

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
Columbus Division**

CARLOS RAMIREZ ALVARADO,

Petitioner,

v.

MARKWAYNE MULLIN,
in his official capacity as Secretary,
U.S. Department of Homeland Security;

KRISTEN SULLIVAN,
in her official capacity as Acting Field
Office Director, Atlanta Field Office,
U.S. Immigration and Customs Enforcement;

TODD BLANCHE,
in his official capacity as Acting Attorney
General, U.S. Department of Justice;

JASON STREEVAL,
in his official capacity as the Stewart
Detention Center Warden;

Respondents.

Case No. 4:26-cv-675

**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

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INTRODUCTION

1. Petitioner Carlos RAMIREZ ALVARADO (“Mr. Ramirez Alvarado” or “Petitioner”), who has been detained by U.S. Immigration and Customs Enforcement (“ICE”) for over two years, files this petition for a writ of habeas corpus challenging his prolonged detention.
2. ICE most recently detained Mr. Ramirez Alvarado on March 28, 2024. *See* Ex. A, Daniel Kim Decl. ¶ 5 [hereinafter Kim Decl.]. On March 2, 2026, an Immigration Judge (“IJ”) determined that Mr. Ramirez Alvarado was detained pursuant to 8 U.S.C. § 1226(c) due to a prior criminal conviction and thus ineligible for release on bond. *See id.* ¶ 9; *see also* Ex. B, IJ Order.
3. To date, ICE has not justified the prolonged deprivation of Mr. Ramirez Alvarado’s liberty. His continued detention with no individualized finding of dangerousness or flight risk bears no reasonable relation to any legitimate government purpose and far exceeds a constitutionally reasonable period of detention.
4. This unreviewed, indefinite civil immigration detention gravely violates Mr. Ramirez Alvarado’s rights under the Due Process Clause. Absent intervention from this Court, his detention will continue for the foreseeable future, as his proceedings remain pending before the United States Court of Appeals for the Second Circuit, which has granted him a full stay of removal. *See* Ex. C, Stay Order.
5. Mr. Ramirez Alvarado misses his family and loved ones in New York, particularly his two U.S. citizen daughters. *See* Kim Decl. ¶ 28. He respectfully requests that this Court issue a writ of habeas corpus and order his release from custody. In the alternative, Mr. Ramirez Alvarado requests that this Court order an IJ to conduct a bond hearing at which the government bears the burden of proving flight risk and dangerousness by clear and

convincing evidence and that no alternative to detention will suffice to mitigate danger and flight risk, and at which ability to pay is considered in setting any bond amount.

JURISDICTION

6. Petitioner is currently detained in Respondent Streeval's custody at the Stewart Detention Center in Lumpkin, Georgia.
7. Jurisdiction is proper under 28 U.S.C. §§ 1331, 2241, 5 U.S.C. § 702 and the Suspension Clause, U.S. Const. Art. I, § 9, cl. 2.

VENUE

8. Venue is proper in the Middle District of Georgia pursuant to 28 U.S.C. §§ 1391(b)(2), (e)(1) because Mr. Ramirez Alvarado is currently detained in this district, where a substantial part of the events or omissions giving rise to this action occurred and continue to occur.

PARTIES

9. Petitioner, Mr. Ramirez Alvarado, is a native and citizen of El Salvador currently detained in Respondent Streeval's custody at the Stewart Detention Center in Lumpkin, Georgia. *See* Kim Decl. ¶ 6. He has been in ICE custody since March 28, 2024, and has been detained at Stewart Detention Center since on or about August 28, 2024. *See id.* ¶¶ 6–7.
10. Respondent Markwayne Mullin is named in his official capacity as the Secretary of the United States Department of Homeland Security ("DHS"). In this capacity, he is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely transacts business in the Middle District of Georgia, and is legally responsible for Petitioner's detention and removal. As such, he is the ultimate legal custodian of Petitioner. Respondent Mullin's office is located at the United States Department of Homeland

Security, Washington, DC 20528.

11. Respondent Kristen Sullivan is named in her official capacity as the Acting Field Office Director of ICE's Atlanta Field Office. In this capacity, she is responsible for the administration of immigration laws and the execution of detention and removal determinations. As such, she is a legal custodian of Petitioner. Respondent Sullivan's office is located at 180 Ted Turner Drive SW, Suite 522, Atlanta, GA 30303.
12. Respondent Todd Blanche is named in his official capacity as the Acting Attorney General of the United States. In this capacity, he is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review ("EOIR") pursuant to 8 U.S.C. § 1103(g). He routinely transacts business in the Middle District of Georgia and is legally responsible for administering Petitioner's removal and bond proceedings and the standards used in those proceedings. Respondent Blanche's office is located at the United States Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530.
13. Respondent Jason Streeval is named in his official capacity as the warden of Stewart Detention Center. In this capacity, he is responsible for the administration of Stewart Detention Center. As such, he is the immediate custodian of Petitioner. Respondent Streeval's office is located at 146 CCA Road, Lumpkin, GA 31815.

EXHAUSTION OF ADMINSTRATIVE REMEDIES

14. "[W]here Congress does not say there is a jurisdictional bar, there is none." *Santiago-Lugo v. Warden*, 785 F.3d 467, 473 (11th Cir. 2015). "Congress knows how to limit courts' subject matter jurisdiction to decide § 2241 petitions when it wishes to do so. The fact that it did not limit courts' subject matter jurisdiction to decide unexhausted § 2241 claims

compels the conclusion that any failure of [the respondent] to exhaust administrative remedies is not a jurisdictional defect.” *Id.* at 474.

15. In the absence of a statutorily mandated exhaustion requirement, whether to apply a common law exhaustion requirement is a decision that rests within the broad discretion of district courts. *See J.N.C.G. v. Warden, Stewart Detention Ctr.*, No. 4:20-CV-62-MSH, 2020 WL 5046870, at *3 (M.D. Ga. Aug. 26, 2020) (citing *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)); *see also Richardson v. Reno*, 162 F.3d 1338, 1374 (11th Cir. 1998); *Yahweh v. U.S. Parole Comm’n*, 158 F. Supp. 2d 1332, 1341 (S.D. Fla. 2001).
16. Here, there is no reason to require exhaustion of administrative remedies, as Mr. Ramirez Alvarado has no meaningful administrative remedy to request. An IJ determined that he is detained pursuant to 8 U.S.C. § 1226(c), which mandates the detention of certain noncitizens who have committed specific crimes. Persons subject to § 1226(c) detention may only be released under limited circumstances inapplicable here. *See* 8 U.S.C. § 1226(c)(2) (allowing detained noncitizens’ release if necessary for witness protection purposes).
17. Further, Mr. Ramirez Alvarado’s prolonged detention raises constitutional issues. “[A] petitioner need not exhaust their administrative remedies where the administrative remedy will not provide relief commensurate with the claim.” *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir. 2001). Thus, “[b]ecause the BIA does not have the power to decide constitutional claims—like the validity of a federal statute— . . . certain due process claims need not be administratively exhausted.” *Warsame v. U.S. Att’y Gen.*, 796 F. App’x 993, 1006 (11th Cir. 2020); *see also Haitian Refugee Ctr., Inc. v. Nelson*, 872 F.2d 1555, 1561 (11th Cir. 1989), *aff’d sub nom. McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479 (1991)

(exhaustion had “no bearing” where petitioner sought to make a constitutional challenge to procedures adopted by the Immigration and Naturalization Service).

18. Consequently, this Court has jurisdiction over Mr. Ramirez Alvarado’s Petition, because exhaustion of administrative remedies is not required and the Petition raises constitutional issues that cannot be addressed administratively.

STATEMENT OF FACTS

19. Mr. Ramirez Alvarado is a twenty-seven-year-old father to two U.S. citizen daughters. Kim Decl. ¶ 4. He entered the United States as an unaccompanied seventeen-year-old in 2015. *Id.*

Mr. Ramirez Alvarado’s Current Detention by ICE

20. ICE most recently detained Mr. Ramirez Alvarado on or about March 28, 2024. *Id.* ¶ 5. He was initially detained at Moshannon Valley Processing Center in Phillipsburg, Pennsylvania. *Id.*
21. On or about August 28, 2024, ICE transferred Mr. Ramirez Alvarado to Stewart Detention Center in Lumpkin, Georgia, where he has remained since. *Id.* ¶ 6.
22. On or about January 2, 2026, Mr. Ramirez Alvarado filed a motion seeking a bond hearing with the Varick Street Immigration Court in New York City, where his removal proceedings were venued. *Id.* ¶ 7. On January 14, 2026, the IJ denied the request as moot because she considered Mr. Ramirez Alvarado’s proceedings administratively transferred to the Stewart Immigration Court. *Id.*; *see also* Ex. D, IJ Order.
23. On February 25, 2026, Mr. Ramirez Alvarado filed a motion seeking a bond hearing with the Stewart Immigration Court in Lumpkin, Georgia. Kim Decl. ¶ 8. The Immigration Court scheduled a bond hearing for March 2, 2026, and held a bond hearing on that date.

Id.

24. On March 3, 2026, the IJ issued an order finding that Mr. Ramirez Alvarado's 2020 conviction under N.Y. Penal Law § 220.03—misdemeanor possession of a controlled substance—rendered him subject to mandatory detention under 8 U.S.C. § 1226(c). *Id.* ¶ 9; *see also* Ex. B, IJ Order.
25. Mr. Ramirez Alvarado has remained detained at Stewart Detention Center pursuant to § 1226(c) since. Kim Decl. ¶ 10.

Mr. Ramirez Alvarado's Criminal History

26. Mr. Ramirez Alvarado has four criminal convictions in the United States. *Id.* ¶ 11.
27. Following an arrest on December 11, 2019, Mr. Ramirez Alvarado pled guilty to N.Y. Penal Law § 220.03, misdemeanor possession of a controlled substance, on December 18, 2020. *Id.* ¶ 12; *see also* Ex. E, Certificates of Disposition.
28. Following an arrest on June 28, 2021, Mr. Ramirez Alvarado pled guilty to N.Y. Penal Law § 240.20(7), a disorderly conduct violation, on March 11, 2024. Kim Decl. ¶ 13; *see also* Ex. E, Certificates of Disposition.
29. Following an arrest on August 29, 2021, Mr. Ramirez Alvarado pled guilty to N.Y. Penal Law § 240.20(7), a disorderly conduct violation, on March 11, 2024. Kim Decl. ¶ 14; *see also* Ex. E, Certificates of Disposition.
30. Following an arrest on May 31, 2022, Mr. Ramirez Alvarado pled guilty to N.Y. Penal Law § 240.20(7), a disorderly conduct violation, on March 11, 2024. Kim Decl. ¶ 15; *see also* Ex. E, Certificates of Disposition.
31. Mr. Ramirez Alvarado's guilty plea to N.Y. Penal Law § 220.03 is the basis for the IJ's determination that he is subject to mandatory detention under 8 U.S.C. § 1226(c). Kim

Decl. ¶ 17; *see also* Ex. B, IJ Order.

Mr. Ramirez Alvarado's Removal Proceedings

32. On December 31, 2019, ICE detained Mr. Ramirez Alvarado for the first time. Kim Decl. ¶ 18. On January 6, 2020, DHS initiated removal proceedings against Mr. Ramirez Alvarado, charging him with removability pursuant to 8 U.S.C. § 1182(a)(6)(A)(i), presence in the United States without admission or parole. *Id.*
33. On or about March 19, 2020, Mr. Ramirez Alvarado filed Form I-589 with the Immigration Court, seeking asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”). *Id.* ¶ 19.
34. On October 5, 2020, Mr. Ramirez Alvarado testified in support of his applications for relief. *Id.* ¶ 20. On October 6, 2020, the IJ denied Mr. Ramirez Alvarado’s applications. *Id.* Mr. Ramirez Alvarado timely appealed the IJ’s decision to the Board of Immigration Appeals (“BIA”). *Id.*
35. On or about April 7, 2021, ICE released Mr. Ramirez Alvarado from its custody. *Id.* ¶ 21.
36. On August 18, 2021, Mr. Ramirez Alvarado filed a motion to remand with the BIA, requesting that proceedings be returned to the Immigration Court in light of new evidence: namely, that [REDACTED] in El Salvador. *Id.* ¶ 22.
37. On October 19, 2021, the BIA dismissed Mr. Ramirez Alvarado’s appeal and denied his motion to remand. *Id.* ¶ 23. Mr. Ramirez Alvarado petitioned for review of the decision to the Second Circuit. *Id.* On September 24, 2025, the Second Circuit denied the petition for review. *Id.*
38. On February 26, 2025, Mr. Ramirez Alvarado filed a motion to reopen his proceedings based on the State of Exception in El Salvador, which has subjected people similarly

situated to Mr. Ramirez Alvarado to detention, extreme physical and mental abuse, and even extrajudicial murder. *Id.* ¶ 24.

39. On August 13, 2025, the BIA denied Mr. Ramirez Alvarado's motion to reopen. *Id.* ¶ 25. Mr. Ramirez Alvarado timely petitioned the Second Circuit for review of the decision and moved to stay his removal from the United States. *Id.*
40. On October 15, 2025, a three-judge panel granted Mr. Ramirez Alvarado's stay motion, indicating that he is likely to succeed on the merits of his petition and would face irreparable harm absent a stay. *Id.* ¶ 26; *see also* Ex. C, Stay Order; *Nken v. Holder*, 556 U.S. 418, 433–36 (2009).
41. At this time, Mr. Ramirez Alvarado's petition for review remains pending before the Second Circuit. Kim Decl. ¶ 27. Briefing in that matter will be completed in May 2026, with a decision expected approximately one year later. *Id.*

Mr. Ramirez Alvarado's Release Plan

42. Mr. Ramirez Alvarado is eager to return to his home in Hempstead, New York, and reunite with his two U.S. citizen daughters, who are ten and seven years old. *Id.* ¶ 28.
43. Prior to his current detention, Mr. Ramirez Alvarado had committed to maintaining his sobriety with the support of his local church, Principe de Paz. *Id.* ¶ 29. Since being detained by ICE, he has continued his recovery journey. *Id.* While at Moshannon Valley Processing Center, he participated in a Bible study group and completed a number of courses related to navigating change and substance use. *Id.*
44. Although Mr. Ramirez Alvarado has expressed to his removal defense counsel that he would like to continue participating in treatment programming, he has informed his counsel that Stewart Detention Center does not offer groups or courses similar to those available at

Moshannon Valley Processing Center. *Id.* ¶ 30.

45. If released, Mr. Ramirez Alvarado plans to maintain his sobriety to ensure a positive future for himself and his family. *Id.* ¶ 31. He will have the support of his social worker at The Bronx Defenders, who will connect him with counseling resources near his home in Hempstead, New York. *Id.*

LEGAL ARGUMENT

Detention Under 8 U.S.C. § 1226(c)

46. An IJ found that Mr. Ramirez Alvarado is detained pursuant to 8 U.S.C. § 1226(c), which mandates the detention of certain inadmissible or deportable noncitizens who have committed specific crimes. *See* Ex. B, IJ Order.
47. Sections 1226(c)(1)(A) provides that the government “shall take into custody any” noncitizen who has committed, as relevant here, a controlled substance offense under 8 U.S.C. § 1182(a)(2)(A)(i)(II). Under this statute, persons subject to § 1226(c) detention may only be released under limited circumstances which are inapplicable here. 8 U.S.C. § 1226(c)(2) (allowing detained noncitizens’ release if they are necessary for witness protection purposes).
48. In *Jennings v. Rodriguez*, 583 U.S. 281, 296–97 (2018), the Supreme Court held that the statutory text of § 1226(c) authorizes mandatory detention pending removal proceedings and declined to read an implicit time limit into § 1226(c) for when a neutral arbiter must review a noncitizen’s custody. However, the Court did not contemplate the constitutionality of these provisions authorizing indefinite and prolonged detention. *Id.* at 312 (“[W]e do not reach [the constitutional] arguments.”) (remanding to the United States Court of Appeals for the Ninth Circuit to consider constitutional questions).

49. While § 1226(c) thus mandates detention of certain noncitizens, that mandate is subject to constitutional limits: “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
50. Civil detention must be carefully limited to avoid grave violations of individuals’ due process rights, as the Supreme Court has recognized regarding civil confinement. *See Foucha v. Louisiana*, 504 U.S. 71, 81–83 (1992) (requiring individualized finding of mental illness and dangerousness to support civil commitment); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (upholding civil commitment of sex offenders only after a jury trial on individuals’ lack of volitional control and dangerousness to others).
51. At a minimum, due process requires “adequate procedural protections” to ensure that the government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (quoting *Hendricks*, 521 U.S. at 356) (internal quotation marks omitted). “Under the Due Process Clause, *civil detention* is permissible only where there is a ‘special justification’ that ‘outweighs the individual’s constitutionally protected interest in avoiding physical restraint.’” *Sopo v. U.S. Att’y Gen.*, 825 F.3d 1199, 1210 (11th Cir. 2016), *vacated on other grounds*, 890 F.3d 952 (2018) (quoting *Zadvydas*, 533 U.S. at 690).
52. When an individual’s continued detention becomes “unreasonable or unjustified,” due process accordingly requires “an individualized determination as to [a noncitizen’s] risk of flight and dangerousness.” *Demore v. Kim*, 538 U.S. 510, 532 (2003) (Kennedy, J., concurring); *see also Sopo*, 825 F.3d at 1212.
53. In the civil immigration detention context, the only legitimate purposes of detention include

preventing flight, protecting the community from danger, and effectuating removal. *See Zadvydas*, 533 U.S. at 690; *Sopo*, 825 F.3d at 1217; *Ahmed v. Lowe*, No. 3:16-cv-2082, 2017 WL 2374078, at *4 (M.D. Pa. May 31, 2017) (analyzing *Demore*, 538 U.S. at 531–33 (Kennedy, J., concurring)).

Courts Look to the Sopo Factors to Determine Whether Detention Under § 1226(c) is Unconstitutionally Prolonged

54. The Eleventh Circuit has held that a year in detention is unreasonably prolonged, even when that detention is statutorily mandatory. *Sopo*,¹ 825 F.3d at 1217 (“[A] criminal [noncitizen’s] detention without a bond hearing may often become unreasonable by the one-year mark); *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 478 (3d Cir. 2015) (“[C]ertainly by the time [petitioner] had been detained for one year, the burdens to [petitioner’s] liberties outweighed any justification . . . for detain[ing] him without bond to further the goals of the statute.”); *see also J.N.C.G.*, 2020 WL 5046870, at *6. Mr. Ramirez Alvarado’s detention now exceeds two years, well in excess of the Eleventh Circuit’s presumptive unreasonableness threshold.
55. Under *Sopo*, courts in this Circuit conduct a “fact intensive” analysis into whether detention has become unconstitutionally unreasonable. *Sopo*, 825 F.3d at 1218. For example, courts may consider several factors to determine whether detention has become unconstitutionally prolonged: (1) the length of detention without a bond hearing; (2) the reason removal

¹ While *Sopo* was vacated, district courts in the Eleventh Circuit, including this Court, continue to rely on *Sopo* as persuasive authority in analyzing individuals’ due process rights with respect to prolonged detention. *See J.N.C.G.*, 2020 WL 5046870, at *6–*8; *Msezane v. Gartland*, No. 5:19-cv-51, 2020 WL 1042293, at *7 (S.D. Ga. Jan. 29, 2020), *report and recommendation adopted*, No. 5:19-CV-51, 2020 WL 1046796 (S.D. Ga. Mar. 3, 2020) (“Courts in the Eleventh Circuit confronted with procedural due process challenges to prolonged detention under § 1226(c) have looked to *Sopo I* for guidance on evaluating the challenges.”) (collecting cases).

proceedings are protracted; (3) whether removal would be possible once a removal order is final; (4) whether the period of civil detention exceeds the time the petitioner spent incarcerated for the crime triggering immigration consequences; and (5) whether the facility where the petitioner is detained meaningfully differs from a penal institution. *Id.* at 1217–18. This list of factors is non-exhaustive, however, and “the factors that should be considered will vary depending on the individual circumstances present in each case.” *Id.* at 1218.

Mr. Ramirez Alvarado’s Detention is Unconstitutionally Prolonged Detention under the Sopo Factors

56. In Mr. Ramirez Alvarado’s case, the first, second, fourth, and fifth factors weigh heavily against his continued detention.
57. First, Mr. Ramirez Alvarado’s detention exceeds two years. As of the time of filing, Mr. Ramirez Alvarado has been detained for nearly 25 months, exceeding the threshold for presumptive unreasonableness by over a year. *See Sopo*, 825 F.3d at 1217 (noting that “[t]he need for a bond inquiry is likely to arise in the six-month to one-year window, at which time a court must determine whether the purposes of the statute—preventing flight and criminal acts—are being fulfilled”); *see also J.N.C.G.*, 2020 WL 6056870, at *6 (finding an individual’s 16-month detention “well beyond the one-year presumptively unreasonable period identified in *Sopo*”) (citation omitted); *Hanna v. Lynch*, No. 4:16-CV-375-CDL-MSH, 2018 WL 547232, at *2 (M.D. Ga. Jan. 24, 2018), *amended*, No. 4:16-CV-375-CDL-MSH, 2018 WL 4850106 (M.D. Ga. Feb. 23, 2018) (concluding that 29-month long detention was unreasonable). This is over two years away from family, work, and community that Mr. Ramirez Alvarado cannot get back.
58. Second, the lengthy duration of Mr. Ramirez Alvarado’s proceedings have been necessary

to pursue legitimate relief from removal. *See Sopo*, 825 F.3d at 1218 (noting that noncitizens “should [not] be punished for pursuing avenues of relief and appeals”). The Second Circuit has granted him a full stay of removal, indicating that a three-judge panel determined that he is likely to succeed on the merits of his claim and that he will suffer irreparable harm if removed during the pendency of his petition for review. *See Ex. C, Stay Order*. Specifically, Mr. Ramirez Alvarado is afraid that he will be detained indefinitely without charge and tortured by Salvadoran officials, as has happened with thousands of Salvadoran citizens under that country’s multi-year State of Exception.

59. Mr. Ramirez Alvarado is also likely to remain detained for an indefinite period of time. His petition for review will not be fully briefed until May 2026. Kim Decl. ¶ 27. Once fully briefed, his counsel expects that it could take at least a year for the Second Circuit to issue a decision. *Id.* If his petition for review is granted—as his stay of removal suggests it will be—the remedy will be an appellate court order directing the agency to reopen his proceedings, such that Mr. Ramirez Alvarado will return to the Immigration Court to litigate his claim for relief from removal due to El Salvador’s ongoing State of Exception. *Id.* As such, if Mr. Ramirez Alvarado prevails at the circuit, his removal proceedings will continue. *See id.* At the very least, Mr. Ramirez is at risk of being detained an additional year without an “an individualized determination as to [his] risk of flight and dangerousness.” *Demore*, 538 U.S. at 532 (Kennedy, J., concurring); *see also Sopo*, 825 F.3d at 1212.
60. Third, Mr. Ramirez Alvarado’s current time in immigration detention far exceeds any amount of time he has ever spent in criminal custody. Indeed, for the offense for which the IJ determined he was subject to mandatory detention, N.Y. Penal Law § 220.03, Mr.

Ramirez Alvarado did not receive a term of imprisonment at all and instead was sentenced to a one-year conditional discharge. Kim Decl. ¶ 16; *see also* Ex. E, Certificates of Disposition. The maximum possible penalty for the offense was 364 days incarceration—a period now far exceeded by Mr. Ramirez Alvarado’s current immigration detention. *See* N.Y. Penal Law § 70.15(1) (providing that a sentence for a class A misdemeanor will not exceed 364 days); *id.* § 220.03 (providing that the offense is a class A misdemeanor). Further, Mr. Ramirez Alvarado received sentences of time served for his guilty pleas to N.Y. Penal Law § 240.20(7), but only served about fifteen days in connection with those offenses, a fraction of the time he has now spent in ICE custody. *See* Kim Decl. ¶ 16; *see also* Ex. E, Certificates of Disposition. These circumstances further weigh in Mr. Ramirez Alvarado’s favor.

61. Finally, Stewart Detention Center is not meaningfully distinguishable from a prison. Stewart is notorious for being the functional equivalent of a prison, if not worse. Indeed, the specific facility at issue in *Sopo* was the same as the facility where Mr. Ramirez Alvarado is currently detained. 825 F.3d at 1221 (describing Stewart Detention Center as “a prison-like facility”); *J.N.C.G.*, 2020 WL 5046870 at *7 (“Stewart Detention Center[] is not meaningfully different from a prison.”); *see also* Timothy Pratt & Andrew Free, *ICE Prison’s 911 Calls Overwhelm a Rural Georgia Emergency System*, Intercept (Dec. 12, 2025), <https://tinyurl.com/893z7a5u>; Abby Kousouris, *Families, lawmakers raise alarm over conditions inside Georgia ICE facilities*, Atlanta News First (Dec. 4, 2025), <https://tinyurl.com/ybbntz8p>; Patricia Caro, *Conditions at ICE detention centers are fueling a surge in suicide attempts*, El Pais (Sept. 22, 2025), <https://tinyurl.com/ekdtbnkw>; Dhruv Mehotra & Dell Cameron, *‘They’re Not Breathing’: Inside the Chaos of ICE*

Detention Center 911 Calls, Wired (June 25, 2025), <https://tinyurl.com/3cpdjas2>; Lauturo Grinspan, *Another migrant dies in Georgia ICE detention, second in 2024*, Atlanta Journal-Constitution (May 29, 2024), <https://tinyurl.com/3amfe4r6>; Lauturo Grinspan, *'I'd rather be deported': In this Georgia immigration court, hope is scarce*, Atlanta Journal-Constitution (May 13, 2024), <https://tinyurl.com/22pe42vv>; Rita Omokha, *Detainees speak out against 'abusive' US migrant jail: 'This place is horrible,'* The Guardian US (Dec. 6, 2023), <https://tinyurl.com/vkm37hv2>.

62. As to the third *Sopo* factor, although removals to El Salvador do occur, this factor is outweighed by the other considerations delineated in *Sopo*: that Mr. Ramirez Alvarado has spent over two years in ICE detention, that his proceedings have been protracted because he has sought legitimate relief from removal, that his time in immigration detention far exceeds any period he ever spent in criminal incarceration, and that Stewart Detention Center is akin to a prison.
63. Weighing all these factors together, the totality of circumstances demonstrate that Mr. Ramirez Alvarado's continued detention is unreasonable and unjust. This Court should grant a writ of habeas corpus and order Mr. Ramirez Alvarado's release. In the alternative, this Court should grant him an individualized bond hearing. Mr. Ramirez Alvarado's release is not only consistent with the demands of due process but is also consistent with relief that this Court has previously granted to individuals similarly subject to § 1226(c) detention. See *J.N.C.G.*, 2020 WL 5046870, at *6–*8; *Hanna*, 2018 WL 547232, at *2–*3.

Due Process Requires a Bond Hearing Where the Government Bears the Burden of Justifying Mr. Ramirez Alvarado's Continued Detention

64. Where detention has become unreasonable, due process requires an opportunity for custody to be reviewed. Due process requires that (1) the government bear the burden of proof; (2)

the government justify the noncitizen's proof of detention by clear and convincing evidence; (3) the Immigration Court consider alternatives to detention in determining whether to set a bond; and (4) the Immigration Court consider ability to pay in setting a bond amount. *See Black v. Decker*, 103 F.4th 133, 159 (2d Cir. 2024); *see also German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 213 (3d Cir. 2020) (requiring that the government establish that continued detention is necessary with clear and convincing evidence); *Velasco Lopez v. Decker*, 978 F.3d 842, 846 (2d Cir. 2020) (placing burden on the government in the context of prolonged detention under 8 U.S.C. § 1226(a), the discretionary detention statute).

65. The government bearing the burden is consistent with the *Mathews* balancing test. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). First, prolonged incarceration deprives noncitizens of a “profound” liberty interest. *See Diouf v. Napolitano*, 634 F.3d 1081, 1091–92 (9th Cir. 2011); *see also Black*, 103 F.4th at 151; *Velasco Lopez*, 978 F.3d at 852. Second, the risk of error is great where noncitizens detained under § 1226(c) lack any formal mechanism to seek release, nor is there any “individualized review of the need for detention.” *Black*, 103 F.4th at 152. Third, placing the burden on the government imposes minimal cost or inconvenience, as the government has access to the noncitizen's immigration records and other information that it can use to make its case for continued detention. *See id.* at 154–55 (“We expect that the additional resources that the government will need to justify continued detention at bond hearings will be minimal—and will likely be outweighed by costs saved by reducing unnecessary detention.”).
66. The Supreme Court has repeatedly recognized that civil detention must be carefully limited—particularly through placing a heightened burden of proof on the government to

justify detention—to avoid due process concerns. *See, e.g., Cooper v. Oklahoma*, 517 U.S. 348, 363 (1996) (“[D]ue process places a heightened burden of proof on the State in civil proceedings in which the individual interests at stake . . . are both particularly important and more substantial than mere loss of money.”) (citation and quotation marks omitted); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (holding unconstitutional a state civil insanity detention “statute that place[d] the burden on the detainee to prove that he is not dangerous” and explaining that “[f]reedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action”). “Increasing the burden of proof is one way to impress the factfinder with the importance of the decision and thereby perhaps to reduce the chances that inappropriate commitments will be ordered.” *Addington v. Texas*, 441 U.S. 418, 427 (1979).

67. Although the Eleventh Circuit has not yet addressed this issue, the Second and Third Circuits place the burden of proof on the government to justify prolonged detention under § 1226(c). *See Black*, 103 F.4th at 159; *German Santos*, 965 F.3d at 213. Further, district courts outside those circuits have required the same. *See, e.g., Popov v. Warden, Imperial Detention Facility*, No. 26-CV-1174-JES-BLM, 2026 WL 936952, at *4 (S.D. Cal. Apr. 7, 2026); *Flores v. Warden, Cal. City Detention Facility*, No. 1:26-CV-00761-KES-EPG-HC, 2026 WL 923802, at *6 (E.D. Cal. Apr. 6, 2026); *Alcantara Guerrero v. Wesling*, No. 1:26-CV-10928-JEK, 2026 WL 931503, at *1, *6 (D. Mass. Apr. 6, 2026); *Scott v. Wamsley*, No. 2:25-CV-1819, 2025 WL 3514304, at *10 (W.D. Wash. Dec. 8, 2025), *reconsideration denied*, No. 2:25-CV-1819, 2026 WL 83971 (W.D. Wash. Jan. 12, 2026); *Singh v. Garland*, No. 5:24-CV-01635-CAS, 2025 WL 1913368, at *8 (C.D. Cal. Apr. 21, 2025); *Abreu v. Crawford*, No. 1:24-CV-01782-MSN-WBP, 2025 WL 51475, at *7 (E.D. Va. Jan. 8, 2025),

appeal dismissed, No. 25-6174, 2025 WL 2604455 (4th Cir. Apr. 22, 2025); *Kasalica v. Mayorkas*, No. 24-CV-02664-NYW, 2024 WL 6992210, at *7 (D. Colo. Nov. 14, 2024); *Arido-Sorro v. Garland*, No. CV-23-00842-PHX-JAT (ESW), 2024 WL 4393264, at *6 (D. Ariz. Sept. 5, 2024), *report and recommendation adopted*, No. CV-23-00842-PHX-JAT, 2024 WL 4834413 (D. Ariz. Nov. 20, 2024); *M.T.B. v. Byers*, No. CV 2:24-028-DCR, 2024 WL 3881843, at *5 (E.D. Ky. Aug. 20, 2024); *Romero Romero v. Wolf*, No. 20-CV-08031-TSH, 2021 WL 254435, at *5 (N.D. Cal. Jan. 26, 2021); *M.D.F. v. Johnston*, No. 3:20-CV-0829-G-BK, 2020 WL 7090125, at *2 (N.D. Tex. Dec. 3, 2020); *Duncan v. Kavanagh*, 439 F. Supp. 3d 576, 590–91 (D. Md. 2020); *Zagal-Alcaraz v. ICE Field Off.*, No. 3:19-CV-01358-SB, 2020 WL 1862254, at *8 (D. Or. Mar. 25, 2020), *report and recommendation adopted sub nom. Zagal-Alcaraz v. ICE Field Off. Dir.*, No. 3:19-CV-01358-SB, 2020 WL 1855189 (D. Or. Apr. 13, 2020); *Maniar v. Warden Pine Prairie Corr. Ctr.*, No. 6:18-CV-00544, 2018 WL 11544220, at *6 (W.D. La. July 11, 2018); *see also Bah v. Barr*, 409 F. Supp. 3d 464, 472 (E.D. Va. 2019) (“The government must prove ‘to the satisfaction of the [IJ] that’ no condition or combination of conditions, including electronic monitoring, will reasonably assure the appearance of the person as required and the safety of any other person and the community”).

68. This Court has ordered a bond hearing with the burden on the government in an analogous context of a bond hearing under § 1226(a), which permits, but does not require, detention for individuals in removal proceedings. *See J.G. v. Warden, Irwin County Detention Ctr.*, 501 F. Supp. 3d 1331, 1342 (M.D. Ga. 2020) (Lawson, J.). In *J.G.*, the Court reasoned that, under *Mathews*, shifting the burden to the government was appropriate after balancing the strength of the petitioner’s interest in “freedom from physical incarceration” and the risk

of erroneous deprivation where “the onus [is] on noncitizens who are incarcerated to gather and present evidence” with no “meaningful opportunity to correct” any erroneous deprivation, against the government’s interest in “civil detention pending removal proceedings” for those who present a flight risk and the government’s interest in guarding against the erroneous deprivation of liberty. *Id.* at 1335–41.

69. More recently, in the motion to enforce context, the Court has ordered bond hearings with the burden on the government because previous bond hearings conducted following grants of habeas petitions were marred by “an absence of the individualization required by due process.” *Lopez v. Paulk*, No. 7:26-CV-00029-WLS-ALS, 2026 WL 961948, at *5 (M.D. Ga. Apr. 6, 2026); *see also id.* at *10 (holding that “the *Mathews* factors establish that due process requires the Government to bear the burden of demonstrating that Petitioner is a flight risk or danger to the community” by clear and convincing evidence); *D.Y.E.H. v. Warden, Irwin Det. Ctr.*, No. 7:25-CV-201, ECF No. 17, at 19 (Apr. 6, 2026) (holding that the petitioner’s bond hearing “did not comport with the minimal requirements of due process because it was not individualized the burden of proof was incorrectly placed on the petitioner,” and ordering respondents to conduct a bond hearing at which the government bears the burden of establishing flight risk and danger by clear and convincing evidence).
70. Where, as here, the risk of erroneous deprivation is greater because there is no administrative basis for seeking release from detention for those detained pursuant to § 1226(c), due process requires the government to bear the burden under a clear and convincing standard that the petitioner presents a risk of flight and danger to the community so great that no conditions of release mitigate those risks. As the Eleventh Circuit has not yet addressed this issue, Mr. Ramirez Alvarado maintains that the Constitution requires the

Government to bear the burden at his bond hearing.

71. Due process further requires consideration of alternatives to detention as to danger and flight risk. Detention is not reasonably related to the purpose of protecting public safety or ensuring noncitizens attend their Immigration Court hearings if there are alternative conditions of release that could mitigate that risk. *See, e.g., D.Y.E.H.*, No. 7:25-CV-201, ECF No. 17, at 18 (holding that “the *Mathews* balancing weighs decisively in favor of requiring consideration of a non-citizen’s . . . alternative conditions of release once an IJ determines that the release of a detainee is appropriate”); *Cantor v. Freden*, 761 F. Supp. 3d 630, 639–40 (W.D.N.Y. 2025) (holding that “when a petitioner is entitled to a hearing because his detention pending removal has become unreasonably prolonged, the hearing requires a neutral decisionmaker to address whether alternatives to detention might ameliorate risk of danger as well as risk of flight”); *Doe v. Chestnut*, 810 F. Supp. 3d 1169, 1198–99 (E.D. Cal. 2025) (finding that alternatives to danger could mitigate both danger and flight risk for petitioner); *Doe v. Becerra*, 732 F. Supp. 3d 1071, 1088 (N.D. Cal. 2024) (finding that “the evidence regarding alternatives suggest that GPS monitoring or other programs can significantly mitigate flight risk and potentially mitigate any danger to the community”); *Higiro v. Nessinger*, No. 26-CV-105-JJM-AEM, 2026 WL 710297, at *7 (D.R.I. Mar. 13, 2026) (concluding that due process required the IJ to consider alternatives to detention before denying him release on bond); *M.P.L. v. Arteta*, No. 25-CV-5307 (VSB)(SDA), 2025 WL 2938993, at *6 (S.D.N.Y. Oct. 16, 2025) (ordering the IJ to consider alternative conditions of detention that could ameliorate both risk of flight and dangerousness); *L.G.M. v. LaRocco*, No. 25-CV-2631 (PKC), 2025 WL 2173577, at *3–*4 (E.D.N.Y. July 31, 2025) (considering ameliorative measures in determining whether the

government had carried its burden to show the petitioner posed a danger by clear and convincing evidence); *Sheikh v. Choate*, No. 1:22-CV-01627-RMR, 2022 WL 17075894, *5 (D. Colo. July 27, 2022) (ordering IJ to consider alternatives to detention); *Mansaray v. Perry*, No. ELH-21-1044, 2021 WL 2315415, at *11 (D. Md. June 7, 2021) (same).

72. Due process also requires consideration of ability to pay bond in setting any bond amount. See *D.Y.E.H.*, No. 7:25-CV-201, ECF No. 17, at 18 (requiring consideration of a noncitizen's ability to pay in setting any bond amount); *Black*, 103 F.4th at 158 (“[R]efusing to consider ability to pay and alternative means of assuring appearance creates a serious risk that the noncitizen will erroneously be deprived of the right to liberty for purely financial reasons.”); see also *Sheikh*, 2022 WL 17075894, *5 (ordering IJ to consider ability to pay in setting any bond amount); *Mansaray*, 2021 WL 2315415, at *11 (D. Md. June 7, 2021) (same); cf. *Pugh v. Rainwater*, 572 F.2d 1053, 1057 (5th Cir. 1978) (en banc) (concluding “[t]he [pretrial] incarceration of those who cannot [pay a set bail amount] without meaningful consideration of other possible alternatives, infringes on both due process and equal protection requirements”).²

CAUSES OF ACTION

COUNT ONE

Violation of the Due Process Clause of the Fifth Amendment Prolonged Detention

73. All of the foregoing allegations are repeated and realleged as though fully set forth herein.
74. Petitioner's prolonged detention without any individualized assessment of the need for

² In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to October 1, 1981.

detention deprives him of due process of law. The Court should therefore order his release from unconstitutional detention, or in the alternative, grant him a bond hearing within 14 days of the Court's order.

75. The Due Process Clause of the Fifth Amendment to the United States Constitution provides that “[n]o person shall... be deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V.
76. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. For this reason, even “removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary and capricious.” *Id.* at 721 (Kennedy, J., dissenting). *See also Rosales-Garcia v. Holland*, 322 F.3d 386, 409 (6th Cir. 2003) (en banc) (holding that “excludable [persons]... are clearly protected by the Due Process Clauses of the Fifth and Fourteenth Amendments.”).
77. Mr. Ramirez Alvarado has now been detained for over two years without recourse. His detention far exceeds the one-year threshold for unreasonableness identified by the Eleventh Circuit in *Sopo*. 825 F.3d at 1217.
78. Respondent does not have and cannot provide a constitutionally reasonable justification for continuing to detain Mr. Ramirez Alvarado.
79. Mr. Ramirez Alvarado's detention is therefore unconstitutional under the Fifth Amendment to the United States Constitution. He should be released because his prolonged detention is not reasonably related to any government purpose. In the alternative, to justify Mr. Ramirez Alvarado's ongoing detention, due process requires the government to prove by clear and convincing evidence that Mr. Ramirez Alvarado poses a danger to the community

or a risk of flight, and that no alternative to detention could mitigate either factor.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that the Court:

1. Assume jurisdiction over this matter;
2. Declare that Respondent's ongoing detention of Petitioner violates the Due Process Clause of the Fifth Amendment to the United States Constitution;
3. Issue a Writ of Habeas Corpus ordering Petitioner's immediate release or, in the alternative, order a bond hearing to be held within 14 days of the Court's order, before this Court or the Immigration Court, where the government bears the burden of showing that Petitioner's ongoing detention by clear and convincing evidence is justified based on flight risk or danger to the community and that no alternative to detention will suffice to mitigate danger and flight risk, and at which ability to pay is considered in setting any bond amount;
4. Award Petitioner's costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412; and
5. Grant any other and such further relief as the Court deems just and proper.

Respectfully submitted,

s/ F. Evan Benz

F. Evan Benz

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Pro Bono Counsel for Petitioner

Dated: 04 / 23 / 2026

s/ Jessica Coffrin-St. Julien

Jessica Coffrin-St. Julien*

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Pro Bono Counsel for Petitioner

**Pro hac vice application
forthcoming*

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

/s/ Daniel Kim
Daniel Kim, Esq.

Dated: April 22, 2026

EXHIBITS

- A. Declaration of Daniel Kim, Esq., dated April 22, 2026
- B. Immigration Judge Order denying bond dated March 2, 2026
- C. Order of the United States Court of Appeals for the Second Circuit granting Mr. Ramirez Alvarado a stay of removal dated October 14, 2025
- D. Immigration Judge Order finding bond request moot dated January 13, 2026
- E. Certificates of Disposition

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of April, 2026, I electronically submitted the foregoing document with the clerk of court for the United States District Court, Middle District of Georgia, using the electronic filing system of the court. I hereby certify that I have served all parties electronically or by another means authorized by Federal Rule of Civil Procedure 5(b)(2).

Respectfully submitted,

Dated: 04/23/2026

/s/ F. Evan Benz

F. Evan Benz