

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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JOSE LUCAS MARTINEZ AGUILAR,)	
)	
Petitioner,)	
)	
v.)	No. 1:25-cv-13638-GAO
)	
JOSEPH D. McDONALD, <i>et al</i> ,)	
)	
Respondents.)	
_____)	

**PETITIONER’S MOTION TO ENFORCE
AND REQUEST FOR IMMEDIATE RELEASE**

On May 13, 2026, this Court issued an Order granting in part Mr. Martinez-Aguilar’s Petition for a Writ of Habeas Corpus and further ordering the Respondents to provide Mr. Martinez-Aguilar with a bond hearing under 8 U.S.C. § 1226(a) within 7 days of the Order (Doc. No. 10). The Order specifically stated that, “respondents shall provide the petitioner with a bond hearing at which the government bears the burden to either (1) prove by clear and convincing evidence that the petitioner poses a danger to the community or (2) prove by a preponderance of the evidence that the petitioner poses a flight risk. See *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021).” The Respondents proved neither.

The Respondents were also enjoined from “removing Mr. Martinez-Aguilar from this district pending further order of the Court.”

On May 18, 2026, the immigration judge at the deportation court in Chelmsford, Massachusetts held a perfunctory bond hearing where she summarily denied him a bond, claiming

without evidence that “he was a flight risk by a preponderance of the evidence and there is no bond amount that would mitigate his risk of flight.”

This decision, appears to have been made by relying on DHS Form I-213 which was undated, unsigned and untitled. While the I-213 is an official record that contains biographical and immigration history information, it does not in any way offer evidence of flight risk.

In contrast, Mr. Martinez-Aguilar’s counsel provided the court with ample evidence of Mr. Martinez-Aguilar’s continued employment as the owner of a cleaning business, having two U.S. citizen children aged 13 and 6, paying taxes for many years, evidence of stable residence with the mother of his children, and evidence of a 2023 significant brain injury that requires ongoing treatment, which Mr. Martinez-Aguilar cannot forego.

Bond Request in Immigration Court

It has been well-settled in Massachusetts that the burden of proof of eligibility for bond is on the government. In a class action lawsuit brought by the ACLU, Judge Patti B. Saris spoke clearly on the issue of burden of proof and said that “In cases where a noncriminal alien will be deprived of liberty, due process requires the Government prove detention is necessary. See *Foucha v. Louisiana*, 504 U.S. 71, 81–82 (1992); *Addington v. Texas*, 441 U.S. 418, 427 (1979). Mr. Martinez-Aguilar is indeed a noncriminal noncitizen because he has not been convicted of any crime that would make him ineligible for bond in immigration court. In fact, Mr. Martinez-Aguilar was himself the victim of a violent crime and the beneficiary of a U-visa issued by DHS specifically to help people who have been victims of certain violent crimes. Unfortunately, despite having an approved U-visa petition, Mr. Martinez-Aguilar’s application for permanent residence was denied by U.S. Citizenship and Immigration Services. Nonetheless, Mr. Martinez-Aguilar

applied for asylum in the United States after expressing fear of returning to El Salvador. In fact, Mr. Martinez-Aguilar was arrested by Immigration and Customs Enforcement at his interview for asylum. In other words, but for his decision to attend the asylum interview and not abscond, he would not have been arrested by ICE. The government cannot argue in good faith and the deportation judge cannot say that he is a flight risk when he was indeed present at his required interview.

Mr. Martinez-Aguilar has had a couple of brushes with the authorities but all the charges have been dismissed and he was never convicted of anything that would make him ineligible for bond. Seventeen years ago, when he was a teenager, there was also a vague, baseless and uncorroborated allegation that he was a member of a gang but, again, Mr. Martinez-Aguilar steadfastly denies such an allegation. But the immigration judge in Chelmsford, knowing that she could not deny him bond based on dangerousness, made the bizarre decision of denying him bond based on the mistaken reason that he would be a flight risk.

Flight risk typically means that the person will not return to court for future hearings and will instead disappear. None of that is likely to happen here. As indicated above, Mr. Martinez-Aguilar was arrested by ICE agents while he was attending his scheduled asylum interview. There can be no clearer evidence that he was in compliance with the orders from the Department of Homeland Security to attend an interview at a time and place designated by the government.

Normally, an immigration judge looks at things like permanent address and length of residence, family ties, school and employment history, history of failure to comply with court hearings, manner of entry, community ties, eligibility for immigration relief and, sometimes, whether there is a sponsor who would aid the noncitizen with the logistics of coming to court. Mr.

Martinez-Aguilar has been living in the United States since January of 2000, has two U.S. citizen children in school, has a profitable business that is now in serious trouble due to his continued unreasonable detention, has always attended his immigration court hearings, has a pending appeal of his application for cancellation of removal, and does not need a sponsor because he is a very reliable and hard-working individual.

It is for these reasons that Mr. Martinez-Aguilar, through undersigned counsel, respectfully requests that this Court order his immediate release, or, alternatively, order that he be released upon the payment of a \$1,500.00 bond to DHS, which is the minimum amount in deportation proceedings. In support of this request, Mr. Martinez-Aguilar is including a copy of the Form I-213 which is unsigned, undated and does not even have the title of the person issuing it. That is what the government calls a preponderance of the evidence.

Dated: May 26, 2026

Respectfully submitted,

/s/ Carlos E. Estrada
Estrada Law Office
480 William F. McClellan Hwy.
Suite 203C
East Boston, MA 02128
617-742-3030

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorneys of record by means of the Court's Electronic Case Filing system on May 22, 2026.

Dated: May 26, 2026

/s/ Carlos E. Estrada
Carlos E. Estrada
Attorney for the Petitioner

EXHIBIT

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U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name MARTINEZ-AQUILAR, JOSE LUCAS	File Number [REDACTED] ² Event No: BOS2610000205	Date 10/06/2025
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10/06/2025 - 212a6Ai - ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAs)
 10/06/2025 - 212a7AiI - IMMIGRANT WITHOUT AN IMMIGRANT VISA

CRIMINAL AFFILIATIONS

Subject has been identified as a Member/Active of M.S.13

RECORDS CHECKED

- EARM Pos
- CLAIM Pos
- TECS Pos
- NCIC Neg
- CIS Pos
- IAFIS Pos

NAME AND ADDRESS OF US EMPLOYER

SELF EMPLOYED- GUTTER & WINDOW CLEANING, UNK SOMERVILLE, MASSACHUSETTS, 00000, UNITED STATES

TYPE OF EMPLOYMENT

Operators, Fabricators, and Laborers

Record of Deportable/Excludable Alien:

METHOD OF LOCATION/APPREHENSION:

MARTINEZ-Aguilar, Jose Lucas; [REDACTED]; DOB: [REDACTED]; hereinafter referred to as MARTINEZ, came to the attention of Immigration and Customs Enforcement (ICE); Enforcement and Removals Operations (ERO); Boston Field Office; Fugitive Operations pursuant to a referral by a government agency.

On October 6, 2025, at approximately 1400, ERO Boston and Homeland Security Investigations encountered MARTINEZ at the United States Citizenship and Immigration Services (USCIS)-Asylum Office and identified themselves as "Police - ICE" with proper identification displayed. Agents arrested MARTINEZ and transported him to the Boston Field Office without incident.

ALIENAGE AND REMOVABILITY:

MARTINEZ is a biometric match to a citizen and national of El Salvador and [REDACTED].

Immigration record checks were negative for any lawful status in the United States. Review of USCIS and United States Department of State records show no pending or approved applications.

DERIVATION ANALYSIS:

MARTINEZ stated his mother is MARTINEZ, [REDACTED]; DOB: [REDACTED], was born in El Salvador and is a citizen and national of El Salvador. MARTINEZ claimed his mother has no lawful immigration status within the United States.

MARTINEZ stated his father is AGUILAR, [REDACTED]; DOB: unknown, was born in El Salvador and is a citizen and national of El Salvador. MARTINEZ claims his father has never been to the

Signature	Title
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U.S. Department of Homeland Security

Continuation Page for Form I-213

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Signature		Title

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U.S. Department of Homeland Security

Continuation Page for Form I-213

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