

**UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MARYLAND**

MAZIAR MOSBERIAN TANHA,
Baltimore Holding Cell,
31 Hopkins Plaza,
Baltimore, MD 21201,

Petitioner,

v.

WARDEN, Baltimore Detention Facility; NIKITA
SCOTT, Field Office Director, Baltimore 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.: 1:25-cv-02121

**PETITION FOR WRIT OF HABEAS
CORPUS**

ALIEN #



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

INTRODUCTION

1. Maziar Mosberian Tanha was born in Iran on September 16, 1985. He came to the United States on October 5, 2010, on a tourist visa. Because of his past persecution based by the authorities in the Islamic Republic of Iran, he sought protection from the United States and filed his application for asylum, withholding of removal and under the Convention Against Torture.

2. On December 14, 2016, he was granted Withholding of Removal by an immigration judge in Baltimore, Maryland after a full hearing and submission of evidence.
3. As a result of being granted Withholding of Removal, the petitioner has been able to obtain Employment Authorization from the Department of Homeland Security. Most recently his Employment Authorization Document was issued in the A10 category denoting withholding of removal granted on April 18, 2024. This Employment Authorization is valid until April 17 2029. *See* Exhibit A.
4. The petitioner herein has always complied with all terms and conditions as set by the Immigration & Customs Enforcement and has appeared at all appointments as requested. However, he is currently in custody in Baltimore, Maryland Hold Cell despite having done everything required of him by the Department of Homeland Security (“DHS”), Immigration & Customs Enforcement (“ICE”).
5. Despite his compliance, Petitioner has now been detained by ICE that detained him on July 1, 2025.
6. Petitioner’s return to Iran or a third country without a full hearing to determine his credible fear of return to a country that is currently an Islamic dictatorship, wherein, as recent events attest there has been crackdowns on dissidents, a usurpation of the democratic process, and killings, jailings and alleged torture for anyone who does not adhere to strict or religious and political beliefs of those in power. The petitioner, Mr. Mosberian Tanha, would surely suffer if removed from the United States to Iran or any other third country. There is an ongoing denial of basic human rights in Iran. His return to a third country would tantamount to an execution order as there is no assurance that the third country (chosen by ICE) would protect him against refoulement to the Islamic Republic of Iran and/or provide protections. The petitioner has no ties outside of the United States in any country and his return to Iran or any third country is

cruel and unjustified by the government of the United States, that has already given him protection in form of withholding of removal grant on December 14 2016.

7. Petitioner challenges his detention as a violation of the Immigration and Nationality Act (“INA”) and the Due Process Clause of the Fifth Amendment.
8. 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

9. Petitioner is in the physical custody of Respondents. Petitioner is imprisoned in an immigration detention facility, in Baltimore, Maryland. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

10. 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

11. 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

12. Petitioner is currently detained by Respondents at an immigration detention facility in Baltimore, Maryland. He has been in ICE custody since on or about June 23, 2025, when he was arrested by ICE agents.
13. Respondent Warden is in charge of the Baltimore holding facility, where Petitioner is currently detained. She is a legal custodian of Petitioner and is named in her official capacity.
14. Respondent Nikita Scott is the Field Office Director responsible for the Baltimore 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.
15. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Petitioner and is named in his official capacity.
16. Respondent Kristi Noem is the Secretary of the DHS. She is a legal custodian of Petitioner and is named in her official capacity.
17. Respondent Pamela Jo Bondi is the Attorney General of the United States. She is a legal custodian of Petitioner and is named in her official capacity.

STATEMENT OF FACTS

18. Petitioner came to the United States on October 5 2010 and sought protection from the United States by seeking asylum and withholding of removal based on past religious and political persecution.
19. He was granted Withholding of Removal by an immigration judge on December 14, 2016. *See* Exhibit B.

20. As part of the Withholding of Removal Order, the petitioner was advised that the United States will not effectuate his removal or deportation to Iran.
21. Since the date of this Order, the petitioner has fully complied with each condition and cooperated as necessary.
22. ICE officers took Petitioner into custody on July 1, 2025.
23. On July 1, 2025, his immigration counsel, Parastoo Golesorkhi Zahedi, sent an email to the ICE office and relevant supervisory officials at the Baltimore field office re being his counsel and the filing of the Habeas petition. It also included a form G-28 proof of legal representation. See Exhibits C and D.

CLAIMS FOR RELIEF

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

24. Petitioner reallege and incorporate by reference each and every allegation contained above.
25. 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).
26. Petitioners' 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.
27. Under the Fifth Amendment to the United States Constitution, those threatened with the loss of liberty or property due to actions by the federal government are entitled to due process of law.

28. Procedural due process requires in most cases, a hearing of some kind. *Mathews v. Eldridge*, 424

U.S. 319, 332-333, 96 S. Ct. 893, 901-902 (1976). The process due depends on three factors:

[f]irst, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Id. 424 U.S. at 335, 96 S. Ct. at 903.

29. The procedures employed by Defendants offered Petitioner no hearing, no notice, and no opportunity to be heard.

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
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, or, in the alternative barring his removable from the U.S. without a further order from this Court;
6. Award him reasonable attorney's fees pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
7. Grant him such further relief as this Court deems just and proper.

Dated: July 1, 2025

Respectfully submitted,

COUNSELS FOR PETITIONER

/s/Brian Scott Green

Brian Scott Green

U.S. District Court ID # 19493

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*Motion for admission *pro hac vice* forthcoming

Verification

I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

July 1, 2025

/s/Brian Scott Green

Brian Scott Green