

**UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF TEXAS**

Majid Majidi Daryani,

Petitioner,

v.

JOHN DOE, Warden, El Paso Service Processing Center; MARY DE ANDA-YBARRA, Field Office Director, El Paso Field Office, United States Immigration and Customs Enforcement; TODD M. LYONS, Acting Director, United States Immigration and Customs Enforcement; KRISTI NOEM, Secretary of Homeland Security; PAMELA JO BONDI, United States Attorney General, *in their official capacities,*

Respondents.

Civil Action No.: 3:25-cv-00206

**PETITION FOR WRIT OF HABEAS
CORPUS**

**VERIFIED PETITION FOR A WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

INTRODUCTION

1. Majid Majidi Daryani is an Iranian national who entered the U.S. on or around February 2, 2025, at Brownsville, TX.
2. Mr. Majidi Daryani expressed fear of return to his native Iran and was detained pending expedited removal proceedings.
3. Mr. Majidi Daryani was interviewed on March 26, 2025, for a Convention Against Torture (“CAT”) Screening, where the Department of Homeland Security (“DHS”) determined that

Mr. Majidi Daryani was more likely than not to be tortured if returned to Iran.

4. Mr. Majidi Daryani has not been given a Credible Fear Interview (“CFI”) and U.S. Immigration and Customs Enforcement (“ICE”) has indicated that they are attempting to remove him to an unnamed third country.
5. Petitioner challenges his detention as a violation of the Immigration and Nationality Act (“INA”) and the Due Process Clause of the Fifth Amendment.
6. Petitioner respectfully requests that this Court grant him a Writ of Habeas Corpus and order Respondents to release him from custody. Petitioner seeks habeas relief under 28 U.S.C. 2241, which is the proper vehicle for challenging civil immigration detention. *See Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) (“Challenges to immigration detention are properly brought directly through habeas”) (citing *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001)).

CUSTODY

7. Petitioner is in the physical custody of Respondents. Petitioner is imprisoned at El Paso Service Processing Center, an immigration detention facility, in El Paso, TX. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

8. This Court has jurisdiction to entertain this habeas petition under 28 U.S.C. 1331; 28 U.S.C. 2241; the Due Process Clause of the Fifth Amendment, U.S. Const. Amend. V; and the Suspension Clause, U.S. Const. art. I, § 2.

VENUE

9. Venue is proper in this District under 28 U.S.C. 1391 and 28 U.S.C. 2242 because at least one Respondent is in this District, Petitioner is detained in this District, Petitioners’ immediate

physical custodian is located in this District, and a substantial part of the events giving rise to the claims in this action took place in this District. *See generally Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004) (“the proper respondent to a habeas petition is ‘the person who has custody over the petitioner’”) (citing 28 U.S.C. 2242) (cleaned up).

PARTIES

10. Petitioner Majid Majidi Daryani is currently detained by Respondents at El Paso Service Processing Center, an immigration detention facility. He has been in ICE custody since on or about February 2, 2025, when he was arrested at Brownsville, TX.
11. Respondent John Doe is the Warden of the El Paso Processing facility, where Petitioner is currently detained. He is a legal custodian of Petitioner and is named in his official capacity.
12. Respondent Mary De Anda-Ybarra is the Field Office Director responsible for the El Paso Field Office of ICE with administrative jurisdiction over Petitioner’s immigration case. She is a legal custodian of Petitioner and is named in her official capacity.
13. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Petitioner and is named in his official capacity.
14. Respondent Kristi Noem is the Secretary of the United States Department of Homeland Security. She is a legal custodian of Petitioner and is named in her official capacity.
15. Respondent Pamela Jo Bondi is the Attorney General of the United States and in charge of the U.S. Department of Justice. She is a legal custodian of Petitioner and is named in her official capacity.

STATEMENT OF FACTS

I. PETITIONER WAS DETAINED AND HAS NOT BEEN GIVEN A CREDIBLE FEAR INTERVIEW

16. Petitioner came to the United States on February 2, 2025.
17. ICE officers took Petitioner into custody at Brownsville, TX, on or about February 2, 2025.
18. On March 26, 2025, DHS conducted a “Convention Against Torture assessment interview”, where DHS determined that it was more likely than not that Petitioner would be tortured if forced to return to Iran. Ex. 1.
19. On May 5, 2025, Respondents informed counsel that Petitioner had not been given a credible fear interview and that the “case is an expedited removal final order for a third country acceptance.” Ex. 2.
20. Counsel reached out to Respondents to inform them that the Petitioner could not be removed to any third country where he could be persecuted and that he had a right to know which third country he would be sent to. Ex. 3.
21. Respondents notified counsel that on June 9, 2025 he was transferred to the El Paso Service Processing Center. Ex. 4

II. Credible Fear Interviews, Asylum, and Presidential Proclamation

22. Congress has carefully specified the procedures by which noncitizens may be removed from the United States. These procedures are designed to ensure that noncitizens have a fair chance to present claims for asylum, withholding of removal, and CAT protection.
23. “Unless otherwise specified” in the INA, a removal proceeding before an immigration judge (“IJ”) under 8 U.S.C. § 1229a is “the sole and exclusive procedure” by which the government may determine whether to remove an individual. 8 U.S.C. § 1229a(a)(3). Noncitizens in these proceedings receive full hearings in immigration court and have a host of procedural rights,

including the right to adversarial hearings before immigration judges and the right to retain and be represented by counsel. Noncitizens can contest the factual and legal allegations against them and apply for relief from removal. They also receive the opportunity for appellate review before the Board of Immigration Appeals and a federal court of appeals. 8 U.S.C. §§ 1229a, 1252(a) *et seq.*

24. When Congress created the expedited removal system, it balanced its desire to facilitate “efficient removal” against “a second, equally important goal: ensuring that individuals with valid asylum claims are not returned to countries where they could face persecution.” *Grace v. Barr*, 965 F.3d 883, 902 (D.C. Cir. 2020). Thus, Congress took care to safeguard access to asylum by ensuring that noncitizens were screened to determine whether they had a “credible fear” of returning to their country of origin. Specifically, if a noncitizen expresses the intention to seek asylum or a fear of removal, they are entitled to an interview with an asylum officer, the outcome of which is subject to review by an immigration judge. Additionally, the statute requires the Attorney General to “provide information concerning the asylum interview described in this subparagraph to [noncitizens] who may be eligible.” 8 U.S.C. § 1225(b)(1)(B)(iv). And a noncitizen “who is eligible for such interview may consult with a person or persons of the [noncitizen]’s choosing prior to the interview or any review thereof.” *Id.* The purpose of the interview is to screen fear claims. Noncitizens pass the screening standard if they establish a “credible fear” of returning to their country of origin, defined by statute as a “significant possibility” that the individual “could establish eligibility for asylum” in removal proceedings. *Id.* § 1225(b)(1)(A)(ii), (b)(1)(B)(v). Once the noncitizen shows a credible fear—a “low screening standard,” 142 Cong. Rec. 25,347 (1996)—they are entitled to a full removal hearing (with administrative and judicial review) in which to attempt to make out their asylum claim.
25. The credible fear interview is also used to screen claims for withholding of removal and CAT relief.

26. On January 20, 2025 the President issued the Proclamation. 90 Fed. Reg. 8333. This proclamation suspended the above-described process for aliens to receive a credible fear interview and be heard on an asylum application by an immigration judge.

LEGAL FRAMEWORK

27. Petitioner's detention violates the Fifth Amendment's protection for liberty, for at least two reasons. First, immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). Where, as here, the government has no authority to deport Petitioner, detention is not reasonably related to its purpose.

28. Second, at a bare minimum, "the Due Process Clause includes protection against *unlawful* or arbitrary personal restraint or detention." *Zadvydas v. Davis*, 533 U.S. 678, 718 (2001) (Kennedy, J., dissenting) (emphasis added). Where federal law explicitly prohibits an individual's detention, their detention also violates the Due Process Clause.

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT – 8 U.S.C. § 1101, et seq.

29. Petitioners reallege and incorporate by reference each and every allegation contained above.

30. The INA, 8 U.S.C. § 1101, et seq., sets out the sole mechanisms established by Congress for the removal of noncitizens.

31. The INA provides that removal proceedings before an immigration judge under 8 U.S.C. § 1229a are "the sole and exclusive procedure" by which the government may determine whether to remove an individual, "[u]nless otherwise specified" in the INA. 8 U.S.C. § 1229a(a)(3). One mechanism otherwise specified in the INA is the expedited removal system, including its credible fear screening process. *Id.* § 1225(b)(1). The expedited removal statute states that if a

noncitizen “indicates either an intention to apply for asylum under section 1158 of this title or a fear of persecution, the officer shall refer the [noncitizen] for an interview by an asylum officer,” and the noncitizen may not be removed pending that interview and, if requested, review by an immigration judge. Id. § 1225(b)(1)(A)(i)-(ii). The expedited removal statute further provides that a noncitizen “who may be eligible” for “the asylum interview [just] described” has a right to be provided “information concerning the asylum interview” and to “consult with a person or persons of the [noncitizen]’s choosing prior to the interview.” Id. § 1225(b)(1)(B)(iv). And the expedited removal statute provides that the government “shall provide by regulation and upon the [noncitizen’s] request for prompt review by an immigration judge of a determination ... that the [noncitizen] does not have a credible fear of persecution,” including “an opportunity for the [noncitizen] to be heard and questioned by the immigration judge, either in person or by telephonic or video connection.” Id. § 1225(b)(1)(B)(iii)(III)..

32. The Proclamation and Defendants’ actions to implement and enforce the Proclamation are unlawful because they result in removals without compliance with the procedures required by the INA and its implementing regulations, including the requirements to refer for credible fear interviews noncitizens who indicate an intention to apply for asylum or a fear of persecution; to provide information about credible fear interviews to noncitizens who may be eligible/ and to provide for review of adverse credible fear determinations by immigration judges.

33. None of the sources of law on which the Proclamation relies—Section 1182(f), Section 1185(a)(1), or the Constitution—applies here or can lawfully displace the procedures required by the INA and its implementing regulations.

COUNT TWO
VIOLATION OF THE DUE PROCESS CLAUSE
OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

34. Petitioner realleges and incorporate by reference paragraphs 1 to 28, as if fully set forth below.

35. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. Amend. V. See generally *Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

36. Petitioner's detention violates the Due Process Clause because it is not rationally related to any immigration purpose; because it is not the least restrictive mechanism for accomplishing any legitimate purpose the government could have in imprisoning Petitioner; and because it lacks any statutory authorization.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Order Respondents to show cause why the writ should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243;
3. Declare that Petitioner's detention violates the Immigration and Nationality Act, and specifically 8 U.S.C. § 1101, *et seq.*;
4. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
5. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;

6. Enjoin Petitioners from further detaining Petitioner so long as they refuse to grant him a credible fear interview;
7. 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
8. Grant such further relief as this Court deems just and proper.

Dated: June 10, 2025

Respectfully submitted,

/s/Brian Scott Green

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LEAD COUNSEL FOR PETITIONER

Verification by Someone Acting on Petitioner's Behalf 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 and others working under my supervision have discussed with Petitioner the events described in this Petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

/s/Scott A. Emerick

Date: June 9, 2025