UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JIE DING ([redacted] Petitioner, v. KRISTI NOEM, Secretary, U.S. Department of Homeland Security; KEVIN RAYCRAFT, Field Office Director, Detroit Field Office, Immigration and Customs Enforcement, Respondents.	)	Case No. 1:26-cv-00780

PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner, JIE DING, by and through his own and proper person and through his attorneys, LAUREN E. MCCLURE, of the LAW OFFICES OF KRIEZELMAN BURTON & ASSOCIATES, LLC, petition this Honorable Court to issue a Writ of Habeas Corpus to review his unlawful detention, and in support thereof states as follows:

Introduction

1. On February 17, 2026, this Court ordered Respondents to provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a).
2. Petitioner's bond hearing was held before Immigration Judge ("IJ") Ellen Karesh on February 24, 2026. At that bond hearing, the government presented no evidence to establish Petitioner was a flight risk. However, the IJ denied Petitioner's request for release on bond because he "has not met his burden" and "finds that Respondent is a flight risk." Ex. A, Order of Immigration Judge. That is, the IJ improperly placed the burden of proof on Petitioner to show that he was not a flight risk.

3. This does not comport with due process—the overwhelming weight of authority requires the government to prove, by clear and convincing evidence, that a noncitizen is a flight risk or danger to the community.
4. Petitioner respectfully requests this Court enter writ of habeas corpus ordering the immediate release of Petitioner or a new bond hearing that comports with the basic requirements of due process.

Jurisdiction and Venue

5. 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).
6. 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.
7. 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*, 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).
8. Petitioner does not challenge the discretionary decision of the IJ to deny bond. Instead, 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.

9. 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 immediate custody, of Respondent Kevin Raycraft. *See Roman v. Ashcroft*, 340 F.3d 314, 320–21 (6th Cir. 2003).

10. 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 this District.

Parties

11. Petitioner JIE DING is a native and citizen of China. Petitioner is presently detained at North Lake Processing Center, located in Baldwin, Michigan. He was arrested by ICE in October 2024.

12. Respondent KRISTI NOEM is being in her official capacity only. Pursuant to the Homeland Security Act of 2002, Pub. L. 107-296, Defendant NOEM, through her delegates, has broad authority over the operation and enforcement of the immigration laws.

13. Respondent KEVIN RAYCRAFT is being sued in his official capacity only, as the Field Office Director of the Detroit Field Office of ICE. As such, he is charged with the detention and removal of aliens which fall under the jurisdiction of the Detroit Field Office. *Roman v. Ashcroft*, 340 F.3d 314 (6th Cir. 2003).

Custody

14. Petitioner JIE DING is being unlawfully detained by ICE and he is not likely to be removed in the reasonably foreseeable future.

Factual and Procedural Background

15. Petitioner JIE DING is a native and citizen of China. He has been present in the United States since September 2024 and has a pending asylum application. Prior to his detention, Petitioner was residing in Chicago, Illinois with his wife and U.S. citizen child.

16. Petitioner is neither a flight risk nor a danger to his community. He has no criminal record in the United States or any other country. He has a permanent address, a steady job, pays his taxes, has health insurance and several ties to the United States. During his bond hearing, he also provided a sponsor and several documents in support of bond.

17. On February 24, 2026, Petitioner received a bond hearing ordered by this Court under 8 U.S.C. § 1226(a).

18. During that hearing, Petitioner argued that he was not a danger to the community or a flight risk because he had no criminal record, a U.S. citizen child, was gainfully employed, has a lease, and has many ties to his community.

19. The government argued that Petitioner was a flight risk because the relief he was seeking (asylum application) was speculative and he had not lived in the U.S. for a long period of time.

20. IJ Karesh denied bond based solely on her finding that Petitioner did not establish that he is not a flight risk.

21. Petitioner remains in ICE custody.

Legal Framework

22. 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).

23. Under *Mathews,* courts balance three factors to determine whether a given process satisfies the Fifth Amendment:

> (1) the private interest at stake;
> (2) second, the risk of erroneous deprivation and the value, if any, of additional procedural safeguards;
> (3) and third, the government's countervailing interests.

Mathews, 424 U.S. at 335.

24. 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*, 2025 U.S. Dist. LEXIS 188232, at *35 (W.D. Tex. Sep. 21, 2025) (quoting *Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 214 (3rd Cir. 2020)); *Perez-Gabriel v. Raycraft, et al.*, 26-cv-00297 (W.D. Mich. Feb. 23, 2026); *Soto-Medina v. Lynch*, 2026 WL 161002 (W.D. Mich. Jan. 21, 2026); *Ochoa Ochoa v. Noem*, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025); *Lopez-Alvarez v. Ripa*, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025) (same); *Roman v. Noem*, 2025 WL 2710211 (D. Nev. 23, 2025).

25. 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.*

26. Petitioner is entitled to immediate release, or 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.

Immediate Release

27. The proper remedy for unlawful detention is release, as consistently held by courts across the nation. *Barrera v. Tindall*, 2025 WL 2690565, at *7 (W.D. Ky. Sep. 19, 2025); *Roble v. Bondi*, 803 F. Supp. 3d 766 (D. Minn. 2025) (ordering petitioner's "release from custody as a remedy for ICE's illegal re-detention"). The proper remedy for unlawful detention is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008); *see also Espinoza v. Kaiser*, 2025 WL

2675785, at *11 (E.D. Cal. Sep. 18, 2025); *Ramirez Clavijo v. Kaiser*, 2025 WL 2419263, at *6 (N.D. Cal. Aug. 21, 2025); *Munoz Materano v. Arteta*, 804 F. Supp. 3d 395 (S.D.N.Y. 2025).

28. A bond determination by a DHS officer or an immigration judge would not remedy the core constitutional violation at issue here. "[Petitioner's] detention was unlawful from its inception because ICE detained [him] under the wrong statute and without any notice or opportunity to be heard, much less the procedures required under section 1226(a). In this situation a post-deprivation bond hearing before a DHS officer or even an immigration judge would provide no genuine opportunity to relief because the detention without adequate pre-deprivation procedures has already been carried out." *Rodriguez-Acurio v. Almodovar*, 2025 WL 3314420 (E.D.N.Y. Nov. 28, 2025); *Barco Mercado v. Francis*, --- F.Supp.3d ---, 2025 WL 3295903 (S.D.N.Y. Nov. 26, 2025); *AMM v. Thompson*, 2025 WL 3296316 (S.D. Tex. Nov. 18, 2025); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 484 (S.D.N.Y. 2025).

29. If this Court finds immediate release inappropriate, Petitioner requests that this Court order a bond hearing within three days, where the burden is on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk. *Ochoa Ochoa v. Noem*, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025); *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668 (W.D. Tex. 2025) (ordering a bond hearing within seven days or release); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025) (same); *Roman v. Noem*, 2025 WL 2710211 (D. Nev. 23, 2025).

Claims for Relief

Violation of Due Process

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

31. 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 (2001).

32. Petitioner has a fundamental interest in liberty and being free from official restraint.

33. Placing the burden of proof on the Petitioner to establish whether he is a flight risk or danger to others violated his right to due process.

Prayer for Relief

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

A. Maintain jurisdiction over this matter;

B. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner from custody or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within three days where the government bears the burden of proof by clear and convincing evidence that Petitioner is a flight risk or danger to the community;

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

D. 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

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

Dated: March 10, 2026

Respectfully submitted,

/s/ Lauren E. McClure

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