

UNITED STATES DISTRICT COURT DISTRICT OF RHODE ISLAND

Wilson Rodrigez,  
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,

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**SUPPLEMENTAL BRIEF**

Now comes Petitioner and submits this supplemental brief per text order explaining procedural administrative hearing cancellation.

**BACKGROUND**

The undersigned was engaged to represent Mr. Rodriguez in this petition before the court, in addition to representing Mr. Rodriguez in his underlying misdemeanor charge, for which probable cause is questionable. The undersigned was not aware of the Petitioner's immigration Attorney, and she was unaware of my engagement. After we had both independently proceeded with our filings, we were finally introduced. Unfortunately she is not a member of the Federal Bar yet, and the avenue of a bond hearing is improper to address the violations of Mr. Rodriguez due process rights. ICE has set up a trap for Mr. Rodriguez, by preventing Mr. Rodriguez from participating in his criminal proceedings, while simultaneously using those proceedings as grounds for his continued detention and potential removal in his bond hearing. The Administrative Immigration court has continuously used police reports in its determination of bond, and hence is not the proper

venue at this juncture. This Court is the proper jurisdiction to address the constitutional violations rather than deferring to Immigration Court procedures that cannot adequately remedy the immediate harm to Mr. Rodriguez's due process rights. Moreover the withdrawal of the Bond proceeding is without prejudice.

### **JURISDICTION**

Mr. Rodriguez detention by ICE is a deliberate interference with his procedural and substantive due process rights. This court has jurisdiction over the due process violations not immigration court. The immigration court at bond hearings has considered and continues to consider police reports giving evidentiary weight to them, contrary to this Courts previous orders.

While the government cites various provisions limiting judicial review of immigration matters, these limitations do not apply to constitutional claims. The judicial review provisions of 8 U.S.C. § 1252 expressly preserve review of constitutional claims raised in habeas corpus petitions. Brito v. Garland, 22 F.4th 240. Mr. Rodriguez's petition raises substantial constitutional claims regarding his detention, including violations of his due process rights under the Fifth Amendment, which are properly before this Court. The bond hearing before the immigration court is not a proper vehicle to determine if Mr. Rodriguez's due process rights have been violated, this court has jurisdiction over those matters. As a practical matter if the Administrative Court were to set bond, which it is typical for it to range from Eight Thousand dollars or more so that Mr. Rodriguez could participate in his criminal proceedings, it would be a denial of bond for Mr. Rodriguez, and the ability to participate in his defense. Moreover if Mr. Rodriguez was unable to pay for said bond, Immigration Court would not require that he be transported while in custody to participate in his State Court hearings, which again is a denial of his procedural and substantive due process rights, and Mr. Rodriguez would find himself still in this procedural trap.

This Court like all Federal Courts retain jurisdiction over challenges to the legality of detention in the immigration context, including constitutional challenges regarding the availability of bail. Rombot v. Moniz, 299 F. Supp. 3d 215. The habeas corpus statute, 28 U.S.C. § 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." 28 USCS § 2241.

The Government's reliance on 8 U.S.C. § 1226(e), which limits judicial review of the Attorney General's discretionary decisions regarding detention, is misplaced. While this provision states that "[n]o court may set aside any action or decision by the Attorney General under this section regarding the detention of any alien or the revocation or denial of bond or parole," 8 USCS § 1226, this limitation does not strip district courts of jurisdiction over constitutional claims. As the First Circuit has recognized, "district courts retain jurisdiction over challenges to the legality of detention in the immigration context." Rombot v. Moniz, 299 F. Supp. 3d 215.

Furthermore, challenges to an alien's detention must be brought pursuant to a habeas corpus petition in district court: Romero v. Hyde, 2025 U.S. Dist. LEXIS 160622. The courts of appeal do not have independent jurisdiction to review Board of Immigration Appeals (BIA) bond decisions directly. Romero v. Hyde, 2025 U.S. Dist. LEXIS 160622. Hence the withdrawal of the Bond was proper, as Immigration Court is not the proper venue to hear the due process claims.

#### **Administrative Exhaustion Should Not Bar Relief in This Case**

The withdrawal of Mr. Rodríguez's bond hearing request should not preclude this Court from exercising jurisdiction over his habeas petition because no statutory exhaustion requirement applies to his pre-removal-order due process claims. Brito v. Garland, 22 F.4th 240. In the absence of a statutory exhaustion requirement, the Court is in "the more permissive realm of common-law

exhaustion." Brito v. Garland, 22 F.4th 240. While the government argues that Mr. Rodriguez failed to exhaust administrative remedies by withdrawing his request for a custody redetermination hearing, this argument ignores the fact that "exhaustion of administrative remedies is not a prerequisite to this Court's invocation of jurisdiction over this habeas corpus request." Hermanowski v. Farquharson, 39 F. Supp. 2d 148. Although Congress has substantially rewritten much of the federal immigration statutes in recent years, it has not created an exhaustion requirement for judicial review of alien custody claims. Hermanowski v. Farquharson, 39 F. Supp. 2d 148. Even if common-law exhaustion principles apply, they should be waived in this case due to exceptional circumstances. The First Circuit has explicitly recognized an exception to the exhaustion requirement "where a resort to the agency would be futile because the challenge is one that the agency has no power to resolve in the applicant's favor." United States v. Lepore, 304 F. Supp. 2d 183. Mr. Rodriguez's constitutional claims regarding the interplay between his criminal proceedings and immigration detention present precisely such a challenge.

#### **The Immigration Court Cannot Adequately Address the Constitutional Violations**

The withdrawal of the bond hearing before the immigration court was strategic and necessary because the immigration court is not equipped to address the constitutional violations at issue in this case. The immigration system is designed to adjudicate removal proceedings, not to resolve complex constitutional questions about the interplay between criminal and immigration proceedings. Mr. Rodriguez's continued detention creates a procedural trap that violates his constitutional rights by preventing him from participating in his criminal proceedings while simultaneously using those same proceedings as grounds for his continued detention. 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 government to justify his deportation.

The Immigration Court's authority is limited in the context of reviewing bond decisions. *Massingue v. Streeter*, 2020 U.S. Dist. LEXIS 64600. While the immigration court can conduct bond hearings, it cannot address the broader constitutional implications of Mr. Rodriguez's detention, particularly as they relate to his ability to participate in criminal proceedings.

### **Due Process Requires Meaningful Opportunity to Contest Detention**

The Fifth Amendment's Due Process Clause prohibits the government from depriving any person of liberty without due process of law. Mr. Rodriguez's detention without the opportunity to participate in his criminal proceedings violates this fundamental principle. The First Circuit has recognized that aliens who are detained under 8 U.S.C. § 1226 have due process rights that must be respected. In *Massingue v. Streeter*, 2020 U.S. Dist. LEXIS 64600, the First Circuit held that ICE bears the burden of proving that a respondent is a danger to the community and/or a flight risk by clear and convincing evidence and by a preponderance of the evidence, respectively. *Rombot v. Moniz*, 299 F. Supp. 3d 215. However, these procedural protections in immigration court are insufficient to address the unique constitutional violations in Mr. Rodriguez's case. The district court is better positioned to address these constitutional claims because it can consider the full context of Mr. Rodriguez's situation, including the impact of his detention on his criminal proceedings. As the First Circuit has recognized, "district courts retain jurisdiction over challenges to the legality of detention in the immigration context." *Rombot v. Moniz*, 299 F. Supp. 3d 215. This includes jurisdiction over petitions regarding the "availability of bail." *Rombot v. Moniz*, 299 F. Supp. 3d 215.

## CONCLUSION

The withdrawal of Mr. Rodriguez's bond hearing request before the immigration court was a strategic decision based on the recognition that the district court is the proper venue to present the due process violations that have occurred. The immigration court lacks the authority and expertise to address the complex constitutional issues raised by Mr. Rodriguez's case, particularly the interplay between his criminal proceedings and immigration detention.

This Court should exercise its jurisdiction to hear Mr. Rodriguez's habeas petition without requiring exhaustion of administrative remedies through Immigration Court. The unique circumstances of this case—where ICE detention prevents Mr. Rodriguez from participating in criminal proceedings that could affect his immigration status—create a procedural trap that violates his constitutional rights to due process. The Immigration Court cannot adequately address these constitutional violations, making this Court the proper forum for seeking relief.

Wherefore Petitioner requests this court deny the Governments motion to dismiss.

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

/s/ Lawrence P. Almagno Jr.  
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**CERTIFICATION OF SERVICE**

I hereby certify that, on October 06, 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)