

J.M.A. v. Kurzdorfer et al

New York Western District Court

Case no. 1:25-cv-00886-MAV (W.D.N.Y.)

Filed date: March 31, 2026

Docket entry no.: 19

Docket text:

TEXT ORDER granting 1 Petition to the extent that Petitioner is entitled to a bond hearing during which the Government bears the burden of proof and denying 16 Respondents' Motion to Dismiss. On June 9, 2023, Petitioner arrived at the Calexico West Port of Entry seeking asylum. Immigration officials apprehended Petitioner, served him with a Notice to Appear, and released him into the United States. Petitioner's removal proceedings were eventually terminated. Petitioner was living at liberty in the United States until February 8, 2025, when he was arrested at a shopping center in Buffalo, New York and transferred to immigration detention at the Buffalo Federal Detention Facility, where he was served a new Notice to Appear. Petitioner has been detained for over 13 months without a bond hearing. On September 16, 2025, Petitioner filed the instant petition for writ of habeas corpus alleging that he is being unlawfully detained in violation of his due process rights under the Constitution. ECF No. 1. Petitioner requests his release or, in the alternative, a bond hearing before this Court. Respondents filed a motion to dismiss the petition. ECF No. 16. After reviewing the parties' papers, the Court finds that this case shares a common question of law with its prior cases, including *De la Cruz v. Rhoney, et al.*, 25-CV-6699, ECF No. 15 and *Da Cunha v. Freden*, No. 25-CV-6532-MAV, 2025 WL 3280575 (W.D.N.Y. Nov. 25, 2025). In those cases, the Court held that the petitioners were detained under 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b), and that the appropriate remedy was a bond hearing before an immigration judge. The Court finds the reasoning in those cases applicable here and, therefore, concludes that Petitioner is entitled to a bond hearing before an immigration judge. Additionally, after applying the three-factor test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Court finds that the Government must bear the burden of proof at the bond hearing, particularly in light of Petitioner's unreasonably prolonged detention of 13 months. See *Velasco Lopez v. Decker*, 978 F.3d 842, 846 (2d Cir. 2020); see also *Black v. Decker*, 103 F. 4th 133, 138 (2d Cir. 2024) (finding a detention of 7 months to be unreasonably prolonged). At Petitioner's bond hearing, the immigration judge must consider Petitioner's ability to pay and alternative means of assuring appearance in setting his bond and establishing appropriate terms for his potential release. See *Black*, 103 F. 4th at 138. Accordingly, it is hereby ORDERED that within ten (10) days of the date of this Order, Respondents shall provide Petitioner with a bond hearing before an immigration judge, during which the Government is required to show by clear and convincing evidence that Petitioner is either a flight risk or a danger to the community and the immigration judge must consider Petitioner's ability to pay and alternative means of assuring appearance. If such bond hearing is not conducted within ten (10) days of the date of this order, Petitioner shall be released from custody. Respondents shall file a status report no later than seventeen (17) days from the date of this order confirming that Petitioner has either been granted a bond hearing within ten (10) days or released from custody, in compliance with this Order. SO ORDERED. Signed by Hon. Meredith A. Vacca on 3/31/2026. (MVP) (Entered: 03/31/2026)