

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK

Weckenson Bail v. Philip Rhoney, in his official capacity as Acting Field Office Director, Buffalo Field Office, U.S. Immigration & Customs Enforcement, et al.

Bail · No. 1:26-CV-01235-EAW · Decided June 23, 2026

SUMMARY

The United States District Court for the Western District of New York grants an immigration detainee’s habeas petition to the extent it seeks a bond hearing. The Court requires an immigration judge to conduct the hearing by June 30, 2026, places the burden on the government to prove dangerousness or flight risk by clear and convincing evidence, and requires consideration of less-restrictive alternatives and the petitioner’s ability to pay.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                    |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Western District of New York                                                                                                                                                                                  |
| WRITING FOR THE COURT | Elizabeth A. Wolford                                                                                                                                                                                                                               |
| JURISDICTION          | United States District Court for the Western District of New York                                                                                                                                                                                  |
| DECIDED               | June 23, 2026                                                                                                                                                                                                                                      |
| DOCKET                | 1:26-CV-01235-EAW                                                                                                                                                                                                                                  |
| DISPOSITION           | other                                                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | Petitioner sought habeas relief under 28 U.S.C. § 2241 challenging his civil immigration detention and requesting a bond hearing. After ordering Respondents to show cause, the court granted the petition to the extent it sought a bond hearing. |
| STANDARD OF REVIEW    | The court applied the Mathews v. Eldridge balancing test to determine the procedural protections required at the bond hearing.                                                                                                                     |
| PRECEDENTIAL VALUE    | unknown                                                                                                                                                                                                                                            |
| PARTIES               | Weckenson Bail v. Philip Rhoney, in his official capacity as Acting Field Office Director, Buffalo Field Office, U.S. Immigration & Customs Enforcement, et al.                                                                                    |

TOPICS

immigration detention

removal proceedings

procedural due process

due process

immigration

## PRACTICE AREAS

immigration

constitutional law

civil rights

habeas corpus

remedies

## QUESTIONS PRESENTED

1. Whether Petitioner was entitled under 8 U.S.C. § 1226(a) and due process principles to a bond hearing rather than continued detention under 8 U.S.C. § 1225(b)(2).
2. What burden of proof and procedural requirements govern the bond hearing.
3. Whether the government must prove dangerousness or flight risk by clear and convincing evidence and whether the immigration judge must consider less-restrictive alternatives and Petitioner's ability to pay.

## HOLDINGS

1. Petitioner was entitled to a bond hearing before an immigration judge because the applicable detention authority was 8 U.S.C. § 1226(a), rather than mandatory detention under 8 U.S.C. § 1225(b)(2).
2. To continue Petitioner's detention after the bond hearing, the government must prove dangerousness or flight risk by clear and convincing evidence.
3. The immigration judge must consider less-restrictive alternatives to detention when evaluating the government's proof, and, if setting bond, must consider Petitioner's ability to pay and alternative conditions of release. Continued detention requires findings that no condition or combination of conditions can reasonably ensure Petitioner's appearance and community safety.

## KEY QUOTATIONS

*"After considering the balancing test set forth in Mathews v. Eldridge, 424 U.S. 319 (1976), the Court concludes that the government shall have the burden to demonstrate dangerousness or flight risk by clear and convincing evidence."* (at 2)

*"Thus, in order to continue Petitioner's detention after any bond hearing, the IJ must find by clear and convincing evidence and make findings that no condition or combination of conditions of release can reasonably ensure Petitioner's appearance and the safety of the community"* (at 2-3)

## FACTUAL BACKGROUND

Petitioner is a civil immigration detainee held in ICE custody at the Buffalo Federal Detention Facility in Batavia, New York, pending removal proceedings. He challenged the statutory basis and constitutionality of his continued detention. The opinion indicates that Respondents accepted that the circumstances implicated the same government detention policy or practice addressed in prior decisions requiring a bond hearing.

## PROCEDURAL HISTORY

Weckenson Bail filed a § 2241 petition alleging unconstitutional detention pending removal proceedings. The court issued an order to show cause, Respondents acknowledged that controlling or persuasive decisions

required the same result, and Respondents' brief motion for an extension was granted. The court ordered an immigration-judge bond hearing subject to specified procedures and required a status update.

#### DISPOSITION

other

#### REMAND INSTRUCTIONS

No remand was ordered. The court directed that an immigration judge conduct a bond hearing on or before June 30, 2026, subject to a reasonable extension if requested by Petitioner; Respondents must file a status update by July 2, 2026.

#### CASES CITED

- da Cunha v. Freden, 175 F.4th 61 (2d Cir. 2026)
- Ivonin v. Rhoney, No. 6:25-CV-06673 EAW, 2026 WL 199283 (W.D.N.Y. Jan. 26, 2026)
- Ab-Rahim v. Marich, No. 6:26-CV-06005-EAW, 2026 WL 279113, at \*1 (W.D.N.Y. Feb. 3, 2026)
- Mathews v. Eldridge, 424 U.S. 319 (1976)
- Lieogo v. Freden, No. 6:25-CV-06615 EAW, 2025 WL 3290694, at \*4-6 (W.D.N.Y. Nov. 26, 2025)

#### OPINION

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NEW YORK WECKENSON BAIL, Petitioner, v. DECISION AND ORDER 1:26-CV-01235-EAW PHILIP RHONEY, in his official capacity as Acting Field Office Director, Buffalo Field Office, U.S. Immigration & Customs Enforcement, et al.,<sup>1</sup> Respondents. Petitioner Weckenson Bail (“Petitioner”) is a civil immigration detainee alleging that he is being detained in United States Immigration and Customs Enforcement (“ICE”) custody pending removal proceedings in violation of the United States Constitution.

(Dkt. 1). He seeks relief under 28 U.S.C. § 2241. (Id.). Petitioner is being held at the Buffalo Federal Detention Facility in Batavia, New York. (Id. at ¶ 1). The Second Circuit issued a decision in da Cunha v. Freden, 175 F.4th 61 (2d Cir. 2026), holding that noncitizens who are present in the United States after entering without inspection and admission and who were not apprehended at or near the border at the time 1 Philip Rhoney is the Acting Field Office Director of the Buffalo Field Office of the United States Immigration and Customs Enforcement and thus is substituted as Respondent pursuant to Federal Rule of Civil Procedure 25(d).

The Clerk of Court is directed to update the docket to reflect this substitution. of entry are not subject to mandatory detention under 8 U.S.C. § 1225(b)(2) but instead are subject to detention under section 1226(a).

In addition, this Court issued Decisions and Orders in *Ivonin v. Rhoney*, et al., No. 6:25-CV-06673 EAW, 2026 WL 199283 (W.D.N.Y. Jan. 26, 2026) and *Ab-Rahim v. Marich*, No. 6:26-CV-06005-EAW, 2026 WL 279113, at \*1 (W.D.N.Y. Feb. 3, 2026), holding that the detention of noncitizens following expiration of parole is also governed by 8 U.S.C. § 1226(a), and not § 1225(b)(2).

Respondents acknowledge that the rulings in the identified cases concern the same or similar challenges to the government policy or practice at issue in the instant petition and would direct the same outcome in this matter entitling Petitioner to a bond hearing. (Dkt. 6).<sup>2</sup> Accordingly, for the reasons articulated in the aforementioned decisions, the petition is granted to the extent that Petitioner seeks a bond hearing, and a bond hearing shall be conducted in accordance with the following terms: 1.

Petitioner shall be granted a bond hearing before an immigration judge (“IJ”) on or before June 30, 2026. If Petitioner requests a continuance that results in a bond hearing date outside this deadline, such a continuance will comply with this Order as long as the new date falls within a reasonable time period. 2 On June 17, 2026, the Court entered a Text Order directing Respondents to show cause by June 22, 2026, why the petition should not be granted to the extent it seeks an order requiring that Petitioner receive a bond hearing.

(Dkt. 4). On June 23, 2026, Respondents responded to the order to show cause and moved for a one-day extension of the June 22, 2026 deadline. (Dkt. 6). Because Respondents did not intentionally ignore the Court’s deadline and the delay was minimal, the motion for extension of time (Dkt. 7) is granted. 2.

After considering the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Court concludes that the government shall have the burden to demonstrate dangerousness or flight risk by clear and convincing evidence. See *Lieogo v. Freden*, No. 6:25-CV-06615 EAW, 2025 WL 3290694, at \*4-6 (W.D.N.Y. Nov. 26, 2025) (Court’s analysis of *Mathews* factors under similar circumstances to this case, which applies equally here).

In deciding whether the government has met its burden of proof, the IJ must consider whether less-restrictive alternatives to detention can reasonably address the government’s interest in Petitioner’s continued detention. 3. If the IJ finds that the government has not met its burden, then in setting any bond the IJ must consider Petitioner’s ability to pay and alternative conditions of release.

4. Thus, in order to continue Petitioner’s detention after any bond hearing, the IJ must find by clear and convincing evidence and make findings that no condition or combination of conditions of release can reasonably ensure Petitioner’s appearance and the safety of the community—that is, even with conditions, Petitioner presents an identified and articulable risk of flight or a threat to another person or the community.

5. Respondents are directed to file a status update with the Court on or before July 2, 2026. SO ORDERED. ☐☐ LIZABETH A” WOLFORD Chief Judge United States District Court Dated: June 23, 2026 Rochester, New York \_3-

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