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5 **UNITED STATES DISTRICT COURT**
6 **WESTERN DISTRICT OF WASHINGTON**
7 **SEATTLE, WASHINGTON**

8 Albert KHAMITOV,
9 (A# )

10 *Petitioner,*

11 v.

12 Pamela BONDI, Attorney General of
13 the United States in her official
14 capacity;

15 U.S. DEPARTMENT OF HOMELAND
16 SECURITY;

17 Kristi NOEM, Secretary of the U.S.
18 Department of Homeland Security in her
19 official capacity;

20 Todd LYONS, Acting Director of U.S.
21 Immigration and Customs Enforcement
22 in his official capacity;

23 Drew BOSTOCK, Director of the
24 Seattle Field Office of Immigration and
25 Customs Enforcement (ICE)'s
26 Enforcement and Removal Operations
27 (ERO) in his official capacity;

28 Bruce SCOTT, Warden of Northwest
ICE Processing Center in his official
capacity

Defendants.

Case No. 25-1154

**Petition for Writ of Habeas
Corpus**

INTRODUCTION

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3 1. This is an action for a writ of habeas corpus under 28 U.S.C. § 2241 to
4 remedy the prolonged and unlawful detention of Petitioner Albert Khamitov, a
5 noncitizen currently in U.S. Immigration and Customs Enforcement (ICE)
6 custody at the Northwest ICE Processing Center (NWIPC) in Tacoma, WA. *See*
7 Exhibit A (ICE Detainee Locator Printout).

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10 2. Petitioner prevailed in his removal proceedings and was granted asylum by
11 Immigration Judge Vicenta Banuelos-Rodriguez on September 12, 2024. Yet,
12 despite that final adjudication — and in the absence of a removal order or
13 criminal record — Petitioner has remained detained for over twelve months,
14 without any individualized determination by a neutral decision maker as to
15 whether his continued incarceration serves any compelling governmental interest.
16 *See* Exh. B (Asylum Grant Decision).

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19 3. On March 13, 2025, the Board of Immigration Appeals (BIA) placed the
20 government's appeal in Petitioner's case on hold, citing the need for background
21 checks under 8 C.F.R. § 1003.1(d)(6)(ii). Those checks are governed by 8 C.F.R.
22 § 1003.47(b), which requires DHS to complete security investigations before the
23 BIA may affirm a grant of relief. *See* Exh. C (BIA Order Placing Case on Hold).

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26 4. Under 8 C.F.R. § 1003.1(d)(6)(ii), DHS bears sole responsibility for
27 completing identity and security investigations for detained individuals. Despite
28

1 Petitioner's continuous presence in ICE custody and multiple written and
2 electronic parole requests, including a formal ICE Case Review submitted by
3 prior counsel, DHS has taken no action to effectuate his release, or advance the
4 case, and delayed months in providing the information required by the BIA under
5 8 C.F.R. § 1003.1(d)(6)(ii). *See* Exh. D (Declaration by Albert Khamitov); Exh. E
6 (Request for Parole, January 16, 2025); and Exh. K (DHS notice to BIA of BCR).
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9 5. Petitioner has made multiple good-faith parole requests, all of which DHS
10 has denied. The most recent was submitted in Tacoma, Washington, on March
11 14, 2025 — just one day after the BIA placed the government's appeal on hold to
12 obtain the information required under 8 C.F.R. § 1003.47(b). *See* Exh. F (Request
13 for Parole, March 14 of 2025).
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16 6. None of Petitioner's efforts before DHS have led to his release.
17 Meanwhile, DHS is delaying its obligation to provide background checks to the
18 BIA — information that would likely result in a favorable resolution of the
19 appeal that, ironically, DHS itself filed. *See* Exh. G (Notice of Appeal by DHS).
20
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22 7. Petitioner's continued detention violates the Constitution, the Immigration
23 and Nationality Act (INA), and applicable agency regulations. Without judicial
24 intervention, he will face indefinite and unjustified confinement, despite having
25 lawfully prevailed in his asylum claim. The Constitution and the rule of law
26 demand more.
27
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1 8. Courts have long recognized the significance of the habeas statute in
2 protecting individuals from unlawful detention. The Great Writ affords “a swift
3 and imperative remedy in all cases of illegal restraint or confinement.” *Fay v.*
4 *Noia*, 372 U.S. 391, 400 (1963); see also *Yong v. INS*, 208 F.3d 1116, 1120 (9th
5 Cir. 2000) (explaining that habeas statute requires expeditious determination of
6 petitions).

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9 9. Petitioner respectfully requests that this Court issue a writ of habeas corpus
10 declaring his continued detention unlawful and unconstitutional, and ordering his
11 immediate release.
12

13 JURISDICTION

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15 10. Petitioner Albert Khamitov is in the physical custody of Defendants and
16 ICE, an agency within the Department of Homeland Security (“DHS”). He is
17 detained at the NWIPC in Tacoma, Washington, which is under the direct control
18 of Defendants and their agents.
19

20 11. Jurisdiction is proper under 28 U.S.C. §§ 1331 (federal question), 2241
21 (habeas corpus); U.S. Const. art. I, § 2; (Suspension Clause); and 5 U.S.C. § 702
22 (Administrative Procedure Act).
23

24 12. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. §
25 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All
26 Writs Act, 28 U.S.C. § 1651.
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1 13. Nothing in the Immigration and Nationality Act (INA) deprives this Court
2 of Jurisdiction, including 8 U.S.C. §§1252(b)(9), 1252(f)(1), or 1226(e).
3 Congress has expressly preserved judicial review of challenges to prolonged
4 immigration detention. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-841
5 (2018) (holding that 8 U.S.C. §§ 1226(e), 1252(b)(9) do not bar judicial review of
6 such challenges).
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9 VENUE

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11 14. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
12 484, 493–500 (1973), venue properly lies in the United States District Court for
13 the Western District of Washington, the judicial district in which Petitioner is
14 currently in custody.
15

16 15. Venue is also proper in this District under 28 U.S.C. § 1391 because at
17 least one Defendant is an employee, officer, or agency of the United States, and
18 because a substantial part of the events or omissions giving rise to the claims
19 occurred in the Western District of Washington.
20
21

22 PARTIES

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24 16. Petitioner Albert KHAMITOV is a citizen of Russia who entered the
25 United States on May 24, 2022. He is currently detained at NWIPC.
26

27 17. Defendant DHS is the federal agency responsible for implementing and
28 enforcing the INA, including the detention of noncitizens.

1 18. Defendant Pamela BONDI is the Attorney General of the United States.
2 She is responsible for the Department of Justice, of which the Executive Office
3 for Immigration Review and the immigration court system it operates is a
4 component agency. She is sued in her official capacity.
5

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7 19. Defendant Kristi NOEM is the Secretary of the DHS. She is responsible
8 for the implementation and enforcement of the INA, and oversees ICE, which is
9 responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority
10 over Petitioner and is named in her official capacity.
11

12 20. Defendant Todd LYONS, ICE Director, is responsible for ICE's policies,
13 practices, and procedures, including those relating to the detention of immigrants.
14 He is a legal custodian of Petitioner and is named in his official capacity.
15

16 21. Defendant Drew BOSTOCK is the Director of the Seattle Field Office of
17 ICE's Enforcement and Removal Operations (ERO) division. As such, Mr.
18 Bostock is Petitioner's immediate custodian and is responsible for his detention.
19 He is named in his official capacity.
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21
22 22. Defendant Bruce SCOTT is employed by the private corporation GEO
23 Group, Inc., as Warden of the NWIPC, where Petitioner is detained. He has
24 immediate physical custody of Petitioner. He is sued in his official capacity.
25

26 **FACTUAL ALLEGATIONS**
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28 23. Petitioner Albert Khamitov is a noncitizen in the custody of Immigration

1 and Customs Enforcement (ICE) at the Northwest ICE Processing Center
2 (NWIPC) in Tacoma, WA. *See* Exhibit A (ICE Detainee Locator Printout).
3

4 24. Petitioner has been in DHS custody since May 2, 2024, when he entered
5 the U.S. after applying for admission via the CBP One Application at or near
6 Calexico, CA. DHS issued a Notice to Appear (NTA) on May 22, 2024, and
7 served it upon Mr. Khamitov on May 23, 2024. *See* Exh. H (Notice to Appear).
8 This indicates that Mr. Khamitov is detained under INA § 235(b). *Id.*
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11 25. Mr. Khamitov was granted asylum on September 12, 2024, by Immigration
12 Judge (IJ) Vicenta Banuelos-Rodriguez, who found him credible and gave full
13 evidentiary weight to his testimony. Despite this grant of asylum, he has
14 remained in detention. *See* Exh. B (Asylum Grant Decision).
15

16 26. DHS filed an appeal with the Board of Immigration Appeals (BIA)
17 challenging the grant of asylum. That appeal was initially rejected but later
18 refiled on October 15, 2024. Petitioner has remained in detention throughout the
19 pendency of the appeal. *See* Exh. G (Notice of Appeal by DHS).
20
21

22 27. On March 13, 2025, the BIA issued a notice placing the appeal on hold
23 pursuant to 8 C.F.R. § 1003.1(d)(6)(ii), pending DHS's completion and
24 submission of the mandatory background checks required under 8 C.F.R. §
25 1003.47(b). *See* Exh. C (Notice of Hold by BIA).
26
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28 28. On June 17, 2025 – after being advised of this impending lawsuit – the

1 Defendants complied with their obligation to update the Board of Immigration
2 Appeals as per 8 C.F.R. § 1003.1(d)(6)(ii). *See* Exhibit K (DHS notice to BIA of
3 BCR)
4

5 29. In IJ Banuelos-Rodriguez's oral decision — as confirmed by DHS counsel
6 in their Notice of Appeal and subsequent brief — background checks were
7 conducted during the underlying proceedings, as required by 8 C.F.R. §
8 1003.47(b). Those checks confirmed that Petitioner had no criminal record. *See*
9 Exh. B (Asylum Grant Decision).
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12 30. At the time of the IJ's grant of asylum and consideration of the background
13 checks required under 8 C.F.R. § 1003.47(b), Petitioner was — and remains — in
14 the physical custody of ICE. *See* Exh. B (Asylum Grant Decision).
15

16 31. On January 16, 2025, Mr. Khamitov, through counsel, submitted a formal
17 ICE Case Review request. ICE responded on January 29, 2025, stating that the
18 agency was exercising its broad discretion and denying the request after
19 reviewing the submitted materials and the available case information. *See* Exh. E
20 (Request for Parole, January 16, 2025).
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23 32. Mr. Khamitov was transferred to the NWIPC in Tacoma, Washington,
24 where he submitted another parole request on March 14, 2025. Aside from an
25 automatically generated receipt from the ICE e-service portal, there was no
26 response. On April 23, 2025, Counsel contacted Petitioner's Deportation Officer
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28

1 to confirm receipt of the request, but received no reply. That request remains
2 unadjudicated. *See* Exh. F (Request for Parole, March 14, 2025).
3

4 33. On April 9, 2025, an Immigration Judge determined that the Immigration
5 Court lacked jurisdiction to consider a bond reconsideration request under 8
6 U.S.C. § 1226(c). *See* Exh. I (ECAS Printout Order in Bond Proceedings).
7

8 34. Pursuant to 8 U.S.C. § 1226(c), the Immigration Court lacks jurisdiction
9 and authority to provide Petitioner with a bond hearing to determine whether
10 Petitioner's detention is justified. There is no statutory or regulatory pathway for
11 Petitioner to seek a bond hearing before a neutral decisionmaker.
12

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14 35. Absent intervention by this Court, Petitioner cannot and will not be
15 provided with a bond hearing by a neutral decisionmaker to assess the propriety
16 of Petitioner's continued detention.
17

18 **LEGAL FRAMEWORK**

19 20 **A. "Hold" at the BIA under 8 C.F.R. § 1003.1(d)(6)(ii).**

21 36. Upon the arrest and detention of a non-citizen, DHS undertakes a custody
22 determination under 8 U.S.C. § 1226(a). If the decision by DHS is to deny a
23 bond, the non-citizen may request a reconsideration before an Immigration Judge.
24 *See* 8 C.F.R. § 1240.31.; 8 C.F.R. § 1003.19
25

26
27 37. For a set of individuals who are under 8 U.S.C. § 1229 proceedings,
28 Immigration Judges are divested of jurisdiction to entertain a bond. 8 C.F.R. §

1 1003.19(h)(2)(i). In particular, “arriving aliens,” defined *inter alia* as “an
2 applicant for admission coming or attempting to come into the United States at a
3 port-of-entry,” are left with the only option of requesting “parole” (release) under
4 8 U.S.C. § 1226(a) from DHS.
5

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7 38. It has been — and remains, at least on paper — the policy of DHS to
8 release individuals who have been granted asylum, unless there are exceptional
9 concerns. *See* Exh. J (ICE Memorandum on ICE Policy After IJ Has Granted
10 Relief, dated February 20, 2004).
11

12 39. Once an Immigration Judge (IJ) has granted relief to a non-citizen in
13 removal proceedings, DHS may appeal that decision to the Board of Immigration
14 Appeals within a period of 30 days. 8 C.F.R. § 1003.3(b). If no appeal is filed, the
15 order becomes final and the noncitizen retains the status granted by that relief. *Id.*
16
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18 40. Before the granting of any relief – including Asylum – a background and
19 security check must be completed under 8 C.F.R. § 1003.47. If the noncitizen
20 does not comply with the biometrics gathering instructions, his application for
21 relief may be deemed abandoned by the IJ. 8 C.F.R. § 1003.47(d).
22

23 41. In the appeal of an IJ’s decision to the BIA, the Board may not affirm the
24 grant of relief unless the security checks mandated by 8 C.F.R. § 1003.47(b) have
25 been completed. *See* 8 C.F.R. § 1003.1(d)(6)(i). If the information required by 8
26 C.F.R. § 1003.47(b) is needed by the Board, it will place the matter on hold and
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1 notify the parties that such procedures must be completed. *See* 8 C.F.R. §
2 1003.1(d)(6)(ii). Where the noncitizen is detained, the responsibility for obtaining
3 the biometric and biographical information of the noncitizen, as well as providing
4 the information to the BIA, falls upon DHS. *Id.*

6
7 **B. No Bond Jurisdiction for Arriving Aliens**

8 42. An IJ has no jurisdiction to entertain a bond reconsideration request after
9 ICE has denied release. *See* 8 C.F.R. § 1003.19(h)(2)(i)(B).

11 43. Petitioner presented himself for admission using the CBP One Application
12 and was subsequently “paroled” into the United States, making him an arriving
13 alien and therefore divesting any IJ of authority for bond reconsideration. *Id.*
14 Because of this, Petitioner is limited to requesting “parole” from DHS, which it
15 has refused on various occasions. *See* Exh. D (Declaration by Albert Khamitov).

18 44. DHS has refused to release Petitioner. At the same time, it has failed to
19 timely observe the BIA’s request under 8 C.F.R. § 1003.1(d)(6)(i) and 8 C.F.R. §
20 1003.1(d)(6)(ii). Therefore, DHS is impeding Petitioner from either access to
21 relief or release from custody.

23
24 **C. Due Process Clause of the Fifth Amendment in the U. S. Constitution**

25 45. The Due Process Clause of the Fifth Amendment provides Petitioner with
26 important protection against arbitrary detention without procedures to determine
27 if he is a flight risk or danger. As the Supreme Court has explained, “[f]reedom
28

1 from imprisonment—from government custody, detention, or other forms of
2 physical restraint—lies at the heart of the liberty” that the Due Process Clause
3 protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
4

5 46. The Supreme Court has addressed the constitutionality of mandatory
6 detention on one occasion. In *Demore v. Kim*, 538 U.S. 510 (2003), the Supreme
7 Court denied a facial challenge to mandatory detention under § 1226(c), which
8 asserted that the statute was unconstitutional because it imposed mandatory
9 detention without a custody hearing. However, the Supreme Court emphasized
10 that such detention was typically “brief” in length and lasted “roughly a month
11 and a half in the vast majority of cases . . . and about five months in the minority
12 of cases in which the [non-citizen] chooses to appeal.” 538 U.S. at 513, 530. The
13 Court also upheld the statute in part because it was based on a voluminous
14 congressional record that supported the need for detention as to individuals
15 convicted of certain crimes. *See id.* at 518–20.
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20 47. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court again
21 addressed the mandatory provision of § 1226(c), as well as the one at § 1225(b).
22 There, the Court held that, as a matter of statutory interpretation, those sections
23 did not require the government to provide a bond hearing for a detainee subject to
24 prolonged detention. Significantly, the Court did not reach the constitutional
25 question of whether the Due Process Clause requires an opportunity to test the
26 government’s justification for detention once detention becomes prolonged.
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1 48. Since the Supreme Court's *Jennings* decision, the Ninth Circuit has
2 expressed "grave doubt" that "any statute that allows for arbitrary prolonged
3 detention without any process is constitutional or that those who founded our
4 democracy precisely to protect against the government's arbitrary deprivation of
5 liberty would have thought so." *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir.
6 2018).

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8
9 49. To guard against such arbitrary detention and to guarantee the right to
10 liberty, due process requires "adequate procedural protections" that ensure the
11 government's asserted justification for a noncitizen's physical confinement
12 "outweighs the individual's constitutionally protected interest in avoiding
13 physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

14
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16 50. In the immigration context, the Supreme Court has recognized two primary
17 purposes for civil detention: to mitigate the risks of danger to the community and
18 to prevent flight. *Id.*; see also *Demore*, 538 U.S. at 522, 528. The government
19 may not detain a noncitizen based on other justifications.
20

21
22 51. Where the government detains a noncitizen for a prolonged period while
23 the noncitizen pursues a substantial defense to removal or claim to relief, due
24 process requires an individualized hearing before a neutral decision-maker to
25 determine whether detention remains reasonably related to its purpose. *Demore*,
26 538 U.S. at 532 (Kennedy, J., concurring) (stating that an "individualized
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1 determination as to [a noncitizen's] risk of flight and dangerousness" may be
2 warranted "if the continued detention became unreasonable or unjustified"); *cf.*
3
4 *Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the "initial
5 commitment" requires additional safeguards).

6
7 52. Detention without a bond hearing is unconstitutional when it is prolonged
8 and no bail is offered. *See, e.g., Rodriguez*, 909 F.3d at 256; *see also Zadvydas*,
9 533 U.S. at 701 ("Congress previously doubted the constitutionality of detention
10 for more than six months.").

11
12 53. The recognition that six months constitutes a substantial period of
13 confinement that qualifies as prolonged detention is deeply rooted in our legal
14 tradition. With only a few exceptions, "in the late 18th century in America crimes
15 triable without a jury were for the most part punishable by no more than a six-
16 month prison term." *Duncan v. Louisiana*, 391 U.S. 145, 161 & n.34 (1968). In
17 line with this tradition, the Supreme Court has consistently treated six months as
18 the outer limit of criminal confinement that a federal court may impose without
19 the protections of a jury trial. *Cheff v. Schnackenberg*, 384 U.S. 373, 380 (1966)
20 (plurality opinion). The Court has also recognized the six-month threshold in
21 civil contexts. *See McNeil*, 407 U.S. at 249, 250–52 (holding six months as the
22 maximum permissible period of confinement without an individualized inquiry in
23 civil commitment proceedings).

1 54. Both the Supreme Court and Ninth Circuit have long recognized that
2 prolonged civil detention requires an opportunity to test its legality. As the Ninth
3 Circuit noted in the context of pretrial detention—which, like the present case,
4 involves civil detention—“[i]t is undisputed that at some point, [civil] detention
5 can ‘become excessively prolonged, and therefore punitive,’ resulting in a due
6 process violation.” *United States v. Torres*, 995 F.3d 695, 708 (9th Cir. 2021)
7 (quoting *United States v. Salerno*, 481 U.S. 739, 747 n.4 (1987)). This is
8 especially true when the initial detention decision lacks adequate procedural
9 safeguards. See *O’Connor v. Donaldson*, 422 U.S. 563, 574-75 (1975) (“Nor is it
10 enough that Donaldson’s original confinement was founded upon a
11 constitutionally adequate basis, if in fact it was, because even if his involuntary
12 confinement was initially permissible, it could not constitutionally continue after
13 that basis no longer existed.”); *McNeil*, 407 U.S. at 249-50 (explaining that as the
14 length of civil detention increases, more substantial safeguards are required).

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20 55. “In the context of immigration detention, it is well-settled that due process
21 requires adequate procedural protections to ensure that the government’s asserted
22 justification for physical confinement outweighs the individual’s constitutionally
23 protected interest in avoiding physical restraint.” *Hernandez v. Sessions*, 872 F.3d
24 976, 990–91 (9th Cir. 2017).
25

26
27 **CAUSE OF ACTION**

28 **28 U.S.C. § 2241**

Violation of Fifth Amendment Right to Due Process

56. The allegations set forth in the above paragraphs are realleged and incorporated herein by reference.

57. The Due Process Clause of the Fifth Amendment only allows prolonged detention of a non-citizen where there are “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.” *Hernandez v. Sessions*, 872 F.3d 976, 990–91 (9th Cir. 2017). That detention becomes prolonged after six months. *McNeil*, 407 U.S. at 249–50.

58. Here, Petitioner has been detained for more than a year. That continued detention is due in part to DHS’ significant delay in complying with its obligations under 8 C.F.R. § 1003.1(d)(6)(ii). DHS only filed the background information requested by the BIA on June 17, 2025, four months after the BIA placed the case on hold. This unnecessary delay took place while at the same time DHS denied the Petitioner’s parole requests.

59. Further, no procedural safeguards exist, as his only mechanism to seek relief is via a parole request before the same agency that is detaining him and that has failed to complete the most basic procedural steps, as shown above. Simply, Petitioner is trapped in a Kafkaesque situation where, due to bureaucratic oversight or a strategic decision to prolong detention, despite the likely availability of relief,

1 DHS has unreasonably held him for an extended period without providing “a
2 hearing before a neutral decision-maker to determine whether detention remains
3 reasonably related to its purpose.” *Demore*, 538 U.S. at 532.
4

5 60. Defendants are in violation of Petitioner’s rights under the Due Process
6 Clause of the Fifth Amendment.
7

8 **PRAYER FOR RELIEF**

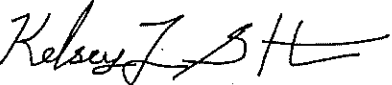
9 **WHEREFORE**, Plaintiff respectfully requests that this Court:
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- 11 (1) Assume jurisdiction over this matter;
- 12 (2) Issue a Writ of Habeas Corpus and hold a hearing before this Court
13 if warranted, where Defendants must show that Petitioner’s
14 detention is justified by clear and convincing evidence that
15 Petitioner presents a risk of flight or danger in light of available
16 alternatives to detention, and – if Defendants fail to meet their
17 burden – order Petitioner’s release, with appropriate conditions of
18 supervision if necessary, considering his ability to pay a bond;
19 (3) Issue a declaration that Petitioner’s prolonged detention under the
20 present circumstances violates the Due Process Clause of the Fifth
21 Amendment;
22 (4) Award reasonable costs and attorney’s fees and costs under the
23 Equal Access to Justice Act (“EAJA”), as amended, 5 U.S.C. § 504
24 and 28 U.S.C. § 2412, and on any other basis justified under law;
25
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1 and

2 (5) Grant any and all such further relief as the Court deems just
3
4 and proper.

5 RESPECTFULLY SUBMITTED this 20th of June 2025,

6 
7
8 /s/ Kelsey Shamrell-Harrington
9 Kelsey Shamrell-Harrington, WSBA #55634

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