UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

HASSAN HASSAN,

Petitioner,

v.

PAMELA BONDI, in their official capacity as Attorney General of the United States;
KRISTI NOEM, in her capacity as Secretary of the United States Department of Homeland Security;
TODD M. LYONS, in his official capacity as Acting Director of the United States Immigration and Customs Enforcement;
DAVID EASTERWOOD in his official capacity as Acting Director, St. Paul Field Office, U.S. Immigration and Customs Enforcement;
JOSEPH B. EDLOW, in his official capacity as Director, U.S. Immigration and Customs Enforcement

Respondents.

Case No. 0:26-cv-00770

Verified Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241

INTRODUCTION

1. This case seeks the immediate release of Hassan Hassan ("Petitioner")--a refugee admitted to the United States on July 18, 2024 ("Admission Date")—from unlawful detention by the Department of Homeland Security's ("DHS") U.S. Immigration and Customs Enforcement ("ICE"). ICE unlawfully detained Petitioner on January 28, 2026 ("Detention Date"), in violation of Petitioner's constitutional, statutory, and regulatory rights. As of this filing, it is believed that Petitioner is being detained by ICE in Minnesota.

2. On January 9, 2026, the Department of Homeland Security launched so-called "OPERATION PARRIS" which in its words were to "target fraudulent refugee applications in Minnesota." The announcement also states that the "initial focus is on Minnesota's 5,600 refugees who have not yet been given lawful permanent resident status (Green Cards)."

3. Petitioner brings this habeas action, first, for an order that Respondents immediately release Petitioner. Respondents' sudden arrest violates the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act ("INA") and implementing regulations, the Administrative Procedure Act ("APA"), and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions.

4. The Petitioner is a refugee from Somalia who has followed all of the required processes and procedures, from the considerable vetting applied prior to Petitioner's arrival

in the United States as well as the processes and procedures required of Petitioner after arrival. Petitioner has submitted his I-485 application for a for a green card and received acknowledgment that such application was being processed. On the Detention Date, Petitioner was arrested at approximately 6:00AM on his way to work. To Petitioner's knowledge Petitioner has neither violated the immigration statutes nor any criminal statute. Petitioner should not have Petitioner's freedom abruptly taken away without explanation, process or lawful authority.

5. In light of the information and belief that ICE has moved other petitioners to detention center far from Minnesota after they filed petitions for writs of habeas corpus in this District, this petition also requests that the Court specifically enjoin Respondents from moving or transferring Petitioner outside of the District of Minnesota in the Order to Show Cause. Enjoining Petitioner's transfer through an Order to Show Cause would avoid the repetitive briefing and strain on the Court's resources presented by a separate motion for a temporary restraining order.

PARTIES

6. Petitioner has lived in the United States since the Admission Date, on which Petitioner was admitted to the United States as a refugee. Petitioner has not been charged with or convicted of any crimes. Petitioner is not in removal proceedings of any kind. Petitioner has never been issued a removal order of any kind. Prior to Petitioner's detention, Petitioner was residing in Minnetonka, Minnesota. Petitioner on information and belief is currently detained by ICE in Minnesota. Petitioner's last known whereabouts were in

Minnetonka, MN as of 6 o'clock AM. As of 12:05PM on January 28, 2026, the ICE locator indicated that Petitioner was in custody and that anyone seeking information about his location should contact the ERO office. The phone rings only to an automated line.

7. Respondent Pamela Bondi is named in her official capacity as the U.S. Attorney General. Attorney General Bondi is responsible for continuing a custody case against a noncitizen and as such is Petitioner's legal custodian.

8. Respondent Kristi Noem is named in her official capacity as the Secretary of the United States Department of Homeland Security. DHS is a department of the executive branch of the U.S. government that is tasked with administering and enforcing the federal immigration laws. Secretary Noem is ultimately responsible for ICE's actions; specifically, she is responsible for the administration and enforcement of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a). Secretary Noem is legally responsible for any effort to detain and as such is Petitioner's legal custodian.

9. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of the United States Immigration and Customs Enforcement. ICE is the agency within DHS that is specifically responsible for managing all aspects of the immigration enforcement process, including immigration detention. ICE is responsible for apprehension, incarceration, and removal of noncitizens from the United States, and as such Acting Director Lyons is Petitioner's legal custodian.

10. Respondent David Easterwood is named in his official capacity as the Acting Director for the ICE St. Paul Field Office. Director Easterwood is responsible for the

enforcement of the immigration laws within this district, and for ensuring that ICE officials follow the agency's policies and procedures.

JURISDICTION AND VENUE

11. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

12. Nothing in 8 U.S.C. § 1252 deprives this Court of jurisdiction. To Petitioner's knowledge, Respondents have not commenced removal proceedings of any sort at this time and there is no extant removal order of any sort relating to Petitioner.

13. Instead, the Government has represented its authority to detain Petitioner flows from 8 U.S.C. § 1159(a)(1)(C)'s provision regarding adjustment of status interview for Refugees, which indicates unadjusted refugees, like Petitioner, shall after one year "return or be returned to the custody of the Department of Homeland Security for inspection and examination for admission to the United States." While the Government and Petitioner dispute the meaning of "custody" with respect to these interviews, there is *no* dispute this challenge does not implicate "ICE's discretionary decisions *to commence removal*" nor its decision to "detain [Petitioner] during [her] *removal proceedings*." *See Acxel S.Q.D.C. v. Bondi*, 2025 WL 2617973 at *2 (D.Minn Sept. 9, 2025) (Magnuson, J) (emphases added).[1]

[1] Petitioner respectfully disagrees with the Court's jurisdictional analysis in that case while emphasizing the categorical difference in the Government's alleged detention

14. Likewise, 8 U.S.C. 1252(b)(9), which channels all legal questions arising from an "action taken or proceeding brought to remove an alien from the United States" into a Petition for Review of a final order of removal is not implicated here, as the Government has not commenced removal proceedings of any kind, let alone secured a final order of removal. *See id.*

15. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, the All Writs Act, 28 U.S.C. § 1651, the Suspension Clause, and the Court's inherent equitable powers.

16. Venue lies in the U.S. District Court for the District of Minnesota because it is the judicial district in which Petitioner was and is currently believed to be detained. Venue is also proper in this Court under 28 U.S.C. § 1391(e)(1) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in this district.

REQUIREMENTS OF 28 U.S.C. § 2243

17. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* Moreover, a hearing is to be set within five days of the return on writ, and "[u]nless the

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authority. *See e.g., Santos M.C. v. Olson*, 2025 WL 3281787 at *2 (D.Minn. Nov. 25, 2025) (Schiltz, J.).

application for the writ and the return present only issues of law the person to whom the writ is directed shall be required to produce at the hearing the body of the person detained." *Id.*

18. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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) (citation omitted). "The writ of habeas corpus, challenging illegality of detention, is reduced to a sham if the trial courts do not act within a reasonable time." *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978).

19. Due to the nature of this proceeding, Petitioner asks this Court to expedite proceedings in this case as necessary and practicable for justice. Petitioner also seeks as part of this Court's Show Cause Order an order to prevent (1) transfer out of the district (or his return to the district) and (2) his removal from the United States while these proceedings are ongoing.

LEGAL FRAMEWORK

Refugee Admission

20. The United States Refugee Admissions Program ("USRAP") is a federal program established pursuant to the Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102 (codified as amended at 8 U.S.C. § 1157), and is administered jointly by the Department of State, the Department of Homeland Security through U.S. Citizenship and Immigration Services ("USCIS"), and the Department of Health and Human Services.

21. Under 8 U.S.C. § 1101(a)(42), a "refugee" is defined as any person who is outside their country of nationality and is unable or unwilling to return to that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The President, in consultation with Congress, determines the maximum number of refugees who may be admitted to the United States each fiscal year. 8 U.S.C. § 1157(a).

22. To be considered for refugee resettlement to the United States, an individual must first be referred to USRAP by the United Nations High Commissioner for Refugees ("UNHCR"), a U.S. Embassy, or a designated non-governmental organization. The overwhelming majority of refugee applicants are referred by UNHCR based on its determination that they meet the international definition of refugee and require resettlement as a durable solution. Of the more than 30 million refugees worldwide, UNHCR refers fewer than 1% for resettlement to any country in any given year.

23. After receiving a referral, refugee applicants undergo the most extensive security vetting of any category of travelers to the United States. The security screening process typically takes 18 to 24 months or longer and involves multiple federal agencies, including the National Counterterrorism Center, the FBI's Terrorist Screening Center, the Department of Defense, and multiple DHS components. Applicants' biographic information is screened against numerous databases, including the Consular Lookout and Support System, the Treasury Enforcement Communications System, the National Crime Information Center, and classified databases.

24. Following initial security screening, refugee applicants are interviewed under oath by a specially trained USCIS Refugee Officer who assesses the applicant's eligibility for refugee status and evaluates the credibility of the applicant's claim. The Refugee Officer has the authority to approve or deny the refugee application based on whether the applicant meets the statutory definition of refugee and does not fall within any of the bars to refugee status under 8 U.S.C. § 1157(c), including those who have participated in persecution, those who pose a danger to U.S. security, and those who have provided material support to terrorist organizations.

25. Applicants who are conditionally approved by USCIS must undergo a medical examination by physicians designated by the Department of State and complete a cultural orientation program. Prior to travel, all applicants undergo additional recurrent security checks to ensure no new derogatory information has emerged.

26. Refugees are matched with a local resettlement agency in the United States that will provide initial reception and placement services. Upon arrival, refugees are inspected by U.S. Customs and Border Protection officers at the port of entry and are allowed an admission into the United States.

27. Under the Board of Immigration Appeals precedent, refugees who are admitted into the United States have effectuated an "admission" under 8 U.S.C. 1101(a)(13). *Matter of D-K-*, 25 I&N Dec. 761 (BIA 2012); *see* 8 U.S.C. 1157.

28. Upon admission to the United States, refugees are authorized to work immediately and are eligible for certain federal benefits and services to assist with initial

resettlement, including cash and medical assistance through programs administered by HHS's Office of Refugee Resettlement.

Refugee Adjustment

29. Admitted refugees are allowed to adjust their status to that of lawful permanent residents. The statutory framework for refugee adjustment is set out in 8 U.S.C. 1159(a) and (c). Under that statute, refugees are eligible for adjustment of status once they have "been physically present in the United States for at least one year." 8 U.S.C. 1159(a).

30. Refugees are given notification that they must file their application for adjustment of status one year after entry. Under the regulation the language is presented as "Upon admission to the United States, every refugee entrant will be notified of the requirement to submit an application for permanent residence one year after entry." 8 C.F.R. 209.1(b).

31. Once the adjustment application was filed and the refugee had met the requirements, under 8 U.S.C. 1159, such as having been physically present in the United States, applied for adjustment, still a refugee or a spouse of child of a refugee, and has not been firmly resettled and is not inadmissible under INA 212 the refugees is admitted as a permanent resident. The statute under 8 U.S.C. 1159(c) exempts refugees from inadmissibility grounds found under 1182(a)(4), (5), (7)(A) and provides a humanitarian waiver for a number of other inadmissibility grounds.

Removal of Unadjusted Refugees

32. Refugee status is an indefinite status that has no expiration date.

33. Those admitted as refugees have lawful status and are protected from removal unless and until the Department of Homeland Security ("DHS") proves their deportability in removal proceedings under 8 U.S.C. § 1229a and a final order of removal is entered against them.

34. To secure a removal order against a refugee pursuant to removal proceedings under 8 U.S.C. § 1229a, DHS must establish by clear and convincing evidence that one more grounds of deportability under 8 U.S.C. § 1227 apply to the refugee. *See* 8 U.S.C. § 1227 (applying to those "admitted" to the United States); *Matter of D-K,* 25 I&N Dec. 761 (BIA 2012) ("Thus, we conclude that under the language of the Act and regulations, and also in view of the context and structure of the provisions at issue, an alien admitted to the United States as a refugee has been "admitted" for purposes of section 101(a)(13)(A) of the Act." And as such, "the respondent is present in the United States pursuant to a prior admission as a refugee, and any charges in the notice to appear must be based on the grounds of deportability under section 237 of the Act."). Being a refugee who has not yet adjusted their status to permanent resident is not a ground of deportability under 8 U.S.C. 1227.

Detention of Refugees

35. There are several detention statutes that can authorize the detention of noncitizens depending on their procedural circumstance. See 8 U.S.C. § 1225(b)(1) (applying to noncitizen subjected to expedited removal); 8 U.S.C. § 1225(b)(2)(A) (applying to certain inadmissible noncitizens detained while seeking admission at the

border); 8 U.S.C. § 1231(a) (applying to noncitizens with final removal orders); 8 U.S.C. § 1226(a) (discretionary detention authority for those in removal proceedings); 8 U.S.C. § 1226(c) (applying to noncitizens in removal proceedings with certain criminal history).

36. The only possible statutory authority for a refugee admitted to the United States who lacks any criminal history and has never been subjected to any prior removal process is 8 U.S.C. § 1226(a). That statute allows DHS to detain a noncitizen "[o]n a warrant issued by the Attorney General . . . pending a decision on whether the alien is to be removed from the United States." But this statute only applies to those whom DHS places into removal proceedings under 8 § U.S.C. 1229a pursuant to a charge that the noncitizen has triggered a ground of removal. For an admitted noncitizen such as a refugee, DHS may only commence removal proceedings, and thus justify 1226(a) detention, if they are alleged to have triggered one or more grounds of deportability under 8 U.S.C. 1227.

8 U.S.C. § 1159(a)(1)(C) Does Not Authorize Detention

The Statutory Language Does Not Allow for Arrest or Detention

37. Further, 8 U.S.C. § 1159(a)(1)(C) (which is sometimes referred to as Immigration & Nationality Act ("INA") § 209) does not provide any authority to arrest or detain Petitioner. Neither word appears in the statute. To the contrary, §1159(a)(1)(C) says that refugees who were admitted over one year ago but who have not yet obtained the status of Lawful Permanent Resident ("unadjusted refugees") "shall return or be returned to the custody for inspection and examination…" This statute merely requires presence at an interview. It does not authorize, much less mandate, arrest followed by detention. As a

matter of plain meaning and as specifically used throughout the immigration statutes, "custody" is not synonymous with "detention." And *neither* "custody" nor "detention" is synonymous with unfettered authority to conduct warrantless arrests.

38. The word "custody" is not synonymous with "detention." *See* Black's Law Dictionary, (12th Ed. 2024) (defining custody as "[t]he care and control of a thing or person for inspection, preservation, or security"). The Supreme Court has explicitly rejected the argument that a reference to "custody" in the INA necessarily authorizes detention. *See Clark v. Martinez*, 543 U.S. 371, 385–86 (2005). In *Clark*, the Government argued that the nearly identical language "returned to the custody from which he was paroled" in 8 U.S.C. § 1182(d)(5)(A) authorized detention of individuals to whom the provision applied. The Supreme Court rejected this argument: "we find nothing in this text that affirmatively authorizes detention, much less indefinite detention. To the contrary, it provides that, when parole is revoked, 'the alien shall . . . be returned to the custody from which he was paroled.'" *Id.* The Court explained that any detention to which such a parolee would be subjected is based not on the "returned to the custody" language but rather from general detention statutes in the immigration laws—in that case, the Court pointed to 8 U.S.C. § 1231(a)(6), which governs limited detention beyond the statutory removal period. *Id.* at 386. The use of an identical or nearly identical term or phrase in a statute should be read to have the same or similar meaning. *Nat'l Postal Pol'y Council v. Postal Regul. Comm'n*, 17 F.4th 1184, 1191 (D.C. Cir. 2021) ("[a] standard principle of statutory construction

provides that identical words and phrases within the same statute should normally be given the same meaning.") (citation omitted).

39. Courts frequently distinguish between "legal custody" and "physical custody." Child custody cases are replete with references to one party having "legal custody" and another having "physical custody." Indeed, some immigration statutes reference the distinction by, for example, requiring certain children to be in both "the legal and physical custody of the citizen parent" in order to obtain citizenship themselves. See 8 U.S.C. § 1431.

40. Given that the term "custody" when it is unmodified by either "legal" or "physical" can be ambiguous, the Court must look to the remainder of the statutory language to determine what is mean by the term "custody" in the context of § 1159 Importantly, the words "detention" or "detain" (which clearly pertain to physical custody) appear nowhere in § 1159. When Congress intends to authorize physical confinement in the INA, it does so through explicit use of the words "detention" or "detain" within the authorizing provision. See, e.g., 8 U.S.C. §§ 1225, 1226, 1231, 1536–37. It matters that §1159 refers to "custody" but does not use the words "detention" or "detain." It tells us that § 1159 is not providing for physical custody, but is instead providing for legal custody during the inspection and examination process. The absence of "detention" or detain" from § 1159 renders that specific section distinguishable from statutory provisions that use both terms. The Supreme Court has recognized the importance of this absence. When the Supreme Court construed the only other extant INA provision that used the phrase "return

or be returned to the custody," the Court found "nothing in th[e] text that affirmatively authorizes detention, much less indefinite detention." *Clark*, 543 U.S. at 371.

41. The statutory language of §1159 is not an oversight; it reflects Congress's deliberate choice *not* to authorize physical detention in the refugee adjustment context. *See Bittner v. United States*, 598 U.S. 85, 94 (2023) ("When Congress includes particular language in one section of a statute but omits it from a neighbor, we normally understand that difference in language to convey a difference in meaning (*expressio unius est exclusio alterius*).").

42. Not only does § 1159 lack any reference to detention, it contains an explicit directive that refugees "*return or* be returned to the custody of DHS" for the purpose of adjudicating adjustment. 8 U.S.C. § 1159(a)(1)(C) (emphasis added). This evinces a clear intent to have refugees present themselves rather than have them be forcibly arrested and held against their will. If custody meant physical custody, there would be no meaningful sense in which a refugee could "return" themselves to that state; they would always have to "be returned." This is another indication that §1159 does not contemplate physical detention. *Cf.* 8 U.S.C. § 1226 (explicitly referring to "detention of aliens," and authorizing the Attorney General to "*take into* custody" certain noncitizens charged with or convicted of specified crimes (emphasis added)).

43. Also informative here is the complete absence of any discussion of arresting refugees in the statute where Congress explicitly details the powers of immigration officers and employees in 8 U.S.C. § 1357. Under 8 U.S.C. § 1357(a), officers are allowed to arrest

non-citizens for committing crimes or if they believe they are in violation of the immigration laws or if they have committed felonies against the United States in their presence. None of these situations applies to Petitioner. There is no suspected violation of any immigration law, which is extremely important as the apparent immigration detention statute that would apply to a person admitted into the United States is 8 U.S.C. § 1226(a). That statute allows DHS to detain a noncitizen "[o]n a warrant issued by the Attorney General . . . pending a decision on whether the alien is to be removed from the United States."[2] Petitioner has also not been placed in removal proceedings. In light of all these circumstances, there is no authority in §1357 for Respondents to have arrested Petitioner, a clear indication that §1159 does not contemplate either arrest or detention.

44. In *Jama A. O.*, Judge Frank agreed, stating "Section 1159 contemplates a refugee's return to the custody of DHS for a limited time to allow the government to inspect and examine the refugee for admission. Per the plain text of the statute, any continued detention of a refugee under § 1159(a) must be based on the provisions of sections 1225, 1229a, and 1231." No. 26-cv420 (DWF/ECW), ECF 10 at 7 (D. Minn. Jan. 23, 2026) (cleaned up, citing *Abdi F.W. v. Trump*, No. 26-cv-208, at 5 (D. Minn. Jan 21, 2026)).

An ICE Directive Confirms that a Failure to Adjust or Apply for Adjustment is Not Grounds for Detention.

[2] This statute only applies to those whom DHS places into removal proceedings under 8 U.S.C. § 1229a pursuant to a charge that the noncitizen has triggered a ground of removal. The regulations on warrants, administrative warrants included, do not allow for the detention of people who are not removable from the United States.

45. A directive issued in 2010 by ICE's then-director, James Chapparro, further confirms that a refugee's failure to adjust or even the failure to apply for adjustment is not grounds for removal, and therefore cannot form the basis for detention. See Detention of Refugees Admitted Under INA § 207 Who Have Failed to Adjust to Lawful Permanent Resident Status (May 2010) (hereinafter "2010 ICE Directive"). The 2010 ICE Directive states that an unadjusted refugee can be detained only if there is a basis for removal under other, separate provisions of the INA (such as for certain criminal conduct). This guidance would be unnecessary and nonsensical if the statute mandated detention in all circumstances. See *Vue v. Kane*, No. CIV-09-1939-PHX-PGR, 2010 WL 5535387, at *6 (D. Ariz. Nov. 19, 2010), report and recommendation adopted, 2011 WL 43465 (D. Ariz. Jan. 6, 2011) (quoting the 2010 ICE Directive). See also Aliens and Nationality; Refugee and Asylum Procedures, 46 FR 45116-01 (1981) ("Section 209 contains the procedures for adjustment to lawful permanent resident alien status by refugees and asylees. Notice will be sent to all refugees after one year to report for an interview.").

46. Internal agency materials further confirm Petitioner's understanding. Indeed, according to the USCIS Policy Manual, USCIS has the discretion to waive the interview requirement for refugee adjustment cases when the application does not present any issues of concerns regarding admissibility. If "custody" in the context of §1159 referred to mandatory physical custody, then the Policy Manual's statement that an in-person interview could be waived would be nonsensical. On the other hand, Petitioner's view is

wholly consistent with the manual: physical custody is not required and, therefore, no in-person interview must take place.

47. The United States has never before engaged in the mass incarceration of unadjusted refugees at the one-year mark. Indeed, doing so, as noted by another judge in this District, is "illogical given that refugees are not eligible to apply for adjustment of status until they have 'been physically present in the United States *for at least one year*.' 8 U.S.C. § 1159(a)(1)(B)." *E.E. v. Bondi, et. al.*, Case No. 26-314 JWB/DTS, ECF No.7 at 8 (D. Minn. Jan. 17, 2026) (emphasis added in original).[3] Refugee status is intended to serve as a precursor to status as a lawful permanent resident, not as a one-year prelude to indefinite incarceration. Just spelling out the realities of Respondents' position reveals its absurdity: for 365 days after arrival, refugees are not subject to detention and are unable to adjust their status, but on the 366th day they become eligible to adjust their status and become Lawful Permanent Residents, but they are also subject to mandatory violent arrest, detention, sudden involuntary transfer out of state, and being cut off from family, community and counsel for failure to adjust their status.

Detention Is Also Inconsistent with United States Obligations International Law

[3] Judge Blackwell subsequently vacated this order because the Petitioner had been released by the time it was issued. The reasoning of the Order, however, remains persuasive. Petitioner notes that the Order in E.E. was issued before E.E. was allowed to reply to the Respondents' arguments, and Judge Blackwell did not have the benefit of much of the authority presented herein when he concluded that detention was authorized by §1159. Moreover, Judge Blackwell did not have the benefit of the Susan Raufer Declaration regarding the minimal time required to conduct an adjustment interview.

48. The United States acceded to the 1967 Protocol in 1968, see Protocol Relating to the Status of Refugees, Jan. 31, 1967, 19 U.S.T. 6223; 606 U.N.T.S. 267 ("1967 Protocol"), thereby binding itself to Articles 2 through 34 of the 1951 Refugee Convention. See 1967 Protocol art. 1, ¶¶ 1–2; Convention relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 150 ("1951 Refugee Convention"). Congress enacted the Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102, to bring United States refugee law into conformance with the 1967 Protocol. See *INS v. Cardoza- Fonseca*, 480 U.S. 421, 436–37 (1987) ("If one thing is clear from the legislative history of [the Refugee Act of 1980], it is that one of Congress's primary purposes was to bring United States refugee law into conformance with the 1967 United Nations Protocol Relating to the Status of Refugees.").

49. Under international law, once someone has been recognized as a refugee, as Petitioner has, limits on their freedom of movement may not be imposed beyond those limits which apply "to aliens generally in the same circumstances." 1951 Refugee Convention at Arts. 26, 31(2). Allowing for detention, however, would do violence to this clear legislative purpose and directive. Further, in interpreting a statute, the Court must assume Congress intended to follow international law and should avoid any interpretation that would violate any international law or treaty. *See F. Hoffmann-La Roche Ltd. v. Empagran S.A.*, 542 U.S. 155, 164 (2004) (citing *Murray v. Schooner Charming Betsy*, 2 Cranch 64, 118, 2 L.Ed. 208 (1804)); *see also Cardoza-Fonseca*, 480 U.S. at 436–37 (a primary purpose of the Refugee Act "was to bring United States refugee law into conformance with the 1967 United Nations Protocol Relating to the Status of Refugees,"

to which the United States is a party). An interpretation of Section 1159 that permits arrest and detention would violate the 1951 Refugee Convention, which protects the freedom of movement for refugees. See 1951 Refugee Convention Art. 26. Such an interpretation is also contrary to the International Covenant on Civil and Political Rights ("ICCPR"), which protects against unreasonable detention for individuals recognized as refugees. International Convention on Civil and Political Rights Art. 9, Mar. 23, 1973, 999 U.N.T.S. 171.

50. As stated above, once someone has been recognized as a refugee, as Petitioner has, limits on their freedom of movement may not be imposed beyond those limits which apply "to aliens generally in the same circumstances." 1951 Refugee Convention at Arts. 26, 31(2). The 1951 Convention speaks to the need for countries to facilitate naturalization of refugees and offers continuing protection against any threat of refoulement. Id. at Art 33–34.

51. The ICCPR, which the United States ratified in 1992, likewise protects the right of refugees not to be arbitrarily detained. The United Nations Human Rights Committee has affirmed that this principle applies to all migrants, refugees and asylum-seekers, and that detention by immigration authorities must be reasonable, necessary and proportionate in the light of the circumstances. See U.N. Human Rights Committee, General Comment No. 35 ¶18, U.N. Doc. CCPR/C/GC/35 (Dec. 16, 2014).

52. In short, the 1951 Convention, the "ultimate source of the language Congress placed in the [Refugee] Act," *Cardoza-Fonseca*, 480 U.S. at 462 n. 4 (1987) (Powell, J.

dissenting), prohibits the present detention of Petitioner, given that Petitioner was admitted under INA § 207(c)(2). The ICCPR and its interpretation by the United Nations Human Rights Committee furthers this point. Given its legislative history in the United States, Section 209 must be read in a manner consistent with these international law obligations, and the Respondent's interpretation should be rejected on that basis. *Schooner Charming Betsy*, 2 Cranch 64, 118, 2 L.Ed. 208.[4]

The *Accardi* Doctrine Requires Agencies to Follow Internal Rules

53. Under the *Accardi* doctrine, a foundational principle of administrative law, agencies must follow their own procedures, rules, and instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where the Board of Immigration Appeals failed to follow procedures governing deportation proceedings); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.").

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[4] As further evidence that Congress did not intend § 1159 to authorize detentions of refugees, it is noteworthy that Congress has never appropriated funds for § 1159 detentions. Every appropriation made by Congress for immigration detentions explicitly ties those funds to removal, deportation, and/or enforcement against removable aliens. For example, the DHS budget for Fiscal Year 2026 describes detention as serving a single purpose: to facilitate removal. It specifically links the funding for 50,000 detention beds to "1,000,000 removals per year" and funds transportation specifically for "international removals for aliens with final orders of removal." U.S. Immigration and Customs Enforcement Budget Overview, Dep't Homeland Sec. at 7 (June 2025) https://www.dhs.gov/sites/default/files/2025-06/25_0613_ice_fy26-congressional-budget-justificatin.pdf (emphasis added).

54. *Accardi* is not "limited to rules attaining the status of formal regulations." *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). Courts must also reverse agency action for violation of unpublished rules and instructions to agency officials. *See Morton v. Ruiz*, 415 U.S. 235 (affirming reversal of agency denial of public assistance made in violation of internal agency manual); *United States v. Heffner*, 420 F.2d 809, 812 (4th Cir. 1969) (under *Accardi*, reversing decision to admit evidence obtained by IRS agents for violating instructions on investigating tax fraud).

CLAIMS FOR RELIEF

COUNT I
Violation of 8 U.S.C. §§ 1225, 1226 & 1231

55. Petitioner realleges all paragraphs above as if fully set forth here.

56. Petitioner was admitted in refugee status.

57. Petitioner is not in removal proceedings of any kind.

58. Petitioner has never been issued a removal order of any kind.

59. DHS has no statutory detention authority over Petitioner.

COUNT II
Substantive Due Process

60. Petitioner realleges all paragraphs above as if fully set forth here. When Respondents arrested Petitioner, Petitioner was a lawfully admitted refugee who had properly filed an application for adjustment of status with USCIS. No law, facts or other circumstances warranted Petitioner's arrest and detention.

61. Petitioner's detention does not bear a reasonable relationship to either of the lawful purposes of immigration detention: preventing danger to the community or flight prior to removal. *See Zadvydas*, 533 U.S. at 690-92 (discussing constitutional limitations on civil detention).

62. Because Respondents had no legitimate, non-punitive objective in arresting Petitioner, Petitioner's detention violates substantive due process under the Fifth Amendment to the U.S. Constitution.

COUNT III
Violation of the Fifth Amendment of the U.S. Constitution
Procedural Due Process

63. Petitioner realleges all paragraphs above as if fully set forth here.

64. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976), instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail.

65. The first factor, the private interest at issue, favors Petitioner. "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 [of the Fifth Amendment] protects." *Zadvydas*, 533 U.S. at 690.

66. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Petitioner. There simply was no process in place that allowed for the possibility that Petitioner's detention could be found to be unwarranted or unnecessary prior the actual detention. The Respondents have not satisfied any of the normal requirements or standards before taking a person in custody such as probable cause, or reasonable suspicion.

67. The third factor, the government's interest, also favors Petitioner. The detention of refugees who are neither removable nor a danger to the community is a tremendous waste of resources. This waste drags down the efficiency of the entire immigration system. And because the government must also spend resources defending against a habeas corpus petition in federal court to compel Respondents to comply with law, requiring Respondents to base any detention on actual findings of either removability or dangerousness or flight risk is required.

68. For these reasons, arresting and detaining Petitioner without providing any explanation, notice or meaningful opportunity to respond violated procedural due process under the Fifth Amendment to the U.S. Constitution.

69. Further, to the extent Respondents' purpose in detaining Petitioner is to facilitate either an "inspection and examination for admission to the United States as an immigrant" under Section 209, or to conduct a revocation of Petitioner's refugee status, Petitioner's detention interferes with his ability to obtain the assistance of counsel during these critical proceedings. USCIS will not allow representation by (or share information

with) counsel who do not have a "hand signed" form authorizing representation, and Petitioner's detention renders it more difficult to obtain the required signature. Moreover, and perhaps more significantly, Petitioner's detention (which was entirely without notice) impedes Petitioner's ability to prepare for any such interview/inspection/examination.

COUNT IV
Violation of Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (B), & (D)

70. Petitioner realleges all paragraphs above as if fully set forth here.

71. Under the APA, a court shall "hold unlawful and set aside agency action . . . found to be . . . not in accordance with law" or "contrary to constitutional right, power, privilege, or immunity." 5 U.S.C. § 706(2)(A), (B). The APA also requires a court to set aside and hold unlawful agency action that is "without observance of procedure required by law." *Id.* § 706(2)(D).

72. The APA's reference to "law" in the phrase "not in accordance with law," "means, of course, *any* law, and not merely those laws that the agency itself is charged with administering." *FCC v. NextWave Pers. Commc'ns Inc.*, 537 U.S. 293, 300 (2003) (emphasis in original).

73. Respondents' detention of Petitioner while Petitioner was lawfully admitted as a refugee and properly filed an application for adjustment of status was contrary to the agency's constitutional power under the Fifth Amendment's Due Process Clause, as explained above.

74. Petitioner's detention was also not in accordance with the INA and implementing regulations governing detention insofar as none of the statutes that authorize

Respondents to detain non-citizens are implicated by the facts and circumstances of Petitioner's case.

75. An agency decision that "runs counter to the evidence before the agency" is arbitrary and capricious. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983). Respondents' decision to detain Petitioner ran counter to the evidence before the agency that Petitioner was a lawfully admitted refugee who had applied for adjustment of status to become a lawful permanent resident of the United States.

76. Accordingly, Petitioner's detention should be held unlawful and set aside because it was (1) arbitrary, capricious, and not otherwise in accordance with law, *see* 5 U.S.C. § 706(2)(A); (2) contrary to the agency's constitutional authority, *see id.* § 706(2)(B); and (3) not in accordance with the INA and implementing regulations, *see id.* § 706(2)(D).

COUNT V
Violation of the *Accardi* Doctrine

77. Petitioner realleges all paragraphs above as if fully set forth here.

78. Under the *Accardi* doctrine, Petitioner has a right to set aside agency action that violated agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) ("If Petitioner can prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing").

79. Respondents violated 2010 ICE Directive that specifically covers Petitioner's situation and governing when an unadjusted refugee may be detained.

80. Under *Accardi*, Respondents' actions should be set aside for violating agency procedures, rules, or instructions.

COUNT VI
Violation of the Fourth Amendment to the U.S. Constitution and 8 U.S.C. § 1357(a)(2)
Unlawful Arrest

81. Petitioner realleges all paragraphs above as if fully set forth here.

82. Respondents' conduct violates the Fourth Amendment in that it constitutes an unreasonable search and seizure.

83. Immigration arrests and detentions are seizures within the meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the "seizure" of the person).

84. The Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975).

85. Additionally, there is a strong preference that immigration arrests be based on warrants. *See Arizona v. U.S.*, 567 U.S. 387, 407–08 (2012). The INA thus provides immigration agents with only limited authority to conduct warrantless arrests. 8 U.S.C.§ 1357(a)(2). Immigration agents may arrest aliens if they have "reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest." *Id.*

86. Petitioner was arrested without a warrant and without probable cause. Even if Respondents' proffered basis for detention were legally viable (which it is not) the need

to perform an interview does not justify nor require a surprise seizure, transfer out of the state for purposes of conducting an interview, or detention for any longer than is necessary to conduct the interview.

87. Accordingly, Petitioner's arrest was unconstitutional pursuant to the Fourth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

a. Exercise jurisdiction over this matter;

b. Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;

c. If Petitioner has been transferred from this jurisdiction to order Petitioner's return to this court's jurisdiction;

d. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the Fourth Amendment, the INA, the APA, and the *Accardi* doctrine;

e. Order Petitioner s immediate release;

f. Enjoin Petitioner's removal from the United States during the pendency of this action:

g. Enjoin Petitioner being subject to any investigation, inspection, or other proceedings, including proceedings related to revocation of Petitioner's refugee status until such time as Petitioner may consult with and secure the attendance of counsel at any such proceeding;

h. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

i. Grant any other and further relief that this Court deems just and proper.

Dated: January 28, 2026

Respectfully submitted,

/s/ E. Michelle Drake

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

I am submitting this verification on behalf of Petition because Petitioner's current detention makes Petitioner unable to submit one on Petitioner's 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 28, 2026

Respectfully submitted,

/s/ E. Michelle Drake

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