

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

Odrice ALISMA

Petitioner,

vs.

Jason STREEVAL, Warden,
Stewart Detention Center
KRISTI NOEM, Secretary
Department of Homeland Security;
TODD LYONS, Director,
Immigration Customs Enforcement;
PAMELA BONDI, Attorney
General; **NICK ANNAN**, Director,
Atlanta ICE Field Office

Respondents.

) **CASE NO. 4:26-cv-226-CDL-AGH**
)
)
) **AMENDED PETITION FOR WRIT OF**
) **HABEAS CORPUS UNDER 28 U.S.C. § 2241**
) **AND COMPLAINT FOR INJUNCTIVE**
) **AND DECLARATORY RELIEF**

**MOTION TO ENFORCE JUDGMENT AND TO SHOW CAUSE RE: CONTEMPT
IMMEDIATE HEARING REQUESTED**

Petitioner respectfully requests an immediate hearing on this motion. Petitioner seeks an Order enforcing the Court's prior judgment by: (1) directing Petitioner's immediate release from detention; or, in the alternative, (2) setting a reasonable bond of no more than \$1,500 and/or non-monetary conditions of release. In the further alternative, Petitioner requests an order directing Respondents to provide a new, constitutionally compliant bond hearing within 24 hours at which the government must prove by clear and convincing evidence that Petitioner is a flight risk or danger that cannot be mitigated by any conditions of release, and at which the Immigration Judge must consider Petitioner's ability to pay.

I. INTRODUCTION AND BACKGROUND

Petitioner, Odrice Alisma, through undersigned counsel, respectfully moves this Court to enforce its Order of February 9, 2026 [ECF Dkt. 3], entered in *Alisma v. Streeval, et al.*, No. 4:26-cv-226-CDL-AGH (M.D. Ga.). In that Order, this Court granted Petitioner's Habeas Petition and ordered Respondents to "provide Petitioner with a bond hearing to determine if the Petitioner may be released on bond under § 1226(a)(2) and the applicable regulations. See 8 C.F.R. §§ 236.1 & 1236.1." This motion seeks immediate enforcement of the Court's Order because Respondents failed to provide Petitioner with a constitutionally valid bond hearing. Specifically, the immigration judge (IJ), Andrew Hewitt, proceeded without taking any recess to review the dozens of pages of evidence and written bond motion filed on Petitioner's behalf, failed to conduct an individualized assessment of Petitioner's circumstances, did not adequately consider his strong family and community ties or his years-long record of compliance with DHS parole and ICE reporting requirements, and made a baseless risk-of-flight finding by relying on an internally inconsistent Form I-213 and characterizing his pending applications for asylum and related protection as "speculative," despite the absence of any criminal history or prior noncompliance.

The IJ then denied bond entirely, finding “Flight risk and speculative relief before the court,” resulting in Petitioner’s continued unlawful detention. See Exhibit 1 – Order of the Immigration Judge (denying bond, Feb. 13, 2026); Exhibit 2 – Affidavit of Lana Joseph, Esq.; Exhibit 3 – Hearing Transcript. The I-213 is riddled with errors, incorrectly states he was released on parole 2/2023, but he was actually released 2/2022, which shows on the other paperwork included with it. All the documents say he native language is Spanish and the documents were read to him in Spanish although Petitioner’s language is Creole. Respondents did not have a Creole interpreter at the bond hearing.

Therefore, Petitioner requests an immediate hearing on this motion and/or an Order for Petitioner’s immediate release from detention without bond or, alternatively, with a reasonable bond amount of \$1,500, as allowed by 8 U.S.C. § 1226(a)(2)(A). This motion does not ask the Court to reweigh the IJ’s discretionary balancing; it asks the Court to enforce its conditional grant of habeas by requiring the kind of hearing the Court ordered and due process demands.

As set out below, Petitioner’s primary request is immediate release (or a Court-set bond of \$1,500) as the only effective enforcement of the February 9, 2026 Order; in the alternative, he seeks a new bond hearing with the burden properly placed on the government.

In seeking this relief, Petitioner invokes this Court’s inherent authority to enforce its own orders and protect the integrity of its judgments, as well as its powers under the All Writs Act, 28 U.S.C. § 1651(a), its contempt authority under 18 U.S.C. § 401, and its authority under Federal Rule of Civil Procedure 70 to ensure specific performance of its February 9, 2026 Order. The legal grounds for this Motion are set forth more fully in the accompanying Brief in Support of Petitioner’s Motion to Enforce Judgment and to Show Cause re: Contempt.

II. FACTUAL ALLEGATIONS SUPPORTING ENFORCEMENT

Petitioner is a noncitizen and a native and citizen of Haiti who entered the United States on or about December 31, 2021 and has lived here continuously since that time. He resides with his U.S. citizen sister and sponsor, Lynda Alisma Louis, at a fixed address in Jacksonville, Florida; his parents are lawful permanent residents, and he has multiple siblings in the United States, including U.S. citizens and a lawful permanent resident. Petitioner has no criminal history whatsoever. He timely filed an affirmative Form I-589 Application for Asylum and Withholding of Removal with USCIS on or about September 12, 2022, has renewed that application defensively before the Immigration Court, and also has a pending application for Temporary Protected Status; he seeks protection under asylum, withholding of removal, and the Convention Against Torture. He has been issued employment authorization documents, including a renewed EAD valid through 2030.

Prior to his current detention, Petitioner had a long and undisputed history of compliance with DHS supervision. On February 15, 2022, DHS issued a Notice of Custody Determination (Form I-286) and released him from custody on parole with reporting requirements, directing him to reside at his sister's Jacksonville address and to report regularly to ICE. Over the next several years, from 2022 through 2025, Petitioner complied with all ICE reporting obligations without incident, maintained his approved address, and lawfully worked pursuant to his employment authorization.

On November 5, 2025, Petitioner appeared in person, as required, for a routine check-in at the ICE Non-Detained Unit in Jacksonville, Florida. Without any prior allegation of noncompliance, ICE officers took him into custody at that appointment. He was subsequently transferred to the Stewart Detention Center in Lumpkin, Georgia, where he remains detained.

Upon filing a habeas petition, this Court, on February 9, 2026, ordered Respondents to provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a). Pursuant to the Court's Order, Immigration Judge Andrew Hewitt conducted a bond hearing on February 13, 2026. However, that hearing was constitutionally defective and failed to comply with this Court's mandate. The IJ acknowledged that DHS did not contend Petitioner was a danger to the community, and DHS confirmed it was not advancing a danger argument, yet the IJ nonetheless denied bond based on a cursory and legally insufficient flight-risk rationale, relying on DHS's assertion that Petitioner's relief was "speculative" and that he had previously failed to comply with an alleged credible-fear interview. The written order states that bond was "Denied, because Flight risk and speculative relief before the court."

The specific facts of the defective hearing are as follows:

1. Cursory Hearing and Failure to Develop the Record. On February 13, 2026, IJ Andrew Hewitt convened a custody-redetermination hearing pursuant to this Court's order. Prior to the hearing, Petitioner's counsel filed a bond motion and approximately fifty-eight (58) pages of documentary evidence addressing jurisdiction, flight risk, danger, parole history, long-term ICE compliance, and strong family and community ties, including affidavits from his U.S. citizen sister and church, evidence of his parents' lawful permanent resident status, proof of his employment authorization, and documentation of his prior parole and ICE reporting. At the hearing, the IJ accepted the Middle District habeas petition and order, Petitioner's evidence packet, and DHS's Form I-213 into the bond record, but he took no sworn testimony from Petitioner or any witness and limited the proceeding to a brief colloquy with counsel. Despite the volume and significance of the evidence, the hearing lasted only a short time, and the IJ did not meaningfully probe or resolve the acknowledged

inconsistencies in DHS's own I-213 narrative regarding Petitioner's prior parole, asylum filings, TPS application, and alleged failure to appear for a credible-fear interview.

2. **Voluminous Unreviewed Evidence.** Prior to the hearing, Petitioner's counsel filed approximately fifty-eight (58) pages of exhibits and a written motion in support of bond, addressing jurisdiction, flight risk, danger, his supervision and parole history, strong family and community ties, and his long-term compliance with ICE reporting requirements. Despite IJ Hewitt's on-the-record acknowledgment that he had received these filings, the hearing lasted only a few minutes from start to finish, and the IJ took no recess to review the file. This timeline makes any meaningful review of the 58 pages of evidence a practical impossibility.
3. **Absence of Government Evidence and Reliance on Unsubstantiated Assertions.** At the hearing, the Department of Homeland Security (DHS) submitted no documentary evidence of dangerousness and relied primarily on a Form I-213 and related custody paperwork to argue that Petitioner was a flight risk. DHS counsel asserted that Petitioner was a flight risk because his applications for asylum and Temporary Protected Status were "speculative" and because, according to the I-213 narrative, he allegedly failed to appear for a July 25, 2025 credible-fear interview. DHS offered no additional exhibits to substantiate that allegation or to contradict the undisputed evidence of Petitioner's four-year record of compliance with DHS parole and ICE reporting. Although IJ Hewitt expressly noted on the record that the I-213's account of Petitioner's immigration history—including references to expedited removal processing, parole, USCIS "closing" an I-589 for IJ jurisdiction before any NTA was issued, and a purported credible-fear interview—was confusing and internally inconsistent with the Notice to Appear and procedural posture of

the case, he did not require DHS to reconcile those inconsistencies or to present any individualized evidence that Petitioner was likely to abscond.

4. Failure to Conduct an Individualized Hearing. The IJ took no sworn testimony from Petitioner or from any witness. The entire hearing consisted of a brief colloquy between the IJ and counsel. The IJ failed to address or meaningfully engage with the undisputed facts in the record, including Petitioner's complete lack of criminal history; his four-year history of compliance with DHS parole and ICE reporting requirements from 2022 through his November 5, 2025 check-in; his timely filed and still-pending asylum application and related protection claims; his valid employment authorization and recent lawful employment; his fixed residence with his U.S. citizen sister sponsor and lawful permanent resident parents in Jacksonville, Florida; and his longstanding involvement in his church community as documented by affidavits and letters from Blessing Church of the Nazarene. Despite this extensive, un rebutted evidence, the IJ treated the hearing as a formality and did not undertake any individualized assessment of whether these factors mitigated flight risk.
5. Perfunctory, Legally Insufficient Ruling. After only a brief argument, IJ Hewitt denied bond, finding Petitioner had not met his burden to show he is not a flight risk. In his written order, the IJ stated only that bond was "Denied, because Flight risk and speculative relief before the court." He did not identify any evidence of prior flight, missed immigration-court hearings, or noncompliance with ICE reporting, and he did not explain how Petitioner's pending applications for asylum and related relief, his lawful work authorization, and his deep family and community ties rendered him likely to abscond. By reducing his decision to the conclusory assertion that Petitioner's relief was "speculative,"

the IJ ignored all countervailing evidence and effectively established a categorical rule that pending applications for humanitarian protection and a record of compliance are insufficient to mitigate flight risk, a standard that would preclude bond for a vast number of individuals and which does not comport with the individualized analysis required by law. As a result of this constitutionally defective hearing, Petitioner remains detained in violation of this Court's Order.

III. PETITIONER'S BOND HEARING DID NOT COMPLY WITH THIS COURT'S ORDER

The perfunctory proceeding on February 13, 2026, did not provide the constitutionally adequate bond hearing this Court ordered. Instead of a neutral, individualized assessment, Immigration Judge Andrew Hewitt conducted a cursory hearing that failed to comply with the Court's mandate in several critical respects.

First, the IJ failed to conduct the required individualized analysis under *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006). The record was replete with undisputed evidence of Petitioner's strong equities—no criminal history, a fixed address shared with his U.S. citizen sister sponsor and lawful permanent resident parents, pending applications for asylum and related protection (including a timely filed Form I-589 and a pending TPS application), valid employment authorization and recent work history, and a multi-year record of perfect compliance with DHS parole and ICE reporting requirements. The IJ ignored all of this. Instead, he effectively announced a categorical rule that Petitioner's pending protection applications were “speculative” relief and therefore insufficient to mitigate flight risk. This rationale converts the mere existence of pending applications for humanitarian relief—a factor that should weigh in favor of release—into a non-rebuttable presumption of flight risk.

Second, the proceeding was devoid of the basic procedural safeguards of a fair hearing. The IJ took no testimony from Petitioner, did not meaningfully address the approximately fifty-eight (58) pages of documentary evidence and supporting affidavits submitted on his behalf, and ignored counsel's arguments rebutting DHS's unsubstantiated claims. As documented in the attached affidavit of counsel, Lana Joseph, Esq., the hearing was over in a matter of minutes, and the IJ declined to take sworn testimony or to reconcile the acknowledged inconsistencies in DHS's Form I-213 with the Notice to Appear and the actual procedural history of Petitioner's case.

Third, the IJ's decision lacked any rational connection to the record. The finding of flight risk is directly contradicted by Petitioner's history of complying with DHS parole and appearing for every required ICE check-in for years, including the November 5, 2025 check-in at which he was arrested. By disregarding unrebutted evidence of long-term compliance and deep family and community ties, the IJ ceased to function as a neutral adjudicator and instead acted to ensure continued detention. This was not the individualized, evidence-based § 1226(a)(2) bond hearing this Court ordered.

IV. LEGAL STANDARD FOR ENFORCEMENT AND CONTEMPT

This Court has both inherent and statutory authority to enforce its February 9, 2026 Order. A federal court possesses the inherent power "to enforce compliance with its lawful orders" and to protect the integrity of its judgments. This authority is essential to the administration of justice and includes the power to hold parties in civil contempt to secure obedience to a clear and unambiguous order. Congress has affirmed this authority through several statutes. The All Writs Act empowers federal courts to "issue all writs necessary or appropriate in aid of their respective jurisdictions." 28 U.S.C. § 1651(a). The federal contempt statute, 18 U.S.C. § 401, authorizes punishment for "[d]isobedience or resistance to [a court's] lawful writ, process, order, rule, decree,

or command.” Further, Federal Rule of Civil Procedure 70 provides specific mechanisms for enforcing judgments that require a party to perform a specific act.

In the habeas context, jurisdiction under 28 U.S.C. § 2241 includes the power to police compliance with conditional grants of relief. A conditional writ “would be meaningless if a habeas court could not order a noncompliant state to release a prisoner.” Accordingly, a habeas court “retains jurisdiction to enforce compliance with an order conditionally granting the writ.”

The jurisdictional bar at 8 U.S.C. § 1226(e) does not preclude this enforcement action. While § 1226(e) forecloses appellate review of an IJ’s discretionary bond determinations, it does not strip this Court of its authority to review “constitutional claims or questions of law,” including whether a bond hearing was so fundamentally unfair as to violate due process and the terms of this Court’s order. *Demore v. Kim*, 538 U.S. 510, 517 (2003). Federal courts retain authority to determine whether a hearing complied with the mandate of a habeas writ. See *Ghanem v. Warden Essex Cnty. Corr. Facility*, No. 21-1908, 2022 WL 574624, at 2 (3d Cir. Feb. 25, 2022) (distinguishing non-reviewable discretionary bond decisions from reviewable claims that a hearing was “fundamentally unfair” in violation of a court order); *Morgan v. Oddo*, No. 3:24-CV-221, 2025 WL 2653707, at 4 (W.D. Pa. Sept. 16, 2025). This motion does not ask the Court to reweigh the IJ’s discretion; it asks the Court to enforce its judgment requiring a constitutionally adequate hearing.

V. WHY PETITIONER’S HEARING WAS CONSTITUTIONALLY DEFECTIVE

The proceeding on February 13, 2026, was not the constitutionally valid bond hearing this Court ordered. Due process in § 1226(a) bond proceedings requires, at a minimum: (1) a neutral, impartial adjudicator who develops a sufficient record; (2) an individualized, evidence-based assessment of flight risk and danger under *Matter of Guerra*; (3) procedures that place the ultimate burden on the government to justify continued confinement; and (4) consideration of less

restrictive alternatives to detention. The bond hearing for Petitioner, Odrice Alisma, failed on all four counts.

A. The IJ Was Not a Neutral, Prepared Adjudicator and Failed to Develop the Record.

The “guarantee of an impartial and disinterested tribunal” is a core requirement of due process. *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980). Here, the circumstances of the hearing call that neutrality and preparedness into serious question. On February 13, 2026, Immigration Judge Andrew Hewitt convened a custody-redetermination hearing pursuant to this Court’s February 9, 2026 habeas order directing that Petitioner receive a bond hearing under § 1226(a)(2) and the applicable regulations. Prior to the hearing, Petitioner’s counsel filed a written motion for bond together with approximately fifty-eight (58) pages of supporting evidence, including proof of Petitioner’s four-year history of compliance with DHS parole and ICE reporting requirements, his lack of any criminal record, his U.S. citizen and lawful permanent resident family members, his church involvement, his valid employment authorization, and his timely filed asylum and TPS applications. Although IJ Hewitt accepted the Middle District habeas order, Petitioner’s exhibit packet, and DHS’s Form I-213 into evidence, the bond hearing itself lasted only a few minutes, the IJ took no recess to review the file, and the transcript reflects no meaningful engagement with the documentary record or resolution of the inconsistencies he himself identified in DHS’s I-213 narrative regarding Petitioner’s prior processing, parole, and alleged credible-fear interview. An adjudicator who has not adequately reviewed the evidence cannot provide a meaningful hearing. Furthermore, the IJ failed to develop the record: he took no sworn testimony from Petitioner, who was present and prepared to testify, and no testimony from any witness, limiting the proceeding to a brief colloquy with counsel. This cursory process, conducted without live testimony and without

clarification of DHS's internally inconsistent account of Petitioner's case, was not the fair and impartial hearing that due process requires.

B. The IJ Failed to Conduct an Individualized, Guerra-Based Risk Analysis

Under § 1226(a) and its implementing regulations, detention is discretionary; an IJ may release a noncitizen on bond during this period pending resolution of removal proceedings. *J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 3d at 1334. Importantly, the statute at § 1226(a) authorizing detention has two regulatory goals: “ensuring the appearance of aliens at future immigration proceedings” and “[p]reventing danger to the community.” *Zadvydas*, 533 U.S. at 690.¹ As interpreted by the BIA, “[s]ection 1226 provides for the release on bond for all persons—except [for certain situations not applicable here]—unless there is a finding that the alien is either a threat to the public safety, a threat to national security, or is likely to abscond.” *Jimenez v. Decker*, 2021 WL 826752, at *5 (S.D.N.Y. Mar. 3, 2021) (citing *Matter of Patel*, 15 I. & N. Dec. 666 (B.I.A. 1976)).

In determining whether an alien poses a flight risk, an IJ may consider (1) whether the alien has a fixed address in the United States; (2) the alien's length of residence in the United States; (3) the alien's family ties in the United States, and whether they may entitle the alien to reside permanently in the United States in the future; and (4) the alien's manner of entry into the United States. *Matter of Guerra*, 24 I. & N. Dec. at 40. Importantly, the “evidence must be individualized and support a finding that continued detention is needed to prevent him from fleeing or harming the community.” *German Santos v. Warden Pike Cnty. Corr. Fac.*, 965 F.3d 203, 214 (3d Cir.

¹ The Supreme Court has explained that by definition, the first justification—preventing flight—is weak or nonexistent where removal seems a remote possibility at best. *Zadvydas*, 533 U.S. at 690. As to the second, the Supreme Court stated that preventive detention based on dangerousness should be limited to especially dangerous individuals and subject to strong procedural protections. *Id.* at 691-92 (also noting “the alien's removable status itself, bears no relation to a detainee's dangerousness.”).

2020). An IJ's findings may be "based on reasonable inferences from direct and circumstantial evidence of the record as a whole," but not on "rank speculation and conjecture". See *Matter of D-R-*, 25 I. & N. Dec. 445, 454 (BIA 2011) (citation omitted), remanded on other grounds by *Radojkovic v. Holder*, 599 F. App'x 646 (9th Cir. 2015); see also *Coalition For Humane Immigrant Rights v. Noem*, No. 25-CV-872 (JMC), 2025 WL 2192986, at *3 (D.D.C. Aug. 1, 2025) (an IJ must be a licensed attorney and "has a duty to develop the record").

Petitioner presented overwhelming, un rebutted evidence of his low flight risk. He is a native and citizen of Haiti who entered the United States on or about December 31, 2021 and has lived here continuously since that time. He was released from DHS custody on parole with reporting requirements in February 2022 and, for nearly four years thereafter, fully complied with all ICE parole and reporting obligations, including appearing for every scheduled check-in until he was taken into custody at his November 5, 2025 Jacksonville ICE appointment. He has no criminal history whatsoever. He resides at a fixed address in Jacksonville, Florida with his U.S. citizen sister and sponsor, Lynda Alisma Louis; his parents are lawful permanent residents; and he has multiple siblings lawfully present in the United States. He is an active member of Blessing Church of the Nazarene in Jacksonville, as attested by church leadership, and holds a valid employment authorization document through 2030, having timely filed an affirmative Form I-589 application for asylum with USCIS in September 2022 and renewed that application defensively before the Immigration Court in January 2026, as well as applied for Temporary Protected Status, which remains pending. These are precisely the kinds of deep family and community ties, lengthy compliance with supervision, and absence of criminal history that *Matter of Guerra* identifies as cutting against a flight-risk finding.

The IJ disregarded this evidence. Instead, he denied bond based on a single, legally insufficient rationale: that Petitioner was a flight risk because his “relief before the court” was “speculative,” relying heavily on an internally inconsistent Form I-213 that suggested, without independent corroboration, that Petitioner had failed to appear for a credible-fear interview in July 2025 and that USCIS had “closed” a prior asylum application for IJ jurisdiction months before any Notice to Appear was issued. The IJ did not reconcile those assertions with the NTA’s charge that Petitioner is “an alien who has not been admitted or paroled,” with the undisputed evidence of Petitioner’s four-year record of compliance and lawful employment authorization, or with counsel’s sworn declaration that neither her office nor Petitioner ever received notice of any credible-fear interview or expedited removal process. This is not an individualized analysis; it is a categorical, pretextual rule that improperly dismisses valid forms of relief and substitutes a premature and speculative merits determination for a genuine bond analysis. An IJ’s findings must be based on “reasonable inferences from direct and circumstantial evidence of the record as a whole,” not on “rank speculation and conjecture.” See *Matter of D-R-*, 25 I. & N. Dec. 445, 454 (BIA 2011). By converting Petitioner’s properly filed applications for humanitarian relief and his long record of compliance into an automatic basis for continued detention, the IJ violated the core tenets of Guerra and rendered the hearing an empty formality.

C. The IJ Improperly Relieved the Government of its Burden of Proof.

The Due Process Clause requires the government to justify continued civil detention, typically by clear and convincing evidence of flight risk or dangerousness. See *J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1341 (M.D. Ga. 2020); *Velasco Lopez v. Decker*, 978 F.3d 842, 855–57 (2d Cir. 2020); *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 213–14 (3d Cir. 2020). Here, the government utterly failed to meet that burden. At the February 13, 2026 bond hearing, DHS submitted no documentary evidence of dangerousness and

relied primarily on a single Form I-213, together with oral argument, to assert that Petitioner was a flight risk. DHS's flight-risk theory rested on the I-213's uncorroborated narrative that Petitioner allegedly failed to appear for a July 25, 2025 "credible fear interview" and on characterizing his pending applications for asylum and Temporary Protected Status as "speculative," despite undisputed evidence of nearly four years of compliance with DHS parole and ICE reporting, a timely filed asylum application, valid employment authorization, and strong family and community ties. The I-213's account of Petitioner's immigration history—including claims of expedited removal processing, parole, an asylum application supposedly "closed" for Immigration Judge jurisdiction months before any Notice to Appear was issued, and a missed credible-fear interview—was internally inconsistent with the NTA and the actual procedural posture of the case, a point IJ Hewitt himself acknowledged on the record, yet DHS offered no additional proof to reconcile or substantiate those assertions.

Rather than hold the government to its constitutional burden, the IJ disregarded this failure of proof and *sua sponte* supplied his own rationale—the purportedly "speculative" nature of Petitioner's pending protection applications, as referenced in and derived from the flawed I-213—to deny bond. This role reversal, where the IJ accepts DHS's thin submission at face value and furnishes the justification for detention that the government did not substantiate with individualized, reliable evidence, is the antithesis of a fair hearing and a flagrant violation of the burden-of-proof framework this Court and others have repeatedly mandated.

D. The IJ Failed to Consider Any Alternatives to Detention.

Due process requires consideration of less restrictive alternatives before ordering detention. See *Hernandez v. Sessions*, 872 F.3d 976, 991–92 (9th Cir. 2017). This principle applies with special force where, as here, the petitioner has a proven track record of complying with community-based supervision. Prior to his current detention, Petitioner was released from DHS

custody on parole with reporting requirements in February 2022 and, for nearly four years thereafter, complied with all ICE reporting obligations and parole conditions without incident, living at a fixed address with his U.S. citizen sister in Jacksonville, Florida. At the February 13, 2026 hearing, however, the IJ denied bond outright without any on-the-record consideration of whether a reasonable bond amount or non-monetary conditions—such as continued ICE check-ins, reporting requirements, or other supervision—could adequately address any perceived risk of flight. The IJ did not discuss Petitioner’s ability to pay, did not address the feasibility of returning him to the same reporting regimen under which he had successfully remained at liberty for years, and offered no explanation for why no combination of bond and conditions of release could reasonably ensure his appearance. By refusing to consider any lesser alternative to continued detention and instead denying bond outright based solely on an unelaborated conclusion of “flight risk and speculative relief before the court,” the IJ rendered the detention order arbitrary and punitive, rather than a legitimate regulatory measure tied to the statute’s limited purposes of ensuring appearance and protecting the community.

Petitioner highlights that the statute allows for release on bond beginning at only \$1,500. 8 U.S.C. § 1226(a)(2)(A), and nothing in the record suggests that such a lower amount, combined with conditions of supervision if needed, would be inadequate to ensure Petitioner’s appearance. Historically, IJs have set bond, if any, between \$1,500 and \$10,000. Congress and the agencies anchored non-criminal bonds at a \$1,500 statutory minimum. 8 U.S.C. § 1226(a)(2)(A) and (B) (the Attorney General “may release the alien on— bond of at least \$1,500 []. . . or conditional parole”). BIA decisions over time include multiple examples of IJs and the BIA setting or approving bonds in the \$1,000–\$7,500 range as sufficient for appearance. *See, e.g.*, recent bond determinations (without a long history of compliance like in Petitioner’s case): *B.D.V.S. v.*

Forestal, No. 1:25-cv-01968-SEB-TAB, 2025 WL 2855743 (S.D. Ind. Oct. 8, 2025) (\$1,500 bond issued for a non-criminal with pending asylum petition); *Campos Leon v. Forestal*, No. 1:25-cv-01774-SEB-MJD, 2025 WL 2694763 (S.D. Ind. Sept. 22, 2025) (\$7,500 bond issued for non-criminal with pending EOIR-42B application); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924, at *7 (D. Mass. Sept. 9, 2025) (\$3,500 bond determined); *Garcia Picazo v. Sheehan*, No. 5:25-cv-4057-LTS-MAR (N.D. Iowa Sept. 19, 2025) (\$6,000 bond determined). When bonds are granted even in more serious cases, IJs still often operate within that low to mid-thousands band, reserving higher or “no bond” findings for exceptional flight-risk or danger cases. Given that Petitioner has a record of compliance of years and significant community ties, the IJ should have authorized either no bond, or a minimal bond in the amount of \$1,500.

Because of this, Petitioner remains in detention. Such punitive action further violates Petitioner’s due process rights and does not serve the only two permissible purposes of civil immigration detention. *See Zadvydas*, 533 U.S. at 690 (immigration proceedings “are civil, not criminal, and we assume that they are nonpunitive in purpose and effect”; rather, the statute has only two regulatory goals: “ensuring the appearance of aliens at future immigration proceedings” and “[p]reventing danger to the community”).

Taken together, these errors show that the IJ did not conduct the individualized, evidence-based bond assessment that § 1226(a), the governing regulations, and due process require. Instead, the IJ relied on a generalized presumption of “inherent” flight risk from the mere fact of pending removal proceedings, disregarded un rebutted evidence of long-term compliance and deep community ties, speculated about future eligibility for relief, denied bond without analyzing Petitioner’s ability to pay or considering less restrictive alternatives.

The IJ decision's shortcomings are particularly incompatible with the now-settled due process principle that, at a § 1226(a) (or analogous) bond hearing, the government—not the detainee—must justify continued civil detention, typically by clear and convincing evidence, through individualized proof of flight risk or dangerousness. *See Velasco Lopez v. Decker*, 978 F.3d 842, 855–57 (2d Cir. 2020); *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 213–14 (3d Cir. 2020); *Mbalivoto v. Holt*, 527 F. Supp. 3d 838, 852–53 (E.D. Va. 2020); *Oscar M-S. v. Garland*, 21-cv-1341 (WMW/KMM), 2021 WL 6063232, at *4–6 (D. Minn. Dec. 20, 2021); *Ranchinskiy*, 422 F. Supp. 3d at 800; *Banegas*, 2021 WL 1997033, at *8–10.

The reasoning in those cases stemmed from the fact that the liberty interest at stake—freedom from physical incarceration—is so fundamental; a detained noncitizen faces serious practical obstacles to gathering evidence while incarcerated; and that the government, by contrast, has substantial resources available and ready access to the very information bearing on flight risk and danger. *See id.*; *J.G. v. Warden*, 501 F. Supp. 3d at 1337–39; *see also Soto-Medina v. Lynch*, No. 1:25-CV-1704, 2026 WL 161002, at *10-11 (W.D. Mich. Jan. 21, 2026) (holding that the government must show by clear and convincing evidence that petitioner is a flight risk or danger to the community and noting that ICE is required by federal law to keep detailed statistics regarding detainees, including comprehensive information about their criminal history and attendance in immigration proceedings). Further, it is very hard for a noncitizen to prove a negative rather than making the government justify detention by presenting evidence of danger to society or likelihood of absconding, especially where the only purpose of immigration detention is to effectuate removal if and after the noncitizen is ordered removed.

In addition, due process requires that, once release on bond is deemed appropriate, the bond amount be set only after consideration of the individual's financial circumstances and less

restrictive alternatives to detention. Courts have repeatedly recognized that a bond determination process that disregards a detainee’s financial circumstances and available alternative conditions of release is unlikely to produce an amount reasonably related to the government’s legitimate interests in ensuring appearance and protecting the community, and instead risks accomplishing little more than detaining people because of their poverty. *See Hernandez v. Sessions*, 872 F.3d 976, 991–92 (9th Cir. 2017); *Ranchinskiy v. Barr*, 422 F. Supp. 3d 789, 800 (W.D.N.Y. 2019); *Banegas v. Decker*, 21-CV-2359 (VEC), 2021 WL 1997033, at *10 (S.D.N.Y. May 7, 2021); *Diaz v. Genalo*, 22-CV-3063 (VSB) (BCM), 2023 WL 3818464, at *7 (S.D.N.Y. July 6, 2023).

In *Abdi v. Nielsen*, the court held that an IJ “must consider the detainee’s ability to pay, as well as alternative conditions of release, in setting the amount of bond,” because a bond set beyond a person’s means is “for all practical purposes, a denial of bond” and raises serious due process concerns. 287 F. Supp. 3d 327, 334–42 (W.D.N.Y. 2018). The Ninth Circuit likewise affirmed a class-wide injunction requiring IJs to consider detainees’ financial circumstances and non-monetary alternatives, emphasizing that “no person may be imprisoned merely on account of his poverty.” *Hernandez v. Sessions*, 872 F.3d 976, 990–96 (9th Cir. 2017). And applying *Mathews* in the asylum seeker context, a court held that detained noncitizens are entitled to bond hearings at which the decisionmaker considers ability to pay and alternatives to detention, because detention is permissible only when it actually serves the government’s interests in ensuring appearance and protecting the community. *Padilla v. U.S. Immigr. & Customs Enf’t*, 387 F. Supp. 3d 1219, 1235–38 (W.D. Wash. 2019).

Abdi further explained that, once an IJ determines that release is appropriate, the bond amount must be “appropriate” and “necessary” to ensure the person’s appearance, so that setting bond at a level plainly outside the individual’s reach—without considering ability to pay and

alternative conditions—“amounts, for all practical purposes, to a denial of bond” unmoored from the government’s legitimate interests in preventing flight or danger. That requirement is especially salient where Congress has authorized release on bond in amounts beginning at \$1,500 for individuals detained under § 1226(a)(2)(A).

In sum, the aggregate of the IJ’s errors demonstrates that Petitioner was not afforded a constitutionally valid bond hearing. He did not receive a full and fair hearing, and the bond denial decision violates his due process right to freedom. Again, the Supreme Court has repeatedly affirmed that “[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987). For this reason, “civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418, 425 (1979).

VI. EOIR’s INSTITUTIONAL BIAS PREVENTS PETITIONER FROM RECEIVING A CONSTITUTIONALLY VALID BOND HEARING.

These case-specific defects in Petitioner’s hearing are not an isolated judicial error; they are a concrete manifestation of the systemic problems documented in the attached declarations of experienced immigration practitioners, including the affidavit of Petitioner’s own bond counsel, Lana Joseph, Esq. See Ex. 2 – Joseph Affidavit; see also Exs. 4–13 – Declarations of retired Immigration Judge and other attorneys. The events of February 13, 2026—an EOIR bond proceeding convened only because this Court ordered a § 1226(a)(2) hearing, the IJ’s failure to take any testimony, his cursory treatment of Petitioner’s extensive evidence of long-term compliance and deep family and community ties, his reliance on an internally inconsistent Form I-213 he acknowledged “did not make sense,” and his perfunctory denial of bond on the ground of “flight risk and speculative relief before the court”—align point-for-point with the patterns of

deference to enforcement priorities, disregard of federal court mandates, and perfunctory bond adjudications that these declarations describe.

Specifically, Immigration Judge Andrew Hewitt's conduct is not an aberration but a textbook example of the institutional pressures and de facto policies now governing bond proceedings. Attorney Lana Joseph's sworn affidavit details how IJ Hewitt convened the court-ordered bond hearing on February 13, 2026, accepted into evidence Petitioner's extensive bond package and DHS's Form I-213, expressly acknowledged on the record that the I-213's procedural narrative "did not make[] any sense," declined to take any sworn testimony from Petitioner, and then denied bond based solely on the conclusory finding that Petitioner was a flight risk and that the "relief before this court is speculative," despite DHS's concession that it was not advancing any danger argument. Attorney Joseph further attests that this outcome was reached notwithstanding Petitioner's four-year history of perfect compliance with DHS parole and ICE reporting requirements, his lack of any criminal record, his stable residence with a U.S. citizen sister sponsor and lawful permanent resident parents, his church membership, and his timely-filed asylum and TPS applications.

This evidence demonstrates that a remand for yet another EOIR bond hearing would be an illusory remedy. The problem is not simply that one hearing was defective; the problem is that the entire administrative process appears to be compromised and structurally biased against release, regardless of individual merits. Sending Petitioner back for another hearing before an IJ operating under these institutional pressures would not cure the constitutional defect; it would replicate it. This documented pattern confirms the necessity of this Court's direct exercise of its habeas enforcement authority to give its Order effect.

VII. RELIEF SOUGHT AND ENFORCEMENT REQUEST

A. This Court Should Issue an Order to Show Cause and Schedule an Immediate Hearing

The Court should issue an order to show cause, as Petitioner can demonstrate by clear and convincing evidence that the February 9, 2026 Order was clear and unambiguous, that Respondents failed to comply with its straightforward mandate, and that they have not taken all reasonable steps within their power to do so.

To succeed on an inability defense, the alleged contemnor must demonstrate that they have made in good faith all reasonable efforts to meet the terms of the court order. It is impossible to conclude that an experienced IJ with many years of experience as an IJ did not understand how to conduct the constitutionally adequate § 1226(a)(2) bond hearing this Court ordered. Furthermore, counsel for DHS, Assistant Chief Counsel Campbell, should likewise be required to show cause why he should not be held in civil contempt, because he persisted in objecting to bond despite having DHS record of compliance for Petitioner. Despite advancing no evidence that Petitioner was a flight risk, he perpetrated and participated in a proceeding that plainly failed to provide the individualized § 1226(a) bond determination, with proper allocation of the burden and consideration of alternatives to detention, that the Order requires. Thereafter, an immediate Show Cause hearing should be scheduled.

B. This Court Should Order Petitioner's Immediate Release from Detention

Respondents' constitutionally defective bond hearing constitutes a flagrant violation of this Court's February 9, 2026 Order. Where the government fails to comply with a conditional grant of habeas relief, federal courts have not hesitated to employ the full range of enforcement tools—ordering the petitioner's immediate release, directing specific-performance-style relief under Rule 70, and imposing civil contempt sanctions as necessary to secure compliance with their prior

judgments. *See, e.g., Solis v. Koresko*, Civ. No. 09-988, 2016 WL 4547167, at *6–8 (E.D. Pa. Aug. 31, 2016) (discussing inherent enforcement power, civil contempt, and the All Writs Act as mechanisms to compel obedience to a prior injunction). Other courts likewise recognize that a district court retains continuing jurisdiction to address noncompliance with habeas writs and to ensure that the relief it ordered is actually provided. *See Sanchez v. Sabol*, No. 1:15-CV-2423, at *5–7 (M.D. Pa. Dec. 23, 2016). *See also Calderon-Rodriguez v. Wilcox*, 374 F. Supp. 3d 1024, 1035 (W.D. Wash. 2019) (rejecting “the Government's position [] that the court’s only job is to ensure that the immigration courts recite the correct legal standard”).

In *Y.S.G. v. Andrews*, No. 2:25-cv-1884-SCR, 2025 WL 2979309 (E.D. Cal., Oct. 22, 2025) the court grappled with a similar issue. A noncitizen filed and was granted a writ of habeas and a subsequent bond redetermination hearing was ordered. Unfortunately, the IJ’s decision was deficient and the court ordered immediate release. Ordering a new bond hearing before EOIR is not a sufficient remedy in light of the patently deficient first hearing and the institutional pressures described above that systematically skew adjudications in DHS’s favor.

In these circumstances, this Court’s habeas enforcement authority—including its inherent power, the All Writs Act, 28 U.S.C. § 1651(a), its contempt power under 18 U.S.C. § 401, and its authority under Rule 70—fully supports ordering Petitioner’s immediate release or, at a minimum, setting a constitutionally reasonable bond amount itself rather than remanding him to another unreliable administrative proceeding. It is also not a sufficient remedy in light of the plethora of evidence of bias generally by EOIR that prevents Petitioner from receiving a fair hearing before a neutral arbiter.

C. Alternatively, A Bond Hearing Where the Government Bears the Burden and the IJ Must Consider Ability to Pay

If the Court is not inclined to grant either of those requests for relief, at a minimum, this Court should Order Respondents to provide Petitioner with a new—constitutionally valid—bond hearing at which the government bears the burden of proof by clear and convincing evidence to show Petitioner is a flight risk and where the IJ must consider Petitioner’s individual circumstances and ability to pay the bond as well as alternatives to detention that would also guarantee his appearance at his removal proceedings.

1. Due Process Requires Government Carry the Burden of Proof

The weight of authority of federal courts holds that when ordering a bond hearing under § 1226(a) as a habeas remedy, the burden of proof should be on the government to prove by clear and convincing evidence that the detainee poses a danger or flight risk. *See, e.g., Trejo v. Warden of ERO El Paso E. Montana*, No. EP-25-CV-401-KC, 2025 WL 2992187, at *10 (W.D. Tex. Oct. 24, 2025). This Court already decided that the government must bear the burden of proof to justify a noncitizen’s detention pending removal proceedings. *J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. at 1335. In doing so, it joined several Circuit courts and an overwhelming majority of district courts that have held the same.² “Allocating the burden in this manner reflects the concern

² *See e.g., Velasco Lopez v. Decker*, 978 F.3d 842, 853 (2d Cir. 2020); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 39 (1st Cir. 2021); *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 214 (3d Cir. 2020); *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 688 (W.D. Tex. 2025) (As of 2020, the “vast majority” of courts granting immigration detainees’ habeas petitions have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk.); *Dubon Miranda v. Barr*, 463 F. Supp. 3d 632, 646–47 (D. Md. 2020); *Chavero v. Bondi*, No. EP-25-CV-00638-DB, 2025 WL 3679768, at *5 (W.D. Tex. Dec. 18, 2025); *Acosta Dominguez v. Noem*, No. EP-25-CV-00741-DB, 2026 WL 67200, at *4 (W.D. Tex. Jan. 8, 2026); *Velasquez Salazar v. Dedos*, No. 25-CV-835, 2025 WL 2676729, at *1, *9 (D.N.M. Sept. 17, 2025); *Morgan v. Oddo*, No. 24-CV-221, 2025 WL 2653707, at *1 (W.D. Pa. Sept. 16, 2025); *J.M.P. v. Arteta*, No. 25-CV-4987, 2025 WL 2614688, at *1 (S.D.N.Y. Sept. 10, 2025); *Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025 WL 2581185, at *1, *14 (E.D. Cal. Sept. 5, 2025); *Arostegui-Maldonado v. Baltazar*, 2025 WL 2280357, at *1, *12 (D. Colo. Aug. 8, 2025); *Cruz-Zavala v. Barr*, 445 F. Supp. 3d 571, 576 (N.D. Cal. 2020) (“[A]t a § 1226(a) bond hearing, the government must prove by clear and convincing evidence that an alien is a flight risk or a danger to the community to justify denial of bond.”) (internal quotation omitted); *Vargas v. Wolf*, No. 2:19-cv-02135-KJD-DJA, 2020 WL 1929842, at *7 (D. Nev. Apr. 21, 2020) (“In sum, the Fifth Amendment’s Due Process Clause requires the government to prove a detainee’s flight risk or

that “[b]ecause the alien’s potential loss of liberty is so severe ... he should not have to share the risk of error equally.” *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d at 688 (quoting *German Santos*, 965 F.3d at 214). As the Second Circuit has explained, due process calls for the burden-shifting in a bond hearing because “the Government had substantial resources to deploy” and “to the extent the Government did not have the necessary information at its fingertips, it had broad regulatory authority to obtain it.” *Velasco Lopez*, 978 F.3d at 853. Conversely, for a petitioner to prove the negative as to risk of flight (or danger) can be difficult. *See Elkins v. United States*, 364 U.S. 206, 218 (1960) (“[A]s a practical matter it is never easy to prove a negative.”). The Second Circuit further concluded that requiring the government to prove that the noncitizen was a danger to the community or a flight risk *by clear and convincing evidence* to justify his continued detention “strikes a fair balance between the rights of the individual and the legitimate concerns of the state.” *Velasco Lopez*, 978 F. 3d at 857 (quoting *Addington v. Texas*, 441 U.S. 418, 431 (1979)).

In *J.G. v. Warden*, this Court applied the *Mathews v. Eldridge* balancing test and emphasized three features of § 1226(a) bond proceedings: (1) the liberty interest at stake—freedom from physical incarceration—is fundamental; (2) a detained noncitizen faces serious practical obstacles to gathering evidence, contacting witnesses, and obtaining records while incarcerated; and (3) the government, by contrast, “has substantial resources available” and ready access to the

dangerousness, by clear and convincing evidence, to justify continued detention.”); *Diaz-Ceja v. McAleenan*, No. 19-cv-00824-NYW, 2019 WL 2774211, at *7 (D. Colo. July 2, 2019) (“Requiring a non-criminal alien to prove that he is not dangerous and not a flight risk at a bond hearing violates the Due Process Clause. The clear weight of authority from courts to have considered the question after the Jennings Court’s deferral and remand of the constitutional question have come to the same conclusion.”) (internal citation omitted); *Al-Sadeai v. USCIS*, 540 F. Supp. 3d 983, 991 (S.D. Cal. 2021) (“[N]oncitizens still face such a significant possible deprivation of liberty at the time of their initial bond hearing under Section 1226(a) that the Due Process Clause requires the burden of proof to justify detention to be placed on the Government”); *Darko v. Sessions*, 342 F. Supp. 3d 429, 435 (S.D.N.Y. 2018); *M. D. v. Garland*, No. 21-CV-1343 (NEB/TNL), 2021 WL 7161831, at *10 (D. Minn. Dec. 29, 2021), report and recommendation adopted, No. 21-CV-1343 (NEB/TNL), 2022 WL 542426 (D. Minn. Feb. 23, 2022) (“[D]ue process requires the Government prove by clear and convincing evidence that his detention is necessary to justify his confinement under Section 1226(a).”).

very information bearing on flight risk and danger. 501 F. Supp. 3d at 1337–39. The court concluded that placing the burden on the detainee in this setting creates a high risk of erroneous deprivation and that due process therefore requires the *government*—not the noncitizen—to justify continued detention at a § 1226(a) bond hearing. *Id.* at 1341.

Other courts addressing immigration detention have explained why the government must meet a clear and convincing standard, rather than a mere preponderance, when it seeks to continue depriving a person of physical liberty. The First Circuit, applying *Mathews*, affirmed that the Due Process clause of the Fifth Amendment entitled the petitioner—a noncitizen detained under § 1226(a)—to a bond hearing at which the government must bear the burden of proving danger or flight risk by clear and convincing evidence. *Hernandez-Lara*, 10 F.4th at 46; *Brito v. Garland*, 22 F.4th 240, 244 (1st Cir. 2021) (affirming on a class-wide basis that noncitizens “detained pursuant to 8 U.S.C. § 1226(a) are entitled to receive a bond hearing at which the Government must prove the alien is either dangerous by clear and convincing evidence or a risk of flight by a preponderance of the evidence.”). Related, the Third Circuit, applying *Mathews* in the § 1226(c) context, held that because “the alien’s potential loss of liberty is so severe, he should not have to share the risk of error equally” with the government, and required the government to justify continued detention once it has become unreasonably prolonged, “by clear and convincing evidence.” *German Santos*, 965 F.3d at 213–14 (citing *Zadvydas* and *Addington*). District courts applying the same reasoning in pre-removal detention cases have likewise required the government to prove flight risk or dangerousness by clear and convincing evidence at bond hearings ordered to remedy unlawful or unreasonable detention. *See, e.g., Sanchez v. Sabol*, No. 1:15-CV-2423, at *7–9 (M.D. Pa. Dec. 23, 2016).

Although *J.G.* arose after detention had already become prolonged, the court’s *Mathews* analysis does not turn on a formal time threshold; it turns on the nature of the interest (freedom from physical confinement) and the structural risk of error when an incarcerated noncitizen is tasked with disproving flight risk or danger despite severe informational and logistical constraints, while the government has superior access to the relevant evidence. 501 F. Supp. 3d at 1337–39. Those same features are present here. Petitioner is incarcerated; DHS offered no evidence of flight risk at the court-ordered bond hearing; and the IJ again placed the entire risk of error on Petitioner. There is no principled basis to dilute the standard now that this Court is enforcing its own habeas judgment. To make the February 9, 2026 Order effective, the same due process framework that governed *J.G.*—including a clear-and-convincing burden on the government at a § 1226(a)(2) bond hearing—must apply in this enforcement posture as well.

2. Due Process Requires IJs to Consider Ability to Pay

This Court should also order that the IJ must assess Petitioner’s ability to pay when setting any bond amount. In *Hernandez v. Sessions*, 872 F.3d 976, 1000 (9th Cir. 2017), the Ninth Circuit affirmed a preliminary injunction requiring IJ’s to consider detainees’ financial circumstances or alternative conditions of release in making bond determinations.³ The court explained that “[w]hile the temporary detention of non-citizens may sometimes be justified by concerns about public

³ Upon remand to the district court, the parties agreed to a settlement in which the IJ will (1) consider the detainee’s financial circumstances and financial ability to pay a bond; (2) not set bond at a greater amount than necessary to ensure the detainee’s appearance at all future immigration proceedings, including for removal if so ordered; and (3) consider whether the detainee may be released on alternative conditions of release, alone or in combination with a lower bond, that are sufficient to mitigate flight risk. The agreement further required that the IJ must affirmatively inquire into the detainee’s financial circumstances and make an individualized assessment of the detainee’s current ability to pay the bond amount to be set. And in assessing a detainee’s ability to pay, the IJ should consider all relevant evidence in the record—including any information solicited by ICE—and may inquire into any additional evidence presented relevant to an ability to pay. Also, the IJ may assess a detainee’s financial circumstances based on their sworn testimony alone or, where necessary, may require the detainee to provide corroborative evidence concerning the detainee’s financial circumstances. Finally, when rendering a decision in which a bond is set, if the parties have not stipulated to the bond amount or conditions of release, the IJ should explain why—whether orally or in writing—the bond amount is appropriate in view of any evidence of the detainee’s financial circumstances. *Hernandez v. Garland*, No. EDCV16620JGBKKX, 2022 WL 1176752, at *4 (C.D. Cal. Mar. 28, 2022).

safety or flight risk, the government’s discretion to incarcerate non-citizens is always constrained by the requirements of due process: no person may be imprisoned merely on account of his poverty.” *Id.* at 991. Similarly, the Second Circuit in *Black v. Decker*, 103 F.4th 133, 155 (2d Cir. 2024), also concluded that the district court properly directed the government to justify Black’s continued detention (under § 1226(c)) by clear and convincing evidence and the IJ to consider both Black’s ability to pay and any alternatives to detention. The court reasoned that “refusing to consider ability to pay and alternative means of assuring appearance creates a serious risk that the noncitizen will erroneously be deprived of the right to liberty purely for financial reasons.” *Id.* at 158. District courts have held the same. *See e.g., Baghdasaryan v. Warden of CA City Detention*, No. 1:25-CV-01555-KES-EPG-HC, 2026 WL 381620, at *8 (E.D. Cal. Feb. 11, 2026) (holding that IJs should consider a petitioner’s financial circumstances or alternative conditions of release); *Abdi v. Nielsen*, 287 F. Supp. 3d 327, 338 (W.D.N.Y. 2018) (holding IJs must consider the detainee’s financial situation in setting bond and noting that “when a judge fails to consider ability to pay and alternative conditions of release and sets a bond amount plainly outside the reach of an individual’s financial resources, such a decision amounts, for all practical purposes, to a denial of bond.”); *Yuehua Li v. Noem at al.*, No. 26-CV-00989 (JAV), 2026 WL 366849, at *2 (S.D.N.Y. Feb. 10, 2026) (ordering a bond hearing at which “the Immigration Judge must also consider non-bond alternatives to detention or, if setting a bond, Petitioner’s ability to pay.”); *Imran H., v. Warden of Golden State Annex Detention Facility, et al.*, No. 1:25-CV-01710-JLT-SAB-HC, 2026 WL 366750, at *6 (E.D. Cal. Feb. 10, 2026) (ordering bond hearing where the IJ “should consider Petitioner’s financial circumstances and alternative conditions of release.”).

VIII. CONCLUSION

WHEREFORE, for the reasons stated herein, Petitioner respectfully requests that this Court enforce its February 9, 2026 Order and grant the following relief:

1. **An Order retaining jurisdiction over this matter** to ensure compliance;
2. **An Order to Show Cause:** Issue an order compelling Respondents, Immigration Judge Andrew Hewitt, and DHS Assistant Chief Counsel James Jessel, Jr. to appear and show cause why they should not be held in civil contempt for violating this Court's clear and unambiguous February 9, 2026 Order, and set the matter for an emergency hearing;
3. **Immediate Release:** As the primary and most effective remedy, issue an immediate and unconditional order directing Respondents to release Petitioner from custody;
4. **Alternative Relief—Court-Set Bond:** In the alternative, set a reasonable bond in an amount no greater than \$1,500, consistent with counsel's request at the hearing, and/or order Petitioner's release on non-monetary conditions of supervision;
5. **Second Alternative—Remand with Strict Conditions:** In the further alternative that the Court remands for a new hearing, order that the hearing be conducted within 24 hours and require that: (a) the government bear the burden of proving by clear and convincing evidence that Petitioner is a flight risk or danger to the community; (b) the IJ must take live testimony from Petitioner and his witnesses; (c) the IJ must make specific, on-the-record findings regarding each *Guerra* factor and any alternatives to detention; and (d) the hearing be transcribed and the decision issued in writing within 24 hours.

6. **An Order requiring Respondents to file a notice of compliance** with this Court within twenty-four (24) hours of this Order's entry;
7. Grant Petitioner his attorney's fees expended in the preparation of this motion; and
8. Grant any and all other relief this Court deems just and proper.

For the foregoing reasons, Respondents have acted in clear violation of this Court's lawful Order and have unlawfully deprived Petitioner of his liberty. To protect the integrity of the judicial process and vindicate Petitioner's rights, this Court should grant the requested relief and enforce its prior judgment.

Respectfully submitted this 23rd Day of February, 2026.

/s/ Karen Weinstock

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CERTIFICATE OF SERVICE

I certify that on February 23, 2026, I electronically filed the foregoing Motion with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to Respondents' attorney(s) of record.

/s/ Karen Weinstock

Karen Weinstock

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