UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SAROWAR HUSSAIN,

Petitioner,

v.

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 FOR IMMIGRATION REVIEW,

Respondents.

Case No. 26-709

Hon.

PETITION FOR WRIT OF HABEAS CORPUS AND IMMEDIATE RELEASE BASED ON RESPONDENT'S VIOLATION OF PRIOR HABEAS ORDER

1. Respondents violated the prior habeas order by failing to hold a constitutionally-adequate bond hearing within the specified time period. See Exhibit 1.

2. The first habeas Court did not simply require that Petitioner be brought before an Immigration Judge within five days. The first habeas Court did not simply require that Petitioner be brought before an Immigration Judge within five days. The order required a constitutionally adequate § 1226(a) bond hearing, one that complied with the Fifth Amendment's guarantee of a full and fair opportunity to be heard.

3. The habeas order required that he receive an individualized, constitutionally-adequate bond hearing within that period, not the mere calendaring of a perfunctory hearing. See *Amadou v. I.N.S.*, 226 F.3d 724, 726 (6th Cir. 2000) (detainees have a "due process right to a full and fair hearing" as a part of their immigration proceedings); *Diaz v. Genalo*, No. 22-CV-3063, 2024 WL , at * (S.D.N.Y. 2024) (ordering "an individualized bond hearing" at which the government bears the burden by clear and convincing evidence), *Davis v. Garland*, No. ___, 2023 WL , at * (W.D.N.Y. 2023) (finding prejudice where petitioner had not yet received "a constitutionally adequate bond hearing").

4. The hearing that took place failed to satisfy the previous order in the following ways:

    1) The burden of proof was improperly placed on Petitioner;
    2) The hearing was not held before a neutral-decisionmaker;
    3) The conclusion reached by the Deportation Judge was incongruent with the facts and evidence presented at the hearing.

5. Respondents cannot rely on the prior proceeding to satisfy the Court's five-day bond-hearing requirement, because the hearing that took place was plainly defective.

6. Therefore, Respondents failed to comply with the prior habeas order.

7. Petitioner re-asserts all arguments and facts raised in his initial habeas corpus petition.

8. Petitioner respectfully requests this Honorable Court to issue a writ of habeas corpus **immediately releasing** him from detention.

FACTS

9. On February 26th, 2026, Respondents were ordered by this Court to provide Petitioner with a bond hearing within five business days of the date of the judgment or immediately release Petitioner from custody. See Exhibit 1.

10. A hearing was held on March 2, 2026.

11. The only evidence DHS submitted was a scant I-213 form which indicated no criminal history and no substantiated history of flight risk. Exhibit 4

12. Based on the record presented, Deportation Judge[1] Karesh determined that no amount of bond and no set of conditions can reasonably mitigate flight risk. See Exhibit 2.

13. This was despite **one hundred and four (104) pages** of evidence presented by Petitioner showing marriage to a US citizen, payment of taxes, fixed address, work permit, US Citizen/LPR sponsor, community ties, and an asylum application. See Exhibit 3.

14. In the bond order, Deportation Judge Karesh did not support her factual determinations with specific, cogent reasons such that her conclusions flow in a reasoned way from the evidence of record.

15. The bond order merely stated the following as the rationale for bond denial: "Flight risk. [*sic*]" See Exhibit 2.

---

[1] **See job postings by Respondents stating: "Apply to become a deportation judge,""Apply to become a deportation judge,"** U.S. Dep't of Justice, https://join.justice.gov/ (last visited Feb. 8, 2026); **"Help write the next chapter of America. Apply today to become a deportation judge and define America for generations"** Homeland Security Careers, U.S. Dep't of Homeland Sec., https://www.dhs.gov/homeland-security-careers; "Apply to join the **Department of Justice as a deportation judge**" U.S. Department of Homeland Security, Facebook, https://www.facebook.com/homelandsecurity (official DHS page).

16. Appeals of bond denials to the Board of Immigration Appeals "typically take six months or more to be resolved at the BIA." *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025) (citation omitted). It is "unmistakable that . . . depriving [Petitioner] of his liberty while awaiting a BIA appeal decision certainly equates to hardship. And any delay results in the very harm [Petitioner] is trying to avoid . . . – detention." See *Lopez-Campos*, 2025 WL 2496379, at *5.

17. Additionally, given the new BIA policy summarily denying all appeals by default, an appeal to the BIA would be futile.[2]

JURISDICTION

15. Challenges to present immigration confinement "fall within the 'core' of the writ of habeas corpus." *Trump v. J. G. G.*, 604 U.S. 670, 672 (2025) (quoting Nance v. Ward, 597 U.S. 159, 167 (2022)). 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.

---

[2] An appeal to the BIA would be likewise futile given that Respondents have made denial the default ruling for BIA appeals. See Appellate Procedures for the Board of Immigration Appeals, Interim Final Rule,, 90 Fed. Reg. 15,525, 15,525–26 (Apr. 14, 2025) (reducing the BIA to 15 permanent Board members), https://www.govinfo.gov/content/pkg/FR-2025-04-14/pdf/2025-06294.pdf.

16. The Court reviews Petitioner's claim that his prior bond hearing violated due process *de novo*, because "[w]hether a noncitizen received due process in a bond hearing is not a discretionary issue and, thus, is properly subject to judicial review" in habeas under 28 U.S.C. § 2241.

VENUE

17. Venue is proper in the Western District of Michigan under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner is detained at the direction, and is in the immediate custody, of Respondent Kevin Raycraft. See *Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003).

PARTIES

21. Petitioner is a citizen of Bangladesh and resident of Warren, Michigan. He was arrested after being arbitrarily stopped by federal agents.

22. Respondent Kevin Raycraft is the Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, 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 Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review (EOIR) and the immigration system it operates is a component agency. She is sued in her official capacity.

ARGUMENT

A. The Burden of Proof was Improperly Placed on Petitioner

18. At Petitioner's hearing, the Deportation Judge improperly placed the burden on Petitioner to prove that he is not a flight risk nor a danger to the community.

19. Courts within this district have consistently found that due process requires the government to bear the burden of justifying a noncitizen's detention. See *Soto-Medina v. Lynch,* No. 1:25-cv-1704 (W.D. Mich. Jan. 21, 2026) (Beckering, J.); Attached as Exhibit 5.

20. The Supreme Court has repeatedly reaffirmed that "due process places a heightened **burden of proof on the State in civil proceedings** in which the 'individual interests at stake . . . are both particularly important and more

substantial than mere loss of money.'" *Cooper v. Oklahoma*, 517 U.S. 348, 363 (1996) (alterations in original; emphasis added) (quoting *Santosky v. Kramer*, 455 U.S. 745, 756 (1982)); see also *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (requiring clear and convincing evidence to justify civil commitment because "[f]reedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause"). "The individual should not be asked to share equally with society the risk of error when the possible injury to the individual is significantly greater than any possible harm to the state." *Addington*, 441 U.S. at 427.

21. In the context of the Due Process Clause, requiring a particular "standard of proof 'serves to allocate the risk of error between the litigants' and reflects the 'relative importance attached to the ultimate decision.'" *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 213 (3d Cir. 2020) (quoting *Addington v. Texas*, 441 U.S. 418, 423 (1979)).

22. The Supreme Court has made clear that "civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." *Addington*, 441 U.S. at 427 (emphasis added). As the Court explained in *Mathews v. Diaz*:

> There are literally millions of aliens within the jurisdiction of the United States.The Fifth Amendment, as well as the Fourteenth Amendment, protects every one of these persons from deprivation of life, liberty, or property without due process of law. Even one whose presence in this country is unlawful, involuntary, or transitory is entitled to that constitutional protection. 426 U.S. 67, 77 (1976) (internal citations omitted); accord *Zadvydas v. Davis*, 533 U.S. 678, 693(2001) (explaining that the "Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.");

23. See Also *Hernandez-Lara v. Lyons*, 10 F.4th 19, 35 (1st Cir. 2021) (relying on *Addington* to assign the burden of proof to the government); *Velasco Lopez v. Decker*, 978 F.3d 842, 856–57 (2d Cir. 2020) (reaching the same conclusion and noting that the government bearing the burden "strikes a fair balance between the rights of the individual and the legitimate concerns of the state").

24. This Court should not allow Respondents to hide behind a pretextual, unconstitutional "bond hearing."

25. If Respondents refuse to respect this Court and provide basic due process, the only course of action is to order the release of Petitioner.

B. The Hearing Was Not Held Before a Neutral-Decisionmaker

26. The hearing violated due process, because the Deportation Judge did not act as a neutral decisionmaker. As an employee of Respondents, she instead aligned herself with their litigation position and appeared to prejudge the outcome.

27. The Sixth Circuit has held that due process is violated when the decisionmaker is not neutral and has examined whether a hearing structure creates an "unconstitutional risk of bias." *Johnson v. Morales*, 946 F.3d 911, 920–22 (6th Cir. 2020).

28. The neutrality requirement "preserves both the appearance and reality of fairness … by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him." *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980) (internal quotation marks omitted), quoted in *Schweiker v. McClure*, 456 U.S. 188, 195 (1982).

29. Here, Petitioner's hearing was conducted by a Deportation Judge operating under directives and policies issued by DOJ/EOIR, both of which were Respondents in the habeas case.[3]

30. The DOJ appears in this Court as a Respondent defending continued detention while, through EOIR, it supervises the very Deportation Judges[4] charged with implementing this Court's habeas order.

31. That structure creates a serious risk that the adjudicator will not be, and will not appear to be neutral, but instead will feel institutionally bound to align with the DOJ's litigating position. This is precisely the sort of structural risk of bias the Due Process Clause forbids.

32. If the directives of Respondents effectively instructed the adjudicator to deny or gut post-habeas bond hearings, then DOJ's own structure created an

---

[3] *See* Teresa Welsh, Top US Immigration Judge Says Bond Hearings Should Be Denied Despite Court Rulings, Documents Show, Reuters (Jan. 16, 2026) (reporting that Chief Immigration Judge Teresa Riley emailed all immigration judges that they were not bound by certain federal court rulings requiring bond hearings and should instead continue to follow BIA precedent denying such hearings), https://www.reuters.com/legal/government/top-us-immigration-judge-says-bond-hearings-should-be-denied-despite-court-2026-01-16/

[4] The Third Circuit recently raised concerns about adherence by a Deportation Judge's to basic procedural due process protections. *See* Marco Poggio, *He Faced Removal Unrepresented. A Court Found It Wrong*, Law360 (Aug. 8, 2025), https://www.law360.com/articles/2375229/he-faced-removal-unrepresented-a-court-found-it-wrong.

unconstitutional risk of bias: the adjudicator ceased to be neutral and instead functioned as an arm of enforcement.

33. Likewise, the hearing in this case bore clear signs of prejudgment.

34. Petitioners in immigration proceedings also "**are entitled to an unbiased arbiter who has not prejudged their claims**." *Zheng v. Lynch*, 819 F.3d 287, 295 (6th Cir. 2016) (quoting *Ahmed v. Gonzales*, 398 F.3d 722, 725 (6th Cir. 2005)); See also *Domingo-Mateo v. Garland*, No. 20-4263, slip op. at 8–9 (6th Cir. July 5, 2021); *Garza-Moreno v. Gonzales*, 489 F.3d 239, 241 (6th Cir. 2007). A Deportation Judge must be impartial and must not attempt to establish proof to support the position of any party to the controversy; once he does so he becomes an advocate or a participant, thus ceasing to function as an impartial trier of fact, and a hearing so conducted is lacking in the fundamental fairness required by due process. *Vasha v. Gonzales*, 410 F.3d 863, 872 (6th Cir.2005).

35. Due process is violated when structural or procedural choices create a "possible temptation" not to "hold the balance nice, clear and true," indicating a predisposition toward one outcome regardless of the evidence. *Tumey v. Ohio*, 273 U.S. 510, 532 (1927).

36. Here, the Deportation Judge disregarded voluminous evidence showing no flight risk. She ignored the government's own evidence, presented in the I-213, which indicated no criminal history or record of flight risk.

37. The Deportation Judge, without considering a high bond or alternatives to detention, denied bond and issued a boilerplate order, stating only: "Flight risk." See Exhibit 2.

38. Due process is denied when the decisionmaker's conduct shows they are "not interested in hearing evidence or adequately explaining procedures," effectively short-circuiting the party's ability to present their case. See discussion of impartial-decision-maker requirements in *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980) (due process preserves "appearance and reality of fairness" so a party can present his case "with assurance that the arbiter is not predisposed to find against him")

39. That the IJ nonetheless found Petitioner a flight risk on a record consisting solely of evidence of community ties and past compliance confirms that she was not truly interested in hearing his evidence or applying the governing standards, but instead short-circuited his opportunity to present his case, precisely what the Due Process Clause forbids when it guarantees a party the

chance to be heard "with assurance that the arbiter is not predisposed to find against him." *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980).

40. Taken together, these structural and case-specific defects show that Petitioner did not receive the "full and fair hearing" before "an unbiased arbiter who has not prejudged [his] claims" that the Constitution requires.

41. Instead, Respondents placed his liberty in the hands of an adjudicator institutionally aligned with DOJ's litigating position, operating under DOJ/EOIR directives that discouraged meaningful implementation of this Court's habeas order, and willing to disregard uncontroverted evidence in order to find flight risk. These are hallmarks of prejudgment and structural bias that violate due process.

42. Therefore, the post-habeas hearing did not comply with this Court's original habeas order, and Petitioner should be ordered released.

C. There Was No Logical Connection Between the Evidence on Record and the Conclusion of the Judge

43. A Deportation Judge's finding that a noncitizen is a flight risk or danger must rest on specific, record-based reasons that "flow in a reasoned way from the evidence of record," not on bare conclusions untethered to the

evidence. *Valarezo-Tirado v. Attorney General United States*, 21 F.4th 256 (3d Cir. 2021).[5] See also *INS v. Elias-Zacarias*, 502 U.S. 478, 481 (1992) (quoting 8 U.S.C. § 1105a(a) (4)).

44. When assessing bond, the presiding judge must base her decision on "specific, cogent reasons" drawn from the record and must explain how those facts support a finding of danger or flight risk. A bare assertion that the respondent is a flight risk, without reasoned explanation tied to the evidence, "does not pass muster under the substantial evidence rubric." *Id.*

45. It is the responsibility of the parties and **the Immigration Judge to ensure that the bond record establishes the nature and substance of the specific factual information considered by the Immigration Judge in reaching the bond determination.** *Matter of Adeniji*, 22 I&N Dec. 1102 (BIA 1999)

46. In order to reverse the Respondent's determinations, the Court must find that the evidence "not only supports a contrary conclusion, but indeed compels it." *Klawitter v. INS*, 970 F.2d 149, 151-52 (6th Cir. 1992).

47. Here, no evidence on the record evinced any flight risk or danger to the community. See Exhibit 3.

---

[5] Notably, the same Deportation Judge in the underlying case presided over the bond hearing in this case.

48. In fact, the only evidence on the record showed the contrary: that Petitioner presented no danger and no flight risk.

49. Respondents may argue that, in light of the voluminous evidence presented at the hearing, the presiding judge may not have found the evidence credible. If this were the case, the judge's bond order must indicate her rationale. *Koliada v. INS*, 259 F.3d 482, 486 (6th Cir. 2001) ("We will uphold an adverse credibility determination if it is supported by reasonable, substantial, and probative evidence on the record considered as a whole."); See also *El-Moussa v. Holder*, 569 F.3d 250, 256 (6th Cir. 2009).

50. Instead of engaging with the record and providing specific, cogent reasons, the Deportation Judge issued an unexplained conclusion that directly contradicted all evidence and argument presented. This is precisely the sort of unreasonable, outcome-driven determination that fails under the substantial-evidence standard and due process.

51. Accordingly, the Deportation Judge's unreasoned record-defying flight-risk finding deprived Petitioner of the full and fair hearing that due process and this Court's habeas order required, rendering the post-habeas hearing itself a violation of that order.

CLAIMS FOR RELIEF

52. When a federal court's order is violated, the Court must act to enforce its decree. "There can be no question that courts have inherent power to enforce compliance with their lawful orders..." See Inherent Powers of Federal Courts: Contempt and Sanctions, U.S. Const. art. III, § 1, annot. (noting that federal courts possess inherent authority to punish contempt and "to enforce mandatory decrees by coercive means").

53. "The traditional function of the writ [of habeas corpus] is to secure release from illegal custody." *O'Brien v. Moore*, 395 F.3d 499, 505 (4th Cir. 2005).

54. The Constitution does not tolerate what would be plainly unlawful in the criminal context simply because the detention is labeled "civil." Nor does the Constitution withhold its protections when a person is an immigrant.

55. These errors reinforce the conclusion that Petitioner's ongoing detention violates the Fifth Amendment and **must end**. See *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV (W.D.N.Y. July 16, 2025) (where a noncitizen detainee's due process was violated, his detention is unlawful and he must be released).This Court should exercise its equitable power in this case, because the administrative body that could provide relief to Petitioner has already predetermined the issue. See *Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000).

56. There is no process to await. The Constitution requires release. *Larrazabal-Gonzalez v. Mason*, No. 2:26-cv-00049, slip op. at 1–10 (S.D. W. Va. Jan. 28, 2026)

PRAYER FOR RELIEF

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

A. DECLARE that Respondents violated the previous habeas corpus order by failing to properly conduct a bond hearing within the five day timeframe;

B. ORDER Petitioner's immediate release from custody within twenty-four (24) hours and enjoining them from re-detaining Petitioner absent leave of this Court, which should not be granted unless and until Respondents demonstrate that Petitioner has received constitutionally adequate notice and a meaningful opportunity to be heard before a neutral decisionmaker. As explained above, Respondents have forfeited any deference they would otherwise be due from a federal court, so Petitioner requests a direct order for release from this Court;

C. ENJOIN Respondents from transferring Petitioner from the jurisdiction of this District pending these proceedings;

D. AWARD Petitioner 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

E. GRANT any other and further relief that this Court deems just and proper.

Respectfully submitted,

By: **/s/ Joseph Williams**

Counsel for Petitioner

Joseph Williams (P88177)

23917 Cass Ave., Suite D

Farmington, MI 48335

(248) 736-2128

joe@demartiniwilliamslaw.com

Dated: March 3, 2026

PROOF OF SERVICE

I hereby certify that on March 3, 2026, I filed the above Petition for Writ of Habeas Corpus with the UNITED STATES DISTRICT COURT WESTERN DISTRICT OF MICHIGAN via PACER and I further certify that all parties and attorneys of record were served with same via email and PACER. I declare that the above statements are true to the best of my information, knowledge and belief.

/s/ Joseph Williams

Joseph Williams (P88177)

Attorney for Petitioner