UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

MOEENUDDIN ANSARI,

Petitioner,

v.

DENNIS SULLIVAN,
in his official capacity as Warden / Executive Director, Corrections Center of Northwest Ohio;

KEVIN RAYCRAFT,
in his official capacity as Director, Detroit Field Office, U.S. Immigration and Customs Enforcement;

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

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

Respondents.

Civil Action No. 3:26-cv-2499

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

Petitioner Moeenuddin Ansari, by and through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and, in support, alleges as follows:

INTRODUCTION

1. Petitioner Moeenuddin Ansari is a citizen and national of Afghanistan who has been held in civil immigration detention continuously since January 26, 2026—240 days as of

September 23, 2026—without ever receiving a bond hearing or any other individualized custody determination before a neutral decisionmaker. He was detained at the Buffalo Federal Detention Facility in Batavia, New York, for more than seven months and, in early September 2026, was transferred by U.S. Immigration and Customs Enforcement ("ICE") to the Corrections Center of Northwest Ohio ("CCNO") in Stryker, Williams County, Ohio, where he is currently confined. Ex. B.

2. The U.S. Department of Homeland Security ("DHS") itself previously determined that Mr. Ansari need not be detained. On January 30, 2025, DHS paroled Mr. Ansari from detention pursuant to 8 U.S.C. § 1182(d)(5)(A). DHS's written "Interim Notice Authorizing Parole" stated that Mr. Ansari's "parole authorization is valid for one year beginning from the date on this notice." Ex. A.

3. Mr. Ansari complied with his parole. He resided in Boston, Massachusetts, with his wife, submitted an asylum application, and has never been arrested for, charged with, or convicted of any crime.

4. On the evening of January 26, 2026, Mr. Ansari went out to pick up food from a restaurant for his wife, who was pregnant, while visiting relatives in Buffalo, New York. A road closure forced the vehicle in which he was traveling to turn around near the U.S.-Canada border. A U.S. Customs and Border Protection ("CBP") officer noticed the vehicle's Massachusetts license plates and stopped the vehicle to check its occupants' immigration statuses. Mr. Ansari's brother, who holds valid J-1 nonimmigrant status, was questioned and released; Mr. Ansari was detained. Upon information and belief, DHS never served Mr. Ansari with written notice terminating his parole before it re-detained him.

5. DHS placed Mr. Ansari in removal proceedings under 8 U.S.C. § 1229a, issuing a

Notice to Appear on February 5, 2026. On April 30, 2026, an immigration judge denied Mr. Ansari's applications for asylum, withholding of removal, and protection under the Convention Against Torture, and ordered him removed to Afghanistan. On May 25, 2026—within the June 1, 2026 deadline the immigration judge set—Mr. Ansari filed a timely appeal to the Board of Immigration Appeals ("BIA"). That appeal remains pending and the parties' appeal briefs are due on October 13, 2026. *See* Ex. C. His removal is automatically stayed while the appeal is pending. 8 C.F.R. § 1003.6(a).

6. Because Mr. Ansari's timely administrative appeal remains pending, he has not yet received a final order of removal. *See* 8 U.S.C. § 1101(a)(47)(B); 8 C.F.R. § 1241.1(a). His "removal period" under 8 U.S.C. § 1231 has accordingly not begun and his detention is governed by the authority that applies "pending a decision on whether [he] is to be removed from the United States": 8 U.S.C. § 1226(a). *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021). The majority of appellate courts to have construed the interplay of 8 U.S.C. § 1225(b)(2)(A)—the only possible other statute of detention—and 1226(a), including the Sixth Circuit, have found that noncitizens are held under Section 1226(a) if they have been detained within the U.S.-interior, at a time when they are not actively seeking admission into the United States. *See Lopez-Campos v. Raycraft*, 175 F.4th 713, 732 (6th Cir. 2026). Judges within this district have similarly found that noncitizens like Mr. Ansari, who are detained within the U.S.-interior independent of a valid parole revocation are held under 8 U.S.C. § 1226(a) and may be due additional process. *See, e.g., Ontiveros v. Warden Corr. Ctr. of NW Ohio*, No. 26-cv-632, 2026 WL 1109422, at *5–6 (N.D. Ohio Apr. 24, 2026) (paroled noncitizen re-detained by ICE was detained under § 1226(a)); *Dornveil v. Noem*, No. 25-cv-1809, 2026 WL 539116, at *6–9 (N.D. Ohio Feb. 26, 2026) (detainee paroled into the United States had protected liberty interest that could not be revoked without due process).

7. Respondents nonetheless treat Mr. Ansari as subject to mandatory, bond-ineligible detention under 8 U.S.C. § 1225(b)(2)(A), consistent with DHS's July 8, 2025 "Interim Guidance Regarding Detention Authority for Applicants for Admission" and the Board's decisions in *Matter of Q. Li*, 28 I. & N. Dec. 830 (BIA 2024), and *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

8. Whatever the statutory label, the constitutional defect is independent and dispositive: more than seven months of civil confinement—imposed on a man DHS itself once released, who has no criminal history, and whose detention has no fixed endpoint while his BIA appeal has not even yet been briefed, let alone decided—without any hearing at which any neutral decisionmaker has ever asked whether his detention serves any purpose. The Due Process Clause of the Fifth Amendment does not permit that significant deprivation. *See Zadvydas v. Davis*, 533 U.S. 678 (2001); *Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003), *abrogated in part on statutory grounds by Jennings v. Rodriguez*, 583 U.S. 281 (2018).

9. Respondents' detention of Mr. Ansari under Section 1226(a) is moreover unlawful given that they took him into detention without a valid administrative arrest warrant. Immigration officials may conduct warrantless arrests only when they have "reason to believe that the [noncitizen] so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2); *see also* 8 C.F.R. § 287.8(c)(2)(ii). Mr. Ansari did not pose any immediate escape risks, meaning the CBP officer's warrantless arrest of him was improper.

10. Mr. Ansari previously sought habeas relief in the Western District of New York shortly after his re-detention. That case, *Ansari v. Rhoney*, No. 1:26-cv-00356-JLS (W.D.N.Y.), was dismissed on June 1, 2026. Mr. Ansari discloses that proceeding fully below and explains why

it does not bar the claims presented here, which rest principally on his continued—and now prolonged—detention and on events postdating the earlier petition and judgment.

11. In early September 2026, as renewed habeas litigation in the Western District of New York was being prepared on Mr. Ansari's behalf, ICE transferred Mr. Ansari from Batavia to CCNO—out of New York and away from his family. In the same week, Mr. Ansari's wife gave birth to the couple's first child. Mr. Ansari was in a detention cell, hundreds of miles away, when his child was born.

12. Mr. Ansari respectfully asks this Court to issue the writ and order his release or, in the alternative, to order Respondents to provide him, within fourteen days, an individualized bond hearing before a neutral decisionmaker at which the government bears the burden of justifying his continued detention by clear and convincing evidence, with consideration of his ability to pay and of alternatives to detention.

JURISDICTION

13. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241(c)(1) and (c)(3), because Mr. Ansari is "in custody under or by color of the authority of the United States" and "in custody in violation of the Constitution or laws or treaties of the United States"; under 28 U.S.C. § 1331; and under the Suspension Clause, U.S. Const. art. I, § 9, cl. 2. *See INS v. St. Cyr*, 533 U.S. 289, 305 (2001).

14. Mr. Ansari is detained at CCNO in Stryker, Ohio, within this District, at Respondents' direction and in their immediate custody. *See Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003).

15. This Petition challenges only the lawfulness of Mr. Ansari's civil detention and the absence of constitutionally and statutorily required procedures. It does not challenge his removal order, seek review of any order of removal, or ask this Court to adjudicate his entitlement to

asylum, withholding of removal, or protection under the Convention Against Torture; those matters remain before the BIA.

16. No jurisdictional-limiting provision of the INA bars this action. Section 1226(e) shields discretionary, case-specific custody determinations from review; it does not bar constitutional claims or challenges to the statutory framework governing detention. *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Jennings v. Rodriguez*, 583 U.S. 281, 295 (2018). Sections 1252(a)(5), 1252(b)(9), and 1252(g) channel review of removal orders and certain enforcement decisions to the courts of appeals; they do not bar habeas challenges to the legality of detention. *Jennings*, 583 U.S. at 293-95.

VENUE

17. Venue is proper in the Northern District of Ohio because Mr. Ansari is confined within the District and his immediate custodian is located here. *See Braden v. 30th Judicial Circuit Court of Ky.*, 410 U.S. 484, 493-94 (1973); 28 U.S.C. § 1391(e). CCNO is located in Williams County, Ohio, and this case is accordingly properly assigned to the Western Division at Toledo.

18. Mr. Ansari discloses the prior, terminated habeas action in the Western District of New York, *Ansari v. Rhoney*, No. 1:26-cv-00356-JLS, on the civil cover sheet and below.

PARTIES

19. Petitioner Moeenuddin Ansari is a native and citizen of Afghanistan. He entered the United States in January 2025, was paroled by ICE, and resided in Boston, Massachusetts, until his re-detention on January 26, 2026. He is presently confined at the CCNO Ohio in Stryker, Williams County, Ohio.

20. Respondent Dennis Sullivan is the Warden/Executive Director of CCNO, the facility with immediate physical custody of Mr. Ansari, and is his immediate custodian and the core respondent. *See Roman*, 340 F.3d at 320–21. Warden Sullivan is sued in his official capacity.

21. Respondent Kevin Raycraft is the Director of the Detroit Field Office of ICE Enforcement and Removal Operations, which exercises administrative authority over ICE detainees held in Ohio, including Mr. Ansari, and possesses authority to release him. Director Raycraft is sued in his official capacity.

22. Respondent Markwayne Mullin is the Secretary of Homeland Security, with ultimate responsibility for administration of the immigration laws and the detention of noncitizens by DHS. Secretary Mullins is sued in his official capacity.

23. Respondent Todd Blanche is the Attorney General of the United States, joined because detention pending removal proceedings is committed by statute in part to the Attorney General, 8 U.S.C. § 1226(a), and because the Executive Office for Immigration Review, whose immigration judges would conduct the custody hearing sought here, sits within the Department of Justice. Attorney General Blanche is sued in his official capacity.

24. The supervisory Respondents are named to permit complete relief. Mr. Ansari recognizes that the immediate custodian is the essential habeas respondent. *Padilla*, 542 U.S. at 434–36.

THE PRIOR FEDERAL HABEAS PROCEEDING AND THE SEPTEMBER 2026 TRANSFER

25. Mr. Ansari previously petitioned for habeas relief in the United States District Court for the Western District of New York. *See Ansari v. Rhoney*, No. 1:26-cv-00356-JLS (W.D.N.Y.) (Sinatra, J.). Ex. D (docket sheet).

26. Through prior counsel, Mr. Ansari filed an emergency petition under 28 U.S.C. § 2241 on February 27, 2026—one month after his re-detention and before any removal order existed. The petition attached his Form I-213, the Interim Notice Authorizing Parole, his Form I-589, and a USCIS case-closing notice.

27. The respondents moved to dismiss on March 13, 2026, invoking both lack of jurisdiction and failure to state a claim; Mr. Ansari opposed. On April 30, 2026, the court directed status reports addressing the Second Circuit's then two-day-old decision in *Barbosa da Cunha v. Freden*; 175 F.4th 61 (2d Cir. 2026), the respondents argued the decision was inapplicable, and Mr. Ansari argued it compelled relief. On June 1, 2026, the court entered a Decision and Order granting the motion to dismiss, and the Clerk entered judgment. *See* Ex. D.

28. Upon information and belief, no appeal was taken from the June 1, 2026 judgment, and the time to appeal has expired. Fed. R. App. P. 4(a)(1)(B).

29. Mr. Ansari remained detained at Batavia. In August 2026, his commissary account was cut off. In early September 2026, as renewed habeas litigation in the Western District of New York was being prepared on Mr. Ansari's behalf, ICE transferred Mr. Ansari to CCNO, in this District. The transfer moved Mr. Ansari out of the State of New York and away from his family in Massachusetts.

30. The prior judgment does not bar this Petition, for the following reasons.

31. *First*, the core claims presented here arise from facts that did not exist—and could not have been litigated—when the first petition was filed and decided. The first petition was filed one month into Mr. Ansari's detention and was dismissed at roughly the four-month mark, before briefing had even begun on his BIA appeal. The claims here rest on more than seven months of continuing detention without any custody hearing, on the April 30, 2026 removal order, on the still-pending BIA appeal, on more than three additional months of detention accruing after the prior judgment itself, and on his September 2026 transfer to this District. A due process challenge to prolonged detention accrues, and strengthens, with the passage of time in custody; claim preclusion does not reach claims arising from events postdating the earlier action.

32. *Second*, to the extent the June 1 dismissal rested on lack of jurisdiction, it was not an adjudication on the merits and can preclude, at most, relitigation of the precise jurisdictional issue decided. *Costello v. United States*, 365 U.S. 265, 285-86 (1961).

33. *Third*, res judicata has never applied to habeas corpus with its ordinary civil force. Successive-petition concerns are governed instead by equitable, abuse-of-the-writ principles, which do not bar a diligently filed petition presenting claims grounded in materially changed circumstances. *Sanders v. United States*, 373 U.S. 1, 7–8 (1963); *McCleskey v. Zant*, 499 U.S. 467, 489 (1991). The statutory gatekeeping restrictions on "second or successive" petitions, 28 U.S.C. § 2244(b), govern petitions under 28 U.S.C. § 2254 and motions under 28 U.S.C. § 2255, not a § 2241 petition challenging civil immigration detention; and 28 U.S.C. § 2244(a) addresses detention "pursuant to a judgment of a court of the United States," which immigration detention is not. Even where courts have applied successive-petition principles to § 2241 filings, those principles do not reach claims that rest on events postdating the prior petition.

34. *Fourth*, to the extent the Western District of New York's decision can have any binding effect, that effect extends only to the issues the court necessarily decided. And because the court applied the Second Circuit's caselaw, which differs from law from this Circuit's, this Court should decide Mr. Ansari's claims using the Sixth Circuit's guidance.

35. Finally, Respondents — not Mr. Ansari — selected this forum. Having transferred Mr. Ansari to Ohio on the eve of renewed litigation, they cannot be heard to complain that he seeks relief from the courts of the district in which they chose to confine him.

THE NEED FOR PROMPT ADJUDICATION AND FOR PRESERVATION OF THE STATUS QUO

36. Every additional day of unlawful detention is irreparable. The habeas statute directs that the writ, or an order to show cause, issue "forthwith," and contemplates a return within days.

28 U.S.C. § 2243. Mr. Ansari respectfully requests that the Court order Respondents to show cause on an expedited schedule and adjudicate this Petition promptly. The equities are acute: his first child was born in early September 2026 while he sat in detention, his mental health is reportedly deteriorating, and his family's resources are exhausted.

37. Mr. Ansari further requests that the Court order that Respondents not transfer him outside this District during the pendency of this action without prior leave of Court. That request has a concrete factual basis: ICE has already transferred Mr. Ansari once — from Batavia to this District, in early September 2026, as renewed habeas litigation was being prepared on his behalf and shortly after his commissary account was cut off. A further transfer would burden Mr. Ansari's access to counsel and this Court's ability to grant effective relief. In any event, habeas jurisdiction attaches upon filing and is not defeated by a subsequent transfer. *Ex parte Endo*, 323 U.S. 283, 304-07 (1944); *Padilla*, 542 U.S. at 440-41.

STATUTORY AND REGULATORY FRAMEWORK

38. Three statutes principally govern immigration detention. Section 1226 of Title 8 governs arrest and detention "pending a decision on whether the alien is to be removed from the United States," with a default of discretionary detention and release on bond or conditional parole, 8 U.S.C. § 1226(a), and an exception mandating detention for certain noncitizens with qualifying criminal history, *id.* § 1226(c). Section 1225(b) governs the inspection and screening of "applicant[s] for admission," directing that where "the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a." *Id.* § 1225(b)(2)(A). Section 1231 governs detention during and after the "removal period," which begins only when a removal order becomes administratively final. *Id.* § 1231(a)(1)(B)(i).

39. A removal order becomes administratively final only upon the BIA's determination

of a timely appeal or the expiration of the period to seek Board review. 8 U.S.C. § 1101(a)(47)(B); 8 C.F.R. § 1241.1(a). Because Mr. Ansari's timely BIA appeal remains pending, his removal order is not administratively final, the removal period has not begun, and § 1231 supplies no authority for his detention. *Johnson v. Guzman Chavez*, 594 U.S. 523, 529-30 (2021). Section 1226(c) likewise does not apply: Mr. Ansari has no criminal history of any kind. The question is whether his present detention is governed by § 1226(a), with its attendant right to an individualized custody determination and immigration-judge redetermination, 8 U.S.C. § 1226(a)(2); 8 C.F.R. §§ 236.1(d), 1236.1(d), 1003.19, or by § 1225(b)(2)(A), which the Government construes to mandate detention with no bond eligibility at all.

40. For nearly three decades following the enactment of the current detention provisions in 1996, DHS and the Executive Office for Immigration Review treated noncitizens residing in the United States who were charged as inadmissible as detained under § 1226(a) when arrested in the interior, and as eligible for bond and bond redetermination. *See* Inspection and Expedited Removal of Aliens, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) (persons "present without having been admitted or paroled . . . will be eligible for bond and bond redetermination").

41. On July 8, 2025, DHS issued interim guidance directing ICE to treat all such persons as subject to mandatory detention under § 1225(b)(2)(A), and the Board adopted the same position in *Matter of Q. Li*, 28 I. & N. Dec. 830 (BIA 2024), and *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), holding that immigration judges lack authority even to consider bond for persons so classified.

42. Joining the majority of the federal courts of appeals, the Sixth Circuit rejected the government's position in *Lopez-Campos*. *See* 175 F.4th at 732. It assessed the text of the statutes and explained that noncitizens must be actively "seeking admission or lawful entry into the United

States" at the time of detention to trigger 8 U.S.C. § 1225(b)(2)(A). *Id.* Noncitizens detained within the U.S.-interior may be "applicants for admission" because they have not yet effectuated an immigration admission into the country, but they are not "seeking admission" and subject to mandatory detention. *Id.*

43. Separately, parole under 8 U.S.C. § 1182(d)(5)(A) is governed by 8 C.F.R. § 212.5. Apart from automatic termination upon departure or upon expiration of the period for which parole was authorized, the regulation provides that parole is terminated "upon written notice to the [noncitizen]" when an authorized official determines that the purposes of parole have been served or that termination is otherwise warranted. 8 C.F.R. § 212.5(e). An agency is bound to follow its own regulations to revoke parole. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265-67 (1954).

FACTUAL ALLEGATIONS

Entry, Border Custody, and Parole (January 2025)

44. Mr. Ansari fled Afghanistan and entered the United States at or near the U.S.-Mexico border on or about January 11, 2025.

45. DHS apprehended Mr. Ansari at or near the border and detained him for approximately one to two weeks.

46. On January 30, 2025, ICE exercised its discretion to release Mr. Ansari on parole under INA § 212(d)(5)(A), serving him in person with a written "Interim Notice Authorizing Parole." Ex. A.

47. The Interim Notice states that ICE "has decided to parole [Mr. Ansari] from its custody pursuant to its authority under section 212(d)(5)(A) of the Immigration and Nationality Act," and that the notice "is being issued . . . in lieu of Form I-94, Arrival-Departure Record, see 8 C.F.R. § 235.1(h)(2)." Ex. A.

48. As to duration, the Interim Notice provides: "Your parole authorization is valid for one year beginning from the date on this notice and will automatically terminate upon your departure or removal from the United States or at the end of the one-year period unless ICE provides you with an extension at its discretion." Ex. A. It further provides that "ICE may also terminate parole on notice prior to the automatic termination date," and that parole "can be terminated at any time and for any reason." *Id.* A handwritten notation on the notice reads "Jan 30, 2026." *Id.*

49. The Interim Notice conditioned parole on compliance with its terms, including notifying ICE and the immigration judge of any address change, reporting "for every scheduled hearing before the immigration court and every appointment as directed by ICE," and not violating "any local, State or Federal laws or ordinances." Ex. A.

50. By its terms, Mr. Ansari's parole authorization therefore remained valid until on or about January 30, 2026, unless ICE terminated it earlier "on notice."

Nearly a Year at Liberty in Compliance with Parole

51. Following his release, Mr. Ansari resided in Boston, Massachusetts, with his wife.

52. With the assistance of Project ANAR, a nonprofit serving Afghan asylum seekers, Mr. Ansari applied for asylum by filing a Form I-589 with U.S. Citizenship and Immigration Services ("USCIS"). USCIS closed the application on procedural, jurisdictional grounds without adjudicating its merits.

53. Mr. Ansari has never been arrested for, charged with, or convicted of any crime, and has no citations, pleas, or other history with law enforcement apart from immigration enforcement.

54. Counsel is aware of nothing in the record indicating that Mr. Ansari violated any condition of his parole.

The January 26, 2026 Stop and Re-Detention

55. In January 2026, Mr. Ansari traveled with family members, including his brother, to Buffalo, New York, to visit relatives.

56. On the evening of January 26, 2026, Mr. Ansari went out to pick up food from a restaurant for his wife, who was pregnant. A road closure forced the vehicle in which he was traveling to turn around near the border. A CBP officer, having noticed the vehicle's Massachusetts license plates, stopped the vehicle to check its occupants' immigration status.

57. The officer reviewed identification documents and took Mr. Ansari and his brother to a Border Patrol office. The officer released Mr. Ansari's brother, who holds valid J-1 nonimmigrant status. The officer detained Mr. Ansari. On information and belief, the CBP officer did not have an administrative warrant for Mr. Ansari's arrest.

58. January 26, 2026 was four days before the stated expiration of Mr. Ansari's one-year parole authorization.

59. On information and belief, DHS did not serve Mr. Ansari with written notice of parole termination before or at the time of the January 26, 2026 arrest, and no such notice appears in the records available to counsel.

60. ICE booked Mr. Ansari into the Buffalo (Batavia) Federal Detention Facility in Batavia, New York.

61. The Notice to Appear that DHS later issued charged Mr. Ansari as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as a noncitizen "present in the United States without being admitted or paroled." Mr. Ansari does not contend that the charge itself establishes what his status was on January 26, 2026; the charge speaks to his status in the ensuing removal proceedings, after the parole period had lapsed. The material point is different: on the day ICE seized him, his year-long parole authorization was, by its own terms, still in force.

Removal Proceedings and the April 30, 2026 Order

62. Mr. Ansari appeared before the Batavia Immigration Court for removal proceedings. The immigration court held master calendar hearings on February 18, March 3, March 11, and March 25, 2026. In early March 2026, an application and motion for voluntary departure were filed and withdrawn, and a motion to substitute counsel was granted, after which attorney Mark Urbanski entered his appearance for Mr. Ansari.

63. Mr. Ansari applied for asylum, withholding of removal under 8 U.S.C. § 1231(b)(3), and withholding and deferral of removal under the regulations implementing the Convention Against Torture.

64. On April 30, 2026, Immigration Judge Mary C. Baumgarten conducted an individual merits hearing at the Batavia Immigration Court and entered an oral decision the same day; both parties waived a formal oral decision, and the court issued a written summary order.

65. The summary order reflects that the immigration judge found Mr. Ansari inadmissible as charged; denied asylum, withholding of removal under 8 U.S.C. § 1231(b)(3), and withholding and deferral of removal under the Convention Against Torture; and ordered him removed to Afghanistan. DHS waived appeal; Mr. Ansari reserved appeal; and the immigration judge set an appeal deadline of June 1, 2026. The decision was served electronically on Mr. Ansari's counsel of record on May 1, 2026.

The Timely, Pending BIA Appeal

66. On May 25, 2026 — within the deadline — Mr. Ansari, through counsel, filed a Notice of Appeal with the BIA, together with a Form EOIR-27 notice of entry of appearance.

67. EOIR's Automated Case Information system confirms that a "case appeal was received on May 25, 2026" and "is currently pending." Ex. C. His appeal brief is due on October 13, 2026.

68. While the appeal remains pending, Mr. Ansari's removal is automatically stayed, 8 C.F.R. § 1003.6(a), and his removal order is not administratively final, 8 U.S.C. § 1101(a)(47)(B); 8 C.F.R. § 1241.1(a).

69. Mr. Ansari's appeal is a good-faith exercise of his right to administrative review of the denial of asylum and of protection against removal to Afghanistan.

The September 2026 Transfer to Ohio

70. Mr. Ansari remained detained at Batavia through late August 2026.

71. In early September 2026, ICE transferred Mr. Ansari from Batavia to CCNO in Stryker, Ohio, where he is now confined. The transfer occurred as renewed habeas litigation in the Western District of New York was being prepared on his behalf.

72. The transfer moved Mr. Ansari roughly 300 miles farther from his wife, newborn child, and family.

Prolonged, Continuing Detention Without Any Custody Hearing

73. Mr. Ansari has now been detained continuously since January 26, 2026 — 240 days as of September 23, 2026.

74. At no point in that period — not at the outset of his detention, not upon issuance of the NTA, not during three months of removal proceedings, not during the months his BIA appeal has been pending, and not upon his transfer to this District — has any neutral decisionmaker held a hearing to determine whether Mr. Ansari's detention is justified by flight risk, danger, or any other consideration.

75. On information and belief, Mr. Ansari has never received a custody redetermination before an immigration judge, and no DHS custody review has resulted in his release.

76. There is no fixed or predictable end to Mr. Ansari's detention. Briefing before the BIA has not begun; adjudication of the appeal will take months; and either outcome — a remand,

or an affirmance followed by a petition for review with a request for a stay of removal — portends further protracted proceedings during which Respondents can be expected to maintain custody absent judicial intervention.

77. Detention has inflicted escalating harm on Mr. Ansari and his family. In early [redacted] his wife gave birth to the couple's first child. Mr. Ansari was in detention — newly transferred to Ohio — when his child was born, and he has never held his child. His parents are elderly. His family reports that his mental health has deteriorated significantly in detention.

78. The family's resources are exhausted. To pay for immigration counsel, the family sold its car; it can no longer afford to retain counsel for the administrative proceedings.

79. DHS itself determined in January 2025 that Mr. Ansari's detention was unnecessary, and it released him on parole. He complied with that release for nearly a year. Nothing about Mr. Ansari changed on January 26, 2026, except the Government's enforcement posture.

THE STATUTE GOVERNING MR. ANSARI'S PRESENT DETENTION

80. Identifying the statute that presently authorizes Mr. Ansari's detention matters: it determines whether he is entitled to an individualized custody determination as of right, which party bears what burden, and the framework for the constitutional analysis.

81. *Section 1231 does not apply.* The removal period has not begun because Mr. Ansari's timely BIA appeal remains pending. 8 U.S.C. §§ 1101(a)(47)(B), 1231(a)(1)(B)(i); 8 C.F.R. § 1241.1(a); *Guzman Chavez*, 594 U.S. at 529-30. An immigration judge's order under active, timely administrative appeal is not administratively final for detention purposes, and Mr. Ansari is not a "post-order" detainee.

82. *Section 1226(c) does not apply.* Mr. Ansari has no criminal history and is charged with no criminal ground of inadmissibility.

83. *Section 1226(a) governs.* Section 1226(a) is the default authority for detention "pending a decision on whether the alien is to be removed from the United States." Mr. Ansari is precisely such a person: he is detained while removal proceedings commenced by NTA under 8 U.S.C. § 1229a run their course through timely administrative appeal. He was arrested in the interior of the United States — in a vehicle stop on a public road in Buffalo — a year after his entry and his release from border custody, not "detained for a proceeding" by an "examining immigration officer" in the course of inspection. 8 U.S.C. § 1225(b)(2)(A). He was not "seeking admission" at the time of that detention. *Lopez-Campos*, 175 F.4th at 732.

84. Mr. Ansari's parole history reinforces the conclusion. DHS inspected and processed him at the border in January 2025 and chose not to detain him for proceedings; it paroled him into the community for one year under § 1182(d)(5)(A). When DHS later decided to pursue removal, it did not resume an interrupted inspection; it arrested him on a public road and commenced ordinary 8 U.S.C. § 1229a removal proceedings by Notice to Appear. Detention pending those proceedings is § 1226 detention.

85. The statutory direction that, upon a lawful termination of parole, a parolee "shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission," 8 U.S.C. § 1182(d)(5)(A), does not aid the Government here, for two reasons. *First*, that provision presupposes a termination of parole effected in the manner the law requires; as alleged above and in Count III, no written termination notice was ever served, and the parole period had not expired when ICE seized Mr. Ansari. *Second*, even where parole has lawfully ended, the provision speaks to the treatment of the parolee's *case* — the charges he may face and the proceedings he receives — not to which detention statute governs a fresh interior arrest made long after release.

COUNT I

VIOLATION OF THE INA AND ITS IMPLEMENTING REGULATIONS

86. Mr. Ansari incorporates the foregoing paragraphs as if fully set forth herein.

87. Mr. Ansari's present detention is authorized, if at all, by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2)(A). A noncitizen detained under § 1226(a) is entitled to an individualized custody determination by DHS and to redetermination of that decision by an immigration judge, with administrative review before the BIA. 8 U.S.C. § 1226(a)(2); 8 C.F.R. §§ 236.1(d), 1236.1(d), 1003.19.

88. Respondents have classified Mr. Ansari as ineligible for those procedures and detain him without access to them, pursuant to the July 8, 2025 guidance and the Board precedent described above. That classification misreads §§ 1225 and 1226, and detention pursuant to it is "in violation of the . . . laws . . . of the United States." 28 U.S.C. § 2241(c)(3).

89. Respondents' refusal to afford the custody procedures their own regulations mandate independently renders the detention unlawful. *Accardi*, 347 U.S. at 265-67.

90. Mr. Ansari is therefore entitled to a declaration that his detention is governed by § 1226(a) and to an order directing Respondents to release him from their custody.

COUNT II

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT: PROLONGED DETENTION WITHOUT ANY INDIVIDUALIZED CUSTODY HEARING

91. Mr. Ansari incorporates the foregoing paragraphs as if fully set forth herein.

92. The Fifth Amendment's Due Process Clause protects "all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "Freedom from imprisonment — from government custody, detention, or other forms of physical restraint — lies at the heart of the liberty

that Clause protects," *id.* at 690, and is "the most elemental of liberty interests," *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

93. Mr. Ansari is within the United States and has been for more than a year and a half. DHS paroled him into the community, where he lived at liberty for nearly a year. He is not an arriving alien held at the threshold of entry, and no "entry fiction" diminishes his due process protection against prolonged bodily confinement. *Cf. Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206 (1953); *Zadvydas*, 533 U.S. at 693-94 (distinguishing *Mezei*).

94. Because immigration detention is civil, it is constitutionally permissible only when it bears a reasonable relation to its legitimate purposes — securing appearance and protecting the community — and only when accompanied by adequate procedural safeguards. *Zadvydas*, 533 U.S. at 690-92; *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Addington v. Texas*, 441 U.S. 418, 425-27 (1979). In *Demore v. Kim*, the Supreme Court sustained mandatory detention under § 1226(c) for "the brief period necessary" to complete removal proceedings — roughly a month and a half in the average case and about five months where the noncitizen appealed. 538 U.S. 510, 513, 529-30 (2003). In *Jennings v. Rodriguez*, the Court held that §§ 1225(b) and 1226(c) do not, as a statutory matter, require periodic bond hearings, while expressly reserving the constitutional question. 583 U.S. 281, 312-13 (2018); *see also Johnson v. Arteaga-Martinez*, 596 U.S. 573 (2022) (same as to § 1231(a)(6)). The constitutional question those cases reserved is squarely presented here.

95. The Sixth Circuit recognized long ago that prolonged civil immigration detention without individualized review raises grave constitutional concerns, holding that even mandatory detention is limited to a reasonable period and that unreasonable prolongation requires an individualized determination. *Ly v. Hansen*, 351 F.3d 263, 269-73 (6th Cir. 2003), *abrogated in*

part on statutory grounds by Jennings v. Rodriguez, 583 U.S. 281 (2018). It reiterated that holding in *Lopez-Campos*. *See* 175 F.4th at 732–33 ("Where immigration detention becomes needlessly prolonged and appears to no longer effectuate the regulatory goals of civil immigration detention, courts routinely hold that the Due Process Clause requires an individualized bond hearing to justify a noncitizen's continued detention."). *Ly*'s constitutional reasoning retains its force, and district courts throughout this Circuit apply the *Mathews v. Eldridge* framework, 424 U.S. 319, 335 (1976), to due-process challenges to immigration detention. *See, e.g., Shurney v. INS*, 201 F. Supp. 2d 783, 786 (N.D. Ohio 2001); *Lopez-Campos*, 797 F. Supp. 3d at 785; *Rios Pena*, 2025 WL 3679766, at 8; *Alonso v. Tindall,* No. 3:25-cv-652, 2025 WL 3083920, at 8 (W.D. Ky. 2025).

96. Courts of appeals to have decided the reserved constitutional question have held that prolonged detention without a government-burden bond hearing violates due process. *See Velasco Lopez v. Decker*, 978 F.3d 842, 855-57 (2d Cir. 2020) (prolonged § 1226(a) detention; government must justify continued detention by clear and convincing evidence); *Black v. Decker*, 103 F.4th 133, 155 (2d Cir. 2024) (clear-and-convincing burden; consideration of ability to pay and alternatives; the burden of such hearings on the Government "will likely be outweighed by costs saved by reducing unnecessary detention"); *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203 (3d Cir. 2020); *Hernandez-Lara v. Lyons*, 10 F.4th 19 (1st Cir. 2021).

97. Every consideration favors Mr. Ansari. *Duration*: more than seven months — beyond the six-month horizon that has, since *Zadvydas*, marked the point of heightened scrutiny, 533 U.S. at 701, well beyond the "brief" detention *Demore* contemplated, and beyond the periods that have led district courts in this Circuit to grant relief. *Likely future duration*: the BIA has not even issued a briefing schedule; months more of detention are certain absent relief. *Responsibility for delay*: none of the elapsed time reflects dilatory conduct by Mr. Ansari, who has pursued

asylum, related protection, and a single timely administrative appeal — the ordinary process Congress provided, which cannot be counted against him. *Ly*, 351 F.3d at 272. *Conditions*: he is confined in a secure detention facility, recently transferred hundreds of miles farther from his wife, newborn child, and family in Massachusetts, and his mental health has reportedly deteriorated. *The Government's need*: DHS itself released Mr. Ansari in January 2025, he complied with that release for nearly a year, and he has no criminal history; the Government has never identified — let alone proven — any danger or flight risk, and less restrictive alternatives (reporting conditions, supervision, bond within his means) have never been considered.

98. The *Mathews* factors confirm the violation. The private interest — physical liberty — is of the highest order. The risk of erroneous deprivation under the current procedures is total, because there are no procedures: no decisionmaker has ever evaluated whether his detention is justified. And the Government has no legitimate interest in detaining, without a hearing, a man it previously released, who complied with that release, and who has no criminal record; the marginal burden of a single bond hearing is trivial. *Black*, 103 F.4th at 155.

99. This claim does not depend on the resolution of Count I. Even if the Court were to conclude that § 1225(b)(2)(A) supplies the statutory authority for Mr. Ansari's detention, the Due Process Clause independently forbids prolonged civil confinement of a person in his circumstances — released into and residing in the United States for a year before re-arrest — without any individualized custody hearing. *Zadvydas*, 533 U.S. at 690-94; *Jennings*, 583 U.S. at 312–13 (reserving precisely this question); *Lopez-Campos*, 175 F.4th at 732–33.

100. Due process requires, at a minimum, a prompt individualized hearing before a neutral decisionmaker at which the Government bears the burden of proving, by clear and convincing evidence, that Mr. Ansari presents a danger to the community or a risk of flight that no

condition or combination of conditions can reasonably mitigate, with consideration of his ability to pay any bond and of alternatives to detention. *Addington*, 441 U.S. at 425–27; *Velasco Lopez*, 978 F.3d at 855-57; *Black*, 103 F.4th 133.

101. Respondents' continued detention of Mr. Ansari without any such hearing violates the Fifth Amendment, and his custody is "in violation of the Constitution." 28 U.S.C. § 2241(c)(3).

COUNT III

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT (*ACCARDI*): IMPROPER REVOCATION OF PAROLE

102. Mr. Ansari incorporates the foregoing paragraphs as if fully set forth herein.

103. Apart from automatic termination upon departure or upon expiration of the authorized period, parole may be terminated only in accordance with 8 C.F.R. § 212.5(e), including "written notice to the alien." On January 26, 2026, Mr. Ansari's parole remained in force: the one-year period had not expired, and, on information and belief, ICE had served no written notice of termination.

104. DHS nonetheless seized and detained him. Re-detention of a parolee in valid parole status, without service of the written termination notice the regulations require, violates 8 C.F.R. § 212.5(e), the INA, and due process. *Accardi*, 347 U.S. at 265–67. The subsequent expiration of the parole period on or about January 30, 2026 did not cure the violation; custody unlawful at its inception is not validated by the later arrival of a date on which the Government might lawfully have acted. To the extent the government revoked Mr. Ansari's parole on January 26, 2026, such revocation was inconsistent with the regulatory requirements.

COUNT IV

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT: INADEQUATE PROCESS FOR PAROLE REVOCATION

105. Mr. Ansari incorporates the foregoing paragraphs as if fully set forth herein.

106. DHS's revocation of Mr. Ansari's parole also violated due process. Noncitizens have a due process interest in ensuring they may live at liberty on the terms of their parole so long as they do not commit any violations. *See, e.g.*, *Sharan S. v. Chestnut*, No. 25-cv-1427, 2025 WL 3167826, at *8–9 (E.D. Cal. Nov. 12, 2025). Deprivation of that interest requests procedural protections. *See id.* at *8.

107. Mr. Ansari did not violate any terms of his parole. Respondents' premature of that parole without any process or opportunity to contest the necessity of such revocation violates Mr. Ansari's due process rights.

COUNT V

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT: IMPROPER WARRANTLESS ARREST

108. Mr. Ansari incorporates the foregoing paragraphs as if fully set forth herein.

109. The INA permits DHS to detain a noncitizen either for the pendency of removal proceedings, *see* 8 U.S.C. § 1226, or upon a valid administrative arrest warrant, 8 C.F.R. § 287.8(c)(2)(ii). Officials can arrest a noncitizen without a warranto only when they have "reason to believe that the [noncitizen] . . . is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2).

110. DHS did not issue Mr. Ansari a Notice to Appear until after it arrested him. The agency therefore had no authority under 8 U.S.C. § 1226(a) to detain Mr. Ansari at the time of the arrest. DHS also did not have an arrest warrant. The officer checked Mr. Ansari's status and detained him on the belief that Mr. Ansari was subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). The official did not make a determination that Mr. Ansari was likely to escape; nor could he have as Mr. Ansari has demonstrated that he does not pose a flight risk. DHS's warrantless arrest of Mr. Ansari violated the scope of its authority.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter under 28 U.S.C. § 2241;

2. Issue the writ of habeas corpus or, in the first instance, an order directing Respondents to show cause on an expedited basis why the writ should not issue, pursuant to 28 U.S.C. § 2243;

3. Declare that:

   a. Respondents' arrest of Petitioner was unlawful under 8 U.S.C. § 1357(a), and order for his release; or

   b. Respondents' arrest of Petitioner under 8 U.S.C. § 1225(b) was incorrect, and order for his release; or

   c. Petitioner's present detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2)(A), and order for Respondents to provide him with a bond hearing; or

   d. Petitioner's present detention has become unconstitutionally prolonged, and order for Respondents to provide him with a bond hearing at which Respondents bear a clear and convincing burden of showing the continued necessity of Petitioner's detention; or

   e. Respondents' revocation of Petitioner's parole violated regulation and the Due Process Clause, and order for Petitioner's release;

4. Order that Respondents shall not transfer Petitioner outside the Northern District of Ohio during the pendency of this action without prior leave of Court; and

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

Respectfully submitted,

DATED: September 23, 2026
Richmond, VA

/s/ James D. Jenkins

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* *Petition for* Pro Hac Vice *Admission Forthcoming*

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