UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

TRONG NGOC TU HUYNH

Petitioner,

v.

Warden, South Texas ICE Processing Center;

MIGUEL VERGARA, in his official capacity as Field Office Director of the San Antonio Field Office, of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations;

MARKWAYNE MULLIN, Secretary of Homeland Security;

TODD BLANCHE, Acting United States Attorney General;

David VENTURELLA, Acting Director, U.S. Immigration and Custom Enforcement;

Respondents.

Case No. 26-4234

Immigration No. A# [redacted]

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

INTRODUCTION

1. This Petition challenges the unlawful detention of Petitioner TRONG NGOC TU HUYNH, a native and citizen of Vietnam currently in the custody of Respondents at the South Texas ICE Processing Center in Pearsall, Texas.
2. Petitioner is being detained without a bond hearing based on Respondents' assertion that 8 U.S.C. § 1225(b) mandates his continued detention. That position is legally incorrect or, at minimum, unconstitutional as applied to Petitioner's prolonged detention. Petitioner entered the United States without inspection near Tecate, California, on January 28, 2025. Following fear-screening proceedings, Petitioner was placed in withholding-only

proceedings, which the Immigration Judge terminated on July 31, 2025, for lack of a valid underlying removal order. DHS then issued a Notice to Appear placing Petitioner in full removal proceedings under INA § 240, after which his detention became governed by § 1226(a).

3. Petitioner is charged with having entered the United States without admission or inspection. See 8 U.S.C. § 1182(a)(6)(A)(i).

4. In July 2025, DHS adopted a new policy asserting that individuals deemed inadmissible under § 1182(a)(6)(A)(i) are categorically subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible for bond. Courts have recognized that DHS has "revisited its legal position on detention and release authorities" and now asserts that § 1225 governs all noncitizens present without admission. See Diaz Martinez v. Hyde, 792 F. Supp. 3d 211, 217–18 (D. Mass. 2025). This policy departs from longstanding statutory interpretation and agency practice and attempts to impose blanket detention without individualized review.

5. Consistent with that policy shift, the Board of Immigration Appeals ("BIA") issued a precedential decision on September 5, 2025, holding that immigration judges lack authority to conduct bond hearings for individuals who entered without admission. See *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). This interpretation eliminates immigration judges' traditional authority under § 1226 and imposes categorical detention without regard to individual circumstances.

6. Respondents' attempt to subject Petitioner to categorical no-bond detention under § 1225(b), despite the termination of his withholding-only proceedings and placement into

full INA § 240 proceedings, is unlawful, arbitrary, and violates both the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

7. Petitioner has remained in continuous ICE custody since his initial apprehension, for approximately seventeen months, without any individualized assessment of flight risk or danger, and without any bond hearing before a neutral decisionmaker.

8. Petitioner has continuously pursued available administrative remedies, including a timely appeal to the Board of Immigration Appeals, which remains pending. No final order of removal exists under 8 U.S.C. § 1101(a)(47)(B), and Petitioner's removal proceedings remain ongoing.

9. Petitioner's detention has now exceeded seventeen months without a single individualized custody hearing before a neutral decisionmaker. Such prolonged civil immigration detention, without any opportunity to challenge continued confinement, raises grave constitutional concerns regardless of the statutory framework invoked by Respondents. The Constitution does not permit the government to imprison a noncitizen for over a year and a half based solely on categorical detention policies without individualized review. The Due Process Clause requires more than mere executive detention by administrative designation.

10. This Court has repeatedly recognized that prolonged immigration detention without constitutionally adequate procedural safeguards violates the Fifth Amendment and warrants habeas relief. See *Amritpal Singh v. Mullin*, No. SA-26-CV-01284-OLG (W.D. Tex. Apr. 2, 2026); *Omar v. Warden, South Texas ICE Processing Center*, No. SA-26-CA-02699-XR (W.D. Tex. May 12, 2026). Consistent with that decision, due process requires

a hearing before a neutral decisionmaker when the Government seeks to detain a noncitizen for a prolonged period without individualized review.

11. By failing to provide such a hearing, Respondents have violated Petitioner's constitutional right to due process. Even if Respondents maintain that 8 U.S.C. § 1225 continues to govern Petitioner's detention, the Constitution independently requires meaningful procedural safeguards once detention has become prolonged. Petitioner's Fifth Amendment rights therefore do not depend upon resolution of the parties' statutory dispute.

12. Accordingly, this Court should grant the instant Petition for a Writ of Habeas Corpus and order Petitioner's immediate release, or, in the alternative, order Respondents to provide an individualized bond hearing within five (5) days, at which the government bears the burden of proving, by clear and convincing evidence, that Petitioner is a flight risk or a danger to the community.

JURISDICTION

13. Petitioner is in the physical custody of Respondents. Petitioner is detained at the South Texas ICE Processing Center in Pearsall, Texas.

14. This Court has jurisdiction under 28 U.S.C. § 2241(c)(1), (3) (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, section 9, clause 2 of the U.S. Constitution (the Suspension Clause), and U.S. Const. amend. V (the Due Process Clause).

15. This Court may grant relief pursuant to 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.

VENUE

16. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), venue lies in the United States District Court for the Western District of Texas, the judicial district in which Petitioner currently is detained. Respondent Warden, South Texas ICE Processing Center, is Petitioner's immediate custodian, and is located within the Western District of Texas.

17. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Texas.

REQUIREMENTS OF 28 U.S.C. § 2243

18. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

19. Habeas corpus is "perhaps the most important writ known to the constitutional law... 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). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.,* 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

20. Petitioner TRONG NGOC TU HUYNH (A# [redacted]) is a native and citizen of Vietnam who has been in immigration detention since January 28, 2025. He was

apprehended by U.S. Border Patrol near Tecate, California, following his entry without inspection, and has remained in continuous ICE custody since that date, most recently at the South Texas ICE Processing Center in Pearsall, Texas.

21. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security. He is the cabinet-level secretary responsible for all immigration enforcement in the United States and has ultimate custodial authority over Petitioner.

22. Respondent Todd Blanche is sued in his official capacity as the Attorney General of the United States. The Immigration Judges who decide removal cases and applications for relief from removal do so as his designees.

23. Respondent David Venturella is the Acting Director for Immigration and Customs Enforcement. As such, he is responsible for the policies causing Petitioner's unlawful detention. He is named in his official capacity.

24. Respondent Miguel A. Vergara is the Field Office Director of Enforcement and Removal Operations of the San Antonio ICE Field Office. As such, he is responsible for implementing the policies that caused Petitioner's unlawful detention. He is named in his official capacity.

25. Respondent Warden, South Texas ICE Processing Center, has immediate physical custody of Petitioner.

FACTS

26. Petitioner TRONG NGOC TU HUYNH entered the United States without inspection on January 28, 2025, near Tecate, California, and was apprehended by U.S. Border Patrol the same day near Tecate, California.

27. Petitioner was taken into custody and processed under the expedited removal provisions of 8 U.S.C. § 1225(b)(1).

28. An asylum officer conducted a credible/reasonable fear screening on March 3, 2025, and issued a negative determination. Petitioner was referred for withholding-only proceedings before the Pearsall Immigration Court. On July 31, 2025, the Immigration Judge granted Respondents' unopposed motion to terminate those withholding-only proceedings, finding that Respondents had failed to demonstrate that withholding-only proceedings were appropriate because there was no persuasive evidence that Petitioner had been ordered removed pursuant to INA § 238(b) or was subject to a reinstated prior exclusion, deportation, or removal order pursuant to INA § 241(a)(5).

29. Following that termination, DHS issued a new Notice to Appear and placed Petitioner in full removal proceedings under INA § 240. From that point forward, Petitioner's continued detention became governed by § 1226(a), rather than the expedited removal detention framework under § 1225(b)(1).

30. Petitioner filed Form I-589 on June 10, 2025, and appeared at his scheduled hearings before the Pearsall Immigration Court. On March 27, 2026, the Immigration Judge issued a removal order. Petitioner timely appealed to the Board of Immigration Appeals. That appeal was received by the Board on April 15, 2026, and remains pending, with briefing currently due July 13, 2026. Petitioner is not subject to any administratively final order of removal, and his removal proceedings remain ongoing.

31. Although the Immigration Judge entered a removal order on March 27, 2026, Petitioner timely appealed to the Board of Immigration Appeals, and that appeal remains pending. Because no administratively final order of removal currently exists, Petitioner's detention

remains solely incident to ongoing civil immigration proceedings that may continue for many additional months. There is presently no reasonably foreseeable endpoint to Petitioner's detention absent judicial intervention or a constitutionally adequate custody hearing.

32. Petitioner has no criminal convictions. Respondents have never alleged that Petitioner poses any danger to the community. Likewise, Respondents have never identified any individualized facts demonstrating that Petitioner presents a meaningful flight risk beyond his initial manner of entry into the United States.

33. Since his initial apprehension on January 28, 2025, Petitioner has been held in continuous ICE custody, most recently at the South Texas ICE Processing Center in Pearsall, Texas. He has never been released.

34. At no point during his detention has the government provided Petitioner with any individualized custody determination.

35. Throughout his detention, Respondents have never provided Petitioner with a bond hearing before a neutral decisionmaker. Respondents have never identified any document, custody determination, supervisory review, or individualized findings demonstrating that Petitioner's continued detention is necessary to prevent flight or protect the community. They have conducted no individualized assessment of whether Petitioner poses a flight risk or danger to the community, provided no opportunity to be heard on the question of his custody, and have never been required to justify his continued detention.

36. Petitioner cannot request an immigration bond hearing given that all immigration judges are subject to the binding precedent that those who entered the country without admission

or parole are ineligible for a bond hearing. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Moreover, because this BIA precedent decision is binding on all immigration judges nationwide, any bond request would be summarily denied for lack of jurisdiction, rendering administrative exhaustion futile as a matter of law.

37. This conclusion is consistent with recent Western District of Texas authority recognizing that exhaustion of administrative remedies is prudential rather than jurisdictional and is excused where pursuing relief before the immigration courts would be futile. See *Amritpal Singh v. Mullin*, No. SA-26-CV-01284-OLG (W.D. Tex. Apr. 2, 2026).

38. As a result, Petitioner remains in detention after approximately seventeen months of continuous custody. Without relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from any opportunity to pursue his removal proceedings and the asylum, withholding of removal, and protection under the Convention Against Torture claims currently pending before the Board of Immigration Appeals.

CLAIMS FOR RELIEF

COUNT I
Violation of the INA - Unlawful Detention Under 8 U.S.C. §§ 1225 and 1226

39. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

40. Respondents' continued reliance on 8 U.S.C. § 1225(b) following termination of Petitioner's withholding-only proceedings is legally erroneous. Although Petitioner was initially processed under § 1225(b)(1), he received a negative fear determination and was placed in withholding-only proceedings, which the Immigration Judge terminated on July

31, 2025, after finding that Respondents failed to demonstrate that withholding-only proceedings were appropriate because there was no persuasive evidence that Petitioner had been ordered removed under INA § 238(b) or was subject to a reinstated prior removal order under INA § 241(a)(5). DHS thereafter issued a new Notice to Appear and placed Petitioner into full removal proceedings under INA § 240. Under the statutory framework of the Immigration and Nationality Act, those proceedings are governed by 8 U.S.C. § 1226(a), which provides an individualized custody framework rather than mandatory detention. Even if this Court ultimately concludes that Respondents may continue to detain Petitioner pursuant to 8 U.S.C. § 1225(b), Petitioner's continued detention for approximately seventeen months without any individualized hearing independently violates the Fifth Amendment's Due Process Clause.

41. The termination of Petitioner's withholding-only proceedings was a terminating event. Once those proceedings were terminated and Petitioner was placed in INA § 240 proceedings, the continued applicability of detention under § 1225(b)(1) became legally disputed, and thereby creating a substantial legal dispute regarding the continued applicability of § 1225(b) and reinforcing Petitioner's entitlement to individualized constitutional process.

42. The Immigration Judge's termination order confirms that Respondents failed to establish the factual predicate necessary to maintain withholding-only proceedings because there was no persuasive evidence of a qualifying underlying removal order. Respondents nevertheless continue to rely upon mandatory detention principles arising from that abandoned procedural framework while simultaneously prosecuting Petitioner under a newly initiated INA § 240 proceeding.

43. Even if this Court were to conclude that § 1225(b) provides the statutory basis for Petitioner's detention, that conclusion would not end the inquiry. Petitioner does not principally challenge Respondents' statutory interpretation of the Immigration and Nationality Act. Rather, Petitioner challenges the constitutionality of prolonged civil immigration detention without any individualized hearing before a neutral decisionmaker. As another court within this District recently explained, Petitioner's claim is constitutional, not statutory, in nature.

44. Accordingly, even if this Court rejects Petitioner's statutory interpretation of the detention provisions, the Court must still independently determine whether seventeen months of civil immigration detention without any individualized hearing comports with the Due Process Clause.

45. The Attorney General expressly acknowledged in *Matter of M-S-*, 27 I&N Dec. 509, 509 n.1 (A.G. 2019), that his decision "does not address whether detaining transferred aliens for the duration of their removal proceedings poses a constitutional problem." That constitutional question is squarely presented here. Even assuming § 1225(b) continues to govern Petitioner's detention under *Matter of M-S-*, the Constitution prohibits prolonged civil immigration detention without any individualized hearing before a neutral decisionmaker.

46. Petitioner has been detained for nearly seventeen months without any such hearing. Regardless of the statutory authority Respondents invoke, that prolonged detention without individualized review violates the Fifth Amendment's Due Process Clause.

47. The Fifth Circuit's decision in *Buenrostro-Mendez* does not resolve Petitioner's due process claim because that decision addressed only the statutory basis for detention and

expressly did not decide the constitutional question. Judge Xavier Rodriguez recently reached the same conclusion, explaining that Buenrostro-Mendez forecloses only statutory challenges to detention and leaves constitutional procedural due process claims fully available for adjudication. *Omar v. Warden, South Texas ICE Processing Center*, No. SA-26-CA-02699-XR (W.D. Tex. May 12, 2026). Courts within this District have consistently recognized that constitutional due process challenges remain fully available notwithstanding *Buenrostro-Mendez.*

48. The Fifth Circuit addressed due process arguments in the context of noncitizens in immigration custody recently in *Sosnava Rodriguez v. Ortega, et al*, No. 26-50183 (5th Cir., July 2, 2026), holding that "the Government may detain aliens under Section 1225(b)(2)(A) for ninety days but no longer without a bond hearing" and "that at the hearing, the Government must articulate an individualized justification for further detention without bond." The Fifth Circuit upheld that Fifth Amendment due process rights extend to noncitizens, stated that "In 1976, the Court reminded us: "There are literally millions of aliens within the jurisdiction of the United States. The Fifth Amendment, as well as the Fourteenth Amendment, protects every one of these persons from deprivation of life, liberty, or property without due process of law." *Sosnava Rodriguez, citing Mathews v. Diaz*, 426 U.S. 67, 77 (1976).

49. At bottom, this case does not depend upon whether Respondents ultimately prevail on their statutory interpretation of the Immigration and Nationality Act. Indeed, this Court recently explained that the dispositive question is whether Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment, regardless of the statutory detention authority asserted by Respondents. See *Amritpal Singh v. Mullin*, No.

SA-26-CV-01284-OLG (W.D. Tex. Apr. 2, 2026). Even assuming Respondents are correct that 8 U.S.C. § 1225 governs Petitioner's detention, the Constitution independently prohibits prolonged civil immigration detention without a meaningful opportunity to appear before a neutral decisionmaker to contest continued confinement.

50. Allowing Respondents to invoke § 1225(b) mandatory detention after Petitioner's withholding-only proceedings have been terminated for lack of any valid underlying removal order would render the statutory distinction between § 1225 and § 1226 meaningless and permit prolonged mandatory detention under a statutory framework originally tied to expedited screening proceedings that have since concluded without ever establishing a valid basis for removal.

51. Respondents' position effectively converts temporary screening detention under § 1225(b) into indefinite civil confinement without any procedural safeguards, contrary to both the structure of the INA and constitutional due process principles.

52. Respondents have never conducted an individualized custody assessment, never evaluated whether conditions of supervision could reasonably assure Petitioner's appearance, and never required the government to justify continued detention before a neutral decisionmaker. Instead, Petitioner's continued confinement rests solely upon a categorical detention rule that assumes detention is appropriate without considering Petitioner's individual circumstances. Due process does not permit deprivation of liberty based upon categorical assumptions alone.

53. Respondents' interpretation of the INA impermissibly eliminates the individualized custody framework required under § 1226(a) and replaces it with categorical detention unsupported by the statute.

COUNT II
Violation of Fifth Amendment Due Process Clause

54. Petitioner repeats, re-alleges, and incorporates by reference every allegation in the preceding paragraphs as if fully set forth herein.

55. Due process requires that where, as here, the government seeks to detain a noncitizen for a prolonged period without any individualized custody determination, it must afford a hearing before a neutral decisionmaker to determine whether continued detention is justified and whether the person poses a flight risk or danger to the community. The Constitution imposes independent limits on the duration of immigration detention.

56. Once it is determined that due process applies, the question becomes what process is constitutionally required, not what process Congress provided by statute. That inquiry is governed by the Fifth Amendment rather than the detention statute invoked by Respondents. The Supreme Court has repeatedly declined to decide these constitutional questions. Jennings expressly reserved them, and Johnson v. Arteaga-Martinez likewise left as-applied constitutional challenges for the lower courts. Omar correctly recognized that those constitutional issues therefore remain fully available for adjudication in this Court.

57. Administrative precedent interpreting detention statutes cannot override constitutional limitations on executive detention. While *Matter of Yajure Hurtado* addresses an immigration judge's statutory bond jurisdiction, it cannot eliminate Petitioner's independent constitutional right to due process where detention has become prolonged and no neutral decisionmaker has ever evaluated whether continued confinement remains justified.

58. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment from government custody, detention, or other forms of physical restraint lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

59. Even where the government possesses statutory authority to detain a noncitizen, the Constitution prohibits prolonged civil immigration detention without a meaningful opportunity to be heard before a neutral decisionmaker. *See Zadvydas*, 533 U.S. at 690.

60. Petitioner has a fundamental interest in liberty and being free from official restraint.

61. Such liberty is protected by the Fifth Amendment because, "although indeterminate, [it] includes many of the core values of unqualified liberty," such as the ability to pursue relief before the courts and administrative bodies, "and its termination inflicts a 'grievous loss' on the [detained individual] and often on others." *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

62. To protect against arbitrary detention and to ensure the right to liberty, due process requires "adequate procedural protections" that test whether the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (citation modified).

63. Due process thus guarantees an individualized hearing before a neutral decisionmaker to assess danger or flight risk. *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) ("The fundamental requisite of due process of law is the opportunity to be heard . . . at a meaningful time in a meaningful manner." (citation modified)). This requirement applies

with particular force where, as here, no such hearing has ever been provided and the period of detention continues to lengthen.

64. *Matter of M-S-* expressly declined to address the constitutional dimensions of prolonged detention for transferred aliens, noting that the question "is the subject of ongoing litigation." 27 I&N Dec. at 509 n.1. That constitutional question is squarely presented here. Petitioner does not challenge the government's statutory authority to detain; he challenges the constitutionality of detention for approximately seventeen months without any individualized hearing before a neutral decisionmaker.

65. Respondents have detained Petitioner since January 28, 2025, a period of approximately seventeen months, without ever conducting an individualized assessment of whether he poses a flight risk or danger to the community, without ever presenting him before a neutral decisionmaker, and without ever being required to justify his continued custody. This prolonged detention without any procedural safeguard violates the Fifth Amendment's Due Process Clause.

66. Petitioner has now spent approximately seventeen consecutive months in civil immigration detention without ever receiving an individualized custody hearing. Unlike many immigration detention cases involving temporary confinement during expedited processing, Petitioner's detention has continued through multiple procedural stages, including terminated withholding-only proceedings, newly initiated INA § 240 proceedings, and a pending appeal before the Board of Immigration Appeals, yet Respondents have never once demonstrated before a neutral decisionmaker that continued detention remains necessary. This period substantially exceeds the temporary detention contemplated for expedited immigration processing and instead resembles

indefinite executive confinement unsupported by any individualized determination of necessity.

67. Civil immigration detention is constitutionally permissible only insofar as it remains reasonably related to legitimate governmental purposes and accompanied by adequate procedural safeguards. Here, Respondents have imprisoned Petitioner for approximately seventeen months without ever requiring the government to demonstrate before a neutral decisionmaker that continued detention is necessary. Such detention has become excessive, punitive in effect, and constitutionally unreasonable.

68. Petitioner's detention no longer bears a reasonable relationship to the Government's asserted regulatory interests. Respondents have never demonstrated that continued detention is necessary to prevent flight or protect the community. Instead, Petitioner's confinement continues automatically based solely upon categorical detention policies, rendering his continued imprisonment arbitrary under the Fifth Amendment.

69. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), the balance of interests strongly favors an individualized bond hearing. First, Petitioner's liberty interest is fundamental. He has been detained for approximately seventeen months without any bond hearing or individualized custody determination, his BIA appeal remains pending, and he has no criminal history. Second, the risk of erroneous detention is high because Respondents rely on a categorical detention rule that provides no individualized assessment of Petitioner's actual flight risk, danger to the community, release plan, or case-specific circumstances. Third, the Government's interest in automatic continued detention is minimal where Respondents have made no individualized showing that Petitioner presents a danger or flight risk, and where a brief bond hearing before a neutral

decisionmaker would adequately protect any legitimate governmental interest. Accordingly, due process requires an individualized bond hearing at which Respondents bear the burden of justifying continued detention by clear and convincing evidence.

70. Recent decisions within the Western District of Texas, including Amritpal Singh and Omar, have concluded that the Due Process Clause requires individualized procedures sufficient to determine whether continued detention is actually necessary.

71. This conclusion is fully consistent with this Court's recent decision granting habeas relief where immigration detention continued without constitutionally adequate individualized process. See Amritpal Singh v. Mullin, No. SA-26-CV-01284-OLG (W.D. Tex. Apr. 2, 2026).

72. Because Petitioner's detention has now extended for approximately seventeen months without any individualized review, the Government's regulatory interests can be fully protected through a constitutionally adequate bond hearing rather than continued categorical detention. Requiring Respondents to prove by clear and convincing evidence that Petitioner presents a danger or flight risk appropriately balances Petitioner's fundamental liberty interest with the Government's legitimate immigration enforcement objectives.

73. This Petition has been verified by Petitioner. *See Verification of Petitioner.*

IRREPARABLE INJURY

74. Petitioner has suffered and continues to suffer irreparable injury as a result of his unlawful detention.

75. Petitioner has been deprived of his physical liberty since January 28, 2025, a period now exceeding seventeen months, without any bond hearing or individualized custody

determination. The deprivation of physical liberty is among the most severe injuries recognized in our legal system, and continued detention without constitutionally adequate process is itself irreparable harm.

76. Petitioner's prolonged detention substantially interferes with his ability to pursue his ongoing removal proceedings, communicate effectively with counsel, gather supporting evidence, and meaningfully prepare his case before the Board of Immigration Appeals, including the brief currently due July 13, 2026.

77. Each additional day of detention without a constitutionally adequate hearing constitutes a new and ongoing irreparable injury that cannot be remedied through monetary damages or after-the-fact relief.

78. It is well established that the deprivation of constitutional rights—specifically the core liberty interest in freedom from physical restraint, unquestionably constitutes irreparable injury. See Elrod v. Burns, 427 U.S. 347, 373 (1976); Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Western District of Texas while this habeas petition is pending;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

d. Such relief is fully consistent with recent Western District of Texas decisions ordering immediate release where continued immigration detention violated procedural due process.

e. Issue a Writ of Habeas Corpus requiring Respondents to immediately release Petitioner from custody, or, in the alternative, provide Petitioner with an individualized bond hearing before a neutral decisionmaker, including an Immigration Judge if appropriate, within seven (7) days, at which Respondents bear the burden of proving by clear and convincing evidence that Petitioner presents a danger to the community or a flight risk and that no condition or combination of conditions can reasonably assure appearance and public safety."

f. Enter injunctive relief necessary to preserve jurisdiction and prevent irreparable harm, including an order barring transfer, upon the Court's finding that the *Winter* factors are satisfied. *See Winter v. NRDC*, 555 U.S. 7 (2008).

g. Declare that Petitioner's detention is unlawful;

h. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

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

Respectfully submitted,

Dated: July 6, 2026

/s/ Matthew K. Borowski

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