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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Abu Yousuf,

Petitioner,

v.

Luis Rosa Jr, Warden, Florence Correctional 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.

A-[redacted]

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

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

INTRODUCTION

1. Petitioner Abu Yousuf is a citizen and national of Bangladesh who entered the United States to seek asylum on or about March 8, 2025.

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

3. Following his apprehension, Petitioner was held in immigration detention for months without access to the ordinary statutory screening process, a Presidential Proclamation invoking 8 U.S.C. § 1182(f), which purported to suspend the entry of noncitizens and was subsequently enjoined by federal courts.

4. As a direct result of that unlawful policy, Petitioner was not referred for a credible fear interview ("CFI") until October 2025—approximately seven months after he had already been detained.

5. Although Petitioner initially received a negative credible fear determination, an Immigration Judge vacated that finding on October 31, 2025, and placed Petitioner into full removal proceedings under INA § 240.

6. On or about December 29, 2025, Petitioner appeared for an individual hearing on the merits of his asylum application. On January 5, 2026, at a continued merits hearing, the Immigration Judge denied all forms of relief.

7. Petitioner timely appealed that decision to the Board of Immigration Appeals on February 2, 2026. To date, more than 80 days have passed without the issuance of a briefing schedule.

8. The BIA has taken no action on Petitioner's appeal—issuing neither a briefing schedule nor any other substantive order—leaving his case in procedural limbo.

9. Petitioner remains detained without a bond hearing, without any individualized custody determination, and without any showing that his continued detention is reasonably related to effectuating removal. His detention has become constitutionally excessive and

untethered from its regulatory purpose.

JURISDICTION & VENUE

10. 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.

11. 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.

12. 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.

13. 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 Florence Correctional 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

14. Petitioner Abu Yousuf is a native and citizen of Bangladesh. He is currently detained at the Florence Correctional Center.

15. Respondent Luis Rosa Jr is the Warden of the Florence Correctional 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).

16. 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 Florence Correctional Center.

17. 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.

18. 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

19. Petitioner was apprehended at or near the U.S.-Mexico border and has remained detained continuously since that time. However, for a substantial initial period of his detention, Petitioner was not processed under the ordinary statutory framework governing arriving noncitizens. Instead, he was held in custody pursuant to the implementation of President Donald Trump's Executive Order invoking 8 U.S.C. § 1182(f), which purported to suspend the entry of noncitizens and effectively halted access to the credible fear screening process. That policy was subsequently enjoined and deemed unlawful by federal courts.

20. As a result of that unlawful policy, Petitioner remained in detention for months without referral for a credible fear interview or placement into formal removal proceedings.

This period of detention—untethered from the procedures required by the Immigration and Nationality Act—cannot be justified under 8 U.S.C. § 1225(b) or any other statutory provision.

21. Respondents may contend that Petitioner's current 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. But even assuming arguendo that § 1225(b) governs some portion of Petitioner's detention, that statutory authority does not extend to the period during which Petitioner was held in 212(f)-based limbo without access to required statutory process. Nor is § 1225(b) 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, unreviewable, or procedurally deficient 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.

22. Moreover, Petitioner is not situated as an individual merely "stopped at the threshold" of entry. He has now 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 following a prolonged period of unlawful procedural deprivation, not preliminary inspection, and must be evaluated accordingly.

STATEMENT OF FACTS

23. Petitioner Abu Yousuf is a native and citizen of Bangladesh.

24. Petitioner entered the United States at or near the southern border on or about March 8, 2025, for the purpose of seeking asylum.

25. On that same date, Petitioner was apprehended by U.S. Customs and Border Protection ("CBP") officers and placed into immigration detention. He has remained continuously detained since that time.

26. For several months following his detention, Petitioner was not processed under the ordinary statutory framework governing arriving asylum seekers. Instead, pursuant to the implementation of a Presidential Proclamation invoking 8 U.S.C. § 1182(f), Petitioner was effectively prevented from accessing the credible fear screening process and was held in detention without meaningful procedural progress. *See* **Exhibit A,** *212(f) screening.*

27. It was not until October 2025—approximately seven months after his initial detention—that Petitioner was referred for a credible fear interview. The asylum officer issued a negative determination; however, on October 31, 2025, an Immigration Judge vacated that finding and placed Petitioner into full removal proceedings under INA § 240. *See* **Exhibit B,** *CFI documents and IJ Order.*

28. On or about December 29, 2025, Petitioner appeared for an individual hearing on the merits of his asylum application before the Immigration Court in Eloy, Arizona. On January 5, 2026, at a continued hearing, the Immigration Judge denied all applications for relief. *See* **Exhibit C,** *IJ Decision.*

29. Petitioner timely appealed the Immigration Judge's decision on February 2, 2026. Despite the passage of more than 80 days, the Board of Immigration Appeals has taken no action on his appeal. No briefing schedule has been issued, no decision rendered, and no meaningful progress has occurred. *See* EOIR Case Automated System.

30. Petitioner remains detained by ICE. In total, he has been held in immigration detention for over thirteen months without ever receiving a bond hearing or any individualized

custody determination.

ARGUMENT AND GROUNDS FOR RELIEF

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

31. 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—particularly where that detention includes a substantial period during which the government failed to provide the process required by statute. 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.

32. Respondents may contend that Petitioner's detention is governed by 8 U.S.C. § 1225(b) and that *Jennings v. Rodriguez* forecloses relief. But *Jennings* rejected only a statutory interpretation requiring periodic bond hearings; it expressly preserved as-applied constitutional challenges to prolonged detention. 583 U.S. 281 (2018). *Jennings* does not authorize indefinite, unreviewable, or procedurally deficient detention, nor does it eliminate this Court's jurisdiction under 28 U.S.C. § 2241.

33. Moreover, Petitioner's detention cannot be viewed as a single, uninterrupted period of statutorily authorized custody. For approximately seven months, Petitioner was held in detention pursuant to a policy invoking 8 U.S.C. § 1182(f) that prevented access to the credible fear process and was subsequently enjoined as unlawful. That period of detention—during which Petitioner was denied the process required by the Immigration and Nationality Act—renders the overall length and character of his detention constitutionally suspect and

distinguishes this case from ordinary prolonged detention challenges.

34. 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.

35. 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; Singh v. Holder,* 638 F.3d 1196 (9th Cir. 2011).

36. Petitioner does not challenge the statute on its face. Rather, he brings an as-applied challenge based on the totality of his detention, including the extended period of unlawful procedural deprivation, the absence of any individualized custody review, and the lack of meaningful progress in his removal proceedings. Under this framework, his continued detention is unconstitutional.

Length of Detention

37. Petitioner has been continuously detained for over thirteen months.

38. This period includes approximately seven months during which Petitioner was held without access to the statutory screening process required by the INA, as a result of an unlawful § 1182(f) policy.

39. Detention of this length—particularly where a substantial portion was spent in procedural limbo—is far beyond what can be considered brief or incidental to immigration processing. Courts in this Circuit routinely recognize that detention exceeding one year without

meaningful review is presumptively unreasonable.

Foreseeability of Removal

40. Petitioner's removal is not reasonably foreseeable.

41. His case is currently pending before the Board of Immigration Appeals, which has taken no action for over 80 days, including failing to issue a briefing schedule.

42. Because Petitioner's proceedings were significantly delayed at the outset by unlawful government action, and remain stalled at the appellate level, the endpoint of his detention is speculative. What is nominally "finite" detention has become functionally indefinite.

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

Delay Is Attributable to the Government

44. The prolonged nature of Petitioner's detention is entirely attributable to the government.

45. First, the government delayed Petitioner's access to the statutory process for months through implementation of an unlawful § 1182(f) policy.

46. Second, Petitioner timely pursued all available relief, including appeal, and has complied with all procedural requirements.

47. Third, the BIA has failed to take any action on his appeal.

48. Government-caused delay—particularly delay resulting from unlawful policies—strongly weighs in favor of finding detention unconstitutional.

Inadequacy of Process

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

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

51. The absence of procedural safeguards is especially constitutionally problematic where, as here, Petitioner was initially denied access to required statutory process for an extended period of time.

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

Government Interest No Longer Justifies Detention

53. While the government has a legitimate interest in ensuring appearance and protecting the community, those interests do not justify prolonged detention without individualized review—particularly where the government itself has caused significant delay.

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

55. Continued detention under these circumstances is excessive, punitive in effect, and violates the Fifth Amendment.

56. At a minimum, due process requires a prompt individualized custody determination at which the government bears the burden of justifying continued detention.

PRAYER FOR RELIEF

57. 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 24, 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 24, 2026, in Phoenix, AZ.

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

CERTIFICATE OF SERVICE

This is to certify that on April 24, 2026, the foregoing PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF was served by certified mail, on:

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