

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**F I L E D**  
NOV 05 2025  
CLERK'S OFFICE  
DETROIT

JEFFREY NDUNGI SILA, Petitioner

Case No. 2:25-CV-13066

vs

KEVIN RAYCRAFT, in his official capacity as Immigration and Customs  
Enforcement (ICE), Acting Director of the Detroit Field Office, Respondent

**PETITIONER'S REPLY**

Petitioner hereby respectfully points out that the response is

1. Factually wrong
2. Fails to address the key issue of erroneous deprivation of liberty and resulting irreparable harm

**1. Factual errors**

***A. "Attempt to leave the United States"***

On ECF No. 5 , PageID.35, the government asserts that "the agency elected to re-detained(sic) him when Customs and Border Protection apprehended him attempting to leave the United States"...and that "Sila's attempt to leave the United States during his administrative removal proceedings supports the agency's decision to re-detain him pending a bond hearing at which an

immigration judge can determine whether he poses a flight risk".

This assertion lists its support as "Exhibit 1 - Anderson Decl. at 16, and ECF No. 1 PageID.11-12". But Anderson's Declaration merely says "Sila was arrested by the United States Customs and Border Protection (CBP) near Detroit, Michigan." It says nothing about the circumstances of that arrest. Sila's affidavit likewise gives a detailed account - that Sila told the agents he was lost, that he did not intend to enter Canada, and requested to turn around. Indeed, Sila would not have stopped and would have simply continued into Canada if that was his intention.

In any event, there is no law prohibiting non-citizens from departing the United States. In fact, Sila is in *Removal* proceedings. The government's sole interest is to *remove* him from the United States. Sila's departure from the United States is precisely what the government is trying to achieve here. Indeed, the DHS website and Television media is awash with advertisements of awarding noncitizens a stipend of \$1000 for willfully departing. It is absurd for the response to now claim it is only re-arresting Sila so he can *remain* in the country.

***B. Sila has not "chosen not to seek release on bond at this time"***

The response's above-captioned assertion at ECF No. 5, PageID.35 at 2 fails to give the entire picture. As he explained in painstaking detail in his petition, at the

2496379 (E.D Mich August 28, 2025) found the proper respondent in this case was Kevin Raycraft in his official capacity as Immigration and Customs Enforcement (ICE), Acting Director of the Detroit Field Office. As indicated in his certificate of Service, he *did*, in fact, serve the Respondent through first class mail, contrary to the response's allegation of lack of service.

## **2. Due Process Risk of Erroneous Deprivation and resulting irreparable harm**

The response asserts that "immigration officials may revoke a noncitizen's bond at 'any time' and rearrest the alien under the original warrant, and detain the alien" *ECF No. 5 PageID 34 at 2*.

Most, if not all, Courts disagree, including in the Sixth Circuit. "When ICE has initial discretion to detain or release a noncitizen pending removal proceedings, after initial release, the petitioner has a protected liberty interest in remaining out of custody. Due process then required a hearing before an immigration judge before re-detention." *Mejia v. Woosley*, 2025 WL 2933852 W.D Kentucky October 15, 2025; *Ballestros v. Noem*, 2025 WL 2880831 W.D Kentucky October 9th, 2025; *Patel v. Tindall*, 2025 WL 2823607 W.D Kentucky October 3rd 2025.

Moreover, this assertion is inapplicable here because Sila was released by an IJ, not the agency. The response fails to recognize the agency's own requirements

that "where a previous bond determination has been made by an Immigration Judge, no change should be made by a District Director absent a change of circumstance." *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (B.I.A. 1981).

***A. Pre-deprivation hearing***

The key issue here is the requirement for a *pre-deprivation* hearing of a noncitizen *previously released* as discussed in detail in the petition with persuasive authorities *Dos Santos v. Noem*, no 1:25-cv-12052-JEK, 2025 U.S Dist. LEXIS 157488 (D. Mass. Aug. 14, 2025) (cited by this Court in both *Lopez-Campos* and *Pizarro Reyes*); *Oliveros v. Kaiser* 2025 WL 2677125 (N.D California, September 18, 2025) (listing cases).

A very recent case is also persuasive on this issue:

"Respondents suggest that any constitutional violation could be cured if Gonzalez requested a custody re-determination hearing before an immigration judge--a hearing that occurs after ICE makes its initial decision to detain. Such a hearing is no substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process clause. The suggestion that government agents may sweep up any person they wish without consideration of dangerousness or flight risk, so long as the person will at some unknown future date, be allowed to ask some other official for his or her release, offends the ordered system of liberty that is the pillar of the Fifth Amendment (emphasizing that, under the Matthews balancing test, a petitioner's liberty interest is the most significant liberty interest there is). Respondent's suggestion that Gonzalez has an adequate remedy available to him rings hollow...Because respondents ongoing detention of [Gonzalez] with no process at all, much less

prior notice, no showing of changed circumstances, or an opportunity to respond, violates his due process rights, the petition must be granted...Respondents are ordered to immediately release Gonzalez from custody." *Gonzalez v. Joyce* 2025 WL 2961626 S.D New York October 19, 2025. (citations and quotation marks omitted)

***B. Irreparable harm absent injunctive relief***

It has been 2 months since Sila was arrested. *Three* Immigration Judges have all reached the same conclusion: he is entitled to release.


However, even after he is released again, based on the government's argument of discretion to revoke a noncitizen's bond "at any time", there is theoretically nothing preventing the government from re-detaining him right outside the county jail and transporting him to another jurisdiction; keep him waiting for months before moving venue of the immigration court, and then arguing yet again he is at liberty to request another bond hearing that could take weeks, if not months. This can continue into perpetuity, subjecting Sila to repeated, erroneous deprivation and serious irreparable harm, absent injunctive relief.

For these reasons, Sila respectfully urges the court to protect him from the predatory actions of the government and grant the prayers he had requested in his petition including immediate release, preliminary injunctive relief, and any other relief the Court finds just and appropriate.

Under penalty of perjury, the foregoing is true to the Petitioner's knowledge and belief.

Respectfully Submitted,

/s/ Jeffrey Sila

Jeffrey Sila A#   
Calhoun County Jail  
185 E Michigan Ave  
Battle Creek, MI 49014

**Certificate of Service**

Petitioner hereby certifies that on this 23rd Day of October, 2025 he submitted to the Detention Center Officers a true copy of this Reply for mailing via USF<sup>®</sup> in a postage pre-paid envelope addressed to the:


United States District Court  
Eastern District of Michigan,  
231 West Lafayette Blvd Room 599  
Detroit MI 48226

for electronic filing which will automatically notify all parties of record;

and another true copy for uploading to the Court's Pro se Portal for electronic filing which will also automatically notify all parties of record.

Respectfully Submitted,

/s/ Jeffrey Sila

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