

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

MARLON GIMENEZ D SILVA RODRIGUES)
Petitioner,)
)
v.) Civ. No. 25-600-MSM-AEM
)
MICHAEL NESSINGER, Warden, Wyatt)
Detention Facility)
DAVID WESTLING, Acting Field Office Director,)
MICHAEL KROL, HSI New England Special)
Agent in Charge)
TODD LYONS, Acting Director U.S.)
Immigrations and Customs Enforcement,)
KRISTI L NOEM, U.S. Secretary)
of Homeland Security,)
and PAMELA BONDI, U.S. Attorney General)
)
Respondents.)

EMERGENCY VERIFIED MOTION FOR IMMEDIATE RELEASE

Petitioner, Marlon Gimenez Silva Rodrigues, respectfully submits this motion for his immediate release from ICE custody. The bond in the amount of **\$6,000.00** has been **accepted and processed** by ICE, as confirmed by the attached bond receipt

Petitioner was granted bond after his custody hearing, where the Immigration Judge determined that he does not present a flight risk or danger to the community that could not be mitigated by the bond. However, despite this determination and the fact that the bond was paid, Petitioner has remained detained at Wyatt Detention Center for more than 24 hours after the bond was accepted by Respondents. Petitioner has satisfied all legal requirements for release, and his continued detention is therefore unlawful.

The District Court's authority to order the immediate release of a detainee once bond has been paid is firmly established. In *Herrera Martinez v. Hyde*, No. 25-cv-575-JJM-AEM, 2025 WL 3033926 (D.R.I. Nov. 7, 2025), this Court granted immediate release prior to bond payment, supporting the Court's power to order immediate release when bond has been set and paid, and the detainee has met the criteria for release.

As such, Petitioner's continued detention is no longer lawful, and release should be ordered immediately. The Court's power to grant immediate release in these circumstances aligns with the procedural protections guaranteed under 8 U.S.C. § 1226(a), which allows for the release of a detainee once bond is paid. In this circuit that law also implicates core procedural due process protection. *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 28 (1st Cir. 2021) ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.").

Petitioner's counsel contacted Respondents' counsel at **12:30 p.m.** and **3:50 p.m.** on the day of the bond payment to inquire about the status of Petitioner's release but has yet to receive a response from the agency.

Conclusion

Petitioner respectfully requests that this Court order his immediate release, as the bond has been paid, the Immigration Judge has determined that Petitioner is not a flight risk or danger, and the legal conditions for his release have been met. The Court's authority to grant such relief is firmly established, and Petitioner's continued detention is unlawful.

The bond receipt is be attached as an exhibit.

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I, Carl Hurvich, declare under penalty of perjury that I am an attorney with Brooks Law Firm, counsel for the Petitioner in the above-captioned matter. I have reviewed the record in this matter and the factual statements contained in the Motion for Immediate Release. Based on personal knowledge, communications with Petitioner, and the records maintained by our office, I hereby verify that the factual statements made in the Motion for Immediate Release are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 18 day of December 2025, in Medford, Massachusetts.

/s/ Carl Hurvich
Carl Hurvich, Esq.
Brooks Law Firm
10 High Street, Suite 3
Medford, MA 02155
(617) 245-8090
Carl@BrooksLawFirm.com
Counsel for Petitioner

CERTIFICATE OF SERVICE

I, Carl Hurvich, do hereby certify that on this 18 day of December 2025, the above document was electronically filed with the United States District Court for the District of Rhode Island using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Carl Hurvich
Carl Hurvich, Esq.