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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 Gilda Garcia REYNOSO

Case No.: 26-cv-3024 JLS DDL

12
13 Petitioner-Plaintiff,

14 vs.

TRAVERSE IN SUPPORT OF
WRIT OF HABEAS CORPUS
UNDER 28 U.S.C. § 2241

15 Jeremy CASEY, in his official capacity
16 as Warden of Imperial Regional
17 Detention Center in Imperial, California;
18 Markwayne MULLIN, in his official
19 capacity as Secretary of Homeland
20 Security, Patrick DIVVER, Field Office
21 Director of San Diego Office of
22 Detention and Removal; Todd LYONS,
23 in his official capacity as Acting Director
24 of ICE; Daren MARGOLIN is the
25 Acting Director of EOIR; and Todd
26 BLANCHE, in his capacity as acting
27 U.S. Attorney General

Agency File No. 

28 Respondent-Defendants.

TRAVERSE IN SUPPORT OF WRIT OF HABEAS CORPUS UNDER 28
U.S.C. § 2241

1 **A) Respondents do not directly contest immediate release or any of the facts**
2 **and arguments in the Petitioners habeas petition**

- 3
4 1. Respondents do not contest any of the facts or arguments made in Petitioners
5 habeas, therefore the omission should be construed as a concession. *See*
6 *Ramirez v. Ghilotti Bros. Inc.*, 941 F.Supp.2 d 1197, 1210 n.7 (N.D.Cal
7 2013) (finding an argument was conceded where defendant failed to address
8 it in its opposition); *Stichting Pensioenfonds ABP v. Countrywide Fin.*
9 *Corp.*, 802 F.Supp. 2d 1125, 1132 (C.D. Cal. 2011) ("In most circumstances,
10 failure to responding a no opposition brief to an argument put forward in an
11 opening brief constitutes waiver or abandonment in regard to the
12 uncontested issue.").
- 13
14
15 2. Petitioner has alleged that her detention has become unconstitutionally
16 prolonged and has provided an analysis of the *Banda* factors to justify her
17 position.
18
19

20
21 **B) Immediate release is proper because a bond hearing at Imperial would be**
22 **futile**

- 23
24 3. Over the past several months, Immigration Judges throughout the country
25 have been denying bonds at habeas-mandated bond hearings based on "flight
26 risk" at concerning rates. *See Said v. Noem*, No. 3:25-cv-938-MOC, 2026
27
28

1 LX 47279 (W.D.N.C. Feb. 4, 2026); *Picado v. Hyde*, No. 26-cv-065-JJM-
 2 PAS, 2026 LX 18501 (D.R.I. Feb. 9, 2026); *W.T.M. v. Bondi*, No. 2:25-cv-
 3 02428-RAJ-BAT, 2026 LX 50958, (W.D.Wash. Jan. 30, 2026). The trend of
 4 constitutionally deficient bond hearings and the failure of many Immigration
 5 Courts to consider the individual merits of each detainees' bond eligibility is
 6 a concerning trend.
 7

- 8
 9 4. Petitioner requests immediate release because a bond hearing at the Imperial
 10 Immigration court would be futile.
 11

12 **C) A bond hearing should be mandated by this Court only as an alternative to**
 13 **immediate release**
 14

- 15 5. On July 8, 2025, DHS issued a policy that reclassified noncitizen residents
 16 of the United States who entered without inspection, as subject to mandatory
 17 detention under § 1225(b)(2)(A), a statute that until then only applied to
 18 those "seeking admission" at the border. DHS' new legal interpretation
 19 broke away from the statutory framework, implementing regulations, and
 20 three decades of understanding and practice that noncitizens like Plaintiff are
 21 subject to discretionary detention under § 1226(a), with the opportunity for
 22 release on bond.
 23

- 24 6. Petitioner, Gilda Garcia REYNOSO, entered the United States without
 25 inspection near McAllen, Texas on January 12, 2012. For over 10 years, she
 26
 27
 28

1 provided for her 3 children, two of which are US citizens, working as a hotel
2 maintenance worker, agricultural field worker and selling food from her
3 home.
4

5 7. For over 11 months, Petitioner has been detained in immigration custody,
6 and because of Respondents new legal interpretation and application of
7 §1225(b) "mandatory detention", had been subject to detention without
8 eligibility for bond.
9

10 8. Respondents have acknowledged that Petitioner appears to be a member of
11 the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, No.
12 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3288403 (C.D. Cal.
13 Nov. 25, 2025). However, the Ninth Circuit stayed application of the Order
14 beyond the Central District of California.
15

16 9. Respondents' non-opposition to an order from this Court directing a bond
17 hearing be held pursuant to 8 U.S.C. § 1226(a), does not negate the fact that
18 a constitutional violation has occurred and requires an appropriate remedy.
19 That remedy should be a 1226(a) bond hearing with additional safeguards.
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23

24 **D) A habeas mandated bond hearing under the 1226(a) without additional**
25 **safeguards is an insufficient remedy in this case**
26
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28

1 10. In a § 1226(a) immigration bond hearing, the burden of proof generally falls
2 on the detained non-citizen. To be released on bond, the noncitizen must
3 prove to the Immigration Judge (IJ) by a preponderance of evidence that
4 they are neither a danger to the community nor a flight risk. *See Matter of*
5 *Guerra*, 24 I&N Dec. 37 (BIA 2006).
6

7
8 11. Petitioner has been subject to unconstitutionally prolonged detention and has
9 made a compelling case as to why their Due Process rights have been
10 violated. Respondents have not presented an argument against Petitioners
11 claims or application of the *Banda* factor analysis.
12

13 12. Petitioner has been subject to detention for over 11 months and has been
14 exposed to heinous conditions at the Imperial Regional Detention Center
15 that have worsened her mental and physical health. Petitioners' detention is
16 likely to continue for many more months if not years without the Courts
17 intervention. There have also been delays by the Respondents that have
18 prolonged Petitioners detention. Lastly a final order of removal is not likely.
19
20

21 13. To remedy the violation of the Petitioner's Due Process rights, Petitioner
22 requests that the Court order an individualized bond hearing with additional
23 safeguards. *See Singh v. Holder*, 638 F.3d 1196, 1200 (9th Cir.
24 2011) (holding that noncitizens "facing prolonged detention " are "entitled to
25 a bond hearing before a neutral immigration judge."). The bond
26
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28

1 hearing must be before a fair, neutral, and open-minded immigration judge
 2 who is ordered to determine whether the Petitioner is a danger to the
 3 community or a flight risk and what bond conditions, if any, would be
 4 appropriate to ensure the Petitioner's appearance. During the bond hearing,
 5 the Respondent should bear the burden of establishing by clear and
 6 convincing evidence that the Petitioner poses a danger or flight risk. .
 7

8
 9 *See Sandesh*, 2026 U.S. Dist. LEXIS 45941, 2026 WL 622690, at *5 ("[I]t
 10 [is] appropriate to continue to apply the standard set forth in *Singh* in the
 11 case of bond hearings for those subjected to prolonged detention under §
 12 1225(b) to protect the critical liberty interest and due process rights of such
 13 individuals.").¹
 14
 15

16
 17 ¹ See growing number of cases in the Southern District of California that have granted a bond
 18 hearings where the government bears the burden of proof; *See, e.g., Sandesh v. Larose*, No. 26-
 19 cv-0846-JES-DDL, 2026 U.S. Dist. LEXIS 45941 (S.D. Cal. Mar. 4, 2026) *Banda*, 385 F. Supp.
 20 3d at 1120; *Belqasim v. Bostock*, No. 2:25-CV-01282-LK-TLF, 2025 U.S. Dist. LEXIS 224772,
 21 2025 WL 3466971, at *10 (W.D. Wash. Oct. 28, 2025); *Gao v. LaRose*, 805 F. Supp. 3d 1106,
 22 1112 (S.D. Cal. 2025); *Gonzalez v. Acting Warden of the Adelanto Det. Ctr.*, No. EDCV 26-
 23 1348-AS, 2026 U.S. Dist. LEXIS 82973, 2026 WL 993190, at *2 (C.D. Cal. Apr. 13, 2026) ("At
 24 the bond hearing, 'the Government shall bear the burden of proving by clear and convincing
 25 evidence that [Petitioner's] continued detention is justified,'" citations omitted); *Martinez v. Rios*,
 26 No. 5:26-CV-00679-SSS-BFM, 2026 U.S. Dist. LEXIS 43697, 2026 WL 576010, at *1 (C.D.
 27 Cal. Mar. 2, 2026) ("[c]onsistent with Ninth Circuit precedent, the Government bears the burden
 28 of showing by clear and convincing evidence whether Petitioner poses a flight risk or danger to
 the public."); *Balwan v. Bondi*, No. 2:26-CV-00248-LK, 2026 U.S. Dist. LEXIS 36758, 2026
 WL 497098, at *9 (W.D. Wash. Feb. 23, 2026) (surveying circuit caselaw and concluding that
 the Government should bear the burden); *Vazquez v. Mattos et al.*, No. 2:26-CV-00262-RFB-
 BNW, 2026 U.S. Dist. LEXIS 47608, 2026 WL 658896, at *2 (D. Nev. Mar. 9, 2026) (requiring
 the Government to bear the burden) (citing *Singh* and *Martinez v. Clark*); *Lima v. Wofford*, 2025
 U.S. Dist. LEXIS 255908, 2025 WL 3535009, at *4 (E.D. Cal. Dec. 10, 2025) ("The statute is
 silent on the burden of proof required in a bond hearing under § 1226(a). However, the Ninth
 Circuit has squarely ruled that due process requires that the Government bear the burden at a §

1 14. Placing the burden of proof on the Petitioner, would not remedy the
2 constitutional violation that has occurred.
3

4 **PRAYER FOR RELIEF**

5 WHEREFORE, the Petitioner prays that this Court grant the following
6 relief:
7

- 8
- 9 1. Assume jurisdiction over this matter;
 - 10 2. Enjoin Respondents from transferring Petitioner outside the jurisdiction of
11 the U.S. District Court for the Southern District of California pending the
12 resolution of this case;
 - 13 3. Issue a Writ of Habeas Corpus;
 - 14 4. Order Respondents to immediately release Petitioner from immigration
15 detention;
 - 16 5. Alternatively, conduct *an immediate bond hearing where DHS bears the*
17 *burden of justifying Petitioner's continued detention by clear and convincing*
18 *evidence.* If a bond hearing is not scheduled within the Courts ordered
19 deadline, we request immediate release;
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25 1226(a) bond hearing of justifying detention by clear and convincing evidence.") (citing *Singh*,
26 638 F.3d at 1203-06); *Mendoza v. Noem et al.*, No. 1:26-CV-00702-JLT-EPG-HC, 2026 U.S.
27 Dist. LEXIS 50503, 2026 WL 683180, at *8-*9 (E.D. Cal. Mar. 11, 2026) (analyzing Ninth
28 Circuit cases to find that the holding in *Singh* placing the burden on the Government should still
be followed).

- 1 6. Award reasonable attorney's fees and costs pursuant to the Equal Access to
- 2 Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412
- 3
- 4 7. Grant such further relief as the Court deems just and proper.
- 5
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7 Dated: May 26, 2026

Respectfully submitted,
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