

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Jordany Efrain RAMOS RAMIREZ,	)	
	)	
Petitioner,	)	Case No. 4:26-cv-1054
v.	)	
	)	JUDGE PAMELA A. BARKER
	)	
ROBERT LYNCH, et al.,	)	MAGISTRATE JUDGE
	)	CARMEN E. HENDERSON
	)	
	)	<u>PETITIONER'S REPLY TO</u>
	)	<u>RESPONDENTS' OPPOSITION TO</u>
	)	<u>AMENDED MOTION TO COMPEL</u>
Respondents.	)	<u>DISCOVERY</u>
	)	

Respondent's Opposition mischaracterizes the nature of Petitioner's habeas claim and the purpose of the requested discovery. Petitioner did not ask this Court to second guess the Immigration Judge's weighing of evidence or to substitute its judgment on the dangerousness determination. Rather, Petitioner challenges whether the constitutional and statutory prerequisites for the continued detention were satisfied in the first instance—a question squarely within this Court's habeas jurisdiction and one that cannot be resolved without narrow and limited discovery Petitioner seeks.

The administrative record before this Court does not contain any evidence to support the conclusory hearsay statement within the immigration court record that Petitioner supposedly attempted to purchase a firearm. That statement within the immigration court's record was the sole basis for the immigration court's dangerousness finding. Thus, it becomes highly relevant to know what, if any, evidence led to that representation. And, it becomes critical to gather this information to ascertain whether the actions tread upon the protections of the Second

Amendment. The requested discovery is necessary to assess whether a violation of a constitutional right took place because the current record does not contain the alleged firearm-related application that forms the sole basis of the dangerousness finding. It does not identify the vendor involved, does not confirm whether any firearm transfer occurred, and does not identify the statutory provision Respondents contend Petitioner violated. Without this information, neither Petitioner nor this Court can assess whether the legal foundation for continued detention satisfies constitutional due process or statutory requirements or whether a violation of the Second Amendment occurred. The requested discovery is limited, targeted, and directly material to the claims before this Court.

ARGUMENT

I. THIS COURT RETAINS HABEAS JURISDICTION TO REVIEW WHETHER PETITIONER'S DETENTION SATISFIES CONSTITUTIONAL AND STATUTORY REQUIREMENTS

Respondents argue that courts lack jurisdiction under 8 U.S.C. §1226(e) to review the bond determination of the immigration judge ("IJ"). This argument misses the mark because Petitioner does not seek merits review of the IJ's discretionary weighing of the evidence. Petitioner challenges whether the legal and constitutional foundation for detention is valid at all—a distinction that the Court has consistently recognized as preserving federal habeas jurisdiction.

Section 1226(e) bars judicial review of the *exercise of discretion* in reaching a bond determination. It does not, however, strip this Court of jurisdiction to assess whether detention satisfies Constitutional Due Process, whether the government has violated the Second Amendment, or whether this government has complied with applicable statutory requirements. *See Demore v. Kim*, 538 U.S. 510, 517 (2003) (recognizing §1226(e) does not deprive court's habeas jurisdiction over constitutional challenge to mandatory detention scheme); *Zadvydas v.*

Davis, 533 U.S. 678, 688 (2001) (federal courts retain habeas jurisdiction to review whether detention violates the Constitution or laws of the United States).

Courts within the Sixth Circuit have been consistently held that § 1226(e) does not deprive federal courts of habeas jurisdiction over constitutional challenges to immigration detention and only bars the discretionary review of discretionary applications. *See Puerto Hernandez v. Lynch*, 808 F. Supp.3d 802, 810 (W.D. Mich. 2025) (citing *Demore v. Kim*, 538 U.S. 510, 517 (2003); *Zadvydas v. Davis*, 533 U.S. 678 (2001)) (holding §1226(e) does not preclude the Court of jurisdiction from addressing statutory and constitutional challenges to mandatory detention). *See also Soto-Medina v. Lynch*, 817 F. Supp.3d 612, 618 (W.D. Mich. 2026) (“Here, however, Petitioner does not challenge a ‘discretionary judgment’ or ‘decision’ by the Attorney General regarding the grant or denial of bond. Petitioner has filed this habeas action arguing that the discretionary process itself, in which noncitizens detained under § 1226(a) must prove that they are not dangerous and are not flight risks, is unconstitutional. ‘Section 1226(e) contains no explicit provision barring habeas review.’ *Demore v. Kim*, 538 U.S. 510, 517, 123 S. Ct. 1708, 155 L. Ed. 2d 724 (2003) (holding that § 1226(e) does not bar a ‘constructional challenge to the legislation authorizing [the noncitizen’s] detention without bail’). The Supreme Court has made clear that a challenge to ‘the extent of the Government’s detention authority under the ‘statutory framework’ as a whole . . . is not a matter of ‘discretionary judgment,’ ‘action,’ or ‘decision’” and, therefore, ‘falls outside the scope of § 1226(e).’ *Jennings v. Rodriguez*, 583 U.S. 281, 296, 138 S. Ct. 830, 200 L. Ed. 2d 122 (2018).”). In *Ly v. Hansen*, 351 F.3d 263, 266 (6th Cir. 2003), the Sixth Circuit confirmed that § 2241 habeas jurisdiction extends to claims that the legal basis for continued immigration detention is constitutionally or statutorily infirm.

The cases Respondents cite—*Tecum Pastor v. Director of Detroit Field Office*, 814 F. Supp. 3d 875 (N.D. Ohio 2025), and *Alonso-Portillo v. Bondi*, No. 1:25-CV-306, 2025 U.S. Dist. LEXIS 167908 (S.D. Ohio Aug. 28, 2025)—are inapposite. Both cases addressed challenges to the IJ’s weighing of competing evidence and did not address a situation, as here, where the administrative

record is facially incomplete and the sole factual predicate for the dangerousness finding is not in the record at all. Notably, *Alonso-Portillo* itself relies on *Diaz-Calderon*, to confirm “district courts have jurisdiction to review [an] Immigration Judge’s discretionary bond denial only ‘where that bond denial is challenged as legally erroneous or unconstitutional.’” *See Alonso-Portillo*, 2025 U.S. Dist. LEXIS 167908 at *24 (quoting *Diaz-Calderon v. Barr*, 535 F. Supp. 3d 669, 675–76 (E.D. Mich. 2020) (internal citation omitted)).

II. GOOD CAUSE EXISTS BECAUSE THE REQUESTED DISCOVERY IS DIRECTLY MATERIAL TO PETITIONER’S HABEAS CLAIMS

Under Rule 6(a) of the Rules Governing Section 2254 Cases, a court may authorize discovery upon a showing of good cause. Rules Governing Section 2254 Cases at Rule 6(a). “A party requesting discovery must provide reasons for the request. The request must also include any proposed interrogatories and requests for admission, and must specify any requested documents.” *Id.* at R. 6(b). Good cause exists when “specific allegations before the court show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrated that he is . . . entitled to relief . . .” *Bracy v. Gramley*, 520 U.S. 899, 908–09 (1997); *see Thomas v. United States*, 849 F.3d 669, 680 (6th Cir. 2017). This standard is satisfied here.

Respondents contend that Petitioner’s Amended Motion fails to identify how the requested discovery would advance the habeas petition. That contention is incorrect. Each of Petitioner’s six discovery requests directly addresses a gap in the administrative record that is material to the legality of his continued detention:

- 1. The ATF Form 4473 and firearm transaction records (Requests 1 and 3):** These documents will establish whether the alleged firearm-related application was completed, whether it was denied by the federal background check system (NICS) and critically, whether any firearm was actually transferred to Petitioner. If Petitioner’s background check was denied and no firearm was transferred, the predicate for any dangerousness

finding based on firearm-related conduct is legally insufficient. An individual whose firearm application was rejected has not received or possessed a firearm, and Petitioner contends that submission of an application, without more, does not constitute unlawful conduct under any provision Respondents have identified.

2. **The identity and FFL status of the vendor (Request 2):** Whether the vendor was a federally licensed firearm dealer determines what legal obligations applied and whether any alleged attempt to acquire a firearm was cognizable under the applicable law. *See* 18 U.S.C. § 922(g)(5) (applicable only where actual possession or completed transfer is attempted with a licensed dealer under defined circumstances). This information is necessary to assess whether Petitioner's conduct was unlawful under any statute.
3. **The statutory or legal basis for the dangerousness finding (Request 5/Interrogatory 3):** Respondents have never identified the statute under which they contend Petitioner engaged in unlawful conduct. Due process requires that Petitioner be informed of the legal basis for his continued civil detention. *See Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Without knowing the statutory theory, Petitioner cannot meaningfully contest it in this or any other proceedings.
4. **Communications and referrals underlying the dangerousness determination (Request 4):** These records will establish the factual chain of custody of the firearm application and whether it was properly referred to, and accurately interpreted by, the IJ. If the referral mischaracterized the nature of the application—for example, by characterizing a denied or incomplete application as an attempted illegal purchase—the dangerousness finding rests on a materially misleading factual premise.

Together, these requests directly resolve whether the factual predicate for Petitioner's detention has any legally cognizable basis. Under *Williams v. Bagley*, 380 F.3d 932, 975 (6th Cir. 2004), good cause is satisfied when discovery "could resolve any factual disputes that could

entitle him to relief.” That standard is met here.

III. DUE PROCESS REQUIRES THAT CIVIL DETENTION REST ON A DISCLOSED LEGAL BASIS AND RECORD EVIDENCE THAT THE DETAINEE HAS A MEANINGFUL OPPORTUNITY TO CONTEST, AND THE RESTED DISCOVERY IS NECESSARY TO SATISFY THAT REQUIREMENT

Respondents argue that §1226(a) does not require an immigration judge to provide a statutory basis for continued detention. *See* ECF No. 9 at p.4. While the statute may not require formal citation in every bond hearing, it does not follow that the government may detain an individual indefinitely based on conduct it refuses to characterize as unlawful under any specific law, and based on documents it has never placed in the record. The Fifth Amendment Due Process requires, at minimum, that civil detention be grounded on a lawful basis that the detainee has a meaningful opportunity to challenge. *See Zadvydas*, 533 U.S. at 690–91 (2001); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *United States v. Salerno*, 481 U.S. 739, 748 (1987). That requirement is not satisfied here.

Petitioner has never been charged with any violent crime or crime related to the firearm-related application. He never received or possessed a firearm. No firearm transfer occurred. The dangerousness determination appears to rest entirely on the fact that he submitted application at a gun show. Yet Respondents never identified the statute under which they contend that conduct is unlawful, and the application itself has never been placed in the administrative record or disclosed to Petitioner.

This case is readily distinguishable from cases in which courts have upheld dangerousness findings premised on firearm-related conduct. In the case cited by Respondents—*Alonso-Portillo*, 2025 U.S. Dist. LEXIS 167908—the dangerousness finding was based on the petitioner’s actual possession of a firearm. Here, by contrast, Respondents do not contend—and the administrative record does not show—that Petitioner ever possessed a firearm at all. The

standard articulated in *Diaz-Calderon*, 535 F. Supp. 3d at 675–76—and relied upon in *Alonso-Portillo*—recognizes that the Supreme Court has limited “preventative detention based on dangerousness only when limited to specially dangerous individuals and subject to strong procedural protections,” *Id.* at 676 (quoting *Zadvydas*, 533 U.S. at 691), and that detention based on dangerousness without an adequate showing by the government “would be antithetical to the Fifth Amendment’s Due Process Clause protections,” *Id.* (quoting *Hamama v. Adducci*, 2019 U.S. Dist. LEXIS 58119, at *2 (E.D. Mich. Apr. 4, 2019)). Where, as here, the government cannot even establish that Petitioner possessed a firearm, or taking any “substantial steps” more than submitting an application to acquire one, —let alone unlawfully—the “specially dangerous” showing *Zadvydas* requires is conspicuously absent, and the discovery Petitioner seeks is necessary to confirm what the record currently fails to show.

While 8 C.F.R. § 236.1(c)(3) places the burden on the alien to demonstrate by clear and convincing evidence that the release will not pose a danger to the community when challenging the initial detention, that regulatory framework presupposes that the evidence underlying the dangerousness determination is in the record and available to the detainee to meaningfully contest. That foundational requirement is not met here. Due process demands more than a theoretical opportunity to respond—it requires that the detainee actually have access to the factual and legal basis for the finding against him. *See Mathews*, 424 U.S. at 335 (1976) (cited in direct reply to Respondents’ argument that § 1226(a) imposes no obligation to identify a statutory basis for detention) (due process balancing requires consideration of the risk of erroneous deprivation and the value of additional procedural safeguards); *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (due process in immigration detention requires a meaningful opportunity to challenge the factual basis for continued confinement). A dangerousness finding grounded in a document withheld from both the record and Petitioner is precisely the kind of erroneous deprivation procedural due process is designed to prevent.

The requested discovery addresses this deficiency directly. It does not ask this Court to reweigh the IJ's dangerousness determination or substitute its judgment for the IJ's. It asks only that the documents allegedly underlying that determination be produced so that Petitioner and this Court can assess whether the finding rests on a legally sufficient and factually accurate foundation. *See SEC v. Chenery Corp.*, 318 U.S. 80, 87 (1943) (holding agency action must be grounded in facts actually in the record); *Harris v. Nelson*, 394 U.S. 286, 300 (1969) (holding habeas courts have "broad power" to fashion appropriate discovery where necessary to the ends of justice); *Boumediene v. Bush*, 553 U.S. 723, 745-79 (2008) (holding habeas must retain its vitality as a practical remedy, not merely a theoretical one, and is the constitutional backstop against executive detention unsupported by law). Requiring Petitioner to contest a dangerousness determination without access to the very documents on which it is based would render his habeas remedy illusory.

IV. THE AMENDED MOTION FOR DISCOVERY PRESENTS MATERIALLY DIFFERENT AND NARROWER GROUNDS THAN PETITIONER'S INITIAL REQUESTS

Respondents contend that the Amended Motion merely repeats arguments this Court has already rejected. That is incorrect. The Court's May 19, 2026 Order denying Petitioner's initial Motion for Targeted and Expedited Discovery (ECF No. 5) identified three distinct deficiencies: (1) the absence of evidence that Respondents had been served; (2) the absence of authority showing it would be "appropriate or warranted" for the Court to order expedited discovery so that Petitioner could use it in his then-upcoming Immigration Court hearing; and (3) that the proposed discovery requests and subpoena were "overly broad and unduly burdensome," rather than "narrowly tailored" or "targeted." The Amended Motion addresses each of these three points directly.

First, the service deficiency no longer exists. Petitioner filed executed summons on May 26, 2026. *See* ECF No. 6. Respondents have appeared and filed a merits opposition to the

Petitioner's Amended Motion, *see* ECF No. 9, and have raised no objection based on service. That threshold issue identified in the May 19, 2026 Order is moot.

Second, the Amended Motion abandons the procedural posture that the Court found unsupported by authority. The initial motion sought *expedited* discovery expressly so that Petitioner could use the materials "in his upcoming hearing in Immigration Court," which had been advanced to June 1, 2026. *See* ECF No. 5 at 11 (Section VII, "Expedited Discovery is Warranted"). The Court found no authority supporting that use of habeas discovery. The Amended Motion does not repeat this request. It seeks discovery "on a schedule determined appropriate by the Court," ECF No. 7 at 6, tied to the legal sufficiency of Petitioner's continued detention in *this* habeas proceeding—not to Petitioner's preparation for a separate Immigration Court hearing. In place of the authority gap the Court identified, Petitioner now identifies controlling and persuasive authority establishing that district courts retain jurisdiction to review whether a bond denial is "legally erroneous," *see Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762 (N.D. Cal. 2019), *quoted in Diaz-Calderon*, 535 F. Supp. 3d at 675, and that such review extends to whether the IJ "relied upon proof—that as a matter of law—could not establish" dangerousness, *see Judulang v. Chertoff*, 562 F. Supp. 2d 1119, 1127 (S.D. Cal. 2008). Combined with the Sixth Circuit and Supreme Court authority discussed in Argument I, *see Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Rosales-Garcia v. Holland*, 322 F.3d 386 (6th Cir. 2003) (en banc); *Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003), the Amended Motion presents authority for the discovery sought that was not before the Court when it issued its May 19, 2026 Order.

Third, the scope of the requested discovery has been dramatically reduced in direct response to the overbreadth finding. The initial motion sought twenty-four discovery requests (seven interrogatories, ten RFPs, and seven RFAs) plus an immediate Rule 45 subpoena with 5 to 7 day deadlines, including USCIS policy memorandum and training materials unrelated to Petitioner's individual transaction. *See* ECF No. 5-1, 5-2. The Amended Motion seeks six discrete document requests and three focused interrogatories—all directed solely at the firearm-related

transaction underlying the dangerousness finding. There is no request for agency policies, enforcement guidelines, and no immediate subpoena. ECF No. 7-1. This satisfies the "specific allegations of fact" requirement of *Williams*, 380 F.3d at 974.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant the Amended Motion for Limited Discovery and authorize Petitioner to serve the discovery requests attached as Exhibit A to ECF No. 7, on a schedule the Court determines is appropriate.

Date: June 11, 2026

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, Margaret W. Wong, hereby certify that on June 11, 2026, I caused the *Petitioner's Reply to Respondents' Opposition to Amended Motion to Compel Discovery* in the above-captioned matter to be filed with the United States District Court for the Northern District of Ohio via the Court's CM/ECF system which will automatically send e-mail notification of such filing to Respondents' attorney(s) of record.

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