

UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK

Duke JOHN

Petitioner,

Case No.

v.

Anthony LAROCCO, Sheriff of Nassau County
Correctional Center; Todd LYONS, Acting
Director, Immigration and Customs
Enforcement; Markwayne MULLIN, Secretary,
U.S. Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; Todd BLANCHE, Acting U.S.
Attorney General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW.

Respondents.

**EMERGENCY
PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Duke John is an asylum seeker from Jamaica who is, as of the filing of this petition, in the physical custody of Respondents at Nassau County Correctional Center in Mineola, New York located at 100 Carman Avenue, East Meadow, NY 11554.

2. Petitioner filed an I-589 application for asylum in December 2021, stating that he experienced past persecution and had a well-founded fear of future persecution based on his relationship to his family, who reported crimes of violence at the hands of local gang members in his community to the Jamaican police during his childhood, and his 



 t. Petitioner has

experienced death threats and physical violence at the hands of gang members [REDACTED]
[REDACTED], and he believes the Jamaican authorities will not protect him if he is targeted in Jamaica. Petitioner therefore fears for his life and is afraid that he will be killed if he is returned to Jamaica. Petitioner feels safe in the United States, where he has lived for more than 30 years, and where his daughter, siblings, nieces, and nephews live.

3. On May 13, 2026, Petitioner attended an asylum interview with his attorney at USCIS's office located at 1065 Stewart Avenue, Suite 2022 Bethpage, NY 11714 pursuant to an I-797C Notice of Action scheduling his asylum interview for May 13, 2026, at 7:30 AM ET. Approximately fifteen minutes into the asylum interview, the asylum officer asked Petitioner and his attorney to move to an office so that his colleagues could ask additional questions. Upon entering that office, agents with the U.S. Immigration and Customs Enforcement ("ICE") agency presented themselves and detained Petitioner.

4. As Petitioner is currently being held pursuant to 8 U.S.C. § 1226(a), his detention without any individualized determination as to his risk of flight or danger to the community is contrary to law and unconstitutional. *See Barbosa da Cunha v. Freden*, No. 25-3141 (2d. Cir. 2026).

5. As Respondents have violated the Immigration and Nationality Act and Petitioner's due process rights, Petitioner seeks a writ of habeas corpus requiring that he be released immediately.

JURISDICTION

6. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Nassau County Correctional Facility in Mineola, New York.

7. This action arises under the Constitution of the United States and the Immigration and National Act (INA), 8 U.S.C. § 1101 *et seq.*

8. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

9. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

10. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Eastern District of New York, the judicial district in which Petitioner currently is detained.

11. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

13. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains

it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

14. Petitioner is Duke John. After arresting Petitioner in Bethpage, New York, ICE did not set bond.

15. Respondent is Anthony LaRocco, Sheriff of the Nassau County Correctional Center.

16. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of Immigration and Customs Enforcement. As the Acting Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States and routinely transacts business in this District. He supervises Respondent LaDeon Francis. His address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington, DC 20536-5900.

17. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in her official capacity. Respondent Noem’s address is U.S. Department of Homeland Security, 800 K Street, N.W. #1000, Washington, District of Columbia 20528.

18. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens. DHS’s address is U.S. Department of Homeland Security, 800 K Street, N.W. #1000, Washington, District of Columbia 20528.

19. Respondent Todd Blanche is the Acting Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity. Respondent Blanche's address is U.S. Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, District of Columbia 20530.

20. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings. EOIR's address is 5107 Leesburg Pike, Falls Church, VA 22041.

LEGAL FRAMEWORK

Detention Authority

24. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

25. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

26. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

27. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

28. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

29. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025).

30. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

31. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104–469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

32. On May 15, 2025, the BIA issued their decision in *Matter of Q. Li*, finding that an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under 8 U.S.C. § 1225(b) (2018), and is ineligible for any subsequent release on bond. Further, in *Matter of Q. Li*, the BIA held that a noncitizen initially detained under 8

U.S.C. § 1225(b), who is released from detention pursuant to a grant of parole, and whose grant of parole is subsequently terminated, is returned to custody under section 235(b) pending the completion of removal proceedings.

32. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

33. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”¹ claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

34. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

38. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA’s detention authorities. *See, e.g., Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025).

39. In *Barbosa da Cunha v. Freden*, the Second Circuit held that, consistent with numerous district courts in the Eastern and Southern Districts of New York, that individuals such as Petitioner, apprehended years after entry and in the interior of the United States are not “arriving” for the purposes of the Immigration and Nationality Act but are instead detained pursuant to 8 U.S.C. § 1226(a). No. 25-3141 (2d. Cir. 2026).

Civil Immigration Detention

40. Congress has authorized civil detention of noncitizens in removal proceedings for specific, non-punitive purposes. *See Jennings v. Rodriguez*, 138 S.Ct. 830, 833 (2018); *Zadvydas*, 533 U.S. 690; *Demore*, 538 U.S. 528.

41. To comport with due process, civil detention must bear a reasonable relationship to its two regulatory purposes—to ensure the appearance of noncitizens at future hearings and to prevent danger to the community pending the completion of removal. *Zadvydas*, 533 U.S. at 690-691; *Velasco Lopez v. Decker*, 978 F.3d 842, 854 (2d Cir. 2020).

42. A person’s liberty cannot be infringed upon without “adequate procedural protections.” *Zadvydas*, 533 U.S. at 690-91. The Second Circuit has held that the *Mathews v. Eldridge* balancing test is applicable to determine the adequacy of process in the context of civil immigration confinement. *Velasco Lopez*, 978 F.3d at 851 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). This test requires sufficient process to mitigate the risk of erroneous deprivation of a liberty interest. Revocation of conditional release from confinement, even civil immigration confinement, infringes on a protected liberty interest. The liberty interest in even conditional release is well-established in the context of parole; probation; and freedom from civil immigration confinement. *See Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 LX 119339, 2025 WL 1707737, at *3 (S.D.N.Y. June 18, 2025) (finding immigration petitioner’s “liberty interest is clearly established”); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) (applying case law from the probation and parole contexts to conclude that the non-citizen petitioner had a “liberty interest in remaining out of [immigration] custody”).

43. Despite these baseline requirements, Respondents now regularly detain individuals who are neither a flight risk nor a danger to the community. *See, e.g., Romero Perez v. Francis*, No. 25 CIV 8112, 2025 WL 3110459 (S.D.N.Y. Nov. 6, 2025).

Release is the Only Appropriate Remedy and Exhaustion is Not Necessary

44. Notwithstanding the Second Circuit's acknowledgement that noncitizens detained many years after their entry within the interior of the United States are eligible for bond, the only appropriate remedy in this case is release and exhaustion is not necessary.

45. Moreover, Petitioner is not required to exhaust administrative remedies. "[A]dministrative exhaustion before immigration detention may be challenged in federal court by a writ of habeas, as a prudential matter, exhaustion is not a statutory requirement." *Quintanilla v. Decker*, 2021 WL 707062 at *2 (S.D.N.Y. Feb. 22, 2021) (internal citations omitted). Exhaustion may be excused where (1) there is no genuine opportunity for adequate relief (2) irreparable injury may occur (3) remedies are futile or (4) Petitioner raises constitutional questions. *Id.* (quoting *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003)). Any of these exceptions, alone, may excuse the exhaustion requirement. Here, all apply.

46. A bond hearing in front of an immigration judge is inadequate to vindicate Petitioner's rights. Recent actions by ICE attorneys and immigration judges during and after habeas court-ordered bond hearings have necessitated enforcement proceedings across the country, creating significant extra work for courts and the parties while unlawful detention continues. *See generally* Kyle Cheney, *Judges Keep Ordering Immigration Hearings—But Say the Results Are Often A Sham*, Politico (Mar. 6, 2026), <https://www.politico.com/news/2026/03/06/immigration-case-hearings-judges-00815660>.

47. Hundreds of cases have involved Respondents' outright refusal, inability, or failure to hold a timely bond hearing after being ordered to do so. *See Kumar v. Soto*, No. 26-cv-777, Dkt. No. 21-1. (D.N.J. Feb. 13, 2026) (filing from the New Jersey U.S. Attorney's Office admitting to violating fifty-six orders in habeas cases, including failure to hold bond hearings in the required time period); *Juan T.R. v. Noem*, No. 26-cv-0107 (PJS/DLM), 2026 WL 555601, at *1 (D. Minn. Feb. 26, 2026) (cataloging 210 court orders the Department of Justice violated in 143 habeas cases, including 15+ instances of failing to provide).

48. Additionally, in the past year, ICE has frequently appealed immigration judges' grants of bond to the Board of Immigration Appeals and invoked the "automatic stay" regulation, 8 C.F.R. § 1003.19(i)(2), to prevent even those noncitizens who succeed in bond hearings from being released. Dozens of habeas courts have ruled that the automatic stay violates due process and have ordered the government to allow a petitioner to post bond. *See, e.g., M.P.L. v. Arteta*, No. 25-cv-5307, 2025 WL 3288354, at *7 & n.6 (S.D.N.Y. Nov. 25, 2025) (collecting cases). In other cases, ICE has applied onerous electronic GPS ankle monitors or other unnecessary conditions of release that neither the habeas court nor the immigration court ordered, requiring additional litigation. *See, e.g., Diahn v. Lowe*, No. 24-cv-1936, 2026 WL 84576, at *5 (M.D. Pa. Jan. 12, 2026) (ordering ICE to remove ankle monitor it had unilaterally imposed after immigration judge granted release on bond without further conditions). Finally, some immigration judges have failed to conduct a neutral, individualized bond hearing or to place the burden of proof as ordered by the habeas court. *See, e.g., Ulloa Bueno v. Soto*, No. 26-cv-896, 2026 WL 509102, at *2 (D.N.J. Feb. 24, 2026) (granting immediate release after immigration judges twice failed to conduct a neutral bond hearing with the burden on DHS); *Akhmedov v. Pittman*, No. 25-cv-13734 (MCA), 2026 WL 323404, at *4

(D.N.J. Feb. 6, 2026) (ordering second bond hearing after the immigration judge failed to clearly put the burden of proof on the government at the first court-ordered hearing, as the habeas court had required).

49. For example in *Romero Perez*, notwithstanding Judge Koetl's order that a burden shifted bond hearing be held within seven days, the Immigration Judge first refused to hold a hearing on the merits, denying bond on a lack of jurisdiction, requiring that an emergency motion be filed by Respondents. *See* Pet.'s Mot. To Enforce Nov. 6, 2025 Order 1, No. 25 CIV 8112 ECF No. 31 (Nov. 10, 2025). Following the emergency motion, the Immigration Judge held a second hearing to grant bail. However, as soon as bail was granted, Respondents invoked an automatic stay pursuant to 8 C.F.R.10034.19(i)(23) to bar the Petitioner's release. *See* Pet.'s Mot. To Enforce Nov. 6, 2025 Order 1, No. 25 CIV 8112 ECF No. 33 (Nov. 10, 2025). Petitioner was only released after he was denied twice the opportunity to be released and only after two emergency motions had to be filed with the court.

50. As set forth above, exhaustion of administrative remedies would provide "no genuine opportunity for relief" and is "futile." *Joseph v. Decker*, 2018 WL 6075067 at *6 (S.D.N.Y. Nov. 21, 2018); *see also Rodriguez-Figueroa v. Barr*, 442 F. Supp. 3d 549, 561 (W.D.N.Y. 2020). Moreover, to avoid the complete undermining of Petitioner's actual release from detention, outright release – not a bond hearing – is necessary.

FACTS

51. Petitioner is a 46-year-old citizen of Jamaica who currently resides in [REDACTED]. [REDACTED]. He was born in the south side of Kingston, Jamaica, on [REDACTED]. He has a 25-year-old daughter who is a United States citizen, who visits Petitioner every weekend. His brothers, sister, and approximately 20 nieces and nephews live in the United

States with him. Petitioner has a steady job working for a moving company, lives near a large extended family, and has a community in Saint Albans, New York.

52. In 1994, Petitioner was kidnapped by a man who claimed to be his uncle and taken on a boat to another country. Petitioner was then taken to Miami, Florida, and [REDACTED]. [REDACTED]. Petitioner was able to flee and find his half-brother in New York. Petitioner has not returned to Jamaica and has never traveled to another country since arriving in the United States.

53. Petitioner filed an application for asylum in December 2021 because he feared return to Jamaica [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]. During his childhood, Petitioner resisted gang recruitment efforts and was beaten and threatened by gang members. [REDACTED]
[REDACTED]

54. Petitioner was arrested in March 2021 due to his awareness of a marijuana business operated by his half-brother, Duwayne John, who was convicted and sentenced to over 20 years' imprisonment in 2004. Duwayne and five other members of the [REDACTED] were arrested due to their involvement in the marijuana business. These individuals faced decades-long sentences, and following their release, were returned back to Jamaica. Petitioner was not among the people arrested at that time.

55. Petitioner fully [REDACTED]
[REDACTED], and was sentenced to time served in December 2021, with no additional jail time.

56. Following his sentence, Petitioner was informed by [REDACTED] the former members of the [REDACTED] who were sentenced and deported to Jamaica are aware that [REDACTED]. Petitioner has also received death threats from gang members labeling him as an [REDACTED] and [REDACTED] Gang members have threatened his family in Jamaica by firing shots at his family's home, threatening to kill Petitioner. Petitioner will likely be harmed or killed if he returns to Jamaica, as these gang members know his identity and where his family in Jamaica resides. Petitioner believes that Jamaican authorities will not protect him if targeted by these gang members.

57. Aside from his [REDACTED], Petitioner was previously arrested twice: in 2002 for possession of a firearm in New York; and 2010 for possession of marijuana in Philadelphia. In both cases, Petitioner was not formally charged and the cases were dismissed. Petitioner did not own or possess either the firearm or marijuana at issue in either arrests; rather, he was arrested alongside a number of other individuals and the firearm and marijuana at issue belonged to one of those individuals.

58. On May 13, 2026, Petitioner dutifully attended an asylum interview scheduled by USCIS for 7:30 AM ET in USCIS's Bethpage, NY office. At approximately 9:00 AM ET, Petitioner and his pro bono attorney entered an asylum officer's office and began the asylum interview. Approximately fifteen minutes later, the asylum officer informed Petitioner and his attorney that his colleague had additional questions for him. The asylum officer escorted Petitioner and his attorney to another office down the hall. Once Petitioner and his attorney

entered the office, three ICE agents appeared and informed Petitioner that he was being detained for illegally being in the country and for having a criminal history. The ICE agent did not provide additional reasons supporting Petitioner's detention, despite Petitioner's attorney's questions. An ICE agent handed Petitioner's attorney an arrest warrant from the U.S.

Department of Homeland Security dated May 12, 2026. The ICE agent also presented a Notice to Appear form to Petitioner's attorney that included "TBD" in the hearing line, but refused to provide a copy to Petitioner's attorney. The ICE agent asked two question of Petitioner before detaining him: how he entered the United States, and where his daughter lived. The ICE agent did not ask any questions regarding his ties to the community, such as his employment and his involvement in the community. The ICE agent informed Petitioner's attorney that he was taking Petitioner to Nassau County Correctional Center for 2-3 days, whereafter Petitioner would be transferred to an unknown detention facility.

59. On information and belief, following Petitioner's arrest, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

60. As a result, Petitioner remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, and his community and he would suffer undue hardship.

CLAIMS FOR RELIEF

COUNT I

Violation of the Immigration and Nationality Act (INA)

61. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

62. Petitioner's detention without any individualized determination as to his flight risk or danger to the community through a bond hearing as required by § 1226(a) violates the INA.

COUNT TWO
VIOLATION OF REGULATIONS
8 C.F.R. §§ 236.1, 1236.1, and 1003.19

63. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

64. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

65. The application of § 1225(b)(2) to Petitioner unlawfully mandates their continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III
VIOLATION OF THE DUE PROCESS CLAUSE
OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION
SUBSTANTIVE DUE PROCESS

66. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

67. Petitioner is being detained without cause and in violation of his Constitutional right to Due Process under the Fifth Amendment.

68. The government's ongoing detention of Petitioner is unjustified and unlawful.

69. The goals of immigration detention are to "ensur[e] [his] appearance ... at future immigration proceedings," and to "[p]revent[] danger to the community." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Neither goal is served by Petitioner's detention.

70. Petitioner was detained by ICE at a scheduled asylum hearing, demonstrating that there was no need for detention to ensure his presence at any future court hearings.

71. In addition, Petitioner's only conviction is a plea for misprison of felony in 2021, which he received after [REDACTED].

72. The Due Process Clause guarantees detained immigrants the right to be detained in a safe situation, free from punitive conditions of confinement. *See* U.S. Const. amend. V.

73. Respondents' failure to adequately protect Petitioner from these punitive conditions, or release him from detention altogether, violates his due process rights.

74. Petitioner has no adequate remedy at law.

75. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT FOUR
VIOLATION OF THE DUE PROCESS CLAUSE
OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION
PROCEDURAL DUE PROCESS

76. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

77. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

78. Petitioner has a fundamental interest in liberty and being free from official restraint.

79. The government’s detention of Petitioner without an individualized determination whether he is a flight risk or danger to others violates their right to due process.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the Southern District of New York, the Eastern District of New York, or the District of New Jersey while this habeas petition is pending;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
- e. Declare that Petitioner’s detention is unlawful;

- f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- g. Grant any other and further relief that this Court deems just and proper.

DATED this 13th day of May 2026.

/S/ Kevin JeanBaptiste

Pro Bono Counsel for the Petitioner