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

NURBEK JANIKULOV, **Petitioner,** **v.** **KEVIN RAYCRAFT, Acting Field Office Director, Detroit Field Office, United States Immigration and Customs Enforcement; KRISTI NOEM, Secretary of Homeland Security; PAMELA JO BONDI, United States Attorney General,** ***in their official capacities*****,** **Respondents.**	**Civ. Act. No.: _____**

PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241

1. On February 26, 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 administered by Immigration Judge Ellen Karesh on March 3, 2026. At that bond hearing, Immigration Judge Karesh improperly placed the burden of proof on Petitioner to show that he was not a flight risk.[1]

3. This bond hearing did 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 petitions this Honorable Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge his ongoing civil immigration detention by

[1] Exhibit A, Affidavit of Robert J. Guitelman

Respondents. Petitioner remains detained in the custody of Immigration and Customs Enforcement at the North Lake Processing Center in Baldwin, Michigan at or around the time of filing of this petition. Petitioner asks this Court to order his immediate release from immigration detention.

JURISDICTION & VENUE

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 2241 because Petitioner is in federal immigration custody and challenges the legality of his ongoing civil immigration detention by the United States Department of Homeland Security and its officers. The relief sought lies at the core of the writ of habeas corpus.

6. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action raises questions of federal law arising under the Constitution and laws of the United States, including the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

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*, 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).

8. Petitioner does not challenge the discretionary decision of IJ Karesh 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 this District under 28 U.S.C. 1391 and 28 U.S.C. 2242 because at least one Respondent is in this District, Petitioner is detained in this District, and a substantial part of the events giving rise to the claims in this action took place in this District. *See generally Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004) ("the proper respondent to a habeas petition is 'the person who has custody over [the petitioner]'") (quoting 28 U.S.C. 2242).

PARTIES

10. Petitioner is a citizen and national of Uzbekistan and is detained by Respondents at the North Lake Processing Center in Baldwin, Michigan, a privately owned jail with which ICE has a task order for detention services/bed space. As of the date of filing, Petitioner is in his 57th day in ICE custody.

11. Respondent Kevin Raycraft is the Acting Field Office Director responsible for the Detroit Field Office of ICE with administrative jurisdiction over Petitioner's immigration case. He is a legal custodian of Petitioner and is named in his official capacity.

12. Respondent Kristi Noem is the Secretary of the United States Department of Homeland Security (DHS). She is a legal custodian of Petitioner and is named in her official capacity.

13. Respondent Pamela Jo Bondi is the Attorney General of the United States Department of Justice. She is a legal custodian of Petitioner and is named in her official capacity.

FACTUAL BACKGROUND

14. Petitioner is a citizen and national of Uzbekistan. He entered the United States May 19, 2023 in Calexico, California as instructed in his appointment for streamline processing

obtained via CBP-One.[2] A CBP officer interviewed Petitioner and noted that Petitioner provided a "Credible Fear Statement." *Id.* CBP then paroled Petitioner into the United States and issued a Notice to Appear for a removal proceeding five months later, October 23, 2023.[3]

15. On June 21, 2023, Petitioner timely filed a Form I-589 Application for Asylum and for Withholding Removal, which remains pending.[4]

16. Petitioner next filed an Application for Employment Authorization on July 8, 2024, which was granted August 2, 2025 and remains valid through 2029.[5]

17. Petitioner formed a business,[6] created jobs for other workers,[7] and filed his taxes.[8]

18. Petitioner has fully complied with terms of his parole since his entry in 2023.

19. Regardless, Respondents detained Petitioner on January 13, 2026. The detention began with a West Virginia Service Commissioner conducting "random commercial vehicle inspections on I-77 SB" with ICE ERO "in the area to assist."[9] Without any allegation of criminal activity or other asserted legitimate basis for the traffic stop, Officers stopped an Amazon truck driven by Petitioner's wife, Gulnoza Khamdamova. Officers removed Ms. Khamdamova from the truck, then allowed her to re-enter the truck to collect her hijab. Officers wrote in the I-213:

> "[We] asked multiple times if we could search the truck before she got back in. She said that we could. Once Officer Bowen was in the truck, he seen a blanket in the sleeper of

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[2] Exhibit B, Report of CBP Officer David Dunton, May 19, 2023
[3] Exhibit C, Notice to Appear for Removal Proceeding, October 23, 2023
[4] Exhibit D, Application for Asylum, June 20, 2023
[5] Exhibits E and F (The initial authorization included a misspelling of Petitioner's name thus a replacement was issued 4 months later in December 2024, correcting the name)
[6] Exhibit G, Receipt of Filing Articles of Incorporation for N&G Logistics Inc.
[7] Exhibit H, Signed Statement of Islom Kuliev
[8] Exhibit I, 2023 Tax Return
[9] Exhibit J, Report of Deportation Officer Beng, January 16, 2026

the truck move. He then pulled the blanket discovering a man hiding underneath it. He instructed the subject to put his hands up and turn around in which he complied."[10]

20. The individual ***sleeping*** under a blanket in the *sleeper* of the truck was Petitioner.

21. Respondents detained Petitioner without a warrant for three days, eventually issuing a warrant on January 16, 2026.[11]

22. On February 26, 2026 this Court ordered a bond hearing pursuant to Petitioner's first habeas petition filed February 12, 2026.

23. At the bond hearing March 3, 2026, Immigration Judge Ellen Karesh put the burden on Petitioner to prove that he was not a flight risk.[12] And despite receiving proofs of Petitioner owning a business, timely filing his taxes, attending all scheduled immigration court hearings, and obtaining an immigration sponsor, IJ Karesh held that Petitioner did not overcome his burden of proof. *Id.*

24. IJ Karesh denied bond because Petitioner "has been in the United States for a short period of time and has limited family ties."[13] IJ Karesh wrote further "Per the I-213, during a traffic stop, [Petitioner] hid from authorities under a blanket in the sleeper of the truck when authorities attempted to question him." *Id.* IJ Karesh did not accept Petitioner's reasonable explanation that he was sleeping in the sleeper of the truck while his wife drove.

25. Petitioner remains in ICE custody. He is scheduled for a master calendar hearing before IJ Karesh on March 26, 2026.

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[10] Exhibit J, Report of Deportation Officer Beng, January 16, 2026
[11] Exhibit K, Warrant signed January 16, 2026
[12] Exhibit A, Affidavit of Robert J. Guitelman
[13] Exhibit L, Order of Immigration Judge Ellen Karesh, March 3, 2026

LEGAL FRAMEWORK

26. 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).

27. Under *Matthews*, courts balance three factors to determine whether a given process satisfies the Fifth Amendment: (1) the private interest at stake; the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)

28. 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)).

29. 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.*

30. 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.

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

Petitioner is being deprived of an adequate and meaningful process to challenge his ongoing confinement.

31. Petitioner realleges and incorporates by reference the allegations contained above.

32. "[T]he Due Process Clause applies to all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

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

34. Placing the burden of proof on the Petitioner to establish whether he is a flight risk— or concluding that he is a flight risk absent clear and convincing evidence— violates his right to Due Process.

REMEDY

35. Petitioner requests this Court order his immediate release.

36. Immigration detention is civil in nature, and as a result Congress must have expressly authorized it by statute, and the detention must be reasonably related to its statutory purpose. *Zadvydas*, 533 U.S. at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

37. When a habeas petitioner's detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention").

38. The bond hearing given to Petitioner on March 3, 2026 was not neutral or compliant with Due Process. Petitioner forecasted this in his prior petition.[14] Petitioner cited a *Declaration of Jorge E. Artieda of January 28, 2026* wherein Mr. Artieda—former legal counsel to ICE in Washington D.C. and Virginia—details evidence of what "appears to be a systematic effort to nullify the constitutional protections that federal courts have recognized and enforced through habeas corpus" through the reassignment of Immigration Judges and the use of pretextual and legally insufficient rationales for denying bond.[15] These observations are echoed by a retired Immigration Judge, Lawrence Burman, who oversaw bond determination hearings in immigration court from 1998 to 2016.[16] Judge Burman noted "Since January 2025, I have observed a troubling trend of Immigration Judges being terminated without explanation or notice." *Id* at ¶ 18. "[I]t is clear that judges were removed for their strong commitment to due process" and members of the bench are concerned "that decisions unfavorable to the government could negatively affect judicial tenure." *Id* at ¶ 19. Judge Burman is "concerned that the notable rise in bond denials and adverse case outcomes undermines due process and erodes confidence in the Immigration Court system." *Id.* at ¶ 21.

39. A bond hearing in front of an immigration judge is an inadequate remedy if Respondents cannot establish that the hearing officer will be a genuinely neutral and detached decisionmaker, rather than an agent of the executive branch under circumstances indicating a substantial likelihood of bias. *See Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004).

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[14] Exhibit M, Petition filed February 12, 2026, at ¶¶ 71-71
[15] Exhibit N, at ¶¶ 1-2, 16-20, 26, 32 and generally.
[16] Exhibit O, Affidavit of Lawrence O. Burman

PRAYER FOR RELIEF

Petitioner therefore respectfully request that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue an Order requiring Respondents to show cause as to why Petitioner should not be released immediately;
3. Permanently enjoin Respondents from re-detaining Petitioner under 8 U.S.C. § 1225 and enjoin Respondents from re-detaining Petitioner under 8 U.S.C. § 1226 absent notice, a reasonable opportunity to obtain counsel, and a hearing before a neutral officer at which Respondents bear the burden of justifying the detention under a clear and convincing evidence standard;
4. Order that Petitioner be released with all property seized by Respondents incident to his detention; and
5. Grant such other and further relief as the Court deems just and proper.

Dated: February 11, 2026

Respectfully submitted,
COUNSEL FOR PETITIONER

/s/ *Andrew Sullivan*
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28 U.S.C. § 2242 Verification Statement

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I have either independently confirmed the events described in this Petition or discussed the events with Petitioner and members of Petitioner's immediate family to whom Petitioner designated legal authority. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

/s/ *Andrew Sullivan* Date: February 11, 2026