District Judge Tiffany M. Cartwright

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

M-A-C-C-,

Petitioner,

v.

JULIO HERNANDEZ, Seattle Field Office Director, Immigration and Customs Enforcement and Removal Operations; TODD LYONS, Acting Director of U.S. Immigration Customs Enforcement; Secretary, U.S. Department of Homeland Security; Attorney General of the United States[1]; BRUCE SCOTT, Warden, Northwest ICE Processing Center; and EOIR.

Respondents.

Case No.: 2:26-cv-00958-TMC

TRAVERSE ISO WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

Noted For Consideration:
April 11, 2026

[1] Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, when a public officer sued in their official capacity leaves office, "the officer's successor is automatically substituted as a party." Here, Petitioner originally named then-Attorney General Pamela Bondi as a defendant in her Petition. Pamela Bondi has since left office and as such under Rule 25(d) she is automatically substituted for her successor, the current Attorney General of the United States, who, at this time, is Acting Attorney General Todd Blanche. Similarly, Petitioner named then-DHS Secretary Kristi Noem in his original petition and she has since left office and is automatically substituted for her successor, Markwayne Mullin.

INNOVATION LAW LAB
915 Broadway Street, Suite 100
Vancouver, WA 98660
Telephone: +1 503-922-3042

INTRODUCTION

Petitioner, M-A-C-C-, was taken from the streets of Oregon without a warrant by ICE and has been held in illegal custody by Respondents since then. Respondents do not contest that. ECF 10 at 2 ("Federal Respondents agree that Petitioner[] fall[s] within the Bond Denial and Bond Eligible class definitions" and that such detention is "unlawful"). Because the Tacoma Immigration Court is not a neutral forum that will provide a constitutionally adequate hearing for his bond adjudication, the Court should order M-A-C-C's immediate release under reasonable conditions or, alternatively, order the Respondents to hold a bond hearing on the record where, among other requirements, M-A-C-C- is presumed to be released unless the government proves by clear and convincing evidence that M-A-C-C- is a flight risk or a danger to the community.

ARGUMENT

I. The Tacoma Immigration Court is unlikely to provide a constitutionally adequate bond hearing for M-A-C-C-.

There is ample evidence to demonstrate that the Tacoma Immigration Court is unlikely to provide a constitutionally adequate bond hearing for M-A-C-C-. The presumption that the Tacoma immigration judges will properly discharge their official duties and act with procedural regularity, with bona fide, non-pretextual reasons is unwarranted here. *See, e.g.,* Nicholas Nehamas, et al., *How Trump Purged Immigration Judges to Speed Up Deportations*, NY Times (April 9, 2026), available at: https://www.nytimes.com/2026/04/09/us/politics/trump-miller-immigration-judges-purge.html (last visited Apr. 10, 2026) (describing how the Chief Immigration Judge receives daily reports about bond rulings and "[o]ne current judge said the 'pressure to deny bond is overt.' The judge said that there was a requirement to inform a

INNOVATION LAW LAB
915 Broadway Street, Suite 100
Vancouver, WA 98660
Telephone: +1 503-922-3042

supervisor every time bond was granted, underscoring how closely the administration was monitoring decisions"); *Lima Soriano v. Hernandez*, 2:26-cv-00900-DGE, ECF 10 at 8-9 (W.D. Wash. Apr. 10, 2026) (itemizing failure of Tacoma Immigration Court to appropriately apply the legal standard thus ordering immediate release); *W.T.M. v. Bondi*, Case No. 2:25-CV-02428-RAJ-BAT, 2026 WL 262583 (W.D. Wash. Jan. 30, 2026) (holding IJ made a constitutionally impossible flight risk finding); U.S. Dep't of Justice, *YOU BE THE JUDGE,* https://perma.cc/FS3J-SVGD (last visited April 11, 2026) (in recruitment ad for immigration judges for the Tacoma Immigration Court: "Help write the next chapter of America. Apply today to become a *deportation judge* and you may be entitled to these benefits.") (italics added); Jason A. Cade, *Welcome to the Trump Administration's Board of Immigration Appeals: The Immigrant Always Loses*, 135 Yale L.J.F. (forthcoming 2026), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6506380 ("The Trump administration has used the Attorney General's self-referral power and a reconstituted, ideologically aligned Board to issue 91 precedential decisions, at more than three times the historical pace, in its first fourteen months. The goal is to engineer a body of precedents that reliably produces one result: removal.")[2]

[2] *See, e.g., Federal Education Ass'n v. Trump*, 1:225-cv-01362-PLF, ECF 35 at 25 (D.D.C. Aug. 14, 2025) ("In just six months, the President of the United States may have forfeited the right to such a presumption of regularity. As Magistrate Judge Faruqui put it: `Trust that had been earned over generations has been lost in weeks.`"); *United States v. Oregon*, 6:25-cv-01666-MTK, ECF 73 at 22 (D. Or. Feb. 5, 2026) ("The presumption of regularity that has been previously extended to Plaintiff that it could be taken at its word—with little doubt about its intentions and stated purposes—no longer holds."); *In re: Search of One Device and Two Individuals Under Rule 41*, 25-sw-82-ZMF, at 8 n10 (D.D.C. May 29, 2025) ("Blind deference to the government? That is no longer a thing. Trust that had been earned over generations has been lost in weeks. … These norms being broken must have consequences. High deference is out; trust, but verify is in."); Ryan Goodman, et al, *The Presumption of Regularity in Trump Administration Litigation* (4th Ed.) (Mar. 19, 2026) (collecting instances and cases), available at https://www.justsecurity.org/120547/presumption-regularity-trump-administration-litigation/) (last visited April 11, 2026).

INNOVATION LAW LAB
915 Broadway Street, Suite 100
Vancouver, WA 98660
Telephone: +1 503-922-3042

II. The Court should order M-A-C-C's immediate release under reasonable conditions.

Given the significant and legitimate concerns regarding the immigration courts' capacity to serve as a neutral forum and properly apply the law to bond requests, the Court should order M-A-C-C's release under reasonable conditions. The "traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 484, 484 (1973); *Burnett v. Lampert*, 432 F.3d 996, 999 (9th Cir. 2005) (acknowledging that federal courts have "a fair amount of flexibility" in habeas cases to discern an appropriate remedy to meet the specific constitutional defects found in a given case before them). In Petitioner's case, the defects are threefold, with Respondents unlawfully arresting Petitioner without a warrant, refusing to provide an initial custody determination under § 1226(a) (incorrectly asserting § 1225(b) detention), and failing to point to any facts which would establish that Petitioner's detention is a flight risk or a danger to the community.

The Respondents have engaged in a series of illegal maneuvers that have subjected M-A-C-C- to unwarranted detention in violation of his due process rights. His arrest was unlawfully engineered without a warrant. *M-J-M-A- v. Hermosillo*, 6:25-cv-02011-MTK, Dkt. 88 at 46 (D.Or. Feb. 27, 2026) (finding that under the scheme in which M-A-C-C- was arrested, DHS made unlawful warrantless arrests). Notably, ICE is only permitted to make warrantless arrests where there is a probable cause finding that (1) the person is "in the United States in violation of the [immigration laws]," and (2) the person is "likely to escape before a warrant can be obtained." 8 U.S.C. § 1357(a)(2); 8 C.F.R. § 287.8(c)(2)(ii). Here, Respondents arrested Petitioner without a warrant and without conducting any individualized analysis of whether he presented a flight risk. ECF 2 at 3. DHS officers, at the time of Petitioner's arrest, did not inquire as to Petitioner's ties to the community, whether he had a fixed address, whether he had family in the U.S., or whether

INNOVATION LAW LAB
915 Broadway Street, Suite 100
Vancouver, WA 98660
Telephone: +1 503-922-3042

he held steady employment. In doing so, they violated the INA and Petitioner's rights under the Due Process Clause. ECF 2 at 3.

Respondents have unlawfully refused to provide him a custody determination under 8 U.S.C. § 1226(a) for months. ECF 10 at 2 (certifying the true cause of detention as 8 U.S.C. § 1225(b)(2)(A)); ECF 2 at 4.

Respondents have failed to show—in all the months that Petitioner has been held in their custody—any facts or admissible evidence that Petitioner is a flight risk or danger to the community. ECF 10 (federal respondents' return asserting no facts warranting flight risk or dangerousness); ECF 2 at 1-3 (noting Petitioner had a fixed address at an apartment in Beaverton, Oregon where he lived with his partner and two children before his detention; that Petitioner held steady employment: "I supported my family by working in a restaurant"; and that Petitioner did not attempt to flee during his arrest by ICE: "I complied with all of the agents[']' instructions and commands"). Civil immigration detention must be non-punitive and bear a reasonable relation to its purpose of ensuring compliance with immigration proceedings and preventing danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690-92 (2001); *Demore v. Kim*, 538 U.S. 510, 527 (2003). In assessing whether a non-citizen poses a flight risk or a danger to the community, the government should consider the following factors:

> (1) whether the noncitizen has a fixed address in the United States; (2) the noncitizen's length of residence in the United States; (3) 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; (4) the noncitizen's employment history; (5) the noncitizen's record of appearance in court; (6) the noncitizen's criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses; (7) the noncitizen's history of immigration violations; (8) any attempts by the noncitizen to flee prosecution or otherwise escape from authorities; and, (9) the noncitizen's manner of entry to the United States.

INNOVATION LAW LAB
915 Broadway Street, Suite 100
Vancouver, WA 98660
Telephone: +1 503-922-3042

Matter of Guerra, 24 I. & N. Dec. 37, 38 (BIA 2006); *Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 805 (BIA 2020); *Lima Soriano*, 2:26-cv-00900-DGE, ECF 10 at 8-9.

Here, in spite of holding Petitioner in custody for months, Respondents have proffered no facts or evidence to suggest that Petitioner is a flight risk or a danger to the community under the *Guerra* factors. Rather, the evidence before the Court establishes that Petitioner is neither a flight risk nor a danger. As to dangerousness, Respondents do not contest that Petitioner has no criminal history. ECF 2 at 1; ECF 10. As to flight risk, the record shows, and the Respondents do not dispute, that Petitioner had a fixed address in Beaverton, Oregon where he lived with his partner and children before his detention (ECF 2 at 1), he held steady employment at a local restaurant (ECF 2 at 1), and during his arrest by ICE he complied with the officers' instructions and did not attempt to flee (ECF 2 at 3). In short, Respondents do not contest Petitioner's history and they have not provided this Court with *any* evidence going to *any* fact that Petitioner is a flight risk or a danger.

Because Respondents have consistently acted illegally at each step of their dealings with Petitioner, the proper remedy here is immediate release under reasonable conditions. The Court is empowered to order such a remedy given that immediate release is the "traditional function" of the habeas writ and given the flexibility with which the Courts are endowed to craft a remedy that adequately addresses the violations at issue. *Preiser* 411 U.S. at 484; *Burnett* 432 F.3d. at 999.

III. Alternatively, the Court should provide clear instructions for a constitutionally adequate bond hearing.

Alternatively, the Court should order specific relief in the form of a bond hearing where the government shall release the Petitioner unless the government proves by clear and convincing evidence that M-A-C-C- is a flight risk or danger to the community. *Santos Orozco Valle et al. v.*

INNOVATION LAW LAB
915 Broadway Street, Suite 100
Vancouver, WA 98660
Telephone: +1 503-922-3042

Scott, Case 2:25-cv-02429-TLF, Dkt. 15 at 17 (W.D. Wash. Jan. 5, 2026) (ordering government to "provide petitioner a hearing in which the Government bears the burden of proof, under *Singh v. Holder*, to justify immigration re-detention by clear and convincing evidence"). The hearing must be on the record, recorded and transcribed, the Petitioner must be afforded the opportunity to present evidence, including witness testimony, and the immigration judge must issue a contemporaneous reasoned decision that, at a minimum, includes, the requirement to articulate and apply the clear and convincing evidence standard as to each *Matter of Guerra* factor to admissible, reliable evidence adduced during the hearing and articulate a rational connection between any admissible, reliable evidence to the relevant *Guerra* factor. *See e.g., Lima Soriano v. Hernandez*, 2:26-cv-00900-DGE, ECF 10 at 8-9 (W.D. Wash. Apr. 10, 2026) (itemizing failure of Tacoma Immigration Court to appropriately apply the legal standard and ordering immediate release); *M-Z-H- v. Hermosillo*, 2:25-cv-02523-KKE, ECF 16 at 7-9 (W.D. Wash. Dec. 23, 2025) (finding government evidence for flight risk unreliable and inadmissible); *Barraza Laguna v. Hernandez*, 2:26-cv-00864-GJL, ECF 15 at 10 (W.D. Wash. April 9, 2026) (criticizing government for "mak[ing] no viable factual or evidentiary submissions"). The Court should instruct that the Immigration Judge *may not* rely on "considerations that would lead to an automatic denial of bond in all cases under 8 U.S.C. § 1226(a)." *Juarez Vigil v. Bondi*, 1:26-cv-00168-MSN-WBP, ECF 26 at 1 (E.D. Va. April 8, 2026) (admonishing immigration judge because the IJ "found Petitioner was a risk of flight due to the fact that, among other things, [petitioner] entered the United States unlawfully and worked without authorization.").

CONCLUSION

The Court should grant the petition and order M-A-C-C's immediate release.

Dated: April 11, 2026,

INNOVATION LAW LAB
915 Broadway Street, Suite 100
Vancouver, WA 98660
Telephone: +1 503-922-3042

s/Miguel Cardenas de Avila
MIGUEL CARDENAS DE AVILA, WSBA#61118
miguel@innovationlawlab.org

s/Stephen W. Manning
STEPHEN W. MANNING, OSB # 013373*
stephen@innovationlawlab.org

s/ Kate Pritchard
KATE PRITCHARD, OSB #225757*
kate@innovationlawlab.org

Attorneys for Petitioner
**Appearing Pro Hac Vice*

INNOVATION LAW LAB
915 Broadway Street, Suite 100
Vancouver, WA 98660
Telephone: +1 503-922-3042