UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

SAMRWIT DEBSSI

Petitioner,

v

TODD BLANCHE, in his official capacity as the Acting Attorney General of the United States of America,

MARKWAYNE MULLIN, in his official capacity as Secretary of the Department of Homeland Security;

DAVID J. VENTURELLA, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;

DAREN K. MARGOLIN, Director, Executive Office for Immigration Review, in his official capacity;

FIELD OFFICE DIRECTOR, in his or her official capacity as Director of the Atlanta Field Office of ICE, Enforcement and Removal Operations; and

JASON STREEVAL, in his official capacity as Warden of the Stewart Detention Center.

Respondents.

Civil Action No.

Immigration No. A [redacted]

PETITIONER'S ORIGINAL VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. This is a petition for writ of *habeas corpus* filed on behalf of Samrwit Debssi ("Petitioner") seeking relief to remedy her unlawful detention pursuant to 28 U.S.C. § 2241. Petitioner seeks immediate relief from custody and is filing this *habeas* for urgent intervention

2. Petitioner (A [redacted] is a native and citizen of Eritrea who has resided in the United States for almost three years. *See* Ex. C, Notice to Appear.

3. Petitioner was detained following an arrest in November 2025. She has been detained since that time and is being held at the Stewart Detention Center. *See* Ex. A, Proof of Detention in ICE Custody.

4. Petitioner is in pending removal proceedings. On April 13, 2026, an immigration judge issued a decision and order denying Petitioner's application for Asylum and Withholding of Removal. *See* Ex. B, EOIR Automated Case Information.

5. On April 17, 2026, Petitioner timely filed an appeal with the Board of Immigration Appeals, where it currently remains pending. *See id.*

6. On February 10, 2026, Petitioner was provided a bond hearing pursuant to the District Judge's order in prior habeas proceedings. *See* Ex. E, Previous Habeas Corpus Order; Ex. F, First Bond Decision. Petitioner's bond was denied based on danger to the community and flight risk. *See* Ex. F, First Bond Decision.

7. Petitioner's criminal charge and traffic violations were subsequently dismissed by the relevant district attorney. *See* Ex. G, Motion for Bond Redetermination; Ex. H Exhibits in Support of Bond. On April 9, 2026, Petitioner was again provided a bond hearing based

on the changed circumstances but was again denied bond based on danger and flight risk, despite no pending criminal charges at all. *See* Ex. I, Second Bond Decision.

8. The immigration judge failed to properly apply the factors required by the BIA's precedent decisions *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006) and *Matter of Patel*, 15 I&N Dec. 666, 666–67 (BIA 1976). Given that Petitioner has resided in the United States for nearly 3 years, has no criminal history, has worked, has established community ties, and has continued to actively pursue relief from removal, precedent establishes that the immigration judge find that she is *not* a flight risk or danger and order a reasonable bond or other reasonable conditions of release.

9. Despite precedent, the immigration judge held that Petitioner was such a danger and flight risk that no bond should be afforded and that she should continue to be detained for the duration of her removal proceedings.

10. Petitioner is deprived of her personal liberty and continues to be detained as a result.

11. Any appeal of that decision to the Board of Immigration Appeals is futile and would cause significant delay, impinging on Petitioner's due process and liberty interests.

12. Petitioner's detention violates the Immigration and Nationality Act and accompanying regulations.

13. Additionally, Petitioner's detention has become prolonged and thus violates her Due Process rights under the Fifth Amendment.

II. JURISDICTION AND VENUE

14. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq*. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner challenges the legality of her ongoing civil immigration

detention and seeks relief that is within the traditional scope of *habeas corpus*. Jurisdiction also lies under 28 U.S.C. § 1331, as this Petition raises federal questions arising under the Constitution, laws, and treaties of the United States. The Suspension Clause of the United States Constitution further guarantees Petitioner's right to seek *habeas corpus* review where no other adequate remedy exists.

15. The Court may grant relief under the *habeas corpus* statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651. Congress has preserved judicial review of challenges to immigration detention, including claims raising statutory and constitutional questions. *See*, e.g., *Nielsen v. Preap*, 139 S. Ct. 954, 961–62 (2019); *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (distinguishing reviewable legal and constitutional claims from unreviewable discretionary determinations under 8 U.S.C. § 1226(e)).

16. Federal district courts have jurisdiction to hear *habeas corpus* claims brought by noncitizens challenging the lawfulness of their immigration detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing *habeas* jurisdiction over challenges to immigration detention); *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001) (same). That jurisdiction extends to claims alleging that detention exceeds statutory authority, violates constitutional guarantees, or results from agency action that is arbitrary, capricious, or contrary to law.

17. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not bar this suit. Petitioner does not challenge a final order of removal, nor seeks class-wide relief. Detention-based habeas claims are not channeled by Section 1252(b)(9). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018). Section 1252(g) is narrowly construed and does not foreclose

review of unlawful custody. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999) (hereinafter also referred to as "*Reno v. AADC*"). Individual injunctive relief is not barred by Section 1252(f)(1). *See Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 2065–66 (2022).

18. Venue is proper in this District, and in the Columbus Division, because Petitioner is detained at the Stewart Detention Center in Lumpkin, GA, within this Court's jurisdiction, whereas Petitioner's detention is controlled by the Atlanta Field Office of ICE – Enforcement and Removal Operations.

III. REQUIREMENTS OF 28 U.S.C. § 2243

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

20. ***Habeas corpus* is "perhaps the most important writ known to the constitutional law … affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement."** *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. Immigr. Nationalities Svc.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

IV. PARTIES

21. Petitioner SAMRWIT DEBSSI is a citizen and national of Eritrea who has lived in the United States for nearly three years. *See* Ex. C, Notice to Appear. She was detained in the

Stewart Detention Center in Lumpkin, Georgia following her arrest in November 2025. She remains detained there. *See* Ex. A, Proof of Detention in ICE Custody. Petitioner currently has an appeal pending before the Board of Immigration Appeals. *See* Ex. B, EOIR Automated Case Information.

22. Respondent TODD BLANCHE is the Acting Attorney General ("Acting AG") of the United States. He is sued in his official capacity.

23. Respondent MARKWAYNE MULLIN is the Secretary of the U.S. Department of Homeland Security ("DHS"). He is sued in his official capacity.

24. Respondent DAVID J. VENTURELLA is the Acting Director of Immigration and Customs Enforcement ("ICE"), an executive branch agency within the Department of Homeland Security. He is sued in his official capacity.

25. Respondent DAREN K. MARGOLIN is the Director of the Executive Office for Immigration Review ("EOIR"), the component of the Department of Justice responsible for immigration court adjudications, including bond hearings for noncitizens in removal proceedings. He is sued in his official capacity because EOIR, through its Immigration Judges, exercises exclusive authority over the conduct and scheduling of bond hearings, and EOIR's refusal to provide Petitioner with a constitutionally adequate bond hearing is an underlying basis of the unlawful detention challenged in this habeas petition.

26. Respondent FIELD OFFICE DIRECTOR is the Director of the Atlanta Field Office of ICE – Enforcement and Removal Operations ("ERO"), which has jurisdiction over Petitioner. He or she is sued in their official capacity as Petitioner's local custodian and DHS's local decisionmaker.

27. Respondent JASON STREEVAL is the Warden of Stewart Detention Center. He is responsible for housing noncitizens from various regions of Georgia in ICE custody pending the completion of their removal proceedings. Stewart Detention Center is located at 146 CCA Road, P.O. Box 248, Lumpkin, GA 31815. Respondent is sued in his official capacity as Petitioner's immediate physical custodian as of the filing of this petition.

28. Respondents Mullin, Venturella, and Margolin who represent DHS, ICE, and EOIR are properly included herein as the executives of federal agencies within the meaning of the Administrative Procedure Act ("APA").

V. FACTUAL BACKGROUND

29. Petitioner (A [redacted]) is a native and citizen of Eritrea. She entered the United States without inspection or admission on or about September 16, 2023 and has resided in the United States since that time, nearly three years.

30. Petitioner was detained following an arrest in November 2025. She has been detained since that time and is being held at the Stewart Detention Center. *See* Ex. A, Proof of Detention in ICE Custody. Thus, she has now been detained for approximately 8 months.

31. On February 10, 2026, Petitioner was provided a bond hearing pursuant to the District Judge's order in prior habeas proceedings. *See* Ex. E, Previous Habeas Corpus Order; Ex. F, First Bond Decision. Petitioner's bond was denied based on danger to the community and flight risk. *See* Ex. F, First Bond Decision. In making this finding, the Immigration Judge relied heavily on Petitioner's then pending DUI criminal charge. *See id.* The judge also concluded that Petitioner was a flight risk because her primary address at the time was in California, but she visited Georgia to do business. *See id.*

32. On March 2, 2026, Petitioner's criminal charge and traffic violation charges were dropped by Dekalb County's district attorney. *See* Ex. G, Motion for Bond Redetermination; Ex. H, Exhibits in Support of Bond. Because Petitioner no longer had any criminal history, she filed a motion for a new bond hearing based on a change of circumstances. *See* Ex. G, Motion for Bond Redetermination.

33. On April 9, 2026, Petitioner was provided another bond hearing because the immigration judge agreed that there was a change of circumstances. *See* Ex. I, Second Bond Decision. However, the immigration judge again found Petitioner to be a danger and a flight risk. *See id.* The danger finding was based on the police report, despite the criminal charges being entirely dropped. *See id.* The flight risk finding was made despite proof of a sponsor in Georgia and proof that Petitioner intended to reside with that sponsor in Georgia permanently, as well as a pre-judgment of her application for relief as "speculative." *See id.*

34. Petitioner did not file an appeal of the bond decision because it would be futile and he would suffer irreparable harm.

35. Petitioner's removal proceedings remain pending. On April 13, 2026, an immigration judge issued a decision and order denying Petitioner's application for Asylum and Withholding of Removal. *See* Ex. B, EOIR Automated Case Information.

36. On April 17, 2026, Petitioner timely filed an appeal with the Board of Immigration Appeals, where it currently remains pending. *See* Ex. B, EOIR Automated Case Information.

37. Petitioner remains in the custody of Respondents and detained at the Stewart Detention Center as she has been for approximately eight months now. Her detention is expected to continue for as long as her appeal takes absent intervention from this Court.

VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES

38. Neither the INA nor the applicable federal habeas corpus statute requires administrative exhaustion for immigration detention-based claims. See 28 U.S.C. § 2241; see also Santiago-Lugo v. Warden, 785 F.3d 467, 474-75 (11th Cir. 2015) ("It is no longer the law of this circuit that exhaustion of administrative remedies is a jurisdictional requirement in a § 2241 proceeding.").

39. To the extent that this Court requires prudential exhaustion, such a requirement should be waived because administrative remedies are inadequate and exhaustion would be futile in this case.

40. The precedent decisions issued by the Board of Immigration Appeals under the Trump Administration indicates that it is futile to require prudential exhaustion in this case. A March 30, 2026 report issued by the National Public Radio found that last year, 97 percent of Board published decisions were in favor of the Department of Homeland Security.[1] On April 9, 2026, *The New York Times* reported that "The administration has instructed judges to stop granting bond to immigrants who crossed the border illegally, a change from decades of practice. The new policy has required people to remain in

[1] Ximena Bustillo, Rahul Mukherjee, "An Immigration Court Few Have Heard of is Quietly Shaping Policy Behind the Scenes," npr.org,
(Mar. 20, 2026)
https://www.npr.org/2026/03/20/nx-s1-5707535/trump-immigration-detention-appeals-board-deportation.

detention for extended periods even if they do not have a criminal record and have lived in the country for years."[2]

41. As such, it is futile to require Petitioner to appeal to the Board of Immigration Appeals and any requirement of prudential exhaustion should be waived. Further, Petitioner would suffer irreparable injury waiting for an appeal to be decided before the Board, which would likely take months if not years.

VII. CLAIMS FOR RELIEF

COUNT I – Violation of Administrative Procedure Act: Ongoing Detention Unauthorized Under *Matter of Patel*

42. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

43. In *Matter of Patel*, 15 I&N Dec. 666, 666–67 (BIA 1976), the Board of Immigration Appeals considered whether an immigration judge erred in releasing a noncitizen on a bond of $500 rather than releasing him on his own recognizance. In setting a bond of $500, judge relied upon the noncitizen having "overstayed his student visa" and the fact that "the visa petition of which he is the beneficiary was denied because he lacked a labor certification." *Id.* at 667.

44. The Board reversed and held that "[t]hese factors bear little if any relevance to the issue of whether or not the [noncitizen] is likely to appear for his deportation proceeding." *Id.* According to the Board, "[s]uch a broad interpretation of what constitutes an 'adverse factor' in this context could result in requiring a bond of almost every [noncitizen] who is

[2] Nicholas Nehamas, Allison McCann, Steven Rich, Jazmine Ulloa and Hamed Aleaziz, "How Trump Purged Immigration Judges to Speed Up Deportations," *The New York Times*, April 9, 2026 https://www.nytimes.com/2026/04/09/us/politics/trump-miller-immigration-judges-purge.html.

held in deportation proceedings." *Id.* Therefore, the Board ordered the release of the noncitizen on his own recognizance. *Id.*

45. *Matter of Patel* continues to be binding precedent. *See Matter of R-A-V-P-*, 27 I&N Dec. 803, 805 (BIA 2020) ("we have found that an [noncitizen] who had prior lawful status and a probable path to future lawful status, as well as immediate family members with whom he could continue to reside in the United States, did not present a flight risk"). *See Matter of Patel*, 15 I&N Dec. 666, 667 (BIA 1976)").

46. Immigration judges are required to follow precedent. 8 C.F.R. § 1003.1(g) ("decisions of the Board and decisions of the Attorney General are binding on all officers and employees of DHS or immigration judges in the administration of the immigration laws of the United States.").

47. The one exception to *Matter of Patel* is that the bond statute now requires the posting of a minimum bond of $1500 when a noncitizen is ordered released by the Attorney General. 8 U.S.C. § 1226(a)(2).

48. The immigration judge in the present case found that Petitioner was a flight risk during her second bond hearing because of "her limited time in the U.S..., lack of substantial family ties to the U.S.," lack of property ownership or assets, "limited time at address of record, and the speculative nature of her relief." *See* Ex. I, Second Bond Decision.

49. *Matter of Patel* dictates that *no bond* should have been required at all, let alone a finding that Petitioner was a flight risk of such a magnitude that no bond could be set to provide incentives for her continued appearance before the immigration court. *Matter of Patel*, 15 I&N Dec. 666, 667 (BIA 1976) ("it appears to us that no reasons have been given to justify holding the respondent under even a minimal bond.")

50. "[A]n individual's bond hearing fails to comport with due process where an Immigration Judge relies on considerations that would lead to an automatic denial of bond in all cases." *Lemus Crispin v. Bondi*, No. 1:26-CV-191 (LMB/WEF), 2026 WL 768859, at *5 (E.D. Va. Mar. 18, 2026).

51. Petitioner established that she is not a flight risk for purposes of 8 U.S.C. § 1226(a). She provided substantial documentation of this prior to the April 9, 2026 bond hearing. *See* Ex. H, Exhibits in Support of Bond. Despite the immigration judge's conclusions to the contrary, she does have close ties to the U.S. including her cousin who is a U.S. citizen and who agreed to be her sponsor and house Petitioner when and if she is released from custody. *Id.* At the first bond hearing, the immigration judge found that Petitioner was a flight risk because her cousin and sponsor was located in Georgia while Petitioner's home was in California. *See* Ex. G, Motion for Bond Redetermination; Ex. F, First Bond Decision. Since Petitioner has been in custody, she can no longer afford her home in California and made the judge aware at the second bond hearing that she intended to live with her cousin and sponsor in Georgia if released. *See* Ex. G, Motion for Bond Redetermination. Nevertheless, the immigration judge still faulted her for this new plan, stating that she has spent limited time at the address of record. *See* Ex. I, Second Bond Decision. Naturally, having been detained for eight months and having previously primarily resided in California, Petitioner has not spent much time at her cousin's house. This is not a reason to conclude she is a flight risk.

52. Additionally, Petitioner has lived in the United States for nearly three years. She has employment authorization and has been gainfully employed since obtaining that authorization. *See* Ex. G, Motion for Bond Redetermination; Ex. H, Exhibits in Support

of Bond. Petitioner timely filed her asylum application soon after entering the U.S. in 2023 and has been pursuing this form of relief ever since and has remained in compliance with immigration authorities. *See* Ex. D, Form I-589. Thus, her relatively short time in the U.S. has not hindered her from creating roots and pursuing avenues to regularize her status, making her anything but a flight risk.

53. Finally, the immigration judge concluded, without justification, that Petitioner's relief in immigration court was "speculative." *See* Ex. I, Second Bond Decision. This conclusion was made prior to any hearing on the merits and was an incorrect pre-judgment of Petitioner's case. Even now, after having been denied asylum by the immigration judge, Petitioner's relief is far from speculative as she has preserved her right to appeal and intends to make clear for the BIA why the immigration judge erred in her case. *See* Ex. B, EOIR Automated Case Information.

54. *Matter of Patel* dictates that Petitioner be released from custody without any showing of bond required at all, and the amended bond statute requires a minimum bond of $1500. 8 U.S.C. § 1226(a)(2). As such, the immigration judge was required to issue the minimum bond of $1500. Additionally, an immigration judge has the authority to release noncitizens under conditions of supervision to ensure their presence and the immigration judge apparently failed to consider this option at all.

COUNT II – Violation of Administrative Procedure Act: Abuse of Discretion in Failing to Properly Apply *Matter of Guerra*

55. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

56. The denial of release on bond is a final agency action where, as here, prudential exhaustion not required.

57. Under the Administrative Procedure Act, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

58. Immigration judges are required to follow precedent. 8 C.F.R. § 1003.1(g) ("decisions of the Board and decisions of the Attorney General are binding on all officers and employees of DHS or immigration judges in the administration of the immigration laws of the United States.").

59. The Board of Immigration Appeals' precedent decision in *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006) requires that the noncitizen demonstrate that he is not "a threat to national security, a danger to the community at large, likely to abscond, or otherwise a poor bail risk." *Id.*

60. The *Matter of Guerra* factors include any or all of the following:

(1) whether the [noncitizen] has a fixed address in the United States;

(2) the [noncitizen]'s length of residence in the United States;

(3) the [noncitizen]'s family ties in the United States, and whether they may entitle the [noncitizen] to reside permanently in the United States in the future;

(4) the [noncitizen]'s employment history;

(5) the [noncitizen]'s record of appearance in court;

(6) the [noncitizen]'s criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses;

(7) the [noncitizen]'s history of immigration violations;

(8) any attempts by the [noncitizen] to flee prosecution or otherwise escape from authorities; and

(9) the [noncitizen]'s manner of entry to the United States.

Matter of Guerra, 24 I&N Dec. 37, 40 (BIA 2006).

61. The immigration judge failed to apply the full set of *Matter of Guerra* factors, nor were they applied correctly.

62. As stated above, Petitioner has a fixed address with her U.S. citizen cousin in Georgia The change to this address from her prior fixed address in California arose out of necessity as she can no longer afford her California home since she has been detained and not working for eight months.

63. Petitioner has resided in the United States for nearly three years, has worked, has no prior immigration violations with the exception of her unlawful entry, and has not attempted to escape authorities. She has been pursuing her asylum claim in immigration court since shortly after she entered the U.S.

64. *Matter of Guerra* additionally authorizes an immigration judge to consider a noncitizen's criminal history. *Id.* Significantly, during her second bond hearing, Petitioner no longer had a criminal record because the district attorney declined to file any charges. *See* Ex. H, Exhibits in Support of Bond. Despite this, the immigration judge went beyond the conviction record, or lack thereof, and essentially made their own determination that Petitioner was guilty of the conduct alleged in the police report and thus a danger to the community. *See* Ex. I, Second Bond Decision. This was error on the immigration judge's part. Petitioner has no criminal convictions, let alone charges. Even if Petitioner had been convicted and sentenced to a term of imprisonment, her sentence would likely already have been served or would be nearly over if sentenced to the absolute maximum under O.C.G.A. §§ 40-6-391(a)(1), (c)(1).

65. The finding that Petitioner was a flight risk and danger such that **no** bond amount will secure her appearance at future immigration court hearings or mitigate her danger to the community is an abuse of discretion considering the *Matter of Guerra* factors.

COUNT III – Violation of Administrative Procedure Act: Abuse of Discretion in Failing to Set Reasonable Bond Amount or Other Reasonable Conditions of Release

66. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

67. The denial of release on bond is a final agency action where, as here, prudential exhaustion not required.

68. Under the Administrative Procedure Act, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

69. The immigration judge was required to set a reasonable bond amount to address any concerns that Petitioner is a flight risk, unless no bond amount would secure attendance in removal proceedings. *See e.g. Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 807 (BIA 2020) (finding no amount of bond would secure attendance where the noncitizen had limited avenue for relief and minimal ties to the United States).

70. As Petitioner has valid avenues for relief and has established ties to the United States, the immigration judge was required to set a reasonable bond.

COUNT IV – Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution

71. Petitioner incorporates by reference the above factual allegations and re-asserts them as though fully stated herein.

72. The Fifth Amendment of the U.S. Constitution affords due process protections to detained noncitizens. *See Demore v. Kim*, 538 U.S. 510, 523 (2003). These due process protections constrain the government's detention authority. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" which due process protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)

73. 8 U.S.C. § 1225(b)(1) and (b)(2) "authorizes the Government to detain certain [noncitizens] seeking admission into the country." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). The INA provides for mandatory detention for such individuals—i.e., they are not entitled to a bond hearing before an immigration judge to determine whether they pose a danger or risk of flight.

74. Under 8 U.S.C. § 1226(a), the INA allows for the detention noncitizens "already in the country pending outcome of removal proceedings." *Jennings*, 583 U.S. at 289. In contrast to § 1225, individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention and in the event of changed circumstances.

75. Regardless of the statutory detention authority, the Supreme Court has held that the Fifth Amendment's guarantee of due process applies to all persons physically within the United States, "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)

76. To comport with due process, detention must "bear [a] reasonable relation to the purpose for which the individual [was] committed." *Id.* (quoting *Jackson v. Indiana*, 406 U.S.

715, 738 (1972)). Due process thus requires "adequate procedural protections" to ensure that the government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* (internal quotations omitted).

77. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other justification.

78. Where the government detains a noncitizen for a prolonged period in civil immigration detention, due process requires an individualized hearing before a neutral decisionmaker to determine whether detention remains reasonably related to its purpose. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (stating that an "individualized determination as to [a noncitizen's] risk of flight and dangerousness" may be warranted "if the continued detention became unreasonable or unjustified"); *see also Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the "initial commitment" requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) (noting that "lesser safeguards may be appropriate" for "short-term confinement"); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (observing, in Eighth Amendment context, that "the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards"); *United States v. Hare*, 873 F.2d 796, 801 (5th Cir. 1989) ("the due-process limit on the duration of preventive detention [under the Bail Reform Act] requires assessment on a case-by-case basis").

79. While the Supreme Court has facially upheld the mandatory detention of noncitizens under 8 U.S.C. § 1226(c), concerning noncitizens with certain criminal convictions, it did so based on the petitioner's concession of deportability and the Court's understanding at the time that such detentions are typically "brief." *Demore*, 538 U.S. at 522 n.6, 528. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court held that as a matter of statutory interpretation, 8 U.S.C. § 1225 does not require the government to provide *automatic* bond hearings at six months of detention. However, the Court did not reach the constitutional question of whether the Due Process Clause requires an opportunity to obtain a bond hearing once detention becomes prolonged in an individual's case.

80. Since the Supreme Court's *Jennings* decision, courts across the country, including those within this Circuit, have held that immigration detention under § 1225 can violate due process when it comes unreasonably prolonged.

81. As outlined more extensively above, in the present case, the immigration judge purportedly decided to continue Petitioner's detention based on the two available justifications—flight risk and dangerousness. *See* Counts I-III, *supra*. However, the immigration judge erred in making these determinations based on BIA precedent. *See id.*

82. Petitioner remains detained and has been detained for approximately eight months. Her detention has thus become prolonged and violates the Due Process Clause of the Fifth Amendment.

VIII. REQUEST FOR INJUNCTIVE RELIEF

83. Petitioner respectfully requests that this Court grant injunctive relief directing Respondents to release her under reasonable conditions of supervision or parole. Or, in the alternative, be released on a bond of $1500 or be provided a new bond hearing.

Petitioner will also request preliminary injunctive relief and a Temporary Restraining Order in a separate filing, which is forthcoming.

IX. PRAYER FOR RELIEF

84. For the above reasons, Petitioner respectfully requests that this Court take the following actions:

a. Assume jurisdiction over this matter;

b. Declare that the Immigration Judge's bond denial violated due process and was an abuse of discretion;

c. Issue a writ of habeas corpus requiring that Respondents release Petitioner;

d. Enjoin Respondents from re-detaining Petitioner unless her re-detention is ordered at a custody hearing before a neutral arbiter in which she is determined to be a flight risk or danger to the community in compliance with governing law and due process;

e. Alternatively, order that Petitioner be released on a bond of $1500;

f. Alternatively, order that Petitioner be afforded a new bond hearing before an Immigration Judge that complies with governing law and due process;

g. Grant permanent injunctive relief as appropriate;

h. Award Petitioner reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 552(a)(4)(E), and any other applicable provision of law; and

i. Grant such other relief as this Court deems just and proper.

DATE: July 29, 2026

Respectfully submitted,

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COUNSEL FOR PETITIONER
PRO HAC VICE FORTHCOMING

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that on this day, I served a true and correct copy of the above and foregoing PETITIONER'S ORIGINAL VERIFIED PETITION FOR WRIT OF HABEAS CORPUS together with all attachments thereto, on the Respondents by Certified Mail, and that a copy was also submitted through the Court's CM/ECF electronic filing system.

DATE: July 29, 2026

/s/Tracie L. Morgan
TRACIE L. MORGAN