

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTON UDOVENKO,)	
)	
Petitioner,)	
)	
v.)	
)	Case No. 25-cv-1492
KRISTI NOEM, Secretary, U.S. Department of)	
Homeland Security; et. al,)	
)	
Respondents.)	

REPLY TO RESPONDENTS' RESPONSE TO ORDER TO SHOW CAUSE

Petitioner submits this reply to Respondent's Response to his Petition for Writ of Habeas Corpus. Petitioner continues to be detained unlawfully during his pending removal proceedings, in violation of his constitutional and statutory rights.

A. Petitioner's continued detention without a bond hearing is a Fifth Amendment violation.

Petitioner's continued detention violates due process, as Respondents' arguments ignore the realities of the process of Petitioner's immigration proceedings and the particular facts of this case. Respondents do not allege that Petitioner's detention is necessary because he is a danger to the community, nor to ensure his appearance during removal proceedings. *See Zadvydas*, 533 U.S. at 690. They simply allege that Petitioner is an arriving alien because he applied for admission at the border over three years ago. At the time of Petitioner's detention by ICE/ERO, he was no longer applying for admission and the parole he was granted in 2022 was expired. There has been no explanation by Respondents' regarding the revocation or dismissal of Petitioner's parole. There has been no evidence presented that Petitioner is a danger to the community or has done anything wrong to merit his detention. Petitioner's continued deprivation

of his liberty by being deprived of the opportunity to request a bond hearing is a violation of the Due Process Clause of the Fifth Amendment.

The Sixth Circuit has held that the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), regarding the adequacy of process, applies in the context of immigration detention. See *United States v. Silvestre-Gregorio*, 983 F.3d 848, 852 (6th Cir. 2020). Thus, under *Mathews*, this Court must consider the following three factors: “(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest; and (3) the government’s interest, including the fiscal and administrative burdens that the additional or substitute procedures entail.” *Mathews*, 424 U.S. at 335.

In regard to the first *Mathews* factor, Petitioner has a significant private interest in avoiding detention, one of the “most elemental of liberty interests.” See *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Petitioner is now detained in another state, away from his support system, “experiencing [many of] the deprivations of incarceration, including loss of contacts with friends and family, loss of income earning...lack of privacy, and, most fundamentally, the lack of freedom of movement.” See *Günaydin v. Trump*, No. 25-cv-01151, 2025 WL 1459154, at *7 (D. Minn. May 21, 2025).

As to the second *Mathews* factor, a risk of erroneous deprivation is minimized through a fair bond hearing, where an Immigration Judge can determine whether Petitioner is a flight risk or a danger to the community. See *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *9 (E.D. Mich. Aug. 29, 2025). Allowing an Immigration Judge to use their expertise to determine a Petitioner’s eligibility for bond reduces the risk of erroneously depriving Petitioner of his liberty interests.

As to the third factor, while Respondents do have “a legitimate interest in ensuring noncitizens’ appearance at removal proceedings and preventing harms to the community,” here, Respondents have not established an interest in regard to detaining Petitioner who may well convince “a neutral adjudicator, following a hearing and assessment of the evidence, that his ongoing detention is not warranted.” *Sampiao v. Hyde*, No. 1:25-cv-11981-JEK, 2025 WL 2607924, at *12 (D. Mass. Sept. 9, 2025).

Petitioner is detained under 8 U.S.C. § 1226. Respondent’s position that Petitioner must remain detained during the pendency of his removal proceedings and is not eligible for a bond redetermination hearing pursuant to 8 U.S.C. § 1225(b)(2), unlawfully deprives Petitioner of his liberty.

B. The Secretary of Homeland Security is a Proper Respondent

Petitioner has named the Field Office Director, as Respondent’s immediate custodian. He also names Secretary of Homeland Security, Kristi Noem, as a Respondent in this action. Here, Petitioner alleges violations of law and application of law by agents of the Department of Homeland Security. Given Kristi Noem’s broad authority over the operation and enforcement of the immigration laws, she is an appropriate Respondent for the subject case.

CONCLUSION

For the foregoing reasons, this Court should order Respondents to immediately release Petitioner or to schedule a bond hearing for Petitioner’s removal proceedings within 5 days of the order and accept jurisdiction to issue a bond order.

Dated: December 5, 2025

Respectfully Submitted,
ANTON UDOVENKO

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