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7 **UNITED STATES DISTRICT COURT**  
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9 **RAMUDIN MOHAMMADI,**  
10 **Plaintiff,**

11 vs.

12 **CHRISTOPHER LAROSE, warden of**  
13 **Otay Mesa Detention Center**  
14 **DANIEL A. BRIGHTMAN, San Diego**  
15 **Field Office Director, Immigration and**  
16 **Customs Enforcement and Removal**  
17 **Operations (“ICE/ERO”);**  
18 **TODD LYONS, Acting Director of**  
19 **Immigration Customs Enforcement**  
20 **(“ICE”);**  
21 **KRISTI NOEM, Secretary of the**  
22 **Department of Homeland Security**  
23 **(“DHS”);**  
24 **PAMELA BONDI, Attorney General of**  
25 **the United States,**  
26 **U.S. DEPARTMENT OF HOMELAND**  
27 **SECURITY;**  
28 **U.S. IMMIGRATION AND CUSTOMS**  
**ENFORCEMENT;**

**Respondents.**

Case No.: '25CV3450 JES BJW

Agency Number: 

**PETITION FOR WRIT OF HABEUS  
CORPUS**

**ORAL ARGUMENT REQUESTED**

**EXPEDITED HEARING  
REQUESTED**

1 **INTRODUCTION**

2 1.The Taliban are a radical insurgent group that the United States,  
3 alongside the legitimate government of Afghanistan, has been battling for nearly  
4 20 years. In August of 2021, the Taliban successfully took over the entire country  
5 when they entered and took control of Kabul, the capital of Afghanistan.  
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8 2. For several years prior to their takeover of the country, the Taliban  
9 were infiltrating the countryside and smaller communities. Part of their fear  
10 campaign was to threaten those that worked for the pre-August 2021 government  
11 or worked for agencies that supported that government. They also targeted family  
12 members of these same people. It didn't matter if the family member never  
13 participated. You were guilty by association. Due to the family connections of Mr.  
14 Mohammadi, he was able to enter the Hamid Karzai International Airport and  
15 board a plane as part of the final evacuation of Kabul effectuated by the United  
16 States Government. Mr. Mohammadi's plane landed briefly in the middle east for a  
17 security check before they were brought to the United States. Mr. Mohammadi was  
18 flown directly to Fort Dix. He spent time there with other Afghans as they were all  
19 vetted for security risks to the United States. Once they were cleared, Afghans  
20 were then forwarded to various places across the country to attempt to reunite them  
21 with family members already here. They were given parole so they could file  
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1 whatever petitions for relief that best suited the facts of their case. Mr.

2 Mohammadi filed for Asylum. He was given receipt number 

3 with a receipt date of 01/17/2023. See Exhibit A. On the Acknowledgement of

4 Receipt that every affirmative asylum applicant receives is says “You have the

5 right to remain in the United States until your case is adjudicated.” Mr.

6 Mohammadi was flown to the United States by the United States. He was invited

7 in with parole to seek asylum. He has followed all the rules and has had two

8 asylum interviews and is simply awaiting the final adjudication of his case. He was

9 never here ‘illegally’ or without authorization.

10  
11 3. Mr. Mohammadi began his life in the United States after he was  
12 released from Fort Dix. He received work authorization, found a place to live and  
13 integrated himself into the local community.

14  
15 4. On Friday, November 28, 2025 at approximate 7:30 p.m. Mr.  
16 Mohammadi was taking an Uber customer from the San Diego Airport to Camp  
17 Pendleton. When he arrived at the gate, the officer there looked at his driver’s  
18 license and asked him to pull over to the side of the road.

19  
20 5. The Military Police arrived and blocked his car so he could not  
21 leave. He asked several times if he was free to go. He was told he could not leave.  
22 He presented proof of his work authorization and his pending asylum application



1 defensive asylum and to remain in custody for that entire process. Respondents do  
2 so based not on Mr. Mohammadi's personal circumstances but because of  
3 Respondents' interpretation of President Trump's whim and categorical  
4 determination that, the Fifth Amendment notwithstanding, noncitizens are not  
5 entitled to due process.  
6  
7

8           7. But Respondents cannot evade the law so easily. The U.S.  
9 Constitution requires the Respondents provide at least the rights available to him  
10 when he was granted Humanitarian Parole and when he filed his application for  
11 asylum<sup>1</sup>.  
12

13           8. Accordingly, to vindicate Petitioner's rights, this Court should grant  
14 the instant petition for a writ of habeas corpus. Mr. Mohammadi asks this Court to  
15 find that Respondents' attempt to detain him are arbitrary and capricious and in  
16 violation of the law, and to immediately issue an order preventing his transfer out  
17 of this district.  
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## 21 JURISDICTION

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25 <sup>1</sup> See, e.g., NBC News, Meet the Press interview of President Donald Trump (May 4, 2025),  
26 <https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donaldtrump-interviewed-meet-press-mod-rcna203514> (in response to a question whether noncitizens  
27 deserve due process under the Fifth Amendment, President Trump replied "I don't know. It  
28 seems—it might say that, but if you're talking about that, then we'd have to have a million or 2  
million or 3 million trials.").




1 petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court  
2 must require Respondents to file a return “within three days unless for good cause  
3 additional time, not exceeding twenty days, is allowed.” *Id.*

4  
5 15. Courts have long recognized the significance of the habeas statute  
6 in protecting individuals from unlawful detention. The Great Writ has been  
7 referred to as “perhaps the most important writ known to the constitutional law of  
8 England, affording as it does a swift and imperative remedy in all cases of illegal  
9 restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).  
10  
11

12 16. Petitioner is “in custody” for the purpose of § 2241 because he is  
13 arrested and detained by Respondents.  
14

#### 15 PARTIES

16 17. Ramudin Mohammadi (“Petitioner”) is a 36-year-old citizen of  
17 Afghanistan born  1989. He is a resident of San Diego, California,  
18 and is present within the state of California as of the time of the filing of this  
19 petition.  
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22 18. Respondent Christopher Larosse is the Warden of the Otay Mesa  
23 Detention Center and is a legal custodian of Petitioner.  
24

25 19. Respondent Daniel A. Brightman is the Field Office Director for  
26 the San Diego Field Office, Immigration and Customs Enforcement and Removal  
27

1 Operations (“ICE”). The San Diego Field Office is responsible for local custody  
2 decisions relating to non-citizens charged with being removable from the United  
3 States, including the arrest, detention, and custody status of non- citizens. The San  
4 Diego Field Office’s area of responsibility includes San Diego, California and the  
5 Otay Mesa Detention Center. Respondent Sidney Aki is a legal custodian of  
6  
7  
8 Petitioner.

9  
10 20. Respondent Todd Lyons is the acting director of U.S. Immigration  
11 and Customs Enforcement, and he has authority over the actions of respondent  
12 Sidney Aki and ICE in general. Respondent Lyons is a legal custodian of  
13  
14 Petitioner.

15  
16 21. Respondent Kristi Noem is the Secretary of the Department of  
17 Homeland Security (DHS) and has authority over the actions of all other DHS  
18 Respondents in this case, as well as all operations of DHS. Respondent Noem is a  
19 legal custodian of Petitioner and is charged with faithfully administering the  
20  
21 immigration laws of the United States.

22  
23 22. Respondent Pamela Bondi is the Attorney General of the United  
24 States, and as such has authority over the Department of Justice and is charged  
25 with faithfully administering the immigration laws of the United States.  
26  
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1 432-33 (1987). The Refugee Act reflects a legislative purpose “to give ‘statutory  
2 meaning to our national commitment to human rights and humanitarian concerns.’”  
3

4 *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).

5 28. The Refugee Act established the right to apply for asylum in the  
6 United States and defines the standards for granting asylum. It is codified in  
7 various sections of the INA.  
8

9 29. The INA gives the Attorney General or the Secretary of Homeland  
10 Security discretion to grant asylum to noncitizens who satisfy the definition of  
11 “refugee.” Under that definition, individuals generally are eligible for asylum if  
12 they have experienced past persecution or have a well-founded fear of future  
13 persecution on account of race, religion, nationality, membership in a particular  
14 social group, or political opinion and if they are unable or unwilling to return to  
15 and avail themselves of the protection of their homeland because of that  
16 persecution of fear. 8 U.S.C. § 1101(a)(42)(A).  
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20 30. Although a grant of asylum may be discretionary, the right to  
21 apply for asylum is not. The Refugee Act broadly affords a right to apply for  
22 asylum to any noncitizen “who is physically present in the United States or who  
23 arrives in the United States[.]” 8 U.S.C. § 1158(a)(1).  
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1 31. Because of the life-or-death stakes, the statutory right to apply for  
2 asylum is robust. The right necessarily includes the right to counsel, at no expense  
3 to the government, see 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the  
4 right to counsel, see 8 U.S.C. § 1158(d)(4), and the right to access information in  
5 support of an application, see § 1158(b)(1)(B) (placing the burden on the applicant  
6 to present evidence to establish eligibility.).  
7

9 32. Noncitizens seeking asylum are guaranteed Due Process under the  
10 Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306  
11 (1993).  
12


13 33. Noncitizens who are applicants for asylum are entitled to a full  
14 hearing in immigration court before they can be removed from the United States. 8  
15 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative  
16 appellate review before the Board of Immigration Appeals of removal orders  
17 entered against them and judicial review in federal court upon a petition for  
18 review. 8 U.S.C. § 1252(a) *et seq.*  
19  
20  
21

22 34. Immigration detention is a form of civil confinement that  
23 “constitutes a significant deprivation of liberty that requires due process  
24 protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).  
25  
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1 35. Immigration detention should not be used as a punishment and  
2 should only be used when, under an individualized determination, a noncitizen is a  
3 flight risk because they are unlikely to appear for immigration court or a danger to  
4 the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).  
5

6 36. Humanitarian Parole must be terminated upon written notice after  
7 an individualized determination that the humanitarian purposes no longer apply. 8  
9 C.F.R. § 212.5(e)(2)(i).  
10

## 11 **FACTUAL BACKGROUND**

12 37. Petitioner is a citizen of Afghanistan. He was born   
13 1989 in Afghanistan.  
14

15 38. Petitioner was threatened with death in Afghanistan by the Taliban  
16 and other terrorists in Afghanistan.  
17

18 39. On or about August 28, 2021, pursuant to an invitation from the  
19 U.S. Government via the Operation Allies Welcome program, Petitioner was  
20 paroled into the United States to seek asylum. On August 28, 2021, Respondents  
21 granted him humanitarian parole and released him into the United States, based on  
22 the individualized facts in his case, under 8 U.S.C. § 1182(d)(5).  
23  
24

25 40. He was not placed into removal proceedings at that time.  
26  
27

1 41. OAR recipients were not placed in any type of Alternative to  
2 Detention programs and were not given ICE check ins.  
3

4 42. On information and belief, Petitioner continues to meet all the  
5 requirements of his humanitarian parole.  
6

7 43. Petitioner applied for affirmative asylum on January 17, 2023. The  
8 acknowledgement of receipt sent to the petitioner from respondents in paragraph 2  
9 reads "You may remain in the United States until your asylum application is  
10 decided." He has attended two interviews with USCIS about his application is  
11 awaiting its final adjudication.  
12

13 44. Subsequently, Respondents issued work authorization to Petitioner  
14 pursuant to 8 C.F.R. § 274a.12(c)(08).  
15

16 45. On November 28, 2025, Mr. Mohammadi was attempting to take  
17 an UBER customer home on the Camp Pendleton Base. When he arrived at the  
18 entry gate the gate guard did not allow him to proceed but asked him to pull to the  
19 side. Mr. Mohammadi complied. Subsequently the Military Police arrived, blocked  
20 Mr. Mohammadi's car so he could not leave and held him against his will. He  
21 asked several times if he could leave and the Camp Pendleton authorities refused.  
22 They informed him that they were holding him because he did not have a green  
23 card. Mr. Mohammadi produced copies of his documents and his work  
24  
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1 authorization proving that he was legally here in the United States and the officers  
2 had no reason to detain him. He was held their prisoner for approximately one  
3 hour.  
4

5 46. Eventually the Military Police handcuffed Mr. Mohammadi and  
6 put him in a Military Vehicle. They drove him to another gate where ICE agents  
7 were waiting. They handed him over to the ICE officers who then put him in their  
8 vehicle, and transported him to their downtown San Diego holding area. He was  
9 never given a written notice that his parole was being terminated. He was not given  
10 any particularized reason for why he was being placed into detention. He was  
11 never presented with a warrant for his arrest. He was never given any Miranda  
12 warnings. He was eventually transported to Otay Mesa Detention Center. A  
13 Notice to Appear was filed with the court. This act took jurisdiction of his asylum  
14 application away from USCIS, basically denying his petition without review or  
15 consideration. Mr. Mohammadi must now begin his asylum application process  
16 again while in detention.  
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22 47. Mr. Mohammadi was never presented with a warrant for his arrest.  
23 The ICE agents did not provide him any process. The ICE agents did not offer him  
24 any opportunity to be heard prior to arresting and detaining him.  
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27



**Procedural Due Process**

1  
2 52. Petitioner restates and realleges all paragraphs as if fully set forth  
3 here.  
4

5 53. The Due Process Clause of the Fifth Amendment to the U.S.  
6 Constitution prohibits the federal government from depriving any person of “life,  
7 liberty, or property, without due process of law.” U.S. Const. Amend. V. Due  
8 process protects “all ‘persons’ within the United States, including [non-citizens],  
9 whether their presence here is lawful, unlawful, temporary, or permanent.”  
10 *Zadvydas*, 533 U.S. at 693.  
11  
12

13 54. Due process requires that government action be rational and non-  
14 arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).  
15

16 55. While asylum is a discretionary benefit, the right to apply is not. 8  
17 U.S.C. § 1158(a)(1). Any noncitizen who is “physically present in the United  
18 States or who arrives in the United States (whether or not at a designated port of  
19 arrival . . .), irrespective of such [noncitizen’s] status, may apply for asylum.” *Id.*  
20  
21

22 56. Because the denial of the right to apply for asylum can result in  
23 serious harm or death, the statutory right to apply is robust and meaningful. It  
24 includes the right to legal representation, and notice of that right, *see id.* §§  
25 1229a(b)(4)(A), 1362, 1158(d)(4); the right to present evidence in support of  
26  
27

1 asylum eligibility, *see id.* § 1158(b)(1)(B); the right to appeal an adverse decision  
2 to the Board of Immigration Appeals and to the federal circuit courts, *see id.* §§  
3 1229a(c)(5), 1252(b); and the right to request reopening or reconsideration of a  
4 decision determining removability, *see id.* § 1229a(c)(6)-(7).  
5

6  
7 57. Applying for asylum with USCIS comes with a particular benefit.  
8 It allows the petitioner a second opportunity to file for asylum should USCIS deny  
9 the original application. This is a substantial benefit that the respondents initially  
10 bestowed upon the petitioner when they agreed to grant him parole and not initiate  
11 any removal proceedings. The detention of petitioner and filing of an NTA with no  
12 explanation and no apparent rational, other than to put another immigrant in  
13 detention was a clear violation of Mr. Mohammadi's right to due process.  
14  
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16  
17 58. Here, Petitioner was not advised by DHS that they sought to  
18 terminate his affirmative application in order to place him in detention and  
19 removal, depriving him of the bundle of rights associated with his pending asylum  
20 application. Because of his legal interest in his pending asylum application, this  
21 violated due process. *See generally Mathews v. Eldridge*, 424 U.S. 319, 333 (1976)  
22 (requiring notice and an opportunity to be heard before deprivation of a legally  
23 protected interest).  
24  
25

26 **COUNT TWO**

1 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**

2 **Not in Accordance with Law and in Excess of Statutory Authority**

3 **Unlawful Detention**

4  
5 59. Petitioner restates and realleges all paragraphs as if fully set forth  
6 here.

7  
8 60. Under the APA, a court shall “hold unlawful and set aside agency  
9 action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

10  
11 61. An action is an abuse of discretion if the agency “entirely failed to  
12 consider an important aspect of the problem, offered an explanation for its decision  
13 that runs counter to the evidence before the agency, or is so implausible that it  
14 could not be ascribed to a difference in view or the product of agency expertise.”  
15 *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551U.S. 644, 658 (2007)  
16 (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*,  
17 463 U.S. 29, 43 (1983)).

18  
19  
20  
21 62. To survive an APA challenge, the agency must articulate “a  
22 satisfactory explanation” for its action, “including a rational connection between  
23 the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551,  
24 2569 (2019) (citation omitted).



1           69. The Due Process Clause of the Fifth Amendment to the U.S.  
2 Constitution prohibits the federal government from depriving any person of “life,  
3 liberty, or property, without due process of law.” U.S. Const. Amend. V. Due  
4 process protects “all ‘persons’ within the United States, including [non-citizens],  
5 whether their presence here is lawful, unlawful, temporary, or permanent.”  
6 *Zadvydas*, 533 U.S. at 693; accord *Flores*, 507 U.S. at 306.

9           70. Due process requires that government action be rational and non-  
10 arbitrary. See *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

12           71. While the government has discretion to detain individuals under 8  
13 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this  
14 discretion is not “unlimited” and must comport with constitutional due process. See  
15 *Zadvydas*, 533 U.S. at 698.

18           72. Here, Respondents have chosen to revoke Petitioner’s parole in an  
19 arbitrary manner and not based on a rational and individualized determination of  
20 whether he is a safety or flight risk, in violation of due process. Because no  
21 individualized custody determination has been made and no circumstances have  
22 changed to make Petitioner a flight risk or a danger to the community,  
23 Respondents’ revocation of Petitioner’s release violates his right to procedural due  
24 process.  
25  
26  
27

**PRAAYER FOR RELIEF**

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

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

(3) Declare that Petitioner’s detention without an individualized determination violates the Due Process Clause of the Fifth Amendment and the Administrative Procedures Act;

(4) Declare that the denial of petitioner’s affirmative asylum claim by detaining him and commencing new 240 removal proceedings without an individualized determination violates the Due Process Clause of the Fifth Amendment;

(5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;

(6) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court’s approval;

1 (7) Issue and Order prohibiting the Respondents from enrolling the  
2 Petitioner in any Alternative to Detention program, specifically barring them from  
3 requiring an ankle monitor;  
4

5 (8) Grant any further relief this Court deems just and proper.  
6  
7

8 Dated: December 7, 2025.

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