

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

JAHANGIR HASSAN

Petitioner,

Case No.

**HABEAS CORPUS
PETITION FOR WRIT**

Warden, Folkston Detention Center, Folkston, Georgia
; **TODD LYONS**, Acting Director of Immigration
and Customs Enforcement ("ICE");
; **KRISTI NOEM**, Secretary of the
Department of Homeland Security ("DHS"); U.S.
DEPARTMENT OF HOMELAND SECURITY; **PAMELA
BONDI**, and Attorney General of the United States.

Respondents,

Petitioner, files Petition for Habeas Corpus and Complaint for Declaratory and Injunctive Relief, under 28 U.S.C. §§2241, (habeas corpus) 1331 (federal question), with the Administrative Procedure Act, 5 U.S.C. §702 et seq; 28 U.S.C. §2201 (Declaratory Judgment Act).

I. INTRODUCTION

1. Petitioner Jahangir Hassan, is a noncitizen in the custody of Immigration and Customs Enforcement (ICE) at the Folkston ICE processing Center, GA. He has been detained for more than twelve (12) months pending removal proceedings.
2. Petitioner has languished in detention simply because the Executive Office for Immigration Review (EOIR) has failed to secure interpretation services for his removal proceedings.
3. The Due Process Clause of the Fifth Amendment forbids such arbitrary and prolonged detention. Respondents have never justified Petitioner's continued detention at a hearing before a neutral decisionmaker with any evidence of danger or flight risk.
4. Accordingly, Petitioner asks this Court for a writ of habeas corpus to vindicate his right

to due process and to seek relief from his continued arbitrary detention. He requests that the

Court declare his continued detention unconstitutional as applied to him, and to order his release or alternatively, a bond hearing where the government must prove that any continued detention is justified by clear and convincing evidence.

II. JURISDICTION AND VENUE

5. This action arises under the constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. §1101 et. seq.
6. Petitioner is in Respondent's custody at Folkston ICE processing Center in Folkston, GA.
7. This court has subject matter jurisdiction under 28 U.S.C. §§2241 (habeas corpus), U.S.C. §1331 (federal question), and Article I, §9, cl. 2 of the United States Constitution (Suspension Clause).
8. This court may grant relief under the habeas corpus statutes, 28 U.S.C. §2241 et. seq., the Declaratory Judgement 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).
9. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9), 1252(f)(1), or 1226(e). Congress has preserved judicial review of challenges to prolonged immigration detention. *See Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018).

III. VENUE

10. Venue is proper because Petitioner is in Respondents custody at Folkston ICE processing center and Venue lies in the United States District Court for the SOUTHERN DISTRICT OF GEORGIA, the judicial district in which petitioner is currently detained.
11. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) 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 the SOUTHERN DISTRICT OF GEORGIA.

IV. 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.

V. THE PARTIES

15. Petitioner is a citizen of India and has been detained by ICE since December 20, 2025. ICE detained him at Folkston ICE Processing Center.

16. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs and Enforcement, and he has authority over the actions of respondent and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

17. Respondent, Warden, Folkston Detention Facility, Folkston, Georgia is a legal custodian of Petitioner.

18. Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.
19. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.
20. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.
21. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.
22. This action is commenced against all Respondents in their official capacities.

VI. FACTUAL ALLEGATIONS

23. Petitioner a native and citizen of Pakistan. He entered the United States without being inspected or paroled on or about February 2, 2025.
24. The Petitioner was apprehended shortly after entering the United States without inspection.
25. Upon information and belief, the petitioner was detained at a camp in California for 10 days, thereafter he was transferred to a detention center in Texas. *Please see **Exhibit A**, Declaration from the Petitioner Id. ¶ 4*
26. While at Texas, the Petitioner made a request for Credible Fear Interview (CFI) based on his fear of persecution in Pakistan. However, no CFI interview was conducted by the

asylum officer in Texas. Id. ¶ 4

27. He was detained at Texas for approximately another 10 days and was transferred to Folkston ICE Processing Center in GA. Id. ¶ 5

28. Later, he was transferred to the Federal Bureau of Prisons FCI Atlanta, where he was detained for more than one Month. Id. ¶ 6 On or about April 2025, He was taken to the airport by ICE to deport him. He reasserted his fear of persecution in his home country at Atlanta Airport. He was brought back to the Robert a. Deyton Detention facility GA; where he stayed for approximately 4 to 5 days before being transferred to the Folkston ICE processing Center. Id. ¶ 7-9

29. He was again reached out by ICE to sign on the travel document application to deport him back to Pakistan. Id. ¶ 10 He mentioned to the Officer that he had already requested CFI while detained at Taxes and he renewed his request for CFI at Folkston, GA. Id. ¶ 11

30. He was informed that the CFI interview will be scheduled. Id. ¶ 12

31. Under § 1225(b)(1), DHS is authorized to order the expedited removal of noncitizens unless they demonstrate a credible fear of return to their country of origin in a CFI. Generally, if the individual passes the CFI, the person is placed into full proceedings before an immigration judge, where the person may apply for asylum and related protections.

32. Here, neither the Petitioner nor the Counsel is aware or possess any records of DHS issuing him an Expedited Removal Order under § 1225(b)(1).

33. One month after making this request, while detained at Folkston ICE processing Center, the Petitioner was called in for a CFI under § 1225(b)(1). The CFI did not take place

because there was no interpreter. Id. ¶ 14

34. Due to the lack of an interpreter, DHS was unable to proceed with the CFI. As a result, the agency placed the petitioner directly into full removal proceedings under 8 U.S.C. § 1229a. Please see **Exhibit B**, Notice to Appear which was issued on September 10, 2025.

35. Since being placed in removal proceedings, Petitioner estimates that he has attended over three master calendar hearings (MCH). Generally, during MCHs, IJs take pleadings, inform noncitizens of their rights, accept filing of applications, and manage case scheduling.

36. Petitioner's first MCH was held on October 2, 2025. A Hindi interpreter was present in the initial MCH. Petitioner did not speak Hindi and then he was provided with an Urdu Interpreter. Petitioner did not speak Urdu as well and was unable to communicate with the interpreter in either Hindi or Urdu. His MCH continued until the next hearing. Id. ¶¶ 20, 21

37. At Petitioner's second MCH on October 31, 2025, no Saraiki interpreter was present and his MCH was continued to another date. Id. ¶ 22

38. At Petitioner's third MCH on November 4, 2025, a Saraiki interpreter was allegedly provided to the petitioner, however, the interpreter was not dialoguing in Saraiki, but what seemed to be Hindi or Urdu language. As a result, he was unable to communicate with the interpreter and the hearing continued. Id. ¶ 23

39. Since the last hearing the IJ has not scheduled any further MCH for the petitioner. See **Exhibit C**, EOIR Case Status.

40. For twelve months, Respondents detained petitioner without ever providing him with a hearing before an immigration judge (IJ) with an interpreter who could translate into his

native language and dialect. Id. ¶ 25. The immigration court failed to provide an interpreter even though petitioner repeatedly provided the court with information about the language he speaks.

41. The Petitioner speaks a dialect of Saraiki, a language spoken by some population living in south-western part of Pakistan. Id. ¶ 15

42. The Petitioner has faced months of continued detention just to present his asylum application due to EOIR's failure to provide him with interpretation at his hearings.

43. The Lumpkin Immigration Court considers Petitioner subject to mandatory detention under § 1225(b). Accordingly, he has never received a hearing before a neutral decisionmaker where ICE was required to justify his continued detention by clear and convincing evidence.

VII. LEGAL FRAMEWORK

44. Due Process Clause of the Fifth Amendment provides Petitioners with important protection against arbitrary detention without procedures to determine if someone is a flight risk or danger. As the Supreme Court has explained, “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

45. The INA authorizes three basic forms of detention for noncitizens in removal proceedings. The first is detention for noncitizens in regular, non-expedited removal proceedings. *See* 8 U.S.C. § 1226(a). Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, while noncitizens who have committed certain crimes are subject to mandatory detention. *See id.* § 1226(c). Second, the INA also provides for mandatory detention for noncitizens in expedited removal proceedings and others arriving in the United

States. *Id.* § 1225(b). Last, the statute provides for detention for noncitizens who are subject to a final removal order. *Id.* § 1231(a)(6).

46. The Supreme Court has addressed the constitutionality of mandatory detention on one occasion. In *Demore v. Kim*, 538 U.S. 510 (2003), the Supreme Court denied a facial challenge to mandatory detention under § 1226(c), which asserted that the statute was unconstitutional because it imposed mandatory detention without a custody hearing. However, the Supreme Court emphasized that such detention was typically “brief” in length and lasted “roughly a month and a half in the vast majority of cases . . . and about five months in the minority of cases in which the [non-citizen] chooses to appeal.” 538 U.S. at 513, 530. The Court also upheld the statute in part because it was based on a voluminous congressional record that supported the need for detention as to individuals convicted of certain crimes. *See id.* at 518–20

47. In the immigration context, the Supreme Court has recognized two primary purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight. *Id.*; *see also Demore*, 538 U.S. at 522, 528. The government may not detain a noncitizen based on other justifications.

48. As a result, where the government detains a noncitizen for a prolonged period while the noncitizen pursues a substantial defense to removal or claim relief, due process requires an individualized hearing before a neutral decisionmaker to determine whether detention remains reasonably related to its purpose. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (stating that an “individualized determination as to [a noncitizen’s] risk of flight and dangerousness” may be warranted “if the continued detention became unreasonable or unjustified”); *cf. Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the “initial commitment” requires additional safeguards); *McNeil v. Dir.*,

Patuxent Inst., 407 U.S. 245, 249–n50 (1972) (noting that “lesser safeguards may be appropriate” for “short-term confinement”); *Hutto v. Finney*, 437 U.S. 678, 685–86 (1978) (observing, in Eighth Amendment context, that “the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards”).

49. Detention without a bond hearing is unconstitutional when it becomes prolonged. *See, e.g., Rodriguez*, 909 F.3d at 256; *see also Zadvydas*, 533 U.S. at 701 (“Congress previously doubted the constitutionality of detention for more than six months.”).

50. The recognition that six months constitutes a substantial period of confinement that qualifies as prolonged detention is deeply rooted in our legal tradition. With only a few exceptions, “in the late 18th century in America crimes triable without a jury were for the most part punishable by no more than a six-month prison term.” *Duncan v. Louisiana*, 391 U.S. 145, 161 & n.34 (1968). Consistent with this tradition, the Supreme Court has found six months to be the limit of confinement for a criminal offense that a federal court may impose without the protection afforded by a jury trial. *Cheff v. Schnackenberg*, 384 U.S. 373, 380 (1966) (plurality opinion). The Court has also looked to six months as a benchmark in other contexts involving.

51. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court again addressed the mandatory provision of § 1226(c), as well as the one at § 1225(b). There, the Court held that, as a matter of statutory interpretation, those sections did not require the government to provide a detainee subject to prolonged detention with a bond hearing. Significantly, the Court did not reach the constitutional question of whether the Due Process Clause requires an opportunity to test the government’s justification for detention once detention becomes prolonged.

52. To guard against such arbitrary detention and to guarantee the right to liberty, due process requires “adequate procedural protections” that ensure the government’s asserted justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).
53. To determine if a procedural due process violation has occurred, courts must determine whether a petitioner was deprived of a protected interest, and, if so, whether constitutionally adequate due process was afforded. *See Logan v. Zimmerman Brush Co.*, 455 U.S. 422 (1982); *Bank of Jackson Cnty. v. Cherry*, 980 F.2d 1362, 1366 (11th Cir. 1993). As for others protected by the Due Process Clause, for aliens involved in removal proceedings, “[f]reedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
54. The Eleventh Circuit in *Sopo* 1 factors set forth in *Sopo v. U.S. Attorney General* (“*Sopo I*”), 825 F.3d 1199 (11th Cir. 2016), *vacated*, 890 F.3d 952 (11th Cir. 2018) adopting a case- by -case approach promulgated a factors test for determining if prolonged detention under mandatory detention governed by § 1226(c) does, in fact, violate a petitioner's right to procedural due process: *(1) the amount of time the alien has been in detention without a bond hearing; (2) the cause of the protracted removal proceedings (i.e., whether the petitioner or the government has improperly delayed the proceedings); (3) whether it will be possible to remove the alien upon the issuance of a final order of removal; (4) whether the period of civil immigration detention exceeds the time the alien spent in prison for the crime that rendered the alien removable; (5) whether the facility at which the alien is civilly detained is meaningfully different from a penal*

*institution; and (6) the likelihood the removal proceedings will conclude in the near future. Id. at 1217-18.*¹

55. *First*, the Petitioner is in ICE Custody of nearly 13 months since February 2, 2025, without a bond hearing and without even having hearing about his rights to apply for asylum and protection in immigration court. In *Dorley v. Normand*, Civil Action 5:22-cv-62 (S.D. Ga. May 01, 2023), this honorable court held that, Regarding the first factor-the length of detention without a bond hearing-the Eleventh Circuit noted § 1226(c) detention without a bond hearing is likely reasonable for up to six months but “may often become unreasonable by the one year mark, depending on the facts of the case.” *Id.* at 1218. Critically, the Eleventh Circuit explained in the context of prolonged detention, procedural due process does not require automatic release of a criminal alien once the detention is unreasonably prolonged but, instead, requires the government to afford the alien an individualized bond inquiry.

56. *Second*, the delay in proceedings in the Petitioner case is solely attributed to the government for its inability to provide his native language interpreter. After the third hearing, the Immigration Judge was required to schedule his further hearing, and which has not been scheduled. The nature and extent of any delays is solely attributed to the respondent and not the petitioner. When there was “no indication that petitioner deliberately sought to delay the proceedings” or “engage in dilatory tactics,” the delay caused by the necessity of finding an interpreter “is attributable to the Government, not petitioner.” *Id.* At *Bandra*, 1119–20.

57. *Third*, the EOIR conducts regular removal to Pakistan. And the petitioner’s removal should not be a problem once the removal order becomes final.

¹ *SOPO I* was vacated on mootness, and the courts have routinely looked up to the factors for determining reasonableness for the prolonged detention cases.

58. *Fourth*, the petitioner has been detained and in custody since February 2, 2025, since his entry without inspection in the United States. Petitioner is detained under the mandatory detention provisions of 8 U.S.C. § 1225(b). The statute itself does not include “a limit on prolonged detention or a requirement of individual bond hearings.” But the courts in this district joined the vast majority of other district courts to conclude that unreasonably prolonged detention under § 1225(b) without a bond hearing violates due process. Further, there is no length of criminal incarnation to be measured because he has not been convicted of any crimes in the United States. the Removal proceedings have not even commenced in the present case, in the technical sense.

59. *Fifth*, Petitioner respectfully raises concerns regarding the conditions of his confinement and the adequacy of medical care while detained. Petitioner reports that the water from facility pipelines at times has an unusual odor, and he has experienced irritation causing fungal infection on his toes and private parts. He states that he has developed a persistent cough and periodic illness during detention. Although he has sought medical attention, treatment has been limited. Initially, he was prescribed ibuprofen. Medical examinations are often scheduled 2-3 after making the request. On one occasion, he was prescribed antibiotics medication for tonsillitis. However, the antibiotics caused an adverse reaction in my mouth, causing severe blisters. Additionally, he notes that when temperatures inside the facility are particularly cold, detainees are not provided with any additional blankets. Id. ¶

29. These conditions, combined with prolonged detention without a bond hearing, further weigh in favor of relief. Petitioner further reports a significant injury to his knee that has been inadequately addressed. He experiences recurring instability in the knee, stating that it “gives out” unexpectedly, causing pain and limiting his ability to walk normally, run, or engage in recreational activity. The medical examiner had recommended him to be sent outside the

facility for proper medical evaluation at an appropriate hospital; however, no such appointment has been scheduled till date. It has been almost 4 months since the recommendation was made. *Id.* ¶ 30. The condition persists and causes ongoing pain and functional limitation. The lack of timely diagnostic evaluation and treatment for this injury raises additional concerns regarding the adequacy of medical care provided during his detention.

60. *Lastly*, since the Petitioner here has no upcoming MCH scheduled, the likelihood of removal proceedings will conclude in the near future is unforeseeable.

61. The 11th circuit court addresses each factor set out in *SOPO I* in *Dorley v. Normand*, Civil Action 5:22-cv-62 (S.D. Ga. May 01, 2023) while adjudicating the “reasonableness” for Mandatory detention under § 1226(c).

62. Courts in the Eleventh Circuit confronted with procedural due process challenges to prolonged detention under § 1226(c) have looked to *Sopo I* for guidance on evaluating the challenges. *See Lukaj v. McAleenan*, Case No. 3:19-cv-241, 2019 WL 4979745, at *6 (M.D. Fla. Oct. 8, 2019), *vacated on other grounds*, 2020 WL 248724 (M.D. Fla. Jan. 16, 2020); *Moore v. Nielsen*, No. 418CV01722, 2019 WL 2152582, at *10 (N.D. Ala. May 3, 2019). Those courts consider the reasoning of *Sopo I* concerning statutory construction of § 1226(c) and recognize the constitutional avoidance doctrine was rejected by the Supreme Court in *Jennings* and the opinion in *Sopo I* was later vacated by the Eleventh Circuit. Those courts also recognize the analysis in *Sopo I* concerning prolonged § 1226(c) detention remains persuasive and is particularly instructive when assessing the constitutionality of prolonged § 1226(c) detention. *Lukaj*, 2019 WL 4979745, at *6 (recognizing while “vacated opinions are void and have no legal effect[,]” “they can still have persuasive value”); *Moore*, 2019 WL 2152582, at *10 (“In assessing the constitutional avoidance doctrine, the Eleventh

Circuit affirmatively answered the due process question in [*Sopo I*].” See *Dorley v. Normand*, Civil Action 5:22-cv-62 (S.D. Ga. May 01, 2023).

63. In the years since *Demore*, many courts construed § 1226(c) as authorizing detention only for a “reasonable” amount time, so as to avoid resolving the constitutional challenges presented by extended § 1226(c) detention. See, *Dorley v. Normand Civil Action 5:22-cv-62* (S.D. Ga. May 01, 2023).

64. Reasonableness is a “function of the length of the detention,” with detention presumptively unreasonable if it lasts six months to a year. *Id.* at 477-78; accord *Sopo*, 825 F.3d at 1217-18.

65. At a bond hearing, due process requires certain minimal protections to ensure that a noncitizen’s detention is warranted: the government must bear the burden of proof by clear and convincing evidence to justify continued detention, taking into consideration available alternatives to detention; and if the government cannot meet its burden, the noncitizen’s ability to pay a bond must be considered in determining the appropriate conditions of release.

66. To justify prolonged immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. See *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). Where the Supreme Court has permitted civil detention in other contexts, it has relied on the fact that the Government bore the burden of proof at least by clear and convincing evidence. See *United States v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pre-trial detention where “full-blown adversary hearing,” requiring “clear and convincing evidence” and “neutral decisionmaker”); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding

post-final-order custody review procedures deficient because, inter alia, they placed burden on detainee).

67. Due process also requires consideration of alternatives to detention. The primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. See *Bell v. Wolfish*, 441 U.S. 520, 538 (1979).

68. Challenges to § 1225(b) argue that it is unconstitutional as applied when it results in indefinite detention without a bond hearing. Habeas corpus petitions are used to challenge this, with some courts granting release or ordering bond hearings, requiring the government to prove by "clear and convincing evidence" that detention is justified. Eleventh Circuit Authority

69. Consistent with this view, the federal courts have made clear that prolonged detention pending removal proceedings without a bond hearing likely violates due process. See *supra*; *Jennings*, 2018 WL 1054878 at *37 (Breyer, J, dissenting) ("an interpretation of the statute before us that would deny bail proceedings where detention is prolonged would likely mean that the statute violates the Constitution"). In addition, numerous circuit and district courts have expressly found that the Constitution requires bond hearings in cases of prolonged detention. See, e.g., *Diop*, 656 F.3d at 233; *Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 544-50 (S.D.N.Y. 2014); *Monestime v. Reilly*, 704 F. Supp. 2d 453, 458-59 (S.D.N.Y. 2010).

70. Courts regularly afford noncitizens a bond hearing after facing similar periods of detention. See, e.g., ***Banda v. McAleenan*, 385 F. Supp. 3d 1009, 1117–18 (W.D. Wash. 2019)**. (noting that 17 months of detention was a "very long time" that "strongly favor[ed] granting a bond hearing"); *Lopez v. Garland*, 631 F. Supp. 3d 870, 879 (E.D.

Cal. 2022) (“Petitioner has been in immigration detention since September 10, 2021—approximately one year. District courts have found shorter lengths of detention pursuant to § 1226(c) without a bond hearing to be unreasonable.”); *Gonzalez v. Bonnar*, No. 18-cv-05321-JSC, 2019 WL 330906, at *5 (N.D. Cal. Jan. 25, 2019) (detention of just over a year that would last several more months favored granting bond hearing); *Martinez v. Clark*, No. C18-1669-RAJ-MAT, 2019 WL 5968089, at *1 (W.D. Wash. May 23, 2019), *R&R adopted*, No. 18-CV-01669-RAJ, 2019 WL 5962685 (W.D. Wash. Nov. 13, 2019) (detention of 13 months favored granting bond hearing); *Cabral v. Decker*, 331 F. Supp. 3d 255, 261 (S.D.N.Y. 2018) (same, for 7 months); *Liban M.J. v. Sec’y of DHS*, 367 F. Supp. 3d 959, 963 (D.Minn. 2019) (same, for 12 months). That right to a full and fair hearing includes the right to adequate interpretation. *See, e.g., Perez-Lastor v. INS*, 208 F.3d 773, 777–78 (9th Cir. 2000). By failing to provide that interpretation while subjecting Petitioner to ongoing, prolonged detention, Respondents effectively deny that right altogether, because it will eventually force Petitioner to give up his case when his removal proceedings never progress.

71. Finally, Petitioner intends to make a good faith defense to removal based on the harm he is likely to face in Pakistan. However, until now, he has been precluded from even hearing about his rights to apply for asylum and protection in immigration court, because EOIR has not provided an interpreter in his native language.
72. As a result, due process demands that Petitioner receives a bond hearing.
73. Notably, the other district courts has previously issued habeas relief in nearly identical circumstances. In *Banda*, the noncitizen’s case was repeatedly continued because an adequate interpreter was not present at the petitioner’s hearings in removal proceedings.

See 385 F. Supp. 3d at 1109–10. The Court there concluded that the noncitizen was entitled to a bond hearing after months of delays in the case due to the lack of an interpreter. *Id.* at 1107, 1120.

74. Recently, the Western District Court of Washington, while addressing an identical issues granted bond hearings for the Petitioner who were detained for over 6 months pending removal proceedings, without ever receiving even an initial hearing in their native language. The petitioners have languished in detention for months simply because the Executive Office for Immigration Review (EOIR) has failed to secure interpretation services for their removal proceedings. The Due Process clause of the Fifth Amendment forbids such arbitrary and prolonged detention, and the government has never justified the petitioners' continued detention at a hearing before a neutral decisionmaker. *See Jesus Bento Cardozo, et al., v. Drew Bostock, et al., 2:25-cv-00871-TMC-BAT (W.D. Wash.) & Abderrahim Belqasim v. Drew Bostock, et al., 2:25-cv-1282 (W.D. Wash.)*

75. The case is identical to the ones decided by the W.D. Wash and is a persuasive authority for this court to consider. Please see Exhibit D and E, copy of the orders adopting R &R.

76. A similar result occurs under application of the test in *Mathews*. That test looks to the petitioner's interest, (2) the value of additional procedural protections, and (3) any burden on the government in providing additional protections. 424 U.S. at 335.

77. Here, Petitioner's interest is at its zenith: he has a powerful interest in his physical liberty, as the Supreme Court, the Ninth Circuit, and this Court have repeatedly made clear.

78. Second, additional protections are warranted here. The statute affords Petitioner no protection whatsoever and requires his detention. *See* 8 U.S.C. § 1225(b)(2). Finally, any burden on the government is minimal. Bond proceedings are short, informal hearings where an IJ typically receives records and testimonial evidence at a hearing and issues an oral ruling. Such hearings do not entail any significant expenditure of government resources. *See* Imm. Ct. Practice Manual ch. 9.3(e).
79. Accordingly, application of the *Mathews* test also requires a bond hearing to justify further detention.
80. Due process also requires that a neutral decisionmaker consider available alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's alternatives to detention program—the Intensive Supervision Appearance Program (ISAP)—has achieved compliance rates close to 100 percent. *See Hernandez*, 872 F.3d at 991 (observing that ISAP “resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings”). It follows that alternatives to detention must be considered in determining whether prolonged incarceration is warranted.
81. Due process likewise requires consideration of a noncitizen's ability to pay a bond. “Detention of an indigent ‘for inability to post money bail’ is impermissible if the individual's ‘appearance at trial could reasonably be assured by one of the alternate forms of release.’” *Id.* at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc)).

82. As a result, in determining the appropriate conditions of release for immigration detainees, due process requires “consideration of financial circumstances and alternative conditions of release” to prevent against detention based on poverty. *Id.*

VIII. EXHAUSTION

83. Petitioner is not required to exhaust administrative remedies. Exhaustion for habeas claims is prudential, not jurisdictional. See *Laing v. Ashcroft*, 370 F.3d 994, 997 (9th Cir. 2004). The prudential exhaustion requirement may be waived if “‘administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, [or] irreparable injury will result.’”

84. Administrative remedies would be futile, inadequate, and not efficacious for Mr. Hassan. Exhausting his constitutional claim would be futile because the agency does not have the authority to rule on constitutional questions. See *Wang v. Reno*, 81 F.3d 808, 815–16 (9th Cir. 1996) (*per curiam*) (“the inability of the INS to adjudicate the constitutional claim completely undermines most, if not all, of the purposes underlying exhaustion”).

85. Exhausting his statutory claim would be futile because the immigration judge in alike cases have exercised no jurisdiction to provide individuals like Mr. Hassan with a bond hearing under 8 U.S.C. § 1225(b).

86. Even if exhaustion were not futile, waiver is warranted because Mr. Hassan’s claim presents purely legal issues and no purpose is served by requiring an administrative appeal. See *Hernandez v. Sessions*, 872 F.3d 976, 988–89 (9th Cir. 2017).

87. While the exhaustion doctrine often “‘serves the twin purposes of protecting administrative agency authority and promoting judicial efficiency,’” there are “‘circumstances in which the interests of the individual weigh heavily against requiring

administrative exhaustion.” *Portela-Gonzalez v. Sec’y of the Navy*, 109 F.3d 74, 77 (1st Cir. 1997) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 145-46 (1992)). As relevant here, “a court may consider relaxing the [exhaustion requirement] when unreasonable or indefinite delay threatens unduly to prejudice the subsequent bringing of a judicial action.” *Id.* “And, relatedly, if the situation is such that ‘a particular plaintiff may suffer irreparable harm if unable to secure immediate judicial consideration of his claim,’ exhaustion may be excused even though ‘the administrative decision making schedule is otherwise reasonable and definite.’” *Id.* (quoting *McCarthy*, 503 U.S. at 147). Irreparable harm may be established where a petitioner will be incarcerated or detained pending the exhaustion of administrative remedies. *See Brito*, 22 F.4th at 256 (“[E]xhaustion might not be required if [the petitioner] were challenging her incarceration . . . or the ongoing deprivation of some other liberty interest.” (quoting *Bois v. Marsh*, 801 F.2d 462, 468 (D.C. Cir. 1986))).

88. Waiver of the exhaustion requirement is warranted here because Petitioner is likely to experience irreparable harm if he is unable to seek habeas relief.

IX. CLAIMS FOR RELIEF

28 U.S.C. § 2241

Violation of Fifth Amendment Right to Due Process

89. Petitioner alleges and incorporates by reference the paragraphs above. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

90. Petitioner’s detention—which has lasted over twelve months without a hearing in his own language—constitutes prolonged detention and is not reasonably related to a legitimate government purpose.

91. To justify Petitioner's ongoing prolonged detention, due process requires individualized hearing before a neutral decisionmaker where the government must establish that continued detention is justified by clear and convincing evidence of flight risk or danger and that no alternatives to detention could sufficiently mitigate any risk that does exist.

92. For these reasons, Petitioner's ongoing detention violates the Due Process Clause of the Fifth Amendment.

X. PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this court grants the following relief:

- a) Assume Jurisdiction over this matter.
- b) Order that Petitioner shall not be transferred outside the Southern District of Georgia while this habeas petition is pending.
- c) Issue an Order to Show Cause ordering Respondents to show why this Petition should not be granted within three days.
- d) Issue a Writ of Habeas Corpus and order Respondents to immediately release Petitioner from DHS custody under reasonable conditions and enjoin Respondents from re-arresting him without a pre-deprivation hearing before this Court.
- e) Alternatively, order that Petitioner be released within 7 days unless Respondents schedule a hearing to take place before a neutral arbiter where to continue detention, the government must establish by clear and convincing evidence that Petitioner presents a danger or flight risk, and address why available conditions of supervision cannot mitigate any such risks; and if (a) the government fails to meet this burden, the neutral arbiter orders Petitioner's release on appropriate conditions of supervision, taking into account Petitioner's ability to pay a bond; or (b) the government meets this burden, the neutral arbiter issue a reasoned

decision explaining why the government has met its burden of proof and why alternatives to detention are inadequate

- f) Declaration that, as applied in this case, 8 U.S.C. § 1225(b) and Petitioner's prolonged detention under that statute violate the Due Process Clause of the Fifth Amendment.
- g) Grant any other and further relief that this Court deems just and proper.

Respectfully submitted on February 17, 2026.

/s/ Ripal Patel

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CERTIFICATE OF SERVICE

I, Ripal Patel, hereby certify that a copy of the foregoing was mailed First class postage prepaid to the office of the Attorney General at the below mentioned address:

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