

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

SURAJ VASAL,

Petitioner,

vs.

Kristi NOEM, Secretary, Department of Homeland Security; DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; DAREN MARGOLIN, Director for Executive Office for Immigration Review; OMAHA IMMIGRATION COURT; TODD M. LYONS, Acting Director of Immigration and Customs Enforcement (ICE); IMMIGRATION AND CUSTOMS ENFORCEMENT; DAVID EASTERWOOD, St. Paul ICE Field Office Director; CORY WILLIAMS, Polk County Jail Administrator; and KEVIN SCHNEIDER, Polk County Sheriff,

Respondents.

4:26-cv-00066-SHL-WPK

ORDER GRANTING MOTION TO  
ENFORCE JUDGMENT

Petitioner Suraj Vasal filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging his detention by U.S. Immigration and Customs Enforcement (“ICE”) officials. He sought either immediate release or an individualized bond hearing within seven days. (ECF 1, p. 11; ECF 13, p. 26.) On February 24, 2026, the Court granted the request for an individualized bond and ordered, consistent with Petitioner’s request, that the bond hearing occur before an Immigration Judge within seven days. (ECF 14.) The bond hearing occurred three days later, on February 27, 2026. (ECF 18, p. 2.) However, according to Petitioner, he was only given thirty minutes’ notice that the hearing was going to occur and did not even realize it was a bond hearing until it began. (ECF 16, ¶¶ 9–10.) Meanwhile, his attorney tried to call the Executive Office of Immigration Review (“EOIR”) the same morning but received information suggesting there was

no hearing. (Id., ¶¶ 7–8.) Vasal further alleges that once the hearing started, the Immigration Judge refused his request to continue it to allow his attorney to attend. (Id., ¶¶ 13–16.)

Respondents do not dispute the facts as Petitioner describes them. Nonetheless, they argue that the Immigration Judge had little choice but to move forward with the bond hearing despite Petitioner’s request for a continuance because the Immigration Judge (a) “had a lighter docket on Friday, February 27, 2026, and thus time to hold the hearing” in comparison to a heavier docket early the following week, and (b) did not want to “risk[] being unable to comply with this Court’s order. Thus, the Immigration Judge followed the order of this Court.” (ECF 18, ¶ 6.) Respondents blame Petitioner and his counsel for the fact that he had to participate in the bond hearing pro se, noting that counsel would have received electronic notice of all hearings had counsel promptly entered a notice of appearance. (Id., ¶ 3.) Finally, and in any event, Respondents assert that Petitioner’s remedy if he was denied counsel or aggrieved by the result of the bond hearing is to take an appeal to the Board of Immigration Appeals. (Id., ¶ 7.)

The Court agrees with Respondents in one limited respect: Petitioner’s counsel should have entered an appearance more quickly in the immigration proceeding. After all, Petitioner filed his Petition for Writ of Habeas Corpus with assistance of counsel more than two weeks before the bond hearing ended up being held. He presumably could have—and should have—lined up counsel for the immigration proceeding during this same period.

In all other respects, however, Respondents’ arguments test the border of bad faith. They do not appear to contest that Petitioner himself was given only thirty minutes’ notice of the hearing on February 27, 2026, and did not realize it would be his bond hearing until the moment it began. This is difficult to justify in a situation where (as Respondents happily point out) counsel had not entered an appearance on Petitioner’s behalf. In essence, Respondents’ position is that it is acceptable to force a pro se party to participate in a hearing where his liberty is on the line with, at most, thirty minutes’ notice. The timing made it impossible for Petitioner to marshal evidence in his defense, such as evidence of work authorization, information from his employer, testimony or letters of support from friends and family members, and evidence of his living situation. This is a denial of the basic due process rights afforded to him under the Fifth Amendment and 8 U.S.C. § 1229a(b)(4)(B), which states that Vasal “shall have a reasonable opportunity to examine the evidence against [him], to present evidence on [his] own behalf, and to cross-examine witnesses presented by the Government....” *See, e.g., Al Khouri v. Ashcroft*, 362 F.3d 461, 464 (8th Cir. 2004)

(“The Fifth Amendment’s due process clause mandates that removal proceedings be fundamentally fair.”); *Tun v. Gonzales*, 485 F.3d 1014, 1025 (8th Cir. 2007) (“For a removal hearing to be fair, the arbiter presiding over the hearing must be neutral and the immigrant must be given the opportunity to fairly present evidence, offer arguments, and develop the record.”); *Andriasian v. I.N.S.*, 180 F.3d 1033, 1041 (9th Cir. 1999) (“[A] basic tenet of constitutional due process [is] that individuals whose rights are being determined are entitled to notice of the issues to be adjudicated, so that they will have the opportunity to prepare and present relevant arguments and evidence.”).

The Immigration Judge also appears to have violated Petitioner’s statutory right to counsel by refusing to continue the hearing. *See United States v. Yan Naing*, 820 F.3d 1006, 1010 (8th Cir. 2016) (“Although aliens have no Sixth Amendment right to counsel in immigration proceedings, they do have a statutory right to have counsel represent them at their own expense under 8 U.S.C. §§ 1229a(b)(4)(A) and 1362.”) 8 U.S.C. § 1229a(b)(4)(A) states that in removal proceedings, “the alien shall have the privilege of being represented, at no expense to the Government, by counsel of the alien’s choosing who is authorized to practice in such proceedings.” 8 U.S.C. § 1362 states that “[i]n any removal proceedings before an immigration judge and in any appeal proceedings before the Attorney General from any such removal proceedings, the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose.” The Immigration Judge appears to have violated this right by refusing to continue the hearing to allow Petitioner’s counsel to appear. *See, e.g., Freza v. Att’y Gen. United States*, 49 F.4th 293, 299 (3d Cir. 2022) (holding that Immigration Judge violated petitioner’s right to counsel by refusing to continue hearing to allow counsel to attend); *Hernandez-Gil v. Gonzales*, 476 F.3d 803, 808 (9th Cir. 2007) (similar).

To make matters worse, it appears that the Immigration Judge—with Respondents’ full support—is trying to blame this Court for what happened. Respondents’ position, in essence, is that the Immigration Judge had no choice but to move forward with the hearing on February 27, 2026, to ensure it happened within seven days of this Court’s Order on February 24, 2026. This argument is frivolous. For starters, there is no reason why this particular Immigration Judge had to handle the bond hearing. If her schedule was too crowded to allow it to occur within the seven-day period while still preserving Petitioner’s rights to counsel and due process, she should have transferred the case to a different Immigration Judge. If there were no other Immigration Judges available within the requisite seven-day period, Respondents could have moved for an extension,

as has occurred in analogous situations in other recent habeas cases the Court has handled. (It bears mentioning, in any event, that any shortage in resources is Respondents' own fault for undertaking aggressive immigration enforcement efforts without sufficient preparation or infrastructure to ensure the protection of due process rights.)

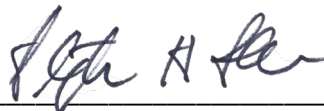
The only thing the Immigration Judge should *not* have done is plow forward with the hearing on February 27, 2026, in violation of Petitioner's rights. And yet this is what happened. Moreover, to the extent Petitioner is required to show prejudice from the denial of his due process rights, he has done so. As far as the Court can tell from the incomplete record it has, Petitioner has a job, pays his taxes, has a pending asylum case, and has no criminal history other than a traffic violation. It is difficult to see how the Immigration Judge could have concluded in these circumstances that he is a flight risk. The fact that she reached this conclusion shows that Respondents' insistence on having a bond hearing with minimal notice to Petitioner and without protecting his right to counsel is highly likely to have made a difference in the outcome.

In these circumstances, the Court GRANTS Petitioner's Motion to Enforce Judgment and ORDERS as follows:

1. Within seven days, Respondents must provide Petitioner with an individualized bond hearing before an Immigration Judge pursuant to 8 U.S.C. § 1226(a). The Immigration Judge must decide the issue of bond or detention on the merits and may not conclude that jurisdiction to order bond does not exist.
2. The matter must be heard by a different Immigration Judge than the one who handled Petitioner's bond hearing on February 27, 2026.
3. Respondents must provide Petitioner and his counsel at least forty-eight hours' notice before the hearing occurs.
4. If the hearing does not occur within seven days (i.e., by close of business on March 31, 2026), Petitioner must be immediately released. The only exception is if Petitioner himself requests a continuance of the hearing beyond the seven-day period, in which case: (a) the continuance must be granted to the extent reasonably necessary to ensure adequate preparation and the presence of counsel, and (b) immediate release is not required.
5. Within fourteen days, one or both Parties must file a notice confirming that Petitioner has been granted the individualized bond hearing required by this Order. The notice also should state the outcome of the hearing.

IT IS SO ORDERED.

Dated March 24, 2026.



---

Stephen H. Locher  
UNITED STATES DISTRICT JUDGE