

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

Narek GRIGORIAN,

No. 5:26-cv-218

Petitioner,

v.

PAMELA BONDI, Attorney
General of the United States,
KRISTI NOEM, Secretary, U.S.
Department of Homeland Security;
TODD M. LYONS, Director of
Enforcement and Removal
Operations for the United States;
and WARDEN, Folkston D Ray
ICE Processing Center,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner, Narek Grigorian, A  (hereinafter "Petitioner") is a
citizen of Russia who Respondents have detained at the Folkston D Ray ICE
Processing Center for over fourteen months. His removal proceedings resulted in a

1 denial of his Asylum and Withholding of Removal claims (currently under appeal),
2 and his detention is no longer reasonably related to its statutory purpose. Because
3 he is likely to face many additional months or possibly years in detention,
4 Petitioner seeks relief from this Court that would allow him to challenge his
5 continuing, prolonged and unconstitutional detention.
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8 JURISDICTION

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10 1. Petitioner is in the physical custody of Respondents and Immigration
11 and Customs Enforcement (ICE), an agency within the Department of Homeland
12 Security (DHS). He is detained at the Folkston D Ray ICE Processing Center in
13 Folkston, Georgia and is under the direct control of Respondents and their agents.
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16 2. This action arises under the Constitution of the United States and the
17 Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
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19 3. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas
20 corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, clause 2 of the
21 United States Constitution (the Suspension Clause).
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23 4. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
24 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28
25 U.S.C. § 1651.
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5. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9), (f)(1), or 1226(e). Congress has preserved judicial review of challenges to prolonged immigration detention. *See Jennings v Rodriguez*, 138 S. Ct. 830, 839-41 (2018) (holding that 8 U.S.C. §§ 1252(b)(9) and 1226(e) do not bar review of challenges to prolonged immigration detention).

VENUE

6. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Southern District of Georgia, the judicial district in which the Petitioner is currently in custody.

7. Venue is also properly vested in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies in the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of Georgia.

PARTIES

8. Petitioner is a citizen of Russia who arrived in the United States on or about November 14th, 2024. He has been in custody of the Department of

1 Homeland Security (DHS) since that time. Petitioner applied for asylum and
2 withholding of removal.
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4 9. Respondent Todd Lyons is the acting director of U.S. Immigration
5 and Customs Enforcement. Respondent Lyons is a legal custodian of Petitioner.
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7 10. Respondent Kristi Noem is the Secretary of the Department of
8 Homeland Security (DHS) and has authority over the actions of all other DHS
9 Respondents in this case, as well as all operations of DHS. Respondent Noem is a
10 legal custodian of Petitioner and is charged with faithfully administering the
11 immigration laws of the United States.
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13 11. Respondent Pamela Bondi is the Attorney General of the United
14 States, and as such has authority over the Department of Justice and is charged
15 with faithfully administering the immigration laws of the United States.
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17 12. Respondent Warden is the Warden for the Folkston D Ray ICE
18 Processing Center. He is responsible with overseeing the Folkston D Ray ICE
19 Processing Center's administration and management. He is Petitioner's immediate
20 custodian. He is sued in his official capacity.
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23 **FACTUAL ALLEGATIONS**

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25 13. Petitioner is twenty-six years old. He is a citizen of Russia. He
26 entered the United States on or about November 14th, 2024. Petitioner has no
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1 criminal history or arrests in the United States or abroad. (See Notice to Appear
2 attached hereto as Exhibit 1).

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4 14. On March 11th, 2025, Petitioner filed a Form I-589 Application for
5 Asylum and Withholding of Removal. On July 22nd, 2025, an Immigration Judge
6 denied all of Petitioner's applications and ordered him removed from the United
7 States (See Order of the Immigration Judge attached hereto as Exhibit 2). On
8 August 6th, 2025, Petitioner appealed the decision of the Immigration Judge (See
9 Notice of Appeal attached hereto as Exhibit 3). The appeal is currently pending
10 with the Board of Immigration Appeals.
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13 15. Despite prolonged detention since November 14th, 2024, ICE has not
14 alleged or charged Petitioner with any crime or civil violation unrelated to his
15 initial entry into the United States.
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18 16. Petitioner has been deprived of liberty since his entry despite the
19 absence of any criminal or immigration-law violation that would justify detention.
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21 **LEGAL FRAMEWORK**

22 **Due Process Clause**

23 17. The Due Process Clause of the Fifth Amendment provides Petitioner
24 with important protections regarding his detention. As explained by the Supreme
25 Court, "[f]reedom from imprisonment—from government custody, detention, or
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1 other forms of physical restraint— lies at the heart of the liberty” the Due Process
2 Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

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4 18. Per 8 U.S.C. § 1225(b)(1), the INA provides for the possibility of
5 mandatory detention for noncitizens in expedited removal proceedings. Parole is
6 also possible at the Department of Homeland Security’s discretion.
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8 19. Since the Supreme Court’s *Jennings v. Rodriguez*, 138 S. Ct. 830
9 (2018) decision, courts have expressed grave doubts that any statute that permits
10 arbitrary, prolonged detention without any process or safeguards is constitutional
11 or that those who founded our democracy precisely to protect against the
12 government’s arbitrary deprivation of liberty would have thought so. Guidance can
13 be taken from the Eleventh Circuit Court of Appeals in their noting that “the
14 constitutional case for continued detention without inquiry into its necessity
15 becomes more and more suspect as detention continues past [the] thresholds” for
16 removal proceedings contemplated in *Demore*—i.e., one-and-a-half to five months.
17 *Id.* at *15 (quoting *Diop*, 656 F.3d at 234) (emphasis omitted). Specifically, the
18 Court concluded that “[t]he need for a bond inquiry is likely to arise in *the six-*
19 *month to one-year window.*” *Id.* (emphasis added); *see also id.* (describing a one-
20 year mark as the “outer limit of reasonableness”). *Sopo v. Attorney General*, No.
21 14-11421, 2016 WL 3344236 (11th Cir. June 15, 2016).
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1 20. In *Sopo*, the Court held that once “a detained criminal alien’s removal
2 proceedings and concomitant mandatory detention become unreasonably
3 prolonged,” the government must provide the person with an “individualized bond
4 hearing.” *Id.* at *12. As the Court explained, “[r]easonableness . . . is a fact-
5 dependent inquiry requiring an assessment of all of the circumstances of any given
6 case.” *Id.* at *13 (internal quotation marks omitted). “[C]ourts must consult the
7 record and balance the government’s interest in continued detention against the
8 criminal alien’s liberty interest, always seeking to determine whether the alien’s
9 liberty interest has begun to outweigh any justification for using presumptions to
10 detain him without bond.” *Id.* at *16 (internal quotation marks omitted). “If the
11 balance tips in the alien’s favor,” the court must order the individual a bond
12 hearing. *Id.* Petitioner’s prolonged detention clearly exceeds a reasonable period of
13 time. First, Petitioner has been detained over fourteen months. This far exceeds the
14 period the Court found permissible in *Sopo*. As the Court explained, “[t]he need for
15 a bond inquiry is likely to arise in *the six-month to one-year window*.” *Id.* at *15
16 (emphasis added); *see also id.* (describing a one-year mark as the “outer limit of
17 reasonableness”). Moreover, “the constitutional case for continued detention
18 without inquiry into its necessity becomes more and more suspect as detention
19 continues past [the] thresholds” for removal proceedings contemplated by the
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1 Supreme Court in *Demore v. Kim*, 538 U.S. 510, 527-28 (2003)—i.e., one-and-a-
2 half to five months. *Id.* (internal quotation marks omitted).

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4 21. To guarantee against such arbitrary detention and to guarantee the
5 right to liberty, due process requires “adequate procedural protections” that ensure
6 the government’s asserted justification for a noncitizen’s physical confinement
7 “outweighs the individual’s constitutionally protected interest in avoiding physical
8 restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

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11 22. In the immigration context, the Supreme Court recognizes only two
12 valid purposes for civil detention: to mitigate the risks of danger to the community
13 and to prevent flight. *Id.*

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15 23. As a result, where the government detains a noncitizen for a
16 prolonged period or where the noncitizen pursues a substantial defense to removal
17 or claim to relief, due process requires an individualized hearing before a neutral
18 decision maker to determine whether detention remains reasonably related to its
19 purpose. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (stating that an
20 “individualized determination as to [a noncitizen’s] risk of flight and
21 dangerousness” may be warranted “if the continued detention became
22 unreasonable or unjustified”); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978)
23 (opining that cruel and unusual punishment in an Eighth Amendment context could
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1 occur as a result of a prolonged detention: “the length of confinement cannot be
2 ignored in deciding whether [a] confinement meets constitutional standards”).
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4 24. The Government has wide—but not unlimited—discretion in the
5 immigration realm. See *Zadvydas*. Due process prohibits the detaining of an
6 individual without lawful justification and safeguards.
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8 25. Petitioner faces an unreasonable period of future detention. Courts
9 that apply a reasonableness test have consider three main factors in determining the
10 reasonableness of a prolonged detention. First, courts address whether the
11 noncitizen has raised a good faith challenge to removal, specifically, is the
12 challenge legitimately raised and does it present real issues. *Chavez-Alvarez v.*
13 *Warden York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015). Next, a
14 reasonableness evaluation looks to the length of the detention, with detention
15 presumptively unreasonable if it lasts six months to a year. *Id.* at 477-78; *Sopo*, 825
16 F.3d at 1217-18. Finally, courts consider the likelihood that detention will continue
17 pending future proceedings. *Chavez-Alvarez*, 783 F.3d at 478 (It could have been
18 “reasonably predicted that Chavez-Alvarez’s appeal would take a substantial
19 amount of time, making his already lengthy detention considerably longer”); *Sopo*,
20 825 F.3d at 128.
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1 26. Due process also requires certain minimal procedures at bond
2 hearings. First, the government must bear the burden of proof by clear and
3 convincing evidence to justify continued detention. Second, the decisionmaker
4 must consider available alternatives to detention. Finally, if the government cannot
5 meet its burden, a decisionmaker must assess a noncitizen's ability to pay a bond
6 when determining the appropriate conditions of release.
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9 27. To justify immigration detention, the government must bear the
10 burden of proof by clear and convincing evidence that the noncitizen is a danger or
11 flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). In a civil
12 detention context this also applies. The Supreme Court holds that the government
13 bears the burden of proof at least by clear and convincing evidence. *See United*
14 *States v. Salerno*, 481 U.S. 739, 750, 752 (1987)
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18 28. In light of these considerations, "[t]he overwhelming majority of
19 courts to consider the question . . . have concluded that imposing a clear and
20 convincing standard would be most consistent with due process." *Martinez v.*
21 *Decker*, No. 18-CV-6527 (JMF), 2018 WL 5023946, at *5 (S.D.N.Y. Oct. 17,
22 2018) (internal quotation marks omitted).
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25 29. Due process also requires that a neutral decisionmaker consider
26 available alternatives to detention. A primary purpose of immigration detention is
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1 to ensure a noncitizen's appearance during removal proceedings. Detention is not
2 reasonably related to this purpose if there are alternative conditions of release that
3 could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's
4 alternatives to detention program—the Intensive Supervision Appearance Program
5 (ISAP)—has achieved extraordinary success in ensuring appearance at removal
6 proceedings, reaching compliance rates close to 100 percent. *See Hernandez v.*
7 *Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP “resulted in a
8 99% attendance rate at all EOIR hearings and a 95% attendance rate at final
9 hearings”). It follows that alternatives to detention must be considered in
10 determining whether prolonged incarceration is warranted.
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15 30. Due process likewise requires consideration of a noncitizen's ability
16 to pay a bond. “Detention of an indigent ‘for inability to post money bail’ is
17 impermissible if the individual's ‘appearance at trial could reasonably be assured
18 by one of the alternate forms of release.’” *Id.* at 990 (quoting *Pugh v. Rainwater*,
19 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc)). As a result, in determining the
20 appropriate conditions of release for immigration detainees, due process requires
21 “consideration of financial circumstances and alternative conditions of release” to
22 prevent against detention based on poverty. *Id.*
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1 31. Immigration detainees are exposed to great hardships while
2 incarcerated. In Petitioner's case, this is exacerbated by the length of Petitioner's
3 detention. The prolonged detention of Petitioner, who has significant social ties in
4 the United States, raises to an even greater degree the due process concerns.
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6 32. Here, the Respondents can neither show that the continued detention
7 of petitioner is reasonably related to the original purpose and the *Mathews* tests are
8 satisfied. No procedural safeguards are offered to those who remain in custody
9 pending an appeal of a decision on removal proceedings.
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11 33. Without individualized justification, continued, prolonged detention is
12 resulting in the violation of Petitioner's due process rights. *Zadvydas*, 533 U.S. at
13 699–700, 121 S.Ct. 2491 (noting that removal must be reasonably foreseeable for
14 detention to be reasonable). In light of Petitioner's appeal, there is little likelihood
15 of removal in the near future, if ever. Per the Court in *Sopo*, “[a]fter [a] 6-month
16 period [of detention], once the alien provides good reason to believe that there is
17 no significant likelihood of removal in the reasonably foreseeable future, the
18 Government must respond with evidence sufficient to rebut that showing. Absent
19 such a showing, the alien must be released. Despite this, Respondents knowingly
20 continue to detain Petitioner contrary to the Supreme Court's holdings in
21 *Zadvydas*.
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34. The Government would contend that mandatory detention under § 1225 is the appropriate for noncitizens, such as Petitioner, who have had their applications denied but have engaged in a potentially multi-year appeals process. However, mandatory detention is not tenable under the Constitution once it becomes prolonged, indefinite, and unrelated to its initial purpose.

EXHAUSTION

35. All non-citizens situated similarly to Petitioner are denied a bond hearing based upon the statutory language of 8 U.S.C. § 1225. The same contention is supported by BIA rulings. This lock-step position by the BIA and Respondents precludes an Immigration Judge from finding jurisdiction over noncitizens positioned like Petitioner. Therefore, judicial intervention enjoining Respondents from preventing petitioner from having a bond hearing pursuant to the due process concerns raised in *Zadvydas* is necessary to enable petitioner to avail himself of his remedies.

36. Therefore, the Court should consider the merits of the Petition.

CLAIM FOR RELIEF

COUNT 1: Violation of the Administrative Procedure Act

1 37. Petitioner herein incorporates all allegations and facts set forth in the
2 paragraphs above.
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5 38. The “mandatory” detention provision at 8 U.S.C. § 1225(b) as applied
6 by Respondents and Respondents’ decision to refuse Petitioner parole were
7 arbitrary and capricious because Respondents failed to consider relevant factors or
8 provide a satisfactory explanation for their decision. The capriciousness is evident
9 in light of the fact that Petitioner remains arbitrarily detained in excess of fourteen
10 months, during which no demonstration has been made by Respondents as to how
11 Petitioner is a danger to society or a flight risk.
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15 39. The Administrative Procedure Act provides that courts “shall . . . hold
16 unlawful and set aside agency action” that is “arbitrary [and] capricious, . . . or
17 otherwise not in accordance with law[.]” 5 U.S.C. § 706(2)(A). Respondents’
18 arbitrary and capricious actions violate the Administrative Procedure Act.
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21 **COUNT 2: Unconstitutional Detention in Violation of the Fifth Amendment**
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23 40. Petitioner herein incorporates all allegations and facts set forth in the
24 paragraphs above.
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1 41. The “mandatory” detention provision at 8 U.S.C. § 1225(b) does not
2 permit Respondents to indefinitely engage in the prolonged and arbitrary detention
3 of Petitioner. Nonetheless, the Respondents continue to detain Petitioner without
4 providing any evidence or justification for his prolonged detention.
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7 42. “Freedom from imprisonment—from government custody, detention,
8 or other forms of physical restraint—lies at the heart of the liberty that [the] Clause
9 protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
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12 43. Detention in a civil immigration context is only permissible where it
13 bears a reasonable relation to the purpose for which the individual was committed.
14 *Zadvydas*, 533 U.S. at 690. Those purposes are limited: preventing flight and
15 protecting the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).
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19 44. Neither community protection nor flight risk applies to the Petitioner.
20 As such, the ongoing detention bears no reasonable relation to the purpose for
21 which it was committed. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972);
22 *Zadvydas*, 533 U.S. at 690. Petitioner’s removal is not imminent. To the contrary,
23 Petitioner is involved in a lengthy appellate process.
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45. These cumulative actions render his detention even more constitutionally suspect, as they reflect punitive conduct rather than civil processing.

46. Accordingly, Petitioner's continued detention constitutes a deprivation of liberty without due process of law. The Court should order his release.

PRAAYER FOR RELIEF

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 seven (7) days;
3. Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
4. Issue a Writ of Habeas Corpus ordering the Respondents to release Petitioner from custody; hold a hearing if warranted; determine that Petitioner's detention is not justified because the government has not established by clear and

1 convincing evidence that he presents a risk of flight or a danger to the community
2 in light of the available alternatives;
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5 5. Issue an Order temporarily prohibiting the Respondents from
6 transferring Petitioner from the district or removing Petitioner from the USA
7 without the Court's approval;
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10 6. Declare that Petitioner's continued detention is unconstitutional and
11 unlawful, as it is not reasonably related to any valid purpose of immigration
12 detention and violates the Fifth Amendment guarantee of due process;
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15 7. Declare that Respondents' conduct violates the Administrative
16 Procedure Act, 5 U.S.C. §§ 702 and 706, as arbitrary, capricious, and not in
17 accordance with law;
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20 8. In the alternative, should the Court determine that immediate release
21 is not warranted, order Respondents to provide Petitioner an individualized bond
22 hearing before an impartial immigration judge at which the government bears the
23 burden to justify continued detention by clear and convincing evidence and
24 Respondents shall not deny Petitioner's bond on the basis that 8 U.S.C. Section
25 1225(b) requires or authorizes mandatory detention or precludes jurisdiction;
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1 9. Award reasonable attorneys' fees and costs, if appropriate, pursuant to
2 the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable
3 authority; and
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6 10. Grant such other and further relief as the Court deems just and proper.
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8 DATED: February 15th, 2026.
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10 Respectfully submitted,
11

12 /s/ Thomas Evans

13 Thomas Evans

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

I represent Petitioner and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and belief.

Dated: February 11, 2026

s/ Thomas Evans
GA Bar No. 305649