UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

RODNEY F. TAYLOR Petitioner, v. JASON STREEVAL, *in his official capacity as Warden of Stewart Detention Center*, and TODD LYONS, *in his official capacity as Acting Director of Immigration and Customs Enforcement* and GEORGE STERLING, *Field Office Director ICE Atlanta Field Office*, and KRISTI NOEM *Secretary of Homeland Security,* Respondents.	)))))))))))))))	Case No. 4:25-cv-286 **PETITION FOR WRIT OF HABEAS CORPUS** Agency # [redacted]

BACKGROUND

Petitioner, Rodney Taylor, hereby petitions this Court for a writ of habeas corpus to remedy Petitioner's unlawful detention, and to enjoin Petitioner's continued unlawful detention by the Respondents. In support of this petition and complaint for injunctive relief, Petitioner alleges as follows:

PARTIES

1. Petitioner, Mr. Taylor, is a citizen of Liberia who is currently detained at the Stewart Detention Center in Lumpkin, Georgia.

2. Respondent Jason Streeval is the Warden of Stewart Detention Center, and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and

is a legal custodian of Petitioner.

3. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (hereinafter "ICE"). As such, Respondent Lyons is responsible for the oversight of ICE operations. Respondent Lyons is being sued in his official capacity. Respondent Alejandro Mayorkas is sued in his official capacity as Secretary of the U.S. Department of Homeland Security ("DHS"). He oversees ICE and is responsible for implementation and enforcement of the INA. He is a legal custodian of Petitioner.

4. Respondent George Sterling is the Atlanta Field Office Director for Immigration and Customs Enforcement (hereinafter "FOD"). As such, Respondent Sterling is responsible for the oversight of ICE operations at the Stewart Detention Center. Respondent Sterling is being sued in his official capacity.

5. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (hereinafter "DHS"). As Secretary of DHS, Secretary Noem is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Noem is being sued in her official capacity.

JURISDICTION

6. This action arises under the Constitution of the United States, 28 U.S.C. § 2241(c)(1), and the Immigration and Nationality Act, as amended ("INA"), 8 U.S.C. § 1101 *et seq*. This Court has subject matter jurisdiction under 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution ("Suspension Clause"), and 28 U.S.C. §

1331, as the Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) ("We conclude that § 2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention."); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) (at its historical core, the writ of habeas corpus has served as a means of reviewing the legality of executive detention, and it is in that context that its protections have been strongest."); *Clark v. Martinez*, 543 U.S. 371 (2005) (holding that *Zadvydas* applies to aliens found inadmissible as well as removable).

7. The respondent in habeas petitions is the person who exercises day by day control over the petitioner's physical custody. 28 U.S.C.§§2242, 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004) ("In challenges to present physical confinement, we reaffirm that the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent"). The federal district court in whose district the respondent controls the petitioner's physical custody, is the court with jurisdiction over the respondent. *Padilla*, 542 U.S. at 447-48.

8. A habeas petitioner must file his or her petition with the court that has jurisdiction over the immediate custodian. *Id*.

9. The Department of Homeland Security ("DHS") detains Mr. Taylor at the Stewart Detention Center in Lumpkin, Georgia. The Stewart Detention Center is within this Court's district. Terrance Dickerson is the Warden of the Stewart Detention Center. Dickerson is therefore the proper respondent, this Court has

jurisdiction over him, and Mr. Taylor files his petition with this Court.

10. This Court has jurisdiction to entertain this petition and grant it under 28 U.S.C. §2241(c)(3) (writ of habeas extends to individuals in custody in violation of the Constitution or the laws of the United States). *Demore v. Taylor*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687-89 (2003) ("Freedom from imprisonment -- from government custody, detention, or other forms of physical restraint -- lies at the heart of the liberty . . . [which the Fifth Amendment] protects"); *I.N.S. v. St. Cyr*, 533 U.S. 289, 302 (2001) (writs of habeas may be used to challenge "detentions based on errors of law").

VENUE

11. Venue lies in the Middle District of Georgia, Columbus Division, because Mr. Taylor is currently detained in the territorial jurisdiction of this Court, at the Stewart Detention Center. 28 U.S.C. § 1391.

EXHAUSTION OF REMEDIES

12. Mr. Taylor has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

13. Petitioner's constitutional challenge to indefinite detention is exempt from administrative exhaustion requirements. *See Woodford v. Ngo*, 548 U.S. 81, 103 (Breyer, J. concurring) (constitutional claims are exempt from administrative exhaustion); *see also Khan v. Atty. Gen. of U.S.*, 448 F.3d 226, 236 n.8 (3d Cir. 2006) (internal alterations and quotations removed) ("[D]ue process claims generally are exempt from the exhaustion requirement because the BIA does not have jurisdiction

to adjudicate constitutional issues."); *United States v. Gonzalez-Roque*, 301 F.3d 39, 48 (2d Cir. 2002) ("'[T]he BIA does not have jurisdiction to adjudicate constitutional issues . . . .'" (quoting *Vargas v. U.S. Dep't of Immigration & Naturalization*, 831 F.2d 906, 908 (9th Cir. 1987)).

14. As the Eleventh Circuit has held "It is no longer the law of this circuit that exhaustion of administrative remedies is a jurisdictional requirement in a § 2241 proceeding." *Santiago-Lugo v. Warden*, 785 F.3d 467, 474–75, n.5 (11th Cir. 2015) (abrogating *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir.2001)).

15. Further, there is no statutory exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. *Cf.* 8 U.S.C. § 1252(d)(1) (requiring exhaustion of administrative remedies only where requesting review of a final order of removal). "'[W]here Congress has not clearly required exhaustion, sound judicial discretion governs." *Jones v. Zenk*, 495 F. Supp. 2d 1289, 1297 (N.D. Ga. 2007) (citing *McCarthy v. Madigan,* 503 U.S. 140, 144 (1992)). As a matter of discretion, exhaustion of administrative remedies should therefore be waived "(1) where prejudice to the prisoner's subsequent court action 'may result, for example, from an unreasonable or indefinite timeframe for administrative action'; (2) where the administrative agency may not have the authority 'to grant effective relief'; or (3) 'where the administrative body is shown to be biased or has otherwise predetermined the issue before it.'" *Jones*, 495 F. Supp. 2d at 1297 (citing *McCarthy*, 503 U.S. at 146-48). *See also Woodford v. Ngo*, 548 U.S. 81, 103 (2006) (Breyer, J. concurring) (noting "well-established exceptions to exhaustion" that include

constitutional claims, futility, hardship to the petitioner, and where administrative remedies are inadequate or unavailable) (citations omitted)).

16. In making its discretionary decision, the Court should consider the urgency of the need for immediate review. "Where a person is detained by executive order . . . the need for collateral review is most pressing. . . . In this context the need for habeas corpus is more urgent." *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

STATEMENT OF FACTS

17. Mr. Taylor was born in Liberia, and was brought to the United States in 1981 by the Shriners organization in order to have extension surgeries done for disabilities to his legs and arms. At birth, he was missing a right foot. His left leg was clubbed and missing a kneecap and tibia. One of his hands bore only a thumb. (***EXH. A, Medical Records***). he had over a dozen surgeries in all - including an above the knee amputation of his left foot and a below the knee amputation of his right. The surgeons also built him a pinkie finger so that he was able to grasp objects with his deformed hand. Despite these challenges, Mr. Taylor became a licensed barber and has been an active member of his community in Gwinnett County, Georgia for over 25 years. In addition to his steady work history and community ties, he has extensive family ties to the United States. The rest of Mr. Taylors family are U.S. citizens, including his mother, siblings, children, ex-wife, and fiancée. (**EXH. B, Reporting**)

18. Due to his birth defects, Mr. Taylor learned to walk with the use of prosthetics. His current prosthetics require 8 hours of charging a day (typically

overnight) in order to function properly in a reactive manner that propels him forward. Upon his detention, he has no ability to properly charge the electrical components of his legs. His fiancée was able to provide the charger to his legs, however he is allowed a maximum of 3-4 hours to charge his devices, so they do not function properly and the lack of sufficient charge is actually wearing out their batteries due to improper charging. This means that he is essentially carrying 25 lb. dead weights on each leg and this has caused chafing and swelling of his amputation sites that are in danger of becoming infected. One of his current prosthetic legs is temorary and prior to his detention he was awaiting a resizing of a new leg. As a result, the prosthetic is rubbing on his leg. The Stewart Detention Center has not been able to provide him the appropriate medicine to prevent chafing of the amputation site. Mr. Taylor is not able to use a wheelchair because of his limited control of his hand - he cannot propel himself via arm strength. As a result, Mr. Taylor is not able to effectively move around the Stewart Detention Center. Mr. Taylor also suffers from diverticulitis and GERD and had to have a surgery to remove a portion of his colon due to a perforation. He has lost weight in detention, he is often unable to make it to commissary and meals, and he cannot traverse the facility in order to see to his daily needs, including routine self-care such as showering. His health is suffering as a result of this detention and he urgently needs to return home to his family. (**EXH. C, Letter from Clinic**)

19. When Mr. Taylor was seventeen years old, he was arrested and accused of the crime of burglary in the Dekalb County Superior Court. He elected to plead

guilty to this offense so that he could accept a sentence of 2 years to be served on probation so that he could move on with his life despite this setback. On December 2, 2010, the Georgia State Board of Pardons and Paroles issued an order "unconditionally fully" pardoning Mr. Taylor's conviction, with the exception of any rights he had under the second amendment. (**EXH. D, Certified Pardon Documents**)

20. On January 15, 2025, the Department of Homeland Security ("DHS" or "the Department") improperly served Respondent a Form I-851, Final Administrative Removal Order ("FARO"), despite the full pardon. the FARO decision in this case was not entered by an immigration judge, but rather by an ICE officer acting on partial information and insulated from any legal review.

21. On April 2, 2025, an immigration judge found that he had no jurisdiction to redetermine Respondent's custody status. He reviewed arguments regarding this point and, stated that he would have issued the minimum bond allowable under law due to the Respondent's circumstances and his belief that the underlying conviction is not an aggravated felony, but thereafter determined that he lacked jurisdiction to redetermine custody in this case because of the Final Administrative Removal Order, which allowed ICE to act a "judge, jury and executioner" in this case.

LEGAL FRAMEWORK FOR RELIEF SOUGHT

22. Habeas corpus relief extends to a person "in custody under or by color of the authority of the United States" if the person can show he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241 (c)(1),

(c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner's claims are proper under 28 U.S.C. section 2241 if they concern the continuation or execution of confinement).

23. "[H]abeas corpus is, at its core, an equitable remedy," *Schlup v. Delo*, 513 U.S. 298, 319 (1995), that "[t]he court shall … dispose of [] as law and justice require," 28 U.S.C. § 2243. "[T]he court's role was most extensive in cases of pretrial and noncriminal detention." *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008). "[W]hen the judicial power to issue habeas corpus properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner's release." *Id*. at 787.

Mr. Taylor's Liberty Interest Mandates a Hearing Before any Re-Arrest and Revocation of Release from Custody

24. Mr. Taylor asserts that, here, (1) where his detention is civil; (2) where his criminal charges arose in 1997, almost 30 years ago, during which time he has obtained a full pardon; (3) where no change in circumstances exist that would justify his lawful detention; and (4) where the only circumstance that has changed is ICE's move to arrest as many people as possible because of the new administration, due process mandates that he be released from his unlawful custody and receive notice and a hearing before a neutral adjudicator *prior* to any re-arrest or revocation of his custody release.

25. "Adequate, or due, process depends upon the nature of the interest affected. The more important the interest and the greater the effect of its

impairment, the greater the procedural safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82). This Court must "balance [Mr. Taylor's] liberty interest against the [government's] interest in the efficient administration of" its immigration laws in order to determine what process he is owed to ensure that ICE does not unconstitutionally deprive him of his liberty. *Id*. at 1357. Under the test set forth in *Mathews v. Eldridge*, this Court must consider three factors in conducting its balancing test: "first, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probative value, if any, of additional or substitute procedural safeguards; and finally the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail." *Haygood*, 769 F.2d at 1357 (*citing Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

26. The Supreme Court "usually has held that the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). Only in a "special case" where post-deprivation remedies are "the only remedies the State could be expected to provide" can post-deprivation process satisfy the requirements of due process. *Zinermon*, 494 U.S. at 985. Moreover, only where "one of the variables in the *Mathews* equation—the value of predeprivation safeguards—is negligible in preventing the kind of deprivation at issue" such that "the State cannot be required

constitutionally to do the impossible by providing predeprivation process," can the government avoid providing pre-deprivation process. *Id.*

27. Because, in this case, ICE is required to release Mr. Taylor from his unlawful custody and provide Mr. Taylor with notice and a hearing *prior* to any re-incarceration and revocation of his bond. *See Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinermon*, 494 U.S. at 985; *see also Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir. 1984) (holding that individuals awaiting involuntary civil commitment proceedings may not constitutionally be held in jail pending the determination as to whether they can ultimately be recommitted). Under *Mathews*, "the balance weighs heavily in favor of [Mr. Taylor's] liberty" and requires a pre-deprivation hearing before a neutral adjudicator.

Mr. Taylor's Private Interest in His Liberty is Profound

28. Under *Morrissey* and its progeny, individuals conditionally released from serving a criminal sentence have a liberty interest that is "valuable." *Morrissey*, 408 U.S. at 482. In addition, the principles espoused in *Hurd* and *Johnson*—that a person who is in fact free of physical confinement, even if that freedom is lawfully revocable, has a liberty interest that entitles him to constitutional due process before he is re-incarcerated—apply with even greater force to individuals like Mr. Taylor, who have been released pending civil removal proceedings, rather than parolees or probationers who are subject to incarceration as part of a sentence for a criminal conviction. Parolees and probationers have a diminished liberty interest given their

underlying convictions. *See, e.g.*, *U.S. v. Knights*, 534 U.S. 112, 119 (2001); *Griffin v. Wisconsin*, 483 U.S. 868, 874 (1987). Nonetheless, even in the criminal parolee context, the courts have held that the parolee cannot be re-arrested without a due process hearing in which they can raise any claims they may have regarding why their re-incarceration would be unlawful. *See Gonzalez-Fuentes,* 607 F.3d at 891-92; *Hurd*, 864 F.3d at 683. Thus, Mr. Taylor retains a truly weighty liberty interest even though he is under conditional release.

29. What is at stake in this case for Mr. Taylor is one of the most profound individual interests recognized by our legal system: whether ICE may unilaterally take away—without a lawful basis—his physical freedom, i.e., his "constitutionally protected interest in avoiding physical restraint." *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (internal quotation omitted). "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). *See also Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects."); *Cooper v. Oklahoma*, 517 U.S. 348 (1996).

30. Thus, it is clear that there is a profound private interest at stake in this case, which must be weighed heavily when determining what process Mr. Taylor is owed under the Constitution. *See Mathews*, 424 U.S. at 334-35.

The Government's Interest in Incarcerating Mr. Taylor Without a Hearing is Low and the Burden on the Government to Refrain from Arresting Him Unless and Until He is Provided a Hearing That Comports with Due Process is Minimal

31. The government's interest in detaining Mr. Taylor without a due process hearing is low, and when weighed against Mr. Taylor's significant private interest in his liberty, the scale tips sharply in favor of enjoining Respondents to release Mr. Taylor from his unlawful custody and refrain from re-arresting Mr. Taylor unless and until the government demonstrates by clear and convincing evidence that he is a flight risk or danger to the community. It becomes abundantly clear that the *Mathews* test favors Mr. Taylor when the Court considers that the process he seeks—notice and a hearing regarding whether there is clear and convincing evidence that Mr. Taylor is a flight risk or danger to the community would impose only a *de minimis* burden on the government, because the government routinely provides this sort of hearing to individuals like Mr. Taylor.

32. As immigration detention is civil, it can have no punitive purpose. The government's only interests in holding an individual in immigration detention can be to prevent danger to the community or to ensure a noncitizen's appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690. In this case, the government cannot plausibly assert that it has any lawful basis for detaining Mr. Taylor. Mr. Taylor has lived at liberty complying with the conditions of his release since 1997. His only criminal history pre-dates his 2009 release.

33. It is difficult to see how the government's interest in ensuring his presence at the moment of removal has materially changed since he was charged criminally, when he has complied with all conditions of release and obtained a full pardon. The government's interest in detaining Mr. Taylor at this time is therefore

low. That ICE has a new policy to make a minimum number of arrests each day under the new administration does not constitute a material change in circumstances or increase the government's interest in detaining him.[1]

34. Moreover, the "fiscal and administrative burdens" that his immediate release and a lawful pre-detention hearing would impose is nonexistent in this case. *See Mathews*, 424 U.S. at 334-35. Mr. Taylor does not seek a unique or expensive form of process, but rather a routine hearing regarding whether his bond should be revoked and whether he should be re-incarcerated.

35. As the Ninth Circuit noted in 2017, which remains true today, "[t]he costs to the public of immigration detention are 'staggering': $158 each day per detainee, amounting to a total daily cost of $6.5 million." *Hernandez*, 872 F.3d at 996. ICE's unlawful action of placing him in custody is more of a financial burden than releasing him and providing any pre-custody hearing before any future re-arrest occurs.

36. In the alternative, providing Mr. Taylor with a hearing before this Court (or a neutral decisionmaker) regarding release from custody is a routine procedure that the government provides to those in immigration jails on a daily basis. At that

[1] *See* "Trump officials issue quotas to ICE officers to ramp up arrests," *Washington Post* (January 26, 2025), available at: https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/.; "Stephen Miller's Order Likely Sparked Immigration Arrests And Protests," Forbes (June 9, 2025), https://www.forbes.com/sites/stuartanderson/2025/06/09/stephen-millers-order-likely-sparked-immigration-arrests-and-protests/ ("At the end of May 2025, 'Stephen Miller, a senior White House official, told Fox News that the White House was looking for ICE to arrest 3,000 people a day, a major increase in enforcement. The agency had arrested more than 66,000 people in the first 100 days of the Trump administration, an average of about 660 arrests a day,' reported the New York Times. Arresting 3,000 people daily would surpass 1 million arrests in a calendar year.").

hearing, the Court would have the opportunity to determine whether circumstances have changed sufficiently to justify his re-arrest. But there is no justifiable reason to re-incarcerate Mr. Taylor prior to such a hearing taking place. As the Supreme Court noted in *Morrissey*, even where the State has an "overwhelming interest in being able to return [a parolee] to imprisonment without the burden of a new adversary criminal trial if in fact he has failed to abide by the conditions of his parole . . . the State has no interest in revoking parole without some informal procedural guarantees." *Morrissey*, 408 U.S. at 483.

37. Releasing Mr. Taylor from unlawful custody and enjoining his re-arrest until ICE (1) moves for a bond re-determination before an IJ and (2) demonstrates by clear and convincing evidence that Mr. Taylor is a flight risk or danger to the community is far *less* costly and burdensome for the government than keeping him detained.

Without a Due Process Hearing Prior to Any Re-Arrest, the Risk of an Erroneous Deprivation of Liberty is High, and Process in the Form of a Constitutionally Compliant Hearing Where ICE Carries the Burden Would Decrease That Risk

38. Releasing Mr. Taylor from unlawful custody and providing him a pre-deprivation hearing would decrease the risk of him being erroneously deprived of his liberty. Before Mr. Taylor can be lawfully detained, he must be provided with a hearing before a neutral adjudicator at which the government is held to show that there has been sufficiently changed circumstances such that ICE's July 2009 release from custody determination should be altered or revoked because clear and convincing evidence exists to establish that Mr. Taylor is a danger to the community

or a flight risk.

39. On February 25, 2025, Mr. Taylor did not receive this protection. Instead, he was detained by ICE, without notice.

40. By contrast, the procedure Mr. Taylor seeks—a hearing in front of a neutral adjudicator at which the government must prove by clear and convincing evidence that circumstances have changed to justify his detention *before* any re-arrest—is much more likely to produce accurate determinations regarding factual disputes, such as whether a certain occurrence constitutes a "changed circumstance." *See Chalkboard, Inc. v. Brandt*, 902 F.2d 1375, 1381 (9th Cir. 1989) (when "delicate judgments depending on credibility of witnesses and assessment of conditions not subject to measurement" are at issue, the "risk of error is considerable when just determinations are made after hearing only one side"). "A neutral judge is one of the most basic due process protections." *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), *abrogated on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006). The Ninth Circuit has noted that the risk of an erroneous deprivation of liberty under *Mathews* can be decreased where a neutral decisionmaker, rather than ICE alone, makes custody determinations. *Diouf v. Napolitano* ("*Diouf II*"), 634 F.3d 1081, 1091-92 (9th Cir. 2011).

41. Due process also requires consideration of alternatives to detention at any custody redetermination hearing that may occur. The primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this

purpose if there are alternatives to detention that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly, alternatives to detention must be considered in determining whether Mr. Taylor's re-incarceration is warranted.

CLAIMS FOR RELIEF

COUNT ONE

SUBSTANTIVE DUE PROCESS VIOLATION

42. Mr. Taylor re-alleges and incorporates by reference paragraphs 1 through 41 above.

43. Mr. Taylor's continued detention violates his right to substantive due process by depriving him of his core liberty interest to be free from bodily restraint. *See, e.g., Tam v. INS*, 14 F.Supp.2d 1184 (E.D. Cal 1998) (aliens retain substantive due process rights). The Due Process Clause requires that the deprivation of petitioner's liberty be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301-02 (1993). While the respondents would have a compelling government interest in detaining Mr. Taylor in order to effect his deportation, that interest does not exist if Petitioner cannot be deported. The Supreme Court in *Zadvydas* thus interpreted 8 U.S.C. § 1231(a) to allow continued detention only for a period reasonably necessary to secure the alien's removal because any other reading would go beyond the government's articulated interest-- to effect the alien's removal. *See Kay v. Reno*, 94 F.Supp.2d 546, 551 (M.D. Pa. 2000) (granting writ of habeas corpus because petitioner's substantive due process rights were

violated, and noting that "[i]f deportation can never occur, the government's primary legitimate purpose in detention--executing removal--is nonsensical").

COUNT THREE

PROCEDURAL DUE PROCESS VIOLATION

44. Petitioner re-alleges and incorporates by reference paragraphs 1 through 41 above.

45. Under the Due Process Clause of the United States Constitution, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. In the instant case, Mr. Taylor has been denied that opportunity as there is no administrative mechanism in place for him to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates *Zadvydas*.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

1) Assume jurisdiction over this matter;

2) Grant Mr. Taylor a writ of habeas corpus directing the Respondents to immediately release him from custody, under reasonable conditions of supervision;

3) Order Respondents to refrain from transferring Mr. Taylor out of the jurisdiction of this Court during the pendency of these proceedings and while the Petitioner remains in Respondent's custody;

4) Order Respondents to file a response within 3 business days of the filing

of this petition;

5) Award attorneys' fees to Petitioner; and

6) Grant any other and further relief which this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this 16th day of September, 2025.

/s/ Helen L Parsonage

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CERTIFICATE OF COMPLIANCE

I hereby certify that the document to which this certificate is attached has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1 for documents prepared by computer.

/s/ Helen L Parsonage

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