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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Mohammed Abu Hanif,

Petitioner,

v.

Eric Rokowsky, Warden, Eloy Detention Center;

Christopher McGregor, Field Office Director of Phoenix Office of Detention and Removal, U.S. Immigration and Customs Enforcement; U.S. Department of Homeland Security;

Todd M. Lyons, Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security;

Kristi Noem, in her Official Capacity, Secretary, U.S. Department of Homeland Security; and

Pamela Bondi, in her Official Capacity, Attorney General of the United States;

Respondents.

Case No.

A-[redacted]

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Challenge to Unlawful Detention Under 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner Mohammed Abu Hanif has been held in civil immigration detention for an extraordinarily prolonged period while his removal proceedings remain ongoing. His continued detention—now approaching two years—violates the Due Process Clause of the

Fifth Amendment.

2. Mr. Hanif has been detained by Immigration and Customs Enforcement since August 10, 2024 at the Eloy Detention Center in Eloy, Arizona. During this entire period of confinement, he has never received an individualized hearing before a neutral decisionmaker to determine whether his continued detention is justified.

3. The extraordinary length of Mr. Hanif's detention is not the result of his own conduct. Rather, it is largely attributable to the government's own litigation decisions. After an Immigration Judge granted Mr. Hanif asylum on May 21, 2025, the Department of Homeland Security chose to appeal that decision to the Board of Immigration Appeals. The Board subsequently took over six months to adjudicate the appeal and remanded the case for additional proceedings on November 26, 2025, ensuring that Mr. Hanif will remain detained for many additional months absent judicial intervention.

4. Mr. Hanif's prolonged civil detention is particularly troubling given his documented medical conditions. Medical records maintained by ICE confirm that he suffers from chronic health issues—including serious eye disease requiring specialized treatment as well as cardiovascular and metabolic conditions requiring ongoing medical care. Continued confinement while his case proceeds therefore imposes significant and unnecessary harm.

5. Civil immigration detention is intended to serve limited regulatory purposes. It may not become effectively indefinite or punitive simply because removal proceedings remain pending. Where detention has become unreasonably prolonged, and where the government has never been required to justify that detention before a neutral adjudicator, due process requires judicial intervention.

6. Because Mr. Hanif's detention has now become unconstitutionally prolonged, the

Court should order his immediate release from immigration custody. In the alternative, the Court should order Respondents to provide a prompt bond hearing at which the government must demonstrate that Mr. Hanif's continued detention is justified.

JURISDICTION & VENUE

7. This Court has jurisdiction under 28 U.S.C. §§ 2241 *et seq.*; the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*; the All Writs Act, 28 U.S.C. § 1651; and the Fifth Amendment to the United States Constitution.

8. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See, e.g., Zadvydas*, 533 U.S. at 687.

9. Although the Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), rejected the statutory imposition of periodic bond hearings under the immigration detention statutes, it expressly preserved individual, as-applied constitutional challenges to prolonged immigration detention. Accordingly, this Court has jurisdiction under 28 U.S.C. § 2241 to adjudicate Petitioner's Fifth Amendment due process challenge to the lawfulness of his continued detention.

10. 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 Petitioner is detained within this district at the Eloy Detention Center. Furthermore, a substantial part of the events or omissions giving rise to this action occurred and continue to occur at ICE's Phoenix Field Office in Phoenix, Arizona, within this division.

PARTIES

11. Petitioner Mohammed Abu Hanif is a native and citizen of Bangladesh. He is

currently detained at the Eloy Detention Center.

12. Respondent Eric Rokowsky is the Warden of the Eloy Detention Center where Petitioner is being detained. He is Petitioner's immediate legal custodian and thus a proper respondent in this matter. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004).

13. Respondent Christopher McGregor is the Field Office Director of the ICE Enforcement and Removal Operations (ERO) Phoenix Field Office and is the federal agent charged with overseeing all ICE detention centers in Arizona, including the Eloy Detention Center.

14. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE) and is the federal agent charged with overseeing all ICE operations. He is sued in his official capacity.

15. Respondents Pamela Jo Bondi and Kristi Noem are, respectively, the Attorney General of the United States and the Secretary of Homeland Security. As such, they are responsible for maintaining the immigration detention system. They are thus the ultimate legal custodians of Petitioner.

STATUTORY FRAMEWORK

16. Petitioner was initially placed in expedited removal proceedings under 8 U.S.C. § 1225(b)(1) and has remained detained under § 1225(b).

17. Respondents will likely contend that § 1225 mandates detention "throughout the completion of applicable proceedings" and that *Jennings v. Rodriguez* forecloses relief.

18. While § 1225(b) mandates detention pending completion of proceedings, the Supreme Court in *Jennings* expressly preserved as-applied constitutional challenges to prolonged detention. 583 U.S. 281 (2018). *Jennings* rejected a statutory reading that required

periodic bond hearings, but it did not authorize indefinite detention without constitutional review. Courts retain jurisdiction under § 2241 to determine whether detention has become excessive in relation to its regulatory purpose.

STATEMENT OF FACTS

19. Petitioner Mohammed Abu Hanif is a native and citizen of Bangladesh.

20. Petitioner entered the United States at the southern border on or about August 10, 2024 to seek asylum. Petitioner was detained by ICE on that date.

21. Petitioner's removal proceedings began shortly thereafter when the Department of Homeland Security ("DHS") served him with a Notice to Appear on August 22, 2024.

22. At a master calendar hearing on October 3, 2024, Mr. Hanif conceded removability and applied for protection from removal, including asylum, withholding of removal, and protection under the Convention Against Torture.

23. Mr. Hanif thereafter pursued his asylum claim while remaining in immigration detention at the Eloy Detention Center in Arizona.

24. After considering testimony and documentary evidence, the Immigration Court held an individual merits hearing on April 2, 2025. The Immigration Judge found Mr. Hanif credible and determined that he had suffered past persecution in Bangladesh on account of his political opinion.

25. On May 21, 2025, the Immigration Judge issued a written decision granting Mr. Hanif asylum. *See* **Exhibit A,** *IJ Decision.*

26. The court concluded that Mr. Hanif had demonstrated eligibility for asylum and entered an order granting asylum relief.

27. Despite this grant of protection, Mr. Hanif was not released from immigration detention.

28. Rather than release Mr. Hanif following the Immigration Judge's decision, DHS chose to appeal the asylum grant to the Board of Immigration Appeals ("BIA").

29. As a result of the government's appeal, Mr. Hanif remained detained for many additional months while the appeal was pending.

30. On November 26, 2025, the BIA issued a decision sustaining the government's appeal in part and remanding the case to the Immigration Court for further proceedings. *See* **Exhibit B,** *BIA Appeal.*

31. The BIA did not order Mr. Hanif removed from the United States. Instead, it returned the case to the Immigration Judge to conduct further analysis of Mr. Hanif's eligibility for asylum, withholding of removal, and related relief.

32. Thus, even though Mr. Hanif had already prevailed in the Immigration Court, the government's decision to appeal—and the resulting remand—ensured that his immigration proceedings would continue for many additional months while he remained detained.

33. As of the filing of this petition, Mr. Hanif has remained continuously detained for nearly two years.

34. The prolonged nature of Mr. Hanif's detention is particularly striking given the posture of his case.

35. The Immigration Court granted him asylum on May 21, 2025. Yet nearly a year later, Mr. Hanif remains detained while the government continues to litigate his eligibility for relief.

36. Thus, Mr. Hanif has spent the overwhelming majority of his detention in custody after already having been found eligible for protection by an Immigration Judge.

37. Absent intervention by this Court, Mr. Hanif's detention is likely to continue for many additional months while proceedings continue on remand.

38. Mr. Hanif also suffers from multiple significant medical conditions that make his prolonged civil detention particularly harmful.

39. Medical records maintained by ICE document that Mr. Hanif suffers from serious eye disease and severe vision impairment stemming from injuries he sustained in Bangladesh. The Immigration Court found that he required corneal surgery following a politically motivated attack and now has near-total vision loss in his right eye.

40. Mr. Hanif also suffers from chronic medical conditions requiring ongoing monitoring and treatment.

41. These medical conditions significantly heighten the harm caused by prolonged civil detention. Continued confinement places Mr. Hanif at risk of further deterioration in his health while his immigration proceedings remain unresolved.

42. Despite being detained since August 2024, Mr. Hanif has never received an individualized bond hearing before an immigration judge in which he can demonstrate that his continued detention is no longer justified.

43. Instead, he has remained detained for nearly two years without any meaningful opportunity to challenge the necessity of his detention.

ARGUMENT AND GROUNDS FOR RELIEF

I. GROUND ONE: PETITIONER'S DETENTION VIOLATES DUE PROCESS BECAUSE IT HAS BECOME UNREASONABLY PROLONGED AND CONSTITUTIONALLY EXCESSIVE.

44. Civil immigration detention implicates a fundamental liberty interest protected by

the Fifth Amendment. Civil immigration detention is permissible only where it is reasonably related to a legitimate regulatory purpose, such as ensuring appearance at removal proceedings, protecting the community, or effectuating removal. It may not be punitive or excessive in relation to that purpose.

45. When detention becomes prolonged, due process requires courts to balance (1) the detainee's interest in private liberty; (2) the risk of erroneous deprivation of individual interests under existing procedures; and (3) the government's interest in limiting procedural burdens. *Mathews v. Eldridge*, 424 U.S. 319 (1976).

46. When evaluating as-applied challenges to prolonged immigration detention in the Ninth Circuit, courts consider the length of detention, the foreseeability of release, the reasons for the prolonged detention, and the adequacy of the process provided in light of the length of detention. *See Jennings v. Rodriguez*, 583 U.S. 281 (2018) (preserving the availability of as-applied constitutional challenges); *see also Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir. 2013) (abrogated on other grounds by *Jennings v. Rodriguez*); *see also Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011).

47. Here, the balance of the due process equities demonstrates that Petitioner's ongoing detention is unreasonable.

(1) Length of Detention

48. The length of Petitioner's detention weighs heavily in favor of relief. Petitioner has been in ICE custody since August 10, 2024—nearly two years. During this entire period, Petitioner has remained in mandatory detention without any individualized bond hearing or opportunity to challenge the necessity of his confinement.

49. Petitioner's detention has continued even after he prevailed on the merits of his

asylum claim before the Immigration Judge. On May 21, 2025, the Immigration Court granted Petitioner asylum after finding that he had suffered past persecution in Bangladesh on account of his political opinion.

50. Despite this grant of protection, Petitioner was not released from detention. Instead, DHS appealed the Immigration Judge's decision to the Board of Immigration Appeals ("BIA"), prolonging Petitioner's confinement.

51. On November 26, 2025, the BIA sustained DHS's appeal in part and remanded the case for additional proceedings before the Immigration Judge. The BIA did not order Petitioner removed from the United States; rather, it remanded the case for further analysis of Petitioner's eligibility for withholding of removal and related relief.

52. As a result of the government's decision to appeal and the subsequent remand, Petitioner has remained detained for many additional months while the case continues to be litigated.

53. Nearly a year has now passed since the Immigration Judge granted Petitioner asylum. Yet Petitioner remains in immigration detention while the government continues to litigate his eligibility for relief.

54. Courts evaluating prolonged detention routinely find that detention exceeding one year without a bond hearing weighs heavily in favor of relief. Petitioner's detention—approaching two years—places him well beyond the point at which detention can be considered routine or brief.

55. Mandatory detention of this duration without any individualized assessment of flight risk or dangerousness strongly favors granting relief.

(2) Foreseeability of Removal

56. There is no reasonably foreseeable end to Petitioner's detention.

57. The regulatory justification for detention under 8 U.S.C. § 1225 is that removal may occur if the applicant for admission is ultimately denied relief. That justification is significantly weakened here.

58. Petitioner has already demonstrated eligibility for protection before the Immigration Court. The Immigration Judge found that Petitioner had suffered past persecution on account of his political opinion in Bangladesh and granted him asylum.

59. The BIA sustained DHS's appeal but did not order Petitioner removed. Instead, it remanded the case for further proceedings concerning Petitioner's eligibility for asylum, withholding of removal, and other forms of protection.

60. Because the case has been remanded for additional adjudication, the ultimate outcome of the proceedings remains uncertain and may require many additional months of litigation.

61. As a result, Petitioner's detention no longer bears a reasonable relationship to the government's asserted interest in effectuating removal. Removal is not imminent and may not occur for a significant period of time, if at all.

62. Where removal is not reasonably foreseeable and immigration proceedings remain ongoing, prolonged detention without individualized review becomes constitutionally suspect.

(3) Delay Is Not Attributable to Petitioner

63. The prolonged duration of Petitioner's detention is not attributable to any delay caused by Petitioner.

64. Rather, the principal source of delay has been the government's own litigation decisions and the adjudicatory timeline of the immigration courts.

65. After the Immigration Judge granted asylum in May 2025, DHS chose to appeal that decision to the BIA. Petitioner did not cause this appeal.

66. The BIA's adjudication of the government's appeal required many additional months during which Petitioner remained detained. Petitioner did not cause this delay.

67. The BIA ultimately remanded the case to the Immigration Court for further proceedings, ensuring that Petitioner's immigration case—and his detention—would continue for additional months.

68. Petitioner has no control over the pace at which the immigration courts adjudicate his case. Ninth Circuit precedent treats such adjudicatory delay as government-caused delay for purposes of evaluating prolonged detention.

69. Because the prolonged duration of Petitioner's detention stems from the government's litigation decisions and administrative adjudication timelines—not from any dilatory conduct by Petitioner—this factor weighs strongly in favor of relief.

(4) Inadequacy of Process

70. The process provided to Petitioner is inadequate in light of the extraordinary length of his detention.

71. Petitioner has never received a bond hearing, an individualized flight-risk determination, a dangerousness assessment, or any meaningful opportunity to contest the necessity of his continued detention.

72. Mandatory detention without any opportunity for individualized review becomes constitutionally suspect as its duration increases.

73. Throughout nearly two years of confinement, Petitioner has not been afforded any process to review whether continued detention is necessary.

74. The absence of any procedural safeguards strongly favors granting relief.

(5) Petitioner's Serious Medical Conditions Intensify the Liberty Interest at Stake

75. The severity of the liberty deprivation caused by Petitioner's detention is further heightened by his serious medical conditions.

76. Courts evaluating prolonged civil detention under the Due Process Clause consider the real-world consequences of detention for the individual detainee. Where detention places a medically vulnerable individual at heightened risk of harm, the detainee's liberty interest becomes correspondingly stronger.

77. Petitioner suffers from multiple serious medical conditions requiring ongoing monitoring and treatment. *See* **Exh. C.**

78. Medical records maintained during his detention confirm that Petitioner suffers from significant eye disease stemming from injuries he sustained in Bangladesh, including severe vision impairment and prior corneal injury requiring surgical treatment. *Id.*

79. These records also document chronic medical conditions requiring ongoing medication and monitoring, including cardiovascular and metabolic conditions. *Id.*

80. The management of these conditions requires consistent medical care and monitoring, which is significantly complicated by prolonged detention.

81. Because Petitioner's health conditions make the consequences of continued confinement more severe, his private interest in liberty weighs particularly heavily in the Mathews balancing analysis.

82. The Due Process Clause does not permit the government to subject a medically vulnerable civil detainee to prolonged detention where the regulatory justification for detention

has substantially weakened.

83. Petitioner's ongoing detention—despite his serious medical conditions and the extraordinary duration of his confinement—further underscores the constitutional excessiveness of his continued detention.

(6) The Government's Interests No Longer Justify Continued Detention

84. The government's interests do not justify continued detention without additional process.

85. The government's interest in ensuring Petitioner's appearance at immigration proceedings and protecting the community is legitimate but not absolute.

86. That interest is significantly weakened here because an Immigration Judge has already determined that Petitioner suffered past persecution and granted him asylum.

87. Petitioner's continued detention therefore serves primarily to bridge the administrative delay created by the government's appeal and the remand proceedings.

88. The Constitution does not permit DHS to maintain prolonged civil detention as a reflexive response untethered from individualized necessity.

89. Less restrictive alternatives—including release on parole or conditions of supervision, or at minimum an individualized bond hearing—would adequately serve the government's regulatory interests.

Relief

90. Because Petitioner's detention has become excessive in relation to any legitimate regulatory purpose, it violates the Due Process Clause of the Fifth Amendment.

91. Wherefore, this Court should order Petitioner's immediate release.

92. Alternatively, if the Court concludes that some process is required, the Court should

order DHS to provide a constitutionally adequate custody hearing within seven days at which DHS bears the burden of justifying continued detention and demonstrating why alternatives to detention are insufficient.

II. GROUND TWO: PETITIONER'S CONTINUED DETENTION VIOLATES THE FIFTH AMENDMENT BECAUSE HIS SERIOUS MEDICAL CONDITIONS MAKE CIVIL DETENTION UNREASONABLY DANGEROUS AND EXCESSIVE.

93. Civil immigration detention must remain regulatory rather than punitive. The Due Process Clause prohibits the government from detaining a civil detainee under circumstances that expose the detainee to a substantial risk of serious harm.

94. Freedom from physical restraint lies at the core of the liberty interest protected by the Fifth Amendment. When the government chooses to detain a civil detainee, it assumes responsibility for that person's safety and medical well-being.

95. Courts evaluating civil detention claims distinguish between conditions-of-confinement challenges and challenges to the fact of detention itself.

96. While general practice has counseled against it, the Supreme Court has not explicitly foreclosed the use of habeas corpus for conditions-of-confinement claims. *See Ziglar v. Abbasi,* 582 U.S. ___, 137 S. Ct. 1843, 1862 (2017) (leaving open the question of whether alien detainees challenging "large-scale policy decisions concerning the conditions of confinement imposed . . . might be able to challenge their confinement conditions via a petition for a writ of habeas corpus"); *Boumediene v. Bush*, 553 U.S. 723, 792 (2008) (declining to determine "the reach of the writ with respect to claims of unlawful conditions of treatment or confinement"); Bell v. Wolfish, 441 U.S. 520, 526, n. 6, (1979) (leaving for "another day the question of the propriety of using a writ of habeas corpus to obtain review of the conditions of confinement").

97. Here, Petitioner's claims can be viewed as challenging the fact, not simply the

conditions, of his confinement. *See Preiser v. Rodriguez,* 411 U.S. 475, 500 (1973) (where an individual is "challenging the very fact or duration of his physical imprisonment, and the relief he seeks is a determination that he is entitled to immediate release," the proper remedy is a writ of habeas corpus).

98. The question therefore is whether continued detention—given the detainee's specific vulnerabilities—has become excessive in relation to the government's regulatory interests.

Petitioner's Serious Medical Conditions

99. Petitioner suffers from several significant medical conditions that make prolonged civil detention particularly dangerous. *See* **Exhibit C,** *Medical Records.*

100. Medical records maintained during his detention confirm that Petitioner suffers from serious eye disease requiring specialized treatment and ongoing medical monitoring. *Id.*

101. The records document a history of severe ocular injury requiring surgical intervention, including corneal procedures, as well as continued ophthalmologic treatment.

102. Petitioner also suffers from chronic medical conditions requiring ongoing medication and monitoring, including cardiovascular and metabolic conditions.

103. These medical issues require consistent treatment, monitoring, and access to specialized care.

104. Prolonged detention in a custodial setting significantly complicates the management of these conditions and increases the risk of further medical deterioration.

Detention Has Become Excessive in Light of Petitioner's Medical Vulnerabilities

105. The government's interest in civil immigration detention is limited to regulatory objectives such as ensuring appearance at proceedings and effectuating removal.

106. When detention exposes a medically vulnerable detainee to a substantial risk of

serious harm, continued detention becomes excessive in relation to those regulatory purposes.

107. Courts evaluating civil detention under the Due Process Clause must determine whether detention remains reasonably related to a legitimate government objective or whether it has become punitive or excessive.

108. Here, continued detention of Petitioner—despite his serious medical conditions and the extraordinary length of his confinement—serves no legitimate regulatory purpose that cannot be achieved through less restrictive alternatives.

109. Petitioner has already been detained for an extended period while his immigration proceedings continue, and his continued detention places him at ongoing medical risk.

110. Because civil immigration detention may not expose a detainee to an unreasonable risk of serious harm, Petitioner's continued detention violates the Fifth Amendment.

Relief

111. Where continued detention violates due process because it exposes a detainee to substantial medical risk, release is the appropriate remedy.

112. Because Petitioner's medical vulnerabilities make continued civil detention constitutionally excessive, this Court should order his immediate release.

113. Alternatively, the Court should order a prompt individualized custody hearing at which the government bears the burden of justifying continued detention.

PRAYER FOR RELIEF

114. Petitioner is being unlawfully detained in violation of the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. WHEREFORE, Petitioner respectfully requests that this Court:

a. Order Respondents to answer the petition on an expedited basis due to Petitioner's detained status;

b. Grant the Petition for writ of habeas corpus;

c. Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the Court's approval;

d. Order Petitioner's immediate release from ICE custody;

e. Alternatively, order a prompt and constitutionally adequate custody hearing with DHS bearing the burden of proof;

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

Dated: March 13, 2026

Respectfully submitted,

/s/ Spencer C. Lee
Spencer C. Lee
Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. 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 the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this March 13, 2026, in Phoenix, AZ.

/s/ Spencer C. Lee
Spencer C. Lee
Attorney for Petitioner

CERTIFICATE OF SERVICE

This is to certify that on March 13, 2026, the foregoing PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF was served by certified mail, on:

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