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7 **IN THE UNITED STATES DISTRICT COURT**  
8 **FOR THE DISTRICT OF ARIZONA**

9 Nader Eshaghian,

10 Petitioner,

11 vs.

12 Chris Howard, Acting Warden, Eloy  
13 Detention Center;

14 John Cantu, Former Phoenix Field Office  
15 Director, U.S. Immigration and Customs  
Enforcement;

16 Pamela Jo Bondi, Attorney General of the  
17 United States; and


18 Kristi Noem, Secretary of Homeland  
19 Security,

20 Respondents.

No.

**Petition for a Writ of Habeas Corpus  
Under 28 U.S.C. § 2241**

21 **Technical Data**

- 22 1. Mr. Eshaghian is challenging the validity of his detention by immigration officials. His A-  
23 number is .
- 24 2. Mr. Eshaghian is challenging the validity of the decision to revoke his order of supervision  
25 and detain him pending his removal to Iran, as per an immigration judge's order in 2003.  
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3. Mr. Eshaghian is presently detained at the Eloy Detention Center in Eloy, Arizona. Upon information and belief, Mr. Eshaghian has not seen a judge and has not had an opportunity to exhaust any available administrative remedies.

### Parties, Jurisdiction, and Venue

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4. Petitioner Naper Eshaghian is a citizen of Iran. He was ordered removed from the United States in 1995. He is presently detained based on that order at the Eloy Detention Center.
  5. Respondent Chris Howard is, upon information and belief, the Acting Warden of the Eloy Detention Center, where Mr. Eshaghian is being detained. He is Mr. Eshaghian's immediate legal custodian and thus a proper respondent in this matter. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004).
  6. Respondent John Cantu was the Phoenix Field Office Director for U.S. Immigration and Customs Enforcement. He was dismissed from this role on October 24, 2025. No replacement for Mr. Cantu has been publicly identified. Mr. Cantu or his successor are responsible for Mr. Eshaghian detention, and thus a legal custodian of Mr. Eshaghian.
  7. Respondents Pamela Jo Bondi and Kristi Noem are, respectively, the Attorney General of the United States and the Secretary of Homeland Security. As such, they are responsible for maintaining the immigration detention system. They are thus legal custodians of Mr. Eshaghian.
  8. This Court has jurisdiction under 28 U.S.C. §§ 2241 *et seq.*; the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*; the All Writs Act, 28 U.S.C. § 1651; and the Fifth Amendment to the United States Constitution.
  9. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) and (e)(1)(B) because a substantial part of the events or omissions giving rise to the claims set forth herein occurred in this district.

## Background

10. Mr. Eshaghian was born in Iran in 1959. He came to the United States in 1974 on an F-1 student visa. He was granted lawful permanent resident status in 1978 through his uncle's sponsorship.
11. In 1995, Mr. Eshaghian was ordered deported from the United States based on a conviction for possession of cocaine for sale and possession of cocaine, in violation of Cal. Health & Safety Code § 11351. The Board of Immigration Appeals affirmed the deportation order, and the Ninth Circuit dismissed a petition for review of the deportation order. *See Eshaghian v. INS*, No. 97-70426, 2000 WL 96637 (9th Cir. Jan. 27, 2000).
12. In 2002, the Board of Immigration Appeals reopened Mr. Eshaghian's removal proceedings. On April 28, 2003, an immigration judge in San Diego, California, again ordered Mr. Eshaghian deported to Iran.
13. In 2005, Mr. Eshaghian was released on an order of supervision because, upon information and belief, ICE was unable to obtain travel documents that would allow his removal to Iran.
14. On August 24, 2009, a jury in Los Angeles County Superior Court found Mr. Eshaghian guilty of one count of assault with a deadly weapon, in violation of Cal. Penal Code § 245(a)(1). *People v. Eshaghian*, No. B223067, 2011 WL 769955, at \*1 (Cal. Ct. App. Mar. 7, 2011). He was sentenced to a total of 12 years in prison. *Id.* The California Court of Appeal affirmed the conviction on March 7, 2011. The California Supreme Court denied a petition for review on June 8, 2012. The United States District Court for the Central District of California denied his petition for a writ of habeas corpus under 28 U.S.C. § 2254. *Eshaghian v. Tampkins*, No. 2:12-cv-4312-SJO (AGR), 2014 WL 5106992 (C.D. Cal. Oct. 9, 2014). The Ninth Circuit denied him a certificate of appealability. *Eshaghian v. Tampkins*, No. 15-55209 (9th Cir. Sept. 21, 2015) (Dkt. #2).

- 1 15. In 2015 Mr. Eshaghian was again released on an order of supervision because, upon  
2 information and belief, ICE was again unable to obtain travel documents that would allow  
3 his removal to Iran. The 12-year sentence that he was serving was based on both the  
4 assault charge and a recidivist sentence enhancement. Retroactive changes in California  
5 sentencing law allowed for this sentence to be reduced, such that he was released from  
6 California state prison in 2015 despite being sentenced in 2009.
- 7 16. On or about September 24, 2025, Mr. Eshaghian's order of supervision was revoked, and  
8 he was taken into custody. He is presently detained at the Eloy Detention Center in Eloy,  
9 Arizona.
- 10 17. Upon information and belief, ICE is unable to obtain travel documents for Mr. Eshaghian  
11 because the Iranian Interests Section of the Pakistani Embassy<sup>1</sup> cannot issue travel  
12 documents without the originals of Mr. Eshaghian's Iranian birth certificate and passport,  
13 which he does not have.

### 14 Grounds for Relief

15 **Ground One: Mr. Eshaghian's continued detention in immigration custody violates the**  
16 **Due Process Clause of the Fifth Amendment to the U.S. Constitution because**  
17 **there is no significant likelihood that he will be removed in the reasonably**  
18 **foreseeable future.**

- 19 18. Mr. Eshaghian cannot presently be returned to Iran, because Iran has indicated it will not  
20 accept him for return and it does not cooperate with ICE's efforts to obtain travel  
21 documents on behalf of its nationals. And the Iranian Interests Section of the Pakistani  
22 Embassy has indicated that ICE does not have the required documents that would allow it  
23 to issue travel documents for Mr. Eshaghian.
- 24 19. Mr. Eshaghian's present detention is purportedly authorized under 8 U.S.C. § 1231.

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26 <sup>1</sup> The Iranian Interests Section of the Pakistani Embassy in the United States is empowered to  
27 issue travel documents to Iranian citizens. *See, e.g., Hekmati v. Islamic Republic of Iran*, 278 F.  
28 Supp. 3d 145, 150 (D.D.C. 2017); *Momennia v. Estrada*, 268 F. Supp. 2d 679, 685 (N.D. Tex.  
29 2003).

- 1 a. Detention of aliens who have been ordered removed is mandatory during the so-  
2 called 90-day “removal period.” 8 U.S.C. § 1231(a)(1)(A).
- 3 i. The beginning of the removal period is pegged to one of three potential  
4 dates. As relevant here, the latest of these dates is the date of the Ninth  
5 Circuit’s final order in *Eshaghian v. INS*, January 27, 2000.
- 6 ii. This trigger date applies only if the relevant court of appeals issues a stay  
7 of removal during judicial-review proceedings. 8 U.S.C.  
8 § 1231(a)(1)(B)(ii). In 1997, when Mr. Eshaghian filed his petition for  
9 review, the Ninth Circuit had a policy of automatically staying removals  
10 when a petition for review was filed. Thus the proper trigger date for the  
11 beginning of Mr. Eshaghian’s removal period is January 27, 2000.
- 12 iii. Even if the removal order issued in 2003 determines the proper trigger  
13 date under 8 U.S.C. § 1231(a)(1)(B), the removal period nevertheless  
14 expired over 20 years ago.
- 15 b. Aliens like Mr. Eshaghian who have been ordered removed by virtue of a criminal  
16 conviction for possession of cocaine may be kept in detention after the removal  
17 period expires. *See* 8 U.S.C. § 1231(a)(6). If they are released, they “shall be  
18 subject to the terms of supervision” in § 1231(a)(3). 8 U.S.C. § 1231(a)(6). Those  
19 terms include periodic appearances before an immigration officer and other  
20 conditions prescribed by regulation. 8 U.S.C. § 1231(a)(3)(A), (D).
- 21 c. The government has previously argued that the statutory text of § 1231 authorizes  
22 indefinite detention. *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001).
- 23 d. But the Supreme Court has interpreted § 1231 *not* to authorize indefinite  
24 detention in order to avoid a serious constitutional problem. *Zadvydas*, 533 U.S. at  
25 689. The Due Process Clause of the Fifth Amendment limits an alien’s  
26 “detention to a period reasonably necessary to bring about that alien’s removal  
27 from the United States.” *Id.* Because of this constitutional limitation, § 1231  
28

1 “does not permit indefinite detention.” *Id.* After six months of detention, there  
2 arises a presumption that the alien can “provide[] good reason to believe that  
3 there is no significant likelihood of removal in the reasonably foreseeable future,”  
4 such that “the Government must respond with evidence sufficient to rebut that  
5 showing.” *Id.* at 701.

- 6  
7 e. ICE has already concluded that there is no significant likelihood of removing  
8 anyone to Iran in the reasonably foreseeable future. The government cannot  
9 therefore rebut the presumption that Mr. Eshaghian cannot be removed to Iran in  
10 the reasonably foreseeable future. Furthermore, ICE is aware that the Iranian  
11 Interests Section will not issue travel documents for Mr. Eshaghian based on the  
12 information ICE has submitted.

13 20. Thus Mr. Eshaghian’s continued detention in ICE custody violates the Due Process  
14 Clause of the Fifth Amendment as described in *Zadvydas*.

15 **Ground Two: Mr. Eshaghian’s detention in immigration custody pending removal to any**  
16 **third country violates the Due Process Clause of the Fifth Amendment**  
17 **because ICE has not given him sufficient notice of the proposed third country**  
18 **and an opportunity to request relief from removal to that country, either from**  
19 **an immigration officer, an immigration judge, or a federal court.**

20 21. “It is well established that the Fifth Amendment entitles aliens to due process of law in  
21 the context of removal proceedings.” *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025) (per  
22 curiam) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). Mr. Eshaghian thus is entitled  
23 to “notice and an opportunity to be heard appropriate to the nature of the case.” *Id.*  
24 (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950)). As  
25 relevant here, this means that Mr. Eshaghian is entitled to notice that he is to be removed  
26 to a third country “within a reasonable time and in such a manner as will allow [him] to  
27 actually seek habeas relief in the proper venue before such removal occurs.” *Id.*

28 22. Mr. Eshaghian has not been formally ordered removed to any country other than Iran. As  
such, he has never had an opportunity to contest removal to any third country on the  
ground that he may face persecution or torture if he is removed to that country.

1 23. To the extent that Mr. Eshaghian’s detention is meant to facilitate his removal to a third  
2 country, *see generally Zadvydas*, 533 U.S. at 690 (suggesting that detention following a  
3 removal order is intended to facilitate removal), if such a removal is accomplished in  
4 violation of his due-process rights, then his detention is illegal. This due-process claim  
5 “necessarily impl[ies] the invalidity of [his] confinement and removal” to a third country  
6 not yet named in any removal order. *J.G.G.*, 145 S. Ct. at 1005. Thus his due-process  
7 claim is properly brought in a habeas petition, and a court order that he be released from  
8 detention is a proper remedy for such a violation.

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10 **Prayer for Relief**

- 11 24. Mr. Eshaghian is being illegally detained, in violation of the Due Process Clause of the  
12 Fifth Amendment. He respectfully asks the Court to:
- 13 a. order respondents to answer the petition;
  - 14 b. permit him to file a reply in support;
  - 15 c. allow him to conduct discovery in order to support his claims for relief;
  - 16 d. convene an evidentiary hearing, if needed to resolve disputed facts;
  - 17 e. order respondents to release him from their custody on an order of supervision;  
18 and
  - 19 f. grant him any other relief that is just and practicable.

20 Respectfully submitted:

November 5, 2025.

21 JON M. SANDS  
Federal Public Defender

22 *s/Keith J. Hilzendege*  
23 KEITH J. HILZENDEGER  
24 Assistant Federal Public Defender  
25 *Attorney for Petitioner Eshaghian*  
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Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

**The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.**

Plaintiff(s): **Nader Eshaghian , ;**

Defendant(s): **Chris Howard , Acting Warden, Eloy Detention Center; John Cantu , Former Phoenix Field Office Director, U.S. Immigration and Customs Enforcement; Pamela Jo Bondi , Attorney General of the United States; Kristi Noem , Secretary of Homeland Security;**

County of Residence: Pinal

County of Residence: Pinal

County Where Claim For Relief Arose: Pinal

Plaintiff's Atty(s):

Defendant's Atty(s):

**Keith James Hilzendeger , Assistant Federal Public Defender**  
Federal Public Defender, District of Arizona  
250 North 7th Avenue, Suite 600  
Phoenix, AZ 85007  
6023822700

**IFP REQUESTED**

**REMOVAL FROM COUNTY, CASE #**

II. Basis of Jurisdiction: **2. U.S. Government Defendant**

III. Citizenship of Principal Parties(Diversity Cases Only)

Plaintiff:- **N/A**

Defendant:- **N/A**

IV. Origin : **1. Original Proceeding**

V. Nature of Suit: **463 Alien Detainee**

VI.Cause of Action: **28 U.S.C. 2241**

VII. Requested in Complaint

Class Action: **No**

Dollar Demand: **0**

Jury Demand: **No**

VIII. This case is not related to another case.

**Signature:** s/Keith J. Hilzendeger