

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the
Southern District of Texas

Rashid Gochiiaev,

Petitioner

v.

Martin Frink, Warden, Houston Processing Center,

Respondent

(name of warden or authorized person having custody of petitioner)

Case No. 4:25-cv-02801
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Rashid Gochiiaev
- (b) Other names you have used: None
2. Place of confinement:
 - (a) Name of institution: Houston Processing Center a/k/a the Houston Contract Detention Facility
 - (b) Address: 15850 Export Plaza Drive
Houston, TX 77032
 - (c) Your identification number: A [REDACTED]
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain:
U.S. Immigration and Customs Enforcement - ERO
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
 - (a) Name and location of court that sentenced you: _____
 - (b) Docket number of criminal case: _____
 - (c) Date of sentencing: _____☒ Being held on an immigration charge
☐ Other (explain): An Immigration Judge granted Rashid Gochiiaev's asylum claim on July 25, 2024. The U.S. Department of Homeland Security filed an appeal of the asylum grant to the Board of Immigration Appeals. The BIA has not yet ruled on the DHS's appeal and Mr. Gochiiaev has been detained since April 15, 2024.

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- ☐ Pretrial detention
☒ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other (explain): Mr. Rashid Gochiiaev is challenging his continuing (15+ month) detention while DHS appeals the grant of his asylum claim.

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: _____

(b) Docket number, case number, or opinion number: _____

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

(d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☒ No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☐ No

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If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☒ Yes

☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: 04/15/2024

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes

☒ No

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If "Yes," provide:

(1) Date of filing: 09/15/2021

(2) Case number: A220 640 730

(3) Result: An Immigration Judge granted Rashid Gochiaev's asylum claim.

(4) Date of result: 07/25/2024

(5) Issues raised: Rashid Gochiaev raised political asylum claims based on his past persecution in Russia. The Immigration Judge approved his asylum claim. DHS appealed this decision and he has remained in ICE detention for more than 15 months now. This ongoing detention is unconstitutional and unreasonable, as he has no criminal record and no issues of national security. He filed a request to be released on parole, but to his knowledge, DHS has not responded to this request.

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes

☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Violation of Mr. Gochiiaev's Fifth Amendment Right to Due Process and Freedom from Arbitrary and Prolonged Detention. The Due Process Clause of the Fifth Amendment to the U.S. Const. prohibits the U.S. government from depriving any person of liberty without due process of law.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Mr. Gochiiaev's asylum claim was approved by an Immigration Judge and he has been detained since April 15, 2024 - more than 15 months now. This prolonged detention is not reasonably related to a legitimate government purpose since Mr. Gochiiaev has not criminal history and presents no national security risks. DHS has made no claim that he is a national security risk or danger to the community. DHS de facto denied Mr. Gochiiaev's parole request by ignoring over the past six (6) months since it was filed.

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes ☐ No

GROUND TWO: _____

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes ☐ No

GROUND THREE: _____

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes ☐ No

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GROUND FOUR:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: Issue a Writ of Habeas Corpus and either order Mr. Rashid Gochiaev's release within ten (10) days or schedule a hearing before this Court on his request for the issuance of a Writ of Habeas Corpus.

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 7/21/2025

Signature of Petitioner

/s/Brian Scott Green, Esquire,
Signature of Attorney or other authorized person, if any