UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SHAHROKH RAHIMI, Petitioner, v. MARKWAYNE MULLIN, in his official capacity as U.S. Secretary of Homeland Security; DAVID J. VENTURELLA, in his official capacity as Senior Official Performing the Duties of Director of U.S. Immigration and Customs Enforcement; MIGUEL VERGARA, in his official capacity as Acting Field Office Director, San Antonio Field Office, Enforcement and Removal Operations; ROSE THOMPSON, in her official capacity as Warden of Karnes County Immigration Processing Center; TODD BLANCHE, in his official capacity as Acting Attorney General of the U.S.; DAREN K. MARGOLIN, in his official capacity as Director of the Executive Office for Immigration Review; U.S. DEPARTMENT OF HOMELAND SECURITY; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; U.S. DEPARTMENT OF JUSTICE; and U.S. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, Respondents.	Case No. 5:26-cv-04331 **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND APPLICATION FOR ORDER TO SHOW CAUSE**

PETITION FOR A WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND APPLICATION FOR ORDER TO SHOW CAUSE

I. INTRODUCTION

1. Shahrokh Rahimi has lived a quiet life in San Antonio, Texas, for more than twenty years. He fled violent political persecution in Iran and was trafficked into the United States in 2003. He spent his first two years in the U.S. under the abusive thumb of a relative who forced him to work around the clock, and live, at a San Antonio gas station for no pay. After escaping these

conditions, he converted to Christianity and worked to build a life for himself. An immigration judge ("IJ") granted him withholding of removal in 2010.

2. For over a decade, Mr. Rahimi has lived with his U.S. citizen wife and their twelve-year-old daughter. He worked regularly as a medical caretaker for veterans and diligently attended all check-ins with U.S. Immigration and Customs Enforcement ("ICE"), until ICE arrested him on June 22, 2025, one day after the U.S. bombed Iran. Mr. Rahimi has now been in ICE detention for over a year, despite a pristine record and deep ties to his community. Mr. Rahimi and his family have suffered grievously from their separation over the past year.

3. Mr. Rahimi should not be in detention today, and he certainly should not be past the one-year anniversary of his confinement, away from his wife and daughter. He has several strong paths to immigration relief. He poses no danger to his community. He is not a flight risk.

4. Mr. Rahimi brings this habeas petition before the Court because his ongoing detention is illegal for at least five separate and independent reasons. **First and second,** ICE is legally bound to follow its mandatory policies. One such policy requires the release of people who have been granted withholding of removal, absent policy-defined exceptional circumstances. Another requires the release of victims of serious human trafficking who have applied for a T visa and present no exceptional circumstances. Mr. Rahimi indisputably falls within both: he has withholding of removal; he is a victim of serious human trafficking who has applied for a T visa; and he presents no extraordinary circumstances. He should therefore be released.

5. **Third,** due process also requires that Mr. Rahimi be released because Respondent the Executive Office for Immigration Review ("EOIR") failed to follow its own policies when it denied him a bond hearing based on changed circumstances.

6. **Fourth**, the Due Process Clause of the Fifth Amendment requires immigrants whom the government has subjected to prolonged detention to be granted a bond hearing where the government bears the burden of proving by clear and convincing evidence that the person is a flight risk or danger to the community. Mr. Rahimi has received no such bond hearing so his continued detention violates the Constitution.

7. **Finally**, significant statistical and circumstantial evidence shows that the government arrested and continues to detain Mr. Rahimi because of his Iranian nationality. Such nationality-based targeting is impermissible under the Fifth Amendment, and Mr. Rahimi must be released.

8. Each of these grounds independently renders Mr. Rahimi's detention illegal and justifies granting relief.

9. In light of these numerous and serious violations of Mr. Rahimi's legal and constitutional rights, Mr. Rahimi respectfully requests this Court to grant his petition for habeas corpus and to order his immediate release.

II. JURISDICTION AND VENUE

10. Jurisdiction is proper under 28 U.S.C. §§ 1331, 2241, and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2.

11. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

12. Venue is proper in the United States District Court for the Western District of Texas because at least one Respondent is in this District, Mr. Rahimi is detained in this District, and Mr. Rahimi's immediate physical custodian is in this District. *See* 28 U.S.C. § 1391(b).

III. PARTIES

13. Petitioner Shahrokh Rahimi is a noncitizen who was granted withholding of removal to Iran and has lived in the United States continuously for over twenty years.

14. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). As the head of DHS, the agency tasked with enforcing immigration laws, Respondent Mullin is Mr. Rahimi's ultimate legal custodian.

15. Respondent David J. Venturella is sued in his official capacity as Senior Official Performing the Duties of Director of ICE. Respondent Venturella is a legal custodian of Mr. Rahimi.

16. Respondent Miguel Vergara is sued in his official capacity as the Field Office Director responsible for the San Antonio Field Office of ICE with administrative jurisdiction over Mr. Rahimi's case. Respondent Vergara is a legal custodian of Mr. Rahimi.

17. Respondent Rose Thompson is sued in her official capacity as the Warden for the Karnes County Immigration Processing Center. Respondent Thompson is the legal custodian of Mr. Rahimi.

18. Respondent Todd Blanche is sued in his official capacity as Acting Attorney General of the United States. As head of the U.S. Department of Justice, the agency that oversees the Executive Office for Immigration Review ("EOIR"), Respondent Blanche is responsible for the administration of the immigration laws as exercised by EOIR and is legally responsible for the pursuit of Mr. Rahimi's detention and removal. In that capacity, Respondent Blanche is a legal custodian of Mr. Rahimi.

19. Respondent Daren K. Margolin is sued in his official capacity as Director of EOIR. In that capacity, Respondent Margolin is responsible for administration of the immigration laws

pursuant to 8 U.S.C. § 1103(g) and is legally responsible for the pursuit of Mr. Rahimi's detention and removal. Respondent Margolin is a legal custodian of Mr. Rahimi.

20. Respondent Department of Homeland Security is the federal agency responsible for implementing and enforcing many provisions of the Immigration and Nationality Act ("INA"), including those involving the detention and physical removal of noncitizens.

21. Respondent Immigration and Customs Enforcement is the agency within DHS responsible for the detention and physical removal of noncitizens.

22. Respondent Department of Justice ("DOJ") is the federal agency responsible for implementing and enforcing many provisions of the INA in removal proceedings and bond hearings.

23. Respondent Executive Office for Immigration Review is the agency within DOJ responsible for conducting removal proceedings and bond hearings under the INA.

IV. STATEMENT OF FACTS

A. Shahrokh Rahimi Flees Political Violence in Iran.

24. Shahrokh Rahimi is a fifty-four-year-old Iranian man. Up until June 22, 2025, he lived a quiet life in San Antonio, Texas with his wife and twelve-year-old daughter—both of whom are United States citizens. Mr. Rahimi has lived in San Antonio, Texas without any criminal record for more than twenty years.

25. Mr. Rahimi was born in Iran [redacted]

[redacted]

B. Mr. Rahimi is Trafficked into the United States.

29. After fleeing Iran, Mr. Rahimi traveled through Thailand, Cambodia, South Korea, and Canada. He had no resources or connections. Eventually [redacted] reached out to Mr. Rahimi. [redacted], who was a businessman who immigrated to the United States from Iran in the 1970s, said that he would bring Mr. Rahimi to the United States and "take care of him." Mr. Rahimi was not told about the process, but he believes that [redacted] paid a Canadian smuggler $10,000 to bring him across the border.

30. In 2003, Mr. Rahimi entered the United States from Canada without inspection. Upon his arrival, he was taken to San Antonio and placed under [redacted] control.

31. For approximately two-and-a-half years, [redacted] forced Mr. Rahimi to work and live in squalid conditions at [redacted] did not provide him with any compensation for his labor. [redacted] told Mr. Rahimi that his immigration status prevented him from opening a bank account, and repeatedly threatened to report Mr. Rahimi to ICE if he ever complained. [redacted] also prohibited Mr. Rahimi from attending church and forbade him from forming friendly relationships with customers.

32. Mr. Rahimi slept on a couch infested with lice. He was allowed to bathe only sporadically. He regularly went two to three days without food. Mr. Rahimi once suffered what he believes was a heart attack or severe panic attack, and [redacted] refused to take him to a doctor or provide any medical care. Instead, he insulted Mr. Rahimi and ordered him to return to work.

33. [redacted] did not allow Mr. Rahimi to contact law enforcement—even during the four separate occasions that the gas station was robbed at gunpoint. He also told Mr. Rahimi to stay out of sight when police officers visited the gas station.

34. [redacted] also violently abused [redacted] He regularly beat and stabbed her. [redacted]

35. Mr. Rahimi's confinement and forced labor only ended when [redacted] At that point, [redacted] told him to pack his things and get out. Once he was free of [redacted] control, Mr. Rahimi eventually found work as a server. He began to feel that the world was opening up to him, though he still experiences intense shame about having been trafficked and made so vulnerable at the hands of [redacted]

C. Mr. Rahimi Grows Roots in San Antonio.

36. Mr. Rahimi has lived in San Antonio, Texas since he entered the United States. In 2007, shortly after Mr. Rahimi was freed from [redacted] control, Mr. Rahimi formally [redacted] That year, he also met his future wife, Brandi, while working as a server. Exh. 1 ¶ 2. They married in 2009. *Id.* ¶ 4.

37. In 2009, Mr. Rahimi applied for asylum, withholding of removal to Iran, and protection under the Convention Against Torture ("CAT"). Asylum provides the most protection to noncitizens, but also has the most stringent requirements, including that the person must apply for asylum within one year of entering the United States unless extraordinary circumstances justify a delay or changed circumstances materially affect an applicant's eligibility for asylum. *See* 8 U.S.C. § 1158(a)(2). There are fewer restrictions on eligibility for withholding of removal, *id.* § 1231(b)(3)(B), and no restrictions on eligibility for CAT deferral of removal. 8 C.F.R. § 1208.16.

38. To qualify for withholding of removal, a noncitizen must show that it is "more likely than not" that if they returned to their country they would be persecuted on account of a protected ground, such as political opinion or religion. 8 C.F.R. § 208.16(b)(1); *see also* 8 U.S.C. § 1231(b)(3)(A).

39. In 2010, an IJ denied Mr. Rahimi's asylum case because he did not apply within one year of entry, but granted him withholding of removal to Iran and released him with an order of supervision. When an IJ grants a noncitizen withholding, the IJ issues a removal order and simultaneously withholds or defers that order with respect to the country or countries for which the noncitizen demonstrated a sufficient risk of persecution or torture. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 531 (2021).

40. Over the following fifteen years, Mr. Rahimi complied with the conditions of his release, diligently attending all of his scheduled check-ins with ICE.

41. In 2013, Mr. Rahimi and his wife had a daughter. Exh. 1 ¶ 6. She is a straight-A student who recently finished her first year at a magnet school to pursue aeronautical engineering. *Id.* ¶ 15. Mr. Rahimi's presence and support profoundly influences his wife and daughter's continued success and well-being. *See id.* ¶¶ 9–12, 15–17, 19, 21.

42. Before his detention, Mr. Rahimi provided essential financial support for his family. Over the past year, his wife has been physically and mentally exhausted as she manages working and caring for their daughter. *Id.* ¶¶ 12, 19. She struggles to get by even with the support of her neighbors, who help watch over the Rahimis' daughter. *See id.* ¶¶ 9–11. Every day Mr. Rahimi is detained brings the family closer to selling their home and moving to a small apartment, because they cannot afford their mortgage without his income. *Id.* ¶ 19. Mr. Rahimi's truck has already been repossessed and Brandi has been forced to accept financial support from friends and family to help make ends meet.

43. Mr. Rahimi is a professional caretaker, and he was previously employed by the Veterans Affairs Caretaker Program. Mr. Rahimi also contributes significantly to childcare: he helps his daughter with projects, talks to teachers, picks her up from school, provides spiritual instruction, and cares for her over the summer while she is out of school, none of which is possible while he is in detention. *See id.* ¶¶ 9–10, 17.

44. Mr. Rahimi is an active member of his church and contributes to his neighborhood and community. *Id.* ¶ 20. For example, just a week before he was apprehended, he mowed three of his neighbors' lawns as a friendly gesture. *Id.*

45. Mr. Rahimi is neither a flight risk nor a danger to his community. He has been well-settled with his family in San Antonio for decades, consistently attends his immigration meetings, and helps his community. *See id.* ¶¶ 20–21.

D. ICE Detains Mr. Rahimi One Day After the United States Bombs Iran.

46. On June 21, 2025, the United States initiated air strikes on Iran. The next day, June 22, 2025, despite the decades of Mr. Rahimi's model behavior in the United States, ICE agents arrived at Mr. Rahimi's home without warning, handcuffed him, and arrested him in front of his family and neighbors. Watching her father's arrest inflicted significant emotional distress on Mr. Rahimi's then-eleven-year-old daughter, who experienced a panic attack at the time and is now in weekly therapy. Exh. 1 ¶¶ 11, 16. She remains frightened by every knock at the front door and has asked her mom to purchase a camera and a doorbell because she no longer feels safe in her own home. *Id.* ¶ 11.

47. Mr. Rahimi's arrest was part of a wave of sudden mass arrests of Iranians in the United States following the June 2025 military action. At least 300 Iranians were arrested in June and July 2025, a significant uptick from previous months. *NIAC Forced ICE to Reveal New Data on Arrests of Iranians*, Nat'l Iranian Am. Council (May 7, 2026), https://niacouncil.org/niac-forced-ice-to-reveal-new-data-on-arrests-of-iranians/. DHS publicly acknowledged that these mass arrests were carried out on the basis of national origin, releasing a press statement that touted detentions of "Iranian nationals." Press Release, Dep't of Homeland Sec., ICE Arrests 11 Iranian Nationals Illegally in the U.S. Over the Weekend (June 24, 2025) https://www.dhs.gov/news/2025/06/24/ice-arrests-11-iranian-nationals-illegally-us-over-weekend.

48. According to ICE documentation, Mr. Rahimi himself "came to the attention" of the officer that arrested him only "after RAHIMI was targeted for enforcement action for custody redetermination as per a headquarters mandate." See Exh. 2 at 2.

E. ICE Detains Mr. Rahimi Without Bond.

49. After his June 22nd arrest, Mr. Rahimi was detained at South Texas ICE Processing Center in Pearsall, Texas.

50. On July 15, 2025, Brandi Rahimi filed an I-130 petition to begin the process of sponsoring Mr. Rahimi's application for permanent residency. On July 24, Mr. Rahimi moved to reopen his immigration proceedings, again requesting asylum and cancellation of removal on the grounds that conditions had materially changed in Iran. On August 11, IJ Yvonne Gonzalez reopened Mr. Rahimi's case and stayed the 2010 removal order and order of withholding.

51. Mr. Rahimi requested that DHS release him on parole on August 27, 2025. DHS refused, and Mr. Rahimi applied for a bond hearing on September 4. The IJ denied the request on September 9, citing lack of jurisdiction based on a new interpretation of the INA under *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

52. On October 20, 2025, Mr. Rahimi filed a Petition for Writ of Habeas Corpus in the Western District of Texas, San Antonio division, arguing that his ongoing detention under 8 U.S.C. § 1225(b)(2)(A) violated the INA, agency bond regulations, and his Fifth Amendment substantive and procedural due process rights. *See generally Rahimi v. Thompson*, No. 5:25-cv-01338-OLG (W.D. Tex. Dec. 4, 2025). In his petition, Mr. Rahimi asked the district court to order his immediate release or, in the alternative, to order the government to grant him a bond hearing within seven days. *Id.*

53. While the district court considered Mr. Rahimi's habeas petition, his case proceeded in immigration court. On December 1, 2025, IJ Kevin Terrill held a hearing on the merits of Mr. Rahimi's immigration case. Mr. Rahimi was not permitted to present any evidence at the hearing. IJ Terrill stated verbally that he would dismiss Mr. Rahimi's asylum case without a hearing because he did not find sufficiently changed circumstances to warrant re-opening of the immigration proceedings, despite IJ Gonzalez's prior decision to the contrary. In his written decision, IJ Terrill affirmed his denial of Mr. Rahimi's asylum application, ordered Mr. Rahimi's removal, and reinstated Mr. Rahimi's withholding of removal to Iran. Mr. Rahimi appealed that decision to the Board of Immigration Appeals ("BIA") on December 31, 2025, and the appeal remains pending. Mr. Rahimi's order of removal is not final until he has exhausted his appeals from this decision. 8 U.S.C. § 1101(a)(47)(B).

F. The Government Refuses to Grant Mr. Rahimi Bond, Claiming That He is a Flight Risk Despite Overwhelming Community Ties and His Record of Perfect Compliance with an Order of Supervision for Over Fifteen Years.

54. Separately, on December 4, 2025, the district court granted Mr. Rahimi's habeas petition in part, finding Mr. Rahimi's ongoing detention was not authorized under the INA and ordering "a bond hearing pursuant to § 1226(a)." Exh. 16-A, *Rahimi v. Thompson*, No. 5:25-cv-01338-OLG, at *8 (W.D. Tex. Dec. 4, 2025). Because the district court agreed with Mr. Rahimi's statutory argument, it did not address his constitutional claims. *Id.* at *4. The district court's decision came after Mr. Rahimi's merits hearing in front of IJ Terrill on December 1, but before his immigration attorneys received the associated written order on December 6.

55. As a result, on December 9, 2025, IJ Terrill held a bond hearing pursuant to the district court's order. Mr. Rahimi submitted into evidence a 132-page bond packet presenting significant evidence that he is not a flight risk, including evidence of his deep roots in San Antonio, his

family ties in the community, his employment history, his clean criminal record, his longtime attendance at ICE check-ins, and his pending I-130 application.

56. The bond hearing lasted eight minutes and thirty-nine seconds. Speaking for a total of forty-two seconds, the government argued only that Mr. Rahimi was a flight risk because he "has no immigration benefit currently . . . and was ordered removed in the past, so that leaves [Mr. Rahimi] with a significant hurdle to adjust his status." Pet'r's Mot. to Alter or Amend J. at 4, *Rahimi v. Thompson*, No. 5:25-cv-01338-OLG (W.D. Tex. motion filed Dec. 19, 2025).

57. IJ Terrill denied Mr. Rahimi's request for bond "because of that pending removal order, even though it is on appeal, the court is going to deny the request for bond." *Id.* at Ex. 5.

58. IJ Terrill did not acknowledge Mr. Rahimi's pending I-130 application, which provides him another avenue for immigration relief, even though his attorney raised it at the hearing and it was included in his bond packet. The only evidence of Mr. Rahimi's flight risk that IJ Terrill considered was the removal order reinstated by IJ Terrill himself the previous week, notwithstanding that he had also reinstated Mr. Rahimi's withholding of removal.

59. There is no basis to think that a pending or even final order of removal, in conjunction with a withholding of removal, would render Mr. Rahimi a flight risk. After all, Mr. Rahimi spent the fifteen years prior to his arrest and detention living as a model resident while under a final order of removal subject to withholding. During that time, Mr. Rahimi complied with every condition of his supervised release. He regularly attended ICE check-ins. He started a family. He worked as a caregiver for U.S. military veterans. All the evidence, direct and circumstantial, militates against finding that Mr. Rahimi poses a flight risk, especially considering that his ties to the community have only grown stronger with time. Despite this, Respondents have detained him for over a year.

60. After the hearing, Mr. Rahimi called his wife to tell her that the IJ denied his bond request. He heard his wife and child scream over the phone. Mr. Rahimi cannot stop re-living this moment and the pain that his separation has caused the most important people in his life. He feels that he would not care if he does not wake up again, except for the pain it would cause his family. He prays to God that he can just hold his wife and daughter again.

61. In hopes of rectifying the constitutional shortcomings of his bond hearing, Mr. Rahimi filed a motion to alter or amend the judgment in his habeas case under Fed. R. Civ. P. 59(e). *See generally* Pet'r's Mot. to Alter or Amend J., *Rahimi v. Thompson,* No. 5:25-cv-01338-OLG (W.D. Tex. motion filed Dec. 19, 2025). Mr. Rahimi requested that his case be reopened so the court could consider his due process claims, including new claims arising from the bond hearing. *Id.* The court denied the motion on the grounds that it was based on new evidence that was not "in existence at the time the Court granted him habeas relief." *See* Exh. 16-B, *Rahimi v. Thompson*, No. 5:25-cv-01338-OLG, at *3 (W.D. Tex. Apr. 7, 2026) (order denying motion to alter or amend judgment). The Court further declined to vacate its prior decision and allow Mr. Rahimi to amend his petition to add new claims, rejecting Mr. Rahimi's argument that he was, at that point, entitled to a bond hearing with the burden on the government. *Id.* at *4–5.

62. On December 30, 2025, Mr. Rahimi was moved from the South Texas ICE Processing Center in Pearsall, Texas, to the Karnes County Immigration Processing Center in Karnes City, Texas, where he remains today.

G. Mr. Rahimi Applies for a T Visa and ICE Denies his Requests for Release in Violation of its Own Policies.

63. In early 2026, Mr. Rahimi engaged a new attorney to represent him in his immigration case. Through extensive conversation with Mr. Rahimi and his wife, the attorney discovered that

Mr. Rahimi has a strong claim for immigration relief that his previous immigration attorneys had overlooked. *See* Exh. 3 ¶ 3.

64. Specifically, Mr. Rahimi was a victim of severe human trafficking when he entered the United States. See *supra* Section IV.B. As a victim of severe labor trafficking, Mr. Rahimi is eligible for a T visa. *See* 8 U.S.C. § 1101(15)(T); 8 C.F.R. § 214.202; *see also* Exh. 3 ¶ 3. Grant of a T visa would allow him to stay in the United States for four years and provide a pathway to permanent residency. 8 C.F.R. § 214.203; 8 C.F.R § 245.23. Mr. Rahimi's immigration attorney mailed his T-visa application on April 24, 2026.

65. On April 29, 2026, Mr. Rahimi's immigration attorney sent a humanitarian parole request to ICE asking for Mr. Rahimi's immediate release. Exh. 4. The request stated that Mr. Rahimi has withholding of removal and a pending T-visa application. *Id.* at 1–2. It pointed out that federal regulations prohibit the removal of people with pending T-visa applications, and that the T-visa statute demonstrates Congress's commitment to protecting vulnerable human trafficking victims such as Mr. Rahimi. *Id.* On April 30, Assistant Field Office Director Gabriel Esquivel sent a letter denying Mr. Rahimi's request for parole. Exh. 5.

66. On May 22, 2026, Mr. Rahimi's immigration attorney sent a renewed request for parole because a federal district court reinstated ICE regulations that hold that T-visa applicants are not subject to detention absent extraordinary circumstances. Exh. 6 at 1 (citing *Immigr. Ctr. for Women & Child. v. Noem*, No. 2:25-cv-09848-AB-AS, 2026 WL 1455004 (C.D. Cal. May 20, 2026)). As of July 10, Mr. Rahimi has not received a response to this request.

67. On May 20, 2026, Mr. Rahimi's immigration attorney sent a request for a new bond hearing in light of the changed circumstances of his T-visa application. Exh. 7. On May 21, 2026, the immigration court rejected the request for the reason that "BOND IS WITH BIA APPEALS."

Exh. 8. Mr. Rahimi's attorney contacted the immigration court by phone and email to explain that immigration courts retain jurisdiction over bond redetermination requests even when a prior bond determination is on appeal to the BIA. *See* Exh. 9 (citing *Matter of Valles*, 21 I. & N. Dec. 769 (BIA 1997); *Matter of Valdez*, 21 I. & N. Dec. 703 (BIA 1997); 8 C.F.R. § 1003.19(e)).

68. The immigration court eventually scheduled a bond hearing for June 3, 2026, at 9:30 am, with IJ Thomas Crossan. Brandi Rahimi and Mr. Rahimi's daughter prepared to travel to Austin on June 2, so that they could participate, from the immigration attorney's office, in the hearing via video conference and offer testimony supporting Mr. Rahimi's release.

69. At 3:30 p.m. on June 2—the afternoon before the hearing—the immigration court clerk called Mr. Rahimi's immigration attorney to inform her that the hearing was cancelled. The clerk stated that after noticing that IJ Terrill had previously handled the case, IJ Crossan had brought the matter to IJ Terrill's attention. The clerk erroneously stated that the same IJ must hear any subsequent bond, and informed the attorney that IJ Terrill planned to schedule a hearing or issue a decision soon. *See* 8 C.F.R. § 1003.19(c) (designating which immigration court has jurisdiction over a request for custody redetermination).

70. On June 12, 2026, IJ Terrill issued an order denying Mr. Rahimi's request for a bond hearing on the grounds that he had "failed to demonstrate that his circumstances have changed materially" because IJ Terrill believed the "application for T nonimmigrant status does not mitigate the flight risk determination previously found by the Court." Exh. 10.

71. On June 26, 2026, Mr. Rahimi's immigration attorney received notice that USCIS had rejected Mr. Rahimi's T-visa application without prejudice due to an administrative issue with his signature. The notice date was June 17, 2026, nearly two months after USCIS initially received

the application. USCIS appears to have delayed processing Mr. Rahimi's T-visa application for nearly two months due an illegal and now-vacated rule that placed indefinite pause on the adjudication of immigration benefit requests for individuals from Iran and thirty-eight other countries. *See Dorcas Int'l Inst. of R.I. v. U.S. Citizenship and Immigr. Servs.*, No. 26-cv-00132-JJM-PAS, 2026 WL 1695954, at *3 (D.R.I. June 11, 2026). Mr. Rahimi's immigration attorney immediately fixed the issue and returned the application to USCIS via expedited mail that same day. USCIS has now confirmed receipt of Mr. Rahimi's T-visa application and Mr. Rahimi's immigration attorney has renewed his request for parole. *See* Exh. 11.

72. Mr. Rahimi has now been separated from his family in prison-like conditions for more than one year. Mr. Rahimi has been diagnosed with post-traumatic stress disorder, major depressive disorder, and generalized anxiety disorder, which have been exacerbated by his lengthy detention. During this time, he has missed watching his daughter play the cello in school concerts, missed her win a sixth-grade citizenship award, and, most importantly, missed the countless daily interactions that every parent treasures.

73. Recently, Mr. Rahimi's daughter confided that she feels helpless and trapped by his lengthy detention and that she feels like giving up. Mr. Rahimi is very concerned for her mental health and is frustrated that he, as a father, is the cause of her anguish and can do little to support her through one of the most challenging periods of her young life.

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

74. "[S]ection 2241 contains no statutory requirement of exhaustion." *Robinson v. Wade*, 686 F.2d 298, 303 n.8 (5th Cir. 1982); *accord Montano v. Texas*, 867 F.3d 540, 542 (5th Cir. 2017); *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007). As a result, "sound judicial discretion governs" whether to impose any such requirement here. *See McCarthy v. Madigan*,

503 U.S. 140, 144 (1992). In exercising that discretion, the Court must weigh Mr. Rahimi's interests in accessing the Court against the institutional interests underlying exhaustion: protecting agencies' authority and promoting judicial efficiency. *Id.* at 145–46.

75. In this case there are two avenues to administrative relief that should be available to Mr. Rahimi: parole by ICE and bond by EOIR. Mr. Rahimi has repeatedly requested parole and has been denied each time, and there is no mechanism for administrative review of those decisions. Mr. Rahimi has also repeatedly applied for bond and has been denied by the immigration courts. He has appealed his December 9, 2025 bond denial, but that appeal remains pending. His illegal detention continues. Regardless, this Court need not wait for final action by the BIA or resolution of every possible parole request to hear this case.

76. That is because Mr. Rahimi's interests "weigh heavily against requiring administrative exhaustion" for three independently sufficient reasons. *See McCarthy*, 503 U.S. at 146–47. First, imposing an exhaustion requirement will cause him "undue prejudice" because he will "suffer irreparable harm if unable to secure immediate judicial consideration of his claim," *i.e.*, continued illegal confinement in prison-like conditions. *See id.* at 147; *see also Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 680 (W.D. Tex. 2025) ("Requiring him to wait, indefinitely, for a ruling on [] appeal would be inappropriate because it would exacerbate his alleged constitutional injury.").

77. Second, an administrative exhaustion requirement is inappropriate here because Mr. Rahimi's "challenge is to the adequacy of the agency procedure itself." *See McCarthy*, 503 U.S. at 147–48. Mr. Rahimi challenges his detention on due process grounds because of the insufficiency of ICE and EOIR procedures. To that end, there is "some doubt as to whether [ICE or EOIR

is] empowered to grant effective relief," especially considering their inability to do so over the last year. *See id.* at 147 (quoting *Gibson v. Berryhill,* 411 U.S. 564, 575 n.14 (1973)). Ultimately, EOIR "lacks institutional competence to resolve the particular type of [constitutional] issue presented." *Id.* at 147–48; *see also Cantu-Delgadillo v. Holder,* 584 F.3d 682, 687 (5th Cir. 2009) (noting that "the BIA lacked jurisdiction to consider [petitioner's due process] challenges.").

78. Third and finally, further exhaustion would be futile. EOIR has made clear its unwillingness or inability to provide a fair bond hearing, and Mr. Rahimi's attempt at appeal is still pending many months later. The EOIR has arguably been "shown to be biased" or to have "otherwise predetermined the issue before it." *See McCarthy,* 503 U.S. at 148. Mr. Rahimi has also repeatedly requested release from ICE and been denied, effectively predetermining the outcome of any future parole requests.

79. The Court should therefore find that Mr. Rahimi is not required to administratively exhaust his claims prior to bringing them here.

VI. MR. RAHIMI'S LEGAL CHALLENGES TO HIS DETENTION

A. ICE's Continued Detention of Mr. Rahimi Violates Multiple Mandatory ICE Policies in Violation of the *Accardi* Doctrine.

1. ICE's binding guidance requires the release of people who are granted withholding of removal, absent exceptional circumstances.

80. Mr. Rahimi's continued detention violates the *Accardi* doctrine, which mandates that agencies provide the "due process required by [their] regulations" when proceedings affect the fundamental rights of individuals—in other words, that they follow their own rules. *See U. S. ex rel. Accardi v. Shaughnessy,* 347 U.S. 260, 266–68 (1954) (holding that BIA must follow

its own regulations in its exercise of discretion). In such circumstances, "it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required." *Morton v. Ruiz*, 415 U.S. 199, 235 (1974). An agency's failure to follow its own rules is a due process violation under *Accardi* when it causes substantial prejudice to the party asserting the violation. *Francois v. Garland*, 120 F.4th 459, 464–66 (5th Cir. 2024).

81. Mr. Rahimi's detention violates a longstanding ICE policy that requires the agency to release people, like Mr. Rahimi, who have been granted withholding of removal and other forms of protection. *See* Exh. 12, U.S. Department of Justice, Immigration and Naturalization Service Memorandum, *Re: Detention and Release during the Removal Period of Aliens Granted Withholding or Deferral of Removal* (dated April 21, 2000); ICE Memorandum, *Re: Detention Policy Where an Immigration Judge has Granted Asylum and ICE has Appealed* (dated February 9, 2004); ERO, *Re: Reminder on Detention Policy Where an Immigration Judge has Granted Asylum, Withholding of Removal or CAT* (dated March 6, 2012); ICE, *Re: Reminder: Detention Policy Where an Immigration Judge has Granted Asylum, Withholding of Removal, or Convention Against Torture Protection, and DHS has Appealed* (dated June 4, 2021) (collectively "the Fear-based Release Policy"). Specifically, the Policy dictates that "it is ICE policy to favor the release of [noncitizens] who have been granted protection by an immigration judge, absent exceptional concerns." *Id.* at 2. "Protection by an immigration judge" includes withholding of removal, as well as asylum and CAT protection. *Id.* at 3. By its own terms, the Fear-based Release Policy "applies at all times following a grant of protection, including during any appellate proceedings." *Id.*

82. The Fear-based Release Policy requires mandatory release "absent exceptional circumstances" defined therein. *Id.* at 2. These include "national security issues," "danger to the community," and legal requirements to detain. *Id.* They *do not include* flight risk. *See id.*

83. Additionally, the Fear-based Release Policy specifies that "[i]n all cases, the Field Office Director must approve a decision to keep a [noncitizen] granted protection relief in custody," and such "[r]eview cannot be delegated beyond the Field Office Director." *Id.*

84. This is not the first time ICE is alleged to have contravened its own Fear-based Release Policy in violation of federal law. For example, in mid-2024 ICE settled a case alleging it had ignored the Fear-based Release Policy and engaged in widespread *Accardi* violations by continuing to detain people after they were granted protection by an IJ. *See* Settlement Agreement at 5–9, *Rodriguez Guerra v. Perry*, No. 1:23-cv-1151-MSN-LRV (E.D. Va. July 30, 2024). There the Washington, D.C., ICE Field Office agreed, pursuant to the Fear-based Release Policy, to review for release all detained noncitizens in its custody who had been granted protection by an immigration judge. *Id.*

85. A straightforward application of the Fear-based Release Policy here mandates Mr. Rahimi's release: IJ Terrill reinstated his withholding of removal in December 2025, and he does not present any of the extraordinary circumstances that permit his continued detention under the Policy. ICE has never argued otherwise, nor could it. Moreover, there is no evidence that the San Antonio Field Office Director approved a decision to continue to detain Mr. Rahimi, as required by the Policy.

86. ICE's failure to follow its Fear-based Release Policy in Mr. Rahimi's case therefore violates the *Accardi* doctrine. And where an administrative agency detains an individual in violation of its own regulations, the remedy is to receive the proceedings due under the law, including

release, either by the government's own volition or at a court's direction. *See U.S. v. Nixon*, 418 U.S. 683, 694–96 (1974) ("So long as this regulation remains in force the Executive Branch is bound by it, and indeed the United States as the sovereign composed of the three branches is bound to respect and to enforce it."); *de Leon v. Ladwig*, No. 6:25-CV-01884, 2026 WL 19095, at *8 (W.D. La. Jan. 2, 2026) (finding that when "detention and denial of parole do not comport with the polic[ies] set forth in ICE [directives], then the Court must require Respondents to abide by their own policy.").

87. Thus, because ICE continues to detain Mr. Rahimi in violation of the Fear-based Release Policy, this Court should order immediate release.

2. ICE policy requires the release of people with pending T-visa applications absent extraordinary circumstances.

88. Mr. Rahimi's continued detention also violates ICE policy requiring the release of people with pending T-visa applications absent extraordinary circumstances. Exh. 13 at 2–3.

89. Congress created the T-visa program as part of the Trafficking Victims Protection Act of 2000 in order to provide legal status for victims of severe human trafficking. *Immigr. Ctr. for Women & Child. v. Noem*, No. 2:25-cv-09848-AB-AS, 2026 WL 1455004, at *3 (C.D. Cal. May 20, 2026).

90. Consistent with Congress's goal of protecting victims and encouraging cooperation with law enforcement, ICE has long required officers "to refrain from immigration enforcement against persons with pending petitions for victim-based benefits, including by releasing them from detention." *Id.* at *6. For example, the 2011 ICE Policy Statement 10076.1, *Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs* (the "2011 Policy"), directs ICE employees to exercise appropriate prosecutorial discretion "to minimize any effect that immigration enforcement may have on the willingness and ability of victims, witnesses, and

plaintiffs to call police and pursue justice." *See* Exh. 13 at 1. The 2011 Policy instructs: "To avoid deterring individuals from reporting crimes and from pursuing actions to protect their civil rights, ICE officers, special agents, and attorneys are reminded to exercise all appropriate discretion on a case-by-case basis when making detention and enforcement decisions in the cases of victims of crime, witnesses to crime, and individuals pursuing legitimate civil rights complaints." *Id.* at 2.

91. The 2011 Policy directs employees to consider "serious adverse factors" such as "national security concerns or evidence that the [noncitizen] has a serious criminal history, is involved in a serious crime, or poses a threat to public safety." *Id.* Other serious adverse factors are evidence that the person is a "human rights violator or has engaged in immigration fraud." *Id.* The 2011 Policy *does not identify* flight risk as a serious adverse factor. *See id.* If no serious adverse factors are present, the 2011 Policy states that it "will be appropriate" for ICE officers to exercise favorable discretion, "such as release from detention." *Id.*

92. In 2021, ICE further developed its victim protection policy through ICE Directive 11005.3, Using a Victim-Centered Approach with Noncitizen Crime Victims (Dec. 2, 2021) (the "2021 Directive"). *See id.* at 4–15. The 2021 Directive instructs that "ICE will refrain from taking immigration enforcement action against known beneficiaries of victim-based immigration benefits and those known to have a pending application for such benefits." *Id.* at 5. The 2021 Directive requires ICE officers to take proactive steps to determine whether a person is an applicant for a victim-based immigration benefit, such as a T visa, before "tak[ing] civil immigration enforcement action against a noncitizen." *Id.* at 10.

93. Under the 2021 Directive, "[w]hen a noncitizen has a pending or approved application for a victim-based benefit, absent exceptional circumstances, ICE *will* exercise discretion to defer

decision on civil immigration enforcement action against the applicant or petition until USCIS makes a determination on the application." *Id.* at 4 (emphasis added); *Immigr. Ctr. for Women & Child.*, 2026 WL 1455004, at *6 ("In summary, the 2011 Policy and the 2021 Directive established that ICE policy was to refrain from immigration enforcement against persons with pending petitions for victim-based benefits, including by releasing them from detention.").

94. The 2021 Directive's definition of "Civil Immigration Enforcement Action" includes "a decision whether or not to . . . [d]etain or release [a person] from custody subject to conditions." Exh. 13 at 5.

95. The 2021 Directive explicitly defines exceptional circumstances: "Exceptional Circumstances generally exist only in the following circumstances: a) The noncitizen poses national security concerns; or b) The noncitizen poses an articulable risk of death, violence, or harm to any person." *Id.* This definition *does not include* flight risk.

96. In 2025, ICE issued new guidance that expressly rescinded the 2011 Policy and 2021 Directive. ICE Policy No. 11005.4, Interim Guidance on Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim-Based Immigration Benefits (Jan. 30, 2025) (the "2025 Guidance"). On May 20, 2026, however, a federal district court granted preliminary class certification for three classes impacted by the guidance, including a class of "[a]ll individuals with pending principal or derivative U visa petitions, T-visa petitions, or VAWA self-petitions who ICE detains or seeks to detain for civil immigration enforcement." *Immigr. Ctr. for Women & Child.*, 2026 WL 1455004, at *46. The court then stayed the 2025 Guidance, "including its rescission of prior policies," under the Administrative Procedure Act as to the members of all three classes. *Id.* at *47.

97. Accordingly, the 2011 Policy and 2021 Directive are in full effect. ICE's own rules require it to refrain from taking immigration enforcement actions—including detention—against noncitizens with pending victim-based immigration benefit applications, including T-visa applications, unless they present national security concerns or an articulable risk of harm. *Id.*

98. These policies apply to Mr. Rahimi: he has a pending T-visa application and presents no extraordinary circumstances. Under ICE's own policies, therefore, he must be released. Respondents' failure to release him violates the *Accardi* doctrine and he should be immediately released. *See Accardi*, 347 U.S. at 266–67.

B. IJ Terrill's June 12, 2026 Refusal to Grant a New Bond Hearing Due to Changed Circumstances Violates Mr. Rahimi's Due Process Rights.

99. Next, IJ Terrill's June 12, 2026 denial of Mr. Rahimi's request for a new bond hearing directly conflicted with EOIR regulations requiring that Mr. Rahimi be granted such a hearing upon a showing of materially changed circumstances. EOIR thus "deprived [Mr. Rahimi] of due process by violating its own regulations" because that violation caused and will continue to cause him "substantial prejudice," *i.e.*, "affected the outcome of the proceedings" by resulting in the automatic denial of bond. *See Francois v. Garland*, 120 F.4th 459, 466 (5th Cir. 2024) (citations omitted).

100. Specifically, EOIR regulations dictate that a new bond hearing "shall" be granted if the detained person submits a written request and shows that their "circumstances have changed materially since the prior bond redetermination." 8 C.F.R. § 1003.19(e). This creates a mandatory duty to provide a new bond hearing when the requisite showing is made. *See, e.g.*, *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202 (9th Cir. 2022); *Tagle Sanchez v. Soto*, No. 26-CV-05631-ESK, 2026 WL 1656047, at *2 n.1 (D.N.J. June 9, 2026) (citing 8 C.F.R. § 1003.19(e)).

101. Mr. Rahimi's newly pending T-visa application at the time of his request for a renewed bond hearing constituted a "material" change in circumstances that required his request be granted. IJ Terrill's determination to the contrary was therefore "legally erroneous," and this Court has jurisdiction to review it, because "the evidence in the record simply does not support [IJ Terrill's] conclusion that [Mr. Rahimi's] circumstances ha[d] not changed materially." *See Lopez Reyes v. Bonnar*, 362 F.Supp.3d 762, 772–73, 775, 777–78 (N.D. Cal. 2019) (ordering a new bond hearing because an IJ erred, as a matter of law, by not considering petitioner's rehabilitation efforts and downgrading of felony conviction to a misdemeanor).

102. That Mr. Rahimi's T-visa application demonstrated a "material" change in circumstances relevant to his eligibility for bond is supported by the plain text of the regulation, the decisions of federal courts across the country, and EOIR's own precedents.

103. To start, "[i]n matters of statutory interpretation, text is always the alpha." *Matter of DeBerry*, 945 F.3d 943, 947 (5th Cir. 2019). As relevant here, Black's Law Dictionary defines "material" as meaning "[h]aving some logical connection with the consequential facts" and/or "[o]f such a nature that knowledge of the item would affect a person's decision-making; significant; essential." *MATERIAL*, *Black's Law Dictionary* (12th ed. 2024).

104. A plain reading of the regulation utilizing these definitions indisputably supports that a newly pending T-visa application constitutes a "material" change in circumstances with respect to bond eligibility. A T-visa application provides a "possible avenue[] for relief" and "increase[s] the likelihood that [the petitioner] will be allowed to stay in the U.S., which in turn decreases the Government's interest in detaining [them]." *See De Souza Ribeiro v. Turek*, 825 F.Supp.3d 413, 432 (D. Vt. 2026). This clearly provides for "some logical connection" between a pending T-visa application and "the consequential facts" for determining whether a

new bond hearing is appropriate, since the pending T-visa application undercuts any risk that the petitioner will flee (which, in this case, is the only factor that the IJ took into consideration during his perfunctory and procedurally inadequate decision to deny bond to Mr. Rahimi on December 9, 2025). *See MATERIAL, Black's Law Dictionary* (12th ed. 2024). For the same reason, a pending T-visa application is "[o]f such a nature that knowledge of the item would affect a [petitioner's] decision-making." *See id.*

105. This common sense reading of the plain text of the regulation has been followed by district courts across the country, which have held that materially changed circumstances warranting a new bond hearing may be demonstrated by facts that alter the flight-risk or danger calculus. *E.g., Arellano v. Sessions*, No. 6:18-CV-06625-MAT, 2019 WL 3387210, at *9 (W.D.N.Y. July 26, 2019) (subsequent developments in the petitioner's criminal case and new evidence of community support); *Nzemba v. Barr*, No. 6:19-CV-06299-MAT, 2019 WL 3219317, at *7 (W.D.N.Y. July 17, 2019) (new evidence of family ties and support in the United States); *Kharis v. Sessions*, No. 18-CV-04800-JST, 2018 WL 5809432, at *10 (N.D. Cal. Nov. 6, 2018) (new evidence demonstrating that Interpol Red Notice was fraudulent); *Soto Gimenez v. Hernandez*, No. 2:26-CV-00966-GJL, 2026 WL 1156075, at *7–8 (W.D. Wash. Apr. 29, 2026) (dismissal of a pending criminal charge which was the only identified factor supporting prior bond denial).

106. Finally, decisions from the BIA itself, in closely analogous situations, support this reading. For example, in *Matter of Andrade*, the BIA held that active pursuit of relief from removal is an important factor that diminishes flight risk. 19 I. & N. Dec. 488, 491 (BIA 1987). The BIA has also held that evidence of U- and T-Visa applications is particularly relevant to the calculus of flight risk. M-B-V, [redacted], at *2 (BIA Feb. 18, 2011) (finding that a pending U-

visa application and letters of support from family members living legally in the United States are "factors [that] play a significant role in determining if the alien poses a flight risk and, accordingly, should be granted a specific bond"). It also regularly considers applications for T- and U-visa status as sufficient evidence of changed circumstances to warrant administratively or reopening closing removal proceedings. *See, e.g.*, M-D-D-C-, [redacted] (BIA Sept. 14, 2015) (closing removal proceedings administratively in light of evidence of filing of T-visa application); A-P-, [redacted] (BIA Oct. 24, 2017) (finding that new evidence of application for U visa constitutes "exceptional situation" warranting reopening of removal proceedings so applicant could pursue administrative closure); F-O-F-, [redacted] (BIA Feb. 17, 2016) (granting motion to reconsider denial motion to remand in light of evidence of filing of petition for U nonimmigrant status).

107. At the time that he requested a renewed bond hearing, Mr. Rahimi's newly-pending T visa application demonstrated, as a matter of law, that his "circumstances [had] changed materially since [his] prior bond redetermination." *See* 8 C.F.R. § 1003.19(e). IJ Terrill's denial of his request thus not only "violat[ed EOIR's] own regulations," but also Mr. Rahimi's right to due process, because it substantially prejudiced him by resulting in an automatic denial of his request for bond. *See Francois*, 120 F.4th at 462.

C. Mr. Rahimi's Prolonged Detention of Over One Year Violates His Procedural Due Process Rights.

108. Mr. Rahimi also has a procedural due process right to a new bond hearing at which the government bears the burden of proof to demonstrate he should continue to be detained. This right, predicated on the now-prolonged length of his detention, is separate but related to the right to the bond hearing he received on December 9, 2025, after the federal district court ruled in his favor on his previous habeas petition.

109. When the government deprives a person of life, liberty or property, it must do so "in a fair manner." *U.S. v. Salerno*, 481 U.S. 739, 746 (1987). The INA and its implementing regulations include specific procedural safeguards that govern when the government may detain noncitizens in removal proceedings, including access to bond hearings. 8 U.S.C. § 1226(a); 8 C.F.R. § 236.1(d)(1).

110. At bond hearings, BIA precedent places the burden on a detained noncitizen to show "to the satisfaction of the Immigration Judge that he or she merits release on bond." *Matter of Guerra*, 24 I. & N. 37, 40 (BIA 2006). However, numerous courts, including in this district, have held that the failure to provide a renewed bond hearing with the burden on the government may violate procedural due process when detention becomes unreasonably prolonged, even if a detainee has previously received a bond hearing. *E.g., Ayobi v. Castro*, No. SA-19-CV-01311-OLG, 2020 WL 13411861, at *7 (W.D. Tex. Feb. 25, 2020) (ordering a bond hearing with the burden on the government where the petitioner had been detained for nearly two years); *Covarrubias-Rodriguez v. Noem*, No. 5:26-CV-0594-JKP, at *14 (W.D. Tex. Apr. 23, 2026) (ordering release or a bond hearing with the burden on the government when the petitioner had been detained for nine months); *El Gamal v. Noem*, No. SA-25-CV-01261-FB, 2026 WL 1104363, at *7 (W.D. Tex. Apr. 20, 2026), *report and recommendation adopted sub nom. El Gamal v. Mullin,* No. SA-25-CV-1261-FB, 2026 WL 1108593 (W.D. Tex. Apr. 23, 2026) (finding that petitioners' due process rights were violated by failure to hold a bond hearing with the burden on the government after petitioners were detained for nine months).

111. Mr. Rahimi acknowledges that he unsuccessfully urged a similar argument in his previous habeas proceedings. Specifically, Mr. Rahimi filed a habeas petition before a district court in this division on October 20, 2025, and that court ("the First Habeas Court") ordered the Pearsall

Immigration Court to provide Mr. Rahimi with a bond hearing, which he received on December 9, 2025. *See* Exh. 16-A, *Rahimi v. Thompson*, No. 5:25-cv-01338-OLG, at *8 (W.D. Tex. Dec. 4, 2025). At that hearing, IJ Terill placed the burden of proof on Mr. Rahimi to show that his detention was not justified, before perfunctorily denying bond.

112. Mr. Rahimi then moved for leave to file an amended petition in the First Habeas Court, arguing that due process entitled him to a renewed bond hearing at which the government carried the burden to prove that he should remain in detention. *See generally* Pet'r's Mot. to Alter or Amend J., *Rahimi v. Thompson*, No. 5:25-cv-01338-OLG, (W.D. Tex. motion filed Dec. 19, 2025). The First Habeas Court rejected that argument, noting that no Supreme Court case has ever required the burden to be placed on the government in immigration bond hearings, and that under the Bail Reform Act, U.S. citizens in certain criminal cases may be required to show they are not a flight risk or danger. *See generally* Exh. 16-B, *Rahimi v. Thompson*, No. 5:25-cv-01338-OLG (W.D. Tex. Apr. 7, 2026).[1]

113. But the First Habeas Court also acknowledged that, in *Ayobi,* it had previously held "that Petitioner's due process rights were violated at Petitioner's second bond hearing when Petitioner—who (i) had no criminal record, (ii) had been detained at that point for nearly two years, (iii) was facing additional detention as the result of reversible error by the immigration court, (iv) was being held in a prison-like facility, and (v) had a non-negligible chance of receiving relief from removal in the underlying immigration proceedings—was assigned the

[1] Importantly, Supreme Court precedent does not foreclose Mr. Rahimi's burden-allocation arguments. *See El Gamal v. Noem*, 2026 WL 1104363, at *7 (analyzing *Demore v. Kim,* 538 U.S. 510 (2003), *Reno v. Flores*, 507 U.S. 292 (1993), and *Carlson v. Landon*, 342 U.S. 527 (1952)). And crucially, unlike the criminal detention at issue in the Bail Reform Act, immigration detention is *civil* and must remain "nonpunitive in purpose and effect." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

burden of proving that he was not a flight risk nor a danger to the community." *Id.* at 5 n.5 (quoting *Ayobi*, 2020 WL 13411861, at *7). Indeed, in *Ayobi* the Court held that "at that point and under those circumstances, the Due Process Clause entitled Petitioner to an individualized bond hearing at which the government bore the burden of justifying his continued detention." 2020 WL 13411861, at *7.

114. Despite surface-level similarities, the First Habeas Court's December 2025 decision is not in conflict with *Ayobi*, and the reasoning of *Ayobi* should control here. The distinction lies in the particular circumstances of each case. *See Morrissey v. Brewer*, 408 U.S. 471, 481 (1972) ("[D]ue process is flexible and calls for such procedural protections as the particular situation demands."). Since December, Mr. Rahimi's circumstances have changed materially: he has now been detained in prison-like conditions for over a year, with no end in sight, and has an additional path to immigration relief through his T-visa application. His prolonged detention, in addition to his lack of criminal record and strong prospects for immigration relief, warrants examination of what process is due to justify his continued detention *at this stage*. *See Mathews v. Elridge*, 424 U.S. 319, 334 (1976) ("[D]ue process, unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances.") (cleaned up).

115. When, as here, a noncitizen faces prolonged detention following an initial bond hearing, "procedural due process requires an individualized assessment consistent with the framework articulated in *Mathews*." *See Covarrubias-Rodriguez v. Noem*, No. 5:26-CV-0594-JKP, at *8 (W.D. Tex. Apr. 23, 2026) (citing *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 491–96 (S.D.N.Y. 2025). The three *Mathews* factors are: (i) the private interest that will be affected by the official action, (ii) the risk of erroneous deprivation of that interest through the available procedures, and (iii) the government's interest, including the function involved and the fiscal

and administrative burdens that additional or substitute procedures would entail. *Mathews*, 424 U.S. at 335.

116. As to the first factor, here "the private interest affected by the official action is the most significant liberty interest there is—the interest in being free from imprisonment." *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020). Mr. Rahimi specifically seeks freedom from *prolonged* detention in prison-like conditions, elevating his liberty interest. *See id.* at 852 ("Where the Supreme Court has upheld detention during the pendency of removal proceedings, it has been careful to emphasize the importance of the relatively short duration of detention.") (citing *Demore*, 538 U.S. at 529). "In the § 1226(a) detention context, the detainee's interest in receiving due process protections grows larger with every day in detention." *Ayobi*, 2020 WL 13411861, at *6. Mr. Rahimi has now been deprived of his liberty for a year and counting.

117. Regarding the second *Mathews* factor, courts have found a high risk of erroneous deprivation where petitioners were detained for prolonged periods and held the burden of proving they were not a flight risk. For example, in *Covarrubias-Rodriguez*, the court found a high risk of erroneous deprivation where the petitioner, who had been detained for nine months, bore the burden of proof in a prior bond hearing. No. 5:26-CV-0594-JKP, at *10 (W.D. Tex. Apr. 23, 2026). The court noted that it was unjust to force the petitioner to "prove a negative," especially where he had no criminal record, had lived and worked in the United States for twenty years, was active in community organizations, had children with DACA status, and had a pending asylum application. *Id.* Mr. Rahimi's record is strikingly similar, except that his family are U.S. citizens, he has multiple viable paths to immigration relief, and he has been detained for even longer.

118. Similarly, in *Ayobi* the court found it "self-evident that allocating the burden of proof to the government to affirmatively justify Petitioner's continued detention—as opposed to forcing Petitioner to again prove a negative—is a reasonable approach to mitigate the risk of erroneous deprivation of his due process rights." 2020 WL 13411861, at *6 (citing *Darko v. Sessions*, 342 F Supp. 3d 429, 435 (S.D.N.Y. 2018) (collecting cases)). Accordingly, the court determined that the petitioner faced "a severe risk of erroneous deprivation of his rights if he is not afforded additional protections." *Id.*

119. Other courts have noted that "[a]llocating the burden in this manner reflects the concern that '[b]ecause the alien's potential loss of liberty is so severe . . . he should not have to share the risk of error equally.'" *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *10 (W.D. Tex. Oct. 21, 2025) (quoting *German Santos v. Warden Pike Cnty. Correctional Facility*, 965 F.3d 203, 214 (3d Cir. 2020)) (alteration in original).

120. On the third *Mathews* factor, "the Government has an interest in ensuring that noncitizens appear for their removal hearings and do not pose a danger to the community." *Id.* at *9. Yet the government has no interest in detention of noncitizens who are "neither dangerous nor a flight risk." *Velasco Lopez*, 978 F.3d at 854. And the decision to release Mr. Rahimi on his own recognizance sixteen years ago, in and of itself, "reflects a determination by the government that [he] is not a danger to the community or a flight risk." *Hernandez-Fernandez*, 2025 WL 2976923, at *10 (citation omitted).

121. Furthermore, "the Government routinely conducts bond hearings" and courts have routinely determined that it is not a significant administrative burden to conduct an additional hearing. *Trejo v. Warden of ERO El Paso E. Montana,* 807 F. Supp. 3d 697, 712 (W.D. Tex. 2025).

122. Recognizing this, the "'vast majority'—an 'overwhelming consensus'—of courts granting immigration detainees' habeas petitions" have found that it does not substantially undermine the government's legitimate interests to require it to justify a noncitizen's detention by clear and convincing evidence. *Hernandez-Fernandez*, 2025 WL 2976923, at *10 (quoting *Velasco Lopez*, 978 F.3d at 855 n.14); *Ayobi,* 2020 WL 13411861, at *6.

123. Finally, to succeed on an as-applied due process claim, a party must show actual prejudice as a result of the constitutional violation. *U. S. v. Kidd*, 127 F.4th 982, 988 (5th Cir.), *cert. denied,* 145 S. Ct. 2804 (2025). "[C]ommon sense certainly suggests that [a] [p]etitioner suffered actual prejudice because he, rather than the government, had the burden of proof" at a bond hearing. *Ayobi*, 2020 WL 13411861, at *8. Furthermore, the weight of the evidence shows that the Government cannot establish that Mr. Rahimi is a flight risk, given his strong community ties—first and foremost, his wife and daughter—and his ongoing pursuit of valid immigration relief. The Government's only evidence, his uncertain immigration status, is refuted by the fact that Mr. Rahimi had a removal order for over *fifteen* years yet never failed to check in with ICE.

124. Moreover, many courts have recognized that a removal order alone does not suffice to prove flight risk by clear and convincing evidence. *E.g., Sales v. Johnson*, 323 F. Supp. 3d 1131, 1141 ("[T]he fact of an order of removal is not, by itself, sufficient to deny bond."); *Singh v. Holder*, 638 F.3d 1196, 1205 (9th Cir. 2011) (finding that although a final order of removal "is a relevant factor in the calculus, it alone does not constitute clear and convincing evidence that [the petitioner] presented a flight risk justifying denial of bond").

125. Because "[h]abeas is at its core a remedy for unlawful detention," the appropriate relief for "such detention is, of course, release." *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (citing *Hamdi*

v. Rumsfeld, 542 U.S. 507, 536 (2004) (plurality opinion) and *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973)). That logic applies with full force to Mr. Rahimi. "Requiring [him] to endure further detention and the inevitable delay in the provision of another bond hearing risks compounding the constitutional violation. Immediate release is the appropriate remedy." *El Gamal v. Noem,* 2026 WL 1104363, at *15 (ordering release where the government violated petitioners' due process rights by failing to hold a bond hearing with the burden on the government after nine months of detention). Accordingly, this Court should order Mr. Rahimi's immediate release.

D. The Government is Targeting Mr. Rahimi Based on His National Origin.

126. The Equal Protection Clause of the Fourteenth Amendment applies to the States and "prohibits selective enforcement of the law based on considerations such as race" or national origin. *Whren v. U.S.*, 517 U.S. 806, 813 (1996). The same guarantee is extended against the federal government by virtue of the Due Process Clause of the Fifth Amendment, because it "contains an equal protection component prohibiting the United States from invidiously discriminating between individuals or groups," *Washington v. Davis*, 426 U.S. 229, 239 (1976), and "[e]qual protection analysis in the Fifth Amendment area is the same as that under the Fourteenth Amendment." *Buckley v. Valeo*, 424 U.S. 1, 93 (1976). "[F]ull compliance" with the Equal Protection Clause thus requires that all government actors distribute benefits and penalties on a "nondiscriminatory basis." *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 204 (2023) (quoting *Brown v. Bd. of Educ.*, 349 U.S. 294, 300–01 (1955)).

127. This guarantee "is not confined to the protection of citizens . . . These provisions are universal in their application, to all persons within the territorial jurisdiction, without regard to

any differences of race, of color, or of nationality[.]" *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886); *accord Plyler v. Doe*, 457 U.S. 202, 215 (1982). This is true irrespective of whether a person's "presence in this country is unlawful, involuntary, or transitory." *Mathews v. Diaz*, 426 U.S. 67, 77 (1976) (citations omitted).

128. "To state a claim under the Equal Protection Clause, a plaintiff must allege (1) that []he was treated differently from similarly situated individuals and (2) that the different treatment stemmed from a discriminatory intent." *Barber v. Rounds*, 169 F.4th 577, 585 (5th Cir. 2026) (citation omitted).

129. "The discriminatory-impact element of an equal protection claim," *i.e.*, the first element above, "may be satisfied with statistical evidence." *Lewis v. Ascension Par. Sch. Bd.*, 806 F.3d 344, 359–60 (5th Cir. 2015) (citation omitted). That statistical evidence must be "relevant and reliable," and "address the crucial question of whether one class is being treated differently from another class that is otherwise similarly situated." *Id.* at 360 (citation omitted).

1. Mr. Rahimi is treated differently than similarly situated non-Iranians.

130. Respondents have treated Mr. Rahimi differently from similarly situated individuals because, as set out below, the available evidence shows stark and statistically significant differences in the treatment of Iranian and non-Iranian detainees at any level of comparison. This remains true when comparing bond and detention-length outcomes writ large as between Iranian and non-Iranian detainees, as well as when comparing such outcomes between Iranians and non-Iranians at a more granular level, *e.g.*, outcomes for those who possess similar indicia of flight risk and danger. It is true even when looking only at outcomes at the Pearsall Immigration Court, which has jurisdiction over Mr. Rahimi's case.

131. For the purposes of Equal Protection, a group that is similarly situated (the "comparator group") includes those who are "in all relevant respects alike." *Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992) (citation omitted). To determine an appropriate comparator group, a court must take into account the "full variety of factors that an objectively reasonable decisionmaker would [find] relevant." *Golden Glow Tanning Salon, Inc. v. City of Columbus*, 52 F.4th 974, 978 (5th Cir. 2022) (cleaned up).

132. When a case "involves the application of an ordinance or statute, the plaintiff's and comparators' relationships with the ordinance at issue will generally be a relevant characteristic for purposes of the similarly-situated analysis." *Lindquist v. City of Pasadena*, 669 F.3d 225, 234 (5th Cir. 2012). This includes whether the groups are entitled to the same rights under the statute. *See Bragg v. Edwards Aquifer Auth.*, 342 F. App'x 43, 46 (5th Cir. 2009) (finding groups were not similarly situated when the comparator class was "entitled by permit . . . to greater [water] withdrawal rights.").

133. Mr. Rahimi proposes two potential comparator groups based on the available data, both of which could be considered entitled to the same opportunities under the relevant statutes. Wherever the line is drawn, Mr. Rahimi has been treated differently from similarly situated non-Iranian individuals.

134. First, Mr. Rahimi is similarly situated to individuals in civil immigration detention who are eligible for release on bond.

135. Alternatively, Mr. Rahimi is similarly situated to other individuals with the same relationship to the bond-determination standards—that is, adults with an order of withholding of removal and no criminal history who were apprehended inside the United States. Civil immigration detention "has two regulatory goals: 'ensuring the appearance of aliens at future

immigration proceedings' and '[p]reventing danger to the community.'" *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Mr. Rahimi is therefore "similarly situated under the [law]" to adults who have been granted withholding of removal, which goes to flight risk, and who have similar indications of danger to their communities, such as a clean criminal record. *See Beeler v. Rounsavall*, 328 F.3d 813, 817 (5th Cir. 2003).

136. Among the first comparator group—those eligible for release from civil immigration detention—there are significant disparities between Iranians and non-Iranians with respect to bond.

137. These effects stand out even amongst a sharp overall drop in bond grant rates. Since the beginning of the second Trump administration, bond has been granted at a rate of 35.3% (31,084 grants out of 88,036 bond decisions). Exh. 15 ¶ 19. This grant rate is significantly lower than in any previous years, including every year of the first Trump administration. *Id.* ("the overall national grant rate for 2017–2020 was 55.7% (128,705 grants out of 231,061 bond decisions)."). Amongst this overall drop, Iranians are even less likely to be released: only 30.6% of bond decisions for Iranians have been grants. *Id.* The lower chance of Iranians being granted bond nationally in 2025–2026 was statistically significant *Id.* ¶ 20.[2]

138. The disparity in bond outcomes between Iranians and non-Iranians eligible for bond is particularly stark at Pearsall Immigration Court. Across 2025 and the first five months of 2026, the Pearsall Immigration Court's overall bond grant rate plummeted to 24.3% (1,156 grants out of 4,759 bond decisions), nearly fifty percentage points lower than its grant rate of 72.4% during the first Trump administration (7,555 grants out of 10,437 bond decisions). *Id.* ¶ 17.

[2] "Statistical significance refers to a showing that a numerical difference is unlikely to be the product of chance." *Lewis*, 806 F.3d at 361 n.24.

Yet Iranians are still disproportionately denied bond at Pearsall, with a grant rate of only 7.3%. *Id.* No Iranian has been granted bond by a Pearsall IJ in 2026. *Id.* There is a statistically significant difference between bond rates for Iranians and non-Iranians at Pearsall since 2025. *Id.* ¶ 18.

139. The second comparator group—those similarly entitled to release based on an order of withholding and lack of criminal record—is more difficult to draw comparisons to, because Mr. Rahimi does not yet possess detailed data allowing him to reliably isolate people who have withholding of removal. *See id.* ¶ 9–10. Upon information and belief, however, Mr. Rahimi anticipates that data is readily available to Respondents, and will file a motion for discovery seeking that data in case this Court finds that more specific information necessary.

140. In the interim, despite the lack of available data on orders of withholding, patterns among detained adults without a criminal record indicate that there are significant disparities between Iranians and non-Iranians within this comparator group. *See id.* ¶ 11.

141. Since the beginning of 2025, seventy-four individuals from this group have been released on bond after receiving a final order of removal—"a strictly weaker procedural posture than" Mr. Rahimi's. *Id.* ¶ 16. None of them were Iranian. *Id.*

142. The median length of a detention stay was more than four times as long for Iranians without a criminal record as compared to non-Iranians without a criminal record, as of March 10, 2026. *Id.* ¶ 11. The median stay for non-Iranians in that group was 27 days, while the median stay for Iranians was 110 days—this is a highly statistically significant difference. *Id.* ¶¶ 11–12.

143. Moreover, Iranians are particularly overrepresented among individuals experiencing prolonged stays of more than 250 days. *Id.* ¶ 13. Iranians constituted only 0.19% of the detained individuals without a criminal record (242 out of 124,894 detention stays, making Iran the

28th-most-frequent nationality). *Id.* In contrast, they were the fourth-most common nationality among prolonged stays of 250 days or longer, representing 6.26% of such stays (52 out of 831), behind only Cuban, Venezuelan, and Chinese nationals, despite each of those groups representing a substantially greater proportion of the baseline population than Iranian nationals. *Id.*

144. The statistical disparities relating to (1) bond and supervised release outcomes; and (2) length of detention are sufficient to show "a disproportionate adverse effect upon the targeted group" as compared to either comparator group, *i.e.*, Iranians vs. non-Iranians in immigration detention who are eligible for bond hearings or Iranians vs. non-Iranians with an order of withholding of removal and no evidence of a criminal record. *See Lewis*, 806 F.3d at 359. For example, the Supreme Court found in *Yick Wo* that the plaintiff had satisfied the "similarly situated requirement" by showing that "[t]he authorities had denied the applications of 200 Chinese subjects for permits to operate shops in wooden buildings, but granted the applications of 80 individuals who were not Chinese subjects to operate laundries in wooden buildings." *U.S. v. Armstrong*, 517 U.S. 456, 466 (1996) (citing *Yick Wo*,118 U.S. at 374). The Supreme Court has similarly recognized an "indisputable" discriminatory impact based on statistics showing that Black people were "at least 1.7 times as likely as whites to suffer disfranchisement" under a challenged statute. *Hunter v. Underwood*, 471 U.S. 222, 227 (1985).

145. The statistical evidence is also "relevant and reliable," demonstrating "evidence of statistical significance" including a "'systemwide analysis of the racial impact' of the [challenged action]" using data about all instances of parole provided by ICE itself as opposed to a cherry-picked sample. *Lewis,* 806 F.3d at 360 (quoting *Anderson ex rel. Dowd v. City of Bos.*, 375 F.3d 71, 89 (1st Cir. 2004)). It contains direct, one-to-one measures of the decisions

Mr. Rahimi challenges— bond outcomes and time in detention—and the basis on which he challenges them (nationality), not just collateral indications of those factors.

146. While Mr. Rahimi's prolonged detention grows longer every day similarly situated non-Iranians are released on parole or bond at significantly higher rates than Iranians.

2. Mr. Rahimi's treatment is the result of discriminatory intent.

147. Respondents' different treatment of Mr. Rahimi is the product of discriminatory intent: it is "at least in part 'because of,' not merely 'in spite of,' its adverse effects upon" Iranians. *McCleskey v. Kemp*, 481 U.S. 279, 298 (1987) (quoting *Pers. Adm'r of Mass. v. Feeney*, 442 U.S. 256, 279 (1979)). This conclusion follows from (1) the disparate impact of the government's immigration decisions; (2) a historical background of official decisions taken for invidious purposes against those of Iranian heritage; (3) "[t]he specific sequence of events leading up to" Mr. Rahimi's detention; (4) the procedural and substantive departures from the norm with respect to his detention; and (5) "contemporary statements" from decisionmakers regarding the targeting of Iranians based on their nationality. *See Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266–68 (1977) (setting out such factors as relevant for proving discriminatory intent).

148. **First**, the disparate impact of the government's immigration detention decisions on Iranians is clear from the discussion above.

149. **Second**, the "historical background" here "reveals a series of official actions taken for invidious purposes" against Iranians and Iranian Americans. *See id.* at 267. These actions, taken under President Trump, are also "'reasonably contemporaneous with the challenged decision.'" *League of United Latin Am. Citizens v. Abbott*, 601 F. Supp. 3d 147, 170 (W.D. Tex. 2022) (quoting *McCleskey*, 481 U.S. at 298 n.20).

150. In 2017, President Trump directed DHS to enact several versions of a travel ban that targeted Iranians and others from majority-Muslim countries. *See* Exec. Order No. 13769, 82 Fed. Reg. 8977 (Jan. 27, 2017); Exec. Order No. 13780, 82 Fed. Reg. 13209 (Mar. 6, 2017); Proclamation No. 9645, 82 Fed. Reg. 45161 (Sept. 24, 2017).

151. In 2018, President Trump withdrew from an international agreement that regulated Iran's development of nuclear power. Mariel Ferragamo and Kali Robinson, *U.S. Relations with Iran*, Council on Foreign Relations https://www.cfr.org/articles/us-relations-iran (last updated Mar. 2, 2026). At the same time, he reinitiated sanctions against Iran. *Id.*

152. In 2019, the administration designated a branch of the Iranian army as a foreign terrorist organization. *Id.* That designation had never been used against a part of another country's government before. *Id.* Tensions between the two countries rose throughout 2019. *Id.*

153. In 2020, after the U.S. killed a prominent Iranian military leader, CBP issued a directive explicitly ordering officers to "conduct vetting" on Iranians. Mahita Gajanan, *CBP Commissioner: U.S. Border Officers 'Overzealous' In Detaining Iranian Nationals, Iranian-American Citizens*, TIME (Feb. 12, 2020), https://time.com/5782835/iranian-nationals-detained-canada-border/. In just two days, the agency baselessly detained and questioned more than 200 Iranians and Iranian Americans for up to twelve hours. *Id.*

154. These official acts of discrimination against Iranians have not been restricted to DHS. For example, a watchdog agency found that the State Department's firing of an Iranian-American employee was "wholly inconsistent with . . . fair and equitable treatment of employees without consideration of national origin." *See, e.g.*, Bobby Allyn, *Watchdog Report: Trump Official Punished Public Servant Over Her Iranian Heritage*, NPR (Nov. 14, 2019),

https://www.npr.org/2019/11/14/779504909/watchdog-report-trump-official-punished-public-servant-over-her-iranian-heritage.

155. **Third**, the "specific sequence of events leading up to" Mr. Rahimi's detention shows that this historical pattern of government discrimination against Iranians and Iranian Americans continues today. *See League of United Latin Am. Citizens*, 601 F. Supp. 3d at 171–72.

156. That sequence of events began when the current administration re-entered the White House in 2025. It quickly issued a new travel ban under 8 U.S.C. §§ 1182(f) and 1185(a), fully restricting the entry of Iranians into the United States, along with citizens from Burma, Haiti, and nine other countries in the Middle East and Africa, and partially restricting the entry of citizens from seven more countries. Proclamation No. 10949, 90 Fed. Reg. 24497 (June 4, 2025). This move was condemned by the Cato Institute as "nationality-based restriction" that did nothing to address national security. David J. Bier and Alex Nowrasteh, *Trump's Lawless, Baseless Immigration Ban*, CATO (Jun. 12, 2025), https://www.cato.org/blog/trumps-lawless-baseless-immigration-ban.

157. From March 2025 to February 2026, the U.S. Government reportedly shared information about Iranian asylum seekers with the repressive government they fled. *See* Compl. at 5–6, *Iranian American Legal Defense Fund v. Rubio*, No. 1:26-cv-02375 (D.D.C. filed Jul. 7, 2026). That information included their identities, families, political opinions, religions, and the reasons they feared the Iranian Government. *Id.* at 7. ICE has also given Iranian government officials in-person access to Iranian asylum seekers in ICE custody. *Id.*

158. On June 21, 2025, the U.S. bombed Iran. Ferragamo, *supra*. Over the following weeks, DHS conducted "a major surge of arrests of Iranians amid the June 2025 war with 300 arrests across both June 2025 (220) and July 2025 (80)." *NIAC Forced ICE to Reveal New Data on*

Arrests of Iranians, Nat'l Iranian Am. Council (May 7, 2026), https://niacouncil.org/niac-forced-ice-to-reveal-new-data-on-arrests-of-iranians.

159. Mr. Rahimi himself was arrested as part of this surge on June 22, 2025. He originally "came to the attention" of the officer that arrested him "per a headquarters mandate." *See* Exh. 2 at 2.

160. The countries announced a ceasefire on June 23, 2025, but over the following months the administration continued to pressure Iran and target Iranian nationals in the U.S. In late 2025, DHS first issued a policy alert instructing USCIS officials to "consider[] any relevant country-specific factors such as those specified in [the June travel ban] as significant negative factors in the adjudication of discretionary benefit requests." *See* U.S. CITIZENSHIP & IMMIGR. SERVS., PA-2025-26, Policy Alert: Impact of INA § 212(f) on USCIS' Adjudication of Discretionary Benefits (Nov. 27, 2025). DHS then proceeded to pause the processing of all immigration benefit requests from Iranians, and directed that any approved applications from Iranians must be re-reviewed. U.S. CITIZENSHIP & IMMIGR. SERVS., PM-602-0192, Policy Memorandum: Hold and Review of all Pending Asylum Applications and all USCIS Benefit Applications Filed by Aliens from High-Risk Countries (Dec. 2, 2025). In June 2026, a district court declared both DHS policies unlawful and vacated them. *Dorcas Int'l Inst. of R.I. v. U.S. Citizenship and Immigr. Servs.*, No. 26-cv-00132-JJM-PAS, 2026 WL 1695954, at *3 (D.R.I. June 11, 2026).

161. On February 28, 2026 the U.S. and Israel launched "a massive and ongoing [military] operation" against Iran, eventually killing the country's Supreme Leader. *Trump's full statement on U.S. strikes against Iran*, CBS News (Feb. 28, 2026) https://www.cbsnews.com/video/watch-trumps-full-statement-on-u-s-strikes-against-iran/.

162. Since then, Respondents have continued to target Iranians in the U.S. based on their nationality. For example, in a highly unusual move, U.S. authorities denied visas to support staff from the Iranian World Cup team and only allowed the team to enter for one day when they had matches. Nancy Armour, *DHS secretary glad Iran is out of World Cup, says he did 'happy dance' when visas pulled*, USA Today (Jun. 29, 2026), https://www.usatoday.com/story/sports/soccer/worldcup/2026/06/29/dhs-secretary-markwayne-mullin-iran-world-cup/90748019007/. The team was forced to move its training base from Arizona to Mexico. *Id.* When Iran was eliminated from the tournament, Respondent Mullin said of the Iranian team "I'm just glad they're done and not coming back . . . I was so happy when we were able to pull their visas. … I might have sung a song or two or maybe even danced a happy dance." *Id.*

163. DHS has continued to target Iranian immigrants with no record of criminal activity, seemingly in response to tensions between the two nations. In the days following military strikes on Iran, the administration detained an Iranian asylum seeker for three weeks and repeatedly questioned him about the war in Iran and his perception of Israel. Hilda Gutierrez, et al., *Iranian asylum seeker detained by ICE after US strikes*, NBC Bay Area (May 12, 2026), https://www.nbcbayarea.com/news/local/iranian-asylum-seeker-detained-ice/4083687/. His attorney reported seeing an "uptick of interest in Iranian non-citizens in the United States" that is taking place "across the board from asylum seekers to students to people who already have green cards." *Id.* She warned that "if you're from Iran, you just have to be ready for DHS or the FBI to show up at your door." *Id.*

164. **Fourth**, Mr. Rahimi's detention has been replete with procedural and substantive departures from the ordinary course. Prior to his arrest, the government released Mr. Rahimi

on an order of supervision, yet redetained him without the required procedural protections, despite no material change in his circumstances and his lengthy history of compliance with all conditions of release.

165. Since his arrest, Mr. Rahimi has been repeatedly denied bond hearings based on atypical or invalid legal grounds. Mr. Rahimi's court-ordered bond hearing itself was also unusually short, and the IJ denied bond based only on Mr. Rahimi's immigration case, a factor that does not ordinarily merit continued detention. *See supra*.

166. Most recently, Mr. Rahimi's request for a bond hearing based on changed circumstances after he submitted his T-visa application was denied with only the explanation: "bond is with BIA appeals." Exh. 8 at 1. This is not a valid legal ground on which to reject a bond hearing. *See Matter of Valles*, 21 I. & N. Dec. 769, 772 (BIA 1997).

167. The immigration court eventually scheduled a bond hearing for Mr. Rahimi on June 3, 2026 before IJ Crossan. However, Mr. Rahimi's bond hearing was then cancelled the afternoon before it was set to occur, and the case was transferred to IJ Terrill.

168. IJ Terrill then denied the request for bond without a hearing, on the grounds that there were not changed circumstances, again departing from EOIR policy. *See supra* Section VI.B.

169. Further, as discussed in greater detail above, Mr. Rahimi has been detained and denied parole in defiance of DHS policy requiring release for those who have received withholding of removal and T-visa applicants. *See supra* Section VI.A.

170. **Fifth and finally**, decisionmakers have consistently acknowledged that enforcement actions against Iranians have been undertaken based on nationality. DHS acknowledged that mass arrests were carried out on the basis of national origin, releasing a press statement that touted its detentions of "Iranian nationals." Press Release, Dep't of Homeland Sec., ICE

Arrests 11 Iranian Nationals Illegally in the U.S. Over the Weekend (Jun. 24, 2025) https://www.dhs.gov/news/2025/06/24/ice-arrests-11-iranian-nationals-illegally-us-over-weekend. Then-ICE Director Todd Lyons has further confirmed that DHS targeted Iranians in the United States because of rising tensions between the United States and Iran. Ali Bradley and Jeff Arnold, *Iranian nationals part of larger ICE enforcement focus: Lyons*, NewsNation (Jun. 26, 2025), https://www.newsnationnow.com/us-news/immigration/iranian-nationals-ice-enforcement-lyons/. Many DHS and executive directives have also singled out specific countries of origin, including Iran. These statements are "overtly" based on nationality, and could not "rest on [nationality]-neutral justifications." *See Mullin v. Doe*, No. 25–1083, 2026 WL 1825840, at *12 (U.S. June 25, 2026).

171. Taken together, this evidence makes clear that Mr. Rahimi's prolonged detention is in violation of his right to equal protection of the laws. The significant statistical evidence of the discriminatory impact of bond decisions, the administration's history of animus and policies that are facially discriminatory against Iranians, the significant departures from ordinary practice and policy which have led Mr. Rahimi to spend a full year (and counting) imprisoned without any criminal record, and executive statements show that Mr. Rahimi has been detained for this long, and denied bond and parole, "at least in part 'because of'" his nationality. *See McCleskey*, 481 U.S. at 298. Accordingly, Respondents have violated and continue to violate Mr. Rahimi's constitutional rights, and he should be released.

VII. CLAIMS FOR RELIEF

COUNT ONE

Violation of the *Accardi* Doctrine - Fear-based Release Policy

172. Mr. Rahimi realleges and incorporates by reference the allegations of fact set forth in the preceding paragraphs.

173. An administrative agency is required to adhere to its regulations. *See Accardi*, 347 U.S. at 268; *U.S. v. Heffner*, 420 F.2d 809, 811 (4th Cir. 1969). An agency's failure to follow its own rules is a due process violation under *Accardi* when it causes substantial prejudice to the party asserting the violation. *Francois v. Garland*, 120 F.4th 459, 464–66 (5th Cir. 2024).

174. ICE has a longstanding policy that requires it to release people who, like Mr. Rahimi, have been granted withholding of removal by an IJ, absent extraordinary circumstances. *See* Exh. 12 at 2–3. A determination that an individual presents extraordinary circumstances that warrant continued detention must be made by an ICE Field Office Director and cannot be delegated below that level. *Id.* Further, extraordinary circumstances do not include being a flight risk, and ICE has never even argued, nor an IJ found, that Mr. Rahimi is a danger to the community. *See* Exh. 12 at 2; Exh. 13 at 1.

175. Mr. Rahimi's withholding of removal was reinstated in December 2026. Yet ICE continues to detain him without any determination by the Field Office Director that he presents extraordinary circumstances. His detention therefore violates ICE's own rules and the *Accardi* doctrine, causing him substantial prejudice. He should be immediately released.

COUNT TWO

Violation of the *Accardi* Doctrine - T-Visa Release Policy

176. Mr. Rahimi realleges and incorporates by reference the allegations of fact set forth in the preceding paragraphs.

177. An administrative agency is required to adhere to its regulations. *See Accardi*, 347 U.S. at 268; *Heffner*, 420 F.2d at 811. An agency's failure to follow its own rules is a due process

violation under *Accardi* when it causes substantial prejudice to the party asserting the violation. *Francois*, 120 F.4th at 464–66.

178. ICE policies require ICE to refrain from immigration enforcement action, including continued detention, against T-visa applicants, among others. *See* Exh. 13 at 4–15. ICE officers further must take proactive steps to determine whether a person is an applicant for a victim-based immigration benefit, such as a T visa, before "tak[ing] civil immigration enforcement action [including continued detention] against a noncitizen." *Id.* at 10.

179. ICE has failed to apply its policies concerning detention and immigration enforcement for T-visa applicants to Mr. Rahimi. Mr. Rahimi has applied for a T visa and his immigration attorney has notified ICE of his application. Despite this pending application, ICE denied his parole request and did not state that any extraordinary circumstances apply to Mr. Rahimi's case. *See id.* Accordingly, Mr. Rahimi's ongoing detention is a violation of ICE's policies that has caused him substantial prejudice. He should be immediately released.

COUNT THREE

Fifth Amendment Procedural Due Process - Failure to Follow Agency Rules Requiring a Bond Hearing Based on Changed Circumstances

180. Mr. Rahimi realleges and incorporates by reference the allegations of fact set forth in the preceding paragraphs.

181. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. When the government deprives a person of life, liberty or property, it must do so "in a fair manner." *Salerno*, 481 U.S. at 746. An agency's failure to follow its own rules is a due process violation when it causes substantial prejudice to the party asserting the violation. *Francois*, 120 F.4th at 466.

182. EOIR's rules require an immigration judge to hold a bond hearing when a detained noncitizen demonstrates that their circumstances have materially changed. 8 C.F.R. § 1003.19(e).

183. Mr. Rahimi's pending T-visa application is a materially changed circumstance because it negates the sole reason under which Respondents have justified Mr. Rahimi's continued detention. IJ Terrill's failure to hold a bond hearing based on changed circumstances therefore violates EOIR's regulations and violates Mr. Rahimi's right to due process under the Constitution.

COUNT FOUR

Fifth Amendment Procedural Due Process - Prolonged Detention Without Government Bearing the Burden to Justify Detention

184. Mr. Rahimi realleges and incorporates by reference the allegations of fact set forth in the preceding paragraphs.

185. 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 Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690. When the government deprives a person of life, liberty or property, it must do so "in a fair manner." *Salerno*, 481 U.S. at 746.

186. When a noncitizen faces prolonged detention under 8 U.S.C. § 1226(a), "procedural due process requires an individualized assessment consistent with the framework articulated in *Mathews*." *Covarrubias-Rodriguez*, No. 5:26-CV-0594-JKP, at *8 (W.D. Tex. Apr. 23, 2026). The sufficiency of any process afforded is determined by weighing three factors: (i) the private interest that will be affected by the official action, (ii) the risk of erroneous deprivation of that interest through the available procedures, and (iii) the government's interest, including the

function involved and the fiscal and administrative burdens that additional or substitute procedures would entail. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

187. All three *Mathews* factors weigh heavily in Mr. Rahimi's favor. *See supra* ¶¶ 115-122. Accordingly, due process requires the government to bear the burden of justifying his continued prolonged detention at a bond hearing. *See e.g.*, *Ayobi*, 2020 WL 13411861, at *7; *Covarrubias-Rodriguez*, No. 5:26-CV-0594-JKP, at *14; *El Gamal* 2026 WL 1104363, at *7. "Immediate release is the appropriate remedy" for this violation of Mr. Rahimi's due process rights. *See El Gamal v. Noem,* 2026 WL 1104363, at *15.

COUNT FIVE

Fifth Amendment Equal Protection

188. Mr. Rahimi realleges and incorporates by reference the allegations of fact set forth in the preceding paragraphs.

189. The government violates the Fifth Amendment when it discriminates on the basis of race or national origin. *See Washington v. Davis*, 426 U.S. 229, 239 (1976). These protections apply to non-citizens and those who entered the country or state illegally. *See Wong Wing v. U.S.*, 163 U.S. 228, 238 (1896); *Mathews v. Diaz*, 426 U.S. at 78; *accord Plyler v. Doe*, 457 U.S. 202, 215 (1982).

190. An equal protection claim arises when a plaintiff was treated differently from similarly situated individuals and that different treatment stemmed from discriminatory intent. *Barber*, 169 F.4th at 585 (citing *Fennell v. Marion Indep. Sch. Dist.*, 804 F.3d 398, 412 (5th Cir. 2015)). Even a facially neutral government action is subject to strict scrutiny under the Fifth Amendment if it results in disparate treatment of a protected class and "invidious

discriminatory purpose was a motivating factor" for the decision. *Arlington Heights*, 429 U.S. at 266.

191. Mr. Rahimi was treated differently from similarly situated non-Iranians in immigration proceedings because he was denied bond, denied parole, and detained for a prolonged period, despite the fact that he is neither a flight risk nor a danger to his community. The data shows that his continued detention is because Respondents have targeted him due to his national origin.

192. There is broad discriminatory intent and animus towards Iranians within the current administration, particularly among DHS officials. Mr. Rahimi's differential treatment is a result of this discriminatory intent.

VIII. PRAYER FOR RELIEF

Wherefore, Mr. Rahimi prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Order that Mr. Rahimi shall not be transferred outside of the Western District of Texas while this habeas petition is pending;
3. Issue an Order to Show Cause ordering Respondents to show cause as to why this petition should not be granted within three days.
4. Issue a Writ of Habeas Corpus requiring Respondents to release Mr. Rahimi and ordering that they may only re-detain Mr. Rahimi by applying to this Court for hearing where they must demonstrate that Mr. Rahimi is a danger by clear and convincing evidence;
5. Declare that Mr. Rahimi's detention is unlawful;
6. Grant Mr. Rahimi any preliminary relief to which he shows himself to be entitled;
7. Grant any other and further relief that this Court deems just and proper.

Dated: July 10, 2026

/s/ Daniel Woodward
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CERTIFICATE OF SERVICE

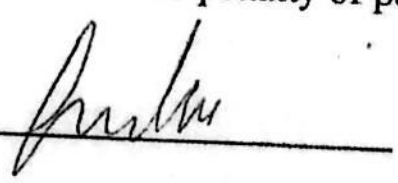
I certify that on July 10, 2026, the foregoing document and all attachments were served via CM/ECF, which will notify all parties of the filing. Counsel for Petitioner will also email this filing on July 10, 2026, to the Civil Division of the U.S. Attorney's Office for the Western District of Texas.

/s/ Daniel Woodward
Daniel Woodward

Counsel for Petitioner

I. VERIFICATION

I have read the foregoing Petition for Writ of Habeas Corpus. I have personal knowledge of the factual allegations contained therein, and if called as a witness to testify, I would competently testify as to the matters stated herein. This declaration is made pursuant to 28 U.S.C. § 1746. I declare under the penalty of perjury that the foregoing is true and correct.

/S/ 

Petitioner: Shahvo Kh RAHIMI

Date: 06/26/2026