

FILED
MAR 5 2026 PM 4:04
FED - USDC - FL MD - FTM

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ROSTISLAV MALIKOV, Pro Se

Petitioner,

V.

PAMELA BONDI, et al.,

Respondents.

Case No.: 2:26-cv-00172-SPC-NPM

**PETITIONER'S EMERGENCY MOTION TO ENFORCE JUDGMENT AND
FOR IMMEDIATE RELEASE**

Petitioner, ROSTISLAV MALIKOV, appearing *Pro Se*, respectfully moves this Court to enforce its February 12, 2026 Opinion and Order (Doc. 9) and order his immediate release. While Respondents technically convened a bond hearing on February 19, 2026, the hearing was constitutionally deficient, relied on demonstrably false premises, and applied the incorrect legal standard. It failed to satisfy this Court's mandate for a meaningful, individualized custody determination.

In support of this Motion, Petitioner states the following:

I. BACKGROUND

1. On February 12, 2026, this Court granted Petitioner's Writ of Habeas Corpus, finding his mandatory detention unlawful and ordering Respondents to either (1) provide an "individualized bond hearing" within ten days, or (2) release him.
2. On February 19, 2026, Immigration Judge (IJ) Stuart A. Siegel held a hearing and denied bond. (See *Exhibit A, Order of the Immigration Judge*).
3. The IJ denied bond by explicitly placing the burden of proof on the Petitioner and citing a "Felony charge/Habitual Offender" status to conclude Petitioner is a Danger to the Community. Both of these grounds represent egregious legal and factual errors that defy this Court's mandate.

II. ARGUMENT

A. The Immigration Judge Applied the Incorrect Constitutional Burden of Proof. This Court granted Habeas relief to cure a period of unlawful, prolonged detention. In such cases, Due Process demands that the Government bear the burden of proving, by **clear and convincing evidence**, that the noncitizen is a flight risk or a danger to the community. See *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199 (11th Cir. 2016). Instead of requiring the Government to meet this burden, the IJ explicitly penalized the Petitioner, stating in his written order:

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA

FORT MYERS DIVISION

"Respondent has not met his burden in establishing he is not a DTC/Public Safety Risk." (Exhibit A). By unlawfully forcing Petitioner while incarcerated, in custody of DHS/I.C.E, to prove a negative, Respondents deprived him of the substantive due process this Court ordered, rendering the hearing a procedural sham.

B. FAILURE TO FOLLOW AGENCY POLICY AND THE APA Furthermore, under the Administrative Procedure Act (APA), an agency action must be set aside if it is 'arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.' 5 U.S.C. § 706(2)(A). Respondents have failed to comply with their own binding internal policies, specifically ICE Directive 11002.1, which mandates an individualized determination for continued detention. ICE's decision to incarcerate Mr. Malikov for a goal they already know they cannot achieve, with no direct flights to Russia or contact with the Russian Consulate, is the definition of arbitrary and capricious agency action.

C. The Finding of "Danger" Relied on Willful Disregard of Exculpatory Evidence. The IJ's justification for denying bond rested entirely on Petitioner's driving record, specifically noting a "Felony charge/Habitual Offender." However, during the bond hearing, the IJ was explicitly informed by Petitioner's counsel that this traffic charge was being resolved via a plea agreement with the State of Florida. Petitioner has now officially signed this plea agreement with the State Attorney for the 17th Judicial Circuit (Broward County). (See *Exhibit B, Final Plea Disposition*). The State of Florida disposed of this case as a **misdemeanor** with a sentence of **Adjudication and Court Costs (no jail time, no probation)**.

It is arbitrary, capricious, and fundamentally unjust for the Federal Government to use civil immigration authority to hold Petitioner in physical lockup indefinitely over a traffic offense for which the actual arresting State deemed **zero days in jail** to be the appropriate punishment.

D. The IJ Arbitrarily Ignored Reasonable Alternatives to Detention. The IJ failed to provide an individualized assessment of whether reasonable conditions could mitigate the purported risk. If the Government's sole concern is that Petitioner might drive without a valid license, the narrowly tailored solution is an Order of Supervision with a strict legal prohibition against operating a motor vehicle, enforced via ISAP/GPS tracking. Using indefinite physical incarceration as a preemptive traffic-enforcement tool violates the principle that civil detention cannot be punitive. *Bell v. Wolfish*, 441 U.S. 520 (1979). **ISAP as a Sufficient Alternative:** The Government's interest in ensuring Petitioner's appearance can be fully satisfied through an Order of Supervision (OSUP) and the Intensive Supervision Appearance Program (ISAP). Due process also requires consideration of alternatives to detention. The primary purpose of immigration detention is to ensure a noncitizen's appearance during civil removal proceedings.

**UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

Zadvydas, 533 U.S. at 697. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. See *Bell v. Wolfish*, U.S. 520, 538–39 (1979) (civil pretrial detention may be unconstitutionally punitive if it is excessive in relation to its legitimate purpose). ICE's alternatives to detention program ISAP has achieved extraordinary success in ensuring appearance at removal proceedings, reaching compliance rates close to 100 percent. *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP "resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings"). Thus, alternatives to detention must be considered in determining whether prolonged incarceration is warranted.

III. CONCLUSION AND PRAYER FOR RELIEF Because Respondents failed to provide a constitutionally adequate hearing utilizing the correct burden of proof within the ten days ordered by this Court, the alternative mandate of this Court's Order must be enforced.

WHEREFORE, Petitioner respectfully requests that this Court:

1. **FIND** that Respondents failed to comply with the legal standards required by the February 12, 2026 Order;
2. **ORDER** Petitioner's immediate release under an Order of Supervision; and
3. Grant any other relief this Court deems just and proper.

Respectfully submitted,

Rostislav Malikov, Pro Se

A handwritten signature in black ink, appearing to read 'R. Malikov', is written over a horizontal line.

Date: February 25, 2026