

**UNITED STATES DISTRICT COURT
IN AND FOR THE MIDDLE DISTRICT of FLORIDA
JACSONVILLE DIVISION**

PEYMAN HAGHNEJAD,

Petitioner,

v.

SCOTTY RHODEN, in his official capacity as
Sheriff, Baker County, Florida;

CHARLES PARRA, in his official capacity as
Assistant Field Office Director;

Case No.:

GARRETT RIPA, in his official capacity as
Field Office Director, Miami Field Office;

TODD LYONS, in his official capacity as
Acting Director, Immigration and Customs Enforcement;

KRISTI NOEM, in her official capacity as
U.S. Secretary of Homeland Security;

Respondents.

**PETITION FOR WRIT OF HABEAS CORPUS
AND REQUEST FOR EMERGENCY INJUNCTIVE RELIEF**

INTRODUCTION

The Petitioner, **PEYMAN HAGHNEJAD**¹, is in Department of Homeland Security (“DHS”), Immigration and Customs Enforcement (“ICE”), custody at Baker County Facility, 1 Sheriff’s Office Drive, Macclenny, Florida 32063, located within Baker County, Florida, for the purpose of executing the outstanding May 18, 2001, order of removal the Petitioner is subject to.

¹ A.k.a., Peyman WHAQNEJAD.

JURISDICTION

This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

Venue is proper in the U.S. District Court, Middle District of Florida, as Petitioner is detained at Baker County Facility, 1 Sheriff's Office Drive, Macclenny, Florida 32063, located within Baker County, Florida.²

PARTIES

1. The Petitioner, **PEYMAN HAGHNEJAD**, is a native of Iran, who was admitted into the U.S. in 2001 with a visitor's (B2) visa, and who is currently detained by the Respondents for the purpose of executing an outstanding May 18, 2001, order of removal to Iran.
2. Respondent, **Scotty RHODEN**, is the Sheriff of Baker, County, Fl, who operates the detention facility at Baker County Facility, 1 Sheriff's Office Drive, Macclenny, Florida 32063, where the DHS-ICE is detaining the Petitioner for the purpose of executing the DHS-ICE's outstanding May 18, 2001, order of removal to Iran.

² Baker Sheriff's Office Detention Center Tel. (904) 259-2231.

3. Respondent, **Charles PARRA**, is the Assistant Field Office Director of the Krome Detention Center with responsibility over the custody of the Petitioner at Baker County Facility.
4. Respondent, **Garret RIPA**, is the Field Office Director for ICE Enforcement and Removal Operations (ERO) in Miami, Florida. The Miami Field Office oversees immigration enforcement activities across Florida, including the ICE detention facility at Baker County Facility.
5. Respondent, **Todd LYONS**, is the Acting Director for U.S. Immigration and Customs Enforcement responsible for the detention of Respondent in a nationwide capacity.
6. Respondent, **Kristi NOEM**, is the U.S. Secretary of Homeland Security, responsible for the detention and removal operations of the U.S. Immigration and Customs Enforcement.
7. All Respondents are named in their official capacities.

The Petitioner's Statement Regarding Previous Filing With this U.S. District Court

8. On September 24, 2025, the Petitioner filed his First Habeas Corpus petition under *Haghnejad v. Field Office Director*, Case No. 3:25-cv-1143-MMH-PDB. ECF # 1.
9. On December 2, 2025, the Respondents filed their answer to the habeas petition, ECF # 4, to which the Petitioner filed his reply on December 2, 2025. ECF # 4.
10. On December 19, 2025, this District Court found that the habeas petition had been filed prematurely (determining the Petitioner had been detained only ninety-three (3) days for the purposes of affording relief under *Zadvydas*; dismissing the petition without prejudice). ECF # 6, judgment was entered on December 23, 2025. ECF # 7.

PROCEDURAL HISTORY RESULTING in ORDER of REMOVAL

11. Peyman Haghnejad is a native and citizen of Iran who in September, 1999, obtained a visitor's visa.
12. On November 10, 1999, the Petitioner was admitted into the United States with a visitor's (B-2) visa at Dulles International Airport, Washington D.C. (IAD).
13. Having overstayed the time allowed by the visa, on February 2, 2000, the legacy INS served the Petitioner with a Notice to Appear (NTA), thereby, placing the Petitioner in removal proceedings under 8 U.S.C. § 1229a, INA § 240, removal proceedings before the U.S. Department of Justice, Executive Office for Immigration Review, U.S. Immigration Court.³
14. After consideration of the Petitioner's Form I-589, Application for Asylum and Withholding of Removal, on May 18, 2001, the U.S. Immigration Court denied the Petitioner's Form I-589 and entered an administrative order of removal against the Petitioner.
15. The Petitioner timely appealed the May 11, 2001, administrative order of removal to the Board of Immigration Appeals ("BIA").
16. On May 6, 2002, the BIA dismissed the Petitioner's appeal, rendering the May 18, 2001, removal order "administratively final."⁴

³ Legacy INS assigned agency # 077-870-580 to the Petitioner.

⁴ 8 U.S.C. §1231(a)(1)(B)(i), INA § 241(a)(1)(B)(i).

The Petitioner's 2009 Conviction for Simple Battery (1st Degree Misdemeanor 1st Deg.)

17. In 2009, the Petitioner pled “no contest” to a State of Florida simple battery 1st degree misdemeanor offense ⁵, to which the state court withheld adjudication of guilt.

18. The state court disposition is a “convict[ion]” ⁶ for the purposes of U.S. immigration law. ⁷

DHS-ICE's Initial (2009) Placement of the Petitioner's in Custody

19. On April 20, 2009, the Attorney General issued a “Warrant of Removal/Deportation,” commanding DHS-ICE officers to take the Petitioner into custody for removal from the United States.

20. Based on DHS-ICE warrant, DHS-ICE placed the Petitioner in its custody for the purpose of executing the “administratively final” ⁸ May 18, 2001, order of removal; thereby, commencing the “removal period” outlined in 8 U.S.C. § 1231(a)(1) and (2), INA § 241(a)(1) and (2). ⁹

⁵ *State of Florida v. Peyman Whaqnejad*, St. Lucie County, Florida, Case No. 56-2009-MM-001205-A, a violation Fla. Stat. § 784.03(1), battery (simple) (Misdemeanor of the 1st degree). The Petitioner pled no contest to simple battery as charged to which the trial court withheld adjudication; sentencing the Petitioner to 12 months of probation, conditions and costs.

⁶ 8 U.S.C. § 1101(a)(48)(a), INA § 101(a)(48)(a).

⁷ The Petitioner's single 2009 misdemeanor conviction for simple battery (see, *supra*, note 3) does not adversely affect the Petitioner's immigration status. For instance, the Petitioner's conviction is not for a crime involving moral turpitude (“CIMT”). See *Sosa-Martinez v. United States Att’y Gen.*, 420 F.3d 1338, 1341 n.2 (11th Cir. 2005) (aggravating factor must be present for a State of Florida battery offense to be deemed a CIMT). Neither does the conviction adversely affect the Petitioner's immigration status or his ability to seek adjustment of status under 8 U.S.C. § 1255(a), INA § 245(a), see *infra*.

⁸ 8 U.S.C. § 1231(a)(1)(B)(i), INA § 241(a)(1)(B)(i).

⁹ Providing, in pertinent part, “[t]he removal period begins on the latest of the following: (i) The date the order of removal becomes administratively final.”

21. In or about July 20, 2009, the DHS released the Petitioner under an order of supervision under 8 U.S.C. § 1231(a)(3), INA § 241(a)(3), titled, “Supervision after 90-day [removal ¹⁰] period”, when the Petitioner’s country of birth and citizenship, Iran, refused to accept the Petitioner for deportation.
22. Throughout this period ICE detained the Petitioner approximately sixty (60) days.

Continued Procedural History

23. On February 13, 2025, the Petitioner became the subject of an approved *immediate preference* I-130, Petition for Alien Relative ¹¹, filed by the Petitioner’s U.S. Citizen son, Samuel Haghnejad.
24. On April 15, 2025, the Petitioner filed with the Board of Immigration Appeals (BIA) a motion to reopen his removal proceedings to seek adjustment of status based on the approved I-130.

DHS-ICE’s Successive (2025) Placement of the Petitioner’s in Custody

25. On June 23, 2025, the Petitioner reported to DHS-ICE Enforcement Removal Operations Office at which time the Petitioner was, again, placed in ICE custody.

Continued Procedural History

26. On November 13, 2025, the BIA denied the Petitioner’s motion to reopen.
27. On December 11, 2025, Haghnejad filed a motion for reconsideration; which the BIA denied.
28. The Petitioner last filed a motion to reconsider on December 22, 2025, which is currently pending before the Board of Immigration Appeals (BIA).

¹⁰ 8 U.S.C. § 1231(a)(1)(B), INA § 241(a)(1)(B) (describing/defining “[t]he “removal period”)

¹¹ **Ex. A** – CIS’ 2/13/2025 Notice of Approval of I-130 # [REDACTED]

INA Provision Authorizing DHS to Detain Petitioner During the “Removal Period”

29. In the Petitioner’s case, a removal determination was made on May 18, 2001, when the Immigration Court denied the Petitioner’s application for asylum (and other relief) and consequently entered its order of removal.
30. The May 18, 2001, decision became made administratively final on May 6, 2002, when the Board procedurally dismissed the Petitioner’s case for the Petitioner failure to file a brief in support of his appeal.
31. Upon the May 18, 2001, decision becoming administratively final, the DHS did not take the Petitioner into custody at such time for execution of the order of removal.
32. The DHS-ICE are detaining the Petitioner for the sole and specific purpose of executing the administratively final May 18, 2001, order of removal for which 8 U.S.C. § 1231, INA § 241, titled, “Detention and removal of aliens ordered removed” controls.¹²

COUNT ONE

Violation of Sixth Amendment Right to Counsel

33. Pending disposition of the Petitioner’s Habeas Petition, the Petitioner, seeks an emergency order preventing the Respondents from moving him to a facility outside the jurisdiction of this District Court.
34. The Petitioner has already been transferred once from the Krome Service Processing Center to his current location at the Baker Correctional Institute.

¹² *Johnson v. Guzman Chavez*, 594 U.S. 523, 543-44 (2021); and *O.N.O. v. Warden, Stewart Det. Ctr.*, No. 4:24-CV-125-CDL-AGH, 2025 WL 2726052, at *2 (M.D. Ga. Aug. 20, 2025), Report and Recommendation adopted, 2025 WL 2723540 (M.D. Ga. Sept. 24, 2025) (“[U]pon his removal order becoming final, the authority for [the p]etitioner’s detention switched from 8 U.S.C. § 1226(c) to 8 U.S.C. § 1231(a)[.]”).

35. Publicly available knowledge and current agency practice demonstrates that U.S. Immigration and Customs Enforcement (“ICE”) may soon relocate the Petitioner to another facility outside of the state.
36. The habeas statute at 28 U.S.C. § 2243 states Petitioner shall be brought before the Court for hearing. This action entails calling witnesses from ICE to determine their actions and omissions.
37. Transfer results in other witnesses (employees of ICE) out of state being beyond this Court's reach for testimony.
38. And transfer of Petitioner to another region obstructs justice and due process by depriving Petitioner his day in court, and access to witnesses.
39. Relocation would significantly disrupt ongoing legal representation by obstructing counsel's access to the Petitioner, impairing access to in-person confidential communication, frustrating the timely submission of filings, and preventing Petitioner from meaningfully participating in his defense and in the pursuit of immigration relief.
40. On clear and reliable information and belief, the Petitioner may be moved to another facility without notice, in violation of his Sixth Amendment Right to Counsel and full evidentiary proceedings.
41. The Respondents' forthcoming actions will cause irreparable harm to Petitioner by effectively denying him access to his retained counsel during a critical period of detention and legal challenge, access to this Court, and access to witnesses. These represent a myriad of constitutional violations.

COUNT TWO

Fifth Amendment Due Process Claim

42. On information and belief, the Petitioner was detained without cause or reason by ICE agents on or about June 23, 2025.
43. The Petitioner has been on an Order of Supervision (“OSUP”) since 2009, reporting when instructed.
44. The Petitioner has obliged with all reporting requirements.
45. The DHS detention of the Petitioner violates his Fifth Amendment right to due process because he is being detained “without cause and in violation of his constitutional rights.” Petition at 6 (citing *Zadvydas v. Davis*, 533 U.S. 678 (2001)).
46. In *Zadvydas*, 533 U.S. at 690, the Supreme Court held that indefinite detention of aliens raises serious constitutional concerns.
47. Once an order of removal is final, ICE should make every effort to remove the alien within a reasonable time. *Id.* at 701.
48. Further, the *Zadvydas* Court concluded that six months is a presumptively reasonable period to detain a removable alien awaiting deportation. *Id.*
49. “Although not expressly stated, the Supreme Court appears to view the six-month period to include the 90-day removal period plus 90 days thereafter.” *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002).
50. After the six-month period has passed and the alien ““provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,”” the burden then shifts to the Government to provide evidence sufficient to rebut that showing. *Id.* (quoting *Zadvydas*, 533 U.S. at 701).

51. Thus, “in order to state a claim under *Zadvydas* the alien not only must show post-removal order detention in excess of six months but also must provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Akinwale*, 287 F.3d at 1052.
52. During the first period in 2009 the DHS-ICE detained the Petitioner approximately sixty (60) days, thereafter releasing the Petitioner to an order of supervision because of DHS-ICE’s inability to remove the Petitioner to Iran, as the order of removal requires.
53. During the current period, the DHS-ICE has detained the Petitioner since June 23, 2025, *i.e.*, one-hundred ninety-three (193) days. ¹³
54. “[I]n *Zadvydas v. Davis*, 533 U.S. 678 (2001) ... the Supreme Court ruled that:
- “With narrow exceptions, aliens with final orders of removal — including aliens determined to pose threats to the community or considered flight risks — may not be detained by ICE beyond a presumptively reasonable period of six months if there is no ‘significant likelihood of removal in the reasonably foreseeable future’
 - Delays in issuing travel documents or denying the acceptance of their nationals complicate ICE’s removal efforts as the agency has been legally required to release thousands of aliens, including those with serious criminal convictions”
55. The Petitioner, as a native and citizen of Iran, has been advised by immigration officers that they have not been successful in securing his return to Iran based on his order of removal.

¹³ This Honorable District Court has also considered prior post-removal detention periods to assess whether the *Zadvydas* threshold has been met. See *Krechmar v. Parra*, No. 2:25-cv-1095-SPC-DNF, 2025 WL 3620802, at *3 (M.D. Fla. Dec. 15, 2025) (rejecting the government’s argument that the petition was premature because the petitioner had previously been detained for a six-month period and accepting the government’s position would “effectively allow [the Department of Homeland Security] to detain noncitizens indefinitely and avoid judicial scrutiny by releasing and re-detaining them every six months”).

56. As of December, 2024, “ICE considers 15 countries to be uncooperative: Bhutan, Burma, Cuba, Congo, Eritrea, Ethiopia, Hong Kong, India, *Iran*, Laos, Pakistan, China, Russia, Somalia, and Venezuela).”¹⁴
57. The Petitioner asserts that his continued detention is violative of the Fifth Amendment Due Process Clause to the U.S. Constitution, and, therefore, additionally seeks his immediate release from DHS-ICE custody.¹⁵
58. ICE Online Detainee Locator reveals the Petitioner detained in DHS-ICE custody at the Baker County Facility, 1 Sheriff’s Office Drive, Macclenny, Florida 32063.¹⁶
59. DHS-ICE has yet to provide the Petitioner with any information indicating that DHS-ICE is ready and able to deport the Petitioner to Iran.
60. Based on the facts of his immigration history, there is nothing indicating that ICE is now able to physically remove Petitioner to the country of Iran because Iran continues to be a recalcitrant country as recognized by the U.S. Government.¹⁷

¹⁴ **Ex. B** – See Bill Melugin, Fox News National Correspondent (Los Angeles) Dec. 11, 2024 posting (@BillMelugin X.com) with attachment consisting of “Internal ICE Data obtained by @FoxNews”, source https://x.com/BillMelugin_/status/1866942444845273270 accessed 9/24/2025; and **Ex. C** – Federation for American Immigration Reform (FAIR), *July 2025 Fact Sheet*, source <https://www.fairus.org/issue/factsheet/recalcitrant-countries-diplomatic-obstacles-deportation> accessed 9/24/2025. **Ex. D** – ICE’s 7/15/2020 Pamphlet on “Visa Sanctions Against “Recalcitrant Countries”, ICE.GOV, source <https://www.ice.gov/remove/visa-sanctions> accessed 9/24/2025; see also **Ex. E** – Congressional Research Service (CRS), *Immigration: “Recalcitrant” Countries and the Use of Visa Sanctions to Encourage Cooperation with Alien Removals*, July 10, 2020, source https://www.congress.gov/crs_external_products/IF/PDF/IF11025/IF11025.7.pdf accessed 9/24/2025.

¹⁵

¹⁶ See Online Detainee Locator System, U.S. Immigration and Customs Enforcement, available at <https://locator.ice.gov/odls/#/search> (A ~~XXXXXXXXXX~~) (last accessed Dec. 28, 2025).

¹⁷ Notably, in the last week the people of Iran have revolted against the government of Iran for which the country is in absolute chaos, including instances of the killing at least two (2) individuals in the last forty-eight (48) hours. Returning the Petitioner to Iran under current country conditions would expose the Petitioner to extended imprisonment/detention at the hands of the government of Iran, including torture and death at the hands of the government of Iran, now under siege as of the time of filing this habeas petition; further indicative of Iran’s unwillingness to receive an individual who has resided in the U.S. for more than twenty-four (24) years. Petitioner has been in the trucking business for over twenty (20) years. His company runs four (4) trucks who work for him on an independent contractor basis. Since Petitioner’s detention, the

COUNT TWO
Fifth Amendment Due Process Claim

61. The Immigration Court's May 18, 2001, order of removal which the Petitioner is subject to orders the Petitioner's removal *only* to Iran, and no other country.
62. Thus, it would also be a violation of the Petitioner due process rights to allow the DHS-ICE to remove the Petitioner to a country where the Immigration Court has neither designated nor ordered the Petitioner's removal too.¹⁸
63. Therefore, if the Respondent's wish to remove the Petitioner to a third country to which the Petitioner's removal has not been designated or ordered to, the Respondent's must reopen the Petitioner's removal proceeding and return the Petitioner's case to the U.S. Immigration Court for proceedings consistent with 8 C.F.R. § 1240.11(f).
64. Only this Court can provide adequate relief to the Petitioner under both Counts.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Declare that the Petitioner's transfer to another facility outside the jurisdiction of this U.S. District Court violates the Sixth Amendment Right to Counsel;
- c. Order, on an emergency basis, that Petitioner shall not be transferred outside the Middle District of Florida until further notice from this Honorable Court;
- d. Declare that the Petitioner's continuing detention violates the Due Process Clause of the Fifth Amendment;
- e. Issue a Writ of Habeas Corpus ordering Respondents to immediately release the Petitioner immediately;
- f. Award the Petitioner reasonable costs and attorney's fees in this action as provided by the Equal Access to Justice Act, 28 U.S.C. § 2412, or other statute; and
- g. GRANT any further relief to the Petitioner this Court deems just and proper.

employees have had to look for other work. Petitioner's company is suffering and will not last much longer if he remains detained.

¹⁸ 8 C.F.R. § 1240.11(f).

Respectfully submitted,

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