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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

HAYI, Mohamed Abdi)

Petitioner,)

Case No. 3:26-cv-400

Agency No. 

v.)

PETITION FOR WRIT OF HABEAS
CORPUS

WARDEN,)

Operator of the ERO El Paso East Montana)

Camp; MARY DE ANDA-YBARRA, El)

Paso ICE Field Office Director; TODD)

LYONS, Acting Director U.S. Customs and)

Immigration Enforcement; KRISTI NOEM,)

U.S. Secretary of Homeland Security;)

PAMELA BONDI, Attorney General of the)

United States;)

Respondents.)

Expedited Hearing Requested

INTRODUCTION

1. Petitioner, Hayi Mohamed is a native and citizen of Ethiopia who fled to the United States due to political persecution.
2. Petitioner entered the States without inspection on March 30, 2023 and was issued a Form I-862, Notice to Appear, and charged as subject to removal under 8 U.S.C. § 1182(a)(6)(A)(i). Exhibit 1: Notice to Appear. Respondents commenced removal proceedings pursuant 8 U.S.C. § 1229a against the Petitioner in immigration court, entitling Petitioner to present an asylum claim with the due process rights. *Id.* Petitioner was released on his own recognizance on April 2, 2023 by Respondents. Exhibit 2: Order of Release on Recognizance.
3. Petitioner timely applied for asylum before the Minnesota Immigration Court on July 5, 2023. Exhibit 3: I-589 Application for Asylum. Petitioner attended monthly appointments with ICE in compliance with his order of release on recognizance, and had weekly virtual appointments as well.
4. Petitioner was arrested and re-detained without a warrant by Respondents on January 16, 2026 without cause at a routine appointment with ICE as part of his order of release on recognizance.
5. Petitioner's asylum proceedings remain pending, now venued in El Paso. and a preliminary hearing is set to take place on February 19, 2026. Exhibit: 4: Automated Case Status Information.
6. On February 6, 2026 the Immigration Judge denied Petitioner's request to be released on bond, citing lack of jurisdiction. Exhibit 5: Bond Order.

7. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant Petition for a Writ of Habeas Corpus. Petitioner asks this Court to find that any attempts by the Respondents to transfer Petitioner are arbitrary and capricious and in violation of the law, and to immediately issue an order preventing Petitioner's transfer out of this district. Petitioner further asks this Court to order his immediate release under conditions no more stringent than those of his release on recognizance. In the alternative, Petition asks this Court to hold that he is entitled to a prompt bond hearing before the Immigration Judge.

JURISDICTION

8. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.
9. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et.seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

VENUE

11. Venue is proper because Petitioner is in Respondents' custody in ERO El Paso Camp East Montana. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

12. The Court must grant the petition for Writ of Habeas Corpus or issue an order to show cause (OSC) to the Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to 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).
14. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

15. Petitioner HAYI MOHAMED resides in El Paso, Texas and is currently detained at the ERO El Paso Camp East Montana immigration detention center located at: 6920 Digital Road, El Paso, TX 79936.
16. Respondent KRISTI NOEM is the Secretary of the Department of Homeland Security (“DHS”), and is sued in her official capacity. The Secretary of the Department Homeland Security is charged with the administration and enforcement of immigration laws. 8 U.S.C. § 1103(a).

17. Respondent PAMELA BONDI is the Attorney General of the United States and is sued in her official capacity as the head of the Department of Justice. The Attorney General is responsible for the fair administration of the laws of the United States.
18. Respondent WARDEN is the operator of the ERO El Paso Camp East Montana immigration detention facility. The facility is responsible for the detention of the Petitioner.
19. Respondent TODD LYONS is the Acting Director of the U.S. Immigration and Customs Enforcement (ICE) and is sued in his official capacity. ICE is responsible for the detention of Petitioner.
20. Respondent MARY DE ANDA-YBARRA is the ICE Field Office Director overseeing the ERO El Paso Camp East Montana immigration detention facility and is sued in her official capacity. ICE is responsible for the detention of Petitioner.

LEGAL FRAMEWORK

Petitioner's Warrantless Arrest During the Pendency of Proceedings before the Immigration Court Violate Due Process

21. 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).
22. 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).

23. 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).
24. 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.
25. 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).
26. 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).
27. 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.
28. 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).

29. 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).

30. 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).

31. Custody determinations for individuals in 1229a removal proceedings are governed by 8 U.S.C. § 1226. 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).

32. 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.

33. 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.-- 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).

Respondents' Change in Policy Regarding Mandatory Detention

34. In general, under federal immigration law, two statutes govern the detention of noncitizens in removal proceedings – 8 U.S.C. §§1225 and 1226. Section 1225 applies to “applicants for admission” – noncitizens who are either “present in the United States who ha[ve] not been admitted” or who “arrive[] in the United States.” 8 U.S.C. §1225(a)(1).
35. Applicants for admission fall under either §1225(b)(1) or §1225(b)(2). *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). “Section 1225(b)(1) applies to aliens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation” as well as “certain other aliens designated by the Attorney General in his discretion.” *Id.* (citations omitted). Section 1225(b)(2) serves as a “catchall provision that applies to” almost all other applicants for admission not covered by §1225(b)(1). *Id.* at 289.
36. The mandatory detention statute at issue here, Section §1225(b)(2)(A), provides that “a [noncitizen] seeking admission, [who] is not clearly and beyond a doubt entitled to be admitted . . . shall be detained for a proceeding under 8 U.S.C. §1229a.” 8 U.S.C. §1225(b)(2)(A) (emphasis added).
37. On July 8, 2025, ICE issued interim guidance instructing all ICE employees to consider anyone charged with inadmissibility under §1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be an “applicant for admission” under 8 U.S.C. §1225(b)(2)(A) and therefore subject to mandatory detention. [Exhibit 6: July 8, 2025

ICE Guidance Regarding Detention Authority for Applications for Inspection.] (“July 8 ICE Policy Memo”).

38. The July 8 ICE Policy Memo states that it was issued in coordination with the Department of Justice (“DOJ”). EOIR is an agency within the DOJ.
39. On September 5, 2025, the BIA adopted this same position in *Matter of Yajure Hurtado*. There, the BIA held that all noncitizens who entered the United States without inspection or parole are considered “applicants for admission” and are therefore ineligible for IJ bond hearings.
40. Petitioner’s Notice to Appear charges him with inadmissibility pursuant to INA § 212(a)(6)(A)(i) (codified at 8 U.S.C. § 1182(a)(6)(A)(i)) (Exhibit 1). Therefore, based on the July 8 ICE Policy Memo, Petitioner is purportedly subject to indefinite, mandatory detention, despite his initial release on conditional parole.
41. To the contrary, Petitioner is detained pursuant to 8 U.S.C. §1226(a).
42. The discretionary detention statute at issue here, Section §1226(a), applies to the apprehension and detention of noncitizens who are already present in the United States and subject to removal. See *Jennings*, 583 U.S. at 288; *Rodriguez v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022).
43. If they have an arrest warrant issued by the Attorney General, ICE may arrest and detain noncitizens in this category pending a decision in removal proceedings. However most are eligible for release on conditional parole or bond. 8 U.S.C. §1226.¹ An exception

¹ 8 U.S.C. §1226 (a) Arrest, detention, and release: On 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. Except as provided in subsection (c) and pending such decision, the Attorney General—(1) may continue to detain the arrested alien; and (2) may release the alien on—(A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole. . . .

under §1226(c) for noncitizens with enumerated criminal convictions, does not apply to Petitioner.

44. In short, 8 U.S.C. §1225 allows ICE to detain certain noncitizens seeking admission into the United States and §1226 authorizes the government to detain noncitizens already in the country pending the outcome of removal proceedings. *Jennings*, 583 U.S. at 289 (emphasis added).

45. Respondents' treatment of Petitioner since he arrived in the United States supports the conclusion that he is detained pursuant to §1226(a). Petitioner entered the United States without inspection on March 30, 2023. Exhibit 1. Federal authorities released him on recognizance on April 2, 2023 with an order stating that he was released "under INA §226 (codified at 8 U.S.C. §1226). Exhibit 2.

46. Noncitizens detained under §1225(b) may not be released on recognizance; they may only be paroled into the country under 8 U.S.C. §1182(d)(5)(A). Release on recognizance is a form of "conditional parole" from detention under §1226 that is distinct from parole under §1182(d)(5)(A). See *Martinez v. Hyde*, No. 25-cv-11613, 2025 WL 2084238, at *3 (D. Mass. July 24, 2025))).

47. Petitioner was not seeking admission on January 16, 2026. ICE apprehended and detained him in Minneapolis nearly three years after he entered the United States. Therefore §1226(a) governs his detention.

FACTUAL BACKGROUND

48. Petitioner raises the following factual allegations:

- 1) Petitioner is an ethnic Somali and native and citizen of Ethiopia.

- 2) The Petitioner entered the United States on March 30, 2023 and was issued a Form I-862, Notice to Appear. Exhibit 1.
 - 3) He was released on his own recognizance on April 2, 2023. Exhibit 2.
 - 4) Petitioner was placed into removal proceedings pursuant INA § 240 to appear before an Immigration Judge, and was charged with having entered the United States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i). Exhibit 1.
 - 5) Petitioner resided in Minneapolis, Minnesota from April 2023 until January 2026.
 - 6) Petitioner timely applied for asylum on July 5, 2023. Exhibit 3.
 - 7) Petitioner complied with and attended all appointments– both monthly in-person and weekly virtual– with ICE pursuant the order of release on recognizance. Exhibit 2.
 - 8) Petitioner was detained during a routine appointment with ICE pursuant the conditions of his order of release on recognizance on January 16, 2026. Petitioner had violated no terms of his order of release. ICE provided no basis for the revocation of the Petitioner's conditions of release.
 - 9) ICE possessed no warrant, administrative or otherwise, to justify the arrest and detention of Petitioner.
 - 10) Petitioner is neither a danger to others nor a flight risk.
49. Respondents detained Petitioner based not on his personal circumstances or individualized facts but because of policies recently adopted by DHS and the Executive Office for Immigration Review (“EOIR”) asserting that all noncitizens who have entered the United States without inspection or parole are “arriving aliens” and subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A).

50. The Board of Immigration Appeals (“BIA”), the highest administrative body within the EOIR, issued precedential decisions adopting the same policy. In *Matter of Q. Li*, 29 I. & N. Dec. 66, 69 (BIA 2025), the BIA held that all noncitizens who fall within the scope of 8 U.S.C. §1225(b)(1) (arriving aliens) must be detained under that section and are ineligible for any subsequent release on bond under 8 U.S.C. §1226(a). In *Matter of Yajure Hurtado*, the BIA held that Immigration Judges (“IJ”s) have no jurisdiction to consider bond for persons charged as “arriving aliens” in removal proceedings. 29 I & N Dec. 216, 229 (BIA 2025).
51. On February 6, 2026 the Immigration Judge denied the Respondent's bond application, citing lack of jurisdiction. Exhibit 4.
52. Requesting another bond hearing or appealing the bond decision would be futile because the Immigration Courts and the Board of Immigration Appeals have categorically denied bond hearings to Respondents in identical circumstances due to a misinterpretation of INA 1226(a) requiring mandatory detention of all immigrants "seeking admission" and divesting immigration judges of jurisdiction. This District Court has repeatedly found this interpretation to lack sound logical reasoning and ordered immediate release without a bond hearing for individuals subjected to re-detention. *Granados v. Noem et. al.*, 5:25-cv-01464 (W.D. Tex. Nov. 26, 2025); see also *Ramos de Lara v. Noem et. al.*, 5:25-cv-01459 (W.D. Tex. Nov. 21, 2025).
53. Petitioner asserts that he is not an “arriving alien” as he was not seeking admission at the time of ICE’s warrantless arrest on January 16, 2026. He was a noncitizen in removal proceedings, residing in the United States. Therefore, 8 U.S.C. §1226(a) applies to Petitioner’s detention. Section 1226(a) requires ICE to have an arrest warrant issued by

the Attorney General and also provides that Petitioner is eligible for conditional release or bond.

54. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including “Protecting the American People Against Invasion,” an executive order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The “Protecting the American People Against Invasion” EO instructs the DHS Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures including through the use of mass detention.

55. On information and belief, Respondents are detaining Petitioner regardless of the individual facts and circumstances of his case.

56. On information and belief, Petitioner has no criminal history.

CLAIMS FOR RELIEF COUNT ONE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Abuse of Discretion

Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

57. Petitioner restates and realleges all paragraphs as if fully set forth here.

58. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

59. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a

difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

60. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).
61. By categorically revoking Petitioner’s release and seeking to transfer him away from the district without consideration of his individualized facts and circumstances, Respondents have violated the APA.
62. By detaining the Petitioner categorically, Respondents have further abused their discretion because there have been no changes to his facts or circumstances since the agency made its initial custody determinations that support the revocation of his release from custody.
63. Respondents have already considered Petitioner’s facts and circumstances and determined that he was not a flight risk or danger to the community. There have been no changes to the facts that justify this revocation of his release on his own recognizance since April 2023. Exhibit 2. The fact that Petitioner has already been granted release by Respondents under the same facts and circumstances shows that Respondents do not consider him, on an individualized basis, to be a danger to the community or a flight risk.

COUNT TWO

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with Law and in Excess of Statutory Authority Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

64. Petitioner restates and realleges all paragraphs as if fully set forth here.
65. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction, authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).
66. 8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may revoke a bond or parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen under the initial warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that such revocations of release from custody may only be carried out in the “discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign).”
67. It is a well-established administrative principle that “agency action taken without lawful authority is at least voidable, if not void ab initio.” *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); see also *Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating agency action because it was taken by unauthorized official).
68. On information and belief, Respondents have revoked or are revoking Petitioner’s prior custody determination as a result of a categorical policy prepared by and implemented by unidentified government officials in Washington, not through the individual exercise of discretion required by law or by the individuals enumerated by regulation to do so.
69. Because Petitioner’s revocation of release from custody has been made or will be categorically directed by government officials not authorized by law to make this

determination, Respondents' detention of Petitioner is not in accordance with law and in excess of statutory authority.

COUNT THREE

Violation of Fifth Amendment Right to Due Process Procedural Due Process

70. Petitioner restates and realleges all paragraphs as if fully set forth here.
71. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693; accord *Flores*, 507 U.S. at 306.
72. Due process requires that government action be rational and non-arbitrary. See *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).
73. While the government has discretion to detain individuals under 8 U.S.C. §1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not "unlimited" and must comport with constitutional due process. See *Zadvydas*, 533 U.S. at 698.
74. Here, Respondents have re-detained Petitioner in an arbitrary manner and not based on a rational and individualized determination of whether he is a safety or flight risk, in violation of due process. Because no individualized custody revocation has been made and no circumstances have changed to make Petitioner a flight risk or a danger to the community, Respondents' revocation of Petitioner's release violates his right to procedural due process.
75. Notwithstanding the Fifth Circuit's recent precedential decision in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. 2026) issued on February 6, 2026,

determining Respondents' statutory interpretation of Section 1225(b)'s mandatory detention provision, this Court should find that *Buenrostro-Mendez* does not change this case's outcome on procedural due process grounds. In its original due process analysis, this Court accepted without deciding Respondents' interpretation was true. See, e.g., *Zafra v. Noem*, No. EP-25-CV-00541-DB, 2025 WL 3239526 (W.D. Tex. Nov. 20, 2025) ("The parties argue about Respondents' novel interpretation regarding mandatory detention under Section 1225(b) and whether Petitioner falls within it. Even assuming without deciding Respondents' reading is correct, the Court will not address these arguments because the Court finds Petitioner is entitled to procedural due process in his as-applied challenge.").

76. Federal courts have consistently held that exhaustion is not required where administrative remedies are inadequate, unavailable, or futile, particularly in immigration detention cases involving purely legal questions and constitutional claims. See, e.g., *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992); *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).
77. Petitioner raises constitutional and statutory challenges to the legality of his detention itself, including his warrantless arrest and continued custody without individualized findings. These claims are beyond the competence of the immigration courts to resolve and fall squarely within this Court's habeas jurisdiction.
78. Accordingly, exhaustion should be excused, and this Court should grant habeas relief without requiring Petitioner to pursue futile administrative proceedings.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- (4) Declare that Petitioner's revocation of parole from custody and re-detention was made in violation of statute and regulation;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
- (6) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval in the interim;
- (7) Declare the Respondents must return all personal property and identity documents to the Petitioner upon release;
- (8) Issue the Respondent's immediate release without a bond hearing conducted by the Immigration Judge and under conditions **no more stringent– i.e. no GPS ankle monitor or increased frequency of ICE appointments–** than those of his original release on recognizance; *or in the alternative,*
- (9) Issue an Order compelling the Respondents to conduct a bond hearing in which the Respondents bear the burden of justifying– by clear and convincing evidence of dangerousness or flight risk– Petitioner's continued detention; and under reasonable

- conditions of supervision **no more stringent– i.e. no GPS ankle monitor or increased frequency of ICE appointments–** than those of his original release on recognizance; and
- (10) Grant any further relief this Court deems just and proper.

DATE: 2/10/26



Jacklyn Kelly Garcia
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Bar No. 24119484
Attorney for Petitioner

VERIFICATION

On this 10th day of February, 2026, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. I make this verification in lieu of and acting on behalf of Petitioner, Mohamed Abdi Hayi, because Petitioner is currently detained and because of the urgent nature of the relief requested. I am authorized to make this verification as a member of the legal team representing the Petitioner.



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Certificate of Service

I hereby certify I served Petitioner's Petition for Habeas Corpus, Application for Order to Show Cause, Order to Show Cause to the U.S. Attorney for the Western District of Texas via electronic service.

Date: 02/10/2026



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