UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

John Doe, Petitioner, v. Raul MALDONADO, Warden of Metropolitan Detention Center, William JOYCE, New York Field Office Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security; Kristi NOEM, Secretary, U.S. Department of Homeland Security; Pamela BONDI, U.S. Attorney General; Respondents.	Case No. 25-6892 **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner John Doe ("Mr. Doe")[1] is a Senegalese man in his 50s who fled life-threatening violence in his country because he is gay. Mr. Doe followed the proper procedures to request asylum in the United States, including filing his application and attending his immigration court hearing. Nevertheless, on June 9, 2025 he was arrested and detained by ICE agents when appearing for his scheduled immigration court hearing, despite previously being released on an Order of Recognizance in September 2023. He is now unlawfully detained and suffering significant harm at the Metropolitan Detention Center, where his symptoms of PTSD have become severe, he cannot communicate with staff, and he cannot fully practice his religion.

2. The Board of Immigration Appeals has recently issued a precedential decision holding that an immigration judge has no authority to consider bond requests for *any* person who entered

[1] Motion to Proceed Anonymously forthcoming.

the United States without admission, as all such persons are detained under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). This interpretation, which contravenes decades of prior case law, has been soundly rejected by district court judges nationwide in hundreds of different decisions.

3. Mr. Doe's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Mr. Doe who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), that allows for release on recognizance or bond.

4. In addition, Mr. Doe's detention violates the Due Process Clause of the Fifth Amendment of the Constitution. His sudden re-detention, after an individualized decision to release him in 2023, without notice or an opportunity to respond, and without changed circumstances warranting that detention, violates both his procedural and substantive due process rights.

5. Further, Mr. Doe's due process rights were also violated by the Defendants when they moved to dismiss his regular removal proceedings which they had placed him into nearly two years prior and then placed him in expedited removal in a blatant effort to skirt his due process rights.

6. Accordingly, this Court should order Mr. Doe's immediate release from custody.

PARTIES

7. Petitioner John Doe is a citizen of Senegal who was living in New York City at the time he was detained. He has been in immigration detention since June 9, 2025 and is currently being held at the Metropolitan Detention Center in Brooklyn, New York.

8. Respondent Raul Maldonado is employed as Warden of Metropolitan Detention Center in Brooklyn, New York, where Petitioner is detained. In this capacity, he is a legal custodian of Mr. Doe. He is named in his official capacity.

9. Respondent William Joyce is the Director of the New York Field Office of ICE's Enforcement and Removal Operations within DHS. As such, Mr. Joyce is a legal custodian of Mr. Doe and is responsible for Petitioner's detention and removal. He is named in his official capacity.

10. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Mr. Doe's detention. She routinely transacts business in this district and is a legal custodian of Petitioner. She is named in her official capacity.

11. Respondent Pamela Bondi is the Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws through the Executive Office for Immigration Review within the Department of Justice. The Board of Immigration Appeals, which issues precedential immigration decisions on custody, and the trial-level immigration court system are components of the Executive Office of Immigration Review (EOIR). Because she oversees the agency that adjudicates whether Mr. Doe is eligible for release on bond, she is a legal custodian of Petitioner. She is named in her official capacity.

JURISDICTION, VENUE, AND EXHAUSTION OF REMEDIES

12. The federal district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by DHS. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). This

Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of the United States Constitution (the Suspension Clause).

13. This Court has authority to grant declaratory and injunctive relief. 28 U.S.C. §§ 2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

14. Venue is proper in this District because Mr. Doe is currently detained in this district. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973).

15. Exhaustion of administrative remedies in the immigration habeas context is prudential, not statutory. *See Lopez Benitez v. Francis*, --- F. Supp. 3d ---, No. 35-cv-5937-DEH, 2025 WL 2371588, at *13 (S.D.N.Y. Aug. 13, 2025). In Mr. Doe's case, requesting a bond hearing is futile, as Respondents' position is that he is ineligible for one per *Yajure Hurtado*. Mr. Doe's counsel asked for their client to be paroled out of ICE custody in August, a request that was denied three days later. Exhibit A ¶ 25; Exhibit N.

16. Nor does *Maldonado Bautista* provide the relief sought. Although in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 2670875 (C.D. Cal.), the district court held that Section 1226(a) applied to class members and not Section 1225(b)(2)(A), immigration judges are refusing to follow that Court's order of declaratory relief due to guidance from the Department of Justice. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873, ECF No. 87 at 3, Pets.' Ex Parte Application for Reconsideration and Clarification (asserting the Government and IJs are disregarding the district court's "declaratory judgment requiring bond hearings for the class"). Some have mistakenly asserted that the court did not provide class-wide declaratory judgment. *Id.* Others have stated that EOIR has taken the position

that the *Maldonado Bautista* is not a binding, final judgment. *Id.* In any case, requesting a bond hearing in immigration court continues to be futile.

REQUIREMENTS OF 28 U.S.C. § 2243

17. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

18. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

FACTUAL BACKGROUND

19. Mr. Doe is a 50-year-old man from Senegal who had to flee his country in 2023. Exhibit A (Declaration of Counsel), ¶ 3. After hiding his identity for over 30 years, he was publicly outed as gay, subjected to attacks and threats by his community, and driven out of Senegal. Id. He is a monolingual Wolof speaker and a devout Muslim. Id.

Initial Release after Entry

20. On or around September 8, 2023, Mr. Doe entered the United States by crossing the southern border, and was thereafter briefly detained by DHS near Lukeville, Arizona. Id. at ¶ 4.

21. On September 11, 2023, Mr. Doe was released on his own recognizance pursuant to 8 U.S.C. 1226(a). On that date he was served a Notice to Appear (NTA), initiating standard removal proceedings under 8 U.S.C. § 1229a. Exhibit C. The NTA charged him with being inadmissible to the United States under 8 U.S.C. § 1182(a)(6)(A)(i)(I), as a noncitizen "present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General." Id.

22. On September 11, 2023, Mr. Doe was also served with a Warrant for Arrest of Alien which states he was taken into custody "as authorized by section 236 of the Immigration and Nationality Act" [8 U.S.C. § 1226], Exhibit D; a Notice of Custody Determination which indicated that he was released on his own recognizance, Exhibit E; and an Order of Release on Recognizance which states that he was released on his own recognizance "in accordance with section 236 of the Immigration and Nationality Act," Exhibit F.

23. Mr. Doe relocated to New York City. As part of his release conditions, Immigration and Customs Enforcement (ICE) issued a G-56 notice, which required him to report to the local ICE office within 60 days of his release. Exhibit G. On information and belief, Mr. Doe did so, and was not provided any additional reporting requirements. Exhibit A, ¶ 6.

Life in New York and Initial Court Date

24. Mr. Doe began establishing a new life in New York. Although he remained deeply impacted by his past trauma, he was hopeful: he worked small jobs, enrolled in English

classes and sought medical care. Id. at ¶ 7. He received assistance from a local organization to acclimate to his new home. Id. He was amazed by the availability of LGBTQ support in New York City, and considered openly dating men, for the first time in his 50 years of life. Id. He applied for asylum and other fear-based relief based on his fear of persecution and torture in Senegal. Id.

25. In New York City, Mr. Doe's removal proceedings were scheduled on the non-detained docket at the Immigration Court located at 290 Broadway. Id. at ¶ 8. His Notice to Appear indicated the first hearing date would be July 9, 2024 at 8:30 am. Exhibit C. On that date, he went to the court, and recalls learning that an Immigration Judge had not yet been assigned to his case and that he would receive notice of his new hearing date. Exhibit A, ¶ 8. He was eventually mailed a notice of hearing scheduling a master calendar hearing on June 9, 2025. Exhibit H.

26. Prior to the hearing, Mr. Doe had heard that ICE was arresting noncitizens at their Immigration Court hearings. Exhibit A, ¶ 9. Nevertheless he decided to attend and correctly follow the asylum process. Id.

Court Appearance on June 9, 2025

27. On June 9, 2025, Mr. Doe, appearing pro se, attended a master calendar hearing in his case, presided over by Immigration Judge Shirley Lazare-Raphael. Id. at ¶ 10. At that time, Mr. Doe had a pending asylum application on file with the court. Id. At the hearing, the Department of Homeland Security (DHS) made an oral motion to dismiss the proceedings pursuant to 8 C.F.R. § 239.2(a)(7), stating that circumstances in the case had changed after issuance of the NTA, and that it was no longer in the best interest of the government to continue

the case. Id. DHS did not proffer any explanation of how the circumstances of the case had allegedly changed. Id.

28. On the record, an individual identifying themselves as a Friend of the Court from the legal organization The Bronx Defenders attempted to put the Court on notice that ICE agents in the hallway outside the courtroom were arresting respondents whose cases were being dismissed. Id. at ¶ 11. In the Digital Audio Recording from this master calendar, distressing shouting can be heard from the hallway, presumably occurring during one of these reported arrests, causing the court to momentarily pause the proceedings. Id.

29. At the hearing, also on the record, Mr. Doe attempted to raise an opposition to the government's motion and stated he was afraid to return to Senegal. Id. at ¶ 12. Nevertheless, the Immigration Judge dismissed his proceedings, finding the government had met its regulatory burden, without further argument or analysis. Id; Exhibit I.

Mr. Doe's Re-Detention

30. As forewarned, when Mr. Doe exited the courtroom, ICE agents accosted and detained him. Exhibit A, ¶ 12. He recalls his arrest as chaotic. Id. at ¶ 13. Upon exiting the courtroom, he was handcuffed by two ICE officers. Id. He was frightened that video of his arrest would be posted on social media, and that he would be recognized by someone in the Senegalese community. Id. Given the widespread homophobia in Senegal, Mr. Doe is terrified of anyone with ties to the country discovering that he has filed for asylum in the United States because he fears persecution and torture on account of his sexuality. Id.

31. Following his arrest, Mr. Doe was taken to 26 Federal Plaza where he met with an ICE officer who informed him that he would be detained and deported to Senegal. Id. at ¶ 14. The ICE officer did not use a Wolof interpreter, and instead spoke to Mr. Doe in English and,

occasionally, through an application on his phone that translated written text into French. Id. Mr. Doe does not speak French fluently. Id.

32. Without an interpreter, Mr. Doe attempted to explain that he feared death if deported to Senegal. Id. at ¶ 15. In response, the officer callously stated to Mr. Doe that he could be killed in Africa or in the United States. Id. Mr. Doe subsequently met with another ICE officer, and reiterated this fear. Id. To Mr. Doe's understanding, he was told that if he did not sign documentation agreeing to his deportation, he would spend 10 years in prison. Id. The officer also commented to Mr. Doe that Senegalese immigrants come to the United States just to do delivery work, which Mr. Doe took to mean that the officer did not believe that Mr. Doe has a credible fear of persecution and torture if deported. Id.

33. That same day, ICE issued Mr. Doe a Notice and Order of Expedited Removal order, which alleged that DHS had determined Mr. Doe was inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I), as "an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document...." Exhibit J.

34. Also on that day, Mr. Doe was issued a new Form I-200, Warrant for Arrest of Alien, stating that pursuant to INA 236 [8 U.S.C. § 1226], through "the execution of a charging document to initiate removal proceedings against the subject," probable cause had been established that he was removable from the United States. Exhibit K.

35. The day of his detention, Mr. Doe was also provided a document entitled, "Important Information About Section 236(a) Initial Detention Decisions." Exhibit L. The document indicates that the notice was read to Mr. Doe in French, a language in which he is not fluent. Exhibit A, ¶ 18. Mr. Doe does not recall the notice being read to him in any language. Id.

36. Immigration officers did not provide Mr. Doe with any evidence that circumstances had changed since he was released on his own recognizance nearly two years prior. Id. at ¶ 19. Mr. Doe has no criminal history anywhere in the world. Id. Mr. Doe was not provided any opportunity to contest his detention. Id.

Initial Detention Conditions

37. Mr. Doe was then placed in a cell at 26 Federal Plaza. Id. at ¶ 20. He recalls the cell did not have a bed, and the toilet lacked privacy. Id. He was not provided a shower. Id. He was given food that was inedible, and only ate crackers and drank some water. Id. The cell became so cramped with detainees that it became impossible to lie down to sleep. Id.

38. To Mr. Doe's recollection, ICE transferred him back and forth between 26 Federal Plaza and the Nassau County jail several times until they ultimately detained him in immigration custody at the Metropolitan Detention Center (MDC), where he remains to date. Id. at ¶ 21.

39. Mr. Doe was never provided any notice or explanation before being transferred to a different facility, leading him to believe, on multiple occasions, that ICE was readying to deport him to his death, in Senegal. Id. at ¶ 22. For Mr. Doe, this was mentally excruciating. Id.

40. At MDC, other African immigrants told Mr. Doe they had seen video footage of his ICE arrest online, and accurately described what he had been wearing that day. Id. at ¶ 23. Mr. Doe's fear of return to Senegal has been exacerbated, knowing that footage of ICE arresting him in Immigration Court has been publicly shared, and indicates he has applied for asylum in the United States. Id.

Commencement of New Proceedings

41. On July 1, 2025, Mr. Doe was given a Credible Fear Interview under 8 C.F.R. § 208.30 at the MDC. Id. at ¶ 24. An asylum officer determined Mr. Doe has a credible fear of persecution and torture. Id. The expedited order of removal was subsequently vacated, and Mr. Doe was issued a new Notice to Appear on July 8, 2025, placing him back into § 1229a proceedings. Exhibit M.

42. On August 29, 2025, prior pro bono counsel for Mr. Doe communicated with Assistant Chief Counsel Jophiel Philips, requesting the Department release Mr. Doe on his own recognizance or under other reasonable conditions of release, considering he has no criminal history and other positive equities. Exhibit N. On September 1, 2025, the Department denied the request without explanation. Id.

43. On September 2, 2025, Mr. Doe, with the assistance of prior pro bono counsel, filed an updated and amended Form I-589 asylum application with the immigration court, and resumed pursuit of the same fear-based relief he had been seeking in the removal proceedings initiated in 2023, now from immigration detention. Exhibit A, ¶ 26.

44. An individual hearing date for the adjudication of Mr. Doe's asylum application has been scheduled for December 17, 2025. Exhibit O. At this hearing, he bears the burden to demonstrate he merits relief and can do so through his own credible testimony, witness testimony, country conditions and other evidence.

Mental Health in Detention

45. After more than six months in immigration custody at MDC, Mr. Doe's health, religious, and language needs have been largely neglected, and he has limited access to counsel. Exhibit A, ¶ 29.

46. On October 14, 2025, following an extensive psychological evaluation conducted by Dr. Edward Fernandez, PsyD, (hereinafter "Dr. Fernandez"), Mr. Doe was diagnosed with Posttraumatic Stress Disorder. Exhibit P, p. 9. According to Dr. Fernandez, Mr. Doe suffers from "significant emotional impairments" associated with PTSD. Id. at p. 4. He reports Mr. Doe uncontrollably crying, physically trembling, and having pronounced difficulty breathing during the evaluation. Id. at p. 9. He further reported that Mr. Doe suffers from "frequent and severe panic attacks." Id. at p. 10. Dr. Fernandez writes, "While Mr. [Doe] demonstrates adequate basic cognitive understanding of legal proceedings and fundamental procedural rights, his PTSD symptoms create substantial, pervasive, and clinically significant functional impairments that severely compromise his ability to meaningfully participate in his legal proceedings." Id. at p. 15.

47. Mr. Doe's social worker, Erika Arias, LMSW, has observed a rapid decline in his mental and physical health while he has been in immigration detention. Exhibit Q. She writes, "in each and every visit with Mr. [Doe], it has taken long periods of time to recount his past history and help him prepare for his hearing because his symptoms interfere with the process (which requires Mr. [Doe] to remember and discuss traumatic events). Mr. [Doe] sobs profusely, his body shakes, he wails out loud as if in pain and gasps for breath, he puts his head on the table and covers his head with his hands. This writer and his attorney constantly have to stop the conversation and help Mr. [Doe]." Id. at p. 3. Further, she writes, "Given Mr. [Doe]'s diagnosis of Post-Traumatic Stress Disorder [redacted], he is unable to receive adequate treatment in a detention center. Mr. [Doe]'s only chance at recovery is outside of detention." Id.

48. Mr. Doe's attempts to receive medical attention have been largely ignored, and he is discouraged from seeking care. Exhibit A, ¶ 31. The facility has also provided no way for Mr. Doe to make requests to be seen in Wolof. Id. As his final hearing date in his immigration proceedings approaches, his presentation continues to decline. Id.

49. On October 21, 2025, the Immigration Court held a hearing pursuant to the Board of Immigration Appeals decision in *Matter of M-A-M-* to assess whether Mr. Doe's mental health diagnosis of Posttraumatic Stress Disorder and related symptoms impact his ability to understand and participate in his removal case, such that the Immigration Court was required to implement safeguards to ensure his due process rights. Id. at ¶ 32. Dr. Fernandez explained that Mr. Doe's detention triggers his presentation, because he "believes that he is detained in part due to his homosexuality and that this is the main reason he fled his native country." Id., quoting Exhibit Q, p. 7. Dr. Fernandez recommended, among other accommodations, that Mr. Doe be produced in-person to his Immigration Court hearings and that the Court provide a Wolof interpreter via video-conference. Id. These recommendations were intended to facilitate Mr. Doe's understanding of his proceedings, and minimize the impact of his incarceration on his symptomology. Id. The Court denied these particular requests. Id.

50. Notably, during the hearing, the parties could hear shouting from other detainees, an alarm at the facility went off, the Immigration Judge's video failed, the Immigration Court was unable to obtain a professional Wolof interpreter by phone or video, and the Court's Digital Audio Recording malfunctioned; to date, immigration counsel has not been provided an audible recording of the entire hearing, rendering the record of Mr. Doe's immigration proceedings incomplete. Id. at ¶ 33.

Access to Counsel and Hearing Preparation

51. In immigration custody at MDC, Mr. Doe has limited access to counsel. Id. at ¶ 34. There is extremely limited scheduling availability at MDC for his immigration counsel to schedule confidential legal phone calls with him. Id. Even when these calls are scheduled, to counsel's understanding, they occur in the same area where virtual Immigration Court hearings take place and are often delayed due to ongoing court proceedings. Id. Calls are scheduled for only one hour at a time, which is insufficient time to make adequate progress in preparing his asylum case, especially when working through an interpreter and in light of Mr. Doe's activated PTSD symptoms. Id. Moreover, when a phone call does take place, it is challenging for Mr. Doe to hear and understand the interpretation due to weak connectivity. Id. at ¶ 35. Furthermore, Mr. Doe has limited formal education, and struggles to follow complex discussions regarding his proceedings when he is unable to see the interpreter; as recommended by Dr. Fernandez, in-person interpretation is important to best facilitate his understanding. Id.

52. Visiting Mr. Doe in-person generally allows for more productive meetings, but even when visiting Mr. Doe in person, his legal team faces difficulties. Id. at ¶ 36. Mr. Doe's immigration counsel must coordinate meeting with a retained Wolof interpreter who has cleared the appropriate background checks to enter the facility, because she is not permitted to videoconference with a remote interpreter. Id. Mr. Doe is not able to fully and freely discuss his proceedings with his attorneys, because he is always visible to other detainees in the legal meeting area. Id. He fears individuals at the detention center learning about his asylum claim. Id.

Obstacles to Mr. Doe's Practice of Religion in Detention and Language Barrier

53. Mr. Doe is a practicing Muslim who observes a halal diet and regularly prays. Id. at ¶ 37. He reports that he has observed the halal meals provided in immigration custody, unlike

the non-halal meals, are regularly undercooked and moldy. Id. As a result, some Muslim detainees have been forced to relinquish their religious beliefs to eat something. Id. Mr. Doe, as a particularly devout Muslim, is unable to do this. Id. As a result, he eats very little in detention. Id. In the six months he has been detained, he has only been able to attend one Imam-led prayer service. Id. To his understanding, Christian detainees have had far more opportunity to meet with a Christian faith leader. Id. Finally, although Mr. Doe was provided a Koran, he is unable to read it because of issues with his eyesight. Id. He needs glasses, another medical requests that has gone wholly ignored, resulting in him being unable to fully engage in his religious practices. Id.

54. Mr. Doe is a monolingual Wolof speaker, and in over six months of detention, the facility has failed to provide him consistent, appropriate interpretation aids so he can communicate his needs. Id at ¶ 38. When he needs to communicate with the officers in immigration custody, Mr. Doe senses the guards are especially dismissive and short-tempered with him because he cannot speak English. Id. He struggles to understand the guards' demands. Id. On the occasions that Mr. Doe has been seen by medical staff, there is no guarantee of Wolof interpretation. Id.

55. Mr. Doe has expressed to his immigration attorney that he feels deep fear and despair in immigration detention. Id. at ¶ 39. As he says in his affidavit, "I don't know why I am here. I haven't done anything wrong. I have never done anything bad to hurt anyone. I am just an asylum seeker. It is strange. I feel like the thing I was at risk for in Senegal – being gay – is the thing I am being detained for now." Exhibit B, ¶ 3.

LEGAL FRAMEWORK

The INA's Custody Statutes

56. The INA prescribes three detention authorities that pertain to the majority of detained noncitizens in removal proceedings. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

57. Second, the INA provides for mandatory detention "pending a final determination of credible fear of persecution" of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals who are "seeking admission," described under § 1225(b)(2).

58. Lastly, the INA also provides for detention of noncitizens who have a final order of removal, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

59. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104—208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended in early 2025 by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

60. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited

Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

61. As a result, for more than twenty-five years, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at the prior § 1252(a)).

The Respondents' Abrupt Policy Change on Bond Eligibility

62. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[2] claimed that all persons who entered the United States without inspection were now subject to no-bond detention under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

63. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). There, the Board held for the first time that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

[2] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

64. Since Respondents adopted these new policies, federal courts have uniformly rejected their new interpretation of the INA's detention authorities, including within the jurisdiction of the U.S. Court of Appeals for the Second Circuit as well as within this District. *See, e.g., Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128 (W.D.N.Y. 2025); *Lopez Benitez*, 2025 WL 2371588; *Samb v. Joyce*, No. 25-cv-6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Savane v. Francis*, No.1:25-cv-6666-GHW, 2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025); *J.U. v. Maldonado,* No. 25-CV-04836 (OEM), 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Artiga v. Genalo*, No. 25-CV-5208 (OEM), 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025); *Hyppolite v. Noem*, No. 25-CV-4304 (NRM), 2025 WL 2829511 (E.D.N.Y. Oct. 6, 2025).

65. Similarly, dozens of district courts around the country have rejected this interpretation. *See, e.g., Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d ---, No. 3:25-cv-05240-TMC, 2025 WL 2782499, at *1 n.3 (W.D. Wash. Sept. 30, 2025) (citing over 20 district court decisions rejecting the government's position); *Ochoa Ochoa v. Noem*, No. 25 CV 10865, 2025 LX 443010 (N.D. Ill. Oct. 16, 2025) (collecting 20 cases in note 8 and accompanying discussion); *see also Hyppolite*, 2025 WL 2829511, at *12 (noting that the government conceded at oral argument that they were not "aware of *any* Article III court that had adopted their interpretation" of the statute) (emphasis in original).

66. Courts have nearly uniformly rejected DHS's and DOJ's new interpretation because it defies the plain text of the INA. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

67. The text of § 1226 explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As district courts have found, the statutory bars to a bond hearing for inadmissible noncitizens with specific types of criminal history would all be rendered surplusage if in fact, *no* inadmissible noncitizens were eligible for bond. *See Artiga*, 2025 WL 2829434, at *7; *Hyppolite*, 2025 WL 2829511, at *10.

68. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

69. On November 20, 2025, the U.S. District Court for the Central District of California issued an order of partial summary judgment in *Maldonado Bautista v. Santacruz*, finding that the government's argument that noncitizens who entered the country without inspection are subject to mandatory detention under 8 U.S.C. § 1225(b)(2) to be "at odds with the plain language of the INA." *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025). The Court certified a nationwide class to which it extended the declaratory relief on November 25, 2025. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

70. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Mr. Doe, who have already entered and were residing in the United States at the time they were arrested.

Noncitizens' Due Process Rights

71. The Due Process Clause of the Fifth Amendment entitles noncitizens to due process of law. *Reno v. Flores*, 507 U.S. 292, 306 (1993). The protection of the Due Process Clause applies to noncitizens in the United States "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citations omitted). Although Respondents now regularly contend that individuals who have not been *admitted* to the U.S. lack due-process rights, over a century of consistent Supreme Court case law has held otherwise. *See, e.g.*, *Yamataya v. Fisher*, 189 U.S. 86, 101 (1903); *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976); *Landon v. Plasencia*, 459 U.S. 21, 32 (1982).

72. Stated simply, "while [DHS] might want to enforce this country's immigration laws efficiently, it cannot do that at the expense of fairness and due process." *Ceesay v. Kurzdorfer*, No. 25-CV-267, 2025 WL 1284720, at *1 (W.D.N.Y. May 2, 2025) (citing *United States ex. rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266–68 (1954)).

73. Further, noncitizens are entitled to procedural due process protections, even in the face of policy shifts between administrations. While a "new administration can change the rules . . . it cannot change them and make up new rules as it goes along when the new rules abridge constitutional rights." *Velasquez v. Kurzdorfer*, No. 25-CV-493, 2025 WL 1953796, at *14 (W.D.N.Y. Jul. 16, 2025).

74. In the context of immigration detention due process claims, the Second Circuit has applied the three-factor balancing test set forth in *Mathews v. Eldridge* to determine what due process requires. *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). These factors are: (i) "the private interest that will be affected by the official action"; (ii) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (iii) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.*

75. Under the *Mathews* rubric, freedom from imprisonment, physical restraint, or other forms of government custody is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *Lopez Benitez*, 2025 WL 2371588, at *9 ("[Petitioner] invokes the most significant liberty interest there is—the interest in being free from imprisonment") (quoting *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (citing *Hamdi*, 542 U.S. at 529)); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) (noncitizens in immigration custody had an arguably even greater liberty interest in remaining out of detention than criminal parolees who required due process protection).

76. With respect to the second *Mathews* factor, given the strong liberty interest at stake, the Fifth Amendment's guarantee of due process requires at least some notice and an opportunity to be heard before a person can be placed in immigration detention. *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025). Further, due process requires that "notice must be afforded within a reasonable time and in such manner as will allow [noncitizens] to actually seek . . . relief[.]" *Id.*

77. For the third *Mathews* factor, "the Attorney General's discretion to detain individuals under 8 U.S.C. § 1226(a) is valid where it advances a legitimate government purpose." *Velasco Lopez*, 978 F.3d at 854. The recognized government interests in immigration detention are "ensuring the appearance of [noncitizens] at future immigration proceedings" and "preventing danger to the community." *Zadvydas*, 533 U.S. at 690. Absent evidence in the record that a noncitizen is dangerous, and in situations when the noncitizen has appeared for immigration proceedings, district courts have held that the government cannot demonstrate a significant interest in their detention. *See Lopez Benitez*, 2025 WL 2371588, at *13; *Valdez v. Joyce*, No. 25-CV-4627, 2025 WL 1707737, at *4 (S.D.N.Y. Jun. 18, 2025).

78. In light of a noncitizen's due process rights and the procedural rights conferred by Section 1226(a) and the implementing regulations, a decision to detain a noncitizen *requires an individualized determination* as to the noncitizen's risk of flight and danger to the community. *See, e.g.*, *Velesaca v. Decker*, 458 F. Supp. 3d 224, 235 (S.D.N.Y. 2020); *Lopez Benitez*, 2025 WL 2371588, at *10; *Kelly v. Almodovar*, No. 25-CV-6448, 2025 WL 2381591, at *3 (S.D.N.Y. Aug. 15, 2025); *Rosado v. Figueroa*, No. 25-CV-02157, 2025 WL 2337099, at *13 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Pinchi v. Noem*, No. 5:25-CV-05632, 2025 WL 2084921, at *1 (N.D. Cal. July 24, 2025).

79. Recent decisions by federal courts in various jurisdictions confirm that due process requires the government to make individualized determinations to detain noncitizens and give them notice and a meaningful opportunity to be heard when challenging their detention. *See, e.g., Lopez Benitez*, 2025 WL 2371588, at *13 ("Respondents' ongoing detention of [Mr. Lopez Benitez] with no process at all, much less prior notice, no showing of changed circumstances, or opportunity to respond, violates his due process rights.") (citations omitted).

80. Further, if a noncitizen does not receive individualized consideration pre-deprivation, his due process rights are irrevocably violated, and no amount of procedure provided post-detention can remedy that violation. *See, e.g.*, *Lopez Benitez*, 2025 WL 2371588, at *14 ("Given the nature of the constitutional violation Mr. Lopez Benitez sustained here—i.e., Respondents' failure to conduct any kind of individualized assessment before detaining him—any post-deprivation review by an immigration judge would be inadequate."); *see also Chipantiza-Sisalema v. Francis*, No. 25 Civ. 5528 (AT), 2025 WL 1927931, at *3 (S.D.N.Y. July 13, 2025) (finding bond "hearing is no substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause.") (citation modified); *Kelly*, 2025 WL 2381591, at *3 (same); *Contreras Maldonado v. Cabezas*, No. 25-13004, 2025 WL 2985256, at *5–6 (D.N.J. Oct. 23, 2025) ("Respondents' post-hoc reasoning at the August 14, 2025 bond hearing does not rectify the lack of individualized determination at the time of arrest" and "[t]he court therefore finds that Petitioner's due process rights were violated when she was detained without an individualized determination under § 1226. . . . The Court grants the writ of habeas corpus . . . and orders Respondents to release Petitioner").

81. As a result, courts have ordered a noncitizen's immediate release where their pre-detention due process rights have been violated. *See, e.g.*, *Tumba Huamani v. Francis,* No. 25-CV-8110 (LJL), 2025 WL 3079014, at *9 (S.D.N.Y. Nov. 4, 2025); *Lopez Benitez*, 2025 WL 2371588, at *15; *Lomeu v. Soto*, No. 25cv16589 (EP), 2025 WL 2981296, at *9 (D.N.J. Oct. 23, 2025); *Soto*, 2025 WL 2976572, at *9; *see also Contreras Maldonado*, 2025 WL 2985256, at *7; *Rivera Zumba*, No. 25-cv-14626 (KSH), 2025 WL 2753496, at *11 (D.N.J. Sep. 26, 2025); *Maklad v. Murray*, No. 1:25-CV-946, 2025 WL 2299376, at *10 (E.D. Cal. Aug 8, 2025);

Pinchi, 2025 WL 2084921, at *7; *Velasquez*, 2025 WL 1953796, at *18; *Singh v. Andrews*, No. 1:25-CV-00801, 2025 WL 1918679, at *10 (E.D. Cal. July 11, 2025); *Kelly*, 2025 WL 2381591, at *8; *Rosado*, 2025 WL 2337099, at *19; *Valdez*, 2025 WL 1707737, at *5.

Arrests at Immigration Court

82. For decades, the government largely refrained from conducting civil immigration arrests at immigration courts because conducting such arrests would deter noncitizens from attending proceedings and disrupt the proper functioning of courts.

83. The actions of the Trump Administration have upended the normal operation of immigration courts. On January 20, 2025, the day President Trump took office, DHS issued a new memorandum that expanded ICE's authority to conduct civil immigration arrests in and around courthouses.[3]

84. By March 2025, the Trump Administration began to grow increasingly frustrated that the rate of deportations remained well below that which was needed to achieve one million deportations a year. The Administration's Border Czar, Tom Homan, told President Trump that the government "need[ed] to increase the arrests," and that the arrest numbers were "not high enough." Hamed Aleaziz and Zolan Kanno-Youngs, *Frustration Grows Inside the White House Over Pace of Deportations*, NEW YORK TIMES (March 5, 2025), *available at* https://www.nytimes.com/2025/03/05/us/politics/trump-immigration-deportations-arrests.html.

85. During a meeting on May 21, 2025, the Trump Administration put intense pressure on federal law enforcement agencies to triple the number of daily arrests of noncitizens to at least 3,000 a day. José Olivares, *Trump administration sets quota to arrest 3,000 people a*

[3] *Available at* https://www.dhs.gov/sites/default/files/2025-03/25_0120_S1_enforcement-actions-in-near-protected-areas.pdf

day in anti-immigration agenda, THE GUARDIAN (May 29, 2025), *available at* https://www.theguardian.com/us-news/2025/may/29/trump-ice-arrest-quota.

86. Starting in late May 2025, ICE began arresting noncitizens at immigration courthouses all over the country in record numbers. Videos of chaotic scenes of noncitizens being aggressively arrested and ripped away from their family members have been shared widely on social media. Noncitizens are increasingly fearful that they will be detained without notice when they attend their immigration court proceedings. Dani Anguiano and Maanvi Singh, *Ice arrests at immigration courts across the US stirring panic: 'It's terrifying'*, THE GUARDIAN (May 22, 2025), *available at* https://www.theguardian.com/us-news/2025/may/22/ice-arrests-immigration-courts.

Expansion of Expedited Removal

87. On information and belief, on or about May 20, 2025, DHS issued guidance regarding, among other things, the dismissal of full removal proceedings under 8 U.S.C. § 1229a. This guidance "instruct[ed]" DHS attorneys to move to dismiss full removal proceedings in order to "help deportation officers . . . arrest people who" DHS believes are "'amenable' to . . . expedited removal." Hamed Aleaziz, et al., *How ICE Is Seeking to Ramp Up Deportations Through Courthouse Arrests*, NEW YORK TIMES (May 30, 2025), *available at* https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html. Under the dismissal guidance, agency attorneys were "encourage[d] . . . to look for cases that could be dismissed, which could accelerate deportations of more people." Id.

88. Expedited removal is meant to "substantially shorten and speed up the removal process." *Make the Rd. N.Y. v. Wolf*, 962 F.3d 612, 618 (D.C. Cir. 2020). Being subjected to these proceedings in lieu of the full removal process under Section 1229a comes at substantial

cost to the fairness of the removal process. *See Khan v. Holder*, 608 F.3d 325, 329 (7th Cir. 2010) (describing the expedited removal process as "fraught with risk of arbitrary, mistaken, or discriminatory behavior").

89. In full removal proceedings, noncitizens have the right to counsel, to present evidence, and to cross-examine witnesses. 8 U.S.C. § 1229a(b)(2)-(4); 8 C.F.R. § 1003.16(b). People in full removal proceedings also have appellate rights that do not exist for those in expedited removal. They can appeal the decision of an immigration judge to the Board of Immigration Appeals and then, if necessary, seek review in a federal court of appeals. 8 U.S.C. §§ 1229a, 1252(a)-(b); 8 C.F.R. §§ 1003.12-1003.47.

90. Until this year, expedited removal had only been applied to those noncitizens who were present in the United States for fewer than fourteen days. On January 21, 2025, DHS issued a Federal Register Notice greatly expanding the application of expedited removal to any noncitizen who had been present in the United States for less than two years. On August 29, 2025, a judge from the D.C. District Court stayed this expansion, stating that it likely violates the Due Process Clause. *Make the Rd. New York v. Noem*, No. 25-CV-190 (JMC), 2025 WL 2494908, at *5 (D.D.C. Aug. 29, 2025). At present, the government may only apply expedited removal to those who have been in the country for less than two weeks.

91. On September 12, 2025, a District Court judge in New York issued a stay of EOIR's policy that encouraged immigration judges to grant DHS' motions to dismiss without providing the noncitizen the requisite ten days to respond, finding that such policy was "not likely to be in accordance with law." *Afr. Cmtys. Together v. Lyons*, No. 25-cv-6366 (PKC), 2025 LX 371192 at *42 (S.D.N.Y. Sep. 12, 2025).

Remedies in Immigration Habeas Petitions

92. The "equitable and flexible nature of habeas relief" affords district courts significant discretion over the appropriate remedies for violations of law and the Constitution. *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020). The most appropriate remedy in a case like this, where Mr. Doe was previously released to the community, is release on recognizance without the use of alternatives to detention or other conditions. *See Munoz Materano v. Arteta*, No. 25 Civ. 6137 (ER), 2025 WL 2630826, at *20 (S.D.N.Y. Sept. 12, 2025) (ordering immediate release); *Chipantiza*, 2025 WL 1927931, at *4 (same); *Mata Velasquez,* 794 F. Supp (ordering release and that petitioner could not be re-detained without a pre-deprivation hearing); *Hyppolite*, 2025 WL 2829511, at *17 (same).

CLAIMS FOR RELIEF

COUNT I
Violation of the Immigration and Nationality Act: Application of Incorrect Detention Statute

93. Petitioner incorporates by reference the allegations in the preceding paragraphs.

94. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States, such as Mr. Doe.

95. Respondents' own documents demonstrate Mr. Doe was detained under § 1226 in September 2023 and re-detained under that same statute in June 2025. His Order of Release on Recognizance dated September 11, 2023 states that he is released "in accordance with" section

236 of the INA [8 U.S.C. § 1226]. The warrant issued on the same day states that Mr. Doe was taken into custody "as authorized by" the same section of the INA.

96. The government affirmed that Mr. Doe was re-detained under § 1226 on June 9, 2025 when it served him with a notice entitled "Important Information About Section 236(a) Initial Detention Decisions" on that day. In addition, Respondents' arrest warrant for Mr. Doe dated June 9, 2025 is directed to "[a]ny immigration officer authorized pursuant to section[] 236 …of the Immigration and Nationality Act [8 U.S.C. § 1226]…to serve warrants of arrest for immigration violations."

97. Mr. Doe has been unlawfully detained under § 1225(b) for nearly six months without opportunity for release. The application of § 1225(b) to Petitioner unlawfully mandates his continued detention without review and violates the INA.

COUNT II
Fifth Amendment: Violation of Procedural Due Process
Re-Detention Without Notice

98. Petitioner incorporates by reference the allegations in the preceding paragraphs.

99. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003). Accordingly, Petitioner was entitled to due process of law *in advance* of any detention. *Lopez Benitez*, 2025 WL 2371588, at *14.

100. The Second Circuit applies the *Mathews v. Eldridge* factors to determine what due process requires in the context of immigration detention, balancing: (i) "the private interest that will be affected by the official action"; (ii) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute

procedural safeguards"; and (iii) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Velasco Lopez*, 978 F.3d at 851 (citing 424 U.S. at 335).

101. Petitioner's interest in his liberty from detention is immense. Indeed, because detention is the "carefully limited exception," it implicates the "most significant liberty interest there is—the interest in being free from imprisonment." *Velasco Lopez*, 978 F.3d at 851.

102. Further, the risk of erroneous deprivation is obvious. Respondents previously released Mr. Doe from custody on recognizance, a decision that necessarily entails a consideration of flight risk and danger, but then re-detained him without notice, an opportunity to respond, or any meaningful evaluation as to his particular circumstances, including his lack of flight risk or danger to the community. There is no reason to now conclude he poses a danger or flight risk.

103. With respect to the government's interest, Respondents have not offered any individualized purpose for Petitioner's re-detention. *Zadvydas*, 533 U.S. at 690–91.

104. Based on ICE's view that Petitioner's detention was mandatory, an individualized assessment of the factors in his case was not made prior to his detention. *See Lopez Benitez*, 2025 WL 2371588, at *11 ("The problem is that Respondents have not offered any explanation for Mr. Lopez Benitez's detention other than their initial assertion that it is mandatory—that is, that it is *non-discretionary*. Such an assertion is precisely the *opposite* of an exercise of discretion, which entails some sort of judgment") (emphasis in original).

105. For the foregoing reasons, Respondents' detention of Petitioner violates the rights guaranteed to him by the Due Process Clause of the Fifth Amendment to the United States

Constitution. As multiple courts have held, no amount of post-deprivation process can cure the foregoing violation, and Petitioner should be released.

COUNT III
Fifth Amendment: Violation of Substantive Due Process
Re-Detention Without Cause

106. Petitioner incorporates by reference the allegations in the preceding paragraphs.

107. Immigration detention is civil, not punitive, and must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore*, 538 U.S. at 527. (citing *Zadvydas*, 533 U.S. at 690). The Supreme Court has stated that the purpose or civil detention in this context is to "ensur[e] the appearance of aliens at future proceedings," *Zadvydas*, 533 U.S. at 690, and to prevent flight, *Demore*, 538 U.S. at 528.

108. Mr. Doe's detention serves none of the purposes of civil immigration detention. By appearing at his court hearing, Mr. Doe demonstrated his intention to appear at future proceedings. Respondents had previously determined, correctly, that he posed no flight risk or danger and could be released to the community with no bond or significant conditions of supervision. Respondent complied with the conditions of his release when he checked in with ICE as instructed.

109. With no change in circumstances, Respondents detained Mr. Doe directly after his court hearing in a manner so arbitrary that other courts have referred to it as "detention roulette." *Lopez Benitez*, 2025 WL 2371588, at *15. This abrupt and traumatic deprivation of liberty violates substantive due process.

COUNT IV
Release Pending Adjudication

110. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

111. Pursuant to *Mapp v. Reno*, this Court has the "inherent authority" to set bail pending the adjudication of a habeas petition when the petition has raised (1) substantial claims and (2) extraordinary circumstances that (3) "make the grant of bail necessary to make the habeas remedy effective." 241 F.3d 221, 226 (2d Cir. 2001).

112. Petitioner presents substantial claims on which he is likely to succeed. *See Salgado v. Francis*, No. 25-CV-6524 (VEC), 2025 WL 2806757, at *4 (S.D.N.Y. Oct. 1, 2025) (holding that under *Mapp*, a movant need only show success on one claim); *see also* Order of Conditional Release, *Barco Mercado v. Francis*, No. 25-CV-6582 (LAK) (S.D.N.Y. Oct. 9, 2025), ECF No. 24 (granting *Mapp* relief where noncitizen raised similar claim that they were held unlawfully under 8 U.S.C. § 1225(b)(2)).

113. Moreover, extraordinary circumstances are clearly present in this case. Mr. Doe is suffering from severe symptoms of PTSD in detention. He is unable to communicate with the staff at the MDC, causing him significant distress. He has been prevented from fully practicing his religion while detained. His access to legal counsel has been limited, and the conditions of his detention have made preparing for his merits hearing extremely challenging.

114. Mr. Doe presents neither a flight risk nor danger that would justify his sudden re-detention, especially considering these extraordinary circumstances.

115. For the foregoing reasons, Mr. Doe requests immediate release pending adjudication of the instant petition.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Eastern District of New York while this habeas petition is pending;

c. Declare that Petitioner's detention under 8 U.S.C. § 1225 is unlawful;

d. Declare that Respondent's actions violate the Due Process Clause of the Fifth Amendment;

e. Grant a Writ of Habeas Corpus requiring that Respondents release Petitioner without conditions of supervision or alternatives to detention;

f. In the alternative, issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three (3) days pursuant to 28 U.S.C. § 2243;

g. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

h. Grant any other and further relief that this Court deems just and proper.

DATED this 15th day of December, 2025.

/s/Alexandra Lampert

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**Admission pending*

Exhibits

A. Declaration of Mr. Doe's immigration counsel, Sarika Arya, Esq.
B. Affidavit of Mr. Doe
C. Notice to Appear dated September 11, 2023
D. Warrant for Arrest of Alien dated September 11, 2023
E. Notice of Custody Determination dated September 11, 2023
F. Order of Release on Recognizance dated September 11, 2023
G. ICE Form OREC G-56 dated September 11, 2023
H. Notice of Hearing on June 9, 2025
I. Immigration Judge's Order of Dismissal dated June 9, 2025
J. Notice and Order of Expedited Removal dated June 9, 2025
K. Warrant for Arrest of Alien dated June 9, 2025
L. Notice entitled Important Information About Section 236(a) Initial Detention Decisions dated June 9, 2025
M. Notice to Appear dated July 8, 2025
N. Emails between Mr. Doe's prior immigration counsel and OPLA attorney dated August 29, 2025 and September 1, 2025
O. Notice of Hearing on December 17, 2025
P. Psychological Evaluation by Dr. Edward Fernandez, Psy.D. dated October 17, 2025
Q. Letter from Erika Arias, LMSW dated November 14, 2025

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's immigration attorney. I have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: December 9, 2025

Respectfully Submitted,

Sarika Arya
Supervising Attorney, Immigration Practice
Brooklyn Defender Services
177 Livingston St, 7th Floor
Brooklyn, NY 11201

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system. I will furthermore send a courtesy copy via email to the office of the United States Attorney for the Eastern District of New York and send true copies by USPS Certified Priority Mail to the following individuals:

Raul Maldonado, Warden
Metropolitan Detention Center
80 29th Street
Brooklyn, NY 11232

Williams Joyce, Field Office Director
U.S. Immigration and Customs Enforcement, New York Field Office
26 Federal Plaza Room 1130
New York, NY 10278

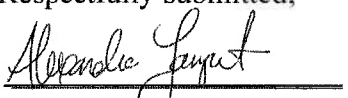
Kristi Noem, Secretary
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Dated: December 15, 2025

Respectfully submitted,



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