

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

[REDACTED]

*Petitioner-Plaintiff,*

v.

STEPHEN KURZDORFER, in his official capacity as Acting Field Office Director, Buffalo Field Office, Enforcement and Removal Operations, U.S. Immigration & Customs Enforcement; JOSEPH FREDEN, in his official capacity as Deputy Field Office Director of the Buffalo Federal Detention Facility; TODD LYONS, in his official capacity as Acting Director U.S. Immigrations and Customs Enforcement; KRISTI NOEM, in her official capacity as U.S. Secretary of Homeland Security; PAMELA BONDI, in her official capacity as Attorney General of the U.S.; SIRCE E. OWEN, in her official capacity as Acting Director of the Executive Office for Immigration Review; U.S. DEPARTMENT OF HOMELAND SECURITY; U.S. IMMIGRATIONS AND CUSTOMS ENFORCEMENT; U.S. DEPARTMENT OF JUSTICE; and U.S. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

*Respondents-Defendants.*

Case No. 25-cv-00493-LJV

**AMENDED VERIFIED  
PETITION FOR WRIT  
OF HABEAS CORPUS  
AND COMPLAINT**

**INTRODUCTION**

1. This case concerns the illegal courthouse arrest and the illegal subsequent detention of Petitioner-Plaintiff (“Petitioner”) [REDACTED] a nineteen-year-old asylum seeker and citizen of Venezuela. [REDACTED] has done everything the government has asked him to: he followed the process the United States established for people seeking asylum to present at the border on a certain date; he appeared on that date, at which point the government decided to release him while he applied for asylum; he lawfully entered the United States where he reunited with family; he applied for and was granted permission to work; and, critically, he attended his

immigration court proceedings at the time and location directed. When he attended immigration court on May 21, 2025 for a routine hearing, he expected to be able to proceed with an application for asylum in those proceedings. Instead, the government arrested him and is now attempting to summarily remove him before he can meaningfully access relief through those proceedings.

2. ██████████ arrest and detention are wholly unjustified and unrelated to any individualized consideration of ██████████ circumstances. In the time he has lived in the United States, ██████████ has done all he can to integrate into his community, begin to learn English, and lawfully work. He dreams of beginning an education in the United States and continuing to establish roots in this country. He plainly is not a flight risk—as evidenced by his dutiful appearance at his scheduled immigration court date, nor is he a danger to the community. Rather, ██████████ was arrested and detained, along with countless others over the past two weeks, as part of a nationwide campaign to summarily arrest law-abiding, noncitizens like ██████████ when they attend their immigration court hearings.

3. The purpose of this campaign is to facilitate the transfer of immigration proceedings for noncitizens like ██████████ from typical removal proceedings (commonly referred to as Section 240 proceedings) governed by 8 U.S.C. § 1229(a)—where noncitizens are afforded procedural rights—into “expedited removal” pursuant to 8 U.S.C. § 1225(b)(1)—a process that is initiated outside of immigration court and deprives noncitizens of the procedural protections built into Section 240 proceedings.

4. ██████████ arrest and ongoing detention are causing him immense harm. Prior to his May 21, 2025 arrest, ██████████ had never been criminally arrested or placed in detention. Since arriving at the Buffalo Federal Immigration Detention Center (“BFDF”), he has not been able to sleep, has suffered harassment by other detainees, many of whom are decades older than ██████████

and he fears physical harm as well as being placed in solitary confinement. He has been separated from his family and support network and fears that he will be sent back to Venezuela—where he was abandoned by his parents and from where he seeks asylum.

5. [REDACTED] respectfully asks this Court to hold that his arrest was unlawful, to hold that his continued detention is unlawful, and to order his release from custody. [REDACTED] also respectfully asks that this Court order Respondents-Defendants (“Respondents”) not to transfer him outside of the District for the duration of this proceeding.

6. Every day [REDACTED] spends in detention subjects him to further irreparable harm. Immediate relief is necessary to ensure that [REDACTED] is no longer subjected to continued violations of his substantive and procedural rights.

### PARTIES

7. Petitioner [REDACTED] is a nineteen-year-old Venezuelan national seeking asylum in the United States.

8. Respondent Stephen Kurzdorfer is sued in his official capacity as Acting Field Office Director, Buffalo Field Office, Enforcement and Removal Operations, U.S. Immigration & Customs Enforcement (“ICE”). Respondent Kurzdorfer is a legal custodian of [REDACTED]

9. Respondent Joseph Freden is sued in his official capacity as Deputy Field Office Director of the Buffalo Federal Detention Facility. Respondent Freden is a legal custodian of [REDACTED]

10. Respondent Todd Lyons is sued in his official capacity as Acting Director of U.S. Immigrations and Customs Enforcement. As the Acting Director of ICE, Respondent Lyons is a legal custodian of [REDACTED]

11. Respondent Kristi Noem is sued in her official capacity as Secretary of Homeland Security. As the head of the Department of Homeland Security (“DHS”), the agency tasked with enforcing immigration laws, Secretary Noem is [REDACTED] ultimate legal custodian.

12. Respondent Pam Bondi is sued in her official capacity as Attorney General of the United States. As head of the U.S. Department of Justice, the agency that oversees the Executive Office for Immigration Review (“EOIR”), Attorney General Bondi is responsible for administration of the immigration laws as exercised by EOIR, pursuant to 8 U.S.C. § 1103(g). She is legally responsible for the pursuit of Petitioner’s detention and removal.

13. Respondent Sirce E. Owen is sued in her official capacity as Acting Director of the Executive Office for Immigration Review. As the Acting Director of EOIR, Respondent Owens is responsible for administration of immigration laws pursuant to 8 U.S.C. § 1103(g). She is legally responsible for the pursuit of Petitioner’s detention and removal.

## **BACKGROUND**

### *A. Legal Framework of Removal Proceedings*

14. Section 240 removal proceedings provide noncitizens with an opportunity to be heard in full immigration court hearings before an Immigration Judge. 8 U.S.C. § 1229a sets out the procedures and rights afforded to noncitizens in Section 240 removal proceedings. These include: “the privilege of being represented . . . by counsel of the alien’s choosing who is authorized to practice in such proceedings” 8 U.S.C. § 1229(b)(4)(A) and “a reasonable opportunity to examine the evidence against the alien, to present evidence on the alien’s own behalf, and to cross-examine witnesses presented by the Government.” 8 U.S.C. § 1229(b)(4)(B).

15. Decisions made by “Immigration Judges may be appealed to the Board of Immigration Appeals.” 8 C.F.R. § 1003.38(a). Final orders of removal may be appealed to the

Federal Court of Appeals for the judicial circuit in which the respective Section 240 proceedings terminate. *See* 8 U.S.C. § 1252(b)(2).

16. When [REDACTED] was arrested after his immigration court hearing, his case was progressing through Section 240 proceedings.

17. The statutorily guaranteed procedures and rights in Section 240 proceedings are significantly more expansive than those available to noncitizens designated for expedited removal under 8 U.S.C. § 1225.

18. An immigration officer may process a noncitizen for expedited removal upon issuing a determination that such noncitizen “is arriving in the United States or is described in clause (iii)” and is inadmissible under 8 U.S.C. §§ 1182(a)(6)(C) or 1182(a)(7). *See* 8 U.S.C. § 1225(b)(1)(A)(i).

19. A noncitizen who “ha[s] been admitted or paroled following inspection by an immigration officer at a designated port-of-entry” is excluded from expedited removal under 8 U.S.C. § 1225(b)(1)(A)(i).

20. Unlike Section 240 proceedings, expedited removal is a process that begins—and often concludes—outside of immigration court. Noncitizens subjected to expedited removal are ordered removed by an immigration officer “without further hearing or review.” *Id.*

21. The lone exception to this rule is that if a noncitizen indicates an intention to apply for asylum or a fear of persecution, the officer “shall refer the alien for an interview by an asylum officer” to conduct a credible fear interview. 8 U.S.C. § 1225(b)(1)(A)(i)-(ii). If the asylum officer determines that an alien does not have a credible fear of persecution, the officer shall order the alien removed from the United States without further hearing or review. 8 U.S.C. § 1225(b)(1)(B)(iii)(I). Upon a noncitizen’s request, an immigration judge shall expeditiously

review a determination “that the alien does not have a credible fear of persecution.” 8 U.S.C. § 1225(b)(1)(B)(iii)(III).

22. If a noncitizen passes a credible fear interview, they are permitted to apply for asylum through Section 240 proceedings. *See* 8 U.S.C. § 1225(b)(1)(B); 8 C.F.R. § 208.30(f).

23. The INA provides for limited review of an application of expedited removal. It provides no mechanism for a parolee to challenge the application of expedited removal to them on the basis they had previously been paroled.

*B. Expansion of Expedited Removal*

24. Since its creation nearly three decades ago, federal immigration authorities have applied expedited removal in limited circumstances: to noncitizens who are seeking admission at a port of entry, who have been apprehended near the border shortly after they entered the country, or who arrive in the United States by sea. *See* Designating Aliens for Expedited Removal, 69 Fed. Reg. 48877 (Aug. 11, 2004); Notice Designating Aliens Subject to Expedited Removal, 67 Fed. Reg. 68924 (Nov. 13, 2002).

25. However, on January 21, 2025, DHS issued a Federal Register Notice, to be published in the Federal Register on January 24, 2025, that authorizes the application of expedited removal to certain noncitizens arrested anywhere in the country who cannot show “to the satisfaction of an immigration officer” that they have been continuously present in the United States for longer than two years. Designating Aliens for Expedited Removal, 90 Fed. Reg. 8139 (Jan. 21, 2025) (“Rule”). The effective date of the Rule was January 21, 2025.

26. As a result, noncitizens who have resided in the country for less than two continuous years are at imminent risk of deportation without any hearing or meaningful review, regardless of their ties to the United States, or the availability of claims for relief from and defenses

to removal. Even individuals who are not properly subject to expedited removal (for example, U.S. citizens or individuals who have been continuously present for more than two years)—or to removal at all—can be summarily removed if they are unable to affirmatively prove those facts to the satisfaction of an immigration officer.

*C. Campaign of Courthouse Arrests*

27. For years, DHS, including ICE, largely refrained from conducting civil immigration arrests at courthouses, including immigration courts, out of recognition that conducting such arrests could deter noncitizens from attending mandatory court proceedings and disrupt the proper functioning of courts. This was encapsulated in a policy of minimizing arrests at courthouses, including at immigration courts, as well as a longstanding practice of refraining from conducting civil arrests of noncitizens in and around immigration court.

28. A Memorandum to ICE and U.S. Customs and Border Protection (“CBP”) from the Acting Directors of ICE and CBP, with the subject line, “Civil Immigration Enforcement Actions in or near Courthouses” and dated April 27, 2021 (hereinafter “April 27, 2021 Memo”) only permitted ICE officers to conduct “civil immigration enforcement action . . . in or near a courthouse if (1) it involve[d] a national security threat, or (2) there [was] an imminent risk of death, violence, or physical harm to any person, or (3) it involve[d] hot pursuit of an individual who poses a threat to public safety, or (4) there [was] an imminent risk of destruction of evidence material to a criminal case.” U.S. Dep’t of Homeland Sec., April 27, 2021 Memo (Apr. 27, 2021). “In the absence of a hot pursuit,” ICE was permitted to make civil arrests against “an individual who poses a threat to public safety” only if “(1) it is necessary to take the action in or near the courthouse because a safe alternative location for such action does not exist or would be too difficult to achieve the enforcement action at such a location, and (2) the action has been approved in advance by a

Field Office Director, Special Agent in Charge, Chief Patrol Agent, or Port Director.” *Id.* at 2. The April 27, 2021 Memo covered “immigration courts.” *Id.*

29. One of the core principles underlying the April 27, 2021 Memo was that “[e]xecuting civil immigration enforcement actions in or near a courthouse may chill individuals’ access to courthouses, and as a result, impair the fair administration of justice.” *Id.* at 1.

30. But DHS reversed course in 2025, implementing a new policy (“the Immigration Courthouse Arrest Policy”) that not only permits the expansion of civil immigration arrests in and around courthouses, but actively targets noncitizens attending required hearings for civil arrest in and around immigration courthouses. DHS did so without any explanation for how this reversal might affect noncitizens’ access to courts and the fair administration of justice.

31. On or around January 20, 2025, ICE rescinded the April 27, 2021 Memo and issued a Memorandum to all ICE employees with the subject line, “Interim Guidance: Civil Immigration Enforcement Actions in or near Courthouses” (hereinafter “January 20, 2025 Memo”). This new guidance permits “ICE officers or agents [to] conduct civil immigration enforcement actions in or near courthouses when they have credible information that leads them to believe the targeted alien(s) is or will be present at a specific location, and where such action is not precluded by laws imposed by the jurisdiction in which the enforcement action will take place.” U.S. Dep’t of Homeland Sec., U.S. Immigr. & Customs Enf’t, January 20, 2025 Memo (Jan. 20, 2025). This policy nonetheless cautions immigration officials that “ICE officers and agents should generally avoid enforcement actions in or near courthouses, or areas within courthouses that are wholly dedicated to non-criminal proceedings (e.g. family court, small claims court)” unless operationally necessary or there is approval from the Field Office Director or the Special Agent in Charge. *Id.*

at 3. Despite such language, the January 20, 2025 Memo constitutes a reversal of the April 27, 2021 Memo, as clearly evidenced by ICE’s expansion of arrests at immigration courthouses.

32. The January 20, 2025 Memo thus dramatically expanded civil immigration arrests by ICE officers at courthouses across the country. But the memo does not discuss the potential of immigration enforcement in or near courts to chill access to courts and impair the fair administration of justice. *See generally id.* at 1. Instead, the January 20, 2025 Memo asserts that enforcement at or near courthouses “can reduce safety risks to the public, targeted alien(s), and ICE officers and agents” and is required “when jurisdictions refuse to cooperate with ICE, including when such jurisdictions refuse to honor immigration detainers and transfer aliens directly to ICE custody.” *Id.*

33. The January 20, 2025 Memo was revised and made final on May 27, 2025 through a Memorandum issued by the Acting Director of ICE, with the subject line, “Civil Immigration Enforcement Actions In or Near Courthouses” (hereinafter “Courthouse Arrest Memo”). U.S. Dep’t of Homeland Sec., U.S. Immigr. & Customs Enf’t, Courthouse Arrest Memo (May 27, 2025). The Courthouse Arrest Memo is substantively the same as the January 20, 2025 Memo, except it removes a line limiting civil immigration arrests in courthouses “where such action is not precluded by laws imposed by the jurisdiction in which the enforcement action will take.” *Compare* January 20, 2025 Memo, at 2 *with* Courthouse Arrest Memo, at 2. Thus, in its final form, the memo purports to allow ICE to conduct civil immigration arrests at courthouses even if such arrests would violate local or state law.

34. In the past weeks since the Courthouse Arrest Memo was made final, the government has aggressively implemented it through a new enforcement initiative at immigration courts in New York and throughout the country. This initiative specifically targets people who are

in Section 240 removal proceedings, who are pursuing asylum and other relief before an IJ, and whom the government believes it can subject to expedited removal. The initiative has three basic components. *First*, DHS moves to dismiss removal proceedings, with no advance notice, at the same time that these individuals appear in immigration court for a master calendar hearing (the equivalent of an arraignment or pretrial conference in criminal court), on the grounds that such proceedings are no longer in the best interests of the government. *Second*, pursuant to the new Immigration Courthouse Arrest Policy, ICE officers—in coordination with ICE immigration court attorneys—station themselves in immigration court, including in the hallways or even in courtrooms, depending on the location, so that they can immediately arrest and detain individuals upon conclusion of their court hearings. *Finally*, in cases where the IJ grants the government’s motion to dismiss, the government has placed individuals in expedited removal.

35. The U.S. Department of Justice has suggested in written guidance that IJs should allow motions to dismiss to be made orally and decided from the bench, and that a 10-day response period as well as additional documentation or briefing is not required to permit dismissal. This guidance is contrary to prior past practice, in which IJs have typically allowed noncitizens to respond to motions to dismiss and scheduled oral argument prior to rendering a decision.

36. This initiative is unprecedented. DHS has confirmed publicly that they are targeting individuals they believe are subject to the expansion of expedited removal in order to move them from regular removal proceedings to expedited removal.<sup>1</sup> Moreover, this new initiative appears to be driven by the Trump Administration’s imposition of a new daily quota of 3,000 ICE arrests.<sup>2</sup>

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<sup>1</sup> Bill Melugin (@BillMelugin\_), X (May 22, 2025 3:50 PM), [https://x.com/BillMelugin\\_/status/1925640464415314255](https://x.com/BillMelugin_/status/1925640464415314255).

<sup>2</sup> Cameron Arcand, *Trump administration sets new goal of 3,000 illegal immigrant arrests daily*, FOX NEWS (May 29, 2025), <https://www.foxnews.com/politics/trump-administration-aims-3000-arrests-illegal-immigrants-each-day>.

37. As a result of this new initiative, including the new Immigration Courthouse Arrest Policy, there has been unparalleled change in ICE's immigration enforcement at immigration courts throughout the country, including in New York. While civil immigration arrests were previously infrequent, if not entirely unheard of, in immigration courts prior to this new initiative, such civil arrests of noncitizens are now occurring at unprecedented rates.<sup>3</sup>

### **STATEMENT OF FACTS**

38. [REDACTED] was born on April 2, 2006, in Venezuela. He was abandoned by his biological mother and never had a relationship with his biological father. [REDACTED] did—for a period of time—stay with his maternal grandparents. However, his maternal grandparents were forced to relocate because the family was targeted based upon their perceived political opinions.

39. In 2024, [REDACTED] came to the United States to seek safety. Following a lawful process that was in place in 2024, [REDACTED] applied to enter the United States through the CBPOne application and received an appointment to come to the United States to present his application for asylum.

40. On September 13, 2024, [REDACTED] presented at the border for his CBPOne appointment and told the immigration official he was seeking asylum in the United States. [REDACTED] was referred to secondary inspection at the border, patted down, and held in a room while border officials called his cousin and he was processed. The border official decided to permit him entry and that he could pursue his claims out of detention. [REDACTED] was served a Notice to Appear (NTA) requiring that he appear before the Executive Office of Immigration Review (Office of the

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<sup>3</sup> See J. Dale Shoemaker, ICE raids immigration court in Buffalo, INVESTIGATIVE POST (May 22, 2025), <https://www.investigativepost.org/2025/05/22/ice-raids-immigration-court-in-buffalo/>; Luis Ferré-Sadurní, *Inside a Courthouse, Chaos and Tears as Trump Accelerates Deportations*, N.Y. TIMES (June 12, 2025), <https://www.nytimes.com/2025/06/12/nyregion/immigration-courthouse-arrests-trump-deportation.html>; Hamed Aleaziz, et. al., *How ICE Is Seeking to Ramp Up Deportations Through Courthouse Arrests*, N.Y. TIMES (May 30, 2025), <https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html>.

Immigration Judge) on May 21, 2025, at the Buffalo Immigration Court, 130 Delaware Street, Suite 300, Buffalo, New York 14202. That same day, he was granted discretionary humanitarian parole. He was released to live with his cousin, who paid for his travel to Buffalo, New York via bus, plane, and train.

41. When ██████ reached Buffalo, he applied for an employment authorization document (EAD) and a social security number. He received the EAD and a social security number.

42. On March 25, 2025, the Department of Homeland Security published a notice in the Federal Register that it was terminating the categorial parole programs for individuals such as ██████ who sought humanitarian parole after fleeing Venezuela. 90 Fed. Reg. 13,611 (March 25, 2025). In this notice, the federal government asserted that the INA confers upon the Secretary of Homeland Security sole discretion to terminate an individual's parole. *Id.*

43. Pursuant to the NTA, ██████ as directed by the government—appeared before the Buffalo Immigration Court on May 21, 2025. The Immigration Judge adjourned the case to February 4, 2026, to allow ██████ to obtain legal counsel and to prepare and file an application for asylum.

44. ██████ left the courtroom, located on the third floor of the Buffalo Courthouse and took the elevator to the lobby of the Immigration Court. After exiting the elevator, he was approached in the lobby of the Immigration Court by four immigration enforcement agents who—without any prior notice or warning—arrested him. The officers had paperwork, but it was in English, which he does not read. Upon information and belief, the government immigration agents who arrested him were officers with ICE.

45. ██████ was taken from the Buffalo Immigration Court to the BFDf on May 21, 2025, where he remains today as of the date of the filing of this Petition. Prior to May 21, 2025, ██████

had *never* been in a detention or carceral setting and had never been arrested in the United States or in Venezuela.

46. At BFDF, [REDACTED] is terrified and experiencing the harms of being in a carceral setting for the first time. He has experienced harassment from at least 10 other detainees, many of whom are much older than him. Officers threatened to place him in solitary confinement, and [REDACTED] is very scared of being put in such isolating conditions. Other detainees have also verbally harassed [REDACTED] concerning his physical appearance, and BFDF officers have not worked to curb such harassment despite [REDACTED] notifying them about this harassment. Due to this harassment, [REDACTED] has to spend his time in detention trying to avoid individuals who have been harassing him, even though his movement inside the facility is restrained. He fears physical harm from his harassers. [REDACTED] has also suffered stress and anxiety in detention and was given medication to try to relax him, but the medication has not been working.

47. On May 28, 2025, Respondent Kurzdorfer, the Acting Field Office Director, issued a letter in English only—even though [REDACTED] only reads in Spanish—that terminated his parole pending the outcome of his removal proceedings.

48. On May 28, 2025, the Department of Homeland Security (DHS) filed a motion to dismiss [REDACTED] removal proceedings. In their motion, the government wrote that “the Department has reviewed the facts and circumstances of the case and determined that circumstances after issuance of the Notice to Appear have changed to such an extent that continuation is no longer in the best interest of the government. 8 C.F.R. §§ 1239.2(c), 239.2(a)(7) and (c).”

49. On June 2, 2025, RFK Human Rights filed a notice of appearance with the Immigration Court. Upon information and belief, [REDACTED] immigration case was transferred from the Buffalo Immigration Court to the Batavia Immigration Court.

50. On June 4, 2025, RFK Human Rights sent an email to the ICE Batavia and Assistant Field Office Director Peter N. Sukmanowski that RFK Human Rights was [REDACTED] legal counsel and that legal counsel should be present at all meetings with ICE and/or its subcontractors and should be present at all meetings with any consulates. A G28 was included in the email.

51. On June 6, 2025, despite a hearing date not being set by the Batavia Immigration Court, an Immigration Judge granted DHS's motion to dismiss. RFK Human Rights filed an appeal of the Immigration Judge's grant of the DHS's motion to dismiss. Upon information and belief, DHS moved to dismiss the immigration removal proceedings that were pending and that would permit [REDACTED] to apply for asylum in order to subject him to expedited removal from the United States.

52. On June 10, 2025—despite [REDACTED] pending appeal of the dismissal of his removal proceedings and without notifying [REDACTED] counsel—the government initiated expedited removal proceedings against [REDACTED] pursuant to § 1225(b)(1). [REDACTED] requested that he be afforded the opportunity to speak with his attorney and informed the deportation officer conducting this proceeding that he had a fear of persecution should he be returned to Venezuela.

53. On June 11, 2025, [REDACTED] appeared in immigration court with counsel for a scheduled bond hearing. But the IJ held it was not permitted to consider bond given [REDACTED] detention authority. [REDACTED] indicated his intention to apply for asylum and is currently awaiting a Credible Fear Interview (“CFI”) with USCIS. However, the government stated at this bond hearing that [REDACTED] CFI cannot be completed right now due to his pending appeal before the Board of Immigration Appeals.

54. [REDACTED] thus has two current removal proceedings ongoing simultaneously: his appeal of the dismissal of his traditional removal proceedings and expedited removal proceedings.

55. Upon information and belief, [REDACTED] is also eligible for Special Immigrant Juvenile Status. “Congress created Special Immigrant Juvenile Status to alleviate ‘hardships experienced by some dependents of United States juvenile courts by providing qualified aliens with the opportunity to apply for special immigrant classification and lawful permanent resident status, with possibility of becoming citizens of the United States in the future.’” 58 Fed. Reg. 42,843, 42,844 (Aug. 12, 1993).

### **JURISDICTION AND VENUE**

56. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 2241 (habeas corpus), and 8 U.S.C. § 1252(e)(2).

57. Venue is proper in the Western District of New York under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to these claims occurred in this district. Venue is also proper under 28 U.S.C. § 2241(d) because [REDACTED] is detained at a facility within this district.

58. Administrative exhaustion is unnecessary because it would be futile.

### **CAUSES OF ACTION**

#### **FIRST CLAIM**

#### **Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Substantive Due Process); 5 U.S.C. §§ 702, 706**

59. [REDACTED] repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

60. [REDACTED] is not a flight risk nor is he a danger to the community. Respondents’ detention of [REDACTED] is therefore unjustified and unlawful. Accordingly, [REDACTED] is being detained in violation of his Constitutional right to Due Process under the Fifth Amendment.

## SECOND CLAIM

### **Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Procedural Due Process); Administrative Procedure Act 5 U.S.C. §§ 702, 706**

61. [REDACTED] repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

62. The Due Process Clause of the Fifth Amendment protects all “person[s]” from deprivation of liberty “without due process of law.” U.S. CONST AMEND. V.

63. The government made the reasoned decision to parole [REDACTED] from detention while he pursued his asylum claim in the United States. The Due Process Clause entitles [REDACTED] to meaningful process assessing whether his detention is justified. The arrest and detention of [REDACTED] without an opportunity for [REDACTED] to contest his detention in front of a neutral adjudicator after he had been living and working in the United States for over eight months provide insufficient process and violates the Due Process Clause of the Fifth Amendment of the Constitution.

## THIRD CLAIM

### **Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Procedural Due Process); Administrative Procedure Act 5 U.S.C. §§ 702, 706**

64. [REDACTED] repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

65. The government made the decision to place [REDACTED] into removal proceedings pursuant to 8 U.S.C. § 1229(a) upon his arrival. No determination has yet been made whether he is to be removed from the United States in such proceedings.

66. The government’s decision to dismiss those proceedings without adequate process violates the Due Process Clause of the Fifth Amendment of the Constitution.

#### FOURTH CLAIM

**Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Procedural Due Process); Administrative Procedure Act, 5 U.S.C. §§ 702, 706**

67. [REDACTED] repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

68. [REDACTED] remains in removal proceedings pursuant 8 U.S.C. § 1229(a) while his appeal of his termination sits with the Board of Immigration Appeals. The government's efforts to simultaneously subject him to removal proceedings under 8 U.S.C. § 1225(b)(1) prior to the culmination of the 8 U.S.C. § 1229(a) proceedings violates the Due Process Clause of the Fifth Amendment of the Constitution.

#### FIFTH CLAIM

**Violation of the Immigration and Nationality Act and its Implementing Regulations, Administrative Procedure Act 5 U.S.C. §§ 702, 706**

69. [REDACTED] repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

70. Section 1229a provides that, “[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be admitted to the United States or, if the alien has been so admitted, removed from the United States.” 8 U.S.C. § 1229(a)(3). [REDACTED] is in Section 1229(a) proceedings are ongoing. No determination has yet been made whether he is to be removed from the United States in those proceedings.

71. Moreover, [REDACTED] has a statutory right to apply for asylum, which he intends to do. 8 U.S.C. 1158(a). The government's dismissal of his removal proceedings pursuant to 8 U.S.C. § 1229(a) violated the INA and implementing regulations.

### SIXTH CLAIM

**Violation of the Immigration and Nationality Act, U.S.C. § 1225(b)(1); U.S.C. § 1252(e)(2);  
Administrative Procedure Act 5 U.S.C. § 706(2)**

72. [REDACTED] repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

73. 8 U.S.C. § 1225(b)(1) covers the “[i]nspection of aliens arriving in the United States and certain other aliens who have not been admitted or paroled.” 8 U.S.C. § 1225(b)(1). Section 1225(b)(1)(A)(iii)(II) further clarifies that “[a]n alien described in this clause is an alien who is not described in subparagraph (F), who has not been admitted or paroled into the United States.” 8 U.S.C. § 1225(b)(1)(A)(iii)(II).

74. [REDACTED] was paroled into the United States in September of 2024. The government’s application of 8 U.S.C. § 1225(b)(1) to [REDACTED] over eight months after he was paroled exceeds the government’s statutory authority in violation of the Immigration and Nationality Act and the Administrative Procedure Act.

### SEVENTH CLAIM

**Violation of the Due Process Clause of the Fifth Amendment to the United States  
Constitution (Procedural Due Process); Administrative Procedure Act 5 U.S.C. §§ 702, 706**

75. [REDACTED] repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

76. Because [REDACTED] was paroled into the United States, 8 U.S.C. § 1225(b)(1) cannot be applied to him. The government has not provided [REDACTED] with an opportunity to challenge his placement into expedited removal on these grounds. The government’s failure to provide [REDACTED] with such an opportunity violates the Due Process Clause of the Fifth Amendment of the Constitution.

### **EIGHTH CLAIM**

#### **Violation of the Fourth Amendment to the U.S. Constitution (unlawful arrest); 5 U.S.C. §§ 702, 706**

77. [REDACTED] repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

78. [REDACTED] was detained by federal immigration officials as removable when he entered the United States. The government exercised its discretion under the Immigration and Nationality Act to release, or parole, him while he litigated that charge in immigration court. At the time of [REDACTED] arrest, he had been living at liberty pursuant to a parole determination by federal immigration authorities.

79. The government lacked reliable information of changed or exigent circumstances that would justify his arrest after federal immigration authorities had already decided he could pursue his claims for immigration relief at liberty. His re-arrest based solely on the fact that he is subject to removal proceedings is unreasonable and violates the Fourth Amendment.

### **NINTH CLAIM**

#### **Violation of the Administrative Procedure Act, 5 U.S.C. §§ 702, 706**

80. [REDACTED] repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

81. The government's policy of targeting people who appear for their immigration hearings for arrest in immigration courthouses is arbitrary and capricious. The Immigration Courthouse Arrest Policy is an unreasoned departure from recent and longstanding agency policy and practice. The government has provided no reasoned explanation for this reversal.

82. The Immigration Courthouse Arrest Policy also fails to consider multiple important aspects of the problem. Arresting people who appear for their court proceedings will disincentivize

people from attending those proceedings, even where they have meritorious claims for relief, and impede the fair administration of justice. The Immigration Courthouse Arrest Policy also fails to consider the fact that people who appear for their immigration proceedings are not flight risks and therefore do not need to be detained while their proceedings are pending.

83. [REDACTED] arrest pursuant to the government's policy are agency actions that violate the Administrative Procedure Act, 5 U.S.C. § 706(2).

#### **TENTH CLAIM**

#### **Violation of the Immigration and Nationality Act and the Administrative Procedure Act, 5 U.S.C. §§ 702, 706**

84. [REDACTED] repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

85. The government's arrest of [REDACTED] immediately after he exited an immigration court proceeding in which he was a party violates the common law privilege against civil arrests while coming to, attending, and returning from court. This common law protection is incorporated into the Immigration and Nationality Act.

86. Therefore, the Policy is in excess of statutory authority because the INA does not authorize civil arrests in and around courthouses.

#### **PRAYER FOR RELIEF**

WHEREFORE, the petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Enjoin the respondents from transferring the petitioner away from the jurisdiction of this District pending these proceedings;

- 3) Declare that the petitioner's arrest and detention violates the Due Process Clause of the Fifth Amendment, the Administrative Procedure Act, the Immigration and Nationality Act, and the Suspension Clause of Article I of the U.S. Constitution;
- 4) Issue a Writ of Habeas Corpus ordering Respondents to immediately release the petitioner from custody;
- 5) Set aside the respondents' revised Immigration Courthouse Arrest Policy, including as applied to the petitioner;
- 6) Award the petitioner reasonable attorneys' fees and costs for this action under the Equal Access to Justice Act, 28 U.S.C. § 2414; and
- 7) Grant the petitioner any other relief this Court deems just and proper.

Dated: June 12, 2025  
New York, N.Y.

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Respectfully submitted,

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**VERIFICATION**

I am submitting this verification on behalf of the Petitioner because I am one of the Petitioner's attorneys. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

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