UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA

S.N.H.,

Petitioner,

v.

BRIAN ENGLISH, *in his official capacity as* Warden, Miami Correctional Facility; **SAMUEL OLSON,** *in his official capacity as* Field Office Director, Chicago Field Office, United States Immigration and Customs Enforcement; **TODD M. LYONS,** *in his official capacity as* Acting Director, United States Immigration and Customs Enforcement; **KRISTI NOEM,** *in her official capacity as* Secretary of Homeland Security; **PAMELA BONDI,** *in her official capacity as* United States Attorney General,

Respondents.

No. 3:25-cv-00993

MEMORANDUM OF LAW IN SUPPORT OF PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Regulations

INTRODUCTION

S.N.H. is a 32-year-old asylum seeker from Pakistan who has been in immigration detention since April 19, 2024. He is currently detained in immigration custody at Miami Correctional Facility. An Immigration Judge ("IJ") has twice ordered him released on bond, but he remains detained in immigration custody because the Government invoked the automatic stay provision, 8 C.F.R. § 1003.19(i)(2), unlawfully staying the IJ's bond decision. Over 40 district court opinions across the country have found this provision unlawful and ordered petitioners released under the terms of the IJ's bond decisions. S.N.H. seeks the same emergency relief from this Court here, because his continued detention violates the Due Process Clause and the Immigration and Nationality Act. He will suffer irreparable harm if he remains subject to arbitrary detention, and both the balance of the equities and the public interest heavily weigh in his favor. S.N.H. therefore respectfully asks this Court to issue an order pursuant to Federal Rule of Civil Procedure 65, directing Respondents to allow him to post bond for his immediate release.

STATEMENT OF FACTS

I. Petitioner's Immigration History

S.N.H. is a 32-year-old man from Pakistan. **Ex. A, Pet.'s Decl.** ¶ 1.[1] Religion has always played a pivotal role in his life. *Id.* ¶ 3. [redacted]. *Id.* After a harrowing journey, S.N.H. arrived at the southern border on June 6, 2023. *Id.*

[1] References in this memorandum are to the exhibits to the concurrently filed habeas petition.

¶¶ 7–9. DHS detained him between ports of entry, served him with a Notice to Appear at Hartford, Connecticut immigration court on May 1, 2024, and released him that same day. *Id.* ¶ 9.

After his release, S.N.H. moved to New York. *Id.* For several months, S.N.H. worked hard to send money to his family in Pakistan. *Id.* ¶¶ 10, 69. This money helped support his mother, who was diagnosed with Hepatitis C a few years ago and depended on his support for her medications and procedures. *Id.* ¶ 69. During this time, S.N.H. also applied for and researched different Masters and PhD programs in global affairs and political science. *Id.* ¶¶ 66–67. S.N.H. aspires to continue his higher education, having earned his undergraduate degree in political science and international relations in 2021. *Id.* As [redacted] S.N.H. also prioritized finding a supportive religious community where he could practice his religion. *Id.* ¶¶ 11–12. He found just that in Brooklyn, New York, where he became a member of a vibrant and supportive mosque. *Id.*

S.N.H. was also committed to abiding by his immigration requirements. *Id.* ¶ 13. As such, he regularly updated his address with the immigration court in the months leading to his immigration court appearance, which was scheduled for May 1, 2024. *Id.* On April 16, 2024, shortly before his scheduled court hearing, DHS summoned him to the ICE offices at 26 Federal Plaza in New York, NY, ostensibly for a routine check-in. *Id.* When S.N.H. arrived at 26 Federal Plaza, FBI agents questioned him for hours about two acquaintances S.N.H. knows from Pakistan. *Id.* ¶¶ 14–17. After the FBI's questioning, DHS took S.N.H. into custody pursuant to 8 U.S.C. § 1226(a) and detained him at Moshannon Valley Processing Center, where he remained for more than 18 months before being transferred on October 31, 2025 to Miami Correctional Facility in Indiana. *Id.* ¶ 18. S.N.H. has never committed a crime in the U.S. or any other country. *Id.* ¶ 19.

On July 16, 2024, Brooklyn Defender Services began representing S.N.H. and filed a new asylum application with the immigration court on August 12, 2024. *Id.* ¶ 20.

II. An Immigration Judge Has Twice Ordered Petitioner's Release on Bond

S.N.H. has had three immigration court custody redetermination hearings, also known as bond hearings. Pet.'s Decl. ¶¶ 21, 24, 31. These hearings took place on August 28, 2024, May 29, 2025, and September 2, 2025. *Id.*

At his first bond hearing on August 28, 2024, the IJ denied S.N.H. bond. **Ex. B, Order Bond Denial.** Specifically, the IJ found that S.N.H. had not met his burden to show that he did not present a danger to the community. **Ex. C, Memo. Bond Denial** at 2–3. DHS's submission of a memorandum authored by the FBI ("FBI Memo") was central to the IJ's finding. *Id.*

The FBI Memo did not allege any wrongdoing by S.N.H. Rather, the two-page document merely asserted that S.N.H. had communicated with two Pakistani individuals. It went on to allege that the individuals were associated with [redacted] The FBI Memo then speculated—based on "U.S. Government information"—that [redacted] Notably, the memo failed to specify either the nature of the alleged ties between the two individuals and the corresponding organizations or the degree of certainty that the ties even exist. And although the memo alleged that S.N.H. had phone contact with the individuals, it did not allege that he himself engaged in any illegal activity or had ties to the organizations the two individuals were allegedly associated with.

On December 17, 2024, the IJ granted S.N.H.'s application for statutory withholding of removal, denied his asylum application, but did not address his claim for relief under the Convention Against Torture ("CAT"). Pet.'s Decl. ¶ 22. Both S.N.H. and DHS appealed the IJ's decision. *Id.* ¶ 23. During the merits hearing before the IJ, S.N.H. testified extensively about his interactions with the two individuals mentioned in the FBI Memo. *Id.* ¶ 22. He explained that the individuals were elders in [redacted] whom he had contacted for

personal advice and had loaned him some money when he was struggling to build a life in the United States. *Id.* S.N.H. also explained he had no knowledge of any ties [redacted] and no involvement in any illicit or dangerous activities. *Id.*

At no point during the December 17 merits hearing did DHS counsel allege any wrongdoing on S.N.H.'s part. *Id.* DHS's sole argument was that S.N.H. communicated with these two individuals via phone. *Id.* Nor did DHS counsel argue that S.N.H. provided any material support to a group the government considers to be terrorist, an allegation which, if true, would have barred S.N.H. from being granted withholding of removal and being eligible for bond. *See* 8 U.S.C. § 1231(b)(3)(B)(iv); 8 U.S.C. § 1227(a)(4)(B).

1. While the parties' merits appeals were pending before the BIA, the IJ held a second bond hearing on May 29, 2025. **Ex. D, Order First Bond Grant**. The IJ found that S.N.H. was eligible for bond because the IJ's earlier grant of withholding of removal amounted to changed circumstances. **Ex. E, Memo. First Bond Grant** at 1–2. Based on this eligibility, and renewed findings as to S.N.H.'s dangerousness and flight risk, the IJ ordered that he be released on a $4,500 bond (the IJ's bond memorandum detailing this bond decision was published on June 10). *Id.* at 3. Pursuant to the IJ's bond determination, S.N.H. attempted to post bond on June 3, but ICE refused to accept his bond or release him. **Ex. F, Emails to ICE**; **Ex. P, Declaration of Rosa Santana ("Santana Decl.")** ¶¶ 1–7.

2. On June 5, 2025, five business days after the IJ granted bond, DHS counsel Jeffrey Boyles ("ACC Boyles") attempted to file a Form EOIR-43 Notice of ICE Intent to Appeal Custody Redetermination with the immigration court. This filing would result in an automatic stay, of the IJ's bond determination and thus prevent S.N.H. from posting bond for his release. However, DHS failed to abide by the requirement that a request for an automatic stay under 8 CFR § 1003.19(i)(2)

be filed "within one business day of the order" in question. The immigration court rejected the form the same day. **Ex. G, Rejection of DHS EOIR-43**.

On Friday June 6, 2025, at 4:25 p.m., without notifying Petitioner's Counsel or responding to Counsel's emails regarding attempts to post bond, DHS counsel filed a motion for a discretionary stay with the BIA pursuant to 8 CFR § 1003.19(i)(1). **Ex. H, DHS Mot. Discretionary Stay**; Emails to ICE. Before Counsel learned of DHS's discretionary stay motion or had an opportunity to enter an appearance, the BIA issued a short order granting the stay on Monday, June 9. **Ex. I, BIA Order Granting Stay**. Only after the stay was granted did DHS counsel respond for the first time to Counsel's multiple emails, notifying Counsel of the BIA's grant of discretionary stay. **Ex. J, DHS Notice of Discretionary Stay**.

On June 10, 2025, the IJ issued the written decision corresponding to its May 29 bond grant. Memo. First Bond Grant. First, the IJ found that the grant of withholding of removal and "the lack of evidence that [S.N.H.] had ever engaged in illicit activities," constituted a changed circumstance to conduct a custody redetermination. *Id.* at 2. As the IJ noted, the "previous danger analysis on bond was solely based on an FBI memorandum that indicates [S.N.H.] has ties to individuals who may be associated with the [IRGC]." *Id.* at 1–2. But since that previous bond denial, S.N.H. had a merits hearing and, based on the evidence and testimony presented at that merits hearing, the IJ concluded "there was sufficient evidence to show that the extent of his contact with those individuals was limited to phone calls and taking out a loan. There has never been any evidence submitted that [S.N.H.] was engaged in terrorist or illicit activities." *Id.* at 2. Thus, the IJ concluded a new bond hearing for S.N.H. was proper. *Id.*

Second, the IJ held that S.N.H. met his burden to show he does not present a danger. *Id.* at 2–3. Here, the IJ emphasized its findings that S.N.H. "credibly testified to the extent of his

interactions with the individuals named in the FBI memorandum," that S.N.H. "ha[d] not been alleged to have committed any crime or have any connections to terrorist activities in Pakistan or the United States," and that he "ha[d] never been alleged to be subject to any terrorism bars." *Id.* at 3. Based on these findings, the IJ concluded S.N.H. does not present a danger to the community. *Id.*

On June 26, 2025, the BIA issued a decision on the merits appeal and vacated S.N.H.'s withholding grant, finding that S.N.H. had not shown that the Pakistani government is unable or unwilling to protect him. Pet.'s Decl. ¶ 28. At the same time, the BIA remanded S.N.H.'s case to the IJ for a decision on his application for protection under the CAT, which the IJ had not previously reached. *Id.* Shortly after, on July 8, 2025, the IJ denied protection under the CAT.[2] *Id.* ¶ 29.

On August 15, the BIA ruled on DHS's earlier appeal of the IJ's grant of bond. **Ex. K, BIA Remanding Bond**. Given the intervening merits decisions and pending appeals, the BIA concluded "that remanded proceedings [we]re warranted to provide the [IJ] with a renewed opportunity to consider the respondent's eligibility for bond." *Id.* at 3. Thus, the BIA remanded the case to IJ for the entry of a new bond decision. *Id.* at 3–4.

At the BIA's directive, the IJ held a third bond hearing for S.N.H. on September 2, 2025. **Ex. L, Order Second Bond Grant**. For a second time, the IJ found that S.N.H. did not pose a danger to the community. **Ex. M, Memo. Second Bond Grant** at 3. Specifically, the IJ looked to S.N.H.'s "credible testimony at his merits hearing concerning his tenuous ties to the individuals

[2] S.N.H. has a pending appeal before the BIA regarding the denial of CAT protection. Pet.'s Decl. ¶ 29. This appeal is still awaiting a briefing schedule from the BIA. S.N.H. also has a pending Petition for Review before the Third Circuit Court of Appeals concerning the denials of asylum and withholding of removal. *Id.*

named in the FBI [Memo]." *Id.* As to flight risk, the IJ acknowledged S.N.H. "has been cooperative with authorities, has complied with the requirement to file changes of address, and has an appeal pending before the BIA." *Id.* Still, the IJ cited concerns with his recent denial of relief and therefore ordered S.N.H.'s release on a $20,000 bond (nearly five times the bond previously set). *Id.*

Despite the IJ's clear compliance with the BIA's instructions, DHS once more blocked S.N.H.'s opportunity for release, this time by filing Form EOIR-43.[3] **Ex. N, DHS EOIR-43**; Santana Decl. ¶¶ 8–11. In doing so, DHS appealed the IJ's bond decision and invoked the automatic stay provision in 8 C.F.R. § 1003.19(i)(2). *Id.* at 1. DHS's EOIR-43 made no individualized, fact-specific arguments or claims regarding exigency or the potential harm of release. *See generally id.* The EOIR-43 merely stated that DHS was "automatically stay[ing] the [IJ]'s custody redetermination decision." *Id.* DHS's appeal of the IJ's second bond grant is still awaiting a briefing schedule from the BIA.

The expanded use of automatic stay appears to be unprecedented. Between 2015 and 2021, DHS filed for automatic stay on average only 26 times per year, on a detained population that numbers in the tens of thousands on any given day. Pet. ¶ 68. In 2021, only two cases were subject to the automatic stay. In general, prior to 2025, absent individualized and extraordinary circumstances, when an IJ granted a non-citizen bond, that person was released from ICE custody once bond was paid, even where DHS appealed the bond decision to the BIA. Now, DHS is exploiting the automatic stay provision to unlawfully hold non-citizens, like S.N.H., in ICE custody indefinitely.

III. The Regulatory Structure of the Automatic Stay Provisions

Section 236(a) of the Immigration and Nationality Act ("INA") (codified as 8 U.S.C. § 1226(a)) confers discretion to the Attorney General and DHS to make decisions in some

[3] Funds to place S.N.H.'s bond had been secured, but S.N.H. did not have the opportunity to set bond before DHS's filing, which came at approximately 11:35 a.m. on September 3.

circumstances as to the detention and bond of noncitizens in removing proceedings. The INA grants people held in immigration detention pursuant to 8 U.S.C. § 1226(a) the right to seek review of DHS's initial custody determination before an IJ at any time. 8 U.S.C. §§ 1226(a)(1), (c)(1); 8 C.F.R. § 1003.19(a). If an IJ finds that a noncitizen is eligible for bond, DHS may appeal the decision of the IJ to the BIA. 8 C.F.R. § 1003.19(f). The regulations also provide DHS with the unilateral authority to automatically stay an IJ's bond order. 8 C.F.R. § 1003.19(i)(2). An automatic stay keeps the person who was granted bond detained pending DHS's appeal to the BIA without any means to challenge the stay.

Prior to 2001, noncitizens subject to discretionary detention under 8 U.S.C. § 1226(a) who were then granted bond by an IJ remained detained only if the BIA granted a request to stay the bond order. 8 C.F.R. § 3.19(i)(2) (1998) (permitting the use of automatic stays only where the noncitizen was subject to a mandatory detention statute). On October 31, 2001, following the terrorist attacks of September 11, 2001, the Immigration and Naturalization Service ("INS")—an agency whose functions now fall under DHS's purview—implemented an interim rule to expand its authority to issue automatic stays to prevent an IJ's custody decisions from being implemented pending appeal. *Executive Office for Immigration Review; Review of Custody Determination*, 66 Fed. Reg. 54909, 54910 (Oct. 31, 2001). For circumstances in which the INS was previously required to seek an emergency stay from the BIA to prevent the effectuation of an IJ's order for release on bond, the new rule allowed the INS to unilaterally invoke an emergency stay at its own discretion to prevent release in any case where INS determined that a noncitizen should not be released or when bond had been set in the amount of $10,000 or more. *Id.* The INS emphasized that the stay was intended to be "a limited measure," to be used only "where [INS] determines that it is necessary to invoke the special stay procedure pending appeal." *Id.*

The Form EOIR-43, used by DHS/ICE to invoke the automatic stay provision, merely states that ICE is automatically staying the IJ's bond decision. The form requires no individualized, fact-specific arguments or claims regarding exigency or the potential harm of release of the noncitizen. It thus allows the party who is both prosecuting and detaining the non-citizen, to unilaterally overrule the decision of the immigration judge who should be the neutral arbiter.

From its inception, this revised automatic stay regulation raised due process concerns. A former General Counsel of INS, David Martin, provided testimony in 2003 to the National Commission on Terrorist Attacks in which he voiced his concern regarding the agency's use of automatic stays. *See* David A. Martin, *Preventive Detention: Immigration Law Lessons for the Enemy Combatant Debate, Testimony Before the National Commission on Terrorist Attacks Upon the United States, December 8, 2003*, 18 Geo. Immigr. L.J. 305 (2004). He urged the agency to repeal the automatic stay provision, stating "there are indications that the automatic stay mechanism is now being used routinely and without careful calculation by the enforcement agencies of the individual merits that led the IJ to reduce the bond in the first place." *Id.* at 313.

During this same period, several federal district courts concluded that the automatic stay provision violated the due process rights of noncitizens. In *Ashley v. Ridge*, for example, the court vacated the automatic stay on a petition for a writ of habeas corpus, finding that "the continued detention of Petitioner without judicial review of the automatic stay of the bail determination, despite the [IJ's] decision that he be released on bond, violates Petitioner's procedural and substantive due process constitutional rights." 288 F. Supp. 2d 662, 675 (D.N.J. 2003); *see, e.g.*, *Bezmen v. Ashcroft*, 245 F. Supp. 2d 446 (D. Conn. 2003) (finding the automatic stay provision unconstitutional); *Zabadi v. Chertoff*, No. 05-cv-1796, 2005 WL 1514122 (N.D. Cal. June 17, 2005) (same); *Zavala v. Ridge*, 310 F. Supp. 2d 1071 (N.D. Cal. 2004) (same).

In 2006, the Department of Justice promulgated its final rule. *See Executive Office for Immigration Review; Review of Custody Determination*, 71 Fed. Reg. 57873 (Oct. 2, 2006). The final rule included the language of the interim rule, with some notable changes. First, "to allay possible concerns that in some case the automatic stay might be invoked. . . without an adequate factual or legal basis," the final rule added a requirement that the decision to invoke an automatic stay "is subject to the discretion of the Secretary [of DHS]," and a senior legal official at DHS must certify "there is factual and legal support justifying the continued detention." *Id.* at 57874.

Second, the final rule imposed some time limitations. *Id.* at 57873. The regulations provide that DHS's automatic stay will lapse ninety days after the filing of the notice of appeal if the BIA has not acted on the custody appeal. 8 C.F.R. § 1003.6(c)(4) (2006). However, the automatic stay regulations allow for the automatic stay to be extended and detention to continue well beyond ninety days.[4]

Separate from an automatic stay, "DHS may seek a discretionary stay pursuant to 8 CFR 1003.19(i)(1) to stay the [IJ's] order in the event the Board does not issue a decision on the custody appeal within the period of the automatic stay." 8 C.F.R. § 1003.6(c)(5). "If DHS has submitted such a motion and the Board is unable to resolve the custody appeal within the period of the automatic stay, the Board will issue an order granting or denying a motion for discretionary stay pending its decision on the custody appeal." *Id.* If the BIA has not resolved the custody appeal within 90 days and "[i]f the Board fails to adjudicate a previously-filed stay motion by the end of the 90-day period, the stay will remain in effect (but not more than 30 days) during the time it takes for the Board to decide whether or not to grant a discretionary stay." 8 C.F.R. § 1003.6(c)(5).

[4] A 2006 ICE policy memorandum regarding the automatic stay concedes that the 90-day time period for the automatic stay is flexible and there are circumstances under which the 90-day time limit may increase. *See* ICE Memorandum on Revised Procedures for Automatic Stay of Custody Decisions by Immigration Judges (Oct. 26, 2006), https://www.aila.org/library/ice-releases-revised-procedures-for-automatic-stay.

Moreover, if the BIA rules in a noncitizen's favor on the bond appeal, authorizing release on bond or denying DHS's motion for a discretionary stay, "release shall be automatically stayed for five business days." 8 C.F.R. § 1003.6(d). This additional five-business-day stay in the event of the BIA authorizing a noncitizen's release provides DHS with yet another opportunity to keep the person automatically detained despite judicial orders to the contrary. If, within that five-business-day stay period, the custody case is referred to the Attorney General pursuant to 8 C.F.R. § 1003.1(h)(1), "the [non-citizen's] release shall continue to be stayed pending the Attorney General's consideration of the case. The automatic stay will expire 15 business days after the case is referred to the Attorney General." 8 C.F.R. § 1003.6(d). DHS may request a discretionary stay when referring the case to the Attorney General, 8 C.F.R. § 1003.6(d), and "[t]he Attorney General may order a discretionary stay pending the disposition of any custody case by the Attorney General or by the [BIA]." 8 C.F.R. § 1003.6(d).

Under the automatic stay scheme, the length of potential detention can result in anywhere from 150 to 177 days of detention *after* an IJ has already determined that a noncitizen is neither a flight risk nor a danger to the society.[5] However, if the case is referred to the Attorney General, the detention period is indefinite. Nothing in the regulations prevents DHS from invoking the automatic stay provisions and appealing the IJ's bond decision to the BIA multiple times in a row, as they have in the instant case, to therefore extend noncitizens' detention past the 177-day estimate. Notably, the entire regulatory process is unilateral in the agency and the prosecutor's

[5] This calculation considers: 10 days from the time DHS files its Form EOIR-43 with EOIR until filing its Notice of Appeal with the BIA, 90 days after DHS files its Notice of Appeal, 30 days if DHS seeks a discretionary stay with the BIA, five business days or up to seven calendar days during whitch DHS can refer the case to the Attorney General, and 15 business days or up to 19 calendar days after DHS refers the case to the Attorney General. *See* 8 C.F.R. §§ 1003.6, 1003.19. Separately, a 21-day briefing extension from the BIA if requested by the noncitizen will also extend the auto-stay by the same numbers of days of the extension. 8 C.F.R. § 1003.6(c)(4).

favor. It does not matter what the IJ or BIA orders, or how many times either rule in favor of the noncitizen. If DHS disagrees with the bond orders, DHS can, through its own actions, keep the noncitizen detained in perpetuity.

IV. Because of His Unlawful Detention, S.N.H. Has Experienced Severe Emotional and Physical Distress, and He Has Been the Victim of Violence

ICE violently upended the new life S.N.H. was building in New York when it masqueraded a routine check-in to arrest him on April 16, 2024. Now, in detention, S.N.H. has been isolated from his community and familial support and, as a result, is experiencing severe emotional and physical distress.

S.N.H. has recurrent suicidal thoughts. **Ex. O, Declaration of Regina Favela, LMSW ("Favela Decl.")** ¶ 15. He also exhibits symptoms of post-traumatic stress disorder, anxiety, and depression, something he did not struggle with prior to his detention. *Id.* ¶ 5. He lives in constant fear thinking about what will happen to him where he to be deported. *Id.* ¶¶ 5, 17. He also fears for the safety and well-being of his family in Pakistan. *Id.* ¶ 17. He frequently wakes up in a sweat from nightmares about men hurting his family in Pakistan; it is difficult for him to sleep more than two to three hours per night. *Id.* ¶¶ 16, 17.

S.N.H.'s distress is only exacerbated by his inability to financially support and communicate with his family. *Id.* ¶ 23. Before his detention, he was working and sending money to his family in Pakistan, including his mother who depended on his support to treat her Hepatitis C. *Id.*; Pet.'s Decl. ¶¶ 10, 69. Since being detained, he has also been emotionally distanced from his family, unable to call them due to the high costs. Favela Decl. ¶ 23.

S.N.H.'s distress and physical pain also stems from an attack he suffered while detained at Moshannon. *Id.* ¶¶ 6–12. [redacted] Pet.'s Decl. ¶¶ 34–35. After the attack, he

felt confused and was bleeding. Favela Decl. ¶¶ 6–7. For several days, he had a sore tongue from biting it as he fell and continues to report chronic headaches, migraines, and difficulty remembering. *Id.* And his symptoms did not subside with the minimal care provided at Moshannon (Tylenol and ibuprofen). *Id.*; Pet.'s Decl. ¶¶ 36–37. He recently screened positive for a possible traumatic brain injury, as well as Acute Stress Disorder. Favela Decl. ¶ 8. This attack and "the lack of protection from staff have left him feeling unsafe and in severe emotional distress." *Id.* ¶ 9. He now struggles with hypervigilance and panic attacks, afraid of even closing his eyes for fear of being attacked again. *Id.* ¶ 11; Pet.'s Decl. ¶¶ 37–43.

At Moshannon, S.N.H. faced religious discrimination, with staff disrespecting his religious practices. [redacted] Favela Decl. ¶ 19. [redacted]

S.N.H. frequently struggled with not having enough to eat. *Id.* Before his transfer, he had bloodwork done because we was experiencing numbness in his limbs. *Id.* ¶¶ 21–22. Medical staff identified this as a symptom of high cholesterol and told him to limit his consumption of bread, butter, cheese, milk, and peanut butter, among other foods. *Id.* Although he tries to avoid this in his diet, the Halal tray often included these foods. *Id.*; Pet.'s Decl. ¶¶ 45–49 (describing the inhumane conditions at Moshannon).

On October 31, 2025, ICE transferred S.N.H. to MCF, a maximum-security prison in Bunker Hill, Indiana, which only recently began accepting immigrant detainees. Pet.'s Decl. ¶ 50. For the duration of his transfer, which took more than seven hours, ICE shackled S.N.H. at the

hands, feet, and waist. *Id.* ¶ 51. Upon his arrival at MCF, S.N.H. was treated like he was a criminal serving a sentence. *Id.* ¶¶ 50–63 (describing the inhumane conditions at MCF).

Officers were quick to warn S.N.H. that this was a facility where people serve life sentences and "will never see the light of day." *Id.* ¶ 52. For the majority of the day, S.N.H. is in a holding cell, including during hour-long counts and nightly lockdowns. *Id.* ¶¶ 54, 56. And he has witnessed staff using racist remarks and slurs toward detainees. *Id.* ¶ 60. The facilities at MCF are cold, regularly flood with what seems to be sewage water, and the provided uniform does little to protect S.N.H. *Id.* ¶¶ 57–58. He cannot access his personal property, which includes personal hygiene and prayer items. *Id.* ¶ 59.

Just like at Moshannon, S.N.H. has been forced to go hungry because MCF staff regularly serve him food that is inedible, non-Halal, and high in cholesterol. *Id.* ¶ 61. On one occasion, S.N.H. inquired about a sausage on his tray, which he cannot eat because of his Halal restrictions, and MCF staff simply told him not to eat it if he can't. *Id.* ¶ 53. Although he has requested medical care, including for numbness in his legs, hands, and feet, and bleeding when he brushes his teeth, he has not received a response from staff at MCF. *Id.* ¶ 62–63; *see also* Favela Decl. ¶¶ 24–31.

ARGUMENT

S.N.H. is entitled to a temporary restraining and preliminary injunction order directing his ability to post bond for immediate release from Respondents' arbitrary and unlawful detention. "The standard for issuing a temporary restraining order is identical to that governing the issuance of a preliminary injunction." *Mays v. Dart*, 453 F. Supp. 3d 1074, 1087 (N.D. Ill. 2020). To warrant either form of preliminary relief, S.N.H. must show that: (1) "he is likely to succeed on the merits"; (2) "he is likely to suffer irreparable harm in the absence of preliminary relief"; (3) "the balance

of equities tips in his favor"; and (4) relief "is in the public interest."[6] *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). When the government is the opposing party, "[t]he[] [final two] factors merge." *Nken v. Holder*, 556 U.S. 418, 435 (2009). Moreover, the Seventh Circuit employs a "sliding scale approach," whereby "if a [petitioner] is more likely to win, the balance of harms can weigh less heavily in [his] favor." *GEFT Outdoors, LLC v. City of Westfield*, 922 F.3d 357, 364 (7th Cir. 2019). Here, all factors heavily weigh in favor of granting S.N.H. a temporary restraining order or preliminary injunction.

I. S.N.H. Is Likely to Succeed on the Merits of His Petition[7]

A. S.N.H. is likely to succeed on his claim that his detention violates his right to procedural due process.

DHS's invocation of the automatic stay to unilaterally detain S.N.H. violates his right to procedural due process. Courts have found a single use of the revised automatic stay provision to be an unconstitutional violation of procedural due process. Here, S.N.H. has been subject to this unilateral extension of his detention after *twice* being ordered released on bond by the IJ.

In *Günaydın v. Trump*, the court considered a similar circumstance, where the petitioner was detained pursuant to the automatic stay provision despite an IJ ordering him released on bond. 784 F. Supp. 3d 1175, 1180–81 (D. Minn. May 21, 2025). That district court concluded that the

---

[6] At times, the Seventh Circuit addresses a fifth factor of showing that "traditional legal remedies would be inadequate." *See Richwine v. Matuszak*, 148 F.4th 942, 952 (7th Cir. 2025). Some courts have found petitioners meet this factor where, as here, "only equitable remedies are available" to effectuate S.N.H.'s immediate release. *See Milwaukee Inner-City Congregations Allied for Hope v. Gottlieb*, 944 F. Supp. 2d 656, 664 n.1 (W.D. Wis. 2013) (claims under the National Environmental Policy Act); *see also All-Options, Inc. v. Att'y Gen. of Ind.*, 546 F. Supp. 3d 754, 770 (S.D. Ind. 2021) ("Plaintiffs have demonstrated a reasonable likelihood of success on the merits of their First Amendment claim, so they have shown irreparable injury without an adequate remedy at law absent a preliminary injunction.").

[7] In the past few months, district courts have found the use of the automatic stay provision to violate both procedural and substantive due process *and* to be *ultra vires* to the INA. *See* Pet. ¶ 68 (listing cases).

petitioner's detention pursuant to the automatic stay provision violated his procedural due process rights and ordered his immediate release. *Id.* at 1190. Notably, at the time of his release, the petitioner in *Günaydın* was in the same posture as S.N.H.'s is now: removal proceedings were pending without a final determination on the merits. *Id.* at 1180–81.

More than 40 district court opinions have found nearly identical due process violations. *See, e.g.*, *Mohammed H. v. Trump*, No. 25-cv-1576, 2025 WL 1692739, at *5 (D. Minn. June 17, 2025) ("Simply by fiat—without introducing any proof and without immediate judicial review—the Government effectively overruled the bond decision and kept Petitioner detained. In doing so, the automatic stay rendered Petitioner's continued detention arbitrary and gave him no chance to contest the Government's case for detention."); *see also* Pet. ¶ 74 (listing cases).

At the same time, district courts across the country have continued to grant preliminary relief ordering petitioners' release, effectuating the bond decisions, and enjoining the enforcement of the automatic stay provision during the pendency of the habeas action. In *Aguilar Maldonado v. Olson*, the court found the petitioner was likely to establish that she was detained pursuant to the automatic stay provision in violation of the Due Process Clause after an IJ had ordered her released on bond. No. 25-cv-3142, 2025 WL 2374411, at *14 (D. Minn. Aug. 15, 2025); *see also Guasco v. McShane*, No. 1:25-CV-1650, 2025 WL 3270201, at *2–3 (M.D. Pa. Nov. 24, 2025); *B.F. v. Andrews*, No. 1:25-CV-01398, 2025 WL 3152480, at *9–11 (E.D. Cal. Nov. 11, 2025); *J.M.P. v. Arteta*, No. 25 CIV. 4987, 2025 WL 2984913, at *23–24 (S.D.N.Y. Oct. 23, 2025); *Carlos v. Noem*, No. 2:25-CV-01900, 2025 WL 2896156, at *7 (D. Nev. Oct. 10, 2025); *Vazquez v. Feeley*, No. 2:25-CV-01542, 2025 WL 2676082, at *20–21, 23 (D. Nev. Sept. 17, 2025).

To determine whether a civil detention violates a detainee's procedural due process rights, courts apply the three-factor balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

See, e.g., *Quishpe-Guaman v. Noem*, No. 4:25-CV-00211, 2025 WL 3201072, at *5 (S.D. Ind. Nov. 17, 2025) (applying *Mathews* test where noncitizen alleged he was unlawfully detained under 8 U.S.C. § 1225(b)); *Ochoa Ochoa v. Noem*, No. 25 CV 10865, 2025 WL 2938779, at *7 (N.D. Ill. Oct. 16, 2025) (same); *see also Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (same, noncitizen discretionarily detained). Pursuant to *Mathews*, courts weigh the following three factors: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335. All three of the *Mathews* factors weigh in S.N.H.'s favor.

The first *Mathews* factor requires consideration of the private interest affected by Respondents' invocation of the automatic stay provision. This factor weighs heavily in S.N.H.'s favor because his interest in being free from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

Additionally, the conditions of S.N.H.'s detention add weight to his private interest. When assessing this factor, courts consider the conditions under which detainees are currently held, including whether a detainee is held in conditions indistinguishable from criminal incarceration. *See J.M.P.*, 2025 WL 2984913, at *16 (finding the noncitizen held in immigration detention was "experiencing all the deprivations of incarceration, including loss of contact with family and friends, loss of income, lack of privacy, and restrictions on his movement"); *C.B. v. Oddo*, No. 3:25-CV-00263, 2025 WL 2977870, at *7 (W.D. Pa. Oct. 22, 2025) (finding, in prolonged detention case, that the noncitizen "detained and not free to leave [Moshannon]" had presented

sufficient evidence that "his conditions of confinement [were] akin to carceral conditions"); *Velasco Lopez*, 978 F.3d at 852 (concluding first Mathews factor "cut[] sharply" in noncitizen's favor where has was "locked up in jail," "could not maintain employment or see his family or friends or others outside of normal visiting hours" and "had no access to the internet or email and limited access to the telephone").

ICE has detained S.N.H. in Moshannon, and, currently, at MCF. At both facilities, S.N.H. has experienced deprivations of incarceration like those faced by the noncitizen detainees in *J.M.P.*, *C.B.*, and *Velasco Lopez*. Namely, S.N.H. is locked up in a cell, he cannot see his family or friends, he cannot work, and he lacks privacy and freedom of movement. Pet.'s Decl. ¶¶ 46, 54, 56, 59, 69; Favela Decl. ¶ 23. Additionally, as in *J.M.P.*, S.N.H. is being held at a facility that "has been the subject of complaints for its treatment of ICE detainees, including allegations of medical neglect, lack of access to unspoiled food, and abuse, harassment, and retaliation by jail personnel." *See* 2025 WL 2984913, at *16; *see also* Pet. ¶ 78 n.6 (citing the long history of inhumane conditions at Moshannon and MCF).

Beyond the common deprivations of incarceration, S.N.H. is suffering because of inhumane conditions of his confinement. Pet.'s Decl. ¶¶ 45–63. While detained at Moshannon, he was the victim of an attack that left him with lasting physical pain, including chronic headaches, a possible traumatic brain injury, and a constant state of fear of future attacks. Favela Decl. ¶¶ 6–12, 18. Shortly after the attack, S.N.H. received a diagnosis of Acute Stress Disorder, "a short-term mental health condition that can occur within the first month after experiencing a traumatic event." *Id.* ¶ 9. Around the same time, he received a diagnosis of Major Depressive Disorder. *Id.* ¶ 14. His mental health is waning, he struggles to sleep more than two to three hours at night, and he has recurring suicidal thoughts. *Id.* ¶¶ 4–5, 15–17.

Petitioner has also suffered mistreatment by staff at Moshannon and MCF. As Petitioner describes it: "[W]e were treated like we are inferiors. The officers yelled at us, told us we are criminals and did not belong here, and some of them told us racist things." Pet.'s Decl. ¶ 45. Petitioner came to this country seeking refuge to practice his religion free from persecution but has been hindered from doing so while detained. [redacted] Favela Decl. ¶¶ 19–21. Staff at Moshannon also disregarded his observance of a Halal diet and served him non-Halal food. *Id.*; Pet.'s Decl. ¶ 48. These conditions have continued at MCF, where Petitioner has witnessed racist remarks by staff, been served inedible, non-Halal food, and been forced to live in cold cells without proper protection. Pet.'s Decl. ¶¶ 53, 57–59.

The second *Mathews* factor requires courts to assess whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks. The automatic stay provision of Section 1003.19(i)(2) creates a substantial risk of erroneous deprivation of Petitioner's interest in being free from arbitrary confinement because the only people adversely affected by DHS's automatic stay are people who have already prevailed at a judicial hearing. DHS does not invoke this provision to stay decisions that are favorable to it. "Thus, the challenged regulation permits an agency official who is also a participant in the adversarial process to unilaterally override the immigration judge's decisions. Such a rule is anomalous in our legal system." *Günaydın*, 2025 WL 1459154, at *7; *see also Zavala*, 310 F. Supp. 2d at 1078 (noting that the automatic stay provision "creates a potential for error because it conflates the functions of adjudicator and prosecutor"); *Ashley*, 288 F. Supp. 2d at 671 (concluding that the regulation creates a "patently

unfair situation by taking the stay decision out of the hands of the judges altogether and giving it to the prosecutor who has by definition failed to persuade a judge in an adversary hearing that detention is justified") (quotation omitted).

The third *Matthews* factor considers the Government's interest. The Government's only legitimate interest at stake is its interest in ensuring that people facing removal do not endanger the public or abscond during the pendency of their removal cases. In this case, the Immigration Judge has already determined on two occasions that S.N.H. does not pose a danger to the public, and that any flight risk is mitigated by bond.

Because all three Matthews factors weigh in S.N.H.'s favor, his detention violates his procedural due process rights.

B. S.N.H. is likely to succeed on his claim that his detention violates his right to substantive due process.

S.N.H. is likely to succeed on the merits of his claim that his detention violates the substantive component of the Due Process Clause because an IJ has twice determined that S.N.H.'s detention without bond does not bear a reasonable relation to the purposes of civil immigration detention.

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). To meet the strictures of due process, S.N.H.'s detention must "bear[] a reasonable relation to the purpose[s]" of civil immigration detention, which the Supreme Court has identified as mitigating flight risk and mitigating danger to the community. *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715 (1972)) (quotation marks omitted). An IJ—after an adversarial hearing—*twice* found that S.N.H. had met his burden to prove he was not a danger to

the community and set a bond to address any flight risk concerns. By invoking the automatic stay provision, DHS has overruled and rendered meaningless the IJ's bond determination.

Several district courts have considered similar challenges and found that the automatic stay provision violates detainees' substantive due process rights. *See, e.g.*, *Ashley*, 288 F. Supp. 2d at 669; *Zavala*, 310 F. Supp. 2d at 1077; *Kambo v. Poppell*, No. 07-cv-800, 2007 WL 3051601, at *20 (W.D. Tex. Oct. 18, 2007); *Diaz Garcia v. Noem*, No. 1:25-CV-1712, 2025 WL 3111223, at *3–5 (E.D. Va. Nov. 6, 2025); *Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *4 (D. Neb. Sept. 3, 2025); *Hasan v. Crawford*, No. 1:25-CV-1408, 2025 WL 2682255, at *9–11 (E.D. Va. Sept. 19, 2025). In light of the IJ's individualized findings, the Government has not and could not show that S.N.H.'s detention without bond is necessary to prevent flight or to mitigate danger. Accordingly, the "application of the automatic stay is certainly 'excessive in relation to the regulatory goal Congress sought to achieve.'" *Ashley*, 288 F. Supp. 2d at 669 (citing *United States v. Salerno*, 481 U.S. 739, 747 (1987))..

C. S.N.H. is likely to succeed on his claim that his detention is *ultra vires* to the INA.

DHS's use of the automatic stay provision exceeds the authority granted by the INA to the Attorney General. "Agency actions beyond delegated authority are 'ultra vires,' and courts must invalidate them." *U.S. ex rel. O'Keefe v. McDonnell Douglas Corp.*, 132 F.3d 1252, 1257 (8th Cir. 1998) (citation omitted). The Attorney General may detain or release on bond a noncitizen "pending a decision on whether the [noncitizen] is to be removed the United States." 8 U.S.C. § 1226(a). At the same time, the Attorney General may delegate detention determinations to "any other officer, employee, or agency of the Department of Justice," 28 U.S.C. § 510. IJs are administrative law judges within the Department of Justice. *See* 8 U.S.C. § 1101(b)(4). It follows that IJs "exercise properly delegated authority to make detention and bond decisions." *Maza v. Hyde*, No. 1:25-CV-12407, 2025 WL 2951922, at *5 (D. Mass. Oct. 20, 2025) (citing 8 C.F.R. § 1236.1(d)(1)).

By contrast, DHS, the party that invokes the automatic stay provision, is not within the Department of Justice, but is a separate executive department. *See* 6 U.S.C. § 111. The automatic stay provision violates the statutory scheme because it allows DHS—an entity that has not been delegated the authority to make detention determinations after an IJ has done so—with the unilateral power to continue detaining a noncitizen. In other words, "the automatic stay regulation enables DHS to usurp the [IJ's] role in making detention and bond determinations." *Maza*, 2025 WL 2951922, at *5. This "exceeds the Congressional limit on the Attorney General's authority to delegate a statutory function," *id.*, and it allows DHS to create a new class of noncitizens subject to mandatory detention, outside the framework of the INA. *See also Zabadi*, 2005 WL 1514122, at *1; *Almonte Vargas v. Elwood*, No. 02-cv-2666, 2002 WL 1471555, at *5 (E.D. Pa. June 28, 2002) ("[D]ue process is not satisfied where the individualized custody determination afforded to Petitioner was effectively a charade. By pursuing an appeal of the [IJ's] bond determination . . . the INS has nullified that decision[.]"); *Zavala*, 310 F.Supp.2d at 1079 ("Because this back-ended approach effectively transforms a discretionary decision by the [IJ] to a mandatory detention imposed by the Service, it flouts the express intent of Congress and is ultra vires to the statute."); *Ashley*, 288 F.Supp.2d at 672-73 ("As Congress specifically exempted [noncitizens] like Petitioner from the mandatory detention of § 1226(c), it is unlikely that it would have condoned this back-end approach to detaining [noncitizens] like Petitioner through the combined use of § 1226(a) and § [1003.19](i)(2).").

II. S.N.H. Will Suffer Irreparable Harm Absent a TRO and/or Preliminary Injunction

No right is more fundamental than the right to freedom from unreasonable government detention. *See Zadvydas*, 533 U.S. at 690. Unlawful immigration detention is in itself irreparable harm. *See, e.g., Alejandro v. Olson*, No. 1:25-CV-02027, 2025 WL 2896348, at *8 (S.D. Ind. Oct. 11, 2025) (finding "protracted civil detention clearly threaten[ed] irreparable harm" to noncitizen denied bond hearing); *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) (holding that

plaintiffs demonstrated "irreparable harm by virtue of the fact that they are likely to be unconstitutionally detained for an indeterminate period of time"); *Matacua v. Frank*, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018) (granting a preliminary injunction for an immigration detainee and concluding that "loss of liberty . . . is perhaps the best example of irreparable harm"). For every day that Petitioner remains in detention, this irreparable harm compounds.

In addition to this, S.N.H. will suffer irreparable harm because of the severe emotional and physical toll of his detention. As a direct result of his detention, he is experiencing emotional and physical symptoms of anxiety and depression and has suicidal thoughts. *See* Favela Decl. ¶ 4, 15. He struggles with the constant fear of being physically attacked again, his inability to observe his religious practice, and the insufficient food leading to his weight loss. *Id.* ¶¶ 5, 6, 8, 14–15. These harms have compounded and, as S.N.H.'s detention inexplicably continues despite him having twice been ordered released on bond, his mental state worsens. *Id.* ¶¶16, 17, 19.

S.N.H.'s detention has also had a deep financial impact on his family. *Id.* ¶ 16; Pet Decl. ¶¶ 10, 69. Because he is unable to work, he can no longer support himself financially or help support his family in Pakistan, including his mother who relied on him for medications and procedures related to her Hepatitis C. Pet.'s Decl. ¶ 69. At just 32 years old, S.N.H. has also seen his dreams of pursuing a career, building a family, and fostering a community where he can practice his religion indefinitely crushed by his ongoing detention. Favela Decl. ¶¶ 4, 21; Pet Decl. ¶¶ 65–70.

S.N.H. will continue to suffer irreparable harm absent action by the Court.

III. The Remaining Factors Weigh in Favor of a TRO and/or Preliminary Injunction

The remaining factors—the possibility of harm to other interested parties and the public interest—also weigh in favor of granting a TRO and preliminary injunction directing S.N.H.'s immediate release. *First*, Respondents will not be harmed by releasing S.N.H. By granting IJs the authority to re-determine custody status unless mandatory detention applies, Congress clearly

indicated that their expertise should govern these custody decisions. The government therefore does not have an interest in detaining a noncitizen already ordered released on bond by an IJ. In S.N.H.'s case, the IJ twice found that he had met his burden to prove he was not a danger to the public and that any flight risks concerns would be mitigated by bond. The injuries to S.N.H. caused by his unlawful detention far outweigh any prejudice the government may claim to suffer in releasing him.

Second, the public interest is served by a TRO and preliminary injunction ordering S.N.H.'s release. "As a practical matter, if a plaintiff demonstrates both a likelihood of success on the merits and irreparable injury, it almost always will be the case that the public interest will favor the plaintiff." *Am. Tel. & Tel. Co. v. Winback & Conserve Program, Inc.*, 42 F.3d 1421, 1427 n.8 (3d Cir. 1994). S.N.H. shows a clear likelihood of success on the merits and will clearly suffer irreparable harm if the Court does not order his release. Moreover, preventing the ongoing deprivation of S.N.H.'s right to liberty serves the public interest. "In the absence of legitimate, countervailing concerns, the public interest clearly favors the protection of constitutional rights." *Council of Alt. Pol. Parties v. Hooks*, 121 F.3d 876, 883-84 (3d Cir. 1997); *see also Planned Parenthood of N.Y.C., Inc. v. U.S. Dep't of Health & Human Servs.*, 337 F. Supp. 3d 308, 343 (S.D.N.Y. 2018) ("It is evident that '[t]here is generally no public interest in the perpetuation of unlawful agency action.'") (quoting *League of Women Voters v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016)). The public has an interest in ensuring that the government respect fundamental due process principles so that no one can be subject to unlawful detention and that no one can be arbitrarily deprived of their liberty.

IV. The Proper Remedy is Petitioner's Immediate Release on the Conditions of the IJ's Bond Order

S.N.H.'s claims strike at the heart of the freedom that habeas corpus has historically been used to vindicate. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("It is clear, not only from the language of [28 U.S.C.] §§ 2241(c)(3) and 2254(a), but also from the common-law history of the writ, that the

essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody."); *see also Munaf v. Geren*, 553 U.S. 674, 693 (2008) ("The typical remedy [for unlawful detention] is, of course, release.") (citation omitted). Despite prevailing at two adversarial bond hearings, S.N.H. is being unilaterally detained by DHS because of baseless accusations that he could be associated with a terrorist group that the IJ has twice rejected. The proper remedy for Respondents' lawless detention of S.N.H. is to effectuate the IJ's well-reasoned custody determination. Here, pursuant to the IJ's bond determination, that means ordering Respondents to allow him to post bond for his immediate release. *See Carlos*, 2025 WL 2896156, at *7 (ordering the petitioner's immediate release upon satisfaction of the IJ's bond conditions); *J.M.P.*, 2025 WL 2984913, at *24–25 (same); *Aguilar Maldonado*, 2025 WL 2374411, at *16 (same); *Vazquez*, 2025 WL 2676082, at *23.

CONCLUSION

S.N.H. shows a clear likelihood of success on his claims that Respondents are detaining him in clear violation of the Due Process Clause and the INA. S.N.H. is also at increased risk of continuing to suffer irreparable harm absent immediate intervention by this Court. And both the balance of the equities and the public interest heavily weigh in his favor. S.N.H. therefore respectfully requests that the Court issue an order pursuant to Federal Rule of Civil Procedure 65 directing Respondents to allow S.N.H. to set bond for his immediate release.

Dated: December 1, 2025

Respectfully submitted,

/s/ Erica Rodarte
Erica Rodarte (PA Bar No. 332762)
BROOKLYN DEFENDER SERVICES
177 Livingston Street, 7th Floor
Brooklyn, NY 11201
Tel: 718-254-0700
Email: erodarte@bds.org