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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT COURT OF CALIFORNIA

HAVVA KHALILOVA

Petitioner,

v.

Kenneth C. Smith,
San Diego Field Office Director,
U.S. Immigration and Customs Enforcement,

Todd Lyons,
Acting Director of Immigration
Customs Enforcement ("ICE");

Kristi Noem,
Secretary of the U.S. Department of
Homeland Security

Pamela Bondi,
Attorney General of the United States

Defendants

CIVIL No. '25CV2140 JLS DDL

AGENCY CASE No:

A# 

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

Petitioner, Havva Khalilova, through undersigned counsel, alleges as follows:

INTRODUCTION

1. Petitioner, Havva Khalilova, respectfully petitions this Court for a writ of habeas corpus

1 under 28 U.S.C. § 2241, challenging her unlawful and indefinite detention by U.S.
2 Immigration and Customs Enforcement (“ICE”).

- 3
4 2. Petitioner has been detained at Otay Mesa Detention Center since December 1], 2024. On
5 July 28, 2025, an Immigration Judge granted her withholding of removal pursuant to INA
6 § 241(b)(3), recognizing that she faces persecution in her home country. Despite this final
7 grant of relief, ICE continues to detain her with no significant likelihood of removal in
8 the reasonably foreseeable future - but on Respondents’ interpretation of President
9 Trump’s whim and categorical determination that, the Fifth Amendment notwithstanding,
10 noncitizens are not entitled to due process¹.
11
12 3. Her continued confinement violates the Immigration and Nationality Act, *Zadvydas v.*
13 *Davis*, 533 U.S. 678 (2001), and the Due Process Clause of the Fifth Amendment.
14

15 **JURISDICTION AND VENUE**

- 16
17 4. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28
18 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution
19 (Suspension Clause).
20
21 5. Venue is proper in the Southern District of California pursuant to 28 U.S.C. § 1391(e)
22 because Petitioner is detained at Otay Mesa Detention Center in this District.
23
24 6. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq.,
25 the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. §
1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2)

26 ¹ See, e.g., NBC News, Meet the Press interview of President Donald Trump (May 4, 2025),
27 <https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donaldtrump-intervi>
28 [ewed-meet-press-mod-rcna203514](https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donaldtrump-intervi) (in response to a question whether noncitizens deserve due process
under the Fifth Amendment, President Trump replied “I don’t know. It seems—it might say that, but if
you’re talking about that, then we’d have to have a million or 2 million or 2 million trials.”).

1
2
3 **REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243 10.**

- 4 7. The Court must grant the petition for writ of habeas corpus or issue an order to show
5 cause (OSC) to the Respondents “forthwith,” unless the petitioner is not entitled to relief.
6 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return
7 “within three days unless for good cause additional time, not exceeding twenty days, is
8 allowed.” Id. 11. Courts have long recognized the significance of the habeas statute in
9 protecting individuals from unlawful detention.
10
11 8. The Great Writ has been referred to as “perhaps the most important writ known to the
12 constitutional law of England, affording as it does a swift and imperative remedy in all
13 cases of illegal restraint or confinement.” Fay v. Noia, 372 U.S. 391, 400 (1963). 12.
14 Petitioner is “in custody” for the purpose of § 2241 because she is arrested and detained
15 by Respondents.
16

17
18 **PARTIES**

- 19
20 9. Petitioner Havva Khalilova is a native and citizen of Azerbaijan, detained by ICE at Otay
21 Mesa Detention Center, 7488 Calzada de la Fuente, San Diego, CA 92154.
22 10. Respondent Kenneth C. Smith, is the San Diego Field Office Director for ICE -
23 Respondent U.S. Department of Homeland Security is the federal agency that has
24 authority over the actions of ICE and all other DHS Respondents.
25 11. Respondent Todd Lyons, Acting Director of Immigration Customs Enforcement (“ICE”),
26 responsible for custody decisions relating to non-citizens charged with being removable
27 from the United States, including the arrest, detention, and custody status of non-citizens.
28
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1 12. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS)
2 and has authority over the actions of all other DHS Respondents in this case, as well as
3 all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged
4 with faithfully administering the immigration laws of the United States.
5

6 13. Respondent Pamela Bondi is the Attorney General of the United States, and as such has
7 authority over the Department of Justice and is charged with faithfully administering the
8 immigration laws of the United States.
9

10 14. This action is commenced against all Respondents in their official capacities.
11

12 **FACTUAL BACKGROUND**

13
14 15. Petitioner has been detained by ICE at Otay Mesa Detention Center since December 1,
15 2024.
16

17 16. On July 28, 2025, Immigration Judge [Name] granted Petitioner withholding of removal
18 under INA § 241(b)(3).
19

20 17. This decision bars removal to her home country. ICE has not identified any third country
21 willing to accept Petitioner.
22

23 18. Despite the grant of protection, ICE refuses to release Petitioner and continues to detain
24 her without lawful justification.
25

26 19. Petitioner has no disqualifying criminal record that would warrant continued detention.
27
28

29 **LEGAL FRAMEWORK**

1 **I. Petitioner’s Detention Is Unlawful Under *Zadvydas v. Davis***
2

3 20. Under 8 U.S.C. § 1231(a)(6), detention following a removal order is authorized only to
4 effectuate removal.

5 21. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that detention under
6 § 1231(a)(6) is limited to a “presumptively reasonable period” of six months. Beyond
7 that, if there is no significant likelihood of removal in the reasonably foreseeable future,
8 detention is unlawful.
9

10 22. Because Petitioner has been granted withholding of removal, ICE is legally prohibited
11 from removing her to [Country], and no other country has accepted her. Removal is not
12 reasonably foreseeable.
13

14 23. Accordingly, Petitioner’s detention has exceeded the constitutional and statutory limits
15 set by *Zadvydas*.
16

17 **II. Ninth Circuit Precedent Bars Indefinite Detention**

18 24. The Ninth Circuit has consistently applied *Zadvydas* to prohibit prolonged or indefinite
19 detention:
20

- 21 • *Diouf v. Napolitano*, 634 F.3d 1081, 1089–90 (9th Cir. 2011) (detention under §
22 1231(a)(6) must remain reasonable and accompanied by procedural safeguards).
23 • *Rodriguez v. Marin*, 909 F.3d 252, 256–57 (9th Cir. 2018) (prolonged immigration
24 detention raises serious constitutional issues).
25

26
27 25. Petitioner’s detention is neither temporary nor tied to any legitimate removal purpose. It
28 is arbitrary detention, prohibited by both statute and constitutional law.

1 **III. Continued Detention Violates the Fifth Amendment**
2

3 26. The Fifth Amendment guarantees due process protections to all persons in the United
4 States, including noncitizens.

5 27. Substantively, ICE's continued detention of Petitioner — after an Immigration Judge
6 found her entitled to protection from removal — serves no legitimate purpose and is
7 punitive in effect.
8

9 28. Procedurally, ICE has failed to provide meaningful custody review despite the changed
10 circumstances created by the withholding grant, violating the due process requirements
11 outlined in *Diouf*.
12

13
14 **PRAYER FOR RELIEF**
15

16 WHEREFORE, Petitioner respectfully requests that this Court:

- 17 A. Issue a writ of habeas corpus directing Respondents to immediately release Petitioner;
18 B. Enjoin Respondents from continuing to detain Petitioner absent a lawful basis; and
19 C. Grant such further relief as the Court deems just and proper.
20

21
22 Dated: August 18, 2025

23 Respectfully Submitted,
24

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TABLE OF EXHIBITS

Exhibit A: Immigration Judge's withholding order (July 28, 2025)

Exhibit B: Custody records from ICE (showing detention since Dec 2024)

Exhibit C: Correspondence with ICE requesting release (August 2025).