

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

MOHAMMAD RAHIM WAHIDI

Petitioner,

v

Donald J. TRUMP, in his official capacity as
President of the United States;

Christine WAUGH, in her official capacity as
Director of Port of Washington-Dulles International
Airport;

Pete FLORES, Acting Commissioner,
U.S. Customs & Border Protection;

Kristi NOEM, in her official capacity as Secretary
of the United States Department of Homeland
Security,

Marco RUBIO, in his official capacity as Secretary
of State, and

Pamela BONDI, in her official capacity as Attorney
General, U.S. Department of Justice,

Kashyap PATEL, in his official capacity as
Director, Federal Bureau of Investigation

Respondents

Case No. :1:25-cv-548

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

INTRODUCTION

1. This case concerns the unlawful detention, now exceeding 30 hours, of Mohammad Rahim WAHIDI, a citizen and national of Afghanistan, and a lawful permanent resident of the United States, by Respondents Customs & Border Protection (“CBP”) at Washington-Dulles International Airport.
2. Mr. Wahidi has been subjected to custodial interrogation and denied the opportunity to

Speak or confer with counsel

3. Mr. Wahidi arrived on Turkish Airlines Flight TK1358 at approximately 12:30 pm, Eastern time on Saturday, March 29, 2025. He arrived with his wife, Mary Shakeri Wahidi, a US citizen. Both of them were detained at CBP at Dulles almost immediately and questioned, the extent of which is still unclear. Eventually, Ms. Shakeri-Wahidi was released at approximately 12:15 am (after being held for nearly 12 hours) and allowed to go home. However, Mr. Wahidi remained detained and locked in a room with a thin mattress overnight.
4. Mr. Wahidi last entered the United States no earlier than October 1, 2024. As such, when he attempted entry on March 29, 2025, less than six months had passed, and as such, under INA 101(a)(13)(C), he is regarded as a returning resident and not as an applicant for admission. None of the other categories in said subsection apply to Petitioner.
5. Mr. Wahidi is the former ambassador of Afghanistan to Spain. He does not speak fluent English, and has informed his wife that there is no Dari-language interpreter provided during this interrogation. Upon information and belief, Mr. Wahidi is being questioned about allegations of sexual assault by an activist named Bashir Eskandari who wanted to shut down the embassy of Afghanistan in Madrid, Spain. No criminal charges were ever filed by the Spanish authorities, and Mr. Wahidi, though stripped of his title, was allowed to leave the country.
6. More tellingly, Mr. Wahidi's brother in law is wanted by the United States for his role in a plot to assassinate an Iranian journalist. The US Attorney's Office in the Southern District of New York announced the brother-in-law's name in a press release on November 8, 2024.

7. Upon information and belief, in brief phone calls made by Mr. Wahidi to his wife using others' phones (as his phone and belongings are in CBP custody), he has been interrogated by an unclear number of officers believed to be from the FBI regarding his brother in law
8. The serious nature of the allegations against Mr. Wahidi's brother in law, the extensive detention now exceeding 30 hours, and lack of freedom to leave unquestionably renders the interrogation "custodial "
9. On March 30, 2025 Ms. Shakeri-Wahidi was able to contact undersigned Counsel, who, at approximately 5:30 pm, faxed and emailed a Form G-28 (Notice of Entry of Appearance as Attorney/Representative) to CBP and then, at approximately 6:00 pm, physically arrived at Dulles Airport.
10. Upon arrival, undersigned Counsel was able to contact a CBP officer. A few minutes later, Officer Haynes came out to speak with undersigned Counsel. Officer Haynes said that because there were no criminal charges being filed at that time, there was no right to counsel, and referred to "border search authority" and "standard operating procedures" in denying access to counsel. Officer Haynes took a physical copy of the G-28 that undersigned Counsel brought.
11. The Trump administration has adopted a policy ("the Policy") which weaponizes the use of INA 237(a)(4)(C), the "foreign policy" ground of removal. Pursuant to the Policy, Respondent Rubio, the Secretary of State would make a determination that Mr. Wahidi's presence or activities in the United States could have potential serious adverse impact on US foreign policy interests. Given the swirling of allegations around Petitioner, Counsel believes that CBP may be intending to deport Petitioner under this ground, but are simply unable to obtain the determination from Secretary of State Marco Rubio on a Sunday, and

are merely unlawfully holding Petitioner until they can obtain same. As of this writing at 7:00 PM on March 30, 2025, neither Secretary Rubio nor any other government official has alleged that Mr. Wahidi has committed any crime or, indeed, broken any law whatsoever.

12. As of this writing, Mr. Wahidi has not been provided any *Miranda* warnings.
13. Mr. Wahidi is at imminent risk of being moved to a detention facility far away, outside the jurisdiction of this Court. However, his US address is in Sterling, Virginia, where he lives with his wife and their 2 US citizen children, and he is currently detained at Washington-Dulles Airport, both of which are within the jurisdiction of this Court.
14. The government's actions, including its ongoing detention of Mr. Wahidi, its failure to provide access to counsel for what is clearly a custodial interrogation, violates Petitioner's procedural due process rights and rights under the Fourth and Fifth Amendments to the US Constitution.
15. Accordingly, this Court should order Petitioner's immediate release.

PARTIES

16. Petitioner Mohammad Rahim WAHIDI is a lawful permanent resident of the United States and citizen and national of Afghanistan, and the former ambassador of Afghanistan to Spain. Mr. Wahidi has no criminal record and is not currently charged with any crime.
17. Respondent Donald J. Trump is named in his official capacity as the President of the United States. In this capacity, he is responsible for the policies and actions of the executive branch, including the Department of State and Department of Homeland Security. Respondent Trump's address is the White House, 1600 Pennsylvania Ave. NW, Washington, D.C. 20500.

18. Respondent Christine Waugh is named in her official capacity as the Director of the Washington-Dulles Customs & Border Protection., within the United States Department of Homeland Security. In this capacity, she is responsible for the administration of immigration laws and is the “immediate custodian” of Petitioner. Respondent Waugh’s address is Washington CBP, 1 Saarinen Cir, Dulles, VA.
19. Respondent Pete Flores is the Acting Commissioner of US Customs & Border Protection. In this capacity, he is responsible for the detention over Petitioner and is likewise an immediate custodian of Petitioner..
20. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in the Eastern District of Virginia; is legally responsible for pursuing any effort to detain and remove the Petitioner; and as such is a custodian of the Petitioner. Respondent Noem’s address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.
21. Respondent Marco Rubio is named in his official capacity as the United States Secretary of State. In this capacity, among other things, he has the authority to determine, based on “reasonable” grounds, that the “presence or activities” of a noncitizen “would have serious adverse foreign policy consequences for the United States.” Following such a determination, DHS may initiate removal proceedings under 8 U.S.C. § 1227(a)(4)(C)(i) (INA § 237(a)(4)(C)(i).) In addition to his legal responsibilities under Section 237(a)(4)(C)(i), he routinely transacts business in the Eastern District of Virginia and as such is a custodian of the Petitioner. His address is United States Department of State,

2201 C Street, NW, Washington, D.C. 20520.

22. Respondent Pamela Bondi is the Attorney General of the United States. In this capacity, she routinely transacts business in the Eastern District of Virginia; is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(g) (2007), and as such is a custodian of the Petitioner. Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

23. Respondent Kashyap Patel is the Director of the Federal Bureau of Investigation. In this capacity, he routinely transacts business in the Eastern District of Virginia; is responsible for the administration and investigation of criminal offenses in the United States, and, upon information and belief, is responsible for the current interrogation of Petitioner. Respondent Patel's address is U.S. FBI, J. Edgar Hoover Bldg., 935 Pennsylvania Ave, Washington DC 20535.

JURISDICTION & VENUE

24. The 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 U.S. Constitution, and 28 U.S.C. § 2201 (Declaratory Judgment).

25. An actual and justiciable controversy exists between the parties under 28 U.S.C. § 2201, and this Court has authority to grant declaratory and injunctive relief. *Id.* §§ 2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651.

26. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (c)(1) because a substantial part of the events or omissions giving rise to this action occurred and continue to occur at CBP's Washington-Dulles Airport

within this district

CLAIMS FOR RELIEF

FIRST CLAIM

Violation of the Sixth Amendment to the United States Constitution

27. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint-Petition as if fully set forth herein. The Sixth Amendment to the United States Constitution provides in part that “in all criminal prosecutions, the accused shall enjoy the right...to have the Assistance of Counsel for his defence.” The Fifth Amendment provides procedural due process rights to potential defendants in police custody subjected to custodial interrogation.
28. The circumstances of Petitioner’s interrogation and detention amount to custodial interrogation which triggers the right to counsel, and renders his erstwhile detention unlawful.

SECOND CLAIM

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

29. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint-Petition as if fully set forth herein.
30. The Constitution establishes due process rights for “all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v Davis*, 533 U.S. 678, 693 (2001).
31. The government’s detention of Mr. Wahidi is wholly unjustified. The government has not demonstrated that Mr. Wahidi—a husband to a U.S. citizen, a father of two young children, and with no criminal history—needs to be detained. *See Zadvydas*, 533 U.S.

at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community). There is no credible argument that Mr. Suri cannot be safely released back to his family.

32. Moreover, Mr. Wahidi's detention is punitive as it bears no "reasonable relation" to any legitimate government purpose. *Zadvydas*, 533 U.S. at 690 (finding immigration detention is civil and thus ostensibly "nonpunitive in purpose and effect") The sole basis of his detention appears to be his connection to his brother-in-law and being the target of a political activist in Spain. These are not lawful bases to detain Petitioner for so long. Given the current administration's penchant for using 237(a)(4)(C) (the foreign policy ground), the detention may only be a thinly veiled attempt to obtain a determination from Secretary of State Rubio. As such, it is incarceration "for other reasons." *Demore v. Kim*, 538 U.S. 510, 532-33 (2003) (Kennedy, J., concurring).

THIRD CLAIM

Release on Bail Pending Adjudication

33. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint-Petition as if fully set forth herein.

34. Under 28 U.S.C.A. § 2241, federal district courts are granted broad authority, "within their respective jurisdictions," 28 U.S.C.A. § 2241(a), to hear applications for writs of habeas corpus filed by persons claiming to be held "in custody in violation of the Constitution or laws or treaties of the United States." *Timms v. Johns*, 627 F.3d 525 (4th Cir. 2010).

challenging Mr. Wahidi's retaliatory detention. Extraordinary circumstances exist that make Mr. Wahidi's release essential for the remedy to be effective. His detention without counsel is flatly illegal.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Enjoin Respondents from transferring the Petitioner from the jurisdiction of this District pending these proceedings;
- 3) Order the immediate release of Petitioner pending these proceedings;
- 4) Order the release of Petitioner;
- 5) Declare that Respondents' actions to arrest and detain Petitioner violate the Fifth and Sixth Amendments;
- 6) Award reasonable attorneys' fees and costs for this action; and
- 7) Grant such further relief as the Court deems just and proper.

Dated: March 30, 2025

Sterling, Virginia

/s/Hassan Ahmad
Hassan Ahmad (VSB #83428)
The HMA Law Firm, PLLC
6 Pidgeon Hill Dr, Suite 330
Sterling, VA 20165
T: 703.964.0245
hma@hmalegal.com
Counsel for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system. I will furthermore mail a copy by USPS Certified Priority Mail with Return Receipts to each of the following individuals named in the heading of this complaint at the addresses in the section on “Parties”.

Dated: March 30, 2025

/s/Hassan Ahmad
Hassan Ahmad (VSB #83428)
The HMA Law Firm, PLLC
6 Pidgeon Hill Dr, Suite 330
Sterling, VA 20165
T: 703 964.0245
hma@hmalcgal.com
Counsel for Petitioner