

1 **Caroline Matthews, Esq.**

Pathways to Citizenship

2 120 Stevens Avenue

Solana Beach, CA 92075

3 caroline@pathwayssd.org

4 Pro Bono Attorney for Petitioner

5 **UNITED STATES DISTRICT COURT**
6 **SOUTHERN DISTRICT OF CALIFORNIA**

7
8 **AHMED, AYAN MOHAMED, Petitioner,**

9 v.

10 **CHRISTOPHER J. LAROSE**, Warden at Otay

Mesa Detention Center; **GREGORY J.**

11 **ARCHAMBEAULT**, San Diego Field Office

Director ICE Enforcement Removal Operations;

12 **TODD M. LYONS**, Acting Director,

Immigration and Customs Enforcement.

13 **MARKWAYNE MULLIN**, Secretary of the

Department of Homeland Security; U.S.

14 DEPARTMENT OF HOMELAND SECURITY;

15 **TODD BLANCHE**, Attorney General of the

United States; U.S. IMMIGRATION

16 CUSTOMS ENFORCEMENT; EXECUTIVE

OFFICE FOR IMMIGRATION REVIEW

17 **Respondents**

CIVIL CASE NO.: **'26CV3766 TWR SBC**

**PETITION FOR WRIT OF
HABEAS CORPUS AND ORDER
TO SHOW CAUSE WITHIN
THREE DAYS**

Agency No. 

Immediate Release Requested

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1 Petitioner, Ayan Hohamed Ahmed, petitions this Court for a writ of habeas corpus
2 under 28 U.S.C. § 2241 to remedy Respondents' detaining her unlawfully, and
3 states as follows:
4

5 I. INTRODUCTION

6 1. The petitioner, Ayan Hohamed Ahmed, was born [REDACTED] in
7 Ethiopia. She was forced to undergo Female Genital Mutilation (FGM) at the age
8 of eleven in 2011. Soon after, Ms. Ahmed's sister was also forced to FGM and died
9 of consequences of FGM. When Ms. Ahmed finished her education, she dedicated
10 herself to raising awareness of the harm of FGM and was therefore persecuted by
11 local government.
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14 2. On December 15, 2025, Ms. Ahmed entered the United States and was
15 immediately detained at Otay Mesa Detention Center in San Diego, CA. She filed
16 form I-589, Application for Asylum and for Withholding of Removal on February
17 23, 2026. *See* Tab A, Respondent's I-589 Application. During the removal
18 proceedings before the immigration judge, Department of Homeland Security
19 (DHS) filed an interlocutory appeal. The appeal was based on DHS assertion that
20 the immigration judge's denial of DHS's motion to pretermitt Petitioner's asylum
21 application was incorrect. DHS alleges that the immigration judge should pretermitt
22 Petitioner's application before hearing the merits, and send Petitioner to Uganda
23 where the United States has an Asylum Cooperative Agreement. The immigration
24 judge denied the motion to pretermitt and on the merits of the case. Petitioner was
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1 granted asylum on April 28, 2026. *See* Tab B, Order of the Immigration Judge to
2 Grant Asylum. DHS again filed an appeal, objecting judge's denial of a motion to
3 pretermite the application, identical to an interlocutory appeal dismissed on
4 mootness. *See* Tab C, BIA Court Order on Interlocutory Appeal. DHS claims they
5 are appealing the merits of the grant, but DHS mischaracterizes the nature of the
6 appeal. The appeal, in fact, alleges the very same law and facts, in a more
7 abbreviated fashion. *See* Tab D, DHS Appeal.

10 3. ICE has refused to release Ms. Ahmed based on the appeal. Ms. Ahmed is
11 presently still detained at Otay Mesa Detention Center. She has been detained for
12 more than six months as of the day of the filing of this Petition.

14 4. Resulting from the torture that Ms. Ahmed underwent in Ethiopia, she has
15 multiple significant scars and body injuries. Particularly, she suffers from the
16 severe damages in genitalia, which was caused by FGM. Her mental health also
17 suffers direct and repeated experience of trauma, particularly from her own FGM
18 and the death of her sister. *See* Tab E, Medical Evaluation of Ms. Ahmed.

21 5. The ICE detention centers have drawn attention for providing
22 accommodation to detainees with medical needs, and there are documented
23 instances where detainees face assaults, frauds, and threats¹. With her physical and
24 mental status, Ms. Ahmed will suffer irreparable harm if she continues to be
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28 ¹ See Wendy Fry, *Judge Orders ICE Detention Center to Allow San Diego Inspection*, CalMatters (June 3, 2026),
<https://calmatters.org/justice/2026/06/otay-mesa-san-diego-inspection-2/>.

1 detained. *See* Cal. Dep't of Justice, Office of the Att'y Gen., Immigration
2 Detention in California: A Review of Conditions of Confinement at 117 (2026).

3
4 6. Therefore, Ms. Ahmed respectfully requests that the Court expeditiously
5 grant the immediate release of this wrongfully arrested and detained individual.

6 II. JURISDICTION

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

10 8. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas
11 corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United
12 States Constitution (Suspension Clause).

13
14 9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. §
15 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All
16 Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. §
17 1252 (e)(2).

18 III. VENUE

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20 10. Venue is proper because Petitioner is in Respondents' custody in San Diego,
21 California. Venue is further proper because a substantial part of the events or
22 omissions giving rise to Petitioner's claims occurred in this District, where
23 Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).

24
25 11. For these same reasons, a divisional venue is proper under Local 5 Rule HC.
26
27 1.

1 **IV. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

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

7
8 13.Courts have long recognized the significance of the habeas statute in
9 protecting individuals from unlawful detention. The Great Writ has been referred
10 to as “perhaps the most important writ known to the constitutional law of England,
11 affording as it does a swift and imperative remedy in all cases of illegal restraint or
12 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

13
14 14.Petitioner is “in custody” for the purpose of § 2241 because she is arrested
15 and detained by Respondents.
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18 **V. PARTIES**

19 15.Ayan Hohamed Ahmed (“Petitioner”) is a 25-year-old citizen of Ethiopia.
20 She is presently detained by Otay Mesa Detention Center, within the state of
21 California, as of the time of the filing of this petition.

22
23 16.Respondent Christopher J. LaRose is the Warden of the Otay Mesa City
24 Detention Center and is a legal custodian of Petitioner.
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26 17.Respondent Gregory J. Archambeault is the San Diego Field Office Director
27 (“FOD”) for ICE Enforcement and Removal Operations (“ERO”). As such,
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1 Respondent Gregory J. Archambeault is responsible for the oversight of ICE
2 operations at the California City Detention Center. Respondent Gregory J.
3 Archambeault is being sued in her official capacity.
4

5 18. Respondent Todd Lyons is the Acting Director of Immigration and Customs
6 Enforcement (“ICE”). As such, Respondent Lyons is responsible for the oversight
7 of ICE operations. Respondent Lyons is being sued in his official capacity.
8

9 19. Respondent Markwayne Mullin is the Secretary of the Department of
10 Homeland Security (DHS) and has authority over the actions of all other DHS
11 Respondents in this case, as well as all operations of DHS. Respondent Mullin is a
12 legal custodian of Petitioner and is charged with faithfully administering the
13 immigration laws of the United States.
14

15 20. Respondent Todd Blanche is the Attorney General of the United States, and
16 as such has authority over the Department of Justice and is charged with faithfully
17 administering the immigration laws of the United States.
18

19 21. Respondent U.S. Immigration Customs Enforcement is the federal agency
20 responsible for custody decisions relating to non-citizens charged with being
21 removable from the United States, including the arrest, detention, and custody
22 status of non-citizens.
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24 22. Respondent U.S. Department of Homeland Security is the federal agency
25 that has authority over the actions of ICE and all other DHS Respondents. This
26 action is commenced against all Respondents in their official capacities.
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23. 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.

VI. LEGAL FRAMEWORK

A. Government Has No Statutory Authority to Detain Ms. Ahmed Because She Has Been Granted Asylum.

24. The statutes governing inspection and detention by immigration officers apply exclusively to “applicant[s] for admission.” 8 U.S.C. §§ 1225(b), 1226. Section 1225(b)(2)(A) provides that the rule applies to “applicant[s] for admission” “who ... is not clearly and beyond a doubt entitled to be admitted.” § 1225(b)(2)(A). Similarly, section 1226(a) only authorizes detention of aliens in removal proceedings “pending a decision.” § 1226(a). Ms. Ahmed has been granted asylum, which resolved her asylum application and conferred her a protected legal status. This removes her from the category of persons subject to mandatory detention under these provisions and the government does not have a proper statutory basis to detain.

25. The government’s appeal of Ms. Ahmed’s asylum grant does not create statutory authority to detain her. No provision of the INA confers upon DHS the power to detain an asylee solely because the government has filed a notice of appeal. The filing of an appeal is a procedural step that does not alter the substantive legal status of the petitioner. The government’s disagreement with the

1 asylum grant, expressed through its appeal, does not retroactively convert Ms.
2 Ahmed into an applicant for admission.

3
4 26. In fact, no automatic stay of Petitioner's asylum grant even exists in the law.
5 The regulations governing automatic stays are narrow and specific. The regulation
6 creating an automatic stay during appeal applies only to "automatic stay pursuant
7 to 8 C.F.R. § 1003.19(i)(2)," which governs custody redeterminations. 8 C.F.R. §
8 1003.6; EOIR Policy Manual Part III § 5.2. No statute or regulation grants an
9 automatic stay for the government's appeal of an asylum grant. Persuasive
10 authority shows that this absence of a provision is dispositive and should be
11 considered intentional. *See Bejar v. Ashcroft*, 324 F.3d 127, 132 (3d Cir. 2003).
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14 27. DHS cannot justify Ms. Ahmed's detention on the basis of removal risk
15 because removal is legally barred by her asylum grant. An asylee "may not be
16 removed from the United States" except in limited circumstances. 8 U.S.C. §
17 1158(c)(1)(A). The statutory bar on removal applies unless and until asylum is
18 formally terminated pursuant to section 1158(c)(2), which permits termination only
19 when specified conditions are met, such as conviction of an aggravated felony or a
20 determination that the alien is no longer a refugee. § 1158(c)(2); *Pechenkov v.*
21 *Holder*, 705 F.3d 444, 447 (9th Cir. 2012). No such termination has occurred in
22 Ms. Ahmed's case.
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26 28. In fact, on April 28th, when granted asylum, Petitioner gained an even
27 greater and more protected right to due process. Petitioner is in a lawful
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1 immigration status which certainly confers the basics of the most basic right, which
2 is “[f]reedom from imprisonment—from government custody, detention, or other
3 forms of physical restraint—lies at the heart of the liberty that Clause protects.”
4 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also Foucha v. Louisiana*, 504
5 U.S. 71, 80 (1992) (“freedom from bodily restraint has always been at the core of
6 the liberty protected by the Due Process Clause.”). To infer that appeal is
7 tantamount to stripping Petitioner of her hard-fought legal case is to inflict yet
8 another injustice, one that the government’s interest can surely not justify.

11 29. With the granted asylum, immediate release is the most appropriate remedy.
12 “In recent months, courts across the country have ordered the release of detainees
13 in similar situations.” *See Moctezuma v. Henkey*, No. 1:25-CV-00741-BLW, 2026
14 WL 18809, at*5 (D. Idaho Jan. 2, 2026) (given that the government’s repeated use
15 of unlawful detention policies across the country, causing petitioners to “sit in jail
16 waiting for a judicial decision,” the court would order immediate release instead of
17 causing additional delay through a bond hearing) (citing *Lepe v. Andrews*, 801 F.
18 Supp. 3d 1104 (E.D. Cal. 2025)); *see also Pinchi v. Noem*, No. 25-cv-05632, 2025
19 WL1853763, at *4 (N.D. Cal. July 4, 2025); *J.U. v. Maldonado*, No. 25-cv-4836,
20 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025); *Rosado v. Figueroa*, No.
21 25-cv-2157, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025); *Santiago v.*
22 *Noem*, No. EP-25-CV-361, 2025 WL 2792588, at *13-14 (W.D. Tex. Oct. 2, 2025)
23 (“Without a legitimate interest in her detention, immediate release appropriately
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1 remedies Respondents' violation of [Petitioner's] due process rights through her
2 continued detention.").

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4 **B. The Due Process Clause Warrants Ms. Ahmed's Immediate Release**

5 **Because Her Detention Is Prolonged**

6 30. Immigration detention, as a type of civil detention in nature, must not be
7 punitive. The Due Process Clause prohibits the use of civil detention as
8 punishment but must be justified by a non-punitive governmental purpose. Where
9 detention is prolonged and serves no legitimate immigration enforcement purpose,
10 it becomes punitive in effect and violates due process. In Ninth Circuit, a
11 bright-line six-month standard was applied to request mandatory bond hearings for
12 prolonged detainees pursuant to section 1226(c). *See Rodriguez v. Robbins*, 715
13 F.3d 1127 (9th Cir. 2013), *abrogated by Jennings v. Rodriguez*, 583 U.S. 281
14 (2018). There is no legitimate governmental purpose for detaining an asylee. The
15 Supreme Court has recognized that civil immigration detention must serve a
16 legitimate purpose tied to removal or immigration proceedings. *See Nken v.*
17 *Holder*, 556 U.S. 418 (2009). Where an alien has been granted asylum, the
18 traditional purposes underlying immigration detention, for example, ensuring
19 appearance at removal proceedings and preventing flight from removal, are absent.
20 Without danger to the community or flight risk, her continued detention serves no
21 legitimate governmental interest.
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C. The Due Process Clause Warrants Ms. Ahmed's Release Because Her Health and Safety Are in Danger Due to Her Detention.

31. When the government detains or incarcerates someone, it has an affirmative duty to provide conditions of reasonable health and safety. Indeed, the U.S. Supreme Court has emphasized the government's obligation to protect individuals' "safety and general well-being" when they are taken into custody and held "against [their] will." *DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, 489 U.S. 189, 199–200 (1989).

32. Individuals in civil detention are afforded "more considerate treatment, and conditions of confinement" than individuals in criminal custody "whose conditions of confinement are designed to punish." *Youngberg v. Romeo*, 457 U.S. 307, 321–22 (1982). Immigrant detainees are civil detainees held pursuant to civil immigration laws. *Zadvydas*, 533 U.S. at 690 .

33. Because Ms. Ahmed is a civil detainee, her constitutional protections while in custody are derived from the Fifth Amendment. The Due Process Clause guarantees persons in civil immigration detention the right to reasonable safety and freedom from punitive conditions of confinement. *Bell v. Wolfish*, 441 U.S. 520, 535 (1979) ("[U]nder the Due Process Clause, a detainee may not be punished prior to an adjudication of guilt in accordance with due process of law."); *Kingsley v. Hendrickson*, 576 U.S. 389, 400 (2015) ("[P]retrial detainees (unlike convicted prisoners) cannot be punished at all, much less 'maliciously and sadistically.'")

1 (citing *Ingraham v. Wright*, 430 U.S. 651, 671–72, n.40 (1977) and quoting
2 *Graham v. Connor*, 490 U.S. 386, 395, n.10 (1989))). ICE violates the Constitution
3 when it fails to safeguard the health and safety of those in its custody and to meet
4 their basic human needs, including “food, clothing, shelter, medical care, and
5 reasonable safety.” *DeShaney*, 489 U.S. at 200; see also *Youngberg*, 457 U.S. at
6 317 (“When a person is institutionalized—and wholly dependent on the State . . . a
7 duty to provide certain services and care does exist[.]”); *Rivera v. Rhode Island*,
8 402 F.3d 27, 34 (1st Cir. 2005) (“[I]n situations in which there is a special
9 relationship, an affirmative, constitutional duty to protect may arise when the state
10 so restrains an individual’s liberty that it renders him unable to care for himself,
11 and at the same time fails to provide for his basic human needs.” (internal
12 quotation marks and citations omitted)).

13 34. “[H]abeas corpus is, at its core, an equitable remedy.” *Schlup v. Delo*, 513
14 U.S. 298, 319 (1995). Habeas vests in federal courts broad, equitable authority to
15 “dispose of the matter as law and justice require.” 28 U.S.C. § 2243. The “very
16 nature of the writ demands that it be administered with the initiative and flexibility
17 essential to ensure that miscarriages of justice . . . are surfaced and corrected.”
18 *Harris v. Nelson*, 394 U.S. 286, 291 (1969).

19 35. This Court has exercised this authority to remedy constitutional violations
20 caused by the government's inability to protect health and safety. Releasing Ms.
21 Ahmed is the only viable remedy to ensure her safety and health.
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D. Ms. Ahmed Should Be Released as a Reasonable Accommodation to Ensure Meaningful Access to Her Immigration Proceedings under the Rehabilitation Act.

36. Section 504 of the Rehabilitation Act prohibits discrimination on the basis of a disability in programs, services, or activities conducted by U.S. federal agencies, including DHS and EOIR. 29 U.S.C. § 794(a); 6 C.F.R. § 15.30(a). Programs or activities include “all the operations of . . . [an agency].” 29 U.S.C. § 794(b)(1)(a).

37. To state a *prima facie* case under Section 504, an individual “must establish: (1) that he is a qualified individual with a disability; (2) that he was either excluded from participation in or denied the benefits of some public entity’s services, programs, or activities or was otherwise discriminated against; and (3) that such exclusion, denial of benefits, or discrimination was by reason of the plaintiff’s disability.” *Parker v. Universidad de Puerto Rico*, 225 F.3d 1, 5 (1st Cir. 2000) (interpreting 42 U.S.C. § 12132).

38. Exclusion from a public entity’s “service, programs, or activities” can include impeding an individual’s ability to fully participate in an immigration process, such as removal proceedings. *See Franco-Gonzalez v. Holder*, 767 F. Supp. 2d 1034, 1037, 1055 (C.D. Cal. 2010) (noting that petitioner was released pursuant to habeas petition alleging, *inter alia*, violations of the Rehabilitation Act and concluding that “Defendants violated the Rehabilitation Act when they failed

1 to provide [a noncitizen] with adequate safeguards ... during removal
2 proceedings”).

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4 39. Given Ms. Ahmed’s significant mental health conditions, the Act then
5 imposes on an agency, including DHS and EOIR, an affirmative obligation to
6 ensure meaningful access to programs or activities, including immigration
7 proceedings². 29 U.S.C. § 794(d); *Tennessee v. Lane*, 541 U.S. 509, 511–12 (2004)
8 (recognizing that the duty to create equal access to public services is consistent
9 with states’ “affirmative obligation” to give individuals a meaningful opportunity
10 to be heard); *Toledo v. Sanchez*, 454 F.3d 24, 32 (1st Cir. 2007) (imposing an
11 “affirmative obligation on public entities to make their programs accessible to
12 qualified individuals with disabilities, except where compliance would result in a
13 fundamental alteration of services or impose an undue burden”); *see also* 28 C.F.R.
14 § 35.13(b)(7); 6 C.F.R. § 15.30 (prohibiting discrimination by DHS); 28 C.F.R. §
15 39.130 (prohibiting discrimination by the Department of Justice). Meaningful
16 access is provided when everyone has an “equal opportunity to obtain the same
17 result, to gain the same benefit, or reach the same level of achievement.” *Alexander*
18 *v. Choate*, 469 U.S. 287, 305 (1985) (citing 45 C.F.R. § 84.4(b)(2)).

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20
21 40. Releasing Ms. Ahmed from detention is a reasonable accommodation that
22 would enable her to receive the appropriate rehabilitative services she needs to

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26 ² U.S. Commission on Civil Rights (USCCR), *Sharing the Dream: Is the ADA*
27 *Accommodating All?*, <https://www.usccr.gov/files/pubs/ada/ch5.htm> (noting that
28 impairments that qualify as psychiatric disabilities under the ADA include bipolar disorder).

1 participate in her immigration proceedings. *See Alexander*, 469 U.S. at 300
2 (requiring federal grantees bound by Section 504 to make “reasonable”
3 accommodations); *see also U.S. Airways, Inc. v. Barnett*, 535 U.S. 391, 402 (2002)
4 (noting that an accommodation is reasonable when it is “reasonable on its face, *i.e.*,
5 ordinarily or in the run of cases”).
6

7 41. Public entities have an affirmative obligation “to make their programs
8 accessible to qualified individuals with disabilities, except where compliance
9 would result in a fundamental alteration of services or impose an undue burden.”
10 *See Toledo*, 454 F.3d at 32. Release or provision of a bond hearing does not
11 fundamentally alter EOIR or DHS programs or impose undue financial or
12 administrative hardship on either agency.
13

14 42. Indeed, DHS regularly releases noncitizens with severe mental disabilities
15 who would otherwise be subject to mandatory detention. *See ICE, Directive*
16 11063.2: Identification, Communication, Recordkeeping, and Safe Release
17 Planning for Detained Individuals with Serious Mental Disorders or Conditions
18 and/or Who Are Determined To Be Incompetent By An Immigration Judge (Apr. 5,
19 2022), at 2, <https://www.ice.gov/doclib/news/releases/2022/11063-2.pdf> (“In
20 recognition of the vulnerability of such individuals [having serious mental
21 disorders or conditions], ICE is instituting additional safeguards.”). Moreover,
22 DHS has wide discretion to release persons from its custody for humanitarian
23 reasons. *See ICE, Directive 11071.1: Assessment and Accommodations for*
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1 Detainees with Disabilities (Dec. 15, 2016), at 9,
2 <https://www.aila.org/library/ice-er-directive-detainees-with-disabilities> (providing
3 for release as a potential accommodation for detainees with disabilities); ICE,
4 Directive 11063.2, *supra* note 9, at 13–15.
5

6 VII. EXHAUSTION OF REMEDIES

7
8 43. With regard to habeas claims, exhaustion of administrative remedies is
9 prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir.
10 2017). A court may waive the prudential exhaustion requirement if “administrative
11 remedies are inadequate or not efficacious, pursuit of administrative remedies
12 would be a futile gesture, irreparable injury will result, or the administrative
13 proceedings would be void.” *Id.* (quoting *Liang v. Ashcroft*, 370 F.3d 994, 1000
14 (9th Cir. 2004). Petitioner asserts that exhaustion should be waived because
15 administrative remedies are (1) futile and (2) their continued detention results in
16 irreparable harm.
17
18

19 44. Petitioner has been granted asylum by an Immigration Judge. She should be
20 released as her removal proceeding is resolved by the granted asylum. However,
21 DHS filed an appeal which was identical to a dismissed interlocutory appeal, and
22 ICE refused to release Petitioner falsely relying on the appeal. Because the
23 administration abused the discretion to extend Petitioner’s detention, Petitioner
24 finds that seeking administrative remedy would be a futile endeavor.
25
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1 45. Petitioner's continued detention will result in irreparable harm. First,
2 Petitioner has severe mental and physical health issues after months in detention.
3 According to an evaluation by a licensed physician, Ms. Ahmed experiences severe
4 pain resulting from the FGM, [REDACTED]
5 [REDACTED] making infections common for her situation. *See* Tab E. Additionally, she
6 is at high risk for and exhibits clear elements of trauma spectrum disorder and
7 would benefit from further evaluation and counseling with a mental health
8 professional. *Id.* The ICE detention centers have a notorious record for failing to
9 accommodate detainees' needs, which has resulted in a significant number of
10 deaths of detainees just in the last two years. The Petitioner's health will continue
11 to suffer irreparable harm if she keeps being detained in this environment.
12 Coupling the Petitioner's current lawful status with additional health concerns,
13 immediate release should occur.

14 VIII. FACTUAL BACKGROUND

15 46. Petitioner, Ms. Ahmed was born in Ethiopia [REDACTED] When
16 she was eleven, she was forced to undergo FGM by her grandmother. Two days
17 later, her sister was also forced to FGM and died of the infection resulting from
18 unhygienic conditions. *See* Tab F, Declaration of Ms. Ahmed.

19 47. When Ms. Ahmed grew old, motivated by the tragedy of her sister and herself,
20 she became an activist dedicated to raise awareness of the harm of FGM. *Id.* Some
21 community members welcomed her. *Id.* However, her work was considered an
22

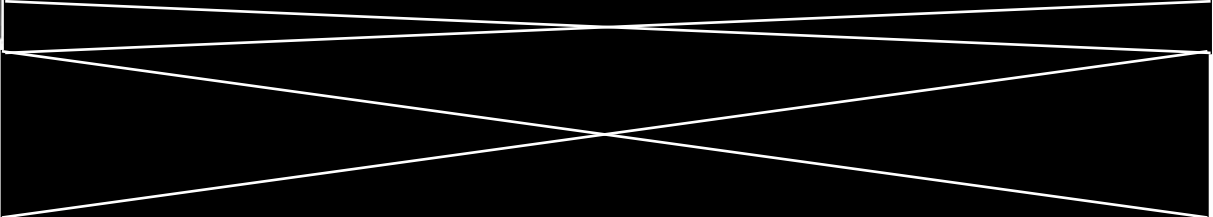
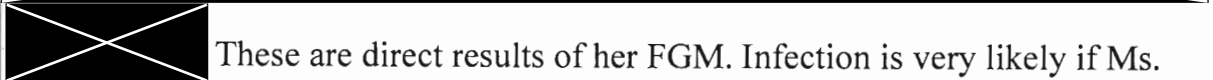
1 assault to the culture by some other members and the local government. *Id.* She has
2 been imprisoned and threatened to violence by the government. *Id.* When she tried
3 to continue her awareness work in her hometown, some soldiers fired gunshots to
4 disperse the supporters, resulting in some injuries. *Id.* Worrying about her own
5 safety, she decided to flee to the United States with the help of her father, who was
6 later arrested during Ms. Ahmed's travel. *Id.*

7
8
9 48. Ms. Ahmed arrived in Hargaysa on November 5, 2025. *Id.* After a few days,
10 on November 10, 2025, she travelled to Thailand through Dubai, UAE. *Id.* She
11 arrived in Thailand on November 11, 2025, and then flew to Mexico City through
12 Japan on November 19, 2025. *Id.* After that, she traveled to the city of Tijuana and
13 arrived there on November 23, 2025. *Id.* She entered the United States on
14 December 15, 2025, and was immediately arrested. *Id.* She has been detained at
15 Otay Mesa Detention since then for more than six months. *Id.*

16
17
18 49. Ms. Ahmed filed form I-589, Application for Asylum and for Withholding
19 of Removal on February 23, 2026. *See* Tab A, Respondent's I-589 Application.
20 During the removal proceedings before the immigration judge, Department of
21 Homeland Security (DHS) filed an interlocutory appeal. The appeal was based on
22 DHS assertion that the immigration judge's denial of DHS's motion to pretermite
23 Petitioner's asylum application was incorrect. DHS alleges that the immigration
24 judge should pretermite Petitioner's application before hearing the merits, and send
25 Petitioner to Uganda where the United States has an Asylum Cooperative
26
27
28

1 Agreement. The immigration judge denied the motion to pretermite and on the
2 merits of the case. Petitioner was granted asylum on April 28, 2026. *See* Tab B,
3 Order of the Immigration Judge to Grant Asylum. DHS again filed an appeal,
4 objecting judge's denial of a motion to pretermite the application, identical to an
5 interlocutory appeal dismissed on mootness. *See* Tab C, BIA Court Order on
6 Interlocutory Appeal. DHS claims they are appealing the merits of the grant, but
7 DHS mischaracterizes the nature of the appeal. The appeal, in fact, alleges the very
8 same law and facts, in a more abbreviated fashion. *See* Tab D, DHS Appeal. ICE
9 has refused to release Ms. Ahmed based on the appeal.

10 50. Ms. Ahmed has received a medical evaluation by a licensed physician. A 10
11 by 2 cm irregular scar was found on her inner right forearm, likely occurred when
12 she struggled to resist the FCM. 

13 
14 
15 These are direct results of her FGM. Infection is very likely if Ms.
16 Ahmed cannot get access to proper medical care. Additionally, Ms. Ahmed's
17 mental health also suffers direct and repeated experience of trauma, particularly
18 from her own FGM and the death of her sister. *See* Tab E, Medical Evaluation of
19 Ms. Ahmed.

20 IX. CLAIMS FOR RELIEF

COUNT ONE

**Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Abuse
of Discretion, No Statutory Authority to Detain Ms. Ahmed With Asylum
Granted**

51. Ms. Ahmed repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

52. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

53. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S. Inc. v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983)).

54. To prevail against such a claim, the agency must articulate “a satisfactory explanation for its action, including a rational connection between the facts found and the choice made.” *Dept. of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

55. Ms. Ahmed was detained after she entered the United States, which is a civil detention, to ensure she can attend all the removal proceedings, not as punishment.

1 She was granted asylum on April 28, 2026. The basis for Ms. Ahmed detention is
2 resolved by the granted asylum. Section 1225 and 1226 only apply to an “applicant
3 for admission,” which Ms. Ahmed is not a member of. §§ 1225, 1226. There is no
4 statute authorizing ICE further detention of Ms. Ahmed. No automatic stay exists
5 for a grant of asylum thus the grant is considered vested, unless otherwise reversed.
6 Unlike bond matters where DHS’ appeal of a grant of bond and an accompanying
7 stay subjects the non-citizen to detention while the issue is resolved, here no
8 parallel exists. Petitioner right now is an asylee, with the rights therein.

11 56. By refusing to release Ms. Ahmed immediately after the grant of asylum,
12 Respondents have violated the APA by failing to exercise discretion at all, let alone
13 find facts and make a rational choice based on those facts.

15 57. Efforts to work with Respondents through other sensible channels have
16 failed and have thus necessitated the filing of yet another habeas to rectify the
17 unlawful detention of someone with a lawful status.

19 **COUNT TWO**

21 **Violation of Ms. Ahmed’s Substantive Due Process Rights under the Fifth**

22 **Amendment**

24 58. Petitioner incorporates by reference the allegations of fact set forth in the
25 preceding paragraphs.

27 59. The Fifth Amendment of the Constitution guarantees that civil detainees,
28 including all immigrant detainees, may not be subjected to punishment.

1 Immigration detention is civil, not punitive, and must always “bear[] a reasonable
2 relation to the purpose for which the individual was committed.” *Demore v. Kim*,
3 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). The Supreme Court
4 has stated that the purpose or civil detention in this context is to “ensur[e] the
5 appearance of [noncitizens] at future proceedings,” *Zadvydas*, 533 U.S. at 690, and
6 to prevent flight, *Demore*, 538 U.S. at 528. The federal government violates Fifth
7 Amendment substantive due process rights when it subjects civil detainees to cruel
8 treatment and conditions of confinement that amount to punishment or does not
9 ensure those detainees’ safety and health.

10 60. Ms. Ahmed’s detention bears no relation to the purposes of civil
11 commitment because she poses no flight risk or danger to the community. Ms.
12 Ahmed has no criminal record in or out of the United States. Therefore, she has no
13 danger to the community. She entered the United State looking for safety from the
14 persecution of her home country. Therefore, she has no flight risk.

15 61. The Respondents, acting unreasonably and with deliberate indifference, are
16 subjecting Ms. Ahmed to a substantial risk of serious harm, in violation of her
17 rights under the Due Process Clause.

18 COUNT THREE

19 Violation of Ms. Ahmed’s Procedural Due Process Rights under the Fifth

20 Amendment

1 62. Petitioner incorporates by reference the allegations of fact set forth in the
2 preceding paragraphs.

3 63. Due process requires that government action be rational and non-arbitrary.
4 See, *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). While the government has
5 discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody
6 decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must
7
8 comport with constitutional due process. See, *Zadvydas*, 533 U.S. at 698. Although
9 the Ninth Circuit no longer applies the six-month bright-line rule for prolonged
10 detention, the courts have increasingly required bond hearings for noncitizens
11
12 facing prolonged detention.
13

14 64. Here, Ms. Ahmed was detained upon arrival into the United States on
15 December 15, 2025. She has been detained for more than six months at Oaty Mesa
16 Detention Center without a bond hearing. Because no circumstances have changed
17
18 to make Ms. Ahmed a flight risk or a danger to the community, Respondents’
19 actions are violations of procedural due process.
20

21 **COUNT FOUR**

22 **Violation of the Rehabilitation Act**

23 65. Petitioner incorporates by reference the allegations of fact set forth in the
24 preceding paragraphs.
25

26 66. The Rehabilitation Act mandates that federal agencies such as DHS provide
27 reasonable accommodation to individuals with a disability so that they are not
28

1 excluded from, denied the benefits of, or otherwise discriminated against in any
2 program or activity conducted by such agencies.

3
4 67. Resulting from FGM in her home country, Ms. Ahmed suffers from severe
5 physical and mental conditions. She has been evaluated by a licensed physician.
6 She has multiple scars in her body, including severe damages to her genitalia,
7 which has significant risk of infection. These physical conditions can irreparably
8 worsen without proper treatment. Because of the torture and persecution, she
9 experienced, she is also at high risk for and exhibits clear elements of trauma
10 spectrum disorder. Her mental state will also be irreparably damaged if she stays
11 being detained.
12

13
14 68. Ms. Ahmed's detention has deprived her of the necessary treatment that she
15 needs and care for her mental health conditions. Such denial has inhibited her from
16 meaningfully participating in her immigration proceedings.
17

18 COUNT FIVE

19 Immediate Release is the Appropriate Remedy

20
21 69. Release is the customary remedy in habeas proceedings. *See* § 2243 (the
22 habeas should "dispose of the matter as law and justice require."); *Preiser v.*
23 *Rodriguez*, 411 U.S. 475, 484 (1973) (finding "that the traditional function of the
24 writ is to secure release from illegal custody"). The most appropriate remedy in a
25 case like this, where Petitioner has been detained in violation of both the INA and
26 due process, is release. *See Nadarajah v. Gonzales*, 443 F.3d 1069, 1080 (9th Cir.
27
28

2006) (holding that immediate release is the appropriate remedy when “the length of the detention [is] unreasonable”). Hundreds of courts across the country have agreed. *See, e.g., Munoz Materano v. Arteta*, 2025 WL 2630826, at *20 (S.D.N.Y. Sept. 12, 2025) (ordering immediate release); *Chipantiza-Sisalema v. Francis*, 2025 WL 1927931, at *4 (S.D.N.Y. July 13, 2025) (ordering immediate release); *Rueda Torres v. Francis*, No. 25-cv-8408, 2025 WL 3168759, at *6 (S.D.N.Y. Nov. 13, 2025) (ordering immediate release); *Cifuentes v. Soto*, No. 25-cv-18029, 2025 WL 3771380, at *4 (D.N.J. Dec. 31, 2025) (ordering immediate release).

70. Release is the only appropriate remedy for the constitutional violations in this case, and a bond hearing is not necessary because Petitioner already has a lawful status from the asylum application. *See Cordoba v. Knight*, 809 F. Supp. 3d 1110, 1113 (D. Idaho 2025) (holding that continued detention of a noncitizen with no criminal history, long residence in the US, and family ties, without a bond hearing or any individualized justification, violates Fifth Amendment due process rights and warrants immediate release rather than merely ordering a bond hearing); *see also Alfaro Herrera v. Baltazar*, No. 1:25-cv-04014, 2026 WL 91470, at *13 (D. Colo. Jan. 13, 2026) (given that petitioner had been previously released by ICE and holding a bond hearing would prolong his unlawful detention, “[r]espondents’ violations of Petitioner’s rights are best remedied by ordering Petitioner’s immediate release from immigration detention.”); *Qasemi v. Francis*, No. 25-cv-10029, 2025 WL 3654098 at *14, (S.D.N.Y. Dec. 17, 2025) (a bond hearing

1 would not be an adequate remedy for the due process violations in petitioner's
2 sudden detention); *Crespo Tacuri v. Genalo*, No. 25-cv-06896, 2026 WL 35569, at
3 *7 (E.D.N.Y. Jan. 6, 2026) (post-deprivation review cannot remedy the due process
4 violation of detention with no individualized assessment); *Diallo v. Trump*,
5 25-cv-2012-JE-JMP (W.D.L.A. Mar. 5, 2026) (granting immediate release as the
6 appropriate remedy for illegal re-detention, and in light of medical hardship
7 petitioner was suffering in detention).
8

9
10 71. Because Ms. Ahmed is under prolonged detention, and she has already
11 secured a lawful immigrating status, immediate release should be granted without
12 the need for a bond hearing or any proceedings that will extend her detention
13 unnecessarily.
14

15 X. PRAYER FOR RELIEF

16
17 WHEREFORE, Ms. Ahmed asks that this Court grant the following relief:

- 18 1. Assume jurisdiction over this matter;
- 19 2. Order that Ms. Ahmed shall not be transferred outside the Southern District
20 of California or deported pending these proceedings;
- 21 3. Declare that Ms. Ahmed's detention is unlawful;
- 22 4. Issue a Writ of Habeas Corpus requiring Respondents to release Ms.
23 Ahmed's immediately without conditions;
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1 5. Enjoin Respondents from re-detaining Ms. Ahmed through detention at a
2 physical detention center or in any Alternatives to Detention, outside of any
3 physical detention facility;
4

5 6. Award Ms. Ahmed attorney's fees and costs under the Equal Access to
6 Justice Act, as amended, 28 U.S.C. § 2412, and on any other basis justified under
7 law; and
8

9 7. Grant any other and further relief that this Court deems just and proper.

10 8. I affirm, under penalty of perjury, that the foregoing is true and correct.
11

12 XI. CONCLUSION

13 For all these reasons, this Court should grant the petition.
14

15 Dated: 06/26/2026

16 /s/Caroline G. Matthews
17 Caroline Matthews, Esq.
18 CASB# 285754
19 caroline@pathwayssd.org
20 120 Stevens Avenue
21 Solana Beach, CA 92075
22 Telephone: +1 858-509-2597
23 Pro Bono Attorney for Petitioner
24
25
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27
28

CERTIFICATE OF SERVICE

I, Caroline Matthews, CERTIFY

I am over the age of 18 and not a party to this matter. My business address is 120 Stevens Avenue, Solana Beach, CA 92075. On June 26, 2026, I served a copy of this Petition for Writ of Habeas Corpus and Order to Show Cause Within Three Days by email to the following individuals:

Janet.Cabral@usdoj.gov

Erin.Dimleby@usdoj.gov

Mary.Wiggins@usdoj.gov

Dated: 06/26/2026

/s/Caroline G. Matthews

Caroline Matthews, Esq.

Pro Bono Attorney for Petitioner