

**UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT**

ENAYETULLAH WALIZADA

Petitioner,

-against-

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; DAVID W. JOHNSTON IN HIS OFFICIAL CAPACITY AS 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; GREG HALE, SUPERINTENDENT, NORTHWEST STATE CORRECTIONAL FACILITY – SAINT ALBANS,

Respondents.

Case No: 2:25-cv-768

**PETITION FOR WRIT  
OF HABEAS CORPUS**

**INTRODUCTION**

1. **Petitioner Enayetullah Walizada** (“Petitioner” or “Enayetullah”) lawfully entered the United States in 2021 under the Afghan Operation Allies Refuge (OAR) Parole Program. He is currently seeking asylum in the United States. On November 14, 2022, Petitioner submitted an

application for asylum with the United States Citizenship and Immigration Services (USCIS) Asylum Office in San Francisco, California. The present matter concerns the government's failure to provide a legally sufficient justification for Petitioner's continued detention.

2. Petitioner Enayetullah Walizada was born and raised in Afghanistan, where he resided until the collapse of the Afghan government following the withdrawal of United States military forces in August 2021. Pursuant to the military evacuation initiative known as Operation Allies Welcome, Petitioner was transported to the United States. He was admitted into the country on August 29, 2021, under the Humanitarian Parole classification designated as "OAR" (Operation Allies Refuge).

3. On or about September 5, 2025, Petitioner Enayetullah Walizada inadvertently approached a United States–Canada border crossing in the state of Vermont. At the time, Petitioner—who is employed as a long-haul truck driver—was transporting a load of food products from Vermont to California. While navigating the route using Google Maps, Petitioner unintentionally made a wrong turn, which resulted in an inadvertent exit from the United States.

4. Upon his immediate attempt to re-enter the United States, Petitioner was detained by U.S. Customs and Border Protection (CBP) and held at the Port of Entry. Approximately six days later, he was transferred to the Northwest State Correctional Facility, where he remains in custody at the time of this filing.

5. While it appears that Respondents intend to continue detaining Petitioner, they have failed to articulate a clear or legally sufficient basis for his detention.

#### **PARTIES**

6. Petitioner Enayetullah Walizada is an Afghan national who was born and raised in

Afghanistan and was brought to the United States by the United States government through "Operation Allies Welcome." He has a pending asylum case, putting him squarely on a pathway towards permanent residency. Petitioner's address is 17700 SW Shaw Street, Unit 22, Beaverton, Oregon 97078.

7. Respondent Greg Hale is sued in his official capacity as the Superintendent of Northwest State Correctional Facility in Saint Albans, Vermont and, therefore, she 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).

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

**JURISDICTION & VENUE**

15. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331, 2U.S.C.

16. § 2241, Article I, §9, cl. 2 (the Suspension Clause) and Article III of the U.S. Constitution, the Administrative Procedure Act, 5 U.S.C. § 701 et seq.; and 28 U.S.C. § 2201 (Declaratory Judgement).

17. An actual and justiciable controversy exists between the parties under 28

18. U.S.C. § 2201 and this Court has authority to grant declaratory and injunctive relief. *Id.* § 2201, 22023. The Court has additional remedial authority under the All-Writs Act, U.S.C. § 1651.

19. Venue is proper in the District of Vermont under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. At the time this proceeding was initiated, Enayetullah is detained in Vermont.

20. The petitioner has been and is presently being detained in Vermont and a substantial part of the events giving rise to this petition occurred within this district.

#### **FACTS**

21. Enayetullah is an Afghan national. He was admitted into the United States as a parolee in August of 2021 and filed for asylum on November 14, 2022. That case is currently pending before the Asylum Office.

22. Enayetullah was born and raised in Afghanistan. In 2021, he was welcomed into the United States through the support of the U.S. Armed Forces through "Operation Allies Welcome." He was paroled into the United States under the class "OAR."

23. On or about September 5th, 2025, Enayetullah erroneously arrived at a border crossing while operating his tractor-trailer for work near the Vermont and Canada border.

24. Upon his immediate attempt to return to the United States, Enayetullah was detained by U.S. Customs and Border Protection (CBP) and was held at the Port of Entry for six days.

25. Enayetullah was later transferred to the Northwest State Correction Facility in St. Albans, Vermont, where he is currently being held.

26. Per the EOIR system, Enayetullah allegedly has a master calendar hearing scheduled in the future but was never served with a charging document and is unaware of the charges against him.

27. Enayetullah was unable to speak with legal counsel for the first 7 days of his detention despite counsel's repeated attempts to contact him during this time.

28. Legal Counsel contacted Customs and Border Protection at the Interstate 91 Port of Entry daily beginning on Monday September 8, 2025, and was refused communication with Enayetullah. On that date he first spoke with Officer Leumbra who confirmed that Enayetullah was in his agency's custody. Counsel called the Port of Entry daily and spoke with Officers Leumbra, West, and Hara, all of whom refused to allow Counsel to speak with Enayetullah or to indicate how long he would be in their custody. On Tuesday September 10, 2025, Counsel spoke with Officer Hara and stated that holding Enayetullah for days without access to counsel violated his constitutional rights but he was nonetheless refused access. On September 11, 2025, a CBP official answered that Enayetullah was no longer in their custody but would not provide further information.

29. On September 11, 2025, counsel searched the inmate directory at Northwest State Correctional Facility per the advice of Vermont based immigration attorneys. He found Enayetullah's name listed among its inmates as of September 10, 2025, contacted the facility and soon received a call from Enayetullah.

30. At this time, it is entirely unclear why Enayetullah has been held by CBP and ICE for over ten days.

### **CLAIM**

#### **Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution**

31. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set

forth herein.

32. 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).

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

34. In light of these goals, Enayetullah 's detention is wholly unjustified. Indeed, it bears no reasonable relation to any legitimate government purpose.

35. Enayetullah is not a flight risk. He has legitimate fears of persecution in Afghanistan-so much so that he has applied for asylum in the United States. Additionally, his wife's family all live in Oregon.

36. Enayetullah is not a danger to the community. He is a hard-working individual who was working when he was detained by CBP. He has no criminal history in the United States.

37. Because Enayetullah's detention bears no reasonable relation to a legitimate government purpose, it is punitive.

38. At this time, it is completely unclear what the basis of his detention is because he has been unable to access counsel and has not been served with any charging document.

39. The justification of "preventing flight ... is weak or nonexistent where removal seems a remote possibility at best." *Zadvydas v. Davis*, 533 U.S. 678,690 (2001).

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

- (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.
- (8) Award reasonable attorneys' fees and costs for this action;

Respectfully Submitted on September 16, 2025.

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/S/ Nathan Virag  
Nathan Virag  
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*Attorney for Petitioner, Local Counsel*

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

I represent Petitioner, ENAYETULLAH WALIZADA, 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 16th day of September, 2025.

/S/ Nathan Virag

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Nathan Virag, Esq.