

UNITED STATES DISTRICT COURT
DISTRICT COURT OF COLORADO

Juan Agustin Ailon,

Petitioner,

v.

Todd LYONS, Acting Director of Immigration
& Customs Enforcement; George VALDEZ,
Acting Field Office Director of Enforcement
and Removal Operations, Denver Field Office,
Immigration and Customs Enforcement;
Markwayne MULLEN Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S. Attorney
General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Juan Baltazar,
Warden of the Aurora Detention Facility

Respondents.

Case No.

MOTION TO ENFORCE ORDER

I. INTRODUCTION

On April 21, 2026, this Court granted the Petition for Writ of Habeas Corpus finding Petitioner's detention without a bond hearing unlawful and ordering Respondents to provide him a bond hearing that would vindicate his due process rights. *Doc. 9*. On April 22, this Court granted Petitioner's motion to clarify, stating definitively that "the Government shall bear the burden of proof by clear and convincing evidence at Petitioner's bond hearing." *Doc. 11*. On April 28, 2026, Respondents provided Petitioner a bond hearing which concluded in a denial based on flight risk. *Doc. 13-1*. Respondents filed a status report on May 1, 2026, indicating the same, and stating compliance with this Court's order granting the petition. *Doc. 13*.

Respondents did not in fact comply with this Court's order because the Bond hearing Petitioner was provided did not comport with due process or the substance of this Court's orders. Respondents' failure to comply is evidenced in at least two ways. First, the order of the Immigration Court makes no mention of the burden of proof, instead making the conclusory assertion that the Government "met its burden" without reference to what burden was met. Second, the written order of the immigration court is a *post hoc* attempt to sanitize what the audio recording of the hearing shows: the Court did not place burden on the government, the court did not acknowledge or apply the clear and convincing evidentiary standard, the court relied on arguments not even raised by the Government and not supported by evidence, and the court's bond denial was a foregone conclusion inconsistent with the demands of due process and this Court's orders.

II. FACTS

1 Petitioner is an 18-year-old Guatemalan citizen who entered the United States in 2022
2 when he was only 14 years old. Petitioner left Guatemala after his mother and father, the
3 Respondents, concluded that there was no hope for any sort of adequate or safe life for him in
4 Guatemala. Juan's entire family was born and lived in destitute poverty in Guatemala prior to
5 immigrating to the United States, where they often did not have enough food to eat and where
6 violence was rampant and out of control. Juan was forced to drop out of school after
7 elementary school.

8 Petitioner lived with his father and brother until his detention. Petitioner was detained
9 on the way to work along with his father, who has since been removed from the United States.
10 Petitioner was a passenger in the car and had broken no criminal laws. Petitioner has no
11 criminal record. Petitioner is applying for a Special Immigrant Juvenile Visa ("SIJS") with
12 USCIS. Beginning in 1990, Congress created Special Immigrant Juvenile (SIJ) status as part
13 of the Immigration and Nationality Act (INA) to protect vulnerable immigrant children. *See* 8
14 U.S.C. § 1101(a)(27)(J); 8 U.S.C. § 1255(h). In doing so, Congress intended to help
15 "alleviate[] hardships experienced by some dependents of United States juvenile courts by
16 providing qualified [noncitizens] with the opportunity to apply for special immigrant
17 classification and lawful permanent resident status, with [the] possibility of becoming citizens
18 of the United States in the future." *See* Immigration Act of 1990, Pub.L. No. 101-649, § 153,
19 104 Stat. 4978 (1990) (amending various sections of the INA); Special Immigrant Status, 58
20 Fed. Reg. 42843, 43844 (Aug. 12, 1993). Petitioner provided evidence of his pending I-360
21 application for Special Immigrant Juvenile Status to the immigration court.

22 On February 10, 2026, Petitioner was detained by immigration officials. He has
23 remained in custody since. Petitioner's apprehension in February of 2026 is his only
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1 interaction with immigration authorities in his roughly three and a half years in the United
2 States.

3 On April 21, 2026, this Court granted the Petition for Writ of Habeas Corpus finding
4 Petitioner's detention without a bond hearing unlawful and ordering Respondents to provide
5 him a bond hearing that would vindicate his due process rights. *Doc. 9*. On April 22, this
6 Court granted Petitioner's motion to clarify, stating definitively that "the Government shall
7 bear the burden of proof by clear and convincing evidence at Petitioner's bond hearing." *Doc.*
8 *11*. On April 28, 2026, Respondents provided Petitioner a bond hearing which concluded in a
9 denial based on flight risk. *Doc. 13-1*. Respondents filed a status report on May 1, 2026,
10 stating compliance with this Court's order granting the petition. *Doc. 13*.

11 **a. Immigration Court Memorandum**

12 The order of the immigration court setting Petitioner's bond hearing recognized that
13 the hearing was the result of the District Court's order. *Bond Decision of the Immigration*
14 *Judge*. The Document titled Bond Decision of the Immigration Judge is a memorandum
15 explaining the reasoning for the court's oral denial of Petitioner's bond earlier that day. *Id*
16 ("The Court explains its reasonings for the decision in this memorandum.") The Department
17 argued that Petitioner should be denied bond. *Id*. The court's order makes no reference to any
18 argument raised by the Department. *Id*. The order nonetheless finds that Petitioner "does
19 present a flight risk." *Id*. In reaching that conclusion the Court's written memorandum cites
20 two factors. *Id*. First, the Court finds that Petitioner's form I-589 "is legally deficient on its
21 face and non-meritorious." *Id*. Second, the Court finds that Petitioner's pending I-360
22 application for Special Immigration Juvenile Status is "speculative." *Id*. The memorandum
23 does not support that finding with evidence. *Id*. The memorandum closes by holding that the
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1 Department “met its burden” to show flight risk. *Id.* The “clear and convincing” standard is
2 notably absent from the memorandum. *Id.*

3 **b. The Bond Hearing**

4 The Digital Audio Recording (DAR) of the bond hearing and oral denial reveals the
5 violations of due process and this Court’s order that the written memorandum might otherwise
6 disguise. The hearing begins without the Department even entering their appearance on the
7 record. *DAR.* The court then admits 4 exhibits into the record. *Id.* Exhibits 1-3 were
8 submitted by Petitioner in support of his bond request. *Id.* Exhibit 4 is a form I-213 filed by
9 the Department. *Id.* The form is three pages. *Id.* The Department’s evidence is not cited in
10 the immigration court’s oral order or the written memorandum. *Id.*

11 The Department argued only that Petitioner is a flight risk. *Id.*, at 1:48 – 2:29. The
12 Department based this argument on Petitioner’s supposedly late-filed form I-589. *Id.* The
13 Department acknowledged in the same breath however that Petitioner was a minor until
14 recently and therefore had a strong argument to be excused of the one-year filing deadline
15 during his legal incapacity. *Id.* The Department also pointed out that Petitioner entered the
16 United States unlawfully, though again recognizing that Petitioner was a 14-year-old child at
17 the time. *Id.* The Department finally argued that there was “some flight risk” because
18 Petitioner intended to live with his brother who lacks status, though again the Department
19 acknowledges that Petitioner had two sponsor letters including one from his lawful permanent
20 resident uncle. *Id.* The Department closed by arguing to the court: “I would argue there is a
21 *slight* flight risk here and ask the court to deny bond.” *Id.*, at 2:29 (emphasis added). Without
22 making a finding as to whether the Department had met its burden to justify detention by clear
23 and convincing evidence, the court moved on to Petitioner’s counsel. *Id.*, at 2:38.

1 Petitioner's counsel pointed to the *Guerra* factors in support of his bond request.
2 *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006)(fixed address, length of residence, family ties
3 and whether they entitle the noncitizen to future relief, manner of entry); *Brief in Support of*
4 *Custody Redetermination*; *DAR*, at 2:38 – 4:37. To wit, Petitioner had a fixed address, had
5 lived in the United States since February of 2022, had extensive family ties including two
6 proposed sponsors, and those ties may entitle him to live in the United States permanently in
7 the future. *Brief in Support of Custody Redetermination*; *DAR*, at 2:38 – 4:37. Specifically,
8 Petitioner's brother is his guardian in the allocation of parental responsibilities case which is
9 the basis of his pending form I-360 petition for Special Immigrant Juvenile Status. *Brief in*
10 *Support of Custody Redetermination*; *DAR*, at 2:38 – 4:37. Finally, as to the manner of entry,
11 Petitioner entered unlawfully when he was fourteen years old. *Brief in Support of Custody*
12 *Redetermination*; *DAR*, at 2:38 – 4:37. Petitioner also filed multiple letters of support
13 including from two sponsors, one a lawful permanent resident, both of whom committed to
14 assisting petitioner in complying with his obligations to the immigration court. *Brief in*
15 *Support of Custody Redetermination*; *DAR*, at 2:38 – 4:37. Petitioner filed two forms of relief,
16 a form I-589 and a form I-360. *Id.* Petitioner's counsel also pointed out to the immigration
17 court that this Court ordered the Department to bear the burden by clear and convincing
18 evidence. *DAR*, at 4:23.

19 **c. Oral Order Denying Bond**

20 Barely ten seconds after Petitioner's counsel completed her argument in the bond
21 proceeding, the immigration judge was denying bond. *DAR*, at 4:37 – 4:45. The court's oral
22 decision found that Petitioner was an "extreme flight risk... "primarily because the only form
23 of relief that he has currently before the court is the I-589." *Id.*, at 4:53. The court *sua sponte*
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1 argued and found that Petitioner is not prima facie eligible for asylum. *Id.*, at 5:06; see also
2 5:44 (“He is not prima facie eligible.”) In reaching that conclusion, the court relied on *Matter*
3 *of H-A-A-V*, 29 I&N Dec. 233 (BIA 2025)¹. The Department did not raise this argument. *See*
4 *generally, DAR*. The court further hand waived Petitioner’s I-360 application stating that it
5 would take about 5-6 years until Petitioner could obtain status from it. *DAR*, at 5:52 – 5:58.
6 The Department did not raise this argument. *See generally, DAR*. The court did not cite any
7 evidence in support of this claim. *Id.* Based on those two court-made arguments, the
8 immigration court found that Petitioner was a flight risk and denied bond. *Id.* The court’s oral
9 order does not state that the Department met its burden or that the Department proved flight
10 risk by clear and convincing evidence. *See generally, DAR*. The only party to mention the
11 burden at the bond hearing, including in the court’s oral order denying bond, was Petitioner.
12 *Id.* The only reference to the Department’s burden from the court came later in the written
13 memorandum issued after the oral denial. *Bond Decision of the Immigration Judge* (stating
14 that the Department “met its burden” without explaining what burden).

15 **III.COMPLIANCE WITH D.C.COLO.LCivR 7.1**

16 In accordance with local rules, Petitioner states that he has attempted to resolve the
17 issues raised in this motion with Respondents by conferring via e-mail. In addition to the
18 substance of Petitioner’s claim, Petitioner alerted Respondents that the memorandum of
19 decision filed with Respondent’s status report has several material differences from the
20 immigration court’s actual oral order denying bond and does not accurately reflect portions of

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22 ¹ The court’s written memorandum curiously replaces the reference to *Matter of H-A-A-V*, with citations to three
23 other cases: “*Jaramillo v. Ashcroft*, 119 F. App’x 233 (10th Cir. 2004) (unpublished)...see also *Matter of Y-B-21*
24 I&N Dec. 1136 (BIA 1999) ...and see *Matter of M-E-V-G-*.” What these cases all have in common is that they
concerned Respondents in removal proceedings who had their applications fully adjudicated after evidentiary
hearings. Petitioner on the other hand was in a bond proceeding where the merits of his asylum application were
not at issue and he was not given notice or an opportunity to litigate them in any case.

1 the bond hearing in question. Petitioner provided Respondents a copy of the DAR of the bond
2 hearing. Petitioner and Respondents were not able to resolve the issue by conferring.
3 Respondent opposes this motion.

4 IV. DISCUSSION

5 a. JURISDICTION AND EXHAUSTION

6 This Court possesses inherent authority to enforce its own orders. See *Chambers v.*
7 *NASCO, Inc.*, 501 U.S. 32, 43 (1991) [Courts of justice are universally acknowledged to be
8 vested, by their very creation, with power to impose ... submission to their lawful mandates”]
9 (internal citation omitted); *United States v. Hudson & Goodwin*, 11 U.S. (7 Cranch) 32, 34
10 (1812). This authority derives not “by rule or statute but by the control necessarily vested in
11 courts to manage their own affairs so as to achieve the orderly and expeditious disposition of
12 cases.” *Id.* (quoting *Link v. Wabash R. Co.*, 370 U.S. 626, 630-31 (1962)). Petitioner is not
13 asking for appellate review of the immigration court’s bond determination. Petitioner
14 maintains that the bond hearing he received did not comport with due process, did not require
15 Respondents to bear the burden, and did not apply the clear and convincing evidence standard
16 to Respondents evidence. As such, Petitioner’s argument is that Respondents did not in fact
17 comply with this Court’s order. This Court has the authority to enforce its own orders.

18 Exhaustion is not required “where the Court previously granted the movant’s habeas
19 petition and ordered the relief that he now seeks to enforce.” *Cervantes Arredondo v. Baltazar*,
20 No. 1:25-CV-03040-RBJ, Order, ECF No. 26 at *7 (D. Colo. Dec. 12, 2025) (ordering a second
21 bond hearing because IJ did not allocate the burden as ordered and IJ’s findings were based on
22 inaccurate information); see also *Quiroz Zacarias v. Noem*, 1:26-cv-00574, (D. Colo. Apr. 22,
23 2026)(ordering immediate release under similar circumstances). “Exhaustion of remedies is
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1 statutorily required only for appeals of final orders of removal.” See *Quintana Casillas v.*
2 *Sessions*, Civ. 17-01039-DME-CBS, 2017 WL 3088346, at *9 (D. Colo. Jul. 20, 2017) (citing
3 *Hoang v. Comfort*, 282 F.3d 1247, 1254 (10th Cir. 2022), cert. granted and judgment vacated
4 on other grounds sub nom. by *Weber v. Phu Chan Hoang*, 538 U.S. 1010 (2003)). As the
5 Court explained in *Quintana Casillas v. Sessions*, exhaustion is not required when it would be
6 futile or when the need for prompt federal redress outweighs the interests of the agency.
7 *Quintana Casillas v. Sessions*, No. CV 17-01039-DME-CBS, 2017 WL 3088346 at *9 (D.
8 Colo. July 20, 2017) (citing *Son Vo v. Greene*, 109 F. Supp. 2d 1281, 1282 (D. Colo. 2000)).

9 Here Petitioner’s interest in retaining access to the federal forum outweighs the agency
10 interest. First, Petitioner is seeking enforcement of this Court’s order. This Court is best
11 positioned to determine compliance and address noncompliance with its own orders. Second,
12 BIA appeals result in lengthy delays and would be futile. BIA appeals take more than six²
13 months on average to complete. *Cervantes Arredondo v. Baltazar*, at 7. The Board further has
14 no competence to determine the immigration court’s compliance with this Court’s order. In
15 this context, exhaustion is prudential, not mandatory. *Molina Ochoa v. Noem*, 1:25-cv00881-
16 JB-LF, 2025 WL 3125846, at *9 (D.N.M. Nov. 7, 2025) (finding that exhaustion was not a bar
17 to consideration of habeas petition challenging denial of a bond hearing). Accordingly,
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21 ² “to demand movant wait approximately six more months for an administrative appeal “would be inappropriate
22 because it would exacerbate [his] alleged [] injury—detention without a bond hearing.” *Lopez-Arevelo v. Ripa*,
23 No. EP-25-cv-337-KC, 2025 WL 2691828, at *6 (W.D. Tex. Sept. 22, 2025); see also *Rodriguez v. Bostock*,
779 F.Supp.3d 1239, 1245 (W.D. Wash. 2025). *Cervantes Arredondo v. Baltazar*, at 7
24 See also *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1248–49 (W.D. Wash. 2025) (noting that the average
processing time for bond appeals exceeded 200 days in 2024). *Shulqui v. Bondi*, No. 26-cv-00205-KG-DLM,
ECF No. 18, at *5-6 (D.N.M. Mar. 25, 2026), at 5.

1 whether to require exhaustion is committed to sound judicial discretion. *L.G. v. Choate*, 744
2 F.Supp.3d 1172, 1181 (D. Colo. 2024)

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4 **b. THE BOND HEARING PETITIONER RECEIVED DID NOT**
5 **COMPLY WITH THIS COURT’S ORDER OR THE DEMANDS OF**
6 **DUE PROCESS**

7 The court did not apply the clear and convincing evidentiary standard in its oral ruling
8 or the written memorandum that followed. Viewed through the most charitable possible lens,
9 the closest the immigration court gets to the mandate of this Court’s order is to say in the
10 written memorandum that “DHS has met its burden to show Respondent presents a flight risk.”
11 *Bond Decision of the Immigration Judge*. The memorandum does not acknowledge or engage
12 with the clear and convincing evidence standard despite a reminder from Petitioner’s counsel
13 on the record that the burden was by clear and convincing evidence. In truth, the immigration
14 court did not place the burden on the Department at all, as shown by the DAR of the hearing.
15 The immigration court’s oral denial immediately following argument from both parties makes
16 no mention of the burden, the evidence, or how the Department supposedly met that burden.
17 Compare with *Cervantes Arredondo v. Baltazar*, at 8 (ordering new bond hearing where
18 immigration court properly stated the burden was on DHS and properly stated the clear and
19 convincing evidence standard because the court nonetheless did not apply the standard in fact).
20 The conspicuous absence of any discussion of the burden in the original oral denial
21 demonstrates that the immigration court’s subsequent editorialization of those events by
22 appending a single sentence that the Department “met its burden” was a *pro forma* afterthought
23 rather than an actual implementation of this court’s burden-shifting order. The immigration
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1 court did not in fact apply the clear and convincing evidence standard to the Department's
2 evidence.

3 The court's claim that the Department "met its burden" in the written memorandum is
4 lip service belied by the court's oral ruling. *Enoh v. Sessions*, No. 16-CV 85(LJV), 2017 WL
5 2080278, at *10 (W.D.N.Y. May 15, 2017)("Rubber stamping a prior determination with the
6 words 'clear and convincing evidence' is simply insufficient" ; See also *Nat. Res. Def. Council,*
7 *Inc. v. Pritzker*, 828 F.3d 1125, 1135 (9th Cir. 2016)("An agency acts contrary to the law
8 when it gives mere lip service or verbal commendation of a standard but then fails to abide the
9 standard in its reasoning and decision.") As this Court explained in *Cervantes Arredondo v.*
10 *Baltazar*, the immigration court risks "subtly reassigning" the burden to the noncitizen by
11 treating all evidence equally and relying on case law that assigns the burden to the noncitizen.
12 *Cervantes Arredondo v. Baltazar*, at 8 – 9. That is exactly what happened in Petitioner's case.
13 Even the court's written memorandum cites exclusively to case law placing the burden on the
14 noncitizen. *Bond Decision of the Immigration Judge* (citing *Matter of Guerra*, *Matter of D-*
15 *J*, *Matter of Saelee*, and *Matter of Drysdale* for the proposition that "a [noncitizen] who fails
16 to meet his burden will properly be denied bond). The lack of references to the Department's
17 burden by clear and convincing evidence stands in stark contrast to the immigration court's
18 explicit mention of what would happen if Petitioner did not meet his burden. *Id.* In actuality,
19 Petitioner had no burden as ordered by this Court. The immigration court was required to
20 determine whether the Department's evidence "standing on its own" established a "firm belief
21 or conviction" that continued detention is justified. *Id.*, 9 – 10. As in *Cervantes Arredondo*,
22 in this case "it is impossible to discern whether the government's evidence, standing alone,
23 satisfied its clear-and-convincing burden." *Id.*, at 11. Whereas in *Cervantes Arredondo* the

1 issue was the analytical comingling of the Department's evidence, the noncitizen's evidence,
2 and perceived evidentiary gaps, here the court's analysis ignored Petitioner's evidence
3 wholesale, ignored the Department's arguments entirely – citing none of the evidence at all –,
4 and instead denied bond based on the court's own unfounded arguments about his likelihood
5 of winning relief. Just as in *Cervantes Arredondo*, the Department "submitted no evidence
6 addressing this factor." *Id.*, at 12. The court's reliance on this factor thus further exposes that
7 the court was not in fact placing the burden on the Department as this Court ordered it to do.

8 The Department did not meet its burden to prove flight risk by clear and convincing
9 evidence where the court relied on *sua sponte* arguments not raised by the Department and not
10 supported by evidence in the record. Clear and convincing evidence is a stringent burden of
11 proof. *Cruz-Garza v. Ashcroft*, 396 F.3d 1125, 1130 (10th Cir. 2005). In this case, the
12 "minimal effort" put forth by the Department and "the IJ's sua sponte raising of issues that the
13 government had the burden to show" demonstrates non-compliance with the Court's order.
14 *Olivas v. Baltazar*, No. 26-cv-00777-NRN, ECF No. 21, at 2. Here the Department submitted
15 a single exhibit, a form I-213. The I-213 has no information suggesting a risk of flight or
16 danger to the community. Presumably that is why neither the Department nor the immigration
17 court cited the only evidence submitted by the department at all. The Department's own
18 argument was that Petitioner's asylum application was untimely (although the Department
19 conceded he had a good excuse for that as a minor who recently turned 18), that he was going
20 to live with his brother, and that he entered the United States unlawfully (although the
21 Department conceded Petitioner was 14 at the time of his entry). The Department summarized
22 that these factors made Petitioner a "slight flight risk." The immigration judge turned the
23 Department's assertion of "slight flight risk" into an "extreme flight risk" so severe that no
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1 bond amount could secure Petitioner's appearance. Neither the oral decision nor the written
2 memorandum make any reference to the Department's arguments or the Department's
3 evidence, let alone does the court explain how they met their burden by clear and convincing
4 evidence. Instead, the court's conclusion is based on its *sua sponte* consideration of the merits
5 of Petitioner's asylum claim. In the oral decision, the court determined that Petitioner is not
6 prima facie eligible for asylum by relying on *Matter of H-A-A-V*, 29 I&N Dec. 233 (BIA 2025).
7 In *Matter of H-A-A-V*, the Board found that respondent's asylum application could be
8 pretermitted as facially deficient in his removal case after he conceded there were no factual
9 issues, he had an opportunity to present evidence, he had a hearing on the matter, and was
10 given the opportunity to proffer particular social groups in support of his claim. *Id.*, at 235 –
11 236. As the Board held:

12 We recognize that many claims for asylum and related relief and protection contain
13 disputed factual issues relevant to a respondent's eligibility for asylum or related relief
14 and thus will warrant a full hearing and cross-examination of the respondent and
15 witnesses before the case is resolved. However, if the factual allegations underlying a
16 claim for asylum, withholding of removal, or protection under the CAT, viewed in the
17 light most favorable to the respondent, do not establish prima facie eligibility for relief
18 or protection

16 *Id.*, at 238. In the written memorandum *H-A-A-V* is replaced by references to "*Jaramillo v.*
17 *Ashcroft*, 119 F. App'x 233 (10th Cir. 2004) (unpublished)...see also *Matter of Y-B-* 21 I&N
18 Dec. 1136 (BIA 1999) ...and see *Matter of M-E-V-G-*." What these cases all have in common
19 is that they concerned Respondents in removal proceedings who had their applications fully
20 adjudicated after evidentiary hearings. Even *H-A-A-V*, concerned an applicant in removal
21 proceedings who had an opportunity to be heard on the facts – viewed in the light most
22 favorable to the noncitizen – and law of his application. Petitioner on the other hand was in a
23 bond proceeding where the merits of his asylum application were not at issue, he was not given
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1 notice or an opportunity to litigate them in any case, and the court made all inferences against
2 him. The court *sua sponte* raised and summarily found that Petitioner was doomed to lose his
3 asylum application without any of the procedural protections that the noncitizens had in every
4 case the court relied on to reach its conclusion. By the same token the court presumed that
5 Petitioner's application was untimely and unexcused even though the parties agreed that
6 Petitioner's legal incapacity³ could amount to an extraordinary circumstance justifying his
7 application after the one-year deadline. The court similarly speculated that Petitioner's form
8 I-360⁴ would not result in relief for 5-6 years. The court cites no evidence in support of that
9 finding. *Garcia Ortiz v. Henkey*, No. 26-cv-00043, ECF No. 28, at * 8-9 (D. Idaho Apr. 7,
10 2026) ("Petitioner's bond hearing was fundamentally unfair" because IJ denied bond based on
11 evidence outside the record which "the court had neither admitted nor examined"). Neither
12 does the court explain why a strong application, as an I-360 is, for future relief is any less of a
13 motivator for Petitioner to appear simply because it will take some time to adjudicate.
14 *Alvarado Lopez v. Dillman*, No. 25-cv-02456, ECF No. 25, Docket Order (E.D. Va. Mar. 11,
15 2026), at 13 citing *Aguilon Fuentes v. Bondi, et al.* 1:26-cv-167-AJT-WEF, Dkt. No. 14, at 5
16 (E.D. Va. Feb. 24, 2026) ("the Immigration Judge's speculation as to the merits of Alvarado's
17 1-130 Petition—does not support any reasonable inference of flight risk"). In sum, the court
18 did not hold the Department to its burden where it took the place of a party to the proceedings
19 making and ruling on its own arguments without the need to reference any evidence at all.

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22 ³ 8 CFR § 208.4(a)(5) The term "extraordinary circumstances" in section 208(a)(2)(D) of the Act ... (ii) Legal disability (e.g., the applicant was an unaccompanied minor or suffered from a mental impairment) during the 1-year period after arrival.

23 ⁴ The court's oral order also derides this application as "collateral" and not "before the court." The fact that
24 USCIS adjudicates applications for Special Immigration Juvenile status has no relevance to Petitioner's risk of flight.

1 Assuming *arguendo* de Department showed some flight risk, the evidence did not
2 justify a complete denial of bond. The court's denial of bond was based on a single *Guerra*
3 factor, Petitioner's relief. As explained above, Petitioner had a *bona fide* asylum application
4 and a pending I-360 application with no obstacles to being granted and the court's analysis of
5 the relief factor was flawed in myriad ways. More importantly, relief is a single factor. Every
6 other factor from his stable address, family and community ties, and length of residence in the
7 United States supported a grant of bond. *Perez Velasquez v. Bondi*, No. 26-cv-01759-GPC-
8 DDL, ECF No. 11, at *11 (S.D.Ca. Apr. 16, 2026) ("The IJ's failure to consider or apply any
9 of the Guerra factors and decision to instead rely on three pieces of evidence that "bear little if
10 any relevance" to Petitioner's risk of flight...while seemingly ignoring all evidence in
11 Petitioner's favor constitutes a misapplication of the legal standard to the facts.") Petitioner
12 submitted 46 pages of evidence in support of his bond. That evidence demonstrated his fixed
13 address, residence in the United States since February of 2022, extensive family ties including
14 two proposed sponsors, and that those ties may entitle him to live in the United States
15 permanently in the future. Petitioner's brother is his guardian in the allocation of parental
16 responsibilities case which is the basis of his pending form I-360 petition for Special Immigrant
17 Juvenile Status. Petitioner also filed multiple letters of support including from two sponsors,
18 one a lawful permanent resident, both of whom committed to assisting petitioner in complying
19 with his obligations to the immigration court. The Department submitted a three page I-213
20 which neither the Department nor the court cited as evidence that Petitioner was a flight risk.
21 The Department itself said Petitioner was a "slight flight risk." The court's complete denial of
22 bond suggests the sort of pre-cooked results of which Petitioner warned in his initial habeas
23 petition. *Doc. 1, Section F: Conclusion and Remedy*; see also *Lozhkina v. Noem*, et al, No.

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1 26-cv-3001-MDH, ECF No. 14, at *1-2 (W.D. Mo. Feb. 10, 2026) (concluding that “[t]he bond
2 hearing has indications of predetermined outcome . . . [t]he IJ’s determination regarding flight
3 risk is clearly untethered by the facts and any logical conclusion to be determined from the
4 facts”).

5 Put succinctly, the immigration court went rogue. Far from imposing the exacting
6 requirements ordered by this Court that the Department prove danger or flight risk by clear and
7 convincing evidence, the immigration court ignored all evidence and argument to make its own
8 arguments and findings. The Department does not meet its burden when the immigration court
9 takes its place as a litigant making and sustaining arguments for it. The court’s *sua sponte*
10 arguments are also flatly incorrect and do not support a flight risk finding. This Court’s orders
11 were not followed, and Petitioner thus remains detained in violation of the due process rights
12 this Court’s order sought to vindicate.

13 V. CONCLUSION

14 For the foregoing reasons, to enforce this Court’s order granting the initial petition, this
15 Court should order Respondents to release petitioner immediately. *Quiroz Zacarias v. Noem*,
16 1:26-cv-00574, (D. Colo. Apr. 22, 2026), at 5 (“Requiring him to undergo yet another sham
17 bond hearing, as the Government would have it, in the Court’s view would only add further
18 insult to the constitutional injury to which Petitioner has already been subjected.”)
19 Alternatively, the Court should order Respondents to faithfully comply with the Court’s order
20 by holding a bond hearing in which Respondents are held to their burden by clear and
21 convincing evidence. In pursuit of such compliance, the Court should order the immigration
22 court to make a finding before Petitioner presents any rebuttal evidence as to whether
23 Respondents evidence on its own demonstrates flight risk by clear and convincing evidence.

1 For the same reason, the Court should further direct the immigration court to consider
2 alternatives to detention if the court finds some flight risk given that the court denied bond
3 entirely despite only "slight flight risk" being argued.

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5
6 DATED this 6th of May, 2026.

7 /s/Tiago Guevara

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16 Attorney for Petitioner

17 **CERTIFICATE OF SERVICE**

18
19 I, Tiago Guevara, hereby certify that on May 6, 2026, I electronically filed the foregoing with
20 the Clerk of Court using the CM/ECF system.

21 /s/Tiago Guevara

22 Tiago Guevara, Esq.

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