UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

MOHAMMED JIHAD BAHRM RASHID,

Petitioner,

-against-

DONALD J. TRUMP, IN HIS OFFICIAL CAPACITY AS PRESIDENT OF THE UNITED STATES; **PATRICIA HYDE**, IN HER OFFICIAL CAPACITY AS ACTING BOSTON FIELD OFFICE DIRECTOR, IMMIGRATION AND CUSTOMS ENFORCEMENT, ENFORCEMENT AND REMOVAL OPERATIONS; **VERMONT SUB-OFFICE DIRECTOR OF IMMIGRATION AND CUSTOMS ENFORCEMENT**, ENFORCEMENT AND REMOVAL OPERATIONS; **TODD M. LYONS**, IN HIS OFFICIAL CAPACITY AS ACTING DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; **PETE R. FLORES**, IN HIS OFFICIAL CAPACITY AS ACTING COMMISSIONER FOR U.S. CUSTOMS AND BORDER PROTECTIONS; **KRISTI NOEM**, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY; **MARCO RUBIO**, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE; **PAMELA BONDI**, IN HER OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL; AND **GREG HALE**, SUPERINTENDENT, NORTHWEST STATE CORRECTIONAL FACILITY – SAINT ALBANS,

Respondents.

Case No. 2:25-cv732

PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION FOR WRIT OF HABEAS CORPUS AND RESPONSE TO TEMPORARY RESTRAINING ORDER

INTRODUCTION

This memorandum addresses the legality of Mr. Rashid's continued detention and responds to Respondents' contention that his custody is governed by 8 U.S.C. § 1225(b)(1)(B). Contrary to that assertion, Mr. Rashid is subject to 8 U.S.C. § 1226(a) because he passed his credible fear interview and received a grant of asylum from an Immigration Judge. Mr. Rashid's prolonged detention raises serious constitutional concerns under the Fourth and Fifth Amendments. This memorandum argues that Mr. Rashid's detention is both statutorily unlawful and constitutionally fragile, and that habeas corpus relief is appropriate to remedy these violations.

I. Respondents' Assertion That Mr. Rashid's Continued Detention is Mandated by 8 U.S.C. § 1225(b)(1)(B) is Legally Flawed, Factually Inapposite, and Inconsistent with Constitutional Due Process Protections.

Contrary to Respondents' assertion, Mr. Rashid is detained pursuant to 8 U.S.C. § 1226(a), not under 8 U.S.C. § 1225(b)(1)(B). Section 1225(b)(1)(B) applies to arriving noncitizens subject to expedited removal who are awaiting a credible fear determination. § 1225(b)(1)(A)(i), (B)(ii)-(iii); *Jimenez v. FCI Berlin, Warden et al*, 2025 DNH 107 P, slip op. at 15 (D. NH, Sept. 8, 2025). Mr. Rashid has already passed his credible fear interview and therefore, his detention falls under the discretionary provisions of § 1226(a), not the mandatory detention provisions of § 1225(b).

Mr. Rashid was never subject to expedited removal, as eligibility for such proceedings requires that the noncitizen be an applicant for admission to the United States. As Respondents correctly point out, Mr. Rashid, in his capacity as a stowaway, does not and cannot qualify as an applicant for admission. 8 U.S.C. § 1225(a)(2). Furthermore, Respondents' assertion that "Mr. Rashid is detained under 8 U.S.C. § 1225(b)(1)(B), which requires detention of any asylum applicant until the asylum process is complete" fails, as "§ 1225(b)(1) only mandates the

detention of applicants for admission who are arriving in the United States." *Jimenez*, at 14. Respondents also acknowledge that the language of 8 U.S.C. § 1225(a)(2) state, "[i]n no case may a stowaway be considered an applicant for admission or eligible for a hearing under section 1229(a)." Respondents thus contradict themselves, suggesting a paradox wherein Mr. Rashid cannot be considered an applicant for admission whilst simultaneously purporting to detain him under a statutory authority applicable only to applicants for admission.

According to the Immigration and Nationality Act (INA), Mr. Rashid is a stowaway as defined in 8 U.S.C. § 1101(a)(49). Congress has historically maintained a specific statutory scheme for stowaways. Under 8 USC §1225(a)(2), "...[a]n arriving alien who is a stowaway is not eligible to apply for admission or to be admitted and shall be ordered removed upon inspection..." The statutory scheme also specifically addresses the detention of stowaways (see 8 USC § 1231(d)(2)), distinguishing the detention of stowaways from other categories of noncitizens. As a stowaway, Mr. Rashid, does not and cannot qualify as an "applicant for admission."

While the statutory scheme for stowaways does provide that a stowaway is "ordered removed upon inspection," it also provides that "the officer shall refer the alien for an interview [under 8 USC § 1225(b)(1)(B)]" if the alien indicates an intention to apply for asylum. This referral is solely intended to satisfy our obligations under the *1967 Protocol Relating to the Status of Refugees*, 606 UNTS 267, (1967), and the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishmen*t, 1465 UNTS 85, (1984).

The government appears to have misinterpreted the statute to mean that the administrative action of referral for a *credible fear* interview in accordance 8 USC §1225(a)(2) alters both the removal proceeding and detention authorities for stowaways. However, a plain

reading of the statutes (8 USC §§1225(a)(2) and 1231(d)(2)) demonstrates that an intention to apply for asylum does not alter the government's statutory authority to order stowaways removed, detain them, or release them on parole.

Even assuming, arguendo, that § 1225(b)(1)(B) were applicable, it nevertheless does not support the Respondents' assertion that Mr. Rashid is subject to mandatory detention. If § 1225(b)(1)(B) applied, it would not impose mandatory detention beyond the period necessary for conducting a credible fear interview. Specifically, § 1225(b)(1)(B)(iii)(IV) provides that an individual who establishes a credible fear of persecution "shall be detained for further consideration of the application for asylum." Under our immigration laws Mr. Rashid cannot be subject to expedited removal, as eligibility for such proceedings requires that noncitizens be "applicants for admission" to the United States. 8 U.S.C. § 1225(b).

Respondents further incorrectly assert § 1225(b)(1)(B) mandates detention until asylum proceedings have concluded. This is patently untrue as this statutory provision does *not* in fact mandate detention until the asylum process is complete and is clearly inapplicable to Mr. Rashid's circumstances. The statute states: "If the officer determines at the time of the interview that an alien has a credible fear of persecution (within the meaning of clause (v)), the alien shall be detained for further consideration of the application for asylum..." 8 U.S.C. § 1225(b)(1)(B)(ii)). Thus, Respondents' contention that the statute requires detention until the asylum proceedings have concluded is demonstrably incorrect, as the statutory language clearly pertains to the period before the credible fear interview and any subsequent referral to an Immigration Judge ("IJ"). Because an asylum officer referred Mr. Rashid's case to an IJ, who moreover issued a grant of asylum, the authority cited by Respondents does not govern Mr. Rashid's current detention.

Respondents improperly rely on *Jennings v. Rodriguez*, 583 U.S. 281 (2018), claiming that it supports the proposition that detention under § 1225(b)(1)(B)(ii) is mandatory until the completion of the asylum process. However, *Jennings* held that detention under § 1225(b)(1)(B)(ii) is tied to the discrete procedural phase, specifically, the initial consideration of the asylum application, and does not extend indefinitely or beyond the scope of that stage. *Jennings*, 583 U.S. at 281. Because Mr. Rashid passed his credible fear interview, *Jennings* cannot be construed as applying to Mr. Rashid's circumstance.

Section 1225 represents Congress's intent to codify the Department of Homeland Security's (the "Department") regulation at 8 C.F.R. § 241.11 into the laws of the United States. The Department's regulation expressly distinguishes between mandatory detention pending the administration of a credible fear interview, with limited exceptions for medical emergencies or legitimate law enforcement objectives, and discretionary detention after a stowaway claiming asylum has established a credible fear of persecution or torture, including the pendency of any consideration of the asylum application. *8 C.F.R. § 241.11(d)(1)*. Congress thus intended that mandatory detention only be applicable to those with a negative determination relative to a credible fear of persecution or torture, or those with specific criminal convictions, whereas detention for those that have established such a credible fear should remain discretionary and subject to review. Congress did not intend for refugees claiming asylum to be categorically denied personal liberty while awaiting final judicial, or even appellate review of their claim.

The Department's detention authority is not unfettered, and due process considerations must be weighed when considering the duration of a noncitizen's detention. To justify the detention of a noncitizen, the Department "must either prove by clear and convincing evidence that the person is a danger to the community or prove by a preponderance of the evidence that the person is a flight risk." *Brito v. Garland*, 22 F.4th 240, 246 (1st Cir. 2021) (citing

Hernandez-Lara v. Lyons, 10 F.4th 19, 39 41 (1st Cir. 2021). The heightened clear and convincing "standard of proof . . . reflects the value society places on individual liberty," *Hernandez-Lara v. Lyons*, 10 F.4th 19, 39 (1st Cir. 2021) (citing *Addington v. Texas*, 441 U.S. 418, 425 (1979)), and the attendant concern of an erroneous deprivation of that liberty. Mr. Rashid has no criminal history and cannot be seen as a danger to the community. Additionally, his significant community and family ties to U.S. citizens demonstrate that he is not a flight risk. The Department's failure to establish either factor precludes justification for Mr. Rashid's continued detention pending its appeal of the Immigration Judge's grant of asylum.

The Supreme Court has further suggested that the Constitution may well preclude granting an administrative body the unreviewable authority to make determinations implicating fundamental rights. *Zadvydas v. Davis*, 533 U.S. 678, 692 (2001) (citing *Superintendent, Mass. Correctional Institution at Walpole v. Hill*, 472 U.S. 445, 450 (1985)). Indeed, the Supreme Court's decision in *Loper Bright Enterprises v. Raimondo* vests district courts with the authority to independently interpret federal immigration law without deferring to an agency's own statutory interpretation. *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).

History and tradition show that the Due Process Clause mandates eligibility for bail as part of due process, as bail is "basic to our system of law." *Stack v. Boyle*, 342 U.S. 1, 4 (1951). Rather, it is a limitation on our government's ability to deprive a person of liberty unless needed to protect the public or assure appearance at trial. *Id.* In fact, the right to bail in both civil and criminal cases was settled as early as the American Revolution. *Id.* Bail or bail-like procedures thus protect from *all* types of unjustified confinement, including those in extradition proceedings. *Id.* at 10-12.

For the foregoing reasons, this Court should find Mr. Rashid's detention unlawful. As the statutory provision relied upon by Respondents does not authorize Mr. Rashid's continued

detention and considering both binding precedent and due process principles requiring individualized justification, Mr. Rashid's detention is in fact pursuant to 8 U.S.C. § 1226(a), not mandatory, and is subject to judicial review.

II. Prolonged Immigration Detention Without Judicial Review Violates the Fourth and Fifth Amendments, and Habeas Corpus Relief is an Appropriate Remedy to Address the Constitutional Deprivations Suffered by Mr. Rashid.

Respondents assert that Mr. Rashid has failed to state a claim under the Fourth Amendment, incorrectly arguing that the Fourth Amendment does not apply to prolonged immigration detention. This position is not supported by prevailing constitutional jurisprudence, which recognizes that the Fourth Amendment protects against prolonged detention without adequate legal process. Even a detention that begins lawfully can become an unreasonable seizure if the reason for it ceases to exist or is unnecessarily prolonged. *Rodriguez v. U.S.*, 575 U.S. 348 (2015).

The Supreme Court in *United States v. Salerno* indicated that the point at which the length of detention becomes constitutionally excessive is the point at which the length of detention exceeds the regulatory goals set by Congress. *United States v. Salerno*, 481 U.S. 739, 747 n.4 (1987). Congress intended to delegate authority to the Department to detain noncitizens during removal proceedings only insofar as is necessary to protect public safety and ensure the noncitizen's appearance for their removal proceedings. *Matter of Siniauskas*, 27 I&N Dec. 124, 127 (BIA 2007); *Matter of Kotliar*, 24 I&N Dec. 124, 127 (BIA 2007); See also *Brito v. Garland*, at 246; See also *Stack v. Boyle*, at 4.

Respondents incorrectly assert that "release under habeas is not an appropriate remedy" relative to violations of the Fourth Amendment. In fact, district courts may grant a writ of habeas

corpus to any petitioner "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3); *See also* U.S. Const. art. 1, § 9, cl. 2. The Supreme Court has described Habeas Corpus as "an adaptable remedy," and that "its precise scope and application changed depending upon the circumstances." *Boumediene v. Bush*, 533 U.S. 723, 779-80 (2008) (*noting* that the common-law habeas court's role was most extensive in cases of pretrial and noncriminal detention, where there had been little or no previous judicial review of the cause for detention). In arguing that habeas is not an appropriate remedy, Respondents improperly rely on a cohort of cases pertaining to the applicability of habeas review after issuance of a final removal order when the initial detention of the noncitizen was alleged to be unlawful. See *INS v. Lopez-Mendoza*, 468 U.S. 1032 (1994); See also *H.N. v. Warden, Stewart Det. Ctr.*, 2021 WL 4203232 (M.D. Ga. Sept. 15, 2021). Respondents' reliance on the exclusionary rule and its inapplicability "to subsequent civil deportation proceedings" is misplaced and erroneous, as Mr. Rashid does not contest the legality of his initial detention, but rather the constitutionality of the prolonged nature of his detention, without opportunity for parole or bond, and in the absence of any perceived public danger or risk of flight. "[T]he government has not articulated an interest in the prolonged detention of noncitizens who are neither dangerous nor present a risk of flight." *Velasco Lopez v. Decker*, No. 19-2284, 26 (2d Cir. 2020). Here too, the government has no interest in continuing the prolonged detention of Mr. Rashid, who poses neither a public safety risk nor a risk of flight. His continued detention is therefore both unjustified and unreasonable.

"[W]hen detention becomes unreasonable, the Due Process Clause demands a hearing, at which the Government bears the burden of proving that continued detention is necessary to fulfill the purposes of the detention statute." *Diop v. ICE/Homeland Security*, 656 F.3d 221, 232-33 (3d Cir. 2011) (citing *Demore v. Kim*, 538 U.S. 510, 532-33 (2003) (Kennedy, J., concurring)). The

Due Process Clause – itself reflecting the language of the Magna Carta – prevents arbitrary detention. Indeed, "[f]reedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Jennings v. Rodriguez*, at 330 (citing *Foucha* v. *Louisiana*, 504 U. S. 71, 80 (1992); see also *Demore v. Kim*, at 532. "[S]ince the Due Process Clause prohibits arbitrary deprivations of liberty, [a noncitizen] could be entitled to an individualized determination as to [their] risk of flight and dangerousness if the continued detention became unreasonable or unjustified." *Demore v. Kim*, at 532. The Supreme Court has long held that Circuit Courts retain authority to grant bail, even when such authority is not specifically vested by statute. *Wright v. Henkel*, 190 U.S. 40, 63 (1903). The right to seek bail is a basic right, guaranteed by the Due Process Clause's protection of each person's liberty from arbitrary deprivation, which includes the right of a confined person to seek release on bail. *Jennings v. Rodriguez*, at 356 (Thomas, J., concurring).

A noncitizen is a person, detention is a deprivation of bodily liberty, and detention without a bail proceeding means there has been a denial of due process. Mr. Rashid's prolonged detention with no possibility of parole or bond through an immigration court during removal proceedings thus amounts to an unreasonable seizure of his own body, thereby violating his constitutionally afforded protections under the Fourth Amendment. The prolonged and unjustified nature of his detention similarly amounts to a violation of his substantive due process rights under the Fifth Amendment. Habeas Corpus is therefore the only means of ensuring that his rights are not further violated and it is within the authority of this Court to grant Mr. Rashid bail or release on his own recognizance.

III. Mr. Rashid States a Cognizable Claim Under 8 U.S.C. § 1226(a) and Challenges Prolonged Detention on Statutory and Constitutional Grounds

Mr. Rashid is not detained under 8 U.S.C. § 1226(c) as he is neither subject to a final order of removal nor detained on criminal history. As pointed out above, Mr. Rashid's detention is now pursuant to § 1226(a) because he is passed the credible fear interview stage.

While it is true that stowaways are subject to mandatory detention under § 1226(b), that classification does not permanently govern their custody status once they have passed the credible fear interview and their case is transferred to the IJ. At that point, Mr. Rashid's custody falls under § 1226(a) and thus has a valid and cognizable claim under that provision.

Mr. Rashid's prolonged detention has raised substantial constitutional concerns. While the six-month "bright line" rule adopted in *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. 2015) was rejected by the Supreme Court in *Jennings*, the constitutional foundation of *Lora* remains instructive. *Jennings* held that § 1226(a) does not require automatic bond hearings after six months, but it left open whether prolonged detention without a hearing can violate due process. The Court remanded the case for further proceedings on those constitutional questions, thereby affirming that constitutional challenges to extended detention under § 1226(a) remain viable.

Federal courts across jurisdictions have continued to recognize such claims post *Jennings*. In *Sajous v. Decker*, No. 18-CV-2447 (AJN), 2018 WL 2357266 (S.D.N.Y. May 23, 2018), the Court held that prolonged detention under § 1226(a) without a bond hearing violated due process. Other Courts have similarly found that while there is no fixed "six-month" rule, due process requires a bond hearing once detention becomes unreasonably prolonged. *U.S. v. Salerno*, at 747 no.4; See also *Herbert v. Decker*, No. 19-CV-760 (JPO) (S.D.N.Y. Apr. 2, 2019).

Here, Mr. Rashid has been detained for more than one year without a proper bond hearing. Even if Respondents contend that Mr. Rashid falls outside § 1226 due to his stowaway status, this argument lacks merit. The detention authority under § 1226(b) is limited to expedited removal proceedings, which conclude once an individual is found to have a credible fear and their case is

transferred to the IJ. Continued detention after that point is not governed by § 1226(b), but rather by § 1226(a).

Even if Respondents maintain that Mr. Rashid's detention is not governed by any of those authorities, that position would still trigger due process protections under the Constitution. Therefore, if the statute that governs Mr. Rahid's custody is in dispute, he remains entitled to Constitutional safeguards and procedural fairness. Therefore, Mr. Rashid states a cognizable claim under 8 U.S.C. § 1226(a), and his prolonged detention raises serious statutory and constitutional concerns that warrant judicial review.

IV. Subject-Matter Jurisdiction Vests Where Constitutional Claims Arise as a Result of the Government's Misapplication of Federal Law

Respondents incorrectly assert that "Petitioner is challenging the process by which his asylum claim is adjudicated [and] this Court lacks subject-matter jurisdiction to consider those arguments." Mr. Rashid is not challenging the process by which his asylum claim is adjudicated, but rather the constitutionality of the statutes as construed and applied to his individualized circumstance. The government inaptly contests that 8 U.S.C. § 1225(b)(1)(B) governs Mr. Rashid's detention and that the statute mandates detention throughout the entirety of the asylum process, including any appeal thereof. As explained above, Mr. Rashid's detention is in fact governed by § 1226(a). Respondents further posit that this Court lacks subject-matter jurisdiction to consider challenges to discretionary decisions not to grant parole pending the appeal to the BIA. Here, Mr. Rashid asserts his constitutionally guaranteed rights to due process and freedom from unreasonable seizure of his body. Mr. Rashid's claim asserts constitutional violations while seeking redress from the government's misapplication of federal law to his circumstance. It is thus clearly within the purview of federal district courts to review his claim, as such review

directly pertains to their Article III powers. Indeed, federal district courts are vested with the authority to address all cases arising under the constitution, federal laws, or treaties of the United States. *Marbury v. Madison*, 5 U.S. 137, 178 (1803); *See also* U.S. Const. art. 3.

Subject-matter jurisdiction is clearly afforded in the instant matter due to the constitutional concerns raised as a result of the government's misapplication of federal law. The Second Circuit upheld this notion as applied to constitutional questions in *Ragbir v. Homan*, *Sol v. INS*, and *Lora v. Shanahan* (noting that while certain factors of *Lora* and like-cases were overturned by *Jennings*, the fundamental constitutional arguments presented remain and are one of the foundational components of this Court's subject-matter jurisdiction over the proceedings). *Ragbir v. Homan*, 923 F.3d 53 (2d Cir. 2019); *Sol v. INS*, 274 F.3d 648 (2d Cir. 2001); *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. 2015);

Whether Mr. Rashid is properly "in custody," such as gives rise to claims of constitutional violations due to prolonged detention when held in state custody on an ICE detainer, was decided by this circuit in *Simmonds v. INS,* 326 F.3d 351 (2d Cir. 2003). *Simmonds* stated that review under habeas is appropriate for detainees if the matter is ripe for review, such that hardship would be endured by the petitioner if review of the petition were denied. *Id.* at 360. The Constitution demands that matters must be ripe for hearing and cannot be moot, in that an actual case and controversy is present. U.S. Const. art. 3, cl. 2. Here, the harm to Mr. Rashid, his ongoing detention, is a matter of controversy. It follows that if he remains detained, this case is not moot. Ripeness necessitates both the case having not gone past the actual harm and being brought after such time has passed as to beget tangible procedural due process concerns. Nationwide, both the Supreme Court and circuit courts have held that an implicit temporal limitation on detention applies, suggesting that a time between six to twelve months is appropriate to hear a habeas petition as such. *Zadvydas v. Davis*, at 701; *Lora v. Shanahan*, at

614; *Rodriguez v. Robbins*, at 1133; *Anadji v. Keisler*, No. B-07-184, at 8 (S.D. Tex. June 26, 2008); *Jarpa v. Mumford*, 211 F. Supp. 3d 706 (D. Md. 2016); *Martinez v. Hott*, 527 F. Supp. 3d 824 (E.D. Va. 2021), *Deng v. Crawford*, 2020 WL 6387010 (E.D. VA, 2020); *Mansaray v. Perry*, No. 3:20-cv-00503 (E.D. Va. June 4, 2021); *Black v. Decker,* 103 F.4th 133 (2d Cir. 2024). Mr. Rashid, having been detained for fourteen months, is thus well within the appropriate time period to petition for review under Habeas Corpus. Even assuming, arguendo, Respondents' position that the full period of detention should not be considered valid, Mr. Rashid has been detained for twelve months since filing his asylum application and for ten since he was granted asylum. By all measures, he is well within the window for habeas to be considered ripe.

Having established subject-matter jurisdiction, ripeness, and lack of mootness, this Court is clearly able to review Mr. Rashid's request for relief. Mr. Rashid does not disagree with the Department's contention that discretionary findings, such as an IJ's discretionary grant of asylum itself, are not reviewable by Federal Courts, as Mr. Rashid does not challenge his detention on discretionary grounds. Rather, Mr. Rashid seeks the court's review of his detention under the Constitutional grounds outlined above and requests that the court exercise its inherent authority to grant bail, even when not specifically vested by statute. *Wright v. Henkel*, at 63. "[O]nce the presumptively reasonable period has expired; courts no longer *presume* detention legal and must look to specific facts to determine legality. *Anadji v. Keisler*, at 9 (citing *Zadvydas v. Davis*, at 701).

Respondents argue that "no court shall have jurisdiction to review ... procedures and policies adopted by the Attorney General to implement the provisions of section 1225(b)(1) of this title." Here, Mr. Rashid does not challenge the procedures and policies adopted to implement section 1225(b)(1), but rather the constitutionality of prolonged detention, without judicial review, when the government has no rational basis for such detention. The plain language of the

statute provides that "no court shall have jurisdiction to review ... any individual determination or to entertain any other cause or claim arising from or relating to the implementation or operation **of an order of removal** pursuant to section 1225(b)(1) of this title." 8 U.S.C. § 1252(a)(2)(A)(i) (emphasis added). Mr. Rashid has not been ordered removed. Furthermore, the statute continues on to state that "**[n]othing** in subparagraph (B) or (C), or in any other provision of this chapter (other than this section) which limits or eliminates judicial review, **shall be construed as precluding review of constitutional claims or questions of law** raised upon a petition for review filed with an appropriate court of appeals in accordance with this section." 8 U.S.C. § 1252(a)(2)(D) (emphasis added). It follows that Mr. Rashid's petition for habeas corpus on account of violations of his Fourth and Fifth Amendment rights is well within the district court's authority and jurisdiction to review.

CONCLUSION

For the foregoing reasons, Mr. Rashid's continued detention is unlawful. He is detained under 8 U.S.C. §1226(a), which is a discretionary detention provision. The mandatory detention provisions under 8 U.S.C. §1225(b) are inapplicable given the procedural posture. Mr. Rashid's prolonged detention without adequate legal process constitutes an unreasonable seizure and a denial of due process. Furthermore, this Court has subject matter jurisdiction to review Mr. Rashid's claims and the authority to grant Habeas relief. Mr. Rashid respectfully requests that this Court finds his detention unlawful and orders his immediate release.

Dated: September 15, 2025

Respectfully submitted,

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* *Motion for admission forthcoming*