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Attorneys for Petitioner

**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
Portland Division**

KHANI, Behzad

Petitioner,

v.

CAMILLA WAMSLEY, Seattle Field Office  
Director, Immigration and Customs  
Enforcement and Removal Operations  
("ICE/ERO"), TODD LYONS, Acting  
Director of Immigration Customs  
Enforcement ("ICE"), U.S. IMMIGRATION  
AND CUSTOMS ENFORCEMENT, KRISTI  
NOEM, Secretary of the Department of  
Homeland Security ("DHS"), U.S.  
DEPARTMENT OF HOMELAND  
SECURITY, and PAMELA BONDI, Attorney  
General of the United States.

Respondents.

Case No.

Agency No. A095-196-135

**PETITION FOR WRIT OF HABEAS  
CORPUS**

ORAL ARGUMENT REQUESTED

Expedited Hearing Requested

## INTRODUCTION

1. Petitioner, Behzad Khani (“Mr. Khani”), is a 64-year-old citizen of Iran who has lived in the United States for nearly twenty-five years. He is married and has two U.S. citizen children.
2. In 2003, an immigration judge granted Mr. Khani withholding of removal after finding his life or freedom would be threatened if he is removed to Iran.
3. Since 2016, Mr. Khani has been under an Order of Supervision issued by Immigration and Customs Enforcement (ICE). He has fully complied with all terms and conditions of the order.
4. Mr. Khani has never been convicted of a crime.<sup>1</sup> He owns NSK Construction LLC, a company registered to do business in Oregon and in Washington. He pays taxes and supports his wife and children.
5. Now, over 20 years after the grant of withholding, Respondents seek to detain Mr. Khani, separate him from his family and community, and deport him to a third country. Respondents do so based not on his personal circumstances or facts, but on Respondents’ interpretation of the Trump Administration’s mass deportation policy.
6. Accordingly, to uphold Petitioner’s rights, this Court should grant the instant petition for a writ of habeas corpus. Mr. Khani asks this Court to find that Respondents’ attempts to arrest, detain, and deport him are arbitrary and capricious and in violation of the law, and issue an order preventing his detention, transfer out of this district, and deportation.

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<sup>1</sup> In 2001, he was issued a citation for theft in the third degree (property value under \$100). There was no admission or finding of guilt, and the charge was dismissed. *See* Mult. Co. Or. Docket No. 0106-46707.

## JURISDICTION

7. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

8. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C. § 1651.

## VENUE

10. Venue is proper because Mr. Khani resides within the jurisdiction of the Portland ICE Field Office. Although Mr. Khani resides in Vancouver, Washington, venue is appropriate in Oregon because the order of supervision was issued in Portland, and all ICE check-ins occur in Oregon. For this reason, Respondents exercise custody and control over him in Portland, Oregon.

11. Mr. Khani's ICE in person check-in appointment is on September 2, 2025 in Portland, Oregon.

12. This petition is being filed while Mr. Khani is physically present in undersigned counsel's office in Lake Oswego, Oregon on September 2, 2025, before the ICE check-in appointment.

13. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondent's constructive custody. 28 U.S.C. § 1391(e).

14. Divisional venue in Portland is proper under Local Rule 3-2.

**REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

15. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents “forthwith,” unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

16. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

17. Petitioner is “in custody” for habeas purposes, even though not physically detained, because ICE’s Order of Supervision imposes significant restraints on his liberty, including restrictions on travel, mandatory check-ins, and the constant threat of re-detention and deportation. “[T]he Supreme Court has repeatedly held that the in-custody requirement [of 28 U.S.C. § 2241] is met where the Government restricts a petitioner’s freedom of action or movement,” including through an immigration order of supervision. *See Doe v. Barr*, 479 F. Supp. 3d 20, 26 (S.D.N.Y. 2020), *citing Jones v. Cunningham*, 371 U.S. 236 (1963) and *Spencer v. Kemna*, 523 U.S. 1, 7 (1998); *see also, e.g., Devitri v. Cronen*, 290 F. Supp. 3d 86, 90 (D. Mass. 2017) (finding the same); *Alvarez v. Holder*, 454 F. App’x 769, 772-72 (11th Cir. 2011) (same).

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## PARTIES

18. Behzad Khani (“Petitioner”) is a 64-year-old citizen of Iran who resides in Vancouver, Washington with his wife and two U.S. citizen children. He was granted withholding of removal from an immigration judge in 2003, and he is on an order of supervision and is required to appear in person at regular intervals with ICE in Portland, Oregon.

19. Respondent Camilla Wamsley is the Field Office Director for the Seattle Field Office, Immigration and Customs Enforcement and Removal Operations (“ICE”). The Seattle Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens. The Seattle Field Office’s area of responsibility includes Alaska, Oregon, and Washington. Respondent Wamsley is a legal custodian of Petitioner.

20. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of Respondent Camilla Wamsley and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

21. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

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

23. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

24. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

25. This action is commenced against all Respondents in their official capacities.

### LEGAL FRAMEWORK

26. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

27. Immigration detention is a form of civil confinement that “constitutes a significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).

28. “A deportation proceeding is a purely civil action to determine eligibility to remain in this country, not to punish an unlawful entry[.]” *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1038 (1984). “[I]mmigration proceedings are ‘civil, not criminal, and . . . nonpunitive in purpose and effect.’” *Jarpa v. Mumford*, 211 F. Supp. 3d 706, 713 (D. Md. 2016) (alteration in original) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)).

29. As the Supreme Court held in *Kansas v. Crane*, civil detention may not “become a ‘mechanism for retribution or general deterrence’—functions properly those of criminal law, not civil commitment.” 534 U.S. 407, 412 (2002) (quoting *Kansas v. Hendricks*, 521 U.S. 346, 372–74 (1997) (Kennedy, J., concurring)); *see also Hendricks*, 521 U.S. at 373 (Kennedy, J., concurring) (“[W]hile incapacitation is a goal common to

both the criminal and civil systems of confinement, retribution and general deterrence are reserved for the criminal system alone.”); *R.I.L.-R v. Johnson*, 80 F. Supp. 3d 164, 189–90 (D.D.C. 2015).

30. A noncitizen may not be removed to a country where they will suffer persecution on account of a protected ground, 8 U.S.C. § 1231(b)(3), or where they will be tortured by or at the acquiescence of a government official, 8 C.F.R. § 1208.16. This form of protection is called withholding of removal.

31. Congress established the statutory process for designating countries to which noncitizens may be removed, 8 U.S.C. § 1231(b)(1)-(3).

32. Subsection (b)(1) applies to noncitizens “[a]rriving at the United States,” including from a contiguous territory, but expressly contemplates arrival via a “vessel or aircraft.” It designates countries and alternative countries to which the noncitizen may be removed. 8 U.S.C. § 1231(b)(1)(B) (removal to contiguous country from which the noncitizen traveled), § 1231(b)(1)(C) (alternative countries).

33. Subsection (b)(2) applies to all other noncitizens, and like Subsection (b)(1), designates countries and alternative countries to which the noncitizen may be removed. 8 U.S.C. § 1231(b)(2)(A) (noncitizen’s designation of a country of removal), 1231(b)(2)(B) (limitation on designation), 1231(b)(2)(C) (disregarding designation), 1231(b)(2)(D) (alternative country), 1231(b)(2)(D) (alternative countries), 1231(b)(2)(E) (additional removal countries).

34. Both Subsections (b)(1) and (b)(2), have a specific carve-out provision prohibiting removal of persons to countries where they face persecution or torture. Specifically, § 1231(b)(3)(A), entitled “Restriction on removal to a country where [noncitizen’s] life or freedom would be threatened,” reads:

**Notwithstanding paragraphs [b](1) and [b](2), the Attorney General may not remove [a noncitizen] to a country if the Attorney General decides that the [noncitizen's] life or freedom would be threatened in that country because of the [noncitizen's] race, religion, nationality, membership in a particular social group, or political opinion.**

*Id.* § 1231(b)(3)(A) (emphasis added).

35. For noncitizens ordered removed, 8 U.S.C. §1231(a) permits the government to detain noncitizens during the “removal period,” which is defined as the 90-day period during which “the Attorney General shall remove the alien from the United States.” 8 U.S.C. §1231(a)(1)(A).

36. After the expiration of the removal period, 8 U.S.C. § 1231(a)(3) provides that the government shall release unremovable noncitizens on an order of supervision (the immigration equivalent of supervised release, with strict reporting and other requirements). Pursuant to 8 U.S.C. § 1231(a)(6), even noncitizens with aggravated felony convictions may be “released” if “subject to the terms of supervision” set forth in 8 U.S.C. § 1231(a)(3).

37. Constitutional limits on detention beyond the removal period are well established. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). “[W]here detention’s goal is no longer practically attainable, detention no longer ‘bear[s] [a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* at 690 (alterations in original) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Additionally, cursory or pro forma findings of dangerousness do not suffice to justify prolonged or indefinite detention. *Zadvydas*, 533 U.S. at 690–91 (“But we have upheld

preventive detention based on dangerousness only when limited to specially dangerous individuals [like suspected terrorists] and subject to strong procedural protections.”).

38. The purpose of detention during and beyond the removal period is to “secure[] the alien’s removal.” *Zadvydas*, 533 U.S. at 682. In *Zadvydas*, the Supreme Court “read § 1231 to authorize continued detention of an alien following the 90-day removal period for only such time as is reasonably necessary to secure the alien’s removal.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 699).

39. As the Supreme Court has explained, where there is no possibility of removal, immigration detention presents substantive due process concerns because the need to detain the noncitizen to ensure the noncitizen’s availability for future removal proceedings is “weak or nonexistent.” *Zadvydas*, 533 U.S. at 690–92. Detention is lawful only when “necessary to bring about that alien’s removal.” *See id.* at 689.

40. To balance these competing interests, the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a “reasonable period of detention” for noncitizens after a removal order. *Id.* at 700–01. The Court determined that six months detention could be deemed a “presumptively reasonable period of detention,” after which the burden shifts to the government to justify continued detention if the noncitizen provides a “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

41. Finally, after a removal order is executed, it can be reinstated from its original date under 8 U.S.C. § 1231(a)(5) only if “the Attorney General finds that an alien has reentered the United States illegally after having been removed or having departed voluntarily, under an order of removal[.]”

42. Pursuant to § 1231(b)(3)(A), courts repeatedly have held that individuals cannot be removed to a country that was not properly designated by an IJ if they have a fear of persecution or torture in that country. *See Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Kossov v. INS*, 132 F.3d 405, 408-09 (7th Cir. 1998); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004); *cf. Protsenko v. U.S. Att’y Gen.*, 149 F. App’x 947, 953 (11th Cir. 2005) (per curiam) (permitting designation of third country where individuals received “ample notice and an opportunity to be heard”).

43. On January 20, 2025, President Trump signed an Executive Order, entitled *Securing our Borders*, in which he instructed the Secretary of State, Attorney General, and DHS Secretary to “take all appropriate action to facilitate additional international cooperation and agreements, . . . , including [safe third country agreements] or any other applicable provision of law.” *See* Exec. Order No. 14165, 90 Fed. Reg. 8467, 8468 (Jan. 20, 2025).

44. On or about February 18, 2025, ICE issued a directive instructing officers to review cases for third country deportations and to re-detain previously released individuals, including individuals granted withholding or removal or CAT protection and individuals previously released because removal was not reasonably foreseeable.

45. On March 6, 2025, Reuters published a copy of the February 18, 2025, directive. Ted Hesson and Kristina Cooke, *Trump Weighs Revoking Legal Status of Ukrainians as US Steps Up Deportations*, Reuters (Mar. 6, 2025) (The article links to the directive [https://fingfx.thomsonreuters.com/gfx/legaldocs/gkpljxxoqpb/ICE\\_email\\_Reuters.pdf](https://fingfx.thomsonreuters.com/gfx/legaldocs/gkpljxxoqpb/ICE_email_Reuters.pdf) (last visited Aug. 27, 2025)). The directive expressly instructs officers to review the cases of noncitizens granted withholding of removal or protection under CAT “to determine the viability of removal to a third country and accordingly whether the [noncitizen] should be re-detained”

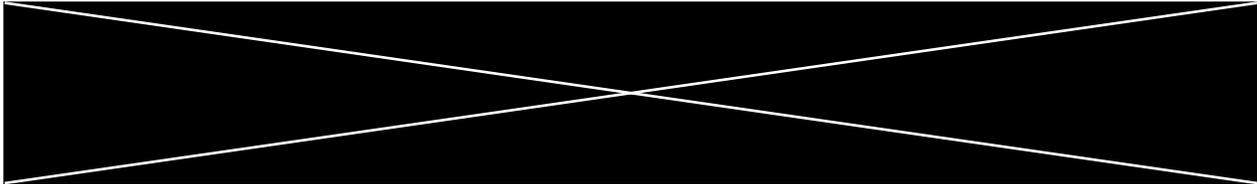
and, in the case of those who previously could not be removed because their countries of citizenship were unwilling to accept them, to “review for re-detention . . . in light of . . . potential for third country removals.”

46. Since on or about January 20, 2025, on information and belief, DHS has dramatically increased the number of individuals being re-detained and/or deported to third countries and being considered for deportation to a third country.

47. Petitioner believes that Respondents will detain and seek to remove him to a country other than Iran.<sup>2</sup>

### FACTUAL BACKGROUND

48. Petitioner is a citizen of Iran. He entered the United States on July 4, 2000, on a B-2 visa.



50. On September 5, 2003, the IJ denied Mr. Khani’s application for asylum because he did not apply within one year of his entry, but granted him withholding, restricting his removal to Iran. Mr. Khani does not currently possess a copy of the judge’s order, but he has a

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<sup>2</sup> See NYT “Inside the Global Deal-Making Behind Trump’s Mass Deportations – The administration is pushing nations around the world, including ones at war, to take people expelled by the U.S. government who are not citizens of those countries.” (June 25, 2025; updated June 26, 2025); NYT, “African Nation Says It Will Repatriate Migrants Deported by U.S. – The Trump administration sent five deportees to Eswatini, an African kingdom, saying that their own countries would not take them. But Eswatini says it will send them home” (July 16, 2025).

case status printout from the court's website and a work card that shows the code for someone granted withholding of removal (EXHIBIT 1).

51. Withholding of removal prohibits DHS from removing him to Iran, where his life or freedom would be threatened. See 8 U.S.C. § 1231(b)(3)(A).

52. Since 2016, DHS has required him to live under an Order of Supervision (EXHIBIT 2). He has complied fully, never missed a check-in, and never violated any conditions of the order of supervision.

53. Mr. Khani has never been convicted of a crime.

54. Mr. Khani is married to a Peruvian national, and the couple has two U.S. citizen children ages 21 and 13. Mr. Khani's wife has a pending application for adjustment of status (green card) based on the I-130 petition filed by their 21-year old U.S. citizen daughter (EXHIBIT 3).

55. Mr. Khani's daughter has also filed an I-130 petition for him and the petition is currently pending (EXHIBIT 4). He will also be eligible to apply for adjustment of status (green card) after the I-130 petition is approved and an immigration judge grants his motion to reopen his removal proceedings (based on the availability of new relief that was not available at the former hearing).

56. On January 20, 2025, President Donald Trump issued 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. The Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The "Protecting the American

People Against Invasion” EO instructs the DHS Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures including using mass detention.

57. Petitioner must report to Immigration and Customs Enforcement under his Order of Supervision on Tuesday, September 2, 2025 (EXHIBIT 2).

58. Despite his excellent ICE compliance record, his family ties, and his good moral character, Petitioner believes he will be detained at his ICE check in on September 2, 2025. Once detained, ICE will effectuate removal to a third country—a country where he has never lived, where no IJ has evaluated his protection claims, and where he may face risks of persecution and torture.

## **CLAIMS FOR RELIEF**

### **COUNT ONE**

#### **Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (C)**

59. The allegations in the above paragraphs are realleged and incorporated herein.

60. The APA entitles “a person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action . . . to judicial review.” 5 U.S.C. § 702.

61. The APA compels a reviewing court to “hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary [or] capricious, . . . otherwise not in accordance with law,” *id.* § 706(2)(A), or “short of statutory right,” *id.* § 706(2)(C).

62. Respondents have a policy or practice of failing to provide noncitizens who have final removal orders with meaningful notice and opportunity to present a fear-based claim prior to deportation to a third country.

63. Respondents' policy or practice is arbitrary and capricious. It deprives individuals with final removal orders of meaningful notice of DHS' intent to deport them to a third country and deprives them of an opportunity to present a fear-based claim to an immigration judge prior to deportation to a third country. It endangers their lives and safety by subjecting them to the very persecution and torture they fear in the third country.

64. In addition, Respondents' February 18, 2025 directive explicitly instructing DHS officers to review cases for removal to third countries and to re-detain individuals prior to providing notice of the third country and an opportunity to apply for protection is arbitrary and capricious and not in accordance with law because Respondents have no mechanism to ensure meaningful notice and an opportunity to present a fear-based claim prior to removal to a third country. As such, their civil detention is not tied to a lawful purpose.

65. Respondents' policy or practice is also not in accordance with law, short of statutory rights, and violates the Immigration and Nationality Act (INA), the Foreign Affairs Reform and Restructuring Act of 1998 (FARRA), and implementing regulations all of which mandate that Respondents refrain from removing Petitioner to a third country where they will likely be persecuted or tortured, thus requiring Respondents to provide meaningful notice of deportation to a third country and the opportunity to present a fear-based claim to an immigration judge before deporting an individual to a third country, yet Respondents do not do so.

66. Accordingly, the Court should hold unlawful and set aside Respondents' policy or practice of failing to provide noncitizens who have final removal orders with meaningful notice and opportunity to present a fear-based claim prior to deportation to a third country.

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67. The Court also should order Respondents to provide Petitioner with meaningful notice and opportunity to present a fear-based claim to an immigration judge before DHS deports a person to a third country, and should set aside Respondents' February 18, 2025 directive to re-detain Petitioner until he has been provided meaningful notice and opportunity to apply for protection.

**COUNT TWO**  
**Administrative Procedure Act, 5 U.S.C. § 706(1)**

68. The allegations in the above paragraphs are realleged and incorporated herein.

69. The APA empowers federal courts to “compel agency action unlawfully withheld or unreasonably delayed.” 5 U.S.C. § 706(1).

70. The INA, FARRA, and implementing regulations, and the Constitution mandate meaningful notice and opportunity to present a fear-based claim to an immigration judge before DHS deports a person to a third country. Respondents have unlawfully withheld the provision of these statutory, regulatory, and constitutional rights.

71. Accordingly, the Court should compel Respondents to provide Petitioner with meaningful notice and opportunity to present a fear-based claim to an immigration judge before DHS deports a person to a third country.

**COUNT THREE**  
**Fifth Amendment Due Process Clause and**  
**Administrative Procedure Act, 5 U.S.C. § 706(2)(D)**

72. The allegations in the above paragraphs are realleged and incorporated herein.

73. The INA, FARRA, and implementing regulations mandate meaningful notice and opportunity to present a fear-based claim to an immigration judge before DHS deports a person to a third country.

74. Petitioner has a due process right to meaningful notice and opportunity to present a fear-based claim to an immigration judge before DHS deports a person to a third country. *See, e.g., Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019). Petitioner also has a due process right to implementation of a process or procedure to afford these protections. *See, e.g., McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479, 491 (1991). Petitioner also has a due process right to not be re-detained pursuant to the February 18, 2025 directive because Respondents have no procedural protections to ensure meaningful notice and an opportunity to present a fear-based claim prior to removal to a third country. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The APA also compels a reviewing court to “hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

75. By failing to implement a process or procedure to afford Petitioner meaningful notice and opportunity to present a fear-based claim to an immigration judge before DHS deports a person to a third country and by re-detaining previously released individuals pursuant to the February 18, 2025 directive, Respondents have violated Petitioner’ substantive and procedural due process rights and are not implementing procedures required by the INA, FARRA, and the implementing regulations.

76. Accordingly, the Court should declare that Respondents have violated Petitioner’ constitutional right to due process and that the Due Process Clause affords Petitioner the right to a process and procedure ensuring that DHS provides meaningful notice and opportunity to present a fear-based claim to an immigration judge before DHS deports a person to a third country and ensuring that Petitioner is not re- detained pursuant to the February 18, 2025 directive.

77. The Court should enjoin Respondents from failing to provide Petitioner with meaningful notice and opportunity to present a claim for protection to an immigration judge before DHS deports a person to a third country. The Court should also set aside the implementation of the February 18, 2025 directive to re-detain Petitioner until Respondents provide meaningful notice and an opportunity to apply for protection.

#### **COUNT FOUR**

##### **Violation of 8 U.S.C. § 1231(a) and Fifth Amendment Due Process Clause**

78. The allegations in the above paragraphs are realleged and incorporated herein.

79. The INA requires mandatory detention of individuals with final removal orders only during the 90-day removal period. 8 U.S.C. § 1231(a)(2). A noncitizen who is not removed within that period “shall be subject to supervision under regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3).

80. While § 1231(a)(6) permits detention beyond the removal period in certain situations, “once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Zadvydas*, 533 U.S. at 699.

81. No statute permits Respondents to re-detain an individual who has been released under § 1231(a)(3) without evidence that removal is now reasonably foreseeable or that the individual has violated the conditions of their release.

82. 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.

83. Petitioner was not arrested in the past after an individualized custody determination that considered any danger or unmitigable flight risk. He has a liberty interest in remaining free from physical confinement where removal is not reasonably foreseeable, he has

not violated the conditions of his release, and where re-detention is unlawful because Respondents have not created a lawful mechanism to ensure that noncitizens receive meaningful notice and an opportunity to present a fear-based claim before deportation to a third country.

84. For these reasons, Respondents have violated the INA, implementing regulations, and the Due Process Clause of the Fifth Amendment.

#### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;
2. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
3. Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
4. Declare that Petitioner's revocation of his Order of Release on Recognizance is in violation of statute and regulation;
5. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
6. Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
7. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

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8. Grant any further relief this Court deems just and proper.

Dated: September 2, 2025.

*/s/ John J. Marandas*

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Attorneys for Petitioner

# EXHIBIT 1

 An official website of the United States government  
Here's how you know



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### Court Closures Today August 11, 2025

Please check <https://www.justice.gov/eoir-operational-status> for up to date closures.

[Home](#) > **KHANI, BEHZAD (095-196-135)**



# Automated Case Information

**Name: KHANI, BEHZAD | A-Number: 095-196-135**

## Next Hearing Information



*There are no future hearings for this case.*

## Court Decision and Motion Information

The immigration judge ordered **REMOVAL**.

### DECISION DATE

September 5, 2003

**COURT ADDRESS**

1220 SW 3RD AVENUE, SUITE 500  
PORTLAND, OR 97204

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**MOTION TO REOPEN, IJ JURISDICTION**

A Motion to Reopen IJ Jurisdiction was completed on **June 21, 2002**. It was  
**GRANTED.**



**BIA Case Information**

No appeal was received for this case.



**Court Contact Information**

If you require further information regarding your case, or wish to file additional documents, please contact the immigration court.

**COURT ADDRESS**

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Department of Justice | Executive Office for Immigration Review  
5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041



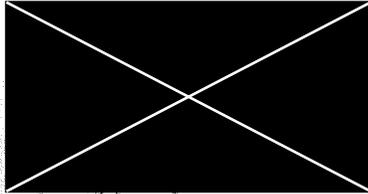
**EOIR** Automated Case Information

U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. Citizenship and Immigration Services

**EMPLOYMENT AUTHORIZATION CARD**

The person identified is authorized to work in the U.S. for the validity of this card.

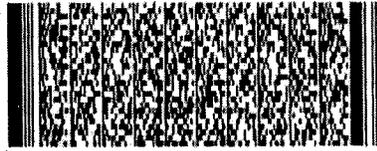
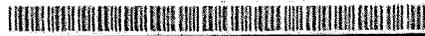
NAME KHANI, BEHZAD



NOT VALID FOR REENTRY TO U.S.

CARD VALID FROM 08/17/06 EXPIRES 08/16/07

9730805

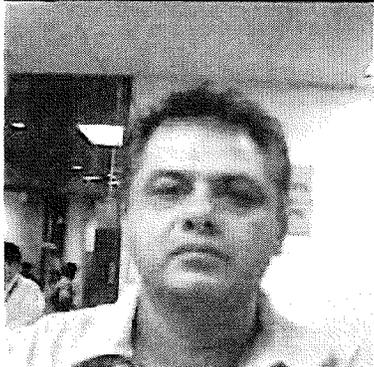
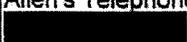


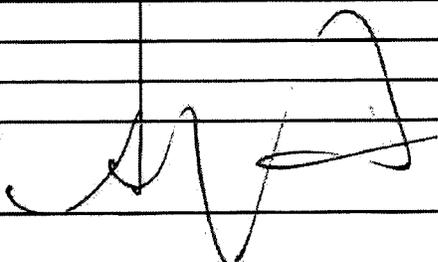
This card is not evidence of U.S. citizenship or permanent residence.  
This document is void if altered, and may be revoked by the  
U. S. Government FORM I-756 Rev. (05-2004)

# EXHIBIT 2

RS

DEPARTMENT OF HOMELAND SECURITY  
 U.S. Immigration and Customs Enforcement  
**ORDER OF SUPERVISION (Continuation Page)**

Alien's Name KHANI, Behzad	Picture 	Right Index Print 
File Number A 		
Date April 8, 2016		
Alien's Signature 		
Alien's Telephone Number (if applicable) 		
Alien's Address 		

PERSONAL REPORT RECORD		
Date	Officer	Comment / Changes
April 8, 2016	Adler, Deportation Officer	OSUP paperwork issued. Next Report Date: <b>October 12, 2016</b>
		Failure to comply with all conditions of this order may lead to issuance of a criminal citation, fines, detention, and/or criminal prosecution.
This form does not convey authorization to receive any type of public benefit or work authorization.		
JUL 20 2016	POO/KT	REPORTED: / NEXT REPORT DATE IS: <b>JAN 18 2017</b>
JAN 18 2017	POO 885	REPORTED: / NEXT REPORT DATE IS: <b>April 19, 2017</b>
APR 19 2017	POO 885	REPORTED: / NEXT REPORT DATE IS: <b>October 18, 2017</b>
OCT 18 2017	POO/DOA	REPORTED: / NEXT REPORT DATE IS: <b>4/11/18</b>
APR 11 2018	POO/LDP	Date Reported Next Report Date <b>SEP 12 2018</b>
9/12/18	POO/NDIC	Date Reported Next Report Date <b>6/12/19</b>
JUN 12 2019	POO/SSM	Date Reported Next Report Date <b>JUN 10 2020</b>
9/9/2019	POO	Reported Next Report date <b>SEP 9 2021</b>
SEP 08 2021	POO	REPORTED: / NEXT REPORT DATE IS <b>SEP 08 2022</b>
SEP 08 2022	POO/MOW	Date Reported Next Report Date <b>SEP 05 2023</b>
SEP 05 2023	POO	Reported, next report date is: <b>SEP 03 2024</b>
SEP 03 2024	TH	Date Reported Next Report Date <b>SEP 02 2025</b>
Signature		Title Deportation Officer

DEPARTMENT OF HOMELAND SECURITY  
U.S. Immigration and Customs Enforcement

ORDER OF SUPERVISION

File No: A95 196 135  
Date: April 8, 2016

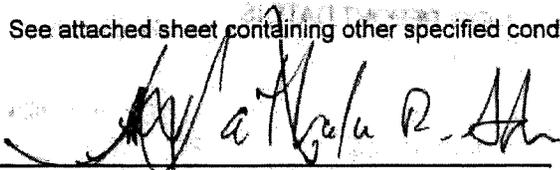
Name: KHANI, Behzad

On 04/11/2002, you were ordered:  
(Date of Final Order)

- Excluded or deported pursuant to proceedings commenced prior to April 1, 1997.
- Removed pursuant to proceedings commenced on or after April 1, 1997.

Because the agency has not effected your deportation or removal during the period prescribed by law, it is ordered that you be placed under supervision and permitted to be at large under the following conditions:

- That you appear in person at the time and place specified, upon each and every request of the agency, for identification and for deportation or removal.
- That upon request of the agency, you appear for medical or psychiatric examination at the expense of the United States Government.
- That you provide information under oath about your nationality, circumstances, habits, associations and activities and such other information as the agency considers appropriate.
- That you do not travel outside State of Oregon & Washington for more than 48 hours without first having notified this agency office of the dates and places, and obtaining approval from this agency office of such proposed travel.  
(Specify geographic limits, if any)
- That you furnish written notice to this agency office of any change of residence or employment 48 hours prior to such change.
- That you report in person on October 12, 2016 Between 9:00am & 3:00pm to this agency office at:  
4310 SW Macadam Ave, Portland OR 97239; tel: (503) 326-4165  
(Day/Date/Time) (Reporting address)
- That you assist U.S. Immigration and Customs Enforcement in obtaining any necessary travel documents.
- Others: \_\_\_\_\_
- See attached sheet containing other specified conditions (Continue on separate sheet if required)

  
(Signature of ICE Official)

Nathalie R. Asher, Field Office Director  
(Print Name and Title of ICE Official)

Alien's Acknowledgement of Conditions of Release under an Order of Supervision

I hereby acknowledge that I have (read) (had interpreted and explained to me in the English language) the contents of this order, a copy of which has been given to me. I understand that failure to comply with the terms of this order may subject me to a fine, detention, or prosecution.

  
(Signature of ICE Official Serving Order)

  
(Signature of Alien)

April 8, 2016  
Date

# EXHIBIT 3

**THIS NOTICE DOES NOT GRANT ANY IMMIGRATION STATUS OR BENEFIT.**

NOTICE TYPE <b>Receipt</b>		NOTICE DATE <b>June 30, 2025</b>
CASE TYPE <b>I-130, Petition for Alien Relative</b>		USCIS ALIEN NUMBER
RECEIPT NUMBER <b>IOE0932681115</b>	RECEIVED DATE <b>June 26, 2025</b>	PAGE <b>1 of 1</b>
PRIORITY DATE <b>June 26, 2025</b>	PREFERENCE CLASSIFICATION <b>201 B INA PARENT OF USC</b>	DATE OF BIRTH [REDACTED]

NINA B. KHANI  
C/O GRETEL M. NESS PARKER BUTTE AND LANE PC  
1200 NW NAITO PARKWAY STE 200 40 00012888  
PORTLAND, OR 97209

**PAYMENT INFORMATION:**

**Application/Petition Fee:** \$675.00  
**Total Amount Received:** \$675.00  
**Total Balance Due:** \$0.00



**APPLICANT/PETITIONER NAME AND MAILING ADDRESS**

We have received your form and are currently processing the above case for the following beneficiaries:

Name	Date of Birth	Country of Birth	Class (If Applicable)
SALGUERO VIVAS, GLADYS	[REDACTED]	PERU	

If this notice contains a priority date, this priority does not reflect earlier retained priority dates. We will notify you separately about any other case you filed.

If we determine you must submit biometrics, we will mail you a biometrics appointment notice with the time and place of your appointment.

If you have questions or need to update your personal information listed above, please visit the USCIS Contact Center webpage at [uscis.gov/contactcenter](https://uscis.gov/contactcenter) to connect with a live USCIS representative in English or Spanish.

**USCIS Office Address:**  
USCIS  
National Benefits Center  
P.O. Box 648003  
Lee's Summit, MO 64002

**USCIS Contact Center Number:**

(800)375-5283  
ATTORNEY COPY



**THIS NOTICE DOES NOT GRANT ANY IMMIGRATION STATUS OR BENEFIT.**

NOTICE TYPE Receipt		NOTICE DATE June 30, 2025
CASE TYPE I-485, Application to Register Permanent Residence or Adjust Status		USCIS ALIEN NUMBER
RECEIPT NUMBER IOE0932681114	RECEIVED DATE June 26, 2025	PAGE 1 of 1
PRIORITY DATE June 26, 2025	PREFERENCE CLASSIFICATION Parent of a U.S. citizen	DATE OF BIRTH

GLADYS A. SALGUERO VIVAS  
C/O GRETEL M. NESS PARKER BUTTE AND LANE PC  
1200 NW NAITO PARKWAY STE 200 40 00012886  
PORTLAND, OR 97209

**PAYMENT INFORMATION:**

Application/Petition Fee: \$1,440.00  
Total Amount Received: \$1,440.00  
Total Balance Due: \$0.00



**NAME AND MAILING ADDRESS**

We have received your form and are currently processing the above case. If this notice contains a priority date, this priority does not reflect earlier retained priority dates. We will notify you separately about any other case you filed.

If we determine you must submit biometrics, we will mail you a biometrics appointment notice with the time and place of your appointment.

If you have questions or need to update your personal information listed above, please visit the USCIS Contact Center webpage at [uscis.gov/contactcenter](https://uscis.gov/contactcenter) to connect with a live USCIS representative in English or Spanish.

**USCIS Office Address:**  
USCIS  
National Benefits Center  
P.O. Box 648003  
Lee's Summit, MO 64002

**USCIS Contact Center Number:**

(800)375-5283  
ATTORNEY COPY



**THIS NOTICE DOES NOT GRANT ANY IMMIGRATION STATUS OR BENEFIT.**

NOTICE TYPE Receipt		NOTICE DATE June 30, 2025
CASE TYPE I-765, Application for Employment Authorization		USCIS ALIEN NUMBER
RECEIPT NUMBER IOE0932681113	RECEIVED DATE June 26, 2025	PAGE 1 of 1
		DATE OF BIRTH

GLADYS A. SALGUERO VIVAS  
 C/O GRETEL M. NESS PARKER BUTTE AND LANE PC  
 1200 NW NAITO PARKWAY STE 200 40 00012887  
 PORTLAND, OR 97209

**PAYMENT INFORMATION:**  
 Application/Petition Fee: \$260.00  
 Total Amount Received: \$260.00  
 Total Balance Due: \$0.00

NAME AND MAILING ADDRESS

**Eligibility Category: C09**

We have received your form and are currently processing it. We will notify you separately about any other form you filed. If we determine you must submit biometrics, we will mail you a biometrics appointment notice with the time and place of your appointment. If you have questions or need to update your personal information listed above, please visit the USCIS Contact Center webpage at [uscis.gov/contactcenter](https://uscis.gov/contactcenter) to connect with a live USCIS representative in English or Spanish.

If you filed to renew your Employment Authorization Document (EAD) under category A03, A05, A07, A08, A10, A12, A17, A18, C08, C09, C10, C16, C19, C20, C22, C24, C26, or C31, you may be eligible for an automatic extension of your EAD. Full details and an eligibility calculator are at [uscis.gov/eadautoextend](https://uscis.gov/eadautoextend).

You qualify for an automatic extension if: (1) the category on your current EAD matches the "Class Requested" listed on this notice, \* and (2) the "Received Date" on this notice is before the "Card Expires" date on your EAD.

\*If you filed under the A12 or C19 classifications, you qualify for an automatic extension if: (1) this notice and your expired EAD contain either A12 or C19 (they do not need to match); and (2) you filed your renewal Form I-765 during the TPS re-registration period indicated in the applicable Federal Register notice for your country found at [uscis.gov/humanitarian/temporary-protected-status](https://uscis.gov/humanitarian/temporary-protected-status).

If you are eligible for an automatic extension of your EAD, you can show this notice with your expired EAD to your employer for employment eligibility verification (Form I-9) purposes. The automatic extension is for up to 540 days from the expiration date printed on the front of your EAD. If we deny your renewal application, the automatic extension ends immediately, and you can no longer use this notice for Form I-9 purposes. If your EAD is also your Advance Parole document, the automatic extension does not apply to Advance Parole. This notice, by itself, does not grant any immigration status or benefit, nor is it evidence that this application is still pending.

If we have approved or are still processing your underlying Form I-140 and your Form I-485 has been pending for at least 180 days, you may request to change employers under INA 204(j). For more information on this process, please visit [uscis.gov/i-485supi](https://uscis.gov/i-485supi).

Based on your responses in Part 2 on the Form I-765, you have consented to the disclosure of your information to the Social Security Administration (SSA). If USCIS approves your application for employment authorization, USCIS will electronically transmit the data to SSA and the SSA may assign you a Social Security Number (SSN) and issue a card.

**USCIS Office Address:**  
 USCIS  
 National Benefits Center  
 P.O. Box 648003  
 Lee's Summit, MO 64002

**USCIS Contact Center Number:**  
 (800)375-5283  
 ATTORNEY COPY



# EXHIBIT 4



Receipt Number IOE9457970656		Case Type I130 - PETITION FOR ALIEN RELATIVE
Received Date 08/27/2025	Priority Date 08/27/2025	Petitioner KHANI, NINA BEHNOUSH
Notice Date 08/27/2025	Page 1 of 1	Beneficiary A095 196 135 KHANI, BEHZAD

KHANI, NINA BEHNOUSH  
c/o MARANDAS, JOHN STEVE JOHN  
Marandas Garcia Law Group LLC  
16771 BOONES FERRY ROAD STE 100  
LAKE OSWEGO OR 97035

**Notice Type:** Receipt Notice  
Amount received: \$625.00 U.S.  
Section: Parent of U.S Citizen, 201(b) INA

This notice confirms that USCIS received your application or petition ("this case") as shown above. **If any of the information in your notice is incorrect or you have any questions about your case**, you can connect with the USCIS Contact Center at [www.uscis.gov/contactcenter](http://www.uscis.gov/contactcenter) or ask about your case online at [www.uscis.gov/e-request](http://www.uscis.gov/e-request). You will need your Alien Registration Number (A-Number) and/or the receipt number shown above.

You can receive updates on your case by visiting [www.uscis.gov/casestatus](http://www.uscis.gov/casestatus) to get the latest status or you can create an account at [my.uscis.gov/account](http://my.uscis.gov/account) and receive email updates for your case.

This notice does not grant any immigration status or benefit, nor is it evidence that this case is still pending. It only shows that the application or petition was received on the date shown.

**Processing time** - Processing times vary by form type.

- Visit [www.uscis.gov/processingtimes](http://www.uscis.gov/processingtimes) to see the current processing times by form type and field office or service center.
- If you do not receive an initial decision or update within our current processing time, you can try our online tools available at [www.uscis.gov/tools](http://www.uscis.gov/tools) or ask about your case online at [www.uscis.gov/e-request](http://www.uscis.gov/e-request).
- When we make a decision on your case or if we need something from you, we will notify you by mail and update our systems.

**If this case is an I-130 Petition** - Filing and approval of a Form I-130, Petition for Alien Relative, is only the first step in helping a relative immigrate to the United States. The beneficiaries of a petition must wait until a visa number is available before they can take the next step to apply for an immigrant visa or adjustment of status to lawful permanent residence. To best allocate resources, USCIS may wait to process I-130 forms until closer to the time when a visa number will become available, which may be years after the petition was filed. Nevertheless, USCIS processes I-130 forms in time not to delay relatives' ability to take the next step toward permanent residence once a visa number does become available. If, before final action on the petition, you decide to withdraw your petition, your family relationship with the beneficiary ends, or you become a U.S. citizen, call 800-375-5283.

**If your address changes** - If you move while your case is pending, please visit [www.uscis.gov/addresschange](http://www.uscis.gov/addresschange) for information on how to update your address. Remember to update your address for all your receipt numbers.

**Return of Original Documents** - Use Form G-884, Request for the Return of Original Documents, to request the return of original documents submitted to establish eligibility for an immigration or citizenship benefit. You only need to submit one Form G-884 if you are requesting multiple documents contained in a single USCIS file. However, if the requested documentation is in more than one USCIS file, you must submit a separate request for each file. (For example: If you wish to obtain your mother's birth certificate and your mother's/father's marriage certificate, both of which are in the USCIS file that pertains to her, submit one Form G-884 with your mother's information.)

**NOTICE:** The information you provide on and in support of applications and petitions is submitted under the penalty of perjury. USCIS and the U.S. Department of Homeland Security reserve the right to verify this information before and/or after making a decision on your case so we can ensure that you have complied with applicable laws, rules, regulations, and other legal authorities. We may review public information and records, contact others by mail, the internet or phone, conduct site inspections of businesses and residences, or use other methods of verification. We will use the information obtained to determine whether you are eligible for the benefit you seek. If we find any derogatory information, we will follow the law in determining whether to provide you (and the legal representative listed on your Form G-28, if you submitted one) an opportunity to address that information before we make a formal decision on your case or start proceedings.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to <https://www.uscis.gov/file-online>.

SCOPS TEXAS FACILITY  
U.S. CITIZENSHIP & IMMIGRATION SVC  
6046 N BELT LINE RD.  
IRVING TX 75038-0001



USCIS Contact Center: [www.uscis.gov/contactcenter](http://www.uscis.gov/contactcenter)