IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Petra Rosas Huerta,

Petitioner,

v.

Case No. 0:26-cv-03077(NEB/JFD)

Schilling; et al.,

Respondents.

PETITIONER'S MOTION TO ENFORCE

Petitioner respectfully moves this Court to enforce its July 31, 2026 Habeas Order after the Immigration Judge ("IJ") refused to comply, expressly declining to exercise jurisdiction and refusing to set a bond. *See* IJ Order. The IJ Order states that because Ms. Rosas Huerta "made an unlawful entry into the United States," she is "therefore subject to mandatory custody pursuant to Avila v. Bondi, No. 25-3248, ---F.4th---, 2026 WL 819258 (8th Cir. Mar. 25, 2026)." *Id.* IJ Carr did not make any findings regarding Ms. Rosas Huerta's dangerousness to the community, nor her flight risk—two elements of analysis required in order to have a meaningful, individualized bond hearing. The bond was denied solely on a purported lack of jurisdiction because Ms. Rosas entered the country without inspection as a child. Petitioner recognizes the Eighth Circuit precedent based on the statutory basis for Ms. Rosas Huerta's detention. However, this Court granted the Petition not on a statutory basis, but because her constitutional rights have been violated,

specifically her procedural due process rights. Accordingly, Petitioner remains detained despite this Court's judgment directing that she receive a constitutionally sufficient bond hearing.

The Federal Respondents will argue that they provided a bond hearing as ordered by the Court. However, due process requires a meaningful opportunity to be heard. The Court ordered that "any decision to retain Petra R.H. in custody following the bond hearing must set forth the reasons for her continued detention." *See* Order at 8. The IJ's denial of bond *solely* on jurisdictional grounds does not comply with this Court's order. A hearing that does not make findings on the merits of Ms. Rosas Huerta's bond case does not comply with this Court's order. The IJ cannot ignore the Constitution while conducting a bond hearing.

The Fifth Circuit recently held that the burden is on the executive branch to provide bond hearings through its own procedures, and these procedures "cannot include ignoring the Constitution." *Sosnava Rodriguez v. Ortega*, No. 26-50183 (5th Cir. 2026) at 4. The Court states that "the Government's focus on what a statute does not provide ignores that any 'right to due process is conferred, not by legislative grace, but by constitutional guarantee." *Id.* (quoting *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 541 (1985)). Finding that the Fifth Amendment protects individuals like Petitioner from "unreasoned, indefinite detention," the Court made clear that noncitizens have procedural due process rights that must be upheld regardless of what statute they are detained under. *Sosnava Rodriguez* at 31.

Due process requires an opportunity to be heard at a meaningful time and in a

meaningful manner. *Armstrong v. Manzo,* 380 U.S. 545 (1965). The hearing Petitioner was afforded does not meet this basic requirement. First, this Court ordered that a bond hearing was to take place no later than August 5, 2026. Despite Petitioner's immigration counsel contacting DHS's Office of Chief Counsel to confer about the possibility of stipulation days before this deadline, Federal Respondents did not schedule a bond hearing until 11:38 am on August 5, 2026, notifying counsel that the bond hearing was to take place at 1:30 pm. This was less than two hours' notice for counsel, which is insufficient and inappropriate. Nonetheless, Petitioner and her counsel appeared for the bond hearing. Providing adequate notice to interested parties is a basic tenet of due process. *Mullane v. Central Hanover Bank & Trust Co.,* 339 U.S. 306 (1950). While Petitioner understands the Court's quick turn around to hold a bond hearing, providing less than two hours' notice before a hearing is not appropriate.

The constitutional violation identified by this Court was Petitioner's continued detention without the process due under the Constitution. The remedy ordered by this Court was a bond hearing. No meaningful bond hearing occurred.

In her findings—spanning a total of one sentence—the IJ did not discuss danger or flight risk, did not weigh the factors governing release, did not determine whether detention remained justified, and did not issue a custody determination on the merits. Instead, the IJ concluded only that the immigration court lacked jurisdiction in light of subsequent administrative and judicial authority. This Court's order specifically states: "It does not decide whether Petra R.H. is or is not a flight risk or whether she does or does not pose a danger to the community. The Court does not concern itself with the answers to those

questions. *But the Constitution requires that Respondents give Petra R.H. a process by which to contest those determinations*." *See* Order (emphasis added).

Whether *Avila* or *Yajure-Hurtado* altered the Immigration Judge's statutory authority does not relieve Respondents of their obligation to comply with this Court's judgment. If Respondents believed intervening authority prevented compliance, their remedy was to seek relief from this Court or pursue appropriate appellate remedies—not to disregard the judgment unilaterally. Respondents cannot satisfy the judgment by providing a proceeding that declines to exercise the authority necessary to afford the relief ordered.

A constitutionally meaningful bond hearing requires an individualized determination. Such a hearing necessarily requires a neutral decisionmaker to consider the relevant evidence and determine whether continued detention is justified. A proceeding that ends upon a finding of no jurisdiction provides none of those protections. It produces no individualized assessment, no weighing of evidence, and no custody determination. As a practical and constitutional matter, it leaves Petitioner in precisely the same position as before this Court granted habeas relief. The result is that the constitutional violation identified by this Court remains unremedied.

Should this Court disagree with Petitioner's above-listed arguments, the Court stated in its decision that the Form I-200 warrant issued at Petitioner's arrest listing the detention authority under 8 U.S.C. § 1226, "appears to be a viable alternative basis for relief." *See* Order at 3, footnote 1.

As the Federal Respondents failed to comply with this Court's order granting

Petitioner's habeas corpus petition, the only acceptable remedy in this matter is the court's order for the Petitioner's immediate release from custody. This remedy is permissible and has been exercised by this Court on numerous occasions bearing strong similarities to the facts of Petitioner's case. In *David J.C.P. v. Blanche,* Case No. 26-cv-2181 (DWF/ECW), Doc. 19 (D. Minn. May 14, 2026), the Petition was granted on due process grounds, yet the IJ still found that they lacked jurisdiction under *Avila* and *Yajure Hurtado,* and thus bond was denied. A second bond hearing was held where the IJ came to the same conclusion, but entered alternative findings granting bond if they would have had jurisdiction. *Id.* This Court concluded that this type of bond hearing was "illusory," because there was no option for the Petitioner to be released. *Id.* The same situation occurred in *Eliezer B.S. v. Berg,* Case No. 26-3020 (MJD/DTS), Doc. 30 (D. Minn. July 17, 2026), where the IJ denied bond on a lack of jurisdiction and entered alternative findings that were deemed "illusory." Accordingly, immediate release of Ms. Rosas Huerta is the only appropriate remedy.

Petitioner respectfully requests:

1. Immediate release under the Court's inherent habeas authority. When an agency refuses to comply with a habeas order, federal courts may order release directly.
2. A finding that the Department of Homeland Security and the Executive Office for Immigration Review violated the habeas order. The IJ's refusal to make findings on the merits of the case constitutes unlawful detention.
3. Any other relief necessary to ensure compliance including sanctions or status

conferences.

Respectfully submitted,

Dated: August 7, 2026

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