

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

PATCHAIAPPAN MURUGAVEL,
Petitioner,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States;

KRISTI NOEM, in her official capacity as
Secretary of the Department of Homeland
Security,

PAMELA BONDI, in her official capacity
as Attorney General of the United States;

TODD LYONS, in his official capacity as
Acting Director and Senior Official
Performing the Duties of the Director of
U.S. Immigration and Customs
Enforcement;

ROBERT CERNA, in his official capacity as
Acting Director of the Dallas Field Office of
U.S. Immigration and Customs Enforcement,
Enforcement and Removal Operations;

Warden, Prairieland Detention Center;

Respondents

Case No.: 3:26-cv-812

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS AND COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

PRELIMINARY STATEMENT

1. Petitioner, Patchaiappan Murugavel, remains in the custody of the United States Department of Homeland Security, United States Immigration and Customs Enforcement, despite having been granted deferred action status by DHS following a *bona fide* determination associated with his pending Form I-918, *Petition for U Nonimmigrant Status*. The priority date associated with his petition is current, and a final decision from the United States Citizenship and Immigration Services is imminent.

2. An Immigration Judge denied two separate motions for bond, finding Mr. Murugavel presented a risk of flight that could not be mitigated by any bond amount even though he has been present in the United States since 2012, is engaged to a U.S. citizen, owns and manages his own business, has no criminal history, owns a home and real property in Oklahoma, initiated contact with DHS to begin the process to obtain U nonimmigrant status, and has been promised by DHS that the agency would defer action on his removal from the United States until a final decision is made regarding his U nonimmigrant status.

3. After denying bond, the IJ ordered Mr. Murugavel removed from the United States despite his deferred action status and the pending U nonimmigrant petition. Mr. Murugavel has appealed the IJ's decision to the Board of Immigration Appeals and remains detained.

4. Mr. Murugavel therefor brings this Verified Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief ("Petition") pursuant to 28 U.S.C. § 2241; the All Writs Act, 28 U.S.C. § 1651; the Immigration and Nationality Act ("INA") and regulations thereunder; the Administrative Procedure Act ("APA"), 5 U.S.C. § 701, and Article I, Section 9, Clause 2 of the United States Constitution ("Suspension Clause") and the Fourth and Fifth Amendment of the United States Constitution.

PARTIES

5. Mr. Murugavel is a 38-year-old male from India. He has been detained in the Prairieland Detention Center in Alvarado, Texas for approximately the past two weeks. Prior to arriving at the Prairieland Detention Center, he had been detained at the Cimarron Correctional Facility in Cushing, Oklahoma since October 2025. He originally came into ICE custody on or around October 3, 2025, and was detained for several weeks at the David L. Morris Justice Center in Tulsa, Oklahoma.

6. Respondent Donald J. Trump is named in his official capacity as President of the United States. In this role, he is ultimately responsible for the policies and actions of the executive branch, including those of the U.S. Department of Homeland Security.

7. Respondent Kristi Noem is named in her capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a); routinely transacts business in the Northern District of Texas and is legally responsible for pursuing Mr. Murugavel's detention and removal; and as such is the legal custodian of Petitioner.

8. Respondent Pamela Bondi is named in her official capacity as the Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review, pursuant to INA § 103(g), 8 U.S.C. § 1103(g), routinely transacts business in the Northern District of Texas, is legally responsible for administering Mr. Murugavel's removal proceedings and the standards used in those proceedings.

9. Respondent Robert Cerna is named in his official capacity as Acting Dallas Field Office Director for the U.S. Immigration and Customs Enforcement. In this capacity, he is responsible

Petition for Writ of Habeas Corpus 3

for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a); routinely transacts business in the Northern District of Texas and is legally responsible for pursuing Mr. Murugavel's detention and removal; and as such is his legal custodian.

10. The Warden of the Prairieland Detention Center is employed as the custodian of the location where Mr. Murugavel is detained. He has immediate physical custody of Mr. Murugavel. He is sued in his official capacity.

JURISDICTION AND VENUE

11. This action arises under the Constitution of the United States, the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq., 8 U.S.C. § 1231; and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq.

12. This Court has jurisdiction pursuant to 28 U.S.C. § 2441 (the general grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 28 U.S. § 1331 (federal question jurisdiction), and 28 U.S.C. § 2201, 2202 (Declaratory Judgment Act).

13. Federal courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See, e.g., Zadvydas*, 533 U.S. at 687.

14. Federal courts also have federal question jurisdiction, through the APA, to "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by "any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus"). The APA affords a right of review to a person who is "adversely affected or aggrieved by agency action." 5 U.S.C. § 702. DHS's continued detention of Mr. Murugavel for over five months has adversely and severely affected his liberty and freedom.

15. Furthermore, Federal courts have jurisdiction to hear habeas petitions, because “absent suspension, the writ of habeas corpus remains available to every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (plurality opinion of O’Connor, J.); U.S. Const.art. I, § 9, cl. 2 (“The Privilege of the Writ of Habeas Corpus shall not be suspended . . .”); 28 U.S.C. § 2241(c)(3) (stating federal courts may grant the writ to any person “in custody in violation of the Constitution or laws or treaties of the United States”).

16. The Suspension Clause saves this Court’s jurisdiction and ability to hear Mr. Murugavel’s claims. Although the Respondents will likely argue that 8 U.S.C. § 1252 strips the Court of jurisdiction, as applied, the statute unconstitutionally suspends the habeas writ by failing to provide an adequate alternative forum for review. *Boumediene v. Bush*, 553 U.S. 723, 736, 771 (2008) (determining first whether the statute “denies the federal courts jurisdiction,” and then whether the statute “avoids the Suspension Clause mandate” by providing “adequate substitute procedures for habeas corpus”); *see also Hamdan v. Rumsfeld*, 548 U.S. 557, 575 (2006) (tracing the requirement of an “unmistakably clear statement” at least as far back as *Ex parte Yenger*, 75 U.S. 85, 104-05 (1868)). Thus, this Court retains residual habeas jurisdiction as the lack of an adequate alternative forum to meaningfully seek review would amount to a suspension of the writ of habeas corpus, such that the statutes would need to be read to permit Petitioner’s claims to avoid a constitutional violation.

17. At its historical core, the writ of habeas corpus has served as a means of reviewing the legality of executive encroachment on liberty, and it is in that context that its protections have been strongest. *See I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001). These protections extend fully to noncitizens subject to an order of removal. *Id.*; *see also* Gerard L. Neuman, Habeas Corpus, Executive Detention, and the Removal of Aliens, 98 Colum. L. Rev. 961, 1044 (1998)

Petition for Writ of Habeas Corpus 5

(“[H]istorical precedents beginning shortly after 1787 and reaching to the present confirm the applicability of the writ of habeas corpus to the detention involved in the physical removal of aliens from the United States. These precedents include opinions . . . denying the power of Congress to eliminate judicial inquiry.”).

18. The right to seek habeas corpus relief is fundamental to the Constitution’s scheme of ordered liberty. Habeas corpus is “a writ employed to bring a person before a court, most frequently to ensure that the party’s imprisonment or detention is not illegal.” *Boumediene*, 553 U.S. at 737 (quoting Black’s Law Dictionary 728 (8th ed. 2004)). Blackstone called it “the most celebrated writ in English law,” 3 Blackstone’s Commentaries 129 (1791), and deemed the Habeas Corpus Act of 1679 “the bulwark of the British Constitution.” 4 Blackstone’s Commentaries 438 (1791).

19. In the penultimate Federalist Paper, Alexander Hamilton praised the establishment of the writ as a defense against “the favorite and most formidable instruments of tyranny.” The Federalist No. 84, p. 251 (R.M. Hutchins ed. 1952). Indeed, the “great writ of liberty”, *see Darr v. Burford*, 339 U.S. 200, 225 (1950) (Frankfurter, J., dissenting), is “the only common-law writ to be explicitly mentioned” in the Constitution. *Hamdi*, 542 U.S. at 558 (Scalia, J., dissenting) (citing U.S. Const. Art. I, § 9, cl. 2.).

20. The U.S. Constitution followed its English counterpart in permitting legislative suspension of the writ in extreme circumstances. In England, “the parliament only, or legislative power, whenever it sees proper, [could] authorize the crown, by suspending the habeas corpus act for a short and limited time, to imprison suspected persons without giving any reason for so doing.” 1 Blackstone’s Commentaries 132 (1791).

21. The United States Constitution, however, does not permit suspension of the writ “whenever [the legislature] sees proper,” but rather guarantees in the Suspension Clause that “The Privilege of the Writ of Habeas Corpus shall not be suspended, The Suspension Clause
Petition for Writ of Habeas Corpus 6

provides that Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.” U.S. Const. art. I, § 9, cl. 2. “[B]ecause of that Clause, some ‘judicial intervention in deportation cases’ is unquestionably ‘required by the Constitution.’” *St. Cyr*, 533 U.S. at 300 (quoting *Heikkila v. Barber*, 345 U.S. 229, 235 (1953)). For a statute to limit the writ, it “must overcome both the strong presumption in favor of judicial review of administrative action and the longstanding rule requiring a clear statement of congressional intent to repeal habeas jurisdiction.” *St. Cyr*, 533 U.S. at 298 (footnote omitted). Congress can strip jurisdiction without violating the Suspension Clause only where it provides “a collateral remedy which is neither inadequate nor ineffective to test the legality of a person’s detention.” *Swain v. Pressley*, 430 U.S. 372, 381 (1977); *see also Boumediene*, 553 U.S. at 779. “[I]f an otherwise acceptable construction of a statute would raise serious constitutional problems, and [] an alternative interpretation of the statute is fairly possible, [courts] are obligated to construe the statute to avoid such problems.” *St. Cyr*, 533 U.S. at 299-300. “Indeed, it is an elementary rule in construing acts of Congress that every reasonable construction must be resorted to, in order to save a statute from unconstitutionality.” *Skilling v. United States*, 561 U.S. 358, 406, (2010) Courts have found that the Suspension Clause protects Petitioner’s rights to habeas relief because of the inadequacy of the motion to reopen process, *See Sean B. v. McAleenan*, 412 F. Supp. 3d 472, 490 (D.N.J. 2019) (“I am most moved here by the constitutional necessity of a stay under the Suspension Clause, *see supra*, and the likelihood of a violation of Petitioner’s procedural and constitutional rights if it is not granted. Petitioner may or may not prevail before the BIA or the Court of Appeals; the Constitution requires, however, that his opportunity to put his case be preserved); *Sukwanputra v. Barr*, No. 19-3965, 2019 U.S. Dist. LEXIS 159558, at *7-8 (E.D. Pa. Sep. 19, 2019); *Compere v. Nielsen*, 2019 DNH 017, 358 F. Supp. 3d 170, 182, (D.N.H. Jan. 24, 2019); *Siahaan v. Madrigal*, No. PWG-20-02618, 2020 U.S. Dist. LEXIS 184193 (D. Md. Oct. 5, 2020); *Devitri v. Cronen*, 289 F. Supp. 3d 294 (D. Mass. Petition for Writ of Habeas Corpus 7

Feb. 1, 2018); *Ibrahim v. Acosta*, No. 17-cv-24574, 2018 WL 582520, at *5-6 (S.D. Fla. Jan. 26, 2018); *Jimenez v. Nielsen*, 334 F.Supp.3d 370, 381-82 (D. Mass. 2018). Other courts have found that it was necessary to apply the canon of constitutional avoidance to avoid ruling on the Suspension Clause issues raised. *S.N.C. v. Sessions*, No. 18 CIV. 7680 (LGS), 2018 WL 6175902, at *3 (S.D.N.Y. Nov. 26, 2018); *Sied v. Nielson*, No. 17-cv-06785, 2018 WL 1142202, at *31-67 (N.D. Cal. Mar. 2, 2018).

22. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Mr. Murugavel is detained within this district at the Prairieland Detention Center in Alvarado, Texas. Furthermore, a substantial part of the events or omissions giving rise to this action occurred and continue to occur at ICE's Dallas Field Office in Dallas, Texas, within this division.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

23. No statutory exhaustion requirement applies to a petition challenging immigration detention under 28 U.S.C. § 2241. *See, e.g., Montano v. Texas*, 867 F.3d 540, 542 (5th Cir. 2017) (“Unlike 28 U.S.C. § 2254, Section 2241’s text does not require exhaustion.”); *Robinson v. Wade*, 686 F.2d 298, 303 n.8 (5th Cir. 1982) (“[S]ection 2241 contains no statutory requirement of exhaustion like that found in section 2254(b)”).

24. Mr. Murugavel’s claims—that his detention is unconstitutional because it contravenes the protections of the Fourth and Fifth Amendments—are unrelated to any legitimate governmental purpose and therefore are not subject to any statutory requirement of administrative exhaustion, and thus, exhaustion is not a jurisdictional prerequisite. *See McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). To the extent that any prudential considerations might lead the Court to consider requiring exhaustion as a matter of discretion, the Supreme Court has recognized that courts should not require exhaustion where there is an “unreasonable or indefinite timeframe for administrative

action.” *Id.* at 147. Exhaustion is thus not appropriate where the petitioner “may suffer irreparable harm if unable to secure immediate judicial consideration of [her] claim.” *Id.* Because Petitioner is in detention, wherein each moment of her unconstitutional incarceration implicates irreparable harm, only this Court can consider her claim.

25. Even so, Mr. Murugavel has exhausted all administrative remedies because he filed multiple requests for bond with the Immigration Court, moved to have his removal proceedings terminated, and then asked the IJ to reconsider his decision not to terminate his removal proceedings. He has also filed an appeal of the IJ’s decision to the Board of Immigration Appeals.

26. These previous denials of bond on the grounds of that Mr. Murugavel presents a flight risk, despite the absence of any evidence of flight and significant evidence to the contrary demonstrates that there are no meaningful and genuine administrative remedies or opportunities for Mr. Murugavel to challenge his detention. *See Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.) (as amended) (judicial exhaustion may be excused when “available remedies provide no genuine opportunity for adequate relief” or exhaustion “would be futile”).

STATEMENT OF FACTS

27. Mr. Murugavel was admitted to the United States at Miami, Florida on or about March 2, 2012 pursuant to a C-1 nonimmigrant visa. After his arrival, he settled in the Tulsa, Oklahoma metropolitan area, eventually residing at [REDACTED] [REDACTED].

28. In 2017, he opened a restaurant, [REDACTED], in Broken Arrow.

29. On April 13, 2017, Mr. Murugavel applied for U nonimmigrant status as the victim of a crime. He was assigned a priority date of April 13, 2017.

30. He suffered significant harm following the criminal activity that led to the application for U nonimmigrant status. He was diagnosed with Major Depressive Disorder and Post-Traumatic

Stress Disorder. He has been on medication and participating in therapy ever since.

31. Mr. Murugavel was assigned deferred action by DHS after his application was reviewed and determined to be *bona fide*.

32. He began dating Alyson Acosta, a natural born U.S. citizen in 2022 after they met at a Halloween party. On August 9, 2025, he proposed and the couple became engaged. They were scheduled to be married on December 22, 2025. Due to his detention, the couple has not been able to complete their marriage.

33. On October 1, 2025, the priority date of April 13, 2017, became current, meaning USCIS would issue a final decision within the 2026 fiscal year ending on September 30, 2026.

34. On October 3, 2025, ICE detained Mr. Murugavel without explanation while he was working at his restaurant.

35. On October 15, 2025, Mr. Murugavel petitioned the Aurora, Colorado Immigration Court to terminate his removal proceedings based on the current priority date associated with his application for U nonimmigrant status and his deferred action approval.

36. Attorneys for DHS opposed the motion to terminate on October 23, 2025. The IJ denied the motion to terminate on October 30, 2025. On the same day, the IJ also denied Mr. Murugavel's first bond request. In doing so, the IJ found Mr. Murugavel to be a flight risk despite his lengthy residence in the United States, his community ties, business ownership, history of working with DHS on his U nonimmigrant petition, and his lack of a criminal history.

37. On November 20, 2025, he filed a second request for bond.

38. On November 30, 2025, Mr. Murugavel filed a motion to reconsider the denial of his motion to terminate. Attorneys for the DHS filed an opposition on December 4, 2026. Mr. Murugavel filed a response to the DHS response on the same day.

39. At a December 22, 2025, hearing, the IJ denied his motion to reconsider.

40. On January 6, 2026, the IJ denied Mr. Murugavel's second request for bond. Again, the IJ

found him to be a flight risk despite his engagement to a U.S. citizen, business ownership, extensive community ties, property ownership, business ownership, current U nonimmigrant petition, and his lack of a criminal history.

41. On February 12, 2026, the IJ ordered Mr. Murugavel removed from the United States. He reserved appeal and presented his appeal to the Board of Immigration Appeals on February 26, 2026. The appeal was acknowledged and receipted by the BIA on March 2, 2026.

LEGAL FRAMEWORK

I. U VISA PROCESS

42. Congress has authorized DHS to grant so-called “U visas” to noncitizen victims of serious crimes who cooperate with law enforcement and to noncitizens’ qualifying family members. 8 U.S.C. §§ 1103(a)(1), 1101(a)(15)(U); 8 C.F.R. § 214.14(a)(10). Management of the U visa applicant process is delegated to the USCIS, an agency within DHS. 6 U.S.C. § 112(b)(1); 8 C.F.R. § 214.14. Noncitizens can petition for U nonimmigrant status by filing Form I-918, *Petition for U Nonimmigrant Status* and for work authorization by filing Form I-765. They can seek U nonimmigrant status for their qualifying family members by filing a supplement to Form I-918. 8 C.F.R. § 214.14(c)(1).

43. Congress capped the number of U visas that can be granted to principal applicants at 10,000 per year. 8 U.S.C. § 1184(p)(2)(A). The cap does not apply to qualifying family members. *See id.* § 1184(p)(2)(A); 8 C.F.R. § 214.14(f)(6)(i). Far more than the annual statutory cap are eligible for U visas. For instance, in 2020, USCIS received more than 22,000 U visa applications from victims of crime. This imbalance has created an extensive backlog requiring eligible applicants to wait years between filing for the U visa and final approval.

44. To accommodate this deluge of applications, DHS created a three-step waitlist framework for applicants: (1) a U visa application is submitted; (2) an application is approved, and the petitioner is put onto a U visa waitlist; and (3) a U visa is granted. 8 C.F.R. § 214.14.

45. First, a noncitizen petitions USCIS for U nonimmigrant status for themselves by filing Form I-918 with appropriate supplements. 8 U.S.C. § 1101(a)(15)(U)(i); 8 C.F.R. § 214.14(c)(1), (f)(1), (f)(2). USCIS considers whether the principal applicant is eligible for a U visa. 8 U.S.C. § 1101(a)(15)(U)(i), (iii). Under 8 U.S.C. 1184(p)(6), “[t]he [DHS] Secretary may grant work authorization to any [noncitizen] who has a pending, bona fide application for nonimmigrant status under section 1101(a)(15)(U) of this title.” But, until June 2021, DHS had never implemented a regime to grant work authorization to persons with “pending, bona fide” U visa applications.

46. Second, if USCIS decides that the principal petitioner qualifies for a U visa but cannot be granted the visa solely because of the statutory cap, USCIS approves the application and the applicant “must be placed on [the] waiting list” per DHS regulations. 8 C.F.R. § 214.14(d)(2). When a principal petitioner is placed on the waitlist, they and their qualifying family members “will” be accorded deferred action status, and USCIS maintains “discretion” to grant them work authorization. *Id.*

47. Third, USCIS grants the principal applicant’s U visa and accords U nonimmigrant status to the petitioner and their qualifying relatives. 8 C.F.R. § 214.14(c)(5), (f)(6). USCIS automatically issues employment authorization to the noncitizens per 8 U.S.C. § 1184(p)(3)(B) – which stipulates that “the Attorney General shall...provide the [noncitizen] with the employment authorization” – and DHS regulations, 8 C.F.R. § 214.14(c)(7), (f)(7).

II. BONA FIDE DETERMINATION PROCESS

48. USCIS updated its Policy Manual on June 14, 2021, to implement a new “Bona Fide Determination Process” (BFD process). *USCIS, Policy Alert at 2 (June 14, 2021)* www.uscis.gov/sites/default/files/document/policymanualupdates/2021_0614-VictimsOfCrimes.pdf (*Policy Alert*). The BFD process is now found in Volume 3, Part C, Chapter 5 of the Policy Manual. *See USCIS, Policy Manual, Vol. 3, Part C, Ch. 5*, Petition for Writ of Habeas Corpus 12

<https://www.uscis.gov/policy-manual/volume-3-part-c-chapter-5>. USCIS immediately implemented the BFD process, which applies to all I-918 petitions that are pending or filed on or after June 14, 2021.

49. The BFD process outlines the following procedure. When USCIS receives a Form I-918, USCIS “first determines whether [the] pending petition is bona fide.” BFD Process, *supra*, *Introduction*; see also *Policy Manual, supra, Vol. 3, Part C, Ch. 5, Appendix: Bona Fide Determination Flowchart*, <https://www.uscis.gov/sites/default/files/document/policy-manual-resources/Appendix-BonaFideDeterminationProcessFlowchart.pdf> (*Flowchart*). The manual defines “bona fide” as “made in good faith; without fraud or deceit” and explains what a bona fide determination entails. BFD Process.

50. If USCIS decides that the U visa is not bona fide, the agency puts the application on the waitlist track. USCIS assesses whether the principal petitioner is eligible for the U visa waitlist. If the applicant is deemed eligible, USCIS places them on the waitlist and decides whether to grant them work authorization. The principal petitioner is then placed in a pool of persons waiting for USCIS to grant them a U visa. *Flowchart, supra*. If the petitioner is considered ineligible for the waitlist, their U visa petition is denied.

51. Recently, the BIA has vacated and overruled decades of analysis regarding what statutory detention scheme for people who have entered without inspection. In *Matter of Yajure Hurtado*, the BIA held that all noncitizens who enter without inspection are subject to mandatory detention under INA § 235(b)(2). 29 I&N Dec. 216 (BIA 2025). It created a sweeping new rule that strips most noncitizens who entered without inspection of the right to seek bond from an IJ, regardless of how long they have been residing in the country and where they were apprehended by immigration

authorities. In the interest of judicial economy, the Plaintiff chooses to address this hypothetical argument, in the event that DHS chooses to ignore decades of legal analysis regarding statutory interpretation in favor of *Matter of Yajure Hurtado*, *supra*.

52. The INA prescribes three basic forms of detention for noncitizens in removal proceedings. First, INA § 236 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an IJ. *See* INA § 236; 8 U.S.C. § 1229a. Individuals in INA § 236(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* INA § 236(c). Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under INA § 235(b)(1) and for other recent arrivals seeking admission referred to under INA § 235(b)(2). Finally, the Act also provides for detention of noncitizens who have been previously ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

53. The detention provisions at INA § 236(a) and § 235(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 236(c) was most recently amended earlier this year by the LRA, Pub. L. No. 119–1, 139 Stat. 3 (2025).

54. Following the enactment of the IIRIRA, the Executive Office of Immigration Review drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under INA § 235 and that they were instead detained under INA § 236(a). *See* 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). In the decades that followed, most noncitizens who entered without inspection—unless they were subject to some other detention authority—received bond hearings. This practice was also

consistent with the practice prior the enactment of the IIRIRA, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

55. If USCIS decides that the U visa application is bona fide, the agency puts the principal petition on the BFD Employment Authorization Document Track. USCIS “in its discretion[] determines whether the petitioner poses a risk to national security or public safety” and whether “other adverse factors weigh against a favorable exercise of discretion” “on a case-by-case basis.” BFD Process, *Introduction & § B*. “If USCIS determines [that] a principal petitioner and any other qualifying family members have a bona fide petition and warrant a favorable a favorable exercise of discretion, USCIS issues them BFD EADs and grants deferred action.” *Id.* Only if the principal petitioner receives a BFD EAD does USCIS adjudicate whether the qualifying family members’ I-918 supplement is bona fide and whether the family members are entitled to BFD EADs. The principal petitioner is then placed in a pool of persons awaiting the grant of a U visa. Flowchart, *supra*. But if USCIS decides not to issue a BFD EAD to a principal petitioner, the agency considers whether the principal petitioner is eligible for the waitlist. *Id.*

CAUSE OF ACTION I
**Violation of the Immigration and Nationality Act (INA) and
Implementing Regulations**

56. Mr. Murugavel incorporates by reference paragraphs 1 – 54.

57. ICE's continued detention of Mr. Murugavel violates 8 U.S.C. § 1101(a)(15)(U), implementing regulations 8 C.F.R. § 214.14(d)(2) and the policies of the U-visa program, which provide for deferred action upon prima facie eligibility.

58. Mr. Murugavel has received a grant of deferred action from the Respondents and has a waiver of inadmissibility currently pending. However, despite the Respondents granting deferred action, they have taken him into custody and are processing him for imminent deportation from the United States.

59. Respondents' failure to recognize Mr. Murugavel's facially valid, and legally obtained BFD document and all the benefits it conveys is arbitrary, capricious, and contrary to law.

60. Only individuals living in the United States may receive BFD EADs, since those outside the United States cannot as a practical matter work in the United States. Likewise, deferred action can only be accorded to applicants in the United States since those outside the United States have no potential removal to be deferred. Respondents' position to the contrary fails to comport with law and is therefore unlawful.

61. Respondents' detention of Mr. Murugavel in spite of his being afforded BFD protections is contrary to the law.

COUNT TWO
Violation of Fifth Amendment Right to Due Process

62. Mr. Murugavel incorporates by reference paragraphs 1 – 54.

63. The Fifth Amendment guarantees liberty and requires that immigration detention be reasonably related to a legitimate governmental purpose. Mr. Murugavel's detention, in light of the prima facie U-visa determination, is arbitrary and capricious.

64. Under the Fifth Amendment to the United States Constitution, those threatened with the loss of liberty or property due to actions by the federal government are entitled to due process of law.

65. Mr. Murugavel, as a BFD recipient who has tendered and paid for his employment authorization document in conformance with USCIS procedures and received assurances that he was eligible to secure that document, has a liberty interest in being able to obtain the benefits he was granted. This protected liberty interest flowed from the statute and regulations which permitted Mr. Murugavel's BFD grant, and the actual grant of BFD.

66. Mr. Murugavel has followed the legal requirements to obtain benefits under the U-visa program and indeed has been granted them under the regulations. Respondents' efforts to now unilaterally and without due process strip him of those benefits is unlawful under the Fifth Amendment of the Constitution.

67. Mr. Murugavel has complied with each and every requirement USCIS and Respondents have imposed upon him. He has applied for U-visa benefits and provided all requested information, including biometrics and fees. Despite each of these things, Respondents never alerted Mr. Murugavel to any issues or concerns at any point prior to their unlawful detention and threats to remove him and dissolve his BFD benefits unilaterally, without notice and without justification.

68. Respondents cannot effectuate de facto termination of his BFD, without proper procedures consistent with the Due Process clause. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 n.8 (1954).

69. Procedural due process requires, in most cases, a hearing of some kind. *Mathews v. Eldridge*, 424 U.S. 319, 332-333, 96 S.Ct. 893, 901-902 (1976). The process depends on three factors:

[f]irst, such the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of interest probable procedural value, through the procedures used, and the if any, safeguards; and of additional finally, or the substitute Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Id.* 424 U.S. at 335, 96 S.Ct. at 903.

70. Mr. Murugavel has a fundamental liberty interest in the benefits he has obtained under his BFD grant.

71. The procedures employed by Respondents offered Mr. Murugavel no hearing, no notice, and no opportunity to be heard.

72. Respondents had multiple other means available to achieve their objective without denying Mr. Murugavel procedural fairness.

73. The cost and administrative burden of adopting these alternate procedures would be minimal, as the Respondents already possesses an entire agency dedicated to processing removal cases.

74. Instead, Respondents have acted with complete disregard to due process by unlawfully acting in a way to terminate his BFD and unlawfully detain him under a threat of removal. Such unlawful actions threaten Mr. Murugavel's constitutionally protected interest in his interim benefits in the short term and his U-visa filings in the long term.

75. Given Mr. Murugavel's rights and interests, the Government's interests, and the cost and availability of alternate means of protecting the Government's objectives, the procedures employed by Respondents are wholly unlawful and contrary to their own policy and law.

PRAYER FOR RELIEF

WHEREFORE, Mr. Murugavel prays that this Court grant the following relief:

1. Issue a writ of habeas corpus directing the Respondents to immediately release Mr. Murugavel from detention.
2. Issue a temporary restraining order prohibiting Mr. Murugavel's removal or continued detention while this petition is pending.
3. Declare that Mr. Murugavel's detention is unlawful in light of the prima facie U visa determination.
4. Award reasonable attorney's fees and costs under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412.
5. Grant any other relief the Court deems just and proper.

Dated: March 12, 2026

Respectfully submitted,

/s/ Nathan R. Bogart
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COUNSEL FOR PETITIONER

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

I am submitting this verification on behalf of the Petitioner because I am one of the Petitioner's attorneys. I have discussed with the Petitioner's legal team the events described in this Petition. On the basis of those discussions, on information and belief, I hereby verify that the factual statements made in the attached Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: Fayetteville, AR
May 12, 2026

By: /s/ Nathan R. Bogart
Nathan R. Bogart,
COUNSEL FOR PETITIONER