

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF ARIZONA**

Chinedu OGANA,

Case No.: _____

Petitioner

v.

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS**

Pamela Bondi, Attorney General; Kristi Noem, Secretary of Homeland Security; Todd M. Lyons, Acting Director of U.S. Immigration & Customs Enforcement; Marcos Charles, Acting Executive Associate Director for Enforcement and Removal Operations; John Cantu, Field Office Director for Enforcement and Removal Operations; U.S. Immigration & Customs Enforcement; U.S. Department of Homeland Security; Sirce Owen, Acting Director of Executive Office of Immigration Review; Executive Office of Immigration Review; Warden, Eloy Federal Contract Facility.

**EXPEDITED PROCESSING
REQUESTED UNDER 28 U.S.C. §
1657**

Respondents.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Respondents are detaining Petitioner, Chinedu Ogana (A ) in violation of law.
2. Petitioner is a citizen of Nigeria who entered the United States with a valid K1 visa in 2021. Petitioner's application for lawful permanent residence was denied on August 4, 2024, and Petitioner was subsequently placed in removal proceedings.

3. On November 19, 2025, Petitioner was transferred to from state criminal custody to Respondents' custody for detention pursuant to 8 U.S.C. § 1226. Respondents denied Petitioner's release on bond under 8 U.S.C. § 1226(a).
4. When Petitioner's custody transfer took place, no judicial or administrative arrest warrant was issued in connection with the arrest. The arrest also occurred in the absence of probable cause. The arrest and continued detention was/is therefore unlawful under both the Fourth Amendment and 8 U.S.C. § 1226(a).
5. Following Petitioner's arrest, Petitioner requested and received a bond redetermination hearing under 8 U.S.C. § 1226(a) on December 4, 2025 before immigration judge ("IJ") Michael Schnitzer, sitting at the Eloy Immigration Court in Eloy, Arizona.
6. Petitioner was represented at his bond hearing by immigration attorney who argued for Petitioner's release. The bond was denied due to IJ Schnitzer applying the incorrect burden of proof and finding Petitioner did not meet his burden to demonstrate he is not a danger to the community.¹
7. Further, the immigration judge and the immigration court are not presently capable of acting as unbiased decisionmakers. Respondents have compromised EOIR and its agents to act in a biased manner favoring the Department of Homeland Security and continued detention.

¹ See Bond denial and bond exhibit at Exhibit 2.

8. Because the decisionmaker did not apply the correct burden of proof and there is substantial evidence that the decisionmaker was biased, Petitioner's bond hearing was a sham and did not comply with the due process requirements of the Fifth Amendment.
9. Petitioner remains detained at this time. He is housed at Eloy Federal Contract Facility in Eloy, Arizona
10. To remedy his unlawful detention, Petitioner seeks declaratory and injunctive relief in the form of immediate release from detention. There are two independent grounds for this remedy, either of which standing alone is sufficient for the requested remedy: (1) warrantless arrest occurring in absence of probable cause; (2) due process violation stemming from misapplication of the law by a biased adjudicator (or, alternatively, by an adjudicative agency operating with the appearance of bias).
11. Pending the adjudication of his Petition, Petitioner seeks an order restraining the Respondents from transferring him to a location where he cannot reasonably consult with counsel, such a location to be construed as any location outside of the geographic jurisdiction of the day-to-day operations of U.S. Immigration & Customs Enforcement's ("ICE") Phoenix's Office of Enforcement and Removal Operations in the State of Arizona.
12. Pending the adjudication of this Petition, Petitioner also respectfully requests that Respondents be ordered to provide seventy-two (72) hour notice of any movement of Petitioner.

13. Petitioner requests the same opportunity to be heard in a meaningful manner, at a meaningful time, and thus requests 72-hour notice prior to any removal or movement of him away from the State of Arizona.
14. Petitioner requests an order compelling Respondents to release him pending the outcome of this petition.
15. In accordance with 28 U.S.C. § 1657, Petitioner requests that the district court issue an Order to Show Cause (“OSC”) giving the government no more than 3 days to file evidence and argument in response to the OSC.
16. In accordance with 28 U.S.C. § 1657 and Rule 4 of the Rules Governing Section 2254 and 2255 Cases, Petitioner requests that rather than proceed via summonses, the Court order the Clerk of Courts to serve a copy of the petition and any subsequent Order on Respondents and any other appropriate individual involved.
17. Petitioner requests that the Court order his immediate release.

JURISDICTION AND VENUE

18. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question), § 1361 (mandamus action), § 1651 (All Writs Act), and § 2241 (habeas corpus); Art. I, § 9, cl. 2 of the U.S. Constitution (“Suspension Clause”); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). This action further arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), specifically, 8 U.S.C. § 1231(a)(1)-(3) and 8 C.F.R. §§ 241.4, 241.13.

19. 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 DHS. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839–41 (2018); *Nielsen v. Preap*, 139 S. Ct. 954, 961–63 (2019); *Sopo v. U.S. Attorney Gen.*, 825 F.3d 1199, 1209–12 (11th Cir. 2016).
20. Because Petitioner seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this Court.
21. Nothing in 8 U.S.C. § 1252 deprives this Court of jurisdiction.
22. Nothing in 8 U.S.C. § 1226(e) deprives this Court of jurisdiction. Petitioner is not challenging the immigration judge’s discretionary judgment. Rather, Petitioner is arguing that Respondent has violated his constitutional rights in which the immigration judge misapplied the burden of proof when denying his bond, the immigration judge and the immigration court system is compromised and cannot provide a fair and impartial tribunal. Consequently, the immigration judge is a biased decisionmaker, as are the immigration courts generally, with respect to post-habeas bond proceedings under § 1226(a).
23. Although review of factual determinations and the exercise of discretion may be precluded by §1226(e) (questions that otherwise would be reviewed under the substantial evidence standard or for abuse of discretion), the scope of judicial review should include all issues that are “historically reviewable on habeas.” *See* 8 USC §1252(a)(2)(D); *See also* Joint Explanatory Statement of the Committee of Conference, 151 Cong. Rec. H2813, H2873 (daily ed. May 3, 2005). Thus, §1226(e)

should not be read to bar judicial review of claims that the bond hearing violated due process, or that the IJ or Board committed legal error in concluding that the respondent is not eligible for bond.

24. Under *Guerrero-Lasprilla*, mixed questions of fact and law are reviewable as a question of law. *Guerrero-Lasprilla v. Barr*, 589 U.S. 221 (2020). That is, where facts are undisputed or established, a court reviews as a question of law the decision applying a legal standard to those undisputed or established facts. 589 U.S. at 234 (citing H.R. Conf. Rep. No. 109-72, pt. 175 (2005) and *INS v. St. Cyr*, 533 U.S. 289, 314 n.38 (2001)). The concepts of “flight risk” and “danger to the community” are not just discretionary concepts to be applied subjectively, but they are legal standards embodying constitutional principles designed to ensure that holding a person in detention without bond has a constitutionally rational basis. *See, e.g., United States v. Hir*, 517 F.3d 1081, 1086 (9th Cir. 2008) (court provides de novo review of a decision denying bond to ensure that the order “is consistent with the defendant’s constitutional and statutory rights”); *United States v. Motamedi*, 767 F.2d 1403, 1045 (9th Cir. 1985) (“The Fifth and Eighth Amendments’ prohibitions of deprivation of liberty without due process and of excessive bail require careful review of pretrial detention orders. ... [T]he conclusion [denying release on bond] presents a mixed question of fact and law. The inquiry transcends the facts presented and requires both the consideration of legal principles and the exercise of sound judgment about the values which underly those principles.”) Thus, under *Guerrero-Lasprilla*, once the underlying facts are established the question of whether a person

is a “flight risk” or “danger to the community” should be a legal question subject to de novo review. Section 1226(e) does not preclude judicial review of such questions.

25. Federal district courts have jurisdiction to enforce 8 U.S.C. § 1226(a)(2). This statute, 8 U.S.C. § 1226(a)(2), entitles Petitioner to a bond hearing in which an immigration judge may determine his eligibility for release from custody.
26. The Supreme Court has noted that prudential exhaustion is not required when to do so would be futile or “the administrative body . . . has . . . predetermined the issue before it.” *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992). *See, e.g., Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (“The exhaustion requirement is prudential, rather than jurisdictional, for habeas claims.”); *Singh v. Holder*, 638 F.3d 1196, 1203 n.3 (9th Cir. 2011) (“On habeas review under §2241, exhaustion is a prudential rather than jurisdictional requirement.”); *Gonzalez v. O’Connell*, 355 F.3d 1010, 1016 (7th Cir. 2004) (“Congress requires exhaustion for certain types of habeas petitions, but not for those petitions . . . brought under 28 U.S.C. §2241.”).
27. Given the prolonged length of BIA appeal time and the lack of unbiased agency decisionmaker, an administrative appeal is a futile exercise. Therefore, there is no exhaustion impediment to the Court exercising jurisdiction.
28. Under 28 U.S.C. § 1657, Petitioner’s petition “**shall**” be expedited for good cause. (emphasis added). The good cause consists of Petitioner’s credible and detailed allegations of unlawful and unconstitutional civil confinement.

29. Venue is proper in this Court pursuant to 28 USC §§ 1391(b), (e)(1)(B), and 2241(d) because Petitioner is detained within this District. He is currently detained at Eloy Federal Contract Facility, located in Eloy, Arizona. 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

30. Petitioner is a citizen of Nigeria. His Alien Registration Number (“A number”) is A  Petitioner is not currently subject to a final order of removal. On January 27, 2026, an immigration judge ordered Petitioner’s voluntary departure, which Petitioner’s immigration attorney timely appealed to the Board of Immigration Appeals on February 25, 2026. Petitioner’s appeal remains pending. On December 4, 2025, Petitioner had a bond hearing in which the immigration judge misapplied the law by placing the burden on Petitioner to prove lack of dangerousness and flight risk. Petitioner is currently in custody of the Phoenix Field Office of Immigration and Customs Enforcement (“ICE”) and is detained at Eloy Federal Contract Facility in Eloy, Arizona.
31. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice, which encompasses the BIA and the immigration judges through the Executive Office for Immigration Review. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Petitioner.

32. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to § 103(a) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1103(a), routinely transacts business in this district, supervises the relevant ICE Field Office, and is legally responsible for pursuing Petitioner’s detention and removal. As such, Respondent Noem is a legal custodian of Petitioner.
33. Respondent Sirce Owen is the Acting Director of Executive Office for Immigration Review and has ultimate responsibility for overseeing the operation of the immigration courts and the Board of Immigration Appeals, including bond hearings. He is sued in his official capacity.
34. Respondent Executive Office for Immigration Review is the adjudicatory body within EOIR with jurisdiction over the removal and bond cases of Petitioners. Its authority includes individuals detained in Arizona.
35. Respondent Department of Homeland Security (“DHS”) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.
36. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner’s detention.
37. Respondent Immigration and Customs Enforcement (“ICE”) is the subagency

within the Department of Homeland Security responsible for implementing and enforcing the Immigration & Nationality Act, including the detention of noncitizens.

38. Respondent Marcos Charles is the Acting Executive Associate Director for ICE Enforcement and Removal Operations (“ERO”).
39. Respondent John Cantu is being sued in his official capacity as the Field Office Director for the Phoenix Field Office for ICE within DHS. In that capacity, Field Director Cantu has supervisory authority over the ICE agents responsible for detaining Petitioner in Arizona.
40. Respondent Warden is being sued in their official capacity as the local detention authority having authority over Eloy Federal Contract Facility in Eloy, Arizona. Because Petitioner is detained by the Warden of this detention center, Respondent Warden has immediate day-to-day control over Petitioner. The true identity of the warden is not publicly listed or known.

EXHAUSTION

41. Respondents assert authority to jail Petitioner pursuant to 8 U.S.C. § 1226(a). No statutory requirement of exhaustion applies to Petitioner’s challenge to the lawfulness of his detention. *See, e.g., Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014) (“There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention.”); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *11 (W.D. Wash. Apr. 24, 2025) (citing *Marroquin Ambriz v. Barr*, 420 F. Supp.

3d 953, 962 (N.D. Cal. 2019) (“this Court ‘follows the vast majority of other cases which have waived exhaustion based on irreparable injury when an individual has been detained for months without a bond hearing, and where several additional months may pass before the BIA renders a decision on a pending appeal.’”); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *5 (D. Mass. July 7, 2025) ((citing *Portela-Gonzalez v. Sec’y of the Navy*, 109 F.3d 74, 77 (1st Cir. 1997) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 146 (1992))).

42. To the extent that prudential consideration may require exhaustion in some circumstances, Petitioner has exhausted all *effective* administrative remedies available to him. Any further efforts would be futile. Petitioner filed an appeal of the immigration judge’s voluntary departure order on February 25, 2025. However, the appeal is expected to take months to be resolved, and it is asserted upon information and belief that the Board of Immigration Appeals (“BIA”) is also a biased decisionmaker that will affirm the immigration judge’s ruling for reasons that are politically motivated rather than for reasons based in the law and legal standards governing immigration bond proceedings and administrative appeals from immigration bond proceedings.
43. Moreover, the BIA has predetermined the issue before it, as evidenced by, *inter alia*, Interim Final Rule (“IFR”), Appellate Procedures for the Board of Immigration Appeals, Docket No. EOIR-26-AB37; Dir. Order No. 02-2026; RIN 1125-AB37

(published Feb. 6, 2026).² The IFR represents the most severe procedural restriction on BIA appellate review in the history of modern immigration adjudication and fundamentally transforms the BIA from a mandatory appellate tribunal into a discretionary certiorari-style court, while simultaneously compressing appeal timelines to functionally eliminate meaningful appellate review for most noncitizens. The effective date is 30 days after the rule was published, and it is expected the rule will become effective while Petitioner's appeal remains pending. The IFR creates a presumption of a mandatory summary dismissal. The IFR represents both predetermination of the issue, and constitutes evidence of the BIA and immigration courts being biased decisionmakers who are biased in favor of DHS litigants and outcomes that result in detention and/or deportation.

44. Prudential exhaustion is not required when to do so would be futile or "the administrative body . . . has . . . predetermined the issue before it." *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992), *superseded by statute on other grounds as stated in Woodford v. Ngo*, 548 U.S. 81 (2006).
45. Prudential exhaustion is also not required in cases where "a particular plaintiff may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *McCarthy*, 503 U.S. at 147. Every day Petitioner is unlawfully detained causes him and his family irreparable harm. *Jarpa v. Mumford*, 211 F. Supp. 3d 706, 711 (D. Md. 2016) ("Here, continued loss of liberty without any individualized bail

² Available at: <https://www.federalregister.gov/documents/2026/02/06/2026-02326/appellate-procedures-for-the-board-of-immigration-appeals/>.

determination constitutes the kind of irreparable harm which forgives exhaustion.”); *Matacua v. Frank*, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018) (explaining that “a loss of liberty” is “perhaps the best example of irreparable harm”); *Hamama v. Adducci*, 349 F. Supp. 3d 665, 701 (E.D. Mich. 2018) (holding that “detention has inflicted grave” and “irreparable harm” and describing the impact of prolonged detention on individuals and their families).

46. Prudential exhaustion is additionally not required in cases where the agency “lacks the institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute.” *McCarthy*, 503 U.S. at 147–48. Immigration agencies have no jurisdiction over constitutional challenges of the kind Petitioner raises here. *See, e.g., Matter of C-*, 20 I. & N. Dec. 529, 532 (BIA 1992) (“[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations.”); *Matter of Akram*, 25 I. & N. Dec. 874, 880 (BIA 2012); *Matter of Valdovinos*, 18 I. & N. Dec. 343, 345 (BIA 1982); *Matter of Fuentes-Campos*, 21 I. & N. Dec. 905, 912 (BIA 1997); *Matter of U-M-*, 20 I. & N. Dec. 327 (BIA 1991).
47. Because requiring Petitioner to exhaust administrative remedies would be futile, would cause him irreparable harm, and the immigration agencies lack jurisdiction over the constitutional claims, this Court should not require exhaustion as a prudential matter.
48. In any event, Petitioner has indeed exhausted all remedies available to him.

49. ICE has arrested Petitioner and denied Petitioner release because: (A) Immigration Judge Michael Schnitzer is a biased decisionmaker who will only grant immigration bonds under 8 U.S.C. § 1226(a) that are agreed upon by DHS; (B) Pamela Bondi, Sirce Owen, and EOIR have decided to change its longstanding interpretations of § 1226(a) without warning, and in a fashion that is arbitrary, capricious, an abuse of discretion, unconstitutional, or otherwise not in accordance with law; (C) upon information and belief, immigration judges have been receiving secret and/or confidential instructions (sometimes written, other times orally) from EOIR, including instructions to speciously deny on flight risk and danger grounds even when unsupported by the facts or factors that are required to be considered; (D) DHS seeks to punish Petitioner on the basis of being an immigrant; (E) DHS seeks to use Petitioner's detention to send a message to similarly situated persons who have not yet been detained as a way to encourage those similarly situated people to immediately leave the United States to avoid Petitioner's fate.

LEGAL FRAMEWORK

Habeas Corpus

50. The origin of the writ of habeas corpus lies in clause 39 of the Magna Carta, which stated that no free man could be imprisoned except by lawful judgment of his peers or by the law of the land. *See Boumediene v. Bush*, 553 U.S. 723, 740 (2008) (citations omitted). The Magna Carta, and especially clause 39, was designed to limit the king's power by protecting the most fundamental rights of free men. *See Boumediene*, 553 U.S. at 739-42 (collecting sources).

51. When the United States seceded from Great Britain, the Framers of the Constitution and the States that were to make up the Union, in order to ensure sufficient signatories, reserved debate on most of the civil rights for a few years in what would later become the Bill of Rights. However, one right was so fundamental and so undisputed that it was placed into the actual Constitution. *See generally* U.S. Const., Art. I, § 9, cl. 2. The Framers and the States thus recognized and agreed that habeas corpus is the most fundamental and important civil right in any free society. *Cf. Boumediene*, 553 U.S. at 743 (“Surviving accounts of the ratification debates provide additional evidence that the Framers deemed the writ to be an essential mechanism in the separation-of-powers scheme.”). As Alexander Hamilton explained in *The Federalist* No. 84:

“[T]he practice of arbitrary imprisonments, have been, in all ages, the favorite and most formidable instruments of tyranny. The observations of the judicious Blackstone ... are well worthy of recital: ‘To bereave a man of life ... or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism as must at once convey the alarm of tyranny throughout the whole nation; but confinement of the person, by secretly hurrying him to jail, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore a *more dangerous engine* of arbitrary government.’ And as a remedy for this fatal evil he is everywhere peculiarly emphatical in his encomiums on the *habeas corpus* act, which in one place he calls ‘the bulwark of the British Constitution.’ ” C. Rossiter ed., p. 512 (1961) (quoting 1 Blackstone *136, 4 *id.*, at *438).

52. Throughout the history of the United States, habeas corpus has had three principal eras of importance. First, there was the post-reconstruction era following the civil war. *See, e.g., Ex parte Milligan*, 71 U.S. 2 (1866) (ruling that civilians cannot be tried by military tribunals when civilian courts are open and functioning); Habeas

Corpus Act of 1867, 14 Stat. 385, 28 U.S.C. § 451 et seq. The second era occurred during World War 2 when the United States placed persons of Japanese origin in internment camps. *See, e.g., Korematsu v. United States*, 323 U.S. 214 (1944), abrogated by *Trump v. Hawaii*, 585 U.S. 667 (2018). Most recently, there was the war on terror and associated detentions at Guantanamo Bay, Cuba. *See Rasul v. Bush*, 542 U.S. 466 (2004) (foreign nationals housed at Guantanamo Bay had the right to challenge their detention via habeas corpus); *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004) (U.S. citizens designated as “enemy combatants” and detained in the United States have a constitutional right to due process, including a meaningful opportunity to challenge their detention before a neutral decisionmaker); *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006) (military commissions used to try Guantanamo Bay detainees lacked congressional authorization and violated both the Uniform Code of Military Justice and the Geneva Convention); *Boumediene v. Bush*, 553 U.S. 723, 740 (2008) (foreign detainees at Guantanamo Bay have a constitutional right to habeas corpus and the Military Commissions Act of 2006’s procedures were an inadequate substitute for habeas corpus).

53. We are now in the fourth major era of habeas, which began when the present administration started arbitrarily revoking student visas and detaining students on the basis of those revocations, deporting individuals not from El Salvador to Salvadoran prison without due process, jailing immigrants for exercising their rights to free speech, and announcing an intent to use civil detention punitively against criminal aliens. *Accord, cf., 100 Days of Fighting Fake News*, HOMELAND

SECURITY (Apr. 30, 2025).³ The present administration has even begun rounding up bona fide refugees and throwing them into detention centers without cause.

54. Over the past year, courts around the country have found that the present immigration administration is using immigration detention punitively, as well as to coerce noncitizens into self-deporting from the United States. *E.g.*, *Mohammed H. v. Trump*, No.: 25-CV-1576-JWB-DTS, --- F. Supp. 3d ---, 2025 WL 1692739, at *5 (D. Minn. June 17, 2025); *Khalil v. Trump*, No. 25-CV-01963 (MEF/MAH), -- F. Supp. 3d ---, 2025 WL 1649197 (D.N.J. June 11, 2025), *opinion clarified*, No. 25-CV-01963 (MEF/MAH), 2025 WL 1981392 (D.N.J. July 16, 2025), and *opinion clarified*, No. 25-CV-01963 (MEF/MAH), 2025 WL 1983755 (D.N.J. July 17, 2025); *Noem v. Abrego Garcia*, 145 S. Ct. 1017 (2025); *Mahdawi v. Trump*, No. 2:25-CV-389 (GWC), --- F. Supp. 3d ---, 2025 WL 1243135, at *11-12 (D. Vt. Apr. 30, 2025); *Ozturk v. Trump*, No. 2:25-CV-374 (WKS), --- F. Supp. 3d ---, 2025 WL 1420540, at *7 (D. Vt. May 16, 2025) (“Ms. Ozturk argued that her detention is punishment for her op-ed, and that her punishment is intended to serve as a warning to other non-citizens who are contemplating public speech on issues of the day. The Court found that Ms. Ozturk has presented credible evidence to support her argument.”).

Removal Proceedings and Bond Hearings Under § 1226(a)

55. Removal proceedings are governed under 8 U.S.C. § 1229a, which provides that

³ Available at: <https://www.dhs.gov/news/2025/04/30/100-days-fighting-fake-news>.

“[a]n immigration judge shall conduct proceedings for deciding the inadmissibility or deportability of an alien,” 8 U.S.C. § 1229a(a)(1) and that “[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be admitted to the United States.” 8 U.S.C. § 1229a(a)(3).

56. To initiate removal proceedings, “written notice (in this section referred to as a ‘notice to appear’) shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien’s counsel of record, if any).” 8 U.S.C. § 1229(a)(1).
57. The “[a]pprehension and detention of aliens” is governed under 8 U.S.C. § 1226, which provides that:

On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, **the Attorney General ... may release the alien on bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General.**

8 U.S.C. § 1226(a)(2)(A) (emphasis added).

58. The regulations provide that, to detain a person under 8 U.S.C. § 1226(a), the Department must issue an I-200 to take a person into custody; and that such a person is subject to release on bond. The regulation states:

(b) Warrant of arrest—

(1) In general. **At the time of issuance of the notice to appear, or at any time thereafter** and up to the time removal proceedings are completed, the respondent may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest. A warrant of

arrest may be issued only by those immigration officers listed in § 287.5(e)(2) of this chapter and may be served only by those immigration officers listed in § 287.5(e)(3) of this chapter.

(2) If, after the issuance of a warrant of arrest, a determination is made not to serve it, any officer authorized to issue such warrant may authorize its cancellation.

(c) Custody issues and release procedures—

(1) In general.

(i) After the expiration of the Transition Period Custody Rules (TPCR) set forth in section 303(b)(3) of Div. C of Pub.L. 104–208, no alien described in section 236(c)(1) **of the Act may be released from custody during removal proceedings except pursuant to section 236(c)(2) of the Act.**

8 C.F.R. § 236.1(b).

59. 8 U.S.C. 1226(a) is the default detention authority, and it applies to anyone who is detained “pending a decision on whether the [noncitizen] is to be removed from the United States.” 8 U.S.C. § 1226(a).
60. Section 1226(a) of the INA provides for discretionary detention. This provision permits—but does not require—the Government to arrest and detain a noncitizen **“[o]n a warrant issued by the Attorney General”** or their designees. 8 U.S.C. § 1226(a); 8 C.F.R. § 236.1(b)(1) (2025) (emphasis added); *see Jennings*, 583 U.S. at 303.
61. If the Government arrests a noncitizen on such a warrant, the Attorney General or their designees may then continue to detain them or release them on bond of at least \$1,500 or conditional parole. 8 U.S.C. §§ 1226(a)(1)-(2); 8 C.F.R. § 236.1(c)(8)

(2025).

62. An ICE officer “makes the initial determination for noncitizens subject to detention under section 1226(a).” *Hernandez-Lara v. Lyons*, 10 F.4th 19, 26 (1st Cir. 2021).
63. If the officer opts for continued detention, the noncitizen has a Fifth Amendment Due Process right to seek review of that decision at a bond hearing (also known as a “custody redetermination” hearing) before an IJ. *Id.* at 41.
64. At that hearing, the only appropriate threshold determinations for bond are risk of flight and danger to the community.
65. As relevant here, due process requires that immigration detention “bear[] a reasonable relation to the purpose for which the individual was committed.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)).
66. Specifically, immigration detention must be reasonably related to the government’s goals of preventing flight and protecting the community from harm and be accompanied by adequate procedural protections to ensure that those goals are being served. *See Zadvydas*, 533 U.S. at 690-91.
67. Chief among these procedural protections is “the guarantee of an impartial and disinterested tribunal,” which the Due Process Clause requires “in both civil and criminal cases.” *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980).
68. In making a bond determination, the IJ must sufficiently explain their reasoning to permit appellate or judicial review of their decision. *Mayancela v. FCI Berlin*,

Warden, No. 25-cv-348-LM-TSM, 2025 WL 3215638, at *6 (D.N.H. Nov. 18, 2025) (citing *Barnica-Lopez v. Garland*, 59 F.4th 520, 530 (1st Cir. 2023)). While the IJ “need not discuss ad nauseam every piece of evidence,” they “may not simply ignore substantial testimonial and documentary proof.” *Barnica-Lopez*, 59 F.4th at 530 (quoting *Pan v. Gonzales*, 489 F.3d 80, 87 (1st Cir. 2007)). The IJ must give “reasoned consideration to the evidence as a whole, [make] supportable findings, and adequately explain[] [their] reasoning.” *Id.* (quoting *Pan*, 489 F.3d at 87).

69. If the noncitizen meets their burden, bond or conditional parole must be granted. If the noncitizen does not meet their burden and the IJ determines the noncitizen must remain in custody, then the noncitizen may appeal that decision to the BIA. 8 C.F.R. § 236.1(d)(3). The BIA decision may not be directly appealed to the relevant Court of Appeals. *Romero v. Hyde*, 795 F.Supp.3d 271, 278–79 (D. Mass. 2025) (citing *Gudiel Polanco v. Garland*, 839 F. App'x 804, 805 (4th Cir. 2021) (per curiam); *Gomez De Chacon v. Barr*, 828 F. App'x 459, 460 (9th Cir. 2020)). Rather, “a petition for a writ of habeas corpus, filed in the appropriate district court, is the only mechanism by which a noncitizen may seek judicial review of an IJ's bond decision.” *Mayancela*, 2025 WL 3215638, at *4 (citing *Gudiel Polanco*, 839 F. App'x at 805; *Ben Halim v. Ashcroft*, 107 F. App'x 1, 6 (7th Cir. 2004)); *Garcia v. Hyde*, No. 25-cv-585-JJM-PAS, 2025 WL 3466312, at *2 (D.R.I. Dec. 3, 2025).

The *Accardi* Doctrine Requires Agencies to Follow Internal Rules

70. Under the *Accardi* doctrine, a foundational principle of administrative law, agencies must follow their own procedures, rules, and instructions. *See United States ex rel.*

Accardi v. Shaughnessy, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where the Board of Immigration Appeals failed to follow procedures governing deportation proceedings); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (“Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.”).

71. *Accardi* is not “limited to rules attaining the status of formal regulations.” *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). Courts must also reverse agency action for violation of unpublished rules and instructions to agency officials. *See Morton v. Ruiz*, 415 U.S. 235 (affirming reversal of agency denial of public assistance made in violation of internal agency manual); *United States v. Heffner*, 420 F.2d 809, 812 (4th Cir. 1969) (under *Accardi*, reversing decision to admit evidence obtained by IRS agents for violating instructions on investigating tax fraud).

FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

72. Petitioner realleges and incorporates by reference as if fully set forth herein paragraphs 1-71 of this Complaint.
73. Petitioner’s present detention is governed by 8 U.S.C. § 1226(a).
74. Petitioner was taken into ICE custody without a warrant. Petitioner has remained detained in Respondents’ custody since then.
75. Upon information and belief, Respondents did not have or serve a valid judicial or administrative arrest warrant when they arrested Petitioner, nor did they have probable cause to believe Petitioner had personally engaged in criminal activity or

fraud, rendering the present detention unlawful and in violation of his right under the Fourth Amendment to be free from unreasonable seizures and his statutory right under 8 U.S.C. § 1226(a) to remain free from custody pending his removal proceedings in the absence of a valid arrest warrant.

76. The lack of a valid warrant in connection with the arrest and Petitioner's subsequent detention under § 1226(a) mandates Petitioner's immediate release from custody.
77. Petitioner had a bond hearing that was overseen by IJ Michael Schnitzer at the Eloy Immigration Court on December 4, 2025. IJ Schnitzer denied Petitioner bond stating, "[t]he Court finds respondent has failed to meet his burden of proving he is not a danger if released on bond, finds that the respondent is properly detained without bond, and declines to set bond in his case."⁴
78. At the bond hearing, Petitioner's immigration attorney provided factual and legal arguments supported by evidence in favor of his release from custody including Petitioner's minimal criminal history, extensive ties to his community, and incentives to return for future court hearings.⁵
79. In the last year the DOJ and its sub-agencies, the Executive Office for Immigration Review ("EOIR") and the Board of Immigration Appeals ("BIA"), in apparent coordination with the Department of Homeland Security ("DHS") have systematically dismantled the integrity of the immigration court system to turn it into an extension of DHS' deportation and detention operations.

⁴ Exhibit 2, *supra* 1.

⁵ *Id.*

80. The evidence of EOIR's institutional capture falls into five categories, each independently sufficient to establish bias, but together demonstrating systematic destruction of judicial independence: (1) the ongoing mass-scale purge of immigration judges perceived as obstacles to DHS' enforcement agenda; (2) the parallel purge and reconstitution of the BIA, resulting in a 97% pro-government decision rate; (3) the recruitment and installation of explicitly enforcement-aligned "deportation judges" with dramatically reduced qualifications; (4) EOIR policy directives establishing expectations that adjudications favor the government over noncitizens; and (5) explicit instructions to defy district court rulings that impede DHS's enforcement goals.
81. As of September 26, 2025, the executive has terminated 128 immigration judges ("IJS").⁶ The terminated and resigned judges report three consistent themes: (1) explicit pressure to serve as instruments of mass deportation rather than neutral

⁶ Available at: *Trump Administration Continues Firing Immigration Judges -- IFPTE responds*, IFPTE (Sept. 26, 2025), <https://www.ifpte.org/news/trump-administration-continues-firing-immigration-judges-ifpte-responds> .

adjudicators⁷; (2) a pervasive climate of fear designed to ensure compliance⁸; and, (3) inevitable compromise of judicial independence when self-preservation requires favoring the government.⁹

82. No adjudicator can remain impartial when faced with the choice between upholding due process and keeping their position. Any immigration judge assigned to Petitioner's bond hearing now operates under the understanding that granting bond may cost them their livelihood.
83. In 2025, a parallel purge occurred at the BIA which was reduced from 28 members to 15 members. All Biden appointees on the BIA were fired.¹⁰

⁷ See Woo-Sun Lim, *Former judge highlights legal failures in U.S. worker detentions*, The Dong-A Ilbo (Sept. 20, 2025), <https://www.donga.com/en/article/all/20250920/5859412/1>; Geoff Bennett & Ali Schmitz, *Ousted Immigration Judge Describes Deepening Court Backlog*, PBS NewsHour (Nov. 12, 2025), <https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog>; Hilda Gutierrez, Michael Bott & Son Vo, *'An all-out attack on immigration court: SF immigration judges speak out after firings*, NBC Bay Area (Nov. 25, 2025), <https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-firings/3986850/>; Marco Poggio, *Judges See an Immigration Court Guttled from Inside*, Law360 (Oct. 31, 2025), <https://www.law360.com/articles/2381003/judges-see-an-immigration-court-guttled-from-inside>.

⁸ See Poggio, *supra* note 7; Eric Katz, *'Climate of Fear': Immigration Judges Say Functioning of Their Court System Is in Jeopardy Due to Trump's Firings*, Gov't Executive (Nov. 14, 2025), <https://www.govexec.com/management/2025/11/climate-fear-immigration-judges-say-functioning-their-court-system-jeopardy-due-trumps-firings/409544/>; Isabela Dias, *"Fired for No Reason": Former Immigration Judges Speak Out Against Trump's Assault on the Courts*, Mother Jones (Oct. 9, 2025), <https://www.motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-purge-dhs-ice/>.

⁹ See Poggio, *supra* note 7.

¹⁰ Am. Imm. Council, *BIA Decision Strips Immigration Judges of Bond Authority, All but Guaranteeing Mandatory Detention for Undocumented Immigrants* (Sept. 12, 2025),

84. As of January 22, 2026, the reconstituted BIA has issued 71 published decisions.¹¹ Of those, 69 decisions (97%) favored the administration.¹² By contrast, during the entire four-year span of the prior administration, the BIA issued 76 published decisions.¹³ Of those, 46 decisions (60%) favored the administration. This shows a change from 60% to 97% pro-government outcomes in an expedited, condensed timeline.
85. To replace purged judges, Respondents Department of Homeland Security promoted these openings on social media with enforcement focused language: “Bring the hammer down on criminal illegal aliens” and “Defend your communities, your culture, your very way of life.”¹⁴
86. In 2025, up to 600 military lawyers were authorized to serve as temporary immigration judges for a renewable term not to exceed six months, while simultaneously eliminating requirements to serve as a temporary immigration judge. Previously, temporary judge candidates were required to have served as a former immigration judge, appellate immigration judge, or administrative judge within

<https://www.americanimmigrationcouncil.org/blog/bia-ruling-immigration-judges-bond-mandatory-detention-undocumented-immigrants/>.

¹¹ Exec. Off. for Immigr. Rev., *Volume 29*, U.S. Dep't of Just. (Jan. 21, 2025), <https://www.justice.gov/eoir/volume-29>.

¹² Of the remaining two decisions: 1 decision was neutral (involving attorney sanctions) and 1 decision disfavored the administration

¹³ Exec. Off. for Immigr. Rev., *Volume 28*, U.S. Dep't of Just. (June 13, 2025), <https://www.justice.gov/eoir/volume-28>. (First decision, *Matter of DIKHTYAR*, 28 I&N Dec. 214 (BIA 2021), issued 01/22/2021)

¹⁴ dhsgov, Instagram (Nov. 21, 2025), <https://www.instagram.com/p/DRVT8DmCQKD/?hl=en>.

another agency, or to have at least 10 years of immigration law experience. The administration removed those requirements entirely, allowing "any attorney" to be selected as a temporary immigration judge and reduced training to approximately two weeks—far less than the standard training for permanent immigration judges, which includes six weeks of initial training, one year of mentorship by an experienced judge, and two years of quarterly reviews.¹⁵

87. On April 30, 2025, Respondents Department of Homeland Security issued a press release entitled *100 Days of Fighting Fake News*.¹⁶ In that document, DHS referenced civil immigration detention and the present administration's heavy reliance on civil detention to accomplish its political aims. Specifically, the document states:

The reality is that **prison isn't supposed to be fun. It's a necessary measure to protect society and punish bad guys.** It is not meant to be comfortable. **What's more: prison can be avoided by self-deportation.** CBP Home makes it simple and easy. If you are a criminal alien and we have to deport you, you could end up in Guantanamo Bay or CECOT. **Leave now.**

(emphasis added).

88. Respondent Sirce Owen, acting director of EOIR, has issued policy directives include: a memorandum dated June 27, 2025 warning judges not to demonstrate "bias directed against DHS" or to be "adjudicatory outliers," at risk of "close

¹⁵ Designation of Temporary Immigration Judges, 90 Fed. Reg. 41,883 (Aug. 28, 2025); Margy O'Herron, *Using Military Lawyers as Immigration Judges is Ill-Advised and Potentially Illegal*, Brennan Ctr. for Just. (Sept. 29, 2025), <https://www.brennancenter.org/our-work/analysis-opinion/using-military-lawyers-immigration-judges-ill-advised-and-potentially>.

¹⁶ Available at: <https://www.dhs.gov/news/2025/04/30/100-days-fighting-fake-news>.

examination and potential action”; a memorandum encouraging judges to deny asylum applications without full evidentiary hearings, styled as efficiency guidance but functioning as a directive to reduce due process protections; and memorandums restricting immigration judges’ ability to grant continuances and administrative closure.¹⁷

89. Respondents EOIR has issued explicit directives to ignore district court rulings that impede Respondents DHS’s policy objectives, thus demonstrating systemic institutional defiance of federal court orders, orchestrated by Respondents EOIR and their leadership, and enforced through the threat of termination.
90. Rather than comply with the court order in *Maldonado Bautista*, EOIR leadership directed all immigration judges to ignore the order. On January 13, 2026, Chief Immigration Judge Teresa L. Riley sent an email to all immigration judges instructing:

"Please provide the following guidance to all immigration judges forthwith: *Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay, or enjoin *Yajure Hurtado*. Therefore *Yajure Hurtado* remains binding precedent on agency adjudications. For clarification, declaratory judgments differ from injunctions in that the former clarifies parties' legal rights and relationships without ordering specific action, while the latter is a court order compelling a party to do or stop doing a specific act. A declaratory judgment is not an equitable remedy and does not, by itself, have the effect of

¹⁷ See Exec. Off. for Immigr. Rev., Policy Memorandum 25-33, Neutrality and Impartiality in Immigration Court Proceedings (June 27, 2025), ; Exec. Off. for Immigr. Rev., Policy Memorandum 25-28, Pretermission of Legally Insufficient Application for Asylum (Apr. 11, 2025); Exec. Off. for Immigr. Rev., Policy Memorandum 25-27, Cancellation of Director's Memorandum 23-01 and Reinstatement of Policy Memorandum 19-13 (Mar. 21, 2025); Exec. Off. for Immigr. Rev., Policy Memorandum 25-29, Cancellation of Director's Memorandum 22-03 (Apr. 18, 2025).

compelling specific action by a party. Thank you for your attention to this matter."¹⁸

91. Myriad courts around the country have granted habeas corpus petitions and/or enjoined the current administration's attempts to use civil detention punitively against noncitizens. *See, e.g., Abuelhawa v. Noem*, No. 4:25-CV-04128, 2025 WL 2937692, at *8-9 (S.D. Tex. Oct. 16, 2025); *Phong Van Do v. Bondi*, No. 4:25-CV-05643, ECF No. 10 (Slip Op.) (S.D. Tex. Dec. 18, 2025); *Bon Van Nguyen v. Bondi*, No. 4:25-CV-05827, ECF No. 11 (Slip Op.) (S.D. Tex. Dec. 19, 2025); *Dang Pham v. Bondi*, No. 4:25-CV-05765-H, ECF No. 12 (Slip Op.) (S.D. Tex. Jan. 9, 2026); *Mohammed H. v. Trump*, No.: 25-CV-1576-JWB-DTS, --- F. Supp. 3d ---, 2025 WL 1692739, at *5 (D. Minn. June 17, 2025) ("Punishing Petitioner for protected speech or using him as an example to intimidate other students into self-deportation is abusive and does not reflect legitimate immigration detention purposes."); *Mahdawi v. Trump*, 781 F. Supp. 3d 214, 231-32 (D. Vt. Apr. 30, 2021) (recognizing that immigration detention cannot be motivated by the desire to punish speech or to deter

¹⁸ *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025); Am. Immigr. Laws. Ass'n, Practice Alert: EOIR Issues Nationwide Guidance on *Maldonado Bautista*, AILA Doc. No. 26011404 (Jan. 16, 2026), <https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista>; *Immigration judges told to ignore rulings on bond hearings, documents show*, Massachusetts Lawyer Weekly (Jan. 20, 2026), <https://masslawyersweekly.com/2026/01/20/immigration-judges-ignore-bond-hearing-rulings/>

others from speaking); *Ozturk*, 779 F. Supp. 3d 462, 493 (“So long as detention is motivated by those goals, and not a desire for punishment, the Court is generally required to defer to the political branches on the administration of the immigration system.”); *see also Fong Yue Ting v. United States*, 149 U.S. 698, 730 (1893) (“The order of deportation is not a punishment”); *Roble v. Bondi*, No. 25-cv-3196, 2025 WL 2443453 (D. Minn. Aug. 25, 2025) (ordering release and characterizing the government’s actions as “Kafkaesque”); *Sarail A. v. Bondi*, No. 25-CV-2144, 2025 WL 2533673 (D. Minn. Sept. 3, 2025) (ordering release); *Sonam T. v. Bondi*, No. 25-CV-2834, *slip op.*, ECF No. 19 (D. Minn. Sept. 16, 2025) (R&R recommending order of release); *see also Sonam T. v. Bondi*, No. 25-CV-2834, ECF No. 25 (D. Minn. Sept. 19, 2025) (ordering release); *Mehran S. v. Bondi*, No. 25-CV-3724, ECF No. 11 (D. Minn. Sept. 29, 2025) (ordering release); *Omar J. v. Bondi*, No. 25-CV-3719 (D. Minn. Sept. 29, 2025), ECF No. 11 (ordering release); *Yee S. v. Bondi*, No. 25-CV-02782-JMB-DLM (D. Minn. Oct. 9, 2025), ECF No. 13 (granting habeas petition 4 days after TRO and motion to expedite was filed); *Constantinovici v. Bondi*, No. 3:25-CV-02405-RBM-AHG (S.D. Cal. Oct. 10, 2025), ECF No. 15 (granting habeas petition less than one month after filing).

REMEDY

92. Respondents’ detention of Petitioner violates the *Accardi* doctrine because IJ Schnitzer (and EOIR generally) has (have) illegally delegated or otherwise given away their discretion to determine whether bond is warranted under § 1226(a) to DHS litigants in the bond proceedings. Respondents’ detention of Petitioner also

violates the *Accardi* doctrine because IJs are required to provide individualized, reasoned consideration of the evidence before them, under the totality of the circumstances, in making bond determinations, and IJ Schnitzer did not do that in this case, completely and intentionally ignoring evidence of rehabilitation, family and community ties, employment history, property ownership, and the availability of conditions of release that could reasonably mitigate any perceived risk of flight or danger.

93. Respondents' detention of Petitioner violates the Due Process Clause of the United States Constitution. Petitioner's ongoing detention violates the Fifth Amendment's guarantee that "[n]o person shall be . . . deprived of life, liberty, or property without due process of law." U.S. Const., amend. V.
94. Due Process requires that detention "bear [] a reasonable relation to the purpose for which the individual [was] committed." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). It also requires a neutral decisionmaker, and the ability to be heard at a meaningful time and in a meaningful manner.
95. Petitioner seeks immediate release. His ongoing detention does not bear a reasonable relation to the purpose for which he was committed. It is designed to be punitive, and the effect is punitive. Moreover, there is no underlying arrest warrant in Petitioner's case, making his continued detention under § 1226(a) facially unlawful.
96. Petitioner seeks immediate release to the extent that Respondents have redetained

him for the purpose of sending a message to similarly situated individuals for the purpose of encouraging those similarly situated persons to leave the United States before they share Petitioner's fate.

97. Additionally, to the extent that Respondents arrested Petitioner in the absence of a valid judicial or administrative arrest warrant and probable cause to believe Petitioner had personally committed a crime or engaged in fraud, Respondents' seizure of Petitioner is unreasonable under the Fourth Amendment (and § 1226(a)).
98. Although neither the Constitution nor the federal habeas statutes delineate the necessary content of habeas relief, *I.N.S. v. St. Cyr*, 533 U.S. 289, 337 (2001) (Scalia, J., dissenting) ("A straightforward reading of [the Suspension Clause] discloses that it does not guarantee any content to . . . the writ of habeas corpus"), implicit in habeas jurisdiction is the power to order release. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) ("[T]he habeas court must have the power to order the conditional release of an individual unlawfully detained.").
99. The Supreme Court has noted that the typical remedy for unlawful detention is release from detention. *See, e.g., Munaf v. Geren*, 553 U.S. 674 (2008) ("The typical remedy for [unlawful executive detention] is, of course, release."); *see also Wajda v. United States*, 64 F.3d 385, 389 (8th Cir. 1995) (stating the function of habeas relief under 28 U.S.C. § 2241 "is to obtain release from the duration or fact of present custody.").
100. That courts with habeas jurisdiction have the power to order outright release is justified by the fact that, "habeas corpus is, at its core, an equitable remedy," *Schlup*

v. Delo, 513 U.S. 298, 319 (1995), and that as an equitable remedy, federal courts “[have] broad discretion in conditioning a judgment granting habeas relief [and are] authorized . . . to dispose of habeas corpus matters ‘as law and justice require.’” *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987) (quoting 28 U.S.C. § 2243). An order of release falls under court’s broad discretion to fashion relief. *See, e.g., Jimenez v. Cronen*, 317 F. Supp. 3d 626, 636 (D. Mass. 2018) (“Habeas corpus is an equitable remedy. The court has the discretion to fashion relief that is fair in the circumstances, including to order an alien’s release.”).

101. Immediate release is an appropriate remedy in this case because Respondents arrested Petitioner without a warrant, and Respondents refuse or are otherwise unable to provide Petitioner with an unbiased decisionmaker in bond proceedings under § 1226(a). In recent months, courts across the country have ordered the release of detainees in similar situations. *See Moctezuma v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at*5 (D. Idaho Jan. 2, 2026) (ordering immediate release instead of causing additional delay through a bond hearing after considering the government’s repeated use of unlawful detention policies across the country which cause petitioners to “sit in jail waiting for a judicial decision”) (citing *Lepe v. Andrews*, 801 F. Supp. 3d 1104 (E.D. Cal. 2025); *J.U. v. Maldonado*, No. 25-cv-4836, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025); *Rosado v. Figueroa*, No. 25-cv-2157, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025); *Pinchi v. Noem*, No. 25-cv-05632, 2025 WL 1853763, at *4 (N.D. Cal. July 4, 2025). *Santiago v. Noem*, No. EP-25-CV-361, 2025 WL 2792588, at *13-14 (W.D. Tex.

Oct. 2, 2025) (“Without a legitimate interest in her detention, immediate release appropriately remedies Respondents’ violation of [Petitioner’s] due process rights through her continued detention.”)

CAUSE OF ACTION

COUNT ONE: DECLARATORY RELIEF

102. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
103. Petitioner requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Petitioner is detained in violation of 8 U.S.C. § 1226(a).
104. Petitioner requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Petitioner was seized in the absence of probable cause, a valid warrant, or an exception to the warrant requirement (*i.e.*, unreasonably) and in violation of the Fourth Amendment.
105. Petitioner requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Petitioner is detained in violation the Due Process Clause of the Fifth Amendment.
106. Petitioner requests a declaratory judgement pursuant to 28 U.S.C. § 2201 declaring, at minimum, the court order any future bond hearing by an unbiased adjudicator, with safeguards put in place to ensure that the agency provides a truly unbiased adjudicator, and an adjudicator operating without the appearance of bias.

COUNT TWO: VIOLATION OF THE IMMIGRATION & NATIONALITY ACT
– 8 U.S.C. § 1226(a)

107. Petitioner re-alleges and incorporates by reference each allegation contained in the

preceding paragraphs as if set forth fully herein.

108. Section 1226(a) governs the detention of noncitizens who are eligible to request a discretionary bond. In order for detention under § 1226(a) to begin, an arrest must occur pursuant to a warrant of arrest issued by the Attorney General. No such warrant exists in Petitioner's case. Petitioner's detention is therefore facially unlawful.
109. Additionally, § 1226(a) gives *immigration judges* discretion to determine whether to grant a bond or conditional release. Immigration judges are given their authority by EOIR, which has transformed from a neutral adjudicatory body to an instrument of the executive's immigration enforcement agenda, thereby precluding Petitioner's due process right of assessment by a fair and impartial tribunal.
110. Respondents, through their intentional policies, have made it functionally impossible for Petitioner to be released on bond under § 1226(a) by: (1) effectively delegating the IJ's discretion over bond decisions to DHS; (2) colluding with DHS to ensure as many noncitizens as possible remain detained; (3) systematically firing neutral decisionmakers without cause, excuse, or justification and replacing those neutral adjudicators with biased adjudicators that are captive to the present administration's political whims and caprices; and, *inter alia*, (4) systematically firing immigration judges after they grant § 1226(a) bonds to noncitizens over DHS' objections.
111. Petitioner is therefore detained in violation of the INA.

COUNT THREE: VIOLATION OF THE FOURTH AND FIFTH AMENDMENTS

112. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
113. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals.
114. Petitioner has been denied due process of law because he is being held under § 1226(a) despite the lack of an arrest warrant, and because the immigration courts and Petitioner's specific immigration judge both constitute biased decisionmakers with respect to the post-habeas bond decision in Petitioner's case.
115. Respondents have also independently violated Petitioner's Fifth Amendment due process right by incarcerating him to punish him or to otherwise send a message to similarly situated individuals that they must leave the United States to avoid a similar fate.
116. Additionally, the Fourth Amendment protects against unreasonable searches and seizures, and requires probable cause to arrest. Here, Petitioner was arrested in the absence of probable cause. Respondents transferred Petitioner from Arizona state custody to ICE custody without a valid arrest warrant. Petitioner's arrest occurred in violation of the warrant requirement, in and in the absence of exigent circumstances or any other exception to the warrant requirement.

**COUNT FOUR: VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT
– CONTRARY TO LAW AND ARBITRARY AND CAPRICIOUS AGENCY
POLICY**

117. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
118. 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).
119. Respondents have failed to articulate any reasoned explanation for deviating from prior interpretations of 8 U.S.C. § 1226(a).
120. Respondents’ decisions, which represent changes in the agencies’ policies and positions, have considered factors that Congress did not intend to be considered, have entirely failed to consider important aspects of the problem, and have offered explanations for their decisions that run counter to the evidence before the agencies.
121. Respondents’ decision to continue to detain Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

COUNT FIVE: VIOLATION OF THE ACCARDI DOCTRINE

122. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
123. Under the *Accardi* doctrine, Petitioner has a right to set aside agency action that violated agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (“If Petitioner can prove the allegation

[that agency failed to follow its rules in a hearing] he should receive a new hearing”).

124. Under *Accardi*, Respondents’ actions should be set aside for violating agency procedures, rules, or instructions.

PRAYER FOR RELIEF

WHEREFORE, Petitioner, Chinedu Ogana, asks this Court for the following relief:

1. Assume jurisdiction over this matter.
2. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under 28 U.S.C. Ch. 153.
 - a. Issue an Order to Show Cause ordering Respondents to state the true cause of Petitioner’s detention within 3 days of the Court’s issuance of the OSC.
 - b. If a magistrate is assigned then, pursuant to 28 U.S.C. § 1657, issue an Order shortening the time for making any objections to the magistrate’s forthcoming Report & Recommendation from 14 days to 3 days.
 - c. Order the Clerk of Courts to promptly serve a copy of the petition and any subsequent Order on Respondents and any other appropriate individual involved pursuant Rule 4 of the Rules Governing Section 2254 and 2255 Cases.
3. Issue an emergency preliminary order restraining Respondents from attempting to move Petitioner from the State of Arizona during the pendency of this Petition.
4. Issue an emergency preliminary order requiring Respondents to provide 72-hour notice of any intended movement of Petitioner.
5. Order Petitioner’s immediate release. Alternatively, Order that Respondents provide

Petitioner with a bond hearing under 8 U.S.C. § 1226(a) by an unbiased decisionmaker and further hold that in order for Petitioner to remain detained, Respondents bear the burden of demonstrating by clear and convincing evidence at the bond hearing that Petitioner is a flight risk and/or danger to the community.

6. Order the return of all of Petitioner's property that was taken from Petitioner during the course of the arrest or subsequent processing.
7. Declare that Respondents' action is arbitrary and capricious.
8. Declare that Respondents failed to adhere to binding regulations and precedent.
9. Declare that Petitioner's arrest violates the Fourth Amendment's reasonableness standard and/or 8 U.S.C. § 1226(a)'s warrant requirement.
10. Declare that Petitioner's ongoing detention violates the Due Process Clause of the Fifth Amendment, the INA, the APA, and the *Accardi* doctrine.
11. Grant Petitioner reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A).
12. Grant all further relief this Court deems just and proper.

DATED: March 9, 2026

Respectfully submitted,

RATKOWSKI LAW PLLC

/s/ Nico Ratkowski

Nico Ratkowski (MN No.: 0400413)
332 Minnesota Street, Suite W1610
Saint Paul, MN 55101
P: (651) 755-5150
E: nico@ratkowskilaw.com

Attorney for Petitioner

Verification by Petitioner Pursuant to 28 U.S.C. § 2242

I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding my detention status, are true and correct to the best of my knowledge and belief. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that all of the factual allegations and statements in the Petition are true and correct to the best of my knowledge and belief.

/s/ Chinedu Ogana
Chinedu Ogana

Dated: March 9, 2026

COUNT THREE: VIOLATION OF THE FOURTH AND FIFTH AMENDMENTS

112. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
113. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals.
114. Petitioner has been denied due process of law because he is being held under § 1226(a) despite the lack of an arrest warrant, and because the immigration courts and Petitioner's specific immigration judge both constitute biased decisionmakers with respect to the post-habeas bond decision in Petitioner's case.
115. Respondents have also independently violated Petitioner's Fifth Amendment due process right by incarcerating him to punish him or to otherwise send a message to similarly situated individuals that they must leave the United States to avoid a similar fate.
116. Additionally, the Fourth Amendment protects against unreasonable searches and seizures, and requires probable cause to arrest. Here, Petitioner was arrested in the absence of probable cause. Respondents transferred Petitioner from Arizona state custody to ICE custody without a valid arrest warrant. Petitioner's arrest occurred in violation of the warrant requirement, in and in the absence of exigent circumstances or any other exception to the warrant requirement.

**COUNT FOUR: VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT
– CONTRARY TO LAW AND ARBITRARY AND CAPRICIOUS AGENCY
POLICY**

117. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
118. 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).
119. Respondents have failed to articulate any reasoned explanation for deviating from prior interpretations of 8 U.S.C. § 1226(a).
120. Respondents’ decisions, which represent changes in the agencies’ policies and positions, have considered factors that Congress did not intend to be considered, have entirely failed to consider important aspects of the problem, and have offered explanations for their decisions that run counter to the evidence before the agencies.
121. Respondents’ decision to continue to detain Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

COUNT FIVE: VIOLATION OF THE ACCARDI DOCTRINE

122. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
123. Under the *Accardi* doctrine, Petitioner has a right to set aside agency action that violated agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (“If Petitioner can prove the allegation

[that agency failed to follow its rules in a hearing] he should receive a new hearing”).

124. Under *Accardi*, Respondents’ actions should be set aside for violating agency procedures, rules, or instructions.

PRAYER FOR RELIEF

WHEREFORE, Petitioner, Chinedu Ogana, asks this Court for the following relief:

1. Assume jurisdiction over this matter.
2. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under 28 U.S.C. Ch. 153.
 - a. Issue an Order to Show Cause ordering Respondents to state the true cause of Petitioner’s detention within 3 days of the Court’s issuance of the OSC.
 - b. If a magistrate is assigned then, pursuant to 28 U.S.C. § 1657, issue an Order shortening the time for making any objections to the magistrate’s forthcoming Report & Recommendation from 14 days to 3 days.
 - c. Order the Clerk of Courts to promptly serve a copy of the petition and any subsequent Order on Respondents and any other appropriate individual involved pursuant Rule 4 of the Rules Governing Section 2254 and 2255 Cases.
3. Issue an emergency preliminary order restraining Respondents from attempting to move Petitioner from the State of Arizona during the pendency of this Petition.
4. Issue an emergency preliminary order requiring Respondents to provide 72-hour notice of any intended movement of Petitioner.
5. Order Petitioner’s immediate release. Alternatively, Order that Respondents provide

Petitioner with a bond hearing under 8 U.S.C. § 1226(a) by an unbiased decisionmaker and further hold that in order for Petitioner to remain detained, Respondents bear the burden of demonstrating by clear and convincing evidence at the bond hearing that Petitioner is a flight risk and/or danger to the community.

6. Order the return of all of Petitioner's property that was taken from Petitioner during the course of the arrest or subsequent processing.
7. Declare that Respondents' action is arbitrary and capricious.
8. Declare that Respondents failed to adhere to binding regulations and precedent.
9. Declare that Petitioner's arrest violates the Fourth Amendment's reasonableness standard and/or 8 U.S.C. § 1226(a)'s warrant requirement.
10. Declare that Petitioner's ongoing detention violates the Due Process Clause of the Fifth Amendment, the INA, the APA, and the *Accardi* doctrine.
11. Grant Petitioner reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A).
12. Grant all further relief this Court deems just and proper.

DATED: March 9, 2026

Respectfully submitted,

RATKOWSKI LAW PLLC

/s/ Nico Ratkowski

Nico Ratkowski (MN No.: 0400413)
332 Minnesota Street, Suite W1610
Saint Paul, MN 55101
P: (651) 755-5150
E: nico@ratkowskilaw.com

Attorney for Petitioner

Verification by Petitioner Pursuant to 28 U.S.C. § 2242

I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding my detention status, are true and correct to the best of my knowledge and belief. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that all of the factual allegations and statements in the Petition are true and correct to the best of my knowledge and belief.

/s/ Chinedu Ogana
Chinedu Ogana

Dated: March 9, 2026