UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

THIBAUT EKANGWO NKA AM

Petitioner,

v.

PAMELA BONDI, U.S. Attorney General;
KRISTI NOEM, Secretary of the U.S. Department of Homeland Security;
TODD M. LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;
JAMES A. MULLAN, in his official capacity as Assistant Field Office Director in charge of ICE Washington Field Office; and
JEFFREY CRAWFORD, in his official capacity as warden of the Farmville Detention Center

Respondents.

Case No. 1:26-cv-00073

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Thibaut Ekangwo Nka Am ("Mr. Ekangwo"), a native and citizen of Cameroon, challenges his continued custodial detention by the Department of Homeland Security Immigration and Customs Enforcement ("ICE") since January 7, 2026 as an unconstitutional and unjustified restraint and deprivation of his physical liberty, and seeks immediate relief from this Court.
2. Mr. Ekangwo is being unlawfully subjected to continued custodial detention by Respondents without the ability to pursue substantive administrative remedies with the Department of Justice Executive Office for Immigration Review ("EOIR").
3. Mr. Ekangwo's continued detention by ICE, without any further meaningful mechanism to challenge his confinement, violates the U.S. CONST. Due Process

Clause of the Fifth Amendment (the "Fifth Amendment"), the INA and the Administrative Procedures Act, 5 U.S.C. § 702 (the "APA").

4. Mr. Ekangwo petitions for a writ of habeas corpus to remedy his unlawful detention, and prays this Court will issue an order 1) staying Mr. Ekangwo's transfer outside of the Eastern District of Virginia pending resolution of this Petition; 2) declaring that the continued immigration detention of Mr. Ekangwo violates the Due Process Clause of the Fifth Amendment, the INA and the APA; 3) granting Mr. Ekangwo his immediate release from the custody of Respondents under the terms of his original release under section 1226(a) of the INA; and 4) preventing Respondents from once again taking Mr. Ekangwo into custody unless he is determined to be a flight risk and/or a danger to the community.

JURISDICTION AND VENUE

5. Mr. Ekangwo is detained in Farmville, Virginia at the Farmville Detention Facility, which is within the jurisdiction of the United States District Court for the Eastern District of Virginia ("EDVA").
6. This action arises under the Due Process Clause of the Fifth Amendment, the INA and the APA.
7. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241 ("Habeas Corpus"), 28 U.S.C. § 1346 (civil actions against the United States), 28 U.S.C. § 1651 ("All Writs Act"), and 28 U.S.C. §§ 2201-02 ("Declaratory Relief"), as Mr. Ekangwo is presently held in custody under or by color of the authority of the United States. His detention by Respondents is a "severe restraint" on his individual liberty "in violation of the...laws … of the United States." *See Hensley v. Municipal Court, San Jose-Milpitas Jud. Dist.*, 411 U.S. 345, 351 (1973).
8. This Court has jurisdiction to hear Habeas Corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by U.S. immigration officials. *See, e.g., Jennings v. Rodriguez*, 138 S. Ct. 830,841 (2018); *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687.

9. In addition to the habeas protections in the Constitution and INA, federal district courts have subject-matter jurisdiction under 28 U.S.C. § 1331 ("Federal Questions") to hear claims by individuals challenging the lawfulness of agency action.
10. Venue is proper because Mr. Ekangwo is currently detained within the EDVA. At 3:25 p.m. Eastern Time on January 9, 2026, the ICE Detainee Locator indicated that he is detained ICE custody in Farmville, Virginia. *See* Ex. 1 hereto.

PARTIES

11. Petitioner Thibaut Ekangwo Nka Am is a citizen and national of Cameroon. He is currently detained by the Respondents at the Farmville Detention Center within the EDVA since January 7, 2026.
12. Respondent Pamela Bondi is the U.S. Attorney General, and in that capacity is responsible for the EOIR which includes the Board of Immigration Appeals and immigration courts. She is sued in her official capacity.
13. Respondent Kristi Noem is the Secretary of Homeland Security, and in that capacity is responsible for the Department of Homeland Security ("DHS") and all sub-cabinet agencies of DHS, including ICE and the United States Citizenship and Immigration Services ("USCIS"). She is sued in her official capacity.
14. Respondent Todd M. Lyons is the Acting Director of ICE, responsible for ICE's detention and removal operations of non-citizens such as Petitioner, among all its other functions. He is sued in his official capacity.
15. Respondent James A. Mullan is the Assistant Field Office Director of the ICE Washington Field Office, and is responsible for ICE's operations in the State of Virginia. Upon information and belief, he is the immediate custodian of Mr. Ekangwo. He is sued in his official capacity.
16. Respondent Jeffrey Crawford is the Warden of Farmville Detention Facility and is directly responsible for overseeing the daily aspects of Mr. Ekangwo's detention. He is sued in his official capacity.

STATEMENT OF FACTS

17. Mr. Ekangwo, born in Cameroon on [redacted], first entered the United States on November 9, 2016 by presenting himself at a port of entry. Mr. Ekangwo was detained by DHS after expressing a fear of return to his native country. Mr. Ekangwo

was initially detained under section 1225 of the INA for expedited removal but was afforded the opportunity for a credible fear interview after expressing a fear of return to Cameroon. *See* Ex. 2 hereto.

18. Under previous applicable precedent, DHS exercised its discretion to detain Mr. Ekangwo under section 1226(a) after he was found to have a credible fear of persecution.[1] Mr. Ekangwo was then placed into INA Section 240 proceedings through the issuance of a Notice to Appear (the "NTA") and was then released under section 1226(a) of the INA after paying a bond of $7,500.
19. Mr. Ekangwo subsequently sought relief from removal from the United States in the form of an application for Asylum (the "Asylum Application") under Section 208 of the INA before the Executive Office for Immigration Review ("EOIR"). The removal proceedings before EOIR were dismissed on or about 2022 or 2023.
20. Mr. Ekangwo then filed his Asylum Application with USCIS. Mr. Ekangwo also filed an application for Temporary Protected Status ("TPS") as a citizen of Cameroon, which was approved until June 7, 2025. Mr. Ekangwo was admitted with a Form I-94 with his registration for TPS. *See* Ex. 3 hereto.
21. Mr. Ekangwo recently received another NTA as a result of TPS for citizens of Cameroon being terminated. *See* Ex. 4 hereto.
22. Mr. Ekangwo has never been arrested, charged or convicted of any crimes in the United States. He has continuously lived in the State of Maryland after his entry in 2016. He is married to a US citizen since 2024 and they have three US citizen children. Mr. Ekangwo is a vital economic provider for his family.
23. Mr. Ekangwo has been gainfully employed in the health care industry as a home health aide. Mr. Ekangwo has been employed as a home health aide taking care of elderly individuals since early 2025 and filed and paid all necessary taxes during his time in the United States.

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[1] *See Matter of X-K-*, 23 I. & N. Dec. 731 (BIA 2005), which held that some foreign nationals transferred from expedited removal proceedings after establishing a credible fear of persecution were eligible for bond under Section 236 of the INA. *Matter of X-K-* was subsequently overruled by *Matter of M-S-*, 27 I. & N. Dec. 509 (A.G. 2019). All individuals placed in expedited removal proceedings after 2019 are considered to be detained under Section 235 of the INA even if found to have a credible fear. Jurists of this Court have recognized prior law and how it applies to Petitioner's case in *Chaudhari v. Crawford*, No. 1:25-cv-01772 (LMB/IDD) (E.D. Va. Oct. 23, 2025); *See Luna Sanchez v. Bondi*, No. 1:25-cv-018888, 2025 WL 3191922 (MSN/IDD) (E.D. Va. Nov. 14, 2025).

24. Mr. Ekangwo was detained by ICE on or about January 7, 2026 in the State of Maryland as he was on his way to work. Mr. Ekangwo was initially transferred to the ICE Washington Field Office in the State of Virginia where he was told that he would be detained without bond pending proceedings before an immigration judge. He was subsequently transferred to the Farmville Detention Center.
25. Mr. Ekangwo is presumably being held under mandatory detention by the Respondents under section 1225(b)(1) or 1225(b)(2) of the INA. Respondents have a policy of detaining individuals such as Mr. Ekangwo under section 1225(b)(1) or (b)(2) despite having being previously detained and released under section 1226(a) of the INA. If Respondents argue that Mr. Ekangwo's detention is under section 1225(b)(1) of the INA then they are doing so unlawfully by retroactively applying a legal provision that has never been applied to Mr. Ekangwo.
26. If Respondents argue that Mr. Ekangwo's detention is under section 1225(b)(2) of the INA, Mr. Ekangwo is unable to file a bond redetermination with the EOIR to challenge his custody that will be meaningfully considered as a result of the BIA publishing *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025) on September 5, 2025. *Matter of Yajure-Hurtado* deemed individuals such as Mr. Ekangwo as subject to mandatory detention under Section 235 of the INA.
27. The BIA's decision in *Matter of Yajure-Hurtado* has been found by dozens of Federal courts across the country as an unlawful interpretation of the INA. Mr. Ekangwo is unable to meaningfully submit any evidence demonstrating that he is neither a flight risk nor a danger to the community to secure his release from custody by an immigration judge under the INA.

EXHAUSTION

28. The decision to detain Mr. Ekangwo is subject to challenge through a petition for a writ of habeas corpus, and Mr. Ekangwo need not exhaust additional administrative remedies which might be available to him before seeking this Court's review. *See, e.g. McCarthy v. Madigan*, 503 U.S. 140, 147-48 (1992) ("[A]n administrative remedy may be inadequate [because] ... an agency, as a preliminary matter, may be unable to consider whether to grant relief because it lacks institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute" or

"where the administrative body ... has otherwise pre-determined the issue before it."); *Janvier v. INS*, 174 F. Supp. 2d 430, 434 (E.D. Va. 2001) (noting that "§ 2241 is silent on exhaustion.").

29. Moreover, further exhaustion would be futile because Mr. Ekangwo has pursued a remedy to no avail. *See Janvier*, 174 F. Supp. 2d at 434 (recognizing that exhaustion is not necessary "where the pertinent administrative agency lacks the competence to reach a definitive resolution of the particular issue presented [,]" such as "where, as here, the administrative agency may consider constitutional claims, but lacks authority to rule dispositively on those claims, because "the final say on constitutional matters rests with the courts."). In particular, under new BIA precedent, Mr. Ekangwo is no longer considered eligible for the bond granted by immigration judge on September 2, 2025 and ICE has exercised its legal authority to prevent the paying of said bond which was ordered by the immigration judge.
30. The detention of Mr. Ekangwo by ICE, years after he last entered the United States, was granted bond under Section 236 of the INA and been lawfully seeking relief from removal, without the ability to challenge his detention is unconstitutional, and administrative exhaustion is excused. *See Guitard v. U.S. Sec'y of the Navy*, 967 F.2d 737, 741 (2d Cir. 1992) ("Exhaustion of administrative remedies may not be required when ...a plaintiff has raised a substantial constitutional question.").

CLAIMS FOR RELIEF

COUNT ONE

Mr. Ekangwo's Detention Violates His Right to Substantive Due Process Under the Fifth Amendment

31. Petitioner re-alleges and incorporates by reference the paragraphs above.
32. As a "person" within the meaning of the Fifth Amendment, Mr. Ekangwo is entitled to due process of law while in the United States, and certainly while in immigration custody. U.S. CONST. amend. V; *see Reno v. Flores*, 507 U.S. 292, 306 (1993) ("It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings.").

33. The Substantive Due Process Clause protects a person's freedom from arbitrary confinement. *See Zadvydas*, 533 U.S. at 693. The Supreme Court has recognized this protection applies regardless of a person's immigration status. *See id.*; *see also Mathews v. Diaz*, 426 U.S. 67, 77 (1976).
34. Civil detention, such as immigration detention, must be carefully limited to avoid due process concerns. *See, e.g., Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) ("Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action"); *Addington v. Texas*, 441 U.S. 418, 425 (1979) ("This Court repeatedly has recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection"); *see also United States v. Salerno*, 481 U.S. 739, 755 (1987) ("In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception").
35. The Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and prevent flight. *See Demore*, 538 U.S. at 528; *see also Matter of Patel*, 15 I. & N. Dec. 666 (BIA 1976) ("An alien generally is not and should not be detained or required to post bond except on a finding that he is a threat to the national security, or that he is a poor bail risk[.]" (internal citation omitted)). Additionally, a period of detention must "bear [a] reasonable relation to the purpose for which the individual was committed." *See Demore*, 538 U.S. at 516–17.
36. Mr. Ekangwo is being denied substantive due process as the Respondents continue to exercise their authority contrary to law in order to prevent Mr. Ekangwo from seeking release under the INA before an immigration judge. The EOIR, through the BIA, took the position in *Matter of Yajure Hurtado* that an individual such as Mr. Ekangwo, who was previously detained and released under section 1226 of the INA by DHS, is subject to the mandatory detention provisions of section 1225 of the INA.
37. Under section 1226(a), an immigration judge would be able to consider any evidence submitted by Mr. Ekangwo. The immigration judge would determine, as a neutral fact-finder, whether Mr. Ekangwo was a flight risk or a danger to the community. The Respondents have made applications for bond by Mr. Ekangwo under section 1226(a)

futile by retroactively invoking section 1225(b)(1) or by applying *Matter of Yajure-Hurtado* to cases with the same facts and circumstances as Mr. Ekangwo.

38. But for the retroactive application of section 1225(b)(1) and/or *Matter of Yajure-Hurtado*, Mr. Ekangwo would have the ability to demonstrate to a neutral fact-finder that he is not a flight risk as he has ample ties to the community through his family and employment. He would also have been able to demonstrate that he was not a danger to the community. No justification exists to deprive Mr. Ekangwo without the ability to present such evidence.

COUNT TWO

Mr. Ekangwo's Detention Violates His Right to Procedural Due Process Under the Fifth Amendment

39. Petitioner re-alleges and incorporates by reference the paragraphs above.
40. "Freedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty" that the Fifth Amendment's Due Process Clause protects. *See Zadvydas*, 533 U.S. at 690.
41. To that end, due process demands "adequate procedural protections" to ensure that the Government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* (internal quotation marks omitted).
42. Given the gravity of the liberty deprivation when the government preventively detains individuals, due process requires the jailers bear the burden of proof. *See, e.g.*, *Salerno*, 481 U.S. at 751 (affirming legality of pre-trial detention where burden of proof was on the government); *see also Foucha*, 504 U.S. at 81-82 (holding unconstitutional a state "statute that place[d] the burden on the detainee to prove that he is not dangerous"). The Court has held that it is improper to ask an "individual to share equally with society the risk of error when the possible injury to the individual-deprivation of liberty-is so significant." *See Addington*, 441 U.S. at 427.
43. In *Mathews v. Eldridge*, the Supreme Court set forth the factors to consider in determining if government action deprives an individual's Fifth Amendment right to procedural due process or whether the government process is constitutionally adequate. 424 U.S. 319 (1976). The *Mathews* factors apply here to determine if

Petitioner's procedural due process rights as a civil detainee have been violated by the Government's continued custodial detention.

44. Mr. Ekangwo has a substantial liberty interest both in his bodily freedom and in the ability to exercise his parental responsibilities with respect to his US citizen children. Mr. Ekangwo current suffers from several medical conditions for which he is under active medical care. Mr. Ekangwo had a medical appointment with his doctor to discuss results of a cancer screening the day that he was detained by Respondents. *See* Ex. 5 hereto. Mr. Ekangwo also suffers from diabetes and hypertension and has been prescribed medication. *See* Ex. 6 hereto. Mr. Ekangwo is a vital economic provider for his family. The unlawful detention by Respondents is preventing Mr. Ekangwo his right to bodily freedom and his parental rights.
45. Mr. Ekangwo also has had proceedings pending before both EOIR and USCIS for many years to determine whether he is eligible for relief from removal. During this time, Mr. Ekangwo has submitted the necessary applications for relief and has never been considered a flight risk or a danger to the community. Mr. Ekangwo has a justifiable liberty interest given that he was initially released under section 1226(a) in 2016 and has pending proceedings before EOIR.
46. Yet Mr. Ekangwo was not provided any process at all in the course of his arrest, processing, and detention by ICE through notice and an opportunity to respond that would reduce the risk of an erroneous deprivation of his interests. ICE deprived Mr. Ekangwo of adequate procedural protection in his substantial interest with respect to both his liberty and his application for relief before EOIR by taking him into custody with no regard to its own long-established practices, procedures and applicable regulations.

COUNT THREE

Mr. Ekangwo's Detention by ICE is in Violation of the INA

47. Section 1225 authorizes the mandatory detention of "arriving aliens" and those noncitizens who cannot demonstrate they have "been physically present in the United States continuously for the 2-year period immediately prior[.]" 8 U.S.C. § 1225(b)(1)(A)(iii)(II).

48. As noted above, Mr. Ekangwo was detained and released under section 1226(a) after being found to have a credible fear of return to his native country of Cameroon, was released from custody shortly thereafter under section 1226(a), has lived in the United States for nearly eight years and had the initial proceedings before EOIR dismissed prior to being detained. Nothing has occurred in Mr. Ekangwo's case that changes the law applicable to his custody by immigration authorities.

49. However, Respondents claim that Mr. Ekangwo is not eligible for bond by characterizing his detention under section 1225(b)(1) or (b)(2) despite DHS detaining and releasing him under section 1226(a) of the INA in 2017. Dozens of Federal courts, including this Court, have found this legal interpretation by DHS in cases similar to Petitioner's case erroneous. The BIA has also previously ruled that an individual initially detained and released under section 1226(a) of the INA cannot by operation of law be considered to be released under section 1225, demonstrating the tenuous legal reasoning of Respondents in this case. *See Matter of Cabrera-Fernandez*, 28 I&N Dec. 747 (BIA 2023).

PRAYER FOR RELIEF

Based on the foregoing, Mr. Ekangwo requests that this Court:

a. Assume jurisdiction over the matter;

b. Issue an order staying Petitioner's transfer outside the Eastern District of Virginia pending a final order in these proceedings;

c. Declare that the continued immigration detention of Mr. Ekangwo violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution, the INA and the APA;

d. Issue a writ of habeas corpus ordering Respondents to immediately release Mr. Ekangwo from their custody under his previous release under section 1226(a);

e. Issue an order preventing Respondents from once again taking Mr. Ekangwo into custody unless he is determined to be a flight risk and/or a danger to the community in accordance with the U.S. Constitution and applicable law;

f. Award Mr. Ekangwo all costs incurred in maintaining this action; and

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

Respectfully Submitted,

January 9, 2026

/s/ Eileen Blessinger
Eileen Blessinger
Blessinger Legal PLLC
7389 Lee Highway, Suite 320
Falls Church, VA 22042
(703) 738-4248
eileen@blessingerlegal.com

Attorneys for Petitioner

Law Offices of Michael E. Rosado, P.C.
Yelitza M. Mendoza, Esq. (*pro hac* forthcoming)
1425 University Blvd. E. Suite 261
Hyattsville, Maryland 20783
(240) 641-8615
yelitza.marie7@gmail.com