

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
WAYCROSS DIVISION

JACOB IRA VIJANDRE,	§	
	§	
<i>Petitioner,</i>	§	
	§	
v.	§	
	§	
KRISTI NOEM, in her official capacity as	§	
Secretary of the Department of Homeland	§	Case No. 5:25-cv-00136-LGW-BWC
Security;	§	
	§	
PAMELA BONDI, in her official capacity as	§	
Attorney General;	§	
	§	
TODD LYONS, in his official capacity as	§	
Acting Director of Immigration and Customs	§	
Enforcement;	§	
	§	
GEORGE STERLING, in his official capacity	§	
as Acting Director of Immigration and	§	
Customs Enforcement’s Enforcement and	§	
Removal Operations Atlanta Field Office; and	§	
	§	
WARDEN of the Folkston Processing Center,	§	
in his official capacity,	§	
	§	
<i>Respondents.</i>	§	

**FIRST AMENDED PETITION FOR WRIT OF HABEAS CORPUS**

**INTRODUCTION**

1. Petitioner, Jacob Ira Azurin Vijandre (“Mr. Vijandre” or “Petitioner”), is a photojournalist, videographer, practicing Muslim, and Deferred Action for Childhood Arrivals (“DACA”) recipient who has lived in the U.S. for 24 years, including 12 with DACA. Since moving to the Dallas, Texas area in or about 2022, Mr. Vijandre has played a prominent role in documenting the local pro-Palestinian protest movement, drawing attention to conditions at prisons and immigration detention facilities, and publishing those views to his audience of social

media followers.

2. As a freelance journalist, Mr. Vijandre has covered demonstrations, public meetings, and political conferences, often posting his coverage on his social media accounts. And like tens of millions of people in this country, he has also used his social media accounts to express his personality and beliefs. On Instagram, YouTube, and X, he has shared his religious views as a practicing Muslim, disseminated videos demonstrating his work as a martial arts teacher, commented on historical and current events, and voiced his political beliefs on a wide range of subjects, including two issues close to his heart: the rights of prisoners and the rights of the people of Palestine.

3. On the morning of October 7, 2025, Respondents arrested Mr. Vijandre at gunpoint outside his home in Arlington, Texas. On three occasions, Respondents have stated that they targeted Mr. Vijandre based on his social media activity. They first elaborated the justification for targeting Mr. Vijandre in the Notice of Intent to Terminate (“NOIT”) his DACA, which friends of Mr. Vijandre obtained days after he was arrested by checking his online account with the United States Citizenship and Immigration Service (“USCIS”). Exh. A.<sup>1</sup> They elaborated further reasons in a declaration by Deportation Officer (“DO”) Lonnie Felps, filed by DHS in Mr. Vijandre’s immigration court proceedings on October 24, 2025. Exh. C. Additional reasons were stated by the Immigration Judge (“IJ”) when Mr. Vijandre appeared before her on November 3, 2025, after requesting a bond hearing.<sup>2</sup>

4. Together, these three sources lay out eleven justifications for Mr. Vijandre’s

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<sup>1</sup> All exhibits attached hereto are re-labeled for clarity.

<sup>2</sup> All citations to the November 3, 2025 immigration court hearing are transcriptions based on the audio recordings provided by the Immigration Court, which does not generally provide written transcripts of hearings.

ongoing detention. The NOIT alleges that Mr. Vijandre (1) made “posts supporting the Holy Land Foundation 5,” (2) made posts supporting Aafia Siddiqui, and (3) that he “appears” to have “sought to raise money for the Ft. Dix 5.” The Felps Declaration states that Mr. Vijandre (4) “liked” a post by an Instagram page featuring the Shahada and a religious quote, (5) posted a religious statement about “Warriors of Islam,” (6) made a martial arts video with a BB gun demonstrating the castle doctrine, and (7) made posts generally stating that armed resistance is justified in Gaza. The IJ’s ruling states that she reached the conclusion Mr. Vijandre is an endorser and/or espouser of terrorism under 8 U.S.C. §1182(a)(3)(B)(i)(VII) because of (8) “his *belief* that they [Aafia Siddiqui and the Holy Land Foundation 5] have been wrongfully imprisoned and that they are not having proper treatment,” (emphasis added), (9) his “sharing on his story information about Fort Dix Five,” (10) his “admission to also attending an event in Dallas Fort Worth that is apparently purports to be in some way related to political prisoners,” and (11) his “sharing to his thousands of followers” an interview conducted at that event.

5. Cumulatively and individually, these justifications fall *far* short of speech that is “directed to inciting or producing imminent lawless action and is likely to incite or produce such action.” *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969). It is axiomatic that individuals may not be detained on the basis of their beliefs. “If there is any principle of the Constitution that more imperatively calls for attachment than any other, it is the principle of free thought.” *United States v. Schwimmer*, 279 U.S. 644, 654-55 (1929) (Holmes, J. dissenting). This is especially true on social media, which the Supreme Court has referred to as the “vast democratic forums of the Internet.” *Packingham v. North Carolina*, 582 U.S. 98, 104 (2017) (quoting *Reno v. American Civil Liberties Union*, 521 U.S. 844, 868 (1997)). Because social media sites “are the principal sources for knowing current events, checking ads for employment, speaking and listening in the

modern public square, and otherwise exploring the vast realms of human thought and knowledge, courts “must exercise extreme caution before suggesting that the First Amendment provides scant protection for access to vast networks in that medium.” *Id.* at 105-107.

6. Respondents have not alleged that Mr. Vijandre has done anything more than express “his beliefs” about the above issues through his photojournalism and social media posts. Respondents have not pointed to any *actions* Mr. Vijandre has taken to show he is a “terrorist” or “terrorist supporter,” as they claim. The Supreme Court’s First Amendment cases draw vital distinctions between words and deeds. *See Kingsley Int’l Pictures Corp. v. Regents of Univ. of N.Y.*, 360 U. S. 684, 689 (1959) (“Among free men, the deterrents ordinarily to be applied to prevent crime are education and punishment for violations of the law, not abridgment of the rights of free speech”); *see also Carey v. Population Services Int’l*, 431 U.S. 678, 701 (1977) (“[T]he fact that protected speech may be offensive to some does not justify its suppression”).

7. Each of Respondents’ justifications for Mr. Vijandre’s detention fails these tests and violates his First Amendment right to free speech. The IJ’s citation of 8 U.S.C. § 1182(a)(3)(B)(i)(VII)<sup>3</sup> to justify Mr. Vijandre’s detention without bond is unconstitutional as applied because it violates his rights to free speech, constitutes a prior restraint, and is unconstitutionally vague and overbroad.

8. Mr. Vijandre’s status as a non-citizen changes nothing in this analysis, especially given his substantial connections to this country. *Bridges v. Wixon*, 326 U.S. 135 (1945). Courts throughout the country have unanimously declared that targeting non-citizens based on speech

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<sup>3</sup> This provision states that “Any [non-citizen] who . . . endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization . . . is inadmissible.”

violates the First Amendment. *AAUP v. Rubio*, No. 25-cv-10685, 2025 WL 2777659, at \*41 (D. Mass. June 19, 2025); *Ozturk v. Trump*, 779 F. Supp. 3d 462, 490 (D. Vt. 2025) *amended sub nom. Ozturk v. Hyde*, 136 F.4th 382 (2d Cir. 2025); *Suri v. Trump*, No. 25-1560, 2025 WL 1806692, at \*9 (4th Cir. July 1, 2025); *Mahdawi v. Trump*, 781 F. Supp 3d. 214, 229-30 (D. Vt. 2025).

9. Mr. Vijandre must be released forthwith. In the alternative, this Court should exercise its inherent authority to conduct a bond hearing.

### JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 2241 (habeas corpus), and Article I, § 9, cl. 2 (the Suspension Clause). The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651, and the Declaratory Judgment Act, 28 U.S.C. § 2201.

11. No jurisdiction-stripping provisions of the INA apply. Jurisdiction is not barred by 8 U.S.C. §§ 1252(g) or 1252(b)(9) because this petition does not challenge the underlying removal order, only the lawfulness of Mr. Vijandre's detention. *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 482 (1999). Jurisdiction is also not barred by 8 U.S.C. 1226(e), because this petition challenges "the extent of the Government's detention authority," which "is not a matter of 'discretionary judgment,' 'action,' or 'decision,'" and therefore "falls outside of the scope of § 1226(e)." *Jennings v. Rodriguez*, 583 U.S. 281, 296 (2018).

12. Moreover, immigration courts and the BIA lack the ability to consider First Amendment claims. *Khalil v. Joyce*, 780 F. Supp. 476, 526 (D.N.J. Apr. 29, 2025) ("First Amendment issues have little or no place on an immigration judge's docket") (citing *Axon Enterprise, Inc. v. Federal Trade Commission*, 598 U.S. 175, 194 (2023) and *Free Enterprise Fund v. Public Co. Accounting Oversight Bd.*, 561 U.S. 477, 489 (2010)). *See also Ruiz-Massieu*, 22 I. & N. Dec. 833, 838 n.6 (B.I.A. 1999) (BIA has no authority to address First Amendment and void-

for-vagueness claims addressed in federal court cases); *Matter of H-*, 3 I. & N. Dec. 419, 456 (B.I.A. 1949) (BIA has no authority to address respondent's First Amendment claims.)

13. Venue is proper in this district pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 1391 because Mr. Vijandre is detained at the Folkston Processing Center in Folkston, Georgia, within the Southern District of Georgia, Waycross Division.

### **PARTIES**

14. Petitioner Jacob Ira Azurin Vijandre was born in the Philippines and was lawfully admitted to the United States in 2001, when his parents brought him to the United States at age 14 on his father's H-4 non-immigrant visa. He has no criminal record in any country. He has been a regular presence at political meetings, conferences, and public demonstrations in the Dallas area and nationally, in particular at events in support of the people of Palestine and opposing conditions of confinement for immigrant detainees and individuals prosecuted by the government in the "War on Terror." Beyond his own ties to this country, his family has long served the United States: his great-grandfather and great-uncle were awarded the Congressional Medal of Honor for their service in the U.S. military in the Philippines during World War II. On or about November 30, 2023, agents from DHS and the Federal Bureau of Investigation ("FBI") approached Mr. Vijandre and indicated they wanted to recruit him as a confidential informant. During this interaction, an FBI officer told Mr. Vijandre he is "a poster child for the way you're supposed to do it," an apparent reference to Mr. Vijandre's immigration status. Mr. Vijandre declined the offer. Respondents have confined Mr. Vijandre in retaliation for his protected speech, and even though his DACA has not been terminated.

15. Respondent Kristi Noem is named in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a); is legally responsible for pursuing any effort to

confine and remove the Petitioner-Plaintiff; and, as such, is a custodian of Mr. Vijandre.

16. Respondent Pamela Bondi is named in her official capacity as Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(g) and, as such, is a custodian of Mr. Vijandre.

17. Respondent Todd Lyons is named in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement (“ICE”). As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States and is legally responsible for pursuing any effort to remove Mr. Vijandre and confine him pending removal. As such, he is a custodian of Mr. Vijandre.

18. Respondent George Sterling is named in his official capacity as Acting Director of the ICE Enforcement & Removal Operations (“ERO”) Atlanta Field Office in Atlanta, Georgia. In this capacity, he is responsible for the administration of immigration laws, the execution of immigration confinement, and the institution of removal proceedings within Georgia, the jurisdiction in which Mr. Vijandre is presently confined. As such, he is a custodian of Mr. Vijandre.

19. Respondent Warden is named in his official capacity as the Warden of the Folkston ICE Processing Center. In this capacity, he oversees the daily administration of the detention center where Mr. Vijandre is in custody. As such, he is the immediate custodian of Mr. Vijandre.

## STATEMENT OF FACTS

### **I. Mr. Vijandre Is Legally Admitted to the United States, Obtains DACA Protection, and Lives Peacefully Among His Community for 23 Years**

20. Mr. Vijandre entered the United States at age 14 in 2001 as a derivative on his father’s H-4 non-immigrant visa. He lived in California from roughly 2001 to 2014, moved to the Washington, D.C., area on or about 2014, and then briefly returned to California in or about 2020-21 before settling in Dallas in 2022. The visa upon which his father entered the country expired in

or about March 2004, and he was first granted DACA in or about February 2013, months after the program went into effect. Mr. Vijandre has regularly filed Form I-821D requesting extensions of DACA protection, the most recent of which was granted on May 3, 2024. His current DACA protection does not expire until May 2026.

## **II. The Government Targets Non-Citizen Palestinian Rights Advocates**

21. When running for president in 2023 and 2024, then-candidate Trump repeatedly told his supporters that he would use immigration enforcement measures against non-citizen students engaged in First Amendment activity supportive of Palestinians or critical of the actions of the Israeli government.

22. For example, at a rally in Las Vegas on October 28, 2023, then-candidate Trump pledged to “terminate the visas of all of those Hamas sympathizers, and we’ll get them off our college campuses, out of our cities, and get them the hell out of our country.”<sup>4</sup> After the student movement to bring attention to atrocities in Gaza ramped up in spring 2024, then-candidate Trump promised campaign donors, should he be elected, “any student that protests [the military campaign in Gaza], I throw them out of the country.”<sup>5</sup> He specifically targeted students from foreign countries, saying, “[T]here are a lot of foreign students. As soon as they hear that [they will be targeted], they’re going to behave.”<sup>6</sup>

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<sup>4</sup> Andrea Shalal and Susan Heavey, *Trump administration to cancel student visas of pro-Palestinian protesters*, Reuters (Jan. 29, 2025), <https://www.reuters.com/world/us/trump-administration-cancel-student-visas-all-hamas-sympathizers-white-house-2025-01-29/>.

<sup>5</sup> John Dawsey et al., *Trump Told Donors He Will Crush Pro-Palestinian Protests, Deport Demonstrators*, Wash. Post (May 27, 2024), <https://www.washingtonpost.com/politics/2024/05/27/trump-israel-gaza-policy-donors/>

<sup>6</sup> *Id.*

23. Candidate Trump made clear that he intended to stifle advocacy for Palestinian rights, stating, “If you get me reelected, we’re going to set that movement [for Palestinian rights] back 25 or 30 years.”<sup>7</sup>

24. Once he assumed office, President Trump made good on his promise to target student advocates. On January 29, 2025, he issued Executive Order 14188, 90 Fed. Reg. 8847 (Feb. 3, 2025), directing agency heads to “identify[] all civil and criminal authorities . . . that might be used to combat anti-Semitism.” The Executive Order also specifically authorized the Secretaries of Homeland Security and State to investigate and remove non-citizens believed to be engaged in “antisemitic” activity. *Id.*

25. Executive Order 14188 followed an even broader executive order that targets any protected speech of non-citizens if the administration views it to reflect “hateful ideology” or “hostile attitudes toward [America’s] citizens, culture, government, institutions, or founding principles.” Exec. Order 14161, 90 Fed. Reg. 8451 (Jan. 30, 2025). The terms of this order are so broad that they target a diverse array of protected speech, including constitutionally protected advocacy for Palestinian rights. The Executive Order targets, for example, “hostile attitudes” towards American “institutions” in the form of reasonable, lawful disagreement with government policy.

26. Since March 6, 2025, the Trump Administration has engaged in retaliatory immigration enforcement against individuals who engaged in protected First Amendment activity—more specifically, those engaged or perceived to have engaged in Palestinian rights advocacy or any criticism of Israel or of U.S. support for Israel’s military campaign in Gaza.

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<sup>7</sup> *Id.*

### **III. Mr. Vijandre's First Amendment Activity in the United States**

27. While living in the United States, Mr. Vijandre has exercised his First Amendment rights by using his social media and his cameras to document and express his views on matters of public concern. Mr. Vijandre's social media activity consists of posts expressing opposition to acts committed by the government of Israel against the population of Gaza; opposition to the mistreatment of individuals detained by the U.S. government in the "War on Terror," including at black site detention centers; posts generally appealing to the world's population to attend protests, study the history of the Middle East, and resist the oppression facing Palestinians; posts sharing historical information regarding the struggle of the people of the Philippines against colonialism; posts invoking Quranic verses and moral principles central to his Muslim faith; and geopolitical analysis of contemporary world events.

28. He has been particularly involved in the Dallas-based movement opposing perceived due-process violations in the prosecution of the HLF5, who were tried and convicted in Dallas; Aafia Siddiqui, who is imprisoned in Fort Worth, Texas; and the Fort Dix Five. Mr. Vijandre has also used his platform to oppose the ongoing detention of local Muslim leader Marwan Marouf. In each of these cases, Mr. Vijandre has publicly reported on and participated in protests calling attention to human rights abuses and demanding their release or improvements in their conditions of confinement.

29. The Holy Land Foundation for Relief and Development ("HLF") was a non-profit that was designated a Foreign Terrorist Organization ("FTO") by the U.S. government in 2001. In 2007, the government began efforts to prosecute the organization's leading members. The first trial ended in a mistrial, but the second trial ended in the convictions of five individual defendants, who became known as the HLF5. Mr. Vijandre is not alone in criticizing the way the prosecution

was conducted. In March 2022, Human Rights Watch issued a statement stating that HLF was designated as an FTO “even though it donated money to Palestinian charities that the U.S. government itself supported,” adding: “The U.S. government’s case was based in part on evidence obtained through FISA wiretaps as well as evidence obtained via questionable foreign intelligence from Israel, faulty translations, and accusations by anonymous Israeli military witnesses who claimed that charities receiving funding from the HLF—and from the U.S. government itself—were involved in ‘terrorism.’”<sup>8</sup> Signatories to the statement included a wide range of professors and civil rights organizations from across the country.

30. Nor is Mr. Vijandre alone in criticizing the prosecution and mistreatment of Aafia Siddiqui, who was convicted in 2010 for attempted murder of one of her U.S. military guards. Amnesty International listed her as an individual who had been “disappeared” by the U.S. government during the “War on Terror” and monitored her trial for fairness.<sup>9</sup> The conviction produced mass demonstrations across Pakistan and drew diplomatic rebukes from the Pakistani government.<sup>10</sup> Dr. Siddiqui has protested against her conditions in detention at Federal Medical Center, Carswell, a Fort Worth female prison where detainees report facing routine sexual abuse by guards.<sup>11</sup>

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<sup>8</sup> *After Israel’s Designation of Human Rights Groups as “Terrorists,” Biden Should Release Palestinian-Americans Imprisoned Over Similar Claims*, Hum. Rts. Watch (Mar. 11, 2022), <https://www.hrw.org/news/2022/03/11/after-israels-designation-human-rights-groups-terrorists-biden-should-release>.

<sup>9</sup> *Amnesty International to Observe the Trial of Dr. Aafia Siddiqui* (Jan. 19, 2010), AI Index AMR 51/004/2010, <https://www.amnesty.org/fr/wp-content/uploads/2021/07/amr510042010en.pdf>; Amnesty Int’l, *USA: Amnesty International to Observe the Trial of Dr Aafia Siddiqui* (2010), <https://www.amnesty.org/fr/wp-content/uploads/2021/07/amr510042010en.pdf>.

<sup>10</sup> Anthony Kuhn, *Pakistanis Protest Scientist’s Sentencing in U.S.*, NPR (Sept. 24, 2010), <https://www.npr.org/2010/09/24/130107438/pakistanis-protest-scientists-sentencing-in-u-s>

<sup>11</sup> *Exclusive: Fort Worth Carswell women’s prison plagued by sexual abuse, cover-ups*, Fort Worth Star-Telegram (Sept. 2, 2022), <https://www.star->

31. The Fort Dix Five are five Muslim men who were convicted in 2008 for conspiracy to murder U.S. soldiers at the Fort Dix Army Base in New Jersey, but the alleged plot never took place.<sup>12</sup> The prosecution of the Fort Dix Five likewise drew widespread criticism because the government's reliance on informants raised concerns that the defendants had been entrapped. *The Guardian* reported that two of the informants had been paid \$150,000 and \$240,000 each for their work, indicating that each had a personal interest in facilitating the prosecution, and reported that one of the informants later stated that two of the defendants "had nothing to do with this matter."<sup>13</sup> *The Intercept* published a documentary on due-process issues in the prosecution in 2015.<sup>14</sup>

32. Since early 2024, Mr. Vijandre has served as a photographer and/or videographer at many public events, political conferences, religious celebrations, and demonstrations. One such event (later referenced by the government as a justification for his ongoing detention) was his attendance at a September 2, 2024 film screening of the documentary *Aafia Siddiqui: The True Story*. The event was held at a mosque—the Valley Ranch Islamic Center—in Irving, Texas. Speakers at the event included high-profile, nationally recognized figures like Imam Omar Suleiman, Mustafaa Carroll (Executive Director of the Council on American-Islamic Relations—Dallas-Fort Worth), and human rights advocate El-Hajj Mauri Salaakhan. Mr. Vijandre posted clips of the speakers addressing the audience and expressing their views about the abuses Dr.

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[telegram.com/news/local/crime/article264613401.html](https://www.telegram.com/news/local/crime/article264613401.html).

<sup>12</sup> Murtaza Hussain, *Post-9/11 Stings Targeted People Who Posed No Threat. They Remain in Prison.*, *The Intercept* (Aug 29, 2021), <https://theintercept.com/2021/08/29/duka-fort-dix-five-post-911-terror-stings/>.

<sup>13</sup> Paul Harris, *Fort Dix Five: "They don't want our side, our view, our words"*, *The Guardian* (Feb. 13, 2012), <https://www.theguardian.com/world/2012/feb/13/fort-dix-five-fbi-terrorism-case>.

<sup>14</sup> Murtaza Hussain & Razan Ghalayini, *Christie's Conspiracy: The Real Story Behind the Fort Dix Five Terror Plot*, *The Intercept* (June 25, 2015), <https://theintercept.com/2015/06/25/fort-dix-five-terror-plot-the-real-story/>.

Siddiqui has faced during detention.

33. In addition, Mr. Vijandre has conducted freelance journalism work at the following additional events in Dallas (unless otherwise noted):

- March4Gaza, January 13, 2024
- Protest against Raytheon, February 16, 2024
- Council on American-Islamic Relations Dallas Fort Worth Ramadan Fundraising Dinner, March 21, 2024.
- Palestine Rally at Dallas Civic Center, May 7, 2024
- Rally for Aafia Siddiqui, May 26, 2024
- Keffiyeh Comedy, May 11, 2024
- Palestine Rally in Washington, DC, June 8, 2024
- Hands Off Lebanon protest, September 25, 2024
- UNRWA 5k run for Gaza, September 28, 2024
- Uplift Gaza Kite Event, January 6, 2025
- No Kings Day Protest in Dallas, June 14, 2025
- Justice for Ward Sakeik Press Conference, July 3, 2025
- Healthcare for Humanity, August 14, 2025
- Leqaa Kordia Letter Writing Event, August 24, 2025
- People's Conference for Palestine in Detroit, Michigan, August 29, 2025
- Free Marwan Marouf events, September 23 and 30, 2025
- Marwan Marouf detention debate at Richardson City Council, October 6, 2025

34. Mr. Vijandre holds himself out to be a journalist. He carries a press pass, along with his professional photo and video equipment, when he works as a freelance journalist at public events. His audience (some 9,000 followers on Instagram) is larger than the subscription base of many local newspapers. In a short biography on his Instagram homepage, he identifies himself as occupied with “story Telling” and “Documentary” work.



#### IV. USCIS Presses DACA Revocation Based on Social Media Posts, and Mr. Vijandre Is Arrested, Confined, and Transferred to Bluebonnet Detention Facility

35. According to Form I-213, Record of Deportable/Inadmissible Alien, Mr. Vijandre “was a subject of interest to the [FBI’s] Dallas Joint [sic] Terrorism Task Force.” Exh. B, at 2. At some unspecified point in time, the FBI (not DHS) initiated a review of Mr. Vijandre’s immigration record “which revealed he had overstayed his non-immigrant visa and had been approved DACA status.” *Id.* DO Felps “advised [US]CIS of derogatory information obtained from the subject’s publicly accessible social media and requested the subject’s DACA status be terminated. On September 22, 2025, the subject was served by [US]CIS with a Notice of Intent to Terminate his DACA status.” *Id.*

36. The NOIT explains that USCIS is initiating the process to terminate Mr. Vijandre’s DACA because:

You have been connected to multiple social media accounts, including YouTube @Pagpatuloy, X accounts @yaakub\_ira and @Yaakubira, and Instagram @yaakub\_ira, which include posts supporting the Holy Land Foundation 5 (HLF5), who were convicted of providing material aid and support to a designated terrorist organization, Hamas, and Aafia Siddiqui, who is currently

serving an 86-year prison sentence for attempted murder and was named as a courier and financier of al-Qaida. It also appears that on Instagram you sought to raise funds for the Ft. Dix 5, who plotted an attack on Fort Dix, New Jersey. Your support for organizations and individuals who are known to engage in acts of terrorism presents public safety, national security concerns, and is a significant negative discretionary factor under the totality of the circumstances analysis.

Exh. A, at 1.

37. On the morning of October 7, 2025, roughly six ICE vehicles descended upon Mr. Vijandre as he left his home in Arlington, Texas. At least one officer pointed a handgun at Mr. Vijandre and shouted at him, telling him he was under arrest. Mr. Vijandre complied with the officers' commands and was taken into custody. He was subsequently transferred to the Bluebonnet Detention Facility, about three-and-a-half hours outside Dallas.

38. On October 16, 2025, DHS Spokesperson Tricia McLaughlin issued the following statement, which was reprinted on October 21 in the *Dallas Morning News*:

On October 7, ICE arrested Jacob Ira Azurin Vijandre, an illegal alien from the Philippines who was a subject of interest in the Dallas Joint Terrorism Task Force following social media posts glorifying terrorism including celebrating Abu Musab al-Zarqawi, a terrorist who swore allegiance to Osama bin Laden in 2004. This illegal alien who overstayed his visa was notified that his DACA status was terminated on September 22, 2025 [sic]. When you break our laws and advocate for violence and terrorism, you should not be in this country.<sup>15</sup>

39. On October 24, 2025, Mr. Vijandre was transferred to the Folkston ICE Processing Center in Folkston, Georgia.

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<sup>15</sup> Matt Kyle, *Feds revoke North Texas activist's DACA status, detain him over social-media posts*, NBC DFW (Oct. 8, 2025), <https://www.nbcdfw.com/news/local/daca-activist-ntx-muslim-community-ice-custody-terrorism/3936669/>.

**V. DHS Submits Notice to Appear and Declaration of Deportation Officer Lonnie Felps**

40. On October 7, 2025, DHS issued a Notice to Appear (“NTA”) charging Mr. Vijandre with being removable for unlawful presence under 8 U.S.C. § 1227(a)(1)(B), which states that non-citizens are removable, *inter alia*, if they are “present in the United States in violation of this chapter or any other law of the United States . . . .”

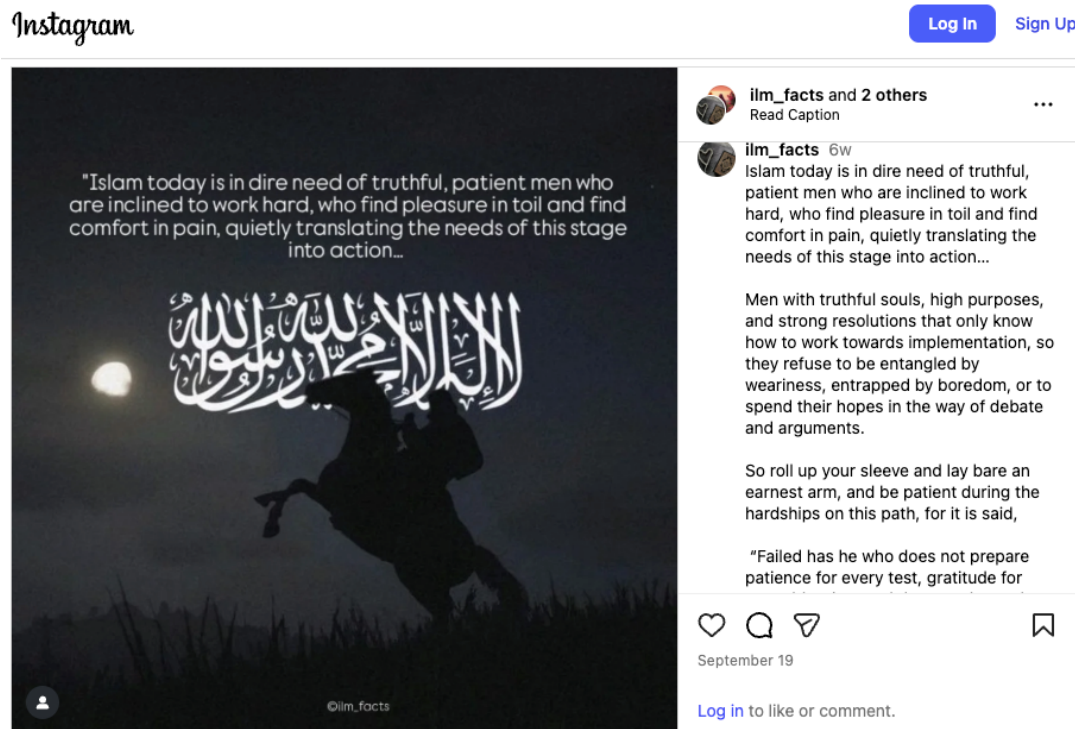
41. October 24, 2025, DHS submitted a declaration from Deportation Officer (“DO”) Lonnie Felps, which listed additional reasons for Mr. Vijandre’s detention than those provided in the NOIT. *See* Exh. C. DO Felps concludes: “Based on my investigation and analysis of the social media related to VIJANDRE and other information, I believe VIJANDRE supports terrorist ideology and terrorist individuals, and, therefore, presents a threat to the national security interests of the United States.” *Id.* ¶ 14. DO Felps cites three posts that led him to this conclusion.

42. The first is an Instagram post depicting an image of the Shahada with Arabic lettering. *Id.* ¶ 9. The declaration describes the Shahada as a “declaration or creed of faith.”<sup>16</sup> *Id.* The Instagram post features the following quote: “Islam today is in dire need of truthful, patient men who are inclined to work hard, who find pleasure in toil and find comfort in pain, quietly translating the needs of this stage into action.” *Id.* ¶ 10. Mr. Vijandre did not make this post himself; he simply “liked” the post, published by another Instagram account, @ILM\_Facts, which he does not control. That account regularly publishes quotations of Quranic verses and other religious

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<sup>16</sup> The Shahada (“There is no god but God, and Muhammad is the Messenger of God”) is the first of the five pillars of Islam and the first step toward becoming a Muslim, which is done by declaring belief in one God and Muhammad as His last messenger. *See* Shahādah (Islamic Creed), Encyclopaedia Britannica (last updated May 25, 2022), <https://www.britannica.com/topic/shahadah>. Muslims view the shahada as an oath recited daily at the start of their obligatory five prayers, and when a Muslim avoids bad deeds or does a good deed (*e.g.*, giving charity), they believe they are embodying what the shahada means. *See* Ulum Al-Azhar Academy, *What Is the Shahada in Islam and Why It’s the Core of Faith*, Ulum Al-Azhar (July 16, 2025), <https://ulumalazhar.com/what-is-the-shahada-in-islam/>.

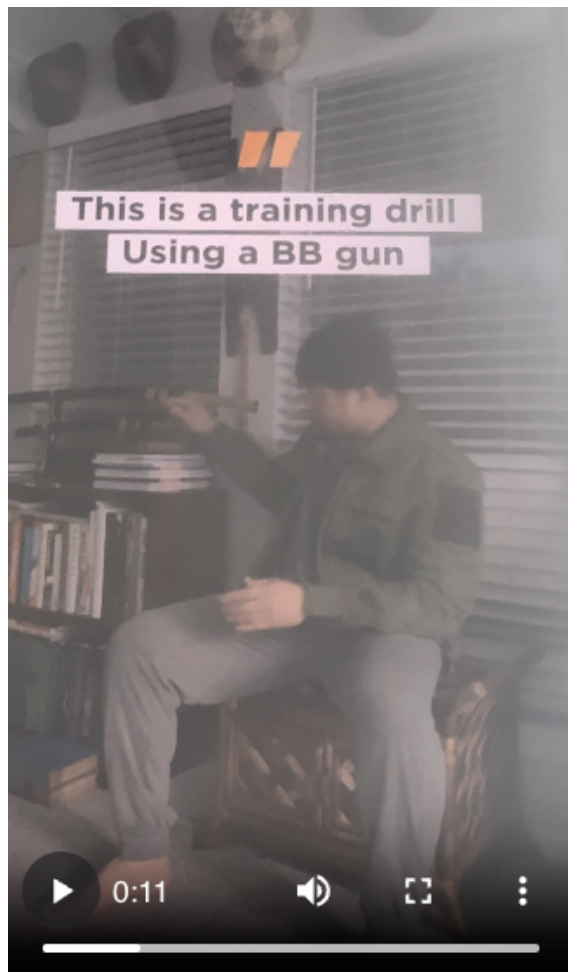
quotations and is not readily connected with any political viewpoints, let alone a terrorist organization. DO Felps asserts the quotation is from an ISIS magazine and originates from Abu Musab al-Zarqawi, who was killed in a US airstrike in Iraq in 2006. *Id.* The original post, which Mr. Vijandre “liked,” did not attribute the above quote to any individual or reference any magazine.



43. The second post in the Felps Declaration is “a social media post from VIJANDRE from October 2024 [which] states: ‘A Warrior of Islam can never be assassinated for DEATH IS OUR VICTORY!! It is the inescapable process for us to meet Allah; what is more victorious than that!’” According to the government’s evidentiary submissions, this post was made by an X account with the handle @YaakubIra\_. *See* Exh. D.

44. The third post is a martial arts training video titled “dry fire/castle doctrine” that Mr. Vijandre posted before receiving the NOIT in September or October 2025, in which he demonstrates (using a BB gun) how to safely defend one’s home from criminal home invasion under Texas’ “Stand Your Ground” laws. The video featured a disclaimer indicating that it is a

training drill using a BB gun. Mr. Vijandre regularly posts such videos as part of his martial arts teaching. Before receiving the NOIT, he deleted the video as a precaution, fearing it might be misinterpreted.



45. DO Felps also states that his conclusion about Mr. Vijandre’s support for “terrorist ideology” came from “social media posts alluding to his support of HAMAS by saying armed resistance is necessary in Gaza.” Exh. C ¶ 13. Mr. Vijandre does not deny that he believes the people of Palestine have a right to fight back against the Israeli military campaign conducted in Gaza, which he perceives to be a genocide.

#### **VI. November 3, 2025 Custody Redetermination Hearing**

46. On November 3, 2025, IJ Suzette Smikle conducted a hearing to determine whether

the immigration court had jurisdiction to make a custody redetermination regarding Mr. Vijandre's continued detention. Without providing Mr. Vijandre's immigration attorney with any advance notice that DHS would assert Mr. Vijandre was subject to mandatory detention, counsel for DHS argued that the court lacked jurisdiction to conduct a bond hearing because his free speech and religious practice render him a terrorist, citing three statutory provisions related to terrorism. Counsel for DHS argued that each provision was supported factually by Mr. Vijandre's free speech or religious activity on social media, stating:

For multiple reasons Respondent is an alien described in 237(a)(4) under (a)(4) it reincorporates 212(a)(3) and our argument for the court today is that the Respondent is described under 212(a)(3) in multiple ways. Number one, he was—according to NOIT issued by USCIS—he was soliciting funds for terrorist organizations and as a result of that activity he is described under 212(a)(3)(B)(iv)(VI)(dd) for material support or 212(a)(3)(b)(iv)(IV) for soliciting funds or other things of value for a foreign terrorist organization. In addition to that, and notwithstanding that activity, Respondent's postings particularly calling for death—the quote is “death is our victory”—that is a partial quote from the statement—renders him inadmissible under 212(a)(3)(B)(i)(VII) as an alien who has endorsed or espoused terrorist activity. [Therefore,] the court lacks the authority to redetermine custody in this case.

47. The IJ took Mr. Vijandre's testimony, focusing solely on Mr. Vijandre's social media activity and his attendance at various religious and political public events. After confirming Mr. Vijandre's usernames across various social media platforms and inquiring as the number of accounts who “follow” him, the IJ poured through his individual posts.

48. The colloquy between the IJ and Mr. Vijandre consisted of the following:

**Q:** Have you made any Instagram posts referring to Holy Land Foundation?

**A:** Yes, I have.

**Q:** OK. And in that Instagram post in which you referred to Holy Land Foundation, what did you say?

A: I have said that—I'm trying to remember what I have said precisely. I have said that they have been wrongfully imprisoned, and that's all I can recall right now, ma'am.

Q: And Holy Land Foundation, does that, is that, have they been convicted of providing material aid and support to a designated terrorist organization called Hamas?

A: Yes.

Q: And when you say they were wrongfully imprisoned, are you saying they were wrongfully imprisoned for supporting Hamas?

A: I was referring to the perceived due-process violations in their prosecution, ma'am.

Q: Do you believe they were wrongfully convicted for supporting Hamas?

A: I believe they were wrongfully convicted for providing charitable work for the Palestinians and other countries nearby.

Q: Right but I need you to answer my specific question, there might be other charges, I'm not getting into all of what they might have been convicted for. I'm just asking about Hamas. Do you believe that they were wrongfully convicted for supporting Hamas?

A: Yes, ma'am.

Q: OK. And have you made any social media posts about Aafia Siddiqui?

A: Yes, I have.

Q: OK, and what were those posts? Was that on Instagram?

A: Yes, ma'am.

Q: OK, and what did those posts say?

A: It is to highlighting the conditions that Dr. Aafia Siddiqui has suffered in FMC Carswell and also in Guantanamo Bay prison and Bagram Air Base, where rape, and the violation of her detainee rights.

Q: Alright, and do you support Mr. [sic] Aafia Siddiqui and any of his [sic] work?

A: I don't understand the question, ma'am.

Q: OK. You have said you have posted about the conditions that he [sic] is dealing with in detention, is that right?

A: Yes.

Q: OK. Who is Mr. [sic] Aafia Siddiqui?

A: Dr. Aafia Siddiqui is a Pakistani national who is an MIT and Brandeis graduate, and she is a Muslim of faith and a mother of three, I believe.

Q: Alright, was she convicted of attempted murder?

A: Yes, from my recollection of her case, yes, ma'am.

Q: OK, and has she been named a courier and financier of Al Qaeda?

A: I don't recall precisely.

Q: Do you have any information to believe for yourself, sir, that this person has supported Al Qaeda?

A: Can you repeat the question?

Q: Do you personally sir have any information to believe that this person Aafia Siddiqui has supported Al Qaeda?

A: I don't have any information.

Q: OK. Have you ever read anything to indicate that this person is alleged to have supported Al Qaeda?

A: No, ma'am.

Q: OK. How do you know this person then?

A: I came to learn about her case during an event in Dallas-Fort Worth.

Q: OK, and what was that event?

A: It was a gathering of the community to highlight political prisoners.

Q: OK. So is it your understanding that Ms. Aafia Siddiqui is believed to be a political prisoner?

A: Can you repeat the question there was some interruption.

Q: Yes, at this event that you went to at Dallas-Fort Worth, did you come to understand that Ms. Aafia Siddiqui is believed to be a political prisoner?

A: Yes, from the information that was shared.

Q: OK, and what was your purpose of going to this event?

A: It was a communal event, and I have several friends who was [sic] attending and I was joining them.

Q: OK, why did you join your friends at this event?

A: It's one of those event [sic], ma'am, that we have in our community where we gather together and we come to learn about situations like Dr. Aafia.

Q: Alright. And was this event to support Aafia Siddiq and others?

A: It's to highlight the case, not support.

Q: Is it to provide support in any way?

A: No ma'am.

Q: OK. Is it just to learn about it as informational purposes?

A: Yes.

Q: OK, and when did this event occur?

A: I don't remember.

Q: Was it in 2024, 2025, 2023?

A: 2023, I believe. I believe 2023.

Q: OK. And did you have to register to attend this event?

A: No ma'am.

Q: OK. Did you have to pay to get in?

A: No ma'am.

Q: Did you pay anything once you were there?

A: No ma'am.

Q: OK. Did you make any postings about Aafia Siddiq [sic] after this event expressing support for her?

A: No, ma'am, I took a video of an individual that highlighted her case.

Q: OK. And did you post that video?

A: Yes.

Q: And what did you post it on?

A: On Instagram.

Q: OK, and who was the person you took the video of?

A: Mauri Salaakhan.

Q: Mauri Salaakhan?

A: Yes.

Q: And what was this person saying about Ms. Aafia Siddiqui?

A: He had highlighted the conditions of Dr. Aafia Siddiqui in FMC Carswell.

Q: Alright, and what was the purpose of posting this video on your Instagram account?

A: I am a photojournalist and I was capturing events in our community, and it was to provide footage and information from the event.

Q: OK. Did you go as a journalist or did you—you said you went with your friends. I don't—was it as a journalist?

A: I always bring my camera, just in case there is anything I need to record.

Q: Right, but did you go as a journalist or as a regular person?

A: I came originally as just a regular person, and when Brother Maurice Salaakhan had highlighted her case, I asked him to record an interview.

Q: OK. So, you took a video and interviewed Maurice Salaakhan?

A: Yes, ma'am.

Q: OK. Did you post the interview on your website?

A: My Instagram account.

Q: Your Instagram, sorry. OK, and were there any other political prisoners highlighted during that event?

A: Yes, there was another one that was highlighted.

Q: And who was that, please?

A: His name is Imam Jamil Amin.<sup>17</sup>

Q: And what was being said about this person?

A: They were talking about a documentary that was being made about him.

Q: OK. Did you make any posts about this person?

A: No ma'am, I just took some photos—my camera has the ability to take photos and video, and I just took photos of the speakers and their event.

Q: OK. Alright. Have you heard of Fort Dix Five?

A: From what was shown to me in my Notice of Intent [to Terminate], yes ma'am that's when I heard it.

Q: Alright. Before you got a Notice of Intent to Terminate your DACA status had you ever heard of Fort Dix Five.

A: Only from a—only from an Instagram post that I saw but I was not fully aware of their case.

Q: OK. Did you on Instagram, sir, make any postings about Fort Dix Five?

A: No, I did not make any posting.

Q: OK. What do you know about Fort Dix Five?

A: Very little, ma'am, only the information that I had read about the notice of intent [to terminate].

Q: Alright. Before the Notice of Intent, you said you saw something about it. What did you understand it to be?

A: I'm trying to recall my memory. I believe I thought that it was something about a group of individuals and the non-profit organization raising awareness about

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<sup>17</sup> Imam Al-Amin is also known as H. Rap Brown, former chairman of the Student Nonviolent Coordinating Committee (“SNCC”).

them.

**Q:** Do you know what they are supposed to stand for?

**A:** I do not know, ma'am.

**Q:** Alright, did you make a social media post with the words "Islam today is in dire need of truthful patient men who are inclined to work hard, who find pleasure in toil, and find comfort in pain, quietly translating the needs of this stage into action?"

**A:** I do not remember making a post or sharing a story about it.

**Q:** OK. So, if it were to appear on your Instagram or any other social media account, would you have issued it or would somebody else have gotten onto your account and posted it?

**A:** If it had appeared on my account, then it would have been me who shared it, yes ma'am.

**Q:** And so, you're saying you don't remember doing it?

**A:** I don't remember.

**Q:** OK. And so, if you don't remember, then can you tell me where it would have come from?

**A:** I don't know.

**Q:** OK. Did you make a social media post in October 2024 saying, "A warrior of Islam can never be assassinated for death is our victory, it is the inescapable process for us to meet Allah, what is more victorious than that"?

**A:** I believe I have on one of my accounts

**Q:** OK. And what was that referring to, sir?

**A:** I was referring to, ma'am, I have written it here if you don't mind me reading.

**Q:** I do mind you reading because I don't know what you're reading from. So, if you can't tell me from your memory, then you'd have to tell me what you're referring to. So, do you know what you were referring to when you wrote that post?

**A:** Yes, ma'am. In the Quran, it mentions that every soul will taste death, and that God has burdened us with prosperity and adversity, and that it is a test for us, and that this test is to test our gratitude and our patience, and

Q: Are you reading something, sir?

A: No, ma'am, I'm trying to remember what I was—what I had written. I was referring to the Quranic verse that I had just mentioned, and I was trying to remember the complete verse of it.

Q: OK. Was this referring to something specific or a specific event and a specific something?

A: [Indecipherable]

Q: OK. Did you make a social media—have you made any other social media posts, sir, in which you indicate that you might be supporting Hamas?

A: No, ma'am.

Q: OK. Did you make any social media posts indicating support for armed resistance in Gaza?

A: Yes.

Q: OK, and what was that, when did you make that post?

A: I don't remember exactly.

Q: OK, and what did you mean by armed resistance in Gaza?

A: I was referring to the UN general assembly of article 38 and 17 for—for the oppressed people for the right for liberation under occupation and under oppression, ma'am.

Q: OK. Alright, are there any other political prisoners that you believe are wrongfully detained, sir?

A: I don't know anybody else, don't know their names if there's [sic] any.

49. At the conclusion of examination and cross-examination, the IJ concluded she lacked jurisdiction to conduct a bond hearing. The IJ stated it was because of her belief that Mr. Vijandre is endorsing or espousing terrorist activity under 1182(a)(3)(B)(i)(VII):

Based on the information that I have received today, the testimony, the documents that have been presented including the documents presented by Respondents and the documents submitted by DHS which includes the Notice of Intent to Terminate DACA as well as

the declaration from Lonnie Felps who is a member of the Joint Terrorism Task Force and also Respondent's admission today regarding his posting regarding the Holy Land Foundation as well as his posting regarding Aafia Siddiqui, his belief that they have been wrongfully imprisoned and they are not having proper treatment, as well as the fact that these organizations and individuals have been connected with terrorist organizations as well as Respondent's serving or sharing on his story information about Fort Dix Five I'm going to find that the court does not have jurisdiction to redetermine bond in these proceedings pursuant to INA section 212(a)(3)(B)(i)(VII) which discusses endorsing or espousing terroristic activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization.

50. The IJ did not conduct a bond hearing. She asked no questions of either counsel regarding whether Mr. Vijandre posed a danger to the community or a flight risk. Nevertheless, she made what she called an "alternate finding" that Mr. Vijandre's social media posts also show he is both a danger to the community and a flight risk. Regarding the former, the IJ stated:

The court is very concerned at this point regarding the admissions of the Respondent regarding his Instagram posts, regarding known terrorist organizations or individuals who have been convicted of crimes and have been known or identified as supporting terrorist organizations, including Hamas and Al Qaeda. And Respondent's admission to also sharing a post regarding the Fort Dix Five who is believed to be plotting an attack on Fort Dix in New Jersey. I'm also concerned with regard to the information in the declaration from Lonnie Felps indicating that Respondent filed posts that appear to be linked to a magazine article written by and also filed by a quote by Abu Musab Al Zaraqawi who was killed in 2006 and believed to be connected to Al Qaeda. Based on the Respondent's admission to also attending an event in Dallas Fort Worth that apparently purports to be in some way related to political prisoners and then Respondent then interviewing a presenter at that event and then posting that interview on his Instagram page or other social media, it appears that Respondent may be supporting and then sharing to his thousands of followers his support for individuals or organizations believed to be linked to known terrorist organization. That makes me concerned that he is or could be a danger to the community.

51. The IJ also stated that the investigation into Mr. Vijandre's social media activity means he is a flight risk:

[I]t appears to me that now that the Respondent is aware that he is the subject of an investigation regarding various posts and his support of various organizations or reposting information from other individuals who may support terrorist organizations or individuals convicted of terrorist related offenses makes him a flight risk and I do not find that there is any amount of bond that would secure his appearance in court.

52. The IJ did not call into question the credibility or truthfulness of Mr. Vijandre's answers.

### CLAIMS FOR RELIEF

#### Count I: First Amendment (Freedom of Speech)

*28 U.S.C. § 2241; U.S. Const. amend. I*

53. Petitioner realleges and incorporates by reference each and every allegation contained above.

54. The First Amendment to the United States Constitution provides in part that "Congress shall make no law . . . abridging the freedom of speech . . . or the right of the people . . . to petition the Government for a redress of grievances." U.S. Const. amend. I. The First Amendment protects past, present, and future speech, including speech by non-citizens. *See Bridges v. Wixon*, 326 U.S. 135, 148 (1945) ("Freedom of speech and press is accorded [non-citizens] residing in this country." (citing *Bridges v. State of Cal.*, 314 U.S. 252 (1941))).

55. Taken separately and together, the government's justifications for Mr. Vijandre's continued detention (as elaborated in the NOIT, the Felps Declaration, and by the IJ in her November 3, 2025 ruling) violate Mr. Vijandre's free speech rights. The U.S. government may not detain Mr. Vijandre for any of these reasons, either individually or cumulatively.

56. The NOIT alleges that Mr. Vijandre (1) made "posts supporting the Holy Land Foundation 5," (2) made posts supporting Aafia Siddiqui, and (3) that he "appears" to have "sought to raise money for the Ft. Dix 5." The Felps Declaration states that Mr. Vijandre (4) "liked" a post

by an Instagram page featuring the Shahada and a religious quote, (5) posted a religious statement about “Warriors of Islam,” (6) made a martial arts video with a BB gun demonstrating the castle doctrine, and (7) made posts generally stating that armed resistance is justified in Gaza. The IJ’s ruling also states that she reached the conclusion Mr. Vijandre is an endorser and/or espouser of terrorism because of (8) “his *belief* that they [Aafia Siddiqui and the Holy Land Foundation 5] have been wrongfully imprisoned and that they are not having proper treatment,” (emphasis added), (9) his “sharing on his story information about Fort Dix Five,” (10) his “admission to also attending an event in Dallas Fort Worth that is apparently purports to be in some way related to political prisoners,” and (11) his “sharing to his thousands of followers” an interview conducted at that event.

57. Each and every one of these justifications constitutes protected speech. The fact that Mr. Vijandre is a non-citizen does not give the government the authority to detain him solely for exercising his right to speech and assembly. Courts throughout the country have unanimously declared that targeting non-citizens who engage in speech in the U.S. violates the First Amendment. *AAUP v. Rubio*, No. 25-cv-10685, 2025 WL 2777659, at \*41 (D. Mass. June 19, 2025); *Ozturk v. Trump*, 779 F. Supp. 3d 462, 490 (D. Vt. 2025) *amended sub nom. Ozturk v. Hyde*, 136 F.4th 382 (2d Cir. 2025); *Suri v. Trump*, No. 25-1560, 2025 WL 1806692, at \*9 (4th Cir. July 1, 2025); *Mahdawi v. Trump*, 781 F. Supp 3d. 214, 229-30 (D. Vt. 2025).

58. Non-citizen U.S. residents like Mr. Vijandre enjoy First Amendment rights in this country to the same extent as United States citizens. *See, e.g., Bridges*, 326 U.S. at 148 (holding that a non-citizen who published communist literature was protected by the First Amendment); *Kwong Hai Chew v. Colding*, 344 U.S. 590, 596 n.5 (1953) (noting that the First Amendment does not distinguish “between citizens and resident [non-citizens]”); *United States v.*

*Verdugo-Urquidez*, 494 U.S. 259, 270 (1990) (confirming that resident non-citizens “enjoy certain constitutional rights,” including “First Amendment rights”); *Rafeedie v. I.N.S.*, 795 F. Supp. 13 (D.D.C. 1992) (“Plaintiff is entitled to the same First Amendment protections as United States citizens . . .”); *OPAWL – Building AAPI Feminist Leadership v. Yost*, 747 F. Supp. 3d 1065, 1080 (S.D. Ohio 2024) (“[T]he Supreme Court has never held that the First Amendment fails to protect [non-citizens’] political speech to the same extent it protects citizens’ political speech.”). The government does not contend that anything Mr. Vijandre has posted is false. *Garrison v. Louisiana*, 379 U.S. 64, 74 (1964) (“truth may not be the subject of either civil or criminal sanctions where discussion of public affairs is concerned.”); *Florida Star*, 491 U.S. 524, 535 (1989) (citing “the timidity and self-censorship which may result from allowing the media to be punished for publishing truthful information”).

59. Respondents are detaining Mr. Vijandre because he was engaged in speech on matters of vital public concern—opposing Israeli military actions in Gaza, opposing U.S. government treatment of prisoners, and calling attention to perceived due-process violations in the prosecution of individuals accused or convicted of terrorism. *See Snyder v. Phelps*, 562 U.S. 443, 452 (2011) (“[S]peech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.”).

60. As a preliminary matter, Respondents’ acknowledgment that Mr. Vijandre believes the HLF5, the Fort Dix Five, and Aafia Siddiqui were *wrongfully* convicted undermines their argument that his posts express support for terrorism. But even accepting *arguendo* that the NOIT and the IJ and DO support Phelps’s conclusions that Mr. Vijandre’s speech constituted support for terrorism (it does not), such speech is nonetheless protected. *See Holder v. Humanitarian L. Project*, 561 U.S. 1, 39 (2010) (“[We do not hold] that any other statute relating to speech and

terrorism would satisfy the First Amendment. In particular, we in no way suggest that a regulation of independent speech would pass constitutional muster, even if the Government were to show that such speech benefits foreign terrorist organizations”); accord *Boim v. Quranic Literacy Inst.*, 291 F.3d 1000, 1026 (7th Cir. 2002) (explaining that individuals who “become members of Hamas, praise Hamas for its use of terrorism, and vigorously advocate the goals and philosophies of Hamas” are engaged in protected speech, not material support for terrorism). Cf. *Cohen v. California*, 403 U.S. 15, 21 (1971) (state could not punish wearing “Fuck the Draft” jacket in presence of children); *Rankin v. McPherson*, 483 U.S. 378, 392 (1987) (protecting public employee’s statement, following presidential assassination attempt, that “if they go for him again, I hope they get him”).

61. None of the justifications provided by the government for Mr. Vijandre’s ongoing detention crosses the line to advocacy that is “directed to inciting or producing imminent lawless action and is likely to incite or produce such action,” such that his speech would fall outside of the First Amendment’s ambit of protection. *Brandenburg*, 395 U.S. at 447; *United States v. Treasury Employees*, 513 U.S. 454, 475 (1994) (“The justification for any such novel burden on expression must be far stronger than mere speculation about serious harms.”) (internal quotation marks omitted). Even when faced with alleged threats to the nation during wartime, the Supreme Court has warned against invoking vague “security” or “safety” concerns to evade the First Amendment. *New York Times Co. v. United States*, 403 U.S. 713, 714 (1971) (Black, J., concurring) (rejecting injunction against publication of Pentagon Papers because “[t]he word ‘security’ is a broad, vague generality whose contours should not be invoked to abrogate the fundamental law embodied in the First Amendment”).

62. Nowhere is this more important in the modern-day “public square” of social media,

the “vast democratic forums of the Internet.” *Reno v. ACLU*, 521 U.S. at 868. As the Supreme Court explained in *Packingham*, courts “must exercise extreme caution before suggesting that the First Amendment provides scant protection for access to vast networks in that medium.” 582 U.S. at 105.

63. Respondents have detained Mr. Vijandre because of his protected speech. To safeguard his constitutional liberties, he must therefore be released forthwith.

**Count II: First Amendment (8 U.S.C. § 1182(a)(3)(B)(i)(VII) Unconstitutional, as Applied)**  
*28 U.S.C. § 2241; U.S. Const. amend. I*

64. Petitioner realleges and incorporates by reference each and every allegation contained above.

65. 8 U.S.C. § 1182(a)(3)(B)(i)(VII) (“the endorse/espouse provision”) renders inadmissible any non-citizen who “endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization.” This provision creates direct content-based restrictions on speech that implicate core First Amendment protections, rendering it subject to strict scrutiny. *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 165 (2015) (“A law that is content based on its face is subject to strict scrutiny regardless of the government’s benign motive, content-neutral justification, or lack of ‘animus toward the ideas contained’ in the regulated speech.”) (citation omitted).

66. Mr. Vijandre’s detention is based on the endorse/espouse provision, as it was this provision upon which the IJ relied to determine that he was ineligible for a bond hearing. The IJ stated during the November 3, 2025 hearing: “Respondent’s postings . . . render[ ] him inadmissible under 212(a)(3)(B)(i)(VII) as an alien who has endorsed or espoused terrorist activity. [Therefore,] the court lacks the authority to redetermine custody in this case.” In their various efforts to provide a justification for Mr. Vijandre’s ongoing detention, Respondents have failed to

point to a single statement he has made that would qualify as “advocacy . . . directed to inciting or producing imminent lawless action and is likely to incite or produce such action.” *Brandenburg*, 395 U.S. at 447. As applied to Mr. Vijandre’s detention, the endorse/espouse provision therefore violates the First Amendment.

67. Imminence is essential to the incitement inquiry. “[A]dvocacy of illegal action at some indefinite future time” does not meet the imminence requirement. *Hess v. Indiana*, 414 U.S. 105, 107-08, (1973). Online speech, by its very nature, can rarely satisfy the imminence requirement. *United States v. Gendron*, --- F.Supp.3d ---, 2025 WL 2650352, at \*7–10 (W.D.N.Y. Sept. 16, 2025) (declining to find incitement even where court found online speaker had intent to incite violence because such violence was not imminent).

68. The fact that the provision in question employs the word “terrorism” does not save it here. In *Holder v. Humanitarian Law Project*, 561 U.S. 1 (2010), the Supreme Court recognized a crucial distinction between protected independent advocacy and regulable coordinated support, explaining that a speaker engaging in independent advocacy may not be punished for the content of their speech in support of designated Foreign Terrorist Organizations (“FTO”) where the speech is not “directed to, coordinated with, or controlled by foreign terrorist groups.” *Id.* at 36. The Court held: “any independent advocacy in which plaintiffs wish to engage is not prohibited by” the statute in question. *Id.* at 24. Respondents have not even *alleged* that Mr. Vijandre engaged in any activity in coordination with any FTO.

69. None of Mr. Vijandre’s speech is unprotected under any other theory. None of his posts are “true threats” because not only has he not threatened anyone, but threats are unprotected speech only if they “communicate a serious expression of an intent to commit an act of unlawful violence to a *particular* individual or group of individuals.” *Virginia v. Black*, 538 U.S. 343, 359

(2003) (emphasis added); *Watts v. United States*, 294 U.S. 705, 708 (1969) (“political hyperbole” is not a true threat). Whether a statement is a true threat is an objective inquiry, and courts must consider whether the reasonable listener would construe the statement as a true threat in light of the “entire factual context.” *Planned Parenthood of Columbia/Willamette, Inc. v. Am. Coal. of Life Activists*, 290 F.3d 1058, 1075 (9th Cir. 2002), as amended (July 10, 2002). Other unprotected categories of speech are not applicable here. See *United States v. Stevens*, 559 U.S. 460, 468 (2010).

70. Because Respondents are detaining Mr. Vijandre in part based on the endorse/espouse provision, this provision is unconstitutional as applied to him.

**Count III: First Amendment (Prior Restraint)**

*28 U.S.C. § 2241; U.S. Const. amend. I*

71. Petitioner realleges and incorporates by reference each and every allegation contained above.

72. Respondents’ detention of Mr. Vijandre is unlawfully aimed at prohibiting him from publishing his views and social media reporting on social media.

73. The First Amendment’s “chief purpose” is to prevent “previous restraints upon publication.” *Near v. Minnesota ex rel. Olson, Co. Atty*, 283 U.S. 697, 713 (1931). “Any prior restraint on expression comes . . . with a ‘heavy presumption’ against its constitutional validity.” *New York Times Co. v. U.S.*, 403 U.S. 713, 723 (1971) (quoting *Organization for a Better Austin v. Keefe*, 402 U. S. 415, 419 (1971) (Douglas, J., concurring)). Vague concerns over “national security” cannot override the First Amendment right of journalists like Mr. Vijandre to publish information about protests, demonstrations, political conferences, and other matters of public import. *Id.* at 719.

74. The fact that Mr. Vijandre conducts his journalism on social media does not

undermine his right to be free from prior restraint on his ability to communicate with his audience. The Supreme Court rejected efforts to limit prior restraint protections based on the credentials or professional status of the speaker. “We have consistently rejected the proposition that the institutional press has any constitutional privilege beyond that of other speakers. . . . With the advent of the Internet and the decline of print and broadcast media, moreover, the line between the media and others who wish to comment on political and social issues becomes far more blurred.” *Citizens United v. Federal Election Com’n*, 558 U.S. 310, 352 (2010). “It is passing strange to interpret the phrase ‘the freedom of speech, or of the press’ to mean, not everyone’s right to speak or publish, but rather everyone’s right to speak or the institutional press’s right to publish.” *Id.* at 390 (Scalia, J., concurring). The Supreme Court has likewise recognized the particular importance of the First Amendment in the modern public forum of social media. “To foreclose access to social media altogether is to prevent the user from engaging in the legitimate exercise of First Amendment rights.” *Packingham*, 582 U.S. at 108.

75. Mr. Vijandre, moreover, holds himself out to be a journalist, including on social media. He is often paid for his photojournalism and videography, uses a professional press pass at public events, and carries his professional photo and video equipment when he engages in his journalistic endeavors at public events. His audience (some 9,000 followers on Instagram) is larger than the subscription base of many local newspapers. In a short biography on his Instagram homepage, he identifies himself as occupied with “Story Telling” and “Documentary” work.

76. Respondents have prevented Mr. Vijandre from conducting his journalistic work and from communicating that work and his views to his large social media following for over a month. Delays in publication, like “[t]he loss of [any] First Amendment freedoms,” even if they last “for . . . minimal periods of time, unquestionably constitute[] irreparable injury.” *Elrod v.*

*Burns*, 427 U.S. 347, 373-74 (1976). “Where [] a direct prior restraint is imposed upon the reporting of news by the media, each passing day may constitute a separate and cognizable infringement of the First Amendment. The suppressed information grows older. Other events crowd upon it. To this extent, any First Amendment infringement that occurs with each passing day is irreparable.” *Nebraska Press Assn. v. Stuart*, 423 U.S. 1327, 1329 (1975). “It must be recognized that public interest is much more likely to be kindled by a controversial event of the day than by a generalization, however penetrating, of the historian or scientist.” *Bridges v. California*, 314 U.S. 252, 268 (1941).

77. Respondents’ ongoing detention of Mr. Vijandre constitutes a prior restraint and violates the First Amendment.

**Count IV: First and Fifth Amendment Facial Unconstitutional Vagueness**  
*28 U.S.C. § 2241; U.S. Const. amend. I, V*

78. Petitioner realleges and incorporates by reference each and every allegation contained above.

79. Due process of law requires clear definitions of legal prohibitions. *See Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972). “Vague laws may trap the innocent by not providing fair warning . . . [and] impermissibly delegate[] basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application.” *Id.* at 108-09. *See also Smith v. Goguen*, 415 U.S. 566, 576 (1974) (“Where inherently vague statutory language permits such selective law enforcement, there is a denial of due process.”).

80. A law is unconstitutionally vague if it does not “give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly.” *Id.* at 108. *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1048 (1991) (restriction on attorney

speech held void for vagueness because attorneys “must guess at its contours”).

81. The void-for-vagueness doctrine applies to immigration statutes. *Sessions v. Dimaya*, 584 U.S. 148, 156 (2018) (The Supreme Court “long ago held that the most exacting vagueness standard should apply in removal cases.”); *Shuti v. Lynch*, 828 F.3d 440, 445 (6th Cir. 2016).

82. Vague laws are of particular concern in the First Amendment context because they “operate to inhibit the exercise of” the freedoms safeguarded by it. *Id.* See also *Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 499 (1982) (explaining that when First Amendment freedoms are at stake, courts apply the vagueness doctrine more strictly, requiring statutes to provide a greater degree of specificity and clarity than would be necessary under ordinary due process principles); *HM Florida-ORL, LLC v. Governor of Florida*, 137 F.4th 1207, 1226 (11th Cir. 2025) (Vagueness doctrine “applies with heightened vigor to laws touching on protected speech.”) (internal quotation omitted).

83. “[L]aws abridging First Amendment rights must be sufficiently precise: ‘[p]recision of regulation must be the touchstone in an area so closely touching our most precious freedoms.’” *HM Florida-ORL, LLC*, 137 F.4th at 1225 (quoting *NAACP v. Button*, 371 U.S. 415, 438 (1963)) (alteration in original). “Laws without discernible standards threaten enforcement that is ‘impermissibly based on content or viewpoint.’” *Id.* at 1226 (quoting *Barrett v. Walker Cnty. Sch. Dist.*, 872 F.3d 1209, 1221 (11th Cir. 2017)). “After all, if the courts can’t identify where the statute draws the line between legal and illegal speech, those who enforce the law can choose to impose its purported limitations how they please.” *Id.*

84. 8 U.S.C. § 1182(a)(3)(B)(i)(VII)’s prohibition on the endorsement or espousal of terrorism is a content-based restriction on pure speech and thus triggers First Amendment scrutiny.

85. 8 U.S.C. § 1182(a)(3)(B)(i)(VII), in the context of internal immigration enforcement against non-citizens with substantial connections to the United States, is unconstitutionally vague. The INA does not explain what it means to “endorse or espouse” terrorism, nor does it provide any standard for the provision’s application. *See HM Florida-ORL, LLC*, 137 F.4th at 1226 (“The problem with standardless statutes, which we sometimes evaluate under the rubric of vagueness, is that they authorize or even encourage arbitrary and discriminatory enforcement.”) (cleaned up) (internal quotation omitted).

86. There is no endorsement or espousal exception to the First Amendment. *See Holder*, 561 U.S. at 39 (“[We do not hold] that any other statute relating to speech and terrorism would satisfy the First Amendment. In particular, we in no way suggest that a regulation of independent speech would pass constitutional muster, even if the Government were to show that such speech benefits foreign terrorist organizations.”).

87. First Amendment doctrine is clear on the limits of government authority when it comes to speech related to unlawful action. Expressing approval for some unlawful act is protected speech unless the speaker incites others to imminent lawless action in a way that is likely to result in such action. *See Brandenburg*, 395 U.S. at 447.

88. The prohibition on endorsement or espousal here is thus much broader than the relevant recognized category of unprotected speech. Even if the government can constitutionally expand restrictions on terrorism-related speech beyond incitement, its enactment in 8 U.S.C. § 1182(a)(3)(b)(i)(VII) does not provide any information that would allow a reasonable person to understand what non-incitement speech is prohibited.

89. Not only does the statute chill protected speech, but it also leaves non-citizens unable to ensure their speech does not run afoul of its restrictions. The consequences of this

vagueness are severe. It permits the government to arbitrarily banish them from the country based on unpredictable, *ad hoc* accusations of terrorism. As such, 8 U.S.C. § 1182(a)(3)(b)(i)(VII) is unconstitutionally vague in violation of the First and Fifth Amendments.

**Count V: First Amendment Facial Overbreadth**

*28 U.S.C. § 2241; U.S. Const. amend. I*

90. Petitioner realleges and incorporates by reference each and every allegation contained above.

91. A statute is overbroad in violation of the First Amendment when it “punishes a ‘substantial’ amount of protected free speech, ‘judged in relation to the statute’s plainly legitimate sweep.’” *Virginia v. Hicks*, 539 U.S. 113, 118-19 (2003) (quoting *Broadrick v. Oklahoma*, 413 U.S. 601, 615 (1973)).

92. “While overbreadth and vagueness are distinct, . . . vagueness can contribute to overbreadth because [courts’] overbreadth analysis accounts for a law’s ‘ambiguous as well as . . . unambiguous scope.’” *HM Florida-ORL, LLC*, 137 F.4th at 1236 (quoting *Am. Booksellers v. Webb*, 919 F.2d 1493, 1505-06 (11th Cir. 1990)).

93. 8 U.S.C. § 1182(a)(3)(B)(i)(VII) does not explain what it means to endorse or espouse terrorism. The “legitimate sweep” of the statute would seem to include incitement to imminent lawless action, but it does not limit its prohibition to such speech.

94. The range of speech that could be viewed as endorsing or espousing terrorism, but not inciting it, is wide. For example, the expression of retroactive approval of an act of terrorism could constitute endorsement but would plainly not be incitement and would thus be protected.

95. The vagueness and breadth of the prohibition also chill expression regarding terrorism that does not indicate approval. A reasonable non-citizen may, for example, refrain from expressing political or academic analysis of an act of terrorism for fear that the government will

view it as “endorsement.”

96. 8 U.S.C. § 1182(a)(3)(B)(i)(VII), “given its vagueness and its context, directly threatens protected speech[ and] burdens, or even jeopardizes outright, a range of protected speech.” As such, it is unconstitutionally overbroad in violation of the First Amendment.

**Count VI: Fifth Amendment Substantive Due Process**

*28 U.S.C. § 2241; U.S. Const. amend. V*

97. Petitioner realleges and incorporates by reference each and every allegation contained above.

98. Regardless of whether Mr. Vijandre’s DACA is terminated, civil confinement without a valid government interest violates the Constitution. Civil detention must be carefully limited to avoid grave violations of individuals’ constitutional rights, as the Supreme Court has recognized in its civil confinement cases. *See Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (requiring individualized finding of mental illness and dangerousness to support civil commitment); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (upholding civil commitment of sex offenders only after a jury trial on individuals’ lack of volitional control and dangerousness to others). Mr. Vijandre is neither a flight risk nor a danger to the community, and his detention therefore violates his substantive due process rights.

99. “[F]reedom 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). “In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987); *see also Black v. Decker*, 103 F.4th 133, 151 (2d Cir. 2024) (quoting *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)). Civil detention “for any purpose constitutes a significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441

U.S. 418, 425 (1979); see also *Zadvydas*, 533 U.S. at 690 (quoting *Hendricks*, 521 U.S. at 356); *Foucha*, 504 U.S. at 79; *Sopo v. U.S. Att’y Gen.*, 825 F.3d 1199, 1210 (11th Cir. 2016), vacated on other grounds, 890 F.3d 952 (2018).

100. At a minimum, due process requires that detention be “reasonabl[y] relat[ed]” to a valid governmental purpose. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Foucha*, 504 U.S. at 79. Courts have long acknowledged the dual purposes of civil immigration detention: the government may only subject individuals to civil immigration detention to prevent flight and danger to the community, and for no other reason. *Zadvydas*, 533 U.S. at 690; *Sopo*, 825 F.3d at 1217. Respondents’ confinement of Mr. Vijandre is entirely unrelated to either concern.

**Count VII: Fifth Amendment Procedural Due Process (Burden of Proof, as Applied)**

*28 U.S.C. § 2241; U.S. Const. amend. V*

101. Petitioner realleges and incorporates by reference each and every allegation contained above.

102. When the government interferes with a liberty or property interest, “the procedures attendant upon that deprivation [must be] constitutionally sufficient.” *Ky. Dep’t of Corr. v. Thompson*, 490 U.S. 454, 460 (1989). The constitutional sufficiency of procedures is determined by weighing three factors: (1) the private interest that will be affected by the official action, (2) the risk of erroneous deprivation of that interest through the available procedures, and (3) the Government’s interest, including the function involved and the fiscal and administrative burdens that additional or substitute procedures would entail. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

103. Applying the *Mathews* factors, Mr. Vijandre’s continued confinement violates his right to procedural due process because Respondents have unconstitutionally placed the burden on Mr. Vijandre to justify why he should not be confined rather than on the government to justify the

necessity of confinement.

104. Mr. Vijandre has a weighty liberty interest as his freedom “from government . . . detention . . . lies at the heart of the liberty that [the Fifth Amendment] protects.” *Zadvydas*, 533 U.S. at 693.

105. Under BIA precedent, when a person seeks release from immigration confinement by seeking a bond hearing before an immigration judge, the non-citizen bears the burden to establish that they are neither a danger to the community nor a flight risk. *J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1342 (M.D. Ga. 2020) (quoting *Matter of Adeniji*, 22 I. & N. Dec. 1102, 1113 (B.I.A. 1999)); *see also Guerra*, 24 I. & N. Dec. at 40. The BIA’s allocation of the burden of proof in custody redetermination hearings violates procedural due process as applied to Mr. Vijandre because, for civil confinement, the Due Process Clause of the Fifth Amendment to the Constitution requires that the government bear the burden of justifying confinement.

106. The risk of erroneous deprivation of his liberty is extremely high. “In cases involving individual rights, whether criminal or civil, ‘[t]he standard of proof [at a minimum] reflects the value society places on individual liberty.’” *Addington*, 441 U.S. at 425 (quotation omitted). Courts across the country have found that, at least in certain circumstances, procedural due process requires the government to justify civil confinement by affirmatively establishing that the person poses a danger or is a flight risk. *See, e.g., Hernandez-Lara v. Lyons*, 10 F. 4th 19 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F. 3d 842 (2d Cir. 2020); *Ayobi v. Castro*, No. SA-19-CV-01311-OLG, 2020 WL 13411861, at \*7 (W.D. Tex. Feb. 25, 2020); *L.G. v. Choate*, 744 F. Supp. 3d 1172, 1183–84 (D. Colo. 2024); *Hulke v. Schmidt*, 572 F. Supp. 3d 593, 600–01 (E.D. Wis. 2021).

107. Under this scheme, the non-citizen must “prov[e] a negative,” *L.G.*, 744 F. Supp. 3d at 1184, which “can often be more difficult than proving a cause for concern,” *id.* (quoting *Hernandez-Lara*, 10 F.4th at 31). Proving a negative is especially difficult in the civil immigration context, in which the government holds many of the relevant evidentiary cards. *J.G.*, 501 F. Supp. 3d at 1337 (“Limited resources and investigative tools increase the likelihood that the factual record developed at the bond hearing will be incomplete.”); *see, e.g., Velasco Lopez*, 978 F.3d at 853 (“ICE refused to provide [petitioner] with his own DACA records.”). In some cases, the government can even withhold “important information indicating” a person’s suitability for release on bond. *Id.* Thus, “[t]here is quite a bit of room for ‘erroneous deprivation’ of liberty under this standard.” *Hulke*, 572 F. Supp. 3d at 599.

108. Forcing the government to justify its decision to confine someone, which the government bears in every other context, would not unreasonably burden the government. Having the government justify civil confinement would “limit[] the resources expended on erroneous deprivations.” *J.G.*, 501 F. Supp. 3d at 1340. And, at bond hearings, the government “is always represented by an attorney who is (presumably) prepared to address” whether a person is a danger or flight risk. *Hulke*, 572 F. Supp. 3d at 600. Where the government seeks to confine someone without evidence demonstrating the person is a flight risk or danger, then its interest “in securing appearance at removal proceedings” cannot “hold sway.” *Hernandez-Lara*, 10 F.4th at 33. Finally, “unnecessary detention imposes substantial societal costs,” because it “separates families and removes from the community breadwinners, caregivers, parents, siblings and employees.” *Id.* (quoting *Velasco Lopez*, 978 F.3d at 855).

109. Moreover, DHS provided Mr. Vijandre’s immigration counsel with no advance notice that DHS would be arguing that he was subject to mandatory detention under 8 U.S.C.

§1226(c). This violates clear BIA precedent holding that “[w]here the ground for removal subjects a [non-citizen] to mandatory detention, the charging document serves as notice to the [non-citizen] of the circumstances relied on by the DHS to detain him,” but “where [as here] the basis for detention is not included in the charging document, the [non-citizen] must be given notice of the circumstances or convictions that provide the basis for mandatory detention and an opportunity to challenge the detention before the Immigration Judge during the bond redetermination hearing.” *Matter of Kotliar*, 24 I. & N. Dec. 124, 127 (BIA 2007).

110. Because Respondents have custody over Mr. Vijandre in violation of his Fifth Amendment rights, the Court should issue a writ of habeas corpus (1) directing Respondents to release him to safeguard his constitutional liberties or otherwise (2) ordering a constitutionally adequate custody hearing at which the government bears the burden of proving the necessity of confinement to prevent danger or flight risk.

#### **PRAYER FOR RELIEF**

WHEREFORE, Mr. Vijandre respectfully requests that this Court issue the following relief:

- i. Assume jurisdiction over this matter;
- ii. Order Respondents to show cause why a writ of habeas corpus should not be granted;
- iii. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;
- iv. In the event that this Court determines that a genuine issue of material fact exists regarding the basis for Petitioner’s detention, schedule an evidentiary hearing pursuant to 28 U.S.C. § 2243;
- v. Grant a writ of habeas corpus ordering Respondents to immediate release Mr. Vijandre from their custody;

- vi. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention;
- vii. Declare that Mr. Vijandre's detention violates the First Amendment;
- viii. Declare that 8 U.S.C. § 1182(a)(3)(B)(i)(VII) is unconstitutional as applied to Mr. Vijandre because it violates his First Amendment right to freedom of speech;
- ix. Declare that 8 U.S.C. § 1182(a)(3)(B)(i)(VII) is unconstitutionally vague;
- x. Declare that 8 U.S.C. § 1182(a)(3)(B)(i)(VII) is unconstitutionally overbroad;
- xi. Declare that Mr. Vijandre's detention violates the Due Process Clause of the Fifth Amendment;
- xii. In the alternative, exercise the Court's inherent authority to conduct a bond hearing at which Respondents bear the burden of proof;
- xiii. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
- xiv. Grant such further relief as this Court deems just and proper.

Dated: November 10, 2025

*/s/ Samantha C. Hamilton*

Samantha C. Hamilton  
Georgia Bar No. 326618

*/s/ Meredyth Yoon*

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\*appearing *Pro Hac Vice*

\*\**Pro Hac Vice* application pending

**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I have discussed the events described in this Petition with the Petitioner. Based on those discussions, I hereby verify that the factual statements in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 10th day of November 2025.

/s/ Eric Lee  
Eric Lee  
Attorney for Petitioner