

Mohammad Shair, Esq
Attorney for Petitioner
Mohammad Zohdi Shair Attorney and Counselor P.A.
5619 Oakland Dr.
Tampa, FL 33617
mzshair@gmail.com

UNITED STATES DISTRICT COURT
FLORIDA NORTHERN DISTRICT
JACKSONVILLE

Mamdouh Abughali
Petitioner

Case No.: 3:25-1086

V.

Honorable Judge:

Ronnie Woodall, Warden, North Florida
Detention Center (Baker County Detention
Center), in his official capacity;
U.S. DEPARTMENT OF HOMELAND
SECURITY;
Department of Homeland Security (DHS)
Secretary Kristi Noem in her official
capacity;
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;
Todd M. Lyons ACTING DIRECTOR of
Immigration and Customs Enforcement;
Respondents.

Traverse in Support of Petition for Writ of Habeas Corpus

Petitioner Mamdouh Hasan Salim Abughali, by and through undersigned counsel, submits this Traverse in further support of his Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241. Petitioner is a stateless Palestinian national who has been detained by U.S. Immigration and Customs Enforcement (ICE) since June 9, 2025, despite the termination of his removal proceedings on that date. As shown below, Respondents have failed to identify any valid statutory authority that permits Mr. Abughali's continued civil detention under these circumstances. This unlawful detention has created a due process vacuum: Mr. Abughali remains jailed indefinitely with no forum available to adjudicate his claims for relief or to seek release on bond. Even the Department of Homeland Security's own filings acknowledge that formal removal proceedings are not presently warranted in his case, yet DHS continues to hold Petitioner without recourse. Accordingly, Petitioner respectfully urges this Court to grant the writ and order his immediate release (or, at a minimum, order a prompt custody hearing before a neutral adjudicator) to remedy this ongoing violation of his statutory and constitutional rights.

I. No Statutory Authority Permits Petitioner's Continued Detention

Respondents have no statutory basis to detain Mr. Abughali at this time. On June 9, 2025, an Immigration Judge (IJ) granted DHS's motion to terminate Petitioner's removal proceedings under 8 C.F.R. § 239.2(a)(7), and the case was closed without any removal order or merits decision on his applications for relief. This termination left Mr. Abughali in legal limbo: he has no active removal proceedings pending and no final removal order against him. Yet immediately before termination, ICE officers took Petitioner into custody and have detained him ever since. In other words, Mr. Abughali is being held even though there is no ongoing removal case and no administratively final order of removal.

Under the Immigration and Nationality Act (INA), immigration detention must trace to one of the detention statutes Congress enacted. None applies here. Because DHS terminated Petitioner's § 240 removal proceedings on June 9, 2025, he is plainly not detained under INA § 236(a), 8 U.S.C. § 1226(a), which governs custody "pending a decision on whether the alien is to be removed." Nor is he detained under the post-order statute, INA § 241, 8 U.S.C. § 1231, because that authority triggers only after a final order of removal and the commencement of the 90-day removal period. Petitioner has never been ordered removed, so § 1231 provides no authority.

Respondents claim instead that Petitioner is detained as an "arriving alien" under § 235(b) and that this classification strips the immigration court of bond jurisdiction. But that framing does not supply a statutory detention authority for perpetual custody after the government has terminated the charging document, eliminated § 240 proceedings, and conceded that continuation of the case is not warranted. Section 1225(b) mandates custody only while DHS completes the inspection/admission process or expedited-removal screening—it does not authorize open-ended civil incarceration in the interior after DHS elects not to pursue removal. DHS cannot convert termination of proceedings into a mechanism for indefinite confinement. DHS has claimed that Mr. Abughali's detention falls under INA § 235(b), 8 U.S.C. § 1225(b). That provision mandates detention of certain applicants for admission (such as recent border arrivals or individuals in expedited removal proceedings) until asylum screening or removal can be promptly effectuated. DHS's theory is that, because Mr. Abughali was never formally "admitted" (he was paroled into the United States in 2022) and is now without status, he can be treated as an applicant for admission subject to mandatory custody under § 1225(b). This theory is profoundly flawed. Mr. Abughali lived freely in the United States for nearly three years,

complied with all conditions of his parole and court hearings, and was being processed in ordinary removal proceedings under INA § 240 (8 U.S.C. § 1229a) — not as an arriving alien at the border. Only after DHS arrested him *inside the immigration court* on the day of his merits hearing did the Department unilaterally re-classify him as an “applicant for admission” detained under § 1225(b). This post hoc relabeling has no legitimate basis in the statute. Section 1225’s detention mandate was intended to apply to *arriving aliens* or recent unlawful entrants encountered at entry, not to someone like Petitioner who has been present in the interior for years and was already under the jurisdiction of the immigration court.

Indeed, a recent federal court decision has squarely rejected DHS’s position. In *Maldonado Bautista v. Garland* (often captioned *Maldonado Bautista v. Santacruz* in the district court), the court held that noncitizens who were living in the U.S. interior and not apprehended at the border cannot be detained under § 1225(b)(2)(A); instead, *such individuals are detained under INA § 236 and are legally entitled to seek release on bond*. The *Maldonado Bautista* court emphasized that DHS may not manipulate the statutes by treating long-present residents as “applicants for admission” in order to strip them of bond rights. While Mr. Abughali was originally paroled (rather than an unlawful entrant), the same principle applies: there is no clear authority in § 1225(b) to indefinitely jail a person in Petitioner’s posture. Accordingly, DHS’s attempt to shoehorn Petitioner’s detention into § 1225(b) is improper and ultra vires. Absent that misapplied provision, no statute remains that authorizes Mr. Abughali’s detention. Respondents cannot continue to hold a person in custody without positive statutory authority; such detention is unlawful and exceeds the Executive’s detention powers.

In sum, DHS has failed to identify any valid detention authority in force here. By DHS’s own admission, Petitioner is not currently in standard removal proceedings *and* has not been

ordered removed. DHS's continued reliance on § 1225(b) is foreclosed by the statute's text and recent authoritative interpretations. Because no provision of the INA authorizes Petitioner's prolonged incarceration under these circumstances, his detention is unlawful. This Court's habeas jurisdiction squarely extends to deciding "whether [an immigration] detention is pursuant to statutory authority" (*Zadvydas v. Davis*). The answer in this case is no. The appropriate remedy for detention not sanctioned by statute is release. At minimum, if the Court believes some authority could arguably apply, due process requires that Petitioner be given a hearing to determine if his confinement is justified.

II. Indefinite Detention in a Forumless Limbo Violates Due Process

Even apart from the lack of statutory authority, Petitioner's continued detention offends fundamental due process. Mr. Abughali is trapped in what can only be described as a due process vacuum: by terminating removal proceedings and refusing to release him, DHS has effectively ensured that he has no forum at all in which to seek protection or even to challenge his custody. He cannot apply for asylum or other relief before an immigration judge because his case was closed and jurisdiction stripped away. He cannot ask an immigration court for a bond redetermination because DHS's termination maneuver divested the court of custody jurisdiction and DHS insists § 1225(b) forbids any bond hearing. He is quite literally detained without a legal proceeding, and the Executive Office of Immigration Review has lifted its hands by repeatedly denying jurisdiction. This situation is anathema to our system of justice, which demands that noncitizens "be accorded a meaningful opportunity to be heard" before liberty is curtailed or protection claims are denied (Fifth Amendment; *see, e.g., Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000)). Government action that deliberately eliminates all venues of adjudication for an individual's claims violates due process at its core. Here, by using a regulatory mechanism (§

C.F.R. § 239.2(a)(7) in a manner never contemplated — to terminate proceedings *against a detained asylum seeker* who was moments away from a merits hearing — DHS has effectively nullified Mr. Abughali’s statutory right to seek asylum (8 U.S.C. § 1158(a)(1)) and his constitutional right to a fair hearing. Such a tactic “distorts ‘best interest of the government’ into an instrument of punishment” and flies in the face of basic fairness.

Crucially, Respondents have *no legitimate purpose* for continuing to hold Petitioner under these conditions. Civil immigration detention is meant to facilitate removal or protect against flight or danger in the interim. But here, removal cannot occur in the foreseeable future (Petitioner is stateless and no country will accept him), and there is no ongoing proceeding to flee from. Indeed, DHS itself has effectively conceded that formal removal proceedings “no longer warrant” pursuit in Mr. Abughali’s case (DHS’s Sept. 9, 2025 BIA filing) – yet paradoxically DHS keeps him locked up anyway. In that same BIA submission, DHS affirmatively stated it “does not oppose” remanding the case back to immigration court for adjudication of Petitioner’s claims. In other words, DHS has acknowledged that Mr. Abughali should be allowed to resume his case, but meanwhile maintains his imprisonment without process. This untenable position underscores that Petitioner’s detention is not serving any valid immigration goal; rather, it appears to be a punitive or deterrent measure, which is impermissible in civil detention. As the Supreme Court has reiterated, “Freedom from imprisonment lies at the heart of the liberty protected by the Due Process Clause.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Government detention violates due process unless it is carefully limited to prevent flight or danger, or other “special justification” outweighing the individual’s liberty interest. Here, any theoretical justification for detaining Mr. Abughali has evaporated: “*the first justification – preventing flight – is weak or nonexistent where removal seems a remote possibility.*” *Id.* And

DHS has never alleged that Mr. Abughali poses any danger to the community (indeed, he has no criminal record and was gainfully employed as a truck driver). With neither of the traditional justifications present, Petitioner's ongoing civil confinement "bears no relation" to any valid purpose and "the Government proffers no sufficiently strong justification for [his] indefinite civil detention". It is precisely this scenario of potentially permanent detention of an unremovable, non-dangerous individual that *Zadvydas* found would raise grave constitutional problems unless curtailed.

Moreover, Mr. Abughali's detention has now lasted over six months (since June 9, 2025) with no end in sight. The Supreme Court in *Zadvydas* recognized 6 months as a presumptively reasonable period to effectuate removal, after which continued detention requires strong justification and real prospects of removal. Here, not only has the six-month benchmark passed, but DHS has presented *no plan at all* for removing Petitioner (indeed, DHS insists that formal removal proceedings should not even be pending). It is no surprise, then, that multiple courts have found due process violations in analogous circumstances. For example, in *Zadvydas* the Court held that if removal is not reasonably foreseeable, "the court should hold continued detention unreasonable and no longer authorized". Likewise, in *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018), the Court acknowledged that prolonged civil detention without a bond hearing would pose a serious constitutional concern, even as it left the ultimate resolution of that due process question to the lower courts (*id.* at 851). The situation here presents that very concern: Petitioner's prolonged, indefinite detention with no hearing mechanism is an affront to due process.

In sum, DHS's actions have deprived Petitioner of liberty without any due process, and this deprivation has persisted for an unreasonably extended period. The Court should reject

Respondents' attempt to hold Mr. Abughali in this constitutionally untenable limbo. At minimum, due process compels the Petitioner to be given a prompt opportunity, before a neutral decision-maker, to contest his detention and seek relief. And given the extraordinary facts – a stateless refugee detained for months on end despite DHS's own indication that his case should be reopened – the more appropriate remedy is immediate release under reasonable supervision. The Constitution does not countenance jailing a person on U.S. soil indefinitely when neither adjudicatory process nor imminent removal justifies that detention.

III. Respondents' Admissions Underscore the Need for Immediate Relief

Respondents' own statements and litigation positions reinforce Petitioner's claims. Notably, in the parallel immigration proceedings, DHS has not opposed Petitioner's motion to reopen and remand his case to the immigration court, effectively conceding that the termination of proceedings should be undone. In its September 9, 2025 brief to the Board of Immigration Appeals, DHS acknowledged that "circumstances no longer warrant removal proceedings" against Mr. Abughali and indicated it would not object if the case were sent back to the IJ for adjudication. These are telling admissions. DHS is essentially admitting that it sees no pressing governmental interest in pursuing Mr. Abughali's removal through the normal course – yet it simultaneously insists on keeping him incarcerated without that normal course. This Court should not countenance such a disconnect. If removal proceedings should not be active (as DHS says) and no removal is foreseeable, there is no rationale for detention; conversely, if DHS now agrees the case should go forward in removal proceedings (as Petitioner has sought all along), then Petitioner must be afforded the ordinary incidents of those proceedings, including access to a custody hearing under the proper statute. Either way, continuing to lock up Mr. Abughali is unjustified.

DHS's maneuvers suggest a strategic ploy to circumvent the protections of the immigration court system. By terminating the case on the eve of the asylum hearing and invoking § 1225(b) detention, DHS attempted to sidestep the due process and bond hearing safeguards that INA § 240 proceedings provide. Such tactical moves, aimed at stripping a noncitizen of procedural rights, have been condemned by courts as inconsistent with due process and the rule of law. The record here reveals a coordinated effort: ICE detained Petitioner at the courthouse door while DHS moved to dismiss the case, a one-two punch that left Petitioner with no hearing and no freedom. This "heads I win, tails you lose" approach to an asylum seeker's rights is fundamentally unfair. Now that DHS itself has retreated from defending the termination (by not opposing a remand), there is all the more reason for this Court to intervene swiftly to restore Mr. Abughali's liberty or at least his access to a hearing. Every additional day of unjustified detention deepens the due process injury.

IV. Conclusion and Prayer for Relief

1. For all the foregoing reasons, Petitioner respectfully requests that the Court grant the Petition for Writ of Habeas Corpus and order appropriate relief. In particular, Petitioner asks that the Court order his *immediate release* from ICE custody under reasonable conditions of supervision.
2. Furthermore, to prevent irreparable harm and preserve this Court's jurisdiction, the Court should explicitly *enjoin Respondents from removing or deporting Petitioner* (or subjecting him to expedited removal procedures) until the Court's final resolution of this matter. Such relief is necessary to end Petitioner's unlawful detention and to ensure that his constitutional and statutory rights are upheld. Petitioner also requests any other and further relief the Court deems just and proper.

Respectfully submitted,

/s/Mohammad Shair

Mohammad Shair, Esq
FBN: 1025703
Counsel for Petitioner Mamdouh H.S. Abughali
Mohammad Zohdi Shair Attorney and Counselor P.A.
7628 N 56th St STE17
Tampa, FL 33617
mzshair@gmail.com

Dated: December 18, 2025