

**UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT**

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2025 SEP -2 PM 4: 17

CLERK

BY AL
DEPUTY CLERK

MOHAMMED JIHAD BAHRM RASHID,

Petitioner,

-against-

GREG HALE, SUPERINTENDENT, NORTHWEST STATE CORRECTIONAL FACILITY – SAINT ALBANS; DONALD J. TRUMP, IN HIS OFFICIAL CAPACITY AS PRESIDENT OF THE UNITED STATES; PATRICIA HYDE, IN HER OFFICIAL CAPACITY AS ACTING BOSTON FIELD OFFICE DIRECTOR, IMMIGRATION AND CUSTOMS ENFORCEMENT, ENFORCEMENT AND REMOVAL OPERATIONS; VERMONT SUB-OFFICE DIRECTOR OF IMMIGRATION AND CUSTOMS ENFORCEMENT, ENFORCEMENT AND REMOVAL OPERATIONS; TODD M. LYONS, IN HIS OFFICIAL CAPACITY AS ACTING DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; PETE R. FLORES, IN HIS OFFICIAL CAPACITY AS ACTING COMMISSIONER FOR U.S. CUSTOMS AND BORDER PROTECTIONS; KRISTI NOEM, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY; MARCO RUBIO, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE; AND PAMELA BONDI, IN HER OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL,

Respondents.

Case No. 2:25-cv-732

**PETITION FOR WRIT
OF HABEAS CORPUS**

**ORAL ARGUMENT
REQUESTED**

INTRODUCTION

1. This Petition for a Writ of Habeas Corpus is respectfully submitted on behalf of Mr. Mohammed Jihad Bahrm Rashid (“Mr. Rashid” or “Petitioner”), who has unlawfully remained in Immigration Customs and Enforcement custody after being granted Asylum protections on December 3, 2024.

2. Mr. Rashid was born and raised in Gaza, Palestine, but fled the country in early 2024 to seek asylum protection in the United States.

3. The Petitioner is an asylee who was granted asylum status on December 3, 2024.

4. This matter arises from the Government's failure to articulate a clear and lawful basis for the continued detention of Mr. Rashid.

5. Following the grant of asylum in December 2024, Mr. Rashid was not released from the custody of U.S. Immigration and Customs Enforcement (ICE). Instead, the Department of Homeland Security (DHS) filed an appeal challenging the grant of asylum and continued to detain Mr. Rashid.

6. Upon information and belief, Respondents intend to continue Mr. Rashid's detention. However, the legal basis for his continued custody remains unclear, particularly in light of the fact that Mr. Rashid was denied access to legal counsel for several days following his apprehension.

7. Accordingly, in order to vindicate Petitioner's statutory, constitutional, and regulatory rights, this Court should grant the instant Petition for a Writ of Habeas Corpus.

8. Absent immediate intervention by this Court, undersigned counsel believes that Petitioner faces an imminent risk of being transferred out of this jurisdiction and/or removed from the United States.

JURISDICTION

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

7. 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).

8. 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

9. Venue is proper because Petitioner is detained at Northwest State Correctional Facility in Saint Albans, Vermont, within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

10. 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 order to show cause 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.* (emphasis added).

11. 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) (emphasis added).

PARTIES

12. Petitioner Mohammad Rashid is a Palestine national and is currently detained in Vermont. He is in the custody, and under the direct control, of Respondents and their agents.

13. Respondent Greg Hale is sued in his official capacity as the Superintendent of Northwest State Correctional Facility in Saint Albans, Vermont and, therefore, he is the immediate custodian of Petitioner. *See Ozturk v. Trump*, — F. Supp. 3d —, 2025 WL 1145250, at *8 (D. Vt. Apr. 18, 2025) (discussing immediate custodian rule).

14. Respondent Donald J. Trump is named in his official capacity as the President of the United States. In this capacity, he is responsible for the policies and actions of the executive branch, including the Department of State and the Department of Homeland Security. At all relevant hereto, Respondent Trump's address is the White House, 1600 Pennsylvania Ave. NW, Washington, D.C. 20500.

15. Respondent Patricia Hyde is sued in her official capacity as the Acting Director of the Boston Field Office of U.S. Immigration and Customs Enforcement. Respondent Hyde is a legal custodian of Petitioner and has authority to release Ms. Perez Alfaro.

16. Respondent the Director of the Vermont Sub-Office of ICE Enforcement and Removal Operations, David W. Johnston, is named in his or her official capacity as the Director of the Vermont Sub-Office of the Boston Field Office for Immigration and Customs Enforcement ("ICE") within the United States Department of Homeland Security. In this capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations within the district of Vermont and is a custodian of Petitioner. At all relevant times, the Director's address is 64 Gricebrook Road, St. Albans, VT 05478.

17. Respondent Pete R. Flores is named in his official capacity as the Acting Commissioner of CBP. In this capacity, Respondent Flores leads CBP employees who are responsible for the administration of immigration laws and the execution of detention and removal

determinations within its area of authority. At all relevant times, the Commissioner's address is 1300 Pennsylvania Avenue NW, Washington, DC 20229.

18. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of ICE. He administers and enforces the immigration laws of the United States, routinely conducts business in the District of Vermont, is legally responsible for pursuing efforts to remove the Petitioner, and as such is the custodian of the Petitioner. At all times relevant hereto, Respondent Lyons's address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington DC 20536-5900.

19. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.

20. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

Background Facts for Mr. Rashid

21. Mr. Rashid is a citizen and national of Palestine. Since his arrival in the United States, he has been transferred to three or more detention facilities, thereby preventing him from establishing any residence outside of custodial confinement.

22. Mr. Rashid is 29 years old and has no criminal history.

23. According to the Executive Office for Immigration Review (EOIR) system, Mr. Rashid currently has no scheduled hearings pending before the Immigration Court.

24. Mr. Rashid was unable to communicate with legal counsel for several days while in detention.

25. At present, the basis for Mr. Rashid's continued detention by U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) for over one year remains entirely unclear.

26. Mr. Rashid maintains strong community ties in the United States, as several of his family members who are U.S. citizens reside primarily in the State of Ohio.

VIOLATION OF FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION

27. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

28. Upon information and belief, U.S. Immigration and Customs Enforcement (ICE) continues to detain Mr. Rashid without a clear or lawful justification, in violation of Mr. Rashid's rights under the Fourth Amendment to the United States Constitution.

**VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO
THE UNITED STATES CONSTITUTION**

29. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

30. The Due Process Clause of the United States Constitution applies to "all persons within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 679 (2001).

31. Immigration detention must further the twin goals of ensuring a noncitizen's appearance during removal proceedings and preventing danger to the community.

32. In light of these goals, Mr. Rashid's detention is wholly unjustified. Indeed, It *bears no reasonable relation to any legitimate government purpose*.

33. Mr. Rashid is not a flight risk. He has legitimate fears of persecution in Palestine which the United States government recognizes because he was granted Asylum.

34. Mr. Rashid is not a danger to the community. He has an overwhelming amount of community ties and support.

35. Because Mr. Rashid's detention bears no reasonable relation to a legitimate government purpose, it is punitive.

36. At this time, it is completely unclear what the basis of his continued detention is because he has had limited access to counsel and nothing in any of the DHS or ICE systems indicate any hearings in Immigration Court.

VIOLATION OF 8 USC 1226(a)

37. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

38. Respondents are unlawfully detaining Petitioner under 8 U.S.C. § 1226(a) because at the time of his arrest and current—upon information and belief—he was not arrested on a warrant issued by the Attorney General.

39. Section 1226(a) provides the executive authority to detain a foreign national if and when the executive issues a warrant and a notice to appear for removal proceedings. Section 1226(a) states as follows:

(a) Arrest, detention, and release

On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General--

(1) may continue to detain the arrested alien; and

(2) may release the alien on--

(A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or

(B) conditional parole; but

(3) may not provide the alien with work authorization (including an “employment authorized” endorsement or other appropriate work permit), unless the alien is lawfully admitted for permanent residence or otherwise would (without regard to removal proceedings) be provided such authorization.

40. Because Respondents did not have a warrant issued by the Attorney General at the time of her arrest, Respondents cannot rely upon 8 U.S.C. § 1226(a) for authority to detain Petitioner.

41. Further, upon information and belief, there is no pending decision on whether Petitioner is to be removed from the United States—and therefore, there can be no justification for civil detention intended to restrain the Petitioner during the course of removal proceedings (because no removal proceedings were pending at the time of her arrest). *See, e.g., Zadvydas v. Davis*, 533 U.S. 678 (2001) (holding a statute no longer authorizes detention when the detention does not serve the statute’s intended purpose).

42. Respondents cannot remedy this error by issuing a warrant now because the statute requires a warrant and a notice to appear as a precondition to arrest and detention.

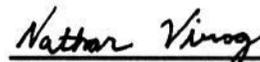
PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner shall not be transferred outside the District of Vermont;

- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (4) Declare that Petitioner's prolonged detention violates the Fourth Amendment right to unlawful seizures.
- (5) Declare that Petitioner's continued detention violates the Fifth Amendment right to due process.
- (6) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (7) Grant any further relief this Court deems just and proper.

Respectfully submitted,



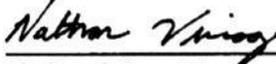
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Counsel for Petitioner

Dated: September 2, 2025

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, MOHAMMED JIHAD BAHRM RASHID, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 2nd day of September, 2025.



Nathan Virag, Esq.