

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MODOU MBOUP,

Petitioner,

- against -

ALEXANDER CABEZAS, in his official capacity as Acting Assistant Field Office Director for the Newark Field Office for Immigration and Customs Enforcement; KRISTI NOEM, in her official capacity as Secretary of Homeland Security; PAMELA JO BONDI, in her official capacity as Attorney General of the United States of America,

Respondents.

No. 2:25-CV-16882 (MEF)

**AMENDED VERIFIED
PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Through this Amended Verified Petition, Petitioner Modou Mboup (“Modou”) seeks to put an immediate end to his unlawful detention.
2. Yesterday, this Court issued an Opinion + Order, ECF No. 4 (the “Order”), rejecting Respondents’ justification for Modou’s detention. Consistent with federal courts around the country, this Court (correctly) held that Modou is detained pursuant to 8 U.S.C. § 1226 and, as a result, is entitled to some form of habeas relief. Order at 3.
3. Because Section 1226 governs Modou’s detention, Respondents were required to conduct an individualized determination as to whether detention was necessary *before* detaining Modou.

4. No such pre-detention assessment was performed. Modou was swept up in a raid targeting West African street vendors, even though he was not one, and, at the time he was detained, he was a passenger in a car belonging to someone else. Further, Respondents subsequently took the position that Modou's detention was mandatory, evidencing that no discretionary factors were considered.

5. Respondents' failure to provide a pre-detention assessment is outcome determinative. As a matter of law, no amount of post-deprivation process can rectify this pre-deprivation violation of Modou's rights. Rather, as courts in various jurisdictions have held, the only appropriate remedy for such a violation is immediate release.

6. So too here. Because Respondents did not conduct a pre-detention assessment, and for the other reasons stated herein, Modou is entitled to immediate release.

PARTIES

7. Petitioner Modou Mboup is a citizen of Senegal who has been living in New York since 2023. ICE arrested him on or about October 21, 2025, and initially detained him in Delaney Hall Detention Center located in Newark, New Jersey ("Delaney Hall"). Modou filed his Original Petition for a writ of habeas corpus on October 23, 2025, while detained at Delaney Hall. Ex. 1. Modou's I-589 petition (*i.e.*, asylum application) was filed on or about April 6, 2024. Ex. 1 at 3. As of the

date of this Amended Petition, Modou is detained at the Central Louisiana ICE Processing Center in Jena, Louisiana.

8. Respondent Alexander Cabezas is named in his official capacity as the Acting Assistant Field Office Director for the Newark Field Office for ICE within the United States Department of Homeland Security (“DHS”). Mr. Cabezas is a Supervisory Detention and Deportation Officer with DHS, ICE, Enforcement and Removal Operations, Newark Field Office whose duties include oversight of detention operations at the Delaney Hall Detention Facility in Newark, New Jersey. In his official capacity, Mr. Cabezas is responsible for the administration of immigration laws and the execution of detention and removal determinations, and was an immediate custodian of Modou at the time the Original Petition was filed. Respondent Cabezas’ address is U.S. Immigration and Customs Enforcement, 970 Broad Street, 11th Floor, Newark, New Jersey 07102.

9. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security (“DHS”). In her official capacity, Ms. Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely transacts business in the District of New Jersey, is legally responsible for pursuing any effort to remove Modou, and is a legal custodian of Modou. Respondent Noem’s

address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

10. Respondent Pamela Jo Bondi is named in her official capacity as the Attorney General of the United States. In her official capacity, Ms. Bondi is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review (“EOIR”) pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the District of New Jersey, and is legally responsible for administering Modou’s removal and custody proceedings, as well as the standards used in those proceedings. As such, Ms. Bondi is a legal custodian of Modou. Respondent Bondi’s office is located at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

JURISDICTION

11. Federal district courts have jurisdiction to hear habeas corpus petitions by noncitizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Lomeu v. Soto*, No. 25-CV-16589, 2025 WL 2981296, at *3 (D.N.J. Oct. 23, 2025) (Padin, J.) (citing *Demore*, 538 U.S. at 517) (“The Court has jurisdiction under 28 U.S.C. § 2241(c)(3) to grant a writ of habeas corpus to a person in custody in violation of the Constitution, laws, or treaties of the United States”); *Contreras Maldonado v. Cabezas*, No. 25-CV-13004, 2025 WL 2985256,

at *2 (D.N.J. Oct. 23, 2025) (Semper, J.) (similar); *Soto v. Soto*, No. 25-CV-16200, 2025 WL 2976572, at *2 (D.N.J. Oct. 22, 2025) (O’Hearn, J.) (similar); *Rivera Zumba v. Bondi*, No. 25-CV-14626, 2025 WL 2753496, at *3 (D.N.J. Sept. 26, 2025) (Hayden, J.) (similar).

12. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, 28 U.S.C. § 133, and Article I, § 9, cl. 2 of the United States Constitution.

13. This Court has the authority to grant the declaratory and injunctive relief sought herein pursuant to 28 U.S.C. § 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

14. Despite Modou’s recent transfer from New Jersey to Louisiana, this Court retains jurisdiction over Modou’s case because he filed his Original Petition here while confined within the territory of this District at Delaney Hall. Order, ECF No. 4, at 1 n.2; *see also Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004); *Khalil v. Joyce*, No. 25-CV-01963, 777 F. Supp. 3d 369, 393 (D.N.J. 2025) (Farbiarz, J.), *motion to certify appeal granted*, 777 F. Supp. 3d 411 (D.N.J. 2025) (“[T]his Court’s jurisdiction is not undone because the Petitioner is no longer in New Jersey, having been moved to Louisiana after the Petition was filed.”); *cf. Rivera Zumba*, 2025 WL 2753496, at *2–3.

15. Finally, Supreme Court and Third Circuit precedent establishes that administrative exhaustion is not required before this Court can exercise jurisdiction over this Amended Petition. Due process claims, like those brought here, are “generally exempt from the exhaustion requirement because the [Board of Immigration Appeals] does not have jurisdiction to adjudicate constitutional issues.” *Mudric v. Att’y Gen. of the United States*, 469 F.3d 94, 98 (3d Cir. 2006); *see also Carr v. Saul*, 593 U.S. 83, 92, 93, 96 (2021) (holding that it was legal error to impose an administrative exhaustion requirement on constitutional claims). Further, since the government argues that Modou is being detained under Section 1225(b)(2), any attempt to exhaust administrative remedies would be futile. *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 218 (BIA 2025) (holding that “an Immigration Judge lacks authority to hear a bond request” filed by a noncitizen detained under Section 1225(b)(2)); *see also, e.g., Mosqueda v. Noem*, No. 25-CV-2304, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025) (administrative challenge futile in light of *Yajure Hurtado*). Accordingly, the Court may exercise jurisdiction regardless of whether Modou has exhausted administrative remedies.

VENUE

16. Venue is proper in this Court because, when Modou’s Original Petition was filed on October 23, 2025, he was physically confined within the District of

New Jersey. *See Spencer v. Kemna*, 523 U.S. 1, 7 (1998) (finding that venue is determined at the time a habeas petition is filed).

MODOU’S BACKGROUND AND STATUS IN THE UNITED STATES

17. Modou is a 23-year-old man who was born in Senegal.

18. Modou speaks Wolof and understands only some very basic English.

19. Modou never received a formal education. Instead, he attended a form of religious school commonly offered in his home country.

20. Modou entered the United States on or about September 3, 2023. Ex. 9.

21. According to an administrative arrest warrant issued by the Department of Homeland Security on September 6, 2023, Modou was detained by immigration officials pursuant to Section 1226. Ex. 2.

22. Later on September 6, 2023, U.S. Customs and Border Protection released Modou on his own recognizance in accordance with its authority under Section 1226.¹ Ex. 3.

23. Since his 2023 release, Modou has lived a law-abiding life in New York City.

¹ Both the 2023 Warrant and 2023 Order of Release on Recognizance reference Section 236 of the Immigration and Nationality Act (“INA”). The INA is incorporated into and cross-referenced in the U.S. Code. The parallel citation for Section 236 of the INA is 8 U.S.C. § 1226, and the parallel citation for Section 235(b) of the INA is 8 U.S.C. § 1225(b). This Amended Petition will utilize the U.S. Code citations.

24. Modou has no criminal history and, from September of 2023 until his October 21, 2025 arrest, lived and worked in New York City without incident. Ex. 4.

25. Modou also demonstrated compliance with all requirements in his immigration case. Modou timely filed an asylum application with the immigration court on or around April 6, 2024, and was patiently awaiting a hearing scheduled in February 25, 2026 at the New York Immigration Court. *See* Ex. 1; Ex. 4. That February 2026 hearing has now been canceled, and he is scheduled for a master calendar hearing before the LaSalle Immigration Court in Jena, Louisiana on December 17, 2025.

DHS’S CHINATOWN ARRESTS

26. On October 21, 2025, over 50 masked and heavily armed federal agents, including immigration officers, emerged from unmarked cars to conduct a “militarized raid” in Manhattan’s Chinatown, arresting people who appeared to be of African descent.²

27. Local news outlets reported that the raid occurred after a prominent, politically-oriented social media personality posted a video of street vendors in the same area, claiming they were “illegal” and tagging ICE and DHS.³

² *See* Ana Ley and Olivia Bensimon, *Fear and Anger Fill New York’s Canal Street After Immigration Raid*, N.Y. Times, Oct. 23, 2025, <https://www.nytimes.com/2025/10/23/nyregion/nyc-canal-street-fear-anger.html>.

³ Jorge Fitz-Gibbon, *MAGA Influencer Shed Light on Illegal NYC Sidewalk Vendors Two Days Before ICE Swept In*, N.Y. Post, <https://nypost.com/2025/10/23/us->

28. DHS justified the arrests by saying that they arrested people who were suspected of selling counterfeit goods.⁴

29. Of the 13 people ICE arrested during this event, four were U.S. citizens, and only about half were street vendors.⁵ All of the people ICE detained were Black.

MODOU'S ARREST

30. On the same day of the raid, Modou was accompanying his friend to the Chinatown section of Manhattan and was the passenger in a white BMW.

31. While stopped at a stoplight on Canal Street, about 15 federal agents, including ICE officers, surrounded the car and demanded that the occupants exit.

32. When Modou's friend opened the door to hear what the agents had to say, officers pounced on Modou and his friend, and ripped them from the car.

[news/maga-influencer-shed-light-on-illegal-nyc-sidewalk-vendors-two-days-before-ice-swept-in-caught-my-eye/](https://www.nytimes.com/2025/10/23/nyregion/nyc-canal-street-fear-anger.html).

⁴ See Ana Ley and Olivia Bensimon, *Fear and Anger Fill New York's Canal Street After Immigration Raid*, N.Y. Times, Oct. 23, 2025, <https://www.nytimes.com/2025/10/23/nyregion/nyc-canal-street-fear-anger.html>.

⁵ Luke Barr and Megan Forrester, *4 US Citizens Arrested During ICE Crackdown on NYC's Canal Street, Congressman Says*, ABC News, Oct. 22, 2025, <https://abcnews.go.com/US/nyc-residents-increase-ice-arrests-after-crackdown-canal/story?id=126763379>. DHS detained the four citizens for over 24 hours, releasing them only after the U.S. Congressman that represented them gave a press release highlighting the "lawless terror" ICE inflicted. *Id.*

33. About five agents surrounded Modou. One agent pointed a firearm at Modou while another agent forcefully handcuffed him, causing severe pain and discomfort and ultimately injuring Modou's wrist.

34. After Modou was handcuffed, ICE shoved him into the back of an unmarked minivan without any explanation. He was then transported to an ICE office in Newark, New Jersey for processing. Ex. 4.

35. During processing, one ICE officer remarked that he was not sure why Modou was arrested because Modou was not involved in the purportedly illegal street vendor activity and his background was clean.

36. Respondents' records reflect this conclusion. Form I-213, generated by ICE after Modou's arrest, states that Modou is a "laborer," implying that he works for wages, not profits from selling counterfeit goods, and confirms Modou has "no known criminal history." *See* Ex. 4.

37. Despite this acknowledgment, ICE officials did not provide any alternate explanation for Modou's detention, or identify any circumstances that had changed since the agency previously released Modou on his own recognizance in 2023 that would warrant Modou's re-detention. Nor could they.

38. Since arriving in the United States, Modou has maintained lawful employment, had no run-ins with the law enforcement, timely applied for asylum, and was awaiting a hearing before the immigration court.

39. Once processed, ICE continued Modou’s detention, transporting him to Delaney Hall.

40. Inside Delaney Hall, Modou made a formal written request for medical attention to address new pain he was having in his mouth. Medical attention, however, was never provided at Delaney Hall or at either of the detention centers ICE transferred him to in Louisiana. To date, Modou has received no medical attention. Because of his untreated medical issue, he has trouble eating.

41. On October 23, 2025, two days after Modou was detained, Modou filed his initial Petition for a Writ of Habeas Corpus, ECF No. 1 (the “Original Petition”), *pro se*, with the help of non-lawyer community advocates.

**MODOU’S CONTINUED DETENTION AND INTERFERENCE
WITH ACCESS TO COUNSEL**

42. On Thursday, October 30, 2025, undersigned counsel scheduled a legal visit with Modou at Delaney Hall Detention facility to commence representation.

43. On or about Thursday, October 30, 2025—before that legal visit could occur, despite the pending Original Petition, and even though his immigration court hearing was scheduled to occur in the district within four days—Modou was transferred to a detention facility in Louisiana.

44. Modou’s counsel, who had a G-28 Notice of Entry of Appearance as Attorney on file with ICE and who had just met virtually with Modou, did not receive

any advance notice of his transfer. Instead, when she looked him up on ICE's tracking website, she found his entry deleted entirely. Ex. 5 ¶ 4.

45. ICE did not provide notice to counsel until late in the day on October 30, more than 12 hours *after* his transfer. Ex. 5 ¶ 5.

46. According to the transfer notification, Modou had been transferred to the Southern Louisiana ICE Processing Facility in Basile, Louisiana. The government has provided no information about why Modou was transferred there. Ex. 5 ¶ 5.

47. On October 30, 2025 at 10:20 PM, undersigned counsel emailed the Southern Louisiana ICE Processing Facility to arrange a legal visit with Modou for the following day. On October 31, 2025, at 8:47 AM, the facility responded that Modou was not currently detained there. Ex. 6 (Email Correspondence).

48. Undersigned counsel checked the locator and learned that Modou appeared to have been moved yet again, this time to Central Louisiana ICE Processing Facility in Jena, Louisiana. Once again, ICE did not provide any notice of transfer to counsel.

49. When ICE transferred Modou, they put him and the other people he was detained with in chains, shackled to one another. He was forced to wear the chains all day. When he arrived in Louisiana, the government kept him locked in a room for three days. He and the others had to sleep on the floor. At no point did they give

Modou access to any legal information, any interpreter, or any phone that he could use to call loved ones or counsel.

50. Since Modou was transferred, undersigned counsel have repeatedly requested to meet with Modou virtually. *See* Ex. 6. The facility initially denied requests stating that Modou was being processed. *Id.*

51. On November 3, 2025, undersigned counsel finally met virtually with Modou and promptly filed Notices of Appearance in this proceeding.

**THIS COURT'S NOVEMBER 3 ORDER
AND SUBSEQUENT BOND HEARING**

52. Yesterday, this Court issued an order holding that Modou is entitled to habeas relief. Order, ECF No. 4, at 3. The Court reserved on the specific remedy to be awarded but held that, at a minimum, Modou was entitled to a bond hearing. *Id.* The Court ordered Respondents to file a letter by November 5 at 2:00 PM indicating whether Petitioner had been provided a bond hearing.

53. Also yesterday, ICE filed a motion for a bond hearing and the LaSalle Immigration Court issued a Notice of Hearing scheduling Modou for a bond hearing for 11:00 AM central time today.

54. Modou did not receive any advance notice of his bond hearing. He first learned of his hearing when jail officials woke him up early this morning and brought him to the immigration court hearing room, with no information about the

proceeding, no opportunity to consult with his attorney, and no opportunity to prepare.

55. The interpreter at the hearing did not speak Wolof well. Modou did not understand what was happening during or immediately after the hearing.

56. At the hearing, the Immigration Judge said that she disagreed with this Court on the statutory basis for Modou's detention and held that, based on the BIA's decision in *Yajure Hurtado*, Modou's detention is governed by Section 1225. Accordingly, the Immigration Judge held that she did not have jurisdiction to set bond. Ex. 10.

57. After concluding it did not have jurisdiction, the Immigration Judge went on to find, without basis in the record, that Modou was a flight risk. *Id.* The Immigration Judge ignored evidence submitted by Modou's counsel showing that he has community ties and a reason to continue complying with his immigration court responsibilities, as he has done.

58. As a result, Modou thus remains in detention.

LEGAL FRAMEWORK

I. The Government’s Statutory Authority to Detain Noncitizens

59. The two primary provisions of the United States Code that govern the detention of noncitizens prior to an order of removal are 8 U.S.C. § 1226(a) and 8 U.S.C § 1225(b).⁶

60. As the Court recognized in its November 3 order, Section 1226(a) generally governs the detention of noncitizens who are already in the United States and subject to formal removal proceedings before an immigration court under 8 U.S.C. § 1229(a). Order, ECF No. 4; 8 U.S.C. § 1226(a); *see also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (“[U.S. immigration law] authorizes the Government to detain certain *aliens already in the country* pending the outcome of removal proceedings under §§ 1226(a) and (c)”) (emphasis added).

61. Detention under Section 1226(a) is discretionary, not mandatory. As part of that discretionary determination, the statute and implementing regulations “require ICE to make an *individualized* custody determination.” *See Velesaca v. Decker*, 458 F. Supp. 3d 224, 241 (S.D.N.Y. 2020) (emphasis added); *see also Lopez Benitez v. Francis*, No. 25-CV-5937, 2025 WL 2371588, at *10 (S.D.N.Y. Aug. 13, 2025). Release is appropriate where a noncitizen “demonstrate[s] to the satisfaction

⁶ Section 1226(c) concerns mandatory detention for noncitizens who have been convicted, or in some circumstances arrested, for certain criminal offenses, and is irrelevant to Modou’s petition, as he has never been arrested in the United States.

of the officer that such release would not pose a danger to property or persons, and that the [noncitizen] is likely to appear for any future proceeding.” 8 C.F.R. § 1236.1(c)(8).

62. In these circumstances, the government “may release the alien on—(A) a bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole[.]” 8 U.S.C. § 1226(a)(2)(A)–(B).

63. If, after an individualized consideration, ICE chooses to detain the noncitizen pursuant to Section 1226(a) pending removal proceedings, the individual may ask for a bond redetermination hearing before the immigration judge. 8 C.F.R. § 1003.19.

64. Unlike Section 1226, Section 1225 mandates detention for those noncitizens subject to it.

65. In contrast with Section 1226, which applies to “certain [noncitizens] *already in the country*,” *Jennings*, 583 U.S. at 289 (emphasis added), Section 1225 is concerned “primarily [with those] seeking entry” and is imposed “at the Nation’s borders and points of entry.” *Id.* at 297, 287. Recognizing this difference, this Court determined that “Petitioner is held under § 1226” but had not been provided the corresponding required process, entitling him to habeas relief. Order at ECF No. 4.

II. Noncitizens' Procedural Due Process Rights

66. The Due Process Clause of the Fifth Amendment entitles noncitizens to due process of law. *Reno v. Flores*, 507 U.S. 292, 306 (1993). As clearly enunciated by the Supreme Court, the protection of the Due Process Clause applies to noncitizens in the United States “whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693 (citations omitted).

67. Thus, “while [DHS] might want to enforce this country’s immigration laws efficiently, it cannot do that at the expense of fairness and due process.” *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 144 (W.D.N.Y. 2025) (citing *United States ex. rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266–68 (1954)).

68. Further, noncitizens are entitled to due process protections even in the face of policy shifts between administrations. While a “new administration can change the rules . . . it cannot change them and make up new rules as it goes along when the new rules abridge constitutional rights.” *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at *14 (W.D.N.Y. Jul. 16, 2025).

69. In the context of immigration detention due process claims, the Third Circuit has applied the three-factor balancing test set forth in *Mathews v. Eldridge* to determine what due process requires. *Gayle v. Warden Monmouth Cnty. Corr. Inst.*, 12 F.4th 321, 331–32 (3d Cir. 2021) (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)). These factors are: (i) “the private interest that will be affected by

the official action”; (ii) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (iii) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Id.*

70. Under the *Mathews* rubric, freedom from imprisonment, physical restraint, or other forms of government custody is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *Lopez Benitez*, 2025 WL 2371588, at *9 (“[Petitioner] invokes the most significant liberty interest there is—the interest in being free from imprisonment”) (quoting *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) (noncitizens in immigration custody had an arguably even greater liberty interest in remaining out of detention than criminal parolees who required due process protection).

71. With respect to the second *Mathews* factor, given the strong liberty interest at stake, the Fifth Amendment’s guarantee of due process requires at least some notice and an opportunity to be heard before a person can be placed in immigration detention. *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025). Further, due process requires that “notice must be afforded within a reasonable time and in such a manner as will allow [noncitizens] to actually seek . . . relief[.]” *Id.*

72. For the third *Mathews* factor, “the Attorney General’s discretion to detain individuals under 8 U.S.C. § 1226(a) is valid where it advances a legitimate government purpose.” *Velasco Lopez*, 978 F.3d at 854. The recognized government interests in immigration detention are “ensuring the appearance of [noncitizens] at future immigration proceedings” and “preventing danger to the community.” *Zadvydas*, 533 U.S. at 690 (citation modified). Absent evidence in the record that a noncitizen is dangerous, and in situations when the noncitizen has appeared for immigration proceedings, district courts have held that the government cannot demonstrate a significant interest in their detention. *See Lopez Benitez*, 2025 WL 2371588, at *13; *Valdez v. Joyce*, No. 25-CV-4627, 2025 WL 1707737, at *4 (S.D.N.Y. Jun. 18, 2025).

73. Where an individual is detained pursuant to Section 1226, courts have found that due process *requires an individualized pre-detention determination* as to the noncitizen’s risk of flight and danger to the community. *See, e.g., Contreras Maldonado*, 2025 WL 2985256, at *6 (“Petitioner’s due process rights were violated when she was detained without an individualized determination under § 1226(a) and its implementing regulations”); *see also Velesaca*, 458 F. Supp. 3d 224 at 235; *Lopez Benitez*, 2025 WL 2371588, at *10; *Kelly v. Almodovar*, No. 25-CV-6448, 2025 WL 2381591, at *3 (S.D.N.Y. Aug. 15, 2025); *Rosado v. Figueroa*, No. 25-CV-02157, 2025 WL 2337099, at *13 (D. Ariz. Aug. 11, 2025), *report and recommendation*

adopted, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Pinchi v. Noem*, No. 5:25-CV-05632, 2025 WL 2084921, at *5 (N.D. Cal. July 24, 2025).

74. Moreover, where the issue at hand is *re-detention* of a noncitizen previously released by the Department of Homeland Security, absent a showing of changed circumstances, courts often grant release, finding the government's interest less significant. *See Kelly*, 2025 WL 2381591, at *4 (ordering immediate release based on violation of petitioner's due process rights where he was re-arrested at his ICE check-in without notice, opportunity to respond or showing of changed circumstances); *Valdez*, 2025 WL 1707737, at *4 (ordering immediate release where noncitizen, previously released on recognizance, was re-arrested after appearance in immigration court with no explanation for re-detention); *see also Chipantiza-Sisalema*, 2025 WL 1927931, at *3 (S.D.N.Y. July 13, 2025) (granting habeas petition based on violation of Fifth Amendment where noncitizen was detained without an individualized determination of changed circumstances justifying detention); *Rosado*, 2025 WL 2337099, at *13, *19 (ordering immediate release and return to jurisdiction, and finding due process violation, where petitioner's "re-detention, after six years of being released on recognizance from an initial detention on inspection, was without prior notice, a showing of changed circumstances, or a meaningful opportunity to object") (citations omitted).

III. Appropriate Remedies

75. When a noncitizen does not receive individualized consideration pre-deprivation, their due process rights are irrevocably violated, and a bond hearing cannot remedy that violation.⁷ *See, e.g., Contreras Maldonado*, 2025 WL 2985256, at *5–7 (“Respondents’ post-hoc reasoning at the August 14, 2025 bond hearing does not rectify the lack of individualized determination at the time of arrest” and “[t]he court therefore finds that Petitioner’s due process rights were violated when she was detained without an individualized determination under § 1226”); *Lopez Benitez*, 2025 WL 2371588, at *14 (“Given the nature of the constitutional violation [petitioner] sustained here—i.e., Respondents’ failure to conduct any kind of individualized assessment before detaining him—any post-deprivation review by an immigration judge would be inadequate.”); *see also Chipantiza-Sisalema*, 2025 WL 1927931, at *3 (post-detention bond “hearing is no substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause”) (citation modified); *Kelly*, 2025 WL 2381591, at *3 (same).

⁷ While this Court has found that requiring a bond hearing is the proper remedy where someone was unlawfully detained under Section 1225(b)(2), it has yet to consider whether that same remedy applies in a case where, as here, a noncitizen was *already* released under Section 1226(a) and now seeks to avoid unwarranted re-detention absent an individualized assessment necessitating it.

76. Release is the only adequate remedy under these circumstances. *See Lopez Benitez*, 2025 WL 2371588 at *15 (stating that a bond hearing is “inadequate to address the denial of due process that [detained non-citizen] was entitled to in the first instance” and ordering immediate release upon return to district); *Chipantiza-Sisalema v. Francis*, No. 25-CV-5528, 2025 WL 1927931, at *3 (S.D.N.Y. July 13, 2025) (finding that custody redetermination hearing could not cure lack of pre-deprivation process, the government’s suggestion otherwise “rings hollow,” and ordering immediate release); *Artiga v. Genalo*, No. 25-CV-5208, 2025 WL 2829434, at *4, 9 (E.D.N.Y. Oct. 5, 2025) (“[p]etitioner has raised a constitutional question [regarding the lawfulness of his detention] and the only cure to his allegedly unlawful detention is the vacatur of detention—that is, the release of Petitioner from ICE custody”); *J.U. v. Maldonado*, 25-CV-04836, 2025 WL 2772765, at *3 (E.D.N.Y. Sept. 29, 2025) (“there was no ‘initial decision’ as ICE’s detention of Petitioner did not comport with the implementing regulations and § 1226(a); thus, a bond hearing for a post-deprivation review is wholly inadequate to remedy that unlawful detention”); *see also Lepe v. Andrews*, No. 1:25-CV-01163, 2025 WL 2716910, at *10 (E.D. Cal. Sept. 23, 2025) (“the appropriate remedy is petitioner’s

immediate release”); *Hasan v. Crawford*, No. 1:25-CV-1408, 2025 WL 2682255, at *12–13 (E.D. Va. Sept. 19, 2025) (similar).⁸

77. Here, immediate release is appropriate for several reasons.

78. *First*, Modou was detained without any pre-deprivation process whatsoever, in violation of the due process clause, which requires his release. *See supra* ¶¶ 83–84.

79. *Second*, Modou was previously detained—and released—pursuant to Section 1226, based on an individualized determination. *See* Order, ECF No. 4, at 2–3 (recognizing 2023 detention was pursuant to Section 1226). No changed circumstances exist since that prior release that would warrant his re-detention.

80. *Third*, Modou is being deprived of necessary medical care while under the government’s control. Ordering immediate release will allow Modou to receive

⁸ *See also Contreras Maldonado*, 2025 WL 2985256, at *7 (ordering release); *Rivera Zumba*, 2025 WL 2753496, at *11 (ordering release); *Vargas Ramos v. Rokosky*, No. 1:25-cv-15892, 2025 WL 3063588 *9 (D.N.J. Nov. 3, 2025) (same); *Lopez Benitez*, 2025 WL 2371588, at *15 (same); *Lomeu*, 2025 WL 2981296, at *9 (same); *Soto*, 2025 WL 2976572, at *9 (same); *Maklad v. Murray*, No. 1:25-CV-946, 2025 WL 2299376, at *10 (E.D. Cal. Aug 8, 2025) (same); *Mata Velasquez*, 2025 WL 1953796, at *18 (same); *Singh v. Andrews*, No. 1:25-CV-00801, 2025 WL 1918679, at *10 (E.D. Cal. July 11, 2025) (same); *Kelly*, 2025 WL 2381591, at *4 (same); *Rosado*, 2025 WL 2337099, at *19 (same); *Valdez*, 2025 WL 1707737, at *5 (same); *Pinchi*, 2025 WL 2084921, at *7 (enjoining government from re-detaining petitioner without providing pre-detention bond hearing).

necessary treatment, which the government has demonstrated an unwillingness to provide.

81. Today's bond hearing today underscores why release is an essential remedy. Despite this Court's order holding Modou's detention is governed by Section 1226(a), the Immigration Judge determined she lacked jurisdiction over custody determinations based on precedent by the Board of Immigration Appeals and refused to release Modou.

82. Modou has no criminal record. He gathered letters demonstrating his community ties in a matter of hours overnight. He is lawfully seeking asylum and has continued to comply with all obligations and hearing dates related to his application, including reporting for today's bond hearing. Yet because he was in the wrong place at the wrong time, he now sits in detention without access to medical care for his injuries or further avenues for relief in immigration court. And today's ruling from the immigration judge means that, although there was no individualized assessment before arresting him during an unrelated raid, and even though he was previously released by DHS pursuant to Section 1226, he will remain detained absent additional intervention from this Court. As such, a bond hearing does not provide Modou adequate relief, and the only relief sufficient to remedy Respondent's constitutional violations is Modou's immediate release from detention.

CLAIMS FOR RELIEF

COUNT ONE

**VIOLATION OF THE DUE PROCESS CLAUSE OF THE
FIFTH AMENDMENT TO THE U.S. CONSTITUTION
(Failure to Conduct an Individualized Pre-Detention Assessment)**

83. Modou realleges and incorporates by reference each and every allegation contained above.

84. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

85. The Third Circuit applies the *Mathews v. Eldridge* factors to determine what due process requires in the context of immigration detention, balancing: (i) “the private interest that will be affected by the official action”; (ii) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (iii) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Gayle*, 12 F.4th at 331 (citation modified) (quoting *Mathews*, 424 U.S. at 335)

86. Modou’s private interests here are strong: he has been deprived of his liberty after being released from DHS custody and without any change in circumstances. *See Rosado*, 2025 WL 2337099, at *18 (“A basic principle—that individuals placed at liberty are entitled to due process before the government *again* imprisons them—has particular relevance here, where Rosado’s detention was previously found to be unnecessary to serve any purpose.”) (emphasis added).

87. Further, Respondents detained Modou without notice to him or his counsel, without an opportunity to respond, and without any meaningful evaluation as to his particular circumstances, including whether he poses a flight risk or a danger to the community. Indeed, Modou was arrested in a broad sweep along with U.S. citizens, and ICE officers did not check arrestees’ legal status until after they were detained despite their pleas to do so. Modou was provided with no information or opportunity to seek legal process in his native language. Accordingly, the risk of erroneous deprivation here is significant. *Valdez*, 2025 WL 1707737, at *4 (where respondents “re-detained Petitioner with no notice, explanation, or opportunity for Petitioner to be heard[,] Petitioner’s re-detention without any change in circumstances or procedure establishes a high risk of erroneous deprivation of his protected liberty interest”) (citation omitted).

88. With respect to the government’s interest, Respondents have not offered any individualized purpose for Modou’s detention. *See Zadvydas*, 533 U.S. at 690–91.

89. Based on ICE’s view that Modou’s detention was mandatory under Section 1225, an individualized assessment of the factors in his case—including his release into the U.S. over two years ago, his status as an asylum applicant with a pathway to lawful permanent residence, and his lack of criminal convictions—was not made prior to his detention. *See Lopez Benitez*, 2025 WL 2371588, at *11 (“The problem is that Respondents have not offered any explanation for Mr. Lopez Benitez’s detention other than their initial assertion that it is mandatory—that is, that it is *non-discretionary*. Such an assertion is precisely the *opposite* of an exercise of discretion, which entails some sort of judgment”) (emphasis in original). The lack of individualized determination is further evidenced by the circumstances surrounding Modou’s arrest—he was removed from a car while running an errand during an enforcement effort against street vendors (and Modou is not one). Pursuant to the Due Process Clause, Modou was entitled to an individualized assessment *in advance* of any detention. *Cf. Contreras Maldonado*, 2025 WL 2985256, at *5. Detaining him without this individualized consideration, merely for being in the wrong place at the wrong time, is unconstitutional.

90. Respondents’ detention of Modou violates the rights guaranteed to him by the Due Process Clause of the Fifth Amendment to the United States Constitution. Consistent with the Court’s November 3 order, “the Petitioner is entitled to habeas relief.” Order, ECF No. 4, at 3. And as multiple courts have held, because no amount of post-deprivation process can cure the foregoing violation, the Court should order the remedy of release.

COUNT TWO

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION (Substantive Due Process)

91. Modou realleges and incorporates by reference each and every allegation contained above.

92. The Due Process Clause prohibits the government from depriving any person of “life, liberty, or property, without due process of law[.]” U.S. Const. amend. V. At its core, a person’s protected liberty interest mandates freedom from arbitrary imprisonment and applies with equal force to individuals in immigration detention. *Zadvydas*, 533 U.S. at 690; *German Santos v. Warden Pike Cnty. Correctional Facility*, 965 F.3d 203, 210–11 (3d Cir. 2020). Because “liberty is the norm, and detention prior to trial or without trial is the carefully limited exception,” the government may imprison people as a preventive measure only within strict

limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *U.S. v. Salerno*, 481 U.S. 739, 755 (1987)).

93. In the immigration context, detention is nonpunitive and therefore subject to different standards than criminal detention. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 491 (1999). Specifically, Courts have recognized only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690–91 (immigration detention aims to ensure the detainee’s appearance at immigration proceedings and protect the community from dangerous individuals); *Velasco Lopez*, 978 F.3d at 853–54; *Faure v. Decker*, No. 15-CV-5128, 2015 WL 6143801, at *3 (S.D.N.Y. Oct. 19, 2015). Detention is nevertheless the “carefully limited exception” and implicates the “most significant liberty interest there is—the interest in being free from imprisonment.” *Velasco Lopez*, 978 F.3d at 851.

94. Throughout the years that he’s been in the United States, Modou has proven that he is not a flight risk or a danger to the community at large. Because Respondents’ detention of Modou bears no “reasonable relation” to the government’s interests in preventing flight and danger, *Jackson v. Indiana*, 406 U.S. 715, 738 (1972), Modou’s detention is devoid of any reasoned justification.

95. For the foregoing reasons, Respondents’ arbitrary and abrupt detention of Modou violated his substantive due process rights.

COUNT THREE

**VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT,
8 U.S.C. § 1226(a) and Implementing Regulations**

96. Modou realleges and incorporates by reference each and every allegation contained above.

97. Upon information and belief, Respondents are detaining Modou pursuant to 8 U.S.C. § 1225(b)(2), their mandatory detention authority.

98. However, at the time of his re-detention by Respondents, Modou was not seeking admission to the United States. He had been residing in the United States since 2023. Moreover, DHS previously arrested, detained, and released Modou, pursuant to Section 1226, in 2023, when he first arrived in the United States.

99. Section 1226 governs the detention of individuals residing within the United States, like Modou, and implements a discretionary detention regime with the opportunity for release.

100. Because Modou's detention should be governed by Section 1226, the application of the mandatory detention statute, 8 U.S.C. § 1225(b), to Modou is unlawful under the Immigration and Nationality Act.

COUNT FOUR

**VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT,
5 U.S.C. § 706(2)(A)**

101. Modou realleges and incorporates by reference each and every allegation contained above.

102. The Administrative Procedure Act prohibits agency action which is arbitrary and capricious or contrary to law. 5 U.S.C. § 706(2)(A).

103. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). An agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 588 U.S. 752, 773 (2019) (citation omitted).

104. Respondents’ decision to detain Modou and suddenly subject him to mandatory detention under Section 1225(b)(2) as a result of their indiscriminate Canal Street operation, irrespective Modou’s prior release under Section 1226 or the individual circumstances of his case, is arbitrary and capricious and contrary to law.

COUNT FIVE

**VIOLATION OF THE FOURTH AMENDMENT TO THE
CONSTITUTION
(Freedom from Unlawful Stop and Seizure)**

105. Modou realleges and incorporates by reference each and every allegation contained above.

106. DHS's indiscriminate arrest of Modou runs afoul of protections under the Fourth Amendment warding against unconstitutional stops and seizures.

107. The Fourth Amendment protects "the right of the people to be secure in their persons . . . against unreasonable searches and seizures" and establishes that "no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing . . . the persons or things to be seized." U.S. Const. amend. IV.

108. These same rights protect noncitizens in the context of re-arrest. The requirement that further seizure requires a court order or new probable cause "guards against precipitate rearrest." *Carlson v. Landon*, 342 U.S. 524, 546 (1952).

109. Modou was detained by federal immigration officials as removable when he entered the United States. The government exercised its discretion under the INA to release him on his own recognizance while he pursued his asylum claim in immigration court.

110. In order to re-arrest and detain him, Respondents needed probable cause and an appropriate judicial or administrative warrant. They had neither.

111. Respondents conducted an indiscriminate sweep of individuals who appeared to be of African descent, and Modou was included in their dragnet simply because he was of the same skin color and was in the area at the time.

112. The Government bears the burden of providing “specific and articulable facts” to support reasonable suspicion. *See Terry v. Ohio*, 392 U.S. 1, 21 (1968). The race of an individual cannot itself create reasonable suspicion, even for a temporary stop. *United States v. Brignoni-Ponce*, 422 U.S. 873, 887 (1975); *Noem v. Vasquez Perdomo*, No. 25A169, --- S.Ct. ----, 2025 WL 2585637, at *3 (Sept. 8, 2025) (Kavanaugh, J., concurring). Officers lacked reasonable suspicion to even approach Modou, and certainly lacked probable cause to arrest him.

113. ICE officers also lacked a warrant authorizing their behavior. An administrative arrest provides a valid basis for initial detention of a noncitizen, *Abel v. United States*, 362 U.S. 217, 233 (1960), but the BIA and DHS have long required a showing of changed circumstances to alter prior bond and release determinations. *See Saravia v. Sessions*, No. 17-CV-03615, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. Nov. 20, 2017), *aff’d*, 905 F.3d 1137 (9th Cir. 2018) (discussing government counsel’s representations regarding DHS’ practice of re-arresting only after a material change in circumstances). Numerous courts have also recognized that

noncitizens, including asylum seekers like Modou, cannot be rearrested based on the same probable cause that prompted their initial detention. *Lopez*, 2018 WL 2932726, at *14 (“Such administrative warrants raise serious due process and Fourth Amendment questions when used in this way”); *Saravia*, 280 F. Supp. 3d at 1196 (“Absent some compelling justification, the repeated seizure of a person on the same probable cause cannot, by any standard, be regarded as reasonable under the Fourth Amendment.”) (citation omitted).

114. In the absence of changed or exigent circumstances that would justify Modou’s arrest after federal immigration authorities had already decided he could pursue his claims for immigration relief at liberty, his re-arrest based solely on the fact that he was at the wrong place at the wrong time and is subject to removal proceedings is unreasonable and violates the Fourth Amendment. *See, e.g., Munoz Materano v. Arteta*, No. 25-CV-6137, 2025 WL 2630826, at *17, 20 (S.D.N.Y. Sept. 12, 2025) (“Respondents violated [habeas petitioner’s] Fourth Amendment rights” when “Respondents ha[d] not asserted any new circumstances about [petitioner], nor any particular circumstances from May 21, 2025 that would have reasonably triggered his arrest”) (citation omitted).

115. Here, ICE’s records confirm that ICE knew when they arrested Modou that he did not sell counterfeit goods. *See* Ex. 4 (listing Modou’s occupation as

“laborer”). The same records also confirm Modou has “no known criminal history,” and that ICE was aware of this when detaining him weeks ago. *Id.*

116. As a result, Modou’s re-detention violates the Fourth Amendment because he was arrested without probable cause or a legally sufficient warrant. *See, e.g., Gamez Lira v. Noem*, No. 1:25-CV-00855, 2025 WL 2581710, at *3–4 (D.N.M. Sept. 5, 2025) (finding habeas petitioner’s Fourth Amendment claim likely to succeed when respondents failed to make a probable cause determination before re-arresting and detaining noncitizen in removal proceedings).

117. The appropriate remedy for this violation is release from detention. *See, e.g., Rosado*, 2025 WL 2337099, at *18, *report and recommendation adopted*, 2025 WL 2349133 (granting habeas petitioner’s release from detention where her Fourth Amendment rights were violated).

COUNT SIX

VIOLATION OF THE FIRST AMENDMENT (Retaliation Claim)

118. Modou realleges and incorporates by reference each and every allegation contained above.

119. The First Amendment to the United States Constitution provides in part that “Congress shall make no law . . . abridging the freedom of speech . . . or the right of the people . . . to petition the Government for a redress of grievances.” U.S. Const. amend. I.

120. “The Supreme Court has consistently held that an individual’s constitutional right of access to court is protected by the First Amendment’s clause granting the right to petition the government for grievances.” *Anderson v. Davila*, 125 F.3d 148, 161 (3d Cir. 1997); *see also California Motor Transp. Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972) (“The right of access to the courts is indeed but one aspect of the right of petition”) (citations omitted).

121. “To plead retaliation for the exercise of First Amendment rights, a plaintiff must allege (1) constitutionally protected conduct, (2) retaliatory action sufficient to deter a person of ordinary firmness from exercising his constitutional rights, and (3) a causal link between the constitutionally protected conduct and the retaliatory action.” *Mirabella v. Villard*, 853 F.3d 641, 649 (3d Cir. 2017) (citations omitted); *see also Mack v. Warden Loretto FCI*, 839 F.3d 286, 297 (3d Cir. 2016) (applying this test to a claim of retaliation for the exercise of the right to petition).

Modou filed his Original Petition for writ of habeas corpus on October 23, 2025.

Ex. 1. The filing of a petition for a writ of habeas corpus is a constitutionally protected activity under the First Amendment.

122. Several days after Modou filed the Original Petition, undersigned counsel conducted a virtual legal visit and scheduled an in-person meeting with Modou at Delaney Hall in New Jersey.

123. Several hours after undersigned counsel met with Modou virtually, Respondents relocated Modou across the country and failed to notify counsel of his transfer.

124. Modou’s access to counsel has also been severely restricted in detention, despite his need to communicate with counsel about his removal proceedings and asylum claim and his habeas petition before this Court.

125. Each of these acts—relocating Modou without notice, failing to notify his lawyers, and failing to provide access to requested, available legal visits— independently constitute retaliatory action sufficient to deter a person of “ordinary firmness” from exercising their First Amendment rights; together, the chilling effect is even stronger. *See O’Connor v. City of Newark*, 440 F.3d 125, 128 (3d Cir. 2006) (explaining that the “deterrence threshold” for First Amendment retaliation claims is “very low” and “a cause of action is supplied by all but truly de minimis violations”) (citations omitted).

126. A causal link between a constitutionally protected act and the retaliatory action may be demonstrated by the timing and proximity of the adverse action to the protected conduct, a pattern of antagonism, and other evidence “gleaned from the record as a whole.” *Conard v. Pennsylvania State Police*, 902 F.3d 178, 183–84 (3d Cir. 2018) (citation omitted). Proximity of “just a few weeks” between filing a habeas petition and transfer, or even the threat of transfer, can constitute a violation

of the First Amendment. *Khan v. Thompson*, No. 25-CV-1811, 2025 WL 823230, at *3 (D.N.J. Mar. 12, 2025) (Padin, J.).

127. The timing of the government’s transfer without notice and lack of access in scheduling legal calls shortly after Modou’s filing of the writ of habeas corpus constitutes an “unusually suggestive” temporal connection between Modou’s protected conduct and his relocation. *Watson v. Rozum*, 834 F.3d 417, 424 (3d Cir. 2016).

128. The government’s retaliation is causing Modou immediate and irreparable harm through ICE’s continued detention of him—away from his home, loved ones, and legal counsel.

PRAYER FOR RELIEF

WHEREFORE, Modou respectfully requests that this Court:

- a. Declare that Modou’s detention violates the Due Process Clause of the Fifth Amendment;
- b. Declare that Respondents’ actions violate the Fourth Amendment;
- c. Declare that Respondents’ actions violate the First Amendment;
- d. Declare that Respondents’ actions violate the Administrative Procedure Act;
- e. Grant a writ of habeas corpus ordering Respondents to immediately release Modou from custody;

f. Order a stay of removal to preserve this Court's jurisdiction while these proceedings are pending;

g. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and

h. Grant such further relief as this Court deems just and proper.

MAKE THE ROAD NY

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**VERIFICATION BY SOMEONE ACTING ON THE PETITIONER'S
BEHALF PURSUANT TO 28 U.S.C. § 2242**

I submit this verification on behalf of Petitioner because I am an attorney for Petitioner, and Petitioner lacks the ability to read and understand written English. I have discussed with the Petitioner the events described in this Petition with the assistance of a translator who translated the Petition to Petitioner's native language. Based on those discussions, I hereby verify that the statements made in the attached Amended Petition for Writ of Habeas Corpus are true and correct to the best of my permission of the Petitioner rather than by Petitioner himself due to Petitioner's lack of ability to read and understand written English and counsel's inability to meet with the Petitioner as described in the Amended Petition.

Furthermore, pursuant to Local Civil Rule 11.2, I verify that, to the best of my knowledge, the matters in controversy in this action are not the subject of any other pending action before any court, arbitrator, or administrative body.

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

Dated: November 4, 2025



Jacqueline Pearce