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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MOATAZ M A FROUKH)


Petitioner)

v.)

CHRISTOPHER J. LAROSE, Senior)
Warden, Otay Mesa Detention Center;)
DANIEL A. BRIGHTMAN, San Diego)
Field Office Director, U.S. Immigration)
& Customs Enforcement (ICE); TODD)
LYONS, Acting Director, U.S. ICE;)
KRISTI NOEM, U.S. Secretary of)
Homeland Security; PAMELA BONDI,)
Attorney General of the United States)

Respondents.)

Case No. 3:26-cv-0350 RSH VET

Agency No. 

**PETITIONER'S
TRAVERSE**

Hon: Judge Robert S. Huie

A. THE PETITIONER IS UNLAWFULLY DETAINED BY THE RESPONDENTS IN VIOLATION OF HIS DUE PROCESS RIGHTS AND THE PROPER REMEDY IS HIS IMMEDIATE RELEASE AND RETURN TO THE SAME CONDITIONS AS HIS 2024 ORDER OF RELEASE ON RECOGNIZANCE

On January 21, 2026, in its Order Setting Briefing Schedule, this court ordered Respondents to address any legal basis for revoking Mr. Froukh's release. ECF No. 2 at 2. Respondents have not. Instead, Respondents' position is that Mr. Froukh "is entitled to an order from this Court directing a bond hearing be held pursuant to 8 U.S.C. § 1226(a)." ECF No. 3 at 2. Petitioner disagrees. Mr. Froukh was arrested by Respondents, released on his own recognizance, and then re-detained without an individualized custody determination *prior* to Respondents taking him into custody. Respondents' re-detention of Mr. Froukh was itself unlawful as a violation of his substantive and procedural Fifth Amendment due process rights, an allegation that the Respondents have not even attempted to refute. The proper response to this violation of Constitutional rights is to declare Mr. Froukh's detention unlawful and order his immediate release.

As noted in his Petition, Respondents denied Mr. Froukh due process by failing to (1) provide written notice justifying the revocation of his release, (2) determine whether he presented a flight risk or danger to the community before rearresting him, or (3) provide him a hearing before a neutral decision maker prior to his re-detention. ECF No. 1 at 2,7.

A bond hearing before an Immigration Judge (IJ) is a reconsideration of the Respondents' decision to detain. 8 U.S.C. § 1226(a); 8 CFR § 1236.1(d)(1). To order a "custody redetermination" by an IJ is to tacitly condone the Respondents' re-detention of Mr. Froukh and compel him to prove to an IJ that he merits release on payment of bond.

Moreover, at a bond hearing held on January 14, 2026, the Respondents argued and the IJ found that because Petitioner was initially apprehended shortly after arrival, the IJ lacked jurisdiction under *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), which held that individuals arrested while "arriving" in the U.S. are not entitled to a bond hearing. The IJ also found that Petitioner did not appear to be a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025). *See* attached Exhibit January 14, 2026, Order of the Immigration Judge. Putting Mr. Froukh in the position of seeking bond before an IJ gives the Respondents the opportunity to benefit from their unlawful re-detention and violation of Mr. Froukh's Constitutional rights by using these arguments to delay his release, potentially indefinitely. Mr. Froukh is thus seeking his immediate release to correct the unlawful deprivation of his liberty.

CONCLUSION

For the foregoing reasons, the Court should find that the continued detention of Mr. Froukh is unlawful and order his immediate release from Respondents' custody and reinstatement of his Order Of Recognizance.

Respectfully submitted on this 3rd day of February 2025.

/s/R.Sherif

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed on February 3, 2026, through the ECF system and that it will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

Dated: February 3, 2026

/s/R.Sherif

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