

SOTO LAW, PLLC

ANDREA C. SOTO
COUNSELLOR AT LAW

Riverhead Office
30 West Main Street
Riverhead, NY 11901

White Plains Office
Mailing Address:
445 Hamilton Avenue, Suite 407
White Plains, NY 10601

TELEPHONE: (800) 494-8031
FACSIMILE: (914) 898-9100
DIRECT/TEXT: (914) 290-4900
E-MAIL: asoto@andreasotolaw.com

August 5, 2026

VIA ECF
Hon. Elizabeth C. Coombe
United States District Court
Northern District of New York

Re: *Cordero v. Mullin et al.*, 9:26-cv-01381-ECC and
Fuentes Cordero v. Mullin, et al., 9:26-cv-01382-ECC

Dear Judge Coombe:

The Court orally granted the petitions to the extent of directing Respondents to provide Petitioners with individualized bond hearings within seven days, at which Respondents bear the burden of justifying Petitioners' continued detention. The Court requested supplemental authority addressing one remaining issue. That is, whether the Immigration Judge should consider Petitioners' financial ability to pay in determining the amount of any monetary bond. Petitioners respectfully submit the following authorities.

Federal courts considering the constitutional adequacy of immigration bond hearings have concluded that consideration of a detainee's financial circumstances is required once an Immigration Judge determines that release on bond is appropriate. More directly, in *Alfaro v. Barr*, 426 F. Supp. 3d 6 (W.D.N.Y. 2019), the Court ordered a new individualized bond hearing at which the Government bore the burden of proving, by clear and convincing evidence, that continued detention was justified, and further directed that the Immigration Judge consider the petitioner's ability to pay in setting any monetary bond. *Id.*

Judge Wolford explained the constitutional basis for that requirement in *Abdi v. Nielsen*, 287 F. Supp. 3d 327 (W.D.N.Y. 2018). There, the court held that once an Immigration Judge determines that release on bond is appropriate, the judge must consider the detainee's financial circumstances because:

"When a judge fails to consider ability to pay and alternative conditions of release and sets a bond amount plainly outside the reach of an individual's financial resources, such a decision amounts, for all practical purposes, to a denial of bond." *Id.* at 338-39. The Court

concluded that constitutional concerns compel consideration of a detainee's financial circumstances because the purpose of bond is to ensure appearance at future proceedings, and the amount imposed must bear a reasonable relationship to that legitimate governmental objective.

The Ninth Circuit likewise recognized the importance of considering financial circumstances in setting immigration bond, explaining: "A bond determination process that does not include consideration of financial circumstances and alternative release conditions is unlikely to result in a bond amount that is reasonably related to the government's legitimate interests." The Court further explained that the amount necessary to secure the appearance of an indigent person obviously differs from the amount that is reasonably likely to secure a wealthy person's appearance. *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017).

Petitioners recognize that *Alfaro*, *Abdi*, and *Hernandez* are not binding on this Court. However, they are persuasive because they address whether a constitutionally adequate immigration bond hearing remains constitutionally meaningful if an Immigration Judge sets a monetary bond without considering whether the detainee has any realistic ability to satisfy it.

In light of the Court's oral ruling directing constitutionally adequate bond hearings at which Respondents bear the burden of justifying continued detention, Petitioners respectfully submit that the written Order should clarify that, if the Immigration Judge determines release on bond is appropriate, the Immigration Judge shall consider Petitioners' financial ability to pay in determining the amount of any monetary bond. Such a clarification would ensure that the remedy already ordered by the Court provides a meaningful opportunity for release rather than continued detention based solely upon an inability to satisfy an unaffordable monetary bond.

Respectfully submitted,

SOTO LAW, PLLC

s/ Andrea C. Soto

Andrea C. Soto, Esq.

Attorney for Petitioner

CC: Alexis M. Osborne, Esq., DOJ-USAO, via ECF