Joshua A. Altman (CA Bar No. 259565)
ALTMAN IMMIGRATION LAW, PC
6755 Mira Mesa Boulevard, Suite 123105
San Diego, CA 92121
Tel: (858) 251-0858
Fax: (858) 221-0175
josh@altman.law

Attorney for Petitioner

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MEHDI ROKHFIROOZ,

Petitioner,

v.

CHRISTOPHER J. LAROSE, Senior Warden, Otay Mesa Detention Center; JOSEPH FREDEN, Acting Field Office Director, U.S. Immigration and Customs Enforcement; TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary of United States Department of Homeland Security; and PAM BONDI, Attorney General of the United States,

Respondents.

Case No.: '25CV2053 RSH VET

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Petitioner Mehdi Rokhfirooz petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents' detaining him unlawfully, and states as follows:

INTRODUCTION

1. Mehdi Rokhfirooz is a forty-eight-year-old Iranian man detained at Otay Mesa Detention Center in San Diego, California. He submits this habeas petition under 28 U.S.C. § 2241 for a judicial check on Respondents' unlawful revocation of his release on an Order of Supervision and Unsupervised Parole ("OSUP") and detaining him without belief that his removal from the United States is reasonably foreseeable.

2. In June 2004, an immigration judge at the Immigration Court in San Diego, California, granted Rokhfirooz withholding of removal as to Iran, on account of the past persecution he suffered in that country because of his political activities as a member of a student group during his sophomore year at Tehran University.

3. The government released him from custody shortly after the IJ granted protection. And ICE issued him an OSUP on October 17, 2005. And from that time until June 2025, he dutifully reported to Immigration and Customs Enforcement (ICE) under OSUPs that required him to check in with ICE periodically.

4. But in June 2025, twenty-one years after an IJ granted him withholding of removal and ICE released him and nearly twenty years after ICE issued him an OSUP, without any notice—much less the process that was due—ICE officers arbitrarily canceled his OSUP, arrived at his door, and took him into custody. And only then did ICE officers begin to look for a third country to provide travel authorization.

5. ICE's withdrawal of Rokhfirooz's OSUP and subsequent detention was permissible only if ICE could demonstrate that removal could occur "in the reasonably foreseeable future" or if he had violated release conditions—neither of which occurred here. *See Zadvydas v. Davis*, 533 U.S. 678 (2001); 8 C.F.R. § 241.13(h)(4).

6. Under the Supreme Court's holding in *Zadvydas*, ICE may only detain individuals after the removal period if there is a "reasonable foreseeability" of removal within a predictable timeframe. Here, ICE's own actions in beginning to search for a third country only after taking Petitioner into custody demonstrate the absence of any such reasonable foreseeability.

7. Moreover, even assuming that ICE possessed theoretical authority to revoke release, the agency failed to meet mandatory procedural requirements, including the obligation to establish "a significant likelihood that the [non-citizen] may be removed in the reasonably foreseeable future" under 8 C.F.R. § 241.13(i)(2) and to provide him with notice of the specific reasons for revocation as 8 C.F.R. § 241.13(i)(3) requires. ICE's actions were all the more egregious because they occurred well beyond the ninety-day removal period established by law (*see* 8 U.S.C. § 1231(a)(1)(A)), and only after Rokhfirooz had been living lawfully in the community for two decades following an IJ's grant of withholding of removal.

8. ICE's arbitrary cancellation of Petitioner's OSUP and subsequent detention constitute flagrant violations of due process and regulatory law.

9. Absent review in this Court, no other neutral adjudicator will examine Rokhfirooz's plight: Respondents will continue—unchecked—to detain him—potentially indefinitely—unless or until they remove him to an as-yet-undetermined country, despite *Zadvydas*'s and the regulatory requirements. He thus urges this Court to review the lawfulness of his detention; declare that his detention is unlawful; and order either his immediate release or that Respondents provide him a bond hearing complying with the procedural requirements in *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011).

CUSTODY

10. Rokhfirooz is currently in Respondents' legal and physical custody. They are detaining him at the Otay Mesa Detention Center in San Diego, California. He is under Respondents' and their agents' direct control.

PARTIES

11. Petitioner Rokhfirooz is a citizen of Iran. He fled that country because he suffered past persecution and fears future persecution there. He arrived in the United States in August 2000 to seek asylum. An immigration judge granted him withholding of removal as to Iran in June 2004. And he was at liberty—and complying with all check-in obligations—until Respondents detained him on June 23, 2025.

12. Rokhfirooz is currently in Respondents' legal and physical custody at the Otay Mesa Detention Center in San Diego, California. CoreCivic, Inc., a Maryland corporation, operates that facility.

13. Respondent Christopher J. LaRose is the Senior Warden at the Otay Mesa Detention Center, where Rokhfirooz is being held. Respondent Larose is Rokhfirooz's immediate custodian. Rokhfirooz sues him in his official capacity.

14. Respondent Joseph Freden is the Acting Director of ICE's San Diego Field Office for Enforcement and Removal Operations. That office determines whether Rokhfirooz will be detained in ICE custody or released. Respondent Freden has custodial authority over Rokhfirooz, who names him in his official capacity.

15. Respondent Todd M. Lyons is the Acting Director of ICE. ICE is a component of the DHS, 6 U.S.C. § 271, and an "agency" within the meaning of the Administrative Procedure Act, 5 U.S.C. § 701(b)(1). It is the agency responsible for enforcing immigration laws, and it is detaining Rokhfirooz. Respondent Lyons has custodial authority over Rokhfirooz, who names him in his official capacity.

16. Respondent Kristi Noem is the Secretary of the DHS. DHS is the federal agency responsible for enforcing immigration laws and granting immigration benefits. *See* 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1. Respondent Noem has ultimate custodial authority over Rokhfirooz, who names her in her official capacity.

17. Respondent Pam Bondi is the Attorney General of the United States. She is responsible for the Immigration and Nationality Act's implementation and enforcement (*see* 8 U.S.C. §§ 1103(a)(1), (g)), and oversees the Executive Office for Immigration Review, the office that entered an order granting him withholding of removal as to Iran. Rokhfirooz names her in her official capacity.

JURISDICTION AND VENUE

18. This action arises under the United States Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., INA § 101 et seq., to challenge Rokhfirooz's detention under the INA and any inherent or plenary powers the government may claim to continue holding him.

19. This Court has jurisdiction under 28 U.S.C. § 1331, § 2241; 5 U.S.C. §§ 701–706 (Administrative Procedure Act, "APA"); and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2, and the Fifth and Eighth Amendments of the United States Constitution. Jurisdiction is not limited by a petitioner's nationality, immigration status, or any other classification. *See Boumediene v. Bush*, 553 U.S. 723, 747 (2008). The Court may grant relief under the Suspension Clause; the Fifth and Eighth Amendments; 5 U.S.C. § 706 (APA); and 28 U.S.C. §§ 1361 (Mandamus Act), 1651 (All Writs Act), 2001 (Declaratory Judgment Act), and 2241 (habeas corpus).

20. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review Rokhfirooz's detention and his challenge to the government's arbitrary cancellation of his OSUP. Federal district courts possess broad authority to issue writs of habeas corpus when a person is held "in custody in violation of the

Constitution or laws or treaties of the United States" (28 U.S.C. § 2241(c)(3)), and this authority extends to immigration detention challenges that survived the REAL ID Act's jurisdictional restrictions. Because Rokhfirooz seeks the traditional habeas remedy of release from allegedly unlawful detention, his petition presents precisely the type of threshold legality-of-detention question that § 2241 was designed to address. *See INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *see also Lopez-Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020) (citing *Singh,* 638 F.3d at 1211-12)). And federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. See, *e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). No court has ruled on the legality of Rokhfirooz's detention.

21. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (e)(1) because a substantial part of the events or omissions giving rise to this claim have happened here, Rokhfirooz is detained here, and his custodian resides here. Venue is also proper under 28 U.S.C. § 2243 because Rokhfirooz's immediate custodian resides in this District. *See Rumsfeld v. Padilla*, 542 U.S. 426, 451-52 (2004) (Kennedy, J., concurring).

FACTUAL BACKGROUND

22. Rokhfirooz is a native and citizen of Iran, born in Esfahan, Iran, in [redacted]1977.

23. DHS placed Rokhfirooz in removal proceedings in December 2003, after Rokhfirooz's U.S. citizen wife withdrew the visa petition she filed on his behalf, causing U.S. Citizenship and Immigration Services to deny the adjustment of status application he filed in January 2002.[1]

[1] Rokhfirooz and his wife are still married. And Rokhfirooz has a visa petition based on that marriage currently pending before USCIS.

24. Rokhfirooz's counsel waived his right to pursue asylum, conceding that Rokhfirooz was time-barred from pursuing that relief, which requires applying within one year of the applicant's last entry unless an exception applies.[2]

25. On June 17, 2004, an IJ at the Immigration Court in San Diego, California, entered a removal order against Rokhfirooz and granted him withholding of removal as to Iran under both the Immigration and Nationality Act and the Convention Against Torture. The IJ's order included a handwritten annotation stating that Rokhfirooz could move to reopen the removal proceedings for the IJ to enter a voluntary departure order if the government were to find a third country for removal.

26. On information and belief, ICE release Rokhfirooz shortly after the IJ entered the order withholding his removal to Iran. And on October 17, 2005, ICE issued Rokhfirooz an OSUP.

27. In January 2011, San Diego police officers arrested Rokhfirooz in relation to a domestic incident. But they released him without charges or any future court dates. ICE issued a detainer, so when they released Rokhfirooz, San Diego police released him to ICE, which then in turn released him on his existing OSUP, advising him of his release and reporting requirements.

28. In December 2012, federal officers arrested Rokhfirooz in connection with a prosecution against his employer. He posted bond on December 20, 2012. And ICE issued him a new OSUP the next day, December 21, 2012. Prosecutors later dropped all charges against Rokhfirooz after his employer explained to authorities that Rokhfirooz and the other manager were not involved.[3]

---

[2] His immigration counsel inexplicably failed to raise Rokhfirooz's one-step adjustment of status process as supporting an exception to the one-year-filing deadline.

[3] *See United States v. Bahador*, No. 3:12-cr-05229-JAH-3 (S.D. Cal. filed Dec. 20, 2012) (proceedings terminated as to defendant Rokhfirooz, June 12,

29. After those incidents, and as he had with the OSUP issued on October 17, 2005, Rokhfirooz dutifully checked in with ICE under the OSUP issued on December 21, 2012, until ICE arrested him at his home on June 23, 2025.

30. On June 23, 2025, ICE officers arrived at Rokhfirooz's residence at and proceeded to arrest him.

31. On information and belief, prior to his detention, Petitioner was given no notice of ICE's intention to re-detain him, and he was not provided with any information about why his OSUP was presumably revoked.

32. On information and belief, ICE has no particularized evidence that Petitioner can be removed to any third country.

33. On information and belief, Petitioner has not received an individualized hearing before a neutral decisionmaker to assess whether his recent re-detention is warranted due to danger or flight risk.

34. Upon Rokhfirooz's detention, his counsel apprised ICE of his representation by counsel; his receipt of withholding of removal to Iran based on persecution he suffered in that country; and his fear of removal to third countries based on his actual or imputed political opinions, his ties to the United States (including that he is married to a United States citizen), and the documented practices of those third countries to hold noncitizens in conditions rising to torture.

35. On June 24, 2025, his counsel provided Rokhfirooz a Letter of Representation to provide his assigned deportation officer, Deportation Officer Diaz. Ex. C. On June 25, 2025, and again on July 2, 2025, his counsel emailed a fully executed appearance form to ICE's Detained Unit at the detention center, requesting that DO Diaz contact him as soon as possible. Ex. D.

2014); Kristina Davis, Drug Dealers' Car Dealers Plead Guilty, SAN DIEGO UNION-TRIBUNE, July 12, 2014.

36. When neither the Detained Unit nor DO Diaz responded, on July 3, 2025, his counsel then emailed the ICE, Office of the Principal Legal Advisor, San Diego Field Location's Duty Attorney. Ex. E. His counsel explained that Rokhfirooz's assigned officer, DO Diaz, had not yet contacted him—despite emails and voicemail messages—to discuss Mr. Rokhfirooz's detention and ICE's intentions; that another officer, DO Lara, had told him by phone that he saw no reason in the record why ICE detained Rokhfirooz; and that another officer, DO Aguilar, had speculated about the reasons but advised contacting OPLA. He requested that the OPLA Duty Attorney contact him as soon as possible. Again, no one responded.

37. Finally, on July 8, 2025, more than two weeks after ICE officers arrested Rokhfirooz at his home, Rokhfirooz's newly assigned deportation officer, DO Christopher L. Bergman, called Rokhfirooz's counsel. He told counsel that Rokhfirooz's removal was not imminent, he had not yet begun work on Rokhfirooz's case, and he would soon begin contacting three countries for travel authorization; and he emailed Rokhfirooz's counsel to provide his contact information. Ex. F. Rokhfirooz's counsel replied with additional information about Rokhfirooz's receipt of withholding of removal and his fear of removal to third countries, explained why ICE lacked authority to detain Rokhfirooz as the removal period had ended long ago and no event had made his removal reasonably foreseeable, and that—to the contrary—Rokhfirooz is the subject of a pending Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, which he filed with U.S. Citizenship and Immigration Services on July 1, 2025, and when granted, will support his adjustment of status to lawful permanent residence; and he attached the Letter of Representation and a full copy of the Form I-360 filing and proof of delivery. Ex. F.

38. In a phone call on July 16, 2025, DO Bergman apprised Rokhfirooz's counsel that he had sent requests to Canada, the United Kingdom, and Ireland on

July 12, 2025, had received a negative travel response from Canada, was still awaiting travel responses from the UK and Ireland, and expected to prepare a memorandum on release for headquarters review shortly after receiving those responses or on August 11, 2025 (thirty days after July 12, 2025).

39. On July 24, 2025, Rokhfirooz's counsel again spoke with DO Bergman by phone. DO Bergman asked that he email his request for an update, which he did. Ex. F.

40. When he received no response, Rokhfirooz's counsel called DO Bergman back on July 28, 2025. DO Bergman stated he had still received no responses from the United Kingdom and Ireland and confirmed that he intended to send a memorandum on August 11, 2025, if he did not receive responses sooner. And he again confirmed that Rokhfirooz's removal was not imminent.

41. During their next phone call, on August 4, 2025, DO Bergman again confirmed that his current plan was to send a release memorandum on August 11, 2025. On questioning, DO Bergman apprised Rokhfirooz's counsel that he was unaware of any instance in which headquarters had approved a release in this context.

EXHAUSTION OF REMEDIES

42. Rokhfirooz has exhausted all administrative remedies, and no further ones are available.

LEGAL FRAMEWORK

43. Section 1231(a) of Title 8 governs the detention of individuals whom immigration courts have ordered removed. The statute commands ICE to detain these individuals for ninety days while it executes the removal order. See 8 U.S.C. § 1231(a)(2). The ninety-day removal period starts the moment the removal order becomes final. Absent an applicable exception, ICE must release the person under supervision if it cannot complete removal within ninety days. See 8 U.S.C. § 1231(a)(3).

44. Subsection 1231(a)(6) authorizes ICE to extend detention beyond the ninety-day period, yet it bars indefinite custody. *See Zadvydas*, 533 U.S. at 689 (limiting ICE's authority to a period "reasonably necessary" to carry out removal and prohibiting detention when removal is not "reasonably foreseeable").

45. Regulations allow ICE to release a non-citizen after the ninety-day removal period if the agency determines that the non-citizen "would not pose a danger to the public or a risk of flight, without regard to the likelihood of the [non-citizen's] removal in the reasonably foreseeable future." 8 C.F.R. § 241.13(b)(1). ICE typically places these individuals on an OSUP, as it has done with Rokhfirooz for the past twenty years. *See* 8 C.F.R. § 241.4(j); 8 C.F.R. § 241.13(h).

46. ICE may withdraw release approval if it can effectuate removal "in the reasonably foreseeable future" or if the non-citizen violates the release conditions. 8 C.F.R. § 241.13(h)(4). ICE may revoke release only when "there is a significant likelihood that the [non-citizen] may be removed in the reasonably foreseeable future." *Id.* § 241.13(i)(2). Upon revocation, ICE must notify the non-citizen of the reasons for the revocation. *Id.* § 241.13(i)(3).

FIRST CAUSE OF ACTION

Unlawful Revocation of Release

47. Rokhfirooz re-alleges and incorporates by reference, as if fully set forth herein, the allegations in paragraphs 1-46 above.

48. Rokhfirooz was previously detained by ICE and released because his removal could not occur. If he complies with the conditions of this OSUP, Respondents have the authority to revoke his release only if there is a significant likelihood that they can remove him in the reasonably foreseeable future. *See* 8 C.F.R. § 241.13(i)(2).

49. Respondents revoked Rokhfirooz's release without evidence that he can be removed to a third country. Indeed, at the time of his detention, ICE had

not even decided which country it would attempt to remove him to, let alone whether such removal could be done in the reasonably foreseeable future.

50. Respondents' actions are arbitrary, capricious, an abuse of discretion, and contrary to law. 5 U.S.C. § 706(a)(2)(A). Rokhfirooz is entitled to immediate release on an OSUP.

SECOND CAUSE OF ACTION

Violation of Procedures for Revocation of Release

51. Rokhfirooz re-alleges and incorporates by reference, as if fully set forth herein, the allegations in paragraphs 1-46 above.

52. The governing regulations require Respondents to notify Rokhfirooz of the reason for his re-detention. 8 C.F.R. § 241.13(i)(3). Respondents have not complied with this obligation, nor have they yet provided him with an initial interview at which he can respond to the purported reasons for revocation. *Cf. id.* As such, Rokhfirooz is entitled to immediate release on OSUP until ICE can provide the minimal process required by the regulations.

THIRD CAUSE OF ACTION

Unlawful Detention Where Removal is Not Reasonably Foreseeable

53. Rokhfirooz re-alleges and incorporates by reference, as if fully set forth herein, the allegations in paragraphs 1-46 above.

54. Post-removal order detention violates 8 U.S.C. § 1231(a)(6) where removal is not significantly likely to occur in the reasonably foreseeable future. *See also Zadvydas v. Davis*, 533 U.S. 678 (2001).

55. Detention where removal is not reasonably foreseeable also violates due process.

56. The ninety-day removal period ended in 2004. And ICE determined it could not effectuate Rokhfirooz's removal and issued him an OSUP. Given that the United States did not then find—and in the intervening decades has not since found—a third country for removal, Rokhfirooz has made an initial showing

under *Zadvydas* that his removal is not significantly likely. *Zadvydas*, 533 U.S. at 701. Respondents cannot rebut this showing, as they do not have any individualized evidence to believe that Rokhfirooz's removal is reasonably foreseeable, as demonstrated by DO Bergman's statements confirming that ICE had not yet begun to request travel authorizations for third countries two weeks after ICE officers re-detained Rokhfirooz.

57. Rokhfirooz's re-detention under these circumstances violates 8 U.S.C. § 1231 and the Due Process Clause under the United States Constitution.

58. Rokhfirooz is entitled to immediate release on an OSUP.

FOURTH CAUSE OF ACTION

Unlawful Detention Without Individualized Determination of Danger or Flight Risk

59. Rokhfirooz re-alleges and incorporates by reference, as if fully set forth herein, the allegations in paragraphs 1-46 above.

60. Detention violates 8 U.S.C. § 1231 and the Due Process Clause of the United States Constitution unless it is reasonably related to the government's purpose of preventing flight and protecting the community. *Zadvydas*, 533 U.S. at 690-91.

61. Before being re-detained, Rokhfirooz lived in the community for twenty-one years, in compliance with the terms of his OSUP. And he has received no process to determine whether his re-detention is warranted.

62. Rokhfirooz is entitled to an individualized determination by impartial adjudicators as to whether detention is justified based on danger or flight. *See also Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011).

PRAYER FOR RELIEF

Rokhfirooz asks this Court to grant the following relief:

1. Assume jurisdiction over this matter;

2. Issue the writ of habeas corpus and order Respondents to show cause, within three days of Rokhfirooz's filing this petition, why the relief he seeks should not be granted; and set a hearing on this matter within five days of Respondents' return on the order to show cause (*see* 28 U.S.C. § 2243);

3. Declare that Respondents have violated Rokhfirooz's rights;

4. Order Respondents to notify Rokhfirooz of the reasons for the revocation of his release and provide Rokhfirooz with a prompt interview as required by regulation;

5. Order Respondents to release Rokhfirooz from detention because they lack any individualized evidence that removal of Rokhfirooz will occur in the reasonably foreseeable future;

6. Order Respondents to release Rokhfirooz from detention absent an individualized determination by an impartial adjudicator that his detention is justified based on danger or flight risk, which cannot be sufficiently addressed by alternative conditions of release or supervision;

7. Enjoin Respondents from revoking Rokhfirooz's release unless they have individualized evidence that his removal is reasonably foreseeable;

8. Enjoin Respondents from revoking Rokhfirooz's release without providing him a determination by an impartial adjudicator that his detention is justified based on danger or flight risk, which cannot be sufficiently addressed by alternative conditions of release or supervision, at which hearing Respondents will bear the burden of proof of demonstrating that Rokhfirooz is a flight risk or a danger to the community;

9. Award reasonable attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, or any other applicable law; and

10. Grant any other relief that the Court may deem just and proper.

Dated: August 11, 2025

Respectfully submitted,

By: /s/ Joshua A. Altman
Joshua A. Altman

Attorney for Petitioner

TABLE OF EXHIBITS

Exhibit A: Order of the Immigration Judge

Exhibit B: Order of Supervision Documents

Exhibit C: Letter of Representation from counsel, dated June 24, 2025

Exhibit D: Emails from counsel to U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, OMDC Detained Unit, dated June 25, 2025, and July 2, 2025

Exhibit E: Email from counsel to U.S. Immigration and Customs Enforcement, Office of the Principal Legal Advisor, San Diego Field Location, Duty Attorney, dated July 3, 2025

Exhibit F: Emails from counsel to U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, Deportation Officer Christopher L. Bergman, dated July 8, 2025, and July 24, 2025

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I, Joshua A. Altman, do depose and state:

I represent Petitioner Rokhfirooz in these habeas corpus proceedings. Rokhfirooz is currently being held in detention at the Otay Mesa Detention Center and is not able to appear in my office to sign this Verification. I have reviewed the record of his detention and discussed this matter with Rokhfirooz. I verify that the information contained in the foregoing petition is true and correct to the best of my knowledge and belief.

Dated: August 11, 2025

By: /s/ Joshua A. Altman
Joshua A. Altman

Attorney for Petitioner