IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

JORGE ARMANDO OLAYA RODRIGUEZ,

Petitioner,

v.

PAMELA BONDI,
In her official capacity as Attorney General of the United States,

KRISTI NOEM,
In her official capacity as Secretary of Homeland Security,

TODD M. LYONS,
In his official capacity as Acting Director, Immigration and Customs Enforcement;

JAMES A. MULLAN,
In his official capacity as Assistant Field Officer in charge of ICE Washington Field Office,

JEFFREY CRAWFORD,
In his official capacity as Warden of the Farmville Detention Center.

Respondents.

Case No: 1:25-CV-791

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Jorge Armando Olaya Rodriguez ("Mr. Olaya"), petitions this Court for a writ of *habeas corpus* to remedy his unlawful detention and by Respondent-Defendants, as follows:

INTRODUCTION

1 This case presents a request for immediate relief on behalf of Petitioner Mr. Olaya.

2 Mr. Olaya is a native and citizen of Colombia.

3. On or about April 7, 2023, Mr. Olaya entered the United States near Eagle Pass, Texas. He was processed for expedited removal under 8 U S C § 1225(b)(1). Thereafter, he met with officers of U.S. Customs and Border Protection and claimed a fear of returning to Colombia. On April 17, 2023, the U.S Citizenship and Immigration Services ("USCIS") Asylum Office determined Mr Olaya had a credible fear of torture if returned to Colombia.

4. On the basis of the credible fear established, on April 19, 2023, the Department of Homeland Security ("DHS") placed Mr. Olaya into removal proceedings by operation of a Notice to Appear ("NTA")

5 On or about May 1, 2023, Mr Olaya was paroled out of DHS custody, and he moved to Massachusetts.

6. On or about March 23, 2025, Mr. Olaya was re-detained by Immigration and Customs Enforcement ("ICE") He was transferred thereafter to the Farmville Detention Center in Farmville, Virginia, where he has been held in ICE custody since.

7 Upon information and belief, to date, no formal revocation of his parole has been issued by DHS.

8. On April 16, 2019, the Attorney General[1] issued precedent decision *Matter of M-S-*, 27 I. & N. Dec. 509 (A.G. 2019). The decision establishes the interpretation of 8 U.S.C. § 1225(b)(1), that absent a decision to grant parole by DHS, all noncitizens "transferred from expedited to full proceedings after establishing a credible fear are ineligible for bond." *Id.* at 519

9. Mr. Olaya has no criminal history in the United States.

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[1] Former Attorney General William Barr issued the decision, and it remains precedent for immigration authorities

10 Mr Olaya has a wife and ten-month-old U S citizen daughter whom he supports financially and lived with prior to his detention

11. Having now been re-detained, Mr Olaya is subject to *Matter of M-S-*, mandating his detention in immigration custody while removal proceedings.

12. On April 18, 2025, Mr. Olaya filed a request with ICE to be re-released from custody under ICE's discretionary parole authority. To date, no decision has been made on that request.

13. On May 13, 2025, an immigration judge held a bond hearing and denied bond to Mr Olaya, asserting that the immigration court lacks jurisdiction over Mr. Olaya's custody consistent with *Matter of M-S-*

14 On May 15, 2025, after filing this action, the Board of Immigration Appeals issued *Matter of Q Li*, 29 I & N. Dec. 66 (BIA 2025), which confirms Respondents' interpretation of *Matter of M-S-* that Mr Olaya is not eligible for review of custody before an immigration judge

15. Detention without any meaningful mechanism to challenge one's detention unlawfully violates the Due Process Clause of the Fifth Amendment to the United States Constitution.

16 Detention of a paroled noncitizen, without revocation of parole, is not authorized under *Matter of M-S-*, 27 I. & N. Dec 509.

17. Mr. Olaya petitions for a writ of habeas corpus to remedy his unlawful detention, and prays this Court will 1) issue an order staying Mr. Olaya's removal from the Eastern District of Virginia, and 2) issue an order that Mr. Olaya must be provided due process in the form of a bond hearing before the Executive Office for Immigration Review ("EOIR" or "Immigration Court") at which the DHS will bear the burden of establishing that Mr Olaya's continued detention is necessary.

CUSTODY

18. Mr. Olaya has been in the custody of Respondent-Defendants since on or about March 23, 2025 He is now detained at the Farmville Detention Center in Farmville, Virginia.

19. The Farmville Detention Center and Mr. Olaya are within the Eastern District of Virginia.

JURISDICTION & VENUE

20. This action arises under the Suspension Clause, the Due Process Clause of the Fifth Amendment, the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq* , and the Administrative Procedures Act, 5 U.S.C. § 702.

21 This Court has subject-matter jurisdiction under U.S. CONST art. 1, § 9, cl. 2 (Suspension Clause), 28 U.S.C. § 2241 (habeas corpus), 28 U S C § 1346 (original jurisdiction), 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. §§ 2201-02 (declaratory relief), as Mr. Olaya is presently held in custody under or by color of the authority of the United States. His detention by Respondent-Defendants is a "severe restraint" on his individual liberty and absent any meaningful mechanism to challenge the lawfulness or merit of his detention, he is "in custody in violation of the . . laws . . . of the United States." *See Hensley v. Municipal Court, San Jose-Milpitas Jud. Dist.*, 411 U S. 345, 351 (1973).

22. Mr. Olaya challenges his custody and removal as a violation of the Constitution, laws, and/or treaties of the United States.

23. In addition to the habeas protections in the Constitution and INA, federal district courts have subject matter jurisdiction under both 28 U.S C. § 1331 (federal questions) to hear claims by individuals challenging the lawfulness of agency action.

24 In sum, this Court has jurisdiction to hear habeas corpus claims by non-citizens

challenging the lawfulness or constitutionality of their detention by U.S immigration officials *See, e g , Jennings v. Rodriguez*, 138 S Ct. 830, 841 (2018); *Demore v Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v Davis*, 533 U.S. 678, 687 (2001).

25. Additionally, the Administrative Procedure Act, 5 U.S.C. § 702, waives sovereign immunity in suits against the government for injunctive relief.

26 Venue is proper because Mr Olaya is currently detained within the District

THE PARTIES

27. Petitioner Jorge Armando Olaya Rodriguez is a noncitizen of the United States. He is a citizen and national of Colombia. He is currently detained by ICE in Farmville, Virginia Despite a prior parole authorization, he was arrested by ICE on or about March 23, 2025.

28. Respondent Pamela Bondi is the Attorney General of the United States, and in that capacity is responsible for the U.S. immigration court system and bond authority of all immigration judges. She is sued in her official capacity

29. Respondent Kristi Noem is the Secretary of Homeland Security, and in that capacity is responsible for the Department of Homeland Security and all sub-cabinet agencies of DHS, including ICE and USCIS. She is sued in her official capacity.

30. Respondent Todd M. Lyons is the Acting Director of Immigration and Customs Enforcement, responsible for ICE's detention and removal operations among all its other functions He is sued in his official capacity

31. Respondent James A. Mullan is the Assistant Field Office Director of the ICE Washington Field Office, and is responsible for ICE's operations in Virginia. Upon information and belief, he is the immediate custodian of Mr. Olaya He is sued in his official capacity.

32 Respondent Jeffrey Crawford is the Warden of Farmville Detention Facility and is directly responsible for Mr Olaya's custody. He is sued in his official capacity.

RELEVANT FACTUAL ALLEGATIONS

33. Mr. Olaya is a native and citizen of Colombia who entered the United States on or about April 7, 2023. He was processed for expedited removal under 8 U S.C. § 1225(b)(1), but after establishing a credible fear of torture, he was placed into removal proceedings and paroled into the United States He was re-detained by ICE on or about March 23, 2025

34. To date, no formal revocation of Mr Olaya's parole has been issued by DHS, DHS has not taken action on a subsequent request for his release, and he is ineligible for a custody review before the immigration court by operation of the Attorney General's interpretation of 8 U.S.C. § 1225(b)(1).

EXHAUSTION

35. The decision to detain Mr. Olaya is subject to challenge through a petition for a writ of *habeas corpus*, and Mr. Olaya need not exhaust additional administrative remedies which might be available to him before seeking this Court's review. *Darby v Cisneros*, 509 U S 137 (1993) ("[W]here the APA applies, an appeal to 'superior agency authority' is a prerequisite to judicial review only when expressly required by statute or when an agency rule requires appeal before review and the administrative action is made inoperative pending that review ")

36. Moreover, further exhaustion of any remedy would be futile, because Mr. Olaya has pursued a remedy, to no avail. *See e.g McCarthy v. Madigan*, 503 U.S. 140, 147-48 (1992) ("[A]n administrative remedy may be inadequate [because] . an agency, as a preliminary matter, may be unable to consider whether to grant relief because it lacks institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute" or "where the administrative body . . . has otherwise predetermined the issue before it."). To the extent that the Court requires, any exhaustion requirement is satisfied because Mr. Olaya has submitted a parole request to ICE on April 18, 2025, seeking his discretionary release from custody. That

request has gone unanswered

37. Finally, because his detention is unconstitutional, administrative exhaustion is excused. *See Guitard v. U.S. Sec'y of the Navy*, 967 F 2d 737, 741 (2d Cir. 1992) ("Exhaustion of administrative remedies may not be required when a plaintiff has raised a 'substantial constitutional question.'").

RELEVANT LEGAL AUTHORITY

38. 8 U.S C. § 1225(b)(1)(B)(ii) states, in relevant part:

> If the [asylum] officer determines at the time of the interview that an alien has a credible fear of persecution (within the meaning of clause (v)), the alien shall be detained for further consideration of the application for asylum

39. 8 U.S.C § 1226(a) states, in relevant part:

> On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.
>
> Except as provided in subsection (c) and pending such decision, the Attorney General—
> (1) may continue to detain the arrested alien; and
> (2) may release the alien on—
> (A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or
> (B) conditional parole[.]

ARGUMENT

40 As a "person" within the meaning of the Fifth Amendment, Mr. Olaya is entitled to due process of law while in the United States, and certainly while in immigration custody. U.S. Const.. amend V; *see Reno v. Flores*, 507 U.S. 292, 306 (1993) ("It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings.").

41. "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. To that end, due process demands "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 quotation marks omitted). The Supreme Court has recognized only two valid purposes for civil detention. to mitigate the risks of danger to the community and prevent flight. *See Demore*, 538 U.S. at 528, *see also Matter of Patel*, 15 I & N. Dec. 666 (BIA 1976) ("An alien generally is not and should not be detained or required to post bond except on a finding that he is a threat to the national security, or that he is a poor bail risk[ ]" (internal citation omitted)).

42. Moreover, civil detention—including immigration—must be carefully limited to avoid due process concerns *See e g , Foucha v. Louisiana*, 504 U.S 71, 80 (1992) ("Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action"); *Addington v Texas*, 441 U.S. 418, 425 (1979) ("This Court repeatedly has recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection"); *see also United States v Salerno*, 481 U.S. 739, 755 (1987) ("In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception").

43. Given the gravity of the liberty deprivation when the government preventively detains individuals, due process requires the jailers bear the burden of proof. *See e.g., Salerno*, 481 U.S. at 751 (affirming legality of pre-trial detention where burden of proof was on the government); see also *Foucha*, 504 U.S. at 81-82 (holding unconstitutional a state "statute that place[d] the burden on the detainee to prove that he is not dangerous"). The Court has held that it is improper to ask an "individual to share in equally with society the risk of error when the possible injury to the individual—deprivation of liberty—is so significant " *Addington*, 441 U.S. at 427

44. Moreover, in other civil confinement contexts, the government must meet a heightened standard of proof and establish by clear and convincing evidence that its interest in civil or preventive detention outweighs an "individual's strong interest in liberty." *Salerno*, 481 U S at 751

45 In *Addington*, the Court concluded that the state's use of civil detention to protect society from an allegedly dangerous individual with mental illness could not outweigh the individual's right to liberty unless the state showed by at least clear and convincing evidence that detention was necessary. See *Addington*, 441 U.S. at 433 (holding that on remand the state must meet a "precise burden equal to or greater than the clear and convincing evidence standard . . . to meet due process guarantees"); *see also Argueta Anariba v Shanahan*, 16-cv-1928 (KBF) 2017 WL 3172765, at Slip op. *4 (S D N Y. July 26, 2017) (it "is particularly important that the Government be held to the 'clear and convincing' burden of proof in the immigration detention context because civil removal proceedings, unlike criminal proceedings, 'are nonpunitive in purpose and effect.'") (quoting *Zadvydas*, 533 U.S. at 691)).

46 Where due process is demanded, corrective measures may be taken to ensure adequate process exists before deprivation of liberty interests. To that end, requiring a bond hearing to protect against unnecessary detention is appropriate under the balancing test used to weigh the constitutionality of administrative procedures, as articulated in *Mathews v. Eldridge*, 424 U S. 319, 333 (1976) ("The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'").

47. *Mathews* requires review of three factors: (1) the private interest affected by government action; (2) the risk of "erroneous deprivation" of the private interest "through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) the government's interest and its "fiscal and administrative burdens that the additional or

substitute procedural requirement[s] would entail." *Id* at 335. 95. Each of the *Mathews* factors weighs heavily in favor of requiring a bond hearing for Mr. Olaya.

48. First, the "importance and fundamental nature" of an individual's liberty interest is well-established. *See Salerno*, 481 U S at 750; *compare Zadvydas*, 533 U S at 690 ("Freedom from imprisonment . . lies at the heart of [] liberty") with *Hechavarria v. Sessions*, 15-CV-1058LJV, 2018 WL 5776421 at *8 (W.D N Y. 2018) ("this Court finds little difference between Hechavarria's detention and other instances where the government seeks the civil detention of an individual to effectuate a regulatory purpose"). In Mr. Olaya's case, the fundamental nature of freedom weighs in his favor, as he has lived lawfully (pursuant to a grant of parole) for more than two years in the United States, has a U.S. citizen daughter, and has never been convicted of any crime – much less a crime which would subject him to detention

49. Second, the risk that a noncitizen's freedom will be erroneously deprived is significant, as any internal process to demonstrate to ICE that release is warranted is not subject to review or challenge, and indeed has no published procedural rules. All § 1225 detainees who seek release from custody must provide evidence to their individual ICE detention officer who reviews the evidence and makes a decision on custody. Whether that decision is subject to supervisor review is unknown, and possibly not universally enforced. And even if it were, ICE is not a neutral arbiter of whether a noncitizens' detention is necessary—indeed, one cannot be both judge and jailer and still be called neutral.

50. Moreover, requiring detained noncitizens to obtain and submit evidence within a detention facility is extremely onerous. Barriers such as indigence, language and cultural separation, limited education, and mental health issues often associated with past persecution or abuse further complicate detainees' ability to successfully obtain such records and present them in support of release The mere fact of detention – in what are often county jails or for-profit prisons[2] located

miles from individuals' community – presents a significant obstacle to accessing the outside world and makes communication with family and counsel difficult and at times, prohibitively expensive *See e g Moncrieffe v Holder*, 569 U S 184, 201 (2013) (noting that immigrant detainees "have little ability to collect evidence"). Thus, there is a significant risk of erroneous, unwarranted detention.

51. Finally, the proposed procedures – namely requiring that DHS prove detention is necessary to serve a legitimate government interest – does not meaningfully prejudice the government's interest in detaining dangerous noncitizens during removal proceedings There is not likely to be any dispute that Mr. Olaya is dangerous—he has no criminal record in the United States, was previously paroled by ICE, and has otherwise complied with all orders by immigration authorities

52 If ICE wishes to counter to prove Mr. Olaya is dangerous, it can easily obtain records from other federal agencies and local law enforcement. In fact, DHS already does so with frequency, as it carries several burdens in the merits proceedings.

53 Second, for the 28 months during which DHS bore the burden in bond hearings established pursuant to *Lora v Shanahan*,[3] the agency was not "thwarted from effectively enforcing U.S immigration laws;" nor was "public safety [] put at risk." *Sajous v. Decker*, No. 18-CV-2447, 2018 WL 2357266, Slip op. at *13 (S.D.N.Y. May 23, 2018) (ordering bond hearing at which DHS bears the burden of proof by clear and convincing evidence or immediate release of petitioner detained for eight months); *see also Frantz C v Shanahan*, No. 18-CV-2043, 2018 WL

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[2] Farmville Detention Center is a private immigration detention facility materially indistinguishable from a jail or prison.

[3] 804 F.3d 601 (2d Cir. 2015) cert. granted, judgment vacated, 138 S.Ct. 1260 (2018).

3302998 (D.N.J. 2018) (habeas denied because bond was previously denied under *Lora* standard, so petitioner had already received a constitutionally adequate bond hearing). There is thus no evidence to suggest that placing the burden on DHS impacted the rate at which parolees returned to court, nor is there any evidence that the community was placed at any greater risk of harm. The Government cannot reasonably suggest today that the proposed procedure for Mr. Olaya—which exists for thousands of other immigration detainees—is too burdensome to implement.

54. Mr. Olaya is currently held in custody by ICE without any meaningful mechanism to challenge the lawfulness of his custody. He has submitted a request for his release to his deportation officer, but there are no procedural rules for the manner or timing of that review, it is discretionary and not subject to review, and ICE is not a neutral arbiter of his detention.

55. Thus, all three *Mathews* factors favor requiring the Government to bear the burden of proof during immigration custody hearings, as it does during every other civil detention context *See e.g. Portillo v. Hott*, 322 F.Supp.3d 698, 709 (E D.Va 2018) ("[I]n light of the ongoing infringement of the alien's liberty interest and the strong tradition that the burden of justifying civil detention falls on the government, the balance between individual and government interests requires that the burden of justifying petitioner's continued detention falls upon the government . to demonstrate by clear and convincing evidence that petitioner's ongoing detention is appropriate[.]")

56. Ultimately, the Constitution cannot abide a process by which the Government can detain someone without providing any justification. Therefore, to cure the due process violation that has occurred by detaining Mr. Olaya without any adequate procedural protections, the Court should order a hearing at which Respondents must justify any further detention. Mr. Olaya requests that this custody hearing be held before this Court, or otherwise before the immigration

court.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF: VIOLATION OF FIFTH AMENDMENT RIGHT TO PROCEDURAL DUE PROCESS (Against all Respondents)

57. Petitioner re-alleges and incorporates by reference the paragraphs above.

58 The Due Process Clause of the Fifth Amendment forbids the Government from depriving any person of liberty without due process of law. U.S. Const.. amend. V.

59. The Attorney General has determined that someone in Mr. Olaya's circumstances is not eligible for review of his custody status by an immigration judge. *See Matter of M-S-*, 27 I. & N Dec. at 519, as Mr. Olaya was "transferred from expedited to full proceedings after establishing a credible fear are ineligible for bond."

60 On May 15, 2025, the Board of Immigration Appeals issued *Matter of Q. Li*, 29 I & N. Dec. 66 (BIA 2025), which extended *Matter of M-S-* to confirm that a noncitizen who is paroled upon entry into the United States, who is then later re-detained, is detained under 8 U.S C. § 1225(b) "[F]ollowing the Attorney General's reasoning in *Matter of M-S-*, 27 I. & N. Dec. at 515–19, we conclude that the respondent, an applicant for admission who was arrested without a warrant while arriving in the United States and thereafter placed in removal proceedings, is detained under [] 8 U.S.C § 1225(b)(2)(A) [and] . is therefore ineligible for bond."

61 Through operation of the Attorney General's decision in *Matter of M-S-*, Mr Olaya is held as if he were an applicant seeking admission to the United States in expedited removal proceedings. 8 U S.C. § 1225 requires his mandatory detention, absent discretionary parole by ICE. However, ICE has re-detained Mr Olaya (without a formal revocation of parole), placing him back into detention under § 1225 according to Respondents

62. *Matter of Q Li*, 29 I & N. Dec at 71 clarifies Respondents' position that Mi. Olaya is

not eligible for any process to challenge his detention apart from an restricted, unreviewable, and largely informal request to ICE

63. Continuing to hold Mr. Olaya in custody without review of his detention by a neutral arbiter and without holding ICE to the burden of establishing Mr. Olaya's detention is even necessary violates Mr. Olaya's right to due process, and this Court should order corrective action be taken.

64 Respondents have no constitutional authority to deprive Mr. Olaya of due process, and to the extent that any decision of the Attorney General, statute, or regulation conflicts with that right, the authority must be declared unconstitutional and corrective measures taken.

65. As a result of the constitutional violation against Mr. Olaya by Respondents, he has suffered prejudice, actual and substantial hardship, and irreparable injury in fact.

66 Mr. Olaya has no other adequate remedy at law.

SECOND CLAIM FOR RELIEF:
VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT
8 U.S.C. § 1226(a)
(Against Respondents Pamela Bondi and Jeffery Crawford)

67. Petitioner re-alleges and incorporates by reference the paragraphs above.

68. Under 8 U.S.C. § 1225(b)(1)(B)(ii), a noncitizen found to have a credible fear and placed into removal proceedings to pursue asylum is "shall be detained for further consideration of the application for asylum." The Attorney General has interpreted 8 U.S.C. § 1182(d)(5)(A) to separately authorize discretionary parole decisions by DHS, *see Matter of M-S-*, 27 I. & N. Dec. at 516-17, but the decision—and neither statute—adequately addresses Mr. Olaya's particular circumstances because Mr. Olaya has *not* been detained throughout the time to consider his asylum application. He was paroled and released from custody two years ago and then re-detained, without justification. To the best of undersigned counsel's knowledge, the parole he received two

years ago has not been formally revoked.

69. Therefore, because his parole has never been revoked, nor any justification offered for his detention, Mr. Olaya asserts that—despite the agency's position—he is subject to 8 U.S.C. § 1226(a) and should be afforded a bond hearing.

70. Respondent Pamela Bondi has determined that Mr. Olaya is not eligible for a bond hearing, asserting pursuant to *Matter of M-S-* that the immigration court lacks jurisdiction over Mr. Olaya's custody.

71. As a result of the violation of the INA, he has suffered prejudice, actual and substantial hardship, and irreparable injury in fact.

72. Mr. Olaya has no other adequate remedy at law.

THIRD CLAIM FOR RELIEF:
VIOLATION OF ADMINISTRATIVE PROCEDURE ACT
5 U.S.C. § 702 (Unconstitutional, unlawful, arbitrary, and capricious actions)
(Against all Respondents)

73. Petitioner re-alleges and incorporates by reference the paragraphs above.

74. The decision to detain Mr. Olaya and hold him without any opportunity to challenge his custody is arbitrary, capricious, and not in accordance with the Immigration and Nationality Act, and contrary to Mr. Olaya's right to due process under the Fifth Amendment.

75. This Court may set aside agency action which is arbitrary, capricious, unlawful, or contrary to constitutional right, power, privilege, or immunity. 5 U.S.C. §§ 706(2)(A), (B).

76. Mr. Olaya was paroled and lived two years lawfully in the United States, after which he was arrested without any cause and has since been detained without further justification in immigration custody. Such actions are arbitrary and capricious, and should be held unlawful and set aside.

77. As a result of the arbitrary, capricious, unlawful, and unconstitutional actions by

Respondents, Mr. Olaya has suffered prejudice, actual and substantial hardship, and irreparable injury in fact.

78. Mr. Olaya has no other adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Mr. Olaya respectfully requests that this Court:

a. Immediately issue an emergency order staying Mr. Olaya transfer outside the Eastern District of Virginia or his removal or deportation from the United States;

b Declare that Respondents' detention of Mr. Olaya violates the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

c Declare that Respondents' detention of Mr. Olaya is arbitrary and capricious;

d. Issue a *writ of habeas corpus* ordering Respondents to immediately hold a custody hearing on Mr Olaya's detention before a neutral arbiter at which the Department of Homeland Security shall bear the burden of proof to establish that his continued detention is necessary;

e. In the absence of a custody hearing to protect his rights in accordance with the above, order Mr. Olaya immediately released from immigration detention;

f. Award Petitioner all costs incurred in maintaining this action, including attorneys' fees under the Equal Access to Justice Act, 5 U.S.C. § 504, 28 U S C. § 2412, and on any other basis justified by law; and

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

Respectfully submitted,

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