

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG DIVISION**

**EVER AMILTON CAP LEJA, ELMER
NICODEMO CUMES CUSCUN, LUIS
MIGUEL CUMES CUSCUN, ABEL COC,
MYNOR VENTURA COC, MIGUEL
ANGEL JERONIMO DE LA CRUZ,
SAUL JERONIMO DE LA CRUZ,
ADOLFO SANTANA ROSALES, and
JOSE ALEXIS HERRERA ROSALES, by
and through their next friend, LAUREN
PELLIEN,**

Petitioner,

v.

**TODD M. LYONS, Acting Director, United
States Immigration and Customs
Enforcement; MARKWAYNE MULLIN,
Secretary of Homeland Security; TODD
BLANCHE, Acting United States Attorney
General; JOHN RIFE, Field Office
Director, Philadelphia Field Office, United
States Immigration and Customs
Enforcement, *in their official capacities,***

Respondents.

ELECTRONICALLY
FILED
05/28/2026
U.S. DISTRICT COURT
Northern District of WV

Civ. Act. No.: 1:26-CV-59 (Kleeh)

**PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

1. Petitioners Ever Amilton Cap Leja, Elmer Nicodemo Cumes Cuscun, Luis Miguel Cumes Cuscun, Abel Coc, and Mynor Ventura Coc, Miguel Angel Jeronimo de la Cruz, Saul Jeronimo de la Cruz, Adolfo Santana Rosales, and Jose Alexis Herrera Rosales, by and through their next friend Lauren Pelliien, by and through undersigned counsel, respectfully petition this Honorable Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge their

ongoing civil immigration detention by the United States Department of Homeland Security and its agents. On information and belief, Petitioners were arrested by Immigration and Customs Enforcement in Weston, West Virginia, and are detained within this District at or near the time of the filing of this petition. In any event, petitioners' last known location is within this District.

2. Petitioners seek immediate release from immigration detention, or in the alternative, an order directing Respondents to provide them with a constitutionally adequate custody hearing before a neutral decisionmaker with authority to assess the necessity of detention and to order release on appropriate conditions.

3. On information and belief, Petitioners' current civil confinement is maintained without any individualized determination of flight risk, danger to the community, or the availability of conditions of release. This violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. Civil immigration detention must bear a reasonable relation to its purported purpose and may not be imposed in a punitive, arbitrary, or unlawful manner. Accordingly, issuance of the writ of habeas corpus is warranted. *See, e.g., Bekiradze v. Adams*, Civil Action No. 5:26-CV-18, ECF No. 10 (S.D. W.Va. Mar. 2, 2026) (Bailey, J.).

JURISDICTION & VENUE

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 2241 because Petitioners are in federal immigration custody and challenges the legality of their ongoing civil immigration detention by the United States Department of Homeland Security and its officers. The relief sought lies at the core of the writ of habeas corpus.

5. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action raises questions of federal law arising under the Constitution and laws of the United States, including the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

6. The Suspension Clause of the United States Constitution independently guarantees Petitioners the right to seek habeas corpus review to test the legality of their physical confinement where no other adequate and effective remedy exists.

7. Venue is proper in this District under 28 U.S.C. 1391 and 28 U.S.C. 2242 because Petitioners were arrested in this District and Petitioners' last known and verifiable location was in the District. Although Petitioners' location at the time of filing is not entirely certain, "a detainee must always have an available forum for a habeas petition, even if the government doesn't disclose their location." *Suri v. Trump*, No. 25-1560, 2025 WL 1806692, at *5 (4th Cir. July 1, 2025); see also *Linarez Vilchez v. Kluemper*, No. 3:26-0261, ECF No. 17 (S.D. W.Va. Apr. 16, 2026), p. 7:

The unknown custodian exception applies to the facts of this case. Petitioner was arrested within the Southern District of West Virginia, and his last verified location was within the Southern District of West Virginia. . . . This District was the only available forum for Petitioner's habeas petition while the location of petitioner and his custodian were unknown. *Suri*, 2025 WL 1806692, at *5.

Counsel is currently aware of no other more appropriate forum.

8. On information and belief, Petitioners was arrested in Weston, WV in the early afternoon of Thursday, May 28. Counsel has undertaken efforts to attempt to locate Petitioners in custody and identify their custodian, including: searching for Petitioners via the West Virginia Department of Corrections and Rehabilitation Inmate Search tool and the ICE Online Detainee Locator System; emailing representatives of the West Virginia ICE Enforcement and Removal Operations ("ERO") Field Office regarding some Petitioners; and calling the Pittsburgh ICE ERO Field Office several times. However, as of the time of filing, counsel has been unable to locate Petitioners or identify their present custodian. Documentation confirming that these emails were sent, these phone calls were placed, and these searches were made, and further details regarding such, can be provided to the extent necessary.

PARTIES

9. Petitioners Ever Amilton Cap Leja, Elmer Nicodemo Cumes Cuscun, Luis Miguel Cumes Cuscun, Abel Coc, and Mynor Ventura Coc, Miguel Angel Jeronimo de la Cruz, Saul Jeronimo de la Cruz, Adolfo Santana Rosales, and Jose Alexis Herrera Rosales reside in or near West Virginia and, on information and belief, are likely detained in the custody of Respondents.

10. Respondent John Rife is the Field Office Director responsible for the Philadelphia Field Office of ICE with administrative jurisdiction over Petitioners' immigration case. He is a legal custodian of Petitioners and is named in his official capacity.

11. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Petitioners and is named in his official capacity.

12. Respondent Markwayne Mullin is the Secretary of the United States Department of Homeland Security (DHS). He is a legal custodian of Petitioners and is named in his official capacity.

13. Respondent Todd Blanche is the Acting Attorney General of the United States Department of Justice. He is a legal custodian of Petitioners and is named in his official capacity.

14. Lauren Pellien brings this habeas corpus action as next friend of Petitioners. Counsel has thus far been unable to communicate directly with Petitioner despite his best efforts. Next friend standing is therefore appropriate because Ms. Pellien has a pre-existing relationship with Petitioners and is acting solely in Petitioners' best interests, not to assert her own personal rights or interests. *See Whitmore v. Arkansas*, 495 U.S. 149, 163 (1990).¹

FACTUAL BACKGROUND

¹ Counsel intends to amend this Petition as appropriate once he is able to directly communicate with Petitioners.

15. On information and belief, Petitioners were all arrested in Weston, WV on the afternoon of Thursday, May 28.

16. On information and belief, Petitioners are likely currently detained in the custody of Immigration and Customs Enforcement. On information and belief, Petitioners' detention is civil and administrative in nature and is not based on any criminal conviction or charge. While detained, Petitioners remains physically confined and deprived of their liberty.

17. On information and belief, no immigration officer or decisionmaker has determined that physical confinement is justified by a legitimate governmental purpose in Petitioners' cases—i.e., the risk of flight or danger to the community. *See Miranda v. Garland*, 34 F.4th 338, 362 (4th Cir. 2022). On information and belief, no immigration officer, Immigration Judge, or other judge or magistrate has conducted an individualized custody determination assessing whether Petitioners' continued detention is necessary to address flight risk, danger to the community, or the availability of conditions of release. *See Id.*

18. Petitioners' detention has imposed significant restraint on their freedom of movement and personal autonomy. On information and belief, there has been and will be no mechanism by which Petitioners will receive a meaningful opportunity to challenge the necessity of his continued detention. Absent judicial intervention, Petitioners will remain detained without an opportunity to contest whether their continued confinement is lawful, necessary, or justified.

STANDARD OF LAW

19. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The “Great Writ” has been referred to by US Courts as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (cleaned up). A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law, 28 U.S.C. § 2241(c)(3), which should be granted if the petitioner meets their burden of proof—a preponderance of evidence. *See Post v. Boles*, 332 F.2d 738, 742 (4th Cir. 1964); *see also, e.g., Belsai D.S. v. Bondi*, No. 25-cv-3682, 2025 WL 2802947, at *3 (D. Minn. 2025) (collecting cases).

20. The Court must grant a petition for writ of habeas corpus or issue an order to show cause to the respondents “forthwith,” unless a petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within three days unless *for good cause* additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

21. Detained immigrants challenging their confinement as unlawful face no statutory exhaustion requirements. *Miranda*, 34 F.4th at 351. This Court’s colleagues in the Southern District of West Virginia have universally declined to require prudential exhaustion when evaluating a detained immigrant’s petition under similar circumstances. *See, e.g., Briceno Solano v. Mason*, No. 2:26-CV-00045, 2026 WL 311624, at *8 (S.D. W.Va. Feb. 4, 2026) (Johnston, J.).

22. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *see also, e.g., Aroca v. Mason*, No. 2:26-cv-00057, ___ F.Supp.3d ___, 2026 WL 357872, at *6 (S.D. W.Va. Feb. 9, 2026) (Goodwin, J.).

23. It is no secret that this country is currently experiencing a massive uptick in unlawful civil immigration detentions. *See, e.g., Umarov v. Mason* No. 2:26-cv-00081, 2026 WL 381614, at *1 (S.D. W.Va. Feb. 11, 2026) (Berger, J.) (“As dozens, perhaps hundreds, of courts have found in thousands of cases in recent months, the United States government has again violated the United States Constitution by arresting and detaining a person without due process and without statutory authority.”).

24. As Judge Berger of the Southern District of West Virginia has noted, “[o]ther courts have found that DHS is detaining people ‘to fulfill an arrest quota’ rather than based on any individual determination that those detained pose a danger or flight risk.” *Id.* at *2, citing *Rangel v. Knight*, No. 1:25-CV-00607-BLW, 2025 WL 3229000, at *8 (D. Idaho Nov. 19, 2025) and *Pichardo Medina v. Hermosilla*, No. 3:25-CV-02233-MC, 2025 WL 3712271, at fn. 6 (D. Or. Dec. 22, 2025).

25. The “default rule” is that detention of immigrants already present in the United States and subject to pending removal proceedings is governed by 8 U.S.C. § 1226(a) and its implementing regulations. *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018). Under this default rule, detained immigrants are constitutionally and statutorily entitled to both an initial custody determination by an immigration officer and a prompt bond hearing. *See, e.g., Campos-Flores v. Bondi*, No. 3:25cv797, 2025 WL 3461551, at *7, 2025 U.S. Dist. LEXIS 235303 (E.D. Va. Dec. 2, 2025); *Lopez v. Lyons*, No. 1:25-cv-01838-AJT-IDD, 2025 WL 3285493, 2025 U.S. Dist. LEXIS 232158 (E.D. Va. Nov. 25, 2025); *Miranda*, 34 F.4th at 362; *Tumba v. Francis*, No. 25-CV-8110 (LJL), 2025 WL 3079014, at *7 (S.D.N.Y. Nov. 4, 2025).

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

Petitioners are being deprived of an adequate and meaningful process to challenge their ongoing confinement.

26. Petitioners reallege and incorporate by reference the allegations contained above.

27. Petitioners have due process rights as residents of the United States. *Zadvydas*, 533 U.S. at 693.

28. Civil immigration detention is constitutionally permissible only when it is reasonably related to a legitimate governmental purpose and is accompanied by adequate procedural safeguards. Detention that becomes arbitrary or imposed without proper statutory authority violates the Due Process Clause.

29. Federal courts use the three-part test in *Mathews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

30. Here, all three factors favor the petitioners.

31. First, Petitioners have a significant private interest at stake. A person's interest in freedom from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects."). Petitioners currently experience the gamut of deprivations that come with physical detention, including separation from their communities.

barriers to full participation in immigration proceedings, and forced imprisonment under inhumane conditions.

32. Second, Petitioners have already been deprived of this interest and will continue to be deprived of this interest if the current procedure (detaining Petitioners without a legal basis) is followed. On information and belief, Petitioners have not and will not receive an initial custody determination, as they have been arrested based on an alleged civil immigration violation without consideration of their individual circumstances indicating a lack of threat to the community or risk of flight. *See Miranda*, 34 F.4th at 362 (first opportunity for release under 1226(a) occurs “almost immediately” after arrest); *Tumba*, 2025 WL 3079014, at *7 (holding that the violation of Petitioner’s due process rights “originated with her detention in the first instance.”); *Rodriguez v. Mason*, No. 2:26-CV-00122, 2026 WL 510426, at *2 (S.D. W.Va. Feb. 24, 2026) (Berger, J.) (holding that detention without “an individualized determination regarding whether the Petitioner should be detained or released” violated the INA and the Due Process Clause).

33. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Releasing Petitioners, or holding a hearing to release them on bond, would in fact *save* the government the resources and expense of continuing to imprison them.

34. The placement of Petitioners in detention pending the resolution of their immigration court proceedings violates Petitioners’ constitutional right to due process guaranteed by the Fifth Amendment.

COUNT TWO

Immigration and Nationality Act, 8 U.S.C. § 1226

Petitioners' Detention without an Initial Custody Determination Violates their Statutory Rights Under 8 U.S.C. § 1226(a).

35. Petitioners reallege and incorporate by reference the allegations contained above.

36. On information and belief, Respondents have used the same procedures to arrest and detain Petitioners that numerous courts, including the four jurists in the Southern District of West Virginia to consider the issue, have resoundingly rejected as unlawful. *See, e.g., Perez v. Mason*, No. 2:26-cv-00108, 2026 WL 508816, at *2 n.1 (S.D. W.Va. Feb. 20, 2026) (Berger, J.) (noting exchange with counsel for federal Respondents where counsel indicated that Respondents would continue to use the same justifications for arrests and detentions that had already been judged illegal and unconstitutional in the Southern District of West Virginia); *Izaguirre v. Mason*, No. 2:26-CV-00121, 2026 WL 561235, at *5 (S.D. W.Va. Feb. 27, 2026) (Goodwin, J.) (warning all Respondents against continuing violations in the face of unanimous district precedent).

37. On information and belief, Petitioners are thus detained without being afforded an opportunity to advocate for their release back into his community as the law requires. In the absence of an individualized custody determination, Petitioners' continued detention is not meaningfully tethered to the limited statutory purposes authorized by the Immigration and Nationality Act.

COUNT THREE

Violation of the Suspension Clause of the United States Constitution

38. Petitioners reallege and incorporate by reference the allegations contained above.

39. The Suspension Clause of the United States Constitution provides that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Const. art. I, § 9, cl. 2. The Suspension Clause guarantees the availability of judicial review to test the legality of executive detention.

40. Where no adequate and effective administrative substitute exists to permit review of executive detention, habeas corpus remains the sole means through which a detained individual may challenge the lawfulness of confinement.

41. Absent access to habeas corpus review, Petitioners would have no forum in which to test whether their continued civil immigration detention exceeds the limits imposed by the Immigration and Nationality Act and the Constitution.

42. The Suspension Clause forbids the government from maintaining a detention framework that eliminates all meaningful opportunity for a detainee to challenge the legality of executive confinement.

43. Petitioners' continued civil immigration detention, without any individualized custody review, falls within the core protections safeguarded by the Suspension Clause.

44. By continuing to detain Petitioners under civil immigration authority without providing any meaningful mechanism to challenge the legality of their confinement, Respondents have violated the Suspension Clause of the United States Constitution.

REMEDY

45. The most appropriate remedy for Respondents' unlawful conduct as outlined in this complaint is for Petitioners to be released.

46. Immigration detention is civil in nature, and as a result Congress must have expressly authorized it by statute, and the detention must be reasonably related to its statutory purpose. *Zadvydas*, 533 U.S. at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

47. When a habeas petitioner's detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention").

48. Respondents likely will argue that Petitioners' remedy is a bond hearing as opposed to outright release. Like numerous other courts across the country, all four jurists in the Southern District of West Virginia who have ruled on this issue has found that immediate release is the appropriate remedy when a Petitioner challenges their unlawful detention under Respondents' current policy of subjecting noncitizens residing within the United States to mandatory incarceration under § 1225(b). *Briceno Solano*, No. 2:26-CV-00045, 2026 WL 311624, at *21 (ordering petitioner's immediate release and prohibiting Respondents from re-arresting and detaining petitioner pending further order of the Court); *Estrada Reyes v. Aldridge*, No. 3:26-0084 at *4 n. 6 (S.D. W.Va. Feb. 13, 2026) (Chambers, J.) (same); *Perez*, 2026 WL 508816 at *2 n. 1 (same); *Larrazabal-Gonzalez v. Mason*, No. 2:26-CV-00049, 2026 WL 221706, at *6 (S.D.W. Va. Jan. 28, 2026) (Goodwin, J.).

49. See also, e.g., *Ahmed M. v. Bondi*, No. 25-cv-4711, 2026 WL 25627, at *3 (D. Minn. 2026) (Tostrud, J.); *Tzi v. Jamison*, No. 26-0099, 2026 WL 116486, *3 (E.D. Pa. Jan. 15, 2026); *Rodriguez v. Rokosky* No. 25-17419 (CPO), 2025 WL 3485628 (D.N.J. Dec. 3, 2025) ("the Court declines to allow Respondents to transform an unlawful detention into a lawful one through alternative, retrospective, *post hoc* justification").

50. While many of the recent decisions regarding § 1225 and § 1226 focus exclusively on the second opportunity for release discussed in *Miranda*—i.e., detainees' right to a bond hearing—Petitioner here is not merely entitled to a bond hearing following his arrest. He was also entitled to an *ex ante* release determination by an immigration officer prior to their incarceration. On information and belief, here, Petitioners were afforded no such individualized determination by any immigration officer. This due process violation cannot be remedied by a *post facto* bond hearing following unlawful incarceration. Immediate release is the only adequate remedy.

51. Additionally, implicit in the *Miranda* court's holding that the three-step custody determination process afforded to persons detained under § 1226 is constitutionally adequate is the assumption that immigrants will be afforded *fair* hearings in front of *neutral* immigration judges. This assumption is increasingly untenable. See *Exhibit A, Declaration of Jorge E. Artieda of January 28, 2026*. In the attached declaration, Mr. Artieda—former legal counsel to ICE in Washington D.C. and Virginia—details evidence of what “appears to be a systematic effort to nullify the constitutional protections that federal courts have recognized and enforced through habeas corpus” through the reassignment of Immigration Judges and the use of pretextual and legally insufficient rationales for denying bond. See *id.* at ¶¶ 1-2, 16-20, 26, 32 and generally.

52. See also *Exhibit B, Affidavit of Lawrence O. Burman of February 13, 2026*. Mr. Burman—who served as counsel for Immigration and Naturalization Services from 1988 to 1998 and then as an Immigration Judge from April 1998 until December 31, 2025—presided over both detained and non-detained immigration court dockets in his 27 years as an Immigration Judge. *Id.* at ¶¶ 3-8. In his affidavit, he attests to “a troubling trend of Immigration Judges being terminated without explanation or notice” since January 2025 and notes that he has “never witnessed such a high level of turnover” during his 27 years on the bench. *Id.* at ¶ 18. Mr. Burman attests that, based on his “conversations with the immigration bench and professional organizations, including the National Association of Immigration Judges (of which [he] was an officer), it is clear that judges were removed for their strong commitment to due process for those appearing before them.” *Id.* at ¶ 19. Mr. Burman attests to “increasing concern among members of the bench about institutional intimidation and the perception that decisions unfavorable to the government could negatively affect judicial tenure.” *Id.* at ¶ 20. Mr. Burman concludes his affidavit by expressing his “concern[] that the notable rise in bond denials and adverse case outcomes undermines due process and

erodes confidence in the Immigration Court system” *Id.* at ¶ 21. This affidavit and Mr. Artieda’s declaration corroborate each other in substantial part, including with respect to the recent, abrupt reassignment of multiple Immigration Judges on the Annandale, Virginia detained docket. *See id.* at ¶¶ 15-17; *Exhibit A* at ¶¶ 12-15.

53. Furthermore, per a recent article in the New York Times, chief immigration judge Teresa Riley “has received daily reports about bond rulings, according to a Justice Department Material. *Exhibit C, How Trump Purged Immigration Judges to Speed up Deportations*, p. 17. According to three people Judge Riley’s “office has sometimes emailed judges asking for an explanation about their decisions to grant bond[.]” *Id.* As reported in the article, per one current immigration judge, “pressure to deny bond is overt.” *Id.* This judge reported “that there was a requirement to inform a supervisor every time bond was granted[.]” *Id.*

54. A bond hearing in front of an immigration judge is an inadequate remedy if Respondents cannot establish that the hearing officer will be a genuinely neutral and detached decisionmaker, rather than an agent of the executive branch under circumstances indicating a substantial likelihood of bias. *See Briceno Solano*, 2026 WL 311624, at *20; *see also, e.g., Hamdi*, 542 U.S. at 533.

55. To the extent this Court deems a bond hearing the appropriate remedy, Petitioners respectfully request that the Court order that he be released unless a bond hearing at which the government bears the burden of proof, is held within seven (7) days of this Court’s order. *See Campos-Flores*, No. 3:25cv797, 2025 WL 3461551, at *7, 2025 U.S. Dist. LEXIS 235303; *Lopez*, No. 1:25-cv-01838-AJT-IDD, 2025 WL 3285493, at *3, 2025 U.S. Dist. LEXIS 232158.

56. Additionally, any bond hearing must be held before a neutral and detached court—i.e., *not* an immigration court.

PRAYER FOR RELIEF

Petitioners therefore respectfully request that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue an Order requiring Respondents to show cause as to why Petitioners should not be released immediately, or in the alternative afforded a bond hearing before a neutral judge, at which the government bears the burden to prove by clear and convincing evidence that continued detention is justified based on danger to the community or risk of flight;
3. Immediately facilitate a phone call between counsel each Petitioner, to occur no later than twelve (12) hours after the Court's order requiring such.
4. Declare that Petitioners' continued detention violates the Immigration and Nationality Act, its implementing regulations, and the Due Process Clause of the Fifth Amendment to the United States Constitution;
5. Permanently enjoin Respondents from re-detaining Petitioners under 8 U.S.C. § 1225 and enjoin Respondents from re-detaining Petitioners under 8 U.S.C. § 1226 absent notice, a reasonable opportunity to obtain counsel, a hearing before a neutral officer at which Respondents bear the burden of justifying the detention under a clear and convincing evidence standard, and prior leave of this Court;
6. Order that Petitioners be released with all property seized incident to their detention, including legal documents and any vehicle, and specify that this property must be available to them at the time of their release;² and

² See, e.g., *Shailookul Uulu v. Aldridge, et al.*, No. 3:26-cv-00073, ECF No. 27 (Chambers, J.) ("The Court further **ORDERS** Respondents to facilitate the prompt return of any of Petitioner's seized property, including legal documents"); *Gutierrez Aroca v. Mason*, No. 2:26-cv-00057, ECF No. 30 (Goodwin, J.) ("Respondents are **DIRECTED** to return all seized personal items of the Petitioners."); *Serna Zarate v. Mason*, No. 2:26-00069, ECF No. 29 (Johnston, J.) ("[T]he Court further **ORDERS** that any personal possessions belonging to Petitioner Romero, including identification and other documentation to include legal documents, be returned to him."); *Perez v. Mason*, No. 2:26-cv-00108, ECF No. 23, p. 1 (Berger, J.) ("The Court further **ORDERS** that all of the Petitioners' personal

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

Dated: May 28, 2026

Respectfully submitted,
COUNSEL FOR PETITIONER

Jonathan Sidney
*Pro Hac Vice Pending
Colorado Bar No. 52463
Ohio Bar No. 0100561
P.O. Box 97
Forest Hill, WV 24935
Phone: (681) 335-0074
jsidney@climatedefenseproject.org

/s/ Sarah K. Brown
Sarah K. Brown (WVSB #10845)
Mountain State Justice, Inc.
1217 Quarrier St.
Charleston, WV 25301
Phone: (304) 344-3144
sarah@msjlaw.org

belongings, including identification, work authorization, and any other documentation, be returned to them **upon release.**"