

removal of noncitizens within the United States. He exercises authority over the policies and actions giving rise to Petitioner's detention and is sued in his official capacity.

3. Respondent Marcos Charles is the Acting Executive Associate Director of Enforcement and Removal Operations ("ERO"), the division of ICE responsible for the arrest, detention, and removal of noncitizens. He is charged with implementing ICE detention policies nationwide and is sued in his official capacity.
4. Respondent Alejandro N. Mayorkas is the Secretary of the U.S. Department of Homeland Security ("DHS"), the federal department with ultimate authority over immigration enforcement and the administration of ICE. As the head of DHS, Secretary Mayorkas has ultimate responsibility for the custody and detention of individuals such as the Petitioner and is sued in his official capacity.
5. Respondent Kristi Noem is named in her official capacity as Secretary of the U.S. Department of Homeland Security. To the extent she currently holds or exercises the functions of that office, she is responsible for the policies and actions of DHS and its sub-agencies, including ICE, and is sued in her official capacity.
6. Respondent Pam Bondi is the Attorney General of the United States and head of the U.S. Department of Justice, which includes the Executive Office for Immigration Review ("EOIR") and the nation's immigration courts. The Attorney General is responsible for the overall administration of immigration proceedings and the enforcement of federal immigration law and is sued in her official capacity.

7. Respondent Rose Thomson or Raynold Thomson is the Warden of the KARNES COUNTY IMMIGRATION PROCESSING CENTER, TEXAS, the facility where Petitioner is presently detained. This Respondent is sued in her/his official capacity only.

BACKGROUND/PROCEDURAL INFORMATION

Petitioner's Asylum Request and subsequent arrest.

7. Petitioner entered the United States through the U.S.-Mexico border at or near the San Ysidro Port of Entry (the "Border") on or about March 8, 2023 and applied for asylum on or about the same date.
8. Shortly thereafter, he was released from immigration custody.
9. Upon Petitioner's release from immigration custody, he moved with his wife and minor children to Nevada. Subsequently, Mr. Fadeev moved with his family to Florida.
10. On or about March 28, 2025, Mr. Fadeev was taken into custody, where he remains as of the date of this petition.
11. On July 15, 2025 Mr. Fadeev appeared before the immigration judge, Hon. Thomas G. Crossan, Jr. ("IJ") for a merits hearing.
12. By the decision dated July 23, 2025 the IJ denied Mr. Fadeev's asylum application ("Decision").
13. On or about October 21, 2025, Mr. Fadeev filed a motion to reopen the Decision based on newly discovered evidence, and on August 13, 2025, he filed an appeal of the Decision.
14. As of the date of this petition, both of Mr. Fadeev's applications, the motion to reopen and the appeal, remain pending.

15. As of the date of this petition, eight months have elapsed since he was detained and taken into custody.
16. As of the date of this petition, the Petitioner remains in the custody of ICE/DHS in Karnes County Immigration Processing Center, Texas (“Detention Facility”).

JURISDICTION & VENUE

17. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.
18. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution (“Suspension Clause”); 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 2201, 2202 (Declaratory Judgment Act).
19. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. See, e.g., *Zadvydas*, 533 U.S. at 687.
20. Venue is proper in this district pursuant to 28 U.S.C. § 2241(d) because Petitioner is currently detained in the Detention Facility, within this district, and remains in ICE continuous custody.

STATUTORY AND LEGAL FRAMEWORK, AND ARGUMENT

- A. DHS/ICE Violated Procedural Due Process by Detaining Petitioner Without Notice and Without an Individualized Custody Determination.**

21. As a threshold matter, the Fifth Amendment's Due Process Clause forbids the government to "depriv[e]" any "person ... of [*6] ... liberty ... 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 Clause protects." Zadvydas v. Davis, 533 U.S. 678, 690, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001) (citing Foucha v. Louisiana, 504 U.S. 71, 80, 112 S. Ct. 1780, 118 L. Ed. 2d 437 (1992)). The Supreme Court "has said that government detention violates that Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections, see United States v. Salerno, 481 U.S. 739, 746, 107 S. Ct. 2095, 95 L. Ed. 2d 697 (1987), or, in certain special and 'narrow' nonpunitive 'circumstances,' Foucha, 504, U.S. at 80, where a special justification, such as harm-threatening mental illness, outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" Kansas v. Hendricks, 521 U.S. 346, 356, 117 S. Ct. 2072, 138 L. Ed. 2d 501 (1997). *Id.* "Procedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property." Carey v. Piphus, 435 U.S. 247, 259, 98 S. Ct. 1042, 55 L. Ed. 2d 252 (1978).
22. The Constitution guarantees that the writ of habeas corpus is "available to every individual detained within the United States." Hamdi v. Rumsfeld, 542 U.S. 507, 525 (2004) (citing U.S. CONST., Art. I, § 9, cl. 2). This includes immigration-related detention. Zadvydas v. Davis, 533 U.S. 678, 687 (2001).
23. "[T]he Fifth Amendment entitles noncitizens to due process of law...whether their presence here is lawful, unlawful, temporary, or permanent." Velasco Lopez v. Decker, 978 F.3d 842, 850 (2d Cir. 2020). "Noncitizens are also entitled to challenge through habeas corpus the

legality of their ongoing detention," including "the lawfulness of detention when it is first imposed." *Id.* "The Supreme Court has been unambiguous that executive detention orders, which occur without the procedural protections required in courts of law, call for the most searching review." *Id.*

24. Petitioner has continuously lived in the US since the time he crossed the Border on or about March 8, 2023.
25. The Petitioner is entitled to the Fifth Amendment's Due Process Clause protections (see Trump v. J. G. G., 145 S. Ct. 1003, 1006 (2025)).
26. In the case at bar Petitioner's indiscriminate detention violates the Fifth Amendment's Due process Clause.
27. "The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" Mathews v. Eldridge, 424 U.S. 319, 333 (1976) (quoting Armstrong v. Manzo, 380 U.S. 545, 552 (1965)). "[I]dentification of the specific dictates of due process generally requires consideration of three distinct factors": (1) "the private interest that will be affected by the official action"; (2) "the [g]overnment's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural [*10] requirement would entail," and (3) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards." *Id.* at 335.
28. *First*, Petitioner has been deprived of his physical liberty, the fundamental private interest protected by the Fifth Amendment. Zadvydas, 533 U.S. at 690. Petitioner has continuously

resided in the United States since March 8, 2023, established his life in Florida, and complied with all requirements following his release from DHS's/ICE's custody.

29. His sudden, warrantless, and unexplained arrest in Florida on or about March 28, 2025, followed by transfer to a remote Detention Facility, constitutes a severe intrusion on his liberty, separation from his family, and disruption of his established life. Therefore, Petitioner possesses a cognizable interest in his freedom from detention. Accordingly, the first Mathews factor weights in Petitioner's favor.

30. **Second**, Petitioner is not a flight risk, nor he has a criminal history, nor he possess danger to the community/property. In fact, as stated above, Petitioner had been living openly in Florida since 2023. The government's generalized interest in immigration enforcement does not justify detention without the most basic safeguards, particularly where Petitioner had previously been released on his own recognizance (as stated above) and complied with all Court's/governments directives thereafter. As has been determined time and again in Texas district courts, in situations where the respondent does not have a criminal record, "The [*13] government's interest is generally protected by affording bond hearings like the one Petitioner is requesting". Cortina v. Anda-Ybarra, No. EP-25-CV-00523-DB, 2025 U.S. Dist. LEXIS 226367, at *12-13 (W.D. Tex. Nov. 18, 2025). As such, the second Mathews factor also weights in Petitioner's favor.

31. **Third**, ICE's/DHS's reliance on indiscriminate, unexplained detention, without notice, without a custody determination, and without access to a neutral adjudicator, creates a significant risk of an erroneous deprivation of Petitioner's fundamental liberty interest. Petitioner has lived openly in the United States since March 8, 2023, established residence in

Florida, complied with all release conditions, and has no history suggesting dangerousness or flight risk.

32. The government's indiscriminate arrest of Petitioner in Florida nearly two years after his entry, followed by his transfer to a remote Detention Facility, constitutes the type of unchecked action that heightens the danger of mistaken or arbitrary confinement. Without individualized procedures, ICE's/DHS's approach risks detaining noncitizens who, like Petitioner, are fully eligible for release and pose no threat to public safety or the integrity of removal proceedings. As such, the third Mathews factor also weights in Petitioner's favor.
33. Petitioner was detained pursuant to an ICE's/DHS's policy that categorically denies the individualized, pre-deprivation process required by the Fifth Amendment. Where the challenged detention arises from a systemic policy that forecloses the very remedy the government insists must be pursued, exhaustion is excused. See Beharry v. Ashcroft, 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.); see also Huamani v. Francis, 2025 U.S. Dist. LEXIS 219101, *20.
34. The government is detaining Petitioner under 8 U.S.C. § 1226, which governs the arrest and detention of noncitizens pending the completion of removal proceedings. Under § 1226(a), ICE/DHS has the authority either to detain a noncitizen or to release the individual on bond or on their own recognizance.
35. When a noncitizen has been previously released, as Petitioner was, the government may not re-detain that individual arbitrarily or without adherence to the statutory and regulatory framework that governs civil immigration custody.

36. The applicable regulations require ICE/DHS to make an individualized determination addressing whether a noncitizen poses a danger to property or persons or is unlikely to appear for future proceedings. See *8 C.F.R. § 1236.1(c)(8)*.
37. These determinations are mandatory and must be grounded in actual evidence relevant to the individual's circumstances. Courts interpreting § 1226 and its implementing regulations have made clear that ICE/DHS may not revoke a person's release or re-detain them without basic procedural safeguards. In *Valdez* the district court held that a noncitizen whose civil release is revoked is entitled to notice of the alleged grounds for revocation, a hearing, and the opportunity to testify. See *Valdez*, 2025 U.S. Dist. LEXIS 117131, 2025 WL 1707737, at *4.
38. Similarly, courts have consistently held that seizing a noncitizen without prior notice, without an individualized explanation, and without a meaningful opportunity to respond violates the Fifth Amendment's guarantee of procedural due process. See *Lopez*, 2018 U.S. Dist. LEXIS 98712, 2018 WL 2932726, at *12.
39. Because DHS failed to satisfy even the minimal procedural obligations required by § 1226 and its implementing regulations, and because Petitioner's re-detention occurred without lawful justification, the government's actions violate the protections guaranteed by the Fifth Amendment.
40. In addition, it is well-settled that "...as of 2020, the 'vast majority' - an 'overwhelming consensus' - of courts granting immigration detainees' habeas petitions have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk". *Cortina v. Anda-Ybarra*, No. EP-25-CV-00523-DB, 2025 U.S. Dist. LEXIS 226367, at *14 n.7 (W.D. Tex. Nov. 18, 2025).

B. The Petitioner's Indefinite Civil Detention Violates the Fifth Amendment's Due Process Clause.

41. In Zadvydas v. Davis, 533 U.S. 678, 682, 121 S. Ct. 2491, 2494 (2001), the Supreme Court held that six months was a presumptively reasonable period of detention. After this period, once the alien provides good reason that there is no significant likelihood of removal in the reasonably foreseeable future, the government must rebut that showing with evidence. The Court later extended *Zadvydas* to find inadmissible aliens held in post-removal detention are also entitled to this type of individualized review once their detention exceeds six months.
42. After this six month period, "once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the government must respond with evidence sufficient to rebut that showing." *Id.*
43. As stated *supra*, Respondent has now been detained since March 28, 2025, more than eight months, without any foreseeable end to his confinement. This period far exceeds the six-month presumptively reasonable limit recognized by the Supreme Court in *Zadvydas*.
44. There is no such likelihood in the case at bar. As also was stated above, Respondent filed a motion to reopen on October 21, 2025 based on newly discovered evidence, and on August 13, 2025, he timely filed an appeal of the Decision, which means that his case is still ongoing, and his removal is not imminent because no removal order that can be executed while the motion and appeal remain pending.

PRAYER FOR RELIEF

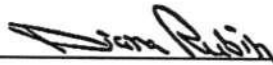
WHEREFORE, the Petitioner respectfully request that this Court:

- A. Assumes jurisdiction over this matter;

- B. Issues a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and orders Respondents to immediately release Petitioner from ICE's/DHS's custody, and/or release under reasonable conditions of supervision or any less restrictive alternative the Court deems appropriate, or in the alternative, -
- C. Order Respondents to provide Petitioner with a bond hearing before an immigration judge no later than a date set shortly after this Court grants the petition;
- D. Declare that Respondents' detention of Petitioner without notice, opportunity to be heard, or individualized determination of flight risk or dangerousness violates Petitioner's Fifth Amendment right to due process;
- E. Declare that Petitioner's continued detention exceeding eight months, without a significant likelihood of removal in the reasonably foreseeable future, violates the Fifth Amendment's Due Process Clause as interpreted in *Zadvydas*;
- F. Enjoin Respondents from re-detaining Petitioner upon his release from ICE's/DHS's custody without: (a) providing Petitioner with prior written notice of the grounds for detention; (b) affording Petitioner an opportunity to be heard and to present evidence demonstrating that his release would not pose a danger to property or persons and that he is likely to appear for any future proceeding; and (c) making an individualized determination, supported by specific facts and evidence, that Petitioner poses a flight risk or danger to the community;
- G. Award Petitioner his reasonable costs and attorneys' fees;
- H. Grant such other and further relief as this Court deems just, proper, and equitable.

Dated: November 28, 2025

Respectfully submitted,



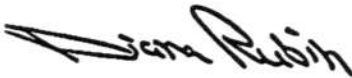
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VERIFICATION

I, Diana Rubin, Esq., declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am the attorney for Petitioner, Bogdan Fadeev, in this action.
2. Petitioner is currently detained by immigration authorities and, due to the conditions of confinement and practical limitations on access, is unable to sign this verification at this time.
3. I submit this verification on Petitioner's behalf pursuant to 28 U.S.C. § 2242, which permits a habeas petition to be verified "by the person for whose relief it is intended or by someone acting in his behalf."
4. I have reviewed the subject Petition for Writ of Habeas Corpus.
5. The factual statements contained in the Petition are true and correct to the best of my knowledge and belief based on information provided by Petitioner and my investigation.

Executed on this 28th day of November, 2025, in New York.



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