

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

H.M.)	
)	
<i>Petitioner,</i>)	Civil Action No.
)	
v.)	
)	
ERIC ROKOSKY, in his official capacity as)	
Warden, Elizabeth Detention Center,)	
)	
ALEXANDER CABEZAS, in his official capacity)	
as Newark Field Office Director, U.S. Immigration)	
and Customs Enforcement, Enforcement and)	
Removal Operations)	
)	
KRISTI NOEM, in her official capacity as)	
Secretary of the Department of Homeland Security,)	
)	
PAMELA BONDI, in her official capacity)	ORAL ARGUMENT REQUESTED
as Attorney General of the United States,)	
)	
)	
<i>Respondents.</i>)	

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

1. Petitioner, through undersigned counsel, petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner is an asylum seeker from Afghanistan who has been detained by Respondents since his arrival in the United States in June 2024, most recently at the Elizabeth Detention Center in Elizabeth, New Jersey. Petitioner called undersigned counsel from the Elizabeth Detention Center at 6:59 a.m. on Thursday, December 18, to report that he had been ordered to pack up his things. He had not been told where he was being transferred. Petitioner subsequently disappeared from Immigration and Customs Enforcement (“ICE”)’s online detainee locator system.

2. Over 36 hours later, a search of the detainee locator system continues to show no trace of Petitioner. Neither counsel nor his family has heard from him. Undersigned counsel has called and e-mailed multiple ICE offices and officials seeking confirmation of Petitioner’s whereabouts and that ICE is not deporting him in violation of law, but has received no confirmation on either point as of the time of filing.

3. On December 4, 2025, the Board of Immigration Appeals granted Petitioner’s motion to reopen his removal proceedings and remanded his case for further proceedings on his applications for asylum and withholding of removal. Petitioner’s case is currently pending before the immigration court in Jena, Louisiana, where he had been detained at the time his asylum case was originally heard. Respondents are prohibited by law from removing Petitioner prior to a final administrative decision on his case.

4. Petitioner respectfully requests that this Court order Respondents to produce him, to allow Petitioner to meet and communicate with counsel, and to refrain from removing him from the United States while this petition for a writ of habeas corpus is pending.

II. CUSTODY

5. When Petitioner was last heard from he was detained in ICE custody at the Elizabeth Detention Center in Elizabeth, New Jersey. Since that time, Petitioner's counsel has been unable to locate him despite multiple efforts. As far as Petitioner's counsel is aware, Petitioner remains under the direct control of some or all of the Respondents.

III. PARTIES

6. Petitioner, H.M., is a citizen of Afghanistan and an applicant for asylum in the United States. Due to risks to his own safety and the safety of his family members who remain in Afghanistan at the hands of the Taliban, H.M. seeks to file this Petition under pseudonym and will be filing a motion to this effect shortly.¹

7. Respondent Eric Rokosky is the Warden of the Elizabeth Detention Center, a privately run detention center administered under contract with ICE. As such, he is the last known immediate custodian of Petitioner.

8. Respondent Alexander Cabezas is Field Office Director for Enforcement and Removal Operations of ICE's Newark Field Office. He is in charge of the custody of all immigration detainees under the control of the Newark Field Office. He is the last known legal custodian of Petitioner. He is sued in his official capacity.

9. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security ("DHS"). She is responsible for the implementation and enforcement of the Immigration and Nationality Act ("INA") and oversees Immigration and Customs Enforcement ("ICE"). She has custodial authority over Petitioner. She is sued in her official capacity.

¹ Counsel for Petitioner is providing a copy of this filing along with Petitioner's full name and alien registration number by e-mail to the U.S. Attorney's Office for the District of New Jersey.

10. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the administration and enforcement of the immigration laws pursuant to 8 U.S.C. § 1103. Respondent Bondi is sued in her official capacity to the extent that 8 U.S.C. § 1103 gives her authority over immigration law.

IV. JURISDICTION AND VENUE

11. This action arises under the Constitution of the United States, the INA, 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (“APA”), 5 U.S.C. § 551 et seq.

12. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2 of the United States Constitution, and 28 U.S.C. § 1331, as Petitioner is in custody under color of authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, 28 U.S.C. § 2201 *et seq.* (Declaratory Judgment Act), and the All Writs Act, 28 U.S.C. § 1651.

13. Venue is proper pursuant to 28 U.S.C. § 1391(e) because Petitioner’s last known place of detention was the Elizabeth Detention Center, within this District, and his evident removal from that facility was necessarily under the authority and control of the ICE Newark Field Office and of Respondents Rokosky and Cabezas.

V. FACTUAL ALLEGATIONS

14. Petitioner is a citizen of Afghanistan fleeing persecution in his home country who presented himself at a port of entry at the U.S.-Mexico border, by prior appointment, on June 11, 2024, where he requested asylum. He was referred for and passed a credible fear interview and was then placed in removal proceedings under 8 U.S.C. § 1229a. He has been detained under the

custody and control of ICE since his arrival in the United States, a period now exceeding 18 months.

15. Petitioner applied for asylum without legal representation. At the time his case was heard by the Immigration Judge, he was detained in Louisiana, where the Immigration Judge denied his case. He appealed to the Board of Immigration Appeals, which dismissed his appeal, first on April 18, 2025, and then, in an amended decision, on July 10, 2025. In October 2025, Petitioner retained undersigned counsel to file a motion to reopen his case. The Board of Immigration Appeals (“BIA”) granted that motion on December 4, 2025. The BIA’s order remanded Petitioner’s case to the Immigration Judge in Jena, Louisiana, who had heard it initially. Undersigned counsel filed a notice of entry of appearance as attorney on Petitioner’s behalf with that court, and Petitioner and counsel were awaiting scheduling of a new hearing before the immigration court.

16. On Thursday, December 18, 2025, Petitioner called undersigned counsel from the Elizabeth Detention Center at 6:59 a.m. and reported that officers of the private prison contractor that runs the detention center had ordered him to pack up his belongings. Assuming that he was being transferred to a different detention center, Petitioner and counsel agreed that Petitioner would call counsel as soon as he was booked into the new location.

17. Counsel has had no news of Petitioner since that time. Counsel is in touch with Petitioner’s family, who report they have not heard from him either, to their alarm.

18. Subsequent to his early-morning phone call with counsel on December 19, Petitioner disappeared from ICE’s online detainee locator system. While transfers between detention

centers have in recent months resulted in detainees vanishing from the online locator, they normally resurface there after some hours.

19. When Petitioner failed to reappear in the ICE detainee locator this morning, counsel e-mailed the ICE Newark Field Office, reminding that office of the procedural posture of Petitioner's case and seeking confirmation of his location. That e-mail was sent at 9:43 a.m. That e-mail produced only an automatic reply suggesting among other things that the sender check the ICE detainee locator. Counsel also called the Elizabeth office of the ICE Office of the Principal Legal Advisor ("OPLA") and left a voicemail message, which did not produce any response.

20. Counsel subsequently e-mailed the OPLA duty attorneys for Elizabeth, NJ, and Jena, Louisiana (where Petitioner's removal proceedings had been remanded), as well as the ICE Headquarters office responsible for legal access issues. This last office responded with a suggestion that counsel electronically file a Form G-28 Notice of Entry of Appearance as Attorney with ICE's electronic filing system in order to receive notice of transfers. Counsel had tried to do this very thing earlier in the day and was unsuccessful because ICE's online filing system was insisting Petitioner was not in custody. None of the other ICE personnel whom counsel e-mailed responded at all.

21. At the time of filing of this habeas petition, the ICE online detainee locator still shows no record of Petitioner, over 36 hours after he was told to pack up from his "dorm" at the Elizabeth Detention Center.

22. Earlier today, December 19, the Immigration Court in Jena, Louisiana, scheduled Petitioner for a new hearing on the merits of his asylum claim for January 21, 2026. Counsel's inability to locate or communicate with Petitioner makes it impossible to prepare for this hearing.

VI. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF
VIOLATION OF PROCEDURAL DUE PROCESS

23. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

24. The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V.

25. Under the Due Process Clause of the Fifth Amendment to the U.S. Constitution and the provisions of the federal habeas corpus statute set forth at 28 U.S.C. § 2241 et seq., a non-citizen in Petitioner’s situation who is detained long past the statutory removal period must have a meaningful opportunity to challenge his detention before a neutral decisionmaker with the assistance of counsel.

SECOND CLAIM FOR RELIEF
VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT

26. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

27. Under 8 U.S.C. § 1862, a person in removal proceedings, like Petitioner, or in any proceedings before the Attorney General appealing an order of removal, has a right to representation by counsel of his own choosing at no expense to the government. This right to counsel is also guaranteed under 8 U.S.C. § 1229a(b)(4)(A). By failing to disclose Petitioner’s location and preventing his existing counsel from communicating with him, Respondents are violating Petitioner’s statutory right to counsel.

THIRD CLAIM FOR RELIEF
VIOLATION OF SUBSTANTIVE DUE PROCESS

28. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

29. “Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The INA gives ICE no authority to detain any non-citizen incommunicado. Respondents’ refusal to disclose Petitioner’s location or to allow him to communicate with his counsel and his family violates the Fifth Amendment to the United States Constitution.

VII. REQUEST FOR ORAL ARGUMENT

30. Petitioner respectfully requests oral argument on this Petition.

VIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause within three days why this Petition should not be granted;
- (3) Prohibit Respondents from removing Petitioner from the United States while these proceedings are pending;
- (4) Issue a writ of habeas corpus requiring Respondents to produce Petitioner, H.M., and to give undersigned counsel access to meet and confer with him in order to prepare for his remanded removal proceedings;
- (5) Award Petitioner reasonable costs and attorneys’ fees; and
- (6) Grant any other and further relief that his Court may deem fit and proper.

Dated: December 19, 2025.

Respectfully submitted,

s/Anwen Hughes
HUMAN RIGHTS FIRST
121 W. 36th St., PMB 520
New York, NY 10018
(212) 845-5244
HughesA@humanrightsfirst.org

Verification by someone acting on Petitioner's behalf pursuant to 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition of which I do not have personal knowledge. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge. This verification is being made by counsel with permission of the Petitioner rather than by Petitioner herself due to counsel's current inability to meet with the Petitioner.

Furthermore, pursuant to Local Civil Rule 11.2, I verify that, to the best of my knowledge, the matters in controversy in this action are not the subject of any other pending action before any court, arbitrator, or administrative body.

Dated: December 19, 2025

s/Anwen Hughes
Anwen Hughes
Attorney for Petitioner