UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALFONSO ALVAREZ

Petitioner,

Case No. 1:26-cv-877

KEVIN RAYCRAFT, Acting Field Director for U.S. Immigration and Customs Enforcement, Detroit Field Office, in his official capacity; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; PAMELA BONDI, U.S. Attorney General.

Respondents.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

ORAL ARGUMENT REQUESTED

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. On March 9, 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 March 13, 2026. At that bond hearing, the only evidence submitted by the government was an I-213 for Petitioner regarding his initial apprehension and processing at the border in 2023. They did not present any evidence regarding flight risk or danger.
3. Petitioner, conversely, presented evidence of his ties to the community, current employment (including a welding and construction business he had started in Florida, where he lives), and a sponsorship letter from a United States citizen.
4. The IJ denied bond. Ex. A, IJ Bond Order.

5. The denial could not have been based on any evidence from DHS because there was no evidence provided by DHS that was relevant to determinations of flight risk or danger except for the manner of his entry and the date of his entry.
6. Thus, the IJ forced Petitioner to bear the burden of proving he is not a danger or flight risk.[1]
7. 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.
8. 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

9. 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).
10. 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.
11. 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,

[1] Neither the IJ's oral decision nor her written decision explicitly reference the burden of proof, but BIA precedent requires the detainee to prove they are not a flight risk or danger. *Matter of R-A- V- P-*, 27 I&N Dec. 803, 804 (BIA 2020)

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).

12. Petitioner does not challenge the discretionary decision of the ACIJ 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.

VENUE

13. 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).
14. 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.

REQUIREMENTS OF 28 U.S.C. § 2243

15. 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. 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.*
16. 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 him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

17. Petitioner is a citizen of Colombia and resident of Florida who was arrested by ICE on December 27, 2025, and is currently detained in Baldwin, Michigan at the privately owned GEO North Lake detention facility.

18. Respondent Kevin Raycraft is the Acting Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. 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.

19. 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.

FACTS

20. Petitioner is a citizen of Colombia and resident of Pompano Beach, Florida. He was randomly arrested by ICE agents in Florida on December 27, 2025.

21. He was initially detained at the "Alligator Alcatraz" facility before being transferred to the privately owned GEO North Lake detention facility in Baldwin, Michigan.

22. Petitioner is not 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 in Florida, is currently

employed, and started his own welding and construction LLC. He lives with his common law wife.

23. He has a pending asylum application.

24. On March 13, 2026, Petitioner received a bond hearing ordered by this Court under 8 U.S.C. § 1226(a).

25. During that hearing, Petitioner argued that he was not a danger to the community or a flight risk because he had no criminal record, had work authorization and a pending asylum application, has stable employment, owns a business, and has a U.S. citizen sponsor, and had lived in the U.S. for over two years.

26. The only evidence the government presented was the I-213 from his initial arrest and release at the border in 2023. That evidence only showed that he entered the country unlawfully and had resided here since that time.

27. That is, the government presented almost no evidence relevant to the flight risk determination.

28. IJ Ellen Karesh denied bond based on her assessment of the merits of Petitioner's application for asylum (which was not in the record), and her finding that Petitioner was a flight risk. Ex. A, Bond Order.

LEGAL FRAMEWORK

29. 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).

30. 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 v. Eldridge, 424 U.S. 319, 335 (1976)).

31. 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)).

32. 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.*

33. 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 I
Violation of Due Process

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

35. 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).

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

37. 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 release Petitioner from custody or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 5 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 17, 2026

Respectfully submitted,

/s/ Michael Drew
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Attorneys for Petitioner

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 either independently confirmed the events described in this Petition and Complaint or discussed the events with Petitioner. On the basis of those discussions and my own investigation, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

/s/ Michael Drew

Attorney for Petitioner