

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

ALIREZA KHALEGHI AFROUZ,
Petitioner - Plaintiff,

v.

CARLOS D. CISNEROS, Assistant Field
Office Director, Port Isabel Service
Detention Center, U.S.. Immigration and
Customs Enforcement;
ORLANDO TORRES, SDDO Removals,
Port Isabel, Service Detention Center, U.S.
Immigration and Customs Enforcement;
DEPORTATION OFFICERS, unknown,
Port Isabel Service Detention Center, U.S.
Immigration and Customs Enforcement,
and
THE UNITED STATEA OF AMERICA,
Respondent - Defendants.

CIVIL ACTION
1: 25 - CV - 152

**PETITION FOR WRIT OF HABEAS CORPUS AND
COMPLAINT FOR DECLARATIVE AND INJUNCTIVE RELIEF**

1. Petitioner Alireza Khaleghi Afrouz ["Mr. Khaleghi Afrouz"] is being held in custody by United States Immigration and Customs Enforcement ["ICE"] in violation of the Constitution and Laws of the United States. He petitions for a writ of habeas corpus to remedy the situation, and a complaint for declarative and injunctive relief.

JURISDICTION

2. This Court has jurisdiction over this petition for a writ of habeas corpus pursuant to 28 U.S.C. §§ 1331 with 2241(c)(1) and (c)(3).
3. This Court has jurisdiction over the complaint pursuant to 28 U.S.C. § 1331 with the Administrative Procedure Act (“APA”), 5 U.S.C. § 551 *et seq.*
4. Because this suit seeks relief other than monetary damages and instead challenges the Defendants’ unlawful actions, the United States has waived sovereign immunity from this suit. 5 U.S.C. § 702.

VENUE

5. Venue in this Court is proper under 28 U.S.C. § 1391(c)(1) because Defendants are officers of the United States, acting in their official capacities and agencies of the United States.

PARTIES

6. Mr. Khaleghi Afrouz is being held in custody at the Port Isabel Service Detention Center, 27991 Buena Vista Boulevard, Los Fresnos, Texas, under the authority of United States Immigration and Customs Enforcement (“ICE”), which agency of the Department of Homeland Security has responsibility for the detention and removal of noncitizens.
7. Respondent-Defendant CARLOS D. CISNEROS is Facility Assistant Field

Office Director (acting as Warden) of the Port Isabel Service Detention Center, and has legal custody of Mr. Khaleghi Afrouz. He is being sued in his official capacity only.

8. Respondent-Defendant ORLANDO TORRES is Supervisory Detention and Deportation Officer ("SDDO") at the Port Isabel Service Detention Center and is responsible for ensuring that detention and removal procedures are carried out in accordance with the law and established protocols with regard to noncitizens in custody at the facility. He is being sued in his official capacity only.

9. Respondent-Defendants DEPORTATION OFFICERS work under the supervision of an SDDO to carry out the different stages involved in the detention and removal of noncitizens at the facility. They are sued in their official capacities only.

STATEMENT OF FACTS

10. Mr. Khaleghi Afrouz was born in Tehran in the Islamic Republic of Iran in 1988.

11. At one point, Mr. Khaleghi Afrouz fled violence in Iran and went to Turkey. In Turkey, Mr. Khaleghi Afrouz was introduced to Christianity. He was very attracted to Christianity, began to participate in Christian groups and study the religion, and in 2016, he was baptised in Isparta, Turkey by Pastor Kambriz Yousefi. He continues

to be an active and committed Christian.

12. Turkey offered no legal status or pathway for Mr. Khaleghi Afrouz. During a period of relative quiet in Iran, he returned. He continued to practice the Christian religion unobtrusively, but over time that practice became ever more dangerous for him. Apostasy is punishable by death under Islamic law. In periods of unrest and tension within Iran, arrest, followed by the death penalty becomes increasingly likely since apostasy is not simply a religious choice; in the Islamic state, leaders also consider it a political choice. In December of 2024, Mr. Khaleghi Afrouz finally concluded that he had no future in Iran and he was increasingly in danger.

13. In December 2024, Mr. Khaleghi Afrouz left Iran and traveled to the United States. Mr. Khaleghi Afrouz's native language is Farsi. He speaks rudimentary English now; when he entered the United States along the southern border (he is unsure where he entered), his command of English could be counted in words. Mr. Khaleghi Afrouz entered in a group, at the direction of a "guide" and was picked up with the group immediately after crossing the border sometime around 24 February 2025.

14. Mr. Khaleghi Afrouz remembers being questioned by an agent, but without a translator (counsel understands that communication was done through Google translate). He recalls indicating that he was seeking asylum.

15. Mr. Khaleghi Afrouz was detained— he is not sure where. He was interviewed by someone— it is not clear by whom. That interview was accomplished with an interpreter who spoke Farsi and English. That is the only time during the course of his detention that communications were translated to him (or to other Iranian detainees where he was detained) in a language he understood.
16. It was not until sometime in March of 2025 that Mr. Khaleghi Afrouz was able to contact a relative. A maternal aunt and her husband, were able to locate him detained at El Valle Detention Center (under the jurisdiction of the Port Isabel Processing Center). Communication was difficult in detention and Mr. Khaleghi Afrouz did not know what was happening with regard to “his case.”
17. On April 7, 2025, Mr. Alimansour Taghavi Modem (“Mr. Ali Modem”), Mr. Khareghi Afrouz’s uncle, contacted undersigned counsel to find out what was going on. Obtaining information has been very difficult.
18. On April 9, 2025, counsel went to El Valle to meet with the Mr. Khaleghi Afrouz. There was no time to arrange for an interpreter but the intention was to file a G-28, Notice of Entry of Appearance as Attorney, obtain copies of the documentation that had been given to the client regarding his case, and obtain information from the deportation officers regarding the status of the case.
19. Undersigned counsel did obtain a signature on the G-28. Mr. Khaleghi Afrouz

had been given no documentation at all. Speaking with Mr. Ali Modem, his uncle, counsel understood that there had been an interview a couple of months ago, and Mr. Khaleghi Afrouz had not been informed of the result— he was being told there was no decision yet.

20. Counsel returned to her office and filed the G-28 with ICE ERO via fax. Counsel had been informed the responsible officer was Officer Mendez, then Officer Escamilla, then Officer Bartamundi (sp?). Counsel was unable to reach Officer Mendez or any of the other officers for several days (and none responded to voice mails).

21. It appears that Mr. Khaleghi Afrouz was processed under the “Securing the Border” program, or an unknown variant thereof, a program that is and remains legally doubtful, and for good reason. *See*, Memorandum Opinion dkt. 71:7-8, *RAICES et al., v. Noem, et al.* No. 25-Civ.-306 (RDM) (D.D.C. 2 Jul.2025) (concluding that “neither the INA nor the Constitution grants the President or the Agency Defendants authority to replace the comprehensive rules and procedures set forth in the INA and the governing regulations with an extra-statutory, extra-regulatory regime for repatriating or removing individuals from the United States, without an opportunity to apply for asylum or withholding of removal and without complying with the regulations governing CAT protection.”). The cited case is now

a class action, and Mr. Afrouz Khaleghi is among the defined class members.

22. Communication with the Houston Asylum Office revealed that the Houston Asylum Office had not had contact with Mr. Khaleghi Afrouz, and had not interviewed him. Communication with AsylumD3Prescreening@uscis.dhs.gov elicited the response that “Your client was not referred to USCIS for a credible fear interview. There are no documents to serve on your office at this time.”

23. Reaching out to ICE at Port Isabel Detention Center did not result in a useful response to counsel, only in a statement that there was no decision on “the interview,” and at first, that he was not eligible for an Immigration Judge Review (“IJ Review”). Subsequently the latter changed to: he had “not asked for an IJ Review,” and then that he had failed the IJ Review. Finally, I heard from the client, through his uncle, that an officer had contacted Mr. Khaleghi Afrouz, and now told him that he had failed the interview and the IJ Review- no Farsi interpreter used, and no notification to Mr. Khaleghi Afrouz that there was an IJ Review. No documentation of any of this was ever provided to the client, or to counsel, although at one point, one of the deportation officers insisted that it was on his “module”— his computer monitor ?— and was irritated and offended when it was suggested that this was not sufficient.

24. At the end of April, undersigned counsel received a report from Mr. Khaleghi Afrouz’s uncle that he still had not received a “written negative decision regarding

his case.” “His deportation officer” (name unknown) had called all Iranian detainees at the facility to his office “and informed them that they would be deported directly to Iran. It was noted by one of the detainees that there had been no direct flights from the U.S. to Iran for the past 46 years, and the officer explained that the deportations would take place via another country.” It was indicated that this process would take one to three months. “The officer also mentioned that there is an issue with Alireza’s documents or case, but did not provide any specifics.” When asked for clarification, “the officer stated that since he has legal representation, the details would be shared directly with the attorney.” There was no interpreter at this meeting, other than another detainee with “some English,” “His attorney,” undersigned counsel, was never contacted, and in fact received no responses to her attempts to contact the officer to determine what the issue(s) with Mr. Khaleghi Afrouz’s case might be.

25. By June 4, 2025, undersigned counsel had ascertained beyond doubt that Mr. Khaleghi Afrouz was eligible for refugee status in Canada, pursuant to the U.S. Canada Safe Third Country Agreement, under the “family exception” through his maternal aunt (and her husband) both of whom are Canadian citizens. Moreover, counsel had received all necessary documentation establishing that fact. There had been some delay, owing to a miscommunication between undersigned counsel and his family. On June 4, 2025, however, counsel put together a cover and package of

documents, explaining that this was possible and why, and went to see the client at Port Isabel Detention Center, with a telephone interpreter, which facilitated communication immensely. We discussed his case, his frustration about the total lack of communication and information about what was going on from ICE, and his desire to go to Canada. Counsel had a package prepared to hand to the officer who was allegedly now on Mr. Khaleghi Afrouz's case. The officer was "not available" and no one else would accept it. Counsel subsequently spoke to another deportation officer (Officer Bartamundi (sp) who stated he was no longer on the case), who informed counsel that this could not be done. Officer Bartamundi had no reasonable explanation for why this could not be done, despite 8 U.S.C. § 1225(b)(2)(A). A few days later, another deportation officer told Mr. Khaleghi Afrouz that it was now "too late" to seek and arrange removal to Canada.

26. On or about July 1, 2025, Mr. Khaleghi Afrouz disappeared from the ice-online detainee locator system. After several days that he had been processed and loaded on to a bus with four other Iranians and transported to Houston (in abominable conditions) for removal to Iran (again no explanation through an interpreter at any time). In Houston, he and the others were held, with little food or water, then taken to a plane. Mr. Khaleghi Afrouz refused to cooperate, rightfully, and ultimately was brought back. In the end, the connecting flight to Tehran, though Doha, was

cancelled, and all detainees from Iran were returned to detention.

27. Currently client remains at Port Isabel Detention Center.

STATEMENT OF APPLICABLE LAW

28. Mr. Khaleghi Afrouz has been detained for almost five months. For two of those months, he was unable to communicate with his family or an attorney. The question is why? It is not totally clear how he was “processed,” but it is clear that it did and does not conform to any known legal and acceptable processes.

29. The statute is not ambiguous:

Any alien who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival)...., irrespective of such alien’s status, may apply for asylum in accordance with this section, or where applicable, section 235(b).

8 U.S.C. §1158(a)(1).

If on encountering an alien, at a port of entry, or within the United States,

An immigration officer determines that an alien ... is inadmissible ... and the alien indicates either an intention to apply for asylum ... or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer...

8 U.S.C. § 235(b)(1)(A).

There is an exception to this, however, at 8 U.S.C. § 1225(b)(2)(A), wherein the Attorney General can determine that the alien may be removed, “pursuant to a bilateral or multilateral agreement, to a country other than the country of the alien’s

nationality ... in which the alien's life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion," such as, in this case, Canada.

If the asylum officer "determines at the time of the interview that an alien has a credible fear of persecution..., the alien shall be detained for further consideration of an application for asylum." 8 U.S.C. § 1225(b)(1)(B)(ii). If the officer determines at the time of the interview that an alien "does not have a credible fear of persecution," the officer will order the alien removed from the United States, "without further hearing or review." 8 U.S.C. § 1225(b)(1)(B)(iii) (1). In the case of the latter, however, the officer "shall prepare a written record of a determination under subclause (I).

Such record shall include a summary of the material facts as stated by the applicant, such additional facts (if any) relied upon by the officer, and the officer's analysis of why, in the light of such facts, the alien has not established a credible fear of persecution. A copy of the officer's interview shall be attached to the written summary.

8 U.S.C. §1225((b)(1)(B)(iii(II).

This determination is to be provided to the alien (and to alien's representative of record), who may request prompt review by an immigration judge. Moreover, the Attorney General shall provide information concerning the asylum interview described in this subsection to aliens who may be eligible for an asylum interview,

and who “may consult with a person or persons of he alien’s choosing prior to the interview or any review thereof....” 8 U.S.C. §1225(b)(1)(B)(iv).

The statute also defines an “asylum officer,” as a person with “professional training in country conditions, asylum law, and interview techniques comparable to that provided to full-time adjudicators of applications under section 208” and “is supervised by an officer who meets the conditions described in clause (I) and has substantial experience adjudicating asylum applications.” 8 U.S.C. §1225(b)(1)(F).

In sum, even an alien, recently arriving at the port of entry, or within the United States after crossing the border, is entitled to the process decreed by statute.

In this case, Mr. Khaleghi Afrouz has been denied due process, or any discernable process at all. He has not been provided any documentation indicating why he is removable. He has not been provided a copy of the notes from his interview (and we are not sure if he was actually interviewed by an “asylum officer” as defined by the statute) and if he was denied at all, much less of any reasons he might have been denied. He was never informed of, nor provided with the ability to exercise his right to consult with anyone (such as an attorney) before the interview, nor was he informed of his right to a review by an immigration judge. In fact, there is no evidence that there ever was an IJ Review, despite the changing allegations by different deportation officers. Certainly, if there were such a review, Mr. Khaleghi

Afrouz was not informed, nor was he present.

Mr. Khaleghi Afrouz has been held for almost five months, without being informed of what he is being charged with or what his rights are. He has been denied access to an attorney before the procedures alleged to have occurred actually did occur (and it is questionable), and he has been denied any information about the conclusions which ICE insists warrant his forcible removal to Iran, a country to which he has a very solid fear of persecution should he be forcibly returned there.

CAUSES OF ACTION

HABEAS CORPUS

30. Plaintiff incorporates by reference, as if fully set forth herein, the allegations in paragraphs 1 - 29 above.

31. Mr. Khaleghi Afrouz's detention for going on five months, has violated his rights to procedural and substantive due process under the law, as guaranteed by the Fifth Amendment of the United States Constitution.

32. Mr. Khaleghi Afrouz seeks relief related to his custody status that will allow him to, or will facilitate his travel to the border with Canada (his aunt and uncle are eager and willing to pay for such travel, and with counsel are eager and willing to arrange for his reception at the Peace Bridge) and seek entry pursuant to the Canada-United States Safe Third Country Agreement under the "family exception," as he is

entitled to do.

CAUSE OF ACTION

ADMINISTRATIVE PROCEDURE ACT

33. Plaintiff incorporates by reference, as if fully set forth herein, the allegations in paragraphs 1 - 32 above.

34. Congress has established by law that if a foreign presents at a port of entry, or is encountered within the United States and is deemed inadmissible under the Immigration and Nationality Act, but indicates that he has a fear of returning to his country, or simply asks for asylum, an established procedure must be followed and documented, as noted in paragraph 29 above.

35. Evidence and documentation have been requested, but never provided that any part of the procedure established by statute was followed prior to seeking to remove Mr. Khaleghi Afrouz forcibly to Iran, a country where any reasonable human being (particularly anyone who has read the latest U.S. Department of State Report on Human Rights Iran) would believe he would be in serious danger of imprisonment and persecution on account of his adoption of Christianity, and his flight seeking asylum in the United States. In fact, Mr. Khaleghi Afrouz has never been informed in his native language of why he is being detained, why he was not given an

opportunity to consult with an attorney, why he was found to have no credible fear by an alleged asylum officer, and why he was not informed nor permitted to be present (with an attorney) at any alleged IJ Review, nor why an attempt was made to forcibly return him to a country where he legitimately fears persecution, and likely torture, nor why a safe alternative for him (and one considerably less expensive and difficult to effect than forcible removal to Iran), one permitted by law, was refused even a cursory consideration by ICE. From the beginning, Mr. Khaleghi Afrouz has been denied all process afforded to him by the Constitution and the statute. This failure to accord him the process defined is subject to judicial review in civil or criminal proceedings for judicial enforcement, and under the APA is cognizable in actions for declaratory judgment. *See* 5 U.S.C. § 703.

36. Scope of review is defined by 5 U.S.C. § 706:

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall —

(1) compel agency action unlawfully withheld or unreasonably delayed; and

(2) hold unlawful and set aside agency, action, findings, and conclusions found to be —

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(D) without observance of procedure required by law.

DECLARATORY AND INJUNCTIVE RELIEF

37. Plaintiff incorporates by reference as if fully set forth herein, the allegations in paragraphs 1 - 37 above.

38. Plaintiff seeks declaratory relief, setting aside the results of agency actions not in accord with the statute, recognizing his membership in the class action suit defined by the Court in *RAICES, et al. v. Noem, et al.* and by putting him in proceedings pursuant to 8 U.S.C. § 1229a and permitting him to pursue his asylum claim, or, preferably and much more easily accomplished, by facilitating his travel to Canada to seek relief there.

39. Finally, Plaintiff seeks injunctive relief, enjoining his removal from the jurisdiction of this Court until this complaint is adjudicated.

PRAYER FOR RELIEF

The Plaintiff requests that the Court grant the following relief:

- A. Find that Defendants have failed to provide Mr. Khaleghi Afrouz the due process to which he is entitled by the statute and by the Constitution;
- B. Find that Defendants have held him in detention and sought to remove

him forcibly without notice or due process;

- C. Issue an injunction, enjoining DHS/ICE from removing Mr. Khaleghi Afrouz from the jurisdiction of this Court until the case is resolved;
- D. Award reasonable costs and attorney fees; and
- E. Grant such other relief as the Court may deem just and proper.

Respectfully submitted,

s/ Cathy J. Potter

Cathy J. Potter
Attorney for Petitioner - Plaintiff
SDTX I.D. 1060322
Pennsylvania Bar Number 210071

Law Firm of Cathy J Potter PLLC
409 East Jackson Avenue
Harlingen, Texas 78550
(956) 622-3011 Telephone
(956) 622-3017 Facsimile
cpotter@cathypotterlaw.com

Courtesy copies have been sent to Nancy Masso, USAUSA, via email at nancy.masso@usdsoj.gov and to US DHS ICE at OPLAServiceIntake@ice.dhs.gov.

s// Cathy J. Potter