

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
for the

SOUTHERN DISTRICT OF CALIFORNIA

FILED

DEC 22 2025

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY UW DEPUTY

ASKAR NAGIYEV
Petitioner

v.

WARDEN OTAY MESA DETENTION CENTER

Case No. '25CV3744 JLS MMP
(Supplied by Clerk of Court)

FIELD OFFICE DIRECTOR ICE SAN DIEGO
Respondent
(name of warden or authorized person having custody of petitioner)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: ASKAR NAGIYEV
(b) Other names you have used: —

2. Place of confinement:
(a) Name of institution: OTAY MESA DETENTION CENTER c/o CORE CIVIC
(b) Address: P.O. BOX 439049, SAN DIEGO, CA 92143-9049
POD-H106

(c) Your identification number: 

3. Are you currently being held on orders by:
 Federal authorities State authorities Other - explain:

4. Are you currently:
 A pretrial detainee (waiting for trial on criminal charges)
 Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: _____

(b) Docket number of criminal case: _____

(c) Date of sentencing: _____

Being held on an immigration charge
 Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:
 How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- Pretrial detention
- Immigration detention
- Detainer
- The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- Disciplinary proceedings
- Other (explain): _____

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: OTAY MESA DETENTION CENTER P.O. BOX 439049 SAN DIEGO, CA 92143. U.S. Immigration and Customs Enforcement.
- (b) Docket number, case number, or opinion number: [REDACTED]
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
Prolonged immigration detention without the possibility of bail or parole (positive CFI interview). Hearings are cancelled and rescheduled. No final decision was made after 11 months.
- (d) Date of the decision or action: Jan. 12. 2025

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

- Yes
- No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: _____
- (2) Date of filing: _____
- (3) Docket number, case number, or opinion number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: Exhaustion of administrative remedies is not required for constitutional claims under 28 U.S.C. § 2241 in immigration detention cases.

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

- Yes
- No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: SAME AS ABOVE

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: SAME AS ABOVE

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes No

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If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

- Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

- Yes No

If "Yes," provide:

- (a) Date you were taken into immigration custody: Jan. 12. 2025.
- (b) Date of the removal or reinstatement order: NONE
- (c) Did you file an appeal with the Board of Immigration Appeals?

- Yes No

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If "Yes," provide:

- (1) Date of filing: _____
 - (2) Case number: _____
 - (3) Result: _____
 - (4) Date of result: _____
 - (5) Issues raised: _____
- _____
- _____
- _____

(d) Did you appeal the decision to the United States Court of Appeals?

Yes No

If "Yes," provide:

- (1) Name of court: _____
 - (2) Date of filing: _____
 - (3) Case number: _____
 - (4) Result: _____
 - (5) Date of result: _____
 - (6) Issues raised: _____
- _____
- _____
- _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
 - (b) Name of the authority, agency, or court: _____
 - (c) Date of filing: _____
 - (d) Docket number, case number, or opinion number: _____
 - (e) Result: _____
 - (f) Date of result: _____
 - (g) Issues raised: _____
- _____
- _____
- _____

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Grounds for Your Challenge in This Petition

- 13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: *Prolonged detention without final order. Since Jan. 12. 2025 no decisions have been made on my case, hearings are being cancelled and rescheduled and Judges are changing. Violation of due process, unreasonable delays.*

(a) Supporting facts (Be brief. Do not cite cases or law.):

I entered via port OTAY MESA on Jan. 12. 2025 and applied for asylum. On Feb. 18. 2025 I received a positive decision from the CFI interview, I pose no danger to the public. I have been in custody for more than 14 months without parole, (no criminal record or flight risk).

(b) Did you present Ground One in all appeals that were available to you?

Yes No

GROUND TWO: *No bail hearing was held*

(a) Supporting facts (Be brief. Do not cite cases or law.):

Detained since admission, unable to apply for bail despite lengthy detention and ongoing proceedings.

(b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE:

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground Three in all appeals that were available to you?

Yes No

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GROUND FOUR:

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground Four in all appeals that were available to you?

Yes No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: The grounds are constitutional (due process) and are raised directly in Habeas. Exhaustion of administrative remedies is not required for constitutional claims under 28 U.S.C. § 2241 in immigration detention cases.

Request for Relief

15. State exactly what you want the court to do: I sincerely ask the court to release me if my detention is unfounded. Or to allow me to be released on bail.

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

Dec. 14, 2025

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: Dec. 14, 2025

A black rectangular box with a white 'X' inside, used to redact the signature of the petitioner.

Signature of Petitioner

Signature of Attorney or other authorized person, if any

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Memorandum

My name is Askar Nagiyev, I came to the U.S. and requested asylum, because for me the U.S. is the safest and freest country in the world. On January 12, 2025, I entered the U.S. through the port Otay Mesa. When I finally arrived in the U.S. I was glad that all the bad things were behind me, that I was safe and would live freely. But things turned out differently, I ended up in an American prison. Being in prison has left me under constant stress, my mental health has deteriorated and I feel worse and worse every day.

Ground one

Facts: Since January 12, 2025, no decisions have been made in my case. My hearings are being canceled and rescheduled, Judges are changing, and I remain in prison. On April 10, 2025, I was given a Individual Merits hearing date before Judge Hon. I.J. Robinson, for December 18, 2025. On May 13, 2025, I was summoned without prior notice to appear before a different Judge Hon. I.J. Penalosa. At the hearing, I learned that Eduardo Perez had been appointed as my pro bono attorney. But the hearing never took place due to my attorneys failure to appear, and hearing was rescheduled. I had another master hearing on June 12, 2025, before a different Judge Hon. I.J. Najjar. Then another master hearing was scheduled for July 17, 2025. That hearing was canceled without notice and rescheduled for July 30, 2025, and that too was canceled for an unknown reason. The next hearing took place on August 7, 2025, and again a different Judge Hon. I.J. Grande, was present. In this hearing I was scheduled for an Individual Merits hearing on November 19, 2025, but the hearing was not completed and was rescheduled for February 25, 2026. It is unknown how long this will last.

At the time of writing this memorandum , I have been in custody for more than 330 days. Please help me gain my release.

Date: Dec. 14. 2025

Signature: _____

A black rectangular box with a white 'X' inside, used to redact the signature.

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Instructions

1. **Who Should Use This Form.** You should use this form if
 - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
 - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
 - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
 - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
 - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
 - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. **A false statement may lead to prosecution.**
4. **Answer all the questions.** You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**
5. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
6. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
7. **Submitting Documents to the Court.** Mail your petition and ___ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
8. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.

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ASKAR NAGIYEV
A# 241-135-179
POD-H-106L
OTAY MESA DETENTION FAC.
P.O. BOX 439049
SAN DIEGO, CA 92143

RECEIVED
DEC 22 2025
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

U.S. DISTRICT COURT
SOUTHERN OF CALIFORNIA
333 WEST BROADWAY
SAN DIEGO, CA, 92101

CoreCivic
Otay Mesa Detention Center
This facility is not responsible for the
substance/contents of this package.