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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

Mojisola Sofiyat Tijani,

Petitioner,

v.

Jason Streeval, *in his official capacity as
Warden, Stewart Detention Center,*

Respondent.

Civil Action No.

**PETITION FOR A WRIT OF HABEAS
CORPUS AND INJUNCTIVE RELIEF**


INTRODUCTION


1. This case challenges the ongoing unlawful detention of Mojisola Sofiyat Tijani (“Petitioner” or “Ms. Tijani”), a twenty-year-old female who has spent her entire formative life in the United States after lawfully entering the United States as a child with her mother. She is currently held by U.S. Immigration and Customs Enforcement (“ICE”) at Stewart Detention Center in Lumpkin, Georgia.
2. Ms. Tijani has remained in custody since about June 2025, now approaching one year, based on custody determinations that are constitutionally defective at their procedural foundation.
3. Ms. Tijani is detained under 8 U.S.C. § 1226(a), which authorizes discretionary detention pending removal proceedings. Three bond hearings have been held across nearly a year of

confinement. Across all three hearings, the government has never been required to present a single piece of evidence justifying Ms. Tijani's continued detention. At each stage, the constitutionally mandated burden of proof was placed on Ms. Tijani, an incarcerated young woman with severe, documented psychiatric conditions, rather than on the government that seeks to hold her.

4. The Immigration Judge's August 5, 2025 written decision represents the only bond determination in the record with specific findings and reveals two independent constitutional violations. First, the Court applied the wrong legal standard: it placed the burden of proof on Ms. Tijani to demonstrate non-dangerousness, rather than requiring the government to prove by clear and convincing evidence that she poses a current danger or flight risk. Second, upon finding that the government's threshold had been met, the Court declared that "there is no way to mitigate danger" and categorically refused to consider whether any combination of release conditions, electronic monitoring, family supervision, structured psychiatric treatment, GPS ankle monitoring, daily medication observation could address any legitimate safety concern. That categorical refusal violated the Fifth Amendment's demand for individualized assessment.

5. These procedural violations are compounded by an internal contradiction in the government's own litigation positions that independently requires relief. Nine days after the August 5 bond hearing at which the government required Ms. Tijani to bear the full burden of proving she was not a danger, the government's own chief counsel stood before Judge Brown and represented that Ms. Tijani was mentally incompetent to assist in her own removal proceedings. The government cannot require a person to bear the burden of proof while simultaneously representing to another tribunal that the person lacks the mental capacity to participate in legal proceedings. These are irreconcilable positions applied to the same person, during the same period of confinement, to produce the same outcome: continued detention.

6. The record of Ms. Tijani's detention is not a generic immigration enforcement record. It is a trauma- and disability-implicated record. Ms. Tijani carries documented diagnoses of 



7. While in custody, Ms. Tijani was placed on multiple suicide watches, placed in medical observation, and subjected to a psychiatric hospitalization because multiple ICE facilities across the country acknowledged they were not equipped to manage her psychiatric care. When she was finally transferred to a dedicated mental health facility, the Alvarado Parkway Institute in La Mesa, California, and provided with appropriate psychiatric medication, she stabilized. Her suicidal ideation diminished. The combative episodes that the government characterized as evidence of "danger" ceased. The record thus proves what the Immigration Judge's speculation denied: when Ms. Tijani receives treatment, the feared behavior does not occur.

8. This Petition does not ask the Court to substitute its judgment for the agency on questions of discretion. It asks the Court to ensure that the next bond hearing, if one is required before release, is conducted under constitutionally adequate procedures: with the burden of proof on the government, by clear and convincing evidence, and with the Immigration Judge required to conduct an individualized assessment of whether less restrictive alternatives to continued detention would address any legitimate concern. That is the relief the Fifth Amendment requires and that this Court has authority to grant.

9. Ms. Tijani has been detained for nearly one year. Her BIA appeal remains pending with no definite timeline for resolution. Every day of continued confinement in a facility that has documented its inability to manage her psychiatric needs imposes irreparable harm on a twenty-year-old domestic violence survivor who has no criminal convictions, whose underlying charges

were dismissed, and whose family stands ready to provide structured supervised care, including inpatient treatment at North Atlanta Behavioral Health Center, where Petitioner has already been accepted, has completed intake, and intends to begin immediately once custody proceedings permit. This Court should grant the writ.

JURISDICTION AND VENUE

10. This Court has jurisdiction under 28 U.S.C. § 2241, which grants federal courts authority to issue writs of habeas corpus to persons held in custody in violation of the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3).
11. This Court also has jurisdiction under 28 U.S.C. § 1331, which provides federal question jurisdiction. Petitioner asserts claims arising under the Fifth Amendment to the United States Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.
12. In *INS v. St. Cyr*, 533 U.S. 289 (2001), the Supreme Court held that federal courts retain habeas corpus jurisdiction under 28 U.S.C. § 2241 notwithstanding the restrictions enacted in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). Habeas review under Section 2241 remains available for constitutional challenges to immigration detention.
13. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court reaffirmed that “constitutional challenges to detention are properly brought in a habeas petition.” *Id.* at 291. In *Demore v. Kim*, 538 U.S. 510 (2003), the Supreme Court confirmed that district courts retain jurisdiction to entertain habeas petitions raising “colorable constitutional claims” arising from immigration detention. *Id.* at 516-17.
14. This Petition presents two independently cognizable constitutional claims: that the procedures used at Ms. Tijani’s bond hearings violated the Fifth Amendment’s Due Process

Clause, and that her prolonged detention without constitutionally adequate review is unlawful. Neither claim asks this Court to review or set aside any discretionary judgment of the Attorney General within the meaning of 8 U.S.C. § 1226(e). Both claims challenge the constitutional adequacy of the procedures that produced those judgments, which is a category of review that § 1226(e) does not foreclose. *See Demore*, 538 U.S. at 516-17.

15. Venue is proper in the Middle District of Georgia because Petitioner is currently detained at Stewart Detention Center in Lumpkin, Georgia, which is located within this District. *See* 28 U.S.C. § 2241(d).

16. Petitioner has exhausted her administrative remedies with respect to her bond proceedings. She has appeared before immigration judges on three occasions and has been denied bond each time. No further administrative mechanism exists to challenge the constitutionally defective procedures used at those hearings.

17. Petitioner is currently in the physical custody of Respondent within the jurisdiction of the Middle District of Georgia.

PARTIES

18. Petitioner Mojisola Sofiyat Tijani is a twenty-year-old citizen of Nigeria who has resided in the United States since August 10, 2017, when she entered on a B-2 nonimmigrant visitor visa at the age of twelve. She has spent her entire adolescence and adult life in the United States.

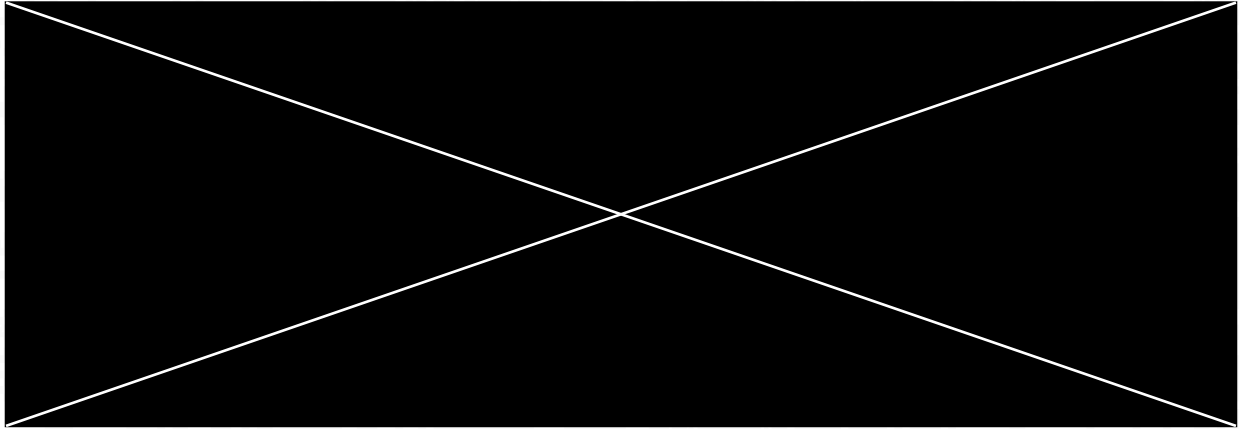
19. Petitioner is currently detained at Stewart Detention Center in Lumpkin, Georgia.

20. Respondent, Jason Streeval, Warden of Stewart Detention Center, has immediate custody over Petitioner and is responsible for the conditions and administration of her confinement. The Warden is the proper Respondent for this immigration-related Petition.

FACTUAL BACKGROUND

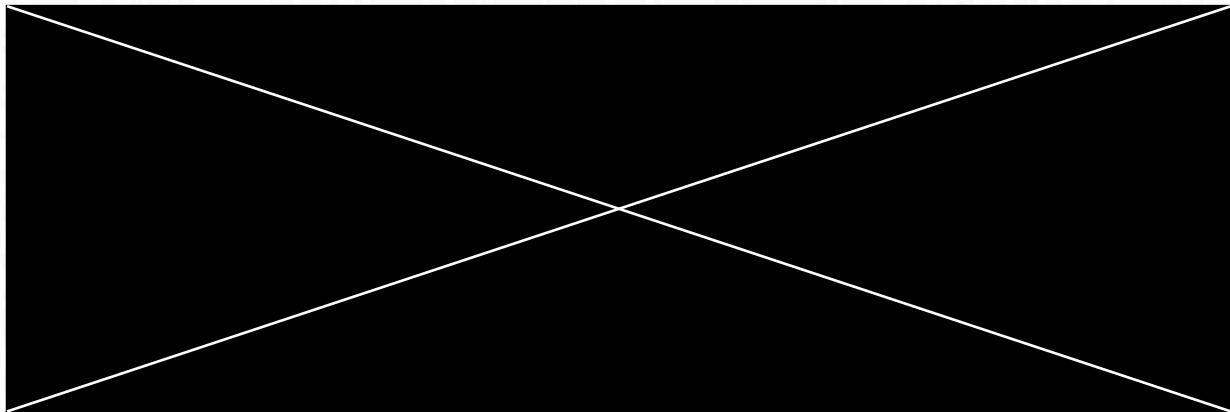
A. Background and Family Ties

21. Mojisola Sofiyat Tijani was born in Nigeria in [REDACTED]. She entered the United States on August 10, 2017, at age twelve, on a B-2 nonimmigrant visitor visa, together with her mother, Fausat Onajoke Tijani. She has resided continuously in the United States since that date, a period now spanning nearly nine years. Her entire family is in the United States.
22. Ms. Tijani's sister, Eniola Tijani, is a lawful permanent resident. Her other sister, Damilola, is a U.S. citizen. Her mother has a pending Violence Against Women Act (VAWA) I-360 self-petition filed on or about January 10, 2024, which has been pending with U.S. Citizenship and Immigration Services for over two years. Ms. Tijani is a derivative beneficiary of her mother's VAWA petition.
23. Ms. Tijani is protected as a derivative VAWA beneficiary under the Child Status Protection Act (CSPA). She was eighteen years old when the I-360 was filed on January 10, 2024. Under CSPA, her age is frozen as of the petition filing date, and she remains an eligible derivative beneficiary as an unmarried child who was under 21 at the time of filing. Her pending I-360 application was assigned a receipt date of January 8, 2024.
24. Ms. Tijani has no criminal convictions. Prior to her detention, Ms. Tijani was enrolled in classes at Georgia Gwinnett College. She has a verifiable address in the United States where her family resides and is prepared to receive her. Her sister, Eniola, has agreed to serve as custodial sponsor and to accept legal responsibility for ensuring Ms. Tijani's compliance with all conditions of release. A team of mental health professionals, including a named psychiatrist and her treating therapist [REDACTED] who has met with Ms. Tijani approximately 85 times over a two-year period, is prepared to resume treatment immediately upon release.



B. Mental Health History and Diagnoses

26. Ms. Tijani's documented diagnoses include [REDACTED]
[REDACTED] She has a documented history of suicidal ideation, multiple prior suicide attempts, self-injurious behavior, and auditory hallucinations, including hearing voices and whispers calling her name. These conditions are the direct result of the prolonged abuse she suffered and the resulting trauma.



28. [REDACTED] who provided therapy to Ms. Tijani approximately 85 times over the two years preceding her detention, observed meaningful therapeutic progress and described Ms. Tijani as intelligent, thoughtful, kind, gentle, and a person whose struggles were rooted in emotional pain rather than poor character. [REDACTED] is willing and able to resume treatment

immediately upon release and has expressed her clinical opinion that continued detention is causing severe, irreversible psychological harm.

29. Prior to her detention, Ms. Tijani had been prescribed [REDACTED] At the time of her detention, she was not taking any psychotropic medication.


30. Independent psychological evaluation of Ms. Tijani's mother, conducted by [REDACTED] [REDACTED] a licensed professional counselor with experience conducting immigration psychological evaluations, documented the family's history of prolonged abuse and provided additional context regarding the household environment in which Ms. Tijani's trauma occurred.

31. The psychological evaluation evidence and treating clinician records demonstrate beyond any clinical dispute that Ms. Tijani's behavioral episodes, including two 2025 arrests, were manifestations of untreated, acute psychiatric decompensation rather than indicators of a criminal disposition or genuine danger to the community.

C. The 2025 Arrests and Their Dismissal

32. On March 27, 2025, Ms. Tijani was arrested for simple battery, family violence, in violation of O.C.G.A. § 16-5-23(f), arising from a dispute with her mother. When questioned about the incident, Ms. Tijani testified that she had raised her hand but never intended to strike anyone, and that the police were called to de-escalate while she was experiencing acute psychiatric decompensation.

33. On April 29, 2025, Ms. Tijani was arrested a second time for simple battery, family violence, and disorderly conduct, arising from an altercation with her mother over a laptop. Ms. Tijani testified that she had just been released from the hospital where she had sought treatment, had not yet obtained her prescribed medication, and was "not fully aware of herself" because she was "manic." Both the clinical evaluation by [REDACTED] and Ms. Tijani's own testimony

establish that this incident was directly caused by  and the absence of medication.

34. For both arrests, Ms. Tijani was placed in a pre-trial diversion program. On August 26, 2025, the State Court of Gwinnett County issued an Order of Nolle Prosequi, dismissing all charges. Ms. Tijani completed all requirements of the diversion program. She has no criminal convictions.

35. Importantly, the very individuals DHS has characterized as the “victims” of the underlying family incidents do not support a dangerousness finding and do not report any ongoing fear or an inference of present dangerousness. To the contrary, Petitioner’s mother and siblings describe both incidents as family crisis calls made to provide aid for the purpose of de-escalation during Ms. Tijani’s psychiatric decompensation, not as indicative of a sustained pattern of violence, and they explicitly affirm they do not fear Petitioner and fully support release to family supervision with treatment conditions.

36. The Immigration Judge who issued the August 5, 2025 written bond denial acknowledged explicitly: “the Court acknowledges that Respondent’s mental health was the motivating factor in the actions that led to her arrests.” That acknowledgment, as discussed in detail below, makes the Court’s subsequent danger finding, predicated entirely on those same incidents, constitutionally unreliable under *Foucha v. Louisiana*, 504 U.S. 71 (1992), and *Kansas v. Crane*, 534 U.S. 407 (2002).

D. Initiation of Removal Proceedings and Bond Hearings

37. On May 23, 2025, DHS served Ms. Tijani with a Notice to Appear (NTA) charging her as removable under INA § 237(a)(1)(B) for remaining in the United States beyond her authorized period of admission. Ms. Tijani was brought into ICE custody on or about June 2025 while held

on the misdemeanor charges at Gwinnett County, Georgia. She has been continuously detained since that time.

38. On or about June 11, 2025, Ms. Tijani, through then-counsel, submitted a Motion for Custody Redetermination. A custody hearing was held on June 24, 2025. The Immigration Judge denied bond, finding Ms. Tijani to be a danger to the community. No written decision was issued following the June 24 hearing.

39. On August 5, 2025, the Immigration Court issued a written decision and order denying Ms. Tijani's request for bond. That decision, authored by Immigration Judge Bianca H. Brown of the Stewart Immigration Court, is the only decision regarding a bond determination in the record. It is the primary subject of this Petition's constitutional claims.

40. The August 5 written decision placed the burden of proof on Ms. Tijani, citing *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006), and *Matter of Adeniji*, 22 I. & N. Dec. 1102 (BIA 1999), for the proposition that Ms. Tijani "must establish to the satisfaction of the Immigration Judge that she does not pose a danger to the community." The government was not required to present any evidence.

41. The August 5 decision further applied *Matter of Urena*, 25 I. & N. Dec. 140 (BIA 2009), to foreclose consideration of Ms. Tijani's substantial positive equities. The Court stated: "the Court cannot consider Respondent's equities if the Court finds her to be a danger to the community, because there is no way to mitigate danger." This categorical determination was made despite the Court's acknowledgment that Ms. Tijani had a verified home address, family willing to provide supervision, a mental health treatment team ready to begin therapy, and college enrollment. The Court refused to consider whether any combination of release conditions, including electronic

monitoring, family supervision, daily medication observation, GPS ankle monitoring, structured outpatient treatment, would adequately address any safety concern.

42. The August 5 written decision found danger based solely on: (1) two non-conviction incidents that the Court itself acknowledged were products of Ms. Tijani's mental illness; and (2) the speculative prediction that "the Court cannot ensure Respondent takes all prescribed medications and attends all appointments to avoid a future violent event." The government introduced no evidence of current dangerousness.

43. On August 14, 2025, nine days after the August 5 written bond denial, Ms. Tijani appeared before Judge Brown for her a Master Calendar Hearing. At that hearing, DHS Chief Counsel requested, and Judge Brown found, that Ms. Tijani was mentally incompetent to participate in her own removal proceedings. Ms. Tijani was subsequently referred for competency evaluation and restoration services.

44. The government's incompetency finding is irreconcilable with its position in the bond proceedings before Judge Brown. In the bond hearing, the government required Ms. Tijani to bear the full burden of proving she was not a danger, placing the entire evidentiary obligation on a person whom, nine days later, the government itself represented was mentally incompetent to assist in legal proceedings. These positions cannot both be true, and the combination of the two constitutes an independent due process violation.

45. Following the incompetency finding, Ms. Tijani was transferred to multiple ICE detention facilities across the country because each facility acknowledged it was not equipped to manage her psychiatric care. She was ultimately placed at the Alvarado Parkway Institute in La Mesa, California, a dedicated mental health facility. At Alvarado, Ms. Tijani was provided with

appropriate psychiatric medication. Her mental health stabilized. Her suicidal ideation diminished. She was able to communicate meaningfully with family and counsel.

46. ICE's own conduct underscores that continued detention is not serving a valid regulatory purpose. Ms. Tijani was transferred through multiple facilities because ICE detention sites repeatedly acknowledged they were not equipped to manage her psychiatric needs, resulting in prolonged instability until she finally received appropriate care at Alvarado. This pattern shows that continued confinement does not mitigate risk; instead, it predictably worsens the very condition the government cites as justification for detention, making the detention decision self-defeating and constitutionally unreliable under the Fifth Amendment.

47. The stabilization at Alvarado directly refutes the Immigration Judge's core rationale for continued detention. The Judge predicted that Ms. Tijani would not comply with medication, rendering her dangerous. The Alvarado records show that when medication was actually provided, a basic medical standard of care, Ms. Tijani complied, stabilized, and the predicted dangerous behavior did not occur. The record therefore supports an essential constitutional point: whatever episodic crisis behavior occurred when she was unmedicated and decompensating is not evidence of *present* dangerousness in a treated, supervised setting, and it cannot justify continued civil confinement where treatment and supervision conditions are available.

48. On October 8, 2025, following Ms. Tijani's transfer out of Georgia, the Stewart Immigration Court granted a change of venue to the Otay Mesa Immigration Court in California. On October 10, 2025, counsel filed a Motion for Speedy Bond Hearing before the Otay Mesa Immigration Court, documenting Ms. Tijani's stabilization at Alvarado and requesting bond or release on recognizance.

49. On October 17, 2025, a third bond hearing was held before Immigration Judge Mark Sameit at the Otay Mesa Immigration Court. The hearing was denied on jurisdictional or procedural grounds. Because DHS had transferred Ms. Tijani to El Paso, Texas, four days prior, the Court found changed circumstances showing was not properly specified in writing per 8 C.F.R. § 1003.19(e). The merits of her stabilization and changed circumstances were not reached.

E. Removal Proceedings and Current Posture

50. At a master hearing on December 11, 2025, Ms. Tijani designated VAWA Special Rule Cancellation of Removal under INA § 240A(b)(2) as her primary form of relief, with Voluntary Departure in the alternative.

51. On January 29, 2026, at her Individual Hearing, Judge Brown denied Ms. Tijani's application for VAWA Special Rule Cancellation of Removal and entered an order of removal.

52. On February 4, 2026, Ms. Tijani filed a timely appeal of the removal order to the BIA. On the same date, she filed an Emergency Motion to Stay Removal pending the BIA's review. The BIA appeal and emergency stay motion remain pending as of the filing of this Petition.

53. While the BIA appeal is pending, Ms. Tijani remains detained under 8 U.S.C. § 1226(a). There is no definite timeline for the BIA to adjudicate her appeal.

54. This Petition does not seek review of the merits of the Immigration Judge's removal order or the denial of cancellation of removal. It challenges only the constitutionality and legality of Ms. Tijani's continued civil detention and the constitutionally defective procedures employed at the bond hearings that have sustained it.

55. Ms. Tijani has now been detained for nearly one year. She has no criminal convictions. The charges that led to her detention were dismissed. Her mental illness, when treated, is manageable. A concrete, detailed release plan, including a named custodial sponsor, a named

treating psychiatrist, immediate resumption of therapy with her long-term therapist, GPS ankle monitoring, weekly ICE reporting, surrender of travel documents, and electronic monitoring, has been available throughout these proceedings. The government has never been required to demonstrate why that release plan is insufficient.

56. To the contrary, Ms. Tijani's release plan is operational and immediately executable by all applicable standards: (i) a custodial sponsor is identified; (ii) transportation to appointments is arranged by family; (iii) treatment providers are identified and prepared to resume care; and (iv) compliance can be tracked through appointment confirmations and medication-log monitoring. If the Court requires further assurance, Petitioner and her family are prepared to implement additional court-supervised safeguards (including formal supportive decision-making measures under Georgia law if ever clinically and legally indicated), but the least restrictive means, family supervision plus structured treatment, more than adequately addresses the government's stated concerns.

57. No evidence suggests she would violate such conditions; to the contrary, Petitioner herself has previously requested such enhanced treatment and continues to do so. She has been admitted to North Atlanta Behavioral Health Center's inpatient treatment program and will start there immediately once custody proceedings allow.

LEGAL BACKGROUND

58. Section 1226(a) of the INA authorizes the Attorney General, in the exercise of discretion, to detain, release on bond, or release on conditional supervision an alien during the pendency of removal proceedings. 8 U.S.C. § 1226(a). Detention under § 1226(a) is discretionary, not mandatory.

59. The statute is silent as to the burden of proof at § 1226(a) bond hearings. The Board of Immigration Appeals, in *Matter of Adeniji*, 22 I. & N Dec. 1102, 1113 (BIA 1999), adopted by reference the standard set forth in 8 C.F.R. § 236.1(c)(8), a regulation governing arrest warrant officers, not immigration judges, and placed the burden on the noncitizen to demonstrate non-dangerousness and non-flight-risk. Neither the Supreme Court nor the Eleventh Circuit has resolved whether this allocation comports with due process.

60. Civil detention during removal proceedings is authorized by law and generally permissible. *See Demore*, 538 U.S. at 523. However, “[l]imitations like the Due Process Clause restrict the Government’s power to detain noncitizens.” *Id.*; *see also Frech v. United States AG*, 491 F.3d 1277, 1281 (11th Cir. 2007) (“It is well settled that individuals in deportation proceedings are entitled to due process of law under the Fifth Amendment.”). Courts must review immigration detention procedures to ensure they comport with the Constitution. *Demore*, 538 U.S. at 521.

61. The procedural requirements of the Fifth Amendment’s Due Process Clause are evaluated under the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Courts weigh: (1) the private interest at stake; (2) the risk of erroneous deprivation through the procedures used and the value of additional safeguards; and (3) the government’s interest, including fiscal and administrative burdens of additional procedures. *Id.*

62. The private interest in freedom from physical incarceration is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). “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). “Commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (emphasis in original).

63. The risk of erroneous deprivation by placing the burden on the detained noncitizen is high. An incarcerated person's ability to gather evidence, communicate with counsel and family, and present a defense is severely restricted. The government, by contrast, maintains extensive immigration databases, interagency records, and enforcement files. "The government is not required to present a shred of evidence, yet it has substantial resources available." *J.G. v. Warden, Irwin Cty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1338 (M.D. Ga. 2020).

64. Applying *Mathews*, the United States District Court for the Middle District of Georgia has held that "placing the burden of proof on a noncitizen at a § 1226(a) bond hearing violates the Fifth Amendment's Due Process Clause" and that "the Government must bear the burden of demonstrating by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk." *J.G.*, 501 F. Supp. 3d at 1341-42. This conclusion is consistent with the holdings of the Second and Ninth Circuits. *See Lopez v. Decker*, 978 F.3d 842, 854-55 (2d Cir. 2020); *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).

65. Due process also prohibits civil confinement predicated solely on mental illness combined with speculative predictions about future dangerousness, without individualized assessment of whether the person currently presents a danger that cannot be adequately addressed through less restrictive means. *Foucha*, 504 U.S. at 77-78. Even in civil commitment of sexually violent predators, the Supreme Court requires "proof of serious difficulty in controlling behavior," and not mere diagnosis, and a meaningful connection between the diagnosis and the specifically predicted dangerous behavior. *Kansas v. Crane*, 534 U.S. 407, 412-13 (2002).

66. Due process also prohibits the Government from taking irreconcilable positions before different tribunals against the same person in proceedings affecting the same liberty interest. Where the government has simultaneously required a detainee to bear a burden of proof and

represented to another court that the same person is legally incompetent, the combination produces an inherently unreliable proceeding.

67. Section 1226(e) bars review of “the Attorney General’s discretionary judgment regarding the application of this section.” 8 U.S.C. § 1226(e). It does not bar habeas review of whether the procedures used to reach a custody determination comport with the Constitution. *See Demore*, 538 U.S. at 516-17; *Jennings*, 583 U.S. at 291. This Petition challenges the constitutional adequacy of the bond hearing procedures, and not the discretionary outcome of any particular bond determination. The relief sought is a new hearing conducted under constitutionally adequate procedures, not judicial substitution for the agency’s discretionary judgment.

**CLAIMS FOR RELIEF
COUNT ONE**

**VIOLATION OF THE FIFTH AMENDMENT DUE PROCESS CLAUSE:
CONSTITUTIONALLY DEFECTIVE BOND HEARING PROCEDURES**

68. The August 2025 bond hearing violated Ms. Tijani’s due process rights in three ways.

69. **First**, at the August 5, 2025 bond hearing, Judge Brown required Ms. Tijani to bear the full burden of demonstrating non-dangerousness. The government presented no affirmative evidence of dangerousness. No burden was placed on the government. This violated the Fifth Amendment’s Due Process Clause.

70. As the United States District Court for the Middle District of Georgia held in *J.G.*, 501 F. Supp. 3d at 1338, applying the *Mathews v. Eldridge* balancing test to § 1226(a) detention: the private interest in freedom from incarceration is fundamental; the risk of erroneous deprivation under the noncitizen-bears-burden procedure is high; and the administrative burden of shifting the burden to the government is minimal given ICE’s access to comprehensive records and investigative resources. On balance, due process requires the government to bear the burden.

71. This conclusion applies with even greater force here than in *J.G.* Ms. Tijani's severe psychiatric conditions directly impaired her ability to gather and present evidence while incarcerated, amplifying the risk of erroneous deprivation beyond what *J.G.* contemplated. An incarcerated person with active psychiatric conditions, documented suicidal ideation, and a history of multiple suicide watches faces a structurally greater evidentiary disadvantage than a detainee without these disabilities.

72. Because the government bore no burden at the August 5 hearing, the hearing failed to provide the constitutionally required procedural safeguard. The resulting bond denial is the product of a constitutionally deficient procedure and cannot stand.

73. **Second**, on August 5, 2025, the government required Ms. Tijani to bear the burden of demonstrating that she was not a danger to the community. Nine days later, on August 14, 2025, the government's own chief counsel appeared before Judge Brown and requested, and obtained, a finding that Ms. Tijani was mentally incompetent to assist in her own removal proceedings.

74. These positions are irreconcilable. Competence to participate in legal proceedings and competence to bear a burden of proof are legally related concepts. A person who lacks the mental capacity to assist in her own defense, the standard for competency in immigration proceedings, cannot meaningfully satisfy the legal burden of demonstrating to a tribunal that she does not pose a danger to the community. The government chose which standard to apply based on which outcome it preferred, not based on any principled legal distinction.

75. This inconsistency independently rendered the August 5 bond hearing constitutionally unreliable. Due process does not permit the government to adopt irreconcilable legal positions regarding the same individual, in proceedings affecting the same liberty interest, to produce the same result.

76. **Third**, Judge Brown’s August 5 decision expressly held: “the Court cannot consider Respondent’s equities if the Court finds her to be a danger to the community, because there is no way to mitigate danger.” This categorical legal rule, which foreclosed consideration of a family-supervised release plan, named psychiatrist, named therapist, GPS monitoring, daily medication observation, and reporting requirements, violated the Fifth Amendment’s Due Process Clause.

77. In *Foucha*, the Supreme Court struck down Louisiana’s civil commitment scheme because, once an individual was classified as dangerous, “the State need prove nothing to justify continued detention, for the statute places the burden on the detainee to prove that he is not dangerous.” *Id.* at 81-82. Judge Brown’s application of *Matter of Urena* applied this unconstitutional structure: danger, once found, became irrebuttable, and no release condition could address it.

78. In *United States v. Salerno*, 481 U.S. 739 (1987), the Supreme Court sustained the Bail Reform Act’s pretrial detention provisions specifically because they required an individualized judicial finding that “no condition or combination of conditions will reasonably assure the appearance of the person” and the safety of the community. 18 U.S.C. § 3142(e). The Constitution permits preventive detention only where the government shows that alternatives will not work.

79. In *Kansas*, 534 U.S. at 412-13, the Supreme Court held that even civil commitment of sexually violent predators requires proof of a meaningful connection between the diagnosis and the specific predicted dangerous behavior, not merely a diagnosis.

80. Here Judge Brown moved directly from “mental illness” to “future danger” without analyzing whether the behavior she feared was likely to recur when Ms. Tijani was medicated, supervised, and enrolled in structured treatment, the very conditions the release plan provided.

81. The Immigration Judge’s categorical rule had no basis in the Constitution. By applying *Matter of Urena* as an absolute bar to considering release conditions once danger was found, the

Court imposed a *per se* rule of indefinite detention for any person with a mental illness history. That rule violates due process.

COUNT TWO
VIOLATION OF THE FIFTH AMENDMENT DUE PROCESS CLAUSE: PROLONGED
DETENTION WITHOUT CONSTITUTIONALLY ADEQUATE REVIEW

82. Ms. Tijani has been detained under 8 U.S.C. § 1226(a) since on or about June 2025. Her BIA appeal remains pending, and there is no definite timeline for its resolution.

83. Civil detention under § 1226(a) is authorized as a means of ensuring appearance at removal proceedings and protecting the community during those proceedings. It is not punitive. “The Government has ‘no . . . punitive interest’ in civil confinement, and [the detainee] ‘may not be punished.’” *J.G.*, 501 F. Supp. 3d at 1337 (*quoting Foucha*, 504 U.S. at 80). Nearly one year of confinement for a twenty-year-old with no criminal convictions approaches the Government’s punishment of persons convicted of serious criminal offenses, while serving no cognizable governmental purpose.

84. The *Mathews* private interest factor grows heavier with each month of continued detention. At one year of confinement, the liberty deprivation Ms. Tijani has experienced is severe and unambiguously beyond what brief civil detention was constitutionally designed to impose.

85. Ms. Tijani’s nearly year-long civil detention also underscores its disproportionality: she has no criminal convictions, and yet her civil confinement now approaches or exceeds the period many defendants serve for misdemeanor offenses despite the fact that immigration detention is not punitive and cannot be used as a substitute for treatment or punishment.

86. The length of confinement, untethered to any proven present dangerousness and maintained through constitutionally defective procedures, confirms that the detention has become excessive relative to any legitimate regulatory purpose, especially where the record supports immediate, structured community supervision and treatment.

87. Nor can the government justify continued detention on the ground of flight prevention. The custody record reflects that DHS has primarily advanced a “danger” theory tied to the 2025 mental health episode, not a developed allegation that Ms. Tijani would fail to appear. In any event, the objective facts foreclose any serious flight concern: Ms. Tijani has resided in the United States continuously since childhood; her mother and sisters are here; she has a stable, verifiable residence and a custodial sponsor; she has documented educational and treatment ties; and she has strong incentives to appear and continue to pursue her pending immigration relief. Thus, prolonged detention is not necessary to prevent flight, and any residual appearance concerns can be fully addressed through standard conditions of release.

88. The government’s legitimate interest in preventing flight is not served by detaining a person who has no criminal convictions, whose dismissed charges resulted from acute psychiatric decompensation, whose mental illness is demonstrably manageable when treated, who has a U.S. citizen sister willing to serve as custodial sponsor, who has a verifiable address, who has a pending VAWA application, and who has significant stakes in remaining in the United States through lawful channels.

89. All three bond hearings across Ms. Tijani’s detention were constitutionally defective: the first produced no written decision; the second applied the wrong burden and an unconstitutional categorical rule; and the third was denied on procedural grounds without reaching the merits. The government has never been subjected to the burden of demonstrating, by clear and convincing evidence, that Ms. Tijani’s continued detention is justified. That failure, which now stretches across one year of imprisonment, is itself an independent constitutional violation.

90. Under *Jackson v. Indiana*, 406 U.S. 715, 738 (1972), “the nature and duration of commitment must bear some reasonable relation to the purpose for which the individual is

committed.” The purpose of § 1226(a) detention is to ensure appearance at removal proceedings—not to confine a person indefinitely because her mental illness, which the government’s own facilities have failed to treat, might theoretically produce future dangerous behavior. After one year, detention bearing no reasonable relation to its statutory purpose is unconstitutional.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Issue a writ of habeas corpus ordering Respondents to immediately release Ms. Tijani from custody, subject to appropriate conditions of supervised release including GPS ankle monitoring, electronic monitoring, family supervision, weekly ICE reporting for 90 days followed by bi-weekly reporting, surrender of travel documents, daily medication observation and log, and a confirmed psychiatric intake appointment within 48-72 hours of release;
- B. In the alternative, issue an order directing Respondents to provide Ms. Tijani with a constitutionally adequate bond hearing within seven (7) days of this Court’s order, at which: (a) the government bears the burden of proving by clear and convincing evidence that Ms. Tijani poses a current danger to the community or a risk of flight; and (b) the Immigration Judge is required to conduct an individualized assessment of whether less restrictive alternatives, including the specific release plan presented to this Court, would adequately address any legitimate safety concern;
- C. Issue a stay of removal pending the resolution of this habeas petition and the BIA appeal;
- D. Issue a declaratory judgment that the bond hearing procedures applied to Ms. Tijani violated the Fifth Amendment’s Due Process Clause;
- E. Grant expedited review of this Petition in light of the ongoing harm to Ms. Tijani’s physical and psychological health;
- F. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted, April 3, 2026.

/s/Hassan Elkhali
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28 U.S.C. § 2242 VERIFICATION STATEMENT

Counsel hereby submits this verification on behalf of the Petitioner. I am the Petitioner's attorney. On the basis of documents, discussions with Petitioner, and Petitioner's family, I hereby verify that the statements made in this Petition are true and correct to the best of my knowledge.

/s/Hassan Elkhali
Hassan Elkhali, Esq.