UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
Columbus Division

SAMAN HOSSEINZADEH, *Petitioner*, v. KRISTI NOEM, *Secretary of Homeland Security*, TODD LYONS, *Acting Director, U.S. Immigration and Customs Enforcement*, GEORGE STERLING, *Director, Atlanta ICE Field Office* PAMELA BONDI, *Attorney General*, *U.S Department of Justice* JASON STREEVAL, *Warden*, *Stewart Detention Center* *Respondents.*	)	Civil Action No. _____

PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW, Saman Hosseinzadeh, Petitioner (hereinafter "Petitioner"), by and through undersigned counsel hereby respectfully petitions this Honorable Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to remedy his unlawful detention, and to enjoin Respondents from continuing to hold him and order his release from custody. Pursuant to Federal Rule of Civil Procedure 65(b), Petitioner respectfully petitions this Honorable Court for a Temporary Restraining Order (TRO). Petitioner seeks immediate release from immigration custody or, alternatively, an expedited bond hearing. In support of this petition for writ of habeas corpus declaratory and injunctive relief, Petitioner shows the following:

CUSTODY

1. Petitioner, Saman Hosseinzadeh (A [redacted] was ordered removed by the Immigration Judge, Executive Office of Immigration Review on October 15, 2025. Petitioner timely appealed the decision of the immigration judge, which remains pending before the Board of Immigration Appeals, and his removal proceedings therefore remain pending. He is currently detained by Atlanta ICE in the Stewart Detention Center in Lumpkin, Georgia, where he has been detained since approximately June 2025. Therefore, for purposes of 28 U.S.C. §2241 jurisdiction in this court is proper.

JURISDICTION AND VENUE

2. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241; 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

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

4. Venue lies in this District because Petitioner is currently detained in the custody of U.S. Immigration and Custom Enforcement (ICE) at the Stewart Detention Center in Lumpkin, GA within the Middle District of Georgia; and each Respondent is an officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1). In addition, the Field Office Director for the Atlanta ICE Field Office, maintains their principal place of business in Atlanta, Georgia.

THE PARTIES

5. Petitioner Saman Hosseinzadeh is a native of Iran, who resides in Georgia. He is currently detained by Respondents at the Stewart Detention Center in Lumpkin, GA.

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

7. Respondent Todd Lyons is the Acting Director of ICE. He is the head of the federal agency responsible for all immigration enforcement in the United States.

8. Respondent George Sterling is the Director of the Atlanta ICE Field Office. He is responsible for overseeing ICE operations pertaining to noncitizens within his territorial jurisdiction, such as Mr. Hosseinzadeh, including detentions, enforcement, and removal operations. He is Petitioner's immediate legal custodian for purposes of a federal habeas petition.

9. Respondent Pamela Bondi is the Attorney General of the United States. The immigration judges who decide removal cases and applications for relief from removal do so as her designees.

10. Respondent Jason Streeval is the warden of the Stewart Detention Center in Lumpkin, GA. He is the immediate custodian who is currently holding Petitioner in physical custody. He is sued in his official capacity.

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

EXHAUSTION OF REMEDIES

12. Petitioner Saman Hossenzadeh ([redacted] has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

LEGAL BACKGROUND

A. Immigration Detention Legal Framework

13. When a noncitizen is alleged to have violated immigration laws, they are generally placed into traditional removal proceedings, during which an immigration judge will determine whether they are removable and then whether they have a legal basis to remain in the United States. 8 U.S.C. § 1229a.

14. Detention is authorized for "certain aliens already in the country pending the outcome of removal proceedings under § 1226(a) and 1126(c)." *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). The statute provides that an individual may be subject to either discretionary detention under 8 U.S.C. § 1226(a) generally, or mandatory detention under 8 U.S.C. § 1226(c) if they have been arrested or convicted of certain crimes. Discretionary detention under § 1226(a) has been described as the "default" provision for immigration detention for those subject to traditional removal proceedings. *Id.* at 288. Under § 1226(a), "'[e]xcept as provided in subsection (c) of this section,' the Attorney General 'may release' an alien detained under § 1226(a) 'on ...bond' or 'conditional parole.'" *Id.*

15. Alternatively, mandatory detention is authorized for "certain aliens seeking admission into the country under §§ 1225(b)(1) and 1225(b)(2)," [emphasis added]. *Jennings*, 583 U.S. at 289. Individuals inspected under § 1225(b) and determined to be "applicants for admission" may be subject to mandatory detention under two separate subsections. Applicants for admission include someone:

> "present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for the purposes of this chapter to be an applicant for admission."

§ 1225(a)(1).

16. The first subset, under 8 U.S.C. § 1225(b)(1), may be subject to expedited removal

and mandatory detention if they are determined to be an "arriving alien," and if they have not been physically present in the United States continuously for a two-year period immediately prior. Regulations define an "arriving alien" as:

> "an applicant for admission coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry, or an alien interdicted in international or United States waters and brought into the United States by any means, whether or not to a designated port-of-entry, and regardless of the means of transport."

8 C.F.R. § 1.2.

17. Otherwise, 8 U.S.C. § 1225(b)(2) provides for the detention of "applicant for admission" specifically when "the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title," i.e. for traditional removal proceedings [emphasis added].

18. An "arriving alien" or an applicant for admission "seeking admission" may only be released from detention on parole (which is a form of release on recognizance), under 8 U.S.C. § 1182(d)(5). *Jennings*, 583 U.S. at 288. There is no bond available to an arriving alien or applicant for admission seeking admission. Id. There is no such thing as a "parole bond" – a release must be either parole under § 1182(d)(5) or a bond (conditional parole) under § 1226(a). *Id*.

19. For a noncitizen subject to discretionary detention under 8 U.S.C. § 1226(a), ICE makes an initial custody determination to either set a bond or hold the individual at no bond. The noncitizen may then seek a review of ICE's initial custody determination before the IJ (a "custody review hearing"), who has the authority to modify ICE's custody determination and set bond in a case in which ICE has designated no bond, lower bond when ICE has set a cash bond amount, or deny bond completely. 8 C.F.R. § 1003.19.

20. Custody review hearings are separate from hearings in the underlying removal proceedings. 8 C.F.R. § 1003.19(d). If a noncitizen is granted bond by the IJ, she must still appear in immigration court for the IJ to determine her removability and hear any claim for relief from removal. At a custody review hearing, once jurisdiction over bond is established, the IJ's inquiry is limited to whether the detainee is a danger to the community or a flight risk, and bond may only be granted when an IJ has determined that the detainee meets his burden of proof that he is neither. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

21. For decades, it has been Respondents' practice to afford § 1226(a) discretionary bond hearings and custody review hearings to those individuals who have been encountered neither at a point of entry nor seeking admission to the United States. *See Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099, at *10 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted sub nom. Rocha Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025) ("Respondents' proposed application of § 1226 is also belied by the Department of Homeland Security's 'longstanding practice' of treating noncitizens taken into custody while living in the United States, including those detained and found inadmissible upon inspection and then released into the United States with the government's acquiescence, who have committed no crime after release, as detained under § 1226(a)." citing Loper Bright Enter. v. Raimondo, 603 U.S. 369, 386 (2024)).

22. When an DHS files an appeal of IJ's custody decision, it can be subject to an automatic stay, if certain procedures are met. See 8 C.F.R. § 1003.19(i)(2); and 8 C.F.R. § 1003.6(c)(1). If the Board does not act on the appeal within 90 days, the automatic stay will lapse. 8 C.F.R. § 1003.6(c)(4). DHS may then seek a discretionary stay. 8 C.F.R. § 1003.6(c)(5).

23. Constitutional limits apply even in the context of immigration detention. It is well

established that all persons residing in the United States are protected by every clause of the United States Constitution that is not expressly reserved to its citizens. This protection includes the Due Process Clause of the Fifth Amendment, which provides that "[n]o person shall be . . . deprived of life, liberty, or property, without due process of law," U.S. CONST. amend. V. *See, e.g., Plyler v. Doe*, 457 U.S. 202, 210 (1987); *Mathews v. Diaz*, 426 U.S. 67 (1976); *Yamataya v. Fisher*, 189 U.S. 86 (1903).

24. Further, "[f]reedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). This vital liberty interest is at stake when an individual is subject to immigration detention. *St. John v. McElroy*, 917 F. Supp. 243, 250 (S.D.N.Y. 1996) ("[T]he private interest affected is St. John's liberty interest, which is of the highest constitutional import."); *Leader v. Blackman*, 744 F. Supp. 500, 509 (S.D.N.Y. 1990); *see also Doherty v. Thornburgh*, 943 F. 2d 204, 208 (2d Cir. 1991) (finding that even aliens unlawfully present in the U.S. have a "substantive due process right to liberty during deportation proceedings"), *cert. dismissed, Doherty v. Barr*, 503 U.S. 901 (1992).

25. First, due process may be violated if the individual was unlawfully deprived of a opportunity to be heard as to the legality of their confinement. The Fifth Amendment also creates a procedural due process right to be heard at a meaningful time and in a meaningful manner, before a deprivation of liberty occurs. *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976).

26. Second, prolonged detention, even in the context of mandatory detention, would violate due process. "A statute permitting indefinite detention of an alien would raise a serious constitutional problem." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Supreme Court held that six months is the presumptively reasonable period during which ICE may detain aliens to

effectuate their removal. *Clark v. Martinez*, 543 U.S. 371, 386 (2005) citing *Zadvydas,* 533 U.S. at 699-702. *Zadvydas* identified particular constitutional carve-outs, including those individuals those excluded (still in theory at the boundary line), paroled (without an entry), or outside our geographic borders. 533 U.S. at 693.

27. Most recently, in *Jennings*, the Supreme Court determined that individuals who were in fact subject to the mandatory detention statutes are not eligible for bond hearings, but expressly left open the door to constitutional challenges to their confinement. "Because the Court of Appeals erroneously concluded that periodic bond hearings are required under the immigration provisions at issue here, it had no occasion to consider respondents' constitutional arguments on their merits. Consistent with our role as 'a court of review, not of first view,'… we do not reach those arguments." *Jennings*, 583 U.S. at 12, citing *Cutter v. Wilkinson*, 544 U.S. 709, 718, n. 7 (2005).

B. BIA Decision *Matter of M-S-* (BIA 2019)

28. The BIA determined that an "arriving alien" remains subject to mandatory detention under 8 U.S.C. § 1225(b)(2), even after being transferred to traditional removal proceedings under 8 U.S.C. § 1229a. In particular, *Matter of M-S-* overturned prior precedent in *Matter of X-K-*, 23 I&N Dec. 731 (BIA 2005), holding that it was wrongly decided. *Id.* at 510.

29. The noncitizen in *Matter of M-S-* was initially subjected to expedited removal process, passed a credible fear interview ("CFI") and was transferred to traditional removal proceedings before an IJ. *Id.* at 514. DHS determined that he would be detained during his asylum proceedings, and he sought review of that determination before an IJ. *Id.* The IJ determined that he was not subject to mandatory detention under 8 U.S.C. § 1225(b)(1)(B)(ii), and ordered release

on bond. The noncitizen appealed the bond determination, arguing that the amount should be lower.

30. While pending on appeal, the Attorney General certified the case to himself to answer "whether the respondent became eligible for bond after establishing a credible fear and being transferred to full proceedings." *Id* at 519, n.6. *Matter of M-S-* determined that § 1225(b)(1)(B)(ii) requires that if a respondent is transferred from expedited removal to traditional removal proceedings (following a CFI), he remains subject to mandatory detention. *Id.* at 515. *Matter of M-S-* acknowledged that one could still be released from mandatory detention under a grant of parole pursuant to 8 U.S.C. § 1182(d)(5). *Id.* at 516.

31. *Matter of M-S-* relied in part on *Jennings v. Rodriguez*, which had considered but also rejected the argument that the phrase "shall be detained for further consideration of the application for asylum," mandated detention only until the *start* of full proceedings. *Id.* at 517, citing *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018).

32. While it announced an expansive reinterpretation of the statute, *Matter of M-S-* remains nonetheless curtailed in the context of prior releases and re-arrests. A prior determination of release authority may continue to carry persuasive weight. "Petitioner's prior release on bond carries legal significance," and DHS's decision to release an individual on bond, as opposed to humanitarian parole under 8 U.S.C. § 1182(d)(5)(A), constitutes strong evidence that DHS intended to detain the individual under § 1226(a) and not under § 1225(b)." *Portillo-Argueta v. Simon,* No. 1:25-CV-2285 (AJT-WEF), 2026 WL 184194, at *4 (E.D. Va. Jan. 23, 2026), citing *Luna Sanchez v. Bondi*, No. 1:25-CV-018888-MSN-IDD, 2025 WL 3191922, at *4 (E.D. Va. Nov. 14, 2025). "*Jennings* says nothing about whether the Government may release a noncitizen on bond pursuant to § 1226(a) and then, years later, without a demonstrated change of

circumstances, re-detain that same individual under § 1225(b)(1)(B)(ii)." *Quinteros Moran v. Joyce*, No. 25 CIV. 9645 (GBD), 2025 WL 3632895, at *3 (S.D.N.Y. Dec. 15, 2025).

33. Similarly, in the context of mandatory detention under the sister statute 8 U.S.C. § 1225(b)(2)), courts have held that for those individuals previously encountered and released, absent a parole under § 1182(d)(5), their release under § 1226(a) remains persuasive and binding on Respondents. *See Valerio v. Joyce,* No. CV 25-17225 (ZNQ), 2025 WL 3251445, at *3 (D.N.J. Nov. 21, 2025); *Diaz Rudecindo v. Florentino*, No. CV 25-16942 (ES), 2025 WL 3470299, at *2 (D.N.J. Dec. 3, 2025); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025, at *9-11 (D. Md. Aug. 24, 2025); *Vasque Romero v. Noem*, No. CV 3:25-524, 2026 WL 116379, at *1 (W.D. Pa. Jan. 15, 2026); *and Hasan v. Crawford*, 800 F. Supp. 3d 641, 657, n.11 (E.D. Va. 2025).

34. Further, due process may still require release from detention, based on a prior release determination. Regardless of the applicability of the mandatory detention statute, an individual previously released under 8 U.S.C. § 1226(a) bond, or a Release on recognizance (conditional parole), accrues a liberty interest in the terms of that release.

C. New ICE memo reinterpreting 8 U.S.C. § 1225(b)(2)

35. On July 8, 2025, Respondent ICE issued new interim guidance that announced a breathtakingly broad interpretation of 8 U.S.C. § 1225(b)(2). *See* ICE memorandum "Interim Guidance Regarding Detention Authority for Applications for Admission."[1] This memo concerns the detention of "applicants for admission" as defined by § 1225(a)(1). "Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)(2)] and may not be released from ICE custody except by INA § 212(d)(5) [8 U.S.C. §

[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission (last accessed February 19, 2026).

1182(d)(5)]." *Id.* DHS is explicit that this new policy is a marked deviation from prior interpretation and treatment of affected noncitizens. *Id.* ("For custody purposes, these aliens are now treated in the same manner that "arriving aliens" have historically been treated.")

36. In addition to the announcement re-interpreting § 1225(b)(2), the memo further clarifies that "[t]he only aliens eligible for a custody determination and release on recognizance, bond or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237 [8 U.S.C. § 1227], with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. § 1226(c)]." *Id.*

37. Moreover, ICE maintains that "DHS does not take the position that prior releases of applicants for admission pursuant to INA § 236(a) were releases on parole under INA § 212(d)(5) based on this change in legal position." *Id.* ICE fails to clarify under what legal authority, then, those prior releases were effectuated. Rather, ICE signals the resulting lack of "correct" paperwork is nonetheless permissible. *Id.* ("Accordingly, ERO and HIS are not required to 'correct' the release paperwork by issuing INA § 212(d)(5) parole paperwork.")

38. Nationwide implementation of the ICE § 1225(b)(2) mass detention policy ensued.

D. BIA decision *Matter of Yajure Hurtado*

39. On September 5, 2025, the Board of Immigration Appeals (BIA), which oversees all appeals of IJ decisions including custody redeterminations, upheld ICE's re-interpretation of § 1225(b)(2). *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

40. The BIA held that the respondent was an "applicant for admission" within the scope of § 1225(b), and therefore subject to mandatory detention.

41. The BIA characterized the issue before it as "one of statutory construction: Does the INA require that *all* applicants for admission, even those like the respondent who have entered without admission or inspection and have been residing in the United States for years without lawful status, be subject to mandatory detention for the duration of their immigration proceedings, and thus the Immigration Judge lacks authority over a bond request filed by an alien in this category?" [emphasis added]. *Id.* at 220.

42. The BIA reasoned that individuals "who surreptitiously cross into the United States remain applicants for admission until and unless they are lawfully inspected and admitted by an immigration officer." *Id.* at 228.

43. The BIA acknowledged the decades of precedent preceding its decision that authorized release of individuals present without having been inspected and admitted or paroled under § 1226(a). *Id.* at 225, FN6 ("We acknowledge that for years Immigration Judges have conducted bond hearings for aliens who entered the United States without inspection. However, we do not recall either DHS or its predecessor, the Immigration and Naturalization Service, previously raising the current issue that is before us. In fact, the supplemental information for the 1997 Interim Rule titled 'Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures,' 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997), reflects that the Immigration and Naturalization Service took the position at that time that '[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.'")

44. Ultimately, the BIA upheld the decision that the IJ lacked jurisdiction under 8 U.S.C. § 1225(b)(2) to consider the respondent for discretionary bond. *Id.* at 229.

45. The BIA decision is binding on all immigration judges nationwide.

46. Respondents' new policy and interpretation of 8 U.S.C. § 1225(b)(2) stand to sweep millions of noncitizens into mandatory detention, without any consideration for release on bond (regardless of their ties to their community or lack of dangerousness or flight risk). *Rosado*, 2025 WL 2337099, at *11 ("It has been estimated that this novel interpretation would require the detention of millions of immigrants currently residing in the United States.")

E. Orders for Release on Recognizance

47. Pursuant to their authority under 8 U.S.C. § 1226, Respondents may release an individual on an order or release on recognizance.

48. A release on recognizance is a form of release on conditional parole under 8 U.S.C. § 1226(a)(2)(B). *See Hasan v. Crawford*, No. 1:25-CV-1408 (LMB/IDD), 2025 WL 2682255, at *7 (E.D. Va. Sept. 19, 2025) ("Release on recognizance is not a 'humanitarian' or 'public benefit' 'parole into the United States' under section 1182(d)(5)(A) but rather a form of 'conditional parole' from detention upon a charge of removability, authorized under section 1226."), citing *Martinez v. Hyde*, -- F.Supp.3d --, --, 2025 WL 2084238, at *3 (D. Mass. July 24, 2025); and *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115–16 (9th Cir. 2007). *See also Matter of Cabrera-Fernandez*, 28 I. & N. Dec. 747, 747 (B.I.A. 2023) ("The respondents were ... released on their own recognizance pursuant to [the Department of Homeland Security's] conditional parole authority under ... 8 U.S.C. § 1226(a)(2)(B)[.]").

49. The authority to release an individual on conditional parole is vested in the officer issuing the warrant for arrest. *See also* 8 C.F.R. § 236.1(c)(8) ("Any officer authorized to issue a warrant of arrest may, in the officer's discretion, release an alien not described in [8 U.S.C. § 1226(c)(1)], under the conditions at [8 U.S.C. §§ 1226(a)(2) and (3)];").

50. Conditional parole may be revoked at any time. *See* 8 U.S.C. § 1226(b) ("The Attorney General at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien.").

51. However, only specific officials are empowered to authorize the revocation of conditional parole, including: the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge. *See* 8 C.F.R. § 236.1(c)(9).

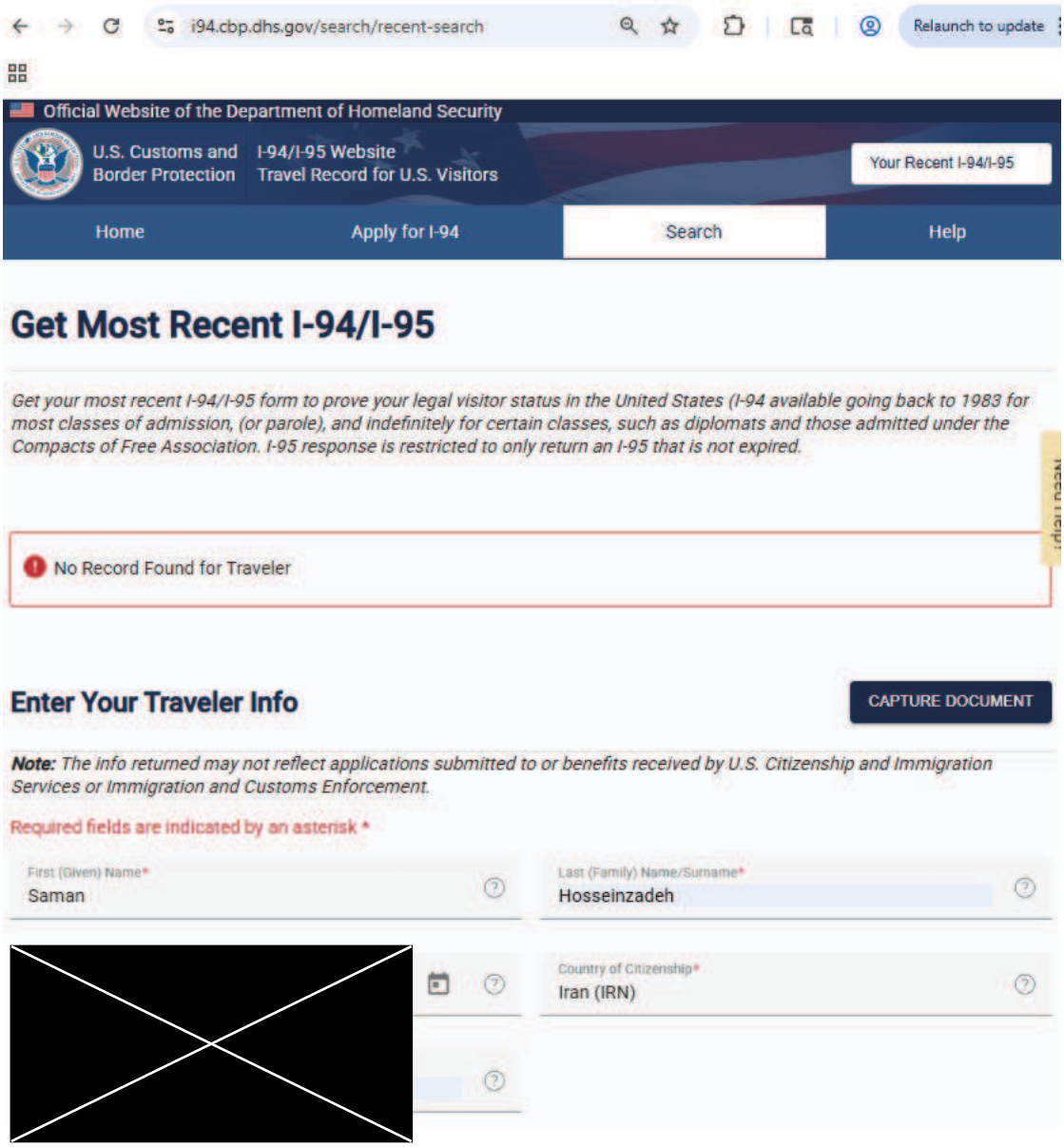
52. If the conditional parole is revoked, immigration officers may then "rearrest the alien under the original warrant, and detain the alien," [emphasis added]. See 8 U.S.C. § 1226(b).

FACTS

53. Petitioner Saman Hosseinzadeh was born in 1969 in Iran, and has no claim to citizenship or legal immigration status in any other country. He entered the United States on or about October 2, 2024, fearing [redacted]

54. Petitioner was initially subjected to expedited removal pursuant to 8 U.S.C. § 1225(b)(1), and requested a credible fear interview. *See* Ex. 1, ICE Form I-862 Notice to Appear. Petitioner requested a credible fear interview (CFI), which took place on approximately October 28, 2024. USCIS determined his fear of persecution was credible, and his expedited removal order was vacated and his case was referred to an immigration judge. *Id.*

55. Thereafter, upon information and belief, Petitioner was released from custody on recognizance, with instructions to report on an order of supervision to ICE. There is no evidence or record of parole from immigration custody, typically documented on an I-94 record of entry. *See* U.S. Customs and Border Protection I-94/I-95 search (available at: https://i94.cbp.dhs.gov/search (last visited February 19, 2026):



56. On November 18, 2024, ICE issued a Notice to Appear (NTA), charging Petitioner with removability under 8 U.S.C. §§ 1182(a)(7)(A)(i)(I), 1182(a)(6)(A)(i), thereby initiating traditional 8 U.S.C. § 1229a removal proceedings. *Id.* Petitioner is charged as an alien present without having been admitted (and not an arriving alien). *Id.*

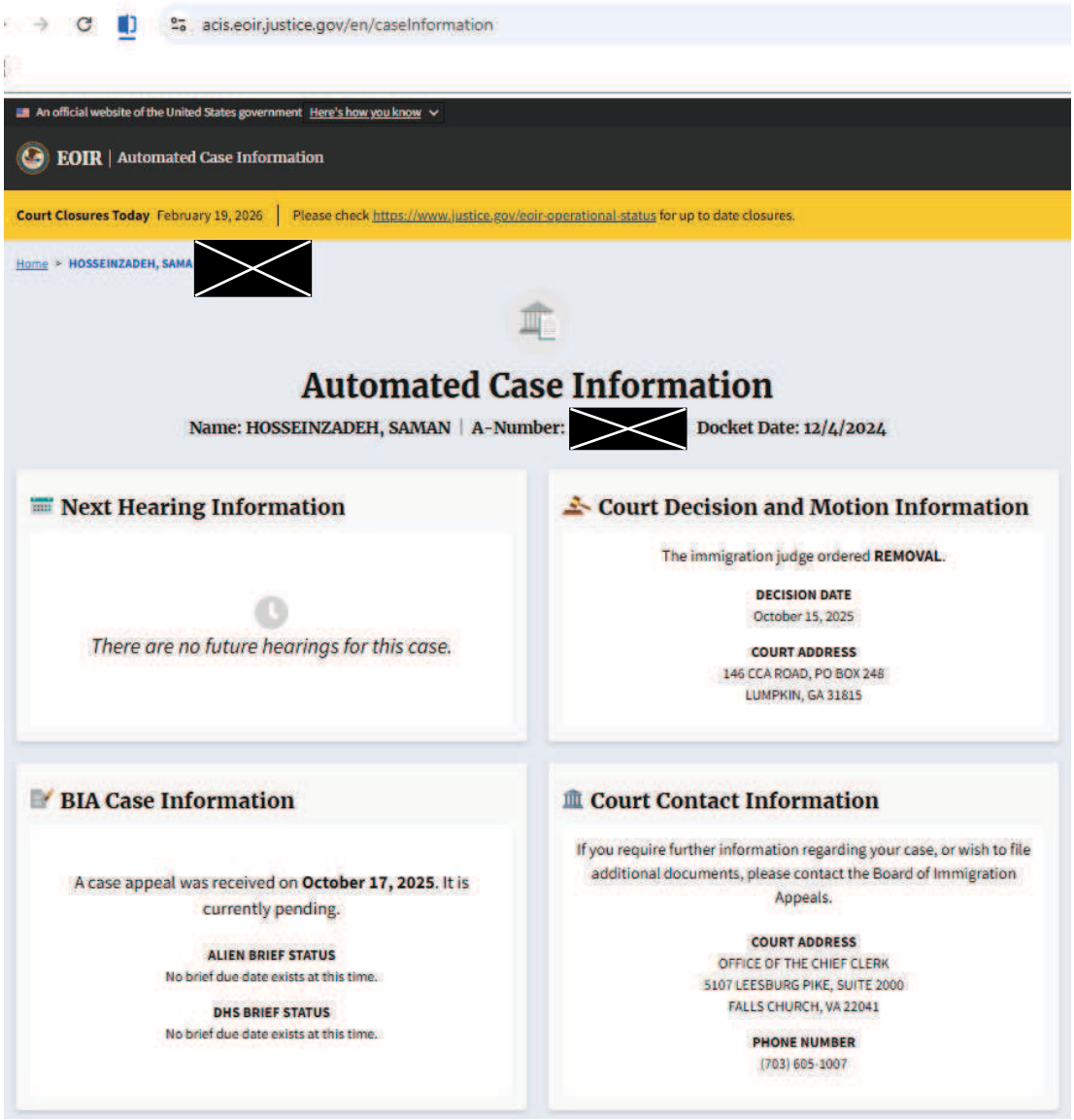
57. Following the initiation of these proceedings, Petitioner was released under an Order of Supervision and remained at liberty for several months. He went to live with his sister and her family in Alpharetta, Georgia. During this period, he demonstrated exemplary compliance

with all DHS requirements, including consistent reporting and the continuous use of a GPS ankle monitor.

58. Petitioner, through removal defense counsel, filed an I-589 application for asylum, withholding, and protections under the Convention Against Torture, on March 16, 2025.

59. Despite this history of absolute compliance and the absence of any criminal record, Petitioner was taken into custody by ICE on or about June 2025 during a routine check of his electronic monitoring device at his residence. Since that date, he has been continuously detained at the Stewart Detention Center.

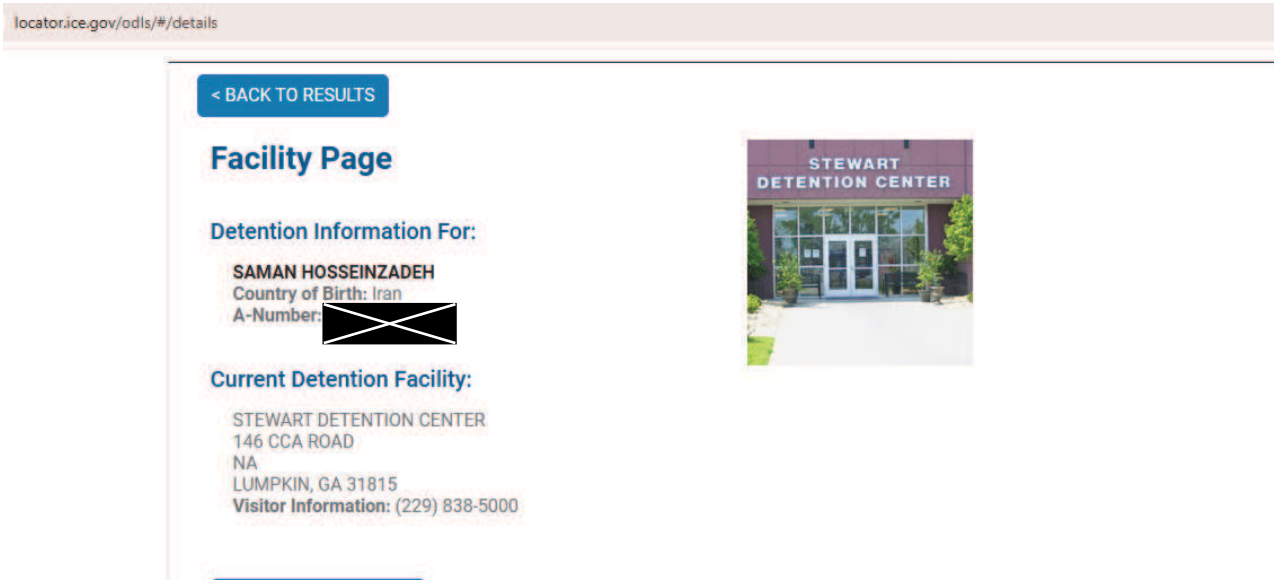
60. On October 15, 2025, an Immigration Judge at the Stewart Immigration Court issued a summary decision ordering Petitioner's removal to Iran. *See* Ex. 2. EOIR Order of the Immigration Judge. Following this decision, Petitioner timely filed a Notice of Appeal with the Board of Immigration Appeals (BIA), which was received on October 17, 2025. As of the date of this filing, the appeal remains pending and Petitioner's removal order is not yet final. *See* 8 C.F.R. § 1241.1(a). *See also* EOIR Automated Case Information (available at https://acis.eoir.justice.gov/en/caseInformation (last visited on February 19, 2026):



61. Petitioner has established deep and significant ties to the community during his time in the United States, having maintained a stable and law-abiding residence in Georgia, where he strictly complied with all ICE reporting requirements and the use of a GPS ankle monitor. Petitioner's most critical tie is his role as essential support for his sister, a lawful resident with a valid U.S. work permit who suffers from severe and debilitating depression. Since Petitioner's arrest in June 2025, his sister's mental health has deteriorated significantly, and she has been forced into extreme financial hardship, resulting in her displacement to a shared basement and an

increased dependence on medication. Petitioner's history of absolute compliance and his essential role in his sister's well-being demonstrate that he is neither a flight risk nor a danger to the community, making his continued detention not only unnecessary but also deeply detrimental to his only family member in this country.

62. Despite this consistent compliance over the course of years, Petitioner was nonetheless taken into custody and now remains detained at the Steward Detention Center, as of the time of filing this habeas corpus petition. *See* ICE Detainee Locator (*available at* https://locator.ice.gov/odls/#/details (last visited on February 19, 2026)).



63. All Respondents consider that Petitioner is detained pursuant to 8 U.S.C. § 1225(b). Accordingly, it would be futile for Petitioner to request a bond from an Immigration Judge. Exhaustion of administrative remedies would therefore be futile.

FIRST CLAIM FOR RELIEF:
Due Process Violation – Prolonged Detention

64. Petitioner re-alleges and incorporates by reference paragraphs 1-63.

65. ICE's current detention beyond six months violates Petitioner's right to substantive and procedural due process by depriving him of liberty without due process of law.

66. After his release into the United States, Petitioner went on to develop ties to the community, including his lawfully present family whom he has been supporting. Petitioner is therefore a "person" within the meaning of the Due Process Clause of the Fifth Amendment to the U.S. Constitution, and has a liberty interest in freedom from physical restraint. Conversely, Petitioner does not fall under the identified groups that are exempted from due process protections; while he was encountered and detained at the border, ICE subsequently released (not paroled) Petitioner into the United States. *Zadvydas*, 533 U.S. at 693. Notably, an individual apprehended upon unlawfully crossing the U.S. border – e.g. within 25 yards of the border – and continuously detained thereafter, was determined to not have effectuated an "entry" and therefore not protected under due process. *Dept. of Homeland Security v. Thurassigiam*, 591 U.S. 103, 139-140 (2020). Moreover, if ICE paroles an individual under 8 U.S.C. § 1182(d)(5), the "entry fiction" may persist while that individual is at liberty inside the United States.

67. Regardless of the statutory basis for detention, prolonged detention violates due process. "A statute permitting indefinite detention of an alien would raise a serious constitutional problem." *Zadvydas*, 533 U.S. at 690; *see also Jennings*, 583 U.S. at 12. Six months is presumptively reasonable (even in the context of a final order of removal), thereafter constitutional challenges ripen. *Id.* at 699-702.

68. Petitioner was previously in the custody of ICE, who subjected him initially to expedited removal and provided him with a CFI. However, thereafter, ICE vacated its expedited removal order and elected to neither detain nor parole Petitioner, but release him on his own recognizance into the United States. At that time, his entry into the United States was complete, and as averred by respondents, he was merely present without having been admitted or paroled. *See* Ex. 1. Petitioner's due process thereafter accrued.

69. Petitioner has been subject to civil immigration detention for approximately 8 months, surpassing the *Zadvydas* threshold of six months. 533 U.S. 699-702. To assess then whether Petitioner's detention has become unreasonably prolonged, the Court can look to the *Sopo* factors for guidance. *Sopo v. U.S. Attorney Gen.*, 825 F.3d 1199 (11th Cir. 2016), *vacated*, 890 F.3d 952 (11th Cir. 2018). These factors include duration of detention, reasons for protracted removal proceedings, whether removal after a final order will be possible, whether civil detention exceeds time spent in prison, whether the facility for civil detention is meaningfully different than a criminal penitentiary. *Id.* at 1218.

70. As noted above, Petitioner has spent over 8 months in civil immigration detention. His removal proceedings continue because his immigration appeal remains pending, pursuant to the notorious delays of the Board of Immigration Appeals. Petitioner is a national of Iran, so it is unclear whether the removal order to that country, if upheld on appeal, will ever be effectuated as the United States does not currently have diplomatic relations with Iran. Petitioner has never been charged, let alone convicted of a crime, and therefore has never spent a single day in criminal custody. Last, Petitioner is currently held at the Stewart Detention Center that is not meaningfully different from a criminal institution. *See* The Marshall Project article "In the Shadow of an Immigrant Detention Center, a Small House Offers Refuge,"[2] dated December 5, 2025 (which details conditions of confinement at Stewart Detention Center). "But like most detention centers, Stewart has all the same menacing features of a prison: cells with exposed metal toilets, guards using handcuffs, and tiny cubicles where families, separated from their loved ones by glass, talk on staticky phones." *Id.* In the weeks and months since the increase in immigration enforcement,

[2] Available at: https://www.themarshallproject.org/2025/12/05/ice-detention-georgia-refugio-immigration/ (last visited on February 19, 2026).

there have been reports of overcrowding at Stewart, resulting in "men forced to sleep in common areas, because there weren't enough beds, or defecate in showers because there weren't enough toilets." *Id.* Additionally, use of punitive tactics, such as solitary confinement, are commonplace. *See* CNN article, "Solitary, then suicide," dated August 2018.[3]

71. Accordingly, all *Sopo* factors indicate that Petitioner's detention is now prolonged, and with no determinable end-date in sight. Thus, Petitioner's ongoing detention violates due process, the writ should issue, and his immediate release from immigration custody is warranted.

SECOND CLAIM FOR RELIEF:
No-Bond Detention in Violation of 8 U.S.C. § 1226(a)

72. Petitioner re-alleges and incorporates by reference paragraphs 1-63.

73. Since Petitioner is not an applicant for admission "seeking admission" or "an arriving alien" subject to 8 U.S.C. §§ 1225(b)(1) or (b)(2), and has no disqualifying criminal arrests or convictions subject to 8 U.S.C. § 1226(c), he is entitled to a bond redetermination hearing by an immigration judge pursuant to 8 U.S.C. § 1226(a).

74. Alternatively, Petitioner was originally detained and released under § 1226(a) authority. He was released on an Order of Release on Recognizance, pursuant to § 1226(a)(2)(B). When Petitioner's release on recognizance was revoked, he should have been rearrested under the original warrant and arresting authority of § 1226. *See* 8 U.S.C. § 1226(b). As such, he is entitled to an immigration judge bond redetermination hearing pursuant to § 1226(a).

75. Respondents' actions, as set forth herein, violate Petitioner's statutory right to a bond redetermination hearing in front of an immigration judge.

[3] Available at: https://www.cnn.com/interactive/2018/08/us/ice-detention-stewart-georgia/ (last visited February 19, 2026).

THIRD CLAIM FOR RELIEF:
Detention in violation of the regulations – *Accardi* Doctrine

76. Petitioner re-alleges and incorporates by reference paragraphs 1-63.

77. A release on recognizance is a form of release on conditional parole under 8 U.S.C. § 1226(a)(2)(B). To be sure, that conditional parole can be revoked. However, only specific officials are empowered to authorize the revocation of conditional parole, including: the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge. *See* 8 C.F.R. § 236.1(c)(9).

78. If the conditional parole is revoked, immigration officers may then "rearrest the alien under the original warrant, and detain the alien," [emphasis added]. See 8 U.S.C. § 1226(b).

79. Here, Petitioner's 2025 arrest took place without a revocation of his Order of Release on Recognizance, 8 C.F.R. § 236.1(c)(9). Alternatively, if the revocation of Petitioner's Order of Release on Recognizance occurred, it was effectuated by low-level ICE officers during a routine stop at an ICE check point, also a violation of 8 C.F.R. § 236.1(c)(9). This regulation was designed to protect the Fifth Amendment due process rights of noncitizens like Petitioner. Thus, the arrest of Petitioner in contravention of regulations violated Petitioner's Fifth Amendment due process rights.

80. Respondents failed to comply with their own rules when they re-detained Petitioner. In arresting and re-detaining Petitioner, Respondents violated important substantive and procedural rules designed to protect his due process rights, and arrest and the revocation of Petitioner's conditional parole should be deemed void under the *Accardi* doctrine. This violation of required procedures also violated Petitioner's due process rights under the Fifth Amendment to the U.S. Constitution, and the writ of habeas corpus should issue.

FOURTH CLAIM FOR RELIEF:
Due Process Violation – Deprivation of Bond Hearing

81. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-63.

82. Immigration detention is civil, not criminal, in nature. There are only two permissible reasons for immigration detention: to avoid flight risk and danger to the community.

83. After his release into the United States, Petitioner went on to develop ties to the community, including his lawfully present family whom he has been supporting. Petitioner is therefore a "person" within the meaning of the Due Process Clause of the Fifth Amendment to the U.S. Constitution, and has a liberty interest in freedom from physical restraint.

84. In *Lopez-Arevalo*, the court also considered the due process rights of an individual who had been apprehended shortly after arriving, and distinguished *Thuraissigiam*, 591 U.S. at 103, because the petitioner challenged his detention (not his removal) and because he was detained years after entry "rather than on the threshold of his initial entry." *Lopez-Arevalo v. Ripa*, --F.Supp.3d--, NO. EP-25-CV-337-KC, 2025 WL 2691828, *10 (W.D. Tex. Sep. 12, 2025). This Court should also apply *Mathews v. Eldridge*, 424 U.S. 319, 96 (1976), to the due process claim.

85. On the first prong, private interest, the *Lopez-Arevalo* court noted that "the Fifth Amendment entitles noncitizens to due process of law in the context of removal proceedings," and "the interest in being free from physical detention by [the] government" is "the most elemental of liberty interests[.]" 2025 WL 2691828, *10, quoting *Martinez v. Noem*, 2025 WL 2598379, at *2 and *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). On the second prong, risk of erroneous deprivation, the very purpose of immigration detention is to reduce flight risk and danger to the community, *see Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006), it seems self-evident that a review hearing before an administrative law judge would reduce the risk of erroneously confining a noncitizen who in fact poses neither risk. Lastly, on the third prong, "the decision to release

Lopez-Arevelo on his own recognizance three years ago, in and of itself, 'reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk.'" 2025 WL 2688541, *11, citing *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd*, 905 F.3d 1137 (9th Cir. 2018). Nor can the government claim excessive burden when it is merely being asked to provide a procedure that it routinely provided in cases of this nature for decades without complaint. *Id.* at 12. All *Mathews* factors militate in favor of Petitioner.

86. Respondents' actions in detaining Petitioner without a bond hearing before a neutral and detached magistrate deprives Petitioner of his rights without due process of law.

REQUEST FOR RELIEF

Petitioner prays for judgment against Respondents and respectfully requests that the Court enters an order:

a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;

b) Enjoin Petitioner's transfer outside of this judicial district pending this litigation;

c) Order Petitioner's immediate release from immigration custody;

d) Enjoin Respondents from holding Petitioner subject to detention under 8 U.S.C. § 1225(b) and denying him a bond hearing on that basis;

e) Enjoin Respondents from re-arresting Petitioner subject to § 1225(b);

f) Order, in the alternative, Petitioner's immediate release and that Respondents conduct a bond hearing for Petitioner pursuant to 8 U.S.C. § 1226(a) within 7 days;

g) Grant the writ of habeas corpus and order Respondents to release Petitioner forthwith;

h) Award Petitioner his costs of suit; and

i) Grant any other relief that this Court deems just and proper.

Respectfully submitted,

Dated: February 19, 2026

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Counsel for Petitioner

LIST OF EXHIBITS

Ex. 1) ICE Form I-860 Notice and Order of Expedited Removal (vacated);

Ex. 2) ICE Form I-862 Notice to Appear;

Ex. 3) EOIR Order of the Immigration Judge;

Ex. 4) EOIR Notice of Appeal.

CERTIFICATE OF SERVICE

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

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Respectfully submitted,

Dated: February 19, 2026

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