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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Florin Vicas, *Petitioner*, v. Pamela Bondi, Attorney General of the United States, Kristi Noem, Secretary, Department of Homeland Security, Todd M. Lyons, Acting Director of U.S. Immigration and Customs Enforcement; Christopher D. McGregor, Acting Field Office Director of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, Phoenix, Eric Rokowsky, Warden Eloy Detention Center *Respondents*.	No. **PETITION FOR WRIT OF HABEAS CORPUS** **28 U.S.C. § 2241**

INTRODUCTION

Petitioner Florin Vicas petitions for a writ of habeas corpus under 28 U.S.C. § 2241 challenging his continued civil immigration detention as unlawful because he is being subjected to

prolonged immigration detention without a constitutionally adequate bond hearing, in violation of the Due Process Clause of the Fifth Amendment.

Petitioner requests an order requiring Respondents to either (1) promptly provide a constitutionally adequate bond hearing at which the Government bears the burden to justify continued detention by clear and convincing evidence, or (2) release Petitioner from custody under appropriate conditions.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 because Petitioner is in federal custody within the District of Arizona and is challenging the legality of his custody and alleges violations of the U.S. Constitution, federal statutes, and applicable regulations.

2. This Court has jurisdiction pursuant to the Administrative Procedures Act ("APA"), 5 U.S.C. §§ 701-706. Jurisdiction also exists under 28 U.S.C. § 1331, as this action arises under the laws and Constitution of the United States.

3. Declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202, and the Court has supplemental remedial authority under the All Writs Act, 28 U.S.C. § 1651, to issue such writs as may be necessary to preserve its jurisdiction and protect Petitioner's rights. The Government has waived its sovereign immunity pursuant to 5 U.S.C. § 702.

4. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Mr. Vicas is detained in Arizona and his immediate custodian is in this District.

PARTIES

5. Petitioner Florin Vicas is a native and citizen of Romania. He was detained by the agents of the U.S. Immigration and Customs Enforcement ("ICE") on or about August 22, 2025.

6. Respondent Pam Bondi is the Attorney General of the United States. As the Attorney General, she oversees the immigration court system, including all Immigration Judges ("IJ"), and the Board of Immigration Appeals, and has authority over immigration detention. Mr. Vicas brings this action against Respondent Bondi in her official capacity.

7. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland

Security ("DHS"), which oversees ICE, the federal agency responsible for the administration and enforcement of immigration laws and has supervisory responsibility for and authority over the detention and removal of non-citizens throughout the United States. Respondent Noem is the ultimate legal custodian of Mr. Vicas. Mr. Vicas brings this action against Respondent Noem in her official capacity.

8. Respondent Todd Lyons is the Acting Director ICE. In that capacity, he is charged with overseeing all ICE detention and has the authority to make custody determinations. Respondent Lyons is a legal custodian of Mr. Vicas. Mr. Vicas brings this action against Respondent Lyons in his official capacity.

9. Respondent Christopher D. McGregor is the Acting Field Office Director of the ICE Enforcement and Removal Operations ("ERO") Phoenix Office. In that capacity, he is charged with overseeing all ICE detention centers in Arizona and has the authority to make custody determinations regarding individuals detained there. Respondent McGregor is a legal custodian of Mr. Vicas. Respondent McGregor has immediate legal custody of Mr. Vicas. Mr. Vicas brings this action against Respondent McGregor in his official capacity.

10. Respondent Eric Rokowsky is the Warden of the Eloy Detention Center, which is operated by CoreCivic and contracted by DHS. As such, he is the immediate physical custodian of Mr. Vicas, and he is named in his official capacity.

STATEMENT OF FACTS

11. Petitioner Florin Vicas was admitted to the United States on or about March 7, 2002, on a B2 visa.

12. On March 5, 2003, Petitioner was granted asylum by the U.S. Citizenship and Immigration Services ("USCIS") for having established past persecution in Romania on account of [redacted]

13. On June 8, 2015, USCIS issued a Notice of Intent to Terminate Asylum Status because his asylum status was alleged to have been obtained by fraud.

14. On the same day, DHS served Petitioner with a Notice to Appear (NTA) charging him with removability under section 237(a)(1)(B) of the Immigration and Nationality Act ("INA")

for having obtained asylum by fraud. DHS alleged the fraud was linked to Petitioner's use of the law firm Sekhon & Sekhon whose lawyers were convicted of asylum fraud.

15. On May 10, 2017, the Petitioner denied the fraud allegation and the charge of removability. At a contested hearing, Petitioner denied being coached by his attorneys or providing fraudulent documentation to his attorneys. The IJ then admitted a foreign warrant for impeachment, issued against Petitioner in Romania in 2013 for the crime of Deceit.

16. On April 9, 2020, the Immigration Court terminated Petitioner's asylum status, sustained the charge of removability, denied relief, and ordered Petitioner removed to Romania. Petitioner appealed the IJ's findings to the Board of Immigration Appeals ("BIA").

17. On or about August 22, 2025, Petitioner was arrested by ICE agents, presumably based on the outstanding warrant from Romania. Petitioner has no criminal record in the United States. On the same day, Petitioner requested a bond redetermination hearing pursuant to INA § 236(a).

18. On August 29, 2025, the bond request was denied. The IJ found Petitioner is a danger due to the outstanding warrant and Romanian conviction. The IJ also found Petitioner poses a flight risk due to having been denied relief from removal. Exhibit A.

19. On September 11, 2025, Petitioner appealed the bond denial with the BIA. The appeal is currently pending.

20. On October 23, 2025, the BIA dismissed Petitioner's direct appeal and affirmed the IJ's decision, finding Petitioner is removable and the DHS met its burden in establishing that Petitioner obtained asylum by fraud.

21. Petitioner filed a petition for review with the Ninth Circuit Court of Appeals on October 23, 2025, challenging the decisions of BIA on the basis that DHS did not meet its burden in establishing removability because the warrant DHS relied on is unauthenticated and was admitted in violation of Petitioner's due process rights. The appeal is currently pending, Case No. 25-6879.

22. On January 20, 2026, Petitioner filed a Motion to Reopen with the BIA based on new evidence of eligibility for relief, specifically, an I-485 Adjustment of Status under INA §

245(a) of the INA based on an approved I-130 Petition for Alien Relative through his U.S. citizen daughter.

23. On February 12, 2026, Petitioner requested a custody redetermination under 8 C.F.R. § 1003.19(e), based on new evidence of eligibility for adjustment of status under INA § 245(a) based on the approved I-130 Petition for Alien Relative. The request was denied on February 25, 2026. Exhibit B.

24. On March 5, 2026, Petitioner appealed the IJ's denial of the request for custody redetermination hearing with the BIA. The appeal is currently pending.

EXHAUSTION

25. Petitioner has already pursued custody redetermination twice before EOIR and appealed the denials to the BIA.

26. To the extent any further administrative custody review is available, exhaustion should be excused because § 2241 does not impose a statutory exhaustion requirement, and continued detention presents an urgent liberty deprivation requiring prompt judicial review.

BASIS FOR RELIF

I. Mr. Vica's continued detention violates substantive due process because the punitive nature and length exceed the bounds of constitutional detention.

27. "Deprivations of physical liberty are a pervasive feature of our current system of immigration enforcement. While the temporary detention of non-citizens may sometimes be justified by concerns about public safety or flight risk, the government's discretion to incarcerate non-citizens is always constrained by the requirements of due process." *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017).

28. The Due Process Clause protects ""all 'persons'"—including all noncitizens—against arbitrary detention. See *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Id.* at 690.

29. Substantive due process prohibits civil detention that is punitive in purpose or in

effect, including civil detention that is excessively prolonged in relation to its purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Put otherwise, "due process requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed"; otherwise, the commitment amounts to punishment. *Jones v. Blanas*, 393 F.3d 918, 931 (9th Cir. 2004) (quoting Jackson, 406 U.S. at 738).

30. Moreover, even while the Constitution permits mandatory detention for certain categories of noncitizens in removal proceedings, such confinement may become punitive when it is "excessively prolonged." *United States v. Salerno*, 481 U.S. 739, 474 n.4 (1987). Thus, as a detained person's time in custody increases, so too does their liberty interest. *See Zadvydas*, 533 U.S. at 699–700. "[F]or detention to remain reasonable," greater justification is needed "as the period of confinement grows." *Id.* at 701.

31. Accordingly, "at some point, regardless of the risks, due process will require that [a person subject to prolonged civil confinement] be released." *United States. v. Torres*, 995 F.3d 695, 709–10 (9th Cir. 2021) (noting that federal government had conceded this point); *see also United States v. Briggs*, 697 F.3d 98, 103 (2d Cir. 2012) (stating that "for every set of circumstances, due process does impose some limit" on civil confinement).

32. Applying these principles, the Ninth Circuit has held that civil detention violates substantive due process (1) when it is "expressly intended to punish," or (2) when "the challenged restrictions serve an alternative, non-punitive purpose but are nonetheless excessive in relation to the alternative purpose, . . . or are employed to achieve objectives that could be accomplished in so many alternative and less harsh methods." *Jones*, 393 F.3d at 932 (citation modified).

33. These principles apply to civil immigration detention. *Nguyen v. Fasano*, 84 F.Supp.2d 1099, 1113 (S.D. Cal. 2000); see also *Zadvydas*, 533 U.S. at 690; *Reid v. Donelan*, 17 F.4th 1, 8 (1st Cir. 2021). Because the purpose of immigration detention under INA § 1226(c) is to effectuate expeditious removal and safeguard the community, immigration detention that does not "bear some reasonable relation" to that purpose in nature or duration amounts to punishment and violates the Due Process Clause. *Jones*, 393 F.3d at 931.

34. Mr. Vicas has been detained for over six months, and he is not subject to mandatory

detention under § 1226(c). Mr. Vicas's continued detention in prison-like conditions is unduly harsh. Such punitive detention in the civil context amounts to a violation of substantive due process and requires Mr. Vica's immediate release.

35. Here, the duration of Mr. Vicas's detention is excessive in relation to the government's detention purpose. Indeed, the liberty interest of a person subjected to prolonged civil confinement eventually becomes dispositive, such that no degree of government interest, however legitimate, can outweigh it. See Torres, 995 F.3d at 709–10 (noting government conceded that "at some point, regardless of the risks . . . due process will require that [a person subject to prolonged civil confinement] be released").

36. Because Mr. Vicas's continued detention violates substantive due process, this Court should grant the writ and order his release.

37. Respondents cannot justify Mr. Vicas's continued detention as consistent with the purposes of immigration detention. His detention has become punitive and unreasonable prolonged, exceeding the constitutional limits on civil immigration detention. Accordingly, Mr. Vicas's detention violates the guarantees of substantive due process.

II. Mr. Vicas's continued detention violates procedural due process, warranting review by a neutral arbiter where DHS must present clear and convincing evidence justifying his continued detention.

38. While Mr. Vicas maintains that his detention violates substantive due process and warrants release on that ground, he can also establish a violation of his right to procedural due process.

39. To guard against arbitrary detention and to guarantee the right to liberty, due process requires "adequate procedural protections" that ensure the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690

40. Where the government detains a noncitizen for a prolonged period while the noncitizen pursues a substantial defense to removal, due process requires an individualized hearing before a neutral decisionmaker to determine whether detention remains reasonably related to its

purpose. *Demore*, 538 U.S. 510, 513 (2003) (Kennedy, J., concurring) (stating that an "individualized determination as to [a noncitizen's] risk of flight and dangerousness" may be warranted "if the continued detention became unreasonable or unjustified"); *cf. Jackson*, 406 U.S. at 733 (detention beyond the "initial commitment" requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249–50 (1972) (noting that "lesser safeguards may be appropriate" for "short-term confinement"); *Hutto v. Finney*, 437 U.S. 678, 685–86 (1978) (observing, in Eighth Amendment context, that "the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards").

41. The recognition that six months constitutes a substantial period of confinement that qualifies as prolonged detention is deeply rooted in our legal tradition. With only a few exceptions, "in the late 18th century in America crimes triable without a jury were for the most part punishable by no more than a six-month prison term." *Duncan v. Louisiana*, 391 U.S. 145, 161 & n.34 (1968).

42. Consistent with this tradition, the Supreme Court has found six months to be the limit of confinement for a criminal offense that a federal court may impose without the protection afforded by a jury trial. *Cheff v. Schnackenberg*, 384 U.S. 373, 380 (1966) (plurality opinion). The Court has also looked to six months as a benchmark in other contexts involving civil detention. *See McNeil*, 407 U.S. at 249, 250–52 (recognizing six months as an outer limit for confinement without individualized inquiry for civil commitment).

43. The Ninth Circuit in *Diaz v. Garland*, 53 F.4th 1189 (2022), reaffirmed that detention becomes prolonged after six months, significantly increasing the individual's liberty interest. See also *Prieto-Romero v. Clark*, 534 F.3d 1053 (2008) (providing same).

44. Courts in this circuit regularly issue writs of habeas corpus releasing immigrants whose ongoing custody violates the Constitution when the government cannot justify their prolonged detention. *See, e.g., Marroquin v. Chestnut*, No. 1:25-cv-01798-EPG-HC, 2026 LX 108380 (E.D. Cal. Mar. 6, 2026) (holding lawful permanent resident petitioner who was found removable as aggravated felon and denied asylum applications is entitled to a bond hearing while his removal case remains on appeal with a stay of removal); *Van Dan v. Warden of Golden State Annex*, No. 1:26-cv-00629 DJC SCR, 2026 LX 196831, at *15 (E.D. Cal. Mar. 6, 2026) (granting

habeas where there is no clear timeline of detention since case must go through multiple levels of review—IJ, and potentially BIA and the Ninth Circuit if appealed); *Chen v. Aitken*, 917 F. Supp. 2d 1013, 1018 (N.D. Cal. 2013) (holding petitioner's seven-month detention under § 1225(b) was "prolonged" because it lasted well beyond the typical period described in *Demore.*).

45. Absent intervention by this Court, Mr. Vicas's detention is likely to continue for an indeterminate period. There is no defined timeline for adjudication of his pending bond appeals, motion to reopen, or his appeal before the Ninth Circuit. Moreover, if the BIA grants his motion to reopen to pursue adjustment of status, Mr. Vicas will still be required to await further proceedings before the immigration court while remaining detained. Importantly, Mr. Vicas is neither subject to mandatory detention nor detained pursuant to a final order of removal.

46. Mr. Vicas's nearly seven-month detention without review by a neutral arbiter violates procedural due process. To cure this violation, the Court should alternatively order Respondents to provide Mr. Vicas with a bond hearing at which DHS bears the burden of justifying Mr. Vica's detention by clear and convincing evidence.

CLAIMS FOR RELIEF

COUNT I
Violation of Due Process under Fifth Amendment of U.S. Constitution: Substantive Due Process Violation

47. Mr. Vicas realleges and incorporates by reference the paragraphs above.

48. 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.

49. Due process also prohibits Respondents from punishing people through civil detention. Civil detention becomes punitive when its nature or duration is unreasonable relative to the purpose for which the individual is detained—in this case, effectuating removal and safeguarding the community.

50. When a civil restriction is excessive in relation to a governmental interest, punitive detention violates the person's right to substantive due process.

51. Mr. Vica's detention is excessive in duration —in relation to the government's interest

in continuing to detain him. Mr. Vicas has been detained for nearly seven months.

52. For these reasons, Mr. Vica's unjustified and prolonged detention violates substantive due process.

53. Accordingly, the Court should order Mr. Vicas's immediate release.

COUNT II

Violation of Due Process under Fifth Amendment of U.S. Constitution: Procedural Due Process Violation

54. Mr. Vicas re-alleges and incorporates by reference the paragraphs above.

55. 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.

56. Mr. Vicas's detention has become prolonged. He's been detained for over six months and faces additional months of continued detention without receiving a hearing before a neutral decisionmaker as to whether his continued detention is justified.

57. For these reasons, Mr. Vicas's prolonged detention violates procedural due process. Accordingly, the Due Process Clause requires Respondents to establish, at an individualized hearing before a neutral decision maker, that Mr. Vicas's prolonged detention is justified by clear and convincing evidence of flight risk or danger.

58. As such, the Court should order that Respondents must afford Mr. Vicas a bond hearing within seven days at which Respondents bear the burden of justifying Mr. Vicas's detention by clear and convincing evidence.

PRAYER FOR RELIEF

WHEREFORE, Mr. Vicas prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Grant a writ of habeas corpus and order Respondents to immediately release Mr. Vicas;

c. Alternatively, grant a writ of habeas corpus and order Respondents to schedule a bond hearing before a neutral decisionmaker within seven days at which DHS bears the burden of justifying detention by clear and convincing evidence;

d. Enjoin Respondents from transferring Mr. Vicas without his consent outside of this

judicial district pending litigation of this matter;

e. Award reasonable attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law; and

f. Grant any other and further relief as the Court deems just and proper.

Dated: March 12, 2026

Respectfully submitted,

/s/ Luciana Galarza

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

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

Executed on this 12th day of March, 2026 in Phoenix, Arizona.

/s/ Luciana Galarza

Counsel for Petitioner

CERTIFICATE OF SERVICE

I, Luciana Galarza, certify that on March 12, 2026, I served via certified U.S. Mail, return receipt requested, the attached Complaint, on each person/entity listed below addressed as follows:

Pamela Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Kristi Noem,
Secretary, U.S. Department of Homeland Security
U.S. Department of Homeland Security
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Eric Rokowsky
Warden Eloy Detention Center
1705 E. Hanna Road
Eloy, AZ 85131

Served via ECF the attached Petition:
Civil Clerk
United States Attorney's Office
District of Arizona
Two Renaissance Square
40 N. Central Avenue, Suite 1200
Phoenix, AZ 85004-4408

I declare under penalty of perjury that the foregoing is true and correct. Executed on 12th day of March, 2026, at Phoenix, Arizona.

s/ Luciana Galarza