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Pending Pro Hac Vice Admission

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
JOHNSTOWN DIVISION**

ISLAM MAHMOUD ABDELRAHMAN
MAHMOUD ALY,

Petitioner,

v.

MARKWAYNE MULLIN, in his official capacity)
as Secretary of the Department of Homeland)
Security; **TODD BLANCHE**, in his official)
capacity as Attorney General of the United)
States; **TODD LYONS**, in his official)
capacity as Acting Director and Senior)
Official Performing the Duties of the)
Director of U.S. Immigration and Customs)
Enforcement; **DAVID O'NEILL**, in his)
official capacity as Field Office Director of the)
Philadelphia Field Office of U.S. Immigration)
and Customs Enforcement, Enforcement and)
Removal Operations; **LEONARD ODDO**,)
in his official capacity as Warden of the)
Moshannon Valley Ice Processing Center,)

Respondents.

Case No. _____

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Islam Mahmoud Abdelraham Aly, is a 39-year-old Egyptian national who is being unlawfully detained by the Respondents at Moshannon Valley Correctional Center. Petitioner has resided in the United States and is currently pursuing relief through a pending I-360 VAWA self-petition and a concurrently filed I-485 Application to Register Permanent Residence or Adjust Status. Petitioner does not have any confirmed criminal convictions in the current record and is the beneficiary of a pending I-360 Petition for Amerasian, Widow(er), or Special Immigrant (VAWA) and I-485 Application for Adjustment of Status.

2. On December 23, 2025, Petitioner was taken into custody by Department of Homeland Security (“DHS”) agents following his placement in removal proceedings.

3. Petitioner was served with a Notice to Appear (“NTA”) charging him with removability pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) (Immigration and Nationality Act section 212(a)(6)(A)(i)) as an alien present without admission or parole. *See* Ex. A. Notice to Appear.

4. Noncitizens charged with removability pursuant to section 1182(a)(6)(A)(i) are subject to discretionary detention under 8 U.S.C. § 1226(a). Noncitizens detained under section 1226(a) are eligible for a custody redetermination hearing (i.e., a bond hearing) before an immigration judge to determine whether they should be released from detention pending the resolution of their removal proceedings. *See* 8 § 1226(a); 8 U.S.C. § 1229a. Individuals in section 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d).

5. However, in Petitioner's case, the immigration judge has not provided Petitioner with a bond hearing, and DHS has treated him as subject to detention without affording him an individualized custody determination. Petitioner is an arriving alien who was paroled into the United States and is pursuing relief before USCIS, yet he remains detained without a meaningful opportunity to seek release. DHS's position effectively prevents Petitioner from obtaining a bond hearing despite the absence of any statutory basis to deny such a process.

6. Petitioner finds himself facing potentially indefinite detention. Petitioner is the beneficiary of a pending VAWA self-petition (Form I-360). Per USCIS, VAWA enables certain noncitizens subjected to abuse by a U.S. citizen or lawful permanent resident spouse to self-petition for immigration relief and seek lawful permanent residence independently.

7. Petitioner has been found *prima facie* eligible for VAWA relief by USCIS. However, the application cannot be adjudicated by an immigration judge and must be adjudicated by U.S. Citizenship and Immigration Services ("USCIS"). DHS has left Petitioner in administrative limbo by continuing to detain him and refusing to release him. Similarly, Petitioner risks losing the opportunity to pursue his pending immigration relief if he is removed before USCIS adjudicates his applications.

JURISDICTION

8. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

9. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

11. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (same); *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) (“Challenges to immigration detention are properly brought directly through habeas.”).

12. No petition for a writ of habeas corpus has previously been filed in any court regarding Petitioner.

VENUE

13. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (e)(1) because Petitioner is detained within the Western District of Pennsylvania and his immediate physical custodian is located within this District. *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); see also *United States v. Scott*, 803 F.2d 1095, 1096 (10th Cir. 1986) (“A § 2241 petition for a writ of habeas corpus must be addressed to the federal district court in the district where the prisoner is confined.”).

PARTIES

14. ISLAM MAHMOUD ABDELRAHAM ALY, named Petitioner, is a 39-year-old citizen of Egypt who most recently entered the United States on or about July 23, 2024, pursuant to a grant of parole. He has a pending I-360 VAWA self-petition and a concurrently

filed I-485 Application for Adjustment of Status with USCIS. Since being detained by DHS, Petitioner is currently detained at Moshannon Valley Correctional Center and is in the custody and under the direct control of Respondents and their agents.

15. Respondent **Markwayne Mullin** is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (“DHS”). In this capacity, Respondent is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner’s detention and custody. Respondent is a legal custodian of Petitioner.

16. Respondent **Todd Blanche** is sued in his official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent is a legal custodian of Petitioner

17. Respondent **Todd Lyons** is sued in his official capacity as the Acting Director of the Chaparral Field Office of U.S. Immigration and Customs Enforcement. Respondent is a legal custodian of Petitioner and has authority to release her.

18. Respondent **David O’Neill** is sued in his official capacity as the Deportation Officer with ICE’s Enforcement and Removal Operations (“ERO”) Philadelphia Field Office. As such, Respondent is responsible for overseeing Petitioner’s detention and custody within the Philadelphia Area of Responsibility and exercises authority over Petitioner’s continued confinement. He is a legal custodian of Petitioner.

19. Respondent **Leonard Oddo** is employed as the Warden of the Moshannon Valley ICE Processing Center in Philipsburg, Pennsylvania, the facility where Petitioner is currently detained. Respondent has immediate physical custody of Petitioner and is sued in his official capacity.

STATEMENT OF FACTS

20. Petitioner is a 39-year-old noncitizen currently detained in the United States. He is a native and citizen of Egypt.

21. Petitioner most recently entered the United States on or about July 23, 2024, pursuant to a grant of parole.

22. Petitioner is the beneficiary of a pending I-360 VAWA self-petition and a concurrently filed I-485 Application for Adjustment of Status. The VAWA petition remains pending with USCIS, and Petitioner has been found prima facie eligible for such relief.

23. On or about December 23, 2025, Petitioner was taken into custody by Department of Homeland Security (“DHS”) and placed into removal proceedings.

24. Petitioner was served with a Notice to Appear (“NTA”) charging him with removability pursuant to 8 U.S.C. § 1182(a) as an arriving alien paroled into the United States.

25. On or about April 13, 2026, Petitioner appeared for a master calendar hearing before the Immigration Court, and his case remains pending without any individualized custody determination or bond hearing being provided.

26. Petitioner has not been afforded a bond hearing before an immigration judge and remains detained without an opportunity to seek release based on individualized custody factors.

27. Petitioner is currently detained while his immigration applications remain pending before USCIS, and no final decision has been issued on his underlying VAWA-based relief.

28. Petitioner's removal proceedings remain ongoing, and no final order of removal has been issued as of the date of this filing.

29. Petitioner's next hearing in Immigration Court is scheduled for a future date, and his case remains pending before the Immigration Court.

30. Petitioner does not have any confirmed criminal convictions in the current record, has pursued relief through the immigration process, and remains eligible for relief that must be adjudicated by USCIS.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

31. Petitioner has no administrative remedies to exhaust.

32. Petitioner's request for custody redetermination has not been meaningfully adjudicated, and he has not been provided with a bond hearing before an Immigration Judge despite remaining in prolonged detention. As such, Petitioner's continued detention in ICE custody cannot be challenged by way of bond proceedings before the Immigration Judge.

33. Therefore, a writ of habeas corpus is the sole avenue to vindicate his constitutional, statutory, and regulatory rights and restore his liberty.

LEGAL FRAMEWORK

34. The Immigration and Nationality Act ("INA") prescribes three basic forms of detention for noncitizens in removal proceedings. First, 8 U.S.C. § 1226(a) authorizes the detention of noncitizens in standard non-expedited removal proceedings before an IJ. *See* 8 §

1226(a); 8 U.S.C. § 1229a. Individuals in section 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

35. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under 8 U.S.C. § 1225(b)(2).

36. Finally, the Act also provides for detention of noncitizens who have been previously ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

37. The detention provisions at section 1226(a) and 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(c) was most recently amended earlier this year by the LRA, Pub. L. No. 119–1, 139 Stat. 3 (2025).

38. Following enactment of the IIRIRA, the Executive Office of Immigration Review drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under section 1225 and that they were instead detained under section 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). In the decades that followed, most noncitizens who entered without inspection—unless they were subject to some other detention authority—received bond

hearings. This practice was also consistent with the practice prior to the enactment of the IIRIRA, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that section 1226(a) simply “restates” the detention authority previously found at section 1252(a)).

39. On July 8, 2025, DHS issued a memo to all employees of Immigration and Customs Enforcement (“ICE”) stating that “[t]his message serves as notice that DHS, in coordination with the Department of Justice (“DOJ”), has revisited its legal position on detention and release authorities. DHS has determined that section 235 of the Immigration and Nationality Act (“INA”), rather than section 236, is the applicable immigration detention authority for all applicants for admission. The following interim guidance is intended to ensure immediate and consistent application of the Department’s legal interpretation while additional operational guidance is developed.” The memo further stated DHS’ new position with regard to custody determinations as follows:

An “applicant for admission” is an alien 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. INA § 235(a)(1). **Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole.** These aliens are also ineligible for a custody redetermination hearing (“bond hearing”) before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that “arriving aliens”

have historically been treated. **The only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).**

Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants for admission because Form I-286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286.

See <https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission> (last accessed August 4, 2025) (emphasis original).

40. As a result, DHS now considers *all* noncitizens who have entered the United States without inspection and are subject to the grounds of inadmissibility, including long-time U.S. residents, are now considered to be subject to mandatory detention under section § 1225(b) and ineligible for release on bond. Conversely, according to DHS “[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, with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. § 1226(c)].” *Id.*

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

41. The allegations in the above paragraphs are realleged and incorporated herein.

42. Petitioner is challenging DHS’ unlawful custody determination that Petitioner is subject to detention under section 1225(b) as an arriving alien and is ineligible for bond.

43. Respondents have violated Petitioner’s due process rights under the Fifth Amendment by detaining her without possibility of release on bond. Mandatory detention under section 1225(b) and denial of a bond hearing constitute a violation of the Fifth Amendment’s guarantee of due process.

44. Petitioner has a constitutionally protected interest in procedural due process in their removal proceedings and applications for relief.

45. Petitioner also has a constitutionally protected interest in the adjudication of his pending I-360 VAWA self-petition and I-485 Application for Adjustment of Status.

46. As a remedy, the Court should order Petitioner’s release on his own recognizance, or in the alternative order that a bond hearing be scheduled immediately.

COUNT TWO

Violation of the Administrative Procedure Act (“APA”)

47. The allegations in the above paragraphs are realleged and incorporated herein.

48. The Administrative Procedure Act provides that courts “shall . . . 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).

49. Application of section 1225(b) and denial of a bond hearing violates the APA. DHS’ interim guidance further violates the APA’s rulemaking procedures.

50. The arbitrary and capricious detention of Petitioner, despite his pending I-360 VAWA self-petition and I-485 Application for Adjustment of Status, causes him irreparable harm with each day he remains detained. For the reasons articulated above, this Court should find that any decision to detain Petitioner is arbitrary, capricious, and unsupported by substantial evidence. *See* 5 U.S.C. §§ 706(2)(A), (E) (The reviewing court “shall ... hold unlawful and set aside agency action, findings, and conclusions found to be ... arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” or “unsupported by substantial evidence.”).

COUNT THREE

Violation of The Fourth Amendment of The Constitution And 8 U.S.C. § 1357(A)(2)

51. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

52. The Fourth Amendment protects “[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures.” U.S. Const. amend. IV. The Supreme Court has consistently recognized that immigration arrests and detentions are “seizures” within the meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the “seizure” of the person).

53. As a general matter, the Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). That neutral, judicial determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See id.* Arrest and detention of a person, including of a noncitizen, absent a neutral judicial determination of probable cause, violates the Fourth Amendment of the Constitution. *Id.*; see also *Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991). This determination must occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstances. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

54. Congress enacted a strong preference that immigration arrests be based on warrants. *See Arizona v. United States*, 567 U.S. 387, 407–08 (2012). The Immigration and Nationality Act thus provides immigration officers with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). Specifically, an officer must have “reason to believe” the person is violating the immigration laws and that the person “is likely to escape before a warrant can be obtained.” *Id.* Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

55. Here, at the moment of seizure, Petitioner had a pending I-360 VAWA self-petition and a concurrently filed I-485 Application for Adjustment of Status, and had most recently entered the United States pursuant to a grant of parole, making him actively engaged in a lawful immigration process. There is no evidence or reason to believe that he posed a flight risk at the time of his apprehension.

56. Therefore, no officer could hold a reasonable belief that Petitioner was likely to escape before a warrant could be obtained. *See* 8 U.S.C. § 1357(a)(2).

57. Without a statutory basis to arrest, the Government is required under the Fourth Amendment to secure a prompt judicial probable cause determination to continue holding Petitioner. *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56–57. Petitioner received no such judicial determination, yet his detention has continued well beyond 48 hours, rendering his detention presumptively unconstitutional.

58. The Government cannot salvage this seizure by invoking generalized immigration enforcement interests. The Fourth Amendment’s reasonableness inquiry is fact-specific and demands individualized justification for both the arrest and the extended detention. *See United States v. Brignoni-Ponce*, 422 U.S. 873, 882–84 (1975); *Gerstein*, 420 U.S. at 114. Here, Petitioner has pending immigration relief before USCIS, has no confirmed criminal convictions in the current record, and there is no evidence that he posed a danger to the community or a risk of flight at the time of his apprehension.

59. Petitioner’s warrantless arrest occurred in violation of the clear, narrow circumstances permitted by statute. Therefore, his arrest and ensuing detention constitute an unreasonable and unlawful seizure in violation of the Fourth Amendment.

COUNT FOURTH

Violation of The *Accardi* Doctrine with Respect To 8 C.F.R. § 287.8(C)(2)(i) and (ii)

60. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

61. The United States has also failed to follow immigration-specific arrest and processing regulations. Regulations governing immigration enforcement require that warrantless arrests conform to the standards in 8 C.F.R. § 287.8(c). Specifically, for any arrest, immigration officers must have reason to believe that an individual committed an offense against the United

States or was present illegally. 8 C.F.R. § 287.8(c)(2)(i). And, for a warrantless arrest, officers must also have reason to believe that an individual is “likely to escape before a warrant can be obtained.” 8 C.F.R. § 287.8(c)(2)(ii).

62. At the time of the arrest and at all times since, Petitioner had a pending I-360 VAWA self-petition and a concurrently filed I-485 Application for Adjustment of Status, and had most recently entered the United States pursuant to a grant of parole; he fled no authority; and there is no evidence that he posed a danger to any person or to the community at large. Therefore, Petitioner’s arrest and continued detention contravene regulations governing immigration arrests in violation of the *Accardi* doctrine.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Pursuant to 28 U.S.C. § 2243, issue an order to show cause directing Respondents to file a return within three (3) days, absent good cause for a short extension not exceeding ten days, and set the matter for a prompt hearing;
- (3) Enjoin Defendants from transferring Petitioner during the pendency of the instant action;
- (4) Declare that Petitioner’s continued detention violates the Immigration and Nationality Act, 8 U.S.C. § 1226(a); the Administrative Procedure Act, 5 U.S.C. § 706(2)(A); and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;
- (5) Grant the writ of habeas corpus and order Petitioner’s immediate release from ICE custody,

- (6) In the alternative order, a constitutionally adequate bond hearing at which DHS bears the burden of proving that Petitioner is a danger to the community or risk of flight, or other reasonable conditions of supervision;
- (7) Award Petitioner his costs and reasonable attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
- (8) Grant any other further relief this Court deems just and proper.

Dated: October 9, 2025

Respectfully Submitted,

/S/ Luis Angeles

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EXHIBIT

EXHIBIT A	NOTICE TO APPEAR	02 – 05
EXHIBIT B	FORM I-213	07 – 09
EXHIBIT C	REQUEST TO CONVERT I-485 TO I-360	11 – 14
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, ISLAM MAHMOUD ABDELRAHMAN MAHMOUD ALY, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for *Writ of Habeas Corpus* are true and correct to the best of my knowledge.

Dated: May 5, 2026

/s/Luis Angeles
Luis Angeles
*Pending Pro Hac Vice
Admission*

CERTIFICATE OF SERVICE

I hereby certify that on May 5, 2026, I filed the foregoing petition for *Writ of Habeas Corpus* electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

Dated: May 5, 2026

/s/Luis Angeles
Luis Angeles
*Pending Pro Hac Vice
Admission*