

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

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|--|---|-----------------------|
| Tina Violet Sengooba, |) | |
| Petitioner |) | |
| |) | PETITION FOR WRIT |
| v. |) | OF HABEAS CORPUS |
| |) | |
| |) | CASE No: 0:25-cv-4304 |
| Peter B. Berg, Director of St. Paul |) | |
| Enforcement and Removal Operations, |) | |
| Immigration and Customs Enforcement; |) | |
| Kristi Noem, Secretary of the Department |) | |
| of Homeland Security; Pamela Bondi, |) | |
| Attorney General of the United States; |) | |
| Matthew Akerson, Captain of Kandiyohi |) | |
| County; and, Todd Lyons, Acting Director |) | |
| for U.S. Immigration and Customs |) | |
| Enforcement, in their official capacities. |) | |
| Respondents |) | |

**PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR
ADMINISTRATIVE PROCEDURE ACT RELIEF**

INTRODUCTION

Petitioner Tina Violet Sengooba (“Ms. Sengooba”) is a 34-year-old citizen of Uganda who has been detained by Immigration and Customs Enforcement (“ICE”) since February 21, 2025. Her detention has now exceeded 10 months without any individualized determination that she presents a danger or flight risk.

Ms. Sengooba’s removal order became administratively final on October 22, 2025, when the Board of Immigration Appeals (“BIA”) dismissed her appeal. Her continued

detention is purportedly under INA § 241(a), 8 U.S.C. § 1231(a).¹ However, the Government has made no showing that her removal to Uganda is reasonably foreseeable, particularly given the Ugandan government's hostility toward LGBTQ+ individuals and her pending federal petition for review.


Due process forbids such arbitrary and prolonged civil detention. See *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Clark v. Martinez*, 543 U.S. 371 (2005). Because the statutory purpose of ensuring removal can no longer justify her confinement, and because requesting a bond hearing before the immigration court would be futile, as the IJ lacks jurisdiction over § 241 detainees, Ms. Sengooba petitions this Court for a writ of *habeas corpus* ordering her immediate release or, in the alternative, a constitutionally adequate bond hearing.

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 2201, 2202 (Declaratory Judgment Act).
2. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. See, e.g., *Zadvydas*, 533 U.S. at 687.

¹ The Court should also note that a Petition for Review and an Emergency Motion to Stay Removal has also been filed. Should the Emergency Motion be granted, proceedings would instead remain under § 236 of the INA, however, the Respondent has still been detained for longer than six (6) months without an individualized review of her custody.

PARTIES

3. Petitioner Tina Violet Sengooba  is a citizen of Uganda. She has no criminal history and is an asylum applicant who fears persecution and torture on account of her sexual orientation.
4. Respondent Peter B. Berg is the Field Office Director for ICE ERO St. Paul and has immediate custody of Petitioner.
5. Respondent Kristi Noem is the Secretary of Homeland Security and ultimate legal custodian of all DHS detainees.
6. Respondent Pamela Bondi is the Attorney General of the United States and supervises the Executive Office for Immigration Review (“EOIR”).
7. Matthew Akerson is named in his official capacity as the Captain of Kandiyohi County. As the Captain of Kandiyohi County, he is responsible for and has authority over detainees in the Kandiyohi County Jail.
8. Todd Lyons is named in his official capacity as the Acting Director for U.S. Immigration and Customs Enforcement. As the Senior Official performing the duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States and is legally responsible for pursuing any effort to remove the Petitioner; and as such is a custodian of the Petitioner.

FACTUAL ALLEGATIONS

9. Ms. Sengooba entered the United States on February 21, 2025, and was detained after expressing a fear of persecution in Uganda due to her identity as a lesbian. She passed a credible-fear interview and was placed in removal proceedings.
10. She applied for asylum, withholding of removal, and protection under the Convention Against Torture. Following a full merits hearing on May 22, 2025, the Immigration Judge denied all relief and ordered her removed.
11. On October 22, 2025, the BIA dismissed her appeal, rendering the removal order final. Ms. Sengooba filed a timely petition for review with the Eighth Circuit, which remains pending. The court has not issued a stay, but ICE has made no progress toward effectuating removal.
12. Uganda's government has persecuted or refused to take LGBTQ+ nationals, and ICE has produced no evidence that her removal is likely in the reasonably foreseeable future. Accordingly, her continued detention is no longer reasonably related to its statutory purpose under INA § 241(a)(6) (or 236(a) should the stay be granted).
13. Ms. Sengooba's detention exceeds the six-month presumptive limit recognized in *Zadvydas*, 533 U.S. at 701. She suffers from anxiety and depression exacerbated by confinement. Her U.S. citizen relatives in Minnesota are willing to house and supervise her.

14. Requesting a bond hearing before the Immigration Judge would be futile, as EOIR lacks jurisdiction once the order of removal is final. *See* 8 C.F.R. § 1003.19(h)(2)(i)(B). Even in the alternative where proceedings remain open due to a Stay being issued by the Eighth Circuit, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) also makes the request futile. Thus, only this Court can provide an effective remedy.

LEGAL FRAMEWORK

Due Process Clause

15. The Due Process Clause of the Fifth Amendment provides Petitioner with important protections regarding her detention. As the Supreme Court has explained, “[f]reedom 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. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
16. The INA envisions three basic forms of detention for noncitizens in removal proceedings. First is detention for noncitizens in regular, non-expedited removal proceedings. *See* 8 U.S.C. § 1226(a), (c). Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, while noncitizens who have committed certain crimes are subject to mandatory detention. *See id.* § 1226(c).
17. The INA also provides for mandatory detention for noncitizens in expedited removal proceedings, 8 U.S.C. § 1225(b)(1), and detention for noncitizens whose

immigration cases are completed, id. § 1231(a)(6). *See Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1111-13 (W.D. Wash. 2019) (providing overview of INA's detention authorities).

18. In *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018), the Supreme Court held that as a matter of statutory interpretation, 8 U.S.C. § 1226(a) does not require the government to provide a detainee with more than an initial bond hearing. Significantly, the Court did not reach the constitutional question of whether the Due Process Clause requires an opportunity to test the government's justification for detention once detention after that initial hearing becomes prolonged.
19. Since the Supreme Court's *Jennings* decision, the Ninth Circuit has expressed "grave doubt" that "any statute that allows for arbitrary prolonged detention without any process is constitutional or that those who founded our democracy precisely to protect against the government's arbitrary deprivation of liberty would have thought so." *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018).
20. To guarantee against such arbitrary detention and to guarantee the right to liberty, due process requires "adequate procedural protections" that ensure the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).
21. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and

to prevent flight. *Id.*; *Demore*, 538 U.S. 510, 522, 528 (2003). The government may not detain a noncitizen based on any other justification.

22. As a result, where the government detains a noncitizen for a prolonged period or where the noncitizen pursues a substantial defense to removal or claim to relief, due process requires an individualized hearing before a neutral decisionmaker to determine whether detention remains reasonably related to its purpose. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (stating that an “individualized determination as to [a noncitizen’s] risk of flight and dangerousness” may be warranted “if the continued detention became unreasonable or unjustified”); cf. *Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the “initial commitment” requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249- 50 (1972) (noting that “lesser safeguards may be appropriate” for “short-term confinement”); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (observing, in Eighth Amendment context, that “the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards”).
23. At a minimum, detention without a bond hearing is unconstitutional when it exceeds six months. *See Demore*, 538 U.S. at 529-30 (upholding only “brief” detentions under 8 U.S.C. § 1226(c) that last “roughly a month and a half in the vast majority of cases . . . and about five months in the minority of cases in which the [non-citizen] chooses to appeal”); *Zadvydas*, 533 U.S. at 701 (“Congress previously doubted the constitutionality of detention for more than six months.”).

24. The recognition that six months constitutes a substantial period of confinement is deeply rooted in our legal tradition. With only a few exceptions, “in the late 18th century in American crimes triable without a jury were for the most part punishable by no more than a six-month prison term.” *Duncan v. Louisiana*, 391 U.S. 145, 161 & n.34 (1968). Consistent with this tradition, the Supreme Court has found six months to be the limit of confinement for a criminal offense that a federal court may impose without the protection afforded by a jury trial. *Cheff v. Schnackenberg*, 384 U.S. 373, 380 (1966) (plurality opinion). The Court has also looked to six months as a benchmark in other contexts involving civil detention. *See McNeil*, 407 U.S. at 249, 250-52 (recognizing six months as an outer limit for confinement without individualized inquiry for civil commitment).
25. Accordingly, the Ninth Circuit has held that immigration detention becomes prolonged at six months. *See Diouf v. Napolitano*, 634 F.3d 1081, 1091 (9th Cir. 2011).
26. While due process may not require a bond hearing after six months in every case, at a minimum, due process demands a bond hearing after detention has become unreasonably prolonged. *See Diop*, 656 F.3d at 234. Courts that apply a reasonableness test have considered three main factors in determining whether prolonged detention is reasonable. First, courts have evaluated whether the noncitizen has raised a “good faith” challenge to removal—that is, the challenge is “legitimately raised” and presents “real issues.” *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015). Second, reasonableness is a

“function of the length of the detention,” with detention presumptively unreasonable if it lasts six months to a year. *Id.* at 477-78; *accord Sopo*, 825 F.3d at 1217-18. Third, courts consider the likelihood that detention will continue pending future proceedings. *Chavez-Alvarez*, 783 F.3d at 478 (finding detention unreasonable after ninth months of detention, when the parties could “have reasonably predicted that Chavez-Alvarez’s appeal would take a substantial amount of time, making his already lengthy detention considerably longer”); *Sopo*, 825 F.3d at 128; *Reid*, 819 F.3d at 500.

27. Due process also requires certain minimal procedures at bond hearings. First, the government must bear the burden of proof by clear and convincing evidence to justify continued detention. Second, the decisionmaker must consider available alternatives to detention. Finally, if the government cannot meet its burden, a decisionmaker must assess a noncitizen’s ability to pay a bond when determining the appropriate conditions of release.
28. To justify prolonged immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). The same is true for other contexts in which the Supreme Court has permitted civil detention; in those cases, the Court has relied on the fact that the government bore the burden of proof at least by clear and convincing evidence. *See United States v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pre-trial detention where the detainee was afforded a “full-blown adversary hearing,” requiring “clear and convincing

evidence” before a “neutral decisionmaker”); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding post-final-order custody review procedures deficient because, *inter alia*, they placed burden on detainee); see also *Padilla v. Immigration & Customs Enf't*, 379 F. Supp. 3d 1170 (W.D. Wash. 2019) (requiring the government to bear the burden of proof for class members who receive bond hearings after being found to have a credible fear of persecution or torture); *Banda v. McAleenan*, 385 F. Supp. 3d 1120-21 (in case of arriving asylum seeker, government must bear burden of proof to justify continued detention after noncitizen had been detained for more than 18 months).

29. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).
30. First, prolonged incarceration deprives noncitizens of a “profound” liberty interest—one that always requires some form of procedural protections. *Diouf*, 634 F.3d at 1091-92; see also *Foucha*, 504 U.S. at 80 (“It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.” (citation omitted)).
31. Second, the risk of error is great where the government is represented by trained attorneys and detained noncitizens are often unrepresented and frequently lack English proficiency. See *Santosky v. Kramer*, 455 U.S. 745, 762-63 (1982) (requiring clear and convincing evidence at parental termination proceedings

because “numerous factors combine to magnify the risk of erroneous factfinding” including that “parents subject to termination proceedings are often poor, uneducated, or members of minority groups” and “[t]he State’s attorney usually will be expert on the issues contested”). Moreover, Respondents detain noncitizens in prison-like conditions that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing. See *infra* ¶ 66.

32. Third, placing the burden on the government imposes minimal cost or inconvenience, as the government has access to the noncitizen’s immigration records and other information that it can use to make its case for continued detention.
33. In light of these considerations, “[t]he overwhelming majority of courts to consider the question . . . have concluded that imposing a clear and convincing standard would be most consistent with due process.” *Martinez v. Decker*, No. 18-CV-6527 (JMF), 2018 WL 5023946, at *5 (S.D.N.Y. Oct. 17, 2018) (internal quotation marks omitted).
34. Due process also requires that a neutral decisionmaker consider available alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen’s appearance during removal proceedings. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. See *Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE’s alternatives to detention program—the Intensive Supervision Appearance Program (ISAP)—has achieved extraordinary success in ensuring appearance at removal

proceedings, reaching compliance rates close to 100 percent. *See Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP “resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings”). It follows that alternatives to detention must be considered in determining whether prolonged incarceration is warranted.

35. Due process likewise requires consideration of a noncitizen’s ability to pay a bond.

“Detention of an indigent ‘for inability to post money bail’ is impermissible if the individual’s ‘appearance at trial could reasonably be assured by one of the alternate forms of release.’” *Id.* at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc)). As a result, in determining the appropriate conditions of release for immigration detainees, due process requires “consideration of financial circumstances and alternative conditions of release” to prevent against detention based on poverty. *Id.*

36. Evidence about immigration detention and the adjudication of removal cases provide further support for the due process right to a bond hearing in cases of prolonged detention.

37. Immigration detainees face severe hardships while incarcerated. Immigration detainees are held in lock-down facilities, with limited freedom of movement and access to their families: “the circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails.” *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting); *accord Chavez-Alvarez*, 783 F.3d at 478; *Ngo v. INS*, 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo*, 825 F.3d at 1218, 1221. “And in some

cases[,] the conditions of their confinement are inappropriately poor.” *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG), DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities (2017) (reporting instances of invasive procedures, substandard care, and mistreatment, e.g., indiscriminate strip searches, long waits for medical care and hygiene products, and, in the case of one detainee, a multiday lock down for sharing a cup of coffee with another detainee)).

38. These conditions and obstacles only further underscore the serious due process concerns that prolonged immigration detention pose for noncitizens like the Petitioner and reflect the need for a decision before a neutral decisionmaker regarding continued detention.

Bond Authority

39. When Respondents are treated as arriving aliens in immigration proceedings, following *Matter of Yajure Hurtado*, 29 I&N, that Respondent would not be eligible for bond and the IJ and BIA will deny bond.

40. INA § 235 is the provision of law that regards the designation and treatment of arriving aliens.

41. The Petitioner is not an arriving alien, having been processed under the provisions of the INA and CFR which place an alien into INA § 240 removal proceedings following a positive credible fear interview. *See* Exh. 1 (Notice to Appear).

CLAIM FOR RELIEF

CLAIM I Violation of Fifth Amendment Due Process Clause – Prolonged Detention

42. Petitioner re-alleges the foregoing paragraphs.

43. Under the Due Process Clause, civil detention must remain “reasonably related to its purpose.” *Zadvydas*, 533 U.S. at 690. The only legitimate purposes are preventing flight and protecting the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

44. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

45. Civil immigration detention is only permissible where it bears a “reasonable relation to the purpose for which the individual was committed.” *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S. at 690. Those purposes are limited: preventing flight and protecting the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

46. Neither purpose applies here. Removal is not imminent, Ms. Sengooba is not a flight risk, having family in the United States and a legitimate interest to fight her removal proceedings given her certain persecution for her sexual status, and she does not have any criminal history either in the U.S. or in any other country.

47. Yet despite meeting none of the requirements to remain in custody, Ms. Sengooba is still detained. Such prolonged confinement, without any valid statutory or rational justification, is arbitrary and violates due process. See *Doe v. Beth*, No. 18-C-1672, 2019 WL 1923867 (E.D. Wis. Apr. 30, 2019) (granting habeas where continued detention following grant of relief was unjustified); *Singh v. Choate*, No. 19-CV-00909-KLM, 2019 WL 3943960 (D. Colo. Aug. 21, 2019) (holding 20-month detention without bond unconstitutional).

48. Accordingly, Ms. Sengooba's continued detention constitutes a deprivation of liberty without due process of law. Because her removal is not reasonably foreseeable and she has been confined well beyond the six-month benchmark, her continued detention violates the Fifth Amendment. See *Clark*, 543 U.S. at 384; *Diouf v. Napolitano*, 634 F.3d 1081, 1091 (9th Cir. 2011).

CLAIM II Violation of Fifth Amendment Due Process Clause – Failure to Provide Individualized Custody Review

49. The *Mathews* factors must be reviewed in order to determine whether an individualized custody determination process is due.

50. Even assuming statutory authority under § 241(a)(6), due process requires an individualized bond hearing after detention becomes unreasonably prolonged. See *Diouf*, 634 F.3d at 1091-92; *Reid v. Donelan*, 819 F.3d 486, 500 (1st Cir. 2016).

51. At such a hearing, the Government must bear the burden of proof by clear and convincing evidence to show that continued detention is necessary. See *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).

52. As discussed above (*see* Legal Framework), all three (3) prongs of the *Mathews* test are easily met, and such custody reviews are statutorily required. The Respondents' failure to provide any individualized custody review to the Petitioner is, therefore, a violation of the Petitioner's Fifth Amendment rights.

CLAIM III Administrative Procedure Act, 5 U.S.C. § 706(2)(A) – Arbitrary and Capricious Detention

53. Petitioner re-alleges the foregoing paragraphs.

54. The Administrative Procedure Act requires courts to “hold unlawful and set aside agency action” that is “not in accordance with law” or is “arbitrary, capricious, [or] an abuse of discretion.” 5 U.S.C. § 706(2)(A).

55. Respondents' failure to conduct meaningful post-order custody reviews under 8 C.F.R. §§ 241.4–241.6, and their continued detention of Ms. Sengooba absent evidence of flight risk or danger, are arbitrary, capricious, and not in accordance with law.

56. ICE's inaction contravenes its own regulations requiring periodic review and release under supervision when removal is not reasonably foreseeable. *See* 8 C.F.R. § 241.13(g)(2).

CLAIM IV: Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

Not in Accordance with Law and in Excess of Statutory Authority Violation of 8

U.S.C. § 1225(b)

57. Petitioner restates and realleges all paragraphs as if fully set forth here.

58. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction, authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

59. Both Congress and the evidence in the record make it clear that the arriving alien statute, and therefore mandatory detention, does not apply to those who are placed into INA § 240 removal proceedings following the process outlined in 8 C.F.R. § 208.30.

60. Under the APA, an agency must provide “reasoned explanation for its action” and “may not depart from a prior policy *sub silentio* or simply disregard rules that are still on the books.” *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009).

61. Because the Immigration Courts have been ruling that those like Petitioner are not eligible for bond and the Immigration Court either would have denied any request for bond or denied a bond, any request would have been futile and, therefore, the continued detention of the Petitioner without a bond hearing is arbitrary, capricious, and without the Due Process of law.

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

1. Assume jurisdiction under 28 U.S.C. § 2241;
2. Declare that Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment;
3. Declare that Respondents have violated the Administrative Procedure Act;
4. Issue a writ of *habeas corpus* directing Respondents to immediately release Petitioner under appropriate supervision;
5. In the alternative, order Respondents to provide an individualized bond hearing before an Immigration Judge within 14 days, at which the Government bears the burden by clear and convincing evidence to justify continued detention;
6. Enjoin any transfer of Petitioner outside this District without prior Court approval;
and
7. Grant such further relief as the Court deems just and proper.

DATED: November 11, 2025

Respectfully Submitted,
/s/ Hannah Brown
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