Ediki Kankia
Petitioner Appearing Pro Se
P. O. Box 3664
Westlake Village, CA 91359-0664
Email: niapinc@gmail.com

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW JERSEY

Ediki Kankia, *Petitioner,* v. Luis Soto, Director/Warden of Delaney Hall Detention Facility; Kristi Noem, Secretary of Department of Homeland Security (DHS); and Pam Bondi, United States Attorney General, *Respondents.*	Civil No.: _____

***VERIFIED* PETITION FOR WRIT OF HABEAS CORPUS BY PERSON IN CUSTODY IN VIOLATION OF THE CONSTITUTION AND LAWS OF THE UNITED STATES**
[28 USC § 2241(c)(3)]

JURISDICTIONAL STATEMENT

1. The Court has jurisdiction to entertain this habeas petition under 28 U.S.C. 2241-43; 28 U.S.C. 1331;; 28 U.S.C. § 2201-02, the Due Process Clause of the Fifth Amendment, U.S. Const. amend. V; and the Suspension Clause, U.S. Const. art. I, § 2, and this action also arises under the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq*.

2. The Court may grant relief pursuant to the habeas statute, 28 U.S.C. § 2241; the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq*.; and the All Writs Act, 28 U.S.C. § 1651 and under the Administrative Procedures Act ("APA"), § 701 et sequm, as well as preliminary injunctive relief under Fed. R. Civ. Pr. 65.

INTRODUCTION AND STATEMENT OF FACTS

3. Petitioner Ediki Kankia arrived in the United States from Georgia on September 13, 2022 at the Chula Vista port of entry in San Diego, California.[1] Administrative Record (AR) 3, 8.

4. Petitioner was then taken into the custody of the Immigration and Customs Enforcement (ICE), booked, and soon thereafter paroled for humanitarian grounds under the authority of Title 8 U.S.C. Section 1182(d)(5). AR 4-5.

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[1] Accompanying this petition as exhibits are documents contained in the administrative record (AR). Any reference to a document will be cited to the AR record followed by the page number(s) as AR (#).

5. On September 16, 2022, expecting that Petitioner would be traveling to New York City to meet and reside with friends and/or relatives, ICE ordered Petitioner to appear before the corresponding ICE office in New York City to the address where he said he would be residing. AR 5, 7. Petitioner complied.

6. On September 16, 2022 the corresponding ICE office in New York City served Petitioner with a Call-in-Letter instructing him to appear for further booking proceedings on October 4, 2022. He did. AR 10-11.

7. In compliance with existing immigration laws, if Petitioner was to apply for asylum and withholding relief, he was required to file such an application for asylum within the first anniversary of his arrival to the United States. He did. AR 13 (establishing the Department of Homeland Security (DHS) receipt by 5/19/2023 of such application.

8. Since his arrival to the United States after being released on parole under an order of supervision (OSUP), AR 10-11, ICE permitted Petitioner to remain on parole, attending to all requests for attendance before ICE and, he did so remain in full compliance with all supervisory conditions on his liberty and as a separate but significant grounds for humanitarian consideration by ICE, Petitioner became a father for the first time in his life just a few weeks ago at age 41. AR 16-18 (redacted).

9. On May 26, 2023, ICE requested him to appear for a biographical intake

appointment and Petitioner so complied. AR 19.

10. On October 15, 2025, three (3) years after he first arrived in the United States and placed on parole, Petitioner was last called-in to appear at the ICE New York Field Office for his next check-in status. Petitioner complied.

11. ICE detained him and placed him in its custody at the Delaney Hall Detention Facility (Delaney) in Newark, New Jersey. ICE also served him with a notice to appear (NTA), the document that is filed by ICE to commence removal proceedings before the Varick Immigration Court. AR 23-26. *See* 8 C.F.R. Section 1003.14.

12. Two days later on October 17, 2025, ICE filed the NTA with the Varick Immigration Court thereby commencing removal proceedings under 8 U.S.C. Section 1229a for his entry to the United States in alleged violation of Section 1182(a)(6)(A)(i). AR 24.

I. ICE is violating its own detention transfer nationwide rules placing such violations within the reach of the *Accardi doctrine* as systematic arbitrary, capricious and otherwise unlawful abuses of discretion.

13. In 2009, John T. Morton, Assistant Secretary of ICE issued a memorandum in response to concerns from nongovernmental organizations asserting that detainee transfers by ICE were being made noncompliant with ICE National Detention Standards (ICE NDS) creating a series of hardships for detainees and their families. The memorandum made several recommendations after finding

numerous issues with unintended adverse consequences. Exh. A "*Letter Report: Immigration and Customs Enforcement Policies and Procedures Related to Detainee Transfers (OIG-10-13);*" see also ICE Response to Office of Inspector General Draft Report: "*Immigration and Customs Enforcement Policies and Procedures to Detainee Transfer*" essentially concurring with Mr. Morton's recommendations. Exh. B.

14. On January 4, 2012, following a series of further investigations and efforts to create a workable ICE NDS, Mr. Morton created such national standard for detainee transfers, entitled "*U.S. Immigration and Customs Enforcement, Policy 11022.1*: *Detainee Transfers*" issued on January 4, 2012, effective immediately and superseding all prior policies in this regard. Exh. C. The Directive remains in full force and effect as of today.[2]

15. Clause 5.2, thereof, denotes clear recognition that "Unless a transfer is deemed necessary by a FOD" ICE Supervisory Immigration Officer(s) will not transfer a detainee when there is documentation to support the following: a) Immediate family within the AOR; b) An attorney of record (Form G-28) . . . within the AOR; c) Pending or on-going removal proceedings . . . within the AOR; or d) Been granted bond or has been scheduled for a bond hearing." Exh. C, 5.2

2 See, ICE website at https://www.ice.gov/node/65009?utm_source=chatgpt.com.

"Transfer Determinations." Clause 5.3 thereof provides a list of reasons of when a transfer of a detainee may be deemed necessary by a FOD or his or her designee. *See Detainee Transfers* 5.3 subclauses (a) through (g).

16. Absent an order of this Court against relocating petitioner, ICE will be free to transfer him out of the New York AOR to far distant locations in Texas, Louisiana or Tennessee among others despite the published ICE NDS providing that ICE Supervisory Officer(s) "will not" transfer a detainee when there is documentation to support keeping the detainee in the corresponding AOR reflected in the detention standards shown in Exh. C.

17. Respondents have transferred detainees whom are in removal proceedings unilaterally and in particular in the New York and New Jersey ICE Field Offices to far distant detention facilities in other states, such as Texas, Louisiana and Tennessee, effectively trampling communications between the detainees, their families and their legal representatives. Absent an order from the Court to the contrary, respondents will be free to do the same in this instance and imposing an array of hardships contrary to ICE's own detainee transfers criteria addressed in detail in the accompanying "Detainee Transfers Directive" (DTD) encompassed in Policy 11022.1 of the U.S. Immigration and Customs Enforcement published on January 4, 2012 and still in full force and effect. (*see* attached as Exh. C).

18. Based on the facts, circumstances and authorities described above

including the Court's inherent authority or those authorized under Fed. R. Civ. Pr. 65, Petitioner respectfully petitions this Court to issue an administrative stay order pending review on the merits of this writ of habeas corpus enjoining respondent Soto, Warden for the Delaney Hall Detention Facility ("Delaney"); respondent Noem, the Secretary of the Department of Homeland Security (DHS), and respondent Bondi, their officers, agents, servants, employees, and attorneys, and persons in active concert or participation with them, from transferring petitioner from Delaney to outside the area of responsibility (AOR) as this term is described in Paragraph (¶) 3.1-2 of the DTD in ICE's Policy 11022.1. Exh. C.

19. As described in the DTD at ¶ 3.3 petitioner's family (which includes his partner, Ms. I. J., and their infant daughter, born in the past 2 months) all residents of Brooklyn, N.Y., and thereon form part and parcel of the qualified persons intended as intended beneficiaries of the DTD by the promulgation and publishing of the DTD, to the extent that a transfer of petitioner OAR would be a direct violation of the intended purpose behind the DTD. *See* DTD's ¶ 5.2, et al. Id.

20. Although venue is determined at the time of filing, a district court will ordinarily retain jurisdiction even when the noncitizen is transferred to another district. *See* Ex Parte Endo, 323 U.S 283, 304-05 (1944) (rejecting mootness after transfer because "there is no suggestion that there is no one within the jurisdiction of the District Court who is responsible for the detention of appellant and who

would be an appropriate respondent"); *see* also Anariba v. Dir. Hudson Cnty. Corr. Ctr., 17 F.4th 434, 446 (3d Cir. 2021) ("[T]he District Court retained jurisdiction following Argueta's transfer out of New Jersey because it already had acquired jurisdiction over Argueta's properly filed habeas petition that named his then-immediate custodian.").

21. The DTD evidently was intended for the purpose of benefiting persons in the same position as petitioner, and his young family, as well as for maintaining intact and not interfering with previously established attorney-client relationships between the petitioner and his administrative representative. *See*, DHS Office of Inspector General, ICE Policies and Procedures Related to Detainee Transfers, including Memorandum from Richard L. Skinner, Inspector General to John T. Morton, Assistant Secretary of U.S. ICE dated November 10, 2009, stating in pertinent part:

> "Transfer determinations made by ICE officers at the detention facilities are not conducted according to a consistent process. This leads to errors, delays, and confusion for detainees, their families, and legal representatives. Communication and coordination with the Department of Justice's Executive Office for Immigration Review (EOIR) immigration courts regarding detainee status can also be improved to eliminate confusion and delays. We are recommending that ICE establish a national standard for reviewing each detainee's administrative file prior to a transfer determination, and that it develop protocols with EOIR court administrators for exchanging hearing and transfer schedules."

See, Exh. A. p.1, ¶ 2.

22. As a result, although venue should continue in this district the transfer of petitioner to a far distant location will adversely affect the functionality and workability of the attorney-client relationship due to the difficulties imposed from the distance when needing, for example, to confer with petitioner in person to prepare the client as witness before trial. There are other independent justifiable common grounds that equally support the reasonableness of issuing an order enjoining the respondents from transferring petitioner out of the jurisdictional district of the Court pending a decision on the merits of this petition, each of which were articulated and considered as the fundamental underpinnings for issuing the DTD in 2012.

II. Respondents' scheme of reinterpreting custody statutes for converting discretionary into mandatory detention violates the laws.

23. On July 8, 2025 ICE announced a new policy guidance entitled *Interim Guidance Regarding Detention Authority for Applications for Admission* effective immediately, attached and marked as Exh. D.

24. The guidance is directed to all ICE employees nationwide and asserts that the Department of Homeland Security (DHS) in conjunction with the Department of Justice (DOJ) have agreed to treat all aliens who are properly considered "applicants for admission" as defined in Section 1225(a)(1) (unless they have been

paroled under Section 1182(d)(5) for humanitarian reasons) as being subject to mandatory detention under subsection 1225(b)(1)(B)(iii)(IV).

25. Section 1226(a) is the statute that applies to noncitizens who are "arrested and detained" for potential removal from the United States. Section 1226(a) gives the government discretion to release these detainees on bond while their removal case is pending and most importantly, they are not consider to be under mandatory detention—whether under the expedited removal process of Section 1225 or through the regular removal process of Section 1229a.

26. A noncitizen subject to Section 1226(a) is entitled to a bond hearing before an Immigration Judge ("IJ"), who may release the individual if the noncitizen shows they are not dangerous or a flight risk. The longstanding practice of the Executive Branch agencies charged with interpreting and enforcing the INA considered noncitizens like Petitioner who had entered without inspection, and were apprehended while residing in the United States, as subject to Section 1226(a).

27. Respondent Noem through her designated subcomponent agencies, officers agents and employees instructed petitioner to appear at its district office at 7 Elk Street, New York City, N.Y. 10007 and took him into custody without any supporting reasonable grounds for depriving him of his right to liberty. As noted above, Petitioner has remained on parole at liberty ever since he arrived to the

United States in September 2022. Since then, he has fully complied with every condition imposed upon him by his captors, the respondent and no evidence exists in this record that could challenge this assertion.

28. Except that, respondents have recently taken a different policy position at the bequest of the present executive administration of President Donald J. Trump, and its implementation by respondents and their agents and subcomponent agencies, such as the Executive Office for Immigration Review (EOIR).

29. In this new policy position, respondents are not relying on any facts that would lead a trier-of-fact to reasonably sanction the re-arrest of petitioner for cause. Instead, Petitioner was taken into ICE civil custody based *exclusively* on the new policy, which interprets all noncitizens who were charged with removability under the same section that Petitioner has been charged as requiring them to be treated as applicants for admission and thereby subject to mandatory detention under 8 U.S.C. Section 1226(c). This new policy position has been found to be espoused by the current administration that places all similarly situated persons under mandatory detention. Title 8 U.S.C., Section 1225(b).

30. When ICE released Petitioner three years ago, it had determined that petitioner was in the custody of ICE under 8 U.S.C. Section 1226(a), not instead 1225(b). And, after considering the same factual circumstances surrounding his entry in September 13, 2022, respondents are now interpreting it differently.

Petitioner asserts that the new administrative policy is more premised in pure ideology than precedential authority.

31. Notwithstanding ICE findings and conclusion supporting his release from ICE custody in 2022—nothing in terms of factual changes can be said to have taken place in his case since his arrival to the United States. AR 5. The new administrative policy interpretation found a friendly reception in a recent decision, Matter of Yajure Hurtado, 29 I&N Dec. 216, 220-48 (BIA 2025), which respondent Soto will rely on it to keep petitioner subjugated in ICE custody until there is a final order either granting his immigration relief on the merits or an final order of removal, in either case is likely to not occur for several years.

32. Petitioner has no final order of removal entered against him, see 8 U.S.C. Section 1101(47)(A)-(B) while the case is being adjudicated by the immigration judge. Petitioner's master calendar hearing is scheduled for October 29, 2025. And the merits hearing is likely not to take place until sometime in 2026/2027 given the existing ever growing backlogs under the present administration. Absent an order of this Court precluding his transfer to another far distant detention center, there is nothing preventing respondents from violating their own rules as they have and transferring him out Newark.

33. Such transfer will be seriously injurious to petitioner for a number of reasons. First, it will allow ICE to in effect engage in forum shopping, by filing a

motion requesting the immigration judge to change venue to the transferred jurisdiction where the new detention center is located, likely a jurisdiction more sympathetic to the federal government. Second, it will adversely interfere with the existing attorney-client relationship between petitioner and his counsel, Nona Tilley, whose practice is and has been located in New York City, New York. Third, it will interfere with the right of his common law spouse to visit him with their infant 2-months-old child. Each of these adverse consequences formed the basic underpinnings for compelling ICE to adopt and establish the DTD in 2012.

III. According to recent developments advocated by the present administration of the DHS, ICE is taking the position that petitioner is not entitled to receive a bond redetermination hearing and must be kept in the custody of ICE for as long as it may take for him to receive a final order on whether he should be removed.

34. The Immigration and Nationality Act (INA) prescribes three (3) basic detention and custody rules for noncitizens in removal proceedings. First, 8 U.S.C. Section 1225 authorizes the detention of aliens in regular removal proceedings before an IJ. See 8 U.S.C. Section 1229a. For those falling under this provision, 8 U.S.C. Section 1226(a) they are generally entitled to a bond hearing before an IJ anytime at the outset of their detention. *See* 8 C.F.R. Sections 1003.19(a), and 1236.1(d), while those who have been arrested, charged with, or convicted of certain crimes are otherwise subject to a mandatory detention provision until their removal proceedings are concluded. 8 U.S.C. Section 1226(c).

35. Second, the INA also provides for mandatory detention of noncitizens that are subject to expedited removal proceedings under 8 U.S.C. Section 1225(b) or those other recent arrivals that are considered seeking admission and are referred to at 8 U.S.C. Section 1225(b)(2), instead of their counterparts subject to 8 U.S.C. Section 1229a.

36. And third, the INA also provides for detention and custody of aliens who have received a final order of removal, including individuals in withholding only proceedings under 8 U.S.C. Section 1231(a)-(b).

37. This case only arises and concerns the detention provisions of 8 U.S.C. Sections 1226(a) and 1225(b)(2). The provisions at 8 U.S.C. Sections 1226(a) and 1225(b)(2) were both enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

IV. Petitioner is being unlawfully detained despite the fact that there has been no factual or lawful statutory changes warranting his rearrest since his initial parole release from ICE detention in 2022.

38. Following the enactment of the IIRIRA, the Executive Office for Immigration Review (EOIR) drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained

under Section 1225 and that they were instead detained under Section 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

39. Thus, in the decades that followed the enactment of IIRIRA, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an IJ, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. *See* 8 U.S.C. Section 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that 8 U.S.C. Section 1226(a) simply "restates" the detention authority previously found at 8 U.S.C. Section 1252(a)).

40. In recent weeks, respondents have adopted the referenced statutory reinterpretation scheme nationwide and included among those in the reinterpreting scheme is unfortunately the Board of Immigration Appeals under the present

administration of respondent Bondi. *See* Matter of Yajure Hurtado, supra. There, the BIA issued a decision essentially holding that all noncitizens who entered the United States without admission or parole are now reconsidered applicants for admission, and are *therefore* ineligible for IJ bond hearings under 8 U.S.C. Section 1225(b)(2)(A).

41. The announcement on July 8, 2025, by ICE, "in coordination with the Department of Justice (DOJ)," earlier mentioned above set forth respondents newly adopted policy that rejected the well-established understanding of the statutory and regulatory framework and reversed decades of practice.

42. Respondents now deem the new policy to apply regardless of when a person is apprehended and affects those who have already resided in the United States for many years, and even decades, contrary to the plain meaning of the words used in the statute in question, 8 U.S.C. Section 1225(b).

43. It is estimated that this novel scheme of an interpretation of the INA would require a person's detention any time that immigration authorities arrest one of the millions of immigrants residing in the United States who entered without inspection and who has not since been admitted or paroled.

44. According to news reports, immigration officials within the Trump administration requested this new policy in response to Congress's recent appropriation of billions of dollars to expand the immigration system, given that

the ICE will soon have capacity to detain more than twice as many people on any given day. Nationwide, pursuant to its July 8, 2025, policy, DHS is now asserting that all persons who entered without inspection are subject to mandatory detention under 8 U.S.C. Section 1225(b)(2)(A).

45. While some IJs in other immigration courts have continued to grant bond to people like Petitioner, consistent with its new policy, DHS also has begun filing Form EOIR-43, Notice of Service Intent to Appeal Custody Redetermination. This notice not only appeals any IJ decision granting bond but also triggers an automatic stay of the bond decision during the appeal process. Section 1003.19(i)(2).

46. The "auto-stay" provision of the federal regulations at 8 C.F.R. Section 1003.19(i)(2) prevents noncitizens from posting bond and being released even in jurisdictions where IJs have rejected DHS's unlawful reinterpretation of 8 U.S.C. Section 1225(b)(2) and have granted bond.

47. DHS and DOJ have adopted this new and unprecedented position on bond even though federal courts have rejected this exact conclusion in other jurisdictions, including this circuit. *See* e.g., *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC, --- F. Supp. 3d ---, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); see also *Gomes v. Hyde,* No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion); *Diaz Martinez v. Hyde*, No. CV 25-11613- BEM, --- F. Supp. 3d ---- 2025 WL

2084238, at *9 (D. Mass. July 24, 2025) (ordering release where noncitizen was redetained based on ICE's assertion of detention authority under Section 1225(b)).

48. DHS's and DOJ's interpretation defies the INA. As the *Rodriguez Vazquez* court and other courts explained, the plain text of the statutory provisions demonstrates that 8 U.S.C. Section 1226(a), not Section 1225(b), applies to people like petitioner.

49. 8 U.S.C. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under 8 U.S.C. Section 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

50. The text of 8 U.S.C. Section 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. 8 U.S.C. Section 1226(c)(1)(E). Congress recently enacted subparagraph (E) in the Laken Riley Act (LRA) to exclude certain noncitizens who entered without inspection from 8 U.S.C. Section 1226(a)'s default bond provision. Subparagraph (E)'s reference to persons inadmissible under 8 U.S.C. Section 1182(6)(A), *i.e.*, persons inadmissible for entering without inspection, makes clear that, by default, such people are afforded a bond hearing under subsection (a).

51. Moreover, as the Rodriguez Vazquez court explained, "[w]hen Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent

those exceptions, the statute generally applies. Rodriguez Vazquez, 2025 WL 1193850, at *12 (citing Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co., 559 U.S. 393, 400 (2010)). 8 U.S.C. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

52. By contrast, 8 U.S.C. Section 1225(b) applies to people arriving at a PoE or those who entered the United States within the last two (2) years. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. Section 1225(b)(2)(A); see also Diaz Martinez, 2025 WL 2084238, at *8 ("'[O]ur immigration laws have long made a distinction between those [noncitizens] who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.'" (quoting Leng May Ma v. Barber, 357 U.S. 185, 187 (1958))). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." Jennings v. Rodriguez, 583 U.S. 281, 287 (2018).

53. Accordingly, the mandatory detention provision of 8 U.S.C. Section 1225(b)(2) does not apply to people like Petitioner, who have already entered, were thereafter parole from detention and were residing in the United States at the

time they were last apprehended.

54. Petitioner therefore challenges his detention as a violation of the various INA provisions referenced above as well as a continuing violation of the Due Process Clause of the Fifth Amendment, including the national standards referenced above. Petitioner requests therefore that this Court grants him a Writ of Habeas Corpus and order Respondents to release him from ICE custody or issue an order to show cause.

55. There is no evidence in the record that hints, let along, show that Petitioner is a threat to the national security of the US. Indeed, the Respondents are not so alleging either. There is no evidence in the record that establishes that he is a danger to the community resulting from criminal convictions or arrests without convictions, and he has continuously without default been appearing each and every time he has been ordered by Respondents to so appear.

56. Therefore there is no credible evidence in the record that would lead a trier-of-fact to conclude that Petitioner's presence in the US warrants his immediate arrest.

57. For each of these reasons, this Court should grant the writ and order Petitioner's immediate release. *See* 28 U.S.C. 2241(c)(3) (authorizing writ for people detained in violation of federal law).

58. Should the Court nonetheless choose to address constitutional questions, it

should also find that Petitioner's detention violates the Due Process Clause of the Fifth Amendment. "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 [of the Fifth Amendment] protects." Zadvydas supra, 533 U.S. at 690.

59. Petitioner's detention violates the Fifth Amendment's protection for liberty, for at least three related reasons. First, immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." Demore v. Kim, 538 U.S. 510, 527 (2003) (citing Zadvydas, 533 U.S. at 690). Where, as here, the government has no authority to deport petitioner without first obtaining a final order of removal, detention is not reasonably related to its purpose.

60. Second, at a bare minimum, "the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention." Zadvydas v. Davis, 533 U.S. 678, 718 (2001) (Kennedy, J., dissenting) (emphasis added). Where federal law does not support to place an individual in detention, their detention also violates the Due Process Clause.

61. Venue over this petition is proper in the Southern District of New York under 28 U.S.C. 1391 and 28 U.S.C. 2242 because at least one Respondent is in this District, if not all, and Petitioner will be retaken into custody in this District,

Petitioners' immediate physical custodian is located in this District, and a substantial part of the events giving rise to the claims in this action took place in this District. *See generally Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004) ("the proper respondent to a habeas petition is 'the person who has custody over the petitioner'") (citing 28 U.S.C. 2242) (cleaned up).

CLAIM FOR RELIEF

COUNT ONE

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

62. Petitioner realleges and incorporate by reference each and every allegation contained above.

63. 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).

64. Petitioner's detention violates the Due Process Clause because it is not rationally related to any immigration purpose; because it is not the least restrictive mechanism for accomplishing any legitimate purpose the government could have in imprisoning Petitioner; and because it lacks any statutory authorization.

65. A surreptitious transfer of Petitioner to another jurisdiction is a Due Process violation of his constitutional rights under the Fifth Amendment and Respondents should be ordered to keep him in the proper jurisdiction of New York.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Order Respondents to show cause why the writ should not be granted within three (3) days, and set a hearing on this Petition within five (5) days of the return, as required by 28 U.S.C. 2243;
3. Declare that petitioner's detention under the false premise that he is not subject to being released on bond is erroneous and violates petitioner's rights under the Due Process Clause of the Fifth Amendment;
4. Declare that petitioner's transfer to another jurisdiction would tantamount to an Accardi doctrine violation, and enjoining respondents from transferring him outside the area of responsibility of the local ICE Field Office as constituting a deprivation of his rights to due process of law;
5. Grant the writ of habeas corpus ordering in the alternative that an impartial immigration judge and adjudicator provides petitioner with a bond redetermination hearing;

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

Dated: October 26, 2025

Respectfully submitted,

/s/
Ediki Kankia
Petitioner in Pro Se

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