

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION**

Salah Salem SARSOUR,

Petitioner,

v.

Brison SWEARINGEN, Sheriff of Clay County,
Indiana; Todd M. LYONS, Acting Director,
U.S. Immigration and Customs Enforcement;
Markwayne MULLIN, Secretary of the United
States Department of Homeland Security;
Marco RUBIO, Secretary of State;
Todd BLANCHE, Acting Attorney General,

Respondents.

Case No. 2:26-cv-00224-JPH-MKK

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

INTRODUCTION

1. Salah Sarsour is president of the largest mosque in Wisconsin and a beloved member of his community. He and his wife have six adult children, and nine grandchildren, with a tenth expected imminently.

2. Mr. Sarsour has been a lawful permanent resident of the United States for the last thirty-three years; raising a family, building a business, and becoming a highly regarded Muslim leader. His trajectory embodies the American dream.

3. Mr. Sarsour is also Palestinian, and was born and raised in Ramallah in the West Bank. His experiences with Israeli occupation in the West Bank have led him to advocate for the human rights of Palestinians in the United States. His lawful speech and advocacy, including as a

board member of the 501(c)(3) nonprofit American Muslims for Palestine, have made him a target of his own government here in the United States.

4. On the morning of March 30, 2026, Mr. Sarsour was on his way to work when he was surrounded by at least 11 unmarked vehicles and then abducted by ICE agents in civilian clothing, many of whom had guns pointed at him.

5. The arrest and detention of Mr. Sarsour is part of this Administration's unconstitutional policy of weaponizing the immigration system to silence Palestinians or those who speak up for Palestinian human rights.

6. Government officials have spoken openly about their intent to use the immigration system to silence lawful speech in support of Palestinians, and Courts across the country have begun to recognize this policy as an unconstitutional attack on free speech.

7. In March of 2025, Secretary of State Marco Rubio issued memoranda declaring that prominent student activists Mahmoud Khalil and Mohsen Mahdawi were deportable on the foreign policy ground of the Immigration and Nationality Act ("INA") because of their speech and associations. Thereafter, Mr. Khalil and Mr. Mahdawi, along with other advocates for Palestinian human rights, were abducted and detained.

8. In June of 2025, Secretary Rubio issued another memorandum, this time declaring that Mr. Sarsour was deportable on the foreign policy ground of the INA as a result of his speech and association with American Muslims for Palestine.

9. Six weeks prior to the sudden arrest and detention of Mr. Sarsour, Assistant Attorney General for Civil Rights Harmeet Dhillon publicly announced that the Department of Justice planned to target American Muslims for Palestine.

10. The government's policy of detaining individuals who are Palestinian or who have spoken up in support of Palestinian rights is a profound attack on foundational constitutional rights of equal protection, speech, and association. The sudden arrest of Salah Sarsour, a religious leader, business owner, and community pillar, after he has resided in this country for the last thirty-three years without issues, is part of this unconstitutional policy.

11. The writ of habeas corpus is intended for situations precisely like this one, where an individual is detained by the United States government in violation of the Constitution.

12. As a result, Petitioner seeks: (1) an order to show cause why the writ should not issue; (2) bail pending resolution of his habeas petition; (3) a declaration that his detention violates the First Amendment, the Due Process clause of the Fifth Amendment, the Equal Protection Guarantee of the Fifth Amendment, and the Administrative Procedure Act; and such other relief as the Court deems just.

PARTIES

13. Petitioner Salah Salem Sarsour is a stateless Palestinian and lawful permanent resident of the United States. He has continuously resided in the United States since September 28, 1993. As of this filing, he is detained by ICE at the Clay County Jail in Brazil, Indiana.

14. Respondent Brison Swearingen is the Sheriff of Clay County, Indiana, and the immediate custodian of Petitioner within this judicial district.

15. Respondent Todd M. Lyons is the Acting Director of the United States Immigration and Customs Enforcement.

16. Respondent Markwayne Mullin is the Secretary of the United States Department of Homeland Security, confirmed March 24, 2026.

17. Respondent Marco Rubio is the Secretary of State of the United States.

18. Respondent Todd Blanche is the Acting Attorney General of the United States.

JURISDICTION AND VENUE

19. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 2241, Article I, § 9, cl. 2 (the Suspension Clause), and Article III of the United States Constitution. This Court also has jurisdiction pursuant to 28 U.S.C. § 2201 (Declaratory Judgment) and the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.* The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651.

20. Venue is proper in this district and division because Petitioner was detained at Clay County Jail in Brazil, Indiana, within the Terre Haute Division of the Southern District of Indiana, at the time this petition was first filed and at the time of this amendment. This Court's jurisdiction was established at the moment of filing. Petitioner's immediate custodian, Sheriff Brison Swearingen, is located within this district. The Southern District of Indiana is the district of confinement for purposes of habeas jurisdiction under 28 U.S.C. § 2241 and *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004).

FACTS

I. Salah Sarsour

21. Salah Salem Sarsour was born on December 22, 1972. He is a stateless Palestinian, born in Ramallah in the Israeli-Occupied West Bank. He became a conditional lawful permanent resident of the United States on September 28, 1993, through his entry on an immigrant visa. His conditions of residence were removed on April 28, 1998, making him a full legal permanent resident. He has resided continuously and lawfully in the United States for thirty-three years.

22. Mr. Sarsour resides in the Milwaukee, Wisconsin area, where he has built his life, his business, and his community.

23. He is married to Fatina Sarsour, a United States citizen. They have six adult children, all United States citizens, and nine grandchildren, with a tenth expected imminently. He is one of the primary caretakers of his elderly mother.

24. He is a beloved member of his community both in Milwaukee and around the country. He is the elected president of the largest mosque in Wisconsin—The Islamic Society of Milwaukee—a volunteer position he has held for the last five years.

25. Mr. Sarsour also serves as a board member of American Muslims for Palestine (“AMP”), a 501(c)(3) nonprofit organization engaged in education and advocacy on behalf of Palestinian rights.

26. Mr. Sarsour has never been arrested, charged, or convicted of any crime in the United States. His record in this country across thirty-three years of continuous lawful residence is unblemished.

27. Mr. Sarsour has not left the United States since 1998, when he traveled to Saudi Arabia for Hajj—the annual, sacred pilgrimage to Mecca, Saudi Arabia, required of every physically and financially able Muslim at least once in their lifetime. Over the course of thirty-three years, Mr. Sarsour has appeared at every immigration interview and hearing to which he has been summoned.

II. Mr. Sarsour’s Advocacy in Support of Palestinian Human Rights

28. Mr. Sarsour has built his life in the United States. In the three decades that he has lived here, he has become a pillar of his community, a business owner, and a faith leader.

29. He had to overcome much more in the West Bank.

30. Mr. Sarsour was twice arrested and tortured by Israeli authorities—first, when he was 15 years old in 1989, and next, in 1995 at the age of 22, while in the Ben Gurion airport with

his wife and kids after returning to the United States from a visit to his family in the West Bank. *See Exhibit 1.*

31. Each time, Mr. Sarsour was subjected to prolonged detention, interrogation in a language he could not understand, and torture. Human rights organizations around the world have deemed these practices unconscionable and ultimately prohibited by the Israeli High Court in 1999.

32. During the second detention, he was subjected to nearly 90 days of solitary confinement and excruciating torture. He was beaten every day, often until he fell unconscious. He was allowed only three hours of sleep every 72 hours. He was also deprived of food for long periods of time. He lost over 40 lbs.

33. In an effort to survive, Mr. Sarsour signed documents written in Hebrew that he did not understand. He was then released.

34. Mr. Sarsour has not and did not engage in any of the conduct alleged.

35. Mr. Sarsour immigrated to the United States in 1993 from the West Bank believing in the promise of the American dream—one which includes freedoms of speech and association, equal protection, and due process. Mr. Sarsour was not afforded these freedoms while living under Israeli occupation in the West Bank, but he believed that things would be different in the United States.

36. The government has been aware of Israel's false charges and the coerced statement since at least 2000. The government evaluated these false arrests at least four times—in 2000, 2008, 2010, and 2019—while determining Mr. Sarsour's eligibility for naturalization.

37. Throughout his time in the United States, Mr. Sarsour has spoken openly about his support for Palestinian human rights.

38. Mr. Sarsour became involved with AMP, serving in both the steering committee and the Board at various points. AMP states that its “sole purpose is to educate the American public and media about issues related to Palestine and its rich cultural and historical heritage.”¹

39. As a result of his advocacy, Mr. Sarsour was placed on the Canary Mission website, an anonymously-run doxxing website based in Israel that relies on guilt-by-association, misrepresentations, and anti-Muslim and anti-Palestinian animus to smear and target individuals who advocate for Palestinian rights.

III. The Coordinated Government Campaign Against Palestinians and Palestinian Advocacy

40. Mr. Sarsour’s sudden arrest and detention after thirty-three years of living in the United States without issue did not emerge from routine immigration enforcement. It is the product of a documented, coordinated, multi-agency campaign being waged by the government against Palestinians and advocates for Palestinian human rights. The purpose of this campaign is to silence and chill speech supportive of the rights of Palestinians.

41. On October 7, 2024, right-wing advocacy group The Heritage Foundation published a plan to suppress speech in support of Palestinian Rights entitled “Project Esther.” The plan described groups who advocate for Palestinian rights as a “ Hamas Support Network,” and called for the deportation, firing, and otherwise exclusion of the members and supporters of these groups from civil society.² Several leaders of Project Esther had substantial connections to the incoming Trump administration.³

¹ *Statement of Principles*, Am. Muslims for Palestine, <https://www.ampalestine.org/about-amp/statement-principles> (last visited Apr. 10, 2026).

² *Project Esther: A National Strategy to Combat Antisemitism*, Heritage Found. (Oct. 7, 2024), <https://www.heritage.org/progressivism/report/project-esther-national-strategy-combat-antisemitism>.

³ Katie J.M. Baker, *Inside the Heritage Foundation's Plan to Crush the U.S. Palestinian Movement*, N.Y. Times (May 18, 2025), <https://www.nytimes.com/2025/05/18/us/project-esther-heritage-foundation-palestine.html> [<https://archive.is/bRBw5>].

42. Project Esther specifically designates AMP as a target organization.

43. By May of 2025, the Trump administration had called for or acted upon more than half of Project Esther's proposals.⁴

44. During his campaign for re-election, President Trump repeatedly vowed to target noncitizens engaged in activism in support of Palestinian rights, echoing the demands of Project Esther.

45. Shortly after assuming office on January 20, 2025, President Trump signed two executive orders fulfilling his campaign promises to target Palestinians or individuals supportive of Palestinian rights, Executive Order 14188, directed at student protestors, and Executive Order 14161, directed at the general public.

46. Executive Order 14161 states that its purpose is to "protect [United States] citizens" from aliens who "espouse hateful ideology" and "bear hostile attitudes towards [United States] citizens, culture, government, institutions, or founding principles." The order does not define "hostile attitudes," leaving the term open to encompass core protected speech like political dissent or criticism of government policies.

47. Executive Order 14188 and its accompanying fact sheet states the government's intent to target post-October 7, 2023 campus antisemitism, particularly on "leftist, anti-American colleges and universities." The order's definition of antisemitism encompasses constitutionally protected criticism of the Israeli government and its policies. The fact sheet frames the order as a promise to "deport Hamas sympathizers and revoke student visas," in order to send a message to

⁴ Katie J.M. Baker, *Inside the Heritage Foundation's Plan to Crush the U.S. Palestinian Movement*, N.Y. Times (May 18, 2025), <https://www.nytimes.com/2025/05/18/us/project-esther-heritage-foundation-palestine.html> [<https://archive.is/bRBw5>].

all “resident aliens who participated in pro-jihadist protests” that the federal government “will find you...and deport you.”

48. In February and/or March of 2025, senior federal officials from the Trump Administration met 12 to 20 times to discuss the implementation of the Project Esther policy to target, arrest, and deport individuals who publicly supported Palestinian rights.⁵

49. In early March of 2025, the government began implementing this policy to chill the constitutionally-protected speech of supporters of Palestinian rights by targeting students who had spoken in support of Palestinians for visa revocation, removal, arrest, and detention.

50. On March 7, DHS agents attempted to arrest Columbia doctoral student Ranjani Srinivasan, who had posted on social media and signed open letters related to Israel’s war in Gaza.

51. In the ensuing days and weeks, government agents arrested or attempted to arrest a number of students or activists who were outspoken about Palestinian human rights.

52. Mahmoud Khalil was detained on March 8, 2025 while returning home from an iftar (the breaking of fast meal during Ramadan) with his pregnant wife, due to his role as an outspoken mediator during the Columbia University encampments. Dr. Badar Khan Suri was detained on March 17, 2025 for his speech in support of Palestinian rights and because of his Palestinian wife. Rumeysa Öztürk was detained by plain-clothed officers on March 25, 2025, on her way to an iftar dinner, for writing an Op-Ed that was critical of the Israeli Government. The government quickly shuttled all three to detention facilities in either Texas or Louisiana, thousands of miles away from their support systems.

⁵ This was revealed by John L. Armstrong, a senior official in the Department of State in *Am. Ass’n of Univ. Professors v. Rubio*, 802 F. Supp. 3d 120, 138 (D. Mass. 2025).

53. Mohsen Mahdawi, a Palestinian student who had similarly advocated in support of Palestinian rights, was abducted at his naturalization hearing on April 14, 2025, the last step before becoming a citizen.

54. The government also sought unsuccessfully to detain Yunseo Chung and Momodou Taal, two other students who had been outspoken in support of Palestinian rights. A court temporarily prohibited Ms. Chung's detention and Mr. Taal decided to depart the United States after being denied the same protection.

55. The government has attempted to justify many of these arrests and detentions with various statements and memoranda, filled with specious accusations regarding threats or violence or associations with terrorist organizations. In particular, the government invoked Section 237(a)(4)(C)(i) of the INA to claim that the presence of lawful permanent residents Mahmoud Khalil and Mohsen Mahdawi would have potentially serious adverse foreign policy consequences on the United States.

56. Around this same time, on June 18, 2025, Secretary of State Marco Rubio issued an internal memorandum determining that Mr. Sarsour was deportable under the same INA provision invoked to justify the detention of Mr. Khalil and Mr. Mahdawi, Section 237(a)(4)(C). *See Exhibit 2.*

57. Despite the various grounds advanced by the government to justify these arrests, Courts across the country have recognized that these individuals have been targeted in retaliation for their public and outspoken support of Palestinian rights.

58. In April of 2025, United States District Court for the District of Vermont Judge Geoffrey W. Crawford, in ruling to release habeas Petitioner Mohsen Mahdawi, noted that "[l]egal residents—not charged with crimes or misconduct—are being arrested and threatened with

deportation for stating their views on the political issues of the day.” *Mahdawi v. Trump*, 781 F. Supp. 3d 214 (D. Vt. 2025) (April 30, 2025).

59. In September 2025, the United States District Court for the District of Massachusetts found by clear and convincing evidence in *AAUP v. Rubio*, No. 1:25-cv-10685 (D. Mass. Sept. 30, 2025) (“*AAUP*”), that the Secretary of Homeland Security and the Secretary of State “deliberately and with purposeful aforethought” concerted their actions “intentionally to chill the rights to freedom of speech and peacefully to assemble” of noncitizen advocacy organization members.

60. In January of 2026, the District of Massachusetts in *AAUP* unsealed internal government documents showing that in nearly all above-mentioned instances, the government targeted individuals due to their lawful speech and support of Palestinian rights, not security concerns.

61. In particular, the unsealed documents demonstrated the critical role that Canary Mission played in implementation of the Project Esther policy and the government’s decision to select and target particular individuals for detention.

62. In sworn testimony obtained during the *AAUP* proceedings, an official at Homeland Security Investigations (“HSI”), Peter Hatch, revealed that 75% of the names investigated by HSI for immigration-related arrest and detention came from Canary Mission.⁶

63. Mahmoud Khalil, Mohsen Mahdawi, Momodou Taal, Badar Khan Suri, Rumeysa Ozturk, and Ranjani Srinivasan all had profiles on Canary Mission before being arrested and detained by the government.

⁶ [Deposition of Peter Hatch](#) at 189, *AAUP v. Rubio*.

64. Mr. Sarsour also had a Canary Mission profile before being arrested and detained by the government.

65. In fact, Mr. Sarsour's Canary Mission profile appears to have been updated on March 26, 2026, just days before his arrest.

66. In the weeks leading up to the arrest of Mr. Sarsour, the government further clarified its intent to chill free speech and association rights—this time, specifically in relation to individuals associated with groups such as American Muslims for Palestine.

67. On February 10, 2026—forty-nine days before Petitioner's arrest—Assistant Attorney General for Civil Rights Harmeet Dhillon publicly announced that the Department of Justice would “investigate,” “prosecute,” and “dismantle” organizations like American Muslims for Palestine “at their very root.”⁷

68. Weeks later, Mr. Sarsour, a resident of the United States for over thirty years and decades-long member of AMP, was targeted, arrested, and detained by the United States government.

IV. Mr. Sarsour's Arrest and Detention

69. On the morning of March 30, 2026, Mr. Sarsour was on his way to work when he stopped his car to pick up mail. While walking out of his car, Mr. Sarsour noticed an unmarked vehicle speeding towards him and ran to the curb to avoid being hit. A plainclothes man jumped out of the vehicle and pointed a gun at Mr. Sarsour, demanding that Mr. Sarsour identify himself.

70. Mr. Sarsour was terrified, and believed that he was going to be killed by an individual whom he did not know to be an ICE agent.

⁷ Marc Rod, *DOJ aims to 'dismantle' groups behind synagogue protests, Harmeet Dhillon Says*, Jewish Insider (Feb. 10, 2026) <https://jewishinsider.com/2026/02/departments-of-justice-synagogue-protests-harmeet-dhillon/>.

71. Within moments, Mr. Sarsour found himself surrounded by 10 or 11 additional unmarked vehicles. Plainclothes government agents exited each one.

72. Eventually, one of the plainclothes individuals identified himself as an ICE agent and informed Mr. Sarsour that he was being arrested. Mr. Sarsour immediately complied with the agents, many of whom had guns drawn and were yelling at Mr. Sarsour.

73. Mr. Sarsour begged the ICE agents to at least allow him to call his wife. He was refused multiple times, and only when he informed an agent that he needed to take his mother to a doctor's appointment did an ICE agent call Mr. Sarsour's wife to inform her, without explanation, that she would have to take Mr. Sarsour's mother to the doctor's appointment.

74. Mr. Sarsour was then taken to Broadview ICE Detention Center in Broadview, Illinois, where he was told by agents that his best option was to agree to deportation. Mr. Sarsour declined.

75. Mr. Sarsour informed the agents that he was diabetic and needed medication.

76. After a few hours, Mr. Sarsour was transported to Clay County Jail in Indiana, where he remains today, apart from his wife, his mother, his children, his grandchildren, and his community.

V. The Government's Pretextual Basis for the Arrest and Detention of Mr. Sarsour

77. Having failed to secure the continuing detention of the student activists, all of whom have since been released during the pendency of their removal proceedings, the government has now escalated its tactics of silencing Palestinians and advocates for Palestinian human rights.

78. After his arrest, Mr. Sarsour was served with a Notice to Appear ("NTA") dated March 25, 2026, listing the government's purported bases for his arrest and detention, amended by an I-261 issued on April 9, 2026 which lists additional charges of removability.

79. The charges of removability alleged by the government include Section 237(a)(4)(C)(i) and Section 237(a)(4)(B), mandating detention.

80. In support of its charges of removability, the government cites the decades-old political imprisonment based in part on records the government has evaluated at least four times—in 2000, 2008, 2010, and 2019—when Mr. Sarsour applied for naturalization.

81. The government’s decision to arrest and detain Mr. Sarsour—after thirty-three years of lawful permanent residency in the United States—is not based on these decades-old allegations but is instead based on his advocacy in support of Palestinian rights and his association with lawful advocacy group AMP.

82. This escalation is a transparent attempt to bypass the federal court’s jurisdiction related to this unlawful and unconstitutional detention on the basis of Mr. Sarsour’s identity as a Palestinian and his speech and advocacy on behalf of Palestinian human rights.

CLAIMS FOR RELIEF

FIRST CLAIM

Violation of the First Amendment to the United States Constitution

83. Petitioner repeats and realleges the preceding paragraphs as if fully set forth herein.

84. The First Amendment to the United States Constitution provides 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.

85. The First Amendment protects speech by noncitizen residents in the United States.

86. The First Amendment also protects past, present, and future speech.

87. The First Amendment protects noncitizens lawfully present in the United States from government retaliation for protected political speech and association. *Bridges v. Wixon*, 326

U.S. 135 (1945). Noncitizen residents have the same First Amendment rights as citizens. *Mahdawi v. Trump*, No. 5:25-cv-00113 (D. Vt. Apr. 30, 2025).

88. The government's detention of Mr. Sarsour was due to his advocacy on behalf of Palestinian human rights and his association as a board member of AMP.

89. The government's detention of Mr. Sarsour was intended to prevent him from continuing to exercise his constitutional right to speech.

90. The government's detention of Mr. Sarsour chills both his speech and the speech of other individuals who would like to express similar views.

91. Arresting and detaining Mr. Sarsour disrupts AMP's organizational activities, and chills the speech of AMP's 5,000-plus members, donors, and affiliated organizations—as well as Palestinian advocates across the country.

92. Arresting and detaining Mr. Sarsour disrupts AMP's organizational activities, and chills the speech of AMP's 5,000-plus members, donors, and affiliated organizations—as well as Palestinian advocates across the country.

93. Mr. Sarsour's detention also disrupts the operation of The Islamic Society of Milwaukee, the largest mosque in Wisconsin, where Mr. Sarsour serves as the elected president.

94. The government's detention of Mr. Sarsour deprives audiences of his present and future speech on matters of public concern.

95. These consequences are not incidental to any legitimate government objective.

96. The speech of a noncitizen on an issue central to current political debate lies at the heart of First Amendment protection, and retaliation for such speech violates core First Amendment guarantees.

97. The First Amendment protects noncitizens who are detained and threatened with deportation because of their protected speech.

98. As the government has made clear, these consequences (chilling and preventing speech sympathetic to Palestine) are the ultimate objective of the government's actions.

SECOND CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution

99. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

100. The Due Process Clause of the United States Constitution applies to “all persons within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 679 (2001).

101. Immigration detention must further the twin goals of ensuring a noncitizen's appearance during removal proceedings and preventing danger to the community.

102. In light of these goals, Mr. Sarsour's detention is wholly unjustified. Indeed, it bears no reasonable relation to any legitimate government purpose.

103. Mr. Sarsour is not a flight risk. He has lived in the United States for thirty three years. He has six children and nine grandchildren. His entire life is in the United States.

104. Mr. Sarsour is not a danger to the community. He is a beloved member of his community, president of his house of worship, and has no criminal record.

105. Mr. Sarsour's detention bears no reasonable relation to any legitimate nonpunitive government purpose. Rather, there is every indication that Mr. Sarsour's detention is punitive.

106. The sole basis for Mr. Sarsour's detention is to punish him for his speech and to chill similar speech, which violates the due process clause.

THIRD CLAIM

Violation of the Equal Protection Guarantee of the Fifth Amendment to the United States Constitution

107. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

108. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution applies to actions of the federal government through the due process guarantees of the Fifth Amendment.

109. The government's policy of arresting and detaining Palestinians for their speech is motivated by anti-Palestinian animus.

110. Mr. Sarsour has been singled out as a Palestinian advocate for Palestinian human rights and targeted on that basis.

111. This pattern can be seen in the government's treatment of other Palestinian advocates, including Mahmoud Khalil and Mohsen Mahdawi.

112. Mr. Sarsour's detention bears no reasonable relation to any legitimate government purpose.

113. Mr. Sarsour's detention is the result of anti-Palestinian animus, and therefore violates the equal protection guarantees of the Constitution.

FOURTH CLAIM

Violation of the Administrative Procedure Act and the *Accardi* Doctrine

114. Mr. Sarsour realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

115. The government reversed eighteen years of adjudicative inaction—four separate adjudications in which USCIS considered the allegations now raised against Mr. Sarsour—without

any new facts, any new evidence, and without the reasoned explanation the APA requires when an agency changes course. *Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 43 (1983). The agency relied on a factor Congress has not authorized: Petitioner's political viewpoint. 5 U.S.C. § 706(2)(A), (B), (C).

116. The APA violation is compounded by the government's own prior directives. Both DHS Acting Secretary McAleenan (2019) and then-Secretary Mayorkas (2021) issued binding guidance prohibiting the use of First Amendment activity as an enforcement factor. These directives reflect the constitutional prohibition on viewpoint-based enforcement, which cannot be rescinded by informal executive preference. *See Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

FIFTH CLAIM

Release on Bail Pending Adjudication

117. Petitioner repeats and realleges the preceding paragraphs.

118. Federal courts have inherent authority to release immigration habeas petitioners on bail. *See Cherek v. United States*, 767 F.2d 335, 337 (7th Cir. 1985); *Mapp v. Reno*, 241 F.3d 221, 224-25 (2d Cir. 2001); *Vidal-Martinez v. Acuff*, No. 21-cv-224-NJR, 2021 U.S. Dist. LEXIS 85875, at *9 (S.D. Ill. May 5, 2021).

119. Although not formally adopted in the Seventh Circuit, other Circuits have used a two-part test for bail pending habeas adjudication. First, the petition must raise substantial claims, and second, extraordinary circumstances must exist that make the grant of bail necessary to make the habeas remedy effective. *Mapp*, 241 F.3d at 226.

120. The origin of this heightened standard is a circumstance in which a habeas petition followed a conviction and sentence, as opposed to “a case where applicant had sought to attack by writ of habeas corpus an incarceration not resulting from a judicial determination of guilt.” *Aronson v. May*, 85 S. Ct. 3 (1964); *see Cherek v. United States*, 767 F.2d 335, 337 (7th Cir. 1985).

Mr. Sarsour's case is clearly the latter. He has never been charged with a crime in the United States, let alone convicted.

121. Mr. Sarsour's arrest and detention clearly satisfy the standard articulated in *Mapp v. Reno*. Mr. Sarsour's habeas corpus petition raises substantial claims under the First and Fifth Amendments, that he is being detained pursuant to a policy targeting Palestinian advocates for human rights. Mr. Sarsour is being detained because of his First Amendment-protected advocacy and association with a non-profit Palestinian advocacy organization.

122. The detention of a long-time legal permanent resident for First Amendment-protected advocacy is an extraordinary circumstance warranting immediate relief.

123. Mr. Sarsour argues that his detention is a violation of the First and Fifth Amendment, and that every day he is incarcerated is a further violation of his constitutional rights. By the time adjudication of his constitutional claims and release under habeas could be sought, he will have endured the very speech-restricting unconstitutional detention his habeas petition aims to address. The speech of others will have been chilled for all that time as well, namely the speech of The Islamic Society of Milwaukee, where Mr. Sarsour is president, as well as AMP and its 5,000-plus members, donors, and affiliated organizations, as well as Palestinian-American advocates across the country.

124. Without bail, no practical relief for these grave constitutional violations could be afforded, even if the Court ultimately recognizes Mr. Sarsour's constitutional claim. The only way to make the habeas remedy effective is to release Mr. Sarsour pending resolution of his habeas petition.

125. Finally, the government bears the burden by clear and convincing evidence demonstrating that Petitioner's detention is warranted on individualized grounds of flight risk or

danger to the community. *See Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011); *Borbot v. Warden Hudson Cty. Corr. Facility*, 906 F.3d 274 (3d Cir. 2018); *Vidal-Martinez v. Acuff*, No. 21-cv-224-NJR, 2021 U.S. Dist. LEXIS 85875, at *9 (S.D. Ill. May 5, 2021). The government cannot meet that burden. Mr. Sarsour has resided continuously in the United States for thirty-three years. He has never failed to appear at any immigration interview or hearing. He has never been charged with or convicted of any crime in the United States. He has a family, a home, a business, and deep community ties in Milwaukee.

126. There is no legitimate purpose served by detaining Mr. Sarsour. The purpose is punishment for his advocacy and deterrence of Palestinian civic engagement. That purpose is unconstitutional.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- a. Issue an order to show cause why the writ of habeas corpus should not be granted;
- b. Order the immediate release of Petitioner on bail or personal recognizance pending full adjudication of this petition;
- c. Retain jurisdiction over this matter notwithstanding any subsequent transfer of Petitioner;
- d. Declare that the Policy of targeting noncitizens for apprehension and detention based on perceived support for Palestinian rights—and specifically based on board membership in or association with American Muslims for Palestine—violates the First Amendment and the Administrative Procedure Act;
- e. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- f. Grant such further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Jennifer Nimer

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Dated: April 13, 2026

CERTIFICATE OF SERVICE

I, Hassan M. Ahmad, hereby certify that on April ___, 2026, I filed the foregoing First Amended Petition for Writ of Habeas Corpus, with the Clerk of the United States District Court for the Southern District of Indiana, Terre Haute Division, via the CM/ECF electronic filing system, which will send notification of such filing to all parties registered for electronic service.

/s/ Hassan M. Ahmad
Hassan M. Ahmad