UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS, DIVISION

PREMANAND MOHAN SARANG
A[redacted]

Petitioner,

Case No.

HABEAS CORPUS
PETITON FOR WRIT

JASON STREEVAL, Warden, Stewart Detention Center,
Lumpkin, Georgia
; **DAVID VENTURELLA**, Acting Director of Immigration
and Customs Enforcement ("ICE");
; **MARKWAYNE MULLIN**, Secretary of the
Department of Homeland Security ("DHS");
AND **TODD BLANCHE**, Attorney General of the United States
And the United States.

Respondents,

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

I. INTRODUCTION

1. Petitioner Premanand Mohan Sarang respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 because he remains detained by Immigration and Customs Enforcement after a constitutionally defective bond hearing.

2. Petitioner is detained at Stewart Detention Center while his removal proceedings remain pending. He has no final order of removal. Petitioner is not subject to mandatory detention. He is detained, if at all, under 8 U.S.C. § 1226(a), which authorizes discretionary release on bond.

3. Petitioner received a custody redetermination hearing before the Immigration Court. Bond was denied on the ground that Petitioner is a danger to the community. *Please see* **<u>Exhibit A</u>**, Copy of the Bond Order.

4. The issue before this Court is not whether the Immigration Judge reached the correct discretionary bond outcome. The issue is whether Petitioner received a meaningful and constitutionally adequate custody determination. He did not. The Immigration Judge found Petitioner dangerous based on a dismissed, non-violent misdemeanor allegation arising from a retail alcohol transaction during Petitioner's employment.

5. The State Court of Stephens County, Georgia dismissed the underlying allegation on May 20, 2026. There is no conviction, no guilty plea, no admission of guilt, no sentence, no probation, and no pending prosecution.

6. The dismissed allegation arose from what has been described as an ATF-related operation or raid at Petitioner's workplace. Unlike a typical criminal case, the record before the Immigration Court did not contain a police report, investigative report, citation, arrest warrant affidavit, or any other law-enforcement document establishing the factual basis of the allegation.

7. Petitioner is not aware of any reliable evidence establishing that the alleged customer was a minor. The criminal case was never tried, prosecuted to judgment, or proven in any court. The State Court dismissed the citation before there was any conviction, guilty plea, admission, or factual finding.

8. The allegation did not involve violence, weapons, bodily injury, threats, domestic violence, drugs, or harm to any person or property. At most, it involved a dismissed, non-violent retail alcohol allegation arising from Petitioner's employment.

9. Petitioner explained that he believed the individual was purchasing an energy drink while he was operating multiple registers during a busy morning shift because his co-worker was absent. The Immigration Judge failed to meaningfully address this explanation before

treating the dismissed allegation as evidence of present dangerousness.

10. Petitioner does not ask this Court to reweigh the evidence considered by the Immigration Judge. Rather, Petitioner challenges the legal sufficiency of the process and the absence of reliable evidence supporting the danger determination. See *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). The Immigration Judge treated the dismissed allegation as sufficient to establish present dangerousness without identifying reliable evidence establishing the central factual predicates of the allegation, including whether the alleged customer was underage or whether Petitioner knowingly furnished alcohol. The record contained no police report, citation, ATF report, proof of age, witness testimony, conviction, guilty plea, or admission of guilt.

11. Petitioner is the father of two U.S. citizen children. One child suffers from encephalomalacia, a serious neurological condition requiring ongoing care. Petitioner is the primary provider for his household. His wife is now forced to care for the children, manage medical needs, maintain the household, and handle all financial responsibilities alone.

12. Petitioner respectfully requests that this Court issue an order to show cause, expedite consideration, grant the writ, and order Respondents to provide Petitioner a prompt, constitutionally adequate bond hearing within seven days before a different Immigration Judge. At that hearing, DHS should bear the burden of proving by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk.

II. JURISDICTION AND VENUE

13. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody within this District and challenges the legality of his detention.

14. Venue is proper because Petitioner is detained at Stewart Detention Center in Lumpkin, Georgia, within the Middle District of Georgia.
15. Respondent Warden of Stewart Detention Center is Petitioner's immediate custodian.
16. Respondents also include federal officials responsible for Petitioner's immigration detention, including the Secretary of Homeland Security, the Acting Director of ICE, the Attorney General, and the ICE Field Office Director responsible for Petitioner's custody.
17. Although 8 U.S.C. § 1226(e) limits review of discretionary custody determinations, it does not bar review of constitutional or legal challenges to the procedures used in bond proceedings. This Petition does not seek review of the Immigration Judge's discretionary weighing of bond evidence. Rather, it challenges the constitutional adequacy of the bond process and the legal sufficiency of the evidentiary foundation used to authorize continued detention. Section 1226(e) does not bar such constitutional and legal challenges. See *Jennings v. Rodriguez*, 583 U.S. 281, 295 (2018); Demore v. Kim, 538 U.S. 510, 517 (2003).
18. In *Demore v. Kim*, 538 U.S. 510, 517 (2003), the Supreme Court recognized that § 1226(e) does not preclude constitutional challenges to the statutory framework authorizing immigration detention.
19. Federal courts have repeatedly recognized jurisdiction to review whether immigration bond proceedings complied with due process. See *Miranda v. Garland*, 34 F.4th 338, 352–53 (4th Cir. 2022); *Singh v. Holder*, 638 F.3d 1196, 1201–02 (9th Cir. 2011); *Velasco Lopez v. Decker*, 978 F.3d 842, 850 (2d Cir. 2020); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 33 (1st Cir. 2021); *Borbot v. Warden Hudson Cnty. Corr. Facility*, 906 F.3d 274, 279 (3d Cir. 2018). This Court has likewise recognized jurisdiction to review whether a post-habeas

bond hearing complied with due process, even where the Government invokes § 1226(e).

20. Petitioner does not ask this Court to substitute its judgment for the Immigration Judge's discretionary bond decision. He challenges the constitutional adequacy of the bond process because the danger finding was based on a dismissed allegation and speculation rather than reliable evidence.

21. Section 1226(e) does not insulate a bond hearing that has the form of process but not the substance of due process.

III. THE PARTIES

22. Petitioner has been detained by ICE since April 2026. ICE detained him at Stewart Detention Center.

23. Respondent, David Venturella, is the acting director of U.S. Immigration and Customs and Enforcement, and he has authority over the actions of respondent and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

24. Respondent, Jason Streeval Warden, Stewart Detention Center, Lumpkin, Georgia is a legal custodian of Petitioner.

25. Respondent, Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

26. Respondent, Todd Blanche, the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

27. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

28. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

29. This action is commenced against all Respondents in their official capacities.

IV. FACTUAL BACKGROUND

30. Petitioner Premanand Mohan Sarang is a native and citizen of India. He entered the United States in 2016 on a B-2 visitor visa together with his spouse, Rashmi Shet Tanavade, and has remained in the United States while pursuing protection before the immigration authorities. Together, they have two United States Citizen children.

31. Petitioners currently have a pending asylum application and has been granted employment authorization. Prior to his detention, Petitioner resided with his spouse and children at their family home owned by him located at [redacted] [redacted]. Petitioner and his family own the residence and have established substantial residential and community ties in Georgia.

32. Petitioner's United States citizen son (9 years old) suffers from encephalomalacia, a serious neurological condition requiring ongoing care and treatment. Petitioner's USC daughter (4 years old) also suffered from growth delays and seeing specialized providers for the same. Since Petitioner's detention, his wife has been solely responsible for caring for the children, managing the household, attending to the children's needs, and meeting the family's financial obligations.

33. Petitioner was arrested in Stephens County, Georgia, based on an citation of furnishing alcohol to a minor. The allegation arose in the course of Petitioner's employment at a retail establishment. The allegation arose from what has been described as an ATF-related operation at Petitioner's workplace.
34. The charges against him were dismissed by the superior court because the prima facie arrest on an ATF citation was an illegal arrest.
35. At Petitioner's initial custody determination hearing, the Immigration Judge denied bond while the underlying criminal allegation remained pending before the State Court of Stephen's County. *Please see* **Exhibit B**, First Bond Denial Order.
36. Thereafter, a material changes in circumstances occurred. On May 20, 2026, the State Court of Stephens County entered an order dismissing the underlying citation in State of Georgia v. Premanand Sarang, Citation No. 002726. *Please see* **Exhibit C**, Dismissal Order.
37. After the dismissal, Petitioner filed a second bond motion based on materially changed circumstances. The second bond motion included the dismissal order and explained that the only criminal allegation forming the basis of the prior danger concern had been dismissed. *Please see* **Exhibit D**, Motion for Bond Redetermination and Exhibits filed before the Immigration Court.
38. On June 8, 2026, the Immigration Judge denied Petitioner's second bond motion and again found Petitioner to be a danger to the community despite the dismissal of the underlying criminal matter.
39. Petitioner remains detained at Stewart Detention Center pursuant to that custody determination.

V. LEGAL FRAMEWORK

A. <u>THIS COURT HAS JURISDICTION TO REVIEW WHETHER PETITIONER'S CONTINUED DETENTION COMPORTS WITH DUE PROCESS</u>.

40. As a threshold matter, and in response to Respondents' opposition to Petitioner's Status Report, this Court has jurisdiction to review Petitioner's due process claim. While 8 U.S.C § 1226(e) states that "the Attorney General's discretionary judgment regarding" detention or release of noncitizens under § 1226 "shall not be subject to review," the statutory provision does not bar review of constitutional challenges to those proceedings. *Miranda v Garland*, 34 F.4th 338, 352-53 (4th Cir. 2022). "[W]hether an immigration judge must consider certain factors" in § 1226(a) bond proceedings is a "'constitutional challenge' to the procedures adopted by the Attorney General for all detention decisions under § 1226(a). As a result, § 1226(e) does not bar [judicial] review." *Id.*, 34 F.4th at 353. *See also Mejia Orosco v. Lyons, et al.*, 1:25-cv-01762, Dkt. 20 at 4 (E.D. Va. Dec. 1, 2025) (Trenga, J.) (citing *Miranda*, 34 F.4th at 352-53, 358-59); *Mendez Trigueros v. Guadian, et al.*, 1:26-cv-00205, Dkt. 13 at 3-4 (E.D. Va. Feb. 18, 2026) (Trenga, J.); *Aguilon Fuentes v. Bondi, et al.*, 1:26-cv-00167, Dkt. 14 at 3 (E.D. Va. Feb. 24, 2026) (Trenga, J.); *Said v. Noem*, 3:25-cv-938, 2026 U.S. Dist. LEXIS 23475 (W.D. NC Feb. 4, 2026) (Cogburn, J.) ("Under § 1226(e), district courts have jurisdiction to review an Immigration Judge's discretionary bond denial only where that bond denial is challenged as legally erroneous or unconstitutional." (internal citation omitted)).

41. In *Demore v. Kim*, 538 U.S. 510 (2003), the Supreme Court held that § 1226(e) does not preclude "constitutional challenges to … legislation authorizing [immigration] detention without bail." *Id.*, 538 U.S. at 517 (2003). In *Hatami v. Chertoff*, 467 F. Supp. 2d 637 (E.D. Va. 2006), Judge Ellis stated that if the petitioner "challenge[d] the constitutionality of the

statutory framework permitting his detention without bail[,]" then § 1226(e) "would not preclude judicial review." *Id.*, 467 F. Supp. 2d at 640-41. However, Judge Ellis held that where a petitioner "challenges an IJ's bond decision and the adequacy of the procedures used in reaching that decision," *id.* at 639, the court does not have jurisdiction to review the decision. *Id.* at 641. Thus, he held that § 1226(e) precluded review of the petitioner's challenges to the IJ's decision to deny bond. *Id.* Respectfully, Petitioner disagrees. This Court ordered that the Federal Respondents provide Petitioner with a bond hearing that comports with procedural and substantive due process. This Court has jurisdiction to decide whether the bond hearing Petitioner received was constitutionally adequate. Additionally, *Hatami* was decided before the Fourth Circuit issued its decision in *Miranda.*

42. In *Prieto-Romero v. Clark*, a case cited by the Respondents, the Ninth Circuit held that § 1226(e) precluded review of the amount of the petitioner's bond set by the IJ. *Id.*, 534 F.3d 1053, 1067 (9th Cir. 2008). At the same time, the court stated that where a noncitizen "contends that an unreasonable bond amount precludes her release from detention that is statutorily unauthorized," such a challenge would be "a fit subject for judicial review." *Id.* Thus, the court suggested that § 1226(e) does not bar judicial review of constitutional challenges to bond proceedings. Later, in *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011), the Ninth Circuit held that the district court "had habeas jurisdiction to review Singh's claims of constitutional and legal error" in his habeas petition alleging that there were "various procedural and substantive due process violations" in his bond hearing. *Id.*, 638 F.3d at 1201-02. Although under § 1226(e), "the Attorney General's 'discretionary judgment … shall not be subject to review,' claims that the discretionary process itself was constitutionally flawed are 'cognizable in federal court on habeas because they fit

comfortably within the scope of § 2241.'" *Id.*, 638 F.3d at 1202 (quoting *Gutierrez-Chavez v. INS*, 298 F.3d 824, 829 (9th Cir 2002)).

43. In *Portillo v. Hott*, this Court granted Rodriguez Portillo's habeas petition challenging his 14-month detention in immigration custody without a bond hearing. *Id.*, 322 F. Supp. 3d 698, 709 (E.D. Va. 2018) (Brinkema, J.) The IJ had found that the petitioner was subject to mandatory detention under § 1226(c) because he had been convicted of grand larceny. *Id.*, 322 F. Supp. 3d at 700. This Court held that "due process demands that Rodriguez receive an individualized inquiry into whether his continued detention fulfills the purposes of the statute," and that "at the bond hearing, the government must demonstrate that Rodriguez is either a flight risk or a danger to the community by clear and convincing evidence." *Id.* at 709. The petitioner requested that this Court "maintain jurisdiction to review the result of any bond hearing." *Id.* Pursuant to § 1226(e), this Court rejected the petitioner's request. *Id.* It appears that the jurisdictional question presented in this Petitioner's motion to enforce – whether § 1226(e) precludes judicial review of constitutional challenges to the adequacy of a bond hearing ordered by the Court – was not addressed in *Portillo*.

44. This Court's habeas order was not satisfied by the mere scheduling of a bond hearing. The hearing had to provide Petitioner with a real and individualized determination of whether detention remained justified. Civil immigration detention is not punitive. It must bear a reasonable relationship to the government's legitimate interests in ensuring appearance and protecting the community. Where the stated basis for continued detention is danger to the community, the question is whether the evidence shows that Petitioner presently poses a danger to public safety.

45. This Court also has jurisdiction under § 1252(a)(2)(B)(ii). The statute provides that "no court shall have jurisdiction to review" any decision "of the Attorney General .... the authority for which is specified under this subchapter to be in the discretion of the Attorney General." *Id.* In *Miranda*, the court noted that in *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001), "the Supreme Court held that § 1252(a)(2)(B)(ii) did not bar jurisdiction where the [noncitizens] 'challenge[d] the extent of the Attorney General's authority under the post-removal-period detention statute,' which 'is not a matter of discretion." *Miranda*, 34 F.4th at 353 n.6. "Section1252(a)(2)(B), as interpreted by the Supreme Court, does not foreclose judicial review" of "challenges to the procedures used in a Section 1226 bond hearing." *Mejia Orosco*, Dkt. 20 at 4 (citing *Miranda*, 34 F.4th at 353 n.6). *See also Mendez Trigueros*, Dkt. 14 at 4; *Aguilon Fuentes*, Dkt. 14 at 3. Since Petitioner is not challenging the IJ's discretionary decision but rather that the IJ did not provide Petitioner with substantive and procedural due process, § 1252(a)(2)(B)(ii) does not preclude judicial review.

46. In Martinez v. Clark, the Ninth Circuit held that federal courts in habeas may review the agency's dangerousness determination for abuse of discretion. The abuse of discretion standard of review is "deferential," particularly because judicial review requires close review of factual findings by the agency.52 Under an abuse of discretion standard, a federal court "cannot reweigh evidence" but can "only determine whether the BIA applied the correct legal standard."

47. On April 6, 2026 Judge Sands of the United States District Court of Middle District of Georgia, Valdosta Division in the case 7:26-cv------WLS- ALS finding jurisdiction stated that, "*Jennings*, "§ 1226(e) does not preclude 'challenges [to] the statutory framework that

permits [the alien's] detention without bail.'" *Id.* (quoting *Demore*, 538 U.S. at 517). Indeed, where detainees challenged "the constitutionality of the entire statutory scheme under the Fifth Amendment," § 1226(e) did not preclude their claims. *Id.* Accordingly, Petitioner challenges "the IJ's conduct" at the bond hearing, alleging it violated "his due process rights and this Court's order." (Docs. 13 at 3–4 & 7-3 at 8). And "[§] 1226(e) contains no explicit provision barring habeas review." *Demore*, 538 U.S. at 517.[1] Several circuits courts have similarly found that § 1226(e) does not deprive the Court of jurisdiction to review a due process challenge like the one at issue here. *Soto-Medina v. Lynch*, No. 1:25-CV-1704, --- F. Supp. 3d ----, 2026 WL 161002, at *3 (W.D. Mich. Jan. 21, 2026). *See, e.g., Hernandez-Lara v. Lyons*, 10 F.4th 19, 33 (1st Cir. 2021) ("To the extent the government is arguing that section 1226(e) deprives the district court or this court of jurisdiction, that claim fails: [petitioner] does not challenge the IJ's ultimate exercise of discretion, but rather 'the extent of the Government's detention authority under the statutory framework as a whole.'") (citation modified); *Velasco v. Decker*, 978 F.3d 842, 850 (2d Cir. 2020) ("Whether [petitioner] received the due process to which he was entitled 'is not a matter of discretion' and is subject to judicial review."); *Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011), *distinguished on other grounds by Martinez v. Clark*, 124 F.4th 775, 785 (9th Cir. 2024) ("Although § 1226(e) restricts jurisdiction in the federal courts in some respects, it does not limit habeas jurisdiction over constitutional claims or questions of law."); *Miranda v. Garland*, 34 F.4th 338, 353 (4th Cir. 2022) (concluding that "§ 1226(e) does not bar our review"); *Borbot v. Warden Hudson Cnty. Corr. Facility*, 906 F.3d 274, 279 (3d Cir. 2018) ("Because [petitioner] does not challenge a particular action or decision, but rather 'the statutory framework that permits his detention without bail,' §

1226(e) does not deprive the District Court or this Court of jurisdiction over [petitioner's] petition." (citation modified)."

B. <u>Detention Under 8 U.S.C. § 1226(a)</u>

48. Petitioner is detained during the pendency of his removal proceedings and has no final order of removal. His detention is therefore governed, if at all, by 8 U.S.C. § 1226(a), not by the post-final-order detention statute. Section 1226(a) authorizes the arrest and detention of a noncitizen pending a decision on removal, but it also permits release on bond or conditional parole. 8 U.S.C. § 1226(a)(1), (2). Unlike mandatory detention under 8 U.S.C. § 1226(c), detention under § 1226(a) is discretionary and requires an individualized custody determination.

49. Petitioner is not subject to mandatory detention under § 1226(c). The dismissed Georgia misdemeanor allegation does not trigger mandatory detention, and there is no final order of removal. Accordingly, Petitioner is entitled to a meaningful custody redetermination under § 1226(a) and the applicable regulations. See 8 C.F.R. §§ 1003.19, 1236.1(d).

50. The Middle District of Georgia has recognized that where a noncitizen is detained under § 1226(a), a bond hearing must comport with due process. In *J.G. v. Warden, Irwin County Detention Center*, 501 F. Supp. 3d 1331, 1335 (M.D. Ga. 2020), the Court ordered the Government to provide a bond hearing within seven days and required DHS to establish by clear and convincing evidence that the petitioner was either a danger to the community or a flight risk.

51. Petitioner's entitlement is not merely to the scheduling of a bond hearing in form. He is entitled to a meaningful custody determination in substance, one that evaluates whether continued detention is justified by reliable evidence of present danger or flight risk. Civil

immigration detention must bear a reasonable relationship to its lawful purposes of ensuring appearance and protecting the community. See *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001); *Demore v. Kim*, 538 U.S. 510, 527 (2003). See also *Jackson v. Indiana*, 406 U.S. 715, 738 (1972) ("due process requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed"). The granted enforcement order relied on this principle in finding that a constitutionally adequate bond hearing must be individualized.

C. Due Process Requires a Meaningful Custody Determination

52. The Fifth Amendment prohibits the federal government from depriving a person of liberty without due process of law. Because physical detention implicates one of the most fundamental liberty interests protected by the Constitution, the procedures authorizing continued detention must be meaningful and constitutionally adequate. See *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (describing freedom from physical restraint as "the most elemental of liberty interests").

53. The question before this Court is not whether the IJ's bond determination was correct or incorrect. The question is whether the "standard bond hearing" this Court ordered—one that satisfies the requirements of procedural due process—actually took place. For the reasons set forth below, it did not.

54. Procedural due process requires more than the mere opportunity to appear before a decisionmaker. Rather, **due process requires a meaningful hearing**, consideration of the evidence presented, reasoned decision-making, and an explanation sufficient to permit meaningful review. *Mathews v. Eldridge*, 424 U.S. 319, 333–35 (1976). Under *Mathews*, courts evaluate: (1) the private interest affected by the government action; (2) the risk of

erroneous deprivation through the procedures employed and the probable value of additional procedural safeguards; and (3) the government's interest. *Id.*

55. The private interest implicated here is exceptionally significant. Petitioner remains physically confined by the federal government while removal proceedings remain pending. The Supreme Court has repeatedly recognized that physical liberty occupies a unique constitutional status and that civil detention must remain the carefully limited exception rather than the rule. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("Freedom from imprisonment, from government custody, detention, or other forms of physical restraint, lies at the heart of the liberty that [the Due Process] Clause protects."); *United States v. Salerno*, 481 U.S. 739, 755 (1987).

56. The risk of erroneous deprivation is particularly acute where continued detention is based upon allegations that have never been proven and where the record lacks reliable evidence establishing the factual basis for the detention decision. Under *Mathews*, courts must consider "the risk of an erroneous deprivation" through the procedures used and the probable value of additional safeguards. *Mathews*, 424 U.S. at 335. That risk is heightened in detention proceedings because incarceration restricts a noncitizen's ability to communicate with counsel, family, and potential witnesses, and limits access to records needed to develop the bond record. See *J.G.*, 501 F. Supp. 3d at 1337–38.

57. Civil immigration detention is regulatory, not punitive. Its lawful purposes are limited to ensuring appearance at future proceedings and protecting the community from actual danger. *Demore v. Kim*, 538 U.S. 510, 527 (2003); *Zadvydas*, 533 U.S. at 690–91. Accordingly, a custody determination must bear a reasonable relationship to those purposes

and must be supported by evidence demonstrating that continued detention is necessary to serve them.

58. Petitioner does not ask this Court to substitute its judgment for that of the Immigration Judge or to reweigh the evidence presented during the bond proceedings. Rather, Petitioner challenges whether the process employed satisfied constitutional requirements and whether the record contained sufficient reliable evidence to support the danger determination in the first instance. See *Demore*, 538 U.S. at 517 (recognizing that constitutional challenges to detention remain reviewable); *Miranda v. Garland*, 34 F.4th 338, 352–53 (4th Cir. 2022); *Singh v. Holder*, 638 F.3d 1196, 1201–02 (9th Cir. 2011).

59. Due process further requires "the guarantee of an impartial and disinterested tribunal." *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980). A meaningful custody determination therefore requires not only a neutral adjudicator, but also a decision grounded in reliable evidence and reasoned analysis rather than unsupported assumptions. Where detention is continued despite the absence of reliable evidence establishing the factual predicates of a danger finding, the resulting deprivation of liberty raises serious due process concerns.

60. Accordingly, the question presented by this Petition is not whether the Immigration Judge should have weighed the evidence differently. The question is whether the danger determination was supported by sufficient reliable evidence and whether the custody proceedings provided the meaningful process required by the Fifth Amendment. Where continued detention rests on an unproven and dismissed allegation unsupported by reliable evidence, due process requires judicial intervention to ensure that the detention decision complies with constitutional standards.

D. Department of Homeland Security (DHS) Must Establish Danger or Flight Risk by Clear and Convincing Evidence

61. Because detention under 8 U.S.C. § 1226(a) results in a substantial deprivation of liberty, due process requires DHS to establish by clear and convincing evidence that a detainee presents either a danger to the community or a flight risk. See *J.G. v. Warden, Irwin County Detention Center*, 501 F. Supp. 3d 1331, 1335 (M.D. Ga. 2020).

62. The clear and convincing standard is a demanding one. It requires evidence demonstrating that the factual contention is highly probable. *Mondaca-Vega v. Lynch*, 808 F.3d 413, 422 (9th Cir. 2015) (en banc). An adjudicator cannot satisfy that standard through speculation, assumptions, or unproven allegations. Nor may a decisionmaker simply recite the governing standard without meaningfully applying it to the evidence. *Nat'l Res. Def. Council v. Pritzker*, 828 F.3d 1125, 1135 (9th Cir. 2016). This allocation is consistent with the "overwhelming majority" of courts to address the issue, including the First, Second, and Ninth Circuits. See *Hernandez-Lara v. Lyons*, 10 F.4th 19, 39 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F.3d 842, 855–57 (2d Cir. 2020); *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011).

63. Here, DHS relied on a criminal allegation that was ultimately dismissed. The record contained no conviction, guilty plea, admission of guilt, police report, investigative report, citation establishing the alleged customer's age, ATF report, proof-of-age documentation, or witness testimony establishing the factual basis of the allegation. The record likewise did not establish whether the alleged customer was underage or whether Petitioner knowingly furnished alcohol to an underage individual.

64. Petitioner does not ask this Court to reweigh the evidence considered by the Immigration Judge. Rather, Petitioner challenges whether the record contained sufficient reliable evidence to satisfy DHS's burden in the first instance. See *Demore v. Kim*, 538 U.S. 510,

517 (2003); *Miranda v. Garland*, 34 F.4th 338, 352–53 (4th Cir. 2022); *Singh v. Holder*, 638 F.3d 1196, 1201–02 (9th Cir. 2011). Where the record lacks reliable evidence establishing the factual predicates of a danger finding, continued detention raises serious due process concerns.

IV. ARGUMENTS

COUNT ONE
Petitioner's Detention Violates Due Process Because the Danger Determination Was Not Supported by Sufficient Reliable Evidence

65. "Freedom from imprisonment" lies at the heart of the liberty protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 690. Because civil detention is a serious deprivation of liberty, due process requires procedures that meaningfully reduce the risk of erroneous detention. *Addington v. Texas*, 441 U.S. 418, 427 (1979). The Fifth Amendment requires a meaningful custody determination before a person may be deprived of physical liberty. See *Mathews v. Eldridge*, 424 U.S. 319, 333–35 (1976); *Hamdi v. Rumsfeld,* 542 U.S. 507, 529 (2004). A custody determination must be based on reliable evidence and reasoned decision-making sufficient to permit meaningful review.

66. Petitioner does not challenge the Immigration Judge's discretionary authority to evaluate the evidence presented during the bond proceedings. Nor does Petitioner ask this Court to substitute its judgment for that of the Immigration Judge or to reweigh the evidence considered during the custody determination. Rather, Petitioner challenges whether the record contained sufficient reliable evidence to support the danger finding in the first instance. See *Demore v. Kim*, 538 U.S. 510, 517 (2003); *Miranda v. Garland*, 34 F.4th 338, 352–53 (4th Cir. 2022); *Singh v. Holder*, 638 F.3d 1196, 1201–02 (9th Cir. 2011).

67. Here, the danger determination rested upon a criminal allegation that was ultimately dismissed. The record contained no conviction, guilty plea, admission of guilt, sentence, probation, or pending prosecution. The record likewise did not contain a police report, investigative report, citation establishing the alleged customer's age, ATF report, proof-of-age documentation, witness testimony, or other comparable evidence establishing the factual predicates of the allegation. The record therefore did not establish whether the alleged customer was underage or whether Petitioner knowingly furnished alcohol to an underage individual.

68. Petitioner presented an explanation of the events underlying the allegation and identified significant evidentiary gaps concerning the factual basis of the charge. Nevertheless, the danger determination was issued despite the absence of reliable evidence establishing the central facts necessary to support that finding. Courts have recognized that detention decisions based upon sparse, unproven, or unreliable allegations raise serious due process concerns. See *Ortega-Rangel v. Sessions*, 313 F. Supp. 3d 993, 1004–05 (N.D. Cal. 2018); *Y.S.G. v. Andrews*, No. 2:25-cv-1884-SCR, 2025 WL 2979309, at *9 (E.D. Cal. Oct. 22, 2025). See also *Martinez v. Clark*, 124 F.4th 775, 785 (9th Cir. 2024); *Cole v. Holder*, 659 F.3d 762, 771–72 (9th Cir. 2011) (failure to address highly probative evidence or misstatement of the record constitutes legal error).

69. Because the record lacked sufficient reliable evidence establishing the factual predicates of the danger determination, Petitioner's continued detention raises serious due process concerns. Petitioner therefore respectfully requests a new custody redetermination hearing that comports with constitutional requirements.

COUNT TWO

The Custody Determination Does Not Reflect a Constitutionally Adequate Application of the Clear-and-Convincing Standard

70. Physical detention constitutes a substantial deprivation of liberty. Accordingly, where the Government seeks to continue detaining an individual during removal proceedings, due process requires meaningful procedural protections. In *J.G. v. Warden, Irwin County Detention Center*, 501 F. Supp. 3d 1331, 1335 (M.D. Ga. 2020), the court held that DHS must establish by clear and convincing evidence that a detainee presents either a danger to the community or a flight risk. The burden is properly placed on DHS because § 1226(a) is silent as to burden, and courts must independently determine whether the procedures used satisfy due process. See *Hernandez-Lara*, 10 F.4th at 26; *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024).

71. The clear-and-convincing standard requires evidence demonstrating that the factual contention is highly probable. See *Mondaca-Vega v. Lynch*, 808 F.3d 413, 422 (9th Cir. 2015) (en banc). A decision maker does not satisfy that standard merely by reciting it; the standard must be meaningfully applied to the evidence contained in the record. See *Nat'l Res. Def. Council v. Pritzker*, 828 F.3d 1125, 1135 (9th Cir. 2016). This heightened standard is appropriate where the individual interest at stake is physical liberty. See *Cooper v. Oklahoma*, 517 U.S. 348, 363 (1996); *Santosky v. Kramer*, 455 U.S. 745, 756 (1982); Addington, 441 U.S. at 427.

72. Petitioner does not ask this Court to reweigh the evidence presented at the bond hearing or to substitute its judgment for that of the Immigration Judge. Rather, Petitioner challenges whether the record contained sufficient reliable evidence to support the factual predicates underlying the danger determination. The record contained no conviction, guilty plea, admission of guilt, police report, investigative report, citation establishing the alleged

customer's age, ATF report, proof-of-age documentation, or witness testimony establishing the factual basis of the dismissed allegation. Nor did the record establish that the alleged customer was underage or that Petitioner knowingly furnished alcohol to an underage individual.

73. Under these circumstances, continued detention raises substantial due process concerns because the danger determination was issued despite significant evidentiary gaps concerning the underlying allegation. See *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Petitioner therefore respectfully requests a new custody redetermination hearing at which the applicable burden of proof is applied in a manner consistent with due process and supported by reliable evidence.

COUNT THREE

The Immigration Judge's failed to review evidence in the record while making the danger to community assessment; IJ abused its discretion in denying bond.

74. In Y.S.G. v. Andrews, No. 2:25-cv-1884-SCR, 2025 WL 2979309, at *9 (E.D. Cal. Oct. 22, 2025) the district court granted a motion to enforce its previous order and found that, after holding a pre-deprivation bond hearing pursuant to the district court's previous order, the "IJ abused her discretion by failing to meaningfully apply the clear and convincing standard and by committing other legal error to the proper implementation of the standard." The district court identified two errors as to dangerousness: (1) the IJ failed to "make a meaningful determination as to present dangerousness" by focusing on "stale" convictions and not properly considering "petitioner's post-release evidence of rehabilitation, and (2) the IJ relied "on sparse record evidence concerning petitioner's new misdemeanor charges." With respect to flight risk, the district court also found the IJ's analysis wanting—relying on old evidence that had already been considered by an IJ prior to

petitioner's original release from detention. The IJ had "failed to meaningfully discuss the probative evidence submitted demonstrating his significant ties to the community." As to remedy, the district court ordered the petitioner released but allowed for a subsequent hearing before an IJ at which the government could once again try and make its case for detention in a pre-deprivation bond hearing.

75. In *Hossein Miri v. Bondi*, No. 5:26-cv-00698-MEMF-MAR, 2026 WL 622302, at *7-9 (C.D. Cal. Mar. 5, 2026) the district court granted a temporary restraining order and found an IJ abused its discretion in denying a noncitizen bond on danger and flight risk grounds. The district court found that the IJ failed to "consider and address in its entirety the evidence submitted by [the] petitioner and to issue a decision that fully explains the reasons for" the denial. The IJ did not describe which bond "factors were considered, if any, or what evidence was relied on."

76. The "clear and convincing" standard as requiring "an abiding conviction that the truth of the factual contentions is highly probable."87 Mondaca-Vega v. Lynch, 808 F.3d 413, 422 (9th Cir. 2015) (en banc) (cleaned up). See also Obregon v. Sessions, No. 17-cv-01463-WHO, 2017 WL 1407889, at *7 (N.D. Cal. Apr. 2017) (describing this as "a high burden and must be demonstrated in fact, not 'in theory'") (quoting United States v. Patriarca, 948 F.2d 789, 792 (1st Cir. 1991)). The Ninth Circuit has explained that an "agency acts contrary to the law when it gives mere lip service or verbal commendation of a standard but then fails to abide the standard in its reasoning and decision."88 Nat'l Resc's Defense Council v. Pritzker, 828 F.3d 1125, 1135 (9th Cir. 2016).

77. Likewise, if the IJ "fail[s] to mention highly probative or potentially dispositive evidence," or "misstates the record," the IJ has committed legal error, Martinez, 124 F.4th at 785 (citing Cole v. Holder, 659 F.3d 762, 771-72 (9th Cir. 2011)).

78. *Matter of Guerra,* 24 I&N Dec. 37 (BIA 2006), identifies several factors relevant to a custody determination, including family ties, length of residence in the United States, employment history, fixed address, appearance history, and other circumstances bearing on danger and flight risk. *Matter of Guerra,* 24 I&N Dec. 37, 40 (BIA 2006). *Guerra* permits consideration of relevant factors; it does not eliminate the requirement that detention be based on reliable evidence and an individualized analysis.

79. Similarly, *Matter of Dobrotvorskii* recognizes that the existence of a valid, reliable, and credible sponsor is relevant to evaluating a respondent's fixed address and likelihood of compliance with future proceedings. *Matter of Dobrotvorskii*, 29 I&N Dec. 211 (BIA 2025).

80. During the custody proceedings, Petitioner presented evidence concerning his family ties, residence, employment history, community support, sponsorship, and available conditions of release. Petitioner further presented evidence that he resides with his spouse and two United States citizen children, owns a residence in Georgia, has employment authorization, payment of taxes from 2018 to 20225, Good Moral character letters, and has significant incentives to appear for future proceedings.

81. Petitioner does not ask this Court to reweigh those factors or determine the amount of weight they should have received. Rather, Petitioner challenges whether the custody determination reflects meaningful consideration of the factors that Guerra identifies as relevant to the danger and flight-risk analysis. See *Matter of Guerra*, 24 I&N Dec. at 40.

This is not an invitation for the Court to reweigh those factors. It is a challenge to whether the custody decision meaningfully engaged with the required legal framework at all.

82. Where a liberty determination is made without meaningful consideration of relevant mitigating evidence and available release conditions, the risk of erroneous deprivation increases substantially. See *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Petitioner therefore respectfully requests a new custody redetermination hearing that meaningfully evaluates the evidence presented and applies the governing legal standards in a manner consistent with due process.

COUNT FOUR

IJ MADE A LEGAL ERROR IN DENYING BOND

83. Ortega-Rangel v. Sessions, 313 F. Supp. 3d 993, 1004-05 (N.D. Cal. 2018) IJ found dangerousness based on an arrest alone, without a conviction- legal error.

84. BIA in Matter of Arreguin, 21 I&N Dec. 38 (BIA 1995), while holding that IJ made a legal error in denying bond held that, "The Immigration Judge concluded that this incident was a negative factor to be considered in exercising discretion. Just as we will not go behind a record of conviction to determine the guilt or innocence of an alien, so we are hesitant to give substantial weight to an arrest report, absent a conviction or corroborating evidence of the allegations contained therein. Here, the applicant conceded that the arrest took place but admitted to no wrongdoing. Considering that prosecution was declined and that there is no corroboration, from the applicant or otherwise, we give the apprehension report little weight.

85. *See Matter of Edwards, supra*. Section 212(c) applications involving convicted aliens must be evaluated on a case-by-case basis, with rehabilitation a factor to be considered in the exercise of discretion. *Matter of Roberts*, 20 I&N Dec. 294 (BIA 1991); *Matter of Edwards,*

supra.

86. The IJ also failed to assess dangerousness as a present-tense inquiry. The relevant question is whether the government established by clear and convincing evidence that Petitioner currently poses a danger to the community. See Y.S.G. v. Andrews, No. 2:25-cv-1884-SCR, 2025 WL 2979309, at *9 (E.D. Cal. Oct. 22, 2025) (holding that an IJ must make a meaningful determination regarding present dangerousness and may not rely primarily on stale evidence while disregarding evidence of rehabilitation).

87. During the custody proceedings, Petitioner presented evidence concerning his family ties, residence, employment history, sponsorship, good moral character, evidence of ongoing medical hardship to the USC children, and community support. The record established that Petitioner resides with his spouse and two United States citizen children, owns a residence in Georgia, has employment authorization, and has significant incentives to comply with future immigration proceedings. Petitioners also presented evidence regarding the availability of family support and supervision in the event of release. This distinction is critical because § 1226(e) bars review of discretionary weighing but does not bar review of constitutional or legal defects in the process used to authorize detention. Such a failure to address highly probative evidence constitutes legal error. Martinez, 124 F.4th at 785; Cole, 659 F.3d at 771-72.

88. At most, the IJ cited the fact of Petitioner's arrest and allegations that were never sustained. Such evidence cannot be established by clear and convincing evidence that Petitioner presently poses a danger, particularly where the citation against him was dismissed by the superior court.

89. This issue is particularly significant because detention under § 1226(a) is discretionary and because civil detention must remain reasonably related to its regulatory purposes. See *Demore v. Kim*, 538 U.S. 510, 527 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001). Where substantial evidence exists concerning family support, stable residence, sponsorship, and other mitigating factors, meaningful consideration of those circumstances is necessary to reduce the risk of erroneous deprivation of liberty. See *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

90. Accordingly, Petitioner respectfully requests a new custody redetermination hearing at which the relevant *Guerra* factors, sponsorship evidence, and available conditions of supervision are evaluated in a manner consistent with due process and the requirements of § 1226(a). This framing is necessary because the Court need not decide whether Petitioner should have been granted bond. The Court need only determine whether the custody process rested on a legally sufficient evidentiary foundation.

91. By focusing on the initial allegations while failing to meaningfully evaluate the final disposition and the extensive evidence favorable to Petitioner, the IJ effectively gave lip service to the clear and convincing evidence standard without actually applying it. See Nat'l Res. Def. Council v. Pritzker, 828 F.3d 1125, 1135 (9th Cir. 2016). The resulting dangerousness determination was therefore legally erroneous and cannot satisfy the requirements of due process or this Court's habeas order.

COUNT FIVE
The Record Did Not Establish the Factual Predicates Necessary to Support the Danger Determination

92. Petitioner does not challenge the Immigration Judge's authority to consider criminal allegations in the custody context. See *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). Nor

does Petitioner ask this Court to reweigh the evidence presented during the bond proceedings. Rather, Petitioner challenges whether the record contained sufficient reliable evidence establishing the factual predicates underlying the danger determination.

93. The danger determination arose from an allegation that Petitioner furnished alcohol to a minor during an ATF-related operation. However, the record before the Immigration Court contained no conviction, no guilty plea, no admission of guilt, no police report, no investigative report, no evidence establishing the alleged customer's age, or no witness testimony establishing the factual basis of the allegation. In fact there was no trial, and the citation against him was dismissed because his arrest was illegal. The Petitioner in 10 years of his residence does not even have one single conviction and has regularly paid taxes sine 2018.

94. Due process requires not only a hearing, but a meaningful hearing before a neutral decisionmaker. *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980). Petitioner respectfully submits that these evidentiary gaps raise serious due process concerns because the danger determination was issued despite the absence of reliable evidence establishing the factual predicates upon which that determination rested. See *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Petitioner therefore requests a new custody redetermination hearing that comports with due process and is based upon reliable evidence.

COUNT SIX

Petitioner Is Entitled to a New Bond Hearing Before a Different Immigration Judge

95. Reassignment is requested to ensure a fresh custody determination, not to obtain review of the prior Immigration Judge's discretionary weighing of the evidence. As a remedy for the due process violations described herein, Petitioner respectfully requests a new custody redetermination hearing before a different Immigration Judge. Petitioner does not seek

reassignment based on disagreement with the prior bond decision, nor does he ask this Court to review the Immigration Judge's discretionary weighing of the evidence.

96. Rather, Petitioner seeks reassignment because the purpose of the requested relief is to provide a meaningful and constitutionally adequate custody determination. The prior proceedings resulted in a finding that Petitioner was a danger to the community notwithstanding the dismissal of the underlying criminal matter and the absence of reliable evidence establishing the factual predicates of the allegation. Under these circumstances, reassignment is necessary to ensure that any renewed custody determination is conducted with a fresh evaluation of the record and the applicable legal standards.

97. Petitioner further submits that a new hearing before a different Immigration Judge would best effectuate the relief requested in this Petition and promote confidence that the renewed custody determination is based upon a neutral application of the governing standards rather than a reconsideration of previously adopted findings. See *Marshall v. Jerrico*, Inc., 446 U.S. 238, 242 (1980) (recognizing the due process requirement of a neutral and disinterested decisionmaker).

98. A new hearing before a different Immigration Judge is also appropriate because the purpose of the requested relief is to provide a genuinely fresh and individualized custody determination consistent with *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). Where a court orders a renewed proceeding to remedy constitutional deficiencies in an earlier proceeding, reassignment may be necessary to ensure that the remedial hearing is meaningful in both form and substance. See *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980); *Withrow v. Larkin*, 421 U.S. 35, 46–47 (1975).

99. Accordingly, if this Court grants the Petition, Petitioner respectfully requests that Respondents be ordered to provide a new custody redetermination hearing before a different Immigration Judge within a time certain and under the procedural safeguards required by due process.

EMERGENCY REQUEST FOR ORDER TO SHOW CAUSE AND EXPEDITED CONSIDERATION

100. Petitioner respectfully requests emergency consideration because this case concerns ongoing physical detention.

101. Each day Petitioner remains detained following a constitutionally defective bond hearing causes irreparable harm.

102. Petitioner is separated from his wife and two U.S. citizen children. One child suffers from a serious neurological condition requiring ongoing care. Petitioner's wife is forced to manage medical care, childcare, transportation, household bills, and emotional responsibilities alone. Petitioner is the primary provider for the household.

103. The harm cannot be fully remedied later. Expedited consideration is appropriate because Petitioner challenges the legality of his ongoing detention.

104. Petitioner requests that the Court immediately issue an order requiring Respondents to show cause why the writ should not be granted.

105. Petitioner further requests that the Court set an expedited briefing schedule and order a prompt hearing.

XIII. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Assume jurisdiction over this Petition;

B. Issue an order to show cause requiring Respondents to justify Petitioner's continued detention;

C. Expedite briefing and hearing on this Petition;

D. Grant the Petition for Writ of Habeas Corpus;

E. Order Respondent be released from custody;

F. In alternative, Order Respondents to provide Petitioner a new custody redetermination hearing within seven days;

G. Order that the new custody redetermination hearing be conducted before a different Immigration Judge, or at minimum before a neutral Immigration Judge who did not issue the prior defective danger finding;

H. Order that DHS bear the burden of proving by clear and convincing evidence that Petitioner is a danger to the community or a flight risk;

I. Order that any danger finding must be based on reliable evidence and individualized findings;

J. Order that a dismissed charge, standing alone, cannot establish present danger to the community;

K. Order that the Immigration Judge meaningfully consider Petitioner's family ties, stable residence, employment authorization, pending asylum application, lack of violence, lack of failures to appear, dismissal of the sole criminal matter, sponsorship, conditions of release, and the serious medical needs of his U.S. citizen child;

L. Grant any further relief this Court deems just and proper.

Respectfully submitted on June 10, 2026.

/s/ Ripal Patel

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CERTIFICATE OF SERVICE

I, Ripal Patel, hereby certify that a copy of the foregoing was mailed First class postage prepaid to the office of the Attorney General at the below mentioned address:

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