


IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
BALTIMORE DIVISION

Mariam Bah,)	
A# )	
)	
<i>Petitioner,</i>)	
)	
v.)	Civil Action No. <u>1:26-cv-00508</u>
)	
Kristi Noem, <i>Secretary of Homeland Security,</i>)	
)	
Todd Lyons, <i>Acting Director, U.S. Immigration</i>)	
<i>and Customs Enforcement,</i>)	
)	
Nikita Baker, <i>Field Office Director,</i>)	
<i>Baltimore Field Office, Immigration</i>)	
<i>and Customs Enforcement,</i>)	
)	
Pamela Bondi, <i>Attorney General,</i>)	
)	
<i>Respondents.</i>)	
_____)	

I. INTRODUCTION

Petitioner challenges her detention in the custody of Immigration and Customs Enforcement (“ICE”) as an unlawful and unconstitutional deprivation of her physical liberty and seeks immediate relief from this Court. Petitioner was previously released under supervision and fully complied with all reporting requirements by Immigration and Customs Enforcement (“ICE”). Despite her compliance, Respondents abruptly arrested and detained her without lawful justification, without providing the custody review required by 8 U.S.C. § 1226(a), and in violation of the governing regulations and the Due Process Clause of the Fifth Amendment. Petitioner’s continued detention exceeds Respondent’s statutory authority and deprives her of liberty without the due process of law. Federal courts, including this Court, have repeatedly held

that noncitizens detained under § 1226(a) are entitled to individualized custody determinations and meaningful review of their detention. Because Respondents have failed to provide such procedures and lack lawful authority to continue detaining her, Petitioner seeks immediate release, or, in the alternative, prompt custody review as required by law.

II. JURISDICTION AND VENUE

1. A federal court may grant habeas relief only where a petitioner is in custody in violation of the Constitution or laws or treaties of the United States. *Torrence v. Lewis*, 60 F.4th 209, 213 (4th Cir. 2023). This Court has jurisdiction to hear this case under 28 U.S.C. § 2241; 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

2. The Court has authority to enter a declaratory judgment and to provide temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. §§ 2201-2202, the All Writs Act, and the Court's inherent equitable powers, as well as issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

3. Venue lies in this District because Petitioner is currently detained in ICE's Baltimore Hold Room in Baltimore, Maryland; and each Respondent is an agency or officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1). In addition, Nikita Baker, the Field Office Director for the Baltimore ICE Field Office, maintains her principal place of business in Baltimore, Maryland.

III. THE PARTIES

4. Petitioner is a native and citizen of Guinea. *See* Exhibit A. She is a resident of the state of Maryland. She is currently detained by Respondents in Baltimore, Maryland.

Petitioner's Alien Registration number is A 

5. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

6. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). He is the head of the federal agency responsible for all immigration enforcement in the United States.

7. Respondent Nikita Baker, the Field Office Director of the U.S. Immigration and Customs Enforcement ("ICE") Baltimore Field Office, is responsible for overseeing ICE operations pertaining to noncitizens within its territorial jurisdiction, such as Petitioner, including detentions, enforcement, and removal operations. Her regular place of business is in Baltimore. She is the immediate legal and physical custodian of Petitioner for purposes of a federal habeas petition.

8. Respondent Pamela Bondi is the Attorney General of the United States. The Immigration Judges who decide removal cases and application for relief from removal do so as her designees.

9. All government Respondents are sued in their official capacities.

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

10. Because Petitioner raises serious constitutional claims, administrative exhaustion is excused absent a clear expression from Congress, and the INA does not require or mandate exhaustion of administrative remedies. *Miranda v. Garland*, 34 F.4th 338, 351 (4th Cir. 2022) (explaining that "where Congress has not clearly required exhaustion, sound judicial discretion governs") (quoting *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)); see *Guitard v. U.S. Sec'y*

of the Navy, 967 F.2d 737, 741 (2d Cir. 1992) (providing that “[e]xhaustion of administrative remedies may not be required when . . . a plaintiff has raised a ‘substantial constitutional question’”). Additionally, *McCarthy* explains that where administrative processes may result in undue delay, a court may properly consider that factor as militating against requiring exhaustion. *McCarthy*, 503 U.S. at 146–47. Further, where a court has “some doubt” that the agency can resolve the dispute, including challenges to the constitutionality of a statute, whether because the agency lacks “institutional competence” or “authority,” this too may indicate the inadequacy of an administrative remedy. *Id.* at 147–48. Finally, *McCarthy* explains that “an administrative remedy may be inadequate where the administrative body is shown to be biased or has otherwise predetermined the issue before it.” *Id.*

11. Petitioner has not received a bond hearing before an Immigration Judge. However, the Board of Immigration Appeals (“BIA”) issued a precedential decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), that divests Immigration Judges of jurisdiction to hold bond hearings for noncitizens who were not lawfully admitted because the BIA determined that all such noncitizens are subject to mandatory detention under 8 U.S.C. § 225(b)(2). *Id.* at 228. Thus, the predetermined result of such a hearing would be Petitioner’s mandatory detention.

V. LEGAL FRAMEWORK

12. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

13. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

14. The Immigration and Nationality Act (INA) establishes various procedures through which individuals may be detained pending a decision on whether the noncitizen is to be removed. 8 U.S.C. § 1226(a).

15. Removal proceedings described in section 240 of the INA are used to determine whether individuals, such as Petitioner, should be removed from the United States. *See* 8 U.S.C. § 1229a.

A. Refugee Act of 1980

16. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a right to apply for asylum to individuals seeking safe haven in the United States. The purpose of the Refugee Act is to enforce the “historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands.” Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).

17. The “motivation for the enactment of the Refugee Act” was the United Nations Protocol Relating to the Status of Refugees, “to which the United States had been bound since 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a legislative purpose “to give ‘statutory meaning to our national commitment to human rights and humanitarian concerns.’” *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).

18. The Refugee Act established the right to apply for asylum in the United States and defines the standards for granting asylum. It is codified in various sections of the INA.

19. The INA gives the Attorney General or the Secretary of Homeland Security discretion to grant asylum to noncitizens who satisfy the definition of “refugee.” Under that definition, individuals generally are eligible for asylum if they have experienced past persecution or have a well-founded fear of future persecution on account of race, religion, nationality,

membership in a particular social group, or political opinion and if they are unable or unwilling to return to and avail themselves of the protection of their homeland because of that persecution of fear. 8 U.S.C. § 1101(a)(42)(A).

20. Although a grant of asylum may be discretionary, the right to apply for asylum is not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen “who is physically present in the United States or who arrives in the United States[.]” 8 U.S.C. § 1158(a)(1).

B. Detention Authority under 8 U.S.C. 1226

21. Immigration detention is a form of civil confinement that “constitutes a significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).

22. Section 1226(a) governs the arrest and detention of noncitizens pending a decision on whether the individual is to be removed from the United States. 8 U.S.C. § 1226(a). That provision states that, “[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.” *Id.*

23. Under § 1226(a), the Attorney General or Secretary of Homeland Security may continue to detain the noncitizen or may release the individual on bond or conditional parole. 8 U.S.C. § 1226(a)(1)-(2). Regulations implementing § 1226(a) provide that a detained noncitizen may request review of the custody determination by an Immigration Judge in a bond redetermination hearing. 8 C.F.R. §§ 236.1(d), 1003.19, 1236.1(d)

24. Custody determinations under § 1226(a) are individualized determinations. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

25. Section 1226(c) provides mandatory detention authority for certain categories of noncitizens, including those convicted of specified criminal offenses. 8 U.S.C. § 1226(c).

26. The Supreme Court has recognized that § 1226 governs the arrest and detention of noncitizens pending removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018); *Johnson v. Guzman Chavez*, 594 U.S. 523, 527–28 (2021).

27. Under § 1226(a), an individual may be released if he does not present a danger to persons or property and is not a flight risk. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

28. Custody determinations under § 1226(a) are individualized and based on the facts presented in those cases. Unlike § 1226(c), which can provide for categorical determinations for detention regardless of flight risk or safety risks, § 1226(a) requires a case-by-case review of the facts and circumstances.

29. Once a determination to release an individual from custody is made, the release order may be revisited when the facts or circumstances warrant revocation or reconsideration. 8 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney General may take that individual back into custody by revoking the individual's release when the facts and circumstances warrant it.

30. Revocation and return to custody is authorized only based on the individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation, revocation decisions are limited in nature and may only be made by certain authorized officials. 8 C.F.R. § 1236.1(c)(9).

C. Detention Authority under 8 U.S.C. 1225

31. Section 1225 governs inspection and detention of applicants for admission to the United States. 8 U.S.C. § 1225.

32. Section 1225(b)(1) applies to certain noncitizens arriving in the United States and certain other noncitizens who have not been admitted or paroled and who have not affirmatively demonstrated continuous physical presence in the United States for the two-year period immediately prior to the inadmissibility determination. 8 U.S.C. § 1225(b)(1)(A)(i), (iii).

33. Section 1225(b)(2) provides that, in the case of an alien who is an applicant for admission, if an immigration officer determines that the alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for removal proceedings under 8 U.S.C. § 1229a. 8 U.S.C. § 1225(b)(2)(A).

34. The Supreme Court has recognized that § 1225 governs detention of certain noncitizens seeking admission to the United States, while § 1226 governs detention of noncitizens pending removal proceedings. *Jennings*, 583 U.S. at 286–89.

35. When an agency fails to follow the procedural safeguards required by its own regulations, the resulting custody regime may be unlawful. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). Regulations implementing § 1226(a), including provisions permitting custody redetermination by an immigration judge, are designed to provide due process to individuals detained under that statute. 8 C.F.R. §§ 236.1(d), 1236.1(d); 8 C.F.R. § 1003.19. If DHS erroneously detains a person under § 1225(b) and thereby denies access to the § 1226(a) custody review framework, that misclassification deprives the person of the process due under the correct statute and regulations.

VI. STATEMENT OF FACTS

36. On or about January 25, 2024, Petitioner came to or near the port of entry at or near Lukeville, Arizona, and presented herself to immigration authorities. *See* Exhibits B-D. Petitioner expressed a fear of returning to Guinea and sought protection in the United States. *Id.*

37. Respondents arrested and detained Petitioner upon her arrival. *See* Exhibits B-D.

38. Following her detention, Respondents released Petitioner from custody on an Order of Release on Recognizance. *See* Exhibits C and D. The Order of Release on Recognizance stated that Petitioner was being released pursuant to section 236 of the Immigration and Nationality Act. *See* Exhibit (OREC). Petitioner's release was also contingent upon her participating in the Alternatives to Detention ("ATD") program as designated by the U.S. Department of Homeland Security, which meant she would be subject to electronic monitoring. *Id.*

39. Petitioner lived at [REDACTED] until July 31, 2025. *See* Exhibit H. She relocated to [REDACTED], where she has resided since July 31, 2025.

40. Petitioner appeared as required for all scheduled immigration proceedings.

41. On or about September 20, 2025, Petitioner submitted her written pleadings before the Hyattsville Immigration Court. *See* Exhibit E. The Immigration Judge scheduled an Individual Hearing on the merits of her application for relief. Petitioner's Individual Hearing is currently scheduled for December 6, 2027. *See* Exhibit G.

42. On or about November 18, 2024, Petitioner filed an application for asylum, withholding of removal, and protection under the Convention Against Torture with the Hyattsville Immigration Court in Hyattsville, Maryland. *See* Exhibit F.

43. Petitioner complied with all requirements imposed by Respondents, including appearing for required check-ins with Immigration and Customs Enforcement ("ICE"), and Intensive Supervision Appearance Program ("ISAP"), which is the primary program under ATD.

44. On or about February 2, 2026, around 03:45PM, while Petitioner was out with her

children, she received a call from phone number 202-843-0617. *See* Exhibit J. The caller left a voice message, advising Petitioner to check her BI Smart Link application, an application where ICE/ISAP scheduled her appointments, as ICE had left a message for her. *Id.* Petitioner did not recognize the number and had never previously been contacted by ICE or ISAP from that phone number. Concerned, Petitioner returned the call and was instructed to report to the ISAP Silver Spring Office at 4:00 PM that same day, providing her with only 15 minutes' notice. Petitioner explained that it was impossible for her to comply within such an unreasonably short timeframe. At that time, Petitioner also observed that her electronic monitor was not functioning properly. Later that same day, February 2, 2026, Petitioner lost access to her BI SmartLINK application entirely and was unable to view any messages or appointment notifications from ICE or ISAP. *Id.* As a result, Petitioner was deprived of her sole reliable means of receiving official communications regarding her reporting obligations.

45. Petitioner was scheduled for an ICE home visit on February 3, 2026, an appointment that had been arranged during her prior check-in. *See* Exhibit J. In full compliance with her obligations, Petitioner remained at her residence, located at 5010 Lee Jay Ct., Apt. 304, Capitol Heights, Maryland 20743, for the entire day, waiting for ICE officers to arrive. *Id.* ICE officers did not appear for the scheduled home visit.

46. On February 4, 2026, after discovering that her BI SmartLINK application was deactivated and nonfunctional, Petitioner proactively contacted the Silver Spring ISAP office to report the technical issue and to inform them that ICE had not appeared for the scheduled February 3 home visit. *Id.* During that call, Petitioner was told that, because she allegedly failed to report on February 2 and February 3, despite the application malfunction and lack of proper notice, she was instructed to report to the ICE Baltimore Field Office in Baltimore, Maryland, on

February 5, 2026. *Id.*

47. On February 5, 2026, Petitioner appeared as directed at the ICE check-in at the ICE Baltimore Field Office in Baltimore, Maryland. ICE officers arrested and detained Petitioner.

48. Since February 5, 2026, Respondents have detained Petitioner at the ICE Baltimore Hold Room in Baltimore, Maryland. Petitioner remains detained in ICE custody in Baltimore, Maryland. See Exhibit J. Respondents have indicated that Petitioner will be transferred to a correctional facility in California City, CA on February 8, 2026. See Exhibit M.

49. Petitioner has remained in continuous physical presence in the United States since January 25, 2024. See Exhibits B-D, and H.

VI. CLAIMS FOR RELIEF

COUNT ONE

Unlawful Detention in Violation of the Immigration and Nationality Act and 28 U.S.C. § 2241

50. Petitioner realleges and incorporates by reference all preceding paragraphs.

51. Respondents have detained Petitioner without providing the custody review and bond procedures required under 8 U.S.C. § 1226(a). By denying Petitioner access to bond and individualized custody review, Respondents are effectively treating Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b).

52. However, Petitioner is not an arriving noncitizen and was already present in the United States and in removal proceedings at the time of her arrest. Moreover, Petitioner has maintained continuous physical presence in the United States for a substantial period prior to her detention and was residing in the community under supervision, further confirming that she is not subject to detention under § 1225(b). See Exhibits B-D, and H.

53. Hence, her detention is unlawful because Petitioner was apprehended within the interior of the United States and was not seeking admission into the United States at the time of arrest.

54. Under the plain language of the INA, detention of noncitizens already present in the United States pending removal proceedings is governed by 8 U.S.C. § 1226(a), which authorizes arrest, detention, and release on bond or conditional parole.

55. The United States Supreme Court has recognized that § 1226(a) is the default detention authority governing noncitizens already present in the United States pending removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018); *Johnson v. Guzman Chavez*, 594 U.S. 523, 527–28 (2021).

56. This Court has repeatedly held that noncitizens apprehended within the United States are detained pursuant to § 1226(a), not § 1225(b), and are entitled to bond review. See *Maldonado de Leon v. Baker*, Civil Action No. 25-3084 (D. Md. Oct. 21, 2025); *Pineda Velasquez v. Noem*, Civil Action No. GLR-25-3215 (D. Md. Oct. 27, 2025).

57. Courts across the country have likewise rejected DHS's attempt to treat long-present noncitizens apprehended in the interior as subject to mandatory detention under § 1225(b).¹ These courts uniformly concluded that § 1225(b) applies only to noncitizens seeking

¹ See, e.g., *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025); *Lopez-Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Hernandez Nieves v. Kaiser*, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025); and others cited supra. See, e.g., *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Jacinto v. Trump*, 2025 WL 2402271 (D. Neb. Aug. 19, 2025); *Samb v. Joyce*, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Garcia Jimenez v. Kramer*, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Anicasio v. Kramer*, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Orellana Juarez v. Moniz*, 2025 WL 1698600 (D. Mass. June 11, 2025); *Hernandez Nieves v. Kaiser*, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025); *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Carmona-Lorenzo v. Trump*, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Hasan v. Crawford*, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025).

admission into the United States and does not apply to individuals already present in the country who are apprehended and placed into removal proceedings.

58. Petitioner has been deprived of the procedural protections guaranteed under § 1226(a), including the opportunity to seek release on bond or conditional parole.

59. Respondents' continued detention of Petitioner under § 1225(b) exceeds their statutory authority and is unlawful.

COUNT TWO

Violation of the Fifth Amendment Due Process Clause and Failure to Follow Required Procedures Under 8 U.S.C. § 1226(a) and Implementing Regulations

60. Petitioner realleges and incorporates by reference all preceding paragraphs.

61. The Fifth Amendment to the United States Constitution provides that no person shall be deprived of liberty without due process of law.

62. Immigration detention constitutes a significant deprivation of liberty and therefore requires meaningful procedural protections. *Reno v. Flores*, 507 U.S. 292, 306 (1993); *Addington v. Texas*, 441 U.S. 418, 425 (1979).

63. Under 8 U.S.C. § 1226(a), noncitizens detained pending removal proceedings are entitled to individualized custody determinations and the opportunity to seek release on bond or conditional parole.

64. The regulations implementing § 1226(a) provide detained noncitizens the right to an initial custody determination by an immigration officer, review of that custody determination by an Immigration Judge at a bond hearing, and appeal of the Immigration Judge's custody determination to the Board of Immigration Appeals. *See* 8 C.F.R. §§ 236.1(d), 1003.19, 1236.1(d); *Miranda v. Garland*, 34 F.4th 338, 346–47 (4th Cir. 2022).

65. These procedures exist to ensure that detention is based on an individualized

determination of whether the noncitizen presents a danger to the community or a flight risk.

66. Respondents have detained Petitioner without providing Petitioner with the custody review and bond procedures required under § 1226(a) and its implementing regulations.

67. By denying Petitioner access to these procedures, Respondents have deprived Petitioner of liberty without due process of law.

68. This Court has held that detention of noncitizens without providing the custody review required under § 1226(a) violates due process and warrants habeas relief. See *Maldonado de Leon v. Baker*, Civil Action No. 25-3084 (D. Md. Oct. 21, 2025); *Pineda Velasquez v. Noem*, Civil Action No. GLR-25-3215 (D. Md. Oct. 27, 2025).

69. In addition, the Supreme Court has long held that federal agencies must comply with their own statutes and regulations, and failure to do so renders agency action unlawful. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954).

70. The Fourth Circuit has similarly recognized that an agency's failure to follow its own procedures governing detention violates due process and renders detention unlawful. See *Miranda v. Garland*, 34 F.4th 338, 346–47 (4th Cir. 2022).

71. Respondents' continued unlawful detention of Petitioner also interferes with Petitioner's ability to meaningfully pursue her statutory right to seek asylum and deprives her of liberty without due process.

72. Moreover, recent agency practice confirms that meaningful custody review is often unavailable absent judicial intervention. As set forth in the Declaration of Jorge Artieda, Esq., attached as Exhibit L, Immigration Judges frequently decline to conduct bond hearings or deny bond without meaningful individualized consideration where DHS asserts mandatory detention or disputes eligibility for release. This practice reinforces the need for habeas relief to

ensure compliance with statutory and constitutional requirements. As such, requiring Petitioner to remain detained pending a bond hearing would perpetuate the very unlawful detention that habeas corpus is designed to remedy. Because Respondents lack statutory authority to detain Petitioner under 8 U.S.C. § 1225(b), continued detention is *ultra vires* and unlawful.

73. Accordingly, this Court should order Petitioner's immediate release without requiring a bond hearing or payment of bond.

74. Respondents' failure to provide Petitioner with the procedures required under § 1226(a) and its implementing regulations constitutes a violation of Petitioner's Fifth Amendment right to due process.

PRAYER FOR RELIEF

WHEREFORE Petitioner respectfully requests that this Court:

- a. Assume jurisdiction over this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241;
- b. Issue an emergency order barring Respondents from transferring Petitioner outside the State of Maryland during the pendency of this action in order to preserve this Court's jurisdiction;
- c. Issue an emergency order barring Petitioner's removal from the United States pending resolution of this habeas petition;
- d. Order Respondents to show cause within three (3) days, pursuant to 28 U.S.C. § 2243, why the writ of habeas corpus should not be granted;
- e. Declare that Respondents lack statutory authority to subject Petitioner to mandatory detention and that Petitioner is detained pursuant to 8 U.S.C. § 1226(a);

- f. Declare that Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment;
- g. Order Respondents to immediately release Petitioner from ICE custody without requiring payment of bond
- h. In the alternative, order Respondents to immediately release Petitioner from ICE custody and provide Petitioner with a prompt, individualized bond hearing before a neutral Immigration Judge, at which the government bears the burden of justifying continued detention;
- i. Award Petitioner costs and reasonable attorneys' fees pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and any other applicable authority; and
- j. Grant such other and further relief as the Court deems just and proper.

Certification Pursuant to Local Standing Order 2025-01

I, the undersigned, hereby certify pursuant to Fed. R. Civ. P. 11, as follows: (1) I understand the Petitioner to be presently detained in Maryland, based on a review of the ICE Detainee Locator website, the fact that Petitioner was arrested by ICE in Baltimore, Maryland yesterday, the fact that a family member stated that she is in the ICE Baltimore Hold Room, and that ICE uploaded an I-830 demonstrating that she is in the ICE Baltimore Hold Room and set to be transferred to California City, CA on February 8, 2026; (2) emergency relief is necessary, because Petitioner is at risk of unlawful removal from the United States; and (3) this Court has subject-matter jurisdiction over the Petitioner pursuant to 28 U.S.C. § 2241, and no jurisdiction-stripping statute applies to prevent habeas corpus review of detention and unlawful removal.

Dated this 6th day of February, 2026

Respectfully submitted,

/s/ Mariam Masumi Daud
Mariam Masumi Daud, Esq.
D.Md. Bar #: 30222
Counsel for Plaintiff
Johnson & Masumi, P.C.

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Facsimile: 703-506-1470
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Counsel for Petitioner

LIST OF EXHIBITS

Identity Documents

- A. Copy of biographic page of Mariam Bah's Guinean passport

Immigration History

- B. Copy of Record of Deportable/Inadmissible Alien for Mariam Bah
- C. Copy of the Order of Release on Recognizance for Mariam Bah
- D. Copy of the Notice to Appear ("NTA") for Mariam Bah. dated September 17, 2025
- E. Copy of Mariam Bah's Written Pleadings submitted to the Hyattsville Immigration Court on September 30, 2025
- F. Proof of Submission of Mariam Bah's Form I-589, Application for Asylum, Withholding of Removal, and Protection Under the Convention Against Torture, submitted to the Hyattsville Immigration Court on November 18, 2025
- G. Copy of the Hearing Notice for Mariam Bah's Individual Hearing scheduled on December 6, 2027

Proof of Mariam Bah's Residence in the U.S. for more than 2 years

- H. Tenancy verification letter for Mariam Bah

Other Supporting Documents

- I. ICE locator result, showing that Mariam Bah is under ICE custody
- J. Email communication between Mariam Bah and her undersigned counsel's office from February 3 and February 4, 2016
- K. Copy of Mariam Bah's ISAP Card
- L. Declaration of Jorge Artieda, Esq. addressing lack of meaningful remedy under post-2025 detention policies.
- M. Copy of the Form I-830E, Notice to EOIR- Alien Address, for Mariam Bah, dated February 6, 2026

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am the attorney for Petitioner. I or counsels from our firm, Johnson and Masumi, PC, have discussed with the Petitioner the events described in this Petition.

Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: February 6, 2026

Respectfully submitted,

/s/ Mariam Masumi Daud
Mariam Masumi Daud, Esq.
D.Md. Bar #: 30222
Counsel for Plaintiff
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Certificate of Service

I, Mariam Masumi Daud, hereby certify that on this 6th day of February, 2026, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

Civil Process Clerk
U.S. Attorney's Office
36 S. Charles Street, 4th Fl.
Baltimore, MD 21201

Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, SW, Mail Stop 0485
Washington, DC 20528-0485

Pamela Bondi, Attorney General of the United States
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW, Mail Stop 5902
Washington, DC 20536-5902

/s/ Mariam Masumi Daud
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