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Attorney for Petitioner SENTAYEHU SHEWAMENE TILAHUN

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

SENTAYEHU SHEWAMENE  
TILAHUN,

Plaintiff,

v.

DONALD J. TRUMP, in his official  
capacity as the President of the United  
States;  
U.S. IMMIGRATION AND CUSTOMS  
ENFORCEMENT;  
EXECUTIVE OFFICE OF  
IMMIGRATION REVIEW;  
CORECIVIC, INC.;  
KRISTI NOEM, Secretary of United  
States Department of Homeland Security,  
in her official capacity;  
TODD M. LYONS, Acting Director, U.S.  
Immigration and Customs Enforcement, in  
his official capacity;  
GREGORY J. ARCHAMBEAULT,  
Director of U.S. Immigration and Customs  
Enforcement and Removal Operations  
(ERO) San Diego, in his official capacity;  
CHRISTOPHER J. LAROSE, Senior  
Warden, Otay Mesa Detention Center, in  
his official capacity;  
ANGELICA ALFONSO-ROYALS,  
Acting Director, U.S. Citizenship and

Case No.: **'25CV1802 BAS DEB**

**PETITIONER SENTAYEHU  
SHEWAMENE TILAHUN'S  
PETITION FOR WRIT OF  
MANDAMUS, COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF, AND PETITION FOR  
WRIT OF HABEAS CORPUS**

**Agency Doc. No.  
A221-044-599**

1 Immigration Services, in her official  
2 capacity;  
3 and  
4 PAMELA BONDI, Attorney General of  
5 the United States, in her official capacity,  
Respondents.

6  
7 Petitioner Sentayehu Shewamene TILAHUN (“Petitioner” or “TILAUHN”), by and  
8 through her attorney, Kathleen A. Spero, hereby submits her Complaint, and seeks an  
9 order in the form of a writ of mandamus; declaratory relief to compel; and petitions this  
10 Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents’  
11 detaining her, and states as follows:

12 **INTRODUCTION**

13 1. TILAHUN arrived at this country’s doorstep on March 28, 2025, seeking asylum  
14 from Ethiopia after the government there detained, threatened, beat, and sexually assaulted  
15 her. The Department of Homeland Security (DHS), through United States Citizenship and  
16 Immigration Services (USCIS), then determined that she did not establish that it is more  
17 likely than not that she will be tortured in Ethiopia but did not provide any explanation as  
18 to how they made that decision. TILAHUN’S counsel has been informed that she will be  
19 imminently removed from the United States.  
20

21  
22 2. On January 20, 2025, the President issued a proclamation declaring that “the current  
23 situation at the southern border qualifies as an invasion.” Proclamation 10888,  
24 Guaranteeing the States Protection Against Invasion, 90 Fed. Reg. 8333, 8334–35 (Jan. 20,  
25 2025) (the “Proclamation”). The Proclamation effectively “prevents anyone who crosses  
26 the southern border of the United States at any place other than a designated port of entry,  
27  
28



1 as well as anyone who enters anywhere else (including at a designated port of entry)  
2 without a visa or without extensive medical information, criminal history records, and other  
3 background records, from applying for asylum or withholding of removal.” *See RAICES v*  
4 *Noem*, et al., No. 1:25-cv-00306-RDM (D.D.C., filed Jul. 2, 2025).<sup>1</sup> Instead, noncitizens  
5 are offered a screening interview under the Convention Against Torture (“CAT”) by an  
6 asylum officer, but are barred from being represented by counsel for the CAT screening  
7 interview. During this CAT screening interview, the asylum officer determines whether the  
8 noncitizen is more likely than not to be tortured in their home country. However, this CAT  
9 screening interview does not also evaluate eligibility for asylum or withholding of removal.  
10 Further, the Proclamation dictates that there is no opportunity for judicial review of the  
11 asylum officer’s CAT screening interview determination.  
12

13 3. TILAHUN expressed a fear of returning to her country and requested asylum upon  
14 entry to the United States, and throughout her detention. However, Respondents have failed  
15 to conduct a credible fear interview, and instead, only conducted a CAT screening  
16 interview. Respondents have also failed to provide judicial review of this CAT screening  
17 interview.  
18

19 4. Respondents have continued to detain her since her March 2025 arrival without  
20 conducting a credible fear interview as required by 8 U.S.C. § 1225(b).  
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27 <sup>1</sup> On July 2, 2025, the D.C. District Court vacated the Proclamation as unlawful and enjoined the  
28 government from implementing it. The court postponed its order for 14 days; it will take effect on July  
16, barring any stay pending appeal.

1 5. TILAHUN suffers from intense seizures, and the stress of incarceration is negatively  
2 impacting her health.

3  
4 6. Because TILAHUN's detention has become prolonged, considering her health  
5 condition, Respondents' continuing to detain her violates her due process rights under the  
6 United States Constitution's Fifth Amendment.

7  
8 7. Among other things, she seeks this Court's expedited adjudication of this petition,  
9 and ordering the government to show cause within three days, considering she has had  
10 multiple seizures while in detention at the Otay Mesa Detention Facility in Respondents'  
11 custody.

12  
13 8. Because of the negative CAT screening determination conducted in violation of the  
14 immigration laws governing asylum, TILAHUN faces imminent removal to a country  
15 where she will be persecuted and tortured.

16  
17 **CUSTODY**

18 9. TILAHUN is currently in the Respondents' physical and legal custody. They are  
19 detaining her at the Otay Mesa Detention Center in San Diego, CA. She is under  
20 Respondents' and their agents' direct control.

21  
22 **PARTIES**

23  
24 10. Petitioner Sentayehu Shewamene TILAHUN is a 30-year-old native and citizen of  
25 Ethiopia. She fled Ethiopia because of persecution and arrived in the United States on  
26 March 28, 2025 to seek asylum. She has been detained by Respondents since that time.



1 11. TILAHUN is currently in Respondents' legal and physical custody at the Otay Mesa  
2 Detention Center in San Diego, California. That facility is operated by CoreCivic, Inc., a  
3 Maryland Corporation.  
4

5 12. Respondent KRISTI NOEM is the Secretary of United States Department of  
6 Homeland Security ("DHS"). DHS is the federal agency that is ultimately responsible for  
7 enforcing immigration laws and granting immigration benefits. See 8 U.S.C. § 1103(a); 8  
9 C.F.R. § 2.1. Respondent Noem has ultimate custodial authority over TILAHUN, who  
10 names her in her official capacity.  
11

12 13. Respondent TODD M. LYONS is the Acting Director of U.S. Immigration and  
13 Customs Enforcement ("ICE"). ICE is a component of DHS, 6 U.S.C. § 271, and an  
14 "agency" within the meaning of the Administrative Procedure Act, 5 U.S.C. § 701(b)(1).  
15 It is the agency responsible for enforcement of immigration laws, and it is detaining  
16 TILAHUN. Respondent Lyons has custodial authority over TILAHUN, who names him in  
17 his official capacity.  
18

19 14. Respondent GREGORY J. ARCHAMBEAULT is the Director of U.S. Immigration  
20 and Customs Enforcement and Removal Operations (ERO) San Diego. This office is  
21 responsible for ICE enforcement and the detention facilities, including the Otay Mesa  
22 Detention Facility in the San Diego area. Respondent Archambeault has custodial authority  
23 over TILAHUN, who names him in his official capacity.  
24  
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1 15. Respondent CHRISTOPHER J. LAROSE is the Senior Warden at the Otay Mesa  
2 Detention Center, where TILAHUN is being held. Respondent Larose is TILAHUN's  
3 immediate custodian. TILAHUN names him in his official capacity.  
4

5 16. Respondent ANGELICA ALFONSO-ROYALS is the Acting Director, U.S.  
6 Citizenship and Immigration Services (USCIS). USCIS is a federal agency responsible for  
7 conducting asylum interviews and making credible fear determinations. Respondent  
8 names her in her official capacity.  
9

10 17. Respondent PAMELA BONDI, is the Attorney General of the United States. She is  
11 responsible for the Immigration and Nationality Act's implementation and enforcement  
12 (see 8 U.S.C. §§ 1103(a)(1), (g)), and oversees the Executive Office for Immigration  
13 Review ("EOIR"), the office which ordered TILAHUN removed. TILAHUN names him  
14 in his official capacity.  
15  
16

### 17 JURISDICTION AND VENUE

18 18. This action arises under the Constitution of the United States, the Immigration and  
19 Nationality Act ("INA"), 8 U.S.C. § 1101 et seq.; the Convention Against Torture  
20 ("CAT"), *see* Foreign Affairs Reform and Restructuring Act of 1998 ("FARRA"), Pub. L.  
21 No. 105-277, div. G, Title XXII, § 2242, 112 Stat. 2681, 2681-822 (1998) (codified as Note  
22 to 8 U.S.C. § 1231); the All Writs Act, 28 U.S.C. § 1651 and the Administrative Procedures  
23 Act ("APA"), to perform its duty under federal law by conducting a credible fear  
24 determination and referring TILAHUN's credible fear determination to EOIR for review,  
25 as required by 8 U.S.C. § 1225(b)(1)(B)(iii)(I) and 8 C.F.R. § 1208.03(f), and to redress  
26  
27  
28



1 TILAHUN's due process rights under the Fifth Amendment to the United States  
2 Constitution.

3  
4 19. This Court has jurisdiction over this action under 28 U.S.C. § 1331 (federal question)  
5 and may review defendants' actions or omissions under the Administrative Procedure Act,  
6 5 U.S.C. § 701 et seq.; the Mandamus Act 28 U.S.C. § 1361; and the Declaratory Judgment  
7 Act, 29 U.S.C. § 2201 et seq. (declaratory relief) and 8 U.S.C. § 1252, and 5 U.S.C. § 706,  
8 which provide this Court with authority to review decisions regarding credible fear  
9 determinations.  
10

11  
12 20. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2, of the United  
13 States Constitution; and 28 U.S.C. § 1331, as TILAHUN is presently in Respondents'  
14 custody under the United States' color of authority, and such custody violates the United  
15 States Constitution, laws, or treaties. Its jurisdiction is not limited by TILAHUN'S  
16 nationality, status as an immigrant, or any other classification. *See Boumediene v. Bush*,  
17 553 U.S. 723, 747 (2008). This Court may grant relief under U.S. CONST. art. I, § 9, cl.  
18 2; U.S. CONST. amends. V and VIII; 28 U.S.C. §§ 1361 (mandamus), 1651 (All Writs  
19 Act), 2241 (habeas corpus).  
20  
21

22 21. Venue is proper in the Southern District of California under 28 U.S.C. § 1391(b)(2)  
23 because a substantial part of the events, acts, or omissions giving rise to the claims occurred  
24 in the County of San Diego, including at the time of filing; TILAHUN is detained in the  
25 Respondents' custody at Otay Mesa Detention Center located in the Southern District of  
26  
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1 California; and Respondents are officers of the United States sued in their official  
2 capacities.

3  
4 FACTS

5 18. TILAHUN reserves the right to amend and supplement her factual statement after  
6 she receives her Freedom of Information Act (“FOIA”) response and any additional  
7 documents from DHS.  
8

9 19. TILAHUN entered the United States on March 28, 2025, and Customs and Border  
10 Protection (“CBP”) detained her. *See* Exhibit A.  
11

12 20. Upon her entry, and throughout her detention, she has notified CBP, ICE, and USCIS  
13 officers about her request to seek asylum through counsel, which she repeated many times  
14 in March and April of 2025. *See* Exhibit B.  
15

16 21. Throughout her time in custody, TILAHUN has experienced several serious seizures  
17 requiring medical attention, medication, and hospitalization, including on the day of her  
18 CAT interview. *See* Exhibits B, C.  
19

20 22. On April 25, 2025, TILAHUN was referred to USCIS for screening under the  
21 Convention Against Torture by a USCIS asylum officer. *See* Exhibit B. She was not given  
22 a credible fear interview or a reasonable fear interview. *Id.*  
23

24 23. On April 27, 2025, TILAHUN was assessed for a claim under the Convention  
25 Against Torture by a USCIS asylum officer. *See* Exhibit A. TILAHUN did not feel well,  
26 but was not asked about her health, and was not given an opportunity to reschedule her  
27  
28



1 interview. *See* Exhibit B. TILAHUN did not have an interpreter for portions of her  
2 interview. *See* Exhibit A.

3  
4 24. On April 27, 2025, the Asylum Officer found TILAHUN to be credible and  
5 acknowledged her detention and beatings by the Ethiopian government, but decided that  
6 TILAHUN “did not establish it is more likely than not that you will be tortured in  
7 Ethiopia.” *See* Exhibits B, D. After receiving her decision, TILAHUN had another seizure,  
8 during which she fell and hit her head. *See* Exhibits B, C.

9  
10 25. On May 2, 2025 TILAHUN’s Attorney was notified about this action. On the same  
11 day, TILAHUN’s attorney requested that she receive a new interview. *See* Exhibit B.

12  
13 26. On May 5, 2025, USCIS informed TILAHUN’s attorney that TILAHUN was not  
14 referred to USCIS for a credible fear interview. *See* Exhibit B.

15  
16 27. On May 5, 2025, TILAHUN’s Attorney emailed TILAHUN’s ICE officer, Officer  
17 Bergman, requesting a new interview because USCIS did not provide a competent  
18 interpreter, and TILAHUN’s negative health. *See* Exhibit B. TILAHUN’S attorney sent a  
19 follow-up email two days later, Officer Bergman replied, saying TILAHUN was not  
20 eligible for a second interview. *See* Exhibit B.

21  
22 28. To this date, TILAHUN’s Attorney has made many attempts to contact USCIS and  
23 ICE to request a new interview, filed a FOIA with USCIS, filed an administrative stay with  
24 ICE, and requested a bond hearing. *See* Exhibit B. The Asylum Officer failed to notify  
25 TILAHUN about her rights under 8 C.F.R. § 208.30(g), including providing her a form I-  
26 869 to make the request for a review of the decision by an Immigration Judge. *See* Exhibit  
27  
28

1 B. In multiple phone conversations, Officer Bergman told TILAHUN's attorney that there  
2 was nothing TILAHUN's attorney could do for TILAHUN, and that the policy is that  
3 asylum-seekers do not get second interviews, parole, or an opportunity to go before a judge  
4 or get another interview review. *See* Exhibit B. TILAHUN'S Attorney has not received a  
5 substantive response from USCIS. *See* Exhibit B.  
6

7  
8 29. To this date, Respondents did not refer TILAHUN'S case to an immigration judge  
9 for a timely review of the negative Convention Against Torture Assessment, or to get a  
10 credible fear determination, which violates TILAHUN'S right to due process under the  
11 Fifth Amendment of the U.S. Constitution and 8 U.S.C. § 1225(b). *See* Exhibit B.  
12 TILAHUN'S liberty interest is at stake because the credible fear determination plays a  
13 pivotal role in the overall asylum and removal proceedings.  
14

15  
16 30. TILAHUN has a bond hearing scheduled for July 17, 2025. *See* Exhibit E. On July  
17 15, 2025, Counsel was notified that the administrative stay was denied by ICE, and that  
18 she would imminently be removed to Ethiopia in less than 24 hours. *See* Exhibit E.  
19

20 31. TILAHUN does not have an adequate alternative remedy to resolve this dispute, and  
21 the harm caused by Respondents' actions is both real and imminent. TILAHUN'S ability  
22 to seek asylum and protection from removal depends upon the timely provision of a  
23 credible fear interview and referral of the case for judicial review by an immigration judge,  
24 and thus TILAHUN has the right to seek a mandamus order requiring such actions.  
25  
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1 32. Therefore, TILAHUN has standing to challenge the unreasonable denial of a  
2 credible fear determination, as it directly affects TILAHUN'S liberty interest and right to  
3 seek asylum under U.S. immigration law.  
4

5 33. TILAHUN is in imminent danger of removal from the United States.

6 **EXHAUSTION OF REMEDIES**  
7

8 34. TILAHUN has exhausted all administrative remedies, and further ones are not  
9 available to her.

10 **LEGAL FRAMEWORK**  
11

12 35. U.S. Immigration and Nationality Act (INA) and federal regulations such as the  
13 Code of Federal Regulations (C.F.R.) and Administrative Procedure Act (APA) govern the  
14 process of judicial review following unreasonable agency action.  
15

16 36. According to the INA § 235(b)(1)(A) (8 U.S.C. § 1225(b)(1)(A)), any person subject  
17 to expedited removal who indicates an intention to apply for asylum or expresses a fear of  
18 persecution or torture must be referred to an asylum officer for a credible fear  
19 determination. If the asylum officer does not find credible fear, the asylum-seeker can  
20 request a review by an immigration judge.  
21

22 37. Under 8 C.F.R. § 208.30(d), "[a] USCIS asylum officer will conduct the credible  
23 fear interview in a nonadversarial manner, separate and apart from the general public. The  
24 purpose of the interview shall be elicit all relevant and useful information bearing on  
25 whether the [noncitizen] can establish a credible fear of persecution or torture."  
26  
27  
28

1 38. Under 8 C.F.R. § 208.30(e)(2), asylum officers must consider all applicable grounds,  
2 including asylum, withholding of removal, and CAT. Respondents' failure to comply with  
3 these statutory and regulatory duties violates of due process and constitutes unlawful  
4 withholding of agency action subject to mandamus relief.  
5

6 39. A noncitizen who has been found to have a negative credible fear determination by  
7 a USCIS asylum officer has the right to seek a de novo review of that decision by an  
8 immigration judge. 8 U.S.C. § 1225(b)(1)(B)(iii)(I). That provision mandates that the  
9 immigration judge must conduct a review of the determination to assess whether the  
10 noncitizen has a credible fear of persecution or torture. *See id.*  
11

12 40. Noncitizens who arrive at the U.S. border and express a fear of persecution or torture  
13 are entitled to an interview with a USCIS asylum officer to determine whether they have a  
14 credible fear of returning to their home countries. 8 U.S.C. § 1225(b)(1)(B). If the officer  
15 makes a negative determination, the case must be referred to an immigration judge for a  
16 review upon request by the noncitizen. *See id.*  
17

18 41. The C.F.R. establishes the procedures for conducting credible fear interviews and  
19 the standards for determining whether a noncitizen has a credible fear of persecution. 8  
20 C.F.R. § 1208.30. It sets forth the process for the referral of negative credible fear  
21 determinations to an immigration judge for review. *See id.* If an asylum officer determines  
22 that a noncitizen has a negative credible fear determination, the noncitizen is entitled to a  
23 timely review by an immigration judge under 8 U.S.C. § 1225(b)(1)(B)(iii)(I).  
24  
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1 42. 8 C.F.R. § 1208.30(f) mandates that the immigration judge conducts a de novo  
2 review of the asylum officer's decision. The review should be timely and fair, ensuring that  
3 the noncitizen's rights to due process are protected. *See id.*

4  
5 43. Under the APA, persons may seek review if they believe an agency has failed to  
6 perform a mandatory duty, such as not referring a credible fear determination to an  
7 immigration judge. Specifically, 5 U.S.C. § 706(1) allows a court to compel agency action  
8 when an agency unlawfully withholds or delays action required by law.  
9

10 44. Federal courts have jurisdiction to issue a writ of mandamus to compel an agency or  
11 official to perform a duty that is required by law. 28 U.S.C. § 1361.  
12

13 45. The Fifth Amendment to the United States Constitution guarantees that no person  
14 shall be deprived of life, liberty, or property without due process of law. The right to a fair  
15 process, including a timely and meaningful review of a negative credible fear  
16 determination, is a fundamental component of due process. The failure of Respondents to  
17 refer TILAHUN'S case to an immigration judge for review of the negative CAT screening  
18 deprives TILAHUN of this constitutional right.  
19  
20

### 21 **Mandamus Act**

22 46. In general, the Mandamus Act, 28 U.S.C. § 1361, can be used to compel  
23 administrative agencies to act. It provides as follows:  
24

25 The district courts shall have original jurisdiction of any action in the nature  
26 of mandamus to compel an officer or employee of the United States or any  
27 agency thereof to perform a duty owed to the plaintiff.  
28

1 47. TILAHUN has exhausted all available administrative remedies, including inquiries  
2 and requests submitted to USCIS/ICE. Despite TILAHUN'S efforts, USCIS/ICE have  
3 denied or ignored her requests. Thus, a writ of mandamus is necessary, as it is the most-  
4 viable option to secure timely and legal action from Respondents.  
5

6 48. Despite TILAHUN'S timely requests for a new CAT interview and a credible fear  
7 interview, USCIS/DHS has failed to conduct a credible fear determination as required by  
8 law. It is mandated by INA § 235(b)(1)(A)(ii) (8 U.S.C. § 1225(b)(1)(A)(ii)). *See* 8 C.F.R.  
9 § 208.30(g)(2) and (g)(2),(i).  
10

11 49. TILAHUN and her attorney were both informed that they were not able to have the  
12 negative CAT decision reviewed internally or have the opportunity to have the decision  
13 reviewed by a judge, nor were they able to request a new interview or a credible fear  
14 interview under 8 U.S.C. § 1225(b)(1)(B)(iii)(I) and 8 C.F.R. § 1208.30(f).  
15

16 50. Despite TILAHUN'S timely requests for review, USCIS/DHS has failed to conduct  
17 a new CAT interview, credible fear interview, and/or refer the case to an immigration judge  
18 for a de novo review as required by law.  
19

20 51. The failure of USCIS to conduct credible fear interviews as required by law violates  
21 federal regulations, namely to 8 C.F.R. § 208.30 (d)-(g).  
22

23 52. If USCIS fails to act consistently with 8 C.F.R. § 208.30, a person can challenge that  
24 inaction under the APA as "not in accordance with law." *See* 5 U.S.C. § 706(2)(A).  
25  
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53. USCIS's failure to refer TILAHUN's case to an immigration judge is in violation of federal law and the regulations governing credible fear determinations as required by law 8 C.F.R. § 208.31(g).

54. TILAHUN is entitled to receive a credible fear interview under to 8 C.F.R. § 208.30(d).

55. TILAHUN is entitled to a de novo review of the negative credible fear determination by an immigration judge, and the failure to refer the case violates TILAHUN'S due process rights under the Fifth Amendment of the U.S. Constitution.

56. Before the DHS/ICE can remove a noncitizen from the United States, there must be a removal hearing before an immigration judge. *See generally* 8 U.S.C. § 1229.

57. TILAHUN has exhausted all available administrative remedies, including inquiries and requests for a new interview and a credible fear interview. Despite TILAHUN'S efforts, USCIS not only denied her requests, they denied having any record of a CAT interview being conducted at all, even though they provided TILAHUN with the CAT assessment and worksheet.

### **Habeas Corpus**

58. Respondents have held TILAHUN since March 28, 2025, without providing her with an individualized bail hearing before a neutral adjudicator. It is unclear whether she is being detained under INA § 235(b) or § 212(f). That violates the Fifth Amendment's Due Process Clause.

1 59. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 et seq. (habeas  
2 corpus), as protected under Art. I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause),  
3 28 U.S.C. § 1346 (United States as defendant), 28 U.S.C. § 1361 (mandamus), and 28  
4 U.S.C. § 1651 (All Writs Act).

6 60. TILAHUN suffers from a serious medical condition, specifically, recurrent seizures  
7 that are worsened by excessive stress.  
8

9 61. This condition requires ongoing medical care and treatment, including Keppra  
10 medication, as well as potential follow-up with a neurologist.  
11

12 62. Despite this critical need, the conditions of TILAHUN'S detention at Otay Mesa  
13 Detention Center are inadequate to properly address TILAHUN'S medical needs.

14 63. Specifically, TILAHUN was not transferred to the Emergency Room for her  
15 multiple seizures until she fell back on her head and cracked her head open after a  
16 seizure. TILAHUN has not been provided with an opportunity to seek follow-up with a  
17 neurologist for her seizures. She has not received adequate specialized care.  
18

19 64. These inadequate conditions are causing TILAHUN to experience severe anxiety,  
20 depression, headaches, and dizziness.  
21

22 65. The continued detention of TILAHUN under these circumstances constitutes cruel  
23 and unusual punishment and a violation of due process under the Fifth Amendment of the  
24 U.S. Constitution.  
25  
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28



**CAUSES OF ACTION**

**FIRST CAUSE OF ACTION**

**Writ of Mandamus**

**(Failure of the Respondents to refer TILAHUN'S case to Immigration Court)**

66. TILAHUN repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

67. To establish grounds for a court to issue a writ of mandamus, a plaintiff must demonstrate the following: (1) the plaintiff has a clear right to the relief requested; (2) the defendant has a clear duty to perform the act in question; and (3) there is no other adequate remedy available to the plaintiff. *See, e.g. Am. Hospital Ass'n v. Burwell*, 812 F.3d 183, 189 (D.C. Cir. 2016).

68. Under 8 U.S.C. § 208.30(g)(1), if a noncitizen is found not to have a credible fear of persecution or torture, the asylum officer shall provide the noncitizen with a written notice of decision and issue the noncitizen a record of the credible fear determination, including copies of the asylum officer's notes, the summary of the material facts, and other materials upon which the determination was based. The asylum officer shall inquire whether the noncitizen wishes to have an immigration judge review the negative decision, which shall include an opportunity for the noncitizen to be heard and questioned by the immigration judge, *See* 8 U.S.C. § 1225(b)(1)(B)(iii)(III), using Form I-869, Record of Negative Credible Fear Finding and Request for Review. The noncitizen shall indicate whether he or she desires such review on the Form I-869. A refusal or failure by the noncitizen to so indicate shall be considered a request for review.

69. Respondents informed TILAHUN that she was not able to have her negative CAT screening decision reviewed by a judge. They did not provide her with a Form I-869. Respondents violated the applicable law and regulations by failing to send TILAHUN'S case to an immigration judge for review.

70. TILAHUN seeks relief through a petition for writ of mandamus, requesting that this Court compel USCIS to refer TILAHUN'S case to an immigration judge for review as required by 8 C.F.R. § 208.30(g)(1)(i), (g)(2)(i), 8 U.S.C. § 1225(b)(1)(B)(iii)(I) and 8 CFR § 1208.30(f).

71. Respondents' failure to refer the case to an immigration judge has caused TILAHUN harm. It continues to prevent TILAHUN from receiving a lawful and fair review of her credible fear determination.

## SECOND CAUSE OF ACTION

### Writ of Mandamus

#### (Failure of Respondents to assess the TILAHUN for her Asylum claim)

72. TILAHUN repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

73. TILAHUN is currently detained by Respondents under the authority of DHS. TILAHUN expressed a credible fear of persecution and was told that she was not eligible for a credible fear determination under 8 U.S.C. § 1225(b)(1)(B)(ii), which mandates that noncitizens who express fear of returning to their home countries are entitled to such a determination by a USCIS asylum officer. *See* Exhibit A.



1 74. Under the INA, the credible fear determination process is critical to a noncitizen's  
2 right to seek asylum in the United States. The law requires that if an asylum officer makes  
3 a negative determination of credible fear, the noncitizen must be referred to an immigration  
4 judge for a timely review of that determination under 8 U.S.C. § 1225(b)(1)(B)(iii)(I).

6 75. The Fifth Amendment to the United States Constitution prohibits the government  
7 from depriving any person of life, liberty, or property without due process of law. By failing  
8 to promptly provide TILAHUN with a credible fear determination hearing before an  
9 immigration judge, Respondents are violating TILAHUN'S constitutional rights to  
10 procedural due process.  
11

13 76. TILAHUN is entitled to have a credible fear determination interview, and expedited  
14 removal without this interview is unlawful.  
15

16 77. TILAHUN is entitled to a judicial review of her negative credible fear determination  
17 by an immigration judge, and her continued detention without this review is unlawful.

18 78. The unlawful refusal to provide TILAHUN with a credible fear determination  
19 interview and review hearing is causing irreparable harm to TILAHUN, and she does not  
20 have any other adequate remedy at law.  
21

22 **THIRD CAUSE OF ACTION**  
23 **Violation of 8 U.S.C. § 1101, et seq.**

24 79. TILAHUN repeats and incorporates by reference each allegation contained in the  
25 preceding paragraphs as if fully set forth herein.  
26

27 80. The INA, 8 U.S.C. § 1101, *et seq.*, sets out the sole mechanisms established by  
28 Congress for the removal of noncitizens.

1 81. The INA provides that a removal proceeding before an immigration judge under  
2 U.S.C. § 1229a is “the sole and exclusive procedure” through which the government may  
3 determine whether to remove a noncitizen, “[u]nless otherwise specified” in the INA. 8  
4 U.S.C. § 1229a(a)(3).  
5

6 82. One mechanism otherwise specified in the INA is the expedited removal system,  
7 including its credible fear screening process. § 1225(b)(1). The expedited removal statute  
8 provides that if a noncitizen “indicates either an intention to apply for asylum under section  
9 1158 of this title or a fear of persecution, the officer shall refer the [noncitizen] for an  
10 interview by an asylum officer,” and the noncitizen may not be removed pending that  
11 interview and, if requested, review by an immigration judge. § 1225(b)(1)(A)(i)-(ii). It  
12 further provides that a noncitizen “who may be eligible” for “the asylum interview [just]  
13 described” has a right to be provided “information concerning the asylum interview” and  
14 to “consult with a person or persons of the [noncitizen]’s choosing prior to the interview.”  
15 § 1225(b)(1)(B)(iv). And the expedited removal statute provides that the government “shall  
16 provide by regulation and upon the [noncitizen’s] request for prompt review by an  
17 immigration judge of a determination ... that the [noncitizen] does not have a credible fear  
18 of persecution,” including “an opportunity for the [noncitizen] to be heard and questioned  
19 by the immigration judge, either in person or by telephonic or video connection.” §  
20 1225(b)(1)(B)(iii)(III).  
21

22 83. The Proclamation and Respondents’ actions to implement and enforce it are  
23 unlawful because they result in removals without complying with the procedures required  
24  
25  
26  
27  
28



1 by the INA and its implementing regulations, including the requirements to refer for  
2 credible fear interviews noncitizens who indicate an intent to apply for asylum or a fear of  
3 persecution; provide information about credible fear interviews to noncitizens who may be  
4 eligible; and allow for review of adverse credible fear determinations by immigration  
5 judges.  
6

7  
8 84. The current policy creates an alternative removal mechanism outside of the  
9 immigration laws set forth by Congress in in the INA. Because the current process or  
10 conduct permits the removal of TILAHUN without the procedures specified in the INA, it  
11 violates 8 U.S.C. § 1229a and other INA provisions.  
12

#### 13 **FOURTH CAUSE OF ACTION**

##### 14 **Violation of 8 U.S.C. § 1158, Asylum**

15 85. TILAHUN repeats and incorporates by reference each allegation contained in the  
16 preceding paragraphs as if fully set forth herein.  
17

18 86. The INA provides that, “[a]ny [noncitizen] who is physically present in the United  
19 States or who arrives in the United States (whether or not at a designated port of arrival  
20 and including [a noncitizen] who is brought to the United States after having been  
21 interdicted in international or United States waters), irrespective of such [noncitizen’s]  
22 status, shall apply for asylum in accordance with this section or, where applicable, section  
23 1225(b) of this title.” 8 U.S.C §1158(a)(1).  
24  
25  
26  
27  
28

1 87. The Respondents' application of expedited removal under the Proclamation to  
2 TILAHUN prevents her from applying for asylum under 8 U.S.C. § 1158(a)(1) and is  
3 therefore contrary to law.  
4

5 **FIFTH CAUSE OF ACTION**  
6 **Violation of 8 U.S.C. § 1231(b)(3), Withholding of Removal**

7 88. TILAHUN repeats and incorporates by reference each allegation contained in the  
8 preceding paragraphs as if fully set forth herein.

9 89. The "withholding of removal" statute, INA § 241(b)(3), codified at 8 U.S.C. §  
10 1231(b)(3), bars the removal of noncitizens to a country where it is more likely than not  
11 that their life or freedom would be threatened.  
12

13 90. None of the sources of law on which the Proclamation relies—§ 1182(f), §  
14 1185(a)(1), or the Constitution—applies here or can lawfully displace the protections set  
15 forth in Section 1231(b)(3) and its implementing regulations.  
16

17 91. The Respondents' actions violate the withholding of removal statute because they  
18 do not provide adequate safeguards to ensure that TILAHUN is not returned to a country  
19 where it is more likely than not that her life or freedom would be threatened.  
20

21 92. Accordingly, Respondents' actions against TILAHUN are contrary to law.  
22

23 **SIXTH CAUSE OF ACTION**  
24 **Violation of the Foreign Affairs Reform and Restructuring Act of 1998 ("FARRA")**  
25 **codified at 8 U.S.C. § 1231, note regarding Convention Against Torture**

26 93. TILAHUN repeats and incorporates by reference each allegation contained in the  
27 preceding paragraphs as if fully set forth herein.  
28



1 94. The United States is bound by the United Nations Convention against Torture and  
2 Other Cruel, Inhuman or Degrading Treatment or Punishment (“CAT”), which prohibits  
3 returning any persons to a country where it is more likely than not that they would be  
4 subjected to torture.  
5

6 95. Article 3 of the CAT, as implemented by the Foreign Affairs Reform and  
7 Restructuring Act of 1998 (FARRA), and its regulations at 8 C.F.R. § 208.16–18, require  
8 that no persons be removed to a country where they are likely to face torture by state actors  
9 or with their acquiescence.  
10

11 96. The Proclamation and Respondents’ actions to implement and enforce the  
12 Proclamation violate FARRA and its implementing regulations by depriving noncitizens  
13 of a meaningful opportunity to present CAT claims.  
14

15 97. None of the sources of law on which the Proclamation relies—§ 1182(f), §  
16 1185(a)(1), or the Constitution—applies here or can lawfully displace or undermine the  
17 protections set out in the CAT and FARRA.  
18

19 98. TILAHUN has expressed a well-supported fear of torture upon returning to Ethiopia,  
20 supported by testimony that the Asylum Officer deemed to be credible. The Respondents’  
21 actions violate CAT and FARRA because they do not provide adequate safeguards to  
22 ensure that TILAHUN is not returned to a country where it is likely that she would be  
23 subject to torture. Accordingly, the Respondents’ actions against TILAHUN are contrary  
24 to law.  
25  
26  
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28

**SEVENTH CAUSE OF ACTION**  
**Violation of Due Process Under the Fifth Amendment of the United States Constitution**

99. TILAHUN repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

100. The Fifth Amendment to the United States Constitution guarantees equal protection principles, and requires fair, pre-deprivation process when a person's liberty and life are at risk.

101. The Supreme Court of the United States has held that punitive measures cannot be imposed upon noncitizens ordered removed because "all persons within the territory of the United States are entitled to the protection" of the Constitution. *See Wong Wing v. United States*, 163 U.S. 228, 238 (1896) (citing *Yick Wo v Hopkins*, 118 U.S. 356, 369 (1886) (holding that equal protection guarantee applies to Chinese noncitizens)) *Zadvydas v. Davis*, 533 U.S. 678, 694 (2001). Specifically, "once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all "persons" within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent. *Zadvydas*, 533 at 693 (See *Plyler v. Doe*, 457 U.S. 202, 210).

102. "It should be noted the procedural protection here is real, not illusory; and the criteria for obtaining release are far from insurmountable." *Zadvydas*, 533 at 723.

103. Because the Respondents unlawfully failed to refer the TILAHUN to the immigration court, and failed to assess her asylum claim, her due process rights have been violated.



1 104. The Respondents' failure to act lawfully violates TILAHUN's right to due process  
2 under the Fifth Amendment.  
3

4 **EIGHTH CAUSE OF ACTION**  
5 **Violation of the Administrative Procedures Act**

6 105. TILAHUN repeats and incorporates by reference each allegation contained in the  
7 preceding paragraphs as if fully set forth herein.

8 106. The Respondents' failure to refer TILAHUN'S case to an immigration judge is  
9 arbitrary and capricious, and contrary to the law, violating the APA, 5 U.S.C. § 706(2)(A).  
10

11 107. If USCIS fails to act consistently with 8 C.F.R. § 208.30, that violates the APA  
12 because it is "not in accordance with law." 5 U.S.C. § 706(2)(A).  
13

14 108. The Respondents do not have any statutory or regulatory authority to deny  
15 TILAHUN'S right to be referred to an Immigration Judge.

16 109. The Respondents do not have any statutory or regulatory authority to deny  
17 TILAHUN's request to be assessed for an asylum claim.  
18

19 **A. Substantive Violation of the APA, 5 U.S.C. § 702(2)(A)**

20 110. TILAHUN repeats and incorporates by reference each allegation contained in the  
21 preceding paragraphs as if fully set forth herein.  
22

23 111. The APA specifies that federal district courts should hold unlawful and set aside any  
24 agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in  
25 accordance with law." 5 U.S.C. § 706(2)(A).  
26

27 112. The Departments of Homeland Security, State, and Justice are "agenc[ies]" under  
28 the APA. 5 U.S.C. § 551(1).

1 113. In implementing the Proclamation, as set out above, the Respondents have acted  
2 contrary to 8 U.S.C. §§ 1158(a)(1), 1225, 1229a, 1231(b)(3), and 1232(a)(5)(D), as well as  
3 those provisions implementing regulations.  
4

5 114. The Respondents have failed to provide reasoned explanations for these deviations  
6 from standard past practices, such as failing to reschedule TILAHUN'S interview because  
7 of her poor health, not obtaining and maintaining a competent interpreter throughout the  
8 interview, and failing to adhere to established procedures and rights guaranteed under the  
9 law. In doing so, they have acted unlawfully.  
10

11 **B. Procedural Violation of the APA, 5 U.S.C. § 706(2)(D)**  
12

13 115. TILAHUN repeats and incorporates by reference each allegation contained in the  
14 preceding paragraphs as if fully set forth herein.  
15

16 116. The APA specifies that federal district courts should hold unlawful and set aside any  
17 agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in  
18 accordance with law.” 5 U.S.C. § 706(2)(A).  
19

20 117. The Departments of Homeland Security, State, and Justice are “agenc[ies]” under  
21 the APA. 5 U.S.C. § 551(1).  
22

23 118. By precluding TILAHUN from an opportunity to have a credible fear interview,  
24 request review of a negative decision by a judge, and have a reinterview—and other gross  
25 failures in the implementation of regulations governing asylum, withholding of removal,  
26 and protection under the CAT—the Respondents have changed the substantive rights of  
27 noncitizens physically present within the United States, and departed from the procedural  
28



1 and substantive standards set forth in their regulations implementing the INA, without  
2 following the rulemaking procedures required by the APA. *See* 5 U.S.C. § 553.

3  
4 **NINTH CAUSE OF ACTION**  
5 **Violation of Separation of Powers**

6 119. TILAHUN repeats and incorporates by reference each allegation contained in the  
7 preceding paragraphs as if fully set forth herein.

8 120. Under fundamental separation-of-powers principles, the President cannot ignore or  
9 override Congress's careful and longstanding decisions to provide protections for  
10 noncitizens fleeing danger.

11 121. The Proclamation and Respondents' actions to implement the Proclamation violate  
12 these separation-of-power principles and exceed the President's constitutional authority.  
13

14  
15 **TENTH CAUSE OF ACTION**  
16 **Habeas Corpus**

17 122. TILAHUN repeats and incorporates by reference each allegation contained in the  
18 preceding paragraphs as if fully set forth herein.

19 123. TILAHUN'S detention is unconstitutional under the Fifth Amendment's Due  
20 Process Clause because the Respondents have precluded her from having a bond hearing.  
21 Respondents have held TILAHUN since March 28, 2025, without providing her with an  
22 individualized bail hearing before a neutral adjudicator. It is unclear whether she is being  
23 detained under INA § 235(b) or § 212(f). That violates the Fifth Amendment's Due Process  
24 Clause. The continued detention of TILAHUN under these circumstances constitutes cruel  
25  
26  
27  
28

1 and unusual punishment and a violation of due process under the Fifth Amendment of the  
2 U.S. Constitution.

3  
4 **PRAYER FOR RELIEF**

5 TILAHUN respectfully requests this Court grant the following relief:

- 6 A. Assume jurisdiction over this matter.
- 7 B. Enjoin the Respondents from transferring TILAHUN out of this district's  
8 jurisdiction during this case's pendance.
- 9 C. Issue an order preventing the Respondents from removing TILAHUN from  
10 the United States until an immigration judge reviews TILAHUN'S  
11 application for asylum, withholding of removal, and protection under the  
12 Convention Against Torture.
- 13 D. Issue an order that the January 20, 2025, Proclamation 10888, Guaranteeing  
14 States Protection Against Invasion violates due process rights.
- 15 E. Issue a writ of habeas corpus and order the Respondents to show cause,  
16 within three days of TILAHUN'S filing this petition, why the relief she  
17 seeks should not be granted, and set a hearing on this matter within five days  
18 of the Respondents' return on the order to show cause (see 28 U.S.C. §  
19 2243).
- 20 F. Order TILAHUN'S immediate release or, alternatively, order a  
21 constitutionally adequate bond hearing in this Court, before an immigration  
22 judge, or before another neutral adjudicator at which the Respondents will  
23 bear the burden to prove that TILAHUN'S continued detention remains  
24 justified because she presents a danger or flight risk, notwithstanding the  
25 availability of conditions of monitoring or supervision.
- 26 G. Grant injunctive relief (including but not limited to, habeas relief) and  
27 prohibit the Respondents from preventing TILAHUN meaningful access to  
28



counsel or from relying on pressure to convince TILAHUN to surrender her rights.

- H. Order the Respondents to provide TILAHUN with a credible fear determination interview under 8 C.F.R. § 208.30(g)(1)(i), § 1208.30(f), and § 1225(b)(1)(B)(iii)(A), to vindicate TILAHUN's due process rights under the Fifth Amendment.
- I. Order that the Respondents are legally obligated to perform their duties under federal law by referring TILAHUN'S negative credible fear determination to an immigration judge for review, as required by 8 C.F.R. § 208.30(g)(1)(i), § 1208.30(f), and § 1225(b)(1)(B)(iii)(I), to vindicate TILAHUN's due process rights under the Fifth Amendment.
- J. Issue a writ of mandamus compelling the Respondents to refer TILAHUN's case to an immigration judge for a de novo review of the negative CAT screening.
- K. Award TILAHUN attorney's fees and costs to the extent authorized by law.
- L. Grant any and all other relief this Court deems proper and just.

Dated: July 15, 2025

JACOBS & SCHLESINGER LLP

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