

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

Wilson Rodriguez,

PETITIONER,

C.A. NO: 25-CV-406-JJM-PAS

V.

PATRICIA HYDE Acting Director of
Boston Field Office, U.S. Immigration and
Customs Enforcement; KRISTI NOEM,
Secretary of the U.S. Department of
Homeland Security; PAMELA BONDI,
Attorney General of the United States; in
their official capacities,

RESPONDENTS,

OPPOSITION TO RESPONDENTS' MOTION TO DISMISS

INTRODUCTION

Petitioner Wilson Rodriguez respectfully submits this opposition to Respondents' Motion to Dismiss his Petition for Writ of Habeas Corpus. Contrary to Respondents' assertions, this Court has jurisdiction to hear Mr. Rodriguez's petition, and the administrative exhaustion doctrine should not bar relief in this case where exceptional circumstances exist. Mr. Rodriguez faces the prospect of being unable to defend himself in criminal proceedings while detained by Immigration and Customs Enforcement (ICE), creating a procedural trap that violates his constitutional rights.

STATEMENT OF FACTS

Mr. Rodriguez is a citizen of Guatemala who was admitted to the United States on July 28, 2017, on a B-2 visa with authorization to remain until January 27, 2018. On November 21, 2017, he filed an application for asylum, which remains pending without disposition. Mr. Rodriguez has

established roots in Rhode Island, where he lives with his wife and three children.

On July 24, 2025, Mr. Rodriguez was arrested by Rhode Island State Police for an alleged first-offense DUI. The Rhode Island state court determined that Mr. Rodriguez did not pose a flight risk or danger to the community and released him on personal recognizance. However, on August 15, 2025, ICE administratively arrested Mr. Rodriguez and detained him pursuant to 8 USCS § 1226. ICE issued a Notice to Appear alleging that he remained in the United States beyond his authorized period.

Recently Counsel has obtained Discovery from the State Police and has a good faith basis to doubt probable cause exists for the stop. Accordingly, the matter was promptly transferred to Superior Court for which Mr. Wilson Rodriguez needs to be able to appear. ICE is currently holding Mr. Rodriguez on a civil matter, where his issues in State Court are criminal in nature, and thus Mr. Rodriguez's constitutional rights to participate in said hearing are being violated with his current and continued hold.

After Mr. Rodriguez's arraignment in District Court, a Chevy Traverse white vehicle with gray trim and semi tinted windows, pulled around to the back of the Courthouse, after a plain clothes upon information and belief ICE officer watched Mr. Rodriguez leave with counsel from the courtroom. The person in the Chevy Traverse had dark sunglasses and a neck gator covering his face. As soon as Mr. Rodriguez finished speaking with counsel, the Chevy speed off through a parking lot at a dangerous rate of speed to apprehend Mr. Rodriguez, a person who was just granted personal recognizance bail, because the court understands that Mr. Rodriguez will appear as he has family connections a home, a job, wife, and children who are in school in Rhode Island as they have been for the past eight years.

ARGUMENT

**THIS COURT HAS JURISDICTION TO HEAR MR. RODRIGUEZ'S HABEAS
PETITION**

Respondents' argument that this Court lacks jurisdiction is without merit. The habeas corpus statute, 28 USCS § 2241, expressly authorizes federal courts to grant writs of habeas corpus where a person is "in custody in violation of the Constitution or laws or treaties of the United States.". The Supreme Court has recognized that habeas corpus is available as a remedy "to effect discharge from any confinement contrary to the Constitution or fundamental law, even though imposed pursuant to conviction by a court of competent jurisdiction." State v. Molina, 2023 R.I. Super. LEXIS 16: This Court therefore has jurisdiction to hear Mr. Rodriguez's petition. Moreover, the judicial review provisions of 8 USCS § 1252 expressly preserve review of constitutional claims raised in habeas corpus petitions. Mr. Rodriguez's petition raises substantial constitutional claims regarding his detention, including violations of his due process rights under the Fifth Amendment. These constitutional claims are properly before this Court.

Moreover the Supreme Court has cast serious doubt upon the need to exhaust administrative remedies at any point in time, but especially in a situation in which Mr. Rodriguez's constitutional rights to defend himself on a criminal charge are present, as he will be issued a warrant and Homeland security will argue for immigration purposes that he is guilty of an offense because ICE is holding him on a civil charge and that he should be deported and or held and not granted asylum for a police report which is not evidence. See Loper Bright Enters. v. Raimondo, 143 S. Ct. 2635 (2023)

**THE ADMINISTRATIVE EXHAUSTION REQUIREMENT SHOULD BE WAIVED
UNDER THE CIRCUMSTANCES**

While administrative exhaustion is generally required before seeking habeas relief, this requirement is not absolute and should be waived in this case due to exceptional circumstances. The Supreme Court's recent decision in Barrett v. PAE, Inc., 143 S. Ct. 2429, significantly limits the deference courts must give to agency interpretations of statutes. Under Loper Bright, which overruled Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 461 U.S. 956, courts must exercise their independent judgment in interpreting the law, rather than deferring to agency interpretations. See Loper Bright Enters. v. Raimondo, 143 S. Ct. 2635 (2023). Applying Loper Bright to this case, this Court should exercise its independent judgment regarding the application of the exhaustion requirement rather than deferring to ICE's interpretation. The purpose of exhaustion is to give an agency "an opportunity to correct its own mistakes" and to create "an administrative record that is helpful to the court." However, exhaustion should not be required where it would be futile or where irreparable harm would result. In this case, requiring Mr. Rodriguez to exhaust administrative remedies would cause irreparable harm by preventing him from participating in his criminal proceedings. If Mr. Rodriguez remains detained during his criminal case, he will be unable to appear in court, resulting in a procedural default or conviction that would significantly strengthen ICE's case for removal. This creates a catch-22 situation where ICE's detention prevents Mr. Rodriguez from defending himself in criminal court, which then makes it easier for the Administration justify arguments to deport him. The Federal Government wants to deport persons who entered the US illegally who are affiliated with gangs such as MS-13. Mr. Rodriguez came here because he and his family was being threatened by said MS-13, hence their actions make no sense by holding Mr. Rodriguez.

MR. RODRIGUEZ'S DETENTION VIOLATES DUE PROCESS

Mr. Rodriguez's continued detention without bond violates his due process rights under the Fifth Amendment. In Rhode Island, courts assessing applications for bail pending consider: "(1) whether the appeal is taken for delay or in good faith on grounds not frivolous but fairly debatable; (2) the habits of the individual regarding respect for the law insofar as they are relevant on the question of whether an applicant's release would pose a threat to the community; (3) local attachments to the community by way of family ties, business or investment; (4) the severity of the sentence imposed, and circumstances relevant to the question of whether a defendant would remove himself from the jurisdiction of the court." R.I. Const. Art. I, § 9.

Applying these factors to Mr. Rodriguez's case:

First, Mr. Rodriguez's criminal defense is being pursued in good faith, as his counsel believes the State Police lacked probable cause for the traffic stop. This is not a frivolous defense but raises legitimate legal questions.

Second, Mr. Rodriguez has demonstrated respect for the law during his eight years in the United States. The Rhode Island state court determined that he does not pose a danger to the community by releasing him on personal recognizance.

Third, Mr. Rodriguez has strong local attachments to the community through his wife and three children who reside in Rhode Island. These family ties significantly reduce any flight risk. In addition he has several letters of support from his work, community members, and family members all American Citizens as submitted to this court through ECF 1-1 through 1-4.

Fourth, Mr. Rodriguez faces only a misdemeanor DUI charge, not a severe sentence that would incentivize flight. Moreover, he has a strong incentive to remain in the jurisdiction because of the reasons previously listed in addition to pursue his pending asylum claim.

Given these factors, Mr. Rodriguez's continued detention without bond is unreasonable and violates due process. The government's argument that his 20-day detention is presumptively reasonable because it falls below the six-month threshold established in Zadvydas v. Davis, 533 U.S. 678 is misplaced. The reasonableness of detention must be assessed based on its purpose and the individual circumstances, not merely its duration.

IF BOND IS REQUIRED, THE AMOUNT SHOULD BE REASONABLE

If this Court makes the unfortunate determination that that Mr. Rodriguez must seek relief through the immigration court system, and hold this case to review the immigration court actions, it at a minimum order that immigration court if they were to grant bond hold that any bond set must be reasonable. The current bond amounts of \$5,000 to \$8,000 are excessive and effectively amount to no bond at all; as they would prevent Mr. Rodriguez from being released and participating in his criminal proceedings.

Under 8 USCS § 1226, ICE has the authority to release noncitizens on bond of at least \$1,500 or conditional parole. ICE should be ordered to release him on conditional parole. The purpose of bond is to ensure appearance at future proceedings, not to serve as a form of punishment. Given Mr. Rodriguez's strong community ties, lack of criminal history, and the state court's determination that he poses no flight risk, a bond of \$1,500 would be sufficient to ensure his appearance at future immigration proceedings while allowing him to participate in his criminal case.

CONCLUSION

For the foregoing reasons, this Court should deny Respondents' Motion to Dismiss and grant Mr. Rodriguez's Petition for Writ of Habeas Corpus. At a minimum, the Court should order a bond

hearing with appropriate procedural protections and a reasonable bond amount that would allow Mr. Rodriguez to defend himself in his criminal proceedings while his immigration case proceeds. To deny him the ability to would permit ICE to and homeland security to make unfounded unsubstantiated arguments at Mr. Rodriguez's future immigration hearings based upon alleged misdemeanor violation and a police report which is not evidence.

Respectfully Submitted,
Plaintiff, Wilson Rodrigez
By and through HIS Attorney,

/s/ Lawrence P Almagno Jr.
Lawrence P Almagno Jr. (Bar No. 9185)
ALMAGNO LAW, Inc.
10 Rangeley Road
Cranston, Rhode Island 02920
T|(401) 946-4529 F|(401) 464-4529
LA@Almagno-law.com

Dated: August 18, 2025

CERTIFICATION OF SERVICE

I hereby certify that, on September 17, 2025, I caused the forgoing document to be filed via the ECF system, and serving it upon all registered users in accordance with Fed. R. Civ. P. 5(b)(2)(E)