

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

---

DREWS OMONDI

Petitioner,

v.

MARY DE ANDA-YBARRA, Director, El Paso Field Office Immigration and Customs Enforcement; TODD M. LYONS, Acting Director of Immigration and Customs Enforcement; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; and PAMELA BONDI, Attorney General,

Respondents.

Case No. 26-439

**VERIFIED PETITION FOR WRIT OF  
HABEAS CORPUS**

**INTRODUCTION AND FACTUAL BACKGROUND**

1. Petitioner, Drews Omondi, is a resident of Minneapolis, Minnesota, and a citizen of Kenya. Mr. Omondi entered the United States in or about 2014 on a valid fiancée visa and married a U.S. citizen shortly thereafter. Mr. Omondi had a pending application for adjustment of status through that marriage, but due to irreconcilable differences, he decided to leave that relationship and he withdrew the application before it was processed. He has remained in the country since then.

2. In June 2020, Mr. Omondi met his now wife, Miriam Mongare, who is a U.S. citizen. They lawfully married in January 2021 in Dakota County, Minnesota. Although Mr. Omondi could have again started the process to adjust his status to obtain a green card, he and his wife wanted to save more money before starting the process, as they were focused on paying rent, bills, and other necessities at the time.

3. Since their marriage, Mr. Omondi and Mrs. Mongare have had two young children, both of whom are U.S. citizens: a 3-year-old daughter and a 1-month-old infant son. They have been living peacefully in Minneapolis at a stable address and attending their local church.

4. On January 6, 2026, Mr. Omondi was arrested by Immigration and Customs Enforcement (“ICE”) while he was outside of his house fixing the family car. Upon information and belief, Respondents did not have probable cause to arrest Petitioner, and neither possessed nor presented to him a warrant of any kind, judicial or otherwise, to justify his arrest or detention.

5. Upon his arrest, Mr. Omondi was quickly transferred out of Minnesota to El Paso, Texas; he was subsequently moved again to New Mexico. He currently remains in Respondents’ custody in New Mexico at Otero County Processing Center.

6. Mr. Omondi’s detention has been traumatizing for himself and for his family. Mr. Omondi was arrested and detained when his wife was already nine months pregnant. Nine days after his arrest and detention, Mrs. Mongare went into labor. Without Mr. Omondi or any other immediate family in the area, she had to call 911 to transport her and her 3-year-old toddler to the hospital. While she was in labor, Mrs. Mongare received a 2-minute phone call from her husband—the first time he was permitted and able to contact his family since he was arrested. Later that day, Mrs. Mongare underwent a C-section and gave birth to their now 1-month-old infant, who Mr. Omondi has yet to meet. Mrs. Mongare remained in the hospital for three days.

7. Without her husband’s support, Mrs. Mongare has been struggling both physically and emotionally—to recover from her C-section and to care for their two young children on her own, while making ends meet. The stress of this situation has caused Mrs. Mongare emotional trauma, angst, and sleepless nights. Their 3-year-old daughter, who witnessed Mr. Omondi’s arrest

and is very close to her father, has also been emotionally distressed by his detention. She similarly has difficulty sleeping and repeatedly cries for her father while asking when he is coming back.

8. Mr. Omondi understandably has been distraught because of the separation from his family during a deeply emotional time in their lives, and because of his inability to support his wife through her surgery and in her recovery. The conditions of confinement for Mr. Omondi have also been harsh and punitive. Shortly after he arrived at Otero County Processing Center, he suffered a wound that developed into a boil. Despite asking for medical attention, he was not offered treatment for more than a week, until it burst. More recently, since the government shutdown began on February 14, he and other detainees have no longer been allowed to take breaks outside or to eat in common areas—presumably due to staffing shortages. The lack of fresh air has been particularly difficult given the number of detainees inside the facility creating congested conditions.

9. Mr. Omondi's detention is an unlawful deprivation of his constitutional 5th Amendment due process rights, a violation of the Immigration and Nationality Act ("INA"), and the Administrative Procedure Act ("APA").

### **JURISDICTION AND VENUE**

10. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (federal employee mandamus action); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, c. 2 of the U.S. Constitution ("Suspension Clause"); 5 U.S.C. § 702 (waiver of sovereign immunity); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

11. Federal question jurisdiction exists because Petitioner seeks to challenge this custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

12. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by the Department of Homeland Security (“DHS”). *Denmore v. Kim*, 538 U.S. 510, 516-17 (2003); *Jennings v. Rodriguez*, 583 U.S. 281, 292-93 (2018); and *Nielsen v. Preap*, 586 U.S. 392, 401-02 (2019).

13. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Petitioner is detained within the District of New Mexico.

14. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A), because Respondents are operating in this district.

### **PARTIES**

15. Petitioner, Drews Omondi, is a citizen of Kenya and a resident of Minnesota. He is in the custody of ICE in New Mexico, and under the direct control of Respondents. Mr. Omondi has no scheduled release date or bond hearing scheduled.

16. Respondent Mary De Anda-Ybarra is being sued in her official capacity as the Field Office Director for the El Paso Field Office, U.S. Immigration and Customs Enforcement. Respondent Mary De Anda-Ybarra is the immediate legal custodian of Petitioner.

17. Respondent Todd Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.

18. Respondent Kristi Noem is sued in her official capacity as Secretary of Homeland Security. As the head of the Department of Homeland Security (“DHS”), the agency tasked with enforcing immigration laws, Secretary Noem is Petitioner’s ultimate legal custodian.

19. Respondent Pamela Bondi is sued in her official capacity as Attorney General of the United States. As Attorney General, Respondent Bondi oversees the immigration court system, including the immigration judges who conduct removal proceedings and bond hearings as her designees, and is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(g). She is legally responsible for administering of Petitioner’s removal and bond proceedings, and as such, she is a legal custodian of Petitioner.

#### **STANDARD OF LAW**

20. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The “Great Writ” has been referred to by United States courts 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) (emphasis added). A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law. 28 U.S.C. § 22441(c)(3).

21. The Court must grant a petition for writ of habeas corpus or issue an order to show cause to the Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause 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.*

22. Courts have jurisdiction to hear habeas petitions filed by noncitizens who have no final removal order, whose challenges to their arrest and detention are independent of any future

removal order. *Molina Ochoa v. Noem*, No. 1:25-cv-00881-JB-LF, 2025 WL 3125846, at \*4 (D.N.M. Nov. 7, 2025).

23. Nor is Petitioner required to first exhaust administrative remedies. “Although appealing to the BIA normally is required to obtain subsequent judicial review, exhaustion deficiencies do not affect habeas jurisdiction over challenges to immigration detention.” *Molina Ochoa*, 2025 WL 3125846, at \*9 (D. N.M. Nov. 7, 2025) (citing *Soberanes v. Comfort*, 388 F.3d 1305, 1310-11 (10<sup>th</sup> Cir. 2004)). Although there is a statutory administrative exhaustion requirement as to challenges to final orders of removal, no such requirement exists as to preliminary custody or bond determinations. “When Congress does not require exhaustion in the statute then the district court has discretion to decide if administrative exhaustion is required.” *Id.* at \*9 (citing *L.G. v. Choate*, 744 F. Supp. 3d 1172, 1181 (D. Colo. 2024)).

24. Moreover, Mr. Omondi raises constitutional claims that are proper for this Court to decide. “Courts have carved out an exception to the exhaustion requirement for constitutional challenges to the immigration laws, because the BIA has no jurisdiction to review such claims.” *Soberanes*, 388 F.3d 1305, 1310-11.

25. Mr. Omondi has been in custody for no legitimate reason for six weeks and has yet to meet his baby boy, who was born while he was detained. Every day that passes, he continues to suffer irreparable harm and a direct attack on his liberty interest. It is wholly appropriate in these circumstances for the Court to exercise its sound discretion to hear Mr. Omondi’s Petition. *See Molina*, 2025 WL 3125846, at \*9 (“To wait, indefinitely, for a ruling on that appeal would be inappropriate because it would exacerbate [the petitioner’s] alleged constitutional injury—detention without a bond hearing.”) (quoting and citing *Lopez-Arevelo v. Ripa*, 2025 WL 2691828 at \*6 (W.D. Tex. Sept. 22, 2025)).

## CAUSES OF ACTION

### FIRST CLAIM

#### **Violation of the Due Process Clause of the Fifth Amendment to the US. Constitution: Procedural Due Process**

26. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

27. Even “[w]hen government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner.” *Salerno*, 481 U.S. at 746.

28. Courts use the three-factor *Mathews v. Eldridge* test to determine what process is due to noncitizens challenging detention. *See* 424 U.S. 319 (1976). The *Mathews* factors assess: (1) “the private interest that will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Id.* at 335.

29. The first *Mathews* factor weighs heavily in Mr. Omondi’s favor. A person’s interest in freedom from physical detention is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S. Ct. 2633, 159 L.Ed.2d 578 (2004); *see also ovydas v. Davis*, 533 U.S. 678, 690 (2001) (“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”). Mr. Omondi is wrongfully confined, which is a direct attack on his liberty interest. Moreover, his liberty interest is particularly strong given that he had been lawfully admitted after inspection when he first entered the country in 2014.

30. The second *Mathews* factor also weighs in Petitioner’s favor. The current procedures employed by the government—arresting Mr. Omondi without a warrant and keeping him in detention for six weeks without access to any bond hearing—have already caused an erroneous deprivation of his liberty interests. This is especially true where, as for Mr. Omondi, there does not appear to be a significant likelihood of removal in the reasonably foreseeable future, since he has a path to staying in this country through his U.S. citizen wife. *See Zadvydas v. Davis*, 533 U.S. 678, 699 (2001) (“once removal is no longer reasonably foreseeable, continued detention is no longer authorized...”).

31. Finally, the third factor likewise weighs in Mr. Omondi’s favor. His detention imposes high fiscal and administrative burdens on Respondents. Moreover, the public interest is not served by detaining noncitizens like Mr. Omondi, who have demonstrated strong ties to the community and are neither a flight risk nor dangerous.

32. Respondents violated procedural due process by detaining Mr. Omondi without adequate procedural protections. This Court should order his release without any restraints on his liberty and prohibit any re-detention without proper pre-deprivation process.

## **SECOND CLAIM**

### **Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution: Substantive Due Process**

33. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

34. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas*, 533 U.S. at 693; *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). And “[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*, 533 U.S. at 690.

35. Because “liberty is the norm, and detention prior to trial or without trial is the carefully limited exception,” the government may imprison people as a preventive measure only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)).

36. Immigration detention is civil detention and must “bear a reasonable relation to the purpose for which the individual was committed” so that it remains “nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690 (citation modified); *see also Schall v. Martin*, 467 U.S. 253, 264-69 (1984) (finding detention must be a proportional—not excessive—response to a legitimate state objective).

37. Courts have identified only two legitimate purposes for immigration detention: mitigating flight risk pending removal and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690-91.

38. To satisfy substantive due process under the Fifth Amendment, a noncitizen’s detention must be tied to flight risk or a danger to the community. *Zadvydas*, 533 U.S. at 690.

39. Neither purpose is served by Petitioner’s detention. Mr. Omondi presents neither a flight risk nor a danger to the community. Mr. Omondi has been in the U.S. for more than a decade without any criminal record. For the past 5 years has been living a quiet life in Minneapolis with his U.S. citizen family: his wife, toddler daughter, and infant son who was born via C-section while he remained in detention.

40. Because the government is not detaining Mr. Omondi to serve legitimate interests in protecting against danger or flight risk, his detention violates substantive due process under the Fifth Amendment, and this Court should order his immediate release.

### THIRD CLAIM

#### Violation of the Immigration and Nationality Act and Due Process

41. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

42. The INA prescribes three basic forms of detention for most noncitizens in removal proceedings. One of these forms is outlined in 8 U.S.C. § 1226, which allows for discretionary detention and “authorizes the Government to detain certain noncitizens already in the country pending the outcome of removal proceedings.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Individuals detained under Section 1226(a) are generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). However, noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention under Section 1226(c). *See* 8 U.S.C. § 1226(c).

43. Mr. Omondi was admitted into the United States with inspection in or about 2014 and has remained in this country since then, past the expiration of his visa. He has no criminal record and is not subject to mandatory detention under Section 1226(c). Accordingly, Respondents presumably take the position that Mr. Omondi is subject to discretionary detention pursuant to 8 U.S.C. § 1226(a).

44. However, detention under § 1226 is predicated upon the existence of a valid warrant: “*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. ...*” 8 U.S.C. §

1226(a) (emphasis added). Upon information and belief, Mr. Omondi was never presented with any warrant—judicial or administrative—at the time of his arrest or at any point thereafter.

45. Furthermore, while there may be narrow circumstances in which an immigration officer may be entitled to make an arrest without a warrant, none of those apply here. Mr. Omondi has been living continuously and peacefully in the United States, without a criminal record, for nearly 12 years. He has been married to a United States citizen for more than 5 years and, at the time of his arrest, had one U.S. citizen child and another on the way (who was since born). Respondents did not and cannot articulate any reason to believe that Mr. Omondi was likely to escape before they could obtain a warrant.

46. Mr. Omondi’s current detention under 8 U.S.C. § 1225(a) violates both the INA and his due process rights. As this renders his detention unlawful from its inception, he should be released. *See, e.g., Quintero Campos v. Deleon*, No. 25-cv-10099, 2025 WL 3514120, at \*2 (S.D.N.Y. Dec. 8, 2025) (collecting cases ordering immediate release); *Maldonado v. Olson*, 2025 WL 2374411 at \*12 (D. Minn. 2025).

#### **FOURTH CLAIM**

##### **Violation of the Administrative Procedure Act**

47. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

48. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

49. The APA also provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

50. While 8 U.S.C. § 1226(a) authorizes the discretionary detention of certain noncitizens already living in the United States, as explained above, that authority is still predicated upon the existence of a warrant: “*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. . . .*” 8 U.S.C. § 1226(a) (emphasis added).

51. Although there are narrow situations in which such a warrant may not be necessary, none of those exceptions apply here. Mr. Omondi has no criminal record and has strong ties to the community; he has been living in the United States for more than a decade with his U.S. citizen wife and two U.S. citizen children.

52. The application of § 1226(a) to Mr. Omondi—who was arrested and detained without a valid warrant—is arbitrary, capricious, and not in accordance with law. As such, it violates the APA. *See* 5 U.S.C. § 706(2).

#### **RELEASE IS AN APPROPRIATE REMEDY**

53. “Habeas is at its core a remedy for unlawful executive detention. The typical remedy for such detention is, of course, release.” *Munaf v. Geren*, 553 U.S. 674, 693 (2008)).

54. Immigration detention is civil in nature. Consequently, Congress must have expressly authorized it by statute, and the detention must be reasonably related to its statutory purpose. *Zadvydas v. Davis*, 533 U.S. 678, 687, 690 (2001) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Detention here serves no statutory purpose. There is no indication of any reason why Mr. Omondi should be or remain in custody.

55. Respondents may argue that, because he is being detained pursuant to § 1226, the remedy is a bond hearing as opposed to outright release. However, courts have rejected that argument, finding that:

**[A] bond hearing presupposes lawful detention authority under § 1226.** Where that authority has not been invoked or established, ordering a bond hearing would treat the absence of statutory authority as a mere procedural irregularity rather than a substantive defect ... **Where the record shows Respondents have not identified a valid statutory basis for detention in the first place, the remedy is not to supply one through further proceedings.**

*See, e.g., Ahmed A.*, Civ. No. 25-4776, Doc. No. 9. at 6 (emphasis added).

56. As in *Ahmed*, § 1226(a) would not have supported a lawful detention of Mr. Omondi in the first place: “Issuance of a warrant is a necessary condition to justify discretionary detention under section 1226(a). It follows that absent a warrant a noncitizen may not be arrested and detained under section 1226(a).” *Ahmed M. v. Bondi et al.*, 2026 WL 25627, \*3 (D. Minn. Jan. 5, 2026) (quoting *Chogllo Chafila v. Scott*, --- F. Supp. 3d ---, No. 2:25-cv-00437-SDN, 2025 WL 2688541, at \*11 (D. Me. Sept. 21, 2025)). Upon information and belief, Respondents had no such warrant.

57. Here, where the detention is unlawful under 8 U.S.C. 1226(a) because of the absence of any warrant, release is an appropriate remedy. *See, e.g., Dwine L. v. Bondi*, 26-cv-627 (KMM/DLM), 2026 U.S. Dist. LEXIS 15372, \*4 (D. Minn. Jan. 28, 2026); *Carmen M. v. Bondi*, No. 26-cv-582 (ECT/ECW) 2026 U.S. Dist. LEXIS 15368, \*5 (D. Minn. Jan. 28, 2026); *Luis C. v. Bondi*, 26-cv-0636 (SRN/SGE) 2026 U.S. Dist. LEXIS 15371, \*6 (D. Minn. Jan. 28, 2026); *Claudio E.A.S. v. Bondi*, 26-583 (DWF/DLM) 2026 U.S. Dist. LEXIS 15385, \*3 (D. Minn. Jan. 28, 2026); *Jhisvin A.B.V.A. v. Bondi*, No. 26-455 (JRT/EMB) 2026 U.S. Dist. LEXIS 13183 at \*3 (D. Minn. Jan. 28, 2026); *Francisca G. v. Bondi*, Doc. 6, No. 26-CV-615 (JMB/JFD) (D. Minn. Jan. 27, 2026); *Fabian L.C. v. Bondi*, Doc. 7, No. 26-CV-493 (NEB/DLM) (D. Minn. Jan.

24, 2026); *Maria U.C.G v. Bondi*, Doc. 10, No. 26-439 (JWB/LIB) (D. Minn. Jan. 24, 2026); *Joaquin Q.L. v. Bondi*, No. 26-cv-233 (LMP/DTS) 2026 U.S. Dist. LEXIS 10644, \*6 (D. Minn. Jan. 21, 2026); *Juan S.R. v. Bondi*, No. 26-CV-0005 (PJS/LIB) Doc. No. 8 (D. Minn. Jan. 12, 2026).

58. Moreover, immediate release is appropriate where, as here, the government has not articulated any legitimate interest in detaining Mr. Omondi. *See, e.g., Francisco v. Dedos*, 2026 WL 145456 (D. N.M. Jan. 20, 2026) (adopting recommendation to order Petitioner’s immediate release from detention where there was no indication he was either a danger to the community or a flight risk); *Intriago-Sedgwick v Noem*, 2025 WL 3688155 (D. N.M. Dec 19, 2025) (recommending outright release; “A bond hearing is an appropriate remedy where the government has at least some articulable, legitimate interest in detaining the petitioner, but immediate release is appropriate where the government had no or an insignificant interest in detaining the petitioner.”).

59. The appropriate relief for Mr. Omondi, a detainee held unlawfully in violation of his due process rights, is to be returned to status quo ante through immediate release. *See Alvarez v. Rivas*, 2025 WL 2899092 (D. AZ. Oct. 10, 2025); *Maldonado v. Olson*, 2025 WL 2374411 at \*12 (D. Minn. 2025).

#### **REQUEST FOR ORDER TO SHOW CAUSE AND RETURN WITHIN 3 DAYS**

60. “A court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

61. Unless there is a showing of good cause for additional time, the writ “shall be returned within three days.” *Id.*

62. Petitioner respectfully requests that the Court issue an Order to Show Cause directing Respondents to file a return within three days of the Court’s order, showing cause, if any, why a writ of habeas corpus should not be granted.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner prays that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Respondents from transporting Petitioner outside of New Mexico, or transport Petitioner back to New Mexico if he is moved out of state;
- (3) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody without restraints on his liberty beyond those that existed prior to his unlawful re-detention, or in the alternative, order an individualized bond hearing in which the government bears the burden of proof;
- (4) Alternatively, order Respondents to show cause as to why Petitioner should not be released immediately or be provided an individualized bond hearing;
- (5) If the Court sees fit to order Petitioner’s release, include conditions to ensure Petitioner’s safety, including that release be: (1) inside the State of Minnesota; (2) at a safe time and place communicated in advance to counsel; and (3) with all of Petitioner’s personal effects in Respondents’ possession, such as driver’s license, immigration papers, passport, cell phone, and keys;

- (6) Enjoin Respondents from implementing any condition of release, including ICE’s “Alternatives to Detention” measures, such as ankle monitors, body-worn GPS, telephonic tracking, or use of the SmartLINK Mobile Application;
- (7) Order that Respondents cannot re-detain Petitioner without notice and a pre-deprivation hearing before this Court where the government bears the burden of justifying any re-detention by clear and convincing evidence;
- (8) Retain jurisdiction over this matter to decide any future motion for an award of reasonable attorney’s fees and costs under the Equal Access to Justice Act (“EAJA”), as amended, 28 U.S.C. § 2412, Local Rule 54.3(a), and on any other basis justified under law; and
- (9) Grant any other and further relief that this Court may deem just and proper.

Date: February 17, 2026

Respectfully Submitted,

/s/ Ji Hae Kim

Ji Hae Kim (#26-140)  
[jhkcrain@proton.me](mailto:jhkcrain@proton.me)  
MARCELINO & KIM PC  
400 S 4<sup>th</sup> St, Ste 410  
PMB 504349  
Minneapolis, MN 55415-1419  
*Pro Bono Attorney for Petitioner*

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

I am submitting this verification on behalf of Petitioner Drews Omondi, because I am his attorney of record in this case. I have reviewed relevant records and discussed the factual assertions in this Petition with Petitioner's family, who I understand to have personal knowledge of the facts alleged herein. Upon information and belief, I hereby verify that the factual statements made in the attached Amended Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: February 17, 2026

/s/ Ji Hae Kim

Ji Hae Kim (#26-140)  
[jhkcrain@proton.me](mailto:jhkcrain@proton.me)  
MARCELINO & KIM PC  
400 S 4<sup>th</sup> St, Ste 410  
PMB 504349  
Minneapolis, MN 55415-1419  
*Pro Bono Attorney for Petitioner*