

Name: Alioune Sembene

A Number: 

PRO SE

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**Alioune Sembene, and Marie Ndiaye, as
Next Friend**

Petitioners/Plaintiffs,

v.

**WILLIAM JOYCE, in his official
capacity as Acting New York Field Office
Director for U.S. Immigration and Customs
Enforcement;**

**KRISTI NOEM, in her official capacity as
Secretary, U.S. Department of Homeland
Security;**

**TODD LYONS, in his official capacity as
Director, U.S. Immigration and Customs
Enforcement; U.S. DEPARTMENT OF
HOMELAND SECURITY; and U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT**

Respondents/Defendants.

Civil Action No.:

INTRODUCTION

1. This is a petition for a writ of habeas corpus filed **pro se** on behalf of Alioune Sembene (hereinafter "Petitioner"), seeking relief to remedy his unlawful arrest and detention.
2. This Petition is being filed by **Marie Ndiaye**, the Petitioner's **Next Friend**.
3. Petitioner has been detained at **26 Federal Plaza, New York, New York**, since January 13, 2026 without access to counsel or the ability to file his own habeas petition.
4. Alioune Sembene is an asylum seeker and resident of New York who was arrested by **Immigrations and Customs Enforcement (ICE)** on January 13, 2026.

5. Petitioner was arrested on January 13, 2026, at an ICE Check-In appointment at approximately noon. The day before, he received a call from an immigration official saying he needed to go in for them to remove his ankle monitor. When he appeared, they instead told him that ICE had not given them permission to remove the monitor. Shortly after, he received another call from ICE stating that he needed to come back on January 13, 2026 to **26 Federal Plaza** for the ankle monitor. When he appeared for the appointment, believing he was following the rules and would finally be free of the constrictive device, he was instead detained.
6. Mr. Sembene is an asylum seeker with a master calendar hearing scheduled for September 18, 2026 in front of Judge Barbara Nelson at 26 Federal Plaza. Despite his compliance with all immigration requirements and his lawful presence in the United States, Mr. Sembene was apprehended without legal justification.
7. At the time of the drafting of this petition, Petitioner is a noncitizen is being detained in immigration custody even though no neutral decisionmaker, whether a federal judge or an immigration judge, has conducted a hearing to determine whether this incarceration is warranted based on danger or flight risk.
8. Petitioner's unlawful detention without a hearing on danger and flight risk violates the Due Process Clause of the Fifth Amendment.
9. Petitioner's detention has also placed undue burden on his ability to search for or consult with counsel.
10. Upon information and belief, Respondents have not provided Petitioner with the opportunity to ask for a credible fear interview. Petitioner also has not had access to

counsel due to being detained without meaningful interpretation services or phone access, but intends to pursue multiple immigration claims in removal hearings.

11. Petitioner is not a flight risk due to the following reasons: Mr. Sembene has been preparing to appear before an immigration judge in September, when his master hearing is currently scheduled. He has been regularly attending ICE and ISAP check in appointments, and in fact, was only arrested because he had been following immigration officer orders. He has been looking forward to pursuing his immigration case as promised. Over the past few months, Mr. Sembene has been interviewing attorneys in order to be properly prepared for his upcoming court appearance.
12. Petitioner merits positive discretion because he is a father to a six year old son, has demonstrated consistent compliance with all immigration requirements, including appearing for scheduled appointments and preparing diligently for upcoming hearings. He has no criminal history and has shown a strong commitment to resolving his immigration case through lawful means. The petitioner has deep community ties, has acted responsibly since his arrival in the United States, and has made significant efforts to obtain legal representation to ensure full compliance with the immigration process. These factors collectively support a favorable exercise of discretion in his case.
13. Additionally, he is not a danger to the public and has no history of perpetrating violent crimes.
14. Petitioner's ongoing detention has caused enormous harm by separating him from family, friends, and his community and risks further harm if not remedied.
15. I.C.E.'s actions violate Petitioner's rights under the Fifth Amendment of the U. S. Constitution, the INA, the Administrative Procedure Act and its own federal regulations.

16. Accordingly, this Court should declare I.C.E. 's actions unlawful, enjoin his transfer outside of this District, and order his immediate release. In the alternative, Petitioner must be transferred to a facility closer to New York City so as not to be deprived of counsel.

PARTIES

17. Petitioner, Alioune Sembene, is an individual who has lived in the United States since January 25, 2025

18. Upon information and belief, Petitioner is detained at a holding cell at 26 Federal Plaza, New York, NY 10278. Petitioner is in the custody and direct control of Respondents and their agents.

19. Respondent William P. Joyce's named in his official capacity as the Acting Field Office Director of the New York Field Office for ICE within the United States Department of Homeland Security. In this capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations and is a custodian of petitioners. Respondent Joyce's address is New York ICE Field Office Director, 26 Federal Plaza, New York, New York 10278.

20. Respondent Todd Lyons is the Acting Director of ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States; routinely transacts business in the Southern District of New York; is legally responsible for pursuing any effort to remove the Petitioner; and as such is a custodian of the Petitioner. Respondent LYONS's address is Immigration and Customs Enforcement, 500 12th St. SW, Mail Stop 5900, Washington, DC 20536-5900.

21. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in the Southern District of New York; is legally responsible for pursuing any effort to detain and remove the Petitioner; and as such is a custodian of the Petitioner. Respondent Noem's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.5.
22. Respondent Pamela Bondi is Attorney General of the United States. In this capacity, she routinely transacts business in the Southern District of New York; is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(g)(2007); and as such is a custodian of the Petitioner. Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

Jurisdiction and Venue

23. This Court has jurisdiction under the U.S. Constitution. U.S. Const. art. I § 9, cl. 2 ("The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public safety may require."). The Suspension Clause protects the right to the writ of habeas corpus where no adequate or effective alternative remedy exists. *See Boumediene v. Bush*, 553 U.S. 723, 745 (2008).
24. This Court also has subject matter jurisdiction under 28 U.S.C. § 2241 (Habeas Corpus); 28 U.S.C. § 1331 (Federal Question); 28 U.S.C. § 1651 (the All-Writs Act); and 5 U.S.C. § 701 (the Administrative Procedure Act).

25. This Court has additional remedial authority under 28 U.S.C. §§ 2201-02 (the Declaratory Judgment Act), to grant injunctive and declaratory relief.
26. Administrative exhaustion is unnecessary as it would be futile.
27. Venue is proper in the U.S. District Court for the Southern District of New York because Respondents are officers of United States agencies, and at the time of filing, Petitioner is detained at 26 Federal Plaza, within the jurisdiction of the Southern District of New York. A substantial part of the events or omissions giving rise to these claims occurred in New York County, and there is no real property involved in this action. *See* 28 U.S.C. § 1391(e)(1).

RELEVANT FACTS AND PROCEDURAL HISTORY

28. Petitioner is a long-time resident of New York City who entered the United States on January 25, 2025 with his young child.
29. Petitioner first came to the United States in order to seek asylum as protection from persecution he and his family would face if returned to their home country.
30. On January 12, 2026, Mr. Alioune received a call from an immigration official saying he needed to go in for them to remove his ankle monitor.
31. When he appeared, an officer instead told him that ICE had not given them permission to remove the monitor.
32. Shortly after, he received another call from ICE stating that he needed to come back on January 13, 2026 to 26 Federal Plaza for the ankle monitor to finally be removed. When he appeared for the ankle monitor removal appointment, he was instead detained without explanation or justification.

33. Mr. Sembene fears returning to his home country of Senegal and is seeking asylum, withholding of removal, humanitarian parole, and Convention Against Torture.
34. Petitioner's next friend believes he is currently being held in immigration detention at 26 Federal Plaza or another New York based holding facility.
35. Individuals held in short term ICE holding rooms, such as those located at 26 Federal Plaza, have reported concerning conditions that raise humanitarian, health, and due-process issues. These concerns often include:
 - a. Overcrowding and lack of space- Detainees are sometimes placed in small holding rooms that may become crowded, making it difficult to sit or rest comfortably.
 - b. Prolonged waiting periods- Some individuals report being held for many hours without clear information about when they will be processed, released, or moved.
 - c. Inadequate access to food and water - There have been complaints that detainees are not consistently offered adequate drinking water or meals.
 - d. Limited access to restrooms - People have reported restricted restroom breaks or being required to request permission from officers, causing discomfort and humiliation.
 - e. Cold temperatures and lack of basic comfort items- Short-term holding rooms are often kept very cold ("hieleras" or "iceboxes"), and detainees may not be provided blankets or appropriate clothing.
 - f. Communication barriers- Non- English speakers, like Mr. Sembene, frequently struggle to understand instructions, ask questions, or understand their situation due to limited access to interpreters.

g. Stressful or intimidating environment- the presence of armed officers, uncertainty about one's case, and the abrupt nature of an arrest can cause severe emotional distress for detainees.

h. Lack of privacy and dignity- holding rooms provide no privacy, and individuals frequently feel humiliated or degraded by the conditions.

36. Petitioner is not a flight risk because he has consistently complied with all immigration requirements and has taken active steps to prepare for his upcoming master calendar hearing. He has strong ties to the community and has demonstrated a sincere commitment to pursuing his immigration case through lawful channels.

37. He is also a loving and devoted father who a six year old child, who faces significant future harm if the family's separation continues.

38. He has shown responsibility and good character through his ongoing efforts to comply with immigration requirements and to prepare for his upcoming court proceedings. There is no evidence that he poses any threat to the safety or well-being of the community.

39. Therefore, Petitioner brings this action to seek injunctive, habeas, and declaratory relief ordering Respondents to release him. Petitioner's ongoing detention—the purpose of which is presumably remove them from the United States—flow from their unlawful detention on or around January 13, 2026.

LEGAL FRAMEWORK

A. Petitioner cannot be subject to expedited removal.

40. Since mid-May 2025, the DHS has been employing a new campaign by which counsel for DHS moves to dismiss cases in Immigration Court in order to immediately pursue

expedited removal. Upon dismissal, ICE officers, waiting in Immigration Court buildings invoke expedited removal to arrest individuals leaving their hearings.¹

41. It appears that ICE's selection of individuals to detain in Immigration Courts is random, as individuals in various postures in their immigration proceedings have been detained.
42. ICE has also been detaining increased numbers of individuals and families at routine check-ins, even those with a history of regularly attending their check-ins and following the terms of their Orders of Release on Recognizance.
43. Petitioner is not a flight risk and has a vested interest in pursuing their asylum claims.
44. Petitioner demonstrates a history of responsibility and law abiding nature through his attendance of court hearings and ICE check-ins throughout the period of his immigration application proceedings.
45. Petitioner cannot be subjected to expedited removal as he/she is currently in removal proceedings under section 240 of the INA (8 U.S.C. 1229a) and seeking asylum due to his fear of returning to his home country.
46. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response "within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed." 28 U.S.C. § 2243 (emphasis added).

¹ See, e.g., Gwynne Hogan, ICE Agents Arrest at Least Seven Immigrants as Courthouse Blitz Continues, *The City* (May 29, 2025), available at <https://www.thecity.nyc/2025/05/29/ice-arrests-migrants290-broadway-court-trump/>; Luis Ferré-Sadurní and Dana Rubenstein, ICE, Shifting Tactics, Detains High School Student at N.Y.C. Courthouse, *The New York Times* (May 27, 2025), available at <https://www.nytimes.com/2025/05/27/nyregion/new-york-student-arrested-ice.html>; Ted Hesson and Kristina Cooke, ICE arrests migrants at courthouses, opens door to fast-track deportations, *Reuters* (May 23, 2025), available at <https://www.reuters.com/world/us/ice-arrests-migrants-courthouses-opens-door-fast-track-deportations-2025-05-23/>; Camilo Montoya-Galvez and Nidia Cavazos, ICE ending migrants' court cases in order to arrest and move to deport them, *CBS News* (May 23, 2025), available at <https://www.cbsnews.com/news/ice-ending-migrants-courtcases-arrest-move-to-deport-them/>

47. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “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 v. Davis*, 533 U.S. 678, 690 (2001).
48. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious.”). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention. *Id.* at 690.
49. The Court’s ruling in *Zadvydas* is rooted in due process’s requirement that there be “adequate procedural protections” to ensure that the government’s asserted justification for a noncitizen’s physical confinement “outweighs the ‘individual’s constitutionally protected interest in avoiding physical restraint.’” *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S.

B. Defendants’ Pattern of Illegal Conduct Is Officially Sanctioned

50. Defendants’ unlawful stops, arrests, denial of access to counsel and conditions immigration courts and ICE offices, and Elizabeth Contract Detention Center are the predictable result of directives from top officials to agents and officers.
51. In January, 2026 the administration gave ICE field offices an arrest quota of 75 arrests a day.² As offices attempted to carry out such a mandate, workplace raids increased,³ ICE

² Nick Miroff & Maria Sacchetti, Trump Officials Issue Quotas to ICE Officers to Ramp Up Arrests, The Washington Post (last updated Jan. 26, 2025), <https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/>.

³ Marianne LeVine, et al., ICE is Arresting Migrants in Worksite Raids. Employers are Largely Escaping Charges, The Washington Post (June 30, 2025), <https://www.washingtonpost.com/immigration/2025/06/30/ice-raids-arrests-workers-companies/> (noting an April announcement by ICE officials that the agency had arrested more than 1,000 workers during Trump’s first 100 days and collecting stories of workplace raids across the country).

check-ins became traps, and courthouse arrests surged.⁴ Also, to help meet the quota, the administration granted agencies outside of DHS immigration enforcement powers.⁵

52. Meanwhile, the administration began systematically dismantling internal accountability mechanisms and restraints on immigration agents' and officers' conduct. The administration shut down multiple oversight agencies (retaining only a version of their former selves after the administration was sued).⁶ Investigations were closed. Officers no longer had to abide by enforcement priorities.⁷ Long-standing guidance restricting enforcement operations in sensitive locations—schools, hospitals, places of worship and public demonstrations—was rescinded.⁸

53. But these changes were not enough, according to the administration. In late May, Deputy Chief of Staff Stephen Miller summoned 25 ERO Field Office Directors and 25 HSI Special Agents to a meeting to demand that “everybody” be targeted.⁹

54. Under Miller’s directive, agents no longer needed to develop vetted target lists of individuals suspected of being in the United States unlawfully. ICE agents were instructed in an email to “aggressively “push the envelope,” including by pursuing “collaterals”—individuals that by definition would not have warrants.¹⁰

⁴ Julia Ainsley, Trump admin tells immigration judges to dismiss cases in tactic to speed up arrests, NBC News (June 11, 2025), <https://www.nbcnews.com/politics/national-security/trump-admin-tells-immigration-judges-dismiss-cases-tactic-speed-arrest-rcna212138>.

⁵ Press Release, DHS, Statement from a DHS Spokesperson on Directive Expanding Immigration Law Enforcement to Some Department of Justice Officials (Jan. 23, 2025), <https://www.dhs.gov/news/2025/01/23/statement-dhs-spokespersondirective-expanding-immigration-law-enforcement>.

⁶ Nicolae Viorel Butler, Court Forces DHS to Preserve Immigrant Rights Offices, Migrant Insider (May 27, 2025), <https://migrantinsider.com/p/court-forces-dhs-to-preserve-immigrant>.

⁷ Press Release, DHS, Statement from a DHS Spokesperson on Directives Expanding Law Enforcement and Ending the Abuse of Humanitarian Parole (Jan. 21, 2025), <https://www.dhs.gov/news/2025/01/21/statement-dhs-spokesperson-directives-expanding-law-enforcement-and-ending-abuse>.

⁸ Marisa Kabas, ICE agents get green light to make unjustified warrantless arrests, The Handbasket (June 12, 2025), <https://www.thehandbasket.co/p/ice-warrantless-arrests-castanon-nava>.

⁹ Stuard Anderson, Stephen Miller’s Order Likely Sparked Immigration Raids and Protests, Forbes, Jun. 9, 2025, <https://www.forbes.com/sites/stuardanderson/2025/06/09/stephen-millers-order-likely-sparked-immigration-arrests-and-protests/>.

¹⁰ José Olivares, US immigration officers ordered to arrest more people even without warrants, The Guardian (June 4, 2025), <https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests>.

55. The administration set a new arrest quota of 3,000 arrests per day and reportedly threatened job consequences if officials failed to meet arrest quota.¹¹

56. The overriding message to agents and officers carrying out immigration operations on the ground was to prioritize arrest numbers, regardless of the law.

C. Defendants' Illegal Conduct Will Continue if Not Enjoined

57. The federal government has repeatedly made clear its intent to continue its operations and unlawful stops, arrests, and detentions. Defendants have been candid about their determination to continue pursuing these unlawful policies and practices, unless this Court enjoins them from doing so.

58. While immigration enforcement may be done lawfully, these statements demonstrate a commitment to continue operations at any cost, including at the expense of individuals' constitutional and legal rights. Plaintiffs have already been harmed, and face a reasonable likelihood of continuing harm due to Defendants' unlawful practices described herein.

D. Petitioner cannot be subject to Mandatory Detention and may seek bond in the alternative.

59. On December 18, 2025, the district court in *Lazaro Maldonado Bautista et al v. Enersto Santacruz* ruled to vacate the July 2025 DHS policy of declaring any noncitizens entering without inspection is subject to mandatory arrest. *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al*, 5:25-cv-01873, ECF – 92-94 (C.D. Cal. filed July 23, 2025).

60. The court certified a nationwide class and declared all class members who had been unlawfully subject to mandatory detention should instead have access to a bond hearing. *Id.*

61. In the alternative of immediate release based on the procedural and substantive due process violations, Petitioner should be allowed to request and post bond.

¹¹ Elizabeth Findell, et al., *supra* note 2; Julia Ainsley, et al., A sweeping new ICE operation shows how Trump's focus on immigration is reshaping federal law enforcement, NBC News (June 4, 2025), <https://www.nbcnews.com/politics/justicedepartment/ice-operation-trump-focus-immigration-reshape-federal-lawenforcement-rcna193494>

62. Petitioner has no plain, adequate, or complete remedy at law to address the wrongs described herein. Injunctive and declaratory relief is necessary to redress their ongoing injuries.

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION PROCEDURAL DUE PROCESS

63. The allegations in the above paragraphs are realleged and incorporated herein.
64. Petitioner is being detained without cause and in violation of his Constitutional right to Due Process under the Fifth Amendment.
65. The Procedural Due Process Clause of the Fifth Amendment prohibits the government from depriving an individual of a protected interest without notice and an opportunity to be heard. Mathews v. Eldridge, 424 U.S. at 319, 333 (1976).
66. Respondents provided Petitioner with no notice or opportunity to be heard prior to arresting and detaining him/her.
67. Respondents have offered Petitioner no meaningful opportunity to be heard or challenge his detention since detaining him/her.
68. Petitioner's detention thereby deprives him of Petitioner's rights to Due Process under the Fifth Amendment of the United States Constitution.
69. Petitioner has no adequate remedy at law.

COUNT TWO

VIOLATION OF THE OF THE FIRST AND FIFTH AMENDMENTS TO THE UNITED STATES CONSTITUTION

70. Petitioner realleges and incorporates by reference the paragraphs above.
71. U.S. citizens and noncitizens alike are guaranteed the right to due process under the Fifth

72. Amendment to the United States Constitution, which includes the rights to access courts and to participate in state court proceedings as a witness, party or complainant.
73. U.S. citizens and noncitizens alike are guaranteed the right of petition under the First Amendment to the U.S. Constitution, which includes the right to petition the Government for a redress of grievances. This right to petition includes the right to access courts and to participate in court proceedings as a witness, party or complainant.
74. As a result of Respondents' unlawful arrest and detention of Petitioner, his rights were violated, and he has and continues to suffer prejudice.
75. Petitioner has no adequate remedy at law.

COUNT THREE

RELEASE ON BAIL PENDING ADJUDICATION

76. Petitioner realleges and incorporates by reference the paragraphs above.
77. This Court has the "inherent authority" to grant bail to habeas petitioners like Alioune Sembene. See Vega v. United States, 514 F. Supp. 2d 767, 770 (W.D. Pa. 2007) (citing Johnston v. Marsh, 227 F.2d 528, 531 (3d Cir.1955)); see also Mapp v. Reno, 241 F.3d 221, 230 (2d Cir. 2001).
78. Bail pending habeas is appropriate when a petitioner raises "substantial constitutional claims upon which he has a high probability of success, and also when extraordinary or exceptional circumstances exist which make the grant of bail necessary to make the habeas remedy effective." Landano v. Rafferty, 970 F.2d 1230, 1239 (3d Cir. 1992).
79. Petitioner meets this standard here. This petition raises constitutional claims on which he has a high probability of success. And Petitioner's immediate release is necessary to make this remedy effective. As long as Petitioner remains detained, his physical and

mental health is at continued, serious risk, and his ability to litigate his asylum and immigration claims is jeopardized.

COUNT FOUR:

VIOLATION OF THE INA, REGULATIONS THEREUNDER, AND THE FIFTH AMENDMENT'S DUE PROCESS CLAUSE

80. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.
81. Respondents presumed basis for detaining Petitioner is unknown.
82. Under the terms of the INA and the governing regulations, Petitioner's detention is unlawful.

COUNT FIVE

DENIAL OF ACCESS TO COUNSEL

83. Petitioners repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.
84. Petitioners have constitutional and statutory rights to counsel pursuant to the Fifth Amendment, the First Amendment, and the Immigration and Nationality Act, 8 U.S.C. §1362.
85. Immigrants challenging efforts to remove them from the United States have a right to counsel, at their own expense, pursuant to the Fifth Amendment. See United States v. Campos Asencio, 822 F.2d 506, 509 (5th Cir. 1987).
86. Moreover, "[t]here is also a long-recognized First Amendment right to hire and consult an attorney." Nat'l Fed'n of Indep. Bus. v. Perez, 5:16-CV-00066-C, 2016 WL 3766121, at *31 (N.D. Tex. June 27, 2016). "[T]he scope of the First Amendment's right is

determined by balancing the [plaintiff's] interests in communication with the government's interest in preventing communication." Jacobs v. Schiffer, 204 F.3d 259, 265 (D.C. Cir. 2000).

87. "Restrictions on speech between attorneys and their clients directly undermine the ability of attorneys to offer sound legal advice. As the common law has long recognized, the right to confer with counsel would be hollow if those consulting counsel could not speak freely about their legal problems." Martin v. Lauer, 686 F.2d 24, 32 (D.C. Cir. 1982). 33
88. Petitioner was seized without cause, detained without provided an opportunity to call or reach out to counsel, or even access to a neutral decisionmaker.
89. Petitioner has been completely denied the access to counsel through this detention.

COUNT SIX

VIOLATION OF 8 U.S.C. § 1357(A)(2) WARRANTLESS ARRESTS WITHOUT PROBABLE CAUSE OF FLIGHT RISK

90. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
91. 8 U.S.C. § 1357(a)(2) requires that arrests without a warrant be accompanied by "reason to believe" that an individual is "likely to escape before a warrant can be obtained for [their] arrest."
92. Respondents have a policy, pattern, and practice of making arrests without any warrant without making an individualized determination of flight risk. They have no mechanism for ensuring compliance with the statutory limits of agents' and officers' warrantless arrest authority and do not provide guidance to agents and officers on how to make an

individualized determination of likelihood of escape. Respondents permit agents and officers to make warrantless arrests *carte blanche* in violation of law.

93. Respondents' policy, pattern, and/or practice of making warrantless arrests without the required individualized flight risk analysis is "final agency action" that is "in excess of statutory jurisdiction, authority, or limitations" under 8 U.S.C. § 1357(a)(2). 5 U.S.C. §§ 704, 706(2)(C).

94. Separate from the APA, Respondents' policy, pattern, and practice of making warrantless arrests without the required individualized flight risk analysis is *ultra vires*.

PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 2) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the Administrative Procedure Act; Section 1225(b)(1)(A) of the Immigration and Nationality Act; the First Amendment, and the Rehabilitation Act;
- 3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.
- 4) Order that Petitioner not be transferred outside the Southern District of New York, except to be released;
- 5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- 6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Marie Ndiaye

Next Friend, *Pro Se*

Date: January 13, 2026

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

I, Marie Ndiaye, hereby certify that I am familiar with the case of the named petitioner. I hereby swear under penalty of perjury 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: January 13, 2026

Name: Marie Ndiaye

Signature: 