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9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
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12 PONCIANO NAVA MOJICA,

13 Petitioner,

14 v.

15 FERETI SEMAIA, Warden,
16 Adelanto ICE Processing Center,
17 et al.,

18 Respondents.
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Case No. 5:26-cv-3028-MBK

ORDER GRANTING PETITION FOR
WRIT OF HABEAS CORPUS

20 Petitioner Ponciano Nava Mojica, a native and citizen of Mexico, is
21 currently in the custody of the Department of Homeland Security ("DHS") at
22 the Adelanto Detention Facility. Mr. Nava Mojica entered the United States
23 without inspection in 1995 and has been living in the United States and
24 gainfully employed since that time.

25 On November 3, 2025, Petitioner was arrested by Immigration and
26 Customs Enforcement ("ICE") officers in Santa Ana, California, and charged
27 with inadmissibility under 8 U.S.C. § 1182(a)(6)(A)(i). On December 22, 2025,
28 an Immigration Judge ("IJ") denied bond on the basis that Mr. Nava Mojica is

1 a danger and a flight risk. On May 27, 2026, following a *Rodriguez* bond
2 hearing, an IJ again denied bond on the basis that Petitioner is a flight risk.

3 In this habeas action, Mr. Nava Mojica alleges that the IJ's *Rodriguez*
4 bond determination was an abuse of discretion and violates due process and
5 the Administrative Procedure Act, and that his prolonged detention violates
6 substantive due process. Dkt. 1 at 12-17. He requests that the Court order his
7 immediate release or, in the alternative, order a bond of \$1,500. *Id.* at 17.

8 Respondents filed an Answer in which they argue that 8 U.S.C. § 1226(e) bars
9 the Court from reviewing the IJ's bond denial, but does not address the merits
10 of the denial. Dkt. 9. The Court finds that it has jurisdiction to consider
11 Petitioner's claims and that the IJ's conclusion that Petitioner is a flight risk
12 was an abuse of discretion. Accordingly, the Court grants the Petition and
13 issues a writ of habeas corpus requiring Petitioner's immediate release subject
14 to reasonable conditions of detention and preventing his re-detention absent a
15 hearing at which the Government must justify the need to detain him.

16 17 I. FACTS AND PROCEDURAL HISTORY

18 Petitioner Ponciano Nava Mojica is a native and citizen of Mexico. Dkt.
19 1 at 5. Petitioner entered the United States in 1995 without inspection. *Id.*
20 Petitioner has remained continuously in the United States since that time,
21 during which he has been gainfully employed and paid taxes. *Id.* at 2, 5; Dkt.
22 1-9. He has three daughters who are United States citizens. Dkt. 1 at 6; Dkt.
23 1-8. Petitioner has a U Visa application pending before United States
24 Citizenship and Immigration Services ("USCIS"), on the basis that he was a
25 victim of the crime of attempted murder. Dkt. 1 at 15; Dkt. 1-2.

26 Mr. Nava Mojica has been arrested twice in the United States. His first
27 arrest occurred in 1998 and arose from a domestic dispute with his then-wife.
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1 Dkt. 1 at 5. On or about July 21, 1998, he was convicted of domestic battery in
2 violation of California Penal Code § 243 (e)(1). *Id.* The records for that matter
3 have been destroyed due to age. *Id.* His second arrest occurred in 2004 for
4 misdemeanor DUI, for which Nava Mojica paid all fines, completed all
5 required classes, and fully satisfied the terms of the plea agreement in his
6 case. *Id.* at 6; Dkt. 1-4. Petitioner appeared as instructed for the hearings in
7 his criminal cases. Dkt. 1 at 14.

8 Petitioner was the victim of attempted murder at his place of
9 employment on January 18, 2018. Dkt. 1-3. According to the police report, at
10 the time, Mr. Nava Mojica was working as a carpenter at a residential
11 construction site in Irvine, California. *Id.* at 3. After Petitioner joked about his
12 nephew's work ethic to a co-worker, the nephew struck Mr. Nava Mojica in the
13 back of the head with a hammer, then chased him around the worksite while
14 wielding the hammer and threatening to kill him. *Id.* at 3-4. Petitioner was
15 able to escape, drive himself home, contact police, and seek medical treatment
16 for his injuries. *Id.* at 4.

17 On November 3, 2025, Petitioner was arrested by ICE in Santa Ana,
18 California, and served with a Notice to Appear ("NTA"). Dkt. 1 at 6; Dkt. 1-5.
19 He was subsequently transferred to the Adelanto Detention Facility. On
20 December 22, 2025, an IJ conducted a bond hearing pursuant to Section
21 1226(a) and denied Petitioner release on bond. Dkt. 1 at 6. The IJ's order is
22 documented in a form in which the IJ checked a box stating that Petitioner's
23 change in custody was being denied and added the explanation:
24 "Danger/Flight." Dkt. 1-6. The IJ did not include any facts or reasoning to
25 support its determination and Respondents have provided no other documents
26 or other evidence that shed any light on why the IJ reached this conclusion.
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1 Approximately six months later, on May 27, 2026, a different IJ held a
2 bond hearing pursuant to *Rodriguez v. Holder*, No. 2:07-cv-03239-TJH-RNB
3 (C.D. Cal. Aug. 6, 2013). Dkt. 1-7. The IJ denied bond. The IJ's order states:
4 "[t]he Department has met its burden to establish that Respondent is such a
5 significant risk of flight that no amount of bond or alternatives to detention
6 would be sufficient to mitigate it." *Id.* at 1.

7 Petitioner filed the instant habeas petition on June 2, 2026. Dkt. 1.
8 Petitioner alleges that the IJ's bond denial at his *Rodriguez* bond hearing was
9 an abuse of discretion that violates due process and the Administrative
10 Procedure Act. *Id.* at 12-16. He also contends that his prolonged detention
11 violates substantive due process. *Id.* at 16-17. On June 10, 2026, Respondents
12 filed an Answer in which they argue that 8 U.S.C. § 1226(e) bars the Court
13 from reviewing the IJ's bond denial, but do not address the merits of the
14 denial. Dkt. 9. Respondents further state: "Should the Court enter relief,
15 judgment may be entered, and consistent with the 'expeditious resolution' of §
16 2241 Immigration Petitions required by the General Order, no more filings or
17 proceedings will be necessary in this matter." *Id.* at 2. Additionally,
18 Respondents acknowledge that Petitioner appears to be a member of the class
19 certified in *ICWC v. Noem*, No. 2:25-cv-09848-AB-AS (C.D. Cal. May 20, 2026).
20 Petitioner filed a reply on June 11, 2026, agreeing that he is a member of the
21 ICWC class, arguing that relief should be entered consistent with his
22 membership, and re-stating his previous arguments. Dkt. 10.

23 24 II. DISCUSSION

25 Petitioner argues that he is entitled to release because the IJ abused its
26 discretion in finding he is a flight risk by "clear and convincing" evidence, in
27 violation of due process and the Administrative Procedures Act. Respondents
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1 argued that the Court lacks jurisdiction to review the bond denial under 8
2 U.S.C. § 1226(e), but do not address Petitioner's arguments that the IJ
3 erroneously denied him release. For the reasons that follow, the Court
4 concludes that it has jurisdiction to review the IJ's bond denial and that IJ
5 abused its discretion by finding Petitioner a flight risk. The Court therefore
6 grants the Petition, orders Petitioner's immediate release, and prevents his
7 re-detention absent a pre-deprivation hearing.

8 **A. The Court has Jurisdiction to Consider Petitioner's Claims**

9 Petitioner seeks habeas relief pursuant to 28 U.S.C. § 2241.
10 Section 2241 "makes the writ of habeas corpus available to all persons 'in
11 custody in violation of the Constitution or laws or treaties of the United
12 States.'" *Trinidad y Garcia v. Thomas*, 683 F.3d 952, 956 (9th Cir. 2012)
13 (en banc) (quoting 28 U.S.C. § 2241(c)(3)). "The writ of habeas corpus
14 historically provides a remedy to noncitizens challenging executive
15 detention." *Id.* (citing *INS v. St. Cyr*, 533 U.S. 289, 301-03 (2001)).
16 Respondents nonetheless argue that Congress stripped the federal courts'
17 habeas jurisdiction over claims like Petitioner's through 8 U.S.C. § 1226(e).
18 Dkt. 9 at 2. The Court concludes that this statute does not bar habeas review
19 of Petitioner's claims.

20 Section 1226(e) provides that "[t]he Attorney General's discretionary
21 judgment regarding the application of this section shall not be subject to
22 review." As discussed further below, "this section" —Section 1226—governs
23 the Government's discretionary authority to detain or release a noncitizen in
24 immigration proceedings. Section 1226(e) therefore precludes a noncitizen
25 from "challenging a discretionary judgment by the Attorney General or a
26 decision that the Attorney General has made regarding his detention or
27 release." *Jennings*, 583 U.S. at 295 (plurality) (cleaned up).
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1 Nonetheless, the federal courts retain jurisdiction to
2 consider constitutional claims or questions of law regarding bond
3 determinations, including “mixed questions” involving the application of law
4 to facts. The Ninth Circuit has found that the immigration courts’
5 determination that a noncitizen presents a danger by “clear and convincing”
6 evidence is such a “mixed question” amenable to federal court
7 review. *See Martinez v. Clark*, 124 F.4th 775, 783 (9th Cir. 2024).

8 Although *Martinez* involved a dangerousness determination, the same
9 rationale applies to detention decisions based on flight risk. As *Martinez*
10 recognizes, an IJ applies the same nine-factor test set forth in *In re Guerra*, 24
11 I. & N. Dec. 37 (BIA 2006) “[t]o determine whether an alien is a danger to the
12 community or a risk of flight.” 24 F.4th at 783 (emphasis added). Although
13 what constitutes dangerousness and flight risk “is malleable and involves
14 agency discretion, *Wilkinson* instructs that this is still a legal standard so long
15 as federal courts can ‘assess whether an IJ correctly applied the statutory
16 standard to a given set of facts.’” *Id.* (quoting *Wilkinson v. Garland*, 601 U.S.
17 209, 221 (2024)).

18 *Martinez* establishes that federal courts should review an IJ's
19 dangerousness determination under the deferential abuse of discretion
20 standard. *Id.* at 784 (“When questions require a close review of agency-found
21 facts, like the “dangerousness” determination, we review for an abuse of
22 discretion.”). The Court therefore proceeds to determine whether the IJ
23 abused its discretion by finding that Petitioner presents a flight risk by “clear
24 and convincing” evidence.

25 **B. Petitioner’s Detention is Unlawful**

26 Petitioner contends that the IJ abused his discretion in finding that he
27 is a flight risk requiring his detention at his *Rodriguez* bond hearing. Apart
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1 from arguing that this Court lacks jurisdiction to review the IJ's
2 determination, Respondents did not address Petitioner's claim that the IJ's
3 determination was erroneous. Respondents' failure to contest Petitioner's
4 claim is a concession. *See Rojas v. Mullin*, No. 26-cv-1437 FMO-MAA, 2026
5 WL 1105039, at *1 (C.D. Cal. Apr. 17, 2026) (granting petition where "the
6 court construes respondents' failure to address petitioner's due process claim
7 as a concession"); *Khoury v. Noem*, No. 5:26-CV-00113-SRM-MBK, 2026 WL
8 846040, at *3 (C.D. Cal. Jan. 22, 2026) (granting TRO requiring the
9 petitioner's release where "the Court construes Respondents' failure to
10 address this argument as a concession that Petitioner is likely to succeed on
11 the merits of this claim"); *E-M- v. Hermosillo*, No. 3:25-cv-1083-SI, 2026 WL
12 883776, at *1 (D. Or. Mar. 31, 2026) ("Respondents do not challenge Count
13 Three on the merits and thus the Court finds that Respondents have waived
14 any such challenge and conceded those aspects of Count Three of the
15 Petition"); *Soleimani v. Larose*, No. 25-cv-3082-DMS-DEB, 2025 WL 3268412,
16 at *3 (S.D. Cal. Nov. 24, 2025) (granting petition because, "[b]y failing to
17 respond to the claims actually asserted, Respondents have conceded the
18 claims").

19 Based on the undisputed record, the Court concludes that the IJ abused
20 its discretion in finding Petitioner is a flight risk by "clear and convincing"
21 evidence.

22 **1. The IJ Abused his Discretion in Finding Petitioner a Flight**
23 **Risk and Denying Bond**

24 Under *Martinez*, this Court reviews the IJ's danger and flight risk
25 findings for "abuse of discretion." 124 F.4th at 784. Under that deferential
26 standard, the reviewing court determines whether the IJ "applied the correct
27 legal standard" and may not "reweigh evidence." *Id.* at 785 (quoting *Konou v.*
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1 *Holder*, 750 F.3d 1120, 1127 (9th Cir. 2014)). An IJ “abuses its discretion
2 when its decision is arbitrary, irrational, or contrary to law,” *Pleitez-Lopez v.*
3 *Barr*, 935 F.3d 716, 719 (9th Cir. 2019) (quoting *Avagyan v. Holder*, 646 F.3d
4 672, 678 (9th Cir. 2011)), or “when it fails to state its reasons and show proper
5 consideration of all factors when weighing equities and denying relief.” *An Na*
6 *Peng v. Holder*, 673 F.3d 1248, 1253 (9th Cir. 2012) (quoting *Ahmed v. Holder*,
7 569 F.3d 1009, 1014 (9th Cir. 2009)).

8 The “clear and convincing” standard requires the Government to
9 present evidence to establish “an abiding conviction that the truth of [the]
10 factual contentions at issue is highly probable.” *Mondaca-Vega v. Lynch*, 808
11 F.3d 413, 422 (9th Cir. 2015) (en banc). This is “a high burden and must be
12 demonstrated in fact, not ‘in theory.’” *Obregon v. Sessions*, No. 17-cv-01463-
13 WHO, 2017 WL 1407889, at *7 (N.D. Cal. Apr. 20, 2017) (quoting *United*
14 *States v. Patriarca*, 948 F.2d 789, 792 (1st Cir. 1991)). See also *Perez v. Wolf*,
15 445 F. Supp. 3d 275, 287 (N.D. Cal. 2020) (collecting cases applying the “high
16 standard” of “clear and convincing” evidence).

17 The IJ conducted Petitioner’s *Rodriguez* bond hearing on May 27, 2026,
18 and ordered him detained as a flight risk. Dkt. 1-7. Petitioner submitted the
19 IJ’s order of detention, which includes a single line of reasoning: “[t]he
20 Department has met its burden to establish that Respondent is such a
21 significant risk of flight that no amount of bond or alternatives to detention
22 would be sufficient to mitigate it.” *Id.* at 1. Respondents did not submit any
23 additional orders or other documents explaining the basis of the IJ’s
24 determination.

25 In light of Respondents’ failure to offer any defense of the IJ’s
26 determination, the Court finds that the record does not establish that
27 Petitioner is a flight risk by “clear and convincing” evidence. Petitioner has
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1 resided in the United States continuously for more than 30 years. During this
2 time, Petitioner has become a father to three U.S. Citizen daughters,
3 maintained employment, paid taxes, applied for a U Visa, and not missed any
4 hearings related to immigration matters. When he faced criminal charges
5 more than two decades ago, he appeared for all his court hearings and fully
6 satisfied his legal obligations, including paying his fines and completing all
7 required classes.

8 Based on this record, there is no indication that Petitioner is a flight
9 risk, much less evidence to demonstrate “an abiding conviction” that it “is
10 highly probable,” *Mondaca-Vega v. Lynch*, 808 F.3d at 422, Petitioner is
11 unlikely to appear for future court hearings or removal. As such, because
12 Respondents have declined to defend the IJ’s determination, the Court
13 concludes that the IJ abused his discretion in concluding that Petitioner is a
14 flight risk and denying release on bond.

15 **C. Petitioner’s Remaining Claims**

16 Respondents note that Petitioner “appears to be a member of the class
17 certified in *ICWC v. Noem*, No. 2:25-cv-09848-AB-AS, Dkt. 57, 2026 WL
18 1455004 (C.D. Cal. May 20, 2026) (order granting motion for class
19 certification).” Dkt. 9. Petitioner agrees. Dkt. 10. Neither Petitioner nor
20 Respondents indicate what relief Petitioner is entitled to based on the orders
21 in *ICWC* or if they affect Petitioner’s habeas claims. As such, the Court
22 declines to issue any relief with respect to Petitioner’s membership in the
23 *ICWC* class.

24 Because the Court concludes that Petitioner is entitled to release on the
25 basis of the IJ’s abuse of discretion in denying bond, it declines to address
26 Petitioner’s remaining claim that his prolonged detention also violates
27 substantive due process. Nothing prevents Petitioner from raising this claim
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1 again in the future, should the Government re-detain Petitioner following the
2 procedures set forth above.

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4 **III. CONCLUSION**

5 For the foregoing reasons, the Court concludes that the IJ abused his
6 discretion in denying bond. Accordingly, the Court ORDERS the following: (1)
7 Judgment be entered granting the Petition; (2) a writ of habeas corpus be
8 issued requiring Petitioner Ponciano Nava Mojica's (A# )
9 immediate release subject to reasonable conditions of detention and
10 prohibiting his re-detention absent a pre-deprivation hearing at which the
11 Government demonstrates that his detention is warranted; and (3) that
12 Respondents file a status report within three (3) calendar days from the date
13 of this order confirming Petitioner's release and compliance with this order.

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16 Dated: June 12, 2026

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18 HON. MICHAEL B. KAUFMAN
19 UNITED STATES MAGISTRATE JUDGE
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