

**UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF EASTERN CALIFORNIA**

Sam SARFARZI-ESFAHARI,

Petitioner,

v.

RON MURRAY, Warden, Mesa Verde ICE
processing center; 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.:

**PETITION FOR WRIT OF HABEAS
CORPUS**

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

INTRODUCTION

1. Sam SARFARZI-ESFAHARI, also known as Sam BEHPOOR, is an Iranian national who currently has an order in deferral of his removal under United Nations, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, December 10, 1984, U.N.T.S. 85 in Article III where it states, "No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he

would be in danger of being subjected to torture.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.”
3. Despite this, Petitioner has now been detained by U.S. Immigration and Customs Enforcement (ICE) for 3 days.
4. Petitioner challenges his detention as a violation of Article III of the Convention Against Torture, Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment.
5. 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

6. Petitioner is in the physical custody of Respondents. Petitioner is imprisoned at Mesa Verde Detention Center, an immigration detention facility, in Bakersfield, California. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

7. 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

8. 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

9. Petitioner is currently detained by Respondents at Mesa Verde Detention Center, an immigration detention facility. He has been in ICE custody since on or about June 23, 2025, when he was arrested at the Fresno Immigration and Customs Enforcement Office (ICE).
10. Respondent Ron Murray is the Warden of the Mesa Verde facility, where Petitioner is currently detained. He is a legal custodian of Petitioner and is named in her official capacity.
11. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Petitioner and is named in his official capacity.
12. Respondent Kristi Noem is the Secretary of the United States Department of Homeland Security (DHS). She is a legal custodian of Petitioner and is named in her official capacity.
13. Respondent Pamela Jo Bondi is the Attorney General of the United States Department of Justice. She is a legal custodian of Petitioner and is named in her official capacity.

STATEMENT OF FACTS

14. Petitioner came to the United States on June 24, 1987, as a B2 Visa holder. He was then admitted into the United States as a Legal Permanent resident on January 21, 2000. Later, he was placed in removal proceedings where he was stripped of his lawful permanent residence

(“LPR”) status due to two counts of first-degree burglary in violation of for California Penal Code (“PC”) 459/460(a) which at the time were a crime involving moral turpitude and considered an aggravated felony due to the sentence he received.

15. His LPR status was revoked pursuant to INA § 237(a)(2)(A)(i) and (iii) for suffering a conviction for a crime involving moral turpitude committed within five years after admission for which a sentence of one year or longer may be imposed and for suffering a conviction for an aggravated felony at any time after admission and he was ordered removed from the United States.
16. However, the court granted him deferral of removal under Article III of the Convention Against Torture due to fear of torture in Iran. For purposes of this habeas petition is that Petitioner’s removal is still deferred according to Article III of the Convention Against Torture.
17. Subsequently, the 9th Circuit ruled in *Descamps v. U.S.*, 570 U.S. 254 (2013) that a crime of burglary in California is no longer a crime involving moral turpitude. Therefore, the conviction that he suffered no longer renders him inadmissible or deportable from the United States.
18. Petitioner has converted to Christianity and is devoted to attending a Men’s Group at his local church.
19. On October 25, 2024, he married a U.S Citizen and is legally able to readjust his status to that of lawful permanent resident.
20. On January 10, 2025, Petitioner filed a Motion to Reopen his proceedings because he is no longer deportable due to the change in law, and he can now readjust his status through his US Citizen wife. His Motion to Reopen was denied on March 30, 2025 due to being filed “untimely”.

21. On April 25, 2025, Petitioner through counsel filed an appeal with the Board of Immigration Appeals contesting the Immigration Judges denial of his Motion to Reopen.

22. On June 22, 2025, Petitioner was called into the Fresno ICE office for an alleged interview.

Petitioner complied with ICE's request and went to their office Monday morning, June 23, 2025. There, he was arrested and placed in custody and then subsequently transferred to the Mesa Verde Detention Facility where he is currently located.

23. On June 25, 2025, Petitioner through counsel filed an Emergency Motion to Stay Removal with the Board of Immigration Appeals.

LEGAL FRAMEWORK

I. WITHHOLDING OF REMOVAL AND RELIEF UNDER THE CONVENTION AGAINST TORTURE.

24. Non-citizens in immigration removal proceedings can seek three main forms of relief based on their fear of returning to their home country: asylum, withholding of removal, and CAT relief. Non-citizens may be ineligible for asylum for several reasons, including failure to apply within one year of entering the United States. See 8 U.S.C. § 1158(a)(2). There are fewer restrictions on eligibility for withholding of removal, *id.* § 1231(b)(3)(B)(iii), and no restrictions on eligibility for CAT deferral of removal. 8 C.F.R. § 1208.16.

25. To be granted CAT relief, a non-citizen must show that "it is more likely than not that he or she would be tortured if removed to the proposed country of removal." 8 C.F.R. § 1208.16(c)(2). An applicant for CAT relief must show a higher likelihood of torture than the likelihood of persecution an asylum applicant must demonstrate.

26. When an IJ grants a non-citizen withholding or CAT relief, the IJ issues a removal order and simultaneously withholds or defers that order with respect to the country or countries for which the non-citizen demonstrated a sufficient risk of persecution or torture. See *Johnson v. Guzman*

Chavez, 141 S. Ct. 2271, 2283 (2021). Once withholding or CAT relief is granted, either party has the right to appeal that decision to the BIA within 30 days. See 8 C.F.R. § 1003.38(b). If both parties waive appeal or neither party appeals within the 30-day period, the withholding or CAT relief grant and the accompanying removal order become administratively final.

27. When a non-citizen has a final withholding or CAT relief grant, they cannot be removed to the country or countries for which they demonstrated a sufficient likelihood of persecution or torture. See 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 1208.17(b)(2). While ICE is authorized to remove non-citizens who were granted withholding or CAT relief to alternative countries, see 8 U.S.C. § 1231(b); 8 C.F.R. § 1208.16(f), the removal statute specifies restrictive criteria for identifying appropriate countries. Non-citizens can be removed, for instance, to the country “of which the [non-citizen] is a citizen, subject, or national,” the country “in which the [non-citizen] was born,” or the country “in which the [non-citizen] resided” immediately before entering the United States. 8 U.S.C. § 1231(b)(2)(D)-(E).

28. If ICE identifies an appropriate alternative country of removal, ICE must undergo further proceedings in immigration court to effectuate removal to that country. See *Jama v. ICE*, 543 U.S. 335, 348 (2005) (“If [non-citizens] would face persecution or other mistreatment in the country designated under § 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1); withholding of removal, § 1231(b)(3)(A); [and] relief under an international agreement prohibiting torture, see 8 CFR §§ 208.16(c)(4), 208.17(a) (2004) . . .”); *Romero v. Evans*, 280 F. Supp. 3d 835, 848 n.24 (E.D. Va. 2017) (“DHS could not immediately remove petitioners to a third country, as DHS would first need to give petitioners notice and the opportunity to raise any reasonable fear claims.”), rev’d on other grounds, *Guzman Chavez*, 141 S. Ct. 2271.

II. ACTIONS TAKEN BY THE CURRENT GOVERNMENT REGARDING DEPORTATION

OF PERSONS FROM THE UNITED STATES

29. On January 20, 2025, President Donald Trump signed several executive actions relating to immigration, including “Protecting the American People Against Invasion,” an executive order (EO) setting out a series of interior immigration enforcement actions. This EO instructs the DHS Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures “that protect the public safety and national security interests of the American people, including by ensuring the successful enforcement of final orders of removal.”
30. On February 18, 2025, “DHS issued an internal guidance document directing officers to review for removal all cases on the non-detained docket and to determine the viability of removal to a third country” *Department of Homeland Security, et al. v D.V.D, et. Al*, 606 U.S. (2025).
31. On March 30, 2025, “DHS issued a second guidance document, which contained a two-step process for executing third country removals. If a country provides the United States with what DHS believes to be “credible” assurances that aliens removed from the United States will not be persecuted or tortured, then (the policy says) DHS may remove the noncitizen to that country without any process” *id.*
32. On June 23, 2025, The United States Supreme Court granted in *Department of Homeland Security, et al. v D.V.D, et. Al*, 606 U.S. (2025), a stay submitted by the current administration to allow them to continue to deport foreign nationals located in the United States without due process. Justice Sotomayor in her dissent stated, “In matters of life and death, it is best to proceed with caution. In this case, the Government took the opposite approach...I cannot join so gross an abuse of the Court’s equitable discretion” *id.*
33. On the same day, DHS released a statement from the Assistant Secretary Tricia McLaughlin that, “DHS can now execute its lawful authority and remove illegal aliens to a country willing

to accept them. Fire up the deportation planes”.¹ In Justice Sotomayor’s dissent she states, “The Government has made clear in word and deed that it feels itself unconstrained by law, free to deport anyone anywhere without notice or opportunity to be heard” *Department of Homeland Security, et al. v D.V.D, et. Al*, 606 U.S. (2025).

34. These actions have resulted in Respondents adopting a blanket policy under which ICE is currently arresting, detaining, and deporting people like Petitioner, who have a prior final order of removal that has been stayed through the Convention Against Torture relief mechanism, and without individualized consideration of their cases. Under these new policies, ICE/ERO is attempting to detain, transfer, and deport Petitioner to a third country with no due process considerations, including denying Petitioner and those in the same situation a meaningful opportunity to challenge removal to a third country.

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF THE DUE PROCESS CLAUSE

OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

35. Petitioner realleges and incorporates by reference each and every allegation contained above.

36. 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).

37. Petitioners’ detention violates the Due Process Clause because there is real harm that he will be arbitrarily sent to a third country without Due Process and without any meaningful chance to

¹ <https://www.dhs.gov/news/2025/06/23/dhs-releases-statement-major-victory-trump-administration-and-american-people>

contest the third country destination. Currently under this administration, the blanket policy to detain, transfer and deport aliens is (1) arbitrary and capricious and (2) a violation of their procedural due process rights.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray 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. 1254a;
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 until his appeal with the Board of Immigration Appeals is finalized;
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.

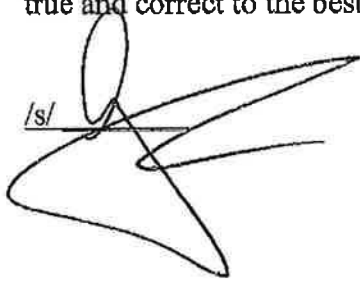
Dated: June 25, 2025

Respectfully submitted,


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, including the statements regarding Petitioner's CAT relief status, are true and correct to the best of my knowledge.

/s/ 

Date: June 25, 2025