UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IBRAHIMA DIALLO,

Petitioner,

v.

RAUL MALDONADO, JR., in his official capacity as Warden of the Metropolitan Detention Center; **WILLIAM JOYCE**, in his official capacity as Acting Director, New York Field Office for U.S. Immigration and Customs Enforcement; **KRISTI NOEM,** in her official capacity as Secretary, U.S. Department of Homeland Security; **TODD LYONS,** in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; **U.S. DEPARTMENT OF HOMELAND SECURITY;** and **U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT,**

Respondents.

Civil Action No.: 25-cv-5740

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

ORAL ARGUMENT REQUESTED

INTRODUCTION

1. Ibrahima Diallo ("Petitioner," or "Ibrahima"), a 21-year-old young man from Guinea with no criminal history, has had (1) an application for Special Immigrant Juvenile Status ("SIJS") pending before the U.S. Department of Homeland Security ("DHS"), U.S. Citizenship and Immigration Services ("USCIS") since on or about May 8, 2025 and (2) timely applied for

asylum based on a fear of persecution in his native country of Guinea.[1] A grant of SIJS or asylum would give Ibrahima a pathway to legal permanent status in the United States.

2. On June 20, 2025, Ibrahima appeared, in person, for a routine appearance in connection with removal proceedings before an Immigration Judge in New York, New York. Although Ibrahima is a native Fulani and French speaker, upon information and belief, no interpreter was present for the hearing. At the hearing, DHS unilaterally moved to dismiss Ibrahima's proceedings. The Immigration Judge granted DHS's motion to dismiss without prejudice over counsel's objection.

3. After the appearance and upon leaving the courtroom, Immigration and Customs Enforcement ("ICE") officers, who were masked and did not identify themselves, arrested and detained Ibrahima, without any notice or warning, in the hallway. The arrest and detention were purportedly pursuant to an administrative warrant, under section 236 of the Immigration and Nationality Act (8 U.S.C. § 1226). The warrant was signed but does not appear to include a full printed name or title and the certificate of service was incomplete.

4. Since he was initially detained by ICE on June 20, 2025, Ibrahima was moved between different detention facilities until he was finally detained at the Metropolitan Detention Center ("MDC") in Brooklyn, New York where he remains.

5. Until June 20, 2025, Ibrahima had been at liberty since on or about December 25, 2023, after he was released on his own recognizance by immigration authorities at the border, placed in removal proceedings, and ordered to appear before an Immigration Judge in 2024.

[1] Ibrahima was represented by different counsel than the undersigned in connection with his asylum and immigration court proceedings. His SIJS application was filed *pro se.* As discussed further herein, Ibrahima's removal proceedings—where he had applied for asylum—were dismissed pursuant to a policy that has since been enjoined, *Afr. Cmtys. Together v. Lyons*, 25-cv-6366 (PKC), 2025 U.S. Dist. LEXIS 179585 (S.D.N.Y. Sept. 12, 2025), and subsequently withdrawn by the Executive Office of Immigration Review. *See* EOIR Memo, Withdrawal of May 30, 2025, Email (Sept. 23, 2025), https://www.justice.gov/eoir/media/1414836/dl?inline.

Throughout the removal proceedings, Ibrahima appeared in person for all court immigration proceedings as directed.

6. DHS's motion to dismiss Ibrahima's proceedings appears to be part of a wider coordinated practice wherein DHS dismissed removal proceedings in order to arrest and detain noncitizens under an expedited removal procedure.

7. Ibrahima now respectfully asks this Court to hold that his continued detention is unlawful and order his immediate release from custody, or in the alternative, hold a bond hearing. He also respectfully asks that this Court order Respondents not to transfer him outside of the District for the duration of this proceeding.

PARTIES

8. Ibrahima is a citizen of Guinea and a resident of New York City who was at liberty since he was released by immigration authorities at the border on or about December 25, 2023 and until he was detained by ICE on or about June 20, 2025. He is currently detained at the Metropolitan Detention Center ("MDC") and is in the custody and direct control of Respondents and their agents.

9. Respondent Raul Maldonado, Jr. is named in his official capacity as the Warden of the MDC where Ibrahima is currently detained. Respondent Maldonado is responsible for the operation of the MDC and is the legal custodian of Ibrahima.

10. Respondent William Joyce is named in his official capacity as the Acting Director of the New York City Field Office Immigration and Customs Enforcement within the United States Department of Homeland Security. In this capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations and is legal custodian of Petitioner. Respondent Joyce's address is 26 Federal Plaza, 9th Floor, New York, New York

10278. Respondent Joyce is charged with exercising authority over ICE's New York Field Office including, but not limited to, the detention of Ibrahima.

11. Todd Lyons is named his official capacity as Acting Director, U.S. Immigration and Customs Enforcement, and as such is the legal custodian of Ibrahima.

12. Respondent Kristi Noem is named in her official capacity as the Secretary, U.S. Department of Homeland Security. In this capacity, she is responsible for overseeing ICE's operations, leading approximately 20,000 ICE employees, including Respondents Joyce and Lyons.

13. Respondent U.S. Department of Homeland Security is an executive department of the United States Government headquartered in Washington, D.C. DHS is the parent agency of ICE.

14. Respondent U.S. Immigration and Customs Enforcement is a component agency of DHS and is responsible for enforcing federal immigration law, including the detention and removal of immigrants.

JURISDICTION AND VENUE

15. This Court has jurisdiction under the U.S. Constitution. U.S. Const. art. I § 9, cl. 2 ("The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require."). The Suspension Clause protects the right to the writ of habeas corpus where no adequate or effective alternative remedy exists. *See Boumediene v. Bush*, 553 U.S. 723, 745 (2008).

16. The Court also has jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (the All Writs Act); 28 U.S.C. § 2241 (habeas corpus); and 5 U.S.C. § 701 (the Administrative Procedure Act).

17. This Court has additional remedial authority under 28 U.S.C. §§ 2201-02 (the Declaratory Judgment Act) to grant injunctive and declaratory relief.

18. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (same); *Black v. Decker*, 103 F.4th 133, 143 (2d Cir. 2024) (same).

19. Venue is proper in the Eastern District of New York because at the time of filing, Petitioner is detained at the MDC in Brooklyn, New York within the jurisdiction of the Eastern District of New York. *See* 28 U.S.C. § 2241(c)(3) and 28 U.S.C. §§ 1391(b)(2) and (e)(1*)* 28 U.S.C. § 1391(e)(1).

RELEVANT FACTS AND PROCEDURAL HISTORY

20. Ibrahima is a 21-year-old young man who, at the age of 19, fled persecution in Guinea because of his race/ethnicity and because of his political opposition to the regime in Guinea, which—like preceding governments in Guinea—has long repressed the Fulani people. He entered the United States on or about December 23, 2023, at or near Lukeville, Arizona, in order to seek protection. *See* Exhibit A. On December 25, 2023, Ibrahima was served with a Notice to Appear by DHS wherein he was charged with being subject to removal pursuant to 212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA") (8 U.S.C. § 1182(a)(6)(A)(i)) and directed to appear before an Immigration Judge on June 20, 2024, in Newark, New Jersey. *Id.* At this time, Ibrahima was released on his own recognizance into the United States "[i]n accordance with section 236 of the [INA]," i.e., in accordance with 8 U.S.C. § 1226. *See* Exhibit B.

21. On June 20, 2024, Ibrahima received a Notice of In-Person Hearing wherein his case was scheduled for a master calendar hearing before the immigration court on October 4, 2028, in Newark, New Jersey. *See* Exhibit C. On July 23, 2024, Ibrahima timely filed a *pro se* application for asylum, withholding of removal, and protection under the Convention Against Torture.[2] On August 5, 2024, an immigration judge granted his request to change venue to the immigration court located at 290 Broadway, New York, New York due to Ibrahima changing his residence to Bronx, New York, *see* Exhibit D, and on August 6, 2024, his master calendar hearing was reset to March 21, 2025, before the New York immigration court. *See* Exhibit E. On March 21, 2025, his master calendar hearing was reset to June 20, 2025. *See* Exhibit F.

22. On May 2, 2025, the Bronx Family Court appointed a guardian for Ibrahima. The Court also issued a "Special Findings Order," making certain findings necessary for Ibrahima to pursue lawful status under the Special Immigration Juvenile Status ("SIJS") program. *See* Exhibit G. The Bronx Family Court found that Ibrahima was under the age of 21; unmarried; dependent on the Bronx Family Court based on a final order of guardianship issued on May 2, 2025; unable to reunify with either of his parents due to neglect of his mother and death of his father; and demonstrated that it was not in his best interest to return to Guinea because he lacks direct relatives there who can care or support him and because he suffered harm "at the hands of the Guinean government." *Id.*

23. On May 8, 2025, Ibrahima submitted a *pro se* I-360 Petition for Special Immigrant Juvenile Status. *See* Exhibit H.

[2] On April 21, 2025, with the assistance of his immigration counsel, Ibrahima filed another application for asylum. On May 5, 2025, with assistance, Ibrahima filed an amended *pro se* application for asylum, amending the previously filed July 23, 2024, application.

24. In about late May 2025, DHS began implementing two apparent policies: moving to dismiss removal proceedings for the purposes of placing noncitizens in expedited removal and detaining noncitizens who appeared for their court dates. *See, e.g.*, *Afr. Cmtys. Together v. Lyons*, No. 25-CV-6366 (PKC), 2025 U.S. Dist. LEXIS 179585, at *11-13 (S.D.N.Y. Sept. 12, 2025). Having seen the news that people who appeared for court were being arrested, Ibrahima was extremely frightened to appear in person for his scheduled master calendar hearing on June 20, 2025. Ibrahima requested to attend the hearing virtually, but the request was denied.

25. On June 20, 2025, Ibrahima appeared, in person, for a routine appearance in connection with removal proceedings before an Immigration Judge at 290 Broadway, New York, NY 10007. Although Ibrahima is a native Fulani speaker who is also fluent in French, upon information and belief, no interpreter was present for the hearing. At the hearing, DHS unilaterally moved to dismiss Ibrahima's proceedings. The Immigration Judge granted DHS's motion to dismiss without prejudice, over his counsel's objection. *See* Exhibit I.

26. After the appearance and upon leaving the courtroom, Immigration and Customs Enforcement ("ICE") officers, who were masked and did not identify themselves, arrested and detained Ibrahima, without any notice or warning, in the hallway. The arrest and detention were purportedly based on an administrative warrant authorized "pursuant to sections 236 and 287 of the Immigration and Nationality Act" (8 U.S.C. § 1226 and 8 U.S.C. § 1357, respectively). The warrant was signed but did not include a fully printed name and title nor was the certificate of service completed. *See* Exhibit J.

27. Since being initially detained by ICE on June 20, 2025, Ibrahima has been moved between different detention facilities. Upon information and belief, after originally being detained

at 26 Federal Plaza for two days (with no food or drink, other than a small bottle of water and piece of chocolate, and having to sleep on the floor),[3] Ibrahima was then transferred to the Nassau County Correctional Center in East Meadow, New York for three days. Ibrahima was then subsequently transferred back to 26 Federal Plaza for one night. Ibrahima was then transferred to the MDC in Brooklyn, New York to be detained. Ibrahima remains at the MDC as of this filing.

28. Until June 20, 2025, Ibrahima had been at liberty since shortly after his entry into the United States in late December 2023. *See* ¶ 20, *supra*. While at liberty, Ibrahima was a member of The Door, a 501(c)(3) organization that assists young people ages 12 to 24 in Manhattan and the Bronx with a comprehensive array of services, including health care, education, mental health counseling, legal services, housing, nutritional needs, and sports and recreation. Ibrahima also took English classes approximately three days a week.

29. On June 26, 2025, Ibrahima's immigration counsel filed a notice of appeal of the Immigration Judge's June 20, 2025, decision before the Board of Immigration Appeals. *See* Exhibit K. Because there is an appeal pending before the BIA, Ibrahima is currently not subject to expedited removal. *See* 8 U.S.C. § 1229a(a)(3); 8 C.F.R. §§ 1003.39, 1240.14.

30. On August 15, 2025, Ibrahima through counsel requested release from ICE. On August 16, 2025, an ICE official responded that Ibrahima was subject to mandatory detention and therefore not eligible for release. *See* Exhibit L.

31. Ibrahima has not sought a bond hearing before an immigration judge because doing so would be futile. In September 2025, the Board of Immigration Appeals issued a precedential decision that is binding on the immigration court, holding that noncitizens like Ibrahima who are

[3] On September 17, 2025, a federal judge enjoined ICE from detaining people at 26 Federal Plaza, subject to certain conditions of confinement. *See Mercado v. Noem*, 25-cv-6568 (LAK), 2025 U.S. Dist. LEXIS 182904 (S.D.N.Y. Sept. 17, 2025).

present in the United States without admission are subject to mandatory detention. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *Yajure Hurtado* represents a drastic break with nearly thirty years of detention jurisprudence and agency practice, and "*every court* who has examined this novel interpretation of Section 1225 by the United States has rejected [this] theory." *Barrera v. Tindall*, No. 3:25-CV-541-RGJ, 2025 U.S. Dist. LEXIS 184356, at *13-14 (W.D. Ky. Sept. 19, 2025) (collecting cases); *see also J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 U.S. Dist. LEXIS 191630, at *20 (E.D.N.Y. Sept. 29, 2025) ("Respondent has not pointed to a single Article III court that has adopted its expansive construction of § 1225(b)(2)").

LEGAL FRAMEWORK

SIJS Provides a Pathway to Permanent Status for Certain Vulnerable Young People

32. In 1990, Congress created SIJS to protect vulnerable immigrant children and provide them a pathway to citizenship. Immigration Act of 1990, Pub. L. No. 101-649, § 153, 104 Stat. 4978 (1990) (amending various sections of the Immigration and Nationality Act); Special Immigrant Status, 58 Fed. Reg. 42843 (Aug. 12, 1993) ("This rule alleviates hardships experienced by some dependents of United States juvenile courts by providing qualified [noncitizens] with the opportunity to apply for special immigrant classification and lawful permanent resident status, with [the] possibility of becoming citizens of the United States in the future."). Since 1990, Congress has amended the INA multiple times to expand the protections of SIJS.

33. To be granted SIJS, young people like Ibrahima must first "satisfy[] a set of rigorous, congressionally defined eligibility criteria." *Osorio-Martinez v. Attorney General of the U.S.*, 893 F.3d 153, 163 (3d Cir. 2018). Specifically, the Immigration and Nationality Act ("INA") provides that those eligible for SIJS designation, as relevant here, are noncitizen individuals under the age of 21 who are present in the United States; who have been declared dependent on a state

juvenile court; who cannot be reunified with one or more parents because of abuse, neglect, or abandonment; and for whom it has been determined that it is not in their best interest to return to their country of origin. 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11.

34. Upon receipt of a state court order finding the young person cannot be safely reunited with parent(s) nor safely sent back to their country of origin, the youth can apply for SIJS. The application process includes submitting a Form I-360 SIJS Petition to USCIS, along with the predicate state court order and other supporting evidence. *See* 8 C.F.R. § 204.11(b). USCIS then considers the application and supporting documentation to determine whether to exercise its statutory "consent function" to approve the petition. *See* 8 U.S.C. § 1101(a)(27)(J)(iii). By exercising its statutory consent function to grant SIJS, the agency recognizes the state court's determinations including that the child's return to their country of origin would be contrary to their best interests. *See id.* While Ibrahima's SIJS petition has not yet been approved, the Family Court determined he meets the necessary qualifications. "USCIS relies on the expertise of the juvenile court in making child welfare decisions and does not reweigh the evidence to determine if the child was subject to abuse, neglect, abandonment, or a similar basis under state law." *See* USCIS Policy Manual, Vol. 6, Part J, Ch. 2, Part D and 8 C.F.R. § 204.11(d)(5).

Noncitizens Are Entitled to Due Process Protections Under the Constitution

35. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (considering due process protections for noncitizens detained pursuant to 8 U.S.C. § 1231); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Freedom from physical restraint "lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

36. In *Zadvydas v. Davis*, the Supreme Court held that to avoid offending the Due Process Clause, detention under that provision is limited to "a period reasonably necessary to bring about" the individual's removal from the United States. 533 U.S. at 689. While detention is presumptively reasonable for up to six months, *id.* at 701, reasonableness is measured "primarily in terms of the statute's basic purpose, namely, assuring the [noncitizen's] presence at the moment of removal." *Id.* at 699.

37. Immigration detention serves two goals: "ensuring the appearance of [noncitizens] at future immigration proceedings" and "preventing danger to the community." *Id.* at 690.

38. The same due process concerns equally hold true for noncitizens detained under other provisions of the INA. For example, in considering noncitizens' challenge to detention under 8 U.S.C. § 1226(c), the Second Circuit explained that the government must "justify continued detention by clear and convincing evidence." *Black v. Decker*, 103 F.4th 133, 157 (2d Cir. 2024).

39. The Due Process Clause of the Fifth Amendment also guarantees noncitizens and citizens alike notice and an opportunity to be heard before being deprived of a protected interest. *See Mathews v. Eldridge*, 424 U.S. at 319 (1976); *Joint Anti-Fascist Refugee Comm. v. McGrath*, 341 U.S. 123, 168 (1951) (Frankfurter, J., concurring) ("[T]he right to be heard before being condemned to suffer grievous loss of any kind . . . is a principle basic to our society.").

Noncitizens Have a Constitutional Right of Access to the Courts

40. Noncitizens have a right of access to courts. "It is well established that all persons enjoy a constitutional right of access to the courts, although the source of this right has been variously located in the First Amendment right to petition for redress, the Privileges and Immunities Clause of Article IV, section 2, and the Due Process Clauses of the Fifth and Fourteenth Amendments." *Monsky v. Moraghan*, 127 F.3d 243, 247 (2d Cir. 1997). "The right of

access to the courts has a number of constitutional roots, including the Due Process Clause and the First Amendment." *Allah v. Seiverling*, 229 F.3d 220, 224 n. 4 (3d Cir. 2000).

41. Due process also protects a noncitizen's liberty interest in the adjudication of applications for relief and benefits made available under the immigration laws. *See Aravelo v. Ashcroft,* 344 F.3d 1, 15 (1st Cir. 2003) (recognizing protected interests in the "right to seek relief").

42. Arrests at Immigration Courts violate the constitutional right of access to courts. *Cf. Doe v. U.S. Immigr. & Customs Enf't*, 490 F. Supp. 3d 672, 694 (S.D.N.Y. 2020); *see also Washington v. U.S. Dep't of Homeland Sec.*, 614 F. Supp. 3d 863, 883 (W.D. Wash. 2020).

43. To demonstrate that a plaintiff has been denied access to a court, they must "demonstrate that a defendant caused 'actual injury, . . . *i.e.*, took or was responsible for actions that 'hindered [a plaintiff's] efforts to pursue a legal claim.'" *Monsky*, 127 F.3d at 247.

Federal Agencies Must Adhere to Their Own Regulations

44. It has long been settled in the Second Circuit that immigration authorities are required to adhere to their own regulations. *See Montilla v. I.N.S.*, 926 F.2d 162, 169 (2d Cir. 1991). Drawing on the doctrine set forth by the Supreme Court in another immigration case, *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266–67 (1954), the Second Circuit held that, where an agency has promulgated a regulation impacting individual rights, "fundamental notions of fair play underlying the concept of due process" require that the agency adhere to that regulation. *Montilla*, 926 F.2d at 167.

45. The Administrative Procedure Act forbids agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). A court reviewing agency action "must assess . . . whether the decision was based on a

consideration of the relevant factors and whether there has been a clear error of judgment"; it must "examin[e] the reasons for agency decisions—or, as the case may be, the absence of such reasons." *Judulang v. Holder*, 565 U.S. 42, 53 (2011) (quotations omitted).

46. When the government has promulgated "[r]egulations with the force and effect of law," those regulations "supplement the bare bones" of federal statutes and in areas of law, such that agencies must follow their own "existing valid regulations," even where government officers have broad discretion, such as in the area of immigration. *United States ex rel. Accardi Shaughnessy,* 347 U.S. 260, 265-268 (1954) (reversing in immigration case after review of warrant for deportation); *see also Morton v. Ruiz,* 415 U.S. 199, 235 (1974) ("[I]t is incumbent upon agencies to follow their own procedures . . . even where [they] are possibly more rigorous than otherwise would be required."); *Battle v. FAA*, 393 F.3d 1330, 1336 (D.C. Cir. 2005) ("*Accardi* has come to stand for the proposition that agencies may not violate their own rules and regulations to the prejudice of others."). Breaches of *Accardi's* rule constitute violations of both the Fifth Amendment's Due Process Clause and the APA. *See Rowe v. United States AG*, 545 Fed.App'x. 888, 890 (11th Cir. 2013) (recognizing the *Accardi* doctrine holds that to ensure due process an agency is required to follow its own regulations when exercising discretion and issuing a decision); *Mayers v. United States INS*, 175 F.3d 1289, 1300 (11th Cir. 1999) (recognizing that a review of statutory questions implicates due process and that *Accardi* used habeas to ensure due process, because the "crucial question" was whether the Attorney General's conduct deprived an individual the rights guaranteed under a statute or regulations).

47. In *Damus v. Nielsen,* the Court explained "that 'agencies cannot relax or modify regulations that provide the only safeguard individuals have against unlimited agency discretion.'" 313 F. Supp. 3d 317, 336 (citing *Lopez v. FAA*, 318 F.3d 242, 247 (D.C. Cir. 2003) *as amended*

(Feb. 11, 2003)). In *Damus*, the Court rejected the government's argument that it lacked jurisdiction over Petitioners' claim regarding the failure of ICE to follow a parole directive. The Court concluded that "the policies and procedures contained in the Directive establish a set of minimum protections for those seeking asylum, including an opportunity to submit documentation, the availability of an individualized parole interview, and an explanation of the reasons for parole denial. The Directive therefore falls squarely within the ambit of those agency actions to which the doctrine may attach." *Id.* at 337-38.

The Statutory Authority to Detain Noncitizens Already Present in the U.S. Requires a Bond Hearing

48. The two primary statutory provisions that govern the detention of noncitizens prior to an order of removal are 8 U.S.C. § 1226(a) and 8 U.S.C § 1225(b).[4]

49. Section 1226(a) governs the detention of most noncitizens who are already in the United States and subject to formal removal proceedings before an immigration court under 8 U.S.C. § 1229a. 8 U.S.C. § 1226(a); *see also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) ("[U.S. immigration law] authorizes the Government to detain certain ***[noncitizens] already in the country*** pending the outcome of removal proceedings under §§ 1226(a) and (c).") (emphasis added). "Section 1226(a) sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of [a noncitizen] 'pending a decision on whether the [noncitizen] is to be removed from the United States.'" *Jennings,* 583 U.S. at 287-89.

50. Detention under Section 1226(a) is discretionary, not mandatory; the government "may release the [noncitizen] on—(A) a bond of at least $1,500 with security approved by, and

[4] Section 1226(c) concerns mandatory detention for noncitizens who have been convicted, or in some circumstances arrested, for certain criminal offenses, and is irrelevant to Ibrahima's petition.

containing conditions prescribed by, the Attorney General; or (B) conditional parole[.]" 8 U.S.C. § 1226(a)(2)(A)-(B).

51. Pursuant to regulation, prior to detention pursuant to Section 1226(a), immigration officers must allow a noncitizen to "demonstrate to the satisfaction of the officer that . . . release would not pose a danger to property or persons, and that the [noncitizen] is likely to appear for any future proceeding." 8 C.F.R. § 1236.1(c)(8).

52. If, after an individualized consideration, ICE chooses to detain the noncitizen pursuant to Section 1226(a) pending removal proceedings, the individual may ask for a bond redetermination hearing before the immigration judge. 8 C.F.R. § 1003.19.

53. In contrast with Section 1226, which applies to "certain [noncitizens] already in the country," *Jennings*, 583 U.S. at 289 (emphasis added), Section 1225(b) governs detention of noncitizens seeking entry into the United States (i.e., "applicants for admission").

54. Section 1225(b)(2)(A) provides that, "if the examining officer determines that a [noncitizen] seeking admission is not clearly and beyond a doubt entitled to be admitted, the [noncitizen] shall be detained for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b). (emphasis added). In other words, Section 1225(b) mandates detention for those noncitizens subject to it, and they are not eligible to be considered for release.

55. Multiple federal courts have recently held that the government cannot unilaterally reclassify a noncitizen's detention as mandatory pursuant to Section 1225 after arresting them under the discretionary authority of Section 1226. *See, e.g., Lopez Benitez v. Francis*, No. 25-cv-5937 (DEH), 2025 U.S. Dist. LEXIS 157214, at *13-25 (S.D.N.Y. Aug. 8, 2025) (where arrest warrants and the record referenced Section 1226 as a basis for detention, in reply to a habeas petition, the government could not justify said detention as mandatory pursuant to Section 1225);

Martinez v. Hyde, No. 25-11613-BEM, 2025 U.S. Dist. LEXIS 141724, at *3-4 (D. Mass. July 24, 2025) (rejecting the government's attempt to reclassify its detention authority where the documentation supporting arrest referred to Section 1226).

CLAIMS FOR RELIEF

COUNT ONE
VIOLATION OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION (SUBSTANTIVE DUE PROCESS)

56. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

57. Petitioner is being detained without cause and in violation of his constitutional right to due process under the Fifth Amendment.

58. The Respondents' detention of Petitioner is unjustified and unlawful.

59. To comport with due process protections, detention must bear a reasonable relationship to its two regulatory purposes—to ensure the appearance of noncitizens at future hearings and to prevent danger to the community pending the completion of removal. *Zadvydas*, 533 U.S. at 690-691. Neither goal is served by Petitioner's detention.

60. Petitioner is neither a danger nor a flight risk. The detention of Petitioner is arbitrary on its face. Petitioner attended all immigration court dates as required. In fact, he was detained by ICE immediately after the conclusion of an immigration court proceeding, demonstrating that there is no need for him to be detained to ensure his presence at those proceedings.

61. Petitioner's detention therefore deprives him of his rights to Due Process under the Fifth Amendment of the United States Constitution.

62. Petitioner has no adequate remedy at law.

COUNT TWO
VIOLATION OF THE FIFTH AMENDMENT'S DUE PROCESS CLAUSE
(PROCEDURAL DUE PROCESS)

63. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

64. Petitioner is being detained without cause and in violation of his constitutional right to due process under the Fifth Amendment.

65. The Respondents' detention of Petitioner is unjustified and unlawful.

66. The Procedural Due Process Clause of the Fifth Amendment prohibits the government from depriving an individual of a protected interest without notice and an opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. at 319, 333 (1976).

67. Respondents provided Petitioner with no notice or opportunity to be heard prior to arresting and detaining him.

68. Respondents have failed to provide Petitioner with a meaningful opportunity to be heard or challenge his detention since detaining him.

69. Petitioner's detention therefore deprives him of his rights to Due Process under the Fifth Amendment of the United States Constitution.

70. Petitioner has no adequate remedy at law.

COUNT THREE
VIOLATION OF THE APA, 5 U.S.C. § 706(2)

71. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

72. Petitioner is being detained without cause and in violation of the APA.

73. The Respondents' detention of Petitioner is unjustified and unlawful.

74. Respondents' actions causing Petitioner's detention are arbitrary and capricious, an abuse of discretion, contrary to constitutional right, and in excess of statutory jurisdiction. 5 U.S.C. § 706(2).

75. Respondents' actions further violate the *Accardi* doctrine and federal agencies' own rules. *Montilla*, 926 F.2d 162.

76. On June 20, 2025, ICE detained Petitioner at 290 Broadway as part of a coordinated effort to dismiss cases and invoke expedited removals in immigration courts. Respondents have not provided any justification for specifically targeting, arresting and detaining Petitioner, who is SIJS-eligible, has a SIJS petition pending before USCIS after having obtained a "Special Findings Order" from Bronx Family Court, has no criminal record, and had attended all immigration court dates as required. Further, despite having arrested him pursuant to section 236 of the INA, *i.e.*, 8 U.S.C. § 1226, Respondents have denied Petitioner any meaningful opportunity to seek bond.

77. 5 U.S.C. § 706(2) requires that government agencies do not act arbitrary and capriciously and the *Accardi* doctrine requires that government agencies do abide by rules and procedures in taking agency actions. Respondents' indiscriminate and unjustified detention is an arbitrary, capricious, and unlawful action taken by the Respondents without regard for his constitutional and statutory rights.

78. Petitioner has no adequate remedy at law.

COUNT FOUR
VIOLATION OF CONSTITUTIONAL AND STATUTORY RIGHTS TO AN ADJUDICATION OF SIJS PROTECTION

79. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

80. Respondents' failure to accord Petitioner with an individualized custody determination that takes into account his *prima facie* SIJS eligibility violates his right to procedural due process, the *Accardi* doctrine, the APA and the INA. *See United States ex. rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). "Where the rights of individuals are affected," agencies must follow their own policies and procedures. *Morton v. Ruiz*, 415 U.S. 199, 235 (1974).

81. Petitioner has no adequate remedy at law.

COUNT FIVE
RELEASE ON BAIL PENDING ADJUDICATION

82. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

83. This Court has the "inherent authority" to grant bail to habeas petitioners like Petitioner. *See Mapp v. Reno*, 241 F.3d 221, 230 (2d Cir. 2001); *see also L.G.M. v. LaRocco*, 2025 U.S. Dist. LEXIS 144418, at *7-10, 25-cv-2631 (PKC) (E.D.N.Y. June 25, 2025) (finding the district court could hold bond hearing and referring to cases where district courts found bond hearings by immigration judges to be constitutionally lacking); *L.G.M. v. LaRocco*, 2025 U.S. Dist. LEXIS 147451, 25-cv-3631 (PKC) (E.D.N.Y. Jul. 31, 2025) (granting bail subject to restrictions).

84. When considering such a petition, courts access (1) "whether the petition raises substantial claims" and (2) "whether extraordinary circumstances exist that make the grant of bail necessary to make the remedy effective." *Elkimya v. Dep't of Homeland Sec.*, 484 F.3d 151, 154 (2d Cir. 2007) (internal quotations omitted).

85. This petition raises numerous substantial constitutional and statutory claims challenging Petitioner's detention.

86. Petitioner has demonstrated extraordinary circumstances thereby making him eligible for bail.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

a. Exercise jurisdiction over this matter;

b. Pursuant to 28 U.S.C. § 2243, issue an order to show cause directing Respondents to file a return within three (3) days absent good cause for a short extension, and set the matter for prompt hearing;

c. Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition and his pending SIJS petition;

d. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the Administration Procedure Act; and Section 1226 of the Immigration and Nationality Act;

e. Issue a Writ of Habeas Corpus to order Petitioner's immediate release;

f. In the alternative, order an immediate, constitutionally adequate individualized custody determination at which the government bears the burden to justify continued detention and the Court considers less restrictive alternatives to detention;

g. In the alternative, grant bail pending the conclusion of the habeas review;

h. Award Petitioner costs and reasonable attorneys' fees under the Equal Justice Act, and on any other basis justified under the law; and

i. Grant any further relief as this Court may deem just and proper.

Respectfully Submitted,

DATED: October 13, 2025
Brooklyn, NY

/s/ Alicia N. Washington
Alicia N. Washington
PIERSON FERDINAND LLP
1270 Avenue of the Americas, 7th Floor
New York, NY 10020
T: (929) 484-3684
E: alicia.washington@pierferd.com

/s/ Beth D. Baltimore
Beth D. Baltimore
Edith Sangüeza
THE DOOR'S LEGAL SERVICES CENTER
121 Avenue of the Americas, 3rd Floor
New York, NY 10013
T: (917) 701-9130
E: bbaltimore@door.org
esangueza@door.org

Attorneys for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am one of the Petitioner's attorneys. I have discussed with the Petitioner the events described in this Petition and reviewed relevant documentation. Based on those discussions and review, upon information and belief, I hereby verify that the factual statements made in the Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

/s/ Alicia N. Washington
Alicia N. Washington

Attorney for Petitioner