

VIA ECF

June 18, 2025

Honorable Michael E. Farbiarz, U.S.D.J.  
District of New Jersey  
Martin Luther King Building & U.S. Courthouse  
50 Walnut Street, Newark, NJ 07101

**Re: *Khalil v. Trump, et al.*, No. 25-cv-1963 (MEF) (MAH)**

First, Petitioner’s letter, ECF 308, does not seek reconsideration of this Court’s prior determination that his preliminary injunction motion did not present sufficient grounds to enjoin the misrepresentation charge. Instead, he seeks release pursuant to his still-pending motion for bail, ECF 93, 108, or, in the alternative, his return to New Jersey, ECF 96, in light of recent developments, including this Court’s findings. Petitioner understands that the Court has not yet resolved the First Amendment claims before it, ECF 272 at 92 n.77, and, given Respondents’ decision to continue his detention based solely on the misrepresentation charge, ECF 304, Petitioner intends to promptly file a new motion for a preliminary injunction directly challenging that basis for detention on First Amendment grounds. While the forthcoming motion could, if granted, lead to Petitioner’s release, this Court may—and should—grant Petitioner bail or compel his return now, on the current record.

Second, seeking release on bail through habeas is not a “circumvent[ion]” of immigration proceedings but an independent process rooted in a federal court’s inherent authority. ECF 93; *see* ECF 308 at 2 (citing releases on bail under *Mapp v. Reno*, 241 F.3d 221 (2d Cir. 2001), or similar precedent, in *Mahdawi*, *Ozturk*, *Khan Suri*, and *Mohammed*). That is clear from the irrelevance of immigration bond to habeas release in those other cases: in *Mahdawi* and *Khan Suri*, the petitioners were released despite being ineligible for immigration bond; in *Ozturk*, an immigration judge (“IJ”) denied bond before the district court granted bail, 2025 WL 1420540, at \*8; and in *Mohammed*, DHS automatically stayed an IJ’s grant of bond before habeas release on bail, 2025 WL 1334847, at \*2.\*

Third, like the petitioners in those other cases, Petitioner has raised substantial claims and his detention presents extraordinary circumstances requiring release to ensure an effective habeas remedy. ECF 308 at 1-2. Further, he has submitted evidence showing he is neither a flight risk nor a danger—evidence Respondents have chosen not to even attempt to contest. ECF 308 at 2.

Fourth, as the Second Circuit recently explained, 8 U.S.C. § 1226(e) does not bar release. *Ozturk v. Hyde*, 136 F.4th 382, 401 (2d Cir. 2025) (denying stay of transfer order); *see* ECF 108 at 7; ECF 175 at 12.

Fifth and finally, the INA does not bar Petitioner’s return to New Jersey, *see* ECF 214; ECF 96, where he would be eligible for contact visits (as the facility’s own guidance—not Respondents’ internally inconsistent website—demonstrates), ECF 258-2. *Accardi* applies to both ICE’s directives and detention standards. ECF 308 at 4. And ICE’s parental directive covers Mr. Khalil, who has custody of his son and is a primary caregiver. ECF 308-1 at 4-5.

---

\* Regardless, after becoming eligible for immigration bond five days ago, Mr. Khalil has sought release administratively (which ICE summarily denied without explanation) and filed a motion for a bond hearing in front of the IJ (seeking a June 23 hearing). *See* Attachments. As in *Mohammed*, a grant of bond by the IJ would (if appealed within one day) be automatically stayed. ECF 308 at 2 n.2.

Respectfully submitted,

/s/ Jeanne LoCicero

AMERICAN CIVIL LIBERTIES UNION OF NEW  
JERSEY FOUNDATION  
Jeanne LoCicero  
Farrin R. Anello  
Molly K.C. Linhorst  
Liza Weisberg  
570 Broad Street, 11th Floor  
Newark, New Jersey 07102  
973-854-1715

NEW YORK CIVIL LIBERTIES UNION  
FOUNDATION  
Amy Belsher\*  
Robert Hodgson\*  
Veronica Salama\*  
Molly Biklen\*  
125 Broad Street, 19th Floor  
New York, N.Y. 10004  
Tel: (212) 607-3300

AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION  
Omar Jadwat  
Noor Zafar\*  
Sidra Mahfooz\*  
Michael K.T. Tan\*  
Brian Hauss\*  
Esha Bhandari\*  
Vera Eidelman\*  
Tyler Takemoto\*  
Brett Max Kaufman\*  
125 Broad Street, 18th Floor  
New York, NY 10004  
Tel: (212) 549-2500

CLEAR PROJECT  
MAIN STREET LEGAL SERVICES, INC.  
Ramzi Kassem\*  
Naz Ahmad  
Mudassar Hayat Toppa\*  
Shezza Abboushi Dallal\*  
CUNY School of Law  
2 Court Square  
Long Island City, NY 11101  
Tel: (718) 340-4558

CENTER FOR CONSTITUTIONAL RIGHTS  
Baher Azmy  
Samah Sisay\*  
Diala Shamas\*  
666 Broadway, 7th Floor  
New York, NY 10012  
Tel: (212) 614-6464

WASHINGTON SQUARE LEGAL SERVICES, INC.  
Alina Das\*  
Immigrant Rights Clinic  
245 Sullivan Street, 5th Floor  
New York, New York 10012  
Tel: (212) 998-6430

DRATEL & LEWIS  
Amy E. Greer  
29 Broadway, Suite 1412  
New York, NY 10006  
Tel: (212) 732-8805  
Fax: (212) 571-3792

VAN DER HOUT LLP  
Marc Van Der Hout (CA Bar #80778)\*  
Johnny Sinodis (CA Bar #290402)\*  
Oona Cahill (CA Bar #354525)\*  
360 Post St., Suite 800  
San Francisco, CA 94108  
Tel: (415) 981-3000  
Fax: (415) 981-3003

\* *Appearing Pro hac vice*

*Counsel for Petitioner*