

Nicholas Paul, Esq.
Partnership for the Advancement of New Americans (PANA)
PO Box 50189, San Diego, CA, 92105
(619) 363-0241
Nick@panasd.org
Pro Bono Counsel for the Plaintiff

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

Jose Angel GIRON RODAS

Case No.: 3:26-cv-03535-JAO-JAC

Petitioner-Plaintiff,

vs.

**Application for Enforcement of
Judgement**

Christopher J. LAROSE, in his official
capacity as Warden of Otay Mesa
Detention Center; Patrick DIVVER,
Field Office Director of San Diego
Office of Detention and Removal; Todd
LYONS, in his official capacity as
Acting Director of ICE; Markwayne
MULLIN, in his official capacity as
Secretary of Homeland Security; Daren
K. MARGOLIN as Acting Director of
EOIR, and Todd BLANCHE, in his
capacity as acting U.S. Attorney General

Agency File No.:



Respondent-Defendants.

1 For the reasons explained below, Petitioner hereby makes this ex parte
2 Application for an Enforce Judgment pursuant to Federal Rule of Civil Procedure
3 70(a). On July 6, 2026, the Court granted Petitioner's petition for writ of habeas
4 corpus and ordered that Respondents provide Petitioner with "an individualized
5 bond hearing within fourteen (14) days before a *neutral immigration judge* in
6 which the government bears the burden of establishing by clear and convincing
7 evidence that Petitioner is a danger to the community or a flight risk if released."
8 Dkt # 9. On July 20, 2026, Respondent's held a bond hearing where Petitioner was
9 once again denied release on bond. Dkt # 11-1. Notably, the presiding immigration
10 judge was the same judge that claimed Petitioner was "a significant trafficker of
11 persons" and denied bond eligibility based on his past criminal convictions on
12 March 10, 2025. *See* Exhibit A, Exhibit B and Exhibit D generally.

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18 Petitioner continues to be detained in violation of law and due process and
19 requests an immediate order of release from custody due to the immigration court's
20 failure to adhere to the Court's habeas order. Fed. R. Civ. P. 70(a). Petitioner
21 requires ex parte relief because of the severity of his ongoing detention in which an
22 immigration judge, for a third time, has denied release from detention when
23 Petitioner's alleged danger to others or flight risk could have been mitigated
24 through bond or alternatives to detention. Respondents were advised on July 24,
25 2026, that Petitioner would be filing this ex parte application.
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1 **I. INTRODUCTION**

- 2 1. Petitioner seeks an order of immediate release from this Court pursuant to Fed.
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4 R. Civ. P. 70(a). On July 6, 2026, the Court granted Petitioner's petition for writ
5 of habeas corpus and ordered that Respondents provide Petitioner with an
6 individualized bond hearing within fourteen (14) days before a *neutral*
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8 *immigration judge* in which the government bears the burden of establishing by
9 clear and convincing evidence that Petitioner is a danger to the community or a
10 flight risk if released. (emphasis added) *See* Dkt # 9.
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12 2. On July 20, 2026, the Respondent's held a bond hearing and once again denied
13 Petitioner release on bond. *See* Dkt #11 -1. The bond order states denial is
14 based on "Danger to the community based on the nature and recency of the
15 alien smuggling offense. Coupled with the denial of all relief in his removal
16 proceedings, no amount of bond would suffice to alleviate the risk of flight." *Id.*
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18 3. Notably, the presiding judge was not a *neutral immigration judge* as he was the
19 same judge that on March 10, 2025 ultimately rendered an official order
20 determining that Petitioner was ineligible for bond because of his prior criminal
21 convictions. *See*. Dkt #11-1 and Exhibit A.
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23 4. This Court further ordered that if a compliant hearing was not provided within
24 14 days, then release was required. *See*. Dkt # 9. Petitioner continues to be
25 detained at the Otay Mesa Immigration Detention Center in violation of law and
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1 due process and requests an immediate order of release from custody due to the
2 Respondents' failure to adhere to the Court's order. *See* Fed. R. Civ. P. 70(a).

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4 5. Petitioner submits this ex parte motion because he continues to be detained at
5 Otay Mesa and requires urgent attention for his severe medical conditions. *See*
6 Dkt #1-2 at Exhibit A and Exhibit F.
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9 **II. STATEMENT OF FACTS**

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11 6. Mr. Giron Rodas was born in San Marcos, Guatemala 

12  *See* Dkt #1-2, Exhibit A at 1. He entered the United States in 2003,
13 without inspection near Douglas, Arizona. For nearly 20 years, Mr. Giron
14 Rodas, lived in the United States without incident. He married, obtained lawful
15 employment authorization, found steady work in the construction industry and
16 became an active member of the Church of Jesus Christ and Latter-Day Saints
17 in Los Angeles, California. *See* Dkt #1-2, at Exhibit A at 4 and Exhibit D at 49-
18 50. On March 9, 2017 Mr. Giron was placed in removal proceedings where he
19 applied for cancellation of removal and work authorization. The Immigration
20 Court eventually dismissed his removal case without prejudice as a matter of
21 prosecutorial discretion. *See* Dkt #1-2, Exhibit D at 67-68.
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A. Mr. Giron Rodas's is arrested and pleads guilty to a single count of Transportation of Certain [Non-Citizens] 8 U.S.C. § 1324 (a)(1)(A)(ii).

7. In May 2024, Mr. Giron Rodas received a desperate phone call from an old friend from Guatemala. The friend informed Mr. Giron that he had crossed the US-Mexico border and was in desperate need of food, water, and shelter. Mr. Giron Rodas agreed to look for him near the 94 freeway in eastern San Diego and get him to safety. After finding his friend and driving back to his home in Los Angeles, Mr. Giron Rodas was arrested at a freeway checkpoint near Dulzura, CA and was charged for transportation of certain aliens under 8 U.S.C. § 1324(a)(1)(A)(ii).

8. On January 10, 2026, Mr. Giron Rodas pled guilty to one count of transportation of certain aliens under 8 U.S.C. § 1324(a)(1)(A)(ii) and was notably sentenced to time served (255 days) with one year of supervised release. *See* Dkt #1-2, Exhibit C at 22-27. Mr. Giron Rodas was subsequently transferred to immigration officials on January 10, 2025.

B. Mr. Giron Rodas's applies for relief before the Immigration Court.

9. Upon release from US Marshall custody, Mr. Giron Rodas was transferred to what he believes was Border Patrol custody and detained in a tent near the US-Mexico border until January 26, 2025, when ICE served him with a Notice to Appear and transported him to Otay Mesa Immigration Detention Center where

1 he has remained ever since. While in removal proceedings, Mr. Giron Rodas
2 applied for withholding of removal, and relief under the Convention Against
3 Torture.
4

5 **C. Mr. Giron Rodas appeals to the Board of Immigration Appeals**
6 **(BIA).**

7 10. On March 23, 2026, an Immigration Judge denied Mr. Giron Rodas's
8 applications for relief and ordered him removed to Guatemala, or Mexico in the
9 alternative. *See* Dkt #1-2, Exhibit C at 28-31. He appealed the removal order to
10 the BIA and it remains pending. *See* Dkt #1-2, Exhibit C at 33-35.
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12 **D. Mr. Giron Rodas suffers from several serious medical conditions.**

13 11. Mr. Giron Rodas suffers from several medical conditions including
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15 [REDACTED]

16 [REDACTED] Mr. Giron Rodas's medical conditions
17 cause colorectal bleeding and swelling of his legs and ankles. *See* Dkt #1-2,
18 Exhibit C at 44-48 and Exhibit D at 57-58.
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20 12. At an immigration hearing in June 2025, Mr. Giron told the judge and
21 government' counsel that he bled every day, suffered without adequate medical
22 care, and felt like he was dying little by little. *See* Dkt #1-2, Exhibit C at 44-48.
23 As a demonstrative, Petitioner brought a jar of blood that he had lost that day
24 and showed it to those present. *Id.* Mr. Giron Rodas has submitted over 30
25 grievances and requests for medical help for his abdominalrectal condition and
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1 has yet to receive the adequate treatment he desperately needs. While in
2 immigration detention for over 18 months, his medical conditions have gotten
3 worse.
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5 **E. Mr. Giron Rodas requests a bond hearing.**

6 13. Mr. Giron Rodas twice had a full custody re-determination hearing, but the
7 Judges denied his requests based on INA 236(c) & INA 101 (a)(43)(N). *See* Dkt
8 #1-2 Exhibit C at 32. At the March 10, 2025 bond hearing, Judge Eugene H.
9 Robinson made an official order denying relief. At the hearing he asked for
10 details about the undocumented person Petitioner transported, how long
11 Petitioner knew him, and their relationship prior to the May 2024 arrest. *See*
12 Exhibit D. Petitioner recounted being yelled at multiple times after he told
13 Judge Robinson about the evidentiary requests from a different immigration
14 judge. *See* Exhibit B. Petitioner also recounted his sister calling him and telling
15 him about how scared she got for the safety of Petitioner because of the way
16 Immigration Judge Robinson spoke to him at the March 10, 2025 hearing. *See*
17 *id.* Petitioner has remained in immigration detention without an appropriate
18 bond hearing for 18 months, despite multiple attempts, intervention by this
19 Court and Petitioners serious health issues. *See* Dkt #1-2, Exhibit C at 44-48.
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F. Mr. Giron Rodas files a Habeas Corpus Petition and is granted relief.

14. On June 12, 2026, Mr. Giron Rodas filed a habeas corpus petition in the United States District Court for the Southern District of California. This Court concluded that his continued mandatory detention without a bond hearing violated the Due Process Clause. As a remedy, the Court ordered an individualized bond hearing within fourteen (14) days before a neutral Immigration Judge in which the government bears the burden of establishing by clear and convincing evidence that Mr. Giron Rodas is a danger to the community or a flight risk if released. *See* Dkt #1-2, Exhibit C at 43.

15. Petitioner was provided with a bond hearing on July 20, 2026. *See* Dkt #11-1. Petitioner is unaware of how habeas mandated bond hearings are assigned to judges at the Otay Mesa Immigration Detention Center. Petitioner had no control over the judge assignment for his July 20, 2026 habeas-mandated bond hearing.

16. At the hearing, even though Respondents had the burden of proof, Petitioner's attorney submitted 88 pages of evidence, including work authorization cards, baptism certificates, letters from family, doctors, Mormon clergy members, and community organization representatives in support of Petitioner's release on bond. *See* Exhibit C. In said bond packet, Petitioner provided a letter from his

1 U.S. Citizen sister who stated that she would serve as his sponsor and ensure
2 Petitioner will comply with all requirements of DHS and financially support
3 Petitioner should he need it. *Id.*
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5 17. The hearing lasted a little over ten minutes, during which – the immigration
6 judge (IJ) discussed solely Petitioner’s criminal conviction from over one year
7 and a half ago, the FBI rap sheet, and an order from Immigration Judge Guy
8 Grande denying Petitioner Withholding of Removal and CAT. The appeal for
9 Petitioner’s immigration relief denial is pending a decision from the BIA. *See*
10 Exhibit F.
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13 18. Not once did Judge Robinson refer to the *Matter of Guerra* Factors during
14 Petitioners July 20, 2026 bond hearing. The Immigration judge never asked
15 about the Petitioners connections to the United States, nor did he engage with
16 any of the 88 pages of evidence submitted in support of the client’s bond
17 determination. The two sentence final judgement order, does not mention any
18 factoring of Petitioners equities in-support of his release on bond, instead he
19 only offers the conclusory statement that “no amount of bond would suffice to
20 alleviate the risk of flight.” *See* Dkt 11-1.
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25 **III. JURISDICTION**

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27 19. In the event Respondents argue that this Court lacks jurisdiction, Petitioner
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1 provides an analysis of the issue below.

2 20. “In general, the Court does not have jurisdiction to review discretionary bond
3 decisions.” *See Soriano v. Hernandez*, No. 2:26-cv-00900-DGE, 2026 U.S.
4 Dist. LEXIS 79044 (W.D. Wash. Apr. 10, 2026) (citing 8 U.S.C. § 1226(e)).
5 However, while an IJ’s discretionary judgment may not be judicially reviewed
6 pursuant to 8 U.S.C. § 1226(e), district courts retain habeas jurisdiction over
7 “constitutional claims or questions of law.” *See Singh v. Holder*, 638 F.3d 1196,
8 1202 (9th Cir. 2011). *See also Calderon-Rodriguez v. Wilcox*, 374 F. Supp. 3d
9 1024, 1031 (W.D. Wash. 2019) (“Federal district courts have habeas
10 jurisdiction to review bond hearing determinations for constitutional claims and
11 legal error.”).

12 21. Such jurisdiction extends to “mixed questions” involving application of law to
13 facts. *See Pawan Kumar Singh v. LaRose*, No. 26-CV-1425 JLS (GC), 2026
14 U.S. Dist. LEXIS 109736 (S.D. Cal. May 18, 2026), *N.A. v. Warden, Adelanto*
15 *Det. Facility*, No. 25-CV-3007-CV-MBK, 2026 U.S. Dist. LEXIS 52565, 2026
16 WL 734585 (C.D. Cal. Mar. 12, 2026) (citing *Martinez v. Clark*, 124 F. 4th
17 775, 783 (9th Cir. 2024)). Indeed, “claims that the discretionary process itself
18 was constitutionally flawed are cognizable in federal court on habeas because
19 they fit comfortably within the scope of § 2241.” *Id.*

20 22. In the present case, Petitioner argues that the process he was provided at his §
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1 1226(a) bond hearing was legally and constitutionally deficient, because Judge
2 Robinson failed to consider all evidence presented by the Petitioner in support
3 of his release on bond and consider the *Guerra* factors and all the provided
4 evidence to render his decision. Moreover, the Respondents did not provide
5 Petitioner access to a fair and impartial tribunal since Judge Robinson had
6 already rendered a negative opinion on Petitioners bond eligibility at a prior
7 hearing on March 10, 2025. *See* Exhibit A.
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10 23. For said reasons, this Court should retain jurisdiction to review Petitioner's
11 claims.
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14 **IV. EXHAUSTION**
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17 24. In the event Respondents argue that Petitioner has not exhausted his
18 administrative remedies, an analysis of the issue is provided below.
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20 25. Habeas claims are generally accompanied by a prudential exhaustion
21 requirement. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) ("The
22 exhaustion requirement is prudential, rather than jurisdictional, for habeas
23 claims"). A district court may require prudential exhaustion when:
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26 (1) agency expertise makes agency consideration necessary to
27 generate a proper record and reach a proper decision;
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(2) relaxation of the requirement would encourage the deliberate
bypass of the administrative scheme; and

(3) administrative review is likely to allow the agency to correct its
own mistakes and to preclude the need for judicial review.

Id. (quoting *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007)).

26. When a petitioner does not exhaust prudentially required administrative
remedies, the district court “ordinarily should either dismiss the petition without
prejudice or stay the proceedings until the petitioner has exhausted remedies.”

Id. (quoting *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011)).

However, a court may waive the prudential exhaustion requirement if: (1)
“administrative remedies are inadequate or not efficacious”; (2) “pursuit of
administrative remedies would be a futile gesture”; (3) “irreparable injury will
result”; or (4) “the administrative proceedings would be void.” *See Laing v.*
Ashcroft, 370 F.3d 994, 1000 (9th Cir. 2004).

27. In this case, the Court need not determine whether the *Puga* factors weigh in
favor of an exhaustion requirement because, even if exhaustion is required,
Petitioner has successfully argued that multiple *Laing* factors apply such that
waiver is warranted. Specifically, Petitioner argues that pursuit of
administrative remedies would be futile and cause irreparable harm and
hardship to Petitioner. *See Exhibit B.*

1 28.As to futility, Petitioner points to evidence that BIA has been drastically
2 reshaped within the past year, such that the BIA now functions to rubberstamp
3 IJ bond denials and facilitate noncitizen removal. *See* Dkt 8-1 Exhibit P at ¶ 13
4 and ¶ 19. While such evidence, on its own, is insufficient to waive exhaustion,
5 the statistics support the position that the reconstituted BIA is far less likely to
6 provide Petitioner with relief.
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9 29.As to irreparable injury, Petitioner notes that, if he is required to exhaust his
10 appeal with the BIA, he will suffer irreparable harm in the form of continued
11 detention without a legally adequate opportunity to demonstrate his entitlement
12 to bond. *See* Exhibit B. Petitioner also speaks to his separation from his
13 family—including his wife and sisters. *See id.* Several courts—including those
14 in this Circuit—have found that continued detention after a potentially legally
15 inadequate hearing may constitute such irreparable harm. *W.T.M. v. Bondi*, No.
16 2:25-CV-02428-RAJ-BAT, 2026 U.S. Dist. LEXIS 21315, (W.D. Wash. Jan.
17 30, 2026) (finding irreparable injury where BIA review exceeded 200 days and
18 “[d]istrict courts in this Circuit ‘routinely’ waive prudential exhaustion
19 requirements for noncitizens facing prolonged detention while awaiting
20 administrative appeals.” (quoting *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239,
21 1251 (W.D. Wash. 2025)); *C.A.R.V. v. Wofford*, No. 1:25CV-01395-JLT-SKO,
22 2026 WL 241823, at *5 n.7 (E.D. Cal. Jan. 29, 2026) (holding petitioner
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1 satisfied irreparable injury Laing factor by “demonstrating the irreparable harm
2 that would result from wrongful detention, which may result given the lengthy
3 time it take to have an appeal decided.”); *Loba L.M. v. Andrews*, No. 1:25-CV-
4 00611-JLT-SAB, 2026 WL 710307, at *5 (E.D. Cal. Mar. 13, 2026) (adopting
5 reasoning of C.A.R.V.); *Garcia v. Hyde*, No. 25-CV-585-JJM-PAS, --- F. Supp.
6 3d ---, 2025 WL 3466312, at *6 (D.R.I. Dec. 3, 2025) (finding irreparable
7 injury in the form of continued detention where petitioner would likely face
8 several additional months of detention while awaiting BIA review);
9 *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 240 (W.D.N.Y. 2019) (waiving
10 exhaustion requirement where “delays inherent in the [BIA review] process ...
11 would result in the very harm that the bond hearing was designed to prevent:
12 prolonged detention without due process during lengthy and backlogged
13 removal proceedings”); *Soriano*, --- F. Supp. 3d ---, 2026 WL 969764, at *4
14 (“Moreover, given the lengthy delays inherent in the current appeals process,
15 the Court finds Petitioner will suffer irreparable injury if he is required to wait
16 for a BIA decision before being permitted to file a habeas claim.”). Thus, while
17 continued detention alone may not constitute irreparable injury, the inherent
18 delays in the current appeals process support a finding that Petitioner will suffer
19 irreparable injury if he is required to wait for BIA adjudication of his bond
20 denial.
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1 30. Additionally, Petitioner has included substantial evidence of his medical
2 conditions, which include mental health deterioration, anemia, rectal bleeding,
3 hemorrhoids and other conditions. *See* Dkt 1 -2 Exhibits A and F. “Petitioner
4 has presented evidence unique to him, that, while not an independent basis for
5 relief, supports a finding that his continued detention pending a potentially
6 months-long BIA appeal of the IJ's bond denial decision would risk continued
7 irreparable harm.” *See W.T.M.*, 2026 U.S. Dist. LEXIS 21315, at *3.
8

9 Continuing to subject Petitioner to the conditions of detention and lack of
10 appropriate medical care will undoubtably result in irreparable harm.
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13 31. The combination of evidence in this case—including evidence that (1) the
14 reconstituted BIA is unlikely to provide Petitioner with any efficacious relief,
15 and (2) Petitioner would likely face lengthy continued detention while unable to
16 provide for his family and tend to his severe medical needs while in detention—
17 suggest that waiver of exhaustion is appropriate.
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20 I. ARGUMENT

21 A) Respondents failed to comply with the Courts Order by not providing a
22 hearing before a neutral immigration judge by July 20, 2026.
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24 32. When a party fails to comply with a judgment requiring the performance of a
25 “specific act,” a district court may enforce the judgment by “order[ing] the act
26 to be done...by another person appointed by the court.” Fed. R. Civ. P. 70(a);
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1 *Rose v. Guyer*, 961 F.3d 1238, 1245 (9th Cir. 2020). After a district court has
2 issued a conditional writ of habeas corpus—a writ that orders the government to
3 “take[] some remedial action” rather than immediately release the petitioner,
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5 *Harvest v. Castro*, 531 F.3d 737, 741–42 (9th Cir. 2008)—the court “retains
6 jurisdiction to ensure compliance” with the writ and will order immediate
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8 release if the government fails to correct the unlawful nature of the petitioner's
9 custody. *Rose v. Guyer*, 961 F.3d at 1246 (quoting *Jensen v. Pollard*, 924 F.3d
10 451, 454 (7th Cir. 2019)); *Harvest v. Castro*, 531 F.3d at 750 (holding that “the
11 conditional grant of habeas corpus requires the petitioner's release from
12 custody” when the government “fails to comply with the order's conditions”);
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14 *Villa v. Mullin*, No. 5:26-cv-01690, 2026 U.S. Dist. LEXIS 130969 (C.D. Cal.
15 June 2, 2026) (ordering immediate release from immigration custody following
16 a defective hearing before an IJ). The relevant inquiry is whether the
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18 government “has complied with the remedy designed by the district court in the
19
20 underlying habeas proceedings.” *Rose v. Guyer*, 961 F.3d at 1246.

21 33. This Court ordered that Petitioner be provided an individualized bond hearing
22 within fourteen (14) days before a *neutral immigration judge* in which the
23
24 government bears the burden of establishing by clear and convincing evidence
25 that Petitioner is a danger to the community or a flight risk if released. Dkt # 9.
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27 Further, the Court ordered that if such a hearing was not provided within 14
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1 days, then release was required. *Id.*

2 34. The immigration judge was not neutral because he had presided over a bond
3 hearing for Mr. Giron Rodas and denied him relief after berating him in front of
4 his friends and family members in 2025. At the March 10, 2025 bond hearing,
5 Judge Eugene Robinson raised his voice in frustration with Petitioner and
6 probed into the details of his criminal arrest. Ultimately, Judge Eugene
7 Robinson rendered an official judgement on Petitioners bond eligibility.
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9 35. The Courts order requires strict compliance and explicitly calls for an
10 individualized bond hearing before a *neutral immigration judge*. Respondents
11 could have, but did not provide a bond hearing with a judge that was neutral on
12 Petitioners case. Instead, Respondents assigned Petitioner to a bond hearing
13 with a judge who had preconceived opinions about Petitioner's criminal history
14 and had already gone so far as to make a final judgement over his eligibility for
15 bond. *See Exhibit A.*
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20 36. Petitioner's Attorney requested access to the audio record of Petitioners March
21 10, 2025 bond hearing in-person at the Otay Mesa Immigration Court on July
22 20, 2026. Petitioner's attorney also requested the audio record via email, but the
23 Respondent rejected access mentioning that they instead sent Petitioner's
24 request to the Executive Office for Immigration Review's Office of the General
25 Counsel for fulfillment under the Freedom of Information Act (FOIA). The
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1 FOIA process can take months, if not years for a response. On July 24, 2026
2 Respondents provided Petitioner's Counsel with access to the audio recordings
3 of Petitioners March 10, 2025 bond hearing, however no official transcript was
4 provided. Petitioner provides an unofficial transcript of said hearings. *See*
5 Exhibit D and F. Petitioner provided a declaration recounting his experience at
6 the March 2025 bond hearing as well. *See* Exhibit B.
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9 **A) The July 20, 2026 bond hearing was also constitutionally insufficient**
10 **and violated Petitioners Due Process Rights because the correct legal**
11 **standards were not applied.**

12 37. The Ninth Circuit has held that an immigration judge's determination that a
13 detainee poses a danger to the community or a flight risk is a mixed question of
14 law that may be reviewed for abuse of discretion. *See Martinez v. Clark*, 124
15 F.4th 775, 783 (9th Cir. 2024); *see also C.A.R.V. v. Wofford*, 2026 U.S. Dist.
16 LEXIS 17595, 2026 WL 241823, at *3 (E.D. Cal. Jan. 29, 2026) ("In
17 constitutional challenges to an IJ's detention determination, a habeas court
18 generally reviews mixed questions of fact and law under an 'abuse of discretion'
19 standard.")
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22 38. The Ninth Circuit has explained that when assessing whether an alien "is a
23 danger to the community or a risk of flight," an immigration judge may
24 consider the following factors:
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1 (1) whether the alien has a fixed address in the United States; (2) the alien's
2 length of residence in the United States; (3) the alien's family ties in the
3 United States, and whether they may entitle the alien to reside permanently
4 in the United States in the future; (4) the alien's employment history; (5) the
5 alien's record of appearance in court; (6) the alien's criminal record,
6 including the extensiveness of criminal activity, the recency of such activity,
7 and the seriousness of the offenses; (7) the alien's history of immigration
8 violations; (8) any attempts by the alien to flee prosecution or otherwise
9 escape from authorities; and (9) the alien's manner of entry to the United
10 States.

11 39. *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006). *See also Martinez*, 124 F.4th
12 at 783. An immigration judge has "broad discretion to weigh the listed factors
13 and add any factors not mentioned or discount those that are less
14 probative." *Id.* at 784. An IJ abuses their discretion in denying bond, however,
15 when the IJ fails to "consider and address in its entirety the evidence submitted
16 by [the] petitioner." *Hosseini Miri v. Bondi*, No. 5:26-cv-00698-MEMF-MAR,
17 2026 U.S. Dist. LEXIS 46944, 2026 WL 622302, at *7-9 (C.D. Cal. Mar. 5,
18 2026); *Y.S.G.*, 2025 U.S. Dist. LEXIS 208276, 2025 WL 2979309, at
19 *9 (finding an abuse of discretion when the IJ "failed to meaningfully discuss
20 the probative evidence submitted demonstrating his significant ties to the
21 community.") In the context of a flight-risk determination, factors unique to the
22 detainee must be evaluated in determining whether the noncitizen is unlikely to
23 appear for future immigration proceedings. *See In re Patel*, 15 I. & N. Dec. 666,
24 666-67 (BIA 1976) (ordering release on recognizance where IJ had erroneously
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1 set a bond based on factors that "bear little if any relevance to the issue of
2 whether or not the respondent is likely to appear for his deportation
3 proceeding"); *cf. Martinez*, 124 F.4th at 780 (no abuse of discretion where IJ
4 "evaluated [petitioner's] mitigating evidence, such as his successful pre-
5 incarceration release on bond, the district court's statements during sentencing,
6 his efforts at rehabilitation, his family ties, and his strong community
7 support.").

10 40. "[D]ue process requires [an] IJ to consider the relevant evidence[.]" *Vilchez v.*
11 *Holder*, 682 F.3d 1195, 1198 (9th Cir. 2012) (citing *Larita-Martinez v. I.N.S.*,
12 220 F.3d 1092, 1095 (9th Cir. 2000)). Further, "[a]n IJ's failure to cite every
13 piece of evidence in the record does not amount to clear error." *See Larita-*
14 *Martinez v. INS*, 220 F.3d 1092, 1096 (9th Cir. 2000). However, when there is
15 an indication that an IJ failed to actually consider all the evidence—such as if
16 the IJ "fail[s] to mention highly probative of potentially dispositive evidence"—
17 the Court will not credit an IJ's vague assertion. *Cole*, 659 F.3d at 771-72.

21 41. On July 6, 2026 the Court ordered that Petitioner be immediately released
22 unless he is provided with an individualized bond hearing within fourteen (14)
23 days before a neutral Immigration Judge in which the government bears the
24 burden of establishing by clear and convincing evidence that Mr. Giron Rodas
25 is a danger to the community or a flight risk.
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1 42. At the July 20, 2026 bond hearing the immigration judge failed to apply the
2 factors set forth in *Matter of Patel*, Dec. 666, 666–67 (BIA 1976), and *Matter of*
3 *Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006), and instead based his decision on
4 arbitrary findings based on Petitioners criminal history and immigration court
5 orders.
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8 43. Even though the Immigration Judge in their order indicated that the decision
9 was rendered “after full consideration of the evidence presented [...]”, the
10 Judges analysis and discussion during the hearing centered solely on the
11 Respondent (DHS’s) submitted evidence which included, Petitioners FBI rap
12 sheet, District Court order on Petitioners criminal conviction, and denial of
13 immigration relief. The immigration judge concluded Petitioner was a danger to
14 the community and a flight risk and that no bond amount could remedy. Dkt #
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16 17-1.
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19 44. The Judge did not factor Petitioners ties to the community nor his extensive
20 evidence of rehabilitation, sponsorship, medical conditions and community
21 support. Nor did the judge question Petitioner, who was present at the hearing.
22 Further, the record contained evidence of his home address where he has
23 resided for nearly a decade. *See* Exhibit C. The July 20, 2026, bond hearing was
24 essentially a reconfirmation of the March 10, 2025, categorical bond denial
25 based on 8 U.S.C. 1226 (c) / 236 (c) grounds. There is no evidence in the record
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1 that Petitioners evidence was considered or even reviewed by the Judge.¹

2 45. The judge unilaterally relied on Petitioner's Transportation of Certain Non-
3 Citizens 8 USC 1324 a(1)(A)(ii) conviction and denial of relief by the
4 immigration court. The immigration judge failed to consider length of time in
5 the United States, established family ties, and eligibility for relief due to
6 pending BIA appeal, as required by *Matter of Patel*, Dec. 666, 666-67 (BIA
7 1976), and *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006). And again,
8 the immigration judge failed to meaningfully consider whether a reasonable
9 bond amount would address any concerns that Petitioner is a flight risk. *See e.g.*
10 *Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 807 (BIA 2020) (finding no amount
11 of bond would secure attendance where the noncitizen had limited avenue for
12 relief and minimal ties to the United States).

13 46. Here, the Court should not credit the IJ's vague assertion that he considered all
14 the evidence, as the record before the Court indicates that the IJ failed to
15 mention highly probative evidence including 88 pages of letters of support,
16 sponsors tax documents, proof of good character and reference to Petitioners
17 over 20 years living in the US without incident. *See Exhibit C.*

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25 ¹ In the first minutes of the hearing the judge incorrectly indicated that Petitioners bond packet was submitted on
26 July 20, 2026. Petitioners' attorney corrected the record indicating that the bond packet and supporting evidence was
27 submitted over 48 hours before the hearing on July 18, 2026. Moreover, Judge Robinson incorrectly stated that the
28 burden of proof belonged to Petitioner. Petitioners' attorney again corrected the court. These incidents, along with
the fact that none of Petitioners evidence of positive equities were mentioned during the hearing by the judge, are
examples of judicial oversights and are indicative of the lack of review and consideration of Petitioners evidence in
support of bond. *See Exhibit F.*

**B) Respondents violated their own policies by having Judge Robinson
preside over the July 25, 2026 bond hearing.**

47. According to the Ethics and Professionalism Guide for Immigration Judges
("the Guide" here after), "An Immigration Judge may not adjudicate a case if
he/she: has personal knowledge of the disputed facts; participated as counselor
or advisor in the case; or expressed an opinion concerning the merits of the
particular case in controversy." The Guide indicates;

"If a conflict of interest exists, in order for the Immigration Judge to
participate in the matter, the EOIR Director or his/her designee must make a
determination that the interests of the government in the Immigration Judge's
participation outweigh the concern that a reasonable person may question
the integrity of the Department's programs and operations. The
determination must be made in writing." Moreover, the Guide mentions, "If
a conflict of interest exists, and the judge has obtained a determination from
the EOIR Director or his/her designee that the judge may continue to
participate in the matter, the conflict must be disclosed to the parties, either
orally on the record or in writing." *See*. Exhibit E at 4-5.

48. There is no question that Judge Robinson had knowledge of Petitioners criminal
history and intention to seek release on bond prior to the July 20, 2026 hearing.
See Exhibit A. There is no indication or evidence in the record that Judge
Robinson received clearance from the EOIR Director to participate in this
hearing despite having such conflict. Moreover, no disclosure was made orally

1 on the record or in writing indicating that Judge Robinson received such
2 determination from the EOIR Director. *See* Exhibit F. Petitioner's July 20, 2026
3 bond hearing not only failed to comport to due process but it also violated
4 EOIR's own Ethics and Professionalism Guide. *See* Exhibit E at 5. This a direct
5 violation to the plain language of the July 6 habeas order and further justifies
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7 Petitioners immediate release from the Otay Mesa Immigration Detention
8
9 Center.

10 **C) The appropriate remedy is release.**
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12 49. Immediate release is now appropriate in light of the Court's alternate order that
13 the failure to provide timely bond hearing that complies with governing law and
14 due process. Dkt # 15. Several courts here in the Southern District of California
15 and throughout the Ninth Circuit have ruled similarly when bond hearings were
16 found to be in violation of the original Habeas order or constitutionally
17 insufficient. *See Velasquez v. Bondi*, No. 26-cv-01759-GPC-DDL, 2026 U.S.
18 Dist. LEXIS 85165 (S.D. Cal. Apr. 16, 2026); *Soriano v. Hernandez*, No. 2:26-
19 cv-00900-DGE, 2026 U.S. Dist. LEXIS 79044 (W.D. Wash. Apr. 10, 2026);
20 *Miri v. Bondi*, No. 5:26-cv-00698-MEMF-MAR, 2026 U.S. Dist. LEXIS 46944
21 (C.D. Cal. Mar. 5, 2026).
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26 **IV. CONCLUSION**
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1 50. As the Respondent's have failed to comply with this Court's order and have
2 further violated Petitioners Due Process Rights, the Court should order that the
3 judgment be enforced and order immediate release.
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6 **Dated: July 27, 2026**

Respectfully submitted,

7 By: s/ Nicholas Paul

8 Pro-bono Attorney for Petitioner
9 Partnership for the Advancement of
10 New Americans (PANA)

11 Email: nick@panasd.org
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