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; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; Attorney General of the United States; BRUCE SCOTT, Warden, Northwest ICE Processing Center; and DAREN K MARGOLIN, Director of Executive Office for Immigration Review.

Respondents.

Case No.:

Agency No. AXXX-XXX-563

DECLARATION OF JOSE G. MIRANDA IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

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

DECLARATION OF JOSE G. MIRANDA IN SUPPORT OF M-A-C-C-'S PETITION FOR WRIT OF HABEAS CORPUS

I, José G. Miranda, upon my personal knowledge, hereby declare under penalty of perjury as follows:

1. My name is José G. Miranda. I am a licensed attorney and member in good standing of the New York State Bar (NYSB No. 5714969). I am admitted to practice before the United States Court of Appeals for the Second Circuit, and before the Executive Office for Immigrant Review (EOIR No. NN515003). I am a Senior Staff Attorney at the Innovation Law Lab, a nonprofit that provides free legal services to immigrants and refugees, and the focus of my law practice is U.S. federal immigration law.

2. On April 27, 2026, I served as pro bono counsel of record for Petitioner M-A-C-C- at his federal court ordered custody redetermination hearing before Immigration Judge John C. Odell at the Tacoma Immigration Court.

3. Before the hearing, I filed a Memorandum of Law and supporting exhibits in support of Petitioner's bond request, including: evidence of Petitioner's fixed address, steady employment, and community ties; enrollment in the Equity Corps of Oregon program, Oregon's universal immigrant representation program; twelve character letters; and proof of Petitioner's pending appeal before the Board of Immigration Appeals (BIA). True and correct copies of these documents are attached as Exhibits 1 and 2 and incorporated herein by reference.

4. The facts set forth below are based on my personal recollection, notes I took during and immediately after the hearing, and a review of contemporaneous notes taken by co-counsel.

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5. The hearing began at approximately 10:40 AM and concluded around 10:55 AM PST. I appeared at the hearing remotely via Webex video call. Co-counsel for the hearing, Kathleen Pritchard (OSB No. 225757, EOIR No. XX885536), as well as Petitioner, appeared in person. A government-provided interpreter was present at the hearing and provided Petitioner interpretation during his testimony.

6. At the outset of the hearing, Immigration Judge Odell admitted to the evidentiary record Petitioner's memorandum of law and supporting exhibits, as well as his Form I-213, Record of Deportable/Inadmissible Noncitizen, which the Department of Homeland Security's (DHS) counsel submitted as evidence. A true and correct copy of the Form I-213 is attached as Exhibit 3 and incorporated herein by reference. DHS did not contest any of Petitioner's evidence.

7. Before the substantive proceedings began, I explicitly requested that the hearing be placed on the record. The Immigration Judge declined without providing a reason. As such, no digital audio recording of the hearing exists.

8. Immigration Judge Odell did not permit an opening statement. Instead, he immediately assumed a prosecutorial role, interrogating me and the Petitioner directly to advance a flight risk finding while ignoring Petitioner's equities and failing to meaningfully engage with his arguments.

9. The Immigration Judge questioned Petitioner regarding: his employment history in the United States; his work authorization status; whether he possessed false immigration documents; his use of a false social security number to obtain employment; whether he paid for the social security number; whether the number itself was a true social security number belonging to another person; and whether he had filed federal income tax

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returns in the United States. Petitioner answered all questions responsively, providing detailed and consistent testimony. DHS counsel did not examine Petitioner.

10. Immigration Judge Odell questioned me regarding Petitioner's length of residence in the United States, his family ties, the immigration status of his partner and children, whether he was married, the location and nationality of his children, and the procedural posture of his underlying removal case. I confirmed that Petitioner had resided continuously in the United States for over three years; that he was in a long-term committed relationship of over a decade with his partner, with whom he has two children, ages six and nine, who reside in Beaverton, Oregon; that neither Petitioner's partner nor any member of his immediate family holds immigration status in the United States; and that his removal order is on appeal before the BIA.

11. I argued that Petitioner's deep family ties are reasons to remain, not flee, pointing to record evidence that his family has active asylum proceedings with a master calendar hearing set for July 25, 2028, before the Portland, Oregon Immigration Court, establishing a fixed anchor date for the family's presence in the United States. Immigration Judge Odell did not substantively engage with this argument.

12. DHS counsel stated that Petitioner had been apprehended, processed, and returned to Mexico on five occasions between 2020 and 2022, mischaracterizing those encounters as voluntary removals. I objected to that characterization and stated that the encounters were Title 42 public health expulsions under 42 U.S.C. § 265, not voluntary removals, and directed the Court to Petitioner's legal briefing arguing that Title 42 expulsions are not cognizable immigration violations. The Immigration Judge confirmed that Petitioner's

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Form I-213 reflects Title 42 expulsions, then asked DHS counsel whether Petitioner had a criminal record. DHS counsel confirmed that M-A-C-C- has no known criminal legal history.

13. I presented an argument that Petitioner's Title 42 encounters should not be weighed against him because (1) they were public health expulsions under 42 U.S.C. § 265, not cognizable immigration violations under the Immigration Nationality Act—citing *Huisha-Huisha v. Mayorkas*, 27 F.4th 718, 721 (D.C. Cir. 2022); (2) penalizing Petitioner for these encounters transforms the government's own barrier to legal asylum into a penalty, which is unreasonable under *Matter of Guerra*, 24 I.&N. Dec. 37, 40 (BIA 2007); and (3) Petitioner was immediately apprehended during each encounter and never free from official restraint, and thus never effected an entry under *United States v. Pacheco Medina*, 212 F.3d 1162, 1164 (9th Cir. 2000). I directed Judge Odell to the legal briefing in which these authorities were cited. The Immigration Judge acknowledged the argument but stated he disagreed, without identifying the basis for his disagreement or engaging with the cited authority.

14. I further argued that Petitioner's past history of working without lawful authorization has no bearing on his future risk of flight. Immigration Judge Odell stated that working without authorization demonstrates a disregard for legal obligations, which indicates a likelihood of absconding. I responded that M-A-C-C- is the father of two young children who has been in a committed relationship with their mother for over a decade—precisely the profile of someone with strong incentives to appeal, not abscond. The Immigration Judge did not address whether Petitioner's family ties mitigate flight risk.

15. Prior to issuing his decision, I asked the Immigration Judge whether he is required to report bond grants to his supervisor. When asked why I raised the question, I stated that it appeared he was about to unreasonably deny release on bond and noted that public

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reporting shows systemic bias at immigration bond hearings. Immigration Judge Odell replied that his supervisor is included in emails regarding remands from the BIA, but denied he is required to report his bond grants. He stated that there was no conspiracy.

16. The Immigration Judge then denied bond, stating orally that Petitioner had failed to demonstrate that he was not a danger to the community or a flight risk. I preserved appeal on behalf of Petitioner and ended my video appearance. Immigration Judge Odell then clarified in person to Co-counsel Pritchard that the denial was based on flight risk only.

17. During the hearing, the Immigration Judge did not address Petitioner's fixed address; his record of compliance with immigration proceedings; whether Petitioner had ever fled prosecution or escaped authorities; or Petitioner's manner of entry.

18. At no point during the hearing did the Immigration Judge articulate what legal standard he had applied to the facts of M-A-C-C-'s case, nor did he identify any caselaw, binding or otherwise, which guided his decision.

19. The Immigration Judge did not ask about or discuss whether setting a monetary bond amount would mitigate Petitioner's flight risk, nor did he address the argument presented in Petitioner's briefing that a reasonable bond—specifically $5000—tailored to his financial circumstances would be sufficient to ensure appearance.

20. After the hearing, Immigration Judge Odell issued a checkbox order denying bond based on flight risk. A true and correct copy of the Immigration Judge's Order is attached herein as Exhibit 4. The Order contains no reasoning to support its decision. The Immigration Judge issued no other contemporaneous documents and provided no written findings of fact or law.

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21. On May 2, 2027, I filed a timely appeal of the Immigration Judge's no bond order and the Board of Immigration Appeals ("BIA") on Petitioner's behalf. The BIA issued a receipt notice for the appeal on May 4, 2026. A true and correct copy of the BIA's receipt notice is attached herein as Exhibit 5.

22. Attached herein as Exhibit 6 is a true and correct copy of the Receipt Notice issued by the BIA for Petitioner's pending appeal of the denial of his asylum application (dated April 27, 2026).

23. Attached herein as Exhibit 7 is a true and correct copy of the decision from U.S. District Judge Tiffany M. Cartwright granting Petitioner's first habeas petition, *M.A.C.C. v. Hernandez*, No. 2:26-cv-00958-TMC, Dkt. 12 (W.D. Wash. Apr. 20, 2026).

24. Attached herein as Exhibit 8 is a true and correct copy of the Hearing Notice for Petitioner's bond hearing on April 27, 2026 (dated April 23, 2027).

I DECLARE UNDER PENALTY OF PERJURY AND UNDER THE LAWS OF THE UNITED STATES THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Executed on this 5th day of May 2026,
Queens, New York

/s José G Miranda
JOSE G. MIRANDA

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