UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Y.S.A., *Petitioner,*

v.

Kenneth GENALO, New York Field Office Director for U.S. Immigration and Customs Enforcement; Raul MALDONADO JR., Warden, Metropolitan Detention Center, Brooklyn; Pamela BONDI, Attorney General of the United States; Kristi NOEM, Secretary of Homeland Security; and Todd M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement,

Respondents.

Civil Action No. 26-1557

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

Petitioner Y.S.A. ("Y.S.A." or "Petitioner") brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, the All Writs Act, 28 U.S.C. § 1651, and Article I, Section 9, of the Constitution of the United States. Petitioner alleges in support of his petition:

PRELIMINARY STATEMENT

1. Y.S.A.[1] is a lawful permanent resident of over 20 years who is currently being held in immigration detention because he went on vacation. Had he not gone on a short trip to the Dominican Republic, he would remain living with his family today and could not be deported from the United States. Instead, he has been detained in a notorious federal jail for seven months. Because this detention is contrary to statute and offends basic guarantees of due process, he petitions this Court for relief.

2. On August 9, 2025, after returning from a brief family vacation abroad, Y.S.A. was summarily detained in New York's John F. Kennedy Airport (JFK). He was held there for five days without access to an attorney or his family, or even basic hygiene before ultimately being confined at the Metropolitan Detention Center (MDC). At the time of his detention at JFK, there were no procedures nor individualized determinations regarding the appropriateness of detention.

3. In addition, because Y.S.A. was deemed to be automatically subject to mandatory detention under 8 U.S.C. § 1225(b)(2), he continues to be ineligible to even request a bond hearing, or any other process that would satisfy due process to determine whether his continued custody is necessary or appropriate. The severity of the impingement on Y.S.A.'s liberty rights increases with each day his unjustified seven-month-detention persists, with no end in sight.

[1] Petitioner is concurrently filing a motion for leave to proceed via pseudonym (initials).

4. As a lawful permanent resident of over twenty years with two younger siblings and a mother who are all also LPRs or U.S. citizens, Y.S.A.'s detention has been devastating not only for himself, but for his family. He now finds himself housed in a facility with conditions indistinguishable from criminal confinement where his physical and mental health are deteriorating and are greatly at risk of further deterioration.

5. Y.S.A. thus seeks immediate release, or at minimum, a constitutionally adequate bond hearing conducted by this court in which the government bears the burden of proving by clear and convincing evidence that he is a danger to the community or a flight risk.

PARTIES

6. Petitioner Y.S.A. is a 40-year-old lawful permanent resident ("LPR") who has resided in the United States since 2005 without ever violating an immigration law. *See* Ex. A (lawful permanent residence card). In August 2025, Y.S.A. was returning from a family vacation to the Dominican Republic, when he was arrested and charged as inadmissible to the United States. He has been detained by ICE for the past seven months, and is currently being held at Metropolitan Detention Center, Brooklyn. Y.S.A.'s removal proceedings were venued at the 201 Varick Street Immigration Court in New York, NY, and his case is currently on appeal before the BIA.

7. Respondent KENNETH GENALO is named in his official capacity as the Field Office Director for ICE's New York Field Office. He is responsible for the administration of immigration laws and the execution of detention warrants and removal orders.

8. Respondent RAUL MALDONADO JR. is named in his official capacity as the Warden of the Metropolitan Detention Center, Brooklyn.

9. Respondent PAMELA BONDI is named in her official capacity as the Attorney General of the United States. She is responsible for the policies and operations of the DOJ.

10. Respondent KRISTI NOEM is named in her official capacity as the Secretary of the Department of Homeland Security. She directs each of the component agencies within DHS, including ICE.

11. Respondent TODD M. LYONS is named in his official capacity as Acting Director of ICE. He directs ICE operations and is responsible for the administration of the immigration laws.

JURISDICTION AND VENUE

12. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal question); Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause); and 28 U.S.C. § 1651 (All Writs Act).

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

14. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue is proper in this District under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Y.S.A. is incarcerated at the Metropolitan Detention Center, Brooklyn ("MDC"), within this District; his immigration proceedings are venued in New York City; the ICE office that controls the location of his detention is based in the city; and a substantial part of the events giving rise to the claims and relevant facts occurred in this District.

EXHAUSTION

15. Exhaustion of administrative remedies in immigration detention cases is considered a prudential concern, rather than a statutory requirement. *Quintanilla v. Decker*, No. 21 Civ. 417 (GBD), 2021 WL 707062, at *2 (S.D.N.Y. Feb. 22, 2021) (citing *Joseph v. Decker*, No. 18 Civ. 2640 (RA), 2018 WL 6075067, at *5 (S.D.N.Y. Nov. 21, 2018)).

16. Such exhaustion may be excused when any of the following apply: "(1) available remedies provide no genuine opportunity for adequate relief; (2) irreparable injury may occur without immediate judicial relief; (3) administrative appeal would be futile; and (4) in certain instances a plaintiff has raised a substantial constitutional question." *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003).

17. Y.S.A.'s Petition raises substantial constitutional questions regarding his detention, none of which can be adequately addressed through administrative processes. Because ICE is subjecting Y.S.A. to "mandatory detention," absent intervention from this Court ICE could detain Y.S.A. indefinitely, without ever affording him a bond hearing or any other process in which it must demonstrate the necessity of his detention to a neutral adjudicator. As a result, he has no choice but to seek relief through this petition for habeas corpus.

STATEMENT OF FACTS

Y.S.A.'s Life in the United States

18. Y.S.A. has been a lawful permanent resident ("LPR") of the United States for over twenty years since his arrival in 2005.

19. Y.S.A. and his family grew up poor in the Dominican Republic, living in a small house with fifteen of his relatives and his mother working multiple jobs. He was unable to complete high school because he had to work to support his family. Besides their financial

difficulties, the family also feared the rising violence in the country, [redacted] where they lived.

20. Y.S.A.'s maternal grandmother, who was already lawfully living in the United States, obtained green cards for Y.S.A., his mother, and two younger siblings, and all eventually settled in the New York area.

21. Y.S.A. has developed strong community ties over the two decades he has been a lawful permanent resident in the United States. Prior to his detention, Y.S.A. lived with his mother and provided her with significant economic and emotional support. The two share a love of cooking and would often cook together, laughing and having long discussions about everything they had going on in their lives. *See* Exh. B (declaration of Y.S.A.'s mother). Y.S.A. also has a strong relationship with his lawful permanent resident sister and U.S. citizen brother and their families. *See id.*; *see also* Exh. C (declaration of Y.S.A.'s U.S. Citizen brother).

22. Nearly a decade ago, in 2016, Y.S.A. was arrested for the first and only time in his life and accused of theft. The arrest was a shock to Y.S.A., his family and friends, since he had never been in any legal trouble before.

23. Although Y.S.A. contests the nature of the allegations, after a single meeting with his assigned counsel, Y.S.A. pleaded guilty on the advice of counsel to third degree theft under N.J. Rev. Stat. § 2C:20-3a on October 24, 2016, and was released. *See* Exh. D (judgment of conviction). He was not sentenced to any time in prison and was placed on probation, which he successfully completed without incident. *See* Exh. E (probation letter).

24. This incident remains Y.S.A.'s only criminal conviction, and it is one he deeply regrets. Until his trip to the Dominican Republic, he was proud to say that the incident was completely behind him.

Y.S.A.'s Travel, Arrest and Detention

25. In July 2025, Y.S.A. went to the Dominican Republic for 17 days with his family for a vacation and celebration of his mother. This was the first time he had left the country since approximately 2012, when they had another brief international family trip.

26. On August 9, 2025, Y.S.A. was returning home via John F. Kennedy International Airport when he was suddenly detained by ICE.

27. He was detained at the airport for about five days in a cold room without access to basic hygiene such as a shower or dental care. He was not permitted to speak with an attorney or make any personal phone calls.

28. After several days, he was finally issued a Notice to Appear ("NTA") on August 13, 2025, that charged him with being inadmissible as a result of a conviction for a crime constituting the elements of a "crime involving moral turpitude." *See* Exh. F (NTA). Though Y.S.A.'s guilty plea could not render him deportable from the United States while in the United States, *see* 8 U.S.C. § 1227 (deportable [noncitizens]), he had not been informed that such a plea may put him at risk if he were to travel outside of the United States and re-enter. *See* 8 U.S.C § 1182 (inadmissible [noncitizens]).

29. Eventually, Y.S.A. was transferred to Federal Plaza, where he similarly was denied any opportunity to make legal or personal calls. From Federal Plaza, he was transferred to the Orange County Jail in Goshen, New York. In that period, Y.S.A. experienced poor treatment and began to develop serious depression. Being separated from his family, with whom he is incredibly close, was further taxing on his physical and mental well-being.

30. On November 5, without prior notice or explanation, he was again transferred to the Metropolitan Detention Center ("MDC") in Brooklyn, New York. Since his arrival at MDC,

a facility that is "notorious for dangerous and inhumane conditions that have resulted in multiple inmate deaths, including medical neglect,"[2] Y.S.A.'s physical and mental health has continued to deteriorate. He has not been able to sleep or eat properly, and has dealt with severe stomach pain when he does consume the food and water provided. As a result, he has lost substantial weight. He has attempted on several occasions to get medical care for a worsening skin condition via the required computer submission form but has not received a response for over a month.

31. Further, as a result of Y.S.A.'s detention, he has been unable to support his mother medically, financially, or emotionally. The two of them lived together and relied heavily on one another in day-to-day life. As such, his detention has taken a large toll on her both physically and emotionally. His mother has been left struggling to pay for many essentials such as rent, food, and electricity, and she has expressed fear that her electricity will be shut off imminently. *See* Exh. B (mother's declaration).

32. Y.S.A. also has been a primary caretaker for his mother and her physical health needs. After his mother's surgery last year, he was central in providing coordination and transportation for doctor's appointments, cooking meals that comported with her medical needs, and dispersing medication. She continues to be unable to carry out basic home tasks as a result severe pain that flares-up in her arms. *Id.*

33. Additionally, Y.S.A. has a number of close loved ones who have similarly been caused distress by his ongoing lengthy detention, including his siblings, cousins, friends, and

[2] Andrew Gounades, Electeds, Advocates Call for End to ICE Detention at Inhumane Federal Jail, THE NEW YORK STATE SENATE (July 14, 2025), https://www.nysenate.gov/newsroom/press-releases/2025/andrew-gounardes/electeds-advocatescall-end-ice-detention-inhumane; John Annese, MDC Brooklyn federal jail has just two doctors on staff, hearing reveals, NY Daily News (Jan. 19, 2025), https://www.nydailynews.com/2025/01/19/mdc-brooklyn-federal-jail-has-just-two-doctors-onstaff-hearing-reveals/; Katie Rose Quandt, et al., Lockdowns, Violence, and "Barbaric Conditions" in a Federal Jail Known for its Famous Detainees, The Appeal (June 30, 2025), https://theappeal.org/brooklyn-metropolitan-detention-center-solitary-watch/.

other community members who all speak to his outstanding character and central role he plays in each of their lives. *See* Exhs. B, C (declarations).

ICE Mass Arrest Campaign

34. Y.S.A.'s arrest comes in the context of a larger, aggressive effort by DHS to arrest and detain noncitizens regardless of their individual circumstances in order to meet daily arrest quotas. The former ICE chief of staff during the Biden administration opined: "This isn't about public safety or national security; this is about hitting a quota number. That's it." Hamed Aleaziz, "Under Pressure from the White House, ICE Seeks New Ways to Ramp Up Arrests, *NY Times* (June 11, 2025) https://nytimes.com/2025/06/11/us/politics/ice-la-protest-arrests.html. *See also*, Sarah Wildman, "The System is Meant to Break You': What ICE is Doing to People Here Legally," *NY Times* (Nov. 21, 2025) https://www.nytimes.com/2025/11/21/opinion/ice-immigration-green-card-detention.html ("The utter disregard for whether people pose any danger to the community or any flight risk is new.").

35. What originally began as a daily quota of 1,200 to 1,500 arrests in January 2025 had doubled to a minimum of 3,000 arrests per day by May 2025.[3]

36. As a part of this mass arrest campaign, the agency has upended well-established understanding of the INA's statutory detention framework and reversed decades of agency practice and began to mis-categorize noncitizens as subject to "mandatory detention" under 8 U.S.C. § 1225(b)(2)(A),[4] foregoing any sort of individualized flight or risk assessment that

[3] Nick Miroff & Maria Sacchetti, "Trump officials issue quotas to ICE officers to ramp up arrests, *Washington Post* (Jan. 26, 2025) https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/; Hamed Aleaziz, "Under Pressure from the White House, ICE Seeks New Ways to Ramp Up Arrests, *NY Times* (June 11, 2025) https://nytimes.com/2025/06/11/us/politics/ice-la-protest-arrests.html.

[4] *See* Am. Immigr. Lawyers Assoc., *ICE Memo: Interim Guidance Regarding Detention Authority for Applicants for Admission* (July 8, 2025), https://bit.ly/4teDTaM.

would counsel in favor of arrest and detention. This practice has gained widespread condemnation from courts across this circuit and the country.[5]

37. These arrests have even swept in those who have followed all the right steps and are lawfully present in the country after being admitted, as well U.S. citizens. *See, e.g.*, Miriam Jordan, "Green Card Interviews End in Handcuffs for Spouses of U.S. Citizens," *NY Times* (Nov. 26, 2025) https://www.nytimes.com/2025/11/26/us/trump-green-card-interview-arrests.html ("While federal law does not prohibit spouses with expired visas from being detained and placed in deportation proceedings, in the past they have rarely been detained while applying for green cards. The Trump administration is carrying out such detentions without having announced any change in policy."); Wildman, https://www.nytimes.com/2025/11/21/opinion/ice-immigration-green-card-detention.html ("Green card holders are discovering that decades-old interactions with law enforcement over minor marijuana charges and traffic violations are being brought forward as reasons for detention and possible expulsion."); Nicole Foy, "We Found That More Than 170 U.S. Citizens Have Been Held by Immigration Agents. They've Been Kicked, Dragged and Detained for Days," *ProPublica* (Oct. 16, 2025) https://www.propublica.org/article/immigration-dhs-american-citizens-arrested-detained-against-will.

Procedural History

38. In Y.S.A.'s removal proceedings, both DHS and the IJ agreed that he was eligible for cancellation of removal for permanent residents. *See* 8 U.S.C. § 1229b(a). Y.S.A. submitted significant evidence in support of his application, including declarations and letters of support

[5] *See Demirel v. FDC*, 25-cv-5488, Dkt No. 11 (E.D. Pa. Nov. 18, 2025) (explaining that there are now "288 district court decisions addressing this issue" and in "all but six, the Government's interpretation of the INA . . . was rejected), attaching cases at appendix at Dkt. 11-1.

from his mother, siblings, and other family members, who form his community here in the United States. He also testified at the hearing, along with his mother and brother. DHS, by contrast, submitted only his judgment of conviction, passport, and LPR card.

39. However, the IJ, without issuing a written decision, exercised his discretion to deny Y.S.A.'s application for cancellation of removal and ordered him deported by checking a box. *See* Exh. G (immigration judge decision). Y.S.A. has since appealed that decision to the Board of Immigration Appeals ("BIA"), which has yet to set a briefing schedule.

40. The BIA generally takes months to issue a decision, if not years.[6] If the BIA affirms the IJ's denial of relief, Y.S.A. will have the right to petition for review to the Second Circuit Court of Appeals, a process that also generally takes at least six months to a year or more. If the BIA remands, there will be further proceedings at the immigration court level, again which take at least several months or more, again with both sides having the right to appeal any subsequent decision of the IJ.

41. As of this filing, Y.S.A. remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his family, his loved ones, and his community.

LEGAL BACKGROUND

Returning Lawful Permanent Residents, Parole, and Detention Authority

42. Lawful permanent residents ("LPRs") are noncitizens who have been "lawfully admitted" and allowed to reside permanently in the United States. *See* 8 U.S.C. § 1101(a)(20).

[6] EOIR statistics show 219,945 appeals pending before the BIA in early 2026—a 58% increase since 2024 and a 643% increase since 2016. *See Workload and Adjudication Statistics*, EOIR (Jan. 26, 2026), https://www.justice.gov/eoir/workload-and-adjudication-statistics.

43. Prior to the passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), § 101(a)(13) the Immigration and Nationality Act of 1952 ("INA") governed returning LPRs. 66 Stat. 167 (codified as amended at 8 U.S.C. § 1101(a)(13) (2000)). The statute stated that "entry' means any coming of [a noncitizen] into the United States...," but provided an exception for LPRs, providing that they "shall not be regarded as making an entry" if their departure from the country was not intended or reasonably expected by them or their presence in a foreign place was not voluntary. *Id.*

44. In interpreting the phrase "not intended," the Supreme Court held that if a departure from the United States is "innocent, casual, and brief, it is consistent with all the discernible signs of congressional purpose to hold that the 'departure...was not intended' within the meaning and ameliorative intent of the exception of [§] 101(a)(13)." *Rosenberg v. Fleuti*, 347 U.S. 449, 461 (1963). This became known as the *Fleuti* doctrine, which, when read with § 101(a)(13), made clear that LPRs whose departures were "innocent, casual, and brief" were not making an "entry" for immigration purposes upon their return.

45. However, when Congress enacted the IIRIRA in 1996, the statute governing LPRs who depart and then reenter the country changed. *See* IIRIRA, Pub. L. No. 104-208, § 309(a), 110 Stat. 3009-546, 3009-625 (1996). Instead, the governing statute defined "admission" or "admitted" as a noncitizen who has been allowed lawful entry into the United States after inspection and authorization by an immigration officer. *See* IIRAIRA, § 301(a)(13) (codified at 8 U.S.C. § 1101(a)(13)(A) (2000)).

46. The statute goes on to include an exception to the definition, stating that lawful permanent residents "*shall not be regarded as seeking admission* into the United States for purposes of the immigration laws *unless*" they fall within six enumerated categories, including

having committed an offense under 8 U.S.C. 1182(a)(2), such as a crime involving moral turpitude ("CIMT"). 8 U.S.C. § 1101(a)(13)(C) (emphasis added). The Act further provides that, for noncitizens who are arriving in the United States, a noncitizen who is an "applicant for admission," and also deemed to be "seeking admission" who "is not clearly and beyond a doubt entitled to be admitted . . . shall be detained" for a removability proceeding in immigration court. 8 U.S.C. § 1225(b)(2)(A).

47. The *Fleuti* doctrine was deemed superseded with passage of the IIRIRA. *See In re Collado-Munoz*, 21 I&N Dec. 1061 (BIA 1998); *Heredia v. Sessions*, 865 F.3d 60, 65 (2d Cir. 2017) ("[T]hrough the passage of IIRIRA in 1996, Congress ended the *Fleuti* doctrine."). However, the constitutionality of mandatory detention under § 1225(b)(2) as it applies to returning lawful permanent residents remains an open question.

48. In the current immigration system, detention is governed by three mutually exclusive statutes. First, 8 U.S.C. § 1226, governs individuals arrested within the United States who are subject to removal proceedings. *See Jennings*, 583 U.S. at 288–89 (describing § 1226 detention as relating to people "inside the United States" and "present in the country"). Most of these individuals are eligible for release on bond under § 1226(a).

49. Second, the INA provides for detention of noncitizens who are subject to final orders of removal. *See* 8 U.S.C. § 1231(a)–(b).

50. Third, and as noted above, "applicants for admission" who are "seeking admission" are subject to mandatory detention under 8 U.S.C. § 1225(b)(2). *See Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (describing § 1225 as relating to "borders and ports of entry").

51. For individuals subject to mandatory detention under § 1225(b)(2), there is no opportunity for a bond hearing. DHS has discretion to grant parole "on a case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A). *See also, St. John v. McElroy*, 917 F. Supp. 243, 248-89. (S.D.N.Y. 1996) (finding that due process requires individualized determinations, not generalizations, to sustain a parole decision). Federal regulations specify that DHS may release individuals on humanitarian parole if they "present neither a security risk nor a risk of absconding." 8 C.F.R. § 212.5(b). Because immigration detention is civil in nature, flight risk and danger are the only factors that can be taken into consideration when placing a noncitizen in civil detention. *See Zadvydas*, 533 U.S. 690. The regulations contemplate parole for specific groups of individuals who meet these criteria, including those "whose continued detention is not in the public interest." 8 C.F.R. § 212.5(b)(5).

52. When granting parole, DHS officers must "apply reasonable discretion" and consider: "(1) The giving of an undertaking by the applicant, counsel, or a sponsor to ensure appearances or departure, and a bond may be required on Form I-352 in such amount as may be deemed appropriate; (2) Community ties such as close relatives with known addresses; and (3) Agreement to reasonable conditions (such as periodic reporting of whereabouts)." 8 C.F.R. § 212.5(d).

53. Since the passage of IIRIRA, the executive branch has "regularly used the parole authority," Kelsey Y. Santamaria, "Humanitarian Parole Authority: A Legal Overview and Recent Developments," *Congressional Research Service* (Jan. 11, 2024) https://www.everycrsreport.com/reports/LSB11102.html., including for returning LPRs. *See, e.g., Lau v. Bondi*, 130 F.4th 42 (2d Cir. 2025).

The Due Process Rights of Arriving LPRs

54. The Fifth Amendment protects the right to be free from deprivation of life, liberty or property without due process of law. U.S. Const. amend. V. The Due Process Clause extends to all persons within the United States regardless of status, including noncitizens, whether here lawfully, unlawfully, temporarily, or permanently. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *see also Demore v. Kim*, 538 U.S. 510, 523 (2003); *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.").

55. Although the Due Process Clause extends to everyone in the United States, noncitizens with lawful permanent resident status have a further elevated constitutional status after they "begin[] to develop the ties that go with permanent residence." *Landon v. Plasencia*, 459 U.S. 21, 32 (1982).

56. The Supreme Court has explained that, despite a trip abroad that requires re-entry, LPRs are entitled to the same constitutional due process protections they would have if they had not left the United States, reasoning that a temporary absence from the United States that does not constitute a break in residency in the naturalization laws should not diminish a constitutional right to due process. *See Kwong Hai Chew v. Colding*, 344 U.S. 590, 600-01 (1953). "[W]e assimilate petitioner's [constitutional] status to that of a [noncitizen] continuously residing and physically present in the United States." *Id.* at 596.

57. The Court reaffirmed this holding thirty years later, stating that "[t]he reasoning of *Chew* was ... that a resident [noncitizen] returning from a brief trip has a right to due process just as would a continuously present resident [noncitizen]." *Plasencia*, 459 U.S. at 31.

58. On this basis, courts throughout this circuit have consistently ruled that LPRs seeking admission after brief trips abroad are entitled to the full protections of the Due Process Clause, as if they had maintained continuous presence in the country. *See, e.g.*, *Arias v. Aviles*, 15-cv-9249 (RA), 2016 WL 3906738 (S.D.N.Y. July 14, 2016); *Sing Fon Pan v. Sessions*, 290 F. Supp. 3d 250, 255 (S.D.N.Y. 2018); *Ricketts v. Simonse*, No. 16 CIV. 6662 (LGS), 2016 WL 7335675, at *3 (S.D.N.Y. Dec. 16, 2016).

Due Process in the Context of Immigration Detention

59. A person's liberty cannot be infringed upon without "adequate procedural protections." *Zadvydas*, 533 U.S. at 690-91. The Second Circuit has held that the *Matthews v. Eldridge* balancing test is applicable to determine the adequacy of process in the context of civil immigration confinement. *Velasco Lopez*, 978 F.3d at 851 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)); *see also Black v. Decker*, 103 F.4th 133, 150-51 (2d Cir. 2024). The *Mathews* factors are: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335.

60. Due process requires that a discretionary decision to detain an individual be based on individualized considerations as to flight risk or danger, and that an individual be provided with notice and an opportunity to contest the deprivation of their liberty, prior to the deprivation. *See, e.g.*, *Chipantiza-Sisalema v. Francis*, No. 25 CIV. 5528 (AT), 2025 WL 1927931, at *2 (S.D.N.Y. July 13, 2025); *Ye v. Maldonado*, No. 25-CV-6417 (AMD), 2025 WL 3521298, at *8 (E.D.N.Y. Dec. 8, 2025); *O.F.B. v. Maldonado*, No. 25-CV-6336 (HG), 2025 WL

3277677, at *8 (E.D.N.Y. Nov. 25, 2025); *Quintero Campos v. Deleon*, No. 25-CV-10099 (LJL), 2025 WL 3514120, at *2 (S.D.N.Y. Dec. 8, 2025) (ordering immediate release of individual ICE detained without "any individualized assessment or flight risk assessment").

61. The Supreme Court has also specifically recognized the availability of substantive due process claims in the context of immigration detention. *Zadvydas*, 533 U.S. at 694; *Wong Wing v. United States*, 163 U.S. 228, 238 (1896).

62. Substantive due process under the Fifth Amendment forbids the government from infringing upon certain "fundamental" liberty interests at all, "no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest." *Reno v. Flores*, 507 U.S. 292, 302 (1993). It "prevents the government from engaging in conduct that ... interferes with the rights implicit in the concept of ordered liberty." *United States v. Salerno*, 481 U.S. 739, 746 (1987) (internal quotes and citations omitted).

63. Immigration detention is civil, not criminal, and therefore must be "nonpunitive in purpose *and effect*." *Zadvydas*, 533 U.S. at 690 (emphasis added). Civil detention is in accordance with substantive due process only in "certain special and 'narrow' nonpunitive circumstances'" where the government has a "special justification" that outweighs the individual's core liberty interest in freedom from detention. *Id.* (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)); *see also Jackson*, 406 U.S. at 738 ("Due process requires that the nature and duration of [civil] commitment bear some reasonable relation to the purpose for which the individual is committed."). Civil detention must be limited in accordance with substantive due process because, "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 746 (1987) (internal quotes and citations omitted).

64. As a limiting principle, civil immigration detention violates substantive due process if it does not "bear some reasonable relation to the purpose for which [an] individual is [detained]." *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). "[D]etention must further the twin goals of ensuring a noncitizen's appearance during removal proceedings and preventing danger to the community." *Zadvydas*, 533 U.S. at 690 (cleaned up); *see also Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006) (when determining whether to release a noncitizen from detention, an Immigration Judge considers whether the individual "is a threat to national security, a danger to the community at large, likely to abscond, or otherwise a poor bail risk"). If the detention of a particular noncitizen does not further a legitimate government interest, it runs afoul to the substantive protections of the Due Process Clause.

65. Due process further limits ICE's ability to subject noncitizens to prolonged detention. The Second Circuit has held that due process prohibits noncitizens, even those subject to mandatory detention by statute, from being detained for an unreasonable amount of time without a constitutionally sufficient bond hearing. *See Velasco Lopez v. Decker*, 978 F.3d 842, 846 (2d Cir. 2020); *Black v. Decker*, 103 F.4th 133, 138 (2d Cir. 2024).

66. *Velasco Lopez* first dealt with individuals who are detained subject to § 1226(a). Then, in *Black*, the Court found that detainees subject to mandatory detention based on certain criminal convictions, *see* 8 U.S.C. § 1226(c), were just as constitutionally entitled to a bond hearing after prolonged detention, despite the statute's requirement of mandatory detention. 103 F.4th at 143.

67. Both cases applied the tripartite test of *Mathews v. Eldridge*, 424 U.S. 319 (1976), to determine what process was due to the petitioners. *Velasco Lopez*, 978 F.3d at 851; *Black*, 103 F.4th at 138.

68. Both *Velasco Lopez* and *Black* found that all three *Mathews* factors favored the noncitizen and ordered a bond hearing that required DHS to justify the petitioner's detention by clear and convincing evidence. *Velasco Lopez*, 978 F.3d at 852–55; *Black*, 103 F.4th at 152–55. In *Black*, the Circuit further ordered the Immigration Judge to consider alternatives to detention and ability to pay. *Black*, 103 F.4th at 159.

ARGUMENT

I. Detaining Y.S.A. Under 8 U.S.C. § 1225(b)(2) Violates the INA and His Right to Due Process.

69. ICE's decision to detain Y.S.A. was made without the requisite individualized review of the necessity of his detention, nor with any procedural protection such as notice and a hearing prior to detention.

70. DHS was not required to deem Y.S.A. to be "seeking admission" and detain him under 8 U.S.C. § 1225(b)(2) when he returned from his vacation. *See, e.g.*, *Lau*, 130 F.4th at 47 ("LPRs *may* be regarded as seeking admission to the United States if they 'ha[ve] committed' certain offenses, including 'crime[s] involving moral turpitude.") (citations omitted). The only mandatory language in the INA regarding returning LPRs is that generally they *cannot* be deemed seeking admission. 8 U.S.C. § 1101(a)(13)(C). The statute then permits DHS to treat LPRs as seeking admission in only six narrow circumstances. *Id.* This statutory language thus provides DHS with discretionary authority to treat LPRs as seeking admission in six limited circumstances upon return from trips abroad.

71. The government cannot justify its actions by claiming that no individualized determinations are required. In *Lopez Benitez v. Francis*, the Court found that the government's assertion that petitioner's detention was mandatory was "precisely the opposite of an exercise of discretion, which entails some sort of judgment," and that the disclaiming of discretionary

authority was precisely what violated the petitioner's due process rights. 795 F.Supp.3d 475, 495 (S.D.N.Y. Aug. 13, 2025).

72. In addition, courts have regularly applied the *Mathews* balancing test to determine the scope of due process an individual is entitled to in the immigration context. *See e.g.*, *Plasencia*, 459 U.S. at 32 (agreeing that Plasencia, a returning lawful permanent resident, could invoke the Due Process Clause and applying the *Mathews* test). Application of that test here shows that all three factors weigh heavily in favor of Y.S.A. and demonstrate that due process required more prior to his initial detention.

73. The first *Mathews* factor, the privacy interest affected, is "the most significant liberty interest there is—the interest in being free from imprisonment." *Velasco Lopez*, 978 F.3d at 851 (quoting *Salerno*, 481 U.S. at 755). This interest has repeatedly been recognized as one that deserves great "weight and gravity." *Addington v. Texas*, 441 U.S. 418, 427 (1979).

74. The second *Mathews* factor— "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards" *Velasco Lopez*, 978 F.3d at 851—also weighs heavily in Y.S.A.'s favor.

75. For returning lawful permanent residents categorized as "seeking admission," detention is mandatory and there is no opportunity for review nor even an individualized determination to determine if detention is necessary. Additional process thus would add significant value to guard against erroneous deprivations of liberty. *See, e.g.*, *Black*, 103 F.4th at 153 ("In the absence of any meaningful initial procedural safeguards, it appears to us that almost *any* additional procedural safeguards at some point in the detention would add value.").

76. Similarly, there was no procedure nor individualized determination used prior to Y.S.A.'s designation as "seeking admission" and ensuing detention, nor was he eligible for a

bond hearing to challenge his detention, thereby greatly exacerbating the risk of erroneous deprivation of his liberty interests.

77. Finally, the third *Mathews* factor, the government interest, supports Y.S.A., as the government does not have an interest in detaining a lawful permanent resident who is not a flight risk or danger and has been part of this country and community and has been for 20 years, and he would have remained so indefinitely had he not went on his family vacation. In such circumstances, the government has no interest substantial enough to outweigh the need for a basic individualized determination as to whether labeling an LPR as "seeking admission" is necessary or even in the public interest.

78. In addition, the government's interest is even further reduced here because there is a substantial question as to whether Petitioner can be subject to 8 U.S.C. § 1225(b)(2)(A) at all, because he cannot be considered "seeking admission" for purposes of that statute.

79. As numerous courts have found, an individual must be "seeking admission," in order for them to be subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *See, e.g.*, *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 487 (S.D.N.Y. 2025) ("for section 1225(b)(2)(A) to apply, several conditions must be met—in particular, an examining immigration officer must determine that the individual is: (1) an applicant for admission; (2) seeking admission; and (3) not clearly and beyond a doubt entitled to be admitted.") (quoting *Martinez v. Hyde*, 792 F. Supp. 3d 211, 214 (D. Mass. 2025)) (cleaned up).

80. Here, there is a substantial question as to whether Y.S.A.'s conviction even falls into one of the six narrow discretionary exceptions to designating LPRs as "seeking admission." Although the Notice to Appear, issued several days after his detention, claims his N.J. theft conviction was a crime involving moral turpitude, he pleaded guilty to the conviction in October

2016. *See* Exh. D (judgment of conviction). A N.J. theft conviction that was pled guilty to prior to November 16, 2016 cannot constitute a crime involving moral turpitude under the categorical approach. *See Almanzar v. Att'y Gen. United States*, No. 21-3092, 2023 WL 11833060, at *3 (3d Cir. July 1, 2024). This is because New Jersey theft offenses include non-permanent takings. *Id.* The immigration law in effect prior to November 16, 2016, when Y.S.A. pleaded guilty, was that such offenses were not categorically crimes involving moral turpitude. *Id.* On November 16, 2016, however, the Board of Immigration Appeals broadened the classification of a crime involving moral turpitude to include non-permanent takings. *See id.* (discussing *Matter of Diaz-Lizarraga*, 26 I. & N. Dec. 847 (BIA 2016)). The Second Circuit has held that applying *Diaz-Lizarraga* to noncitizens who pleaded guilty prior to that decision is impermissibly retroactive. *Obeya v. Sessions*, 884 F.3d 442, 449 (2d Cir. 2018); *see also Francisco-Lopez v. Att'y Gen.*, 970 F.3d 431 (3d Cir. 2020) (same); *see also I.N.S. v. St. Cyr*, 533 U.S. 289 (2001).

81. In addition, it was especially important for Y.S.A. to have been given a proper individualized review of the necessity of his detention, along with pre-deprivation notice and hearing, because classifying an LPR who is merely returning from vacation as "seeking admission" and therefore subject to mandatory detention raises serious constitutional concerns.

82. As an LPR returning from a brief trip abroad, labeling Y.S.A. as "seeking admission" further violates his right to due process because it unjustly subjects him to mandatory detention as if he is attempting to enter the country for the first time when, in reality, he has far greater connection to the country and attendant due process protections than those the statute typically contemplates as subject to 8 U.S.C. § 1225(b)(2)(A). *See generally, Plasencia*, 459 U.S. at 32 ("[O]nce a [noncitizen] gains admission to our country and begins to develop the ties that go with permanent residence his constitutional status changes accordingly."); *Kwong Hai*

Chew, 344 U.S. at 600 (applying the same constitutional right to due process for a noncitizen continuously residing and physically present in the United States to a permanent resident who briefly left the country).

83. But for Y.S.A.'s short vacation abroad, he would not be currently subject to mandatory detention. As a lawful permanent resident of over twenty years with LPR and U.S. citizen family members, he has certainly developed all the ties that go with permanent residence. To strip him of his constitutional rights entirely on the basis that he is an "arriving alien" after a roughly two-week sojourn abroad and thus on par with "arriving aliens" who have never set foot in this country would run afoul of the principles eschewed in *Plasencia* and *Kwong Hai Chew* – that a returning permanent resident has the same constitutional rights to due process as a noncitizen continuously residing in and physically present in the United States. 459 U.S. at 33; 344 U.S. at 596.

II. Y.S.A.'s Continued Detention Violates Due Process Because it is Not in Furtherance of a Legitimate Government Interest in Civil Detention and Has Become Punitive in Effect.

84. To comply with the Due Process Clause, detention must always bear "some reasonable relation to the purpose for which the individual was committed." *Jackson*, 406 U.S. at 738; *Brown v. Taylor*, 911 F.3d 235, 243 (5th Cir. 2018).

85. The only legitimate purpose, consistent with due process, for federal civil immigration detention is to prevent flight risk and ensure the detained person's attendance to legal hearings adjudicating their status or potential removal, or to otherwise ensure the safety of the community. *Zadvydas*, 533 U.S. at 690–91; *Vazquez Perez v. Decker*, No. 18-CV-10683 (AJN), 2020 WL 7028637, at *11 (S.D.N.Y. Nov. 30, 2020); *Lopez v. Sessions*, No. 18-cv-4189 (RWS), 2018 WL 2932726, at *10 (S.D.N.Y. June 12, 2018) ("In the immigration context, the

Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight." (citing *Demore*, 538 U.S. at 28).

86. Y.S.A. is not a flight risk. He has deep community ties and has a vested interest in attending all legal hearings to fight his removal and remain in the place he has legally called home for 20 years, critical factors typically used to determine flight risk for noncitizens in removal proceedings. He is an LPR whose entire family and life is in New York. He is the main caretaker and financial provider for his mother, whom he has lived with in Yonkers for over 15 years. Further, Y.S.A. is an ideal candidate for cancellation of removal under 8 U.S.C. § 1229b(a) and is pursuing such relief. Beyond commitment to seeking relief before the immigration agency, he is in the process of seeking post-conviction relief for the plea deal that he took despite not understanding the collateral immigration consequences, in violation of his Sixth Amendment right to counsel. *See Padilla v. Kentucky*, 559 U.S. 356 (2010) (holding that because immigration penalties are inextricably enmeshed with the outcome of criminal proceedings, and because of the importance and potential severity of immigration consequences, criminal defense counsel have a duty under the Sixth Amendment to address the immigration consequences facing a noncitizen defendant).

87. Y.S.A. also presents absolutely no danger to the community. To the contrary, he has consistently proven to be a person who cares deeply for his community and goes out of his way to provide for them. *See* Exh. A – C. His only interaction with the criminal legal system in his 20 years of permanent residency was an arrest and plea deal over a decade ago. Since he took the plea and was sentenced only to probation in 2016, he has had no criminal issues and successfully completed his probation.

88. "Where an individual is neither a danger to the community nor a flight risk, her detention serves no purpose." *Vazquez Perez*, 2020 WL 7028637, at *11. Detention is constitutional only if it serves a lawful purpose, and here, there is none.

89. Y.S.A.'s continued detention is unrelated to the purposes justifying it as a constitutional matter and therefore contravenes the fundamental substantive Due Process protections in the Fifth Amendment of the Constitution.

90. This violation is causing him substantial harm physical and mental harm and has rendered Y.S.A.'s detention punitive in effect, a further violation of his substantive due process rights. *See Zadvydas*, 533 U.S. at 690 (stating that detention must be nonpunitive in purpose *and* effect to past constitutional muster) (emphasis added). Y.S.A. has now spent seven months separated from his loved ones in a detention center indistinguishable from a federal or state prison, conditions which are punitive in effect.

91. The conditions at MDC are so atrocious that several courts in this circuit have condemned it as unfit, even for those serving criminal sentences. *See, e.g.*, *United States v. Chavez*, 710 F. Supp. 3d 227, 229 (S.D.N.Y. 2024) ("It has gotten to the point that it is routine for judges in both this District and the Eastern District to give reduced sentences to defendants based on the conditions of confinement in the MDC. Prosecutors no longer even put up a fight, let alone dispute that the state of affairs is unacceptable."); *id.* at 236 ("For these reasons, the Court holds that the conditions at the MDC constitute 'exceptional reasons' why detention of most defendants who do not pose a risk of flight or danger to the community, including Chavez, 'would not be appropriate.'") (quoting 18 U.S.C. § 3145(c)); *see also* Plea Tr. at 33, *United States v. Arias*, No. 22-CR-495 (PAE), ECF No. 34 (S.D.N.Y. May 5, 2023). Courts have even vacated terms of imprisonment because, "the present conditions at MDC make such a sentence

materially different than one served at a jail or prison elsewhere in the United States that is appropriately managed." *United States v. Colucci*, 743 F. Supp. 3d 452, 461 (E.D.N.Y. 2024); *see also United States v. Griffin*, No. 22-CR-408 (EK), 2024 WL 2891686, at *3 (E.D.N.Y. June 10, 2024) (granting a motion for compassionate release based primarily on the conditions at MDC); *United States v. Santana*, No. 22 CR. 368 (VM), 2024 WL 2275037, at *2 (S.D.N.Y. May 20, 2024) ("Given the severe prison conditions that prevail at the MDC (conditions that amount to imposing harsher punishments on prisoners), this Court and others have adjusted sentences of defendants in custody there for lengthy periods.").

92. Where the conditions of his confinement can only be described as so punitive in effect as to compel judges to order release of those serving criminal sentences, ongoing civil detention of a long-time LPR in such conditions violates Y.S.A.'s substantive due process rights.

III. Y.S.A.'s Detention Has Become Unconstitutionally Prolonged

93. Even if Y.S.A.'s detention was constitutional as an initial matter, due process requires additional procedural safeguards when detention becomes unreasonably prolonged. He has now been detained for seven months without any need for ICE to justify his detention.

A. Y.S.A. Has Been Detained for an Unreasonable Amount of Time

94. Having been detained for seven months without an end in sight, Y.S.A.'s detention has become unconstitutionally prolonged. As a result, ICE must justify the need for his continued detention by clear and convincing evidence.

95. Applicable Supreme Court and Second Circuit case law makes clear that detention of a noncitizen for seven months without any process or hearing before a neutral adjudicator is presumptively unreasonable.

96. In *Zadvydas v. Davis*, the Supreme Court, in the context of noncitizens detained after receiving a final removal order, declared more than six months of detention to be presumptively unreasonable. 533 U.S. 678, 701 (2001); *see also Clark v Martinez*, 543 U.S. 371, 386–87 (2005) (applying same time frame to similarly situated inadmissible noncitizens). Seven months is also significantly longer than the length of detention that the Court emphasized as reasonable in *Demore v. Kim*. 538 U.S. 510, 529 (2003) (a month and a half in 85% of cases, and an average of four months in cases where a noncitizen appeals).

97. Relying on these timelines, the Second Circuit, in *Black v. Decker*, found that Petitioner's detention for seven months was unreasonably prolonged. 103 F.4th at 137, 143–44. Accordingly, courts presume that "immigration detention exceeding six months without adequate procedural safeguards raises 'serious due process concerns.'" *G.F.F. v. Francis*, No. 25-CV-7368 (JGK), 2025 WL 3141735, at *4 (S.D.N.Y. Nov. 10, 2025) (quoting *Black*, 103 F.4th at 150).

98. *Black*'s constitutional holding applies to mandatory detainees under 8 U.S.C. § 1226(c), but is equally applicable to all mandatory detainees, regardless of the statute under which they are detained. *See Black*, 103 F.4th at 150 ("*any* immigration detention exceeding six months without a bond hearing raises serious due process concerns.") (emphasis added).

99. The central issue in *Black* was whether the Circuit's *Velasco Lopez* decision, which applied to discretionary detainees under 8 U.S.C. § 1226(a), 978 F.3d at 846, would apply even to detainees who were subject to mandatory detention under § 1226(c) due to past criminal convictions. *See* 103 F.4th at 137–38. The Circuit held that it did, finding that the risk of erroneous deprivation was even greater for the mandatory detainees, because they had never had

a bond hearing in which the Government had to justify their detention to begin with. *Id.* at 152–53.

100. The same is true of Y.S.A., a lawful permanent resident who has been detained for seven months without any process to determine whether that detention is justified. No matter the statute that governs his detention, from a constitutional perspective, his situation is nearly identical to that of the petitioners in *Black*. *See Sessions v. Dimaya*, 584 U.S. 148, 184 (2018) (Gorsuch, J., concurring) ("due process protections . . . are 'not to be avoided by the simple label [the government] chooses to fasten upon its conduct or its statute.'") (quoting *Giaccio v. Pennsylvania*, 382 U.S. 399, 402 (1966)).[7]

101. Numerous district courts have therefore concluded that prolonged detention without a bond hearing violates due process, whether a noncitizen is detained under § 1226 or § 1225. *See, e.g.*, *Al-Thuraya v. Warden*, No. 25-CV-2582 (AS), 2025 WL 2858422, at *5 (S.D.N.Y. Oct. 9, 2025) (collecting cases where courts have found § 1225(b) detainees have the right to a bond hearing and applying *Black v. Decker* to Petitioner detained under that statute); *Perez v. Decker*, No. 18-CV-5279 (VEC), 2018 WL 3991497, at *4 (S.D.N.Y. Aug. 20, 2018) (applying pre-*Black* due process framework to § 1225(b) detainee and ordering a bond hearing).

B. All Three *Mathews* factors Favor Y.S.A.

102. Because Y.S.A. finds himself nearly identically situated to the Petitioners in *Black*, it is no surprise that, as in that case, all three *Mathews v. Eldrige* factors favor relief in the prolonged detention context, just as described *supra* they favor relief when considering his initial detention at JFK. *See Black*, 103 F.4th at 138; *Mathews*, 424 U.S. at 335.

[7] For similar reasons, statutory labels have no bearing on his constitutional status as a returning permanent resident. *See Landon v. Plasencia*, 459 U.S. 21, 33–34 (1982).

103. "'[T]he private interest affected by the official action is the most significant liberty interest there is—the interest in being free from imprisonment.'" *Black*, 103 F.4th at 151 (quoting *Velasco Lopez*, 978 F.3d at 851). "Case after case instructs us that in this country liberty is the norm and detention 'is the carefully limited exception.'" *Velasco Lopez*, 978 F.3d at 851 (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)).

104. Y.S.A. who was never sentenced to jail time for his singular conviction, has now spent seven months in a "notorious" federal jail.[8]

105. Y.S.A.'s detention demonstrates why courts in this district have been sounding the alarm. The food at MDC is borderline inedible.[9] In addition, since he was detained, Y.S.A. has developed a skin condition that has been untreated, despite his repeated requests for medical attention, which he has been pleading for since mid-January. The one time he was able to speak with medical staff, they told Y.S.A. that the condition was not caused by his time at the facility, gave him a cream, and dismissed him. Despite his repeated requests, he has not received any medical attention since. *See United States v. Colucci*, 743 F. Supp. 3d 452, 456 (E.D.N.Y. 2024) "(That critical medical care is frequently delayed or denied within the facility seems no longer in doubt."); *accord United States v. Griffin*, No. 22-CR-408 (EK), 2024 WL 2891686, *3 (E.D.N.Y. June 10, 2024); *Chavez*, 710 F. Supp. 3d at 234 ("It has become common for defense counsel to require court intervention to ensure that inmates receive basic care — and, even more shocking, not uncommon for court orders to go unheeded.").

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[8] Rachel Treisman, T*he NYC jail holding Maduro has a history of big names and dangerous conditions, NPR (Jan. 5, 2026)*, https://www.npr.org/2026/01/05/nx-s1-5666899/metropolitan-detention-center-ny-jail-maduro.

[9] *See* John Annese, New photo shows maggot-infested food in MDC Brooklyn jail, where Diddy and Luigi Mangione are held, NY Daily News, February 21, 2025, https://www.nydailynews.com/2025/02/21/new-photo-shows-maggot-infested-food-in-mdc-brooklyn-where-diddy-and-luigi-mangione-are-held/.

106. Y.S.A. detention has also been exceedingly difficult for his family and loved ones. This is especially true of Y.S.A.'s mother, whom he lived with and helped support. Although she works part time, she does not earn enough to support herself and relies on Y.S.A.'s income. She also suffers from various health issues and, at times, is unable to complete basic household tasks. In these moments, she relies on Y.S.A. to cook for her and do things around the house that she cannot. *See Black*, 103 F.4th at 151 (Petitioner's family and mother relied on him for financial and personal support).

107. The hardship Y.S.A.'s family is experiencing demonstrates how prolonged, unjustified detention only serves to "separate families and remove from the community breadwinners, caregivers, parents, siblings and employees." *Black*, 103 F.4th at 154 (quoting *Velasco Lopez*, 978 F.3d at 855) (cleaned up).

108. The second *Mathews* factor, "the risk of an erroneous deprivation of such [private] interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards[,]" *Black*, 103 F.4th at 152 (quoting *Mathews*, 424 U.S. at 335) (alteration in original), likewise favors Y.S.A.

109. Neither § 1226(c) nor § 1225(b)(2) provide a "mechanism for a detainee's release, nor for individualized review of the need for detention." *Black*, 103 F.4th at 152. As a result, the erroneous deprivation is even greater for mandatory detainees than it was for the Petitioner in *Velasco Lopez* because, unlike § 1226(a) detainees, mandatory detainees never receive a bond hearing at all. *Black*, 103 F.4th at 152 ("Even in the context of Velasco Lopez's section 1226(a) detention, where he received two bond hearings at which he bore the burden of proof, we concluded that 'the procedures underpinning [his] lengthy incarceration markedly increased the risk of error.' Section 1226(c) detainees receive even less procedural protection, and the risk of

erroneous deprivation is correspondingly greater.") (quoting *Velasco Lopez*, 978 F.3d at 852) (alteration in original).

110. The Circuit likewise cited data showing that 62% of § 1226(c) detainees who were given bond hearings were released, demonstrating that most were detained without justification. *Black*, 103 F.4th at 152. The Court concluded that, "[i]n the absence of any meaningful initial procedural safeguards, it appears to us that almost *any* additional procedural safeguards at some point in the detention would add value." *Id.* at 153 (emphasis in original). The same is true in the case of Y.S.A.

111. Because ICE has no cognizable interest in detaining noncitizens who, like Y.S.A., are neither a danger to the community nor a flight risk, "requir[ing] that the Government justify continued detention 'promotes the Government's interest—one we believe to be paramount—in minimizing the enormous impact of incarceration in cases where it serves no purpose.'" *Id.* at 154 (quoting *Velasco Lopez*, 978 F.3d at 854). Thus, the final *Mathews* factor also favors Y.S.A.

112. Because all three factors weigh in his favor, ICE's continuing detention of Y.S.A. has denied him due process of law. Only intervention by this Court can lead to his release.

IV. The Court Should Order Petitioner's Release or, at Minimum, a Constitutionally Adequate Bond Hearing

A. The Remedy for Petitioner's Unlawful Detention is Immediate Release

113. The "equitable and flexible nature of habeas relief" affords district courts significant discretion over the appropriate remedies for violations of law and the Constitution. *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020); see also *Schlup v. Delo*, 513 U.S. 298, 319 (1995) ("[H]abeas corpus is, at its core, an equitable remedy"). This Court should order a remedy that fully addresses the constitutional violations in this case and is efficient to administer. *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968) (the habeas statute "does not limit the

relief that may be granted to discharge of the applicant from physical custody. Its mandate is broad with respect to the relief that may be granted"); *see also Zumba v. Bondi*, No. 25-CV-14626 (KSH), 2025 WL 2753496 (D.N.J. Sept. 26, 2025) ("Due to its flexible nature, the Court may fashion a remedy that returns petitioner to her position prior to her unlawful detention.").

114. The most appropriate remedy in a case like this, where Y.S.A. is an LPR who has resided in the United States for more than 20 years and was detained in violation of his procedural and substantive due process rights, is release on recognizance without further conditions.

115. "[T]he traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). It is the "usual remedy by which a man is restored again to his liberty, if he have been against law deprived of it." *Id.* at 485; *see also Munaf v. Geren*, 553 U.S. 674, 693 (2008) (explaining release to be the presumed remedy); *Fay v. Noia*, 372 U.S. 391, 402 (1963) ("[i]f the imprisonment cannot be shown to conform with the fundamental requirements of law, the individual is entitled to his immediate release.").

116. In the context of noncitizens' habeas petitions, courts across the country have routinely found immediate release as the appropriate remedy for a variety of statutory, procedural, and substantive constitutional violations stemming from petitioner's detention. *See, e.g., Ambroladze v. Maldonado*, No. 26-CV-00474 (HG), 2026 WL 280182, at *3 (E.D.N.Y. Feb. 3, 2026) (given that the typical remedy for unlawful detention is release, "the government's ongoing detention of Petitioner, in the face of yet another complete failure of process, entitles him to immediate release."); *O.F.B. v. Maldonado*, 2025 WL 3277677 (E.D.N.Y. Nov. 25, 2025) (finding procedural failures entitle petitioner to immediate release); *Hyppolite v. Noem*, No. 25-CV-4304 (NRM), 2025 WL 2829511, at *16 (E.D.N.Y. Oct. 6, 2025) (finding all three *Mathews*

factors weighing in favor of the petitioner to warrant a remedy of immediate release); *Crespo Tacuri v. Genalo*, No. 25-cv-06896, 2026 WL 35569, at *7 (E.D.N.Y. Jan. 6, 2026) (ordering release, finding that post-deprivation review cannot remedy the due process violation of detaining petitioner with no process or individualized assessment); *Munoz Materano v. Arteta*, 2025 WL 2630826, at *20 (S.D.N.Y. Sept. 12, 2025) (ordering immediate release); *Chipantiza Sisalema v. Francis*, 2025 WL 1927931, at *4 (S.D.N.Y. July 13, 2025) (same); *Rueda Torres v. Francis*, No. 25-cv-8408, 2025 WL 3168759, at *6 (S.D.N.Y. Nov. 13, 2025) (same); *Cifuentes v. Soto*, No. 25-cv-18029, 2025 WL 3771380, at *4 (D.N.J. Dec. 31, 2025) (same); *Gonzalez Centeno v. Lowe*, No. 3:25-cv-2518, 2026 WL 94642, at *4 (M.D. Pa. Jan. 13, 2026) (same); *Feisal O. v. Noem*, No. 26-cv-81, 2026 WL 92857, at *3 (D. Minn. Jan. 13, 2026) (same); *Garcia Covarrubias v. Holston*, No. 2:25-cv-02445, 2026 WL 25970, at *4 (D. Nev. Jan. 5, 2026) (same) *Kenzhebaev v. Noem*, No. 1:25-cv-1786, 2025 WL 3737975, at *9 (W.D. Mich. Dec. 29, 2025) (same); *Kobilov v. O'Neill*, No. 26-cv-0058, 2026 WL 73475, at *3 (E.D. Pa. Jan. 8, 2026) (same, finding a bond hearing unnecessary where there was no record indication petitioner was a danger or flight risk); *Ortega-Aguirre v. Noem*, No. 4:25-cv-04332, 2025 WL 3684697, at *4 (S.D. Tex. Oct. 10, 2025) (same); *Bumbila Iza v. Arnott*, No. 6:25-cv-3392, 2026 WL 67152, at *5 (W.D. Mo. Jan. 8, 2026) (same); *see also Mata Velasquez v. Kurzdorfer*, --- F. Supp. 3d ---, No. 25-cv-493, 2025 WL 1953796 (W.D.N.Y. July 16, 2025) (ordering release and that petitioner could not be re-detained without a pre-deprivation hearing); *Gil v. Warden, Otay Mesa Det. Ctr.*, No. 3:25-cv-03279, 2025 WL 3675153, at *4 (S.D. Cal. Dec. 17, 2025) (same); *Sekhon v. Warden of Golden State Annex Det. Facility*, No. 1:25-cv-1692, 2026 WL 74151, at *4 (E.D. Cal. Jan. 9, 2026) (same).

117. Release is the only appropriate remedy for the constitutional violations in this case because the lack of pre-deprivation notice or individualized review determining that detention would further a constitutionally permissible purpose before Petitioner's arrest cannot be remedied by a post-deprivation hearing. *See Qasemi v. Francis*, No. 25-cv-10029, 2025 WL 3654098 at *14, (S.D.N.Y. Dec. 17, 2025) (a bond hearing would not be an adequate remedy for the due process violations in petitioner's sudden arrest and detention); *Crespo Tacuri v. Genalo*, No. 25-cv-06896, 2026 WL 35569, at *7 (E.D.N.Y. Jan. 6, 2026) (finding that post-deprivation review cannot remedy the due process violation of detaining petitioner with no process or individualized assessment).

118. Further, where petitioner's substantive due process rights are being violated because of detention that serves no permissible purpose, no remedy short of release can cure the constitutional violation.

119. In addition to immediate release being the proper remedy given the ongoing due process violations, release is necessary and appropriate because of the government's demonstrated resistance to implementing district court orders short of immediate release. Recent actions by ICE attorneys and immigration judges during and after habeas court-ordered bond hearings have necessitated enforcement proceedings across the country, creating significant extra work for the court and the parties while petitioners' unlawful detention continues. *See infra* IV.B.; *Moctezuma Macias v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (given that the government's repeated use of unlawful detention policies across the country, causing petitioners to "sit in jail waiting for a judicial decision," the court would order immediate release instead of causing additional delay through a bond hearing). The Court should use its broad mandate to fashion an administrable remedy that sufficiently

addresses the constitutional violations without prolonging such violation further, *Carafas*, 391 U.S. at 238.

B. At a Minimum, Petitioner is Entitled to a Constitutionally Adequate Bond Hearing

120. As the Second Circuit has repeatedly held, the remedy for Y.S.A.'s prolonged detention without a bond hearing is at least being provided a constitutionally adequate bond hearing at which DHS must justify his continued detention by clear and convincing evidence, and which must consider alternatives to detention and his ability to pay. Because DHS has recently begun to use an unconstitutional mechanism to unilaterally override the decision of an Immigration Judge, the Court should conduct a bond hearing itself to ensure effective relief.

1. The Government Must Bear the Burden of Proof at Any Bond Hearing and the Adjudicator Must Consider Alternatives to Detention and Ability to Pay Bond

121. For the bond hearing to be constitutionally adequate, the government must bear the burden of proof to justify continued detention by "clear and convincing evidence." *See Velasco Lopez*, 978 F.3d at 855-57 (affirming District Court's conclusion that "a clear and convincing standard was appropriate" for Petitioner's new bond hearing after facing prolonged detention under § 1226(a)); *Black*, 103 F.4th at 157 (affirming District Court conclusion that DHS was required to show "by clear and convincing evidence" the need for Petitioner's continued detention under § 1226(c)).

122. Courts have continuously found that, when the government seeks to hold somebody in detention, it must justify its decision by clear and convincing evidence or risk erroneously depriving individuals of their liberty interests. *See Velasco Lopez*, 978 F.3d at 855–57; *Black*, 103 F.4th at 155–56; *Roman*, 2020 WL 5743522, at *2 (citation omitted).

123. Furthermore, the court must consider the person's ability to pay and alternatives to detention when setting a bond amount to ensure a detained individual's liberty interest is meaningfully safeguarded. *See Black*, 103 F.4th at 158 ("refusing to consider ability to pay and alternative means of assuring appearance creates a serious risk that the noncitizen will erroneously be deprived of the right to liberty purely for financial reasons.").

124. Because Y.S.A. has been detained for an unconstitutional amount of time, this Court should order a bond hearing where the government must justify Y.S.A.'s continued detention by clear and convincing evidence and the court must consider his ability to pay and alternatives to detention when setting a bond amount in order to ensure a detained individual's liberty interest is meaningfully safeguarded. *See Black*, 103 F.4th at 158 ("refusing to consider ability to pay and alternative means of assuring appearance creates a serious risk that the noncitizen will erroneously be deprived of the right to liberty purely for financial reasons."

2. The Court Should Conduct Any Bond Hearing

125. Given recent events, a bond hearing in immigration court is no longer adequate to protect Y.S.A.'s liberty interest. ICE has recently begun to unilaterally override IJ bond decisions by continuing to detain noncitizens for over three months longer, even after they are ordered released. This is unconstitutional, renders the prospect of release on bond in immigration court illusory, and would inefficiently force Y.S.A. to seek additional relief in habeas.

126. Under applicable regulations, when an individual is granted bond by an immigration judge, if DHS files a notice of intent to appeal, it may unilaterally stay the order of an immigration judge, preventing that individual from being released. 8 C.FR. § 1003.19(i)(2). DHS then has 10 business days in which to file a notice of appeal before the BIA, after which the automatic stay remains active until it expires 90 days later. 8 C.F.R. §§ 1003.6(c)(1), (4). Thus,

ICE may *unilaterally override* the decision of a neutral adjudicator for over 100 days, denying release to a noncitizen who is properly entitled to release on bond.

127. Unsurprisingly, when DHS has evoked this provision in the past, numerous courts have found it to be unconstitutional. *See Zavala v. Ridge*, 310 F. Supp. 2d 1071 (N.D. Cal. 2004); *Ashley v. Ridge*, 288 F. Supp. 2d 662, 673 (D.N.J. 2003); *Uritsky v. Ridge*, 286 F. Supp. 2d 842 (E.D. Mich. 2003); *Bezmen v. Ashcroft*, 245 F. Supp. 2d 446 (D. Conn. 2003); *Zabadi v. Chertoff*, No. 05-CV-1796 (WHA), 2005 WL 1514122 (N.D. Cal. June 17, 2005).

128. Despite its clear unconstitutionality, in "what appears to have been a policy change[,]" *Vargas Lopez v. Trump*, No. 8:25-cv-526, 2025 WL 2780351, at *10 (D. Neb. Sep. 30, 2025), ICE has been applying this automatic stay provision with greater frequency than ever before—and meeting the same judicial response. *See M.P.L. v. Arteta*, No. 25-CV-5307 (VSB), 2025 WL 3288354, at *7, n.6 (S.D.N.Y. Nov. 25, 2025) (collecting "at least" fifty cases from the prior six months, and finding their "near unanimity" persuasive); *see also* Emergency Amended Motion to Enforce, *Romero Perez v. Francis*, No. 25-CV-8112-JGK, ECF No. 33 at 5 (S.D.N.Y. Nov, 13, 2025) (after district court order finding Petitioner detained under § 1226(a), IJ disobeyed court order and denied bond under § 1225(b), then, after a second bond hearing to remedy the first deficiency, DHS invoked an automatic stay of the bond grant).

129. Perhaps recognizing the flagrant unconstitutionality of the automatic stay, DHS has attempted to move the goalposts when challenged. In *J.M.P. v. Arteta*, after the District Court ordered a bond hearing and the IJ granted release, DHS invoked the automatic stay to hold the petitioner in custody. No. 25 CIV. 4987 (DEH), 2025 WL 2984913, at *7 (S.D.N.Y. Oct. 23, 2025). When the petitioner sought a TRO in the District Court, DHS withdrew its automatic stay the very next day and instead sought a discretionary stay before the BIA. *Id.* at *8. In just two

hours, without access to the IJ's reasoning or any of the evidence submitted by the Petitioner, the BIA granted the stay *ex parte* in a three-sentence order. *Id.* at *8–9. The District Court, recognizing that this second stay followed no legal standard and was "'discretionary' in name but automatic in practice[,]" ordered the petitioner's immediate release. *Id.* at *24.

130. As the deluge of decisions around the country show, *J.M.P.* was no outlier. ICE appears to have adopted a policy of unilaterally overruling immigration judges when they order release on bond, even if the hearing takes place at the direction of a habeas court. And even when petitioners are able to challenge these decisions, ICE may seek a purportedly "discretionary" stay that accomplishes the same result. These conditions increasingly render immigration court a pointless detour on the way back to a habeas court, as petitioners seek to obtain due process before a neutral adjudicator. *See* Kyle Cheney, *Judges Keep Ordering Immigration Hearings — but Say the Results are Often a Sham*, Politico (Mar. 6, 2026), https://www.politico.com/news/2026/03/06/immigration-case-hearings-judges-00815660 ("Increasingly, though, judges are bypassing bond hearings and ordering the release of detainees outright, concluding that they're unlikely to get a fair shake in immigration courts.").

131. A bond hearing before the IJ is therefore not an adequate remedy. Instead, the Court, having all of the information that would also be available to an IJ at its disposal, should itself conduct a bond hearing to determine whether Y.S.A. is entitled to be released. *See, e.g.*, *L.G.M. v. LaRocco*, No. 2:25-CV-2631 (PKC), 2025 WL 2092027, at *3–5 (E.D.N.Y. June 25, 2025) (ordering bond hearing to be conducted by District Court); *Centeno-Martinez v. Jamison*, No. CV 25-3593, 2025 WL 3157711 (E.D. Pa. Nov. 12, 2025) (same); *Chiguano v. Lowe*, No. 1:24-CV-02210, 2025 WL 3187161 (M.D. Pa. Nov. 14, 2025) (same); Transcript of Record at 13, *Celestin v. Decker*, No. 1:17-cv-02419 (RA) (S.D.N.Y. June 14, 2017), at ECF No. 29

(ordering bond hearing conducted by District Court to remedy IJ's failure to consider ability to pay at bond hearing); *see also Ostrer v. United States*, 584 F.2d 594, 596 n. 1 (2d Cir. 1978) ("[A] district court has inherent power to enter an order affecting the custody of a habeas petitioner who is properly before it contesting the legality of his custody."); *Mapp v. Reno*, 241 F.3d 221, 227 (2d Cir. 2001) (District Court has inherent authority to grant bail in immigration habeas cases); *Flores-Powell v. Chadbourne*, 677 F. Supp. 2d 474 (D. Mass. 2010) (discussing habeas judge's equitable power, including power to hold a bail hearing).

132. Accordingly, if the Court finds that a bond hearing is an appropriate remedy, it can and should conduct such a hearing itself to ensure that its grant of relief is effective. Any bond hearing before an Immigration Judge runs the risk that DHS will unilaterally overrule such a decision and continue to unconstitutionally detain Y.S.A., who has been unlawfully incarcerated for far too long already.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION:

PETITIONER'S INITIAL DETENTION VIOLATED HIS DUE PROCESS RIGHTS AND THE INA
U.S. Const. amend V; 8 U.S.C. § 1225(b)(2)

133. Petitioner repeats and realleges the preceding paragraphs of this Petition.

134. Detaining Y.S.A. under 8 U.S.C. § 1225(b)(2) violates the INA and his procedural due process rights. 8 U.S.C. § 1225(b)(2) cannot apply to Y.S.A. as he cannot be properly designated as "seeking admission" under the statute.

135. In addition, ICE's failure to conduct an individualized determination of the need for his detention or to provide pre-deprivation notice and a hearing regarding the necessity of his detention, and ICE's failure to violated the INA and his right to due process.

136. Finally, as a long-time lawful permanent resident, subjecting him to mandatory detention under 8 U.S.C. § 1225(b)(2) after a brief vacation abroad violates his due process rights. As such, 8 U.S.C. § 1225(b)(2) is unconstitutional as applied to him.

SECOND CAUSE OF ACTION:

PETITIONER'S ONGOING DETENTION VIOLATES HIS SUBSTANTIVE DUE PROCESS RIGHTS
U.S. Const. amend V

137. Petitioner repeats and realleges the preceding paragraphs of this Petition.

138. Y.S.A.'s continued detention is unrelated to the purposes justifying it as a constitutional matter and therefore contravenes the fundamental substantive Due Process protections in the Fifth Amendment of the Constitution. *See Jackson*, 406 U.S. at 738; *Brown*, 911 F.3d at 243; *Vazquez Perez*, 2020 WL 7028637, at *11.

THIRD CAUSE OF ACTION:

PETITIONER'S PROLONGED DETENTION WITHOUT REVIEW VIOLATES HIS DUE PROCESS RIGHTS

U.S. Const. amend V

139. Petitioner repeats and realleges the preceding paragraphs of this Petition.

140. Because Petitioner has been incarcerated for an unreasonable amount of time without requiring DHS to justify why his continued detention is necessary, he has been denied due process of law. *See Black*, 103 F.4th at 159 (2d Cir. 2024); *Al-Thuraya*, 2025 WL 2858422 (S.D.N.Y. Oct. 9, 2025).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Enjoin Respondents from transferring Y.S.A. outside the jurisdiction of this Court or removing him from the United States pending the resolution of this case, pursuant to the All Writs Act;[10]
3. Issue a writ of habeas corpus directing Respondents to immediately release Y.S.A. from custody without any additional restraints on his liberty;
4. In the alternative, the Court should conduct a constitutionally adequate, individualized bond hearing for the Petitioner within fourteen days. If, instead, Respondents are ordered

[10] *See Local 1814, Intern. Longshoremen's Ass'n, AFL-CIO v. New York Shipping Ass'n, Inc.*, 965 F.2d 1224, 1237 (2d Cir. 1992) ("Once the district court acquires jurisdiction over the subject matter of, and the parties to, the litigation, the All Writs Act [28 U.S.C. § 1651] authorizes a federal court to protect that jurisdiction" (cleaned up)); *Khalil v. Joyce*, No. 1:25-cv-1935 (JMF) (S.D.N.Y. Mar. 10, 2025), ECF No. 9. *See also* Order, *Ozturk v. Hyde*, No. 25-cv-374 at 68 (WKS) (D.Vt. Apr. 18, 2025), ECF No. 104 (ordering Petitioner's transfer from Louisiana back to Vermont).

to carry out such a hearing in front of an impartial adjudicator, the Court should direct that at that hearing:

a. ICE must bear the burden of establishing by clear and convincing evidence that continued detention is justified;

b. The adjudicator must meaningfully consider alternatives to imprisonment such as release on recognizance, parole or electronic monitoring; and

c. The adjudicator must meaningfully consider Y.S.A.'s ability to pay if setting a monetary bond.

5. Award Y.S.A. his costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412; and

6. Grant such further relief as the Court deems just and proper.

Respectfully Submitted,

Dated: March 16, 2026
Brooklyn, NY

/s/ Alexandra Lampert
Alexandra Lampert
Brooklyn Defender Services
177 Livingston Street, 7th Fl
Brooklyn, NY 11201
T: (718) 254-0700 ext. 288
E: alampert@bds.org

Adjunct Professor of Clinical Law
Immigrant Rights Clinic
Washington Square Legal Services
245 Sullivan St., 5th Floor
New York, New York 10012

Pro Bono Counsel for Petitioner

Jason Radvany, Legal Intern*
Mariel Gonzalez-Medellin, Legal Intern*
Ryen Diaz, Legal Intern*
Immigrant Rights Clinic

Washington Square Legal Services
245 Sullivan St., 5th Floor
New York, New York 10012

* Law Student Intern Appearance Forms Forthcoming