

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

JEAN DUPONT,<sup>1</sup>

Petitioner,


v.

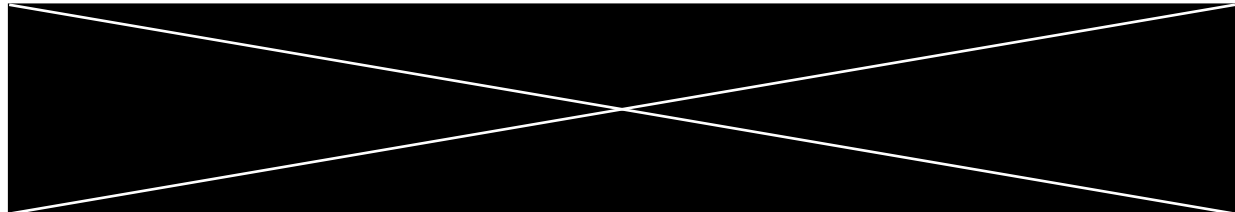
HAMILTON MESERVE, Chair of the Board  
of Directors of the Lincoln and Sagadahoc  
Multicounty Jail Authority,  
JAMES BAILEY, Correctional Administrator  
of Two Bridges Regional Jail,  
DAVID WESLING, Acting Director of the  
Boston Field Office of U.S. Immigration and  
Customs Enforcement, Enforcement and  
Removal Operations,  
TODD LYONS, Acting Director of U.S.  
Immigration and Customs Enforcement,  
KRISTI NOEM, U.S. Secretary of Homeland  
Security, and  
PAMELA BONDI, U.S. Attorney General,

Respondents.

Case Number:

**PETITION FOR WRIT OF HABEAS CORPUS  
PURSUANT TO 28 U.S.C. § 2241  
(Expedited Consideration Requested)**

1. Petitioner is a 24-year-old computer science student and  from Rwanda.



<sup>1</sup> Jean Dupont is a pseudonym. Pursuant to District of Maine Local Rule 10(d), Petitioner is contemporaneously filing a notice with the Court including his actual name and will file a motion to proceed under pseudonym within the timeframe prescribed by the rule.

3. [REDACTED] After he recovered, he was able to leave Rwanda and come to the U.S. in [REDACTED] on a student visa. He was diligently pursuing a bachelor's degree in Computer Science at [REDACTED] until [REDACTED]

4. Then, for the first time in his life other than [REDACTED] [REDACTED] Petitioner was arrested. Police alleged that he was involved in a fight that had occurred several days earlier, at a New Year's Eve party in South Portland.

5. Police transported Petitioner to the Cumberland County Jail ("CCJ"), where he was booked into state criminal pre-trial custody. After a Maine judge granted him bail and he posted bond, he thought he would be able to return home.

6. However, U.S. Immigration and Customs Enforcement ("ICE") Enforcement and Removal Operations ("ERO") re-arrested him before he was even able to leave the building. They re-booked him into CCJ, now under ICE custody, and placed him into removal proceedings before an Immigration Judge.

7. Because of the political persecution that Petitioner would face if he were forced to return to Rwanda, an Immigration Judge granted him withholding of removal in late February. The U.S. Department of Homeland Security's ("DHS") attorneys waived any appeal.

8. Historically, DHS generally released individuals from detention who won withholding of removal from an Immigration Judge—even where ICE was appealing the decision.

9. Not so here. Even though Respondents are not contesting the relief the Immigration Judge granted, and even though they cannot legally remove him to his home country, they have kept him detained for eight months and 11 days since his removal order and grant of withholding became final. There is no significant possibility that ICE will be able to move him to any other country

anytime soon. He remains detained in ICE custody in Maine, now at the Two Bridges Regional Jail.

10. Petitioner's prolonged detention is unmoored from its the lawful purpose authorized by the statute—to effectuate removal.

11. Continuing to detain Petitioner violates the Immigration and Nationality Act (“INA”) and the Due Process Clause. *See Zadvydas v. Davis*, 533 U.S. 678 (2001); *Hernandez-Lara v. Lyons*, 10 F. 4th (1st Cir. 2021). Accordingly, this Court should issue a writ of habeas corpus requiring the Respondents to release Petitioner from custody, and ordering all other just and appropriate relief.

#### **Custody**

12. Petitioner is in the physical custody of Respondents. He is detained at the Two Bridges Regional Jail in Wiscasset, Maine (“Two Bridges”). He is under the direct control of Respondents and their agents.

#### **Jurisdiction**

13. Jurisdiction is proper under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 2241 (habeas corpus), and the Suspension Clause of the U.S. Constitution, art. I, § 2.

#### **Venue**

14. Venue is proper in this District under 28 U.S.C. § 1391 and 28 U.S.C. § 2241 because at least one Respondent is in this District, Petitioner is detained in this District, Petitioner's 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.

### **Parties**

15. Petitioner is currently detained by the Respondents in ICE custody at Two Bridges. He has been in ICE custody since January 7, 2025, ten months and 17 days ago. His removal order and concurrent grant of statutory withholding of removal became administratively final on March 13, 2025, eight months and 11 days ago. Petitioner's native and best language is Kinyarwanda.

16. Respondent Hamilton Meserve is the Chair of the Board of Directors of the Lincoln and Sagadahoc Multicounty Jail Authority. The Board of Directors governs the Lincoln and Sagadahoc Multicounty Jail Authority, a public body created by Maine statute in 2003 to build and operate Two Bridges. Under an Intergovernmental Agreement with the U.S. Marshal's Service and a rider with ICE, the Lincoln and Sagadahoc Multicounty Jail Authority holds noncitizens in ICE custody at Two Bridges. Mr. Meserve is a legal custodian of Petitioner and is named in his official capacity.

17. Respondent James Bailey is the Correctional Administrator at Two Bridges, charged with managing its day-to-day operations. He is a legal custodian of Petitioner and is named in his official capacity.

18. Respondent David Wesling is the Field Office Director of ICE ERO responsible for its Boston Field Office, which has administrative jurisdiction over Petitioner's case. He is a legal custodian of Petitioner and is named in his official capacity.

19. Respondent Todd Lyons is the Acting Director of ICE, a component within DHS. He is a legal custodian of Petitioner and is named in his official capacity.

20. Respondent Kristi Noem is the U.S. Secretary of Homeland Security, and, as such, the head of DHS. She is a legal custodian of Petitioner and is named in her official capacity.

21. Respondent Pamela J. Bondi is the U.S. Attorney General, and, as such, the head of the U.S. Department of Justice ("DOJ"). The Immigration Courts fall within the Executive Office for

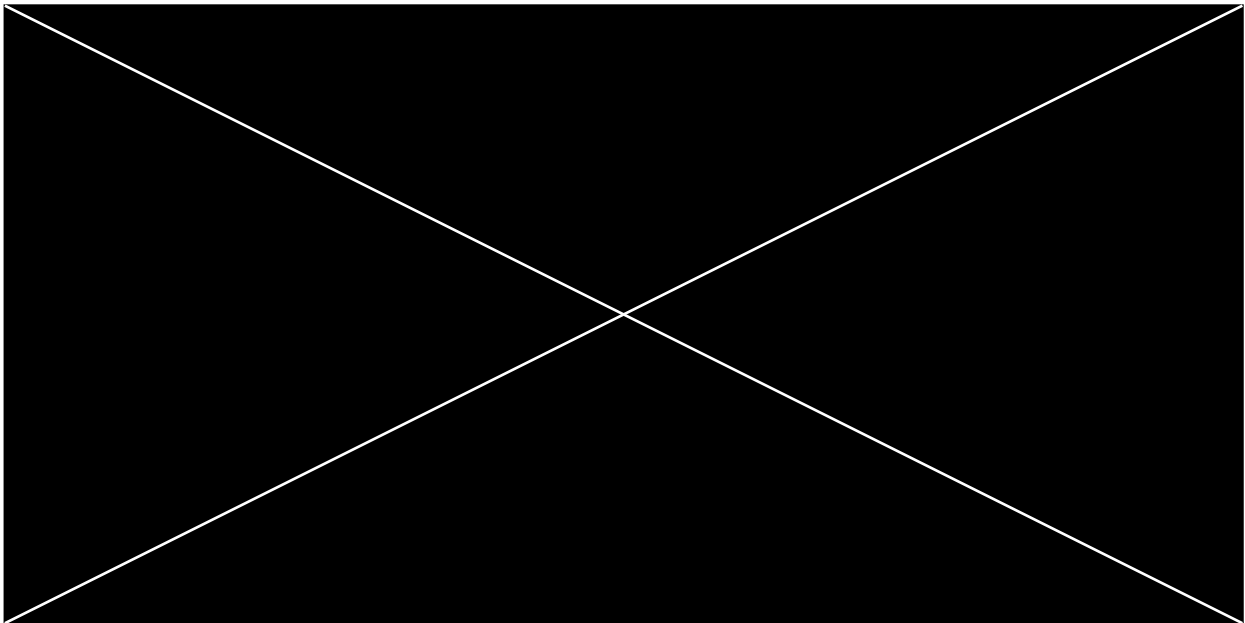
Immigration Review (“EOIR”), a component within the DOJ. Respondent Bondi is a legal custodian of Petitioner and is named in her official capacity.


22. One or more of the Respondents is Petitioner’s immediate, physical custodian.


### Statement of Facts


#### *The Petitioner*

23. Petitioner was raised in Kigali, Rwanda, in a family that valued education and democratic principles. At about the age of 13, he became fascinated by coding and realized he wanted to be a computer engineer when he grew up.



27. Afraid that the persecution against him would continue and escalate, and 

 Petitioner applied for and received a nonimmigrant F-1 student visa to study in the United States.

28. In 2022, Petitioner traveled to the U.S., moved to Maine, and enrolled at 



29. In the years that followed, he diligently pursued his studies and prepared for a career in computer engineering.

30. In the spring of [REDACTED] Petitioner graduated from [REDACTED] earning his [REDACTED] in [REDACTED]

31. In the fall of [REDACTED], Petitioner enrolled at [REDACTED] to pursue a [REDACTED] in [REDACTED]

32. While pursuing his studies in Maine, Petitioner has worked part-time jobs on nights and weekends, to help support himself and provide extra financial support to his elderly parents in Kigali. He also devoted time each day to drive his girlfriend, a nursing student at [REDACTED] back and forth to her classes.

33. Petitioner is, by the accounts of college professors, administrators, family, friends, and his girlfriend of three years, a diligent and gifted student, a caring and devoted son, brother, and partner, and a deeply integrated member of the community in Southern Maine.

***Petitioner's Arrest by the South Portland Police and  
Grant of Release on Bail by a Maine District Court Judge***

34. Until 2025, Petitioner had never been arrested for or charged with a crime, except for his unfounded, [REDACTED]

35. However, on January 5, 2025, the South Portland Police arrested Petitioner on allegations that he had been involved in a fight that occurred in the early morning hours of January 1, 2025, at a New Year's Eve party in South Portland's Redbank Village neighborhood.

36. The Cumberland County Sheriff's Office booked Petitioner into CCJ, under state criminal custody.

37. At a January 6, 2025 bail hearing, a Maine judge granted Petitioner release on bail on a secured bond. Petitioner posted bond the following day, January 7, 2025.

***Petitioner's Arrest on a Federal Civil Charge of Removability by ICE***

38. After Petitioner posted bond, CCJ guards told Petitioner he would be released from detention and returned his clothes and personal possessions to him.

39. They then instructed him that there was someone there to meet with him. It was an ICE ERO Deportation Officer.

40. The Deportation Officer served an administrative warrant on Petitioner and re-booked him into CCJ, now under ICE custody.

41. Under an Intergovernmental Agreement with the U.S. Marshal's Service and a rider with ICE, the Cumberland County Sheriff's Office holds noncitizens in ICE custody at CCJ.

***Petitioner's Detained Removal Proceedings from CCJ and Two Bridges***

42. The following day, on January 8, 2025, DHS initiated removal proceedings against Petitioner by serving him with a Notice to Appear, the charging document that initiates civil removal proceedings against a noncitizen before an Immigration Judge ("IJ"). The Notice to Appear charged, among other things, that Petitioner had failed to comply with the conditions of his nonimmigrant student visa status.

43. In proceedings held remotely before IJ Natalie Smith of the Chelmsford Immigration Court, Petitioner asserted eligibility for asylum, statutory withholding of removal, and protection under the Convention Against Torture as a defense to removability.

44. On February 26, 2025, ICE transferred Petitioner from CCJ to Two Bridges.

45. On March 13, 2025, Petitioner attended a remote final individual hearing before IJ Smith, from Two Bridges.

46. At the conclusion of the hearing, IJ Smith found in the first instance that Petitioner was removable to Rwanda, but then found that his life or freedom would be threatened there because of threat of political persecution against him.

47. In the removal order that issued, IJ Smith ordered Petitioner “removed to RWANDA.” Exhibit 1 at 3. She refrained from ordering Petitioner removed to any other country “in the alternative.” *Id.* She then barred DHS from executing the removal order at all by granting Petitioner withholding of removal under 8 U.S.C. § 1231(b)(3), based on the threat of political persecution. *Id.* at 1.

48. Both Petitioner and DHS waived appeal and the removal order and grant of withholding of removal became administratively final that day, on March 13, 2025. *Id.* at 4.

***ICE Fails to Release Petitioner from Detention Despite his Grant of Withholding***

49. Historically, ICE has generally released noncitizens from detention after an Immigration Judge grants them statutory withholding of removal. ICE Directive 16004.1 establishes a policy favoring a noncitizens’ release in these circumstances.

50. Here, however, ICE has continued to detain Petitioner at Two Bridges through the present day, eight months and 11 days after his removal order became administratively final.

51. Petitioner has maintained a clear disciplinary record throughout his detention by ICE at CCJ and Two Bridges.

***The State Criminal Proceedings Against Petitioner Remain Ongoing***

52. The criminal case against Petitioner remains pending before the Cumberland County Superior Court, on the Uniform Criminal Docket.

53. Petitioner’s case has been placed on the Court’s Draft Docket Call List for December 19, 2025.

*No Progress Toward Removal to a Third Country*

54. In the weeks following IJ Smith's grant of withholding of removal to Petitioner, ICE ERO officials claimed to Petitioner that they were checking whether certain specific third countries would receive him. They have not made any such claims since August.

55. At no point have any of the Respondents served any official notice on Petitioner indicating that they plan to remove him to a specific third country, nor has DHS moved to re-open his removal proceedings to secure a removal order—unlike the one he currently has—permitting removal to a country other than Rwanda. *Cf.* Ex. 1 at 3.

56. In a recent habeas case before the District of Maine, a central question was whether there was a significant likelihood that the Respondents would be able to remove another Rwandan in state criminal proceedings detained at Two Bridges to a third country in the reasonably foreseeable future. *Misigaro v. Hyde*, No. 2:25-CV-00538-LEW (D. Me.).

57. The Respondents failed to bring forward any evidence that DHS has made progress in identifying a country that is willing to accept the cohort of criminalized Rwandans with protection from removal to their home country that ICE is detaining at Two Bridges. *See Misigaro*, Dkt. 9, Oct. 27, 2025, Return and Response (presenting no evidence that DHS had identified any third country willing to accept criminalized Rwandans with protection from removal to Rwanda); *Misigaro*, Dkt. 10, Oct. 29, 2025, Decl. of Keith Chan, Assistant Director of the ICE ERO Boston (acknowledging that, “[t]o date, a third country of removal has not been identified” and providing no evidence of progress toward removal).

## Legal Background

### *Detention Following a Final Removal Order*

58. “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 v. Davis*, 533 U.S. 678, 690 (2001).

59. The Due Process Clause applies to all persons in the United States, “whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. And “[i]t is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)).

60. The Due Process Clause requires that the deprivation of the liberty of noncitizens in Petitioner’s position be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301–02 (1993) (holding that due process “forbids the government to infringe certain ‘fundamental’ liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest”). As the Supreme Court held in *Zadvydas*, indefinite detention, and detention without adequate procedural protections, would raise a “serious constitutional problem” and run afoul of the Due Process Clause. 533 U.S. at 690.

61. A provision of the INA codified at 8 U.S.C. § 1231 governs the detention and removal of noncitizens who, like Petitioner, have received a final order of removal.

62. The statute authorizes a 90-day period of mandatory post-final-removal-order detention, during which ICE is supposed to effectuate removal. 8 U.S.C. § 1231(a)(2). This 90-day period is known as the “removal period” and starts with the latest of one of three triggering conditions: (i) “[t]he date the order of removal becomes administratively final”; (ii) “[i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the [noncitizen], the date of the

court's final order"; or (iii) "[i]f the [noncitizen] is detained or confined (except under an immigration process), the date the [noncitizen] is released from detention or confinement." 8 U.S.C. § 1231(a)(1)(B)(i)–(iii).

63. Under a longstanding policy referred to as ICE Directive 16004.1, ICE has generally immediately released noncitizens after an IJ grants them statutory withholding of removal, because the purpose of the removal period is “to facilitate the execution of the removal order,” and continued detention for someone granted statutory withholding is usually not reasonably related to that purpose. *See* Memorandum from Bo Cooper, INS General Counsel, Detention and Release During the Removal Period of Aliens Granted Withholding or Deferral of Removal (Apr. 21, 2000); Memorandum from Michael Garcia, ICE Ass't Sec'y, Detention Policy Where an Immigration Judge Has Granted Asylum and ICE Has Appealed (Feb. 9, 2004), Message from Gary Mead, ICE ERO Executive Assoc. Dir., Reminder on Detention Policy Where an Immigration Judge Has Granted Asylum, Withholding of Removal, or CAT (Mar. 6, 2012); Message from Tae Johnson, ICE Acting Dir., REMINDER: Detention Policy Where an Immigration Judge has Granted Asylum, Withholding of Removal, or Convention Against Torture Protection, and DHS has Appealed (Jun. 7, 2021) (“2021 Memo”); *all available at* [https://www.acluva.org/app/uploads/2023/10/all\\_ice\\_policies\\_on\\_post-relief\\_release\\_2000-20211.pdf](https://www.acluva.org/app/uploads/2023/10/all_ice_policies_on_post-relief_release_2000-20211.pdf).

64. Although 8 U.S.C. § 1231(a)(6) permits detention “beyond the removal period” of noncitizens who have been ordered removed and are deemed to be a risk of flight or danger, the Supreme Court has recognized implied limits to such continued detention. In *Zadvydas*, the Supreme Court held that “the statute, read in light of the Constitution’s demands, limits [a noncitizen’s] post-removal-period detention to a period reasonably necessary to bring about that

[noncitizen's] removal from the United States.” 533 U.S. at 689. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.

65. In determining the reasonableness of detention, the Supreme Court recognized that, if a person has been detained for longer than six months following the initiation of their removal period, their detention is presumptively unreasonable unless deportation is reasonably foreseeable; otherwise, it violates that noncitizen's due process right to liberty. *Zadvydas*, 533 U.S. at 701. In this circumstance, if the noncitizen “provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Id.*

66. The Supreme Court's ruling in *Zadvydas* is rooted in the due process requirement that there be “adequate procedural protections” to ensure that the government's asserted justification for a noncitizen's physical confinement “outweighs the ‘individual's constitutionally protected interest in avoiding physical restraint.’” *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other justification, such as for a punitive purpose.

67. The first justification of preventing flight, however, is “by definition . . . weak or nonexistent where removal seems a remote possibility.” *Zadvydas*, 533 U.S. at 690. Thus, where removal is not reasonably foreseeable and the flight prevention justification for detention accordingly is “no longer practically attainable, detention no longer ‘bears [a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

68. Regarding the second justification of protecting the community, “preventive detention based on dangerousness” is permitted under the Due Process Clause “only when limited to specially dangerous individuals and subject to strong procedural protections,” and even then, only when related to a possibility of removal in the future. *Zadvydas*, 533 U.S. at 690-91.

69. Thus, under *Zadvydas*, “if removal is not reasonably foreseeable, . . . continued detention [is] unreasonable and no longer authorized by statute.” *Id.* at 699–700. Only if removal is reasonably foreseeable may the government “consider the risk of the [noncitizen’s] committing further crimes as a factor potentially justifying the confinement within that reasonable removal period.” *Id.* at 700.

70. At a minimum, detention is not authorized by the statute and presents a serious constitutional question when it exceeds six months and removal is not reasonably foreseeable. *See Zadvydas*, 533 U.S. at 701 (noting that “Congress previously doubted the constitutionality of detention for more than six months” and interpreting the statute not to justify detention that exceeds six months following a final order and where removal is not reasonably foreseeable); *see also Clark v. Martinez*, 543 U.S. 371, 386 (2005).

#### ***Removal to a Country Not Specified in a Removal Order***

71. Where DHS seeks to remove a noncitizen to a country not specified in the noncitizen’s removal order—colloquially referred to as a third-country removal—it must first provide the noncitizen advance notice and a meaningful opportunity to present a claim of fear of torture or persecution as to that country, just as with any other country. *See, e.g.*, 8 U.S.C. § 1231(b)(3)(A) (statutory basis for statutory withholding of removal, barring DHS from removing an alien to *any* country “where the alien’s life or freedom would be threatened because of the alien’s race, religion, nationality, membership in a particular social group, or political opinion”); Foreign Affairs Reform

and Restructuring Act (“FARRA”), Pub. L. No. 105–227, Div. G., § 2242(b), 112 Stat. 2681–761, 2681–822 (1998), *codified as a statutory note* to 8 U.S.C. § 1231 (statutory basis for protection from removal under the Convention Against Torture), providing that the U.S. shall not expel a person to *any* country “in which there are substantial grounds for believing the person would be in danger of being subjected to torture”); 8 C.F.R. §§ 208.31, 1208.16-1208.18 (implementing regulations for 8 U.S.C. § 1231(b)(3)(A) and 2242(b) of the FARRA).

72. The INA, the FARRA, and their implementing regulations all require *individualized* consideration of feared persecution or torture. *See* 8 U.S.C. § 1231(b)(3); *id.* (note); 8 C.F.R. §§ 208.31, 1208.16-1208.18; *Kumar v. Wamsley*, No. 2:25-cv-02055-KKE, Dkt. 13, Nov. 17, 2025, Order Granting Petition for Writ of Habeas Corpus (W.D. Wash. 2025); *Sagastizado v. Noem*, No. 5:25-cv-01678-JNW, 2025 WL 2579569, at \*4–5 (S.D. Tex. Oct. 2, 2025); *Y.T.D. v. Andrews*, No. 1:25-cv-01110 JLT SKO, 2025 WL 2675760, at \*6 (E.D. Cal. Sept. 18, 2025).

73. The Due Process Clause of the Fifth Amendment likewise requires that, before any third-country removal, a non-citizen must receive meaningful notice and opportunity to access these mandatory statutory protections. As the Supreme Court recently held in *A.A.R.P. v. Trump*, this means a person “must receive notice” that “they are subject to removal” (here, to a third country), and such notice must be provided “within a reasonable time and in such a manner as will allow the[] [noncitizen] to actually seek . . . relief.” 605 U.S. 91, 95 (2025) (per curiam) (quoting *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025)). “[N]otice roughly 24 hours before removal, devoid of information about how to exercise due process rights to contest that removal, surely does not pass muster.” *A.A.R.P.*, 605 U.S. at 95.

***Habeas Proceedings under § 2241***

74. The civil habeas statute, 28 U.S.C. § 2241, provides authority for noncitizens to challenge unlawful detention by the government and petition for their liberty.

75. Pursuant to 28 U.S.C. § 2243, the Court either must grant a petition for writ of habeas corpus under 28 U.S.C. § 2241 or issue Respondents an order to show cause, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” 28 U.S.C. § 2243.

76. After Respondents file a response, the Court must schedule a hearing, “not more than five days after the return unless for good cause additional time is allowed.” 28 U.S.C. § 2243. Respondent must “produce at the hearing the body of the person detained,” unless the petition and response “present only issues of law.” 28 U.S.C. § 2243. “The [C]ourt shall summarily hear and determine the facts, and dispose of the matter as law and justice require.” 28 U.S.C. § 2243.

77. There is no statutory requirement for Petitioner to exhaust administrative remedies before bringing petition for a writ of habeas corpus under 8 U.S.C. § 224. *See Gomes v. Hyde*, No. 25-11571, 2025 WL 1869299, at \*4 (D. Mass. July 7, 2025) (“[E]xhaustion is not required by statute in this context.”).

78. Accordingly, there is no requirement for Petitioner to exhaust administrative remedies before pursuing this Petition. *See Portela-Gonzalez v. Sec’y of the Navy*, 109 F.3d 74, (1st Cir. 1997) (explaining that, where statutory exhaustion is not required, administrative exhaustion is not required in situations of irreparable harm, futility, or predetermined outcome).

## **CLAIMS FOR RELIEF**

### **COUNT ONE**

#### **Violation of the Immigration and Nationality Act 8 U.S.C. § 1231(a)**

79. Petitioner realleges and incorporates by reference all the paragraphs above as though fully set forth herein.

80. Section 1231(a) of Title 8 of the U.S. Code governs the detention of an individual with administratively final order of removal. The INA permits DHS to detain a noncitizen during the “removal period,” which is defined as the 90-day period following the issuance of a final order of removal. 8 U.S.C. §§ 1231(a)(1)(A), (a)(1)(B), (a)(2).

81. Petitioner is detained pursuant to the discretionary, post-removal-period detention provision, 8 U.S.C. § 1231(a)(6), because more than ninety days have elapsed since his removal order became administratively final. *See* 8 C.F.R. § 1241.1.

82. Petitioner has not engaged in any conduct to trigger an extension of the removal period under 8 U.S.C. § 1231(a)(1)(C).

83. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court construed 8 U.S.C. § 1231(a)(6) to contain an implicit temporal limitation of six months, after which continued detention is no longer presumptively reasonable. *Id.* at 701. After that point, “once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future” and the government fails to rebut the noncitizen’s assertion, he must be released. *Id.*

**COUNT TWO**  
**Violation of the Due Process Clause**  
***Substantive and Procedural Due Process***

84. Petitioner realleges and incorporates by reference all the paragraphs above as though fully set forth herein.

85. 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. “Freedom from

imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

86. Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. See *id.* at 690 (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risk of flight and prevent danger to the community. *Id.*; *Demore v. Kim*, 538 U.S. 510, 514–15, 528 (2003).

87. Prolonged civil detention also violates due process unless it is accompanied by strong procedural protections to guard against the erroneous deprivation of liberty. *Zadvydas*, 533 U.S. at 690-91; *Foucha*, 504 U.S. at 81-83; *Kansas v. Hendricks*, 521 U.S. at 346, 364-69 (1997); *United States v. Salerno*, 481 U.S. 739, 750-52 (1987).

88. Petitioner’s prolonged civil detention has extended well beyond the end of the removal period, and will continue into the indefinite future. His detention is no longer reasonably related to the primary statutory purpose of ensuring imminent removal.

89. The pro forma internal post-order custody reviews ICE has conducted in Petitioner’s case do not meet the minimum procedural safeguards required by due process. See, e.g., *Hernandez-Lara v. Lyons*, 10 F.4th 19, 38 (1st Cir. 2021).

90. Thus, Petitioner’s detention violates both substantive and procedural due process.

**COUNT THREE, IN THE ALTERNATIVE**  
**Violation of the Due Process Clause and Statutory Protections**  
*Notice and opportunity to be heard required before removal to a third country*

91. Petitioner realleges and incorporates by reference all the paragraphs above as though fully set forth herein.

92. As described above, there is no significant likelihood that Respondents will remove Petitioner from the U.S. in the reasonably foreseeable future. However, Respondents may contend that removal is in the near term is likely. If that were true, that would raise a serious constitutional problem.

93. Namely, the Due Process Clause requires Respondents to provide Petitioner meaningful notice and a meaningful opportunity to be heard regarding the statutory protections to which he is entitled. At 8 U.S.C. 1231(b)(3), the INA prevents removal to a country where a noncitizen is more likely than not to face persecution. Further, the FARRA's implementation of the Convention Against Torture prevents removal to a country where a noncitizen is more likely than not to face torture.

94. Removal of Petitioner to any third country to (that is, any country other than Rwanda, the country specified in his removal order), without first providing Petitioner with meaningful notice and a meaningful opportunity to seek protection under the mandatory provisions of 8 U.S.C. 1231(b)(3) and the FARRA, would violate Petitioner's statutory and due process rights.

#### **PRAYER FOR RELIEF**

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner shall not be transferred outside the District of Maine during the pendency of these habeas proceedings;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted;

- (4) In the event that this Court determines that a dispute of fact exists regarding the likelihood of Respondents removing Petitioner in the reasonably foreseeable future, promptly schedule an evidentiary hearing pursuant to 28 U.S.C. § 2243;
- (5) Declare that Petitioner's continued detention violates the Immigration and Nationality Act;
- (6) Declare that Petitioner's indefinite detention violates the Due Process Clause of the Fifth Amendment;
- (7) Enjoin Respondents from further unlawfully detaining Petitioner;
- (8) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
- (9) *In the alternative*, if Respondents were to establish a significant likelihood that Petitioner will be removed to a third country in the reasonably foreseeable future, enjoin Petitioner's removal until Respondents provide him access to his statutory rights to protection and due process of law, and, accordingly, order Respondents to do the following:
  - (a) with respect to removal to any third country (any country other than Rwanda), provide Petitioner and his counsel with written notice of removal to that country at least ten days before the removal, and notice to Petitioner in Petitioner's native language;
  - (b) if, after inquiring whether Petitioner has a fear of removal to that third country, Petitioner expresses such a fear, provide Petitioner a reasonable fear interview to screen Petitioner for fear of persecution and torture, consistent with 8 C.F.R. § 208.31;

- (c) if Petitioner is found to have a reasonable fear of removal, reopen Petitioner's removal proceedings in Immigration Court to allow Petitioner to present a full claim for relief under 8 U.S.C. § 1231(b)(3) and the FARRA; and
  - (d) if Petitioner is not found to have such a fear, allow a further fifteen days for Petitioner to file a motion to reopen with the Immigration Court; and
- (10) Grant any further relief this Court deems just and proper.

Respectfully submitted this 24th day of November 2025.

Petitioner,

By and through his Counsel,

/s/ Max I. Brooks

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*Counsel for Petitioner*

**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

We represent Petitioner and submit this verification on his behalf. We hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 are true and correct to the best of our knowledge.

Respectfully submitted this 24th day of November, 2025.

/s/ Max I. Brooks

Max I. Brooks

Carol J. Garvan

Anahita D. Sotoohi

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