IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

Liban Ali Osman,

Petitioner

v.

Pamela Bondi, Attorney General; Kristi Noem, Secretary of Homeland Security; Todd M. Lyons, Acting Director of U.S. Immigration & Customs Enforcement; Marcos Charles, Acting Executive Associate Director for Enforcement and Removal Operations; Peter Berg, Field Office Director for Enforcement and Removal Operations; U.S. Immigration & Customs Enforcement; U.S. Department of Homeland Security; John Doe, Local Detention Authority.

Respondents.

Case No.: 25-CV-4560

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Respondents are detaining Petitioner, Liban Ali Osman [redacted] in violation of law.

2. Ali is a citizen of Somalia who was ordered removed from the United States on May 17, 2011. Ali was granted Deferral of removal under the Convention Against Torture ("DCAT") with respect to Somalia.

3. It is believed Ali waived appeal, rendering the removal order administratively final on May 17, 2011. *Id.*

4. At some point after he was ordered removed, Petitioner was placed on an Order of Supervision ("OOS") pursuant to 8 C.F.R. § 241.5 and 8 C.F.R. § 241.13 due to evidence in Petitioner's file that demonstrated there was no significant likelihood of his removal in the reasonably foreseeable future.

5. In releasing Ali on an OOS, ICE necessarily determined that he had demonstrated to ICE's satisfaction that his removal would not occur in the reasonably foreseeable future.

6. Ali's DCAT order constitutes an institutional barrier to his repatriation to Somalia.

7. Some conditions of Ali's OOS included maintaining contact with ICE and complying with all check-in requirements. Ali complied with all conditions of his OOS. Ali was arrested at a regularly scheduled check-in on December 8, 2025. This was the 20th check-in he had attended since being released on an OOS.

8. Petitioner was re-arrested in violation of law on December 8, 2025 at a scheduled check-in during a targeted and racially motivated immigration enforcement action (aimed at Somalians living in Minnesota) in the absence of any allegations that he had committed a crime and absent any new alternately valid basis for re-detention.

9. At the time of redetention, up through the present, there are no changed circumstances that justify Respondents' decision to revoke Ali's OOS and redetain Ali indefinitely.

10. Petitioner does not recall if he was detained for any length of time prior to December 8, 2025 after having received an administratively final order of removal. He is

therefore unable to plead that he has previously served more than six months in post-order civil detention. However, it is not necessary for Petitioner to wait six months to file this petition because the government redetained Petitioner in violation of the laws and constitution of the United States stemming from the absence of changed circumstances demonstrating a significant likelihood of removal in the reasonably foreseeable future. 8 C.F.R. § 241.13(i)(2)-(3).

11. If Respondents are in possession of information that demonstrates that Petitioner was previously detained by immigration authorities after having received a final order of removal, he incorporates that information by reference from Respondents' forthcoming evidentiary filings. Assuming *arguendo* Petitioner was previously detained in post-order civil confinement, he alleges that his prior period(s) of post-order civil detention must be aggregated with his current period of post-order civil detention for purposes of giving meaning to "the reasonably foreseeable future." Petitioner's post-order detention time continues to accumulate. With each passing day, the period that constitutes the "reasonably foreseeable future" shrinks.

12. Ali remains detained at this time. It is believed that he is housed at 1 Federal Drive, Fort Snelling, MN 55111 in the custody of ICE.

13. Since being detained in 2025, no government agent has expressed to Petitioner that a third-country removal is being attempted, much less expected to be successful.

14. Since being arrested on December 8, 2025, Petitioner has not received any Notice of Revocation of Release informing him of the reasons for his redetention. Similarly, Petitioner has not received a notice of Custody Determination or any

other written decision explaining what changed circumstances allegedly justified or currently justify his redetention. Petitioner has not received any sort of interview at which he can present evidence demonstrating there is no significant likelihood of his removal in the reasonably foreseeable future.

15. The government is not in possession of any credible or persuasive documents or evidence that Ali's removal is likely to occur in the reasonably foreseeable future. This was true at the time Ali was redetained, and it remains true at the time of this petition's filing.

16. It remains true at the time of this filing that Ali cannot be deported to his country of origin, Somalia, because of the grant of deferral of removal.

17. Respondents have not identified any third country willing to accept Ali, nor have Respondents obtained travel documents for Ali to be deported to any country.

18. The redetention of Ali serves no legitimate purpose. Instead, his detention is punitive. The redetention of Ali is designed to send a message to other individuals with final orders of removal (especially Somalians living in Minnesota) that they need to leave the United States or they will be jailed indefinitely and without any process.

19. Federal statutes and regulations require ICE to follow certain procedures before they redetained Petitioner. ICE failed to comply with these laws prior to redetaining Petitioner, thereby depriving Petitioner of his constitutional right to due process. These failures include:

    a. Petitioner's redetention has not been reviewed or authorized by any member

of the Headquarters Post-order Detention Unit ("HQPDU") or ERO HQ. *See* 8 C.F.R. §§ 241.13(b)(2), (c), (d), (e), (f), (g), (h)(1), (h)(4)(i), (j) (all restricting ability to perform certain functions relevant to this petition to the HQPDU); 8 C.F.R. § 241.4(c)(2)-(3), (d)(2), (e), (g)(2)-(3), (i)(1)-(3), (i)(7), (k)(2)-(4), (l)(3) (same).

b. Petitioner's redetention has not been reviewed or authorized by the Executive Associate Commissioner or District Director. *See* 8 C.F.R. §§ 241.4(1), (c)(2)-(4), (d)(1)-(2), (i)(1), (i)(6), (j)(1)-(4), (k)(2), (k)(4), (l)(2)-(3).

c. Petitioner has been redetained in the absence of changed circumstances capable of rebutting his prior showing of no significant likelihood of removal in the reasonably foreseeable future. *See* 8 C.F.R. § 241.13(i)(2); *Zadvydas v. Davis*, 533 U.S. 678, 699-700 (2001).

d. Petitioner has not received a written decision stating the reasons for his redetention. *See* 8 C.F.R. § 241.13(g); *Roble v. Bondi*, No. 25-cv-3196, 2025 WL 2443453 (D. Minn. Aug. 25, 2025); *Sarail A. v. Bondi*, No. 25-CV-2144, 2025 WL 2533673 (D. Minn. Sept. 3, 2025); *Momennia v. Bondi*, 2025 WL 3011896, at *6 (W.D. Okla. Oct. 15, 2025) ("ICE is required to issue a written decision. § 241.13(g)."); 8 C.F.R. § 241.4(h)(4), (k)(1)(i), (k)(2)(iii); 8 C.F.R. §§ 241.13(e)(1), (e)(2), (e)(6); *Pham v. Bondi*, No. 25-CV-1157-SLP, 2025 WL 3243870, at *1 n.2 and accompanying text (W.D. Okla. Nov. 20, 2025).

e. Petitioner has not received an individualized post-detention interview to

determine whether his OOS should be reinstated or to otherwise allow Petitioner to provide information that demonstrates there is no significant likelihood of his removal in the reasonably foreseeable future. *See* 8 C.F.R. § 241.13(i)(2)-(3).

20. To remedy his unlawful detention, Petitioner seeks declaratory and injunctive relief in the form of immediate release from detention.

21. Pending the adjudication of his Petition, Petitioner seeks an order restraining the Respondents from transferring him to a location where he cannot reasonably consult with counsel, such a location to be construed as any location outside of the geographic jurisdiction of the day-to- day operations of U.S. Immigration & Customs Enforcement's ("ICE") Fort Snelling Office of Enforcement and Removal Operations in the State of Minnesota.

22. Pending the adjudication of this Petition, Petitioner also respectfully requests that Respondents be ordered to provide seventy-two (72) hour notice of any movement of Petitioner.

23. Petitioner requests the same opportunity to be heard in a meaningful manner, at a meaningful time, and thus requests 72-hour notice prior to any removal or movement of him away from the State of Minnesota.

24. Petitioner requests an emergency preliminary order requiring Respondents to give Petitioner due process prior to removing him to an allegedly safe third country in the form of a full merits hearing for asylum, withholding of removal, and DCAT before an immigration judge relating to the proposed country of removal with a right

to an administrative appeal to the Board of Immigration Appeals, and further requests that this injunction be made permanent.

25. Petitioner requests an order compelling Respondents to release him pending the outcome of this petition.

26. In accordance with 28 U.S.C. § 1657, Petitioner requests that the district court issue an Order to Show Cause ("OSC") giving the government no more than 3 days to file evidence and argument in response to the OSC.

27. In accordance with 28 U.S.C. § 1657 and Rule 4 of the Rules Governing Section 2254 and 2255 Cases, Petitioner requests that rather than proceed via summonses, the Court order the Clerk of Courts to serve a copy of the petition and any subsequent Order on Respondents and any other appropriate individual involved.

28. Petitioner requests that the Court order his immediate release and return him to the conditions of his prior OOS.

JURISDICTION AND VENUE

29. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question), § 1361 (mandamus action), § 1651 (All Writs Act), and § 2241 (habeas corpus); Art. I, § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). This action further arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), specifically, 8 U.S.C. § 1231(a)(1)-(3) and 8 C.F.R. §§ 241.4, 241.13.

30. Because Ali seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this court.

31. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by DHS. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839–41 (2018); *Nielsen v. Preap*, 139 S. Ct. 954, 961–63 (2019); *Sopo v. U.S. Attorney Gen.*, 825 F.3d 1199, 1209-12 (11th Cir. 2016).

32. Venue is proper in this Court pursuant to 28 USC §§ 1391(b), (e)(1)(B), and 2241(d) because Ali is detained within this District. It is believed that he is currently detained at 1 Federal Drive, Fort Snelling, MN 55111. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because Respondents are operating in this district.

PARTIES

33. Petitioner Ali is a citizen of Somalia. His Alien Registration Number ("A number") is [redacted] Petitioner Ali is a resident of Minnesota. He is an alien with an administratively final removal order. Ali is currently in custody of the Immigration and Customs Enforcement ("ICE") in Fort Snelling, MN.

34. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice, which encompasses the BIA and the immigration judges through the Executive Office for Immigration Review. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with

Respondent Noem. Attorney General Bondi is a legal custodian of Ali.

35. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to § 103(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the relevant ICE Field Office, and is legally responsible for pursuing Ali's detention and removal. As such, Respondent Noem is a legal custodian of Ali.

36. Respondent Department of Homeland Security ("DHS") is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

37. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention.

38. Respondent Immigration and Customs Enforcement ("ICE") is the subagency within the Department of Homeland Security responsible for implementing and enforcing the Immigration & Nationality Act, including the detention of noncitizens.

39. Respondent Marcos Charles is the Acting Executive Associate Director for ICE Enforcement and Removal Operations ("ERO")

40. Respondent Peter Berg is being sued in his official capacity as the Field Office

Director for the Minnesota Field Office for ICE within DHS. In that capacity, Field Director Berg as supervisory authority over the ICE agents responsible for detaining Ali.

41. Respondent John Doe is being sued in his official capacity as the local detention authority, having authority over the operations of whatever local detention facility the Respondents plan to house Petitioner in after he is moved from Fort Snelling. Because Petitioner is or will be detained by John Doe, Respondent John Doe has or will have immediate day-to-day control over Petitioner.

EXHAUSTION

42. ICE asserts authority to jail Ali pursuant to the mandatory detention provisions of 8 U.S.C. § 1231(a)(1). No statutory requirement of exhaustion applies to Ali's challenge to the lawfulness of his detention. *See, e.g.*, *Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014) ("There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention."); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *11 (W.D. Wash. Apr. 24, 2025) (citing *Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 962 (N.D. Cal. 2019) ("this Court 'follows the vast majority of other cases which have waived exhaustion based on irreparable injury when an individual has been detained for months without a bond hearing, and where several additional months may pass before the BIA renders a decision on a pending appeal.'"); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *5 (D. Mass. July 7, 2025) ((citing *Portela-Gonzalez v. Sec'y of the Navy*, 109 F.3d 74, 77

(1st Cir. 1997) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 146 (1992)).

43. To the extent that prudential consideration may require exhaustion in some circumstances, Ali has exhausted all effective administrative remedies available to him as he has previously demonstrated to ICE's satisfaction that his removal is not substantially likely to occur in the reasonably foreseeable future. ICE has never rebutted this showing. Any further efforts would be futile.

44. Prudential exhaustion is not required when to do so would be futile or "the administrative body . . . has . . . predetermined the issue before it." *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992), *superseded by statute on other grounds as stated in Woodford v. Ngo*, 548 U.S. 81 (2006).

45. Prudential exhaustion is also not required in cases where "a particular plaintiff may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *McCarthy*, 503 U.S. at 147. Every day Ali is unlawfully detained causes him and his family irreparable harm. *Jarpa v. Mumford*, 211 F. Supp. 3d 706, 711 (D. Md. 2016) ("Here, continued loss of liberty without any individualized bail determination constitutes the kind of irreparable harm which forgives exhaustion."); *Matacua v. Frank*, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018) (explaining that "a loss of liberty" is "perhaps the best example of irreparable harm"); *Hamama v. Adducci*, 349 F. Supp. 3d 665, 701 (E.D. Mich. 2018) (holding that "detention has inflicted grave" and "irreparable harm" and describing the impact of prolonged detention on individuals and their families).

46. Prudential exhaustion is additionally not required in cases where the agency "lacks

the institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute." *McCarthy*, 503 U.S. at 147–48. Immigration agencies have no jurisdiction over constitutional challenges of the kind Ali raises here. *See, e.g., Matter of C-*, 20 I. & N. Dec. 529, 532 (BIA 1992) ("[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations."); *Matter of Akram*, 25 I. & N. Dec. 874, 880 (BIA 2012); *Matter of Valdovinos*, 18 I. & N. Dec. 343, 345 (BIA 1982); *Matter of Fuentes-Campos*, 21 I. & N. Dec. 905, 912 (BIA 1997); *Matter of U-M-*, 20 I. & N. Dec. 327 (BIA 1991).

47. Because requiring Ali to exhaust administrative remedies would be futile, would cause him irreparable harm, and the immigration agencies lack jurisdiction over the constitutional claims, this Court should not require exhaustion as a prudential matter.

48. In any event, Ali has indeed exhausted all remedies available to him.

49. ICE has denied Petitioner release because: (A) ICE is misinterpreting and otherwise failing to follow binding regulations; (B) ICE has failed to conduct the necessary review of whether there is a significant likelihood of removal in the reasonably foreseeable future; (C) ICE incorrectly believes Petitioner is responsible for reestablishing that removal is not substantially likely to occur in the reasonably foreseeable future, (D) ICE seeks to punish Petitioner for remaining in the United States after previously having been ordered removed; (E) ICE seeks to use Petitioner's detention to send a message to similarly situated persons who have not

yet been detained as a way to encourage those similarly situated people to immediately leave the United States to avoid Petitioner's fate; and (F) ICE seeks to punish Petitioner for being a Somalian living in Minnesota.

FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

50. Petitioner realleges and incorporates by reference paragraphs 1-49 of this Complaint.

51. On December 8, 2025, Ali was picked up and redetained by ICE. He has remained detained in Respondents' custody since that date.

52. Each time ICE or Petitioner have tried to obtain a travel document for Petitioner, they have failed or received no response.

53. Petitioner was never served with a Notice of Revocation of Release ("Notice") purporting to revoke his OOS, nor does he recall having been given any sort of informal interview to challenge the Notice.

54. Assuming *arguendo* that Petitioner may have been served with a Notice, revoking his OOS, the Notice has not been reviewed by Petitioner's counsel, but likely claims in a conclusory manner that "ICE has determined there is a significant likelihood of removal in the reasonably foreseeable future in your case" based on unidentified "changed circumstances."

55. The Notice, if any, does not provide a reasoned basis for believing that there is now a significant likelihood of removal in the reasonably foreseeable future.

56. The Notice, if any, does not provide Petitioner with sufficient information to be in

a position to rebut the factual allegations underlying the Notice at an informal interview.

57. The Notice, if any, does not provide enough information or detail to allow this Court to meaningfully review the relevant claims made in the Notice.

58. Petitioner does not understand the reason ICE now believes that there is a significant likelihood he will be removed in the reasonably foreseeable future.

59. The Notice, if any, does not allege that Petitioner has failed to comply with any of the terms of his OOS.

60. The Notice, if any, does not allege that Respondents have obtained a travel document allowing for Petitioner's immediate removal from the United States.

61. The Notice, if any, does not allege any new facts that might form an independent basis for taking Petitioner into custody.

62. At the time of Petitioner's arrest, up through the present, ICE has no information that could reasonably lead it to believe changed circumstances exist that justify redetention under 8 C.F.R. § 241.13(i)(2)-(3).

63. Petitioner satisfies the criteria for release at 8 C.F.R. § 241.4(e).

a. Travel documents for Petitioner are not available.

b. Removal of Petitioner is not practicable or in the public interest.

c. Petitioner is presently a non-violent person.

d. Petitioner is likely to remain nonviolent if released.

e. Petitioner is not likely to pose a threat to the community following release.

f. Petitioner is not likely to violate the conditions of release.

g. Petitioner does not pose a significant flight risk if released. He will report for deportation if a travel document is obtained.

64. The factors for consideration at 8 C.F.R. § 241.4(f) all favor releasing Petitioner.

a. Petitioner has no disciplinary infractions or incident reports received while incarcerated in Service custody.

b. Petitioner's long history of law abiding behavior and compliance with medication regimes since being released on an OOS demonstrates complete rehabilitation and no risk of recidivism.

c. No psychiatric or psychological reports indicate Petitioner's mental health poses a risk to any person.

d. Petitioner is not a flight risk. He attended a *scheduled check-in* on or around December 8, 2025. Prior to this, Petitioner had attended 19 separate check-in appointments. Petitioner will turn himself in for deportation if a travel document to a safe third country is obtained.

e. Petitioner's post-OOS conduct demonstrates that he has managed to adjust to life in a community, avoid engaging in acts of violence or criminal activity, does not pose a danger to the safety of anyone, and is unlikely to violate the conditions of his release from custody pending removal.

65. At the time of redetention, ICE had not yet begun the steps of having Petitioner apply for a travel document from detention for any allegedly safe third country.

66. Respondents maintain Petitioner is ineligible for release from custody.

67. On April 30, 2025, the Department of Homeland Security issued a press release entitled *100 Days of Fighting Fake News*.[1] In that document, DHS referenced civil immigration detention and the present administration's heavy reliance on civil detention to accomplish its political aims. Specifically, the document states:

> The reality is that **prison isn't supposed to be fun**. **It's a necessary measure to** protect society and **punish bad guys.** It is not meant to be comfortable. **What's more: prison can be avoided by self-deportation.** CBP Home makes it simple and easy. If you are a criminal alien and we have to deport you, you could end up in Guantanamo Bay or CECOT. **Leave now.**

Exhibit 1 (emphasis added). In addition, President Donald Trump has been repeatedly and recently referring to Somalians, on the whole, as fraudsters who all deserve to be deported, while also attacking a political enemy in Minnesota (Governor Walz).

68. Myriad courts around the country have granted habeas corpus petitions and/or enjoined the current administration's attempts to use civil detention punitively against noncitizens. *See, e.g.*, *Mohammed H. v. Trump*, No.: 25-CV-1576-JWB-DTS, --- F. Supp. 3d ---, 2025 WL 1692739, at *5 (D. Minn. June 17, 2025) ("Punishing Petitioner for protected speech or **using him as an example to intimidate other students into self-deportation is abusive and does not reflect legitimate immigration detention purposes**.") (emphasis added); *Mahdawi v. Trump*, 781 F. Supp. 3d 214, 231-32 (D. Vt. Apr. 30, 2021) (recognizing that immigration detention cannot be motivated by the desire to punish speech or to deter

[1] Available at: https://www.dhs.gov/news/2025/04/30/100-days-fighting-fake-news (attached as Exhibit 1).

others from speaking); *Ozturk*, 779 F. Supp. 3d 462, 493 ("So long as detention is motivated by those goals, and not a desire for punishment, the Court is generally required to defer to the political branches on the administration of the immigration system."); *see also Fong Yue Ting v. United States*, 149 U.S. 698, 730 (1893) ("The order of deportation is not a punishment"); *Roble v. Bondi*, No. 25-cv-3196, 2025 WL 2443453 (D. Minn. Aug. 25, 2025) (ordering release and characterizing the government's actions as "Kafkaesque"); *Sarail A. v. Bondi*, No. 25-CV-2144, 2025 WL 2533673 (D. Minn. Sept. 3, 2025) (ordering release); *Sonam T. v. Bondi*, No. 25-CV-2834, *slip op.*, ECF No. 19 (D. Minn. Sept. 16, 2025) (R&R recommending order of release); *see also Sonam T. v. Bondi*, No. 25-CV-2834, ECF No. 25 (D. Minn. Sept. 19, 2025) (ordering release); *Mehran S. v. Bondi*, No. 25-CV-3724, ECF No. 11 (D. Minn. Sept. 29, 2025) (ordering release); *Omar J. v. Bondi*, No. 25-CV-3719 (D. Minn. Sept. 29, 2025), ECF No. 11 (ordering release); *Yee S. v. Bondi*, No. 25-CV-02782-JMB-DLM (D. Minn. Oct. 9, 2025), ECF No. 13 (granting habeas petition 4 days after TRO and motion to expedite was filed); *Constantinovici v. Bondi*, No. 3:25-CV-02405-RBM-AHG (S.D. Cal. Oct. 10, 2025), ECF No. 15 (granting habeas petition less than one month after filing).

LEGAL FRAMEWORK

69. Petitioner's present detention is governed by 8 U.S.C. § 1231 and its implementing regulations at 8 C.F.R. pt. 241.

70. Section 1231 mandates detention "[d]uring the removal period." *Accord* 8 U.S.C. § 1231(a)(1)(A), (a)(2). However, the same sections also require the government to

actually remove the alien during this removal period. 8 U.S.C. § 1231(a)(1)(A).

71. The "removal period" is "90 days." 8 U.S.C. § 1231(a)(1)(A). Petitioner's "removal period" ended on August 15, 2011.

72. Detention past the removal period can be lawful in circumstances not presented here. *See* 8 U.S.C. § 1231(a)(1)(C), (a)(6).

73. After a noncitizen with a final order of removal has been detained, they may seek and obtain their release by demonstrating "there is no significant likelihood of removal to the country to which he or she was ordered removed, or to a third country, in the reasonably foreseeable future." 8 C.F.R. § 241.13(a).

74. Once a noncitizen is released on an OOS, they are subject to certain conditions of release. *See* 8 C.F.R. § 241.13(h)(1).

75. Redetention is permitted where it is alleged a noncitizen violated the conditions of release. *See* 8 C.F.R. § 241.13(h)(2), (i).

76. Regulations also permit the government to withdraw or otherwise revoke release under specific circumstances. *See* 8 C.F.R. § 241.13(h)(4). One permissible reason to revoke release occurs when, "on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). Once such a determination is made, the noncitizen must "be notified of the reasons for revocation of [their] release" and must be provided with "an initial informal interview... to afford the alien an opportunity to respond to the reasons for revocation stated in the

notification." 8 C.F.R. § 241.13(i)(3). "The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release." *Id.* If a noncitizen is not released following the informal interview, "the provisions of [8 C.F.R. § 241.4] shall govern the alien's continued detention pending removal." 8 C.F.R. § 241.13(i)(2). Once the provisions of § 241.4 take effect, it appears that the consequence is a total reset of the 90-day removal period under 8 U.S.C. § 1231(a). *See* 8 C.F.R. § 241.4(b)(4).

77. Under the Supreme Court's decision in *Zadvydas v. Davis*, a person subject to a final order of removal cannot, consistent with the Due Process Clause, be detained indefinitely pending removal. 533 U.S. 678, 699-700 (2001). *Zadvydas* established a temporal marker: post-final order of removal detention of six months or less is presumptively constitutional. Detention periods of less than six months can be unconstitutional if the presumption of reasonableness is rebutted.

78. Petitioner has rebutted any presumption of reasonableness that might apply to the facts of his case and the length of his present detention by demonstrating there is no reasonable likelihood of his removal in the reasonably foreseeable future and/or by demonstrating that the Respondents have violated binding federal regulations by detaining him in the absence of changed circumstances showing a significant likelihood of removal in the reasonably foreseeable future.

79. The 6-month *Zadvydas* clock does not reset upon every new iteration of detention. It is instead measured in the aggregate. At minimum, the 6-month *Zadvydas* clock

must be measured in the aggregate when the required prerequisites for redetention, as identified by 8 C.F.R. §§ 241.13(g) and (i)(2)-(3) (*inter alia*) are not satisfied prior to redetention.

80. *Zadvydas* also stated:

> After this 6-month period, once the alien 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. And for detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the "reasonably foreseeable future" conversely would have to shrink.**
>
> 533 U.S. at 701 (emphasis added).

81. *Zadvydas* further held that civil detention violates due process unless special, nonpunitive circumstances outweigh an individual's interest in avoiding restraint. 533 U.S. at 690 (**immigration detention must remain "nonpunitive in purpose and effect"**) (emphasis added).

REMEDY

82. Respondents' detention of Petitioner violates the Due Process Clause of the United States Constitution. Petitioner's ongoing detention violates the Fifth Amendment's guarantee that "[n]o person shall be . . . deprived of life, liberty, or property without due process of law." U.S. Const., amend. V.

83. Due Process requires that detention "bear [] a reasonable relation to the purpose for which the individual [was] committed." *Zadvydas, v. Davis*, 533 U.S. 678, 690 (2001) (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

84. Petitioner seeks immediate release to the extent that Respondents justify his

detention on the idea that Petitioner has failed to demonstrate that there is no significant likelihood of his removal in the reasonably foreseeable future; Respondents bear the burden of rebutting the prior showing made by Petitioner. 8 C.F.R. § 241.13(i)(2)-(3). Respondents have failed to meet this burden.

85. Petitioner seeks immediate release subject to the same conditions as his prior OOS.

86. Petitioner seeks immediate release to the extent that Respondents have violated his due process rights by failing to comply with 8 C.F.R. §§ 241.4 and/or 241.13.

87. Petitioner seeks immediate release to the extent that Respondents have redetained him for the purpose of punishing him for remaining in the United States despite his final order of removal.

88. Petitioner seeks immediate release to the extent that Respondents have redetained him for the purpose of sending a message to similarly situated individuals for the purpose of encouraging those similarly situated persons to leave the United States before they share Petitioner's fate.

89. Although neither the Constitution nor the federal habeas statutes delineate the necessary content of habeas relief, *I.N.S. v. St. Cyr*, 533 U.S. 289, 337 (2001) (Scalia, J., dissenting) ("A straightforward reading of [the Suspension Clause] discloses that it does not guarantee any content to . . . the writ of habeas corpus"), implicit in habeas jurisdiction is the power to order release. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) ("[T]he habeas court must have the power to order the conditional release of an individual unlawfully detained.").

90. The Supreme Court has noted that the typical remedy for unlawful detention is release from detention. *See, e.g.*, *Munaf v. Geren*, 553 U.S. 674 (2008) ("The typical remedy for [unlawful executive detention] is, of course, release."); *see also Wajda v. United States*, 64 F.3d 385, 389 (8th Cir. 1995) (stating the function of habeas relief under 28 U.S.C. § 2241 "is to obtain release from the duration or fact of present custody.").

91. That courts with habeas jurisdiction have the power to order outright release is justified by the fact that, "habeas corpus is, at its core, an equitable remedy," *Schlup v. Delo*, 513 U.S. 298, 319 (1995), and that as an equitable remedy, federal courts "[have] broad discretion in conditioning a judgment granting habeas relief [and are] authorized . . . to dispose of habeas corpus matters 'as law and justice require.'" *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987) (quoting 28 U.S.C. § 2243). An order of release falls under court's broad discretion to fashion relief. *See, e.g.*, *Jimenez v. Cronen*, 317 F. Supp. 3d 626, 636 (D. Mass. 2018) ("Habeas corpus is an equitable remedy. The court has the discretion to fashion relief that is fair in the circumstances, including to order an alien's release.").

92. Immediate release is an appropriate remedy in this case.

CAUSE OF ACTION

COUNT ONE: DECLARATORY RELIEF

93. Ali re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

94. Ali requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Ali is detained

pursuant to 8 U.S.C. § 1231(a)(1).

95. Ali requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Ali has previously demonstrated to ICE's satisfaction that there is no significant likelihood of his removal in the reasonably foreseeable future ("NSLRRFF").

96. Ali requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that ICE did not rebut Ali's prior NSLRRFF showing prior to redetaining him.

97. Ali requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that until ICE rebuts Ali's prior NSLRRFF showing, Ali may not be redetained.

COUNT TWO: VIOLATION OF THE IMMIGRATION & NATIONALITY ACT – 8 C.F.R. § 241.13(i)(2)-(3)

98. Ali re-alleges and incorporates by reference each allegation contained in ¶¶ 1-92 as if set forth fully herein.

99. Section 1231(a)(1)-(3) of Title 8 of the U.S. Code and 8 C.F.R. § 241.13(g), (i)(2)-(3) governs the detention, release, and redetention of aliens with final orders of removal.

100. Respondents have failed to comply with these provisions prior to redetaining Petitioner after Petitioner's release on an OOS.

101. No independent alternative basis supports Respondents' decision to redetain Petitioner.

102. Petitioner is therefore detained in violation of the INA.

COUNT THREE: VIOLATION OF THE FIFTH AMENDMENT

103. Ali re-alleges and incorporates by reference each allegation contained in ¶¶ 1-92 as

if set forth fully herein.

104. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals. It further requires that detention cease when a noncitizen has established to the government's satisfaction that there is no significant likelihood of removal in the reasonably foreseeable future after the noncitizen has been ordered removed.

105. Petitioner is no longer subject to mandatory custody under the Immigration & Nationality Act. Petitioner previously established to the government's satisfaction that there was no significant likelihood of removal in the reasonably foreseeable future. The government has not rebutted this with credible or probative evidence. The government does not presently have a travel document for Petitioner. There are no new circumstances that otherwise justify Petitioner's redetention. Respondents have violated Petitioner's Fifth Amendment guarantee of due process.

106. Respondents have also independently violated Petitioner's Fifth Amendment due process right by incarcerating him to punish him or to otherwise send a message to similarly situated individuals that they must leave the United States to avoid a similar fate.

COUNT FOUR: VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT – CONTRARY TO LAW AND ARBITRARY AND CAPRICIOUS AGENCY POLICY

107. Ali re-alleges and incorporates by reference each allegation contained in ¶¶ 1-92 as if set forth fully herein.

108. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

109. Respondents have failed to articulate any reasoned explanation for redetaining Petitioner.

110. Respondents have failed to articulate any reasoned explanation for deviating from or otherwise ignoring or failing to comply with the plain language of 8 C.F.R. § 241.13(g), (i)(2)-(3).

111. Respondents' decisions, which represent changes in the agencies' policies and positions, have considered factors that Congress did not intend to be considered, have entirely failed to consider important aspects of the problem, and have offered explanations for their decisions that run counter to the evidence before the agencies.

112. Respondents' decision to redetain Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

PRAYER FOR RELIEF

WHEREFORE, Petitioner, Liban Ali Osman, asks this Court for the following relief:

1. Assume jurisdiction over this matter.

2. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under 28 U.S.C. Ch. 153.

    a. Issue an Order to Show Cause ordering Respondents to state the true cause of Petitioner's detention within 3 days of the Court's issuance of the OSC.

b. If a magistrate is assigned then, pursuant to 28 U.S.C. § 1657, issue an Order shortening the time for making any objections to the magistrate's forthcoming Report & Recommendation from 14 days to 3 days.

c. Order the Clerk of Courts to promptly serve a copy of the petition and any subsequent Order on Respondents and any other appropriate individual involved pursuant Rule 4 of the Rules Governing Section 2254 and 2255 Cases.

3. Issue an emergency preliminary order restraining Respondents from attempting to move Petitioner from the State of Minnesota during the pendency of this Petition.

4. Issue an emergency preliminary order requiring Respondents to provide 72-hour notice of any intended movement of Petitioner.

5. Issue an emergency preliminary order requiring Respondents to give Petitioner due process prior to removing him to an allegedly safe third country in the form of a full merits hearing for asylum, withholding of removal, and DCAT before an immigration judge relating to the proposed country of removal with a right to an administrative appeal to the Board of Immigration Appeals.

6. Order Petitioner's immediate release subject to the conditions of his prior OOS.

7. Declare that Respondents' action is arbitrary and capricious.

8. Declare that Respondents failed to adhere to binding regulations and precedent.

9. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

10. Permanently enjoin Respondents from redetaining Petitioner under 8 C.F.R. §

241.13(i)(2)-(3) unless and until Respondents have obtained a travel document allowing for Respondent's removal from the United States.

11. Permanently enjoin Respondents from redetaining Petitioner under 8 C.F.R. § 241.13(i)(2)-(3) for more than three days after receiving a travel document.

12. Permanently enjoin Respondents from deporting Petitioner to an allegedly safe third country without first giving Petitioner due process in the form of a full merits hearing for asylum, withholding of removal, and DCAT before an immigration judge relating to the proposed country of removal with a right to an administrative appeal to the Board of Immigration Appeals.

13. Grant Petitioner reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A).

14. Grant all further relief this Court deems just and proper.

DATED: December 8, 2025

Respectfully submitted,

RATKOWSKI LAW PLLC

/s/ Nico Ratkowski

Nico Ratkowski (MN No.: 0400413)
332 Minnesota Street, Suite W1610
Saint Paul, MN 55101
P: (651) 755-5150
E: nico@ratkowskilaw.com

Attorney for Petitioner

Verification by Petitioner's Father Pursuant to 28 U.S.C. § 2242

I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding the Petitioner's detention status, are true and correct to the best of my knowledge and belief, and based on my conversation with Petitioner earlier today after he was detained by ICE. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that all of the factual allegations and statements in the Petition are true and correct to the best of my knowledge and belief.

/s/ Ali Osman
Ali Osman

Dated: December 8, 2025