

# UNITED STATES DISTRICT COURT

## MIDDLE DISTRICT OF PENNSYLVANIA

Alex Gyimah Agyemang,  
Petitioner,

v.

Warden of Clinton County Correctional Facility,  
Respondent.

Civil Action No. 3:25-CV-1417 (Mehalchick, J.)

FILED  
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OCT 09 2025

PER DJ  
DEPUTY CLERK

### REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, **Alex Gyimah Agyemang**, respectfully submits this Reply Brief in further support of his habeas petition, to correct factual inaccuracies in Respondents' filing, to clarify that this habeas action challenges only the legality of detention under **8 U.S.C. § 1226(c)** and not the removal order itself, and to emphasize equities that warrant immediate release or a bond hearing.

#### INTRODUCTION

Respondents' opposition mischaracterizes both the facts and the nature of this petition. This habeas corpus action does not challenge the Immigration Judge's August 6, 2025 removal order, which Petitioner accepts as administratively final because there was no appeal within 30 days. Rather, this petition challenges only:

1. The lawfulness of his current detention under § 1226(c);
2. ICE's failure to revoke or address the continuing effect of his **2019 \$12,000 bond order** (Ex. B); and

3. The unreasonableness of his detention as applied under *German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203 (3d Cir. 2020).

## CLARIFICATION: HABEAS DOES NOT CHALLENGE REMOVAL

Respondents claim that Petitioner "has chosen not to accept" the IJ's August 6, 2025 removal order and is "challenging" the denial of asylum. (Gov't Br. at \_\_\_). This is inaccurate.

- Petitioner does not contest the removal order in this habeas proceeding. He has accepted the IJ's August 6, 2025 order as final.
- The sole challenge before this Court concerns the legality of detention under § 1226(c).
- Petitioner's only pending appellate litigation is his **direct criminal appeal before the Third Circuit (Ex. G)**, which goes to the validity of his entire plea agreement and both counts of conviction.

Under *Orabi v. Att'y Gen.*, 738 F.3d 535 (3d Cir. 2014), a conviction on direct appeal is not final for immigration purposes, and thus cannot trigger § 1226(c) mandatory detention.

## CORRECTIONS TO RESPONDENTS' FACTUAL ERRORS

1. **Custody Re-entry Date:** Respondents incorrectly state Petitioner re-entered ICE custody on March 16, 2025. The correct date is **March 4, 2025**, supported by **ICE intake records (Ex. A)**.
2. **I-130 Denial:** Respondents claim an IJ denied the I-130 on April 24, 2025. In fact, **USCIS issued the denial (Ex. H)**. That denial was appealed to the BIA in May 2025 (Ex. H), and a second I-130 was filed in June 2025 and remains pending (Ex. I).
3. **Bond Hearing (July 1, 2025):** Respondents state that "counsel indicated intent to appeal." This is false. Petitioner appeared **pro se**. Moreover, the IJ erred in denying bond because Petitioner's conviction is still on direct appeal (Ex. G), and therefore not final under *Orabi*.
4. **Mischaracterization of Bond:** Petitioner's original bond was **\$12,000**. He posted bond on May 21, 2019 and complied fully with conditions until transferred to BOP custody (Ex.

B, bond order & Notice to EOIR). ICE never formally revoked that bond as required under 8 C.F.R. § 1236.1(d).

## **GOVERNMENT MISCHARACTERIZES DETENTION DURATION**

Respondents assert Petitioner has been detained for only “six months.” In fact, as of October 2025, Petitioner has been detained in ICE custody for over **seven months** (Ex. A), nearly the same as the **eight months** he served in BOP custody on his underlying sentence (Ex. J, Judgment in a Criminal Case).

Courts have found detention unconstitutional where it exceeds or approaches the criminal time served. See *German Santos*, 965 F.3d at 211; *Rad v. Lowe*, 2021 WL 1392067 (M.D. Pa. Apr. 13, 2021). This imbalance underscores the arbitrariness of Petitioner’s continued confinement.

## **GOVERNMENT CASE LAW IS DISTINGUISHABLE**

Respondents rely on *Demore v. Kim* and *Coello-Udiel v. Doll* to argue that detention is justified because a noncitizen “on the cusp of removal” has a greater incentive to abscond. This reasoning does not apply here:

- Petitioner has been **granted withholding of removal and CAT protection** (Ex. G, IJ Order excerpt), so he cannot be removed to Ghana. ICE has not pursued third-country removal. He is not “on the cusp of removal.”
- His conviction remains on **direct appeal** (Ex. G), making § 236(c) inapplicable.
- Petitioner has a proven record of compliance: nearly **six years on immigration bond** (Ex. L) and nearly **six years on federal pretrial supervision** (Ex. K), with no violations.

Unlike the petitioners in *Coello-Udiel* or *Demore*, Mr. Agyemang’s detention lacks both imminent removal prospects and a legal basis under § 1226(c).

## **PENDING LEGAL MATTERS**

Petitioner has multiple pending proceedings demonstrating equities and due process concerns:

- **Direct appeal in the Third Circuit** challenging the validity of his plea agreement (Ex. G).
- **I-130 petitions:** one denied by USCIS and appealed to BIA (Ex. H); a second I-130 pending (Ex. I).
- **Civil litigation** in New Jersey Superior Court regarding unlawful vehicle seizure (Ex. N).
- **Withholding and CAT protection** granted by the IJ, confirming he cannot be removed to Ghana (Ex. G).

## COMPLIANCE HISTORY & EQUITIES

- **Cooperation with U.S. government:** Petitioner cooperated with five agencies, documented by a **5K letter** (Ex. C) and a **Deferred Action request** by DHS in 2020 (Ex. P).
- **Bond compliance:** Posted \$12,000 bond in 2019 and complied fully until BOP custody (Ex. B).
- **Pretrial supervision:** Nearly six years of compliance without incident (Ex. K).
- **Family ties:** Father to three U.S. citizen children. His son **Nasai (age 13)** lost both mother and grandmother (Ex. E) and now requires Petitioner's care. His wife Karina faces urgent medical issues (Ex. F).
- **Business and community ties:** Operated A&A Auto Group and A&A Auto Parts (Ex. N), with supporting letters from employee Ramon, friend Christopher Awuah, and a customer (Ex. O).
- **Rehabilitation:** Earned GED and vocational certificates; **BOP recidivism report** places him at "low risk" (Ex. M).

These equities mirror or exceed those recognized by courts as justifying bond or supervised release. See *Santos v. Noem* (D. Mass. Aug. 14, 2025) (ordering release where ICE improperly reclassified custody after bond).

## **CONCLUSION**

For the foregoing reasons, and because Respondents' opposition rests on factual misstatements and mischaracterizations, Petitioner respectfully requests that this Court:

1. Find his continued detention under § 1226(c) unconstitutional as applied;
2. Reinstate his **2019 \$12,000 bond order** (Ex. B), or alternatively, order a new bond hearing requiring DHS to show by **clear and convincing evidence** that detention is necessary; and
3. Grant any further relief deemed just and proper.

Respectfully submitted,

/s/ Alex Gyimah Agyemang  
Pro Se Petitioner  
Clinton County Correctional Facility  
McElhattan, PA  
Dated: October 7, 2025

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**EXHIBIT INDEX**

The following exhibits are submitted in support of Petitioner's filings, including his Petition for Writ of Habeas Corpus, Reply Brief, Supplemental Arguments, Declaration, and Emergency Motion for TRO/PI.

<b>Exhibit</b>	<b>Description</b>
<b>A</b>	ICE Intake Record (showing custody date of March 4, 2025)
<b>B</b>	2019 Immigration Judge Bond Order (\$12,000) & Notice to EOIR
<b>C</b>	5K Letter from U.S. Attorney's Office (documenting cooperation)
<b>D</b>	BOP/Medical Intake Records (shuttered meniscus, MRI ordered)z
<b>E</b>	Obituaries of Nasai's mother (2014) and grandmother (Nov. 2024)
<b>F</b>	Birth Certificate of Children
<b>G</b>	Third Circuit Docket Sheet (direct criminal appeal)
<b>H</b>	USCIS Denial of First I-130 (Apr. 24, 2025) & EOIR-29 Appeal Receipt (May 2025)
<b>I</b>	USCIS Receipt Notice for Second I-130 filed June 2025 (pending)
<b>J</b>	Judgment in a Criminal Case (1 year + 1 day sentence; 8 months served)
<b>K</b>	Pretrial Services Compliance Records (6 years without incident)

- L** Immigration Bond Compliance Records (6 years without violation)
- M** BOP Recidivism Risk Report (showing "low" or "lowest" risk)
- N** Business Records for A&A Auto Group / A&A Auto Parts (license, tax filings)
- O** Letters of Support (employee Ramon, friend Christopher Awuah, customer testimonial)
- P** Deferred Action Request from DHS (2020 special agent email)
- Q** Jail Mental Health Records / Psychological Evaluations (diagnosed anxiety, depression, PTSD)
- BG** Medical Records of Karina Marrero Santana (urgent gallbladder surgery & conditions)

Respectfully submitted,

/s/ Alex Gyimah Agyemang  
Pro Se Petitioner  
Clinton County Correctional Facility  
McElhattan, PA  
Dated: October 7, 2025