

asserts that his re-arrest and continued detention by Respondents violate the Constitution, statutes, and treaties of the United States.

JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (federal employee mandamus action); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause); 5 U.S.C. § 702 (waiver of sovereign immunity); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

3. Federal question jurisdiction exists because Petitioner seeks to challenge his custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

4. 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 the Department of Homeland Security (“DHS”). *Denmore v. Kim*, 538 U.S. 510 516-17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018); and *Nielsen v. Preap*, 139 S. Ct. 954, 961-63 (2019).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Mr. Hussien was detained and resides within the District of Vermont.

6. 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

7. Petitioner is a citizen of Somalia and a resident of Burlington, Chittenden County, Vermont, who was recently released from custody at the Northwest Correctional Facility in

St. Albans, Vermont. As of this writing, Petitioner remains under the direct control and supervision of the federal respondents.

8. 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. 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 Mr. Hussien.

9. Respondent Markwayne Mullin² is being sued in his official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Mullin is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), supervises the Boston ICE Field Office, and is legally responsible for pursuing Mr. Hussien's supervision, detention and removal. As such, Respondent Mullin is a legal custodian of Mr. Hussien.

10. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of ICE. He administers and enforces the immigration laws of the United States, routinely conducts business in the District of Vermont, is legally responsible for pursuing efforts to remove the Petitioner, and as such is the custodian of the Petitioner. At all times relevant hereto, Respondent Lyons's address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington DC 20536-5900.

11. Respondent Patricia Hyde is being sued in her official capacity as the Acting Field Office Director for the Boston Field Office for ICE within DHS. In that capacity, Field

² On March 5, 2026, President Donald J. Trump fired former DHS Secretary Kristi Noem and nominated Markwayne Mullin as her replacement. The case heading in this petition has been amended to reflect this change.

Director Hyde has supervisory authority over the ICE agents responsible for detaining and supervising Mr. Hussien. The address for the Boston Field Office is 1000 District Avenue, Burlington, MA 01803.

~~12. Respondent Superintendent Greg Hale is being sued in his official capacity as the Superintendent responsible for the Northwest State Correctional Center. Because Petitioner is detained in the Northwest Correctional Center, Superintendent Hale has immediate day-to-day control over Petitioner.³~~

EXHAUSTION OF ADMINISTRATIVE REMEDIES

13. There is no statutory requirement to exhaust administrative remedies where a noncitizen challenges the lawfulness of detention. *Pujalt-Leon v. Holder*, 934 F. Supp. 2d 759, 773 (M.D. Pa. 2013), including detention under 28 U.S.C. § 2241. *Kamara v. Farquharson*, 2 F. Supp. 2d 81 (D. Mass. 1998). Where, as here, the agency has predetermined a dispositive issue, no further action is necessary. *Woodall v. Fed. Bureau of Prisons*, 432 F.3d 235, 239 n.2 (3d Cir. 2005).

STATEMENT OF THE FACTS AND PROCEDURAL HISTORY

Background

14. Petitioner is a Legal Permanent Resident of the United States, residing in Vermont and a citizen of Somalia. He has lived in the United States since 2004.

³ Superintendent Hale is no longer a direct custodian of Mr. Hussien following his release on bail on February 4, 2026. The case heading in this petition has been amended to reflect this change.

15. Mr. Hussien was admitted to the United States as a refugee on August 27, 2004.⁴ He was granted Legal Permanent Resident (LPR) status on March 22, 2007 and became a naturalized United States Citizen on October 28, 2011.

16. On September 11, 2019 Mr. Hussien was convicted of Personage of Another in a Naturalization Proceeding, Procuring Naturalization Contrary to Law, and Making a False Statement on a Passport Application. Although these charges carry a combined maximum prison sentence of 25 years, with a sentencing guideline of 10-16 months, Mr. Hussien was only sentenced to 2 months imprisonment for each count served concurrently and 3 years of supervised release. The drug testing requirement was waived during his supervision, as the court determined that he did not pose a risk of drug abuse. His citizenship was revoked as a result of his conviction. Mr. Hussien surrendered for his sentence on November 13, 2019. Mr. Hussien successfully completed all requirements of his sentence and this matter is completed and closed.

17. Mr. Hussien was released from federal criminal custody on January 9, 2020. ICE detained him directly from the federal prison in Danbury, Connecticut, the same date. Notice to Appear, Exh. A to Federal Resp't Opp. to Pet. for Habeas Corpus and Response to Order to Show Cause ("Opp"), ECF No. 8.

Transfer to Immigration Custody and Initial Removal Proceedings

18. Mr. Hussien's removal proceedings were initiated before the Boston Immigration Court upon the filing of the Notice to Appear with that court on January 16, 2020.

⁴ This information is corroborated through the previously submitted verified petition prepared on behalf of Mr. Hussien by his "Next Friend." Verified Pet. for Writ of Habeas Corpus, ECF No. 1; Verified Pet. for Writ of Habeas Corpus Supplemental Documents ("Supp. Docs."), ECF No. 7.

19. On January 30, 2020, Mr. Hussien, through prior counsel Joseph Molinas Flynn, requested a custody redetermination hearing. Order of the Immigration Judge, Exh. B to Opp., ECF No. 8. DHS objected to Mr. Hussien's eligibility for bond, stating that Mr. Hussien was subject to mandatory detention pursuant to 8 U.S.C. § 1226(c)(1)(B). Mr. Hussien, through counsel, challenged this determination under *Matter of Joseph*, 22 I&N Dec. 799, 800 (BIA 1999). Immigration Judge ("IJ") Todd Masters deemed Mr. Hussien subject to mandatory detention under 8 U.S.C. § 1226(c)(1)(B) on March 12, 2020. *Id.* Following IJ Masters' determination relating to bond eligibility, Mr. Hussien remained detained and was subsequently scheduled for a detained hearing before the Boston Immigration Court on April 14, 2020. Exh. A, Notice of Hearing.

Petition for Writ of Habeas Corpus and Initial Release from Immigration Custody

20. On March 27, 2020, Mr. Hussien was listed as an original class member in an emergency petition for writ of habeas corpus filed in the U.S. District Court of Massachusetts, seeking immediate release from immigration detention at the Bristol County House of Corrections due to the threat posed by the COVID-19 pandemic. Pet. For Writ of Habeas Corpus, No. 1:20-CV-10617, ECF No. 1, Exh. A at 10 (D. Mass. March 27, 2020); *Savino, et al. v. Souza*, No. 1:20-CV-10617, (D. Mass. May 13, 2021).

21. On April 8, 2020, District Judge William G. Young granted the motion for class certification. Memorandum and Order, No. 1:20-CV-10617, ECF No. 64 (D. Mass. April 8, 2020). On April 9, 2020, Mr. Hussien was released on bail during the pendency of the habeas case subject to conditions. Electronic Order, No. 1:20-CV-10617, ECF No. 73 (D. Mass. April 9, 2020); Order of Supervision, Exh. B to Verified Petition for Writ of Habeas Corpus Supplemental Documents ("Supp. Docs."), ECF No. 7, 1-5. Mr. Hussien complied with all of

the terms and conditions of his supervised release, including electronic monitoring and in person check-ins with ICE every 3 months. *Id.*

22. On April 8th, 2021, Mr. Hussien’s release was finalized pursuant to a settlement agreement in *Savino, et al. v. Souza*. Exh. B at 11, Settlement Agreement in No. 1:20-cv-10617, ECF No. 398 (D. Mass. April 6, 2021) “Settlement Agreement”). The settlement agreement removed from bail conditions any curfew or home confinement restrictions and GPS electronic monitoring. Further, the agreement stipulated “ICE shall not arrest or re-detain any §§ (1)(a) or (c) Class Member but for Good Cause,” which was limited to “a material violation of the terms and conditions of a §§ (1)(a) or (c) Class Member’s order of recognizance or supervision.” *Id.* at 10. Further, “[a]bsent an emergency involving a risk of harm to others by a released §§ (1)(a) or (c) Class Member, any effort to re-detain a §§ (1)(a) or (c) Class Member for Good Cause will be subject to Field Office Director (“FOD”) or Special Agent in Charge (“SAC”) advance approval.” *Id.* The agreement carved out an exception from re-arrest or re-detention for executing a final order of removal, “but only after good faith consideration of the §§ (1)(a) or (c) Class Member’s individual circumstances and only after ICE has determined whether the option of self-removal and/or prior notice (as opposed to re-arrest) is appropriate for that individual §§ (1)(a) or (c) Class Member.” *Id.* at 11. Pursuant to the agreement, protections against rearrest or modification of terms and conditions of release were to remain in effect for one year from the date of execution of the agreement – April 6, 2022. *Id.* at 11.

Community Ties and Compliance on Release from Immigration Custody

23. Since his release on April 9, 2020, Mr. Hussien has dutifully met all conditions and requirements of his release pursuant to his orders of supervision and the conditions

imposed by the settlement agreement. He has appeared for all required appointments with ICE, immigration court hearings, and has not been arrested or charged with any criminal offenses. Mr. Hussien remained in compliance with his order of supervision up to and including the date of his re-arrest by ICE on January 1, 2026 – a period of nearly six years after his initial release and nearly four years from the date that the protections against re-detention in the settlement agreement lapsed.

24. Mr. Hussien applied for a Legal Permanent Resident replacement card in 2021, which was issued in 2023, valid through November 15, 2033.

25. Mr. Hussien, through previous counsel, applied for relief from detention before the immigration court. Prior to his arrest he was scheduled for a final merits hearing in support of his claims on April 16, 2027, at 10:30 AM. Pet. For Writ of Habeas Corpus (“Pet.”), ECF No. 1, Exh. C.

26. Mr. Hussien owns a company called Freedom Cab and works there full-time as a cab driver.

27. Mr. Hussien lives with his wife, Runbila Aden, and five children in Burlington, Vermont. His children range in age from 3 to 17 and were all born in the United States. His wife is a naturalized United States citizen. Mr. Hussien and his wife both work, yet his family depends on his income for financial stability. He enjoys broad community support in Vermont, concentrated around Chittenden County.

28. Mr. Hussien has an extensive network of friends, many of whom are culturally considered family. He is an active and beloved leader and small business owner in his community. Mr. Hussien is a member of his local mosque and frequently volunteers there.

29. Mr. Hussien is a board member of the non-profit United Immigrant and Refugee Communities of Vermont, Inc., whose mission is to provide opportunities and resources for immigrant and refugee communities in Vermont.

Mr. Hussien's Warrantless Arrest and Re-Detention

30. On January 1, 2026, at approximately 11:30am EST, Mr. Hussien was in his vehicle in the dedicated taxi line at the Burlington, VT International Airport, working, waiting for passengers when he was approached by agents of Respondent ICE.

31. Mr. Hussien complied with all requests from agents at the scene, displayed his validly issued permanent resident card, but was taken into custody by the agents. During his arrest, Mr. Hussien was never told why he was being detained, nor was he ever provided any warrant for arrest, other documents, or any justification for his detention.⁵ No determination relative to Mr. Hussien's risk of flight from the scene was made.⁶ Mr. Hussien, upon information and belief, was taken to the ICE Enforcement and Removal Operations ("ERO") office in St. Albans, processed, and placed in custody at NWSCF.

32. This arrest is part of continued escalation of ICE activity throughout the country, which had recently included "Operation Patriot 2.0" in Massachusetts, and "Operation Broken Trust" in Connecticut. This regional escalation has involved hundreds of masked,

⁵ Petitioner acknowledges that Respondents have filed into evidence Forms I-200, Warrant for Arrest of Alien, and I-286, Notice of Custody Determination. Forms I-200 and I-286, Exh. C to Federal Resp't Opp. to Pet. for Habeas Corpus and Response to Order to Show Cause ("Opp"), ECF No. 8. These forms make clear that they were not served upon Petitioner at the time of the arrest. Form I-200 shows a service location of "Saint Albans, Vermont." Further, the Form I-286 shows a time of custody determination of "01/01/2026 2:07 PM."

⁶ Local newspaper *Seven Days* posted CCTV footage of the arrest of Mr. Hussien. At approximately the 0:50 second mark of the video the footage demonstrates vehicles surrounding Mr. Hussien's van, eliminating the possibility of Mr. Hussien's flight. *SevenDaysVT, Arrest of Hussien Noor Hussien outside of Burlington International Airport*, YouTube (Jan. 29, 2026), available at <https://www.youtube.com/watch?v=DuOvkhkVA5Q>.

unidentified individuals in unmarked vehicles (many with illegally covered or mismatched license plates) holding themselves out as ICE agents but largely refusing to identify themselves by name or to present warrants, physically assaulting residents, breaking car windows with passengers inside, hitting passersby with vehicles, and using private data to identify and take as many immigrants as possible into custody regardless of the constitutionality of their actions. *See, e.g., California v. U.S. Dep't of Health and Human Serv. 's*, No. 3:25CV05536 (N.D. Cal. Aug. 12, 2025).

33. Mr. Hussien's arrest also coincided with ICE enforcement operations then underway in Minnesota, "Operation Metro Surge,"⁷ including Respondent ICE publicly linking Mr. Hussien's arrest to a vocal opponent of the Somalian community in Minnesota. Following Mr. Hussien's arrest, ICE publicly posted about the arrest on social media and tagged "@NickShirleyy," a widely known YouTube personality and political commentator, known principally for his coverage of alleged fraud in Minnesota that focused primarily on the Somalian communities of Minneapolis and St. Paul, Minnesota.⁸ Supp. Docs. Exh. F, ECF No. 7. The social media post by ICE ERO Boston states:

On Jan. 1, ICE Boston arrested Hussein Hussein, a criminal alien from Somalia. Hussein was previously convicted for naturalization and passport fraud, resulting in his denaturalization. **Hussein will be held in ICE custody pending removal proceedings. @nickshirleyy**

Id. (emphasis added). Respondent's social media post makes no mention of the fact that Mr. Hussien has been under an order of supervision for nearly six years – five of which occurred following a settlement agreement which Respondents were a party to, has never violated

⁷ Alyssa Chen, *A Timeline of Operation Metro Surge*, Minnesota Reformer (Feb. 20, 2026), available at <https://minnesotareformer.com/2026/02/20/a-chronology-of-operation-metro-surge/>

⁸ Nick Shirley, *I Investigated Minnesota's Billion Dollar Fraud Scandal*, YouTube (Dec. 26, 2025), available at <https://www.youtube.com/watch?v=r8AulCA1aOQ>.

that order of supervision, has appeared for all immigration court hearings, and that he had been previously scheduled for an immigration court hearing on April 16, 2027 at 10:30 AM at the time of his arrest.

Post-Arrest Immigration Removal Proceedings

34. Prior to his detention Mr. Hussien was represented by immigration attorney Joseph Molina Flynn, Esq. On October 7th, 2025, the Rhode Island Supreme Court granted an emergency petition to suspend his license to practice law due to ongoing state and federal investigations of professional misconduct, including “[taking] legal fees from clients, perform[ing] little or no services, neglect[ing] client files, misappropriat[ing] client funds, [and] co-mingl[ing] client funds.” Exh. C, RI Supreme Court Order No. 2025-207-M.P.

35. Since the suspension of Mr. Flynn’s license in October of 2025, Mr. Hussien has been representing himself pro se while he sought alternate counsel. He and undersigned counsel have been unable to contact prior attorney Mr. Molina Flynn relating to Mr. Hussien’s pending immigration matters.

36. Since Mr. Hussien’s re-detention he has appeared for several detained master calendar hearings before the Chelmsford Immigration Court accompanied remotely by undersigned counsel. Undersigned counsel has sought records necessary to competently develop Mr. Hussien’s relief from removal and requested additional time from the immigration court to do so. Mr. Hussien’s detained individual merits hearing, scheduled for March 4, 2026, was recently continued to move the case back to the non-detained docket and provide undersigned counsel additional time to prepare Mr. Hussien’s defense. Exh. D, Order Granting Motion to Continue. Currently Mr. Hussien’s case is pending a new hearing date before the Chelmsford Immigration Court.

37. Mr. Hussien has been living lawfully and peacefully in his home state of Vermont. Mr. Hussien has deep ties to his community and has diligently appeared for all required appointments with DHS. Mr. Hussien respectfully seeks the opportunity to continue following the legal processes set up by Congress and DHS for immigrants resolving status in this country.

STANDARD OF LAW

38. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The “Great Writ” has been referred to by US Courts as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

LEGAL ARGUMENT

39. Respondents’ actions revoking Mr. Hussien’s order of supervision and re-detaining him plainly violate the most fundamental requirements of due process: notice and a meaningful opportunity to be heard. And in arresting and re-detaining Mr. Hussien without cause, Respondents committed numerous statutory and regulatory violations rendering that revocation and subsequent arrest patently illegal.

40. In line with other courts within this circuit and across the country, this Court should find that Respondents’ revocation of his order of supervision and subsequent re-detention violated Mr. Hussien’s constitutional, statutory, and regulatory rights, and order his immediate release. The following sections explain that: (1) Mr. Hussien’s due process rights were violated upon re-detention because of the process required to re-detain; (2) mandatory detention is not absolute, and just like violations for prolonged detention, individuals like Mr.

Hussien subject to 1226(c) detention still have protected liberty interests in release; (3) Respondents' actions in this instance and through policies of mass, arbitrary arrests are arbitrary and capricious under the Administrative Procedure Act (APA); and (4) Respondents' warrantless arrest of Mr. Hussien violates the Fourth Amendment and 8 U.S.C. § 1357(a)(2).

I. **Petitioner Has a Protected Liberty Interest in Remaining Out of Custody under the Due Process Clause of the Fifth Amendment**

41. Under the Due Process Clause, Respondents violated Mr. Hussien's liberty interest—including to remain free from arrest and detention—when ICE arrested and detained Mr. Hussien on January 1, 2026, without any notice, pre-detention hearing, or order, and absent any material change in Mr. Hussien's circumstances.

42. "In our society liberty is the norm," and detention is the "carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

43. Mr. Hussien has due process rights as a resident of the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *see also Gabrius v. Dep't of Homeland Sec.*, No. 24-22680-CIV, 2024 U.S. Dist. LEXIS 224171, at *11 (S.D. Fla. Sep. 9, 2024). "[T]he Due Process Clause applies to all 'persons' within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Regardless of immigration status, individuals facing detention are guaranteed due process. *Mathews v. Diaz*, 426 U.S. 67, 77 (1976) ("There are literally millions of [noncitizens] within the jurisdiction of the United States. The Fifth Amendment,

as well as the Fourteenth Amendment, protects every one of these persons from deprivation of life, liberty, or property without due process of law.”); *Plyler v. Doe*, 457 U.S. 202, 210 (1982) (rejecting the argument that non-citizens are not “persons within the jurisdiction” of a state under the meaning of the Fourteenth Amendment); *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (“But once [a noncitizen] enters the country, the legal circumstance changes, for the Due Process Clause applies to all “persons” within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.”); *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) (“[T]he government’s discretion to incarcerate non-citizens is always constrained by the requirements of due process.”); *Reno v. Flores*, 507 U.S. 292, 306 (1993).

44. Individuals released on bond or supervised release are guaranteed Due Process. *See Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (“[T]he liberty of a parolee, although indeterminate, includes many of the core values of unqualified liberty and its termination inflicts a ‘grievous loss’ on the parolee and often on others.”); *Hurd v. D.C., Gov’t*, 864 F.3d 671, 683 (D.C. Cir. 2017) (concluding that re-detention following pre-parole conditional supervision requires a pre-deprivation hearing); *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA 1981) (“[W]here a previous bond determination has been made by an immigration judge, no change should be made by [DHS] absent a change of circumstance.”). This rationale equally applies to the revocation of conditions of release and re-detention by ICE. *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)) (“It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings.”). “[E]ven when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, *after* that individual is *released from*

custody she has a protected liberty interest in *remaining out of custody.*” *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025) (emphasis added). Such liberty is protected by the Fifth Amendment because, “although indeterminate, [it] includes many of the core values of unqualified liberty,” such as the ability to be gainfully employed and live with family, “and its termination inflicts a ‘grievous loss’ on the [released individual] and often on others.” *Id.*

45. Here, Mr. Hussien has a “protectable liberty interest in his conditional release,” which required due process before re-detention. *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5517277, *2 (N.D. Cal. Sept. 14, 2020). Prior to his re-arrest on January 1, 2026, Mr. Hussien had been successfully complying with conditions of release from immigration custody pursuant to an order of supervision since April 8, 2020. Following a settlement agreement signed April 6, 2021 – which Respondents were a party to – DHS agreed to additional protections against re-detention. *See* Exh. B, Settlement Agreement. Despite the protections of the settlement agreement ending on April 6, 2022, DHS extended the order of supervision and maintained constructive custody of Mr. Hussien under that order of supervision for nearly four additional years. From April 2022 to January 2026, Respondents permitted Petitioner to completely reintegrate into his community under the same order of supervision which they agreed to in April of 2021.

46. Mr. Hussien complied with his order of supervision, and since April 2020 Mr. Hussien has integrated into his community outside of custodial detention. *See Ortega v. Bonnar*, 415 F.Supp.3d 963, 970 (N.D. Cal., 2019) (granting habeas relief to remain out of custody and recognizing liberty interest of remaining on bond). Mr. Hussien reasonably relied on—and had a vested interest in—his liberty to live free from arrest and detainment,

and in accordance with the precedent that DHS set by allowing him to return to his community, family, and professional roles since April 2020.

47. Further, DHS, through their course of dealing, consented to Mr. Hussien establishing a reliance interest in his liberty through which Mr. Hussien freely developed community ties, worked, cared for his family, and participated in his community while under his order of supervision pursuant to the April 6, 2021 settlement agreement and beyond.

48. A person's liberty cannot be infringed upon without "adequate procedural protections." *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001); *see also Kansas v. Hendricks*, 521 U.S. 346, 357 (1997); *Addington v. Texas*, 441 U.S. 418, 425–27 (1979). Thus, district courts around the country have recognized that non-citizens facing civil re-detention share this constitutionally protected interest in their continued liberty.⁹ That Mr. Hussien was released under an order of supervision pursuant to conditions specified in a settlement agreement does not negate this liberty interest. *See Ortega*, 415 F.Supp.3d at 969 ("Just as people on preparole, parole, and probation status have a liberty interest, so too does [Petitioner] have a liberty interest in remaining out of custody on bond."); *see also id.* ("[T]he fact that a decision-making process involves discretion does not prevent an individual from having a protectable liberty interest.").

⁹ *See supra* n.1; *see also, e.g., Rojas v. Almodovar*, No. 25-CV-7189 (LJL), 2025 WL 3034183, at *6 (S.D.N.Y. Oct. 30, 2025) ("a non-admitted noncitizen is not precluded from seeking the protections of the Due Process Clause where they are granted limited status in the country by the Government and that status was revoked without notice. Put differently, a noncitizen who is neither admitted nor denied, but who is granted permission to live in the United States, is protected by the Due Process Clause."); *Tumba v. Francis*, No. 25-CV-8110 (LJL), 2025 WL 3079014, at *7 (S.D.N.Y. Nov. 4, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588, at *9 (S.D.N.Y. Aug. 13, 2025); *Valdez v. Joyce*, 2025 WL 1707737, at *2 (S.D.N.Y. June 18, 2025); *Kelly v. Almodovar*, 2025 WL 2381591, at *3 (S.D.N.Y. Aug. 15, 2025); *Al-Thuraya v. Warden*, 2025 WL 2858422 (S.D.N.Y. Oct. 9, 2025); *Noori v. LaRose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149 (S.D. Cal. Oct. 1, 2025); *Kirboga v. LaRose*, No. 25-CV-3706-GPC-DDL, 2025 WL 3779426 (S.D. Cal. Dec. 31, 2025); *Pinchi v. Noem*, 2025 WL 2084921 (N.D. Cal. July 24, 2025)

II. Due Process Requires Notice and a Hearing Prior to Re-Detention.

49. Due process requires that if DHS seeks to re-arrest a person like Mr. Hussien — an individual who has lived in the United States without incident after DHS first released him nearly six years previously, submitted applications for protection from removal, and otherwise complied with the terms of his order of supervision — the government must afford a hearing before a neutral decisionmaker to determine whether any re-detention is justified, and whether the person is a flight risk or danger to the community. Here, Mr. Hussien’s re-detention after years of having relied on his liberty interest in being free from detention and complying with terms of conditional release without notice or a pre-detention hearing, violated his right to due process.

50. To protect against arbitrary re-detention and to ensure the right to liberty, due process requires “adequate procedural protections” that test whether the government’s asserted justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690.

51. Due process guarantees notice and an individualized hearing before a neutral decisionmaker to assess danger or flight risk before the revocation of an individual’s release. *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) (“The fundamental requisite of due process of law is the opportunity to be heard at a meaningful time in a meaningful manner.” (citation modified)); *see, e.g., Morrissey*, 408 U.S. at 485 (requiring “preliminary hearing to determine whether there is probable cause or reasonable ground to believe that the arrested parolee has committed a violation of parole conditions” and that such determination be made “by someone not directly involved in the case”).

52. The Second Circuit has applied the three-part test in *Mathews v. Eldridge* when determining the adequacy of process in the context of civil immigration confinement. 424 U.S. 319 (1976); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020).¹⁰ The factors of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an "erroneous deprivation" of the private interest, and "the probable value, if any, of additional or substitute procedural safeguards;" and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Mathews*, 424 U.S. 319, 335 (1976).

53. Because Mr. Hussien's order of supervision and conditions of release have been unlawfully revoked and he has been re-detained without due process, this Court must order that Mr. Hussien shall not be re-detained at least until such a time that notice is provided and a hearing is held to determine whether there are sufficient grounds for re-detention. The balance of factors makes clear that, at a minimum, the Respondents were required to provide a pre-deprivation hearing where the government bears the burden of proving that terminating Mr. Hussien's order of supervision and conditions of release and re-detaining him was constitutionally permissible, and that he must be immediately released under conditions consistent with Mr. Hussien's April 8, 2021 order of supervision unless and until a notice and hearing in accordance with due process takes place prior to any re-detention.

54. In *Ortega*, the District Court for the Northern District of California granted the petitioner, who had an aggravated felony conviction, habeas relief prohibiting ICE from re-

¹⁰ This court has applied the *Mathews* test several times within the last year in evaluating similar petitions for writ of habeas corpus under 28 U.S.C. § 2241 involving alleged violations of the Due Process Clause of the Fifth Amendment with respect to civil immigration detention. See e.g. *Francois v. Hale, et al.*, No. 2:26-cv-13, 2026 WL 472845 (D.Vt. Feb. 19, 2026); *Yupangui v. Hale*, No. 2:25-cv-884, 2025 WL 3207070 (D. Vt. Nov. 17, 2025); *Walizada v. Trump*, No. 2:25-cv-00768, 2025 WL 3551972 (D. Vt. Dec. 11, 2025); *Portillo Vasquez v. Turek*, No. 2:25-cv-741, 2025 WL 2733631 (D. Vt. Sept. 25, 2025).

arresting and revoking bond because of his liberty interest without notice and a hearing. *Ortega*, 415 F.Supp.3d at 966. Since his release on bond, the petitioner developed community ties and a protectable interest in his freedom from confinement. *See id.* The court held that Ortega had a “liberty interest” to remain out on bond, and his case met the *Mathews* factors. *See id.* Relevant here, the *Ortega* court noted the limits to re-detention following release: “[W]here a previous bond determination has been made by an immigration judge, *no* change should be made by [the DHS] absent a change of circumstance.” *Id.* at 968 (quoting *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA 1981) (emphasis added)). In fact, only “a material change in circumstances” warrants re-arrest in practice. *Id.*

55. Here, all three factors favor the petitioner. First, he has a significant private interest at stake. A person's interest in freedom from physical detention is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); see also *Zadvydas*, 533 U.S. at 690, (“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.”). Mr. Hussien would (and did) experience the gambit of deprivations were he re-detained, including separation from his family and his community, an inability to work, lack of proper medical care, and inhibitions to participate fully in his pending immigration proceedings.

56. Second, there is a high risk of an “erroneous deprivation” of liberty through the current procedures (detaining Mr. Hussien without a hearing) and a significant value to providing notice and a hearing. Respondents revoked Mr. Hussien’s order of supervision, arrested, and re-detained him without setting forth the basis for the arrest and detention, and

without first providing any hearing or any other form of procedural due process. The probative value of procedural safeguards is immense.

57. Third, the proposed procedures—namely, that ICE provide notice of intent to revoke the order of supervision and conditions of release with a pre-deprivation hearing at which the government bears the burden of proof—do not meaningfully prejudice the government’s interest in mitigating danger and risk of flight during removal proceedings.

58. Accordingly, because Mr. Hussien’s order of supervision and conditions of release have been unlawfully revoked and he has been re-detained without due process, this court must order that Mr. Hussien is to remain out of custody pursuant to his order of supervision unless and until such a time that notice is provided and a hearing is held to determine whether there are sufficient grounds for terminating the order of supervision and re-detention. The re-detention of Mr. Hussien absent any demonstration of a material change in circumstances, violations of conditions of release, or determination that Mr. Hussien poses a risk to the community or is a flight risk violates his constitutional rights to due process guaranteed in the Fifth Amendment.

III. Due Process Applies to Individuals Subject to Mandatory Detention Under 8 U.S.C. § 1226(c)

59. Mandatory detention under 8 U.S.C. § 1226(c) is not absolute and may violate due process when detention ceases to be tied to a legitimate governmental interest and violates an individual’s protected liberty interest. *Black v. Decker*, 103 F.4th 133, 138 (2d Cir. 2024) (“On de novo review, we conclude that a noncitizen’s constitutional right to due process precludes his unreasonably prolonged detention under section 1226(c) without a bond hearing.”).

60. In *Black v. Decker*, the Second Circuit held that due process bars DHS from detaining noncitizens for an unreasonably prolonged period under 8 U.S.C. § 1226(c). *Id.* In reaching this holding, the court decided that due-process challenges to a noncitizen's prolonged detention under 8 U.S.C. § 1226(c) should be reviewed on a case-by-case basis under the *Mathews v. Eldridge* framework. *Id.* at 145-47 (“Here, we conclude that due process challenges to prolonged detention under section 1226(c) should also be reviewed under *Mathews*.”).

61. In *Black*, the Second Circuit reviewed the circumstances of a petitioner similarly situated to Mr. Hussien – G.M. G.M., a lawful permanent resident, was arrested by ICE on October 5, 2020, and served with a Notice to Appear charging him as removable based on a prior criminal conviction that the government characterized as an aggravated felony. *Id.* at 140. ICE determined that he was subject to mandatory detention under 8 U.S.C. § 1226(c) and detained him at the Hudson County Correctional Facility while his removal proceedings were pending. *Id.* After approximately seven months of detention, G.M. filed a habeas petition under 28 U.S.C. § 2241 in the Southern District of New York, arguing that his continued detention without a bond hearing violated the Due Process Clause. The district court denied the petition in November 2021. While his appeal was pending before the Second Circuit, G.M. was released in July 2022 pursuant to a nationwide injunction issued during the COVID-19 pandemic in *Frailhat v. U.S. Immigration & Customs Enforcement*, 445 F. Supp. 3d 709 (C.D. Cal. 2020). By the time of his release, he had been detained for approximately twenty-one months without ever receiving an opportunity to challenge his detention.

62. Here, like, G.M., Mr. Hussien was ultimately released from detention due to a settlement agreement related to the COVID-19 pandemic and detention conditions. While the

court in *Black* does not reach the issue of what process would be due if the government sought to re-detain G.M. after his release, the holding identifies that G.M. has an independent liberty interest in being released from custody that has attached despite having been found subject to mandatory detention under 8 U.S.C. § 1226(c).

63. Further, granting this petition would protect Mr. Hussien from a prolonged period of re-detention like G.M. underwent in *Black* in his initial detention. By the time Mr. Hussien was released on bail on February 4, 2026, he had already been detained for one month and four days. Coupled with Mr. Hussien's previous periods of detention and constructive detention via compliance with orders of supervision for nearly 6 years – including electronic home monitoring and 14-day house arrest from April 2020 through April 2021, Mr. Hussien's cumulative detention with no material changes in circumstances, demonstrated compliance, and more than “four post-release years of freedom,” warrants due process prior to any re-detention by Respondents. *Id.* at 153. This Court's determination on February 4, 2026, that Mr. Hussien will appear for hearings as he has always done and poses no flight risk and no danger to community is consistent with the Second Circuit's habeas relief granted to Petitioner G.M. in *Black*.

64. Additionally, other district courts throughout the country have held that individuals subject to § 1226(c) must be provided with notice and an opportunity to be heard when the government seeks to re-detain individuals previously released. *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5517277, *3 (N.D. Cal. Sept. 14, 2020) (Holding that a habeas petitioner for whom and IJ *sua sponte* revoked bond grant under § 1226(c) “has a protectable liberty interest in his conditional release under *Morrissey* and that he must be afforded a pre-deprivation hearing if respondents seek to re-arrest him.”); *Carballo v.*

Andrews, No. 1:25-cv-00978, 2025 WL 2381464, at *5–8 (E.D. Cal. Aug. 15, 2025)

(Holding that due process requires a bond hearing where a noncitizen subject to mandatory detention under § 1226(c) had previously been released for years under COVID-19 litigation and the government failed to show continued detention was necessary to serve a legitimate governmental interest).

65. Mandatory detention under 8 U.S.C. § 1226(c) does not negate Mr. Hussien’s due process rights to adequate notice prior to arrest or re-detention given his conditional release and protected liberty interests on which he reasonably relied, described above. Because of Mr. Hussien’s protected interest in his liberty after his conditional release pursuant to orders of supervision, the Due Process Clause requires, at a minimum, sufficient procedural protections before the government can strip him of that liberty. Therefore, Mr. Hussien is entitled to remain released from detention.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

66. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

67. Petitioner has been deprived of an adequate and meaningful process to challenge his ongoing confinement.

68. Under the Due Process Clause, DHS restrained Mr. Hussien’s liberty—including to remain free from arrest and detention—when ICE arrested and detained him on January 1, 2026, without any notice, pre-detention hearing, or order, and absent any material change in Mr. Hussien’s circumstances.

69. DHS had facilitated Mr. Hussien's supervised release and reintegration into the community, even following the *Savino* settlement agreement's expiration in April 2022. Therefore, DHS violated Mr. Hussien's right his protected liberty interests relied on from April 2022 to January 2026, during which time he has become a pillar in his community.

70. The re-detention of Mr. Hussien without notice after already having released him on personal recognizance while his removal proceedings are pending violates his constitutional rights to Due Process guaranteed under the Fifth Amendment.

COUNT TWO

Arrest in Violation of the Fourth Amendment and 8 U.S.C. § 1357(a)(2)

71. The Fourth Amendment protects against unreasonable searches and seizures. U.S. Const. Amend. IV. Immigration arrests are seizures within the meaning of the Fourth Amendment and require probable cause determinations, either in the form of a warrant or a judicial probable cause determination made within 48 hours of detention, absent a bona fide emergency or other extraordinary circumstance. *See Cnty. of Riverside*, 500 U.S. 44 at 57.

72. The INA also provides immigration agents with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). An officer must have probable cause to believe the person is violating the immigration laws **and** that the person "is likely to escape before a warrant can be obtained," i.e., is a flight risk. *Id.*; *see also* 8 C.F.R. § 287.8(c)(2)(ii).

73. Petitioner's warrantless arrest occurred without probable cause that he was likely to escape. Nor did he receive judicial probable cause determination within 48 hours of his arrest and detention. His detention is therefore presumptively unconstitutional in violation of the Fourth Amendment.

74. Any probable cause that may have justified his prior detention, from 2004 to 2020, cannot be used to justify his re-detention on January 1, 2026. Respondents have provided no evidence of changed circumstances that would amount to new probable cause.

75. Respondents' warrantless and violent re-arrest of Petitioner without changed circumstances, and their refusal to provide a prompt (or any) probable cause determination, violated the Fourth Amendment, the INA, and implementing regulations, warranting release.

COUNT THREE

Violation of the Administrative Procedure Act

76. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

77. Courts must "hold unlawful and set aside" agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A); *See FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 513 (2009) (citing 5 U.S.C. § 706(2)(A)).

78. Agencies are liable under the APA for failing to comply with rules that have the force and effect of law. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265 (1954); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures.").

79. A rule has the force of law where it binds the agency and affects the rights of individuals, whether or not the rule is more rigorous than would otherwise be required and whether or not it has been published in the Federal Register. *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991).

80. Petitioner’s unlawful arrest and detention are arbitrary and capricious in violation of the Administrative Procedure Act (APA). Petitioner was arrested arbitrarily without a warrant, order, or procedural due process as discussed above.

81. DHS has adopted a policy of mass arrests and deportations.¹¹

82. In accordance with this policy, Petitioner was subjected to arbitrary and capricious agency action—mass warrantless arrests—to meet the surge in demand for detainees without regard to Due Process.

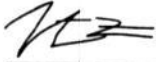
PRAYER FOR RELIEF

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

- (1) Retain jurisdiction over this matter;
- (2) Declare that Petitioner’s detention violates the Fifth Amendment right to due process, the Administrative Procedure Act, the Fourth Amendment right against warrantless seizure, the Immigration and Nationality Act, and the Code of Federal Regulations;
- (3) Order that Petitioner is to remain released from custody under the terms of his Order of Supervision;
- (4) Enjoin Respondents from re-arresting Petitioner before notifying Petitioner of the reasons for seeking re-arrest and an opportunity to be heard;

¹¹ See, e.g., *Arrested: Worst of the Worst*, DEP’T. OF HOMELAND SEC., <https://www.dhs.gov/wow> (last visited Jan. 23, 2026); *ICE, federal partners arrest more than 1,400 illegal aliens in Massachusetts during Patriot 2.0, including murderers, rapists, drug traffickers, child sex predators and members of violent transnational criminal gangs*, U.S. IMMIGR. AND CUSTOMS ENF’T (Oct. 16, 2025), <https://www.ice.gov/news/releases/ice-federal-partners-arrest-more-1400-illegal-aliens-massachusetts-during-patriot-20>; Press Release, *ICE Arrests Worst of Worst Criminal Illegal Aliens Including Pedophiles, Violent Assailants, and Human Traffickers*, DEP’T HOMELAND SEC. (Jan. 7, 2026), <https://www.dhs.gov/news/2026/01/07/ice-arrests-worst-worst-criminal-illegal-aliens-including-pedophiles-violent> (“ICE is unleashed to arrest even more criminal illegal aliens and get them OUT of our country.”).

- (5) Award Petitioner all costs incurred in maintaining this action, including attorneys' fees under the Equal Access to Justice Act, 5 U.S.C. § 504, 28 U.S.C. § 2412, and on any other basis justified by law;
- (6) Grant any other and further relief that this Court may deem just and proper.



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Pro Bono Counsel for Petitioner

Dated: March 6, 2026

Exhibit List

Exhibit A – Notice of Hearing

Exhibit B – Settlement Agreement in No. 1:20-cv-10617, ECF No. 398 (D. Mass. April 6, 2021).

Exhibit C – RI Supreme Court Order No. 2025-207-M.P.

Exhibit D – Order Granting Motion to Continue

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

I represent Petitioner, HUSSIEN NOOR HUSSIEN, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 6th day of March, 2026.



Brett Stokes, Esq.