UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

DENIS TKACHEV,

Petitioner,

v.

BRIAN MCSHANE, Field Office Director of Enforcement and Removal Operations, Philadelphia Field Office, Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; TODD BLANCHE, Acting U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; J.L. JAMISON, Warden of PHILADELPHIA FEDERAL DETENTION FACILITY,

Respondents.

Case No.

MOTION TO ENFORCE WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, Denis Tkachev, is in the physical custody of Respondents at the PHILADELPHIA FEDERAL DETENTION CENTER. He faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to continued detention after a custody redetermination hearing held on May 13, 2026.

2. Petitioner is charged with, inter alia, having entered the United States without admission or inspection. See 8 U.S.C. § 1182(a)(6)(A)(i).

3. Based on this allegation in Petitioner's removal proceedings, DHS denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4. However, on May 7, 2026, the Honorable Joseph F. Leeson, Jr., issued an order granting a Writ of Habeas Corpus (Civil Case No. 2:26-cv-02372), in part, requiring that Respondents schedule a bond hearing for Petitioner within 10 days of the issuance of the Order.

5. A bond hearing was held on May 13, 2026 before the Honorable Immigration Judge Denis Ryan. IJ Ryan issued a decision denying bond, deeming Petitioner to be a flight risk and danger to the community.

6. When Judge Leeson issued a decision requiring Respondents to schedule a bond hearing, it is necessary to assume that the Respondents were ordered to provide a bond hearing that is compliant with constitutional principles.

7. Petitioner's detention on this basis violates the Order issued on May 7, 2026 because the bond hearing was not compliant with constitutional requirements.

JURISDICTION

8. Petitioner is in the physical custody of Respondents. Petitioner is detained at the PHILADELPHIA FEDERAL DETENTION CENTER in Philadelphia, Pennsylvania.

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.

VENUE

11. Pursuant to Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Eastern District of Pennsylvania, the judicial district in which Petitioner currently is detained.

12. 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 occurred in the Eastern District of Pennsylvania.

13. Further, this Motion seeks to enforce a Writ issued by the Federal District Court of the Eastern District of Pennsylvania.

PARTIES

14. Petitioner, Denis Tkachev, is an alleged citizen of Russia who has been in immigration detention since January 22, 2026. After arresting Petitioner in Beaver County, Pennsylvania, ICE did not set bond and Petitioner is unable to obtain review of his custody by an IJ, pursuant to the Board's decision in Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025).

15. Respondent BRIAN MCSHANE is the Director of the Philadelphia Field Office of ICE's Enforcement and Removal Operations division. As such, BRIAN MCSHANE is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

16. Respondent MARKWAYNE MULLIN is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. MARKWAYNE MULLIN has ultimate custodial authority over Petitioner and is sued in his official capacity.

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

18. Respondent TODD BLANCHE is the Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity.

19. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

20. Respondent Warden J.L. JAMISON is employed by PHILADELPHIA FEDERAL DETENTION CENTER as Warden of the facility where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

ARGUMENT

21. Petitioner acknowledges that federal courts do not have jurisdiction to review an Immigration Judge's discretionary determination to grant or deny bond in any specific case. *Zheng v. Rokosky*, No. 26-CV-01689, 2026 WL 800203, at *3 (D.N.J. Mar. 23, 2026). However, bond hearings must be fundamentally fair in order to afford a detainee due process. In a fundamentally fair bond hearing, due process has three essential elements. "An alien: (1) is entitled to factfinding based on a record produced before the decisionmaker and disclosed to him or her; (2) must be allowed to make arguments on his or her own behalf; and (3) has the right to an individualized determination of his [or her] interests." *Ghanem v. Warden Essex Cnty. Corr. Facility*, No. 21-1908, 2022 WL 574624, at *2 (3d Cir. Feb. 25, 2022). Petitioner also acknowledges that federal courts offer great deference to IJ's regarding their bond determinations. "Nevertheless, a 'decisionmaker must actually consider the evidence and argument that a party presents,' and denies due process when it acts 'as a mere rubber-stamp.' Abdulai, 239 F.3d at 549 (citation omitted)." Zheng, *supra*. at *5.

22. Petitioner avers that the Immigration Judge violated this Honorable Court's order requiring a bond hearing be set because the bond hearing did not sufficiently meet the constitutional requirements for a bond hearing.

23. A bond hearing is individualized "if it is not so arbitrary that it would offend fundamental tenets of due process" and "if there is a discernible rational basis for the underlying administrative decision, and the immigration judge applies the correct legal standards, that

suffices." *Vasquez-Rosario v. Noem*, No. 25-7427, 2026 WL 395711, at *2 (E.D. Pa. Feb. 12, 2026) (quotation marks and citation omitted). These requirements presuppose an impartial decisionmaker. *See Goldberg v. Kelly*, 397 U.S. 254, 271, 90 S.Ct. 1011, 25 L.Ed.2d 287 (1970) Zheng v. Rokosky, No. 26-CV-01689, 2026 WL 800203, at *4 (D.N.J. Mar. 23, 2026). District Courts do not have the authority to make factual determinations regarding evidence that was presented at a custody redetermination hearing. However, an impartial decisionmaker "must actually consider the evidence and argument that a party presents," and denies due process when it acts "as a mere rubber-stamp." *Abdulai*, 239 F.3d at 549 (citation omitted). Zheng v. Rokosky, No. 26-CV-01689, 2026 WL 800203, at *5 (D.N.J. Mar. 23, 2026). Courts within the Third Circuit have found bond hearings to be unconstitutional if the fairness factors have not be meaningfully considered. *See* Mejia v. Bondi, No. CV 26-1592, 2026 WL 752560, at *4 (D.N.J. Mar. 17, 2026) (Despite the existence of this evidence, the immigration judge's order contains no indication that these factors were meaningfully considered. (Dkt. No. 7-1.) The absence of any explanation or analysis further supports Petitioner's contention that the proceeding lacked the individualized custody determination required by due process.)

24. In the case at present, Petitioner had a constitutionally insufficient bond hearing before an Immigration Judge on May 13, 2026. The IJ did not meaningfully consider any evidence presented on behalf of the Petitioner. As the Judge issued his decision, he did not reference any positive equities relevant to Petitioner's case. Petitioner's immigration attorney provided substantial information regarding Petitioner's fixed address[1], his immediate family who reside

[1] Transcript of Bond Hearing at 10, Lines 4-8, *In the Matter of Tkachev, Denis*, File No.: A 246 265 632 (N.J. Immigr. Ct. May 13, 2026).

together at the same address[2], Petitioner's tax information[3], Petitioner's work authorization[4], Petitioner's small business[5], and Petitioner's active I-589 application[6]. Petitioner complied with all ICE parole requirements.[7] Petitioner has been preparing to apply to community college.[8] The IJ did not reference a single piece of evidence presented by Petitioner. IJ Ryan relied merely on speculation regarding Petitioner's alleged presence in Kensington. Petitioner does not ask that this Honorable Court make a determination regarding credibility or make any factual determination. Petitioner does request, however, that this Court consider whether his bond hearing, ordered by this Court, was fundamentally fair and complied with the constitutional and legal principles that guide bond hearings.

25. The issue is not that DHS presented evidence. The issue is that DHS presented conclusions masquerading as evidence. The deportation officers offered opinions regarding dreg trafficking without any supporting investigation, charges, physical evidence, witness statements, surveillance footage, or corroborating documentation. The Immigration Judge then chose to rely on those opinions as though they were proven facts.

26. Due process requires the Court to evaluate the reliability and evidentiary value of the information presented. It does not permit the Court to accept unsupported accusations simply because they originate from the Government. When an individual's liberty is at stake, the Constitution demands more than speculation written on official letterhead.

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[2] Id. at 7:21-23.
[3] Id. at 8:10-11.
[4] Id.
[5] Id. at 8:11-14.
[6] Petitioner's I-589 application was subsequently denied, but is pending appeal as of June 11, 2026
[7] *Id.* at 7:18-19.
[8] Id. at 9:16-17.

27. Immigration Judge Ryan's behavior indicates substantial bias. While Petitioner understands that thirty percent of bonds are granted and seventy percent are denied, Petitioner avers that his evidence was not properly considered by the IJ during his bond hearing, thereby denying him a fundamentally fair bond hearing. As can be seen in the transcript (Petitioner's Exhibit 1), IJ Ryan focuses primarily on Petitioner's travel through the Kensington neighborhood and finds Petitioner to be a danger to the community as a result of his being stopped by police in that area. IJ Ryan determined Petitioner to be a flight risk as a result of his lack of ties to the community because, despite the fact that Petitioner's entire immediate family resides in Philadelphia, he does not have sufficient ties to the United States. As previously mentioned, Petitioner's immigration attorney produced substantial evidence and argued on Petitioner's behalf. None of this information was referenced by IJ Ryan.

28. In some immigration detention cases, courts remedy a constitutionally deficient bond proceeding by ordering a new hearing. *See, e.g., Guerrero-Sanchez v. Warden York County Prison*, 90S F.3d 208, 212 (3d Cir. 2018) (directing that where an immigration bond hearing is constitutionally deficient—because it was not individualized and failed to meaningfully consider the detainee's evidence—the appropriate remedy is to require a new, legally sufficient bond healing at which the Government must carry its burden to establish flight risk or danger).

29. Petitioner avers that fundamental fairness regarding his bond consideration can only be preserved if he is granted a second bond hearing before a different Immigration Judge to ensure that there is no bias and that the evidence produced by himself and his attorney is properly considered for the purpose of setting bond.

REQUEST FOR RELIEF

WHEREFORE, Petitioner requests that this Honorable Court grant this Motion and Order that Petitioner receives a new bond hearing that is fundamentally fair and complies with constitutional principles pursuant to the Order issued on May 7, 2026. In the alternative, Petitioner requests that this Honorable Court order his immediate release from detention without any re-entry restrictions that Petitioner was not subject to prior to his detention.

Respectfully Submitted,

/s Lynne A. Jaworski

Lynne A. Jaworski, Esq.
Bar ID 336677
Astrum Legal, PLLC
210 East Street Road, Suite 3E
Feasterville Trevose, PA 19053
724-801-1071

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

DENIS TKACHOV, Petitioner, v. BRIAN MCSHANE, Field Office Director of Enforcement and Removal Operations, Philadelphia Field Office, Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; TODD BLANCE, Acting U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; J.L. JAMISON, Warden of PHILADELPHIA FEDERAL DETENTION CENTER. Respondents.	Case No.2:26-cv-2372

CERTIFICATION OF SERVICE

I, Lynne Jaworski, hereby certify that on June 11, 2026, a true and correct copy of the forgoing Motion for Enforcement were served upon Respondents via email through ECF Filing.

s/ Lynne A. Jaworski

Attorney for Petitioner

PA Bar ID. 336677