

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

LASHA NIKABADZE :

Petitioner, :

-against- :

MIGUEL VERGARA, FIELD OFFICE DIRECTOR, :
IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE), :
ENFORCEMENT AND REMOVAL OPERATIONS, IN HIS OFFICIAL :
CAPACITY, :

TODD M. LYONS, IN HIS OFFICIAL CAPACITY AS :
ACTING DIRECTOR, U.S. IMMIGRATION AND :
CUSTOMS ENFORCEMENT; :

KRISTI NOEM, IN HER OFFICIAL CAPACITY AS :
SECRETARY OF THE UNITED STATES :
DEPARTMENT OF HOMELAND SECURITY; :

PAMELA BONDI, IN HER OFFICIAL CAPACITY AS :
U.S. ATTORNEY GENERAL, :

MARIO GARCIA, WARDEN, WEBB COUNTY :
DETENTION CENTER, IN HIS OFFICIAL :
CAPACITY, AND :
MICHAEL TENNYSON, EOIR ACTING FIELD :
OFFICE OF DIRECTOR, IN HIS OFFICIAL :
CAPACITY :

Respondents. -----X



**PETITION FOR
WRIT OF HABEAS CORPUS**

Case No. 5-25-CV-00236

COMES NOW, Petitioner, Lasha Nikabadze (“Petitioner” or “Mr. Nikabadze”), brings this Verified Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief pursuant to 28 U.S.C. § 2241; the All Writs Act, 28 U.S.C. § 1651; the Immigration and Nationality Act (“INA”) and regulations thereunder; the Administrative

Procedure Act; and the Suspension Clause of the Constitution, U.S. Const. Art. I § 9, cl. 2, because he is unlawfully being detained without bond under 8 U.S.C. § 1225.

INTRODUCTION

1. Petitioner, Lasha Nikabadze (“Mr. Nikabadze”), is a citizen and national of Georgia.
2. Mr. Nikabadze left Georgia with his wife, Teona Getsadze. The family entered the United States on or about December 17, 2021, as a unit, after fleeing Georgia because 

3. When the family entered into the United States in December 2021, they were processed together and traveled to Brooklyn, New York, to live with Petitioner’s mother.
4. After entry, Petitioner timely filed his Form I-589, Application for Asylum, with the U.S. Citizenship and Immigration Service (“USCIS”), as they had jurisdiction because the Department of Homeland Security did not file a Notice to Appear with the immigration court.
5. On January 10, 2023, USCIS issued a receipt notice for Petitioner’s asylum case, which was received on December 13, 2022.
6. On January 22, 2025, Petitioner was granted a work authorization in connection with his pending asylum application.
7. On January 14, 2025, USCIS wrote a letter stating that it was forwarding Form I-589 to the Immigration Court.
8. On January 2, 2025, USCIS issued a Notice to Appear under 8 U.S.C. § 1226(a) ordering the Petitioner to appear at 26 Federal Plaza, 12th Floor, Room 1237, New York, NY, on March 20, 2026.

4. Mr. Nikabadze has no criminal history.
5. On September 16, 2025, Mr. Nikabadze was driving in Texas and had stopped at an immigration checkpoint. Border Patrol asked him if he was a U.S. citizen or lawful permanent resident. Petitioner provided his valid driver's license and valid Employment Authorization Document. Nonetheless, Border Patrol unlawfully detained him and transferred him to the Webb County Detention Center in Texas, where he remains unlawfully detained.
6. On July 8, 2025, DHS issued a new policy memorandum to all , On July 8, 2025, DHS issued a memo to all employees of Immigration and Customs Enforcement (Hereinafter "ICE") stating that "[t]his message serves as notice that DHS, in coordination with the Department of Justice (Hereinafter "DOJ"), has revisited its legal position on detention and release authorities. DHS has determined that section 235 of the Immigration and Nationality Act (INA), rather than section 236, is the applicable immigration detention authority for all applicants for admission. The following interim guidance is intended to ensure immediate and consistent application of the Department's legal interpretation while additional operational guidance is developed." Memorandum, U.S. Immigration & Customs Enf't, *Interim Guidance Regarding Detention Authority for Applications for Admission* (July 8, 2025), available at AILA Doc. No. 25071607, <https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.
6. Through his pending asylum application, Mr. Nikabadze will have the opportunity to become a lawful permanent resident, and his removal is not reasonably foreseeable due to a pending application for relief.

7. Mr. Nikabadze is detained at the Webb County Detention Center away from his wife and counsel located in New York.
8. Mr. Nikabadzei requested a custody re-determination from an immigration judge. However, it was denied as the immigration judge found it did not have jurisdiction to review his custody redetermination due to a new policy memo and Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025) holding that everyone present in the United States who did not enter with a valid visa is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
9. Petitioner’s detention pursuant to § 1225(b)(2)(A) violates the plain language of the INA and its implementing regulations. Petitioner, who was apprehended in the interior of the U.S., should not be considered an “applicant for admission” who is “seeking admission.” Rather, he should continue to be detained pursuant to 8 U.S.C. § 1226(a), which was DHS’s initial determination for Mr. Nikabadze and allows for release on conditional parole or bond.
10. Through this petition, Mr. Nikabadze asks this Court to find that Respondents have unlawfully detained him under § 1225(b)(2)(A), that his detention is appropriate under § 1226(a), which DHS initially processed him under, and immediately release Mr. Nikabadze from custody in accordance with the initial custody determination made in March 2024. Zadvydas v. Davis, 533 U.S. 678, 687-88 (2001).


JURISDICTION & VENUE

11. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question), Article I, § 9, cl. 2 of the United States Constitution

(Suspension Clause), and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et. seq.*

12. Venue is proper because Petitioner was detained in Texas, and now remains detained at the Webb County Detention Center. See ICE Detainee Locator; See also generally Rumsfeld v. Padilla, 542 U.S. 426, 447 (2004) (generally, “[w]henver a § 2241 habeas petitioner seeks to challenge his present physical custody within the United States,” he must file the petition in the district of confinement and name his immediate custodian as the respondent).

PARTIES

13. Petitioner Mr. Lasha Nikabadze is a citizen and national of Georgia. He resides with his wife and mother at  He is currently in ICE custody and detained at the Webb County Detention Center, 9998 S Highway, 83, Laredo, TX 78041.
14. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in the District of Texas; is legally responsible for pursuing any effort to detain and remove the Petitioner; and as such is a custodian of the Petitioner. At all times relevant hereto, Respondent Noem’s address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.
15. 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 Texas, Laredo Division, 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.

16. Respondent MARIO GARCIA is the warden at the EL VALLE DETENTION FACILITY, where the petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.
17. Respondent, MIGUEL VERGARA, is ICE Field Officer Director of Detention and Removal. Respondent Vergara is a custodial official acting within the boundaries of the judicial district of the United States Court for the Southern District of Texas, Brownsville Division. Pursuant to Respondent Vergara's orders, Petitioner remains behind bars.

LEGAL BACKGROUND

1. Section 2241 of 28 United States Code provides in relevant part that “[w]rits of habeas corpus may be granted by . . . the district courts within their respective jurisdictions” when a petitioner “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(a), (c)(3); *see also* *I.N.S. v. St. Cyr*, 533 U.S. 289, 305, 121 S. Ct. 2271 (2001).
2. District courts grant writs of habeas corpus to those who demonstrate their custody violates the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3).
3. Habeas corpus “entitles [a] prisoner to a meaningful opportunity to demonstrate that he is being held pursuant to ‘the erroneous application or interpretation’ of relevant law.” *Boumediene v. Bush*, 553 U.S. 723, 779, 128 S. Ct. 2229 (2008) (*quoting*, *St. Cyr*, 533 U.S. at 302).

4. The Fifth Amendment’s Due Process Clause protects the right of all persons to be free from “depriv[ation] of life, liberty, or property, without due process of law.” U.S. Const. amend. V.
5. “It is well established that the Fifth Amendment entitles aliens to due process of law[.]” *Trump v. J. G. G.*, 604 U.S. ---, 145 S. Ct. 1003, 1006 (2025) (quoting *Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439 (1993)).
6. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.
7. The INA prescribes three basic mechanisms for detention for non-citizens, 8 U.S.C. § 1225, for arriving aliens and applicants for admission, § 1226 the default detention statute, and § 1231 for post-final order detention.
8. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104-208. Div. C, §§ 302-03, 110 Stat. 3009-546, 300-582 to 3009-583, 3009-585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).
9. Following the enactment of the IIRIRA, the U.S. Department of Justice’s Executive Office of Immigration Review (“EOIR”) drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite

being applicants for admission, aliens who are present without having been admitted or paroled (formed referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination”).

10. Thus, in the decades that followed, most people who entered without inspection and were thereafter detained and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an Immigration Judge (“IJ”), unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 220 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).
11. For decades, residents of the U.S. who entered without inspection and were subsequently apprehended by ICE in the interior of the country have been detained pursuant to § 1226 and entitled to bond hearings before an IJ, unless barred from doing so due to their criminal history.
12. On July 8, 2025, however, DHS stated a new position with regard to custody determinations as follows:

An “applicant for admission” is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. INA § 235(a)(1). **Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole.** These aliens are also ineligible for a custody redetermination hearing (“bond hearing”) before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now

treated in the same manner that “arriving aliens” have historically been treated. **The only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).**

Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants for admission because Form I-286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286. *See* <https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission> (emphasis original).

13. As a result, according to DHS all noncitizens who have entered the United States without inspection and are subject to the grounds of inadmissibility, including long-time U.S. residents, are now considered to be subject to mandatory detention under INA § 235(b) and ineligible for release on bond. Conversely, according to DHS “[t]he only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).” *Id.*

14. Prior to July 8, 2025, the predominant form of detention authority for anyone arrested in the interior of the United States was 8 U.S.C. § 1226(a). Further, the Petitioner in this case was initially arrested and released pursuant to 8 U.S.C. § 1226(a), and is demonstrated by DHS’s own forms.

15. Under § 1226(a) the Attorney General may release a detainee on bond on the authority of ICE or by an Immigration Judge. There are standards for release: bond is available if the

detainee “demonstrate[s] . . . that such release would not pose a danger to property or persons, and that [he] is likely to appear for any future proceeding.” 8 C.F.R. § 36.1(c)(8). “[T]he immigration judge is authorized to exercise the authority . . . to detain the alien in custody, release the alien, and determine the amount of bond.” *Id.* § 236.1(d)(1). If denied release at the initial bond hearing, a § 1226(a) detainee may request a custody redetermination hearing before an IJ. That request will “be considered only upon a showing that the alien’s circumstances have changed materially.” *Id.* § 1003.19(e).

CONSTITUTIONALLY ADEQUATE BOND HEARING

16. The Due Process Clause requires constitutionally adequate bond hearing. “Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Detention must “bear [a] reasonable relation to the purpose for which the individual [was] committed.” *Id.* At 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972))
17. At a minimum, due process requires “adequate procedural protections” to ensure that the Government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* (internal quotation marks omitted).
18. In civil detention cases, the Supreme Court “repeatedly has recognized that civil commitment for any purpose constitutes a significant deprivation of liberty.” *Singh*, 638 F.3d 1196, 1204-05 (9th Cir. 2011) (quoting *Addington v. Texas*, 441 U.S. 418, 425 (1979)) (emphasis in original).

19. Civil detention is impermissible without an individualized hearing before a neutral decision maker that tests the Government's justification for imprisonment. See United States v. Salerno, 481 U.S. 739, 750-51 (1987) (upholding civil pretrial detention of individuals charged with crimes only upon individualized findings of dangerousness or flight risk at custody hearings); Foucha v. Louisiana, 504 U.S. 71, 81-83 (1992) (requiring individualized finding of mental illness and dangerousness for civil commitment); Kansas v. Hendricks, 521, U.S. 346, 357 (1997) (upholding civil commitment of sex offenders after jury trial on lack of volitional control and dangerousness).
20. The Ninth Circuit and other district courts have held that immigration detainees are entitled to bond hearings at which the Government bears the burden to prove by clear and convincing evidence that detainees would be a flight risk or danger to the community. See, e.g., Singh, 638 F.3d at 1204-05; Pensamiento v. McDonald, 315 F. Supp. 3d 684, 692 (D. Mass. 2018) (holding that due process requires the burden of proof be placed on the government in custody redetermination hearings for non-criminal aliens) (Saris, C.J.); Alvarez Figueroa v. Mc Donald, Civil Action No. 18-10097-PBS, 2018 U.S. Dist. LEXIS 80781, at *15-16 (D. Mass. May 14, 2018) ("The Zadvydas Court then cited to criminal pretrial detention and civil commitment cases, making it clear that one important procedural protection for preventive detention is the placement of the burden of proof of the government.") (Saris, C.J.); Doe v. Tompkins, Case No. 18-cv-12266-PBS, 2019 U.S. Dist. LEXIS 22616, at *4 (D. Mass. Feb 12, 2019) holding that due process requires that the burden of proving that the respondent is dangerous and is a flight risk be placed on the government in § 1226(a) custody redetermination hearings) (Saris, C.J.); Diaz-Ortiz v. Tompkins, Case No. 18-cv-12600-PBS, 2019 U.S. Dist. LEXIS 14155, at *3-4 (D.


Mass. Jan. 29, 2019) (same) (Saris, C.J.); *Martinez v. Decker*, No. 18-CV-6527 (JMF), 2018 U.S. Dist. LEXIS 178577, at *13 (S.D.N.Y. Oct. 17, 2018) (concluded that “due process requires the Government to bear the burden of proving that detention is justified at a bond hearing under Section 1226(a).”); *Darko v. Sessions*, 342 F. Supp. 3d 429, 436 (S.D.N.Y. 2018) (same; further, “the Court concludes that the government must bear the burden by clear and convincing evidence.”); *Haughton v. Crawford*, 221 F. Supp. 3d 712, 713-17 (E.D. Va. 2016) (“the significant deprivation of liberty warrants the robust procedural protections afforded by requiring the government to demonstrate by clear and convincing evidence that petitioner’s ongoing detention is appropriate to protect the community and ensure petitioner’s appearance at future proceedings.”) *Portillo v. Hott*, 322 F. Supp. 3d 698, 2018 WL 3237898, at *8 *n.9 (E.D. Va. 2018) (reaffirming Haughton as “good authority”).

STATEMENT OF THE FACTS

21. Petitioner, Lasha Nikabadze (“Mr. Nikabadze”), is a citizen and national of

22. Georgia.

23. Mr. Nikabadze left Georgia with his wife, Teona Getsadze. The family entered the

United States on or about December 17, 2021, as a unit, after fleeing Georgia because 



24. When the family entered into the United States in December 2021, they were processed together and traveled to Brooklyn, New York, to live with Petitioner’s mother.

25. After entry, Petitioner timely filed his Form I-589, Application for Asylum, with the U.S. Citizenship and Immigration Service (“USCIS”), as they had jurisdiction because the

Department of Homeland Security did not file a Notice to Appear with the immigration court.

26. On January 10, 2023, USCIS issued a receipt notice for Petitioner's asylum case, which was received on December 13, 2022.
27. On January 22, 2025, Petitioner was granted a work authorization in connection with his pending asylum application.
28. On January 14, 2025, USCIS wrote a letter stating that it was forwarding Form I-589 to the Immigration Court.
29. On January 2, 2025, USCIS issued a Notice to Appear under 8 U.S.C. §1226(a) ordering the Petitioner to appear at 26 Federal Plaza, 12th Floor, Room 1237, New York, NY, on March 20, 2026.
30. Mr. Nikabadze has no criminal history.
31. On September 16, 2025, Mr. Nikabadze was driving in Texas and had stopped at a immigration checkpoint. Border Patrol asked him if he was a U.S. citizen or lawful permanent resident. Petitioner provided his valid driver's license and valid Employment Authorization Document. Nonetheless, Border Patrol unlawfully detained him and transferred him to the Webb County Detention Center in Texas, where he remains unlawfully detained.

CLAIM FOR RELIEF

**FIRST CLAIM FOR RELIEF
VIOLATION OF 8 U.S.C. § 1226(a)
UNLAWFUL DENIAL OF RELEASE ON BOND**

32. Petitioner restates and realleges all paragraphs as if fully set forth here.

33. In September 2025, Mr. Nikabadze was apprehended again even though he did not violate the terms of his release on recognizance. At this time, DHS subjected him to detention under § 1225, stating that he is subject to mandatory detention.
34. Petitioner may only be detained, if at all, pursuant to 8 U.S.C. § 1226(a).
35. DHS has already made a custody determination under 8 U.S.C. § 1226(a), and ordered his release from detention.
36. Petitioner's continuing detention is therefore unlawful.

SECOND CLAIM FOR RELIEF

CONTINUED DETENTION CONSTITUTES A VIOLATION OF DUE PROCESS

37. Petitioner incorporates all factual allegations as though restated here.
38. ICE detained Mr. Nikabadze without reasonable suspicion and continues to do so in violation of his constitutional rights protected under the Fifth Amendment.
39. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V.
40. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects." *Zadvydas*, 533 U.S. at 690.
41. Mr. Nikabadze's detention violates his Fifth Amendment rights for at least three related reasons.
42. First, immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690).

43. Whereas here, the government has ordered release on recognizance, detention is not reasonably related to its purpose.
44. Second, the Due Process Clause requires that any deprivation of Mr. Nikabadze's liberty be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301-02 (1993) (holding that due process "forbids the government to infringe certain 'fundamental' liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest"); *Demore*, 538 U.S. at 528 (applying less rigorous standard for "deportable aliens").
45. Petitioner's on-going imprisonment does not satisfy that rigorous standard as he did not commit any crime, was released from custody, and has a pending asylum case joined by his wife.
46. Third, "the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention." *Zadvydas*, 533 U.S. at 718 (2001) (Kennedy, J., dissenting).
47. Detaining Mr. Nikabadze was arbitrary because he had been initially processed for detention under § 1226, released on recognizance, has authorization to work in the United States, and has no criminal arrests or convictions.
48. Mr. Nikabadze was initially detained under §1226(a), but for a new policy memorandum now subjecting everyone present in the United States who entered without a valid visa to mandatory detention, deprives the Petitioner of an individualized bond determination.
49. This is true for Mr. Nikabadze.

THIRD CLAIM FOR RELIEF

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A) *The Petitioner's Re-Detention is Arbitrary and Capricious*

1. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Complaint as if fully set forth herein.
2. The Administrative Procedure Act provides that courts “shall . . . hold unlawful and set aside agency action” that is “arbitrary [and] capricious, . . . or otherwise not in accordance with law[.]” 5 U.S.C. § 706(2)(A).
3. Petitioner’s re-detention is reviewable as final agency action because it is neither tentative nor interlocutory, and legal consequences flow from Petitioner’s re-detention.
4. By statute and regulation as interpreted by the BIA, ICE has the authority to rearrest a noncitizen and revoke their release pending the outcome of removal proceedings only when there has been a change in circumstances since the individual's initial release. *See Panosyan v. Mayorkas*, 854 F.App’x 787, 788 (9th Cir. 2021); *Matter of Sugay*, 17 I&N Dec. 647, 640 (BIA 1981). Additionally, changed circumstances must be “material.” *Saravia v. Barr*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff’d su nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).
5. Respondents provide no reasoned or adequate explanation for re-detaining Petitioner, who, since his release from ICE custody in 2023, had filed his asylum application, received work authorization, and compliant with the terms of his released. *See Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 222 (2016).
6. In re-detaining Petitioner, now without the ability for bond, Respondents failed to adequately consider important aspects of relevant factors, including the constitutional limitations on the government’s authority to re-arrest and re-detain, and the reliance interests of the Petitioner in understanding that with his release, he could not be re-arrested absent some violation of the bond conditions.

PRAYER FOR RELIEF

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

- A. Assume jurisdiction over this matter;
- B. Order Respondents to Show Cause why this Petition should not be granted within seventy-two hours;
- C. Issue an Order preventing Respondents from removing Petitioner from the United States without notice and an opportunity to be heard;
- D. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
- E. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- F. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
- G. Grant any further relief this Court deems just and proper.

Dated: November 19, 2025

Respectfully Submitted,

/s/ David H. Square

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