IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. _____

DANIEL HADISH GEBREMEDHIN,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of U.S. Department Homeland Security in his official capacity,
TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement in his official capacity,
ROBERT GUARDIAN, Denver Field Office Director, U.S. Immigration and Customs Enforcement in his official capacity,
PAMELA BONDI, Attorney General in her official capacity, and
JUAN BALTASAR, Warden, Denver Contract Detention Facility in his official capacity,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner DANIEL HADISH GEBREMEDHIN is a native and citizen of Eritrea. He entered the United States without inspection at or between ports of entry on the U.S.-Mexico border in 2000 at the age of 7. Over 20 years later, Petitioner was arrested by U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is now detained by ICE, under facts and circumstances that place them squarely within ICE's general detention authority 8 U.S.C. § 1226(a). Under that statute, Petitioner is eligible to seek discretionary release on bond from an Immigration Judge ("IJ"). However, due to a policy reversal announced by ICE in July 2025, and a September 2025 Board of Immigration Appeals (BIA) decision that similarly overturns decades

of settled law, Respondents contend that Petitioner is actually detained under 8 U.S.C. § 1225(b)(2). While § 1225(b) requires mandatory detention and does not allow release on bond, it only applies to noncitizens apprehended at the border "seeking admission." Petitioner therefore brings this action for a determination this Court that he is properly detained (if at all) only pursuant to 8 U.S.C. § 1226(a); and seeking an order to release Petitioner from custody and that Respondents schedule him for a discretionary bond hearing pursuant to § 1226(a) before an IJ within 7 days.

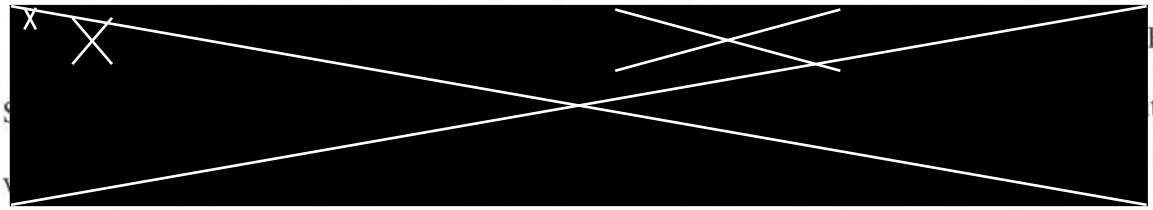
JURISDICTION AND VENUE

1. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241 and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

2. This Court also has federal question jurisdiction, through the APA, to "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). APA review of a final agency action may proceed, absent a special statutory review proceeding, by "any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus, in a court of competent jurisdiction." 5 U.S.C. § 703.

3. Venue lies in this District because Petitioner is detained in the custody of U.S. Immigration and Customs Enforcement (ICE) at the Denver Contract Detention Facility, located within this division of this judicial district. Each Respondent is an officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1). In addition, Respondent Robert Guardian, Denver ICE Field Office Director, maintains his principal place of business in Denver, CO.

THE PARTIES



5. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security ("DHS"). He is the cabinet-level secretary responsible for all immigration enforcement in the United States.

6. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). He is the head of the federal agency responsible for all immigration enforcement in the United States.

7. Respondent Robert Guardian is the Director of the Denver ICE Field Office. He is the head of the ICE office that is unlawfully detaining Petitioner, and such detention is taking place under his direction and supervision. He is the immediate legal custodian of the Petitioner.

8. Respondent Pamela Bondi is the Attorney General of the United States. She is the head of the U.S. Department of Justice, which oversees the Executive Office for Immigration Review, including the Board of Immigration Appeals and the Immigration Court judges, who decide removal cases and applications for bond as her designees.

9. Respondent Juan Baltasar is the warden of the Denver Contract Detention Facility in Aurora, Co., where Petitioner is currently detained. He is the immediate custodian who is currently holding the Petitioner in physical custody. He is sued in his official capacity.

10. All government Respondents are sued in their official capacities.

LEGAL BACKGROUND

A. Immigration Detention Legal Framework

11. When a noncitizen is alleged to have violated immigration laws, they are generally placed into traditional removal proceedings, during which an immigration judge will determine

whether they are removable and then whether they have a legal basis to remain in the United States. 8 U.S.C. § 1229a.

12. Detention is authorized for "certain aliens already in the country pending the outcome of removal proceedings under § 1226(a) and 1126(c)." *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). The statute provides that an individual may be subject to either discretionary detention under 8 U.S.C. § 1226(a) generally, or mandatory detention under 8 U.S.C. § 1226(c) if they have been arrested or convicted of certain crimes. Discretionary detention under § 1226(a) has been described as the "default" provision for immigration detention for those subject to traditional removal proceedings. *Id.* at 288. Under § 1226(a), "'[e]xcept as provided in subsection (c) of this section,' the Attorney General 'may release' an alien detained under § 1226(a) 'on ...bond' or 'conditional parole.'" *Id.*

13. Alternatively, mandatory detention is authorized for "certain aliens *seeking admission* into the country under §§ 1225(b)(1) and 1225(b)(2)," [emphasis added]. *Jennings*, 583 U.S. at 289. Individuals inspected under § 1225(b) and determined to be "applicants for admission" may be subject to mandatory detention under two separate subsections. Applicants for admission include someone:

> "present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for the purposes of this chapter to be an applicant for admission."

§ 1225(a)(1).

14. The first subset, under 8 U.S.C. § 1225(b)(1), may be subject to expedited removal and mandatory detention if they are determined to be an "arriving alien," and if they have not been

physically present in the United States continuously for a two-year period immediately prior. Regulations define an "arriving alien" as:

> "an applicant for admission coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry, or an alien interdicted in international or United States waters and brought into the United States by any means, whether or not to a designated port-of-entry, and regardless of the means of transport."

8 C.F.R. § 1.2.

15. Otherwise, 8 U.S.C. § 1225(b)(2) provides for the detention of "applicant for admission" specifically when "the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title," i.e. for traditional removal proceedings [emphasis added].

16. An "arriving alien" or an applicant for admission "seeking admission" may only be released from detention on parole (which is a form of release on recognizance), under 8 U.S.C. § 1182(d)(5). *Jennings*, 583 U.S. at 288. There is no bond available to an arriving alien or applicant for admission seeking admission. *Id.* There is no such thing as a "parole bond" – a release must be either parole under § 1182(d)(5) or a bond (conditional parole) under § 1226(a). *Id.*

17. For a noncitizen subject to discretionary detention under 8 U.S.C. § 1226(a), ICE makes an initial custody determination to either set a bond or hold the individual at no bond. The noncitizen may then seek a review of ICE's initial custody determination before the IJ (a "custody review hearing"), who has the authority to modify ICE's custody determination and set bond in a case in which ICE has designated no bond, lower bond when ICE has set a cash bond amount, or deny bond completely. 8 C.F.R. § 1003.19.

18. Custody review hearings are separate from hearings in the underlying removal proceedings. 8 C.F.R. § 1003.19(d). If a noncitizen is granted bond by the IJ, she must still appear in immigration court for the IJ to determine her removability and hear any claim for relief from removal. At a custody review hearing, once jurisdiction over bond is established, the IJ's inquiry is limited to whether the detainee is a danger to the community or a flight risk, and bond may only be granted when an IJ has determined that the detainee meets his burden of proof that he is neither. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

19. For decades, it has been Respondents' practice to afford § 1226(a) discretionary bond hearings and custody review hearings to those individuals who have been encountered neither at a point of entry nor seeking admission to the United States. *See Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099, at *10 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted sub nom. Rocha Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025) ("Respondents' proposed application of § 1226 is also belied by the Department of Homeland Security's 'longstanding practice' of treating noncitizens taken into custody while living in the United States, including those detained and found inadmissible upon inspection and then released into the United States with the government's acquiescence, who have committed no crime after release, as detained under § 1226(a)." citing *Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024)).

B. BIA Decision in *Matter of M-S-*

20. In *Matter of M-S-*, the BIA determined that an "arriving alien" remains subject to mandatory detention under 8 U.S.C. § 1225(b)(2), even after being transferred to traditional removal proceedings under 8 U.S.C. § 1229a. 27 I&N Dec. 476 (A.G. 2018). In

particular, *Matter of M-S-* overturned prior precedent in *Matter of X-K-*, 23 I&N Dec. 731 (BIA 2005). *Id.* at 510.

21. The noncitizen in *Matter of M-S-* was initially subjected to expedited removal process, passed a credible fear interview ("CFI") and was transferred to traditional removal proceedings before an IJ. *Id.* at 514. DHS determined that he would be detained during his asylum proceedings, and he sought review of that determination before an IJ. *Id.* The IJ determined that he was not subject to mandatory detention under 8 U.S.C. § 1225(b)(1)(B)(ii), and ordered release on bond. The noncitizen appealed the bond determination, arguing that the amount should be lower.

22. While pending on appeal, the Attorney General certified the case to himself to answer "whether the respondent became eligible for bond after establishing a credible fear and being transferred to full proceedings." *Id* at 519, n.6. *Matter of M-S-* determined that § 1225(b)(1)(B)(ii) requires that if a respondent is transferred from expedited removal to traditional removal proceedings (following a CFI), he remains subject to mandatory detention. *Id.* at 515. *Matter of M-S-* acknowledged that one could still be released from mandatory detention under a grant of parole pursuant to 8 U.S.C. § 1182(d)(5). *Id.* at 516 .

23. *Matter of M-S-* relied in part on *Jennings*, which had considered but also rejected the argument that the phrase "shall be detained for further consideration of the application for asylum," mandated detention only until the *start* of full proceedings. *Id.* at 517, citing *Jennings*, 583 U.S. at 288.

24. While it announced an expansive reinterpretation of the statute, *Matter of M-S-* remains nonetheless curtailed in the context of prior releases and re-arrests. A prior determination of release authority may continue to carry persuasive weight. "Petitioner's prior

release on bond carries legal significance," and DHS's decision to release an individual on bond, as opposed to humanitarian parole under 8 U.S.C. § 1182(d)(5)(A), constitutes strong evidence that DHS intended to detain the individual under § 1226(a) and not under § 1225(b)." *Portillo-Argueta v. Simon,* No. 1:25-CV-2285 (AJT-WEF), 2026 WL 184194, at *4 (E.D. Va. Jan. 23, 2026), citing *Luna Sanchez v. Bondi*, No. 1:25-CV-018888-MSN-IDD, 2025 WL 3191922, at *4 (E.D. Va. Nov. 14, 2025). "*Jennings* says nothing about whether the Government may release a noncitizen on bond pursuant to § 1226(a) and then, years later, without a demonstrated change of circumstances, re-detain that same individual under § 1225(b)(1)(B)(ii)." *Quinteros Moran v. Joyce*, No. 25 CIV. 9645 (GBD), 2025 WL 3632895, at *3 (S.D.N.Y. Dec. 15, 2025).

25. Ultimately, the BIA upheld the decision that the IJ lacked jurisdiction under 8 U.S.C. § 1225(b)(2) to consider the respondent for discretionary bond. *Id.* at 229.

26. Further, due process may still require release from detention, based on a prior release determination, particularly where that release determination was made after *Matter of M-S-*. Regardless of the applicability of the mandatory detention statute, an individual previously released under 8 U.S.C. § 1226(a) bond, or a Release on recognizance (conditional parole), accrues a liberty interest in complying with the terms of that release.

C. New ICE memo reinterpreting 8 U.S.C. § 1225(b)(2)

27. On July 8, 2025, Respondent ICE issued new interim guidance that announced a breathtakingly broad interpretation of 8 U.S.C. § 1225(b)(2). *See* ICE memorandum "Interim Guidance Regarding Detention Authority for Applications for Admission."[1] This memo concerns the detention of "applicants for admission" as defined by § 1225(a)(1). "Effective immediately, it

[1] Available at: https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission (last visited Sept. 25, 2025).

is the position of DHS that such aliens are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)(2)] and may not be released from ICE custody except by INA § 212(d)(5) [8 U.S.C. § 1182(d)(5)]." *Id.* DHS is explicit that this new policy is a marked deviation from prior interpretation and treatment of affected noncitizens. *Id.* ("For custody purposes, these aliens are now treated in the same manner that "arriving aliens" have historically been treated.")

28. In addition to the announcement re-interpreting § 1225(b)(2), the memo further clarifies that "[t]he only aliens eligible for a custody determination and release on recognizance, bond or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237 [8 U.S.C. § 1227], with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. § 1226(c)]." *Id.*

29. Moreover, ICE maintains that "DHS does not take the position that prior releases of applicants for admission pursuant to INA § 236(a) were releases on parole under INA § 212(d)(5) based on this change in legal position." *Id.* ICE fails to clarify under what legal authority, then, those prior releases were effectuated. Rather, ICE signals the resulting lack of "correct" paperwork is nonetheless permissible. *Id.* ("Accordingly, ERO and HIS are not required to 'correct' the release paperwork by issuing INA § 212(d)(5) parole paperwork.")

30. Nationwide implementation of ICE's § 1225(b)(2) mass detention policy ensued.

D. BIA Decision in *Matter of Q. Li*

31. On May 15, 2025, the BIA issued its decision in *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), which held that an applicant for admission "who was arrested without a warrant while arriving in the United States and thereafter placed in removal proceedings, is detained under section 235(b)(2)(A), until the conclusion of removal proceedings." *Id.* at 71.

32. Q. Li was encountered upon entry into the United States, she was arrested by immigration officers, and paroled into the U.S. under 8 U.S.C. § 1182(d)(5). *Id.* at 67. Part of the condition of her §1182(d)(5) parole was to report regularly to ICE. *Id.* Following a subsequent alert as to an international arrest warrant, she was taken back into custody, issued a Notice to Appear commencing removal proceedings, and issued a new Notice of Custody Determination and detained. *Id.* She requested a custody redetermination before an IJ and was denied for lack of jurisdiction, because she was subject to mandatory detention under § 1225(b)(2). *Id.*

33. In particular, the BIA reasoned that the termination of parole restored Q. Li to her prior custody status. *Id.* at 69. ("When parole granted by DHS is terminated, "the alien shall forthwith return or be returned to the custody from which he was paroled." INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i)."). Additionally, Q. Li had been arrested without a warrant, and had never been subject to 8 U.S.C. § 1226(a) authority. *Id.* at 70. Ultimately, the BIA agreed that she was subject to § 1225(b)(2) and ineligible for bond. *Id.* at 71.

34. While Respondents have attempted to apply *Q. Li* more broadly to individuals encountered at the interior of the country – or in the absence of a parole under § 1182(d)(5) – this argument has been consistently rejected. *See Valerio v. Joyce,* No. CV 25-17225 (ZNQ), 2025 WL 3251445, at *3 (D.N.J. Nov. 21, 2025); *Diaz Rudecindo v. Florentino*, No. CV 25-16942 (ES), 2025 WL 3470299, at *2 (D.N.J. Dec. 3, 2025); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025, at *9-11 (D. Md. Aug. 24, 2025); *Vasque Romero v. Noem*, No. CV 3:25-524, 2026 WL 116379, at *1 (W.D. Pa. Jan. 15, 2026); *and Hasan v. Crawford*, 800 F. Supp. 3d 641, 657, n.11 (E.D. Va. 2025)

FACTS

35. Petitioner is a citizen of Eritrea, born in 1995. At approximately 28 years of age, he entered the United States without inspection on November 18, 2023, between ports of entry along the U.S.-Mexico border. He was apprehended by immigration officials at or near the time of entry. Upon information and belief, he passed a Credible Fear Interview and was subsequently released on his own recognizance. *See* Ex. 1, ICE Form I-862 Notice To Appear.

36. Upon information and belief, Petitioner was not released from detention on 8 U.S.C. § 1182(d)(5) parole. Upon information and belief, Petitioner does not possess an Eritrean passport, and previously travelled on a German travel document, [redacted] Upon information and belief, Petitioner does not recall being provided a specific period of time in which to remain or depart the United States. Nor does Petitioner's parole record come up on the U.S. Customs and Border Protection I-94 online system that maintains entry records, including paroles. *See* U.S. Customs and Border Protection I-94/I-95 Website [redacted]

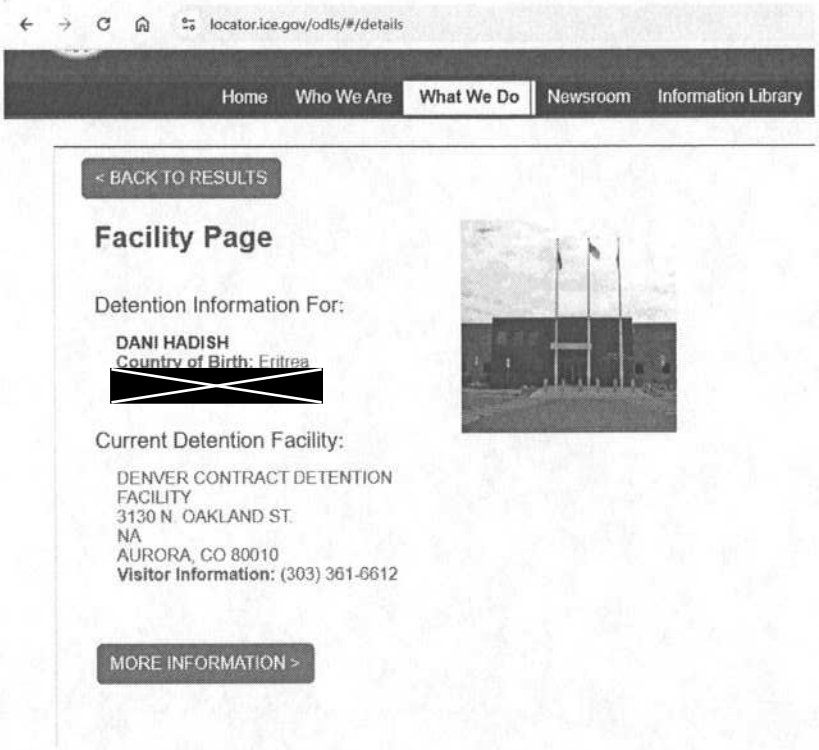
where he lives with his Legal Permanent Resident sister and his United States citizen niece, who relies on him for financial and emotional support.

38. Following his release, upon information and belief, Petitioner was placed under the Alternatives to Detention (ATD) program. As part of this supervision, he was required to wear an ankle monitor and report for regular ICE check-ins. Throughout this period, upon information and belief, he fully complied with all conditions imposed. At times, ISAP officers conducted check-ins at his residence, and on other occasions, Petitioner was required to report in person to the office. Upon information and belief, te complied with all reporting requirements without issue.

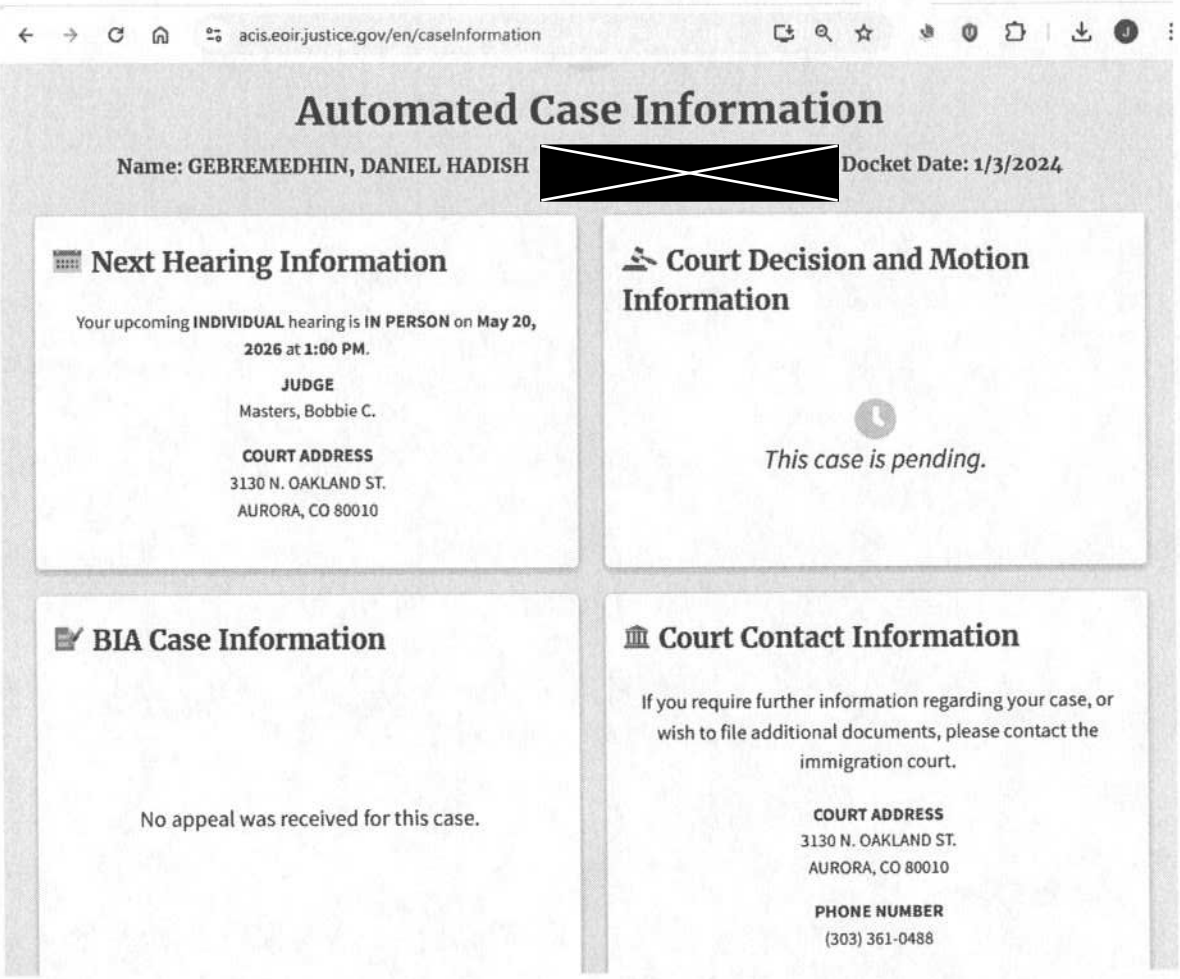
39. Petitioner filed an Application for Asylum and for Withholding of Removal (Form I-589) in or around April 2024. *See* Ex. 2, USCIS Employment Authorization Card, issued Nov. 27, 2024 (under the C08 category – used for applicants for asylum).

40. Upon information and belief, on February 20, 2026, Petitioner was attending a scheduled ICE check-in in the Denver/Aurora area when he was taken into custody by immigration officers.

41. Petitioner is currently detained at the Denver Contract Detention Facility, in Aurora Colorado, within the territorial jurisdiction of this Court. *See* ICE Detainee Locator *(available at* https://locator.ice.gov/odls/#/results (last visited on April 1, 2026)):



42. Petitioner's removal proceedings remain pending (with a Individual Hearing scheduled for May 20, 2026), and he is not subject to a final order of removal. *See* EOIR Automated Case Information System (*available at*: https://acis.eoir.justice.gov/ (last visited on April 1, 2026):



acis.eoir.justice.gov/en/caseInformation

Automated Case Information

Name: GEBREMEDHIN, DANIEL HADISH [redacted] **Docket Date: 1/3/2024**

Next Hearing Information

Your upcoming **INDIVIDUAL** hearing is **IN PERSON** on **May 20, 2026** at **1:00 PM.**

JUDGE
Masters, Bobbie C.

COURT ADDRESS
3130 N. OAKLAND ST.
AURORA, CO 80010

Court Decision and Motion Information

This case is pending.

BIA Case Information

No appeal was received for this case.

Court Contact Information

If you require further information regarding your case, or wish to file additional documents, please contact the immigration court.

COURT ADDRESS
3130 N. OAKLAND ST.
AURORA, CO 80010

PHONE NUMBER
(303) 361-0488

43. Petitioner is currently experiencing significant hardship as a result of his detention. Upon information and belief, Petitioner has been suffering from persistent tooth pain that has made it difficult for him to eat, and despite seeking medical attention while in detention, his condition has not yet been resolved. In addition, upon information and belief, he has been experiencing anxiety and stress related to his detention and uncertainty about his situation. Upon information and belief, tis absence has also created financial strain for his family, as it has become difficult to cover basic living expenses, including common household bills and his portion of the mortgage. This situation has been particularly difficult for his sister, a lawful permanent resident, who has been emotionally affected by his detention and the challenges it has created for the family.

44. All Respondents consider that Petitioner is detained pursuant to 8 U.S.C. § 1225(b). Seeking a bond hearing before an immigration judge or an appeal to the Board of Immigration Appeals would be futile. As such, exhaustion of administrative remedies would be futile.

FIRST CLAIM FOR RELIEF:
No-Bond Detention in Violation of 8 U.S.C. § 1226

45. Petitioner re-alleges and incorporates by reference the paragraphs 1-44.

46. Since Petitioner is not an "applicant for admission seeking admission" or "arriving alien[s]" subject to 8 U.S.C. §§ 1225(b)(1) or (b)(2), and has no disqualifying criminal arrests or convictions subject to 8 U.S.C. § 1226(c), he is entitled to a bond redetermination hearing by an immigration judge pursuant to 8 U.S.C. § 1226(a).

47. There is no record that Petitioner was paroled under 8 U.S.C. § 1182(d)(5) from custody, and therefore his release could only have been a release on recognizance under 8 U.S.C. § 1226(a). As such, upon rearrest, he is re-detained under that same authority. 8 U.S.C. § 1226(b).

48. Accordingly, Respondents' actions, as set forth herein, violate Petitioner's statutory right to a bond redetermination hearing in front of an immigration judge.

SECOND CLAIM FOR RELIEF:
Detention in Violation of Due Process

49. Petitioner re-alleges and incorporates by reference paragraphs 1-44.

50. Petitioner's due process rights are not limited to those provided by statute. There is an explicit distinction between person already located in the United States and persons attempting to enter the United States such as those in *DHS v. Thuraissigiam*, 591 U.S. 103 (2020) and *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). *See Omer G. G. v. Kaiser*, No. 1:25-CV-01471-KES-SAB (HC), 2025 WL 3254999, at *3 (E.D. Cal. Nov. 22, 2025) ("It is well established

that certain constitutional protections available to persons inside the United States are unavailable to aliens outside of our geographic borders.") (citing *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

51. The Eastern District of California has previously addressed the question of due process with respect to a petitioner who entered without inspected, was processed for expedited removal, placed into traditional removal proceedings under 1229a, and released from detention pursuant to 8 U.S.C. § 1182(d)(5)(A). In *Omer G. G.*, the Court analyzed the constitutional challenge "in two steps: the first asks whether there exists a protected liberty interest under the Due Process Clause, and the second examines the procedures necessary to ensure any deprivation of that protected liberty interest accords with the Constitution." 2025 WL 3254999, at *3-4 (citing *Garcia v. Andrews*, No. 2:25-cv-01884-TLN-SCR, 2025 WL 1927596, at *2 (E.D. Cal. July 14, 2025) (citing *Kentucky Dep't of Corrections v. Thompson*, 490 U.S. 454, 460, 109 S.Ct. 1904, 104 L.Ed.2d 506 (1989)).

52. Petitioner has a protected liberty interest under the Due Process Clause entitling him to procedural protections not found in the statute. As held in *Lopez-Arevalo*, another case involving a detainee who was rearrested following a prior release, "the interest in being free from physical detention by [the] government" is "the most elemental of liberty interests[.]" 2025 WL 2691828, *10, quoting *Martinez v. Noem*, 2025 WL 2598379, at *2 and *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Omer G. G.*, 2025 WL 3254999, at *5. Moreover, "it is well-established that parolees have a strong interest in their conditional release, ... and courts have held they cannot be re-arrested without a due process hearing in which they can challenge their re-incarceration." *Rodriguez Diaz v. Kaiser*, No. 25-CV-05071-TLT, 2025 WL 3011852, at *9 (N.D. Cal. Sept. 16, 2025), citing *Morrissey v. Brewer*, 408 U.S 471, 481-2 (1972). Petitioner was released on parole under the ATD program by ICE. For over a year, he established ties in the

community while pursuing relief in removal proceedings; he obtained an employment authorization document and was lawfully employed; he supported his family. As in *Omer G.G.*, "[t]hese actions were possible by petitioner's freedom, which is the 'most elemental of liberty interests.'" *Omer G. G.*, 2025 WL 3254999, at *5 (citing *Hamdi*, 542 U.S. at 529). Moreover, "Petitioner's liberty interest did not expire along with his parole." *Id.*; *see also Rodriguez Cabrera v. Mattos*, No. 2:25-cv-1551-RFB-EJY, 2025 WL 2072687, at 2* (D. Nev. Nov. 3, 2025) (The regulations provide that if parole expires, "a noncitizen 'shall again be released on parole' if their 'exclusion, deportation, or removal order cannot be executed within a reasonable time,' [unless] in the opinion of a DHS official 'the public interest requires that the alien be continued in custody.'") (quoting 8 C.F.R. § 212.5(e)(2)(i)). Accordingly, his liberty interest is *at least as great* as those serving criminal sentences on parole. *Id.* Moreover, Petitioner's liberty interest has only grown in the time since his prior immigration detention in 2024. *Id.* at *10. *See also Lopez Arevalo*, 801 F. Supp. 3d at 686 (same).

53. Turning to the second step discussed in *Omer G. G.*—"the procedures necessary to ensure any deprivation of that protected liberty interest accords with the Constitution." 2025 WL 3254999, at *3-4. While the government's authority to revoke a parole is in their sole discretion, it must still comport with due process. *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) ("the government's discretion to incarcerate non-citizens is always constrained by the requirements of due process"). Immigration detention is civil, not criminal, in nature. There are only two permissible reasons for immigration detention: to avoid flight risk, and to avoid danger to the community. "To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*." *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 685 (W.D. Tex. 2025), citing 424 U.S. 319 (1976).

54. Next, the risk of erroneous deprivation of said liberty to Petitioner is high where petitioner "has not received any bond or custody redetermination hearing." *A.E. v. Andrews*, No. 1:25-cv-00107-KES-SKO, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025). Respondents have not provided a reason for Petitioner's rearrest nor do they believe they are required to do so. *See* July 2025 ICE Memo, supra at ¶¶ 22-25. *See also Rodriguez Diaz*, 2025 WL 3011852, at *11, citing *Guillermo M.R. v. Kaiser*, No. 25-cv-05436-RFL, 2025 WL 1983677, at *8 (N.D. Cal. Jul. 17, 2025). ("Respondents' new position would grant ICE unlimited authority to disregard any bond determination made by an IJ for any reason, which is 'a recipe for arbitrary and erroneous deprivations of liberty.'"). Moreover, seeking a bond hearing before an IJ without a ruling from this Court would be equally as futile as appeal to the BIA, as it is sure to be denied for lack of jurisdiction. *Lopez Arevalo*, 801 F. Supp. 3d at 686. ("[G]iven the BIA's interpretation of mandatory detention in *Yajure Hurtado*, that appeal is almost certainly a futile exercise."). *See also Rodriguez-Diaz*, 2025 WL 3011852, at *12 (same).

55. The government could only present minimal interests in continuing to detain Petitioner without affording him a bond hearing. The government cannot have an interest in detention for detention's sake alone. *See Choglo Chafla v. Scott*, 2025 WL 2688541, at *10 (D. Me. Sept. 22, 2025); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019); *Doe v. Becerra*, 787 F.Supp.3d 1083, 1094–95 (E.D. Cal. 2025); *see also Morrissey*, 408 U.S. at 483, 92 S.Ct. 2593 (noting that "the State has an *overwhelming interest* in being able to return the individual to imprisonment without the burden of a new adversary criminal trial[,] ... [y]et, the State has *no interest* in revoking parole without some informal procedural guarantees."). There is no current evidence that Petitioner is a flight risk or that he is a danger to the community. Any resource arguments fall flat because the cost of a mere bond hearing is surely dwarfed

by accruing expenditures to finance his ongoing detention. *Lopez-Arevalo*, 801 F. Supp. 3d at 687. Moreover, the costs of a bond hearing are those that the government has allotted for decades without issue in these contexts. *Id.*; *see also Doe*, 787 F.Supp.3d at 1094-06 (custody hearings are routine and impose a minimal cost). Most importantly, "Petitioner-Plaintiff is not asking the Court to enjoin detention altogether, he only requests that Respondents justify his re-detention at a pre-deprivation hearing." *Rodriguez-Diaz*, 2025 WL 3011852, at *13. The same is true here.

56. Accordingly, all *Mathews* factors militate in favor of Petitioner, and Respondents' actions in detaining Petitioner without a bond hearing before a neutral and detached magistrate have therefore deprived Petitioner of his rights without due process of law. Respondents' actions in detaining Petitioner without a bond hearing before a neutral and detached magistrate deprives Petitioner of his rights without due process of law

REQUEST FOR RELIEF

Petitioner prays for judgment against Respondents and respectfully requests that the Court enters an order:

a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;

b) Enjoin Petitioner's transfer outside of this judicial district pending this litigation;

c) Enjoin Respondents from holding Petitioner is subject to detention under 8 U.S.C. § 1225(b)(2) and denying him a bond hearing on that basis;

d) Enjoin Respondents from re-arresting Petitioner subject to § 1225(b)(2);

e) Order Petitioner's immediate release from custody;

f) Order, in the alternative, Petitioner's immediate release and that Respondents conduct a bond hearing for Petitioner pursuant to 8 U.S.C. § 1226(a) within 7 days;

g) Grant the writ of habeas corpus and order Respondents to release Petitioner forthwith, upon payment of the bond as ordered by the Immigration Judge;

h) Award Petitioner his costs of suit; and

i) Grant any other relief that this Court deems just and proper.

Respectfully submitted,

Date: April 1, 2026

/s/Stephanie E. Gibbs
STEPHANIE E. GIBBS
New Jersey State Bar No. 047482013
Senior Litigation Attorney
Murray Osorio PLLC
50 Park Place, Mezzanine Level,
Newark, NJ 07102
Tel.: (571) 455-1915, Ext. 1168
Email: sgibbs@murrayosorio.com

Counsel for Petitioner

ATTORNEY VERIFICATION

I, Stephanie Gibbs, counsel for Petitioner Daniel Hadish Gebremedhin, declare under penalty of perjury that the information in this Petition is based on information provided by Petitioner and his immediate relative (his niece, Million Meles), who have confirmed that to the best of their knowledge that all the information contained therein is true and correct.

Respectfully submitted,

Date: April 1, 2026

/s/Stephanie E. Gibbs
STEPHANIE E. GIBBS
New Jersey State Bar No. 047482013
Senior Litigation Attorney
Murray Osorio PLLC
50 Park Place, Mezzanine Level,
Newark, NJ 07102
Tel.: (571) 455-1915, Ext. 1168
Email: sgibbs@murrayosorio.com

Counsel for Petitioner

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. Upon order of the Court, I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

Civil Process Clerk
U.S. Attorney's Office for the District of Colorado
1801 California Street, Suite 1600
Denver, CO 80202

Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, SW, Mail Stop 0485
Washington, DC 20528-0485

Pamela Bondi, Attorney General of the United States
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW, Mail Stop 5902
Washington, DC 20536-5902

Juan Baltasar, Warden
Denver Contract Detention Center
3130 N. Oakland St.
Aurora, CO 80010

Respectfully submitted,

Date: April 1, 2026

/s/Stephanie E. Gibbs
STEPHANIE E. GIBBS
New Jersey State Bar No. 047482013
Senior Litigation Attorney
Murray Osorio PLLC
50 Park Place, Mezzanine Level,
Newark, NJ 07102
Tel.: (571) 455-1915
Email: sgibbs@murrayosorio.com

Counsel for Petitioner