UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

MAHMOUD MOHAMMED MOHAMME ELGENDY

Petitioner,

v.

Pamela Bondi, Attorney General of the United States,

Kristi Noem, Secretary, U.S. Department of Homeland Security,

U.S. Department of Homeland Security,

Todd M. Lyons, Acting Director of Immigration and Customs Enforcement,

U.S. Immigration and Customs Enforcement, and

David Easterwood, Acting Director, St. Paul Field Office Immigration and Customs Enforcement,

Respondents.

Case No. 0:26-cv-00646

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Expedited Handling Requested

INTRODUCTION

1. Petitioner Mahmoud Mohammed Mohamme Elgendy ("Mahmoud"), by and through counsel, hereby files this petition for a writ of habeas corpus and a complaint for declaratory and injunctive relief to require U.S. Immigration and Customs Enforcement ("ICE") to release Petitioner from ICE detention or in the alternative to enjoin Petitioner's transfer to a facility outside of Minnesota and provide Petitioner with a bond hearing.

2. Mahmoud is a teacher at Quantum Steam Academy as a Family Engagement and Outreach Coordinator since February 2022. He is described as a fantastic educator who coordinates the school's special education services. He is seeking a Masters Degree at the University of St. Thomas and has been encouraged by the school to pursue his PhD. He is a beloved teacher and community member.

3. On May 11, 2023, an immigration judge granted Mahmoud's August 3, 2020, application for Asylum in the United States. He is legally in the United States, has no criminal record, and his detention is unlawful and unconstitutional.

4. **Because he has already been granted asylum by the United States, Petitioner's detention is illegal and ICE has no detention authority over Petitioner. Therefore, the proper remedy is immediate release from custody while the government responds to this Petition. He is also a diabetic and needs access to his medication immediately.**

JURISDICTION AND VENUE

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

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

7. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by the Department of Homeland Security ("DHS"). *Denmore v. Kim*, 538 U.S. 510 516-17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018); and *Nielsen v. Preap*, 139 S. Ct. 954, 961-63 (2019).

8. This Court has jurisdiction, even if Petitioner has been removed from the state of Minnesota, because "habeas jurisdiction attaches at the time of the Petitioner's apprehension," and is "not defeated by any subsequent decision by Respondents to transfer Petitioner to another state." Slip Op. 2–3, *Sue H. v. Donald Trump*, No. 26-cv-416 (D. Minn. Jan. 20, 2026).

9. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Petitioner is detained within the District of Minnesota.

10. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A), because Respondents are operating in this District.

PARTIES

11. Petitioner Mahmoud Mohammed Mohamm Elgendy is a citizen of Egypt and a resident of Blaine, Minnesota, Anoka County, Minnesota being detained by ICE in Minnesota. Petitioner Mahmoud is under the direct control of the Respondents and has no scheduled release date. Petitioner is detained under the jurisdiction of the U.S. Immigration and Customs Enforcement St. Paul Field Office at Fort Snelling in Minnesota. Mahmoud has been living peacefully in Minnesota for at least three years and on May 11, 2023, an immigration judge granted Mahmoud's August 3, 2020, application for Asylum in the

United States. He is legally in the United States, has been granted Asylum by the United Sates, and his detention is unlawful and unconstitutional.

12. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Petitioner.

13. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the Fort Snelling ICE Field Office, and is legally responsible for pursuing Petitioner's detention and removal. As such, Respondent Noem is a legal custodian of Petitioner.

14. Respondent U.S. Department of Homeland Security ("DHS") is a federal agency headquartered in Washington, DC, and the parent agency of U.S. Immigration and Customs Enforcement.

15. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention.

16. Respondent U.S. Immigration and Customs Enforcement ("ICE") is a component agency of DHS.

17. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the Fort Snelling Field Office for ICE within DHS. In that capacity, Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Petitioner. The address for the St. Paul Field Office at Fort Snelling is 1 Federal Drive, Fort Snelling, Minnesota 55111.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

18. Petitioner Elgendy was detained the afternoon of January 25, 2026, around 3:30 p.m. The last known contact with him was to someone at Quest Academy Charter School in which Mr. Elgendy said he had been detained by ICE.

19. Upon information and belief, Petitioner was taken into custody to the Fort Snelling immigration building on 1 Federal Drive, St. Paul, Minnesota.

20. This arrest is part of an operation in Hennepin County and Ramsey County called "Operation Metro Surge." This operation has involved hundreds of masked, unidentified individuals in unmarked vehicles (many with illegally covered or mismatched license plates) holding themselves out as ICE agents but largely refusing to identify themselves by name or to present warrants, physically assaulting pedestrians, pepper spraying and arresting citizen observers, hitting passersby with vehicles, and generally attempting to take as many immigrants as possible into custody, regardless of the constitutionality of their actions. *See, e.g.*, Compl., *Tincher et. al. v. Noem*, No. 0:25-cv-04669. (D. Minn. 12/17/2025).

21. At the time of this filing, to the best of the undersigned's knowledge, Petitioner is in federal detention in Minneapolis, Minnesota.

22. The undersigned attempted to use ICE's online detainee locator system to attempt to track whether Petitioner had been transferred. There is no location shown on ICE's locator for any Petitioner currently. *See* locator.ice.gov/odls/#/results.

23. Petitioner poses no risk to society and has strong connections to the community. He is a beloved member of his school community. Petitioner is here lawfully pursuant to his asylum application, which was granted on May 11, 2023 by an immigration judge.

24. Detaining Petitioner is an expensive and pointless endeavor. Petitioner respectfully seeks the opportunity to return home given he has already been granted his asylum application and is in this country legally.

25. Pending the adjudication of their Petition, Petitioner further seeks an order restraining the Respondents from transferring Petitioner to a location outside of the State of Minnesota, so that Petitioner may remain within the jurisdiction of this Court and accessible to Petitioner's legal counsel and family support networks.

STANDARD OF LAW

26. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The "Great Writ" has been referred to by United States Courts as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law. 28 U.S.C. § 2241(c)(3). The writ should be granted if petitioner can show

that their detention is unlawful by a preponderance of evidence. *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025).

27. The Court must grant a petition for writ of habeas corpus or issue an order to show cause to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause 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.*

28. Detained immigrants petitioning under 28 U.S.C. § 2241 face no statutory exhaustion requirements. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Nor is a judicially imposed prudential exhaustion requirement appropriate where, as here: time is of the essence, facts are largely undisputed, and the parties' disagreement is based on a legal conclusion. *Id.* at 967-68.

29. In *Mayamu K. v. Bondi*, No. 25-3035 (JWB/LIB), 2025 U.S. Dist. LEXIS 260661 (D. Minn. Oct. 20, 2025) this Court held that: 1) 28 U.S.C. 1441 does not require exhaustion; 2) exhaustion "serves no purpose" because the Board of Immigration Appeals cannot decide constitutional questions; 3) the administrative process would be futile and risks irreparable harm because an appeal to the Board of Immigration Appeals is a "long, months-long process" and 4) administrative review would be futile "in light of the Board of Immigration Appeals' recent decision in *Matter of Yajure Hurtado* which held that immigration judges 'lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission. 29 I. & N. Dec. 216, 225 (B.I.A. 2025)."

30. Other courts within the Eighth Circuit have similarly declined to require prudential exhaustion when evaluating a detained immigrant's habeas corpus petition under similar circumstances—to address a question of statutory interpretation that does not require developing a factual record, and where the agency is demonstrably unlikely to reverse its course. *E.g.*, *Giron Reyes v. Lyons*, No. C25-4048, 2025 WL 2712427, at *3 (N.D. Iowa Sept. 23, 2025).

31. "[T]he Due Process Clause applies to all 'persons' within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

32. Only under certain circumstances are immigrants subject to ongoing detention without a bond hearing. *See*, *e.g.*, 8 U.S.C. § 1226(c) (individuals with certain criminal convictions may be detained without a bond hearing for the pendency of removal proceedings[1]) *and* 8 U.S.C. § 1225(b)(2) (authorizing mandatory detention of immigrants seeking admission from outside the United States, who are "not clearly and beyond a doubt entitled to be admitted.").

33. In order to bring a detained individual under the purview of 8 U.S.C. § 1226(c), an individual's criminal conviction must be one enumerated in the INA under 8

[1] Even when detained under 1226(c), immigrants retain due process rights and are entitled to a hearing if the period of detention becomes unreasonable. *See*, e.g., *Pedro O v. Garland*, 543 F.Supp.3d 733 (D. Minn. 2021) (finding a year-long mandatory detention pursuant to 8 U.S.C. § 1226(c) without an individualized hearing to violate an immigrant's due process rights).

U.S.C. §§ 1182(a)(2), 1182(a)(3)(B), 8 U.S.C. §§ 1227(a)(2)(A)(i-iii), and 8 U.S.C. §§ 1227(a)(2)(B-D).

34. These specified offenses include crimes of moral turpitude, violations of laws regulating controlled substances, terroristic activities, firearm offenses, espionage, treason, and other serious crimes. *Id.* Crimes of moral turpitude do not apply in situations where the maximum sentence for the crime was less than one year, and the person was sentenced to less than six months of imprisonment. 8 U.S.C. § 1182(a)(2)(A)(ii)(III).

35. Upon information and belief, the Petitioner has never been convicted of a crime that would bring Petitioner under the purview of 8 U.S.C. § 1226(c).

36. Otherwise, the "default rule" is that 8 U.S.C. § 1226(a) and its implementing regulations apply to immigrants "already present in the United States" and subject to pending removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018). Under this default rule, immigrants are constitutionally entitled to a bond hearing. *R.E. v. Bondi*, No. 25-CV-3946 (NEB/DLM), 2025 WL 3146312 (D. Minn. Nov. 4, 2025).

37. Here, Petitioner fits the 'default rule': Petitioner has been in the United States for more than two years and does not have criminal convictions that fall under the purview of 8 U.S.C. § 1226(c). Thus, Petitioner is entitled to release.

38. Immigration detention is civil in nature, and as a result Congress must have expressly authorized it by statute, and the detention must be reasonably related to its statutory purpose. *Zadvydas v. Davis*, 533 U.S. 678, 687, 690 (2001) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

39. A noncitizen seeking only to challenge the legality of their detention, not the substance of their removal proceedings in immigration court, may properly ask a federal court to find jurisdiction over such a request pursuant to 28 U.S.C. § 2241. *See, e.g., Mohammed H. v. Trump*, 786 F. Supp. 3d 1149, 1154–55 (D. Minn. 2025).

40. Since Section 1225 does not apply to noncitizens who are in Petitioner's situation–who have been detained while residing within the United States for more than two years, as opposed to those who are detained while in the process of physically entering the United States, the law that Respondents are using to detain Petitioner simply does not apply so as to authorize Petitioner's detention. *See Eliseo A.A. v. Olson*, Civ. No. 25-3381 (JWB/DJF), 2025 WL 2886729 (D. Minn. Oct. 8, 2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819 (D. Minn. Oct. 20, 2025); *Khalid B.Q. v. Bondi*, Civ. No. 25-4584 (JWB/DJF), Doc. No. 10 (D. Minn. Dec. 18, 2025); *Xuseen A. v. Bondi*, Civ. No. 25-4514 (JWB/DJF), Doc. No. 16 (D. Minn. Dec. 19, 2025); *Vedat C. v. Bondi*, Civ. No. 25-4642 (JWB/DJF), Doc. No. 9 (D. Minn. Dec. 19, 2025).

41. When a habeas petitioner's detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention").

42. Respondents will no doubt argue, as they have in similar cases before this Court, that if the Court rules that Petitioner should have been detained pursuant to § 1226, instead of § 1225, then the remedy is a bond hearing as opposed to outright release. *See*, e.g., *Ahmed A.* Civ. No. 25-4776, Doc. No. 9. at 9-10. However, this Court rejected this argument, saying that:

> [A] bond hearing presupposes lawful detention authority under § 1226. Where that authority has not been invoked or established, ordering a bond hearing would treat the absence of statutory authority as a mere procedural irregularity rather than a substantive defect … Where the record shows Respondents have not identified a valid statutory basis for detention in the first place, the remedy is not to supply one through further proceedings.

Id. at Doc. No. 10 at 6.

43. Here, where detention is unlawfully based on 8 U.S.C. 1225, which does not apply to Petitioner, release is an appropriate remedy.

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

Petitioner is being deprived of an adequate and meaningful process to challenge his ongoing confinement.

44. Petitioner realleges and incorporates by reference the allegations contained above.

45. Petitioner has due process rights as a resident of the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

46. Federal courts use the three-part test in *Matthews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

47. Here, all three factors favor the Petitioner.

48. First, Petitioner has a significant private interest at stake. A person's interest in freedom from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); see also *Zadvydas*, 533 U.S. at 690, 121 S.Ct. 2491 ("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."). Petitioner currently experiences the gambit of deprivations that come with physical detention.

49. Second, Petitioner will continue to be deprived of this interest if the current procedure (detaining Petitioner without a hearing) is followed. Petitioner has a strong likelihood of meeting the criteria for being released on bond. 8 CFR §§236.1(c)(8), 1236.1(c)(8) (2020); *In re Adeniji*, 22 I. & N. Dec. 1102, 1113 (BIA 1999). Even if Petitioner is not subsequently released, Petitioner still has a legal and constitutional interest in the hearing itself, in being heard.

50. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Petitioner poses no safety threats to the community. Releasing Petitioner, or holding a hearing to release Petitioner on bond, would in fact *save* the government the resources and expense of continuing to imprison Petitioner.

51. The placement of Petitioner in detention pending the resolution of his asylum proceedings violates his constitutional rights to due process guaranteed in the Fifth Amendment.

COUNT TWO

Immigration and Nationality Act, 8 U.S.C. § 1226

Petitioner's Ongoing Detention, without the Opportunity for a Bond Hearing, Violates his Statutory Right to a Hearing as Guaranteed by 8 U.S.C. § 1226

52. Petitioner realleges and incorporates by reference each and every allegation contained above.

53. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

54. Petitioner is not subject to 8 U.S.C. §§ 1225(b)(1), 1226(c), or § 1231.

55. Respondents' application of § 1225(b)(2) to Petitioner unlawfully mandates their continued detention and violates the INA.

COUNT THREE

Violation of the Administrative Procedure Act

56. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

57. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

58. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law." 5 U.S.C. § 706(2)(D).

59. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens could properly be detained under § 1226(a), but would then be eligible for release on bond unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

60. Nonetheless, the Board has adopted a policy and practice of applying § 1225(b)(2) to Petitioner and others in the same position.

61. Respondents through their recent administrative decision failed to articulate any reasoned explanations for new interpretation of the Act. The Board's decision represents a change in the agencies' policies and positions that negates the plain language of the Act, the will of Congress, and decades of administrative precedent.

62. The application of § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

REQUEST FOR ORDER TO SHOW CAUSE

63. Within three days, unless good cause for a delay is shown, "[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears

from the application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

64. Petitioner, by and through counsel, respectfully request that the Court issue an Order to Show Cause directing Respondents to file a return within three days of the Court's order, showing cause, if any, why a writ of habeas corpus should not be granted.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief;

(1) Assume jurisdiction over this matter;

(2) Issue an immediate Order requiring Respondents not transfer Petitioner out of this District;

(3) Issue an Order to show cause as to why Petitioner should not be released immediately, or in the alternative afforded a bond hearing;

(4) Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days; and

(5) Grant any other and further relief that this Court may deem just and proper.

DATED: January 26, 2026

/s/ Brian D. Clark
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner because his current detention makes them unable to submit one on their own behalf. On information and belief, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED: January 26, 2026

/s/ Brian D. Clark

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