UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

VENKATA NARSAMAMBA VASAMSETTY Petitioner, v. WARDEN OF IRWIN COUNTY DETENTION CENTER *in his official capacity,* KRISTEN SULLIVAN, *Field Office Director ICE Atlanta Field Office*, DAVID VENTURELLA *in his official capacity as Acting Director of Immigration and Customs Enforcement* and MARKWAYNE MULLIN, *Secretary of Homeland Security,* Respondents.	Case No. 7:26-CV-228 **EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS** A# [redacted]

I. INTRODUCTION

1. Petitioner is a noncitizen resident of the United States who is currently detained by the Department of Homeland Security ("DHS") at the Irwin County Detention Center in Ocilla, Georgia. She became a lawful permanent resident of the United States on or about January 30, 2013. She is a 59 year old grandmother and an insulin-dependent diabetic.

2. On February 20, 2023, Petitioner returned from a less than seven month trip to India to care for her ageing and ailing parents and was placed in removal proceedings.

3. On May 19, 2026 an immigration judge terminated removal proceedings,

finding DHS failed to sustain their allegations of abandonment.

4. As of the date of filing, those proceedings remain terminated. No appeal was filed.

5. On August 11, 2026, Petitioner reported to ICE in Charlotte, North Carolina, for a check-in appointment scheduled prior to the termination of proceedings. With no removal case pending, and no removal order in place, she would have been fully within her rights not to attend, and the appointment should have been cancelled. Petitioner, a law-abiding resident, felt she should attend.

6. At that check-in, Respondent was taken into custody and transported to Irwin County Detention Center.

7. Her health is fragile, and neither her medications nor her religious (Hindu) dietary requirements are being met.

8. Petitioner seeks an ***emergency*** writ of habeas corpus directing Respondents to release her immediately in response to Respondents' unlawful detention, for which they had absolutely no justification or lawful authority.

II. VENUE AND JURISDICTION

9. This Court has jurisdiction under 28 U.S.C. §§ 2241 and 1331 and Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause). Habeas relief is available to challenge the legality of civil immigration detention and to compel a bond hearing or release.

10. Venue lies in the Middle District of Georgia because Petitioner is confined at the Irwin County Detention Center within this Division and Respondent

Warden is his immediate custodian. See 28 U.S.C. §§ 2241(d), 1391(e).

III. PARTIES

11. Petitioner is a 59-year-old lawful permanent resident who has resided in the United States for many years. She is currently detained at the Irwin County Detention Center in Ocilla, Georgia.

12. Respondent Warden is the warden of Irwin County Detention Center. As such, Respondent is responsible for the operation of the Detention Center where Petitioner is detained. Because ICE contracts with private prisons such as Irwin to house immigration detainees such as Petitioner, Respondent Warden has immediate physical custody of the Petitioner.

13. Respondent Kristen Sullivan is the Atlanta Field Office Director ("FOD") for ICE Enforcement and Removal Operations ("ERO"). As such, Respondent Sullivan is responsible for the oversight of ICE operations at the Irwin County Detention Center. Respondent Sullivan is being sued in her official capacity.

14. Respondent David Venturella is the Acting Director of Immigration and Customs Enforcement ("ICE"). As such, Respondent he is responsible for the oversight of ICE operations. Respondent Venturella is being sued in his official capacity.

15. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (hereinafter "DHS"). As Secretary of DHS, Secretary Mullin is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Mullin is being sued in his official

capacity.

16. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

17. Petitioner's constitutional challenge to indefinite detention is exempt from administrative exhaustion requirements. *See Woodford v. Ngo*, 548 U.S. 81, 103 (Breyer, J. concurring) (constitutional claims are exempt from administrative exhaustion); *see also Khan v. Atty. Gen. of U.S.*, 448 F.3d 226, 236 n.8 (3d Cir. 2006) (internal alterations and quotations removed) ("[D]ue process claims generally are exempt from the exhaustion requirement because the BIA does not have jurisdiction to adjudicate constitutional issues."); *United States v. Gonzalez-Roque*, 301 F.3d 39, 48 (2d Cir. 2002) ("'[T]he BIA does not have jurisdiction to adjudicate constitutional issues . . . .'" (quoting *Vargas v. U.S. Dep't of Immigration & Naturalization*, 831 F.2d 906, 908 (9th Cir. 1987)).

18 As the Eleventh Circuit has held "It is no longer the law of this circuit that exhaustion of administrative remedies is a jurisdictional requirement in a § 2241 proceeding." *Santiago-Lugo v. Warden*, 785 F.3d 467, 474–75, n.5 (11th Cir. 2015) (abrogating *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir.2001)).

19. Further, there is no statutory exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. *Cf.* 8 U.S.C. § 1252(d)(1) (requiring exhaustion of administrative remedies only where requesting review of a final order of removal). "'[W]here Congress has not clearly required exhaustion, sound judicial discretion governs." *Jones v. Zenk*, 495 F. Supp. 2d 1289,

1297 (N.D. Ga. 2007) (citing *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)). As a matter of discretion, exhaustion of administrative remedies should therefore be waived "(1) where prejudice to the prisoner's subsequent court action 'may result, for example, from an unreasonable or indefinite timeframe for administrative action'; (2) where the administrative agency may not have the authority 'to grant effective relief'; or (3) 'where the administrative body is shown to be biased or has otherwise predetermined the issue before it.'" *Jones*, 495 F. Supp. 2d at 1297 (citing *McCarthy*, 503 U.S. at 146-48). *See also Woodford v. Ngo*, 548 U.S. 81, 103 (2006) (Breyer, J. concurring) (noting "well-established exceptions to exhaustion" that include constitutional claims, futility, hardship to the petitioner, and where administrative remedies are inadequate or unavailable) (citations omitted)).

20. In making its discretionary decision, the Court should consider the urgency of the need for immediate review. "Where a person is detained by executive order . . . the need for collateral review is most pressing. . . . In this context the need for habeas corpus is more urgent." *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

V. STATEMENT OF FACTS

21. Petitioner is a citizen of India born on [redacted] She became a lawful permanent resident on January 30, 2013, and has lived continuously in the United States since then, with the sole exception of the trip to India in 2002-2023. She was placed in removal proceedings on June 26, 2023, but not taken into custody. She has been home with her family until detention on August 11, 2026 (**Exhibit A, Notice**

to Appear)

22. On May 19, 2026, Immigration Judge Stewart at the Charlotte Immigration Court granted Petitioner's Motion to Terminate Proceedings. **(Exhibit B, IJ Termination Order)**

23. On August 11, 2026, the Immigration Judge denied Respondents' Motion to Accept Untimely Filing. **(Exhibit C, IJ August Order)**

24. On August 11, 2026, the very same day, Petitioner complied with her previously set check-in with ICE in Charlotte, North Carolina. At the time of her appointment there were no proceedings pending against Petitioner and no removal order. Notwithstanding these facts, Respondents took Petitioner into detention and transported her to Irwin County Detention Center where she is currently held.

25. At the time of detention, and as of the filing of this Petition, Respondents had no legal basis whatsoever to detain Petitioner.

26. At the time of filing of this Petition, Respondents' own online case status shows no pending proceedings and no removal order. **(Exhibit D, Online Case Status).**

VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

27. Petitioner's liberty from immigration custody is protected by the Due Process Clause: "Freedom 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).

28. Since February 2023, Petitioner exercised that freedom. She retains a

weighty liberty interest under the Due Process Clause of the Fifth Amendment in avoiding unlawful incarceration. *See Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-483 (1972).

29. In *Morrissey*, the Supreme Court examined the "nature of the interest" that a parolee has in "his continued liberty." 408 U.S. at 481-82. The Court noted that, "subject to the conditions of his parole, [a parolee] can be gainfully employed and is free to be with family and friends and to form the other enduring attachments of normal life." *Id.* at 482. The Court further noted that "the parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." *Id.* The Court explained that "the liberty of a parolee, although indeterminate, includes many of the core values of unqualified liberty and its termination inflicts a grievous loss on the parolee and often others." *Id.* In turn, "[b]y whatever name, the liberty is valuable and must be seen within the protection of the [Fifth] Amendment." *Morrissey*, 408 U.S. at 482.

30. This basic principle—that individuals have a liberty interest in their conditional release—has been reinforced by both the Supreme Court and the circuit courts on numerous occasions. *See, e.g.*, *Young v. Harper*, 520 U.S. at 152 (holding that individuals placed in a pre-parole program created to reduce prison overcrowding have a protected liberty interest requiring pre-deprivation process); *Gagnon v. Scarpelli*, 411 U.S. at 781-82 (holding that individuals released on felony probation have a protected liberty interest requiring pre-deprivation process). As the

First Circuit has explained, when analyzing the issue of whether a specific conditional release rises to the level of a protected liberty interest, "[c]ourts have resolved the issue by comparing the specific conditional release in the case before them with the liberty interest in parole as characterized by *Morrissey*." *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks and citation omitted). *See also, e.g.*, *Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) ("a person who is in fact free of physical confinement—even if that freedom is lawfully revocable—has a liberty interest that entitles him to constitutional due process before he is re-incarcerated") (citing *Young*, 520 U.S. at 152, *Gagnon*, 411 U.S. at 782, and *Morrissey*, 408 U.S. at 482).

31. In fact, it is well-established that an individual maintains a protectable liberty interest even where the individual obtains liberty through a mistake of law or fact. *See id.*; Gonzalez-*Fuentes*, 607 F.3d at 887; *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982) (noting that due process considerations support the notion that an inmate released on parole by mistake, because he was serving a sentence that did not carry a possibility of parole, could not be re-incarcerated because the mistaken release was not his fault, and he had appropriately adjusted to society, so it "would be inconsistent with fundamental principles of liberty and justice" to return him to prison) (internal quotation marks and citation omitted).

32. Here, when this Court "'compar[es] the specific release in [Petitioner's case], with the liberty interest in parole as characterized by *Morrissey*,'" it is clear that they are strikingly similar. *See Gonzalez-Fuentes*, 607 F.3d at 887. Just as in

Morrissey, Petitioner's release "enables him to do a wide range of things open to persons'" who have never been in custody or convicted of any crime, including to live at home, work, and "be with family and friends and to form the other enduring attachments of normal life." *Morrissey*, 408 U.S. at 482.

33. How much stronger is Petitioner's liberty interest in freedom from unlawful restraint, where there are no immigration proceedings pending against her?

34. Petitioner asserts that, here, (1) where his detention would be civil; (2) where he had been at liberty for several years, during which time he has complied with all conditions of release; (3) where no change in circumstances exist that would justify his lawful detention; and (4) where the only circumstance that has changed is ICE's move to arrest as many people as possible because of the new administration, due process mandates that he be released from his unlawful custody and receive notice and a hearing before a neutral adjudicator *prior* to any re-arrest or revocation of his custody release.

35. "Adequate, or due, process depends upon the nature of the interest affected. The more important the interest and the greater the effect of its impairment, the greater the procedural safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82). This Court must "balance [Petitioner's] liberty interest against the [government's] interest in the efficient administration of" its immigration laws in order to determine what process he is owed to ensure that ICE does not unconstitutionally deprive him of his liberty. *Id.* at 1357. Under the test set

forth in *Mathews v. Eldridge*, this Court must consider three factors in conducting its balancing test: "first, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probative value, if any, of additional or substitute procedural safeguards; and finally the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail." *Haygood*, 769 F.2d at 1357 (*citing Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

36. The Supreme Court "usually has held that the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). Only in a "special case" where post-deprivation remedies are "the only remedies the State could be expected to provide" can post-deprivation process satisfy the requirements of due process. *Zinermon*, 494 U.S. at 985. Moreover, only where "one of the variables in the *Mathews* equation—the value of predeprivation safeguards—is negligible in preventing the kind of deprivation at issue" such that "the State cannot be required constitutionally to do the impossible by providing predeprivation process," can the government avoid providing pre-deprivation process. *Id.*

37. In this case, ICE is required to release Petitioner from her unlawful custody where there is, at the time of detention, no legal authority to detain. *See Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinermon*, 494 U.S. at 985; *see also Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982);

Lynch v. Baxley, 744 F.2d 1452 (11th Cir. 1984) (holding that individuals awaiting involuntary civil commitment proceedings may not constitutionally be held in jail pending the determination as to whether they can ultimately be recommitted). Under *Mathews*, "the balance weighs heavily in favor of [Petitioner's] liberty" and requires a pre-deprivation hearing before a neutral adjudicator.

38. Under *Morrissey* and its progeny, individuals conditionally released from serving a criminal sentence have a liberty interest that is "valuable." *Morrissey*, 408 U.S. at 482. In addition, the principles espoused in *Hurd* and *Johnson*—that a person who is in fact free of physical confinement, even if that freedom is lawfully revocable, has a liberty interest that entitles him to constitutional due process before he is re-incarcerated—apply with even greater force to individuals like Petitioner, who have been released pending civil removal proceedings, rather than parolees or probationers who are subject to incarceration as part of a sentence for a criminal conviction. Parolees and probationers have a diminished liberty interest given their underlying convictions. *See, e.g., U.S. v. Knights*, 534 U.S. 112, 119 (2001); *Griffin v. Wisconsin*, 483 U.S. 868, 874 (1987). Nonetheless, even in the criminal parolee context, the courts have held that the parolee cannot be re-arrested without a due process hearing in which they can raise any claims they may have regarding why their re-incarceration would be unlawful. *See Gonzalez-Fuentes,* 607 F.3d at 891-92; *Hurd*, 864 F.3d at 683. Thus, Petitioner retains a truly weighty liberty interest even though he is under conditional release.

39. What is at stake in this case for Petitioner is one of the most profound

individual interests recognized by our legal system: whether ICE may unilaterally nullify a prior decision releasing her from custody and to take away—without any lawful basis—her physical freedom, i.e., her "constitutionally protected interest in avoiding physical restraint." *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (internal quotation omitted). "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). *See also Zadvydas*, 533 U.S. at 690 ("Freedom 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."); *Cooper v. Oklahoma*, 517 U.S. 348 (1996).

40. Thus, it is clear that there is a profound private interest at stake in this case, which must be weighed heavily when determining what process she is owed under the Constitution. *See Mathews*, 424 U.S. at 334-35.

41. The government's interest in detaining Petitioner is nonexistent, and when weighed against Petitioner's significant private interest in her liberty, the scale tips sharply in favor of enjoining Respondents to release Petitioner from her unlawful custody and refrain from re-arresting Petitioner unless and until the government demonstrates by clear and convincing evidence that they have a lawful basis to do so, and that she is a flight risk or danger to the community. It becomes abundantly clear that the *Mathews* test favors Petitioner when the Court considers that the process she seeks is not to be detained with no pending process or charges whatsoever. Post facto justifications cannot be used to render an unlawful detention a lawful one.

42. As immigration detention is civil, it can have no punitive purpose. The government's only interests in holding an individual in immigration detention can be to prevent danger to the community or to ensure a noncitizen's appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690. In this case, the government cannot plausibly assert that it has any lawful basis for detaining Petitioner. There is absolutely no possible "danger to the community" posed by this 59-year-old grandmother, and there are as of the time of this Petition no immigration proceedings for her to appear at.

43. The government has no interest in detaining Petitioner at this time. That ICE has a new policy to make a minimum number of arrests each day under the new administration does not constitute a material change in circumstances or increase the government's interest in detaining him.[1]

44. Moreover, the "fiscal and administrative burdens" that her immediate release would impose is nonexistent in this case. *See Mathews*, 424 U.S. at 334-35. Petitioner does not seek a unique or expensive form of process, but rather a recognition that Respondents had no justification or authority to detain her at all.

45. As the Ninth Circuit noted in 2017, which remains true today, "[t]he

[1] *See* "Trump officials issue quotas to ICE officers to ramp up arrests," *Washington Post* (January 26, 2025), available at: https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/.; "Stephen Miller's Order Likely Sparked Immigration Arrests And Protests," Forbes (June 9, 2025), https://www.forbes.com/sites/stuartanderson/2025/06/09/stephen-millers-order-likely-sparked-immigration-arrests-and-protests/ ("At the end of May 2025, 'Stephen Miller, a senior White House official, told Fox News that the White House was looking for ICE to arrest 3,000 people a day, a major increase in enforcement. The agency had arrested more than 66,000 people in the first 100 days of the Trump administration, an average of about 660 arrests a day,' reported the New York Times. Arresting 3,000 people daily would surpass 1 million arrests in a calendar year.").

costs to the public of immigration detention are 'staggering': $158 each day per detainee, amounting to a total daily cost of $6.5 million." *Hernandez*, 872 F.3d at 996. ICE's unlawful action of placing her in custody is more of a financial burden than releasing her

46. Releasing Petitioner from unlawful custody and enjoining his re-arrest until ICE has lawful authority to do so, and demonstrates by clear and convincing evidence that Petitioner is a flight risk or danger to the community is far *less* costly and burdensome for the government than keeping her detained.

47. The primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this purpose if there are no proceedings to attend.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF
(Deprivation of Liberty Without Due Process of Law – Fifth Amendment)

48. Petitioner restates and re-alleges the allegations contained in paragraphs 1 through 47 as though fully set forth herein.

49. The Fifth Amendment to the Constitution of the United States provides that "no person shall . . . be deprived of life, liberty, or property, without due process of law."

50. Petitioner was not provided with any discernible due process to determine whether she should be detained by DHS.

51. On information and belief, no individualized determination was made in

support of Petitioner's detention.

52. Petitioner's detention without any lawful justification or authority which constitutes deprivation of her liberty without due process of law in violation of the Fifth Amendment. *See Mata Velasquez*, 2025 WL 1953796 at *12-*17.

SECOND CLAIM FOR RELIEF

(Deprivation of Liberty Without Due Process of Law – Fifth Amendment – Detention Without Bond Hearing Pursuant to 8 C.F.R. § 1003.19(h)(2)(i)(A))

53. Petitioner restates and re-alleges the allegations contained in paragraphs 1 through 47 as though fully set forth herein.

54. As a long term resident of the United States, Petitioner should not be deprived of liberty without receiving the due process of a hearing before a neutral adjudicator to determine whether he should be released on bond.

PRAYER FOR RELIEF

WHEREFORE, Petitioner, Petitioner, respectfully prays that the Court:

a) Order that Respondents release Petitioner from custody;
b) Enjoin Respondents from re-detaining Petitioner unless and until an individualized determination of the appropriateness of re-detention under the standards set out in 8 U.S.C. § 1182(d)(5)(A) is made by a duly authorized DHS official following notice to Petitioner, Petitioner is provided an opportunity to respond and a hearing, and Petitioner is provided written notice of the termination of parole;
c) Declare that Petitioner's legal and constitutional rights were violated by her detention in the absence of any immigration court proceedings against her;
d) In the alternative, declare that, if she is not released, Petitioner is at least entitled to a bond hearing before a neutral adjudicator, and hold a bond hearing before the Court and order Petitioner released upon a reasonable bond;
e) Grant such other and further relief at law and in equity as justice may require; and
f) Grant attorneys' fees and costs of Court to Petitioner under the Equal Access to Justice Act.

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

Respectfully submitted this 12th day of August, 2026.

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