UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Clive A. JENNINGS,

Petitioner

v.

Jason STREEVAL, Warden, Stewart Detention Center; Kristi NOEM, Secretary, U.S. Department of Homeland Security; Pamela BONDI, U.S. Attorney General; Todd LYONS, Acting Director of Immigration and Customs Enforcement; and Ladeon FRANCIS, Director, Atlanta Field Office, *in their official capacities*

Respondents

Civil Action No. _____

HEARING REQUESTED

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241

1. Petitioner Clive Anthony Jennings has been detained at the Stewart Detention Center in Lumpkin, Georgia, since April 2024. More than nineteen months later, he remains detained there, having never been transferred or released during that time span.

2. After initially being granted asylum by an Immigration Judge, the Board of Immigration Appeals (BIA) recently remanded the case back to an Immigration Judge. Mr. Jennings is now scheduled to have a Master Calendar hearing on December 23, 2025, and will have another individual hearing. This will prolong his detention, as Mr. Jennings will have another hearing, the Immigration Judge will render a new decision, and either party will be able to appeal back to the BIA.

3. Throughout Mr. Jennings's detention, he has had three custody redetermination hearings, in which an Immigration Judge denied bond each time. Further, despite a grant of asylum,

Immigration and Customs Enforcement (ICE) decided to not release him, notwithstanding its own policy. His most recent custody redetermination hearing was in June 2025. Since then, ICE, and the BIA in a precedential decision in September, now jurisdictionally preclude Mr. Jennings from being released on bond.

4. ICE has made conscientious decision to detain petitioner for more than nineteen months while knowing that Mr. Jennings is LGBTQ+. He has been detained indefinitely, with seemingly no end in sight.

5. Mr. Jennings respectfully requests that this Court grant him a Writ of Habeas Corpus, ordering Respondent to release him from custody.

JURISDICTION AND VENUE

6. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (declaratory relief), and art. I. sec. 9, cl. 2 of the U.S. Constitution (Suspension Clause), as Mr. Huang is presently in custody under or by color of the authority of the United States, and he challenges his custody as in violation of the Constitution, laws, or treaties of the United States.

7. The federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See, e.g.*, *Zadvydas*, 533 U.S. 678; *Demore v. Kim*, 538 U.S. 510 (2003). In *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018), the Supreme Court again upheld the federal courts' jurisdiction to review such claims.

8. Venue is proper in the Middle District of Georgia, Columbus Division, pursuant to 28 U.S.C. §§ 1391 and 2241(d) because Mr. Jennings is detained at the Stewart Detention Center in Lumpkin, Georgia.

PARTIES

9. Petitioner Mr. Jennings is a citizen and national of Jamaica who has a pending application for humanitarian protection. Mr. Jennings has been in ICE custody since on or about April 30, 2024, and is currently in removal proceedings.

10. Respondent Jason Streeval is sued in his official capacity as the Warden of Stewart Detention Center. Pursuant to a contract with ICE, Warden Streeval is responsible for the operation of the Stewart Detention Center, where Mr. Jennings is detained. Thus, Warden Streeval has control over Mr. Jennings as his immediate custodian.

11. Respondent Ladeon Francis is the Director of the Atlanta Field Office of ICE. As such, Ladeon Francis has control over Petitioner's detention.

12. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

13. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

14. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement, which is responsible for Petitioner's detention.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

15. "[W]here Congress does not say there is a jurisdictional bar, there is none." *Santiago-Lugo v. Warden*, 785 F.3d 467, 473 (11th Cir. 2015). "Congress knows how to limit

courts' subject matter jurisdiction to decide § 2241 petitions when it wishes to do so. The fact that it did not limit courts' subject matter jurisdiction to decide unexhausted § 2241 claims compels the conclusion that any failure of [the respondent] to exhaust administrative remedies is not a jurisdictional defect." *Id.* at 474.

16. In the absence of a statutorily mandated exhaustion requirement, whether to apply a common law exhaustion requirement is a decision subject to sound judicial discretion, considering congressional intent and any applicable statutory scheme. *See McCarthy v. Madigan*, 503 U.S. 140, 144 (1992); *see also Richardson v. Reno*, 162 F.3d 1338, 1374 (11th Cir. 1998); *Yahweh v. U.S. Parole Comm'n*, 158 F. Supp. 2d 1332, 1341 (S.D. Fla. 2001).

17. Here, there is no reason to require exhaustion as Mr. Jennings has no meaningful administrative remedy to request. Mr. Jennings's prolonged detention raises constitutional issues. "[A] petitioner need not exhaust [their] administrative remedies 'where the administrative remedy will not provide relief commensurate with the claim.'" *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir. 2001) (quoting *Haitian Refugee Ctr., Inc. v. Nelson*, 872 F.2d 1555, 1561 (11th Cir. 1989)). Thus, "[b]ecause the BIA does not have the power to decide constitutional claims—like the validity of a federal statute— . . . certain due process claims need not be administratively exhausted." *Warsame v. U.S. Att'y Gen.*, 796 F. App'x. 993, 1006 (11th Cir. 2020). *See also Haitian Refugee Ctr., Inc*, 872 F.2d at 1561, *aff'd sub nom. McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479 (1991) (exhaustion had "no bearing" where petitioner made a constitutional challenge to procedures adopted by the INS); *Matter of G-K-*, 26 I&N Dec. 88, 96-97 (BIA 2013) ("Neither the [BIA] nor the Immigration Judges have the authority to rule on the constitutionality of the statutes we administer, so we lack jurisdiction to address [challenges to their constitutionality].").

18. Thus, this Court has jurisdiction over Mr. Jennings's § 2241 action because exhaustion of administrative remedies is not required, and his petition raises constitutional issues that cannot be addressed administratively.

19. To the extent exhaustion is required, Mr. Jennings has had three custody redetermination hearings and appealed the first denial, and the BIA dismissed the appeal on October 11, 2024. Since that decision, Mr. Jennings had two custody redetermination hearings, once after the Immigration Judge granted asylum, and again after some of the pending charges against the petitioner were dismissed. Although not appealing either decision, the question would have been whether there was a material change under 8 CFR § 1003.19(e). However, since the question presented here is the constitutionality of prolonged detention, no appeal to the BIA was necessary.

STATEMENT OF FACTS

20. Mr. Jennings is a native and citizen of Jamaica. He entered the United States without inspection on or about November 20, 2023, and was released from DHS custody without having a Credible Fear Interview.

21. Mr. Jennings resided in New York and began to develop community ties. Mr. Jennings has a partner while having a pending immigration court case.

22. ICE detained Mr. Jennings in Greer, South Carolina, on or about April 30, 2024, when Mr. Jennings voluntarily went to an ICE office and asked for assistance in obtaining a document to fly back to New York. Since then, Mr. Jennings has remained in ICE custody. Before Mr. Jennings was in ICE custody, he was in removal proceedings with an immigration court case pending on a non-detained docket in New York.

23. ICE decided to detain Mr. Jennings due to criminal history. After detaining him,

ICE filed the form I-830, noncitizen change of address form, on May 7, 2024, and filed a motion to change venue to the Stewart Immigration Court, which an immigration judge granted the same day. Mr. Jennings then attended his first Master Calendar hearing at Stewart on May 16, 2024.

24. Mr. Jennings, while pro se in removal proceedings, timely filed an I-589 application for asylum, withholding of removal, and protection under the Convention Against Torture, on July 3, 2024, within the one-year deadline of entering the U.S. 8 CFR § 208.4(a)(2)(i)(A).

25. Mr. Jennings had a custody redetermination hearing on July 10, 2024, with an Immigration Judge at the Stewart Immigration Court. As part of the evidence submitted, Mr. Jennings provided a notarized declaration to explain his criminal history, and character letters, including from family. At the conclusion of the hearing, the Immigration Judge denied bond.

26. Mr. Jennings appealed the bond denial to the Board of Immigration Appeals (BIA), which dismissed the appeal on October 11, 2024.

27. While Mr. Jennings's appeal to the BIA with respect to the custody redetermination status was pending, his removal proceedings continued. Mr. Jennings had a Master Calendar hearing on or about July 23, 2024, and received more time to find an attorney for his case. He then obtained an attorney, who represented him pro bono and entered her appearance on or about August 9, 2024.

28. Mr. Jennings had an individual hearing that began on November 6, 2024. The hearing did not conclude that day, however, so the second part of the hearing was on November 13, 2024. At the end of the hearing, the Immigration Judge reserved a decision. The Immigration Judge then issued a written decision on February 11, 2025, granting asylum. As the decision was written, both sides had the right to appeal the decision to the BIA.

29. The Department of Homeland Security appealed the decision to the BIA on March

13, 2025, the deadline to do so. DHS decided to not follow its own policy and release Mr. Jennings as an asylee, albeit not with a final grant. The Immigration and Nationality Act and associated regulations provide for the parole of immigrants "whose continued detention is not in the public interest." The 2004 Directive 16004.1 entitled "Where an Immigration Judge has Granted Asylum and ICE has Appealed" clarifies that the detention of asylees is not in the public interest, even in cases where ICE has appealed the grant. The memorandum states, "[i]n general, it is ICE policy to favor release of aliens who have been granted protection relief by an immigration judge, absent exceptional concerns such as national security issues or danger to the community and absent any requirement under law to detain." *Id.* at 2. The policy further requires that the Field Office Director approve any decision to keep a noncitizen in custody despite being granted relief. *Id.* The decision to keep an asylee detained cannot be delegated beyond the Field Office Director, even in cases where ICE appealed the asylum grant. *Id.* at 3. Directive 16004.1 was reaffirmed in 2012 and later in 2021. *Id.* at 3-4.

30. On April 1, 2025, Mr. Jennings has another custody redetermination hearing, which is with the same Immigration Judge at the Stewart Immigration Court, who again denies bond. Throughout this time, Mr. Jennings remained detained as his appeal for the asylum grant was pending, including both sides filing briefs.

31. On June 4, 2025, Mr. Jennings had another custody redetermination hearing, in which the Immigration Judge again denied bond.

32. On November 24, 2025, more than eight months after filing the Notice of Appeal, the BIA sustains DHS's appeal, remands the case to the Stewart Immigration Court, and expresses no opinion on the merits of the case. Mr. Jennings now has a Master Calendar hearing scheduled for December 23, 2025, the first hearing since his case has been remanded to the Stewart

Immigration Court.

33. In total, Mr. Jennings has spent 597 days in ICE detention, more than one year and seven months, and does not have a final order of removal or a grant of humanitarian protection. As Mr. Jennings has a pending application for humanitarian protection with immigration court, he will more than likely have at least one hearing after his Master Calendar hearing on December 23, 2025. Additionally, similarly to what has already happened, there is no set deadline for the Immigration Judge to render a decision.

34. Since the Immigration Judge's most recent custody redetermination decision on June 4, 2025, Mr. Jennings has been detained for 197 days.

35. Mr. Jennings entered the U.S. without inspection. Although he has had custody redetermination hearings, DHS and EOIR would contend the court now lacks jurisdiction to grant bond. On September 5, 2025, the BIA decided that their new "plain language" reading of the statute confirmed DHS's position in its July 8th memo that all of those who entered the United States without inspection were applicants for admission, and, so, their detention was mandatory under § 1225(b)(2). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

LEGAL FRAMEWORK

36. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint— lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects." *Zadvydas*, 533 U.S. at 690.

37. The Due Process Clause requires that the deprivation of Mr. Jennings' liberty be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301-02 (1993) (holding that due process "forbids the government to infringe certain 'fundamental' liberty interests . . . unless the infringement is narrowly tailored to serve a compelling state

interest"). As the Supreme Court held in *Zadvydas*, indefinite detention raises a "serious constitutional problem" and runs afoul of the Due Process Clause. 533 U.S. at 690.

38. Mr. Jennings is detained but does not have a final order of removal. As he is pre-order, Mr. Jennings maintains he is under DHS's discretionary authority under 8 U.S.C. § 1226(a). Even if Mr. Jennings were in fact considered to be arriving, he would be detained under § 1225(a)(1).

39. While there is no bright-line rule as to the amount of time a petitioner needs to be detained before violating due process, courts are wary when detention is more than one year. *Clerveaux v. Searls*, 397 F. Supp. 3d 299, 307 (W.D.N.Y. 2019). In that case, the court determined that a petitioner's detention was prolonged when he was detained for more than seventeen months, and the pending appeal with the BIA took much longer than the average four-month period for most cases. *Id.* Here, the analysis is the same. Although undersigned counsel could not find current data about the length of time for the BIA to render a decision when a petitioner is detained non-binding sources suggest the appeal will take around six months. *See, e.g.,* ABA Commission on Immigration, *A Legal Guide For ICE Detainees: Appealing to the Board of Immigration Appeals,* last updated March 2020. The Immigration Judge issued a written decision nearly three months after the individual hearing concluded, DHS filed its Notice of Appeal on the last day permitted, and the BIA issued a decision more than eight months later. While DHS's appeal was pending, it did not release Mr. Jennings, even though policy guidance creates a presumption in favor of release of a noncitizen granted humanitarian protection, even if DHS appeals.

40. None of the facts listed above was in Mr. Jennings's control. When examining the cause of the duration of detention in a pre-order case, the court will look at factors caused by the petitioner, if any, and any other causes. *See, e.g., Doe v. Becerra,* 732 F. Supp. 3d 1071ha, 1083

(N.D. Cal. 2024). Here, after Mr. Jennings was detained, he attended his initial Master Calendar hearing pro se on May 16, 2024, in which he was part of a group that heard rights and advisals, and had one other Master Calendar hearing pro se on July 23, 2024, and received more time to find an attorney. In between those two dates, however, he filed an application for relief in immigration court and, through pro bono counsel, had a custody redetermination hearing. He then secured pro bono counsel for his removal proceedings case on August 9, 2024. Aside from invoking his statutory and constitutional right to obtain counsel, Mr. Jennings has not been the cause of any delay.

41. Several district courts have had no issue ordering a custody redetermination hearing for a respondent in ICE custody as a result of a habeas petition, despite a respondent previously having at least one custody redetermination hearing. *See, e.g., Davis v. Garland*, 708 F. Supp. 3d 283, 290 (W.D.N.Y. 2023). In that case, the petitioner, also a native and citizen of Jamaica, previously had two custody redetermination hearings. *Id.* at 287. However, the court ordered a custody redetermination hearing in which the government bore the burden of showing the petitioner was a danger to the community or flight risk by clear and convincing evidence because the Immigration Judge failed to consider whether any other conditions of release less restrictive would suffice. *Id.*

42. Here, the same scenario applies. The Immigration Judge denied bond on July 10, 2024, finding that Mr. Jennings was both a danger to the community and flight risk. The BIA then dismissed the appeal, finding that Mr. Jennings was a danger to the community, thus not needing to address the second issue. *See, e.g., Matter of Siniauskas*, 27 I&N Dec. 207 (BIA 2018). In the Immigration Judge's several written decisions and in the BIA decision, there is no mention as to whether conditions of release, other than monetary, would ensure that Mr. Jennings would not

commit a crime and attend immigration court. Mr. Jennings raised this argument in his initial motion for custody redetermination (Motion for Custody Redetermination, July 3, 2024, at p. 19).

43. In another case involving prolonged detention for a detained noncitizen, the court granted conditional release. *Mathon v. Searls*, 623 F. Supp. 3d 203, 219 (W.D.N.Y. 2022). Acknowledging the court had to weigh the risk and consider the petitioner's criminal history, the court noted the petitioner was detained in ICE custody for four years, his removal proceedings "are nowhere near completion," and that he presented a release plan that was different than previous requests for release. *Id.*

44. Finally, courts have examined who should bear the burden of proof in a custody redetermination hearing as a result of prolonged detention under the *Matthews v. Eldridge* balancing test. See, e.g., *Hulke v. Schmidt,* 572 F. Supp. 3d 593, 599 (E.D. Wis. 2021). The court had no issue determining that the government should have the burden, as the petitioner is detained, and that both the government and public at large benefit if a petitioner is found to be a danger to the community or flight risk, as opposed to the petitioner having to show that he is not a danger or flight risk. *Id.*

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

VIOLATION OF THE DUE PROCESS CLAUSE

OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

45. Mr. Jennings re-alleges and incorporates by reference each and every allegation contained above.

46. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. "Freedom from

imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690.

47. Prolonged civil detention also violates procedural due process unless it is accompanied by strong procedural protections to guard against the erroneous deprivation of liberty. *Id.* at 690-91; *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992); *Kansas v. Hendricks*, 521 U.S. 346, 364-69 (1997); *United States v. Salerno*, 481 U.S. 739, 750-752 (1987).

48. Although Mr. Jennings has had three custody redetermination hearings and appealed the first denial, he had the burden of showing he was not a danger to the community, a threat to national security, and flight risk. *Matter of R-A-V-P-*, 27 I&N Dec. 803, 804 (BIA 2020). At the time of the initial bond denial dismissal of the appeal from the BIA, Mr. Jennings was detained for 71 and 164 days, respectively. Since then, Mr. Jennings has been detained for more than a year, including after initially being granted asylum by an Immigration Judge. During the two subsequent custody redetermination hearings, Mr. Jennings still had the burden of showing a material change of circumstances, along with the fact that he is neither a flight risk or danger to the community. 8 C.F.R. § 1003.19(e). Despite the fact that some of the criminal charges against Mr. Jennings have been dismissed, including three in New York, the Immigration Judge found that the change was not material enough to impact the original decision.

49. Thus, Mr. Jennings's detention violates both substantive and procedural due process.

50. As a result, Mr. Jennings is entitled to immediate release from custody.

PRAYER FOR RELIEF

WHEREFORE Petitioner requests that the Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Order Respondents to show cause why a writ of habeas corpus should not be granted "within three days unless for good cause additional time, not exceeding twenty days, is allowed," that Petitioner be afforded one week to file a response to Respondents' return, and set a hearing on this Petition within one week after Petitioner's response is due, pursuant to 28 U.S.C. § 2243;

c. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;

d. Determine that Mr. Jennings is detained under DHS's discretionary detention authority under 8 U.S.C. § 1226(a) and is statutorily eligible for a bond;

e. Grant a writ of habeas corpus ordering Respondents to immediately release Mr. Jennings from their custody;

f. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Mr. Jennings;

g. Declare that Mr. Jennings's detention violates the Due Process Clause of the Fifth Amendment;

h. Enjoin Respondents from transferring Mr. Jennings outside of this judicial district pending litigation of this matter;

i. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412;

j. Order a custody redetermination hearing in which the DHS has the burden to show by clear and convincing evidence that Mr. Jennings is a danger to the community or a flight risk; and

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

Respectfully submitted this 20th day of December, 2025.

/s/ Matthew O. Boles
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Verification

I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

/s/ Matthew O. Boles

Date: December 20, 2025