UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

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| ABDIGANI FAISAL HUSSEIN,<br><br>Petitioner/Plaintiff<br><br>vs.<br><br>CHRISTOPHER BRACKETT, Superintendent of the Strafford County Department of Corrections, TODD LYONS, Boston Field Office Director, U.S. Immigration and Customs Enforcement,<br><br>Respondents/Defendants | ) | Civil No. 18-cv-____ |

**PETITION FOR WRIT OF HABEAS CORPUS**
**(EXPEDITED HEARING REQUESTED)**

## INTRODUCTION

Petitioner Abdigani Faisal Hussein ("**Petitioner**" or "**Mr. Hussein**") is a Somali national who is being unlawfully detained without a bond hearing under the mandatory immigration detention provision, 8 U.S.C. § 1226(c). Relying on the Board of Immigration Appeals ("BIA") decision in *Matter of Rojas*, 23 I&N Dec. 117 (BIA 2001), the government is subjecting Mr. Hussein to mandatory, no-bond detention, even though he was not taken into immigration custody until sixteen years after his release from criminal custody for the relevant predicate offense. Through its overbroad interpretation of 8 U.S.C. § 1226(c), the government seeks to deny custody hearings to persons in immigration proceedings who long ago were in criminal custody for certain offenses, regardless of how long the individuals have lived peaceably and without incident in the community after their release from criminal custody. Under the government's interpretation, individuals who can prove to an immigration judge that they pose no danger or flight risk will nonetheless be confined in immigration detention in New Hampshire's Strafford County

Department of Corrections and other immigration detention facilities, often for months or even years on end.

Petitioner's mandatory detention violates the plain language of Section 1226(c), and it further violates his rights under the Due Process Clause of the Fifth Amendment. Absent relief from this Court, Mr. Hussein—and others like him—may spend months or even years in detention while their immigration cases proceed, without even the chance to be considered for release on bond. To remedy his unlawful detention, Mr. Hussein seeks an individual bond hearing at which an Immigration Judge can determine whether his detention is justified based on considerations of flight risk and danger to the community. Furthermore, Mr. Hussein also seeks an order requiring a constitutionally adequate bond hearing at which the government bears the burden to justify any further detention by proving by clear and convincing evidence that Mr. Hussein is a danger to others or a flight risk.

If the government detains a noncitizen under 8 U.S.C. § 1226(a), that noncitizen may seek review of the decision by an immigration judge at a custody hearing. *See* 8 C.F.R. § 1236.1(d); *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006). At such a hearing, the noncitizen may seek release on bond only if she proves that she is neither a danger to the community nor a flight risk. Section 1226(c), which is at issue here, creates a narrow exception to the general rule that an immigrant who is detained pending removal is entitled to an individualized bond hearing. Section 1226(c) provides that when the Attorney General takes a person into immigration custody after that person is released from criminal custody in enumerated circumstances, detention is mandatory and bond is not permitted. By its narrow plain terms, Section 1226(c) directs that immigration officials "shall take into custody any alien who—[is subject to removal under the enumerated criminal grounds], *when the alien is released*" from the criminal custody. *See* 8 U.S.C. § 1226(c)

(emphasis added). The plain reading of the statute makes clear that ICE may detain an individual without a bond hearing under Section 1226(c) only when the person is taken *immediately* into custody following the sentence. As Petitioner was not taken into custody immediately upon release following his sentence, Section 1226(c) does not and cannot apply to him. He is, by statute, entitled to a bond hearing.

Courts in the First Circuit have reached this legal conclusion, and this Court must as well. The United States District Court for the District Court of Massachusetts has ruled that Section 1226(c) only applies in the case of immediate detention. *See Gordon v. Johnson*, 991 F. Supp. 2d. 258 (D. Mass. 2013); *Castañeda v. Souza*, 952 F. Supp. 2d. 307 (D. Mass. 2013). The First Circuit affirmed those rulings by an equally divided court. *See Castañeda v. Souza*, 810 F.3d 15, 18 (1st Cir. 2015). This exact issue is scheduled to be argued before the United States Supreme Court on October 10, 2018, and, pending that Court's ruling, the District Court in Massachusetts has enjoined Section 1226(c)'s application of mandatory question for anyone who was taken into immigration custody more than forty-eight hours (or within five days if a weekend or holiday intervened) after release from criminal custody. Petitioner seeks a similar order from this Court.

## JURISDICTION

1. Mr. Hussein is detained in the custody of Respondents/Defendants at the Strafford County Department of Corrections at 266 County Farm Road, Dover, New Hampshire 03820.
2. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), § 1361 (federal employee mandamus action), § 1651 (All Writs Act), § 2241 (habeas corpus; and Art. I § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"), as Mr. Hussein is currently in custody under the authority of the United States in violation of the

Constitution, laws, or treaties of the United States.

3. The federal district courts have jurisdiction to hear habeas claims by noncitizens contesting the lawfulness of their immigration detention. *Aguilar v. U.S. Immigration & Customs Enf't Div. of Dep't of Homeland Sec.*, 510 F.3d 1, 11 (1st Cir. 2007) (citing *Demore v. Kim*, 538 U.S. 510, 516 (2003)). Specifically, federal district courts have jurisdiction to address "questions of law in habeas corpus proceedings brought by aliens challenging executive interpretations of the immigration laws." *INS v. St. Cyr*, 533 U.S. 289, 306–07 (2001); *see* 28 U.S.C. § 2241; *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018) (plurality opinion) (finding that 8 U.S.C. § 1226(e) does not bar federal judicial review where a noncitizen is "challenging the extent of the government's detention authority under the 'statutory framework' as a whole" or "contesting the constitutionality of the entire statutory scheme under the Fifth Amendment"); *Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011) ("Although [8 U.S.C.] § 1226(e) restricts jurisdiction in the federal courts in some respects, it does not limit habeas jurisdiction over constitutional claims or questions of law.").

**VENUE**

4. Venue lies in the United States District Court for the District of New Hampshire, the judicial district in which Mr. Hussein is physically present and in the custody of Respondents/Defendants at the Strafford County Department of Corrections in Dover, New Hampshire. *See* 28 U.S.C. § 1391.

**PARTIES**

5. Petitioner is a 45-year old Somalia citizen who lawfully entered the United States in 1996 as a refugee when he was 23 years old. He was detained by Immigration and Customs

Enforcement ("ICE") on or about March 9, 2018, and is currently subject to mandatory detention. He remains in ICE custody at the Strafford County Department of Corrections in Dover, New Hampshire.

6. Respondent/Defendant Christopher Brackett is the superintendent of the Strafford County Department of Corrections. He is the individual having day-to-day control over the facility at which the Petitioner is detained, and is sued in his official capacity.

7. Respondent/Defendant Todd Lyons is the acting Boston Field Office Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement and is sued in his official capacity. The Field Office Director has responsibility for and authority over the detention and removal of noncitizens within the Boston Region, which includes Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, and is also considered their custodian, for purposes of habeas corpus.

**EXHAUSTION**

8. Mr. Hussein has exhausted his administrative remedies to the extent required by law, and judicial action is his only remaining remedy.

9. No statutory exhaustion requirement applies to Mr. Hussein's claim of unlawful detention. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992) ("[W]here Congress has not clearly required exhaustion, sound judicial discretion governs."); *cf.* 8 U.S.C. § 1252(d)(1) (requiring exhaustion of administrative remedies only where requesting review of a final order of removal). In making its 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).

10. Nevertheless, on or about September 26, 2018, Mr. Hussein requested a bond hearing before the Immigration Judge. The Immigration Judge denied Mr. Hussein an individualized bond hearing on October 4, 2018, concluding that he was subject to mandatory detention 8 U.S.C. § 1226(c) pursuant to the BIA's decision in *Matter of Rojas*, 23 I&N Dec. 117.

11. An appeal of the Immigration Judge's decision is futile. In light of the BIA's decision in *Rojas*, Mr. Hussein has no reasonable prospect of receiving a bond hearing before the Immigration Judge without an order from this Court.

**MANDATORY DETENTION UNDER 8 U.S.C. § 1226(c)**

12. Section 1226 governs detention during immigration removal proceedings. Section 1226(a) supplies general discretionary authority to detain a noncitizen, or release him on bond or conditional parole, during his removal proceedings. A noncitizen detained under § 1226(a) is entitled to a bond hearing, at which an Immigration Judge decides if detention is justified by determining whether the noncitizen presents public safety or flight risks. *See* 8 C.F.R. § 1236.1(c)(8), (d)(1), and (d)(3).

13. Section 1226(c), the mandatory detention provision, is a narrow exception to the government's discretion to detain or release under Section 1226(a). *See* § 1226(a) (discretion applies "[e]xcept as provided in subsection (c)"); *Saysana v. Gillen*, 590 F.3d 7, 17 (1st Cir. 2009) ("The mandatory detention provision does not reflect a general policy in favor of detention; instead, it outlines specific, serious circumstances under which the ordinary procedures for release on bond at the discretion of the immigration judge should not apply."). Section 1226(c) requires the Attorney General to detain noncitizens who are "deportable" or "inadmissible" based on certain grounds "when" they are "released" from custody for an

offense triggering one of these grounds. § 1226(c)(1). The Attorney General may release these mandatorily detained noncitizens only in narrow circumstances not present here. *See* § 1226(c)(2). Noncitizens detained under § 1226(c) are not entitled to bond hearings and thus receive no individual determination of whether they pose any danger or flight risk justifying their detention.

14. Section 1226(c) provides:

> (1) Custody
>
> The Attorney General shall take into custody any alien who—
>
> (A) is inadmissible by reason of having committed any offense covered in section 1182(a)(2) of this title,
>
> (B) is deportable by reason of having committed any offense covered in section 1227(a)(2)(A)(ii), (A)(iii), (B), (C), or (D) of this title,
>
> (C) is deportable under section 1227(a)(2)(A)(i) of this title on the basis of an offense for which the alien has been sentenced to a term of imprisonment of at least 1 year, or
>
> (D) is inadmissible under section 1182(a)(3)(B) of this title or deportable under section 1227(a)(4)(B) of this title,
>
> *when the alien is released*, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense.
>
> (2) Release
>
> The Attorney General may release an alien described in paragraph (1) only if the Attorney General decides pursuant to section 3521 of Title 18 that release of the alien from custody is necessary to provide protection to a witness, a potential witness, a person cooperating with an investigation into major criminal activity, or an immediate family member or close associate of a witness, potential witness, or person cooperating with such an investigation, and the alien satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding. A decision relating to such release shall take place in accordance with a procedure that considers the severity of the offense committed by the alien.

(emphasis added).

15. Mandatory detention under § 1226(c) applies only to aliens taken into immigration custody "when the alien is released" from criminal custody for an offense designated in the mandatory detention provision. The text of the statute is straightforward. Section 1226(c)(2) "refers simply to 'an alien described in paragraph (1),' not to an 'alien described in subparagraphs

(1)(A)-(D).'" *Preap v. Johnson*, 831 F.3d 1193, 1200 (9th Cir. 2016). Given the presumption that Congress selected its language deliberately, "an alien described in paragraph (1)' is just that—*i.e.* an alien who committed a covered offense and who was taken into immigration custody 'when . . . released.'" *Id.* at 1201.

16. The most natural reading of the phrase "when the alien is released" is "at the time of release." Congress's use of the word "when" connotes a reasonable degree of immediacy. If Congress did not intend to convey a sense of immediacy, it could have easily employed a conditional word, such as "if." Indeed, if Congress had intended mandatory detention to apply to noncitizens detained at "any time" after their release from custody, it could have used this wording, as it has done in several other statutes. *See e.g.*, 8 U.S.C. § 1227(a)(2)(A)(ii); 10 U.S.C. § 12687; 10 U.S.C. § 14112. Furthermore, if the statute is read as permitting mandatory detention at any time after a noncitizen is detained, then the "when . . . released" clause would be reduced to mere surplusage.

17. Two cases in the United States District Court for the District of Massachusetts reached this conclusion and granted immigrants in similar situations to Mr. Hussein the right to individualized bond hearings. *See Gordon v. Johnson*, 991 F. Supp. 2d. 258 (D. Mass. 2013); *Castañeda v. Souza*, 952 F. Supp. 2d. 307 (D. Mass. 2013). Sitting *en banc*, the First Circuit Court of Appeals affirmed by an equally divided court. *See Castañeda v. Souza*, 810 F.3d 15, 18 (1st Cir. 2015).[1] Writing for three judges, Judge Barron held: "The current version of the detention mandate requires that aliens who have committed certain offenses be taken into immigration custody in a timely manner following their release from criminal custody. The

[1] The Ninth Circuit reached the same conclusion in *Preap v. Johnson*, 831 F.3d 1193, 1197 (2016) *cert. granted sub nom. Nielsen v. Preap*, 138 S. Ct. 1279 (2018). The Second, Third, Fourth and Tenth circuits have held the opposite on differing rationales. *Lora v. Shanahan*, 804 F.3d 601, 612 (2d Cir. 2015); *Olmos v. Holder*, 780 F.3d 1313, 1322 (10th Cir. 2015); *Hosh v. Lucero*, 680 F.3d 375, 380-81 (4th Cir. 2012); *Sylvain v. Atty Gen. of United States*, 714 F.3d 150, 157 (3d Cir. 2013).

detention mandate further provides that *only such* aliens must then be held without bond until the completion of the removal process." *Id.* at 43 (emphasis added). He continued that the *Castañeda* petitioners, who were released from criminal custody years before they were first placed in immigration custody, "clearly" do not fall within the detention mandate. On remand, the District Court enjoined mandatory detention for those whose immigration detention began more than 48 hours after release from criminal custody (no more than five days if a weekend or holiday intervenes). *See* Exhibit 1, *Gordon v. Kelly*, No. 3:13-cv-30146-MAP, *Order* (February 10, 2017).

18. The Supreme Court of the United States is scheduled to hear argument on this issue on October 10, 2018 in *Nielsen et al. v. Preap et al.*, Case No. 16-1363.

**PROLONGED DETENTION UNDER 8 U.S.C. § 1226(C)**

19. In *Demore v. Kim*, 538 U.S. 510 (2003), the Supreme Court upheld the constitutionality of § 1226(c), finding that Congress "may require that [removable aliens detained under § 1226(c)] be detained for the *brief period* necessary for their removal proceedings." *Id*. at 513 (emphasis added). The Court thus made the limited duration of the detention central to its holding. Indeed, it repeatedly emphasized that the brevity of the detention was of paramount importance. *See id*. at 526 ("[T]he Government may constitutionally detain deportable aliens during *the limited period* necessary for their removal proceedings." (emphasis added)). And "the Court took pains to point out the specific durations that it envisioned were encompassed by its holding: '[T]he detention at stake under § 1226(c) lasts roughly *a month and a half in the vast majority* of cases in which it is invoked, and about five months in the minority of cases in which the alien chooses to appeal.'" *Reid v. Donelan*, 819 F.3d 486, 494 (1st Cir. 2016) (quoting *Demore*, 538 U.S. at 530) (opinion withdrawn).

20. Prior to the Supreme Court's recent plurality decision in *Jennings*, "every federal court of appeals to examine § 1226(c) ha[d] recognized that the Due Process Clause imposes some form of 'reasonableness' limitation upon the duration of detention that can be considered justifiable under that statute." *Id.* at 494 (citing cases). The courts of appeals read an implicit reasonableness requirement into § 1226(c) by applying the doctrine of constitutional avoidance. *See id.* In *Jennings*, the Supreme Court held that the Ninth Circuit had misapplied the canon of constitutional avoidance, as it based its adoption of a six-month bright line rule on an "implausible" interpretation of the statutory text of § 1226(c). *Jennings*, 138 S. Ct. at 846. While the Court's ruling left no doubt that a periodic bond hearing requirement could not be read into the text of § 1226(c), it declined to consider the constitutional question of whether prolonged mandatory detention without access to a bond hearing violated due process, and remanded that issue to the Ninth Circuit Court of Appeals. *Id*. at 851.

21. Post-*Jennings*, district courts have repeatedly held that due process challenges to prolonged detention under § 1226(c) requires an individualized assessment to determine whether the detention is reasonable. *See e.g.*, *Sajous v. Decker*, No. 18-cv-2447, 2018 U.S. Dist. LEXIS 86921, at *32 (S.D.N.Y. May 23, 2018); *see also Muse v. Sessions, No. 18-CV-0054 (PJS/LIB), 2018 U.S. Dist. LEXIS 159858, at *8 (D. Minn. Sep. 18, 2018)* ("[T]he Court follows the lead of virtually every court that has addressed the issue following Jennings . . . and holds that a due-process challenge to § 1226(c) detention must be resolved by closely examining the facts of the particular case to determine whether the detention is reasonable.").

22. This individualized assessment considers: (1) the length of time the alien has been

detained; (2) whether the alien is responsible for the delay; (3) whether the alien has asserted defenses to removal; (4) whether the alien's civil immigration detention exceeds the time the alien spent in prison for the crime that rendered him removable; and (5) whether the facility for the civil immigration detention is meaningfully different from a penal institution for criminal detention.

## FACTS

### A. Mr. Hussein's entry into the United States and initial detention

23. Mr. Hussein fled Somalia in 1991 at the height of the Somali civil war.

24. After spending several years in Kenya, he immigrated to the United States lawfully in November of 1996 as a refugee.

25. On December 18, 1997, Mr. Hussein's immigration status was adjusted to that of a lawful permanent resident.

26. In 2002, Mr. Hussein was convicted of possession with intent to deliver khat under 21 U.S.C. § 841(a)(1).

27. Khat is a leafy green flowering plant that grows in East Africa and the Arabian peninsula. Certain ethnic groups import it into the United States to chew or brew it into tea.

28. The Portland Press Herald published an article regarding the Respondent's arrest in April of 2002, noting that "[h]is case is the first prosecution for khat trafficking in Maine" and that "[t]he prosecution also represents the first case to bring the traditional behavior of religious and otherwise law-abiding people into conflict with America's strict approach to drug enforcement."

29. A jury found the Respondent guilty of violating § 841(a)(1) on October 9, 2002, following a two-day trial.

30. The presiding judge, Judge Hornby, reserved judgment on Mr. Hussein's Rule 29 motion for acquittal. Following the guilty verdict, Judge Hornby denied the motion for acquittal. However, he noted in closing that:

> I remain troubled by the government's failure to be clearer in its official regulations that possession of khat with intent to distribute is criminal, especially since this is a vegetation that certain ethnic communities have traditionally used over the years. I recognize that this trial will provide future notice to many in Maine's Somalian community both through media coverage and through their attendance at the trial, but that is not the sort of notice that supports imprisoning this defendant. Nevertheless, the precedents of the United States Court of Appeals for the First Circuit and the United States Supreme Court require me to deny the motion for acquittal.

31. Judge Hornby sentenced Mr. Hussein to one year of probation.

32. On March 18, 2004, Mr. Hussein was served with a Notice to Appear ("NTA") charging him with removability under INA § 237(a)(2)(A)(iii) and § 237(a)(2)(B)(i) based on his 2002 conviction.

33. Mr. Hussein was detained by ICE in March of 2006 after he plead guilty to a misdemeanor charge of resisting arrest in Pennsylvania.

34. Upon information and belief, Mr. Hussein was detained by ICE pursuant to 8 U.S.C. § 1226(c).

35. An Immigration Judge denied his requests for asylum, withholding of removal, and withholding under the Convention Against Torture after a merits hearing in August of 2006.

36. The BIA affirmed the Immigration Judge's decision on December 21, 2006, as did the Third Circuit. *See Hussein v. AG of the United States*, 273 F. App'x 147, 148 (3d Cir. 2008)

37. While Mr. Hussein's appeal before the Third Circuit was pending, the Department of

Homeland Security released him under an Order of Supervision on September 26, 2007.

38. Under this Order of Supervision, Mr. Hussein was allowed to remain in the United States and seek employment, so long as he complied with specific requirements such as periodic check-ins. See 8 C.F.R. § 241.5 (outlining supervision requirements).

39. Mr. Hussein complied with his Order of Supervision for approximately eleven years.

40. He married his wife Hibo Yusuf Abdi in 2004. Hibo is now a naturalized United States citizen.

41. Mr. Hussein and Hibo have three daughters: Fahima Abdihafid Hassan (15); Faryaad Abdihafid Hassan (14); and Amira Abdihafid Hassan (13).

42. They are all United States citizens.

43. The family has resided at 22 Stone Street in Portland, Maine, since 2007.

44. The girls are in middle school and high school. Hibo works part-time cleaning houses and offices.

45. Following his release, Mr. Hussein opened his own trucking business, Amey Transportation LLC. He owns his own tractor and trailer that he uses to make deliveries throughout New England for major retail and grocery stores.

**B. Mr. Hussein's re-detention**

46. ICE detained Mr. Hussein in March of 2018 following a change in national immigration enforcement policy.

47. On April 4, 2018, Mr. Hussein filed a Motion to Reopen Based on Changed Country Circumstances ("Motion to Reopen") with the BIA.

48. The BIA granted the Motion to Reopen on August 23, 2018, thereby vacating Mr. Hussein's prior order of removal.

49. Thereafter, the case was transferred from the York, Pennsylvania Immigration Court, to the Boston, Massachusetts Immigration Court.

50. Mr. Hussein filed a motion to be released on bond on September 26, 2018.

51. The Immigration Judge denied the motion for bond on October 4, 2018, concluding that he did not have jurisdiction to grant bond based on *Matter of Rojas*'s interpretation of section 1226(c).

**CLAIM FOR RELIEF**
**COUNT I—VIOLATION OF 8 U.S.C. §1226**

52. The foregoing allegations are realleged and incorporated herein.

53. Section 1226(c) requires detention of certain noncitizens who were taken into immigration custody "when . . . released" from criminal custody for a removable offense.

54. It does not apply to noncitizens who were not detained "when . . . released" from custody for a removable offense referenced in § 1226(c)(1).

55. Because Mr. Hussein was released from custody for a removable offense in 2002 prior to his conviction, he is not subject to mandatory detention under § 1226(c) 16 years later.

56. Thus, Mr. Hussein's continued detention without a bond hearing violates § 1226 and is unlawful.

**COUNT II—DUE PROCESS VIOLATION**

57. The foregoing allegations are realleged and incorporated herein.

58. "It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings." *Reno v. Flores*, 507 U.S. 292, 306 (1993).

59. Over seven months have passed since ICE first took Mr. Hussein into custody.

60. Mr. Hussein's civil immigration detention significantly exceeds the time he spent in prison for the crime that rendered him removable, as his sentence for his 2002 conviction

was one year of probation.

61. To date, he has still not received an individualized determination regarding whether he is a danger to the community or likely to flee.

62. Absent judicial relief, Mr. Hussein's detention will continue for months or even years as his reopened immigration case proceeds through the immigration courts.

63. Mr. Hussein is detained at the Strafford County Department of Corrections under conditions that are indistinguishable from penal confinement.

64. Mr. Hussein is not responsible for any delays in the removal proceedings, and Mr. Hussein's challenge to his removal has merit, as evidenced by the BIA's recent decision to reopen has case based on changed country conditions in Somalia.

65. His continued detention is in violation of the prohibition against indefinite detention, and constitutes a violation of his Due Process Rights under the Fifth Amendment.

66. This Court may exercise its habeas powers to remedy this violation by conducting its own bond hearing, ordering the Immigration Judge to conduct a constitutionally adequate bond hearing, or ordering that Mr. Hussein be released at the earliest possible opportunity on such terms and conditions as the Court deems just.

**EXPEDITED HEARING REQUESTED**

67. Petitioner will be detained absent an individual bond hearing indefinitely, pending his removal, unless this Court intervenes. Because each day of continued detention without a hearing places an irreparable injury on Petitioner, he requests an expedited hearing on this Petition.

**PRAYER FOR RELIEF**

**WHEREFORE**, Petitioner respectfully requests that this Honorable Court:

A. Assume jurisdiction over this matter;

B. Hold an expedited hearing;

C. Order Respondents/Defendants to release Petitioner from detention absent an individualized determination by an impartial adjudicator that his detention is justified based on danger or flight risk, which cannot be sufficiently addressed by alternative conditions of release and/or supervision;

D. Order Respondents/Defendants to provide a constitutionally adequate bond hearing at which the government bears the burden to justify any further detention by proving by clear and convincing evidence that Petitioner is a danger to others or a flight risk;

E. Declare that Respondents/Defendants have violated the Petitioner's constitutional right to due process due to his prolonged detention without an individualized bond hearing;

F. Enjoin Respondents/Defendants from transferring Petitioner outside of the jurisdiction of the New England Region and/or the Boston Field Office;

G. Award reasonable attorney's fees and costs to Petitioner; and

H. Grant such further relief as is just and equitable.

Dated: October 9, 2018

Respectfully submitted,

ABDIGANI FAISAL HUSSEIN

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***Applications for admission pro hoc vice forthcoming.*