UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ENRIQUE GUTIERREZ RIVERA

Petitioner,

Case No.
Hon.
Mag.

PETITION FOR WRIT OF HABEAS CORPUS

Kevin RAYCRAFT, in his official capacity as Field Office Director of Enforcement and Removal Operations, Detroit Field Office, IMMIGRATION AND CUSTOMS ENFORCEMENT; Kristi NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, in her official capacity as U.S. Attorney General; EXECUTIVE OFFICE OF IMMIGRATION REVIEW

Respondents.

INTRODUCTION

1. This petition arises from Respondents' violations of Petitioner's due process rights under the U.S Constitution.

2. On February 20, 2026, the Court conditionally granted Petitioner's first petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. *Rivera v. Raycraft*, No. 1:26-cv-523, 2026 U.S. Dist. LEXIS 35634 (W.D. Mich. Feb. 20, 2026).

3. The Court concluded that Petitioner's detention is governed by 8 U.S.C. § 1226, not § 1225, and it was therefore unlawful for Respondents to detain him without bond. *Id.*, at *5. The Court further concluded that Petitioner's detention violated his Fifth Amendment due process rights. *Id.* at *6.

4. Despite this ruling, the government continues to unlawfully detain Petitioner based on a subsequent bond decision made on February 27, 2026, that failed to properly consider the factors for granting bond; that improperly shifted the burden of proof to the Petitioner; and that rests on arbitrary, irrational, and unsupported findings that Petitioner is a flight risk, giving rise to the ongoing violation of Petitioner's due process rights.

5. In Immigration Court bond proceedings, the Respondents bear the burden of proving that a noncitizen is a flight risk or a danger to the community. *Soto-Medina v. Lynch*, No. 1:25-cv-1704, 2026 U.S. Dist. LEXIS 11113 (W.D. Mich. Jan. 21, 2026); *Aleksey Muravyev v. Margolin*, No. 1:26-cv-242, 2026 U.S.

Dist. LEXIS 31938 (W.D. Mich. Feb. 17, 2026); *Herrera-Moreno v. Raycraft*, No. 1:26-cv-341, 2026 U.S. Dist. LEXIS 34209 (W.D. Mich. Feb. 19, 2026); *see also Hernandez-Lara v. Lyons*, 10 F.4th 19, 24 (1st Cir. 2021); *Velasco-Lopez v. Decker*, 978 F.3d 842, 847 (2d Cir. 2020).

6. To deny bond, Respondents must show by "clear and convincing evidence" that the Petitioner is a flight risk or is a danger to the community. *Soto-Medina v. Lynch* at * *Soto-Medina*, 2026 U.S. Dist. LEXIS 11113, at *27.

7. Yet, at Petitioner's bond hearing before Immigrant Judge ("IJ") Ellen Karesh on February 27, 2026, the government presented no evidence to establish that Petitioner was a flight risk or danger to the community (or any evidence at all).

8. Despite the absence of evidence form the Respondents, the IJ denied Petitioner's request for release on bond because he "has not established that he is not a flight risk." Ex. A, Order of Immigration Judge. That is, the IJ improperly placed the burden of proof on the Petitioner to show that he was not a flight risk.

9. The IJ's determination does not comport with the basic requirements of due process and deprives Petitioner of his constitutional freedoms. Accordingly, Petitioner's continued detention following the February 27, 2026 bond hearing violates his rights to due process.

10. Petitioner respectfully requests that this Court enter a writ of habeas corpus ordering the immediate release of Petitioner and any other relief that this Court finds to be just and equitable.

JURISDICTION

11. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus); 28 U.S.C. § 1331 (federal question); and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

13. In the context of immigration bond hearings, district courts can hear challenges to bond denials where "that bond denial is challenged as legally erroneous or unconstitutional." *Diaz-Calderon v. Barr*, 535 F. Supp. 3d 669, 676 (E.D. Mich. 2020); *see, also Ghanem v. Warden Essex County Correctional Facility*, No. 21-1908, 2022 U.S. App. LEXIS 5092, at *5 (3d Cir. Feb. 25, 2022) ("Although we lack jurisdiction to review any discretionary determinations underlying the IJ's bond decision, we may review whether the bond hearing was fundamentally unfair.")(unpublished).

14. Petitioner challenges the allocation of the burden of proof on himself rather than the government as violative of his procedural due process rights under the Fifth Amendment – i.e. as fundamentally unfair.

VENUE

15. Venue is proper in the Western District of Michigan under 28 U.S.C. § 2241 and 28 U.S.C. § 1391.

16. Petitioner is detained at North Lake Correctional Facility, located in Baldwin, Michigan, at the direction, and is in the immediate custody, of Respondent Kevin Raycraft, Field Office Director of Enforcement and Removal Operations, Detroit Field Office. *See Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003).

17. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims and relevant facts occurred in the Western District.

REQUIREMENTS OF 28 U.S.C. § 2243

18. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.

19. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

20. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from her within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

21. Petitioner Enrique Gutierrez Rivera is an asylum seeker and U-Visa applicant from Mexico who has resided in Michigan for over 27 years. Petitioner has been detained at North Lake Correctional Facility, in Baldwin, Michigan for over six months since August 25, 2025.

22. Respondent Kevin Raycraft is the Acting Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. The North Lake Processing Center is under the jurisdiction of the ICE Detroit Field Office. As such, Acting Director Raycraft is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

23. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

24. Respondent U.S. Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

25. Respondent Pamela Bondi is the Attorney General of the United States and is sued in her official capacity. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review (EOIR) is a component agency.

26. Respondent Executive Office for Immigration Review (EOIR) conducts immigration court proceedings, appellate reviews, and administrative hearings, including those in Detroit Immigration Court.

FACTS

27. Petitioner Enrique Gutierrez Rivera is a 55-year-old citizen of Mexico and has been a resident of Detroit, Michigan for over 27 years.

28. Petitioner is not a flight risk and is not a danger to the community.

29. Mr. Gutierrez Rivera has over 27 years of continuous presence in Michigan. Mr. Gutierrez Rivera is an essential member of his family and community

in Detroit. Mr. Rivera supports his family, including his siblings, who are permanent residents, and his nieces and nephews, who are U.S. citizens.

30. Mr. Gutierrez Rivera has deep and significant ties to his local community beyond his immediate family. In particular, he has lived in the same apartment for over ten years, he is close with his neighbors, and he worked as a carpet installer in Detroit for over 20 years. And, he has a permanent address in Detroit.

31. Mr. Gutierrez Rivera has no criminal history whatsoever. He has never been arrested, charged, or convicted of a crime.

32. In fact, Mr. Gutierrez Rivera has aided the Detroit Police Department and the Wayne County Prosecutor after he was the victim of two violent assaults. At the request of the Wayne County Prosecutor, Mr. Gutierrez Rivera attended and provided testimony at Circuit Court criminal proceedings, which ultimately led to the conviction of his assailant. [redacted] [redacted] [redacted] Mr. Gutierrez Rivera is in urgent need of surgery in order to avoid permanent damage to his arm, chest, and shoulder. Yet, Mr. Gutierrez Rivera has been denied surgical treatment at the North Lake Processing Facility.

33. On August 25, 2025, a family member was driving Mr. Gutierrez Rivera to Walmart to purchase groceries. Mr. Gutierrez Rivera was a passenger in the car. The driver took a wrong turn and mistakenly took the exit to the international Ambassador Bridge. Mr. Gutierrez Rivera was then arrested and detained by Immigration Authorities. Mr. Gutierrez Rivera was not driving the vehicle, and he had no intention of crossing the U.S.-Canadian border or of leaving the United States. Mr. Gutierrez Rivera is now detained at the North Lake Processing Center in Baldwin, Michigan.

34. DHS then placed Mr. Gutierrez Rivera in removal proceedings before the Detroit Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Mr. Gutierrez Rivera with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and 8 U.S.C. § 1182(a)(7)(A)(i)(l) as someone who entered the United States without inspection and without a suitable travel document.

35. Following the initiation of removal proceedings, ICE either did not conduct a custody determination or chose to continue detaining Mr. Gutierrez Rivera without providing an opportunity to post bond or be released under other conditions.

36. Mr. Gutierrez Rivera is represented by Counsel to seek immigration relief and has strong claims for immigration relief.

37. By and through his attorney, Mr. Gutierrez Rivera attended a Master Calendar Hearing on December 2, 2025, where his counsel informed the Court that

Mr. Gutierrez Rivera planned to apply for asylum, withholding of removal, and protection under the Convention Against Torture. Mr. Gutierrez Rivera's counsel also informed the Court that he would be applying collateral relief in the form of a U-Visa.

38. On December 23, 2025, Mr. Gutierrez Rivera filed a defense application for asylum, withholding of removal, and protection under the Convention Against Torture.

39. On February 6, 2026, Mr. Gutierrez Rivera submitted his application for a U-Visa to U.S. Citizenship and Immigration Services (USCIS). Mr. Gutierrez Rivera received certifications from both the Detroit Police Department and the Wayne County Prosecutor in support of his U-Visa application. Mr. Gutierrez Rivera's U-Visa application also included I-765 Applications for Employment Authorization and I-192 Application for Advance Permission to Enter as a Nonimmigrant.

40. On November 25, 2025, Petitioner filed his first habeas petition seeking that Respondents release him from custody unless the Petitioner is provided with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 7 days.

41. On February 20, 2026, the Honorable Paul L. Maloney in the Western District of Michigan granted Petitioner's habeas petition. The Court ordered ICE to release or provide Mr. Gutierrez Rivera with a bond hearing under 28 U.S.C. §

1226(a) within five business days of February 20, 2026. The Court also ordered ICE to file a status report with the Court within six business days of February 20, 2026. The status report was required to include if and when the bond hearing occurred, if bond was granted or denied, and if bond was granted, the conditions of the bond, or if bond was denied, the reasons for the denial. *Rivera v. Raycraft*, No. 1:26-cv-523, 2026 U.S. Dist. LEXIS 35634 (W.D. Mich. Feb. 20, 2026)

42. Respondents requested a bond hearing from the immigration court, which was scheduled for February 27, 2026.

43. In advance of the February 27, 2026 hearing, the Petitioner submitted a motion for bond to be set at $3,500 and accompanied by 43 exhibits (713 pages) that included a declaration from the Petitioner, over a dozen letters of support from Petitioner's family, friends, co-workers, and community members, Petitioner's applications for immigration relief, and country conditions materials establishing Petitioner's well-founded fear of future persecution if returned to Mexico. *See* Ex. B, Petitioner's Bond Motion and Exhibit List.

44. Respondents presented no evidence. Not one document to show that Petitioner is a flight rights and no documents to show that he may be a danger to the community and no documents to rebut the 713 pages provided by the Petitioner.

45. Respondents' only submission into evidence was Petitioner's I-213, which stated that Petitioner had no criminal record and noted that he had informed

Immigration Authorities of his fear of return to Mexico when he was detained. *See* Ex. C, Petitioner's I-213.

46. During the February 27, 2026 bond hearing, the Immigration Judge took no testimony from Petitioner; heard brief arguments from ICE's attorney and Petitioner's attorney; and then took the matter under advisement for less than 2 minutes.

47. At the conclusion of that hearing, the immigration judge denied Petitioner's request for bond because Petitioner had "not established that he is not a flight risk." *See* Ex. A, Order of Immigration Judge.

48. The Immigration Judge's order claimed that Petitioner was a flight risk because he "does not own any property" and he was not "employed in the United States" during his over 6 months of detention. These are arbitrary and not rational basis for finding a person as a flight risk. He has little property because he is poor – which equally suggest that he does not have resources to flee the country. He is not employed because, as shown at the hearing, he had been employed for more than 20 years as a carpet installer and took time off the job because of injuries suffered in the criminal assault against him. Further, it is impossible to work while in detention and Mr. Gutierrez Rivera provided evidence that attested to the fact that he has employment opportunities available that he would work but for his detainment and pending work authorization. Finally, Mr. Gutierrez Rivera had a bond sponsor who

provided a declaration and tax returns attesting to his ability to pay bond and financially support Petitioner until he could legally work.

49. The IJ also inappropriately made determinations regarding the Petitioner's underly claims for relief to disregard his asylum application due to changed country conditions because "he has not visited Mexico in more than 20 years" and dismiss his U-Visa application as "speculative". *See* Ex. A, Order of Immigration Judge. Yet the Immigration and Naturalization Act specifically includes an exception that allows for an immigrant to seek asylum due to changed conditions in their home country, regardless of how recently they visited their home country. 8 U.S.C. § 1158(a)(2)(D). Further, Petitioner has a strong U-Visa application pending with USCIS that is certified by both the Detroit Police Department and Wayne County Prosecutor.

50. Petitioner is not alone in his unjust bond hearing. Numerous other detained immigrants are experiencing similar burden shifting on to the detainees, indicating that the Immigration Court cannot and will not protect the due process interests of detainees. *Soto-Medina v. Lynch*, No. 1:25-cv-1704, 2026 U.S. Dist. LEXIS 11113 (W.D. Mich. Jan. 21, 2026); *Aleksey Muravyev v. Margolin*, No. 1:26-cv-242, 2026 U.S. Dist. LEXIS 31938 (W.D. Mich. Feb. 17, 2026); *Herrera-Moreno v. Raycraft*, No. 1:26-cv-341, 2026 U.S. Dist. LEXIS 34209 (W.D. Mich. Feb. 19, 2026).

51. As a result, Petitioner remains wrongfully detained in ICE custody.

52. Without relief from this court, Petitioner faces the prospect of months—or even years—in immigration custody, separated from family and community as his removal proceedings, and any necessary appeals continue. His detention is devastating for his family, especially his siblings and their families in Detroit. Further, Mr. Rivera faces irreparable injury to his arm, shoulder, and chest if he does not receive the urgent surgical and medical care that he is being denied at the North Lake Processing Facility.

53. Mr. Gutierrez Rivera's detention is emotionally devastating as he has never been incarcerated before and currently finds himself in detention that is not civil and more like criminal incarceration.

LEGAL FRAMEWORK

54. The Due Process Clause of the Fifth Amendment to the United States Constitution, prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law[.]" U.S. Const. Amend. V.

55. The right to due process extends to "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001).

56. The Sixth Circuit has held that the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), regarding the adequacy of process, applies in the context of immigration detention. *See United States v. Silvestre-Gregorio*, 983 F.3d 848, 852 (6th Cir. 2020). *See also*, *Pablo-Mendoza v. Lynch*, No. 1:25-cv-1774, 2026 U.S. Dist. LEXIS 2623, at *16 (W.D. Mich. Jan. 7, 2026); *Yakubiv v. Raycraft*, No. 1:25-cv-1792, 2026 U.S. Dist. LEXIS 219, *16 (W.D. Mich. Jan. 3, 2026); *Rujano v. Lynch*, No. 1:25-cv-1631, 2026 U.S. Dist. LEXIS 199, at *16-17 (W.D. Mich. Jan. 2, 2026).

57. "Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment." *Mathews v. Eldridge*, 424 U.S. 319, 332, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976).

58. "The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner." *Mathews*, at 333 (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965)).

59. Determining whether an administrative procedure provides the process constitutionally due requires consideration of three distinct factors: (1) The private interest that will be affected by the official action; (2) The risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) The Government's

interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Mathews*, at 335.

60. Nearly all courts have concluded that the Fifth Amendment Due Process Clause requires the government to bear the burden of proof at immigration bond hearings because the potential loss of liberty is "so severe…he should not have to share the risk of error equally." *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 U.S. Dist. LEXIS 188232, at *35 (W.D. Tex. Sep. 21, 2025) (quoting *Santos v. Warden Pike County Correctional Facility*, 965 F.3d 203, 214 (3d Cir. 2020)).

61. Indeed, the "vast majority"—an "overwhelming consensus"—of courts have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk in bond hearings under 8 U.S.C. § 1226(a). *Id.*

62. Petitioner is entitled to a bond hearing before an immigration judge where the government bears the burden of proof by clear and convincing evidence that he is a flight risk or danger to the community

63. Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment because the Immigration Judge's finding that Petitioner is a flight risk was not based on any evidence.

64. Petitioner is neither a flight risk nor a danger to the community. He has lived in Michigan since 1998, has no criminal history, has strong ties to his community, has a permanent address in Detroit, and has multiple viable pathways for immigration relief.

65. In denying the Petitioner's request for bond, the IJ concluded that Petitioner posed a flight risk, and therefore could not be released, because his underlying asylum application, as well as his U-Visa application, was deemed "speculative." *See* Ex. A, Order of Immigration Judge. Further, the IJ's order stated that since Petitioner "does not own any property" and he is not "employed in the United States" during his over 6 months of detention, he is a flight risk. *Id.* The Immigration Judge took no testimony during the bond hearing and did review the hundreds of pages of country conditions evidence provided to support Petitioner's asylum claims, which remain pending in immigration court.

66. Moreover, it is the government's burden to establish that Petitioner poses a flight risk sufficient to justify continued civil detention without bond. Due process requires that such determinations be supported by individualized evidence, not speculation or generalized assertions. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Ly v. Hansen*, 351 F.3d 263, 269-70 (6th Cir. 2003).

67. Due process further requires that the burden of proving that a noncitizen is a flight risk or poses a danger to the community is placed on Respondents. *See*

Soto-Medina v. Lynch, No. 1:25-cv-01704 (W.D. Mich. Jan. 21, 2026) (ECF No. 8, PageId.77-78); see also *Hernandez-Lara v. Lyons*, 10 F.4th 19, 24 (1st Cir. 2021); *Velasco-Lopez v. Decker*, 978 F.3d 842, 847 (2d Cir. 2020).

68. During the bond hearing on February 27, 2026, Respondents did not present *any* evidence establishing that Petitioner is a flight risk. Respondents did not offer facts proving that Petitioner had ever failed to appear in court for a scheduled hearing, attempted to evade immigration authorities at any time, violated court orders, or otherwise demonstrated an intent to flee.

69. On the other hand, Petitioner provided extensive evidence of past participation in criminal court proceedings to support the Wayne County Prosecutor's prosecution of a felonious assault that Mr. Gutierrez Rivera was the victim of. *See* Ex. B, Petitioner's Bond Motion and Exhibit List.

70. Instead, government counsel relied primarily on the unsupported claim that Petitioner's underlying asylum and U-Visa application was "speculative." Respondents offered no evidence, either testimonial or documentary, that would (or in fact that *could*) connect these baseless arguments to an actual risk that Petitioner would flee.

71. Any speculation about the likelihood of success on Petitioner's underlying asylum application does not establish flight risk. Similarly, speculation about Petitioner's U-Visa application does not establish fight risk.

72. Furthermore, the IJ's determination that since Petitioner did not own property in the United States, would rely on his brother for financial assistance, and was not currently employed in the United States – despite having been previously employed for 20 years with a Detroit-area carpet company – contributed to flight risk was erroneous, irrational, and unjust.

73. These financial factors have no bearing on the actual risk that Petitioner would flee or fail to appear for future immigration proceedings. Petitioner's brother and bond sponsor – Miguel Gutierrez Rivera – provided his personal and business tax returns to attest to his ability to both provide bond on behalf of the Petitioner and financially support Petitioner. *See* Ex. B, Petitioner's Bond Motion and Exhibit List. Respondents again offered no evidence to connect these baseless arguments to an actual risk that Petitioner would flee or be unable to attend immigration court proceedings. Reliance on these factors unjustly and arbitrarily punished Petitioner for his lack of financial resources, factors lack relevance to determination of flight risk.

74. Further, Petitioner included a declaration as evidence attesting to the fact that he had already received job offers should he be released from detention and legally able to work. *See* Ex. B, Petitioner's Bond Motion and Exhibit List.

75. Petitioner also provided to the IJ letters of support from dozens of family and community members in Detroit committing to support Petitioner once he

was released from detention. This letters further provided evidence that Petitioner had strong ties to the community, which supported Petitioner's claims that he was not a flight risk.

76. Respondents did not contend that Petitioner was not a danger to the community. In fact, Respondents' submission of Petitioner's I-213 only proved that Petitioner did not present a danger to the community as Petitioner had no criminal record. *See* Ex. C, Petitioner's I-213. Petitioner provided evidence establishing that he had no criminal arrests, charges, or convictions and attesting to his cooperation with police and prosecutors to investigate and prosecute violent crime. *See* Ex. B, Petitioner's Bond Motion and Exhibit List.

77. Despite the voluminous evidence Petitioner provided to establish ties to the community, financial support, and commitment to attend all future immigration proceedings, the IJ disregarded entirely the evidence on the record.

78. Absent *any* actual evidence that Petitioner is likely to flee, the government failed to carry its burden. Petitioner's continued detention rests on the IJ's determination that Petitioner is a flight risk. That finding was made in a proceeding during which, in violation of the Petitioner's due process protections, the burden of proof was placed on him and not on Respondents. Therefore, Petitioner's continued detention violates his rights to due process.

79. Petitioner's continued detention without bond following an inconsistent flight-risk determination is constitutionally unsound. Civil immigration detention is constitutionally permissible only where it is reasonably related to a legitimate governmental purpose, such as ensuring appearance at removal proceedings or effectuating removal. *Zadvydas*, 533 U.S. at 690-91. When detention is no longer reasonably related to those purposes, it becomes punitive and arbitrary. *Id.* at 690.

80. Petitioner is not alone in his unjust bond hearing. Numerous other detained immigrants are experiencing similar burden shifting on to the detainees, indicating that the Immigration Court cannot and will not protect the due process interests of detainees. *Soto-Medina v. Lynch*, No. 1:25-cv-1704, 2026 U.S. Dist. LEXIS 11113 (W.D. Mich. Jan. 21, 2026); *Aleksey Muravyev v. Margolin*, No. 1:26-cv-242, 2026 U.S. Dist. LEXIS 31938 (W.D. Mich. Feb. 17, 2026); *Herrera-Moreno v. Raycraft*, No. 1:26-cv-341, 2026 U.S. Dist. LEXIS 34209 (W.D. Mich. Feb. 19, 2026).

81. The Sixth Circuit has long recognized that immigration detention must remain reasonable in both purpose and duration. *Ly*, 351 F.3d at 269; *Rosales-Garcia v. Holland*, 322 F.3d 386, 412 (6th Cir. 2001). Since the bond denial rests on inconsistent factual premise, Petitioner's continued detention is constitutionally unreasonable and violates due process.

82. Habeas relief is warranted to remedy the ongoing due process violation. Federal courts have authority to grant habeas relief where immigration detention violates the Constitution. 28 U.S.C. § 2241; *Jennings v. Rodriguez*, 583 U.S. 281, 292 (2018). This Court has already exercised that authority in this case by granting Petitioner's initial habeas petition.

83. Accordingly, the Court should grant the habeas petition and order Petitioner's immediate release. If, in the alternative, a bond hearing is ordered, it must be constitutionally adequate and place the burden of proof on the Department of Homeland Security to establish that Petitioner is a flight risk or a danger to the community.

CLAIMS FOR RELIEF

COUNT I

Violation of Due Process, Fifth Amendment

84. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

85. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

86. Under *Mathews*, the Court must consider the following three factors: "(1) the private interest that will be affected by official action; (2) the risk of erroneous deprivation of that interest; and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures entail." *See Lopez-Campos v. Raycraft*, 797 F. Supp. 3d 771, (citing *Mathews*, 424 U.S. at 335).

87. All three *Mathews* factors weigh in favor of Petitioner.

88. First, Respondents have detained Petitioner, and there is no dispute that Petitioner has a significant private interest in avoiding detention, as one of the "most elemental of liberty interests" is to be free from detention. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S. Ct. 2633, 159 L. Ed. 2d 578 (2004) (citation omitted). Petitioner is "experiencing [many of] the deprivations of incarceration, including loss of contact with friends and family, loss of income earning, . . . lack of privacy, and, most fundamentally, the lack of freedom of movement." *Günaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. 2025).

89. Second, there is a high risk of erroneously depriving Petitioner of his freedom if Petitioner does not receive an individualized determination with the proper burden of proof.

90. Third, Respondents do not have a significant interest in Petitioner's continued detention as he is not a threat to the community and is not a flight risk.

Continuing to enforce Petitioner's detention will impose more costs upon the Respondents, as it would be required to continue funding and overseeing Petitioner's detention. *Rujano v. Lynch*, No. 1:25-cv-1631, 2026 U.S. Dist. LEXIS 199, at *17-18 (W.D. Mich. Jan. 2, 2026).

91. Lastly, Petitioner's removal is not reasonably foreseeable given that Petitioner has a valid asylum and U-Visa applications awaiting determination. *See Sangronis v. Unknown Party*, No. 1:26-cv-88, 2026 U.S. Dist. LEXIS 27506, at *7-8 (W.D. Mich. Feb. 10, 2026) (ordering immediate release where Respondents did not provide information that removal was in the reasonably foreseeable future).

92. Given the ongoing violations of his constitutional rights, the most appropriate and just remedy is Mr. Gutierrez Rivera's swift release. *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 24 (1st Cir. 2021); *Velasco-Lopez v. Decker*, 978 F.3d 842, 847 (2d Cir. 2020). If, in the alternative, a bond hearing is ordered, it must be constitutionally adequate and place the burden of proof on the Department of Homeland Security to establish that Petitioner is a flight risk or a danger to the community.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner from custody;

c. Enjoin Respondents from re-detaining Petitioner without adequate notice or hearing;

d. Enjoin Respondents from transferring the Petitioner from the jurisdiction of this District pending these proceedings;

e. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

f. Grant any other and further relief that this Court deems just and proper.

Dated: March 2, 2026 Respectfully submitted,

/s/ Elizabeth R. Jacob
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in this Petition are true and correct to the best of my knowledge.

Dated: March 2, 2026,

/s/ Elizabeth R. Jacob
Elizabeth R. Jacob (P86981)
John C. Philo (P52721)
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