David Szeles, SBN 279244
Global Law Group San Diego, P.C.
1455 Frazee Road, Ste. 500
San Diego, California 92108
Telephone: (858)833-2020
Facsimile: (619) 839-3152

Attorney for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ANGEL DE JESUS, Gustavo Petitioner, v. CHRISTOPHER LAROSE, Warden at Otay Mesa Detention Center, Respondents.	CASE NO. **3:26-cv-03245-BJC-DEB** **AMENDED[1] Motion to Enforce Judgment and for Immediate Release**

Counsel for Petitioner provides this amended motion to enforce as a way to provide an update to the court on the status of the case.

Introduction

On June 11, 2026, the Federal District Court ordered Respondents to hold a bond hearing no later than Friday, June 26, 2026. See Doc 5 at 2. Respondents were in clear defiance of the court's timeline and have violated the Order of this court by not scheduling or holding a bond hearing by the deadline of Friday, June 26, 2026. **See Exhibit A**. Petitioner filed a Motion to Enforce Judgment and for Immediate Release on Monday June 29, 2026, citing Respondent's defiance of the

[1] Federal Rule of Civil Procedure 15(a)(1)(A) permits a party to "amend its pleading once as a matter of course no later than 21 days after serving it or 21 days after service of a responsive pleading." Fed. R. Civ. Pro. 15(a)(1)(A) (punctuation altered). It is less than 21 days since the motion was filed. Petitioner therefore files this amended petition as of right.

court order. See Doc 8.

Petitioner's counsel then received notice at 10:49 am on Tuesday June 30, 2026, of a bond hearing to be held that same day on Tuesday June 30, 2026 at 1 pm. **See Exhibit B**. Petitioner's counsel therefore received notice only 2 hours and 11 minutes prior to the hearing. Petitioner is detained and did not receive notice of the hearing. Petitioner's counsel had to rearrange his schedule last minute to appear at the hearing. At the hearing, Immigration Judge Eugene Robinson noted that the District Court's order be marked as Exhibit 1 in the record. Government counsel submitted Form I-213 as their evidence at 1:57 pm on June 30, 2026. It was marked as Exhibit 2. **See Exhibit C.**

Judge Eugene Robinson stated the following:

> *"I'm not sure what happened in this case, but apparently it looks like the order was issued on June 11th, but the immigration court did not receive this until today [June 30, 2026]. And the District Court's order directed that the hearing be conducted by June 26, 2026, we did not even receive this until after the deadline had passed. In the meantime, I don't see that the respondent has submitted any evidence. Based on the language of the order, who has the burden today?"*

Undersigned counsel responded to the Immigration Judge:

> *"Your honor, I also did not receive adequate notice of this hearing. I was not the attorney of record for the habeas petition. I just got notice of this bond hearing at 10:49 today, so with less than 2 hours, 11 minutes - - its not proper notice to be able to prepare for this hearing. We're asking for a continuance. We see that yes, EOIR counsel submitted the I-213 at 1:57 pm today, but again without adequate notice we're not able to provide evidence for respondent that would establish that he is not a danger or a flight risk."*

Legal Standard

Habeas corpus is an equitable remedy, and district courts retain broad authority to fashion relief appropriate to the circumstances of the case. Where the detention process has already failed to produce a constitutionally adequate custody determination, courts may order immediate release rather than directing yet another hearing that risks prolonging unlawful detention." (citation modified)); España, 2026 WL 821788, at *13 (reaching same conclusion and collecting cases); Perez Sierra v. Margolin, No. 25–18829, 2026 WL 800158, at *4 (D.N.J. Mar. 23, 2026); Mendez, 2026 WL 973077, at *2

Federal courts have authority to grant writs of habeas corpus to individuals detained in "violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3); Yildirim v. Hermosillo, No. C25-2696-KKE, 2026 WL 111358, at *1 (W.D. Wash. Jan. 15, 2026). "In habeas cases, federal courts have broad discretion in conditioning a judgment granting relief," Lujan v. Garcia, 734 F.3d 917, 933 (9th Cir. 2013), and may dispose of habeas matters "as law and justice require," 28 U.S.C. § 2243. Here, the writ had already been granted, an order issued, and Respondents are in violation of that order.

Argument

1. **Violation of Fifth Amendment Right to Procedural Due Process - Failure by DHS to conduct individualized determination**

The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." Zadvydas, 533 U.S. at 693. 88. Due process requires that government action be rational and

nonarbitrary. See United States v. Trimble, 487 F.3d 752, 757 (9th Cir. 2007). 89. While the Government has discretion to detain individuals under 8 U.S.C. § 1226(a), this discretion is not "unlimited" and must comport with constitutional due process. See Zadvydas, 533 U.S. at 698. 90. Under the Due Process Clause, immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." Demore, 538 U.S. at 527 (quoting Zadvydas, 533 U.S. at 690)

Respondents were unambiguously ordered to provide a bond hearing. "Respondents shall hold a bond hearing **no later than June 26, 2026**, and cannot deny bond at the hearing based on § 1225." Doc 5 at 2. Respondents' continuing detention of petitioner is now completely unauthorized and unconstitutional. Respondent's failure to conduct an individualized custody determination in accordance with the court's order and provide an opportunity for Petitioner to be heard in that process prior to or contemporaneous with Petitioner's detention violates his due process rights. The Fifth Amendment requires more than "a pro forma hearing with a predetermined outcome." Chavez Ochoa v. Mason, No. 2:26-CV-00130, 2026 WL 541144, at *2 n.4 (S.D.W. Va. Feb. 26, 2026).

Here, the government provided inadequate notice, only 2 hours 11 minutes prior to the hearing time. This is against due process and violates the 5th amendment rights of petitioner. Outright release is warranted and requested.

The government has actively obstructed the administration of justice and habeas review. There is no basis for Petitioner's continued detention.

Petitioner is not a flight risk or a danger

Petitioner has no criminal convictions and is not a flight risk. He has two U.S. citizen children and has been residing in the United States for over 10 years, since January of 2016. He is eligible for 42B cancellation of removal and has filed such relief with the court already, because he has resided in the U.S. for 10 years

and has a qualifying relative, namely his U.S. citizen children, who would suffer hardship if he were removed. **See Exhibit D**. He therefore has every incentive to attend all his immigration court proceedings. Furthermore, he has never been in proceedings before. He has never been deported before or granted voluntary departure. He has no criminal bars or other bars to relief.

Conclusion

The District Court ordered a bond hearing no later than June 26, 2026. The government then provided 2 hours and 11 minutes notice on June 30, 2026 to petitioner's counsel for a bond hearing to be held that same day of June 30, 2026 at 1 pm. At the hearing the Judge acknowledged the unknown reasons for the delay, noting that the District Court Order was dated June 11. The judge then ordered a new hearing date of July 08 at 8 am.

Petitioner requested that he be released if the court did not hold a bond hearing. See Doc 1 at 2 Paragraph 5. Respondents were silent on that issue. See Doc 4. Since Respondents have defied the court's unambiguous order, the Court order Petitioner's immediate release under reasonable conditions.

Prayer for Relief

1. Order the immediate release of Petitioner with reasonable conditions of supervision.
2. In the alternative, we ask this court to exercise its inherent powers and hold a hearing itself and set a reasonable bond.

/

/

/

/

/

/

Table of Exhibits

Exhibit		Page
A	Declaration of Ann Shelnut, confirming no Bond Hearing has been scheduled	8
B	Notice of Bond Hearing, via email at 10:49 am June 30, 2026 for June 30, 2026 hearing at 1 pm	10-11
C	Notice of Government Filing of I-213 at 1:57pm on June 30, 2026	13
D	Copies of petitioner's US citizen children's birth certificates	15-16

Respectfully submitted,

Dated: July 7, 2026

/s/ David Szeles
David Szeles,
Attorney for Petitioner