UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

JHON PIPA-AQUISE,
A[redacted]

Petitioner

v.

PAMELA BONDI, U.S. Attorney General, KRISTI NOEM, U.S Secretary of Homeland Security; TODD M. LYONS, in his official capacity as Acting Director, U.S 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. 25-cv-1094

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

INTRODUCTION

1. Petitioner Jhon Pipa-Aquise ("Mr. Pipa"), a native and citizen of Peru, challenges his detention in the custody of Immigration and Customs Enforcement ("ICE") to be an unconstitutional and unjustified deprivation of his physical liberty, and seeks immediate relief from this Court.

2 Mr. Pipa is a native and citizen of Peru who first entered the United States in May of 2021. He was found to have a credible fear of persecution or torture and placed in removal proceedings before an immigration judge. He is scheduled for an individual hearing in his removal proceedings on August 6, 2025.

3. After Mr Pipa first entered the United States in 2021, the Department of Homeland Security ("DHS") held him in immigration custody for nearly three months before releasing him. *See* Affidavit of Jhon Pipa-Aquise, Exh A.

4. In May 2025, DHS re-detained him in immigration custody without any due process. He is currently detained at the Farmville Detention Center, in Farmville, Virginia.

5. Mr. Pipa has sought bond and release from custody from both the immigration judge and DHS. However, the immigration judge denied the request for lack of jurisdiction and DHS denied parole without explanation or justification *See* Bond Order, Exh. B.

6. Mr. Pipa's arrest and detention, without any meaningful mechanism to challenge his confinement, violates the U S. Constitution's Due Process Clause of the Fifth Amendment.

7. This Court should issue an order staying Mr. Pipa's removal from the Eastern District of Virginia and either order Mr. Pipa's release or require that Mr. Pipa be provided due process in the form of a bond hearing before the immigration court at which DHS bears the burden of establishing that continued detention is necessary.

JURSIDICTION AND VENUE

8. Both the ICE Washington Field Office and Mr. Pipa are located within the Eastern District of Virginia.

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

10. This Court has subject-matter jurisdiction under U.S. CONST. art. 1, § 9, cl. 2 (Suspension Clause), 28 U.S.C. § 1331 (federal question), and 28 U.S.C. § 2241 (habeas corpus), as Mr. Pipa is presently held in custody under or by color of the authority of the United States. His detention by Respondents is a "severe restraint" on his individual liberty "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).

11. 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*, 533 U.S. 678, 687 (2001).

12. Venue is proper because Mr. Pipa is currently detained within the District. At 11:55 a m. Eastern Time on July 1, 2025, the ICE Detainee Locator indicated that he is detained in ICE custody in Farmville, Virginia *See* ICE Locator Screenshot, Exhibit C.

PARTIES

13. Petitioner, Jhon Pipa-Aquise, is a native and citizen of Peru.

14. Respondent Pamela Bondi is the U.S. Attorney General, and in that capacity is responsible for the Executive Office for Immigration Review ("EOIR") which includes the Board of Immigration Appeals and immigration courts. She is sued in her official capacity.

15. 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.

16. 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.

17 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. Pipa He is sued in his official capacity.

18 Respondent Jeffrey Crawford is the Warden of Farmville Detention Facility and is directly responsible for Mr. Pipa Aquise's detention. He is sued in his official capacity.

RELEVANT FACTUAL ALLEGATIONS

19. Mr. Pipa first entered the United States on May 16, 2021, when he was twenty-four years old. DHS detained him the day after his arrival. He claimed a fear of returning to Peru. *See* Affidavit, Exh. A

20. More than one month later, on June 28, 2021, an asylum officer determined that Mr. Pipa demonstrated a credible fear of torture and DHS placed him in removal proceedings with the service of a Notice to Appear. *See* Notice to Appear, Exh. D.

21. Mr. Pipa was released from immigration custody in August 2021, after the service of the Notice to Appear

22. Mr. Pipa fears for his safety if he were to return to Peru, and is seeking asylum and protection from removal before an immigration judge.

23. Following release from his initial detention, between August 2021 and his detention in May 2025, Mr. Pipa has been working and living in Sterling, Virginia with his wife and stepchildren.

24. Mr. Pipa has no criminal convictions. He was once arrested for driving without a license, and that case was nolle prosequi in 2023. DHS did not place him in immigration custody at that time.

25. Mr. Pipa, who has employment authorization, works in the moving industry. On May 21, 2025, he was sent to a military base to help a co-worker with an assignment

26 Mr. Pipa was asked by government officials on the military base about his immigration status. He provided his employment authorization paperwork. He was apprehended and taken from the military base to an ICE office.

27. Despite Mr. Pipa telling DHS that he had employment authorization and a pending application for asylum, DHS did not provide any reasons or documentation justifying his detention.

28. Mr. Pipa has been in ICE detention since May 21, 2025.

29. In a subsequent bond proceeding before an immigration judge, the immigration judge denied bond on the basis that Mr. Pipa is subject to mandatory detention pursuant to *Matter of M-S-*, 27 I. & N. Dec. 509, 515 (A.G. 2019).

30. Mr. Pipa also requested parole from DHS. DHS denied parole without providing any explanation or justification.

EXHAUSTION

31. Mr. Pipa's immigration detention is subject to challenge through a petition for a writ of habeas corpus, and Mr. Pipa need not exhaust additional administrative remedies which might be available to him before seeking this Court's review. *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."); *Janvier v INS*, 174 F. Supp. 2d 430, 434 (E.D. Va 2001) (noting that "§ 2241 is silent on exhaustion.")

32. Moreover, further exhaustion would be futile because Mr. Pipa has pursued a remedy to no avail. *See Janvier*, 174 F. Supp. 2d at 434 (recognizing that exhaustion is not

necessary "where the pertinent administrative agency lacks the competence to reach a definitive resolution of the particular issue presented[,]" such as "where, as here, the administrative agency may consider constitutional claims, but lacks authority to rule dispositively on those claims, because "the final say on constitutional matters rests with the courts."). In particular, the immigration court has determined it does not have jurisdiction to provide bond and DHS has denied parole without any explanation.

33. Finally, because his detention—without ability to challenge—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

Warrantless Arrests

34. The Immigration and Nationality Act (INA) allows ICE officers to make warrantless arrests. 8 U.S.C. § 1357(a). However, this authority "is subject to the principles of the Fourth Amendment." *United States v. Vasquez-Ortiz*, 344 F App'x 551, 554 (11th Cir. 2009). And the statute limits ICE's authority to make warrantless arrests to exigent circumstances. *See* 8 U S.C. § 1357(a).

35. Specifically, the statute authorizes ICE to "arrest any alien who in [the officer's] presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, expulsion, or removal of aliens." 8 U.S.C. § 1357(a)(2).

36. The statute also allows the officer to "arrest any alien in the United States, if he has reason to believe that the alien 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.*" *Id.*

37. The likelihood of escape requirement "is always seriously applied." *United States v Cantu*, 519 F.2d 494, 496-97 (7th Cir. 1975); *see also Diogo v Holland*, 243 F.2d 571 (3d Cir. 1957).

38. Numerous courts, consistent with the plain language of the statute, have held that ICE exceeds its statutory authority under 8 U.S.C. § 1357(a) "without a determination that a suspected removable individual is likely to escape before a warrant can be obtained." 8 U S C §1357(a)(2); *see Creedle v. Miami-Dade Cty*, 349 F. Supp. 3d 1276, 1294-95 (S.D. Fla. 2018) (listing cases); *see also Contreras v United States*, 572 F.2d 307, 309 (2d Cir. 1982) (recognizing that in order to make an immigration arrest without a warrant, immigration agents must not only believe that the noncitizen was subject to immigration detention but also that the noncitizen was likely to escape before agents could secure a warrant); *United States v. Santos-Portillo*, 2019 U.S. Dist. LEXIS 115509, *9-10, 11-12 (E.D N.C. May 31, 2019).

Immigration Detention

39. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Fifth Amendment's Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). 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 v Kim*, 538 U.S. 510, 528 (2003); *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).

40. 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").

41. 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.

42. 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.

43. There are three statutes that govern immigration detention: 8 U.S.C. §§ 1225(b), 1226, and 1231. As a general matter, § 1225(b) involves individuals who are subject to expedited removal proceedings, § 1226 applies to individuals in removal proceedings who do not have final orders of removal, and § 1231 applies to individuals who have final orders of removal.

44. For individuals who are subject to immigration detention under 8 U.S.C. § 1225(b), detention is required until removal proceedings conclude. 8 U.S.C. § 1225(b)(1)(B)(ii); *Matter of M-S-*, 27 I. & N. Dec. 509 (A.G. 2019). DHS may release the noncitizen on parole, but "when the purpose of the parole has been served," the noncitizen "'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 to the United States.'" *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A)).

45. 8 U.S.C. § 1226 provide that noncriminal aliens "*may* be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a) Individuals who are removable based on certain criminal and terrorist grounds are subject to mandatory detention. 8 U.S.C. § 1226(c).

46. Additionally, ICE has the authority to terminate or revoke a previously granted parole. 8 U.S.C. § 1182(d)(5)(A).

47. When parole is expired, terminated, or revoked, the agency must first make a determination that the purpose of the parole is no longer being served and that the noncitizen shall be returned to custody. 8 U.S.C. § 1182(d)(5)(A); *Ortega v Bonnar*, 415 F. Supp. 3d 963, 968 (N.D. Cal. 2019) (noting that "DHS re-arrests individuals only after a 'material' change in circumstances"); *Garcia v Bondi*, 2025 U.S. Dist. LEXIS 113570, *6 (N.D. Cal. June 14, 2025)

("individuals released from immigration custody on bond have a protectable liberty interest in remaining out of custody on bond.") (collecting cases).

48. 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.'").

49. *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.

CLAIM FOR RELIEF

COUNT ONE

Mr. Pipa's Arrest Violates His Due Process Rights Under the Fifth Amendment

50. Petitioner re-alleges and incorporates by reference the paragraphs 1 through 49 above.

51. 8 U.S.C. § 1357(a) sets forth the limited circumstances under which ICE may detain a noncitizen without a warrant.

52. The statute authorizes ICE to "arrest any alien who in [the officer's] presence or view is entering or attempting to enter the United States in violation of any law or regulation made

in pursuance of law regulating the admission, exclusion, expulsion, or removal of aliens." 8 U.S.C. § 1357(a)(2).

53. Mr Pipa was not observed entering or attempting to leave the United States when he was detained in May 2025.

54. The statute also allows the officer to "arrest any alien in the United States, if he has reason to believe that the alien 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)

55. There were no exigent circumstances indicating a likelihood of escape that would justify forgoing the warrant requirement and detaining Mr. Pipa when he appeared for work.

56. DHS has also not produced any documentation that Mr. Pipa could have been detained based on the revocation, termination, or expiration of a grant of humanitarian parole Notably, DHS did not give Mr. Pipa any documents or reasons for his detention, thus there is no evidence that there was grant of humanitarian parole that was revoked, terminated, or expired. Or that the reasons for any parole have be served. *See* 8 U.S.C § 1182(d)(5)(A).

57. Because DHS had no warrant or evidence of authority to detain Mr. Pipa, ICE's warrantless arrest of Mr. Pipa exceeded its statutory authority

58. The Court should therefore order his release from immigration custody.

COUNT TWO

Mr. Pipa's Detention Violates His Right to Substantive Due Process under the Fifth Amendment

59. Petitioner re-alleges and incorporates by reference the paragraphs 1 through 49 above.

60. As a "person" within the meaning of the Fifth Amendment, Mr. Pipa 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.").

61. The immigration judge has determined that it cannot grant Mr Pipa bond and DHS denied his request for parole with no explanation. Thus he has no avenue outside of habeas proceedings to challenge his detention, years after he entered the United States.

62. Mr Pipa is not challenging his removability or the government's initial invocation of expedited removal provisions or the credible fear process that he received Instead, he is arguing that he has been deprived of the due process rights to which he is entitled as someone who has been living free from restraint in the United States for years *Department of Homeland Security v Thuraissigiam*, 591 U S. 103, 117 (2020).

63. Although Mr. Pipa was, in 2021, placed in immigration custody pursuant to the expedited removal provisions, he has since been released and has acquired due process rights in the United States.

64. Mr. Pipa was detained in May 2025 without an arrest warrant or notice of custody determination and DHS has not provided any evidence or information that such a warrant or custody determination was not required.

65. Each of the *Mathews* factors weighs heavily in favor of this Court requiring release or a bond hearing for Mr. Pipa 424 U S. at 335.

66. *First*, the private interest outweighs the government action in this case. 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*, 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.").

67. In Mr. Pipa's case, the fundamental nature of freedom weighs in his favor, as he has lived and lawfully worked in the United States for several years while he has been pursuing his claim for protection against returning to Peru. He has never been convicted of any crime—much less a crime which would subject him to detention.

68. Mr. Pipa is in the process of preparing for his individual hearing in immigration court, which is scheduled for August 6, 2025. His continued detention only complicates that preparation

69. *Second*, the risk that Mr. Pipa's freedom will be erroneously deprived is significant. *Mathews*, 424 U.S. at 335. He has no avenue to substantively challenge his continued detention or potential transfer within the immigration detention system to a location far from his family and legal counsel *See, e.g.*, John Hudson and Alex Horton, *Trump to ramp up transfers to Guantanamo, including citizens of allies*, The Washington Post, June 11, 2025, available at: https://www.washingtonpost.com/national-security/2025/06/10/trump-guantanamo-deportations/ *See also 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.").

70. Moreover, the immigration court's precedent—*Matter of M-S-* and *Matter of Q. Li*, the first of which the immigration judge relied upon—effectively deprive Mr. Pipa of due process because they require his continued detention without a neutral avenue to seek release, despite no evidence of the application of *Matter of M-S-* and despite that he has lived in the United States for four years without criminal conviction during which time he has acquired Constitutional rights not given to individuals who are just presenting themselves at the U.S border. *Salerno*, 481 U S. at 755

71. In *Matter of M-S-*, the Attorney General determined that a noncitizen who was initially placed in expedited removal proceedings but who was then transferred to full proceedings before an immigration judge after establishing a credible fear of persecution or torture should be treated as an arriving alien in expedited proceedings and not eligible for bond. 27 I. & N. Dec. 509, 515 (A G. 2019) The Attorney General explained that the expedited removal statute requires detention "'for further consideration of the application for asylum.'" *Id.* (quoting 8 U.S.C. § 1225(b)(1)(B)(ii)). Because the noncitizens who are transferred from expedited removal proceedings to full removal proceedings are placed in full proceedings so they can seek asylum, the Attorney General reasoned they are still covered by § 1225(b)(1)(B)(ii) despite no longer being in expedited removal proceedings. 27 I. & N Dec. at 516; *accord Jennings v. Rodriguez*, 583 U.S. 281, 299 (2018) (recognizing that § 1225(b) detention continues until an immigration officer finishes considering the application for asylum or until removal proceedings have concluded).

72. In *Matter of Q. Li*, the Board expanded the holding in *Matter of M-S-* to rule that an individual who is paroled, whose parole is revoked by the service of a Notice to Appear, and who is later re-detained prior to the completion of removal proceedings is also not subject to bond 29 I. & N. Dec. 66, 70-71 (BIA 2025).

73. The application of *Matter of M-S-* and *Matter of Q. Li* to Mr. Pipa, an individual who has been living lawfully in the United States for years, violates his due process rights. The individuals in *Matter of M-S-* and *Jennings* had never received parole and had never been released from DHS's custody, thus had not obtained the constitutional due process protections of individuals who have entered and resided in the United States Applying these cases to Mr. Pipa leaves him without an avenue to challenge his continued detention despite his years-long residence and community connections within the United States.

74. Additionally, the existing procedure before ICE to seek release is without meaningful process. *McCarthy*, 503 U.S. at 147-48. 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. As here, that decision can be provided without any explanation or reasoning. 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.

75. 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[1]

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

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.

76. *Third*, the proposed procedures—namely requiring that DHS provide evidence of authority and the reasons for re-detention and 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. *Mathews*, 424 U.S. at 335. There is not likely to be any dispute that Mr. Pipa is dangerous—he has no criminal convictions in the United States, and has otherwise complied with all orders by immigration authorities. He has been present in the United States for four years, during which time he was placed in removal proceedings and provided with work authorization.

77. DHS has provided no arrest warrant or evidence of its authority to detain Mr. Pipa at this time. Nor has it explained the necessity of detention at this time.

78. If ICE wishes to counter to prove Mr. Pipa 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.

79. Mr. Pipa is currently held in custody by ICE without any meaningful mechanism to challenge the lawfulness of his custody.

80. 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[ ]").

81 Ultimately, the Constitution cannot abide a process by which the Government can detain someone without providing any authority or justification. Therefore, to cure the due process violation that has occurred by detaining Mr. Pipa without any adequate procedural protections, the Court should order his release. Alternatively, the Court should order a hearing at which Respondents must justify the detention. Mr Pipa requests that this custody hearing be held before this Court, or otherwise ordered to occur the immigration court with a ruling that the agency precedent *Matter of M-S-* and *Matter of Q. Li* cannot be applied in this case as they violate Mr. Pipa's due process rights.

PRAYER FOR RELIEF

Based on the foregoing, Mr. Pipa requests that this Court:

a. Assume jurisdiction over the matter;

b. Issue an emergency order staying Mr. Pipa's transfer outside the Eastern District of Virginia;

c. Declare that the continued immigration detention of Mr. Pipa violates the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

d Issue a writ of *habeas corpus* ordering Respondents to immediately release Mr. Pipa from their custody or provide him a bond hearing at which the Government bears the burden of proof;

e. Award Mr. Pipa all costs incurred in maintaining this action; and

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

Respectfully submitted,

/s/ Eileen Blessinger
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