Spencer C. Lee
Smith, Alston, Darner & Lee, PLC
2210 N. 7th Street
Phoenix, AZ 85006
spencer@salfirm.com
602-595-2040
AZ Bar No. 032991
Attorney for Petitioner

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Ali Mahat Salat,

Petitioner,

v.

Eric Rokosky, Warden, Eloy Detention Center;

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

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

Markwayne Mullin, in his Official Capacity, Secretary, U.S. Department of Homeland Security; and

Todd Blanche, in his Official Capacity, Acting Attorney General of the United States;

Respondents.

Case No.

[redacted]

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

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

INTRODUCTION

1. Petitioner Ali Mahat Salat is a citizen and national of Somalia who entered the United States to seek asylum on or about January 22, 2025.

2. Petitioner was apprehended at or near the U.S.-Mexico border that same day and has remained in ICE custody since that date.

3. On or about September 15, 2025, Petitioner attended an individual hearing on the merits of his asylum application. At the hearing, the Immigration Judge ("I.J.") denied all forms of relief

4. Petitioner, through Counsel, appealed the decision to deny his asylum application on October 8, 2025. To date, 197 days have passed without the issuance of a briefing schedule by the Board of Immigration Appeals.

5. Further, the BIA has not issued a decision or taken any other action in the appeal.

6. Petitioner remains detained without a bond hearing, without individualized review, and without any showing that his continued detention is reasonably related to effectuating removal.

7. His detention has become constitutionally excessive and untethered from its regulatory purpose.

JURISDICTION & VENUE

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

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

10. Although the Supreme Court in *Jennings v. Rodriguez*, 583 U.S. ___ (2018) rejected the statutory imposition of periodic bond hearings under the immigration detention statutes, it expressly preserved individual, as-applied constitutional challenges to prolonged

immigration detention. Accordingly, this Court has jurisdiction under 28 U.S.C. § 2241 to adjudicate Petitioner's Fifth Amendment due process challenge to the lawfulness of his continued detention.

11. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at the Eloy Detention Center. Furthermore, a substantial part of the events or omissions giving rise to this action occurred and continue to occur at ICE's Phoenix Field Office in Phoenix, Arizona, within this division.

PARTIES

12. Petitioner Ali Mahat Salat is a native and citizen of Somalia. He is currently detained at the Eloy Detention Center.

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

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

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

16. Respondents Todd Blanche and Markwayne Mullin are, respectively, the Acting Attorney General of the United States and the Secretary of Homeland Security. As such, they

are responsible for maintaining the immigration detention system. They are thus the ultimate legal custodians of Petitioner.

STATUTORY FRAMEWORK

17. Petitioner was apprehended at or near the U.S.-Mexico border and has remained detained since that time.

18. Respondents may contend that Petitioner's detention is governed by 8 U.S.C. § 1225(b), which mandates detention pending completion of removal proceedings, and that *Jennings v. Rodriguez* forecloses relief.

19. Even assuming arguendo that § 1225(b) governs the initial basis for Petitioner's detention, that statutory authority is not without constitutional limitation. *Jennings* rejected a statutory interpretation requiring periodic bond hearings, but it expressly preserved as-applied constitutional challenges to prolonged detention. 583 U.S. 281 (2018). *Jennings* does not authorize indefinite or unreviewable detention, nor does it eliminate this Court's jurisdiction under 28 U.S.C. § 2241 to assess whether continued detention has become excessive in relation to its regulatory purpose.

20. Moreover, Petitioner is not situated as an individual merely "stopped at the threshold" of entry. He has been placed in full removal proceedings under INA § 240, has completed a merits hearing before an Immigration Judge, and is currently pursuing appellate review before the Board of Immigration Appeals. His detention therefore arises in the context of completed adversarial proceedings, not preliminary inspection, and must be evaluated accordingly.

STATEMENT OF FACTS

21. Petitioner is a native and citizen of Somalia.

22. Petitioner entered the United States at the southern border on or about January 22,

2025 to seek asylum.

23. On or about January 22, 2025, soon after his entry to the United States, Petitioner was detained by U.S. Customs and Border Protection ("CBP") officers and was placed into ICE custody. He was subsequently placed in removal proceedings under INA § 240 and has remained continuously detained since that date.

24. Based on the information currently available to Petitioner, it is unclear whether Petitioner was ever subject to expedited removal proceedings or a credible fear determination.

25. On or about September 15, 2025, Petitioner appeared for an individual merits hearing before the Immigration Court in Eloy, Arizona. At the conclusion of that hearing, the Immigration Judge denied all applications for relief. *See* **Exhibit A,** *IJ Decision.*

26. Petitioner timely appealed the Immigration Judge's decision on October 8, 2025. *See* **Exhibit B,** *Appeal Receipt Notice.*

27. Despite the passage of 197 days, the Board of Immigration Appeals has taken no action on Petitioner's appeal. No briefing schedule has been issued, no decision rendered, and no meaningful progress has occurred.

28. Petitioner remains detained by ICE. In total, he has been held in immigration detention for over fourteen months without any individualized bond hearing or custody review.

ARGUMENT AND GROUNDS FOR RELIEF

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

29. The question in this case is not whether Congress initially authorized Petitioner's detention under 8 U.S.C. § 1225, but whether the Constitution permits prolonged detention with

no individualized process. Even where detention is initially authorized, due process requires that continued detention remain reasonably related to its regulatory purpose and be accompanied by adequate procedural safeguards.

30. To the extent Respondents rely on the most restrictive detention framework under 8 U.S.C. § 1225(b), they bear the burden of establishing its applicability. Where the record does not clearly demonstrate that Petitioner's detention arises from expedited removal or a credible fear process, the Court should not presume the applicability of the most restrictive regime.

31. Civil immigration detention implicates a fundamental liberty interest protected by the Due Process Clause of the Fifth Amendment. Such detention is permissible only insofar as it remains reasonably related to a legitimate regulatory purpose, including ensuring appearance at proceedings or effectuating removal. It may not become punitive or excessive in relation to those purposes.

32. When detention becomes prolonged, courts must assess its constitutionality as applied by considering factors including: (1) the length of detention; (2) the foreseeability of removal; (3) the reasons for delay; and (4) the adequacy of procedural protections. *See Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Singh v. Holder,* 638 F.3d 1196 (9th Cir. 2011).

33. Petitioner does not challenge the statute on its face. Rather, he brings an as-applied challenge to the constitutionality of his continued detention under the specific facts of his case, including the length of detention, the absence of any individualized custody review, and the lack of meaningful progress in his removal proceedings.

34. Under this framework, Petitioner's continued detention is unconstitutional.

Length of Detention

35. Petitioner has been continuously detained for over fifteen months.

36. Detention of this length, without a bond hearing or individualized custody review, is far beyond the period that can be considered brief or incidental to immigration processing.

37. Courts in this Circuit routinely recognize that detention exceeding one year without meaningful review is presumptively unreasonable.

Foreseeability of Removal

38. Petitioner's removal is not reasonably foreseeable.

39. Petitioner's removal proceedings are currently pending before the Board of Immigration Appeals, which has taken no action for over 197 days—failing even to issue a briefing schedule.

40. Petitioner's continued detention is no longer meaningfully tied to the completion of proceedings. His appeal has been pending for months without the issuance of a briefing schedule or any meaningful action by the Board of Immigration Appeals. This lack of progress renders the endpoint of detention speculative and transforms what is nominally "finite" detention into functionally indefinite detention.

41. Because appellate proceedings remain ongoing with no timeline for resolution, there is no meaningful indication when—or whether—removal will occur.

42. Continued detention untethered to a realistic prospect of removal is not reasonably related to its purported purpose.

Delay Is Not Attributable to Petitioner

43. The prolonged nature of Petitioner's detention is not the result of any dilatory conduct by Petitioner.

44. Petitioner timely appealed the Immigration Judge's decision and has complied with all procedural requirements.

45. The delay stems entirely from the government's adjudicatory process, specifically the BIA's failure to act.

46. Governmental delay weighs strongly in favor of finding detention unconstitutional.

Inadequacy of Process

47. Petitioner has never received a bond hearing or any individualized determination of flight risk or dangerousness.

48. He has not been afforded any meaningful opportunity to challenge his continued detention.

49. As detention becomes prolonged, due process requires greater procedural protections. None have been provided here.

Government Interest No Longer Justifies Detention

50. While the government has a legitimate interest in ensuring appearance and protecting the community, those interests do not justify indefinite detention without individualized review.

51. Less restrictive alternatives—including release on conditions or a bond hearing—would adequately serve any legitimate governmental interest.

52. Continued detention without such safeguards is excessive and unconstitutional.

53. Petitioner's detention has therefore become punitive in effect and violates the Fifth Amendment.

54. At a minimum, due process requires a prompt individualized custody determination at which the government bears the burden of justifying continued detention. Where prolonged detention has occurred without any such review, the appropriate remedy is a constitutionally adequate bond hearing.

PRAYER FOR RELIEF

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

a. Order Respondents to answer the petition on an expedited basis due to Petitioner's detained status;
b. Grant the Petition for writ of habeas corpus;
c. Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the Court's approval;
d. Order Petitioner's immediate release from ICE custody;
e. Alternatively, order a prompt and constitutionally adequate custody hearing with DHS bearing the burden of proof;
f. Grant further relief as the Court deems just and proper.

Dated: April 23, 2026

Respectfully submitted,

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

VERIFICATION PURSUANT TO 28 U.S.C. 2242

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

Executed on this April 23, 2026, in Phoenix, AZ.

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

CERTIFICATE OF SERVICE

This is to certify that on April 23, 2026, the foregoing PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF was served by certified mail, on:

Eric Rokosky,
Warden, Eloy Detention Center,
1705 E Hanna Rd,
Eloy, AZ 85231

Christopher McGregor,
Field Office Director of Phoenix Office of Detention and Removal, U.S. Immigrations and Customs Enforcement
Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485

Todd M. Lyons, Acting Director, Immigration and Customs Enforcement
Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485

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

Todd Blanche
Acting Attorney General of the United States
950 Pennsylvania Avenue, NW,
Washington, DC 20530

Timothy Courchaine, U.S. Attorney
Federal District Court, District of Arizona
U.S. Attorney's Office
40 N. Central Avenue, Suite 1800
Phoenix, AZ 85004-4449

/s/ Spencer C. Lee
Spencer C. Lee
Smith, Alston, Darner, and Lee
2210 N 7th Street
Phoenix, AZ 85006
info@salfirm.com
602-595-2040
AZ Bar No. 032991