

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

WELCHEZ MARROQUIN, OVIDIO

Petitioner,

v.

JAMISON, J.L., et al

Respondents.

Case No. 2:26-cv-01051

**PETITION FOR
WRIT OF HABEAS CORPUS**

PETITIONER’S REPLY TO RESPONDENTS’ ANSWER

I. Introduction

In its Answer, the Government acknowledges that “courts in this district (and many elsewhere) have concluded that § 1225(b)(2)(A) does not apply to applicants for admission who are present in the interior of the country.” ECF 3 at 2. There is no reason to depart from the sound statutory analysis of this and dozens of other federal courts. Mr. Welchez Marroquin has resided in Phoenixville, Pennsylvania since 1999 and is clearly not subject to classification as an “arriving alien” as the government purports. Nevertheless, the Government continues to make the same unfounded arguments to justify Mr. Welchez Marroquin’s continued unlawful detention.

Mr. Welchez Marroquin primarily submits this reply to address in greater detail why immediate release is the appropriate remedy. Should this court order ICE to provide Mr. Welchez Marroquin with a bond hearing, there is a significant likelihood that ICE would fail to do so, and one court recently identified at least 96 court orders that ICE has violated in 74 cases just in the month of January 2026. *Juan T.R. v. Noem*, No. 26-CV-0107, 2026 WL 232015, at *1 (D. Minn. Jan. 28, 2026) (“ICE has likely violated more court orders in January 2026 than some federal agencies have violated in their entire existence.”) Furthermore, the current policies and practices

of the immigration court system are preventing individuals like Mr. Welchez Marroquin from receiving a fair and neutral assessment in bond proceedings. “Habeas is at its core a remedy for unlawful executive detention,” and that remedy “is, of course, release.” *Munaf v. Geren*, 553 U.S. 674, 693 (2008). Indeed, courts in this Circuit have ordered release for dozens of petitioners in similar situations.¹ Mr. Welchez Marroquin urges the Court to grant the appropriate remedy in the instant Petition and order his immediate release.

II. Respondent’s Unlawful Detention Can Only Be Remedied By Release

Release is the only appropriate remedy for the constitutional violations in this case, including the lack of pre-deprivation notice or individualized review before Petitioner’s arrest, which cannot be remedied by a post-deprivation hearing. Mr. Welchez Marroquin was previously detained by ICE and released on a \$5,000 bond, and there is no evidence in the record that he violated the terms of that release or that ICE provided him with any notice and opportunity to challenge the decision to re-detain him. *See Alfaro Herrera v. Baltazar*, No. 1:25-cv-04014, 2026 WL 91470, at *13 (D. Colo. Jan. 13, 2026) (given that petitioner had been previously released to

¹ See, e.g., *Ibarra v. Warden of the Fed. Det. Ctr. Phila.*, No. 25-6312, 2025 U.S. Dist. LEXIS 232202, at *16 (E.D. Pa. Nov. 25, 2025) (“Mr. Centeno Ibarra has been unlawfully detained under § 1225(b)(2), and his continued mandatory detention violates due process. Because a bond hearing is unnecessary, this Court will order his immediate release.”); *Saidjon Jamolzoda v. Rose*, No. 26-193, 2026 U.S. Dist. LEXIS 17261, at *13 (E.D. Pa. Jan. 29, 2026); *Kashranov v. Jamison*, No. 2:25-cv-05555-JDW, 2025 U.S. Dist. LEXIS 224644, at *20 (E.D. Pa. Nov. 14, 2025) (“Because the Government detained Mr. Kashranov without the bond hearing that Section 1226(a) and the Due Process Clause require, Mr. Kashranov should not now be in custody.”); *Patel v. McShane*, No. 25-5975, 2025 U.S. Dist. LEXIS 228258, at *5 (E.D. Pa. Nov. 20, 2025); *Ibarra v. Warden of the Fed. Det. Ctr. Phila.*, No. 25-6312, 2025 U.S. Dist. LEXIS 232202, at *16 (E.D. Pa. Nov. 25, 2025) (“Mr. Centeno Ibarra has been unlawfully detained under § 1225(b)(2), and his continued mandatory detention violates due process. Because a bond hearing is unnecessary, this Court will order his immediate release.”). See also *Moctezuma v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (given that the government’s repeated use of unlawful detention policies across the country, causing petitioners to “sit in jail waiting for a judicial decision,” the court would order immediate release instead of causing additional delay through a bond hearing) (citing *Lepe v. Andrews*, 801 F. Supp. 3d 1104 (E.D. Cal. 2025); *J.U. v. Maldonado*, No. 25-cv-4836, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025); *Rosado v. Figueroa*, No. 25-cv-2157, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025); *Pinchi v. Noem*, No. 25-cv-05632, 2025 WL 1853763, at *4 (N.D. Cal. July 4, 2025).

the community and holding a bond hearing would prolong his unlawful detention, “[r]espondents’ violations of Petitioner’s rights are best remedied by ordering Petitioner’s immediate release from immigration detention.”); *Qasemi v. Francis*, No. 25-cv-10029, 2025 WL 3654098 at *14, (S.D.N.Y. Dec. 17, 2025) (a bond hearing would not be an adequate remedy for the due process violations in petitioner’s sudden arrest and detention); *Crespo Tacuri v. Genalo*, No. 25-cv-06896, 2026 WL 35569, at *7 (E.D.N.Y. Jan. 6, 2026) (ordering release, finding that post-deprivation review cannot remedy the due process violation of detaining petitioner with no process or individualized assessment); *Moctezuma Macias v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (given that the government’s repeated use of unlawful detention policies across the country, causing petitioners to “sit in jail waiting for a judicial decision,” the court would order immediate release instead of causing additional delay through a bond hearing). Thus, immediate release is the only appropriate remedy where re-detention violates Petitioner’s substantive and procedural due process rights.

III. Respondents Cannot Guarantee a Fair and Impartial Bond Proceeding

Due process requires that immigration detention “bear a reasonable relation to the purpose for which the individual was committed.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Specifically, immigration detention must be reasonably related to the government’s goals of preventing flight and protecting the community from harm, and be accompanied by adequate procedural protections to ensure that those goals are being served. *See Zadvydas*, 533 U.S. at 690-91. Chief among these procedural protections is “the guarantee of an impartial and disinterested tribunal,” which the Due Process Clause requires “in both civil and criminal cases.” *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980).

As discussed in the underlying petition, immigration courts are consistently failing to comply with the most basic requirements of due process and denying bond on dishonest and superficial grounds related to flight risk. Due process is further undermined by the immigration court's failure to provide basic constitutional protections, including adequate interpretation. In a recent decision on a motion to enforce after a successful habeas petition, a court in this District held that "based on the undisputed evidence of record, Petitioner has established that he was unfairly prejudiced at his bond hearing by a lack of competent translator." *A.D. v. Oddo*, Civil Action No. 25-460J, Memorandum Order at 7-8 (W.D. Pa. Feb. 12, 2026). In that case, the immigration judge relied on the petitioner's statements made without a translator to find that the petitioner was a flight risk. In the motion to enforce, the Court ordered the petitioner released from immigration detention: "Respondents shall RELEASE Petitioner from immigration detention FORTHWITH." *Id.*

IV. Conclusion

Petitioner submits that immediate release is the most appropriate remedy for his unlawful detention. "Without a legitimate interest in her detention, immediate release appropriately remedies Respondents' violation of her due process rights through her continued detention." *Santiago v. Noem*, No. EP-25-CV-361, 2025 WL 2792588, at *13-14 (W.D. Tex. Oct. 2, 2025).

In the alternative, Petitioner requests a custody hearing before this Court. The habeas court can hold its own custody hearing and determine whether the government can prove by clear and convincing evidence that Petitioner must remain in custody, or whether he may be released on recognizance. *Santos v. Lowe*, No. 1:18-CV-1553, 2020 WL 4530728, at *4 (M.D. Pa. Aug. 6, 2020) (finding that habeas court-ordered bond hearing was not individualized and did not comport with due process, and granting motion to enforce to hold the court's own bond determination); see

also *L.G.M. v. LaRocco*, 788 F.Supp.3d 401, 405-07 (E.D.N.Y. 2025) (ordering a bond hearing held by the habeas court, as this would be more efficient than delegating the task to the agency and ensure proper constitutional oversight); *Flores-Powell v. Chadbourne*, 677 F.Supp.2d 474-78 (D. Mass 2010) (granting petition and discussing at length habeas court's equitable power, which includes power to hold its own bail hearing).

Date: February 23, 2026

Signed,

/s/ Caitlin Barry

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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Reply using the CM/ECF system.

/s/ Caitlin Barry

Caitlin Barry

Dated: February 23, 2026