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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RODRIGUEZ-CARDENAS, JULIO CESAR Petitioner, v. BRUCE SCOTT, Warden of the Northwest ICE Processing Center; MARKWAYNE MULLIN, Secretary of the U.S. Department of Homeland Security Respondents.	CIVIL ACTION NO. 2:26-cv-02700 **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241** **(CHANGED CIRCUMSTANCES: DEFECTIVE BOND HEARING AND CONTINUED UNLAWFUL DETENTION)**

I. INTRODUCTION

COMES NOW, Petitioner Julio Cesar Rodriguez-Cardenas ("Petitioner"), by and through undersigned counsel, and respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging his prolonged and unconstitutional immigration detention arising from an abuse of discretion by an Immigration Judge ("IJ") at a bond hearing.

This case presents a straightforward question: whether the Government may continue to detain a noncitizen based on a bond determination that is **arbitrary, conclusory, reflective of an**

abuse of discretion, and devoid of any reasoned or individualized analysis and unsupported by the record. It may not.

The Government provided a bond hearing, but that proceeding did not provide meaningful process and it failed to meaningfully assess the evidence or justify continued detention under the applicable legal standard. The IJ issued a conclusory "no bond" determination by checking a box that stated: "DHS has shown by clear and convincing evidence that Respondent is a flight risk. DHS has also shown by clear and convincing evidence that no amount of bond or condition of parole would adequately mitigate the flight risk." This decision was unsupported by factual findings, legal reasoning, or any indication that the required statutory and constitutional standards were meaningfully applied.

Petitioner has now been detained for approximately ten months. His removal proceedings remain on appeal before the Ninth Circuit, and the Petition for Review has been stayed pending resolution of separate litigation, further extending the duration of detention beyond Petitioner's control. Under these circumstances, the IJ's abuse of discretion cannot sustain continued detention, and release is the only adequate remedy.

II. JURISDICTION AND VENUE

This Court has jurisdiction pursuant to 28 U.S.C. § 2241 because Petitioner is in custody under the authority of the United States and challenges the legality of that custody. Jurisdiction is also proper under 28 U.S.C. § 1331 and the Due Process Clause of the Fifth Amendment. Venue lies in the Western District of Washington because Petitioner is detained at the Northwest ICE Processing Center in Tacoma, Washington.

III. PARTIES

Petitioner is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Northwest ICE Processing Center. Respondent Bruce Scott is the Warden of NWIPC and Petitioner's immediate physical custodian. He is the proper respondent under *Rumsfeld v. Padilla*, 542 U.S. 426 (2004). Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security.

IV. FACTUAL BACKGROUND

A. Immigration and Detention History

Petitioner is a native and citizen of Mexico who has resided in the United States for over two decades. He was previously removed in 2004 and later reentered the United States, where he has remained for many years.

On or about September 29, 2025, Petitioner was taken into immigration custody and has remained detained since that time at the NWIPC in Tacoma, Washington.

Petitioner is currently detained pursuant to a reinstated prior order of removal. Following reinstatement, Petitioner expressed a fear of return to Mexico and was referred for a reasonable fear interview. The asylum office determined that Petitioner did not establish a reasonable fear, and that determination was affirmed by an IJ on November 24, 2025.

Petitioner timely sought judicial review by filing a Petition for Review with the United States Court of Appeals for the Ninth Circuit. The Ninth Circuit issued a stay of removal, which remains in effect. As a result, the Government is currently prohibited from removing Petitioner while his appeal is pending.

On June 24, 2026, the Ninth Circuit ordered that proceedings be stayed pending resolution of *Navarrete v. Blanche*, No. 24-2776, or further order of the court. As a result, the timing of adjudication is uncertain and not within Petitioner's control.

Petitioner has now been detained for a prolonged period of time, ten months, while his removal remains legally barred.

B. Family and Community Ties

Petitioner has deep and substantial ties to the United States. He is legally married to a United States citizen, and together they have four United States citizen children. One of Petitioner's children is legally blind and medically vulnerable, requiring ongoing care and support. Petitioner plays a critical role in providing care, stability, and support for his family. Petitioner and his wife maintain a shared household and have established a stable life in the United States. His family was present in court in support of his release, further demonstrating the strength of his community ties and the availability of a stable residence upon release.

C. Criminal History

Petitioner has minimal and remote criminal history. In 1998, he sustained a conviction for theft in the second degree in Oregon. More recently, in 2024, Petitioner was arrested in Josephine County, Oregon, under Case No. 24CR36645, on charges related to marijuana and groundwater use. However, on October 3, 2025, the State of Oregon moved to dismiss those charges in the interest of justice, and the court entered a judgment of dismissal.

Petitioner has no convictions arising from that incident and no recent criminal convictions. Any additional allegations referenced by the Government were not supported by formal records and were presented only through an officer's declaration.

D. Prior Habeas Proceedings and Denial

Petitioner previously sought habeas relief in this Court challenging the legality of his continued detention (*Rodriguez-Cardenas v. Scott*, Case No. 2:26-cv-01052-TSZ). That petition was denied on June 18, 2026.

In denying relief, the Court concluded that Petitioner's detention was governed by 8 U.S.C. § 1231(a)(6) and that he had not satisfied the standard set forth in *Zadvydas v. Davis*, 533 U.S. 678 (2001), because his removal was not deemed indefinite. The Court reasoned that, although Petitioner's removal is currently stayed, removal remains reasonably foreseeable upon resolution of his Petition for Review before the Ninth Circuit. The Court further held that Petitioner had failed to exhaust available administrative remedies with respect to his custody challenge. Specifically, the Court noted that Petitioner had requested a bond redetermination hearing before the Immigration Court but withdrew that request prior to adjudication. As a result, the Court declined to grant habeas relief on exhaustion grounds.

Importantly, the Court did not determine that Petitioner's continued detention was justified on an individualized basis, nor did it find that Petitioner posed a danger to the community or a flight risk. Instead, the denial of habeas relief rested on the application of the *Zadvydas* framework and the conclusion that Petitioner had not yet pursued available administrative remedies.

Following that decision, Petitioner proceeded to seek a bond hearing before the Immigration Court. He has now received that hearing, at which the IJ denied bond in a summary ruling without providing a reasoned explanation or meaningful analysis. This petition challenges that subsequent bond determination.

E. Bond Proceedings

Petitioner appeared for a bond redetermination hearing before IJ John Odell on July 13, 2026. At the hearing, the IJ acknowledged the procedural posture of the case, including the pending Petition for Review and the stay of removal, and ultimately placed the burden on the Government to demonstrate by clear and convincing evidence that Petitioner posed either a danger to the community or a flight risk.

The Government argued that Petitioner posed a flight risk based primarily on his prior removal, subsequent reentry, and limited avenues for relief. The Government also referenced Petitioner's remote criminal history and dismissed charges.

Petitioner, through counsel, presented substantial evidence demonstrating that he is neither a danger nor a flight risk, including his long-term residence in the United States, his marriage to a United States citizen, his four United States citizen children, including a medically vulnerable child, and his stable family and community ties.

Despite this evidence, the IJ issued a summary ruling, stating that the Government had met its burden by clear and convincing evidence, and denying bond based on a finding that Petitioner is a flight risk. The IJ did not provide any meaningful analysis or explanation of how the Government satisfied its burden by clear and convincing evidence, nor did he address the evidence presented by Petitioner.

V. LEGAL STANDARD

Federal courts have jurisdiction under 28 U.S.C. § 2241 to review the legality of immigration detention. A writ of habeas corpus may be granted where a petitioner is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3).

The Supreme Court has confirmed that habeas corpus remains available to challenge the statutory and constitutional limits of immigration detention. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003).

Courts routinely entertain renewed habeas challenges where continued detention renders previously lawful confinement unconstitutional. See *Barapind v. Reno*, 225 F.3d 1100, 1110–11 (9th Cir. 2000) (recognizing continued application of equitable principles in § 2241 cases).

Courts evaluating immigration detention must assess its reasonableness in light of current conditions, not merely its initial justification. See *Banda v. McAleenan*.

This Court has jurisdiction to review immigration custody determinations for legal error, including whether an IJ's bond decision was arbitrary, applied the wrong legal standard, or violated due process. See *Martinez v. Clark*, 124 F.4th 775, 783 (9th Cir. 2024).

VI. ARGUMENT

A. The Petition Is Properly Before the Court

This Petition arises from events occurring after this Court denied Petitioner's first Petition for Writ of Habeas Corpus. After remaining subject to a stay of removal for more than six months, Petitioner requested a bond hearing. The IJ found jurisdiction and the custody hearing has now occurred.

Should Respondents argue that this Petition is barred as an abuse of the writ, that argument fails. Neither case law nor statutes expressly define what constitutes a second, successive, or subsequent habeas petition. *Barapind v. Reno*, 225 F.3d 1100, 1111-12 (9th Cir. 2000). Additionally, Petitioner could not have raised this claim previously because it arises directly from the IJ's post-habeas bond determination. See *McCleskey v. Zant*, 499 U.S. 467,

493–95 (1991). Because this Petition challenges the adequacy of that subsequent proceeding, it presents a new and continuing injury. Accordingly, the Petition is properly before this Court.

B. Exhaustion Is Not Required

Petitioner should not be required to pursue prudential exhaustion. The constitutional injury challenged in this case arose from the bond hearing that took place after the denial of Petitioner's first habeas petition. This Petition therefore does not relitigate previously decided issues, attempt to request that the Court reweigh evidence, nor seek ordinary appellate review of a discretionary bond determination. Rather, it challenges whether the bond hearing provided the meaningful process that due process requires—it did not.

Prudential exhaustion is not jurisdictional and may be excused where administrative remedies are inadequate, futile, or incapable of providing effective relief. *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004); *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007). Even where exhaustion may otherwise be appropriate, courts recognize multiple exceptions, including where requiring exhaustion would cause undue prejudice, involve an unreasonable or indefinite timeframe, or where administrative remedies are ineffective or futile. *McCarthy v. Madigan*, 503 U.S. 140, 146–47 (1992); *S.E.C. v. G.C. George Sec., Inc.*, 637 F.2d 685, 688 n.4 (9th Cir. 1981); see also *Laing*, 370 F.3d at 1000–01.

Courts in this District have repeatedly declined to require exhaustion where the claim involves a constitutional defect in the bond hearing itself. See *Soriano v. Hernandez*, No. 2:26-CV-00900-DGE, 2026 WL 969764, at *4 (W.D. Wash. Apr. 10, 2026) ("Where the issue is whether procedural due process was violated, the Court finds no reason to delay review in favor of allowing the BIA to possibly correct an error."); *W.T.M.*, 2026 WL 262583, at *3 (finding administrative exhaustion unwarranted where "the defect alleged by Petitioner was constitutional

in nature, and it was unlikely that appeal to the BIA would permit the agency to correct a factual or evidentiary oversight by the IJ" (citation modified)); see also *Garcia Ortiz v. Henkey*, No. 1:26-cv-00043-BLW, 2026 WL 948275, at *3 (D. Idaho Apr. 7, 2026).

That reasoning applies with full force here. Specifically, Petitioner challenges the IJ's failure to provide a meaningful, individualized bond hearing, including the failure to meaningfully explain the basis for continued detention. Because the alleged violation is procedural and constitutional in nature, requiring Petitioner to pursue administrative review would serve only to delay judicial intervention without any meaningful likelihood of relief.

Moreover, requiring exhaustion would not cure the constitutional defect identified here because the violation occurred at the hearing itself. Additional administrative review cannot retroactively supply the individualized analysis, consideration of alternatives, or reasoned explanation that was lacking when Petitioner's liberty was deprived. Due process requires a meaningful opportunity to be heard at the time detention is imposed—not months later through appellate proceedings. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

Nor should Petitioner be required to pursue an administrative appeal simply to obtain, for the first time, a reasoned explanation for her continued detention. Due process requires meaningful procedures before a person may be deprived of liberty, not after the constitutional violation has occurred. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Consistent with that principle, *Martinez v. Clark* requires a meaningful and individualized custody determination supported by a contemporaneous record sufficient to permit meaningful judicial review. 124 F.4th 775, 786 (9th Cir. 2024). The availability of a future appeal does not excuse the absence of a meaningful explanation in the initial decision.

Finally, continued detention itself constitutes irreparable harm. Where the injury alleged is the unconstitutional deprivation of physical liberty, irreparable harm is inherent in the claim. See *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) ("It is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury.") (quotation omitted). Petitioner therefore continues to suffer irreparable harm each day he remains detained pursuant to a constitutionally deficient custody determination.

Requiring exhaustion would serve only to prolong the very deprivation of liberty that this Court has already determined warrants constitutional scrutiny. Because administrative remedies are inadequate, futile, and incapable of curing the constitutional violation at issue, prudential exhaustion should be excused.

C. The July 13, 2026 Bond Hearing Did Not Provide the Meaningful Individualized Custody Determination Required by Due Process

This case does not concern ordinary review of a discretionary bond determination, nor is it a mere disagreement with the outcome of the hearing. Rather, it concerns whether the bond hearing conducted by the IJ provided the meaningful, individualized custody determination required by due process. Here, it did not.

Although the IJ stated that the Government bore the burden to establish by clear and convincing evidence that Petitioner posed a danger or a flight risk, the hearing did not result in a constitutionally adequate determination. The record reflects that the IJ issued a conclusory ruling, finding that the Government had met its burden and denying bond based on flight risk, without providing any meaningful explanation or analysis.

The IJ did not engage in an individualized assessment of Petitioner's circumstances. Petitioner presented substantial evidence demonstrating that he is neither a danger nor a flight

risk, including his more than two decades of residence in the United States, his marriage to a United States citizen, his four United States citizen children, including a medically vulnerable child, and his stable family and community ties. The Government, by contrast, relied primarily on Petitioner's prior removal, subsequent reentry, and remote or dismissed criminal history.

Despite this record, the IJ failed to explain how the Government satisfied its burden by clear and convincing evidence. The decision does not identify what evidence was credited, how competing evidence was weighed, or why less restrictive alternatives to detention would be insufficient. Nor did the IJ meaningfully address Petitioner's evidence or the substantial equities in his favor.

A bond determination that consists of a bare conclusion, without reasoned analysis or explanation, does not satisfy due process. Because the IJ failed to provide a meaningful, individualized determination supported by the record, the bond hearing did not cure the constitutional deficiencies in Petitioner's continued detention.

Courts have consistently recognized that custody determinations resting on conclusory findings, unsupported reasoning, or a failure to meaningfully consider the evidence constitute both an abuse of discretion and a violation of due process. See *Minango v. Bondi*, No. 2:26-cv-00235-ART-BNW, 2026 WL 1257028, at *4 (D. Nev. May 6, 2026); *Gimenez v. Hernandez*, No. 2:26-cv-00966-GJL, 2026 WL 1156075, at *6 (W.D. Wash. Apr. 29, 2026); *Miri v. Bondi*, No. 5:26-cv-00698-MEMF-MAR, 2026 WL 622302, at *10 (C.D. Cal. Mar. 5, 2026); *W.T.M. v. Scott*, 2026 WL 262583, at *4; *Segura Serrano v. Scott*, No. 2:26-cv-01268-LK, 2026 WL 1469639, at *7–8 (W.D. Wash. May 26, 2026); *Sanchez Henao v. Hernandez*, No. 2:26-cv-00707-LK, 2026 WL 1492714, at *7 (W.D. Wash. May 28, 2026).

D. The IJ's Bond Determination was Arbitrary and an Abuse of Discretion

The IJ's custody determination was arbitrary and constituted an abuse of discretion because both the bond hearing and the resulting written decision failed to provide the individualized, reasoned analysis required by due process.

1. The Bond Hearing

On July 13, 2026, Petitioner appeared before an IJ for the bond hearing ordered by this Court. The record demonstrates that the hearing and resulting custody determination failed to provide the meaningful, individualized process required by due process.

a. The IJ Failed to Conduct the Individualized Determination Required by Due Process

The hearing lasted approximately twenty-one minutes and forty-nine seconds, and the IJ did not discuss any evidence presented by either party. Due process requires an individualized assessment of whether continued detention remains necessary at the time of the hearing. *Hernandez v. Sessions, 872 F.3d 976, 991.* Instead of evaluating Petitioner's present circumstances and engaging in meaningful discussion, the IJ found that "DHS has shown by clear and convincing evidence that Respondent is a flight risk. DHS has also shown by clear and convincing evidence that no amount of bond or condition of parole would adequately mitigate the flight risk."

b. The IJ Failed to Consider Positive Equities (*Matter of Guerra* Violation)

In making release decisions under § 1226(a), the regulations provide that a noncitizen must demonstrate he or she does not pose a danger to property or persons, and that he or she is "likely to appear for any future proceeding." 8 C.F.R. § 1236.1(c)(8); see also *Matter of Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006).

According to *Matter of Guerra*, 24 I&N Dec. at 38; *Matter of R-A-V-P-*, 27 I&N Dec. at 805, the IJ must consider a range of evidence, some of which is objective, and some of which may require the Government to evaluate the credibility of the noncitizen and other witnesses. The factors the Government should consider are:

a) whether the noncitizen has a fixed address in the United States;
b) the noncitizen's length of residence in the United States;
c) the noncitizen's family ties in the United States, and whether they may entitle the noncitizen to reside permanently in the United States in the future;
d) the noncitizen's employment history;
e) the noncitizen's record of appearance in court;
f) the noncitizen's criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses;
g) the noncitizen's history of immigration violations;
h) any attempts by the noncitizen to flee prosecution or otherwise escape from authorities; and,
i) the noncitizen's manner of entry to the United States.

Here, nearly every *Guerra* factor favored release: a fixed address in the United States; more than two decades of residence in the United States; strong family ties, including a United States citizen spouse and four United States citizen children, one of whom is medically vulnerable; a history of employment supporting his family; no evidence of any failure to appear in court; minimal and remote criminal history, consisting of a single conviction more than twenty years ago and recent charges that were dismissed in the interest of justice; no evidence of immigration violations; and no attempts to flee prosecution or evade authorities.

The IJ did not discuss or consider any of Petitioner's positive equities at the hearing or in the denial order. This is a direct violation of the framework set forth in *Matter of Guerra*, 24 I&N Dec. at 40, that says IJs must consider the "totality of the circumstances," including family ties, length of residence, and community connections. A failure to consider relevant factors constitutes an abuse of discretion. *Singh v. Holder*, 638 F.3d 1196, 1206 (9th Cir. 2011).

By declining to consider these factors, the IJ failed to apply the governing legal standard and instead based his decision on an incomplete assessment of the record that excluded critical evidence weighing in favor of release. Rather than conducting an individualized assessment of Petitioner's circumstances, the IJ did not engage in any meaningful discussion or weighing of the evidence presented at the custody hearing. The record reflects no meaningful engagement with Petitioner's specific facts, including his longstanding residence, serious family ties and responsibilities, fixed address, community support, among other equities. These are precisely the types of individualized factors *Guerra* requires an IJ to consider. Here, the IJ did not.

A custody determination must be individualized. The failure to engage with the particular facts of Petitioner's case renders the decision legally deficient. Due process requires an "individualized determination" of whether detention is justified. *Hernandez v. Sessions*, 872 F.3d at 991. A decision that fails to meaningfully consider the individual's circumstances is constitutionally deficient. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

c. The IJ Failed to Hold DHS to Its Burden of Proving Flight Risk by Clear and Convincing Evidence

At the outset of the hearing, the IJ recognized that DHS bore the burden of proving by clear and convincing evidence that Petitioner's continued detention was justified based on either danger to the community or flight risk. Although the IJ acknowledged the applicable burden, the record demonstrates that it was never meaningfully enforced.

The Government's presentation consisted primarily of generalized assertions: (1) that Petitioner had a prior removal and subsequent reentry into the United States; (2) that Petitioner had a remote criminal conviction from 1998; (3) that Petitioner had more recent criminal charges in 2024, despite those charges having been dismissed; and (4) that Petitioner's avenues for relief

were limited due to the posture of his immigration proceedings. These assertions were not supported by specific, individualized evidence demonstrating that Petitioner presently poses a danger or a flight risk.

Despite the absence of such evidence, the IJ denied release based on flight risk. Neither the oral ruling nor the written custody order explains how the Government's limited presentation satisfied the clear-and-convincing standard. Simply identifying the correct burden at the outset of a hearing does not satisfy due process if the Government is not actually required to meet that burden. See *Addington v. Texas*, 441 U.S. 418, 427 (1979) (clear and convincing standard requires a high level of certainty before depriving an individual of liberty); *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011) (requiring an individualized determination supported by sufficient evidence).

A constitutionally adequate custody determination requires the IJ to evaluate the evidence under the governing standard and explain why that evidence establishes flight risk by clear and convincing evidence. That analysis is entirely absent here. Instead, the IJ announced the ultimate conclusion without identifying what evidence he found persuasive or explaining how DHS's presentation satisfied its burden.

To the extent the IJ relied on the procedural posture of Petitioner's removal proceedings or the perceived likelihood of removal, such reliance constitutes legal error. Courts have consistently recognized that the merits or pendency of immigration proceedings do not establish flight risk and cannot substitute for individualized proof. See *Singh*, 638 F.3d at 1205; *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017). A noncitizen cannot be penalized for pursuing lawful appellate review. See *Hernandez*, 872 F.3d at 990–91; *Prieto-Romero v. Clark*, 534 F.3d 1053, 1065 (9th Cir. 2008).

Nor can the Government rely on Petitioner's criminal history to meet its burden. Petitioner's only conviction occurred in 1998—more than two decades ago—and is too remote to establish a present risk. His more recent charges were dismissed in the interest of justice and therefore carry little, if any, probative value. See *Matter of Arreguin*, 21 I. & N. Dec. 38, 42 (BIA 1995) (declining to give substantial weight to arrest reports absent a conviction or corroborating evidence); *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006) (requiring consideration of the totality of the circumstances).

A prior removal order and subsequent reentry likewise do not establish flight risk. The existence of a removal order does not relieve DHS of its obligation to prove, through individualized evidence, that this particular Petitioner presently poses a risk of nonappearance. See *Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804–05 (BIA 2020).

If a remote conviction, dismissed charges, and the existence of a removal order were sufficient to establish flight risk, individualized custody determinations would be rendered meaningless. That is not the law. Due process requires DHS to prove by clear and convincing evidence that Petitioner presents a present risk of flight based on his own conduct and current circumstances, not on stale or unproven allegations. See *Martinez v. Clark*, 124 F.4th 775; *Hernandez*, 872 F.3d at 991; *Singh*, 638 F.3d at 1203–05.

Because DHS failed to meet its burden—and the IJ failed to require it to do so—the resulting custody determination is legally deficient and constitutes an abuse of discretion.

d. The IJ Failed to Consider Less Restrictive Alternatives to Continued Detention

The IJ's order asserts that less restrictive conditions would not mitigate any purported flight risk. However, the IJ did not address this issue at all during the hearing or provide any analysis in the written decision.

The record established that Petitioner has a stable residence, substantial family support, significant community ties, and a demonstrated ability to comply with obligations and remain with his family in the United States. Nevertheless, the IJ denied release under any conditions without explaining why less restrictive alternatives would be inadequate. The written custody order simply states, "DHS has also shown by clear and convincing evidence that no amount of bond or condition of parole would adequately mitigate the flight risk."

The IJ never explained why reporting requirements, electronic monitoring, bond, or any combination of supervision conditions would fail to reasonably assure Petitioner's appearance. Due process requires meaningful consideration of reasonable alternatives to continued incarceration, not their summary rejection without explanation. See *Hernandez v. Sessions*, 872 F.3d 976, 991–92 (9th Cir. 2017) (requiring consideration of less restrictive alternatives); *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011) (requiring a reasoned, individualized custody determination).

e. The IJ Failed to Provide a Reasoned Explanation Connecting the Evidence to the Flight-Risk Finding

The IJ denied bond with a conclusory finding that Petitioner is a flight risk but provided no explanation connecting that conclusion to the evidence in the record.

The decision contains no identification of the evidence relied upon, no discussion of how any evidence was weighed, and no explanation of why the Government's showing satisfied the clear and convincing standard. The IJ did not address Petitioner's substantial evidence, including his more than two decades of residence in the United States, his marriage to a United States citizen, his four United States citizen children—including a medically vulnerable child—or his stable family and community ties.

A constitutionally adequate custody determination requires more than a bare conclusion. Due process requires a reasoned explanation demonstrating what evidence the IJ relied upon, how that evidence was weighed, and why that evidence establishes—by clear and convincing evidence—that continued detention is necessary. See *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011) (requiring an individualized determination supported by the record); *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (requiring detention to be justified by individualized evidence, not generalized assumptions).

That explanation is entirely absent here. The IJ's ruling does not reveal whether any evidence was credited, whether Petitioner's evidence was considered at all, or how the Government's assertions were deemed sufficient to meet its burden. Without such reasoning, meaningful judicial review is impossible.

Such conclusory findings do not satisfy due process and constitute an abuse of discretion. The purpose of the bond hearing was to determine whether DHS could establish, based on Petitioner's present circumstances, that continued detention remained justified— not to deny release based on stale criminal history, dismissed allegations, or the mere existence of a prior removal order. Here, nothing in the record establishes that Petitioner is a flight risk, and that finding is unsupported by substantial evidence and lacks any reasoned explanation.

Courts have rejected precisely this type of conclusory determination. See *Saparali Uulu v. Scott*, No. 2:26-cv-01631-TL (W.D. Wash. July 10, 2026) (finding that an IJ's unexplained flight risk determination failed to satisfy due process). In *Saparali Uulu*, the court emphasized that a bare conclusion—untethered to any articulated reasoning or analysis of the record—does not permit meaningful judicial review and therefore cannot withstand constitutional scrutiny. As here, the absence of any explanation as to what evidence was credited, how competing evidence

was weighed, or why the Government's showing satisfied its burden rendered the custody determination legally deficient.

2. Resulting Decision of the Bond Hearing

The IJ's bond determination fails at every level: it provides no reasoning, applies no identifiable legal standard, and disregards undisputed evidence demonstrating that Petitioner is not a danger or a flight risk. The IJ's decision was essentially a boilerplate, checked-box determination that reflects a predetermined outcome rather than a meaningful exercise of discretion.

At the conclusion of the hearing, the IJ issued the following written decision:

Order:

[X]ORDERED that the request for a change in custody status be denied.

[X] REMAINS AT NO BOND

[X] DHS has shown by clear and convincing evidence that Respondent is a flight risk. DHS has also shown by clear and convincing evidence that no amount of bond or condition of parole would adequately mitigate the flight risk.

[X]OTHER: Conditional release is: [ ] granted [X] denied [ ] was not requested

[X] Ability to pay considered

[X] Failure to appear and address requirements provided.

This Court has jurisdiction to review immigration custody determinations for legal error, including whether an IJ properly concluded that a noncitizen presents a flight risk or danger to the community. See *Martinez v. Clark*, 124 F.4th 775, 783 (9th Cir. 2024).

Here, the IJ's bond determination was arbitrary, legally deficient, and constituted an abuse of discretion. This deficiency is not merely a lack of detail—it reflects a failure to make

the required findings altogether. The written decision consists only of a checked-box form, with no factual findings, no legal analysis, and no explanation of the basis for the determination.

The IJ did not make independent findings as to flight risk. Instead, the IJ summarily concluded that "DHS has shown by clear and convincing evidence that Respondent is a flight risk. DHS has also shown by clear and convincing evidence that no amount of bond or condition of parole would adequately mitigate the flight risk."

Here, although the IJ acknowledged during the hearing that DHS bore the burden, the written decision contains no finding that DHS satisfied that burden and no analysis explaining why the evidence met the applicable standard. Instead, the order simply announces his conclusion without identifying the facts relied upon or explaining how those facts establish flight risk under the governing clear-and-convincing standard. The absence of any articulated burden analysis further demonstrates that the decision cannot be meaningfully reviewed and does not reflect the reasoned, individualized custody determination required by due process.

A determination that the Petitioner is a flight risk and no conditions could mitigate that risk is not a substitute for a reasoned decision. A conclusion of this magnitude—denying release under any circumstances—requires a reasoned explanation grounded in the record. None was provided. A valid custody determination requires a reasoned application of law to fact, and a decision consisting of a checked box does not meet that standard. See *Judulang v. Holder*, 565 U.S. 42, 53 (2011); *Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 43 (1983).

Because of the liberty interest, there are seldom circumstances where no combination of conditions, including bond, could mitigate any flight risk. See, e.g., *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017); *Singh v. Holder*, 638

F.3d 1196, 1203 (9th Cir. 2011). Detention without the possibility of posting bond for flight risk is, as a matter of constitutional law, rare.

Civil detention is permissible only where the Government demonstrates, by clear and convincing evidence, that a noncitizen presently poses a genuine and individualized risk of failing to appear for future proceedings. See *Martinez v. Clark*, 124 F.4th 775, 786 (9th Cir. 2024); *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011). Such determinations must be grounded in current, individualized evidence—not generalized assumptions, speculation, or the mere existence of prior criminal convictions or a final order of removal. See *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). Where detention is imposed without an individualized evidentiary basis demonstrating that continued confinement is necessary to reasonably ensure the noncitizen's appearance, detention ceases to serve a legitimate regulatory purpose and instead becomes punitive in violation of due process. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Bell v. Wolfish*, 441 U.S. 520, 535 (1979).

Here, the IJ's conclusion that no amount of bond or conditions could mitigate risk is irreconcilable with these factors and unsupported by the record. Petitioner's positive equities overwhelmingly support release and directly contradict the IJ's conclusion that no conditions could mitigate risk.

E. Petitioner's Humanitarian Circumstances Further Demonstrate That Continued Detention Is Unwarranted

Petitioner's continued detention is particularly unjustified in light of his compelling humanitarian circumstances and the significant hardship his detention imposes on his family.

Petitioner is the father of four United States citizen children and is married to a United States citizen. One of his children is legally blind and medically vulnerable, requiring ongoing

care, stability, and support. Petitioner has been a consistent and essential presence in his child's life, and his detention has disrupted the care and support that his family depends upon. These circumstances underscore that Petitioner has strong incentives to comply with any conditions of release and remain with his family.

Petitioner also has substantial and longstanding ties to the United States, having resided here for more than two decades. His family maintains a stable residence, and he is deeply embedded in his community. These factors strongly weigh against any finding that he poses a flight risk and further demonstrate that less restrictive alternatives to detention would be sufficient to ensure his appearance. In addition, Petitioner is currently pursuing relief under the U-Visa provisions of the Immigration and Nationality Act as a victim of serious criminal activity. While the merits of that application are not at issue here, Petitioner's pursuit of victim-based humanitarian relief further reflects his engagement with lawful processes and his intent to pursue relief through appropriate legal channels rather than evade them.

Courts have recognized that detention decisions must account for the totality of the circumstances, including family ties, humanitarian considerations, and the availability of alternatives to detention. See *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006). Here, those factors overwhelmingly favor release. The IJ's failure to meaningfully consider these humanitarian factors further demonstrates that the custody determination was not individualized and did not satisfy due process.

F. Prolonged Detention Requires Meaningful Procedural Safeguards, Which Were Absent Here

Petitioner has now been detained for a prolonged period of time while his Petition for Review remains pending before the Ninth Circuit. Although this Court previously concluded that

Petitioner's detention did not violate *Zadvydas v. Davis*, the constitutional analysis does not end there. Even where detention remains statutorily authorized, due process requires meaningful procedural safeguards to ensure that continued detention is justified.

The Ninth Circuit has repeatedly recognized that prolonged immigration detention—particularly where it results from the ordinary course of administrative and judicial review—triggers heightened procedural protections. See *Hernandez v. Sessions*, 872 F.3d 976, 990–91 (9th Cir. 2017); *Prieto-Romero v. Clark*, 534 F.3d 1053, 1062–65 (9th Cir. 2008). A noncitizen cannot be penalized for pursuing lawful appellate review, and detention that extends during that process must be accompanied by meaningful safeguards.

In *Prieto-Romero*, the Ninth Circuit upheld continued detention in part because the petitioner had access to multiple bond hearings at which the Government was required to justify detention based on individualized evidence, and where release on bond was available if that burden was not met. 534 F.3d at 1065. Although the petitioner in that case remained detained due to an inability to post bond, the Court's reasoning depended on the existence of a meaningful procedural mechanism through which release could be obtained.

Thus, *Prieto-Romero* does not stand for the proposition that prolonged detention is permissible without meaningful review. Here, the duration of Petitioner's detention is not tied to the ordinary progression of his own case, but instead to an indefinite stay imposed by the Court of Appeals pending resolution of separate litigation (Navarrete v. Blanche, No. 24-2776). As a result, the timeline for adjudication is uncertain and entirely outside Petitioner's control. This further underscores that detention is contingent on an indeterminate process and heightens the need for meaningful procedural safeguards. Where continued detention depends on a process that is itself paused indefinitely, the adequacy of the custody determination becomes critical.

Thus, it underscores that continued detention during judicial review is constitutionally tolerable only where a noncitizen has a genuine opportunity for release based on an individualized determination. A procedural safeguard that exists in theory but does not function in practice cannot justify prolonged detention. That safeguard failed here.

Although Petitioner was afforded a bond hearing, the IJ did not conduct the type of individualized, evidence-based analysis required by due process. The IJ issued a conclusory ruling without identifying what evidence was relied upon, how that evidence was weighed, or how the Government satisfied its burden by clear and convincing evidence. As a result, the hearing did not function as a meaningful check on continued detention.

Accordingly, even assuming continued detention is statutorily permissible, the failure to provide a meaningful, individualized custody determination renders Petitioner's continued detention unconstitutional based on the IJ's abuse of discretion.

G. The Government Failed to Provide a Constitutionally Adequate Custody Determination, Requiring Release

Respondents were required to justify Petitioner's continued detention through a constitutionally adequate custody determination. They failed to do so. Although an IJ conducted a bond hearing, the IJ issued a conclusory flight-risk finding without identifying the evidence relied upon, weighing the record, or explaining how DHS met its burden.

A hearing that lacks a reasoned decision does not provide a lawful basis for continued detention. Due process requires a meaningful check on executive detention, not a perfunctory proceeding. See *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985). Agency action must be supported by reasoned analysis and cannot rest on unexplained conclusions. See

Judulang v. Holder, 565 U.S. 42, 53 (2011); *Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 43 (1983).

This principle applies with particular force in detention cases. See *Soriano v. Hernandez*, No. 2:26-CV-00900-DGE, 2026 WL 969764; *Brambila Sanchez v. Scott*, No. 2:26-cv-00948-RAJ (W.D. Wash. May 15, 2026) (holding that a constitutionally deficient custody determination did not provide an independent basis for continued detention and ordering release); *Saparali Uulu v. Scott*, No. 2:26-cv-01631-TL (W.D. Wash. July 10, 2026) (ordering immediate release after concluding that the IJ's custody determination was unsupported by the record and failed to provide a lawful basis for continued detention); *Escalante Perez v. Hernandez*, No. 2:26-cv-00956-TSZ (W.D. Wash. Apr. 14, 2026) (ordering release where the Government failed to establish a lawful basis for continued detention following a deficient custody determination).

Having already been afforded an opportunity to cure the constitutional violation, Respondents are not entitled to another. As the Supreme Court has recognized, "the typical remedy for unlawful detention is . . . release." *Munaf v. Geren*, 553 U.S. 674, 693 (2008).

VII. REQUEST FOR RELIEF

Petitioner respectfully requests that this Court:

1. GRANT this Petition for Writ of Habeas Corpus;
2. ORDER Respondents to immediately release Petitioner from custody within 24 hours of the Court's order;
3. In the alternative, ORDER Respondents to immediately release Petitioner from custody within 24 hours of the Court's order under conditions of supervision;
4. Retain jurisdiction to ensure compliance with the Court's Order and to resolve any disputes concerning its implementation.

VIII. CONCLUSION

This case presents a simple question: Can the Government continue to detain a noncitizen based on a bond determination that is arbitrary, conclusory, and unsupported by any reasoned or individualized analysis? No, it may not.

The IJ bond hearing failed to justify Petitioner's detention and instead exacerbated the constitutional violation. The custody hearing as well as the IJ's conclusory "no bond" determination, devoid of reasoning and unsupported by the record, reflects an abuse of discretion and fails to provide any lawful basis for continued detention. In such circumstances, release—not further process—is required.

Accordingly, the Petition should be granted, and Petitioner should be ordered immediately released.

IX. SIGNATURE AND CERTIFICATION

The undersigned counsel certifies that she represents the Petitioner and that this Petition is filed on Petitioner's behalf pursuant to 28 U.S.C. § 2241.

Respectfully Submitted this 30th day of July 2026.

/s/Jennifer Lesmez

Jennifer Lesmez, WSBA #34547
Attorney for Petitioner

CERTIFICATE OF SERVICE

I, Jennifer Lesmez, certify that on this 30th day of July 2026, I served a true and correct copy of the **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 (CHANGED CIRCUMSTANCES: DEFECTIVE BOND HEARING AND CONTINUED UNLAWFUL DETENTION)** upon the following Respondents by electronic service as permitted:

BRUCE SCOTT
Warden, Northwest ICE Processing Center
1623 East J Street
Tacoma, WA 98421

MARKWAYNE MULLIN
Secretary, U.S. Department of Homeland Security
245 Murray Lane SW
Washington, DC 20528

Required Service on the United States

UNITED STATES ATTORNEY'S OFFICE
USAWAW.ImmigrationHabeasService@usdoj.gov
(Via email)

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 30th day of July 2026.

/s/Jennifer Lesmez

Jennifer Lesmez, WSBA #34547
Attorney for Petitioner