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12

13 IN THE UNITED STATES DISTRICT COURT
14
15 CENTRAL DISTRICT OF CALIFORNIA

16

17 R.S.

18 Case No. 5:25-cv-02594

19

20 Petitioner,

21 **PETITION FOR WRIT OF HABEAS
22 CORPUS**

23

24 v.

25 ERNESTO SANTACRUZ JR., Field Office
26 Director of Enforcement and Removal
27 Operations, Adelanto Field Office, U.S.
28 Immigration and Customs Enforcement,
U.S. Department of Homeland Security;
TODD M. LYONS, Acting Director of
Immigration and Customs Enforcement,
U.S. Department of Homeland Security;
KRISTI NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; PAMELA BONDI, U.S.
Attorney General; EXECUTIVE OFFICE
FOR IMMIGRATION REVIEW; FERETI
SEMAIA, Warden of Adelanto Detention
Facility,

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30 Respondents.

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INTRODUCTION

1. Since around June 30, 2025, Petitioner R.S. has been in the physical custody of Respondents at the Adelanto Detention Facility in Adelanto, California, even though the Merits Hearing for his asylum matter commenced on June 4, 2025, and is still in progress. He now faces unlawful detention because the Department of Homeland Security (“DHS”) and the Executive Office of Immigration Review (“EOIR”) have concluded that Petitioner is subject to mandatory detention.

2. Petitioner fled Iran after he protested the current Iranian regime and was beaten and threatened with jail and execution by the military and police who work for the Iranian regime. He arrived in the United States around December 22, 2022, crossing the U.S.-Mexico border, entering the United States without inspection.

3. Upon entering the United States, R.S. surrendered himself to the U.S. immigration authorities and requested asylum. He was placed into detention for about five or six days and around December 27, 2022, R.S. was released on his own recognizance.

4. On February 22, 2023, R.S. was served with a Notice of Appear. DHS placed R.S. in removal proceedings, pursuant to 8 U.S.C. § 1229(a). ICE charged R.S. with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the U.S. without inspection.

5. On June 4, 2025, R.S. began his Merits Hearing before the Honorable Joyce Bakke Varzandeh, Immigration Judge. After she began hearing testimony, Judge Bakke Varzandeh continued the Merits Hearing to July 14, 2025, at 1:00 p.m. for further testimony.

6. Before R.S.'s continued Merits Hearing could commence, on or around June 30, 2025, R.S. was detained by ICE at his home while getting ready to leave for work. R.S. immediately taken to the Adelanto Detention Facility in Adelanto, California, where he has remained since.

1 7. R.S. sought a bond hearing on July 7, 2025. The Immigration Judge issued
2 a decision on July 11, 2025, denying bond on the grounds that the IJ did not have
3 jurisdiction, relying on *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025).

4 8. R.S. has been detained at the Adelanto Detention Facility since June 30,
5 2025.

6 9. R.S., as a noncitizen granted the liberty of release pending removal
7 proceedings, has due process rights, as established by *Pinchi v. Noem*, 2025 U.S. Dist.
8 LEXIS 142213, at n.2 (N.D. Cal. July 24, 2025). R.S. gained a liberty interest in his
9 continued freedom when DHS elected to release him on his own recognizance. Under
10 *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972), this release implied a promise that he
11 would not be re-detained so long as he abided by the terms of his release.

12 10. These due process rights were violated when R.S. was detained when no
13 conditions of his release were violated and his asylum case was pending.

14 11. Accordingly, R.S. seeks a writ of habeas corpus requiring that he be
15 released from custody.

JURISDICTION

17 12. R.S. is in the physical custody of Respondents. R.S. is detained at the
18 Adelanto Detention Facility in Adelanto, California.

19 13. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus),
20 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
21 Constitution (the Suspension Clause).

22 14. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
23 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

25 15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
26 484, 493-500 (1973), venue lies in the United States District Court for the Central District,
27 the judicial district in which R.S. currently is detained.

1 16. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
2 Respondents are employees, officers, and agencies of the United States, and because a
3 substantial part of the events or omissions giving rise to the claims occurred in the Central
4 District.

REQUIREMENTS OF 28 U.S.C. 2243

6 17. The Court must grant the petition for writ of habeas corpus or order
7 Respondents to show cause “forthwith,” unless R.S. is not entitled to relief. 28 U.S.C.
8 § 2243. If an order to show cause is issued, Respondents must file a return “within three
9 days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

10 18. Habeas corpus is “perhaps the most important writ known to the
11 constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of
12 illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis
13 added). “The application for the writ usurps the attention and displaces the calendar of the
14 judge or justice who entertains it and receives prompt action from him within the four
15 corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation
16 omitted).

PARTIES

17 19. R.S. is a citizen of Iran who has been in immigration detention since June
18 30, 2025. After ICE arrested R.S. outside of his home, R.S. is unable to obtain review of
19 his custody by an Immigration Judge, pursuant to the Board's decision in *Matter of Yajure*
20 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

21 20. Ernesto Santacruz Jr. is the Director of the Adelanto Field Office of
22 Immigration and Customs Enforcement (“ICE”) Enforcement and Removal Operations
23 (“ERO”) division. As such, Mr. Santacruz is R.S.’s immediate custodian and is
24 responsible for R.S.’s detention and removal. Mr. Santacruz is named in his official
25 capacity.

21. Todd Lyons is the Acting Director of ICE. ICE is responsible for R.S.'s
27
28 detention and Mr. Lyons is sued in his official capacity.

1 22. Respondent Kristi Noem is the Secretary of DHS. She is responsible for the
2 implementation and enforcement of the Immigration and Nationality Act (“INA”) and
3 oversees ICE, which is responsible for R.S.’s detention. Ms. Noem has ultimate custodial
4 authority over R.S. and is sued in her official capacity.

5 23. Respondent DHS is the federal agency responsible for implementing and
6 enforcing the INA, including the detention and removal of noncitizens.

7 24. Respondent Pamela Bondi is the Attorney General of the United States. Ms.
8 Bondi is responsible for the Department of Justice, of which the EOIR and the
9 immigration court system it operates is a competent agency. She is sued in her official
10 capacity.

11 25. Respondent EOIR is the federal agency responsible for implementing and
12 enforcing the INA in removal proceedings, including for custody determinations in bond
13 hearings.

14 26. Respondent Fereti Semaia is employed as the Warden of the Adelanto
15 Detention Facility, where R.S. is detained. Mr. Semaia has immediate physical custody of
16 R.S. He is sued in his official capacity.

LEGAL FRAMEWORK

18 27. The Due Process Clause protects all persons within the United States from
19 being “deprived of life, liberty, or property, without due process of law.” U.S. Const.
20 amend. V. It is settled law that the Due Process clause applies to noncitizens within the
21 United States “whether their presence here is lawful, unlawful, temporary, or permanent.”
22 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Trump v. J. G. G.*, — U.S. —, 145 S.
23 Ct. 1003, 1006 (2025) (“It is well established that the Fifth Amendment entitles aliens to
24 due process of law in the context of removal proceedings.”).

25 28. "Once it is determined that due process applies, the question remains what
26 process is due." *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972). The constitution
27 typically "requires some kind of a hearing before the State deprives a person of liberty or

1 property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is particularly true when
2 the interest is in liberty, the loss of which cannot fully be compensated after the fact.

3 29. To determine what procedures are required, courts apply the three-part test
4 of *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). The Ninth Circuit has “assume[d]
5 without deciding” that *Mathews* applies in the immigration detention context. *Diaz*, 53
6 F.4th at 1206-07; *see also Pinchi v. Noem*, 2025 U.S. Dist. LEXIS 142213, at n.2 (N.D.
7 Cal. July 24, 2025) (collecting cases where the Ninth Circuit has applied *Mathews* in due
8 process challenges to removal proceedings).

9 30. Moreover, many courts in this district have applied the *Mathews* test to
10 noncitizens in circumstances similar or identical to those here. *See e.g., Rodrigues v.*
11 *Garland*, Case No. EDCV 23-0216-JPR, 2025 U.S. Dist. LEXIS 84802 (C.D. Cal. May 8,
12 2024); *Jensen v. Garland*, No. 5:21-cv-01195-CAS (AFM), 2023 U.S. Dist. LEXIS
13 78505, 2023 WL 3246522, at *4 (C.D. Cal. May 3, 2023); *Lewis v. Garland*, No. EDCV
14 22-296 JGB (AGRx), 2023 U.S. Dist. LEXIS 231037, 2023 WL 8898601, at *3-4 (C.D.
15 Cal. July 31, 2023).

16 31. Those in R.S.'s position – a noncitizen granted the liberty of release pending
17 removal proceedings – have due process rights. The breadth of those rights turns on the
18 application of the *Mathews* test. *Mathews* requires consideration of three factors: (1) the
19 private interest affected; (2) the risk of an erroneous deprivation; and (3) the
20 Government's interest. *Mathews*, 424 U.S. at 335. Here, all three factors suggest that
21 R.S. has a right to a pre-detention hearing before a neutral arbiter.

STATEMENT OF FACTS

23 32. R.S. has resided in the United States since December 2022, in Lawndale,
24 California.

25 33. On or around December 22, 2022, R.S. crossed the U.S.-Mexico border,
26 entering the United States without inspection.

27 34. Upon entering the U.S., R.S. surrendered himself to U.S. immigration
28 authorities and requested asylum. R.S. was placed in detention for about five days. On or

1 around December 27, 2022, he was released on his own recognizance and, on February
2 22, 2023, R.S. was served in person with a Notice to Appear.

3 35. DHS placed R.S. in removal proceedings before the Los Angeles
4 Immigration Court, pursuant 8 U.S.C. § 1229(a). ICE has charged R.S. with, *inter alia*,
5 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United
6 States without inspection.

7 36. Since then, R.S. has done everything the government asked him to do: he
8 has diligently attended every immigration court hearing and filed an application for
9 asylum within the one-year filing deadline.

10 37. Once in the United States, and after receiving his Employment
11 Authorization, R.S. obtained steady employment as a freelance worker in construction and
12 in cleaning. R.S. has no criminal history. R.S. is neither a flight risk nor a danger to the
13 community.

14 38. In or around November 2024, R.S. was meeting a friend near the San Ysidro
15 Port of Entry and accidentally crossed the U.S.-Mexico border. He explained the situation
16 to the border agents and was immediately let back into the United States and allowed to
17 return home.

18 39. R.S. filed his Form I-589, Application for Asylum, Withholding of
19 Removal, and Protection Under the Convention Against Torture, in October 2023, on the
20 basis that he was subjected to beatings and death threats by the Iranian regime before he
21 fled Iran.

22 40. R.S.'s Merits Hearing began on June 4, 2025, before the Honorable Joyce
23 Bakke Varzandeh, Immigration Judge. Judge Bakke Varzandeh continued the Merits
24 Hearing to July 14, 2025, at 1:00 p.m. for further testimony.

25 41. However, before R.S.'s continued Merits Hearing could commence, on or
26 around June 30, 2025, R.S. was at his home getting ready for work when he was detained
27 by immigration officials. R.S. is now detained at the Adelanto Detention Facility in
28 Adelanto, California.

42. R.S. sought a bond hearing on July 7, 2025. The Immigration Judge issued a decision on July 11, 2025, denying bond on the grounds that the IJ did not have jurisdiction, relying on *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025).

43. As a result, R.S. remains in detention. Without relief from this Court, R.S. faces the prospect of months, or even years, in immigration custody.

CLAIMS FOR RELIEF

COUNT I

Violation of Due Process

44. R.S. repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

45. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). “A protected liberty interest may arise from a conditional release from physical restraint.” *Rodriguez v. Kaiser*, 2025 U.S. Dist. LEXIS 172756, at *8 (E.D. Cal. Sep. 4, 2025) (citing *Young v. Harper*, 520 U.S. 143, 147-49 (1997)).

46. “[E]ven when an initial decision to detain or release an individual is discretionary, the government’s subsequent release of the individual from custody creates “an implicit promise” that the individual’s liberty will be revoked only if they fail to abide by the conditions of their release.” *Calderon v. Kaiser*, 2025 U.S. Dist. LEXIS 163975, at *5 (N.D. Cal. Aug. 22, 2025). Accordingly, a noncitizen released from custody pending removal proceedings has a protected liberty interest in remaining out of custody.

47. R.S. gained a liberty interest in his continued freedom when DHS elected to release him on his own recognizance. This release implied a promise that he would not be re-detained so long as he abided by the terms of his release. That promise accords with the protections afforded by statute.

1 48. R.S. was released pursuant to the authority contained in section 236 [§1226]
 2 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal
 3 Regulations. Under federal regulation, DHS was authorized to release R.S. under § 1226
 4 only upon a determination that “such release would not pose a danger to property or
 5 persons” and that he was “likely to appear for any future proceeding.” 8 C.F.R. §
 6 1236.1(c)(8). DHS’s decision to release R.S. thus reflected a determination by the
 7 government that the noncitizen is not a danger to the community or a flight risk. R.S. has
 8 complied with the obligations set forth in his Notice to Appear, including by appearing for
 9 all of his immigration hearings.

10 49. A noncitizen detained under Section § 1226(a) has the right to contest their
 11 custody determination before an immigration judge, at which time the government bears
 12 the burden to prove that the detention is justified. *Diaz v. Garland*, 53 F.4th 1189, 1196
 13 (9th Cir. 2022) (citing 8 C.F.R. §§ 236.1(d)(1)); 8 CFR 1003.19. This right becomes
 14 available at the “outset of detention.” *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018)
 15 (citing 8 C.F.R. § 236.1(d)(1)). R.S. was rightfully released under Section 1226 since he
 16 was neither a danger nor a flight risk, as a bond hearing would likely have found, and he
 17 was entitled to maintain his freedom while removal proceedings were ongoing absent a
 18 change in circumstances.

19 50. The risk of erroneous deprivation of R.S.’s interest is high because a hearing
 20 will likely reveal that R.S. presents no risk to public safety and no risk of non-appearance.
 21 Indeed, given his performance on release, Respondents cannot argue otherwise.

22 51. Respondents cannot show any countervailing interest against releasing R.S.
 23 Any comparative harm to Respondents is minimal – a mere delay in detaining R.S. if
 24 Respondents ultimately show that the sought-after detention is intended and warranted. In
 25 any case, R.S. is currently subject to full removal proceedings and scheduled for an
 26 asylum hearing within the week.

27 52. A pre-deprivation bond hearing will not interfere with the proceedings.

28

1 53. A party cannot reasonably assert that it is being harmed in any legally
2 cognizable sense by being enjoined from constitutional violations. Moreover, detention
3 for its own sake is not a legitimate governmental interest.

PRAYER FOR RELIEF

WHEREFORE, R.S. prays that this Court grant the following relief:

- 7 a. Assume jurisdiction over this matter;
- 8 b. Order that R.S. shall not be transferred outside the Central District of
- 9 California while this habeas petition is pending;
- 10 c. Issue an Order to Show Cause ordering Respondents to show cause why this
- 11 Petition should not be granted within three days;
- 12 d. Issue a Writ of Habeas Corpus requiring that Respondents release R.S.;
- 13 e. Declare that R.S.'s detention is unlawful;
- 14 f. Award R.S. attorney's fees and costs under the Equal Access to Justice Act
- 15 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified
- 16 under law; and
- 17 g. Grant any other and further relief that this Court deems just and proper.

21 || Dated: September 30, 2025

Respectfully submitted,

LOEB & LOEB LLP
DANIEL J. FRIEDMAN
JENNIFER G. KAHN

Jennifer G. Kahn
JENNIFER G. KAHN

Attorneys for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of Petitioner R.S. because I am one of R.S.'s attorneys. I have talked and corresponded with R.S. regarding the events described in the Petition. Based on these communications, I hereby verify that the factual statements made in the Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on September 30, 2025, in Los Angeles, California.

Jennifer G. Kahn
JENNIFER G. KAHN

1 **PROOF OF SERVICE**

2 I, Erica K. Embray, the undersigned, declare as follows:

3 I am employed in the County of Los Angeles, State of California. I am over the age
4 of eighteen years and not a party to this action. My business address is LOEB & LOEB,
5 LLP, 10100 Santa Monica Boulevard., Suite 2200, Los Angeles, CA 90067. On
6 September 30, 2025, I caused to be served the within:

7 **PETITION FOR WRIT OF HABEAS CORPUS**

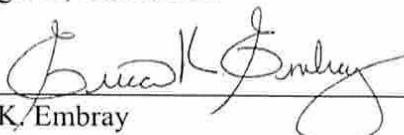
8 On the interested parties in this action listed below:

9 Assistant United States Attorney's Office
10 c/o Civil Process Clerk
11 Central District of California
12 300 N. Los Angeles St., Suite 7516
13 Los Angeles, California 90012 64-1582

14 **(VIA U.S. MAIL)** by placing the above named document in a sealed envelope
15 addressed as set forth above, or on the attached service list and by then placing such sealed
16 envelope for collection and mailing with the United States Postal Service in accordance
17 with Loeb & Loeb LLP's ordinary business practices. I am readily familiar with Loeb &
18 Loeb LLP's practice for collecting and processing correspondence for mailing with the
19 United States Postal Service and Overnight Delivery Service. That practice includes the
20 deposit of all correspondence with the United States Postal Service and/or Overnight
21 Delivery Service the same day it is collected and processed.

22 I declare under penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct.

24 Executed on September 30, 2025, at Los Angeles, California.

25 
26 Erica K. Embray