

D. Adjustment of Status

- ☐ Adjustment of Status under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

E. Other

III. Voluntary Departure

- ☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☐ post-conclusion voluntary departure under INA § 240B(b) was ☐ denied.
- ☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☐ post-conclusion voluntary departure under INA § 240B(b) was ☐ granted, and Respondent is ordered to depart by . The respondent must post a \$ bond with DHS within five business days of this order. Failure to post the bond as required or to depart by the required date will result in an alternate order of removal to taking effect immediately.
- ☐ The respondent is subject to the following conditions to ensure his or her timely departure from the United States:
- ☐ Further information regarding voluntary departure has been added to the record.
- ☐ Respondent was advised of the limitation on discretionary relief, the consequences for failure to depart as ordered, the bond posting requirements, and the consequences of filing a post-order motion to reopen or reconsider:

If Respondent fails to voluntarily depart within the time specified or any extensions granted by the DHS, Respondent shall be subject to a civil monetary penalty as provided by relevant statute, regulation, and policy. *See* INA § 240B(d)(1). The immigration court has set

- ☐ the presumptive civil monetary penalty amount of \$3,000.00 USD
- ☐ \$ USD instead of the presumptive amount.

If Respondent fails to voluntarily depart within the time specified, the alternate order of removal shall automatically take effect, and Respondent shall be ineligible, for a period of

10 years, for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Act, to include cancellation of removal, adjustment of status, registry, or change of nonimmigrant status. *Id.* If Respondent files a motion to reopen or reconsider prior to the expiration of the voluntary departure period set forth above, the grant of voluntary departure is automatically terminated; the period allowed for voluntary departure is not stayed, tolled, or extended. If the grant of voluntary departure is automatically terminated upon the filing of such a motion, the penalties for failure to depart under section 240B(d) of the Act shall not apply.

If Respondent appeals this decision, Respondent must provide to the Board of Immigration Appeals (Board), within 30 days of filing an appeal, sufficient proof of having posted the voluntary departure bond. The Board will not reinstate the voluntary departure period in its final order if Respondent does not submit timely proof to the Board that the voluntary departure bond has been posted.

In the case of conversion to a removal order where the alternate order of removal immediately takes effect, where Respondent willfully fails or refuses (1) to depart from the United States pursuant to the immigration court's order, (2) to make timely application in good faith for travel or other documents necessary to depart the United States, (3) to present themselves at the time and place required for removal by the DHS, or (4) conspires to or takes any action designed to prevent or hamper their departure pursuant to the order of removal, Respondent shall be subject to a civil monetary penalty for each day Respondent is in violation, pursuant to INA § 274D and 8 C.F.R. § 280.53(b)(14). If Respondent is removable pursuant to INA § 237(a), then Respondent shall be further fined and/or imprisoned for up to 10 years. See INA § 243(a)(1). Further, any Respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than two years, or both. 8 U.S.C. § 1326(a).

IV. Removal

- ☒ Respondent was ordered removed to Venezuela.
- ☐ In the alternative, Respondent was ordered removed to
- ☐ Respondent was advised of the penalties for failure to depart pursuant to the removal order:

If Respondent is subject to a final order of removal and willfully fails or refuses (1) to depart from the United States pursuant to the immigration court's order, (2) to make timely application in good faith for travel or other documents necessary to depart the United States, (3) to present themselves at the time and place required for removal by the DHS, or (4) conspires to or takes any action designed to prevent or hamper their departure pursuant to the order of removal, Respondent shall be subject to a civil monetary penalty for each day Respondent is in violation, pursuant to INA § 274D and 8 C.F.R. § 280.53(b)(14). If Respondent is removable pursuant to INA § 237(a), then Respondent shall be further fined and/or imprisoned for up to 10 years. See INA § 243(a)(1). Further, any Respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than two years, or both. 8 U.S.C. § 1326(a).

V. Other

- ☐ Proceedings were ☐ dismissed ☐ terminated with prejudice
☐ terminated without prejudice ☐ administratively closed.
- ☐ Respondent's status was rescinded under INA § 246.
- ☐ Other:



Immigration Judge: Dean S. Tuckman 02/05/2026

Appeal: Department of Homeland Security: ☒ waived ☐ reserved
Respondent: ☒ waived ☐ reserved

Appeal Due:

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [P] Alien c/o custodial officer | [] Alien atty/rep. | [P] DHS

Respondent Name : RODRIGUEZ FLORES, ERIK | A-Number : 

Riders:

Date: 02/05/2026 By: Antunez, Danny, Court Staff