

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Hamza Oiskhine,
Petitioner,

v.

David Rivas, Warden of the San Luis Detention Center,

Gregory J. Archambeault, San Diego Field Office Director, Immigration and Customs Enforcement and
Removal Operations,

Todd Lyons, Acting Director of Immigration and Customs Enforcement,

Kristi Noem, Secretary of the Department of Homeland Security,

Pamela Bondi, United States Attorney General
Respondents.

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CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
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Case No. **CV25-04600-PHX-SHD--ASB**

MOTION TO APPOINT COUNSEL FOR PETITIONER

Petitioner, **Hamza Oiskhine**, respectfully moves this Court to appoint counsel to represent him in this habeas corpus proceeding and related emergency motions. Petitioner is detained, proceeding pro se, and suffers from ~~_____~~ serious ongoing medical issues. For the reasons set forth below, the interests of justice require appointment of counsel under 18 U.S.C. § 3006A(a)(2)(B) and the Court's inherent authority.

I. INTRODUCTION

Petitioner is an immigration detainee currently held at the **San Luis Regional Detention Center** under 8 U.S.C. § 1226(a). He has filed a **Verified Petition for Writ of Habeas Corpus** under 28 U.S.C. § 2241, a **Memorandum of Law**, an **Emergency Motion for Temporary Restraining Order and Immediate Release**, a **Motion for Order to Show Cause**, and a **Motion to Stay Removal and Prohibit Transfer**.

Petitioner alleges, among other things, that:

- He was **unlawfully arrested** based on an uncorroborated anonymous tip, without a warrant, probable cause, or compliance with 8 U.S.C. § 1357(a)(2);
- He is detained under § 1226(a) **without the warrant** that the statute requires and without the initial custody determination required by 8 C.F.R. § 1236.1;

- ICE submitted false information in an arrest report to portray him as a flight risk and secure bond denial; and
- His ongoing detention is worsening his [REDACTED] as ICE has failed to provide urgently ordered specialist care following his October 2025 hospitalization.

These issues require the interpretation of multiple federal statutes and regulations, complex constitutional questions (Fourth and Fifth Amendments), and application of the Accardi doctrine and the Administrative Procedure Act. Petitioner is detained, medically fragile, and has extremely limited access to legal resources. He respectfully requests that the Court appoint counsel to ensure that his rights are fully and fairly presented.

II. LEGAL STANDARD

There is no automatic constitutional right to counsel in non-capital habeas corpus proceedings. However, under 18 U.S.C. § 3006A(a)(2)(B), a court may appoint counsel for a financially eligible person seeking relief under 28 U.S.C. § 2241 “whenever the court determines that the interests of justice so require.”

The Ninth Circuit has held that in deciding whether to appoint counsel in habeas and other civil rights cases, courts consider factors including:

1. The likelihood of success on the merits; and
2. The petitioner’s ability to articulate his claims in light of the legal complexity of the issues.

See, e.g., *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983) (per curiam); *Knaubert v. Goldsmith*, 791 F.2d 722, 728–29 (9th Cir. 1986). Courts also consider the need for evidentiary development, the petitioner’s health and confinement conditions, and whether the case involves complex or novel questions of law.

Additionally, when a petitioner proceeds in forma pauperis, 28 U.S.C. § 1915(e)(1) permits the court to “request an attorney to represent any person unable to afford counsel.”

III. ARGUMENT

A. The Case Presents Complex and Developing Questions of Constitutional, Statutory, and Regulatory Law

This case is not a simple challenge to the length of detention. Petitioner’s claims involve:

- The Fourth Amendment and the standards governing warrantless civil immigration arrests based on anonymous tips;

- The interaction between 8 U.S.C. § 1357(a)(2) and the Fourth Amendment, including what constitutes a valid “likelihood of escape” finding;
- The scope of 8 U.S.C. § 1226(a) and whether a warrant issued by or on behalf of the Attorney General is a **mandatory prerequisite** to detention;
- The requirements of 8 C.F.R. § 1236.1(c)(8) for an initial custody determination, and the application of the **Accardi doctrine** when ICE fails to follow that regulation;
- Whether the government’s alleged submission of **false evidence** at bond proceedings violates **substantive due process** under cases such as *Mooney v. Holohan*, *Pyle v. Kansas*, and *Napue v. Illinois*; and
- An **APA challenge** to ICE’s arrest and detention decisions as arbitrary, capricious, and not in accordance with law.

Petitioner has also cited and relied on several recent district court decisions (e.g., *Choglo Chafra v. Scott*, *Chiliquinga Yumbillo v. Stamper*, *Astudillo v. Hyde*, *Lopez Benitez v. Francis*, *Contreras Maldonado v. Cabezas*) interpreting § 1226(a), § 1357(a)(2), and the regulatory framework. These authorities are new, complex, and involve evolving interpretations of immigration detention statutes.

Litigating these issues requires:

- Understanding and briefing complicated **jurisdictional questions** (e.g., interaction with 8 U.S.C. § 1252 and the Real ID Act);
- Analyzing **constitutional law, administrative law, and statutory construction**; and
- Responding to sophisticated arguments by the government regarding detention authority, deference to agency interpretations, and the scope of habeas review.

These are precisely the kinds of **complex legal questions** for which appointment of counsel is appropriate in the interests of justice.

B. Petitioner’s Detention, Medical Condition, and Limited Resources Severely Impair His Ability to Litigate

Petitioner is:

- **Detained** in an immigration facility with very limited access to a law library, legal materials, or the ability to conduct research and drafting;
- Suffering from [REDACTED]
- Missing his [REDACTED] **treatment** and has not been taken to [REDACTED] despite an ER doctor’s order that he be seen within one day of discharge.

These conditions substantially impair his ability to:

- Prepare timely and detailed legal briefs;
- Gather and organize medical records, arrest video evidence, and other exhibits;
- Respond adequately to the government's anticipated motions and arguments;
- Participate meaningfully in hearings—particularly emergency proceedings related to his health and detention.

The complexity of his medical condition and the seriousness of the alleged ongoing denial of care further support the need for counsel. A lawyer can work with medical providers, obtain records, and present expert or detailed medical evidence in a way a detained, ill, pro se litigant simply cannot.

C. Evidentiary Development Will Likely Be Needed

Petitioner's claims will likely require **factual development** beyond the face of the administrative record, including:

- Obtaining and analyzing the **arrest video**, property inventory, and internal ICE documents concerning his arrest and detention;
- **Securing medical records** from multiple hospitalizations and communicating with treating physicians;
- Potentially taking testimony or declarations from medical staff, ICE officers, or others involved in the arrest and medical decisions.

Coordinating such evidence from detention is extremely difficult for a pro se petitioner. Counsel is far better positioned to:

- Draft and serve appropriate discovery requests (if permitted),
- Seek preservation of video and other time-sensitive evidence, and
- Present factual disputes effectively at any evidentiary hearing or oral argument.

D. The Interests of Justice Strongly Favor Appointment of Counsel

Under 18 U.S.C. § 3006A(a)(2)(B) and the Ninth Circuit's guidance, appointment of counsel is warranted where there is at least a plausible likelihood of success and the petitioner's ability to articulate his claims is limited compared to the complexity of the issues.

Here:

- Petitioner's claims are **substantial**, not frivolous. He raises serious constitutional and statutory questions, supported by recent precedent, about the legality of his arrest and detention.
- The case is **factually and legally complex**, involving overlapping constitutional, statutory, regulatory, and APA issues.
- Petitioner's **detention, serious illness, and limited resources** sharply limit his ability to litigate effectively.
- The outcome has **extraordinary consequences**: Petitioner's physical liberty, his health, and potentially his life are at stake.

In these circumstances, the **interests of justice** strongly support appointment of counsel. Counsel would not only assist Petitioner but also help the Court by clarifying and focusing the issues, streamlining proceedings, and ensuring complete and accurate briefing, especially as the case proceeds on an emergency basis.

IV. REQUESTED RELIEF

For the foregoing reasons, Petitioner respectfully requests that the Court:

1. **Appoint counsel** to represent Petitioner in this habeas action and in all related motions, including the Emergency Motion for Temporary Restraining Order, Motion for Order to Show Cause, and Motion to Stay Removal and Prohibit Transfer, pursuant to 18 U.S.C. § 3006A(a)(2)(B) and 28 U.S.C. § 1915(e)(1);
2. In the alternative, refer this matter to the Court's **pro bono panel or program** for the prompt appointment of volunteer counsel given the urgency of Petitioner's medical condition and the complexity of the issues; and
3. Grant such other and further relief as the Court deems just and proper.

DATED: 11/24/2025

Respectfully submitted,

/s/ **Hamza Oiskhine**
Petitioner,

c/o San Luis Regional Detention Center
2000 W. County 16th Street
San Luis, AZ 85349

