

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____	)	
_____ astro Guaman	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 26-12944-MJJ
	)	
Moniz et al	)	
	)	
Respondents.	)	
_____	)	

FINAL JUDGMENT

JOUN, D.J.

In accordance with this Court's Order, Doc. No. 7, GRANTING the Petitioner's Writ of Habeas Corpus, it is hereby ORDERED:

Judgment for the Petitioner.

DATED: July 22, 2026

BY THE COURT,

/s/ Sophie Phillips

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

██████████ CASTRO GUAMAN,

Petitioner,

v.

██████████ MONIZ, et. al.,

Respondents.

Civil Action No. 1:26-cv-12944 MJJ

STATUS REPORT

Pursuant to the Court's Order, Petitioner was given a bond hearing on July 13, 2026. At the hearing Petitioner was ordered released on \$2,500 bond.

Respectfully submitted,

LEAH B. FOLEY
United States Attorney

Dated: July 21, 2026

By: /s/ Ben Tolkoff
BENJAMIN TOLKOFF
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CERTIFICATE OF SERVICE

I, Benjamin Tolkoff, Assistant United States Attorney, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

Dated: July 21, 2026

By: /s/ Ben Tolkoff
BENJAMIN TOLKOFF
Assistant United States Attorney

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
CHELMSFORD IMMIGRATION COURT
CHELMSFORD, MASSACHUSETTS**

IN THE MATTER OF:

CASTRO GUAMAN, [REDACTED]

RESPONDENT

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In Bond Proceedings

DETAINED

CHARGE: Section 212(a)(6)(A)(i) of the Immigration and Nationality Act (“INA” or “Act”), as amended.

APPLICATION: Motion for Custody Redetermination.

ON BEHALF OF THE RESPONDENT:

Reuben S. Kerben, Esq.
Kerben Law Firm, P.C.
80-02 Kew Gardens Road, Suite 307
Kew Gardens, NY 11415

ON BEHALF OF DHS:

Kaleigh Beck, Assistant Chief Counsel
U.S. Department of Homeland Security
U.S. Immigration and Customs Enforcement
15 New Sudbury Street, Room 425
Boston, Massachusetts 02203

BOND ORDER OF THE IMMIGRATION JUDGE

I. PROCEDURAL HISTORY

On December 9, 2025, the U.S. Department of Homeland Security (“DHS”) initiated removal proceedings against Josue Castro Guaman (“the Respondent”) through the filing of a Notice to Appear (“NTA”) with the Hartford Immigration Court (“the Court”). *See* Form I-862, Notice to Appear (May 5, 2024). On July 8, 2026, a request for custody redetermination was filed with the Court, which included a habeas corpus order issued by the United States District Court for the District of Massachusetts (“the District Court”). Exh. 1. Consequently, the Court convened a custody redetermination hearing on July 13, 2026. The Court now considers the record in its entirety, and finds that DHS has established, by a preponderance of the evidence, that the Respondent is a flight risk and that a bond of \$2,500 may ameliorate that risk.

I. DOCUMENTARY EVIDENCE¹

¹ The record of these proceedings is maintained in an electronic format through the EOIR Courts and Appeals System (“ECAS”). For clarity the Court will cite to the exhibit and page number that is generated when a filing is uploaded to the Electronic Recording of Proceedings (“eROP”).

Exhibit 1: United States District Court for the District of Massachusetts Order (July 8, 2026);

Exhibit 2: Respondent’s Evidentiary Submission (July 10, 2026); and

Exhibit 3: Respondent’s Evidentiary Submission (July 10, 2026).

II. STANDARDS OF LAW

The Court may review the custody status of a respondent in removal proceedings, provided that the respondent is not subject to mandatory detention pursuant to section 236(c) of the Immigration and Nationality Act (“INA” or “Act”). INA § 236(a). When reviewing a respondent’s custody status, the Court may order DHS to (1) continue to detain the respondent or (2) release the respondent on either a bond of not less than \$1,500.00 or conditional parole. *Id.* Pursuant to the opinion of the First Circuit, DHS bears the burden of proof in custody redetermination proceedings. *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021). For the Court to order no change in a respondent’s custody status, DHS must prove by clear and convincing evidence that the respondent poses a danger to the community or prove by a preponderance of the evidence that the respondent poses a risk of flight. *Id.*; *see also* 8 C.F.R. §§ 1003.19(h)(3), 1236.1(c)(8).

DHS bears the burden to demonstrate respondent’s danger to the community by clear and convincing evidence. *Hernandez-Lara*, 10 F.4th at 41. Clear and convincing evidence is a standard of proof which requires more than the preponderance of the evidence standard applied in most civil cases, but less than the beyond a reasonable doubt standard used in criminal proceedings. *Addington v. Texas*, 441 U.S. 418, 425 (1979). The Board of Immigration Appeals (“BIA” or “Board”) defined clear and convincing evidence as “that degree of proof though not necessarily conclusive, which will produce in the mind of the court a firm belief or conviction, or as that degree of proof which is more than a preponderance but less than beyond a reasonable doubt.” *Matter of Patel*, 19 I&N Dec. 774 (BIA 1988) (quoting *Matter of Carrubba*, 11 I&N Dec. 914, 917 (BIA 1966)).

The Board has consistently held that the following factors are significant in custody redetermination:

1. Fixed address in the United States. *Matter of Patel*, 15 I&N Dec. 666, 667 (BIA 1979);
2. Length of residence in the United States. *Matter of Shaw*, 17 I&N Dec. 177, 178 (BIA 1979);
3. Family ties in the United States, particularly those which can confer immigration benefits on the respondent. *Matter of Shaw*, 17 I&N Dec. at 178; *Matter of Patel*, 15 I&N Dec. at 667;

4. Employment history in the United States, including length and stability. *Matter of Shaw*, 17 I&N Dec. at 178; *Matter of Patel*, 15 I&N Dec. at 667;
5. Immigration record and eligibility for relief from removal. *Matter of Andrade*, 19 I&N Dec. 488, 491 (BIA 1987); *Matter of Shaw*, 17 I&N Dec. at 178;
6. Attempts to escape from authorities or other flight to avoid prosecution. *Matter of San Martin*, 15 I&N Dec. 167, 169 (BIA 1974);
7. Prior failures to appear for court proceedings. *Matter of Shaw*, 17 I&N Dec. at 178; *Matter of San Martin*, 15 I&N Dec. at 169; and
8. Criminal record, particularly if such record indicates consistent disrespect for the law. *Matter of Andrade*, 19 I&N Dec. at 490-91.

The Court may base a custody or bond determination upon any information that is available or that is presented by the respondent or DHS. 8 C.F.R. § 1003.19(d). It is the responsibility of the Court and parties to ensure that the bond record establishes the nature and substance of the information considered. *Matter of Adeniji*, 22 I&N Dec. 1102, 1115 (BIA 1999).

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

As an initial matter, the Court finds that it has jurisdiction to consider the Respondent's request for custody redetermination pursuant to an order issued by the United States District Court for the District of Massachusetts. Exh. 1. After carefully considering the documentary and testimonial evidence, the Court finds that DHS has met its burden of establishing that the Respondent is a flight risk. *Hernandez-Lara*, 10 F.4th at 41.

At the hearing, DHS argued that the Respondent is a flight risk. DHS asserted that the Respondent entered the United States without inspection in March of 2014 and has remained in the country without lawful status since that time. DHS further argued that the Respondent has no pending applications for relief before the Court. DHS contended that the Respondent's manner of entry and lack of pending relief demonstrate that he may not appear for future immigration proceedings. DHS did not submit any documentary evidence in support of its position and did not argue that the Respondent poses a danger to the community.

On the other hand, the Respondent, through counsel, argued that DHS failed to establish by a preponderance of the evidence that he is a flight risk. Counsel asserted that the Respondent filed a Form I-589, Application for Asylum and for Withholding of Removal ("asylum application"), on January 24, 2025, and therefore has relief pending before USCIS. Exhs. 2-3. Counsel emphasized that the Respondent has resided in the United States since March of 2014 without any encounters with law enforcement and was detained only because ICE mistakenly believed he was someone else. Counsel further argued that the Respondent is a hardworking husband, father, and business owner who owns a roofing company, pays business taxes, is an active

member of his church, and has strong family ties, including a United States citizen spouse and daughter. *Id.* Counsel also noted that the Respondent has a pending Form I-130, Petition for Alien Relative, and has *prima facie* eligibility cancellation of removal. *See* Exh. 2. Based on the Respondent's strong family, business, and community ties, lack of criminal history, and multiple avenues of potential relief, counsel argued that the Respondent has every incentive to comply with future immigration proceedings and should be released on bond.

Ultimately, after considering the totality of the circumstances, the Court finds that DHS established by a preponderance of the evidence that the Respondent presents a risk of flight. *Hernandez-Lara*, 10 F.4th at 41. The Respondent entered the United States without inspection in March of 2014 and remained without lawful status for more than a decade before filing an asylum application in January of 2025. Although the Court considered the Respondent's favorable equities, including his lengthy residence in the United States, lack of criminal history, strong family ties, business ownership, church involvement, and pending forms of relief, those equities do not outweigh the highly speculative nature of the Respondent's relief. *See* Exhs. 2-3. The Court also notes that DHS submitted no documentary evidence. Nevertheless, DHS' argument that Respondent's manner of entry and extended period of unlawful presence with only speculative relief available shows, by a preponderance of the evidence, that he presents a risk of nonappearance. The Court finds that a bond of \$2,500 is sufficient to reasonably ensure the Respondent's future appearance. *Matter of Patel*, 15 I&N Dec. at 667; *Matter of Shaw*, 17 I&N Dec. at 178; *Matter of Andrade*, 19 I&N Dec. at 491. Accordingly, the Court will grant the Respondent's request for bond in the amount of \$2,500.

For these reasons, the Court **ORDERED** that bond be **GRANTED**

July 14, 2026

Date


JULIAN NIERVA
 United States Immigration Judge