UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF GEORGIA

COLUMBUS DIVISION

AHLAM SERAJUDDIN,

Petitioner,

v.

JASON STREEVAL, *in his official capacity as Warden of Stewart Detention Center*; KRISTEN SULLIVAN, *in her official capacity as Field Office Director of Immigration and Customs Enforcement, Enforcement and Removal Operations Atlanta Field Office*; KRISTI NOEM, *in her official capacity as Secretary of Homeland Security*; PAMELA J. BONDI, *in her official capacity as Attorney General of the United States*.

Respondents.

PETITION FOR A WRIT OF HABEAS CORPUS

Case No.

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

INTRODUCTION

1. Twenty-year-old Petitioner Ahlam Serajuddin has been detained by ICE at the "prison-like facility" of Stewart Detention Center for over six months despite receiving a grant of asylum, and despite DHS previously determining that she is not a flight risk nor a danger to the community. Consistent with that determination, the Immigration Judge that granted her asylum found that Ms. Serajuddin "has no known criminal history in any country" and that she testified credibly with honesty and candor. Despite many repeated requests by undersigned counsel, no one at DHS or ICE has ever provided an explanation for why ICE detained Ms. Serajuddin in July 2025 when she attempted to attend her first master calendar hearing at the Atlanta Immigration Court. Respondent's unreasonable and unconstitutional detention of Ms. Serajuddin, which contravenes numerous written ICE policies, coupled with their complete failure to explain why she has been detained, has forced Ms. Serajuddin to file this Petition.

2. Ms. Serajuddin is an Uzbek woman from Afghanistan who arrived in the United States with her mother, father, a sister and a brother on December 28, 2024. Since her arrival in the United States, Ms. Serajuddin has been physically detained twice. Upon entry, she was separated from her family and held at Imperial Regional Detention Center for over a month, from December 28, 2024 to January 29, 2025. Ms. Serajuddin was released on parole and placed on an ankle monitor after passing her credible fear interview. On July 14, 2025, Ms. Serajuddin was re-detained, not permitted a bond hearing, and transported to Stewart Detention Center ("Stewart") in Lumpkin, Georgia. She has been detained since that date.

3. While on parole between these detentions, Ms. Serajuddin lived with her family and enrolled in English classes through a community education program at Georgia State

University. She scrupulously complied with her immigration proceedings and the conditions of her parole. She has never been accused of a crime and has, by all accounts, diligently and peacefully attempted to integrate into her new Georgia community.

4. Ms. Serajuddin was re-detained, with no explanation from DHS, while attending her scheduled master calendar hearing on July 14, 2025. There were no material changes in circumstances to merit such detention. She has no criminal history, is not a flight risk, and is not a danger to the community. Undersigned counsel have received no response to multiple attempts to understand why she was re-detained and to request that she be released on parole.

5. On December 15, 2025, the Stewart Immigration Court granted Ms. Serajuddin asylum based on her well-founded fear of future persecution by [redacted][1] A-S-, [redacted] (IC Dec. 15, 2025) ("Order"). *See* Ex. 1, Order at 28. In the Order, Immigration Judge James T. Ward observed that Ms. Serajuddin "has consistently tried to better herself" despite years of "adverse circumstances." She has no criminal history in any country and testified "credibly" and with "honesty and candor" when questioned by IJ Ward and counsel. *Id.*

6. The Department of Homeland Security (DHS) allegedly entered a notice of appeal of the asylum decision with the Board of Immigration Appeals (BIA) on January 13, 2026,[2] and

[1] IJ Ward granted asylum to Ms. Serajuddin on the grounds that Ms. Serajuddin would face future persecution based on her membership in the particular social group of "Afghan Women resisting patriarchal restriction imposed by the Taliban," Order at 18, and that "as a single Uzbek woman who currently lives in the United States, [Ms. Serajuddin] will be persecuted in Afghanistan based on her ethnicity of Uzbek Afghani if she were to return to Afghanistan," Ex. 1, Order at 22.

[2] Undersigned counsel has not been served with the Notice of Appeal and has not seen such Notice of Appeal. Upon emailing Assistant Chief Counsel [redacted] on January 15, 2026 to inquire about the potential release of Ms. Serajuddin after the expiration of the notice to appeal period which ended on January 14, 2026, she informed counsel via email that the Notice to Appeal was uploaded on January 13, 2026. Undersigned counsel has not received the Notice of Appeal through the immigration court's electronic docketing system, ECAS, and has not received any notification of DHS's alleged filing a Notice of Appeal through any other means of service as of this writing.

has continued to detain Ms. Serajuddin at Stewart. Assistant Chief Counsel to DHS has stated, "[i]f ERO[3] agreed to release her during the pendency of the appeal, I am not aware."

7. Ms. Serajuddin, having already been detained by ICE for the five months preceding her asylum decision and now the additional month after that decision, is experiencing significant emotional and mental distress, and unnecessary and unreasonable deprivation of liberty at the hands of Respondents who now seek to keep her in detention during their appeal.

8. Ms. Serajuddin is entitled to immediate release and reinstatement of parole pending this asylum appeal because her re-detention without a hearing unconstitutionally deprived her of the Fifth Amendment liberty interests vested in her by her former grant of parole.

9. Ms. Serajuddin is entitled to have this Court conduct its own individualized analysis of her bond eligibility and eligibility for immediate release under *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954), because ICE's failure to follow its own internal directives favoring the release of noncitizens in Ms. Serajuddin's position violates the Administrative Procedure Act (APA) and the Due Process Clause of the Fifth Amendment.

10. Additionally, Ms. Serajuddin is entitled to immediate release because her continued and prolonged detention without bond violates the Due Process Clause of the Fifth Amendment under the factors enumerated in *Sopo v. United States Attorney General*, 825 F. 3d 1199 (11th Cir. 2016), *abrogated on other grounds by Jennings v. Rodriguez*, 583 U.S. 281 (2018), and the three-part test in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

[3] "ERO" stands for DHS-ICE's office, Enforcement and Removal Operations.

JURISDICTION

11. This Court has jurisdiction under 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); and 28 U.S.C. § 1331 (federal question jurisdiction).

12. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *See, e.g.*, *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

13. This action is also brought under the Administrative Procedure Act ("APA"). Jurisdiction is proper under the judicial review provisions of the APA, 5 U.S.C. § 702.

VENUE

14. Venue is proper in this district and division under 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Ms. Serajuddin is detained within this district at Stewart in Lumpkin, Georgia.

REQUIREMENTS OF 28 U.S.C. § 2243

15. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to Respondents unless Petitioner is wholly ineligible for relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

EXHAUSTION OF REMEDIES

16. As this Court is aware, "exhaustion is not a jurisdictional requirement," but a "prudential matter." *J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1348 (M.D. Ga. 2020) (citations omitted). Ms. Serajuddin has diligently pursued prosecutorial discretion by ICE, requested her release, and has repeatedly encountered constructive denials as ICE refuses to respond to any of her requests. *See* Ex. 4, .

17. Ms. Serajuddin has exhausted her available remedies by unsuccessfully seeking release directly from ICE multiple times, and by repeatedly, unsuccessfully requesting that ICE provide her with any basis for her re-detention. There is no mechanism for administrative appeal of ICE's decision or even any way to require that it respond to such requests. *See Baquera v. Longshore*, 948 F. Supp. 2d 1258, 1259–60 (D. Colo. 2013) (habeas petitioner detained under 8 U.S.C. § 1226(a) requested a bond hearing first from an IJ, did not obtain a definitive ruling on the subject, and was not required to continue to renew requests before seeking habeas because such efforts would be "futile.").

18. Because Ms. Serajuddin was originally designated as an "arriving alien" under the mandatory detention framework of 8 U.S.C. § 1225(b), ICE appears to be treating her current re-detention under the mandatory detention framework. Therefore, Ms. Serajuddin has no administrative mechanism for asserting her entitlement to an individualized bond hearing.

19. Ms. Serajuddin is not required to exhaust administrative remedies for her constitutional claims challenging her continued, prolonged detention under 28 U.S.C. § 2241, and it is in the sound judicial discretion of this Court to exercise jurisdiction in this case. See *Santiago-Lugo v. Warden*, 785 F.3d 467, 474-75 & n.5 (11th Cir. 2015). Furthermore, there is no avenue by which Ms. Serajuddin can present a constitutional challenge to her detention before agency

authority, as she will not be afforded a bond hearing without this Court's intervention. See *J.N.C.G. v. Warden, Stewart Det. Ctr.*, No. 4:20-CV-62-MSH, 2020 WL 5046870, at *3 (M.D. Ga. Aug. 26, 2020) (rejecting respondents' argument that administrative exhaustion was required for prolonged detention claim as "verg[ing] on Orwellian").

PARTIES

20. Ms. Serajuddin is a 20-year-old Uzbek woman who is a native and citizen of Afghanistan. As detailed herein, she was granted asylum by the Stewart Immigration Court on December 15, 2025. She has been detained at Stewart Detention Center in Lumpkin, Georgia since around July 14, 2025.

21. Jason Streeval is the warden of Stewart, a detention center operated privately by CoreCivic that contracts with ICE via an intergovernmental services agreement with Stewart County, Georgia, to detain noncitizens. Warden Streeval oversees Stewart's administration and management. Warden Streeval is Ms. Serajuddin's immediate custodian. He is sued in his official capacity.

22. Upon information and belief, Kristen Sullivan is the Acting Field Office Director of the ICE Enforcement and Removal Operations (ICE ERO) Atlanta Field Office and is the federal agent charged with overseeing all ICE detention centers in Georgia, including Stewart. Ms. Sullivan is a legal custodian of Ms. Serajuddin. She is sued in her official capacity.

23. Kristi Noem is the Secretary of the Department of Homeland Security (DHS). DHS oversees ICE, which is responsible for administering and enforcing the immigration laws. Secretary Noem is the ultimate legal custodian of Ms. Serajuddin. She is sued in her official capacity.

24. Respondent Pamela J. Bondi is the Attorney General of the United States. Attorney General Bondi oversees the immigration court system, including the immigration judges who conduct bond hearings as her designees. She is sued in her official capacity.

FACTUAL BACKGROUND

25. Ahlam Serajuddin is an Uzbek woman born on [redacted], in [redacted] Afghanistan. Immigration Judge James Ward granted asylum to Ms. Serajuddin on December 15, 2025. *See* Ex. 1, Order at 29 ("[T]he Court finds Respondent is statutorily eligible for asylum under section 208 of the Act because Respondent has shown a well-founded fear of future persecution on account of a statutorily protected ground.").

26. Fearing persecution [redacted] Ms. Serajuddin and her family were driven from Afghanistan when Ms. Serajuddin was only 13 years old. She and her family fled to Kazakhstan and then Turkey. They were not offered nor did they obtain any permanent residency in either country, so in July 2024 they fled to Dubai. From Dubai, they flew to Brazil and then Colombia, and then journeyed further eventually reaching Mexico. They had to wait in Mexico until they were given an appointment through CBP One in order to enter the United States.

27. Ms. Serajuddin and her family arrived in the United States on December 28, 2024 for their CBP One appointment to request asylum and, after initial detention and processing by U.S. Immigration officials in Calexico, California, most of the family were released. Ms. Serajuddin was separated from her family and was detained at Imperial Regional Adult Detention Facility in Calexico, California for over a month, from December 28, 2024 to January 29, 2025. It is unclear why Ms. Serajuddin was detained while her other family members were released upon entry, since all of the family members were listed as a family for CBP One scheduling.

28. Ms. Serajuddin was first released from detention with an ISAP ankle monitor affixed to her ankle. On January 23, 2025, the U.S. Department of Homeland Security ("Department") issued Ms. Serajuddin a Form I-862, Notice to Appear ("NTA"), charging her as removable under section 212(a)(7)(A)(i)(I) of the Act.

29. During her pending removal proceedings, Ms. Serajuddin lived in [redacted] Georgia with her parents and siblings. In reliance of the freedom granted to her by parole, Ms. Serajuddin enrolled in English classes at [redacted] Ms. Serajuddin scrupulously followed proper parole conduct: she continually wore her ankle monitor, she pursued an education at [redacted] she engaged in no criminal conduct (not even a traffic ticket), and she attended all scheduled events for her removal proceedings.

30. On July 14, 2025, Ms. Serajuddin appeared in person at the Atlanta Immigration Court for her first master calendar hearing. Ms. Serajuddin informed the immigration judge that her attorney, Sarvi Safai, who is based in California, would attend the hearing virtually. The hearing was canceled by the judge that day. As Ms. Serajuddin walked out of court, ICE Officers arrested her. Since that time, Ms. Serajuddin has been detained at Stewart with no explanation of why she was re-detained at her master calendar hearing. When Ms. Serajuddin was re-detained in Georgia after her Master Calendar hearing, Attorney Safai sought to withdraw from representation.

31. Undersigned counsel was initially contacted to assist in this matter pro bono on August 18, 2025. Due to delays in coordinating with Stewart, undersigned counsel was unable to make initial contact with Ms. Serajuddin until August 26, 2025.

32. Ms. Serajuddin's asylum case before the Stewart Immigration Court was assigned to Immigration Judge James T. Ward. IJ Ward held Ms. Serajuddin's individual merits hearing on October 7, 2025 and then continued that hearing to October, 24, 2025. On December 15, 2025, IJ

Ward granted asylum to Ms. Serajuddin on the grounds that Ms. Serajuddin would face future persecution based on her membership in the particular social group of "[redacted]" Ex. 1, Order at 18, and that [redacted] [Ms. Serajuddin] will be persecuted in Afghanistan based on [redacted] if she were to return to Afghanistan," *Id.* at 22.

33. IJ Ward reasoned:

> The Court finds [Ms. Serajuddin] is deserving of a favorable exercise of discretion. [Ms. Serajuddin] was driven from her home when she was just thirteen years old. Against all odds, she has consistently tried to better herself by going to school in whatever country she was in or under whatever adverse circumstances she found herself. In addition, [Ms. Serajuddin] used the CBP One application to make an appointment and enter the United States instead of attempting to cross illegally. Moreover, [Ms. Serajuddin] has no known criminal history in any country. The Court further finds that she testified credibly and answered the questions of counsel, the Department, and the Court with honesty and candor. As such, the Court finds Respondent's positive equities outweigh any negative factors that exist.

Ex. 1, Order at 28.

34. Since the Order, Ms. Serajuddin has remained detained at Stewart with no indication from DHS regarding a release timeline. Since undersigned counsel began representing Ms. Serajuddin, they have attempted to contact DHS and ICE to understand why they detained Ms. Serajuddin. DHS and ICE have ignored all of these communications and have provided no response whatsoever.

35. Undersigned counsel attempted to email Ms. Serajuddin's Deportation Officer, [redacted], on September 23, 2025 and were redirected to Officer [redacted] through [redacted] "out of office" automatic reply. Neither [redacted] nor [redacted] responded to this email. On October 27, 2025, undersigned counsel attempted to contact [redacted]@ice.dhs.gov, after Assistant Chief Counsel [redacted] provided that email address,

to renew the request for release. Again, there was no response by ICE or DHS to this request. On December 16, 2025, after receiving IJ Ward's order granting asylum, undersigned counsel renewed its request to that same [redacted]@ice.dhs.gov email address, but again received no response. On January 15, 2026, undersigned counsel again attempted to contact Officer [redacted] via email, but have not received a response to that email either. Undersigned counsel are unaware of any other mechanism for requesting this relief beyond these repeated attempts to contact the relevant DHS and ICE personnel.

36. DHS allegedly filed a Notice of Appeal of the asylum decision with the Board of Immigration Appeals (BIA) on January 13, 2026, and has continued to detain Ms. Serajuddin at Stewart during the pendency of the appeal.[4] On January 15, 2026, ACC [redacted] stated to undersigned counsel that she does not know if DHS intends to release Ms. Serajuddin during the pendency of the appeal.

37. Therefore, at present, Ms. Serajuddin faces prolonged detention for an indefinite period of time despite having already been granted asylum and despite DHS and ICE never providing any basis for why she was ever detained or why she must be detained for the pendency of the appeal.

LEGAL FRAMEWORK

I. Asylum, and the Statutory Authority for Detention and Parole

38. Ms. Serajuddin in no way challenges her immigration court proceedings through this petition. However, it is important to understand that she is utilizing the available legal process to request legal protection.

[4] As detailed above, this Notice of Appeal has not been properly served on undersigned counsel and we reserve all rights and defenses regarding the service and filing of the Notice of Appeal.

39. Noncitizens in immigration removal proceedings can seek three main forms of fear-based relief: asylum, withholding of removal, and relief under the Convention Against Torture (CAT). In removal proceedings, the noncitizen presents their claims for protection before an IJ during their individual merits hearing. 8 U.S.C. § 1229a(c)(4). The IJ then issues a decision, which the noncitizen or DHS has the right to appeal to the BIA within 30 days. 8 U.S.C. § 1229a(c)(1); 8 C.F.R. §§ 1003.1(b), 1003.38(b). If the BIA denies relief, the noncitizen can petition for review in the relevant federal circuit court of appeals. 8 U.S.C. § 1252(b). But if the BIA grants relief, DHS cannot seek judicial review, and that relief is final. *See id.* (providing only for judicial review of "an order of removal"). Appeals before the BIA are currently taking between 12 and 24 months to be heard on average, according to reports from practitioners.[5]

40. "8 U.S.C. § 1225 and § 1226 govern how the executive branch evaluates inadmissible noncitizens. Logically speaking, inspection or apprehension of the noncitizen is a necessary precondition of removal. Only after a noncitizen is identified as inadmissible can removal proceedings happen." *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, at 13 (C.D. Cal. Dec. 18, 2025).

41. When a noncitizen presents themselves at a port of entry and asserts an asylum claim, DHS typically classifies them as "applicants for admission" and places the noncitizen in expedited removal proceedings under 8 U.S.C. § 1225(b). In these proceedings, they first undergo a credible fear interview (CFI) with an asylum officer to screen for fear-based relief eligibility. 8 U.S.C. § 1225(b)(1)(B)(i). If the noncitizen passes their CFI, the asylum officer refers them to immigration court for full removal proceedings under 8 U.S.C. § 1229a. § 1225(b)(1)(B)(ii). An "applicant for admission" is defined in relevant part as "[a]n alien present in the United States who

[5] *BIA Appeal Processing Times in 2025*, WRITOFHABEASCORPUS, https://www.writofhabeascorpus.com/2026/01/04/bia-appeal-processing-times-in-2025/ (Jan. 4, 2026).

has not been admitted or who arrives in the United States (whether or not at a designated port of arrival . . .)." 8 U.S.C. § 1225(a)(1).

42. On July 8, 2025, Acting Director of United States Immigration and Customs Enforcement Todd Lyons issued an internal memorandum stating that DHS has determined that INA § 1225 rather than § 1226 is the applicable immigration detention authority for all applicants for admission. *Savane v. Francis*, 801 F. Supp. 3d 483, 490 (S.D.N.Y. 2025) (citations omitted).

43. Additionally, under the Attorney General's current interpretation of the INA, applicants for admission are detained pending adjudication of their claims for relief and are not statutorily entitled to a bond hearing. *See Matter of M-S-*, 27 I&N Dec. at 515-17 (2019) (reading 8 U.S.C. § 1225(b) to require detention without bond for the entire duration of an applicant for admission's asylum proceedings). Instead, under this interpretation, they can only apply for temporary release through discretionary parole "for urgent humanitarian reasons or significant public benefit." *Id.* § 1182(d)(5)(A); see also 8 C.F.R §§ 212.5(b), 235.3.

44. "The Secretary of Homeland Security has discretion to terminate 8 U.S.C. § 1182(d)(5)(A) parole when 'in [her] opinion,' 'the purposes of such parole . . . have been served.' '[T]hereafter[,]' the formerly-paroled noncitizen 'shall forthwith return or be returned to the custody from which he was paroled' and the noncitizen's 'case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.'" *Savane*, 801 F. Supp. 3d at 489 (alterations in original) (quoting *Biden v. Texas*, 597 U.S. 785, 814–15 (2022)). Additionally, "Section 1182(d)(5)(A)'s implementing regulations require 'written notice to the alien' prior to parole revocation." *Id.* at 492 (quoting 8 C.F.R. 212.5(e)(2)(i)).

II. Noncitizens' Constitutional Rights

45. The Fifth Amendment to the U.S. Constitution affords protection to detained noncitizens. "'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)). The Supreme Court has held that the Fifth Amendment's guarantee of Due Process applies to all persons physically within the United States, "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

46. These Due Process protections constrain the government's detention authority. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" which Due Process protects. *Id.* at 690. To comport with due process, detention must "bear [a] reasonable relation to the purpose for which the individual [was] committed." *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 538. Due process thus requires "adequate procedural protections" to ensure that the government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* at 690 (internal quotations omitted).

III. The *Accardi* Doctrine and Agency Obligations to Comply With Their Own Policies

47. Under the *Accardi* doctrine, which originated in the context of an immigration case and has been developed through subsequent immigration caselaw, agencies are bound to follow their own policies that affect the fundamental rights of individuals, including self-imposed policies and processes that limit otherwise discretionary decisions. *See Accardi*, 347 U.S. at 266–68 (holding that BIA must follow its own regulations in its exercise of discretion); *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 . . . even where the internal procedures are possibly more rigorous than otherwise would be required.").

48. The requirement that an agency follow its own policies is not "limited to rules attaining the status of formal regulations." *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). Even an unpublished policy binds the agency if "an examination of the provision's language, its context, and any available extrinsic evidence" supports the conclusion that it is "mandatory rather than merely precatory." *Doe v. Hampton*, 566 F.2d 265, 281 (D.C. Cir. 1977); *see also Morton*, 415 U.S. at 235-36 (applying *Accardi* to violation of internal agency manual).

49. When agencies fail to adhere to their own policies as required by *Accardi*, courts frame the violation as a due process violation, *see Sameena, Inc. v. United States Air Force*, 147 F.3d 1148, 1153 (9th Cir. 1998) ("An agency's failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual's constitutional right to due process." (citation omitted)), or as arbitrary, capricious, and contrary to law under Section 706(2) of the Administrative Procedure Act ("APA"). See 5 U.S.C. §§ 702, 706(2). *See also Damus v. Nielsen*, 313 F. Supp. 3d 317, 337 (D.D.C. 2018) ("It is clear, moreover, that [*Accardi*] claims may arise under the APA").

50. Prejudice is generally presumed when an agency violates its own policy. *See Montilla*, 926 F.2d at 167 ("We hold that [a noncitizen] claiming the INS has failed to adhere to its own regulations . . . is not required to make a showing of prejudice before he is entitled to relief. All that need be shown is that the subject regulations were for [the noncitizen's] benefit and that the INS failed to adhere to them.").

51. To remedy an *Accardi* violation, a court may direct the agency to properly apply its policy, *Damus*, 313 F. Supp. 3d at 343 ("[T]his Court is simply ordering that Defendants do

what they already admit is required."), or a court may apply the policy itself and order relief consistent with the policy, *Jimenez v. Cronen*, 317 F. Supp. 3d 626, 657 (D. Mass. 2018) (scheduling bail hearing to review petitioners' custody under ICE's standards because "it would be particularly unfair to require that petitioners remain detained . . . while ICE attempts to remedy its failure to follow its regulations and to provide each of them due process").

IV. ICE's Internal Policy Directives in Favor of Transparency and Parole

52. Long-standing ICE policy favors the prompt release of noncitizens who have been granted asylum, withholding, or CAT relief. In 2004, ICE issued a policy memorandum entitled Detention Policy Where an Immigration Judge Has Granted Asylum and ICE has Appealed (the "Relief Directive") stating that "it is ICE policy to favor the release of [noncitizens] who have been granted protection relief by an immigration judge, absent exceptional concerns such as national security issues or danger to the community and absent any requirement under law to detain." *See* Ex. 2, ICE Relief Policies at 2.

53. ICE reaffirmed this policy in a 2012 announcement, clarifying that the 2004 ICE memorandum is "still in effect and should be followed" and that "[t]his policy applies at all times following a grant of protection, including during any appellate proceedings and throughout the removal period." *Id.* at 3. Finally, in 2021, acting ICE Director Tae Johnson circulated a memorandum to all ICE employees reminding them of the "longstanding policy" that "absent exceptional circumstances, . . . noncitizens granted asylum, withholding of removal, or CAT protection by an immigration judge should be released." *Id.* at 4. This policy remains in effect.

54. Additionally, the detention of asylum-seekers who have passed a Credible Fear Interview is in part governed by principles and procedures set forth in ICE's "Parole Directive." *Damus*, 313 F. Supp. 3d at 322–23 (D.D.C. 2018) (citing ICE Directive 11002.1, "*Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture*" (the "Parole

Directive")). *See* Ex. 3, Parole Directive. "This document establishes the process by which ICE must determine whether an individual who has passed a credible-fear interview—the first step toward gaining asylum status—will be released from detention on parole pending a full hearing." *Damus*, 313 F. Supp. 3d at 322–23 (citing the Parole Directive).

55. The Parole Directive outlines the agency's interpretation of the "public benefit" condition for releasing asylum seekers detained under § 1225(b) on parole. *See id.* at 324 (citing 8 C.F.R. § 212.5(b)).

> The Directive explains the agency's interpretation of "public benefit" for the purposes of determining parole and sets out a number of procedural requirements for assessing asylum-seekers' eligibility for release. On a broad level, the Directive states that "[e]ach alien's eligibility for parole should be considered and analyzed on its own merits and based on the facts of the individual alien's case," and that if an asylum-seeker establishes his identity and that he presents neither a flight risk nor a danger to the public, "[ICE] should, absent additional factors ... parole the alien on the basis that his or her continued detention is not in the public interest." [The Parole Directive, at] ¶ 6.2 . . . . As a result, although the Directive affirms that parole decisions are discretionary, it also establishes certain minimum procedures and processes that are to be utilized in making these determinations. *Id.*, ¶ 4.4 (Directive "explains how the term [public interest] is to be interpreted by [ICE] when it decides whether to parole arriving aliens determined to have a credible fear" and "mandates uniform recordkeeping and review requirements for such decisions").

Damus, 313 F. Supp. 3d at 324 (citing the Parole Directive throughout).

V. ICE's Unconstitutional Re-Detention Practices

56. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects." *Zadvydas*, 533 U.S. at 690. Generally, the Due Process Clause "requires some kind of a hearing before the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). *See also Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019) ("The fact that a decision-making process involves discretion does not prevent an individual from having a protectable liberty interest."); *Hurd v. District of Columbia, Government*, 864 F.3d 671, 683 (D.C.

Cir. 2017) (holding that re-detention after pre-parole conditional supervision requires a pre-deprivation hearing); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (same, in parole context).

57. Even where in some circumstances the initial decision to detain or release an individual may be within the government's discretion, the government's decision to release an individual from custody creates "an implicit promise" that that individual's liberty "will be revoked only if [she] fails to live up to the parole conditions." *Morrissey*, 408 U.S. at 482. "[T]he liberty [of a person released from government custody] is valuable and must be seen as within the protection of the [Due Process Clause]." *Id.*

58. Accordingly, even when ICE has the initial discretion to detain or release a noncitizen on parole, the decision to release a noncitizen vests within them a protected liberty interest in remaining out of detention.

VI. Unconstitutionally Prolonged Detention

59. In *Jennings*, the Supreme Court considered a challenge to prolonged detention under §§ 1226(c) and 1225(b), and resolved the case on statutory grounds, holding that the Ninth Circuit had erred by interpreting these statutory sections to implicitly require bond hearings after six months of detention. 583 U.S. at 281.

60. Prior to *Jennings*, the Eleventh Circuit in *Sopo* reviewed the issue of whether an individualized bond hearing was ever required for noncitizens detained under § 1226(c). 825 F.3d at 1199. The *Sopo* court highlighted that, "[u]nder the Due Process Clause, *civil detention* is permissible only where there is a 'special justification' that 'outweighs the individual's constitutionally protected interest in avoiding physical restraint.'" *Id.* at 1210 (citation omitted). Looking to Justice Kennedy's concurring opinion in *Demore*, the Eleventh Circuit reiterated the constitutional issues that may result from "unreasonable [and] unjustified" detention, emphasizing

that *Demore* included "a strong constitutional caveat about due process concerns as to continued mandatory detention where the duration of the removal proceedings is unreasonably long or delayed." *Id.* at 1212.

61. To avoid the outcome that "§ 1226(c) may become unconstitutionally applied if a criminal [noncitizen]'s detention without even a bond hearing is unreasonably prolonged," the Eleventh Circuit joined five other Circuit Courts of Appeals in finding an "implicit reasonable time limitation" based on the text of the statute. *Id.* at 1213 (citation omitted). The court thus concluded that detention "under § 1226(c) is constitutional for a reasonable period of time to complete the removal proceedings, but as a matter of constitutional avoidance, at some point such detained [noncitizens] become entitled to an individualized bond hearing." *Id.* at 1202. In 2018, the Supreme Court abrogated *Sopo* to the extent that *Sopo* read a temporal limitation into the text of § 1226(c). *See Jennings*, 583 U.S. at 282–84. Further, the Eleventh Circuit vacated the original *Sopo* decision on rehearing after the appeal was rendered moot by the petitioner being removed from the United States. *Sopo v. U.S. Att'y Gen.*, 890 F.3d 952, 953-54 (11th Cir. 2018).

62. Additionally, although *Sopo* is no longer binding precedent in this Circuit, this Court and other district courts in the Eleventh Circuit have recognized that *Sopo*'s reasoning as to what constitutes "unreasonable and unjustified" detention continues to serve as persuasive authority for as-applied constitutional challenges to prolonged detention for noncitizens in removal proceedings. *See, e.g.*, *S.C. v. Warden, Stewart Det. Ctr.*, No. 4:23-CV-64-CDL-MSH, 2024 WL 796541, at *4 (M.D. Ga. Jan. 5, 2024) (collecting cases and acknowledging that "[a]lthough *Sopo* was vacated and its constitutional avoidance rationale rejected by the Supreme Court in *Jennings*, most district courts in the Eleventh Circuit, including this one, have cited it as persuasive authority on due process claims for prolonged detention"), *report and recommendation adopted*, No. 4:23-

CV-64 (CDL), 2024 WL 790377 (M.D. Ga. Feb. 26, 2024); *J.N.C.G.*, 2020 WL 5046870, at *6 ("For these reasons, the Court concludes that Petitioner's as-applied due process challenge is best analyzed using the factors outlined in *Sopo*, which, although only persuasive authority, provides useful guidance in evaluating prolonged § 1226(c) detention.").

ARGUMENT

I. Ms. Serajuddin's Re-Detention Without a Pre-Detention Hearing Constitutes an Unconstitutional Violation of Her Due Process Rights.

63. Ms. Serajuddin was released on parole after passing her CFI. Although she was under government custody during her parole, she retained a liberty interest under the Due Process Clause of the Fifth Amendment in avoiding re-incarceration. While released on parole, Ms. Serajuddin lived with her family, established a daily routine, enrolled in and attended classes at GSU, and followed the steps of her immigration process. Her re-detention on July 14, 2025 while attempting to attend her master calendar hearing interfered directly with her interests in doing those activities.

A. Procedural Due Process

64. Ms. Serajuddin's re-detention violated her constitutional procedural due process rights. "The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Mathews,* 424 U.S. at 333 (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).

65. Courts apply the three-factor balancing test of *Mathews* to evaluate the "sufficiency of the procedures provided, [considering] (1) the interest at stake for the individual, (2) the risk of an erroneous deprivation of the interest through the procedures used and the probable value of additional procedural safeguards, and (3) the government's interest in avoiding the potential burdens that the additional or substitute procedures would entail." *Haitian Refugee Ctr., Inc. v.*

Nelson, 872 F.2d 1555, 1562 (11th Cir. 1989) (citing *Mathews*, 424 U.S. at 335), *aff'd sub nom. McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479 (1991); *see also Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (finding the *Mathews* test appropriate for evaluation of procedures in the immigration context).

66. Here, the government's grant of parole to Ms. Serajuddin under § 1182(d)(5)(A) enshrined her with a constitutional and nonconstitutional liberty interest in remaining out of custody. She relied upon this vested liberty interest by developing community ties and enrolling at GSU to further her education. Upon a balance of the three *Mathews* factors, ICE's process of depriving Ms. Serajuddin of this liberty interest — without notice or a pre-deprivation opportunity to be heard — fails under procedural due process standards.

i. Ms. Serajuddin has a protectable constitutional and statutory liberty interest in remaining out of custody.

67. As an individual who was re-detained within the United States, Ms. Serajuddin should be entitled to her full constitutional due process rights. The nature of Ms. Serajuddin's private interest in freedom from custody is great.

68. Freedom from government imprisonment is a profound private interest that "lies at the heart of the liberty that" Due Process protects. *Zadvydas*, 533 U.S. at 690. In cases where an individual has been previously released from government custody, the release itself creates a liberty interest in remaining out of custody. *Morrisey*, 408 U.S. at 482. In the immigration context, courts across the country have consistently found the private interest in "retaining [] liberty" is significant, *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1035 (N.D. Cal. 2025), even where "ICE has the initial discretion to detain or release a noncitizen pending removal proceedings." *Id.* at 1032.[6]

[6] (citing *Romero v. Kaiser*, No. 22-cv-02508, 2022 WL 1443250 at *2 (N.D. Cal. May 6, 2022); *Jorge M.F. v. Wilkinson*, No. 21-cv-01434, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021); *Ortiz Vargas v. Jennings*, No. 20-cv-5785, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Ortega*, 415 F. Supp. 3d at 969).

See, e.g., *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1321–22 (W.D. Wash. 2025) ("That the Government exercises discretion in determining whether and which conditions of release to impose does not eliminate the protections afforded to Petitioner's liberty interest."); *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) ("While the temporary detention of non-citizens may sometimes be justified by concerns about public safety or flight risk, the government's discretion to incarcerate non-citizens is always constrained by the requirements of due process[.]"); *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1093 (E.D. Cal. Mar. 3, 2025) ("[I]ndividuals who have been released from custody, even where such release is conditional, have a liberty interest in their continued liberty.").

69. Other courts have specifically recognized that individuals have a significant liberty interest in "freedom from imprisonment" after "the government grants a [noncitizen] parole into the country," *Sanchez v. LaRose*, No. 25-cv-2396-JES-MMP, 2025 WL 2770629, at *3 (S.D. Cal. Sept. 26, 2025). Courts have held that this constitutional liberty interest attaches even when detention is authorized under the mandatory detention statutory framework of 1225(b)(1) and 1225(b)(2). *See, e.g.*, *Vargas v. Jennings*, No. 20-cv-5785-PJH, 2020 WL 5517277, at *2 (N.D. Cal. Sept. 14, 2020) (noting that respondents' argument that petitioner is not entitled by statute or regulation to a pre-arrest hearing does not bear on whether a hearing is required for procedural due process); *Savane*, 801 F. Supp. 3d at 494 ("Other courts confronting the question of what process is required to revoke parole once granted, even when that revocation is discretionary, have held that a noncitizen has a significant liberty interest in remaining out of custody once parole is granted.").

70. Accordingly, the first factor weighs strongly in favor of Ms. Serajuddin.

ii. The risk of the erroneous deprivation of Ms. Serajuddin's liberty interest is great.

71. As to the second factor, the risk of erroneous deprivation of Ms. Serajuddin's liberty interest, numerous district courts have found that where individuals subject to ICE re-detention have "'not received any bond or custody . . . hearing,' 'the risk of an erroneous deprivation [of liberty] is high' because neither the government nor [the petitioner] has had an opportunity to determine whether there is any valid basis for her detention." *Pinchi*, 792 F. Supp. 3d at 1035 (first and second alterations in original) (quoting *Singh v. Andrews*, No. 1:25-cv-00801, 2025 WL 1918679 (E.D. Cal. July 11, 2025)).

72. The requirement that the government conduct a pre-deprivation hearing to determine whether changed circumstances justify re-detention is especially crucial to safeguard Due Process because the prior "[r]elease reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk." *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). That is certainly true in Ms. Serajuddin's case. *See* 8 C.F.R. 212.5(b) (authorizing parole from custody of noncitizens deemed "neither a security risk nor a risk of absconding").

73. Accordingly, "to be lawful," her re-detention "must be based on evidence that the circumstances relevant to that original release decision have changed." *Saravia* 280 F. Supp 3d at 1196.[7] Where, as here, the government has failed to conduct any individualized determination of whether changed circumstances justify Ms. Serajuddin's re-detention—let alone pre-deprivation hearings—the risk of erroneous deprivation is too high to comport with Due Process. *See, e.g.*, *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1322 (W.D. Wash. 2025) ("The Court has no reason

[7] *See also Sanchez*, 2025 WL 2770629, at *3 ("To satisfy due process, those changed circumstances must represent individualized legal justification for detention." (citation omitted)).

to doubt the practical logistical difficulties the Government faces in managing immigration cases, but finds that the challenges facing under-resourced and disjointed agencies underscore rather than undermine the need for robust procedural safeguards before a deprivation of liberty occurs.").

74. Accordingly, the second factor weighs strongly in favor of Ms. Serajuddin.

iii. The government's interest in detaining Ms. Serajuddin is miniscule.

75. Finally, as to the third factor, there is no countervailing government interest that justifies re-detention where, as here, Ms. Serajuddin presents no danger or flight risk concerns. Ms. Serajuddin has no prior criminal history or contact with the criminal legal system whatsoever. Ms. Serajuddin has done nothing to suggest she is a flight risk. She has never missed a court date, and she was wearing an ankle monitor at the time of re-detention. *See, e.g.*, *Carmona v. Ripa*, No. 2:25-cv-1128-SPC-DNF, 2025 WL 3649577, at *5 (M.D. Fla. Dec. 17, 2025) (citing *Zadvydas*, 533 U.S. at 690) (finding that the government did not establish any legitimate interest in the petitioner's continued detention where said detention failed to serve either statutory purposes of ensuring the noncitizen's appearance at future immigration proceedings and/or preventing danger to the community) (citing *Zadvydas*, 533 U.S. at 690).

76. To the extent that Respondents seek to justify re-detention "to meet an administrative quota, or because the government has not yet established constitutionally required pre-detention procedures," or because providing pre-deprivation procedures would be "fiscally or administratively onerous," those excuses do not constitute a legitimate government interest that outweighs Ms. Serajuddin's liberty interest. *Pinchi*, 792 F. Supp. 3d at 1036. Compared to the "staggering" "costs to the public of immigration detention," *Hernandez*, 872 F.3d at 996, "[t]he effort and cost required" of providing a hearing "is minimal." *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1094 (E.D. Cal. 2025).

77. Therefore, the third factor also supports Ms. Serajuddin's position. There is no countervailing government interest that outweighs the important nature of Ms. Serajuddin's private liberty interest. Moreover, there is a high risk of erroneous deprivation under ICE's current seemingly chaotic protocols.

78. Ms. Serajuddin clearly satisfies each of the *Mathews* factors. "'[T]here is no doubt that []Respondents' ongoing detention of [Ms. Serajuddin] with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates [her] due process rights. . . . And no process at all is plainly inadequate." *Savane*, 801 F. Supp. 3d at 494–95 (citations omitted).

B. Substantive Due Process

79. Ms. Serajuddin's re-detention and continued confinement violate Fifth Amendment substantive due process. In the immigration context, detention only comports with substantive due process when it furthers the government's legitimate goals of ensuring the appearance of noncitizens at future immigration proceedings and preventing danger to the community. *See, e.g.*, *Zadvydas*, 533 U.S. at 678.

80. Here, Ms. Serajuddin's re-detention does not further the government's legitimate goals, which bear no reasonable relation to any possible purpose for her re-detention. Ms. Serajuddin was re-detained as she was leaving the Atlanta Immigration Court. Ms. Serajuddin has consistently, scrupulously followed the orders of authorities and the courts. She has absolutely no history of criminal behavior, she attended all scheduled events for her removal proceedings, and she always kept her ankle monitor affixed to her. Ms. Serajuddin's priorities are, as they have always been, to build a productive life alongside her family in a safe and stable environment and to obtain a college education. Her conduct while on parole—when she was lawfully, peacefully pursuing an education at GSU—shows that her detention serves no legitimate government purpose

as required by the Due Process Clause. Thus, Ms. Serajuddin's re-detention violates substantive Due Process and mandates her immediate release from custody.

II. Ms. Serajuddin's Re-Detention and Ongoing Detention Contravene DHS's Binding Directives in Violation of the APA.

81. ICE's binding policy directive for noncitizens like Ms. Serajuddin is "to favor release of [noncitizens] who have been granted protection relief by an immigration judge, absent exceptional concerns such as national security issues or danger to the community and absent any requirement to detain under the law." *See* Ex. 2, ICE Relief Policies at 2–3. No such "exceptional concerns" exist in Ms. Serajuddin's case, yet ICE has inexplicably refused to follow its own policy in this case.

82. Additionally, ICE's unexplained re-detention of Ms. Serajuddin after she passed her CFI and was granted parole expressly contradicts the Parole Directive's policies of transparent and "uniform record-keeping and review requirements," of parole for aliens that present neither a flight risk nor danger to the community, and that "[ICE] should, absent additional factors . . . parole the alien on the basis that his or her continued detention is not in the public interest." *See* Ex. 3, Parole Directive, at ¶¶ 4.3, 4.4, 6.2. Ms. Serajuddin's initial release on parole establishes that she was neither a flight risk nor a danger to the community. Her subsequent re-detention without notice or provision of reasoning of any change in circumstances to justify the re-detention is the very definition of arbitrary and capricious action.

83. Respondents' failure to comply with the ICE Relief Polices and the Parole Directive is prejudicial. Given the lack of criminal history or any other reason to keep Ms. Serajuddin detained, she would very likely be released immediately if ICE or this Court were to apply the Relief Directive to her case now that she has been granted asylum. ICE's arbitrary and capricious

act of re-detaining Ms. Serajuddin in contravention of its own internal, binding policies constitutes a violation of the APA under the *Accardi* doctrine.

III. Ms. Serajuddin's Detention Without Bond Has Become Unconstitutionally Prolonged.

84. Under Ms. Serajuddin's circumstances, her more than six-month detention has reached the point of being unconstitutionally prolonged under the Eleventh Circuit's *Sopo* factors and the three-factor balancing test articulated in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Thus, she is constitutionally entitled to a bond hearing before an IJ with the burden on the Government by clear and convincing evidence and with consideration of ability to pay and alternatives to detention.

85. In *Sopo*, the Eleventh Circuit identified five non-exhaustive factors to "guide a district court in determining whether a particular [noncitizen]'s continued detention, as required by § 1226(c), is necessary to fulfilling Congress's aims of removing [noncitizens with relevant criminal histories] while preventing flight and recidivism." *Sopo*, 825 F.3d at 1218. Under *Sopo*, courts are to analyze (1) length of immigration detention, (2) reason for protracted removal proceedings, (3) likelihood of removal, (4) length of immigration versus criminal detention, and (5) whether the immigration detention facility is meaningfully different from a criminal prison. *Id.* at 1217-19. The Eleventh Circuit further emphasized that this "list of factors is not exhaustive" and "the factors that should be considered will vary depending on the individual circumstances present in each case." *Id.* at 1218.

86. While Ms. Serajuddin is not detained pursuant to § 1226(c), the *Sopo* factors provide a fitting framework for analyzing her pre-removal order detention and demonstrate that her continued detention without bond violates Due Process. This is because Ms. Serajuddin is functionally in the same situation as someone mandatorily detained under § 1226(c) in that she

currently has no mechanism for requesting a bond hearing. In any case, the particular statute of detention should not affect the extent of a noncitizen's due process rights when faced with prolonged detention without bond.

A. Length of Detention

87. First, the "critical factor is the amount of time that the [noncitizen] has been in detention without a bond hearing." *Sopo*, 825 F.3d. at 1217. The *Sopo* court explained that "there is little chance that a [noncitizen]'s detention is unreasonable until at least the six-month mark" and "detention without a bond hearing may often become unreasonable by the one-year mark." *Id.* Thus, "[t]he need for a bond inquiry is likely to arise in the six-month to one year window." *Id.*

88. As of the date of filing this petition, Ms. Serajuddin has been detained for more than six months, placing her well within the *Sopo* period in which the need for a bond inquiry arises. She was re-detained on July 14, 2025, making January 14, 2026 the date marking the end of a six-month period of detention. Without habeas relief, and with no indication otherwise from DHS or ICE, Ms. Serajuddin will be detained for an indefinite period of time during the pendency of DHS's alleged appeal, which may take over 1-2 years.

89. Accordingly, in light of the circumstances of this case and current events, this critical factor weighs in favor of Ms. Serajuddin.

B. Reason for Protracted Removal Proceedings

90. Second, courts should evaluate "why the removal proceedings have become protracted." *Id.* at 1219. Here, ICE bears responsibility for the current delay in Ms. Serajuddin's removal proceedings due to its alleged appeal[8] of the IJ's decision granting Ms. Serajuddin asylum. *See* Ex. 1, Order.

[8] As discussed above, undersigned counsel has not received service of the allegedly filed Notice of Appeal.

91. Since entering the United States and being released on parole, Ms. Serajuddin has done nothing but diligently pursue her rights under the law. This culminated in IJ Ward's December 15, 2025 grant of asylum in her favor, opining that Ms. Serajuddin "is deserving of a favorable exercise of discretion." Ex. 1, Order at 28.

92. ICE has prolonged Ms. Serajuddin's removal proceedings, and therefore her detention, by (at the very least) several additional months by appealing the IJ's decision. ICE waited until January 13, 2026 to file its appeal with the BIA. Worse, ICE has failed or refused to conduct a custody review for Ms. Serajuddin under the Relief Directive—which favors release of individuals in Ms. Serajuddin's position—during the pendency of the appeal, thereby arbitrarily keeping Ms. Serajuddin detained, at significant cost to both herself and the Government. *See A.L. v. Oddo*, 761 F. Supp. 3d 822, 826 (W.D. Pa. 2025) ("[T]he delay resulting from Respondents failure to follow their own policies lies squarely on Respondents. . . . Respondents have offered no rationale as to why they are not following their own internal policies in [this] case.").

93. Accordingly, the second factor also weighs strongly in Ms. Serajuddin's favor.

C. Likelihood of Removal

94. Third, courts should evaluate "whether it will be possible to remove the [noncitizen] after there is a final order of removal." *Sopo*, 825 F.3d at 1218. As an initial point, it is highly unlikely that DHS will secure a removal order against Ms. Serajuddin, given that an IJ has already granted her asylum. Even in the unlikely scenario that Ms. Serajuddin is somehow ordered removed, it is quite unlikely that DHS will be able to effectuate her removal to Afghanistan. Deportations to Afghanistan from the U.S. have been exceedingly rare since the U.S. military withdrew from that country in August 2021.[9] Thus, this factor either favors Ms. Serajuddin or is

[9] "ICE deportations to Afghanistan are extremely rare. In the fiscal year of 2020, before the U.S. armed forces left the country, the agency had deported just 25 Afghans. That number dropped to 14 in the following year and 12 in the

neutral and less relevant than the other *Sopo* factors. *See Khan v. Whiddon*, No. 2:13-cv-638-FtM-29MRM, 2016 WL 4666513, at *6 (M.D. Fla. Sept. 7, 2016) (for third *Sopo* factor, analyzing likelihood of final removal order and concluding that "even assuming that there is a high likelihood that petitioner's appeal will result in removal, this factor standing alone does not supersede the other factors that weigh in petitioner's favor"); *J.N.C.G.*, 2020 WL 5046870, at *6 (granting habeas relief and ordering bond hearing under *Sopo* despite finding "no impediment to Petitioner's removal to El Salvador once a removal order became final").

95. The Eleventh Circuit also noted with approval the First Circuit's articulated factor of the "foreseeability of proceedings concluding in the near future (or the likely duration of future detention)." *Sopo*, 825 F.3d at 1218 (citing *Reid v. Donelan*, 819 F.3d 486, 500 (1st Cir. 2016)); *see also Lukaj v. McAleenan*, 420 F. Supp. 3d 1265, 1275–76 (M.D. Fla. 2019) (recognizing under *Sopo* "[a]nother factor relevant to the reasonableness analysis, is the procedural posture of the removal proceedings"), *vacated as moot on reconsideration*, No. 3:19-cv-241-J-34MCR, 2020 WL 248724 (M.D. Fla. Jan. 16, 2020). Here, Ms. Serajuddin's proceedings are likely to continue for many more months or even years. Given the BIA's backlog,[10] it could take months for it to rule in this case, protracting Ms. Serajuddin's detention even longer. If the BIA grants ICE's appeal and remands to the IJ for further proceedings, that will likewise prolong Ms. Serajuddin's detention for many more months. If the BIA reverses the IJ and orders Ms. Serajuddin's removal, she would

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2022 fiscal year, which ended in September [2022.]" Hamed Aleaziz, LATimes.com, "ICE deported him to Afghanistan, then flew him back to L.A.," (Apr. 13, 2023), https://www.latimes.com/politics/story/2023-04-13/ice-deported-afghanistan-asylum-seeker-mistake.

[10] According to EOIR's most recent data, the BIA backlog reached an all-time high of 119,131 cases in Fiscal Year 2024, up from 113,604 from the prior fiscal year. Executive Office for Immigration Review Adjudication Statistics, Oct. 10, 2024, https://www.justice.gov/eoir/media/1344986/dl?inline. To make matters worse, the Trump Administration recently fired multiple members of the BIA, with no apparent plans to replace them. *See* Britain Eakin, Law 360, "Trump Admin to Nearly Halve Immigration Appeals Board," (Feb. 20, 2025) https://immigrationcourtside.com/wp-content/uploads/2025/02/Trump-Admin-To-Nearly-Halve-Immigration-Appeals-Board-Law360.pdf.

file a petition for review with the Eleventh Circuit Court of Appeals and seek a judicial stay of removal. Accordingly, under any of the above scenarios, the third factor weighs in favor of Ms. Serajuddin, or at worst is neutral and of limited weight.

D. Comparison of Duration of Immigration and Criminal Detention

96. Fourth, under *Sopo*, courts should evaluate "whether the [noncitizen]'s civil immigration detention exceeds the time the [noncitizen] spent in prison for the crime that rendered him removable." 825 F.3d at 1218. Here, Ms. Serajuddin has never been imprisoned anywhere in the world and is not removable based on any crime. As IJ Ward found, Ms. Serajuddin "has no known criminal history in any country." Ex. 1, Order at 28.

97. Thus, the fourth *Sopo* factor also weighs strongly in Ms. Serajuddin's favor. *See J.N.C.G.*, 2020 WL 5046870, at *6 (finding fourth *Sopo* factor in petitioner's favor where he was not criminally detained for conviction triggering his mandatory immigration detention).

E. Whether Immigration Detention Facility Is Similar to Criminal Detention

98. Fifth, courts should evaluate "whether the facility for the civil immigration detention is meaningfully different from a penal institution for criminal detention." *Sopo*, 825 F.3d at 1218. Extended civil immigration detention resembling criminal detention renders the immigration detention more unreasonable. The *Sopo* Court specifically determined that Stewart, where Ms. Serajuddin is detained, is "a prison-like facility." *Id.* at 1221; *see also J.N.C.G.*, 2020 WL 5046870, at *7 ("[N]either party disputes that Petitioner's current place of confinement—Stewart Detention Center—is not meaningfully different from a prison.").

99. While Stewart is an immigration detention center exclusively for people in ICE custody, its restrictive conditions make it similar to criminal jails and prisons. Stewart is a medium-security facility, one of the largest for immigrants in the country. Several reports have revealed that Stewart has serious institutional problems, including "deaths, prolonged solitary confinement,

sexual abuse and medical neglect."[11] It holds the dismal record for the most deaths of all U.S. immigration detention facilities, with ten individuals dying in custody from 2017 to 2024.[12] A recently published report details pervasive use of solitary confinement and medical neglect at the facility.[13]

100. In 2023, CoreCivic, which operates Stewart, settled a lawsuit alleging forced labor practices, including daily wages of $1 to $4, insufficient food, and punishment of noncitizens who refused to work with solitary confinement. *See* Notice of Settlement, *Barrientos v. CoreCivic*, No. 4:18-cv-00070-CDL (M.D. Ga. Sept. 29, 2023), ECF No. 397.[14] Shortly after, over 120 individuals detained at Stewart submitted a petition and accompanying civil rights complaint regarding "inhumane conditions and mistreatment at the detention facility, including mold leading to eye conditions, spoiled food causing food poisoning, denial of hot water and medical care neglect."[15] These complaints and reports illustrate that Stewart not only resembles criminal detention, but may be even *more* restrictive and punitive than many criminal jails and prisons, where detained individuals would at least have access to resources like educational programming.

101. Thus, given the undeniably harsh and restrictive conditions at Stewart, the fifth *Sopo* factor also weighs strongly in Ms. Serajuddin's favor.

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[11] Rita Omokha, *Detainees speak out against 'abusive' US migrant jail: 'This place is horrible,'* THE GUARDIAN (Dec. 6, 2023), , https://www.theguardian.com/us-news/2023/nov/28/ice-detainees-lumpkin-georgia.

[12] *Deadly Failures: Preventable Deaths in U.S. Immigrant Detention,* ACLU, at 17 (June 21, 2024), https://www.aclu.org/publications/deadly-failures-preventable-deaths-in-us-immigrant-detention.

[13] Kristen A. Kolenz and Amilcar Valencia, *Invisible Cruelty: Solitary Confinement and Medical Neglect at Stewart Detention Center*, El Refugio (December 2024), https://static1.squarespace.com/static/5dedd42f60df274331bcd16b/t/675b6118a167665b0436d843/1734041892407/Invisible+Cruelty_Dic2024+FINAL.pdf.

[14] *See also* Lautaro Grinspan, *Immigrant detainees' forced labor case ends in settlement*, THE ATLANTA J.-CONST. (Oct. 23, 2023), https://www.ajc.com/news/georgia-news/immigrant-detainees-forced-labor-case-ends-in-settlement/6EHIGVSKJBBOPEPJJVIP75316Y/.

[15] *Over 100 Detained Immigrants Submit Petition in Response to Dangerous Mold, Medical Neglect, and Other Abuses at Georgia Detention Center*, Freedom for Immigrants (Oct. 19, 2023), https://www.freedomforimmigrants.org/news/mass-petition-filed-stewart-detention-center.

F. Additional Relevant Factors

102. The Eleventh Circuit emphasized that its "list of factors is not exhaustive" and "the factors that should be considered will vary depending on the individual circumstances present in each case." *Sopo*, 825 F.3d at 1218. Here, the additional factors of ICE's failure to follow its own binding Relief Directive as well as its own Parole Directive, paired with Ms. Serajuddin's compliance with U.S. immigration procedures, further demonstrate the unreasonableness of her continued detention. *See Lukaj*, 420 F. Supp. 3d at 1276 (concluding under *Sopo* factors, "medical concerns and the purported lack of treatment, . . . is a factor which supports a finding that . . . continued indefinite detention without a bond hearing would be unreasonable"), *vacated as moot on reconsideration*, 2020 WL 248724.

103. Accordingly, all five of the enumerated *Sopo* factors, as well as additional factors, weigh strongly in Ms. Serajuddin's favor and underscore her unconstitutionally prolonged detention.

IV. Ms. Serajuddin's Continued Detention Without Bond Is Also Unreasonable Under the *Mathews* Test and Must Be Remedied With a Bond Hearing With Proper Procedural Protections.

104. If the Court finds that release is not proper, Ms. Serajuddin alternatively requests the Court grant Ms. Serajuddin a bond hearing. As discussed above, application of the test articulated in *Mathews v. Eldridge* also demonstrates that Ms. Serajuddin's continued detention violates due process and the necessity of a bond hearing with the burden on the Government by clear and convincing evidence and consideration of ability to pay and alternatives to detention. 424 U.S. at 335.

105. Here, application of the *Mathews* test also shows that Ms. Serajuddin's detention without a bond hearing has become unreasonable. Ms. Serajuddin is detained *without explanation* after having previously been granted parole. While ICE has discretion in determining whether to

grant or deny parole, it does not necessarily follow that ICE has the same discretion in re-arresting someone previously granted parole, without providing reasons. Her subsequent detention constitutes a deprivation of Ms. Serajuddin's concrete liberty interest that was vested in her by virtue of the grant of her parole. Thus, the first *Mathews* factor undoubtedly favors Ms. Serajuddin.

106. As discussed above, the second *Mathews* factor, the risk of erroneous deprivation and value of additional safeguards, also heavily favors Ms. Serajuddin. "Here, the almost nonexistent procedural protections . . . markedly increase[s] the risk of an erroneous deprivation of [Ms. Serajuddin's] private liberty interests." *Black v. Decker*, 103 F.4th 133, 151 (2d Cir. 2024); *see also J.G.*, 501 F. Supp. 3d at 1337 (concluding that "risk of an erroneous deprivation under [regular] bond procedure[s] is high" where burden is placed on noncitizens and "[t]he Government is not required to present a shred of evidence, yet it has substantial resources available"). Similarly, "parole . . . has highly restrictive criteria and limited transparency, is subject to the unreviewable discretion of the Attorney General, and has no opportunity for an actual hearing before a neutral decisionmaker." *Mbalivoto v. Holt*, 527 F. Supp. 3d 838, 848 (E.D. Va. 2020). It "has none of the features of an individualized bond hearing." *Id.*

107. Here, ICE has provided Ms. Serajuddin with even less process than its already minimal requirements. Contrary to the pro-transparency and record-keeping requirements of its Parole Directive, ICE has failed to provide Ms. Serajuddin with any explanation for its decision to re-detain Ms. Serajuddin after she has already been granted parole and asylum. ICE has provided no indication that it has conducted an individualized analysis based on her arguments and supporting evidence. No explanation has been given despite repeated emailed requests for any explanation whatsoever. As detailed above, undersigned counsel have emailed at least five requests for information as of the time of filing this petition.

108. "Moreover, 'as the period of . . . confinement grows,' so do the required procedural protections no matter what level of due process may have been sufficient at the moment of initial detention." *Velasco Lopez v. Decker*, 978 F.3d 842, 853 (2d Cir. 2020) (alteration in original) (citing *Zadvydas*, 533 U.S. at 701). Despite Ms. Serajuddin's detention of over six months, her immigration case allegedly remains pending before the BIA and is likely to remain pending for at least several additional months before the BIA renders a decision, which may or may not resolve Ms. Serajuddin's removal proceedings. An individualized bond hearing before the IJ with the Government bearing the burden by clear and convincing evidence and consideration of alternatives to detention and ability to pay would significantly decrease the risk of erroneous deprivation of Ms. Serajuddin's liberty. *See id.* at 853, 856 (concluding Government's substantial resources and access to information compared to petitioner "demonstrate[ ] the value for due process purposes of . . . burden-shifting" at bond hearing and "clear and convincing evidence standard of proof provides the appropriate level of procedural protection" where "potential injury is as significant as the individual's liberty"); *Black*, 103 F.4th at 158 (ruling that "refusing to consider ability to pay and alternative means of assuring appearance creates a serious risk that the noncitizen will erroneously be deprived of the right to liberty purely for financial reasons"); *see also J.G.*, 501 F. Supp. 3d at 1339 ("Shifting the burden of proof . . . can reduce the chances that erroneous detentions will be ordered.").

109. Third, the Government's interest and the administrative burden of additional procedures further favors Ms. Serajuddin. Holding an IJ bond hearing with the burden on the Government and consideration of ability to pay and alternatives to detention imposes minimal cost and inconvenience. IJs routinely hold bond hearings in immigration courts across the country. The Government has access to noncitizens' immigration records and other information that it can use

to make its case. While the Government has a legitimate interest in ensuring Ms. Serajuddin's appearance in immigration proceedings and protecting the community from danger, it "has not articulated an interest in the prolonged detention of noncitizens who are neither dangerous nor a risk of flight." *Black*, 103 F.4th at 155 (citing *Velasco Lopez*, 978 F.3d at 854).

110. "On the contrary, shifting the burden of proof to the Government to justify continued detention promotes the Government's interest—one we believe to be paramount—in minimizing the enormous impact of incarceration in cases where it serves no purpose." *Velasco Lopez*, 978 F.3d at 854. Ms. Serajuddin has not received any response from ICE on her multiple information requests, nor has she received any explanation of ICE's refusal to adjudicate her requests. If Respondents are sure that her detention is justified, they should welcome a bond hearing to confirm that they are not using substantial resources to detain her unnecessarily. Accordingly, Ms. Serajuddin's continued detention without bond is also unreasonable under the *Mathews* test, which requires a bond hearing with sufficient procedural protections.

CLAIMS FOR RELIEF

COUNT I

VIOLATION OF DUE PROCESS RIGHTS UNDER THE FIFTH AMENDMENT
Re-Detention and Ongoing Detention
Against All Respondents

111. The allegations in the above paragraphs are realleged and incorporated herein.

112. ICE released Ms. Serajuddin about one month after her initial detention but revoked her release and re-detained her on July 14, 2025 for unknown reasons.

113. ICE has never provided Ms. Serajuddin with notice of the reasons for the re-detention or revocation of her release.

114. ICE has never conducted an interview with Ms. Serajuddin concerning the re-detention, the revocation of her release, or the reasons therefor.

115. ICE has never provided Ms. Serajuddin with an opportunity to respond to the reasons for the re-detention or revocation of her release.

116. Ms. Serajuddin's re-detention deprived her of a significant liberty interest in being out of confinement and on parole. Respondents have deprived Ms. Serajuddin of this interest despite her never presenting any indication of being a flight risk or a danger to the community. Ms. Serajuddin's re-detention occurred without her being given an opportunity for hearing.

117. This unexplained and ongoing deprivation violates Ms. Serajuddin's constitutional and statutory Due Process rights. She is thus entitled to immediate release from custody.

COUNT II
ARBITRARY AND CAPRICIOUS AGENCY ACTION
UNDER THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A)
Failure to Follow the Parole Relief Directive
Against ICE Respondents

118. ICE Respondents have violated their own binding policy in Relief Directive 16004.1 *Detention Policy Where an Immigration Judge Has Granted Asylum and ICE Has Appealed* by failing to timely adjudicate Ms. Serajuddin's request for release in the form of parole pursuant to the Relief Directive. They have thereby also failed to conduct an individualized assessment as to whether Ms. Serajuddin warrants parole given that she was granted asylum by IJ Ward at the Stewart Immigration Court, she is not a flight risk or danger, and no other factors counsel in favor of denying parole.

119. On information and belief, neither the Executive Associate Commissioner nor the district director made the decision to revoke Petitioner's release, and neither concluded prior to

Petitioner's re-detention that any of the grounds in ICE's internal guidance policies had been satisfied.

120. This is arbitrary, capricious, and contrary to law in violation of the APA. Therefore, Ms. Serajuddin is entitled to immediate release.

COUNT III
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION
Prolonged Detention Without Bond
Against All Respondents

121. Ms. Serajuddin's detention without a bond hearing, which has lasted for over six months and could last for many more months or years while her removal proceedings remain pending, is not reasonably related to the statutory purpose of ensuring her appearance for removal proceedings or preventing danger to the community. Under these circumstances, this detention violates her procedural Due Process rights.

122. To justify Ms. Serajuddin's ongoing prolonged detention, Due Process requires the Government to establish, at an individualized hearing before a neutral decision-maker, that Ms. Serajuddin's detention is justified by clear and convincing evidence, taking into consideration whether conditions of release might mitigate risk of flight and Ms. Serajuddin's ability to pay bond.

PRAYER FOR RELIEF

Wherefore, Ms. Serajuddin respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause within three days why this Petition should not be granted;

(3) Declare that Ms. Serajuddin's detention violates the APA and her Due Process rights; and

(4) Issue a Writ of Habeas Corpus ordering Respondents to release Ms. Serajuddin immediately, subject to appropriate conditions approved by the Court.

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

I represent Petitioner, Ahlam Serajuddin, and submit this verification on her behalf. Based on my discussions with Petitioner, 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 20th day of January, 2026.

Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

By: */s/ Michael J. Turton*

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