UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF MICHIGAN

SHYH CHING TIEN,

DHS File No. A [redacted]

Petitioner,

v.

Kevin RAYCRAFT, Field Office Director of Enforcement and Removal Operations, Detroit Field Office, IMMIGRATION AND CUSTOMS ENFORCEMENT; Kristi Noem, Secretary, U.S. DEPARTMENT OF HOMELAND SECURITY; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, U.S. Attorney General

Respondents.

Case No. 1:26-cv-874

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT

INTRODUCTION

1. Petitioner, Shyh Ching Tien (A[redacted]), by and through his undersigned counsel, respectfully petitions this Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents.

2. Petitioner is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the North Lake Correctional Facility in Baldwin, Michigan. He has been held in ICE custody since approximately September 15, 2025. Throughout his time in detention, he has posed no danger or flight risk that warrants such a prolonged deprivation of liberty. At this time, Respondents have not provided a plan or timeline to effectuate Petitioner's removal.

3. Petitioner's removal order became administratively final on September 9, 1997, when his appeal of his removal order was sustained. [Exhibit B]. He was placed on an order of supervision in or around March 2003 [Exhibit D], that involved routine appointments with Respondents.

4. Petitioner's prolonged detention violates the Due Process Clause of the Fifth Amendment and Fourteenth Amendment, as well as 8 U.S.C. § 1231.

5. Petitioner, therefore, respectfully requests that this Court issue a writ of habeas corpus, determine that Petitioner's detention is not justified because the government has not established by clear and convincing evidence that Petitioner presents a risk of flight or danger in light of available alternatives to detention, and order Petitioner's release, with appropriate supervisory conditions if necessary.

JURISDICTION AND VENUE

6. Petitioner is detained and under the custody of ICE at North Lake Correctional Facility in Baldwin, Michigan.

7. This action arises under the Constitution of the United States, the Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1101 *et seq.*, and the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701 *et seq.* This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. §§ 2241 *et seq.*; Art. I, § 9, Cl. 2 of the United States Constitution (the "Suspension Clause"), and 28 U.S.C. § 1331, as Petitioner is presently in custody under the color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. *See Zadvydas v. Davis*, 533 U.S. 678 (2001).

8. This Court may grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651; *see West v. Bell*, 242 F.3d 338, 347 (6th Cir. 2001) ("When potential jurisdiction exists, a federal court may issue orders preserving the status quo to ensure that once its jurisdiction is shown to exist, the court will be in a position to exercise it.").

9. Use of the Writ of Habeas Corpus to challenge detention by ICE is available after the REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231 (May 11, 2005) ("REAL ID Act"). Section 106(c) of Title I of the REAL ID Act, amending INA § 242(a)(2)(A), (B), and (C), and § 242(g), although limiting habeas jurisdiction, applies only to those challenges to a "final administrative order of removal."; *see also INS v. St. Cyr*, 533 U.S. 289, 364-65 (2001) ("The writ of habeas corpus has always been available to review the legality of executive detention."); *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007) ("[W]e have held that district courts retain jurisdiction over challenges to the legality of detention in the immigration context."); *Bonhometre v. Gonzales*, 414 F.3d 442, 446 n.4 (3d Cir. 2005) ("An alien challenging the legality of his detention still may petition for habeas corpus [post-REAL ID].").

10. Congress has preserved judicial review of challenges to prolonged immigration detention. *See Jennings v. Rodriguez*, 138 S.Ct. 830, 839-841 (2018) (holding that 8 U.S.C. §§ 1226(e), 1252(b)(9) do not bar review of challenges to prolonged immigration detention); *see also Id.* at 876 (Breyer, J., dissenting) ("8 U.S.C. § 1252(b)(9), . . . by its terms applies only with respect to review of an order of removal") (internal quotation marks and brackets omitted).

11. Venue is proper in this District under 28 U.S.C. § 1391 because (a) Respondent, and its staff, are employees or officers of the United States or under contract with the United States, acting in their official capacity and (b) Petitioner, along with the jail in which he is detained, are currently located in this district.

PARTIES

12. Petitioner, Shyh Ching Tien, is a noncitizen, previously admitted to the United States approximately in 1984 as a lawful permanent resident. He is currently detained by Respondents pursuant to the removal order finalized in 1997 and awaiting deportation.

13. Respondent, Kevin Raycraft, is the Director of the Detroit Field Office of ICE's Enforcement and Removal Operations Division. As such, Field Office Director Raycraft

is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

14. Respondent, Kristi Noem, is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act ("INA"), and oversees ICE, which is responsible for Petitioner's detention. Secretary Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

15. Respondent, Department of Homeland Security ("DHS"), is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

16. Respondent, Pamela Bondi, is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

17. Respondent, Executive Office for Immigration Review ("EOIR"), is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

18. Respondent, Angela Dunbar, is employed by GEO Group as warden of the facility where Petitioner is detained. She has immediate physical custody of Petitioner. She is sued in her official capacity.

STATEMENT OF FACTS

19. Petitioner was born in South Korea on [redacted]. Neither of Petitioner's parents were citizens of South Korea, therefore Petitioner was not granted citizenship in South Korea despite being born there. Petitioner's grandparents were Chinese citizens who fled to South Korea before Petitioner's parents were born. Both of Petitioner's parents were nationals of Taiwan and thus Petitioner holds Taiwanese nationality. However, neither Petitioner nor his parents ever obtained registered permanent residency in Taiwan, which is required in order to obtain Taiwanese citizenship. Because Petitioner does not have registered permanent residency himself, and neither does he have lineal relatives with registered permanent residency, Petitioner is unable to apply for travel documents or citizenship [See Exhibit A]. He does not hold citizenship to any country.

20. The United States currently does have diplomatic relations with South Korea, Taiwan, and Republic of China. These diplomatic relations do not change the fact that none of these countries recognize Petitioner as a citizen.

21. Petitioner entered the United States approximately in 1984 as a legal permanent resident and has not exited the United States since his initial entry.

22. Petitioner was convicted of attempted kidnapping in 1991. Petitioner was placed in removal proceedings while still serving his criminal sentence. Petitioner was ordered removed on March 10, 1997 by the Naponach, NY Immigration Court. Petitioner appealed his removal order, but it was sustained on September 9, 1997 [Exhibit B].

23. Respondents could not remove Petitioner to South Korea following the removal order in September of 1997 because he was still serving his sentence. At the culmination of his criminal sentence, Petitioner was detained in DHS custody for months in an attempt to carry out Petitioner's removal order [Exhibit C].

24. During this time, Respondents attempted to remove Petitioner to South Korea, Taiwan and China. The United States government petitioned the governments of South Korea, Taiwan and China to accept Petitioner. Petitioner applied to South Korea, Taiwan, and China for travel documents, complying with Respondents' process. All three countries refused to accept Petitioner. Respondents could not carry out the removal of Petitioner because Petitioner is stateless.

25. Respondents released Petitioner under an order of supervision in March of 2003 at the culmination of his criminal sentence and after months in detention while Respondents attempted to remove him [Exhibit D]. The main requirement of the supervision order involved periodic check-ins with immigration officials. Petitioner has complied and presented himself to the DHS Field Office for over 20 years.

26. While on an order of supervision Petitioner again sought travel documents from the Taiwanese government. In or around 2017 he went in person to the Taipei Economic and Cultural Office in New York City (TECO). This office operates as the Taiwanese consulate. At this office, he was informed that although he holds Taiwanese nationality he could not be issued a travel document as he never established registered permanent residency.

27. Petitioner still does not have a travel document to South Korea, Taiwan, China or any other country.

28. Petitioner does not have a legal status or right to return to any country.

29. Petitioner has been detained by Respondents since September 15, 2025, a period of 6 months. While detained, he has again applied for travel documents with South Korea, Taiwan and China. This is the second time he is applying for these travel documents while in DHS custody. He has been subject to at least one custody review, which has offered no relief or indication of being removed in the near future. There has been no hearing before an independent decision maker to determine whether Petitioner's prolonged detention is justified based on danger, flight risk, or other legal bases.

30. Respondents provided Petitioner with their decision to continue detention on March 2, 2026 and also scheduled an interview panel on March 6, 2026 [Exhibit E]. In this interview, Petitioner was instructed to ask his USC sister to assist him in requesting travel documents from the Taipei Economic and Cultural Office.

31. Petitioner has been convicted of one felony. This felony was for attempted kidnapping in 1991. Petitioner was sixteen at the time and served his sentence. Petitioner has no other criminal history. Petitioner is not a danger to society.

32. In the interim and if released, Petitioner would live in a home with his wife, Erin Elizabeth Tien at their home of twelve years in Loveland, OH [Exhibit F]. Petitioner is not a flight risk.

33. While Petitioner prefers to be in the United States, he does not want to remain in indefinite detention here. He understands that he has been ordered removed and, should travel documents and removal plans materialize, he will comply.

34. Petitioner contends that he is not subject to the mandatory detention provisions of 8 U.S.C. § 1231 as such statute has been interpreted by the United States Supreme Court to include the limitation of applicability in circumstances where removal is not reasonably foreseeable. *Zadvydas*, 533 U.S. 678.

LEGAL BACKGROUND

35. "It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v.*

Flores, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment from government custody, detention, or other forms of physical restraint lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690; *see also id.* at 718 (Kennedy, J., dissenting) ("Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention."). This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) ("both removable and inadmissible aliens are entitled to be free from detention that is arbitrary or capricious").

36. Due process therefore requires "adequate procedural protections" to ensure that the government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* at 690 (internal quotation marks omitted). 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. *Id.*; *Demore*, 538 U.S. at 528.

37. In *Zadvydas*, the Supreme Court established six months as a presumptive constitutional limit on detention of aliens awaiting deportation. At 701, the *Zadvydas* court said:

> We do have reason to believe, however, that Congress previously doubted the constitutionality of detention for more than six months. See Juris. Statement in *United States v. Witkovich*, O. T. 1956, No. 295, pp. 8-9. Consequently, for the sake of uniform administration in the federal courts, we recognize that period. After this 6 month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing. And for detention to remain reasonable, as the period of prior post removal confinement grows, what counts as the "reasonably foreseeable future" conversely would have to shrink. *Id.*

38. In *Zadvydas*, supra, the Supreme Court voiced skepticism that an administrative review of dangerousness or flight risk without judicial review would pass constitutional muster. At 697, the *Zadvydas* court said:

39. We cannot find here, however, any clear indication of congressional intent to grant the Attorney General the power to hold indefinitely in confinement an alien ordered removed. And that is so whether protecting the community from dangerous aliens is a primary or (as we believe) secondary statutory purpose.

40. In the same context of administrative review of dangerousness and flight risk, the *Zadvydas* court, at 691, commented on the case of *United States v. Salerno*, 481 U.S. 739, 746 (1987), where it noted "'stringent time limitations,' the fact that detention is reserved for the 'most serious of crimes,' the requirement of proof of dangerousness by clear and convincing evidence, and the presence of judicial safeguards..."

41. If a bond hearing were to be held in the instant case, due process would require certain minimal protections to ensure that a noncitizen's detention is warranted: the government must bear the burden of proof by clear and convincing evidence to justify continued detention, taking into consideration available alternatives to detention. *Hamama v. Adducci*, --- F.Supp. 3d ---, 2018 WL 263037, at *21 (E.D. Mich. 2018). If the government cannot meet its burden, the noncitizen's ability to pay a bond must be considered in determining the appropriate conditions of release.

42. To justify prolonged immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). Where the Supreme Court has permitted civil detention in other contexts, it has relied on the fact that the Government bore the burden of proof at least by clear and convincing evidence. *See Salerno,* 481 U.S. at 750, 752 (upholding pre-trial detention where "full-blown adversary hearing," requiring "clear and convincing evidence" and "neutral decisionmaker"); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding post-final-order custody review procedures deficient because, inter alia, they placed burden on detainee). *See also Hamama*, 2018 WL 263037, at *21

43. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). First, prolonged incarceration deprives noncitizens of a "profound" liberty interest. *See Diouf II*, 634 F.3d 1081, at 1092 (9th Cir. 2011). Second, the risk of error is great where the government is represented by trained attorneys and detained noncitizens are often unrepresented and frequently lack English proficiency. *See Santosky v. Kramer*, 455 U.S. 745, 763 (1982) (requiring clear and convincing evidence at parental termination proceedings because "numerous factors combine to magnify the risk of erroneous factfinding" including that "parents subject to termination proceedings are often poor, uneducated, or members of minority groups" and "[t]he State's attorney usually will be expert on the issues contested"). Third, placing the burden on the government imposes minimal cost or inconvenience, as the government has access to the noncitizen's immigration records and other information that it can use to make its case for continued detention.

44. Due process also requires consideration of alternatives to detention. The primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's alternatives to detention program: the Intensive Supervision Appearance Program ("ISAP") has achieved extraordinary success in ensuring appearance at removal proceedings, reaching compliance rates close to 100 percent. *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP "resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings"). It follows that alternatives to detention must be considered in determining whether prolonged incarceration is warranted.

45. Due process likewise requires consideration of a noncitizen's ability to pay a bond. "Detention of an indigent 'for inability to post money bail' is impermissible if the individual's appearance at trial could reasonably be assured by one of the alternate forms of release.'" *Id.* at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc)). It follows that in determining the appropriate conditions of release for immigration detainees due process requires "consideration of financial circumstances and alternative conditions of release" to prevent against detention based on poverty. *Id.*

THE RIGHT TO RELEASE IF REMOVAL IS NOT REASONABLY FORESEEABLE

46. Petitioner's ongoing detention violates 8 U.S.C. § 1231 because Respondents continue to detain Petitioner when it is not likely that Respondents will be able to deport Petitioner in the reasonably foreseeable future.

47. Immigration detention for purposes of effectuating removal is authorized only where there is a "significant likelihood of removal in the reasonably foreseeable future."

Zadvydas, 533 U.S. at 701. In *Zadvydas*, the Supreme Court held that 8 U.S.C. § 1231(a)(6), the post-final-order detention statute, authorizes detention only insofar as removal is "reasonably foreseeable." *Id.* at 699. *Zadvydas* construed Section 1231(a)(6) to "limit an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States" presumptively six months. *Id.* at 699-701.

48. After the six-month "presumptively reasonable" period of post-order detention, an individual may obtain review of his detention if the individual provides a court with "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. The "government must respond with evidence sufficient to rebut that showing." *Id.* If the government fails to do so, the individual must be released under conditions of supervision. *Id.* at 700.

49. Additionally, the longer post-final-order detention continues, what is considered "reasonably foreseeable" shrinks and the government must show a more immediate prospect of removal "for the detention to remain reasonable." *Id.* at 701.

50. In the instant case, Petitioner has been detained past a "presumptively reasonable" removal period.

51. Over these past six months, ICE has not provided any particularized evidence that Petitioner's removal will be completed in the "reasonably foreseeable future."

52. None of his custody reviews have indicated a likelihood of imminent removal.

53. Moreover, Petitioner was born in South Korea but is not recognized by South Korea as a citizen. Petitioner holds Taiwanese nationality but is also not recognized as a citizen of Taiwan. Petitioner's grandparents were Chinese citizens, but China similarly does not recognize Petitioner as a citizen. None of these three countries will issue travel documents to Petitioner.

54. Petitioner does not have citizenship of any country, which presents an institutional barrier to receiving a travel document.

55. Respondents and Petitioner have attempted previously to obtain travel documents from South Korea, Taiwan and China and have the requests have been rejected.

56. Given the fact that Respondents have not secured a valid passport or travel document for Petitioner, removal cannot be deemed likely in the reasonably foreseeable future.

57. Petitioner has demonstrated sufficient "good reason to believe" that his removal will not occur in the reasonably foreseeable future. Respondents cannot make a showing sufficient to rebut Petitioner's case.

FIRST CLAIM FOR RELIEF: VIOLATION OF SUBSTANTIVE DUE PROCESS

58. Petitioner re-alleges and incorporates by reference the paragraphs above.

59. ICE has detained Petitioner for over 6 months. There is no significant likelihood of Petitioner's removal in the reasonably foreseeable future as he does not have citizenship to any country. Petitioner is a stateless individual.

60. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment. *See Zadvydas*, 533 U.S. at 693-94; *Plyler v. Doe*, 457 U.S. 202, 210 (1987); *Mathews v. Diaz*, 426 U.S. 67 (1976).

61. The Due Process Clause of the Fifth Amendment provides that "[n]o person shall be . . . deprived of life, liberty or property, without due process of law." U.S. Const. amend. V. "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process clause from arbitrary government action." *Foucha*, 504 U.S. at 80; *Youngberg v. Romeo*, 457 U.S. 307 (1982). This vital liberty interest is at stake when an individual is subject to detention by ICE. *See Zadvydas*, 533 U.S. at 690 ("A statute permitting indefinite detention of an alien would raise a serious constitutional problem."); *Kiareldeen v. Reno*, 71 F. Supp. 2d 402, 409-10 (D.N.J. 1999) (holding that, in analyzing due process in the immigration context, the first factor in the procedural due process analysis, "the petitioner's private interest in his physical liberty, must be accorded the utmost weight").

62. Petitioner's continued detention violates substantive due process by depriving him of his fundamental liberty interest in remaining free from detention. Government detention violates an individual's fundamental liberty interest unless the detention is "narrowly tailored to serve a compelling government interest." *Reno,* 507 U.S. at 302 (1993); *Collins v. Harker Heights,* 503 U.S. 115, 125 (1992). Non-punitive detention must present a "special justification" that "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas,* 533 U.S. at 690. This is particularly so where the detention is lengthy, as in this case, where Petitioner has been detained for over 6 months.

63. Respondents' prolonged detention of Petitioner violates Petitioner's protected liberty interest under the Fifth Amendment Due Process Clause of the Constitution. Petitioner's

detention is further contrary to the constitutional limitation on the detention of noncitizens set forth in *Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003). As noted by the Sixth Circuit in *Ly*, DHS must "act promptly in advancing its interests." The Court continued: [W]hen actual removal is not reasonably foreseeable, criminal aliens may not be detained beyond a reasonable period required to conclude removability proceedings without a government showing of a "strong special justification," constituting more than a threat to the community, that overbalances the alien's liberty interest. *Id.* at 273.

64. Petitioner's detention for over 6 months is excessive and beyond the boundaries of reasonableness as explained by the Sixth Circuit in *Ly.*

65. To justify Petitioner's ongoing prolonged detention, due process requires that the government establish, at an individualized hearing before a neutral decisionmaker, that Petitioner's detention is justified by clear and convincing evidence of flight risk or danger, even after consideration whether alternatives to detention could sufficiently mitigate that risk.

66. While it is true that Petitioner has a past conviction, the action resulting in this conviction occurred in 1991, which is 35 years ago. Petitioner has paid his debt to society and incurred just punishment.

67. If released, Petitioner would join his wife and adhere to any conditions imposed by this Court and/or Respondents through an Order of Supervision, which would mitigate against any likelihood of flight or danger to the community.

68. For these reasons, Petitioner's ongoing prolonged detention without a hearing violates due process.

SECOND CLAIM FOR RELIEF: VIOLATION OF PROCEDURAL DUE PROCESS

69. Petitioner realleges and incorporates by reference each allegation contained in the paragraphs above. "Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment." *Mathews v. Eldridge*, 424 U.S. 319. Courts employ the *Eldridge* test when an alien's due process liberty interests are at stake. *See Flores-Chavez v. Ashcroft*, 362 F.3d 1150, 1160-61 (9th Cir. 2004). The test considers three factors: (1) the affected private interest, (2) the risk of erroneous deprivation of that interest, and (3) the government's interest.

70. Petitioner's private interest affected by Respondent's actions is profound—his physical liberty. The risk of erroneous deprivation of Petitioner's liberty is high, because he is

neither a flight risk nor a danger. *See generally Matter of Patel*, 15 I. & N. Dec. 666, 666 (BIA 1976) ("An alien generally is and should not be detained or required to post bond except on a finding that she is a threat to the national security, or that he is a poor bail risk.").

71. The government's interest in his continued detention is limited as there are viable alternatives to ensure that Petitioner will not flee while attempting to secure a passport or travel document, along with an actual flight. This includes alternatives to detention such as supervised release. Continued detention does not increase Petitioner's chance of securing a travel document.

72. Petition has demonstrated the ability to comply with an order of supervision prior to his current detention.

73. As the *Eldridge* test demonstrates, the deprivation of Petitioner's liberty interest far outweighs the government's interest in his continued detention during removal proceedings, particularly when the additional safeguard of a bond hearing would provide adequate protection against unjust incarceration.

THIRD CLAIM FOR RELIEF: STATUTORY VIOLATIONS

74. Petitioner re-alleges and incorporates by reference the paragraphs above. 8 U.S.C. § 1231(a)(6) has been interpreted to authorize detention only insofar as removal is "reasonably foreseeable." *See Zadvydas* at 699. *Zadvydas* construed § 1231(a)(6) to "limit an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States" presumptively six months. *Id.* at 699-701.

75. Petitioner's detention has exceeded six months and he has not received an individualized review of his detention by a neutral decisionmaker.

76. Respondents have failed to demonstrate that Petitioner's removal will be effectuated within the reasonably foreseeable future and detention must not continue as removal is not likely to occur in the foreseeable future.

77. For these reasons, Petitioner's ongoing prolonged detention violates 8 U.S.C. § 1231(a)(6) and he must be released.

EQUAL ACCESS TO JUSTICE ACT

78. If he prevails, Petitioner will seek attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. §504 and 28 U.S.C. § 2412.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;

2. Issue a Writ of Habeas Corpus—and hold a hearing before this Court if warranted—to affirm that Petitioner's detention is not justified because the government has not established by clear and convincing evidence that Petitioner presents a risk of flight or danger in light of available alternatives to detention; for these reasons, order Petitioner's release immediate release subject to reasonable terms of supervision.

3. Declare Petitioner's ongoing detention unconstitutional and contrary to law;

4. Issue a declaration that Petitioner's ongoing, prolonged detention violates the Due Process Clause of the Fifth Amendment and Fourteenth Amendment, and 8 U.S.C. § 1231(a)(6);

5. Award Petitioner 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 other statutes;

6. Refrain from issuing a temporary stay of removal as such stay might otherwise extend the detention period pursuant to the strict terms of 8 USC § 1231.

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

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Jaimie Lerner

Jaimie Lerner (P85023)
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Dated: March 17, 2026

CERTIFICATE OF SERVICE

I, Jaimie Lerner, certify that on March 17, 2026, I caused a true and correct copy of the foregoing document to be filed and served electronically via the ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system.

Respectfully submitted,

/s/ Jaimie Lerner