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| CLERK US DISTRICT COURT<br>DISTRICT OF NEVADA                                           |                                    |
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**PETITION FOR WRIT OF HABEAS CORPUS  
PURSUANT TO 28 U.S.C. § 2241**

MAMADOU CISSE  
ALIEN No.   
PETITIONER, PRO SE  
CUSTODY STATUS: DETAINED

2:26-cv-00387-JAD-BNW

1 Mamadou Cisse

2 Alien No. [REDACTED]

3 Nevada Southern Detention Center

4 2190 East Mesquite Avenue

5 Pahrump, Nevada 89060

6  
7 **IN THE UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**  
9

10 MAMADOU CISSE,  
11 -Petitioner, *Pro Se*,

12 v.

13 THE UNITED STATES OF AMERICA,

14 Kristi NOEM, in her Official Capacity,  
15 Secretary of the Department of Homeland Security,

16  
17 Pamela J. BONDI, in her Official Capacity,  
18 Attorney General, Department of Justice,

19  
20 Kerri Ann QUIHUIS, in her Official Capacity,  
21 ICE Field Office Director, Detention and Removal,  
22 Las Vegas, Nevada (ICE Local)

23  
24 Michael BERNACKE, in his Official Capacity,  
25 Field Office Director, Salt Lake City Field Office,  
26 U.S. Immigration and Customs Enforcement,

27  
28 Todd LYONS, in his Official Capacity,  
29 Acting Director, Immigration & Customs Enforcement,

30  
31 John MATTOS, in his Official Capacity,  
32 Warden of Immigration Detention Facility,  
33 Nevada Southern Detention Center;

34  
35 -Respondents.  
36

) Case No.:

) INS.: [REDACTED]

) Custody Status: **DETAINED**

) **Petition for Writ of Habeas**  
) **Corpus Pursuant to**  
) **28 U.S.C. § 2241**

**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**

COMES NOW MAMADOU CISSE, as the Petitioner in this present matter, appearing *Pro Se*, and hereby respectfully petitions this Honorable District Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

The Petition of MAMADOU CISSE respectfully shows:

**INTRODUCTION**

1. Petitioner, Mamadou Cisse, a male born in the country of Senegal.
2. Petitioner is being physically detained under the custody of the Respondents, including the Department (“DHS/ICE”), at the Nevada Southern Detention Center (“NSDC”) in Pahrump, Nevada. Petitioner remains in custody to the present day.
3. Petitioner, also referred to as Mr. Cisse, sought relief in the form of Asylum, Withholding of Removal, and Convention Against Torture before the Immigration Court in Las Vegas in removal proceedings.
4. On July 14, 2025 the Immigration Court denied all forms of relief.
5. Petitioner timely appealed to the Board of Immigration Appeals where it is pending.
6. However, on or about January 2, 2026, Petitioner moved for a bond hearing with the Immigration Court in Las Vegas, Nevada.
7. On January 16, 2026 the Las Vegas Immigration Court Rejected Petitioner’s bond request, indicating that it should have been filed with the Board of Immigration Appeals. *See* attachments.
8. Interestingly, Petitioner’s bond proceeding case is meritorious as it presents a highly likelihood of success on the merits based on having a responsible sponsor, letters of support and mitigating factors surrounding his arrest. Yet, the Immigration Court reject Petitioner’s filing of his bond request.

9. In this case, Petitioner was not afforded a fair bond hearing wherein the government must establish by a constitutional, due process, standard of *clear and convincing* evidence that Petitioner presents a risk of flight or danger to the community.

10. Petitioner therefore respectfully requests that this Court issue a Writ of Habeas Corpus, and determine that Petitioner's indefinite detention is not justified because the government has not established by *clear and convincing* evidence that Petitioner presents a risk of flight or danger in light of reasonable available alternatives to detention, and order Petitioner's release, with appropriate conditions of supervision if necessary, taking into account Petitioner's ability to pay a bond.

11. Petitioner respectfully requests that this Court issue a Writ of Habeas Corpus and order Petitioner's release within twenty ("20") days unless Respondent's schedule a hearing before immigration judge where it has proper jurisdiction and where: (1) to continue detention, the government must establish by *clear and convincing* evidence that Petitioner present a risk of flight or current public danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present; and (2) if the government cannot meet its heavy burden, the immigration judge orders Petitioner's release on appropriate conditions of supervision, taking into account Petitioner's ability to pay a reasonable bond.

## PARTIES

12. Petitioner's full name is Mamadou Cisse. Petitioner is a native and citizen of Senegal who seeks protection in the form of asylum, withholding of removal, and protection under the Convention Against Torture ("CAT") motivated by a well-founded fear of persecution and torture based on particular social group status, specifically his sexual orientation where he suffered past persecution and harm.

1       **13.** Respondent, UNITED STATES OF AMERICA, issued pursuant to 5 U.S.C. § 703, in  
2       which the Administrative Procedures Act provides “[i]f no special statutory review  
3       proceeding is applicable, the action for judicial review may be brought against the  
4       United States, the agency by its official title, or the appropriate officer.”

5       **14.** Respondent, Kristi NOEM is sued in her official capacity as the Secretary of the  
6       Department of Homeland Security (herein after referred to as “DHS”). In her capacity  
7       he has the responsibility for administration and enforcement of the immigration laws  
8       pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. 296, 116  
9       Stat. 2135 (Nov. 25, 2002). *See Armentero v. INS*, 340 F.3d 1058 (9th Cir. 2003).

10       **15.** Respondent Pamela J. BONDI is sued in her official capacity as the Attorney General  
11       of the United States. She has responsibility for the administration and enforcement of  
12       the immigration laws pursuant to 8 U.S.C. § 1103, and Immigration and Nationality  
13       Act § 103. As the “INA” has not been amended to reflect the designation of the  
14       Secretary of the DHS as the administrator and enforcer of the immigration laws. In this  
15       case, Respondent Pamela J. BONDI is sued in her official capacity to the extent that 8  
16       U.S.C. § 1102 gives her the authority to detain Petitioner. *See Armentero v. INS*, *supra*.  
17       Thus, Pamela J. BONDI is considered a legal custodian of Mamadou Cisse.

18       **16.** Respondent Kerri Ann QUIHUIS is sued in her official capacity as ICE Field Office  
19       Director, Detention and Removal, DHS at Las Vegas, Nevada (ICE Local), who is  
20       responsible for the day-to-day operation of detaining and removing aliens in Las Vegas,  
21       Nevada.

22       **17.** Respondent, Michael BERNACKE is the Field Office Director responsible for the Salt  
23       Lake City Field Office of ICE Enforcement and Removal Operations, which has  
24       administrative jurisdiction over Petitioner’s case. He is a legal custodian of Mr. Cisse

1 and is named in his official capacity.

2 **18.** Respondent, Todd LYONS is Acting Director of ICE. As the head of ICE, an agency  
3 within the U.S. Department of Homeland Security that detains and removes certain  
4 noncitizens, Respondent Todd LYONS is a legal custodian of Mr. Cisse and he is named  
5 in his official capacity.

6 **19.** Respondent, John MATTOS, Warden of Nevada Southern Detention Center, where  
7 Petitioner is currently detained under the authority of ICE, alternatively he may be  
8 considered to be Petitioner's immediate custodian.

9 **20.** The Respondents in this action are the legal custodian of Petitioner and are named in  
10 their official capacity

11 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

12 **21.** Upon information and belief, Petitioner submitted a bond request before the  
13 Immigration Court in Las Vegas, Nevada on or about January 2, 2026.

14 **22.** Yet, the Immigration Court rejected the bond request. Therefore, Petitioner cannot  
15 appeal to the Board as it lacks jurisdiction.

16 **23.** Even so, Petitioner need not exhaust his administrative remedies. The statute in  
17 question, 8 U.S.C. § 1231(a)(6), has no exhaustion requirement. Exhaustion is required  
18 only when Congress specifically mandates it. *McCarthy v. Madigan*, 503 U.S. 140, 144  
19 (1992). In all other instances, "sound judicial discretion governs." *Id.* This Court should  
20 not require Petitioner to exhaust his administrative remedies.

21 **24.** Petitioner is being held in detention without a bond hearing.

22 **25.** As such, Petitioner is challenging the constitutionality of the procedures by which ICE  
23 reviews the custody status of aliens who cannot be removed within six months, and  
24 whose removal is not significantly likely to occur in the reasonably foreseeable future.

26. As a result, the administrative remedy is inadequate to address these constitutional grounds for recovery.

## JURISDICTION

27. This action arises under the United States Constitution, the Immigration & Nationality Act of 1952, as amended (herein after referred to as “INA”) 8 U.S.C. § 1101 et. seq., and the Administrative Procedures Act (herein after referred to as “APA”), 5 U.S.C. §§ 701 et. seq. This Court has Habeas Corpus jurisdiction pursuant to 28 U.S.C. §§ 2241 et. seq.; Article 1, Clause 2 of the United States Constitution (hereinafter referred to as “Suspension Clause”); and the Common Law. As Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, and/or treaties of the United States. This Court may also exercise jurisdiction pursuant to 28 U.S.C. § 1331 and may grant relief pursuant to the Declaratory Judgement Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C. § 1651.

## VENUE

28. Venue is proper with this Court pursuant to 28 U.S.C. § 1391(c) because the Respondents are employees or officers of the United States, acting in their official capacity, and an agency of the United States. Venue is additionally proper in this Court because the Petitioner is detained in this District, and pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500(1973).

29. Here, venue is proper in this District because this is the district in which Petitioner is confined. *See Doe v. Garland*, 109 F.4th 1188, 1197-99 (9th Cir. 2024). Also, a substantial part of the events giving rise to the claims in this action took place within this District.

**REQUIREMENTS OF 28 U.S.C. § 2243**

30. It has been held that The Court must grant the petition for writ of habeas corpus or issue an order to show cause (“OSC”) to Respondents “forthwith”, unless Petitioner is not entitled to relief. 28 U.S. § 2243. If the Court issues an OSC, it must require Respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

31. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ affords “*a swift and imperative remedy* in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added); *see also Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (explaining that habeas statute requires expeditious determination of petitions).

**STATEMENT OF THE FACTS**

32. Petitioner, Mr. Cisse, is a native, citizen and national of Senegal.

33. Petitioner suffered past persecution and torture in Senegal at the hands of gangs and government officials.

34. Petitioner pursues protection in the form of political asylum and CAT protection due to the worsening country and political conditions in Senegal against the LGBT community. Petitioner is not a flight risk nor poses public danger.

35. Petitioner seeks to remain in the United States in a lawful manner.

36. Petitioner submitted a motion for a bond hearing which resulted in the Immigration Court denying bond on the sole basis that it lacked jurisdiction.

**CRIMINAL HISTORY**

37. Petitioner does have a criminal history, as he was arrested for a domestic dispute.

38. Petitioner was arrested but was released.

1 39. There are mitigating factors surrounding his arrest. One being that, Petitioner identifies  
2 as part of the LGBT community. Also, while in Senegal, he served in the Military.

3 40. The arrest for domestic dispute or domestic violence may have been the result of his  
4 military trauma by way of PTSD and his sexual orientation.

5 41. Aside from this arrest, Petitioner does not exhibit any history of violent behavior or  
6 violent criminal history. Conversely, he has demonstrated excellent behavior while  
7 detained and in the last few months and has no disciplinary actions against him while  
8 detained. This is Petitioner's first and only arrest.

9 42. Petitioner has not been afforded a bond hearing where it comports with due process.

10 43. The following positive factors are also important to consider. Petitioner is not a threat  
11 to national security, has no history of such activity and presents no danger to public  
12 safety. Here, Petitioner does not have any "aggravated felony" convictions.

13 44. Finally, Petitioner has not participated in a criminal street gang and does not have any  
14 gang related conviction as defined under in 18 U.S.C. § 521(a).

15 45. Based on the totality of these compelling mitigating factors, it demonstrates that  
16 Petitioner, Mr. Mamadou Cisse merits, at the very least, a fair and impartial bond  
17 hearing where the immigration court has proper jurisdiction.

18 **ARGUMENT**

19 46. Again, on or about January 2, 2026, Petitioner requested a bond hearing.

20 47. On January 16, 2026, the Immigration Court rejected the bond request.

21 48. "It is well established that the Fifth Amendment entitles aliens to due process of law in  
22 deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v.*  
23 *Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government  
24 custody, detention, or other forms of physical restraint—lies at the heart of liberty" that

1 the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also*  
2 *id.* at 718 (Kennedy, J., dissenting) (“Liberty under the Due Process Clause included  
3 protection against unlawful or arbitrary personal restraint or detention.”). This  
4 fundamental due process protection applies to all noncitizens, including both  
5 removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“both  
6 removable and inadmissible aliens are entitled to be free from detention that is arbitrary  
7 or capricious”).

8 49. Due process therefore requires “adequate procedural protections” to ensure that the  
9 government’s asserted justification for physical confinement “outweighs the  
10 individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* at  
11 690. Civil commitment for *any* purpose constitutes a significant deprivation of liberty.  
12 *Addington v. Texas*, 441 U.S. 418, 425 99 S. Ct. 1804, 60 L. Ed. 2d 323 (1979). In the  
13 immigration context, the Supreme Court has recognized only two valid purposes for  
14 civil detention—to mitigate the risks of danger to the community and to prevent flight.  
15 *Id.*; *Demore*, 538 U.S. at 528.

16 50. Following *Zadvydas* and *Demore*, every circuit court of appeals to confront the issue  
17 had found either the immigration statutes or due process require a hearing for  
18 noncitizens subject to unreasonably prolonged detention pending removal proceedings.  
19 *See Velasco Lopez v. Decker*, 978 F.3d 842 (2d Cir. 2020) (8 U.S.C. § 1226(a)); *Reid*  
20 *v. Donelan*, 819 F.3d 486 (1st Cir. 2016) (8 U.S.C. § 1226(c)); *Sopo v. U.S. Attorney*  
21 *Gen.*, 825 F.3d 1199 (11th Cir. 2016) (detention under 8 U.S.C. § 1226(c)); *Lora v.*  
22 *Shanahan*, 804 F.3d 601 (2d Cir. 2015) (8 U.S.C. § 1226(c)); *Rodriguez v. Robbins*  
23 *(Rodriguez III)*, 804 F.3d 1060 (9th Cir. 2015) (8 U.S.C. § 1226(c) and 8 U.S.C. §  
24 1225(b)); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. 2011) (8 U.S.C. §

1 1226(c)); *Diouf v. Holder (Diouf II)*, 634 F.3d 1081 (8 U.S.C. § 1231(a)); *Ly v. Hanse*,  
2 351 F.3d 263 (6th Cir. 2003) (8 U.S.C. § 1226(c)) (requiring release when mandatory  
3 detention exceeds a reasonable period of time).

4 **51.** While the Supreme Court upheld the mandatory detention of a noncitizen under Section  
5 1226(c) in *Demore*, it did so based upon the petitioner's concession of deportability  
6 and the Court's understanding that detentions under Section 1226(c) are typically  
7 "brief". *Demore*, 538 U.S. at 522 n.6, 528. Where a noncitizen has been detained for a  
8 prolonged period or is pursuing a substantial defense to removal or claim to relief, due  
9 process requires an individualized determination that such a significant deprivation of  
10 liberty is warranted. *Id.* at 532 (Kennedy, J., concurring) ("individualized  
11 determination as to his risk of flight and dangerousness" may be warranted "if the  
12 continued detention became unreasonable or unjustified"). *See also, Jackson v.*  
13 *Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the "initial commitment" requires  
14 additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972)  
15 ("lesser safeguards may be appropriate" for "short term confinement"); *Hutto v.*  
16 *Finney*, 437 U.S. 678, 685-86 (1978) (in Eighth Amendment context, "the length of  
17 confinement cannot be ignored in deciding whether [a] confinement meets  
18 constitutional standards").

19 **52.** This Court should grant this Habeas Corpus petition on the grounds that detention  
20 without a proper bond hearing is unconstitutional when it exceeds six-months. *See*  
21 *Demore*, 538 U.S. at 529-30 (upholding only "brief" detention under Section 1226(c),  
22 which last "roughly a month and a half in the vast majority of cases in which it is  
23 invoked, and about five months in the minority of cases in which the alien chooses to

1 appeal”); *Zadvydas*, 533 U.S. at 701 (“Congress previously doubted the  
2 constitutionality of detention for more than six months”).

3 **53.** The recognition that six months is a substantial period of confinement—and is the time  
4 after which additional process is required to support continued incarceration—is deeply  
5 rooted in our legal tradition.

6 **54.** With few exceptions, “in the late 18th century in America crimes triable without a jury  
7 were for the most part punishable by no more than a six-month prison term . . .” *Duncan*  
8 *v. State of La.*, 391 U.S. 145, 161 & n.34 (1968).

9 **55.** Consistent with this tradition, the Supreme Court has found six months to be the limit  
10 of confinement for a criminal offense that a Federal Court may impose without the  
11 protection afforded by jury trial. *Cheff v. Schnackenberg*, 384 U.S. 373, 380 (1966)  
12 (plurality opinion).

13 **56.** The Court has also looked to six-months as a benchmark in other contexts involving  
14 civil detention. *See McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249, 250-52 (1972)  
15 (recognizing six months as an outer limit for confinement without individualized  
16 inquiry for civil commitment).

17 **57.** The Court has likewise recognized the need for bright line constitutional rules in other  
18 areas of law. *See Maryland v. Shatzer*, 559, U.S. 98, 110 (2010) (14 days for re-  
19 interrogation following invocation of Miranda rights); *Cty. Of Riverside v.*  
20 *McLaughlin*, 500 U.S. 44, 55-56 (1991) (48 hours for probable cause hearing).

21 **58.** Even if a bond hearing is not required after six-months in every case, at a minimum,  
22 due process requires a bond hearing after detention has become unreasonably  
23 prolonged. *See Diop*, 656 F.3d at 234. Courts that apply a reasonableness test have  
24 considered three main factors in determining whether detention is reasonableness.

1       **59.** First, courts have evaluated whether the noncitizen has raised a “good faith” challenge  
2       to removal—that is, the challenge is “legitimately raised” and presents “real issues”.  
3       *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015).  
4       Petitioner’s detention is prolonged detention without an impartial and fair bond hearing  
5       that guarantees fundamental Due Process of Law. Any delay has occurred as a result  
6       of litigating favorable and substantive issues affecting removal.

7       **60.** Second, reasonableness is a “function of the length of the detention,” with detention  
8       presumptively unreasonable if it lasts six-months to a year. *Id.* at 477-78; *accord Sopo*,  
9       825 F.3d at 1217-18.

10       **61.** Third, courts have considered the likelihood that detention will continue pending future  
11       proceedings. *Chavez-Alvarez*, 783 F.3d at 478 (finding detention unreasonable after  
12       nine months of detention, when the parties could “have reasonably predicted that  
13       *Chavez-Alvarez’s* appeal would take a substantial amount of time, making his already  
14       lengthy detention considerably longer”); *Sopo*, 825 F.3d at 128; *Reid*, 819 F.3d at 500.

15       **62.** At a proper bond hearing, due process requires certain minimal protections to ensure  
16       that a noncitizen’s detention is warranted: the *government* must bear the burden of  
17       proof by *clear and convincing* evidence to justify continued detention, taking into  
18       consideration available alternatives to detention; and if the government cannot meet its  
19       burden, the noncitizen’s ability to pay a bond must be considered in determining the  
20       appropriate conditions of release.

21       **63.** To justify immigration detention, the government must bear the burden of proof by  
22       *clear and convincing* evidence that the noncitizen is a danger or flight risk. *See Singh*  
23       *v. Holder*, 638 F.3d 1196, 1206 (9th Cir. 2011). Where the Supreme Court has  
24       permitted civil detention in other contexts, it has relied on the fact that the Government

bore the burden of proof at least by *clear and convincing evidence*. See *United States v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pre-trial detention where “full-blown adversary hearing,” requiring “clear and convincing evidence” and “neutral decisionmaker”); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding post-final-order custody review procedures deficient because, inter alia, they placed burden on detainee).

64. The Ninth Circuit Court of Appeals confirmed that *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018) did not invalidate the holding in *Singh* and *Rodriguez v. Robbins* (Rodriguez III), 804 F.3d 1060 (9th Cir. 2015), which required that the Government justify a non-citizen’s detention by *clear and convincing evidence*. *Aleman Gonzalez v. Barr*, --- F.3d ---, 2020 WL 1684034 (9th Cir. Apr. 7, 2020).

65. Since *Jennings*, numerous district courts in this circuit and others have concluded that due process requires the government to prove by *clear and convincing evidence* that a non-citizen is a flight risk or a danger to the community to justify denial of bond. E.g., *Ixchop Perez v. McAleenan*, --- F. Supp. 3d ---, 2020 WL 1181492, at \*4 (N.D. Cal. Jan. 23, 2020) (rejecting the government’s “attempt to cabin *Singh* to only apply to *Casas* hearings” as “illogical” since such interpretation would “create a system in which a detained noncitizen bears the burden at their initial bond hearing, but the burden then shifts at a *Casas* hearing”); *Singh v. Barr* (“*Singh v. Barr*”), 400 F. Supp. 3d 1005, 1017-18 (S.D. Cal. 2019) (“Because *Jennings* expressly addressed itself to the mandates of the INA, and not the Constitution, the procedural due process holding[ ] in *Singh* . . . still stand[s].”); *Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 775 (N.D. Cal. 2019); *Calderon-Rodriguez v. Wilcox*, 374 F. Supp. 3d 1024, 1033 n.8 (W.D. Was.

2019); *Cortez v. Sessions*, 318 F. Supp. 3d 1134 (N.D. Cal. 2018), appeal dismissed, 2018 WL 4173027 (9th Cir. July 25, 2018); *Ramos v. Sessions*, 293 F. Supp. 3d 1021, 1029-30 (N.D. Cal. 2018).; *Diaz-Ceja v. McAleenan*, No. 19-CV-00824-NYW, 2019 WL 2774211, at \*11 (D. Colo. July 2, 2019); *Darko v. Sessions*, 342 F. Supp. 3d 429 (S.D. N.Y. 2018); *Linares Martinez v. Decker*, 2018 WL 5023946, at \*4 (S.D. N.Y. Oct. 17, 2018); *Sajous v. Decker*, No. 28 Civ. 2447 (AJN), 208 WL 2357266, at \*12 (S.D. N.Y. May 23, 2018); *Hernandez v. Decker*, No. 18 Civ. 5026 (ALC), 2018 WL 3579108, at \*10 (S.D. N.Y. July 25, 2018); *Frederic v. Edwards*, No. 18 Civ. 5540 (AT), Docket No. 13 (S.D. N.Y. July 19, 2018); *Figueroa v. McDonald*, No. 18-CV-10097 (PBS), --- F. Supp. 3d ---, --- 2018 WL 2209217, at \*5 (D. Mass. May 17, 2018); *Pensamiento*, 315 F. Supp. 3d 684, 692 (D. Mass. 2018); *Portillo v. Hott*, 322 F. Supp. 3d 698, 709 n.9 (E.D. Va. 2018).

66. Further, three (“3”) honorable district court judges in this Court have concluded that fundamental due process requires the government at any Bond proceedings to prove by the legal standard of *clear and convincing* evidence that a noncitizen is a *flight risk or danger to the community* to justify the denial of bond. *Vargas v. Wolf*, 2020 WL 1929842 (D. Nev. 2020)); *Fuentes Reyes v. Wolf*, 2020 WL 2308075 (D. Nev. 2020); *De la Cruz v. United States*, 2021 WL 66402 (D. Nev. Jan. 7, 2021).

67. In *Fuentes Reyes v. Wolf*, U.S. District Court Judge Gloria M. Navarro reaffirmed *Vargas v. Wolf* in its entirety by imposing the same constitutional standard for Bond Hearings where the government must meet the Burden of Proof of dangerousness and flight risk by *clear and convincing evidence* standard.

68. In *De la Cruz v. Wolf*, U.S. District Judge Andrew P. Gordon determined that the government was unable to show cause why he should deviate from following *Vargas*

1 and reaffirmed *Vargas* by holding that the government has the burden of proof by *clear*  
2 *and convincing evidence* that a detainee is a flight risk of a danger to the community  
3 and thus, if the government is unable to meet this heightened burden of proof, a detainee  
4 must be released.

5 **69.** The Fifth Amendment requires that, before depriving a person of his liberty, the  
6 government allow that person to be heard at a meaningful time and in a meaningful  
7 manner. *See Mathews v. Eldridge*, 424 U.S. 319, 334 (1976).

8 **70.** The determination of whether particular government conduct violates this procedural  
9 due process balances (1) the private interest affected by the official action; (2) the risk  
10 of erroneous deprivation of the interest and value (if any) of additional or substitute  
11 procedural safeguards; and (3) the government's interest, including the burden that  
12 additional or substitute procedural requirements would impose. *Id.* at 335.

13 **71.** To conform to the requirements of due process, such a hearing must take place before  
14 an independent and impartial adjudicator. *Id.* at 334-35. The requirement that the  
15 government bear the burden of proof by *clear and convincing evidence* is also  
16 supported by application of the three-factor balancing test from *Mathews v. Eldridge*,  
17 424 U.S. 319, 335 (1976).

18 **72.** First, prolonged incarceration deprives noncitizens of a “profound” liberty interest. *See*  
19 *Diouf II*, 634 F.3d at 1091–92 (9th Cir. 2011).

20 **73.** Second, the risk of error is heavily great where the government is represented by trained  
21 and qualified attorneys and detained noncitizens, as it is in this present case, are often  
22 unrepresented and frequently lack English proficiency. *See Santosky v. Kramer*, 455  
23 U.S. 745, 763 (1982) (requiring clear and convincing evidence at parental termination  
24 proceedings because “numerous factors combine to magnify the risk of erroneous

1 factfinding” including that “parents subject to termination proceedings are often poor,  
2 uneducated, or members of minority groups” and “[t]he State’s attorney usually will be  
3 expert on the issues contested”).

4 74. Moreover, detainees are incarcerated in prison-like conditions that severely hamper  
5 their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing.

6 75. Third, placing the burden on the government imposes minimal cost or inconvenience,  
7 as the government has access to the noncitizen’s immigration records and other  
8 information that it can use to make its case for continued detention.

9 76. Due process also requires consideration of non-punitive alternatives to detention. The  
10 primary purpose of immigration detention is to ensure a noncitizen’s appearance during  
11 removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related  
12 to this purpose if there are alternative conditions of release that could mitigate risk of  
13 flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979).

14 77. In fact, ICE’s alternatives to detention program—the Intensive Supervision  
15 Appearance Program (“ISAP”)—has achieved extraordinary success in ensuring  
16 appearance at removal proceedings, reaching compliance rates close to 100 percent.  
17 *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP  
18 “resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at  
19 final hearings”).

20 78. It follows that “alternatives to detention” must be considered in determining whether  
21 prolonged incarceration is warranted.

22 79. While detention pending removal proceedings is constitutionally permissible, it must  
23 comport with due process. Among other requirements, the government must justify

1 prolonged detention with clear and convincing evidence that the noncitizen presents a  
2 current flight risk or danger to the community.

3 **80.** Even with Petitioner's offense, it has been held that *dangerousness cannot be based on*  
4 *criminal history alone*; the severity and recency of the criminal conduct must be taken  
5 into account. The courts also must consider *changes in circumstances that would make*  
6 *recidivism less likely*.

7 **81.** Finally, although the Court cannot review the IJ's discretionary judgement, it may  
8 review the record for constitutional claims and legal error and to ensure that the clear  
9 and convincing evidence standard is met as a matter of law. *Calderon-Rodriguez v.*  
10 *Wilcox*, 374 F. Supp. 3d 1024, 2033 n.8 (W.D. Wash. 2019).

11 **82.** The following facts establish the government will not meet its Burden of Proof i.e.,  
12 "*clear and convincing*" evidence of dangerousness as a matter of law:

13 **83.** Petitioner does not pose a danger to persons or property. It should be noted that he lacks  
14 felony convictions. Petitioner's compelling circumstances serve as sufficient  
15 demonstration that he is not a flight risk as he fled from Senegal and has a "well-  
16 founded" fear of persecution and torture based on his sexual orientation.

17 **84.** Petitioner has a strong family support system in the United States to ensure he  
18 reintegrates into his community successfully.

19 **85.** In turn, Due Process likewise requires consideration of a noncitizen's ability to pay a  
20 bond. "Detention of an indigent 'for inability to post money bail' is impermissible if  
21 the individual's 'appearance at trial could reasonably be assured by one of the alternate  
22 forms of release.'" *Id.* at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th  
23 Cir. 1978) (en banc)).  
24

1       **86.** It follows that—in determining the appropriate conditions of release for immigration  
 2       detainees—due process requires “consideration of financial circumstances and  
 3       alternative conditions of release” to prevent against detention based on poverty. *Id.*

4       **87.** At the present time Petitioner has limited finances to post a bond because of his  
 5       continued detention.

### 6       **CLAIMS FOR RELIEF**

#### 7       **FIRST CLAIM FOR RELIEF IN VIOLATION OF DUE PROCESS CLAUSE OF THE** 8       **FIFTH AMENDMENT TO THE U.S. CONSTITUTION**

9       **88.** All persons, including aliens, residing in the United States are protected by the Due  
 10       Process Clause of the Fifth Amendment to the United States Constitution. *See Zadvydas*  
 11       *v. Davis*, 533 U.S. 678, 693 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1982).

12       **89.** The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be  
 13       ... deprived of life, liberty, or property, without due process of law.” *U.S. Const.*,  
 14       *amend. V.* “Freedom from imprisonment—from government custody, detention, or  
 15       other forms of physical restraint—lies at the heart of the liberty that Clause protects.”  
 16       *Zadvydas*, 533 U.S. at 690. Petitioner re-alleges and incorporates by reference the  
 17       paragraphs above.

18       **90.** Detention by the Respondents puts at risk Petitioner’s protected liberty interest. The  
 19       Due Process Clause of the Fifth Amendment forbids the government from depriving  
 20       any “person” of liberty “without due process of law.” *See U.S. Const. amend. V.*

21       **91.** To justify Petitioner’s ongoing prolonged detention, due process requires that the  
 22       Government establish, at an individual hearing before a neutral decisionmaker, that  
 23       Petitioner’s detention is justified by *clear and convincing evidence* of flight risk or

1 danger, even after consideration whether alternatives to detention could sufficiently  
2 mitigate that risk. Again, Petitioner's bond request was rejected.

3 **92.** Based on the laws and facts, Petitioner's ongoing detention without such a fair and  
4 impartial hearing where the Immigration Court has jurisdiction violates due process.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Petitioner respectfully requests and prays for this Court:

7 **93.** Assume jurisdiction over this matter;

8 **94.** Issue a Writ of Habeas Corpus; hold a hearing before this Court if warranted; determine  
9 that Petitioner's detention is not justified because the government has not established  
10 by *clear and convincing evidence* that Petitioner presents a risk of flight or *danger* in  
11 light of available alternatives to detention; and order Petitioner's release, with  
12 appropriate conditions of supervision if necessary, taking into account Petitioner's  
13 ability to pay a bond;

14 **95.** In the alternative, issue a Writ of Habeas Corpus and order Petitioner's release within  
15 twenty ("20") days, unless the Respondents schedule a hearing before an immigration  
16 judge where it holds proper jurisdiction and where: (1) to continue detention, the  
17 government must establish by clear and convincing evidence that Petitioner presents a  
18 risk of flight or danger, even after consideration of alternatives to detention that could  
19 mitigate any risk that Petitioner's release would present; and (2) if the government  
20 cannot meet its burden, the immigration judge order Petitioner's release on appropriate  
21 conditions of supervision, taking into consideration Petitioner's ability to pay a bond.

22 **96.** Issue a declaration that Petitioner's ongoing detention violates the Due Process Clause  
23 of the Fifth Amendment and the Eighth Amendment;

1       **97.** Award Petitioner his costs in this action as provided for by the Equal Access to Justice  
2           Act, 28 U.S.C. § 2412, other statute; and

3       **98.** Grant such further relief as this Court deems just and proper.

4  
5       **Respectfully submitted on this 9th day of February, 2026.**

6  
7  
8       Mamadou Cisse

9       Mamadou Cisse

10      Alien No 

11      Nevada Southern Detention Center

12      2190 East Mesquite Avenue

13      Pahrump, NV 89060  
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7 **ACKNOWLEDGEMENT AND VERIFICATION**

8 Under penalty of perjury, the undersigned declares that he is the named Petitioner in the  
9 foregoing petition. I have read the foregoing petition and its contents. The statements in the  
10 petition are true and correct to the best of my knowledge, except as to any statements alleged  
11 on information and belief, and as to those statements, I believe them to be true.

12  
13 **DATED this 9th day of February, 2026.**

14  
15  
16 Mamadou Cisse

17 -Petitioner, *Pro Se*

18 Mamadou Cisse

19 Alien No. 241 – 412 – 566

20 Nevada Southern Detention Center

21 2190 East Mesquite Avenue

22 Pahrump, NV 89060

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