

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO, TX
(San Antonio Division)**

ALISHAN ZULFIKAR KAREDIA,

Petitioner,

v.

CIVIL ACTION NO. 5:26-CV-01144-FB

ROSE THOMPSON, *et. al*,

Respondents.

PETITIONER'S MOTION TO ENFORCE THE COURT'S ORDER

On March 5, 2026, this Court ordered that Respondents must (1) provide Petitioner on or before March 11, 2026 “with a bond hearing before an immigration judge, at which Respondents shall bear the burden of justifying, by clear and convincing evidence of dangerousness or flight risk, Petitioner’s continued detention; or (2) release Petitioner from custody, under reasonable conditions of supervision.” ECF #8 at 6.

On March 10, Respondents complied with the order but only to the extent that they brought him before an immigration judge (IJ) for a bond hearing. In all other respects, the hearing violated this Court’s order—as well as the requirements of due process. The Respondents failed to present evidence of either dangerousness or flight risk. The IJ failed to apply the “clear and convincing” standard, and he overlooked the extensive evidence supporting

Petitioner's release. His order consisted of a single, conclusory statement: "The respondent is a significant flight risk and no bond amount will ensure his appearance at future hearings." Ex. 1.

In a nutshell, Mr. Karedia was released on his own recognizance nearly three years ago because Respondents found he was neither a flight risk nor a danger. In the intervening three years, he got married, was employed full time, supported his young family, paid his taxes, and faithfully complied with all reporting requirements. He has now been detained for six months. And despite these changed circumstances demonstrating increased stability, somehow the Immigration Judge deemed him such a "significant flight risk" that absolutely no bond amount "will ensure his appearance at future hearing."

Because this patently inadequate determination did not carry out the Court's directive, the alternative order, that of immediate release, must be executed.

I. Factual and Procedural History

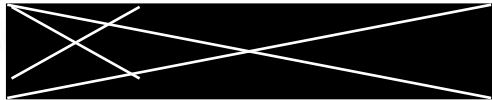
Petitioner entered this country without authorization in 2023. He was apprehended by the government shortly thereafter and placed into removal proceedings. He was immediately released on his own recognizance pursuant to INA § 236, and reported faithfully for more than two years, obeying every request and directive Respondents gave him.

On September 3, 2025, he was summarily arrested and detained when appearing for a routine Order of Supervision check-in. After being detained, he requested bond twice, and both times was denied based on lack of jurisdiction, pursuant to *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

In late February 2026, after having been detained for almost six months, he sought relief from this Court. On March 5, 2026, the Court found that denial of a bond hearing violated his procedural due process rights and ordered that a hearing be provided to him, "at which

Respondents shall bear the burden of justifying, by clear and convincing evidence of dangerousness or flight risk, Petitioner's continued detention." ECF #8 at 6. The Court further "cautioned that a proceeding in which bond is denied by the immigration judge for lack of jurisdiction will not satisfy Respondents' obligation to provide a bond hearing in compliance with this Order." *Id.* If Respondents failed to comply with the Court's request by March 11, the Court directed them to immediately release Petitioner from custody under reasonable conditions of supervision.

Pursuant to the Court's order, Respondents held a bond hearing before Immigration Judge Justin Adams on March 10, 2026. Petitioner re-urged the IJ's consideration of the nearly 200 pages of evidence, briefing, witness statements, cases, and other information that had been presented but not considered at Petitioner's two prior bond hearings. Ex. 2. This included, *inter alia*, evidence demonstrating the following:

- Petitioner complied in full with every request and obligation imposed on him for more than two years while under an Order of Supervision.
- Petitioner was arrested in September pursuant to a change in national policy and not because of any violation by Petitioner.
- Petitioner has significant family ties in the area, including a new wife who is financially dependent upon him and emotionally connected to him; a mother who relies on him not only for financial support but also to manage her debilitating anxiety and depression resulting from ; and numerous extended family members with whom he is also very close, and who have come to rely on his "unique ability to bring people together and resolve conflicts with a calm demeanor," in the words of one third-party affiant.

- Petitioner has also developed strong ties to his community; his religious congregation, where he volunteers; and he donates to charity.
- Petitioner has worked consistently since arriving in the U.S., and uses this income to support multiple dependents, who are also well-established in the community.
- Petitioner's asylum application was supported by multiple third-party affidavits and a plethora of country condition information; it was denied on a technicality and has been timely appealed.

Petitioner also submitted new information, including that Petitioner was named as a derivative beneficiary on his wife's asylum application, which has been submitted to the San Antonio immigration court. Ex. 3. If her application is approved, Petitioner will also receive asylum. 8 C.F.R. § 208.21(a). The wife's application, which differs in important particulars from Petitioner's own claim, has not yet been adjudicated. Ex. 3.

The government submitted several exhibits of its own which had already been part of the record, including affidavits from Petitioner's wife and mother in support of his asylum application; the IJ's order from December 2025 pretermittting a determination of Petitioner's asylum claim due to an incomplete answer to a multipart question on one section of an 11-page application; a Record of Deportable Alien that showed that Petitioner was immediately released on his own recognizance after being apprehended; his initial motion for bond from October 2025; scheduling notices of the custodial hearings before the IJ; the government's motion to set a new custodial hearing, pursuant to this Court's order; and a copy of this Court's order. Ex. 4.

The government presented no evidence that circumstances have changed since Petitioner's initial release in 2023 in such a way that would render him less likely to appear for

proceedings. This is even true of the asylum pretermination, since at the time Petitioner was initially released, he had not applied for asylum.

At the hearing, the IJ asked counsel about the asylum denial. Counsel explained that Petitioner had appealed the ruling, which illegitimately regarded a detailed and extensively supported application as “abandoned” based on one partial answer to a multipart question, without having allowing counsel to supplement or flesh out the answer during the merits hearing. The IJ had Petitioner’s full file before him, which included Petitioner’s Notice of Appeal, which listed seven grounds on appeal, including the IJ’s refusal to allow newly retained counsel to meet with detained Petitioner or otherwise prepare for the case, while allowing prior counsel, who no longer represented Petitioner, to advocate for different immigration relief; the IJ’s decision deeming Petitioner’s application “abandoned” despite its having been timely filed and actively supported by multiple witness affidavits and extensive documentary evidence, and despite the newly retained counsel’s readiness to prosecute the case and address any perceived deficiencies; and the IJ’s improper reliance on issues related to third-country transit and the Circumvention of Lawful Pathways Rule as a basis for abandonment, rather than treating them as merits-based issues subject to rebuttal, and the IJ’s failure to allow counsel the opportunity to explain Petitioner’s transit history, legal status, or applicable exceptions. Ex. 5.

The IJ’s order began with the customary boilerplate text, “After full consideration of the evidence presented, the respondent’s request for a change in custody status is hereby ordered: Denied” and then stated: “[t]he respondent is a significant flight risk and no bond amount will ensure his appearance at future hearings. Bond denied.” Ex. 1.

This Court ordered Respondents to inform the Court “in detail, of the reasons for the immigration judge’s decision.” ECF #8 at 6. Respondents timely filed with this Court

“Respondents’ Status Report,” on March 12, 2026, which included the IJ’s bond decision and informed that Court that Petitioner remains in ICE detention. ECF #12. The status report provided no details of the reasons for the immigration judge’s decision beyond those found in the order.

II. Argument

This Court has “jurisdiction to issue an order enforcing its prior judgment.” *Ford Motor Co v. Woods*, 165 F. App’x 345, 346 (5th Cir. 2006) (per curiam) (unpublished) (citing *Test Masters Educ. Servs. v. Singh*, 428 F.3d 559, 577 (5th Cir. 2005)).

Habeas courts in similar circumstances have applied the “abuse of discretion” standard, under which the court assesses “whether the IJ’s decision reflects clear legal error or is unsupported by sufficient evidence.” *S.E. v. Noem*, No. 1:26-cv-00356-DAD-SCR, 2026 U.S. Dist. LEXIS 46065, at *7-8 (E.D. Cal. Mar. 5, 2026) (cleaned up).

“[M]ultiple other courts have ordered” relief “when the IJ ‘plainly could have found’ that the evidence in the existing record was not sufficient to show, by clear and convincing evidence, that the detainee posed a risk of flight or danger.” *Ayobi v. Castro*, No. SA-19-cv-01311-OLG, 2020 U.S. Dist. LEXIS 264171, at *21 (W.D. Tex. Feb. 25, 2020).

A. IJ Adams’s decision failed to apply the proper burden of proof

1. The “clear and convincing” standard requires “a clear conviction, without hesitancy” of the asserted proposition

This Court ordered that the IJ perform bond hearing during which the *government* must justify Petitioner’s continued detention through “clear and convincing” evidence.

Clear and convincing evidence is a weight of proof which produces in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. It is evidence so clear, direct and weighty and convincing as to enable the fact finder to come to a clear conviction, without

hesitancy, of the truth of the precise facts. Mere speculation does not meet the clear and convincing burden.

Galaviz v. Reyes, 95 F.4th 246, 256 (5th Cir. 2024) (cleaned up).

This standard “is a ‘difficult burden,’ and requires proof that is ‘highly probable.’”

Lizcano v. Guerrero, No. 24-10124, 2025 U.S. App. LEXIS 23548, at *22 (5th Cir. 2025) (per curiam) (unpublished) (quoting *Peter Scalamandre & Sons, Inc. v. Kaufman*, 113 F.3d 556, 564 (5th Cir. 1997) and *Colorado v. New Mexico*, 467 U.S. 310, 316 (1984)). The standard has correctly been applied only if the evidence “offered instantly tilted the evidentiary scales in the affirmative when weighed against the evidence ... offered in opposition.” *Colorado*, 467 U.S. at 316.

This is a standard that IJs are not used to imposing, as noncitizens typically bear the burden of justifying their release. *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006).

Imposing such a standard also removes the discretion regarding which factors to consider that an IJ otherwise enjoys in custodial proceedings.

The IJ stated she has ‘extremely broad discretion’ in deciding whether to release a non-citizen on bond. That may be true in a generic bond proceeding under 8 U.S.C. § 1226. But ... it is not true in a constitutionally mandated proceeding involving a heightened burden on DHS like the one at issue in this case.... [H]ere a habeas court had already ruled that due process requires the government to show by clear and convincing evidence that the detainee presents a flight risk or a danger to the community at the time of the bond hearing. That determination did not leave room for an added layer of agency discretion; if the IJ found that petitioner was not dangerous, the IJ would have had to release him.

Y.S.G. v. Andrews, No. 2:25-cv-1884-SCR, 2025 U.S. Dist. LEXIS 208276, at *30 (E.D. Cal. Oct. 22, 2025) (cleaned up) (quoting *Martinez v. Clark*, 124 F.4th 775, 784 (9th Cir. 2024) and *Martinez v. Clark*, 2019 U.S. Dist. LEXIS 196836 (W.D. Wash. Nov. 13, 2019)).

2. IJ Adams’s order did not apply this standard

It is apparent that IJ Adams did not apply the proper standard. As explained above, the government's evidence must rise far above the ordinary civil standard and dramatically outweigh the opposing evidence. *Colorado*, 467 U.S. at 316. For that to be the case, the fact-finder must at a minimum consider all of the evidence.

IJ Adams did not do that here.

In Petitioner's case, of particular importance is that a pre-detention hearing is required to determine whether an individual's circumstances have changed such that he now presents a danger or a flight risk when the government previously determined that he presented neither. *Alvarez-Rico v. Noem*, No. 4:26-CV-00729, 2026 U.S. Dist. LEXIS 38460, at *14 (S.D. Tex. Feb. 25, 2026). Petitioner had been released on his own recognizance pursuant to INA § 236, in on July 25, 2023. Ex. 3. Thus, in order to prove that he now presents a danger or a flight risk, the government must introduce evidence of changed circumstances, and the IJ must consider *all* evidence of changed circumstances.

All the changes in the case since Respondents' initial decision to release him was either neutral or cut in his favor.

He now has permanent address in the U.S., a stable work history, and strong family and community ties, including a new wife. He has a demonstrated track record of cooperation with the government, none of which he had at the time of entry into the U.S. Record of Deportable Alien, Ex. 4. Petitioner has a second, independent means of gaining asylum, as a derivative beneficiary of his wife's claim. Thus, he has not one but two avenues of potential relief.

The IJ entirely failed to address any of this evidence demonstrating that his risk of flight has decreased, either orally at the hearing or in his written decision.

Failing to consider such evidence constitutes legal error. *Y.S.G.*, 2025 U.S. Dist. LEXIS 208276, at *34 (“Meaningful evaluation of mitigation evidence ... is necessary to ensure that the high burden of the clear and convincing standard is demonstrated in fact, not in theory.”) (internal citations omitted). *Garcia v. Hyde*, No. 25-cv-585-JJM-PAS, 2025 U.S. Dist. LEXIS 253787, at *26 (D.R.I. 2025) (finding that seizing on one piece of evidence while failing to consider countervailing evidence “constituted an ‘error of law’ that violated a petitioner’s due process rights”). An IJ abuses his discretion by “finding petitioner to be a flight risk by clear and convincing evidence” when “the IJ failed to meaningfully discuss the probative evidence petitioner submitted demonstrating his significant ties to the community.” *Y.S.G.*, 2025 U.S. Dist. LEXIS 208276, at *37-38.

The sole piece of evidence discussed at the hearing was the asylum application which was both submitted and pretermitted in the intervening three years. Petitioner’s release on his own recognizance occurred well before his asylum application was filed. Thus the likelihood of the asylum application’s success could not have been the determinant of the government’s prior determination that Petitioner was eligible for release in 2023.

Courts have found that, to justify a decision to keep a noncitizen in custody when he had been deemed eligible for release before, there must be new evidence that changes the calculation of whether he should be considered either a flight risk or a danger to the community. “The absence of any change in circumstances relative to the immigration authorities’ prior determination ... that petitioner was not a flight risk demonstrates an abuse of discretion in implementing the clear and convincing evidence standard,” and a decision imposing detention on that basis accordingly constitutes legal error. *S.E.*, 2026 U.S. Dist. LEXIS 46065, at *10-11 (emphasis added). *Duong v. Kaiser*, 800 F. Supp. 3d 1030, 1042 (N.D. Cal. 2025) (“Where an

individualized assessment of flight risk and dangerousness has been made and bond granted, courts follow the Board of Immigration Appeals in requiring a ‘material change of circumstances’ before bond can be revoked or modified.”) (quoting *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA 1981)); *Y.S.G.*, 2025 U.S. Dist. LEXIS 208276, at *38 (“The absence of any change in circumstances relative to the same agency’s prior determination of flight risk on clear and convincing evidence—let alone a material change in circumstances—demonstrates an abuse of discretion in implementing the clear and convincing evidence standard.”) (internal citation omitted).

Even if pretermission of the asylum application were a legitimate factor in the release calculation, it should not be weighted heavily, for three reasons. First, Petitioner has an excellent case on appeal, especially as his asylum claim was not denied on the merits but on a technicality that is not justified under the law, in a ruling that has several other serious procedural deficiencies. Second, both district courts and the BIA have cautioned against affording too much weight to an immigration court’s decision on immigration relief when that decision is on appeal. *Ayobi*, 2020 U.S. Dist. LEXIS 264171, at *16; *Matter of E-Y-F-G-*, 29 I. & N. Dec. 103, 105 (BIA 2025). Third, Petitioner’s wife’s asylum application provides a second avenue of relief for him.

Viewed against all this demonstrated, uncontested evidence of Petitioner’s reliability, the fact that one avenue for relief is now on appeal rather than not having been filed at all does not “instantly tilt[] the evidentiary scales in the affirmative when weighed against the evidence ... offered in opposition.” *Colorado*, 467 U.S. at 316. Nor is it “so clear, direct and weighty and convincing as to enable the fact finder to come to a clear conviction, without hesitancy, of the truth of the precise facts.” *Galaviz*, 95 F.4th at 256. Rather, it constitutes “[m]ere speculation”

that Petitioner will suddenly change everything about the way he has conducted himself for years now just because one avenue of relief has faced a temporary setback. This decision does not does not meet the clear and convincing burden. *Id.*

The pro forma nature of the written opinion also fails to meet the “clear and convincing” standard imposed by the Court. Other courts have found that similarly cursory decisions “failed to meaningfully apply the clear and convincing standard and committed other legal error integral to the proper implementation of that standard.” *S.E.*, 2026 U.S. Dist. LEXIS 46065, at *7; *Y.S.G.*, 2025 U.S. Dist. LEXIS 208276, at *38 (“The IJ’s passing reference to that evidence is insufficient to show that the IJ meaningfully considered it in determining whether DHS had carried its burden.”); *see also Cole v. Holder*, 659 F.3d 762, 771 (9th Cir. 2011) (if the agency “did not consider all the evidence before it, a catchall phrase does not suffice, and the decision cannot stand.”). Here, of course, the IJ did not make even passing reference to the evidence.

Unfortunately, this has become all too common. As another district court has observed,

the Court also finds that a bond hearing before an immigration judge would not comport with due process. The Petitioner submitted two affidavits ... outlining recent observations of bond hearings and the immigration court system that indicate immigration judges who provide neutral adjudications have been removed, and bond is systematically denied after a pro forma hearing with a predetermined outcome. The Respondents dismiss those affidavits as relying on anecdotal observations, but do not provide contrary factual information, beyond citing to data showing that approximately 25% of bond hearings resulted in release in FY 26. The available data does not include January or February of 2026, which is the time period addressed by the Artieda and Burman affidavits and the time period in which all of the cases in this district have arisen.

Delgado-Salazar v. Mason, No. 2:26-cv-00137, 2026 U.S. Dist. LEXIS 39867, at *4 n.4 (S.D. W. Va. Feb. 26, 2026).

The March 10 bond hearing thus did not comply with the Court’s order.

B. IJ Adams's decision violated due process

Finally, the same failings that render Petitioner's bond hearing inadequate under this Court's order also make it constitutionally deficient.

First, courts have found that a lack of material change in a petitioner's circumstances since a prior release renders a decision to continue detention deficient under the constitution. *See, e.g., Martinez v. Noem*, No. 5:25-cv-03371-HDV-AJR, 2026 U.S. Dist. LEXIS 36788, at *5 (C.D. Cal. Mar. 2, 2026).

Second, district courts have found it necessary to warn Respondents in other cases that "[s]imply stating that [the petitioner's] request for bond was denied because he was deemed a 'flight risk' or a 'danger to the community,' without more, is insufficient." *Espinoza Camacho v. Perry*, Civil Action No. 3:26-cv-76, 2026 U.S. Dist. LEXIS 30919, at *13 (E.D. Va. Feb. 15, 2026); *see also Martinez*, 2026 U.S. Dist. LEXIS 36788, at *5-6 ("[T]here is no evidence on this record that the government met or that the IJ even applied [the government's 'clear and convincing evidence'] burden.... The only evidence this Court has in front of it is the IJ's wholly unsupported six-word order that Petitioner's bond was denied because 'danger to community and flight risk.' ... Petitioner's Application is therefore granted.") (internal citations omitted); *Jackson C. v. Dep't of Immigr. Customs Enf't*, No. 22-cv-116-JFH-GLJ, 2023 U.S. Dist. LEXIS 107070, at *14 (E.D. Okla. Jun. 21, 2023) ("The undersigned agrees that the two-page form Order from the Immigration Judge is inadequate, and holds that Petitioner is entitled to a bona fide bond hearing, at which hearing the Government should bear the burden of justifying Petitioner's continued detention by clear and convincing evidence.") (internal citation omitted); *Ayobi*, 2020 U.S. Dist. LEXIS 264171, at *2-3 (detailing a prior order "that the new bond hearing be recorded and that the immigration judge ('IJ') orally explain all specific findings and

conclusions on the record so that the specific basis for granting or denying Petitioner's release on bond would be memorialized on the recording.”).

Third, there was no discussion at the hearing or in the opinion as to whether any concern about risk of flight could be mitigated by conditions of release, such as an ankle monitor or other methods of supervision. “[A]n immigration bond hearing that fails to consider ability to pay or alternative conditions of release is constitutionally inadequate.” *Lett v. Decker*, 346 F. Supp. 3d 379, 389 (S.D.N.Y. 2018); *Sandesh v. Larose*, No. 26-cv-0846-JES-DDL, 2026 U.S. Dist. LEXIS 45941, at *12 (S.D. Cal. 2026); *see also Black v. Dir. Thomas Decker*, 103 F.4th 133, 158 (2d Cir. 2024).

For all these reasons, the March 10 bond hearing was not a true examination of the merits of Petitioner's release, but a performance, in which the IJ recited his lines but did not perform any actual analysis. This violates due process.

[C]ivil immigration detention—the form of detention under section 1226(a)—must be non-punitive in purpose and bear a reasonable relation to the statutory purposes of preventing danger to the community and flight. That the IJ's order contains the bare bones “magic words” for detaining Petitioner is insufficient to satisfy this standard.

Rodriguez v. Greene, No. 4:26-cv-0333, 2026 U.S. Dist. LEXIS 41849 (N.D. Ohio Mar. 2, 2026).

III. Conclusion

This Court ordered that Respondents give Petitioner a bond hearing at which they would be required to prove by clear and convincing evidence that Petitioner was either dangerous or a flight risk. If this did not occur by March 11, the Court ordered that Petitioner be immediately released.

For the reasons listed above, the hearing did not comply with this Court's order. The alternate order of immediate release should therefore issue, with the same release conditions that were in place prior to Petitioner's arrest in September of 2025. Ex. 3. Other courts have found the same. *See, e.g., S.E.*, 2026 U.S. Dist. LEXIS 46065; *Y.S.G.*, 2025 U.S. Dist. LEXIS 208276.

Alternatively, Petitioner respectfully requests that this Court conduct its own bond hearing to determine if he merits release.

Respondent has now spent six months in detention, separated from his family and leaving them without their primary breadwinner. The government was required to justify that detention by clear and convincing evidence. It did not do so. Because the bond proceeding failed to satisfy this Court's Order and the Constitution, the Court should order Respondent's immediate release.

Dated: March 12, 2026, and,

Respectfully Submitted.

/s/ Simon Azar-Farr

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing

MOTION TO ENFORCE

was filed with this Court on March 12, 2026, through its electronic CM/ECF filing system. Notice of this filing will be sent to the counsel for the Defendants, who is named below, by operation of this Court's CM/ECF electronic filing system.

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