UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MEHDI ESMAEILI GOLLOO

Petitioner,

v.

FREDERICK J. AKSHAR II, in his official capacity as Sheriff of Broome County, New York; PHILIP L. RHONEY, in his official capacity as Acting Field Office Director, Buffalo ICE Field Office; KRISTI NOEM, in her official capacity as Secretary of Homeland Security; TODD M. LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement; and PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

Docket No.: 9:26-cv-401 (MAD)

VERIFIED PETITION FOR A WRIT OF HABEAS CORPUS

1. Petitioner is a citizen and national of Iran.

2. He last entered the United States on or about September 4, 2024.

3. On October 25, 2024, he was issued a Notice to Appear that designated him as Entry Without Inspection ("EWI") and as an individual who was given an expedited removal order, passed a credible fear interview, and put into removal proceedings.

4. His case is currently on appeal at the Board of Immigration Appeals.

5. Petitioner has been detained since he arrived in the United States.

6. In *Black v.* Decker, the United States Court of Appeals for the Second Circuit held that a "noncitizen's constitutional right to due process precludes . . . unreasonably prolonged detention under 8 U.S.C. § 1226(c) without a bond hearing." 103 F.4th 133, 138 (2d Cir. 2024)

7. As discussed more fully before, while those detained under 8 U.S.C. § 1225(b)(1) are mandatorily detained pursuant to the statute, the logic of *Black v. Decker* should also apply to those detained pursuant to 8 U.S.C. § 1225(b)(1) using the framework outlined in *Mathews v. Eldridge*, 424 U.S. 319 (1976),

8. For these reasons, Petitioner requests that the Court grant his petition and order that the government provide him with a custody redetermination (bond) hearing before an immigration judge ("IJ") with the burden on the government to prove by clear and convincing evidence that Petitioner is a danger to persons or property or a flight risk and that no alternatives to detention can mitigate that risk. In addition, the IJ should consider Petitioner's ability to pay any bond.

CUSTODY

9. At the time of the filing of this Petition, Petitioner is physically detained at the Broome County Jail in Binghamton, New York under the physical control of Sheriff Frederick J. Akshar II. Respondent Philip L. Rhoney, the Acting Director of the Buffalo ICE Field Office, and his agents have direct control of Petitioner. The other Respondents have some level of legal control over Petitioner and authority to detain or release him now and in the future.

JURISDICTION

10. This action arises under the United States Constitution and the ("INA"), 8 U.S.C. § 1101 et. seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, 110 Stat. 1570. This Court has jurisdiction under 28 U.S.C. § 2241, art. I, § 9, cl. 2 of the United States Constitution ("Suspension Clause") and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States and such

custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

11. Venue lies in the United States District Court for the Northern District of New York, the judicial district where Petitioner is detained and where a substantial part of the events or omissions giving rise to this claim occurred. 28 U.S.C. § 1391(e).

PARTIES

12. Petitioner is a national and citizen of Iran who is currently detained in the Broome County Jail in Binghamton, New York.

13. Respondent Frederick J. Akshar II is the Sheriff of Broome County and the officer-in-charge of the Broome County Jail. He has physical control over Petitioner. He is named in his official capacity.

14. Respondent, Philip L. Rhoney is the Acting Field Office Director for Immigration and Customs Enforcement ("ICE") in Buffalo and has physical and legal custody over Petitioner as Petitioner is detained within the jurisdiction of the Buffalo ICE Field Office. Respondent Rhoney is named in his official capacity.

15. Kristi Noem is the Secretary of Homeland Security and is the senior official responsible for supervising all activities within the Department of Homeland Security, including immigration activities. She is a legal custodian of Petitioner and is named in her official capacity.

16. Upon information and belief, Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). He is a legal custodian of Petitioner and is named in his official capacity.

17. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the Board of Immigration Appeals.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. To the extent required, Petitioner has exhausted his administrative remedies as required by law and his only remedy is by way of this judicial action. *Mathon v. Feeley*, No. 20 CV-07105-FPG, 2021 U.S. Dist. LEXIS 260853, at *6-7 (W.D.N.Y. Oct. 13, 2021).

STATEMENT OF FACTS

19. Petitioner is a native and citizen of Iran. A true and accurate copy of his Notice to Appear ("NTA"), dated October 25, 2024, is attached as **Exhibit A**.

20. On or about September 4, 2024, Petitioner came to the United States. **Exhibit B**,

21. On or about September 6, 2024, the Department of Homeland Security ("DHS") issued him an expedited removal order. A true and accurate copy of the Notice and Order of Expedited Removal is attached as **Exhibit B**.

22. He claimed a fear of returning to Iran.

23. On October 24, 2024, Petitioner received a credible fear interview.

24. Petitioner was found credible, and DHS issued an NTA. **Exhibit A**.

25. On or about May 13, 2025, an immigration judge ordered Petitioner removed.

26. Petitioner subsequently appealed the order of removal.

27. Petitioner also filed a motion to remand based on changed country conditions.

28. DHS has detained Petitioner now for almost 18 months.

LEGAL FRAMEWORK

I. PETITIONER IS DETAINED UNDER 8 U.S.C. § 1226(b)(1)(B)(ii) AND DUE PROCESS REQUIRES THAT, AT A MINIMUM, HE RECEIVE A BOND HEARING.

A. Legal framework governing detention of non-citizens in Expedited Removal.

29. The INA contains two provisions that govern the detention of non-citizens who are detained under 8 U.S.C. § 1225.

30. 8 U.S.C. § 1225(b)(1) generally applies to those noncitizens "initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." This section also applies to other aliens who receive a special designation by the Attorney General of the United States. 8 U.S.C. § 1225(b)(1)(A)(iii). This is commonly known as "expedited removal."

31. Noncitizens who fall under 8 U.S.C. § 1225(b)(1) are subject to immediate removal unless they make a fear-based claim. Upon making that claim, if they pass a credible fear interview, they are placed in removal proceedings, where their fear-based application is considered. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Noncitizens who either do not make a fear-based claim or do not make a credible fear-based claim are detained until removal. 8 U.S.C. §§ 1225(b)(1)(A)(ii), (B)(iii)(IV). Those who make a credible fear-based claim are detained while an immigration court considers the non-citizen's claim. *Jennings*, 583 U.S. at 287, citing 8 U.S.C. § 1225(b)(1)(B)(ii).

32. DHS typically takes the position that detainees like Petitioner (i.e., those being held pursuant to 8 U.S.C. § 1225(b)(1)(B)(ii) awaiting a final decision on their asylum applications) are not entitled to a bond hearing because neither the statute nor its implementing regulations provide for it. *See Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019). However, more recently, federal courts that have considered the issue have held that, in accord with the Second

Circuit's decision in *Black v. Decker*, 103 F.4th 133 (2d Cir. 2024), due process dictates that detainees like Petitioner are entitled to a bond hearing when their detention becomes unreasonably prolonged. *See Al-Thuraya v. Warden, Orange Cnty. Corr. Facility*, 2025 U.S. Dist. LEXIS 200607, *13 (S.D.N.Y. October 9, 2025) (collecting cases). *Jennings* only holds that there is no statutory requirement that Petitioner receive a bond hearing. That case is silent on whether the Due Process Clause of the Fifth Amendment requires that Petitioner receives a bond hearing.

B. Petitioner's Detention Violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution.

33. The Due Process Clause of the Fifth Amendment of the U.S. Constitution prevents the "Government from depriving any person of 'life liberty or property, without due process of law.'" *J.U. v. Maldonado*, 2025 U.S. Dist. LEXIS 191630, at *27 (E.D.N.Y. September 29, 2025) "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

34. It is well-established that the Due Process clause "applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

35. In *Black*, 103 F.4th at 133, the Second Circuit instructed that, in determining whether due process dictates that a detainee have a bond hearing, district courts should evaluate the three factors set forth by the Supreme Court in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). This analysis requires courts to consider (1) the private interest that will be affected by the government action; (2) the risk of erroneous deprivation of that interest through the procedures used; and (3) the government's interest. Id.

36. With respect to the first factor, "the private interest affected by the official action is the most significant liberty interest there is—the interest in being free from imprisonment." *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020). "Case after case instructs us that in this country liberty is the norm and detention 'is the carefully limited exception.'" *Id.* (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987).

37. Here, Petitioner is being detained indefinitely and without an individualized determination.

38. Accordingly, Petitioner has established his liberty interest, and this factor weighs heavily in his favor.

39. As to the second factor, courts look to "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards." *Mathews*, 424 U.S. at 335. Under 1225(b)(1)(B)(ii), there are no procedural safeguards in place to determine whether Petitioner's detention has become unreasonable. Thus, any additional safeguard against unreasonable detention will be valuable. *See Black*, 103 F.4th at 153 ("In the absence of any meaningful initial procedural safeguards, it appears to us that almost any additional procedural safeguards at some point in the detention would add value. The most obvious of these—and that sought by Petitioner—would be an individualized bond hearing at which an IJ can consider the noncitizen's dangerousness and risk of flight.").

40. So, the second Mathews factor also weighs heavily in Petitioner's favor.

41. As to the third factor, admittedly, the government's interest in detaining individuals is valid where it advances a legitimate governmental interest, such as "ensuring the appearance of aliens at future immigration proceedings and preventing danger to the community." *Valdez v. Joyce*, 2025 U.S. Dist. LEXIS 117131, *8 (S.D.N.Y. June 18, 2025) (quoting *Zadvydas*, 533 U.S.

at 690). However, to the extent that DHS believes that Petitioner poses a danger to the community or is a flight risk, it can raise those concerns before an IJ in a bond hearing. Therefore, this factor also heavily favors Petitioner as well.

42. As all three factors strongly favor the Petitioner, DHS's ongoing detention of Petitioner without a custody redetermination hearing violates his due process rights.

43. The proper remedy here to cure the due process violation is Petitioner's immediate release or a bond hearing, with the burden on the government to show by clear and convincing evidence that he is a danger to persons or property or a flight danger and that no alternatives to detention exist to mitigate that danger and the Petitioner's ability to pay. *See Velasco Lopez*, 978 F.3d at 854-57; *Ortiz v. Freden*, 2025 U.S. Dist. LEXIS 217654, at *28-29 (W.D.N.Y. November 4, 2025).

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION
(Due Process Clause)

49. Petitioner re-alleges and incorporates by reference each and every allegation contained above.

50. Petitioner is detained under 8 U.S.C. § 1225(b)(1)(B)(ii).

51. Petitioner has not been, and will not be, provided with a bond hearing due to current DHS policy.

52. Petitioner's continued detention without the ability to obtain a bond hearing is therefore unconstitutional as it violates the Due Process Clause of the U.S. Constitution.

53. Because Petitioner's detention is unconstitutional under the Due Process Clause of the Fifth Amendment to the United States Constitution, he is entitled to receive a bond hearing before an immigration judge with strong procedural protections.

54. Therefore, if the Court does not release Petitioner outright, Petitioner requests a court order that he is entitled to a bond hearing in front of an immigration judge with the burden on the government to prove by clear and convincing evidence that he is not a danger to the public or property and not a flight risk and to likewise demonstrate by clear and convincing evidence that no alternatives to detention can mitigate the risk of flight or danger or on conditions the Court deems just nd proper. *See Velasco Lopez*, 978 F.3d at 854-57; *Ortiz*, 2025 U.S. Dist. LEXIS 217654, at *28-29.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;

2. Issue an order barring respondents from transferring Petitioner from the geographic jurisdiction of the Northern District of New York while these proceedings are pending.

3. Issue an order to Respondents, returnable in three days and no later than 20 days, to show cause as to why the Petition should not be granted.

4. Issue an order or orders requiring the following:

   a. Declare Petitioner's detention to be unconstitutional;

   b. Order Petitioner's immediate release from custody, or, in the alternative, order a bond hearing before an immigration judge in which the burden is on the government to show by clear and convincing evidence that Petitioner is a danger or flight risk and that no alternatives to detention could mitigate the risk of danger or flight together with the Petitioner's ability to pay; and

5. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

6. Grant any other relief which this Court deems just and proper.

DATED: March 16, 2026
Batavia, New York

Respectfully submitted,

Aaron J. Aisen

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I submit this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I verify that the statements made in this Verified Petition for a Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED: March 16, 2026
Batavia, New York

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