**IN THE UNITED STATES DISTRICT COURT**
**FOR THE WESTERN DISTRICT OF MICHIGAN**

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| **EBETA GUEYNOUNE**<br><br>*Petitioner*,<br><br>v.<br><br>**KRISTI NOEM,** i*n her official capacity as Secretary of Homeland Security*;<br><br>**PAMELA BONDI**, *Attorney General of the United States, is sued in her official capacity*,<br><br>**TODD LYONS**, *in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;*<br><br>*Respondent,* | Civil Action No.: 26-cv-00066 |

**Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241**

**Introduction**

1. Petitioner Ebeta GUEYNOUNE is an asylum seeker who was entered into the United States on June 10, 2023.
2. He was granted withholding of removal on November 12, 2025 following an Individual Hearing that concluded on October 17, 2025.
3. He is now unlawfully detained by U.S. Immigration and Customs Enforcement (ICE) at the *Chippewa CO., SSM*, in Sault Ste. Marie, Michigan.

4. This petition challenges his ongoing detention as violating federal law and the Fifth Amendment to the U.S. Constitution and seeks relief under 28 U.S.C. § 2241.
5. ICE is detaining Petitioner under the wrong statutory authority – treating him as an "arriving alien" under 8 U.S.C. § 1225(b) – when in fact 8 U.S.C. § 1226(a) governs his detention.
6. As a result, ICE has failed to provide the bond hearing that Congress and the Constitution require for detainees like Petitioner.
7. Petitioner respectfully requests that this Court declare his detention unlawful and order Respondents to provide an immediate individualized custody redetermination hearing ("bond hearing") at which the government must justify any further detention. Petitioner asks that such a hearing be conducted within 10 days of the Court's order.
8. If Respondents do not provide a timely bond hearing, Petitioner requests that the Court order his immediate release. Petitioner also seeks any further relief the Court deems just and proper to remedy the ongoing violation of his rights.

**Jurisdiction and Venue**

9. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is "in custody in violation of the Constitution or laws of the United States."
10. Habeas corpus is the appropriate vehicle to challenge the legality of immigration detention. The central question in a § 2241 habeas action is whether the detention violates U.S. law; here, Petitioner's detention squarely violates federal statute and the Fifth Amendment.
11. This Court also has jurisdiction under 28 U.S.C. § 1331, as Petitioner's claims arise under federal law, including the Immigration and Nationality Act (INA) and the U.S. Constitution. Petitioner additionally seeks declaratory and injunctive relief under 28 U.S.C.

§§ 2201–2202 (Declaratory Judgment Act) and 5 U.S.C. § 706 (Administrative Procedure Act), as appropriate, to vindicate his statutory and constitutional rights.

12. Venue is proper in the Western District of Michigan because Petitioner is currently detained in this District at the *Chippewa CO., SSM*, in Sault Ste. Marie, Michigan

13. The immediate custodian of Petitioner – the person with day-to-day control over his detention – is within this Court's jurisdiction. Accordingly, venue lies in this Court.

14. Petitioner has exhausted any available administrative remedies to the extent required. There are no adequate or available administrative avenues to challenge his unlawful detention.

15. Petitioner, through counsel, requested release or a custody reclassification from ICE, but those requests have been ignored or denied.

16. Further pursuit of administrative remedies is futile, and Petitioner has no recourse except to seek habeas relief from this Court.

**Parties**

17. **Petitioner Ebeta GUEYNOUNE** is a native of Mauritania who fled persecution and sought asylum in the United States. He has no criminal history. After entering the U.S. in order to pursue a claim of asylum, Petitioner was suddenly arrested by ICE on December 15, 2025. He is currently detained at the *Chippewa CO., SSM*, in Sault Ste. Marie, Michigan. Petitioner has been recently granted withholding of removal by the Immigration Judge on October 17, 2025 which in turn bestows upon him lawful residence status within the U.S. and its territories. Nonetheless, as of this very second Petitioner remains to languish in prolonged detention with no bond hearing. The executive branches' adamancy on keeping the petitioner in a state of unlawful detention exhibits a blatant disregard for

the issued decision by the immigration judge, which only serves to undermine the sanctity of the judicial sector.

18. **Respondent Kristi Noem**, sued in her official capacity as Secretary of the U.S. Department of Homeland Security (DHS), is responsible for enforcement of the immigration laws of the United States. This includes authority over the detention and release of noncitizens. DHS (through its sub-agency ICE) has ultimate custody of Petitioner. As DHS Secretary, Respondent Noem has supervisory authority over Petitioner's detention and is a proper respondent with the legal authority to order Petitioner's release.

19. **Respondent Todd Lyons**, sued in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement (ICE), is the head of the agency that currently detains Petitioner. ICE is the DHS component responsible for carrying out immigration custody and removal operations. Respondent Lyons oversees ICE's nationwide enforcement and removal activities, including those of the Louisiana Field Office that has custody of Petitioner. As the official in charge of ICE, Respondent Lyons has legal custody of Petitioner and the authority to produce him before the Court. Respondents Noem and Lyons are therefore the proper respondents to this habeas petition.

## Factual and Procedural Background

20. Petitioner arrived in the United States on or about June 10, 2023, at the U.S.-Mexico border seeking asylum. He presented himself to U.S. immigration officers and expressed a fear of persecution in his home country.

21. Upon encountering U.S. immigration officials on or about June 10, 2023, Petitioner was briefly taken into custody and underwent initial processing.

22. Rather than keep him detained at that time, DHS exercised its discretionary authority to release Petitioner pending the outcome of his immigration proceedings.
23. On June 11, 2023, the petitioner received a Notice of Custody Determination reflecting an Order for Release on Recognizance, allowing him to live at liberty while his case is being adjudicated. In practical effects, this constitutes a parole or similar humanitarian release under immigration laws (see INA § 212(d)(5)).
24. Petitioner was allowed to enter and remain in the country while his immigration case was pending.
25. Petitioner was no longer at the border seeking initial entry; he was inside the United States and subject to the INA's provisions governing persons already present in the country.
26. Following his parole into the U.S., Petitioner complied with all conditions imposed on him. He promptly pursued his claim for protection: Petitioner filed an asylum application (Form I-589) with U.S. Citizenship and Immigration Services and was placed into standard removal proceedings under 8 U.S.C. § 1229a, where he could seek relief.
27. The Department of Homeland Security issued a Notice to Appear (NTA) initiating removal proceedings, charging Petitioner as inadmissible for lacking a valid entry document (INA § 212(a)(7)).
28. The NTA classified Petitioner as an "arriving alien" – a designation DHS applied because Petitioner entered without a formal admission at a port of entry.
29. Petitioner's removal case was docketed in the Buffalo Immigration Court, and he began appearing at scheduled hearings.
30. Over the next two years, Petitioner pursued his asylum claim and complied with all immigration court requirements.

31. He attended his hearings without incident and following his individual hearing he was adequately granted withholding of removal by the Immigration Judge on October 17, 2025.

32. In sum, Petitioner was living in the United States in compliance with the law and court procedures up till the date of his arrest and detention on the May 9, 2025.

33. On May 9, 2025, without warning, ICE abruptly arrested Petitioner and took him back into custody, effectively terminating his parole.

34. On that date, Petitioner was located in Detroit, Michigan, when ICE officers suddenly detained him.

35. He was taken into custody and transferred to the *Chippewa CO., SSM*, in Sault Ste. Marie, Michigan, where he remains jailed.

36. This re-detention was not triggered by any new criminal conduct, public safety concern, or violation by Petitioner.

37. By all indications, it was an arbitrary change in DHS's treatment of his case. Petitioner received no advance notice that his liberty was in jeopardy again.

38. ICE agents provided no explanation or justification to Petitioner for why, after almost two years of compliance and freedom, he was being deprived of his liberty.

39. Petitioner had not absconded, not committed any crimes, and not violated any conditions of his release; nonetheless, DHS chose to jail him without explanation.

40. Upon re-arresting Petitioner, ICE did not serve any new charging documents or allege that Petitioner had become ineligible for release.

41. The only apparent reason for Petitioner's detention is ICE's current position that he should be treated as an "arriving alien" subject to mandatory custody.

42. In revoking Petitioner's parole, DHS is effectively asserting that Petitioner can be detained without any opportunity for release pending completion of his case – a process that could take months or years more.

43. Since ICE re-detained Petitioner on May 9, 2025, he has never been given any custody hearing or review by a neutral decision-maker.

44. Petitioner was not afforded a hearing before his re-detention, nor any prompt hearing after being taken into custody.

45. He has had no chance to contest the basis for his detention or to argue that he can safely be released under supervision.

46. Under the INA's framework, 8 U.S.C. § 1226(a) (applicable to noncitizens already in the U.S.) provides for discretionary detention "pending a decision on whether the alien is to be removed," and also expressly permits release on bond or conditional parole.

47. The implementing regulations contemplate that when ICE makes an initial custody determination or revokes a prior release, the detainee "may, at any time before an order of removal becomes final, request a review of that determination by an Immigration Judge" (see 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1); 8 C.F.R. § 1003.19(c)-(d)).

48. In fact, 8 C.F.R. § 1003.19(d) specifies that where DHS decides to detain an alien (or re-detain a previously released alien), the person shall have the opportunity to seek a bond hearing before an Immigration Judge – *unless* the person is classified as an "arriving alien," in which case the immigration court has no jurisdiction to review custody.

49. By classifying Petitioner as an "arriving alien," DHS has taken the position that Petitioner is not entitled to any bond hearing at all.

50. Immigration Judges lack jurisdiction to conduct bond hearings for "arriving aliens" detained under 8 U.S.C. § 1225(b).

51. As of now, ICE's decision to treat Petitioner as an arriving alien has staunchly bypassed the customary process that § 1226 and its regulations would provide – namely, an individualized determination by a neutral adjudicator of whether detention is warranted.

52. Petitioner, through counsel, has exhausted all possible avenues to secure his release from custody.

53. He has requested that ICE reconsider its decision and release him or at least reclassify his detention status so that he could seek a bond hearing. These requests have been ignored or summarily denied.

54. Because DHS insists that Petitioner is ineligible for bond consideration by an Immigration Judge, Petitioner has no administrative remedy to challenge his detention. His only recourse is this habeas corpus action.

55. Every additional day that Petitioner remains in jail without a hearing compounds the violation of his rights.

56. In sum, Petitioner's continued detention is unauthorized and unconstitutional. DHS's actions have placed Petitioner in a legal limbo: he is being held in what amounts to mandatory detention under 8 U.S.C. § 1225(b), even though his situation squarely falls under 8 U.S.C. § 1226(a), which would entitle him to a bond hearing and possible release.

57. This statutory misclassification has stripped Petitioner of the process Congress provided and has resulted in a denial of due process under the Fifth Amendment. Petitioner now seeks relief from this Court to correct these violations.

## Grounds for Relief

**Claim I: Unlawful Detention Under the INA – Petitioner Is Detained Under 8 U.S.C. § 1226, Not Subject to Mandatory Detention as an "Arriving Alien"**

58. Petitioner's continued detention is not authorized by law. Respondents are holding Petitioner as if he were subject to mandatory detention under 8 U.S.C. § 1225(b) (the provision governing certain aliens stopped at the border or ports of entry), yet Petitioner in fact falls under 8 U.S.C. § 1226, the statute that governs detention of noncitizens already present in the United States.

59. Under the correct provision (§ 1226), Petitioner's detention is discretionary and he is entitled to an individualized bond hearing. The government's failure to provide such a hearing renders Petitioner's detention unlawful.

60. The Immigration and Nationality Act establishes two distinct regimes for pre-removal immigration detention. 8 U.S.C. § 1225(b) applies to "applicants for admission" – generally individuals who are encountered at a port of entry or while seeking admission into the U.S. – and in certain cases §1225(b) mandates that such arriving aliens "shall" be detained during their removal proceedings. In contrast, 8 U.S.C. § 1226 governs the arrest and detention of aliens who are already inside the United States pending removal proceedings (this category includes those who entered without inspection as well as those who were paroled into the country).

61. Section 1226(a) authorizes DHS to arrest and detain such individuals pending a decision on removal, but crucially it also allows for their potential release on bond or conditional parole while proceedings are ongoing.

62. In other words, detention under §1226 is discretionary and comes with procedural safeguards, including the opportunity for a bond hearing before an Immigration Judge to determine if continued detention is justified.

63. Petitioner squarely falls within the ambit of § 1226, not § 1225. Although Petitioner was never formally "admitted" at a port of entry, DHS paroled him into the country in July 2023, allowing him physical entry. He has been physically present in U.S. territory for over two years.

64. In sum, Petitioner's detention is governed by § 1226, and under that provision he has a statutory right to seek release on bond. Respondents' treatment of him as an unbondable "arriving alien" under § 1225(b) is contrary to law.

65. Because Respondents have never provided Petitioner the custody hearing that the correct statute (§ 1226(a)) provides, his detention violates the INA and is ultra vires.

66. Accordingly, Petitioner's ongoing detention "is not authorized by the statute" and he must be given the procedural protections Congress intended (a bond hearing) or be released.

**Claim II: Violation of the Fifth Amendment – Detention Without a Bond Hearing or Due Process**

67. Respondents' actions also violate Petitioner's rights under the Due Process Clause of the Fifth Amendment.

68. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law – this protection extends to noncitizens inside the United States, who are indisputably "persons" for purposes of the Constitution.

69. Freedom from bodily restraint lies at the core of the liberty interest that due process protects.

70. When the government imprisons an individual, it must afford fundamental procedural fairness.

71. Here, by detaining Petitioner for an extended period with no hearing and no opportunity to be heard, Respondents have run roughshod over basic due process requirements.

72. Noncitizens like Petitioner are entitled to due process of law in immigration detention. It is well established that "aliens who have entered the United States" (even if not lawfully admitted) possess constitutional due process rights with respect to their liberty.

73. The Supreme Court has emphasized that "once an alien enters the country, the legal circumstance changes" – the individual is no longer treated as a mere inbound traveler at the border, but as a person physically present and vested with certain constitutional protections.

74. Petitioner, who has lived in the U.S. since 2023, is entitled to procedural due process in the determination of whether he should be locked up or not.

75. At minimum, due process requires an individualized determination of the necessity of detention.

76. Even where the statutory scheme grants the Government discretion to detain, due process demands that the Government actually exercise that discretion in a rational manner – *i.e.*, that some official consideration be given to whether detention is justified for a particular individual.

77. The essence of due process is that a person at risk of serious loss (such as loss of freedom) must be given notice of the reasons and an opportunity to be heard on the question of their continued detention.

78. In Petitioner's case, the Government provided no process at all before depriving him of liberty: ICE officers summarily arrested him with no warning, no stated reasons, and no chance for Petitioner to contest the decision.

79. After locking him up, Respondents have similarly provided no post-deprivation process – Petitioner has not seen a judge or any neutral decision-maker to review his custody. This total absence of procedure is constitutionally indefensible.

80. By categorically denying Petitioner a bond hearing, Respondents have ensured that no one has ever evaluated whether his detention is necessary or justified.

81. Petitioner has never been alleged to be dangerous, nor has he ever been found to pose a flight risk that couldn't be mitigated by conditions of release.

82. Yet the Government insists on jailing him for a prolonged period *without even asking the question* of whether less restrictive alternatives could suffice.

83. This arbitrariness offends due process. When the Government constrains a person's liberty, due process requires a meaningful opportunity for the person to demonstrate that detention is unwarranted.

84. Here, Petitioner was given no opportunity whatsoever to make such a showing.

85. The Fifth Amendment's Due Process Clause protects against arbitrary governmental detentions. It prohibits jailing a person without fair procedures to decide the legality and necessity of detention.

86. Petitioner's ongoing imprisonment, effected by an executive fiat that he should be treated as unbondable, amounts to a "black box" detention with no hearing, no findings, and no judicial oversight.

87. Such detention bears the hallmark of unconstitutionality: it is prolonged, potentially indefinite (given the backlogs in immigration courts and asylum adjudication), and entirely lacking in procedural safeguards.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court enter judgment in his favor and grant the following relief:

A. Declare that Petitioner's continued detention without an individualized bond hearing is unlawful, in violation of the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. In particular, declare that Petitioner is detained under 8 U.S.C. § 1226(a) and is entitled to a prompt custody hearing, and that DHS's treatment of Petitioner as an unbondable "arriving alien" under 8 U.S.C. § 1225(b) is improper and contrary to law.

B. Issue a writ of habeas corpus or an injunction directing Respondents to promptly provide Petitioner with a lawful custody redetermination hearing. Specifically, order that Respondents must present Petitioner before an Immigration Judge (or other neutral adjudicator) for a bond hearing within 7 days of the Court's order. At that hearing, the Government should bear the burden to justify Petitioner's continued detention, and the Immigration Judge should have authority to order Petitioner's release on appropriate conditions if Petitioner does not pose a flight risk or danger. If Respondents fail to provide such a hearing within the prescribed time, order Petitioner's immediate release from custody.

C. Grant any other and further relief that the Court deems just and proper, including (if warranted by Respondents' non-compliance or the interests of justice) an order for

Petitioner's outright release from custody during the pendency of his removal proceedings, and any necessary orders to ensure compliance with the Court's judgment.

Dated: January 8, 2026

Respectfully submitted,

*/s/ Jana Al-Akhras*
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