

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

Izzeddin Ahmed Abdulghaffar Daghra

Petitioner,

v.

KEVIN RAYCRAFT, Acting Field Office
Director, Detroit 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,

Respondents.

Case No. 1:26-cv-1429

Hon. Hala Y Jarbou
Chief District Judge

Hon. Maarten Vermaat
U.S. Magistrate Judge

**PETITIONER'S REPLY BRIEF
IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS**

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INTRODUCTION

Petitioner, Izzeddin Daghra, is currently in detention in violation of his Due Process rights. Respondents do not dispute that the Petitioner is currently detained due to the stay of his immigration bond under 8 C.F.R. § 1003.19(i)(2). Respondents argue that there is no due process violation. However, many federal courts have already stated that an automatic stay of bond is a violation of due process under the Fifth Amendment. *See M.P.L v. Arteta*, No. 25-cv-5307, 2025 WL 3288354, at *7 (S.D.N.Y. Nov. 25, 2025) (finding automatic stay violates due process and noting that “at least 50 district court decisions across the United states in the last 6 months alone” have found that DHS’s use of automatic stay provision violates or likely violates due process). In their reply, Respondents throw up a smokescreen of seemingly unrelated arguments that do not apply to the Petitioner’s habeas request. None of those arguments have merit. The Petitioner’s request for habeas should be granted and the automatic stay should be removed as he is currently in detention in violation of due process.

I. This Court has Jurisdiction to Review the Automatic Stay Provision.

The Petitioner is asserting that the automatic stay of his bond is a due process violation. The Court has jurisdiction to review the automatic stay. It is correct, as the Respondents state, that Congress has barred judicial review of the merits of bond determinations, including findings of flight risk or danger to the community. This petition is not asking the federal courts to review a bond determination. The bond determination has been set at \$35,000. This petition is asking the federal courts to review the automatic stay provision preventing Petitioner from being released on the bond that was already determined.

Respondents state the “Courts consistently reject such attempts to recast bond disputes as constitutional claims to obtain habeas review. *See e.g. Jennings v. Rodriguez*, 583 U.S. 281, 301-

02 (2018).” *See* Resp. Brf, ECF No. 5, Page ID.52. However, Petitioner is not claiming a bond dispute. The Petitioner is not asking for a review of the bond determination. Petitioner is asking for review of the automatic stay provision, which is outside the purview of *Jennings*. In fact, the automatic stay provision prevents the Immigration Judge’s (IJ) order as the Petitioner no longer has access to the bond that was determined by the IJ. Other courts have noted that “the automatic stay ‘is a separate act of detention’ from the initial act of detaining a noncitizen suspected to be in the country illegally.” *Otilio B.F. v. Andrews*, No. 1:25-cv-01398, 2025 WL 3152480 at *9 (E.D. Cal. Nov. 11, 2025) (citing *Silva v. Larose*, No. 25-cv-2329, 2025 WL 2770639, at *3 (S.D. Cal. Sept. 29, 2025)). There is no bond dispute being determined by this habeas claim. The only claim being requested is a review of the automatic stay provision which blocks the Petitioner’s ability to post bond.

Requiring administrative exhaustion in this case would be futile. Both the Board of Immigration Appeals (BIA), and the Attorney General can extend the automatic stay as they see needed. 8 C.F.R. § 1003.6(c)(5), 8 C.F.R. § 1003.6(d). The use of the automatic stay has become increasingly common with no effective remedy outside of a habeas petition. *Guasco v. McShane*, No. 1:25-cv-1650, 2025 WL 3270201, at *2 (M.D. Pa Nov. 24, 2025). Additionally, Respondents only cite to a Second Court opinion which is not precedential on this court.

Lastly, the Respondents conflate indefinite detention as the only cognizable habeas claim. This is not the case. 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 length of detention is not necessary in determining a cognizable habeas claim. Petitioner is currently detained because after he was given a bond of \$35,000, DHS appealed the bond and an automatic

stay of the bond was initiated. But for the automatic stay, Petitioner would be able to post bond and be released from detention. The Petitioner argues that he is currently being wrongfully detained because of the automatic stay. Whether the automatic stay is time-limited or indefinite is not a factor in a cognizable habeas claim.

II. The Automatic Stay of the IJ's Bond Order Violates Due Process.

Respondents argue that detention while in removal proceedings is permissible. *See* Resp. Brf, ECF No. 5, Page ID.54. Petitioner does not challenge this. It is true that detention while in removal proceedings is permissible; Petitioner only argues that the automatic stay provision violates due process and violates the Fifth Amendment. Dozens of courts have found that the automatic stay violates Due Process rights. *See Guasco v. McShane*, No. 1:25-cv-1650, 2025 WL 3270201, at *2 (M.D. Pa Nov. 24, 2025) (noting that other habeas courts have “assailed the Government’s practice of acting both as the prosecution and the judge in making a unilateral and unreviewed decision as to detention”). *See also* Pet. Brf, ECF No. 1, Page ID.7 (listing multiple courts who have also found the automatic stay violates due process rights).

It is true, the Petitioner received a bond hearing. The bond hearing was a procedural protection required by the Fifth Amendment and given to the Petitioner. The Petitioner does not argue that the bond hearing violated his due process rights. The Petitioner only argues that the automatic stay enforced briefly after the bond hearing when the Respondent’s appealed the Petitioner’s bond hearing is a due process violation. Although the statutes allowing DHS to appeal the bond and issue an automatic stay were enacted by Congress, this does not necessarily mean the acts meet due process. Instead, the Supreme Court has determined a balancing test to ensure procedural due process is met. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

Finally, the Respondent’s brief makes no argument against the *Mathews* Factors to

determine what procedural due process is required before the government. The Respondent only mentions the *Mathews* Factors as being satisfied with the Petitioner's bond hearing. Accordingly, Petitioner asks that the *Mathews* Factors be applied to determine due process as listed in Pet. Brf, ECF No. 1, Page ID.7-10 as there is no objection or argument against this. Largely, the Government's response does not address the merits of the Petitioner's brief. The lack of response from the government should be taken into consideration when addressing this writ of habeas. The Petitioner's arguments should hold greater consideration as the Respondents do not object to their merit.

III. Respondent's Confused the Record as to the Admission of the Petitioner.

Petitioner was admitted to the United States on December 24, 2024. *See*, Pet. Brf. ECF No. 3, Page.ID.20, Notice to Appear. Respondents make various statements throughout their response as to whether the Petitioner was admitted into the United States. Respondents first state "Petitioner is a noncitizen who was *not* lawfully admitted to the United States." *See* Resp. Brf, ECF No. 5, Page ID.44 (emphasis added). Later, the Respondents state, "[Petitioner] *was* admitted into the United States on December 24, 2024." *See* Resp. Brf, ECF No. 5, Page ID.45 (emphasis added). Respondents also note that "[Petitioner] was issued a Notice to Appear under 8 U.S.C. § 1182(a)(1)(B), as an alien admitted to the United States". Although Respondent's statements contradict themselves as to whether the Petitioner is admitted to the United States, the Notice to Appear issued to the Petitioner, states Petitioner was admitted to the United States on December 24, 2024. *See*, Pet. Brf. ECF No. 3, Page.ID.20, Notice to Appear. The Petitioner should be treated as such- an individual who was admitted to the United States.

IV. Because the Petitioner was Admitted into the United States, Arguments Related 8 U.S.C § 1225(a) and §1226 are Irrelevant to the Petitioner.

The Respondents include nearly six pages of arguments relating to the structure of the INA and whether 8 U.S.C § 1225 or 8 U.S.C § 1226 applies to the Petitioner. *See* ECF No. 5, PageID.46-51. Respondents argue that “The [Board of Immigration Appeals] concluded that § 1225(b)(2)’s mandatory detention regime applies to *all* aliens who entered the United States without inspection and admission.” *Id.* at 51. These arguments are frivolous and do not apply to the Petitioner as the Respondents state, “[Petitioner] was admitted into the United States.” *Id.* at 45, *Supra*, Section III.

V. The Immigration and Custom Enforcement (ICE) Field Director is One of Multiple Proper Respondents

Kevin Raycraft, the acting Field Office Director for the Detroit Field Office is one of multiple proper respondents. The Sixth Circuit’s decision in *Roman v. Ashcroft*, 340 F.3d 314, 320 (6th Cir. 2003), remains good law and establishes that the ICE field office director is Petitioner’s “immediate custodian.” The immediate custodian is certainly *a* proper respondent, but that does not mean he is the *only* proper respondent.

Petitioner is detained under a Department of Homeland Security (DHS) initiative in coordination with Department of Justice (DOJ) to appeal bond decisions by IJs. If Respondents Mullin, Blanche, and the DHS rescinded the automatic stay, Petitioner could be released by posting bond. Respondents EOIR and Blanche can—but have failed to—ensure that Petitioner receive adequate due process.¹

Nonetheless, if Respondents concede and stipulate that this Court can order all relief

¹ Please note, the response incorrectly lists Pam Bondi and Kristi Noem as the Respondents. The actual Respondents named were Todd Blanche and Markwayne Mullin, respectively.

requested in the Petition against Respondent Raycraft, Petitioner will not object to the dismissal of the other Respondents.

CONCLUSION

Petitioner respectfully requests the Court grant the petition for writ of habeas corpus because the Petitioner is being detained in violation of the Fifth Amendment Due Process laws.

Respectfully Submitted,

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