UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Gholam Ali Ahmadi,

Petitioner, 26 Civ. 274 (VSB)

v.

Kenneth Genalo, as Director of the New York Field Office for U.S. Immigration and Customs Enforcement; et al.,

Respondents.

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PETITIONER'S REPLY MEMORANDUM OF LAW IN SUPPORT OF HIS PETITION FOR A WRIT OF HABEAS CORPUS

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TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

PRELIMINARY STATEMENT 1

STATEMENT OF FACTS 1

ARGUMENT 3

I. In seizing and detaining Petitioner, Respondents are violating the Immigration and Nationalization Act 3

II. Respondents are violating Petitioner's constitutional right to procedural due process. . 8

III. Respondent's detention of Petitioner violates his substantive due process rights 1

IV. Respondents' detention of Petitioner violates the Administrative Procedure Act ... 12

V. The proper remedy is the immediate release of Petitioner 13

CONCLUSION 15

CERTIFICATE OF COMPLIANCE 16

TABLE OF AUTHORITIES

Cases

Abramski v. United States, 573 U.S. 169 (2014) 7

Al-Thuraya v. Warden, Orange County Correctional Facility, 2025 WL 2858422 (S.D.N.Y. Oct. 9, 2025) 9

Bankamerica Corp. v. United States, 462 U.S. 122 (1983) 7

Barco Mercado v. Francis, ___ F.Supp.3d ___, No. 25-CV-6582 (LAK), 2025 WL 3295903 (S.D.N.Y. Nov. 26, 2025) 4, 5

Black v. Decker, 103 F.4th 133 (2d Cir. 2024) 10

Castañon-Nava v. DHS, 161 F.4th 1048 (7th Cir. 2025) 5

Chen v. Almodovar, 25 Civ. 8350 (MKV), 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025) 6

Chen v. Almodovar, 25 Civ. 9670 (JPC), 2026 WL 100761 (S.D.N.Y. Jan. 14, 2026) 6

DHS v. Thuraissigiam, 591 U.S. 103 (2020) 10

Faure v. Decker, 2015 WL 6143801 (S.D.N.Y. Oct. 19, 2015) 12

FCC v. Fox Television Stations, Inc., 556 U.S. 502 (2008) 13

Gonzalez v. Joyce, 25 Civ. 8250 (AT), 2025 WL 2961626 (S.D.N.Y. Oct. 19, 2025) 11

Hamdi v. Rumsfeld, 542 U.S. 507 (2004) 8

Hasan v. Crawford, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025) 9, 10

Hyppolite v. Noem, 2025 WL 2829511 (E.D.N.Y. Oct 6, 2025) 9

Jackson v. Indiana, 406 U.S. 715 (1972) 12

Jennings v. Rodriguez, 583 U.S. 281 (2018) 3

Lopez Arevelo v. Ripa, 2025 WL 2691828 (W.D.Tex. Sept. 22, 2025) 10

Lopez Benitez v. Francis, 795 F.Supp.3d 475 (S.D.N.Y. 2025) 8, 14

Maldonado v. Olson, 2025 WL 2374411 (D. Minn. Aug. 15, 2025) 9, 10

Marbury v. Madison, 5 U.S. (1 Cranch) 137, 177, 2 L.Ed. 60 (1803) (Marshall, C.J.) 4

Martinez v. Hyde, No. CV 25-11613 (BEM), 2025 WL 2084238 (D. Mass. July 24, 2025). 6

Martinez v. McAleenan, 385 F.Supp. 3d 349 (S.D.N.Y. 2019) 14

Matter of Yajure Hurtado, 291 I&N Dec. 216 (BIA 2025) 4

Morrissey v. Brewer, 408 U.S. 471 (1972). 10

Munaf v. Geren, 553 U.S. 674 (2008). 13

Preiser v. Rodriguez, 411 U.S. 475 (1973). 13

Qasemi v. Francis, 2025 WL 3654098 (S.D.N.Y. 2025) 14

Rodriguez v. Bostock, 779 F. Supp. 3d 1239 (W.D. Wash. 2025) 7

Savane v. Francis, 801 F.Supp.3d 483 (S.D.N.Y. 2025) 14

Shaughnessy v. United States ex rel. Mezei, 345 U.S. 206 (1953) 11

Tumba Huamani v. Francis, 25 Civ. 8110 (LJL), 2025 WL 3079014 (S.D.N.Y. Nov. 4, 2025). . 7

Y- C- v. Genalo, 2025 WL 3653496 (E.D.N.Y. 2025) 14

Yao v. Almodovar, No. 25 CIV. 9982 (PAE), 2025 WL 3653433
(S.D.N.Y. Dec. 17, 2025) 5, 6

Zadvydas v. Davis, 533 U.S. 678 (2001) 8, 11

Zumba v. Bondi, No. 20c-cv-14626 (KSH), 2025 WL 2753496 (D.N.J. Sept. 26, 2025) 4, 6

Constitution, statutes, and regulations

U.S. Const. amend. V 8, 11

5 U.S.C. §706(2)(A) 12

8 U.S.C. §1182(a)(9)(B)(iii)(II) 3

8 U.S.C. §1225 . . . . *passim*

8 U.S.C. §1225(b)(2)(A). 3

8 U.S.C. §1226 . . . . *passim*

8 U.S.C. §1226(a) 3

28 U.S.C. § 2412. 16

Pub. L. 119-1, 139 Stat. 3 (2025) 7

8 C.F.R. §1236.1(c)(8) 2, 14

Other authority

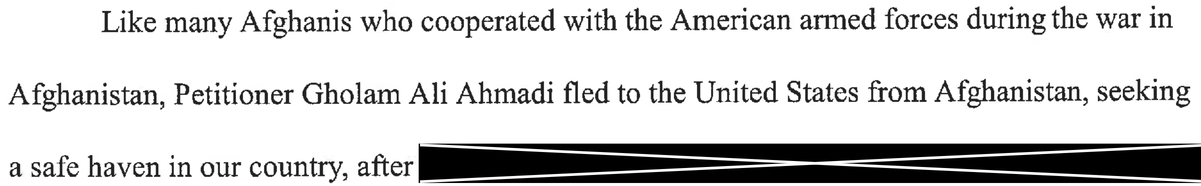
H.R. Rep. No. 104-469 (1996) 7

62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). 7

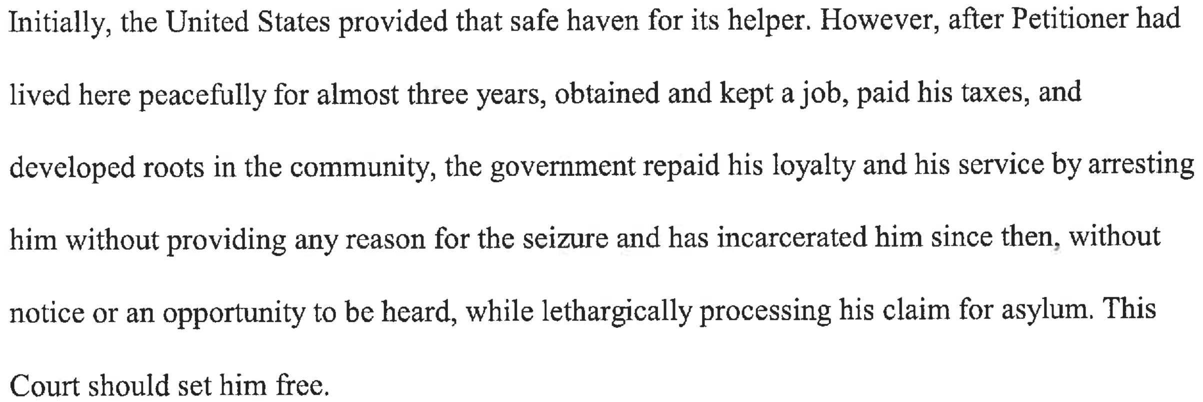
ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission, available at https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents 4

PRELIMINARY STATEMENT

Like many Afghanis who cooperated with the American armed forces during the war in Afghanistan, Petitioner Gholam Ali Ahmadi fled to the United States from Afghanistan, seeking a safe haven in our country, after

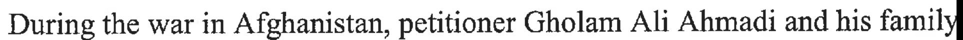


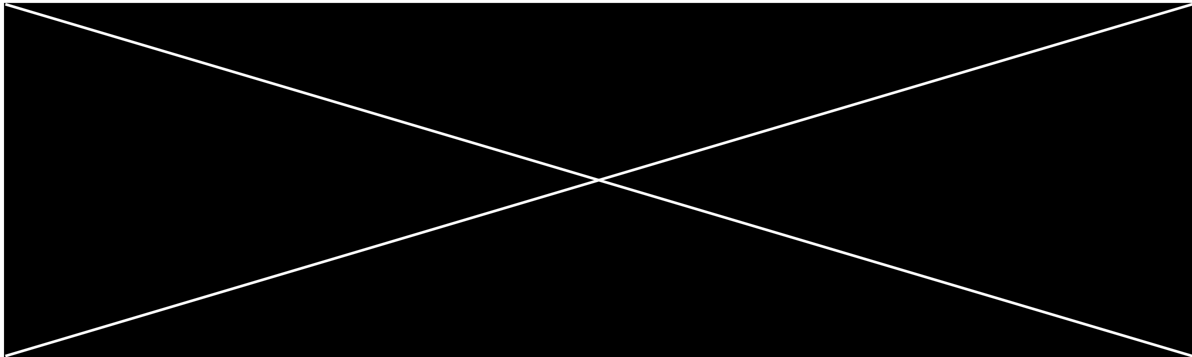
Initially, the United States provided that safe haven for its helper. However, after Petitioner had lived here peacefully for almost three years, obtained and kept a job, paid his taxes, and developed roots in the community, the government repaid his loyalty and his service by arresting him without providing any reason for the seizure and has incarcerated him since then, without notice or an opportunity to be heard, while lethargically processing his claim for asylum. This Court should set him free.



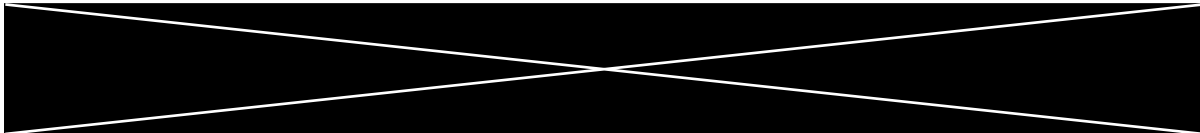
STATEMENT OF FACTS

During the war in Afghanistan, petitioner Gholam Ali Ahmadi and his family





In 2021, when the war ended and the Americans left Afghanistan, Petitioner realized that his life was in danger. (Id. ¶25)



Petitioner fled the country and headed west. He eventually arrived in the United States, a refugee seeking asylum. Like so many others in mortal danger, he had not had enough lead time to seek and obtain advance permission to enter the United States. (Id. ¶26)

On April 15, 2023, immigration authorities seized and detained Petitioner after he had entered the United States. (Id. ¶27) On April 20, 2023, the authorities released Petitioner on his own recognizance under 8 U.S.C. §1226, having determined that, although Petitioner had not established his entitlement to asylum beyond a reasonable doubt, Petitioner was nonetheless allowed to stay in our country during immigration proceedings, as he was not a flight risk and did not pose a danger to others. (Id. ¶28) See, 8 U.S.C. §1226; 8 C.F.R. §1236.1(c)(8).[1]

Petitioner went to New York, found housing, retained counsel, applied for asylum, and applied for a work permit. (Id. ¶30) On April 15, 2024, respondents granted the latter application and allowed Petitioner to work in the United States. (Id. ¶31) Petitioner immediately found a job with a construction company, where he has been gainfully employed ever since. (Id. ¶31) Petitioner has always paid his taxes. (Id. ¶32) Petitioner also stayed out of trouble; he has no criminal record. (Id ¶33; Doc. 7-6, p. 3)

On January 13, 2026, Respondents upended Petitioner's quiet but productive life. During a routine immigration meeting, Respondents seized Petitioner. (Doc. 1 ¶37) They have incarcerated him since then, without notice, without an opportunity to be heard, and without an individualized determination of necessity. (Id. ¶¶37-42)

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[1]Respondents' insinuation, unsupported by any evidence whatsoever, that Respondents released Petitioner on his own recognizance solely because they lacked detention space (Doc. 8 ¶5), rather than because he was not a flight risk and not a danger to others, an action which would have violated 8 U.S.C. §1226, should be rejected by this Court.

After being seized, Petitioner filed the instant Petition for a Writ of Habeas Corpus on January 13, 2026, seeking release from detention. This reply memorandum of law is written in support of that petition.

ARGUMENT

I. In seizing and detaining Petitioner, Respondents are violating the Immigration and Nationalization Act

Immigration law provides two avenues for detention of noncitizens. 8 U.S.C. §1225 governs individuals who are seeking entry into the United States, focusing on border enforcement and recent arrivals. That section imposes mandatory detention on noncitizens "seeking admission" to the United States. 8 U.S.C. §1225(b)(2)(A). By contrast, 8 U.S.C. §1226(a) governs the detention of noncitizens who are already present in the United States. Noncitizens like Petitioner who are seized inside the United States under 8 U.S.C. §1226(a) are legally entitled to individualized determinations of their risk of flight or danger to the community, the only two bases for detaining those immigrants that are relevant to the present case. See, *Jennings v. Rodriguez*, 583 U.S. 281, 287-89 (2018) (providing that 8 U.S.C. §1225 governs "an alien seeking to enter the country," while 8 U.S.C. §1226 governs individuals "once inside the United States").

Respondents and their predecessors have followed the dictates of 8 U.S.C. §1226(a) for decades. In the instant case, Respondents explicitly found Petitioner to be subject to 8 U.S.C. §1226(a), and released him in this country on April 20, 2023. (Doc. 7-4) As an asylum seeker who has filed an asylum application, Petitioner is considered to be present in this country lawfully. 8 U.S.C. §1182(a)(9)(B)(iii)(II).

In July, 2025, however, respondents Bondi and Noem changed United States policy and began treating nearly all noncitizens as "applicants for admission," subject to mandatory arrest under 8 U.S.C. §1225(b)(2)(A), including those, like petitioner, whom immigration authorities had previously detained upon entering United States soil and then released on parole, under 8 U.S.C. §1226. See ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission.[2] That illegal policy, which Respondents invoke to arrest and incarcerate Petitioner and other immigrants who have lived lawfully in the United States for years, was recently adopted by the Bureau of Immigration Appeals. *Matter of Yajure Hurtado*. 291 I&N Dec. 216, 218-19 (BIA 2025).[3]

This Court must reject Respondents' implicit claim that, since Bureau of Immigration Appeals decisions are "binding on ICE" those decisions are also binding upon this Court. (Doc. 9, Resp. Mem. p. 11) It is "'emphatically the province and duty of the judicial department' – not DHS or ICE or the executive branch in general – 'to say what the law is.'" *Barco Mercado v. Francis*, ___ F.Supp.3d ___, No. 25-CV-6582 (LAK), 2025 WL 3295903, at *2 (S.D.N.Y. Nov. 26, 2025), quoting *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177, 2 L.Ed. 60 (1803) (Marshall, C.J.).

The courts have overwhelmingly rejected Respondents' new policy as unconstitutional,

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[2]Available at https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents

[3]That decision deserves no deference from this Court. See *Zumba v. Bondi*, No. 20c-cv-14626 (KSH), 2025 WL 2753496, at *9 (D.N.J. Sept. 26, 2025) ("[T]he BIA's current position is inconsistent with its earlier pronouncements which took the opposite position . . . the Court has no obligation to defer to the BIA's view, particularly when that view has not 'remained consistent over time.") (internal quotations and citation omitted).

illegal under immigration statutes, or both. The one Circuit that has reached the issue has concluded – on a motion for a stay pending appeal -- that the petitioners have "the better argument" that noncitizens "already in the United States" are detained under 8 U.S.C. §1226(a), not 8 U.S.C. §1225(b)(2). *Castañon-Nava v. DHS*, 161 F.4th 1048, 1060-63 (7th Cir. 2025).

Hundreds of district court decisions have likewise rejected Respondents' position that the government can legally seize and detain non-citizens who have been living peacefully in the United States, without individualized determinations, after having been paroled by Respondents.

> By a recent count, . . . the administration's new position that all noncitizens who came into the United States illegally, but since have been living in the United States, must be detained until their removal proceedings are completed - has been challenged in at least 362 cases in federal district courts. The challengers have prevailed, either on a preliminary or final basis, in 350 of those cases decided by over 160 different judges sitting in about fifty different courts spread across the United States. . . .

Barco Mercado v. Francis, ___ F.Supp.3d ___, No. 25-CV-6582 (LAK), 2025 WL 3295903, at *4-5 (S.D.N.Y. Nov. 26, 2025) (citing cases).[4]

Courts have overwhelmingly rejected Respondents' new claim because it contradicts 8 U.S.C. §1226(a), which explicitly applies to noncitizens, such as Petitioner, who been "arrested and detained pending a decision on whether the [noncitizen] is to be removed from the United States," 8 U.S.C. §1226(a). As "the vast majority of courts to address the point have held, there is a clearly superior textual analysis. It is that noncitizens such as [Petitioner] – who was intercepted at the border, released on his own recognizance pending removal proceedings, and later detained by ICE – are subject to detention under §1226, not under §1225." *Yao v. Almodovar*, No. 25 CIV. 9982 (PAE), 2025 WL 3653433, at *4 (S.D.N.Y. Dec. 17, 2025)

[4]Respondents mistakenly identify that case as "Barco Tucciarone." (See Doc. 9, p. 13)

(collecting cases). Ignoring the vast majority of decisions invalidating the policy, the Respondents now rely solely on the two outlier decisions in this District which have upheld the policy. One of those decisions, *Chen v. Almodovar*, 25 Civ. 8350 (MKV), 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025), has already been appealed to the Second Circuit. The other, *Chen v. Almodovar*, 25 Civ. 9670 (JPC), 2026 WL 100761 (S.D.N.Y. Jan. 14, 2026), was issued just last week and may also be appealed. Those decisions have been explicitly rejected. See, e.g., *Yao*, 2025 WL 3653433, at *8 (noting that the legal analysis in Chen was "problematic").

Respondents' recently adopted position likewise ignores the explicit text of 8 U.S.C. §1225(b)(2). For §1225(b)(2) to apply, an examining immigration officer must make three separate determinations: that a person is 1) an applicant for admission; 2) seeking admission; and 3) not clearly and beyond a doubt entitled to be admitted. The term "seeking admission . . . necessarily implies some sort of present-tense action." *Martinez v. Hyde*, No. CV 25-11613 (BEM), 2025 WL 2084238, at *6 (D. Mass. July 24, 2025). Respondents' claim that all immigrants, including Petitioner and others who are already in the country, are "seeking admission," within the meaning of §1225(b) renders the meaning of the term identical to the statutorily defined term "applicant for admission." Such an interpretation violates rule of surplusage and negates the plain meaning of the text. Accord, *Zumba v. Bondi*, No. 20c-cv-14626 (KSH), 2025 WL 2753496, at *8 (D.N.J. Sept. 26, 2025) ("even if petitioner could be deemed 'an applicant for admission,' under §1225(a)(1), as respondents claim, he does not meet the requirements of § 1225(b)(2), because he was never 'seeking entry' nor inspected by immigration officials") (cleaned up).

The legislative history shows that 8 U.S.C. §1226(a) was intended to "restate[] the

[then-]current provisions in section 242(a)(1) regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States." *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025) (quoting H.R. Rep. No. 104-469, at 229 (1996)). Indeed, shortly after the enactment of the 1997 amendments to the immigration law, Respondents' predecessors reaffirmed that "Despite being applicants for admission, aliens who are present without having been admitted or paroled . . . will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

Thus, for almost 30 years, it has been undisputed that immigrants who are detained inside the United States generally fall within 8 U.S.C. §1226 and therefore are required to receive a bond hearing upon request, even if they initially entered the country without permission. Such a longstanding and consistent interpretation "is powerful evidence that interpreting the Act in [this] way is natural and reasonable." *Abramski v. United States*, 573 U.S. 169, 203 (2014) (Scalia, J., dissenting); see also *Bankamerica Corp. v. United States*, 462 U.S. 122, 130 (1983) (relying in part on "over 60 years" of government interpretation and practice to reject government's new proposed interpretation of the law at issue).

The Laken Riley Act amendments to 8 U.S.C. §1226, enacted less than a year ago, Pub. L. 119-1, 139 Stat. 3 (2025), also confirm that individuals are subject to 8 U.S.C. §1226(a) if they were detained while already in the United States. In that Act, Congress expressly included individuals who have been convicted of certain crimes as subject to mandatory detention under 8 U.S.C. §1226(c)(1)(E). If every noncitizen present in the United States without being admitted were already subject to mandatory detention under §1225(b)(2), the amendment would have been superfluous. Accord, *Tumba Huamani v. Francis*, 25 Civ. 8110 (LJL), 2025 WL 3079014 *4

(S.D.N.Y. Nov. 4, 2025) ("By Respondents' understanding, all noncitizens inadmissible under 8 U.S.C. § 1182(a)(6) (which states that those like Petitioner who are present without admission are inadmissible) are already subject to mandatory detention. Why, then, would Congress have thought it necessary to specifically add a provision making those noncitizens subject to mandatory detention if they are charged with certain crimes? The Government has no answer.")

Here, Respondents arrested Petitioner after he had been living in the United States for nearly three years, not while he was 'seeking admission" at a border.[5] Respondents' own documentation from Petitioner's 2023 detention and release demonstrate that, until now, they have consistently considered him subject to 8 U.S.C. §1226. ("In accordance with [Section 236] of the Immigration and Nationality Act [8 U.S.C. §1226] you are being released on your own recognizance." (Doc. 7-4)

The mandatory detention provision of 8 U.S.C. §1225(b)(2)(A) is inapplicable to Petitioner, who was residing in the United States when he was apprehended by Respondents. His detention must instead be governed by 8 U.S.C. §1226(a).

II. Respondents are violating Petitioner's constitutional right to procedural due process

Petitioner's interest in being free from detention -- "the most elemental of liberty interests" -- is at stake in the instant case. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). The Fifth Amendment provides that "no person" shall be deprived of liberty without due process of law. "Persons" includes "aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Indeed, courts have recognized that

[5]Petitioner's pending asylum application is not considered a process of seeking admission. See *Lopez Benitez v. Francis*, 795 F.Supp.3d 475, 488 n.7 (S.D.N.Y. 2025).

said liberty interest protects even those immigrants subject to 8 U.S.C. §1225. See *Al-Thuraya v. Warden, Orange County Correctional Facility*, 2025 WL 2858422, at *6 (S.D.N.Y. Oct. 9, 2025) (holding that asylum applicant paroled under § 1182(d)(5)(A) had protected liberty interest preventing re-detention under §1225 without due process). Respondents' detention of Petitioner under 8 U.S.C. §1226 – without notice, without a showing of changed circumstances, and without any opportunity to be heard -- after Petitioner has lived freely in the United States for nearly three years, violates his protected liberty interest.

Second, the risk of erroneous deprivation of Petitioner's liberty is overwhelming. Petitioner is detained, apparently under a statute that does not apply to him, based on a blanket policy directive targeting Afghan nationals, rather than any individualized assessment. See *Hasan v. Crawford*, 2025 WL 2682255, at *12 (E.D. Va. Sept. 19, 2025) (citing *Maldonado v. Olson*, 2025 WL 2374411, at *13 (D. Minn. Aug. 15, 2025)). Respondents' categorical application of mandatory detention, without considering Petitioner's specific circumstances, his ties to the United States, or his demonstrated compliance with Respondents' demands, creates an unacceptable risk of erroneous deprivation. See, *Lopez Benitez*, supra, at 495.

Petitioner's personal circumstances, including his history of good behavior and of cooperation with respondents, further demonstrate the "extremely high" risk inherent to an erroneous deprivation of his liberty. See *Hyppolite v. Noem*, 2025 WL 2829511, at *13 (E.D.N.Y. Oct 6, 2025) (finding "extremely high" risk of erroneous deprivation of petitioner's liberty interest when petitioner had applied for asylum and was held in indefinite detention without a bond hearing). Indeed, Petitioner's detention has ripped from him the "free[dom] to be with . . . friends and [the opportunity] to form the . . . enduring attachments of normal life."

Morrissey v. Brewer, 408 U.S. 471, 482 (1972). Cutting Petitioner off from his "core values of unqualified liberty" -- Petitioner's ability to live freely and to work -- creates a "grievous loss." Id.

Finally, Respondents cannot show a significant interest in his detention. Any purported interest of Respondents in avoiding unnecessary government resource expenditure is unfounded. Indeed, courts have repeatedly held that, in circumstances such as these, "additional resources that the government will need to expend to justify continued detention at bond hearings will be minimal – and will likely be outweighed by costs saved by reducing unnecessary detention." *Black v. Decker*, 103 F.4th 133, 154-55 (2d Cir. 2024).

Petitioner is a non-violent individual who has consistently complied with immigration proceedings and requirements. The fact that Respondents allowed Petitioner to remain at liberty for nearly three years shows that Respondents never viewed Petitioner as a flight risk or danger to the community and had no interest in detaining him. See, e.g., *Lopez-Arevelo v. Ripa*, 2025 WL 2691828 at *12 (W.D. Tex. Sept. 22, 2025) ("[T]he decision to release [Petitioner] on his own recognizance . . . 'reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk,'" lessening the government's interest in detention). Those circumstances have not changed. Moreover, any purported government interest in protecting the public interest or executing removal orders is adequately served by separate mandatory detention procedures, specifically Sections 1225 and 1226(c), applicable to certain categories of noncitizens under which Petitioner categorically does not fall. See *Hasan v. Crawford*, 2025 WL 2682255, at *12 (E.D. Va. Sept. 19, 2025) (citing *Maldonado v. Olson*, 2025 WL 2374411, at *13 (D. Minn. Aug. 15, 2025)) (same).

The case which Respondents cite, *DHS v. Thuraissigiam,* 591 U.S. 103 (2020), does not

support Respondents' position. (See Doc. 9, Resp. Mem., p. 16) Unlike Petitioner, Mr. Thuraissigiam was detained only once, when he first sought to enter the United States. The government never released him from custody, and instead placed him into expedited removal proceedings, detaining him under 8 U.S.C. §1225(b)(1)(A)(i), a statute not at issue here.

Shaughnessy v. United States ex rel. Mezei, 345 U.S. 206, 212 (1953) (See Doc. 9, Resp. Mem., p. 15) also helps Petitioner, as it rules that noncitizens "who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law." Respondents here have refused to provide Petitioner with any proceedings.

For these reasons, Respondents' detention of Petitioner violates his right to procedural due process of law, as numerous courts have ruled. See, e.g., *Gonzalez v. Joyce,* 25 Civ. 8250 (AT), 2025 WL 2961626 (S.D.N.Y. Oct. 19, 2025) (citing cases).

III. Respondent's detention of Petitioner violates his substantive due process rights

"Freedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); U.S. Const. amend. V. "[G]overnment detention violates the [Due Process] Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections or, in certain special and narrow nonpunitive circumstances where a special justification . . . outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, supra, at 690 (cleaned up). This guarantee extends to noncitizens present in the United States. Id. at 693.

To comply with substantive due process, the government's deprivation of an individual's

liberty must be justified by a sufficient purpose. Therefore, immigration detention, which is "civil, not criminal," and "nonpunitive in purpose and effect," must be justified by either (1) flight risk or (2) dangerousness. Id. at 690; *Faure v. Decker*, 2015 WL 6143801, at *3 (S.D.N.Y. Oct. 19, 2015) (ordering release or a bond hearing where there was "no evidence" that the habeas petitioner "poses a danger to the public or would flee during the pendency of the removal proceedings"). When these rationales are absent, immigration detention serves no legitimate government purpose and becomes impermissibly punitive, violating a person's substantive due process rights. See *Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (detention must have a "reasonable relation" to the government's interests in preventing flight and danger).

Respondents have provided no justification for denying Petitioner his liberty. That Respondents have failed to identify any authority to justify Petitioner's detention further underscores the entirely arbitrary and unlawful nature of Petitioner's confinement. The arbitrary nature of the deprivation in this case is particularly blatant where Respondents presented no indication that Petitioner posed a flight risk or danger to the community. Respondents' arrest and detention of Petitioner, without individualized findings, statutory authority, or any special justification, constitutes arbitrary government action in violation of the Due Process Clause.

IV. Respondents' detention of Petitioner violates the Administrative Procedure Act

The Administrative Procedure Act requires courts to "hold unlawful and set aside agency action . . . found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. . . ." 5 U.S.C. §706(2)(A). In particular, when it changes course, an agency must "show that there are good reasons for the new policy," "display awareness that it is changing position," and "provide a more detailed justification than what would suffice for a new

policy created on a blank slate." *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2008).

On January 13, 2026, Respondents changed course with Petitioner. Backtracking on their three-year-long policy position that Petitioner, whom they had determined not to be a flight risk or a danger and whom they had released from custody, Respondents instead arrested Petitioner, along with numerous other Afghan refugees, and, in a complete policy reversal, subjected Petitioner to apparent mandatory detention under an impermissible reading of 8 U.S.C. §1225(b)(2). Respondents did not give a "good reason" or "detailed justification" for this sudden about-face; in fact, they gave no explanation whatsoever.

For nearly three years, Respondents treated Petitioner as someone not subject to mandatory detention, indeed, someone not requiring detention at all, and allowed him to remain at liberty while his removal proceedings were pending. Respondents released Petitioner on recognizance and issued him work authorization, while repeatedly cancelling his hearings and delaying the adjudication of his asylum application.

Since Petitioner has not been provided an explanation for Respondents' contradictory actions and their sudden arrest of him, there certainly has not been "extra explanation" that justifies massive intrusion on his serious reliance interest in remaining free. Respondents' sudden reversal, arresting and detaining Petitioner under the very statutory provision Respondents had previously declined to apply, lacks any rational basis.

V. The proper remedy is the immediate release of Petitioner

The proper remedy for Petitioner is immediate release. The traditional function of the writ of habeas corpus "is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). The "typical remedy" for unlawful detention is thus, "of course, release." *Munaf v.*

Geren, 553 U.S. 674, 693 (2008). In the instant case, this Court should order that remedy.

Courts in this district and its sister districts have repeatedly ordered the government to release immigrants whom the government has seized and detained unlawfully. See, e.g., *Savane v. Francis*, 801 F.Supp.3d 483, 495 (S.D.N.Y. 2025) ("Respondents are directed to immediately release Petitioner from custody within one business day of this order"); *Lopez Benitez v. Francis*, 795 F.Supp.3d 475, 499 (S.D.N.Y. 2025) (ordering the government to immediately return a wrongfully seized immigrant to the Southern District of New York, where he had been seized, and to release him); *Qasemi v. Francis*, 2025 WL 3654098 *14 (S.D.N.Y. 2025) (ordering the government to release the petitioner by 2:00 PM on the day following the court's decision); *Martinez v. McAleenan*, 385 F.Supp. 3d 349, 372 (S.D.N.Y. 2019) ("[T]here is no appropriate remedy to fix the egregious violations of Petitioner's fundamental rights other than for the Court to issue his immediate release from custody"); *Y- C- v. Genalo*, 2025 WL 3653496 *7 (E.D.N.Y. 2025) ("no relief short of petitioner's immediate release would be appropriate or sufficient in this case"). Only immediate release will return Mr. Ahmadi to the position he was in before the government wrongfully seized and incarcerated him.

There are several reasons why ordering a bond hearing would be inadequate for Petitioner. First, there is nothing to hear. The purpose of a bond hearing is to determine whether an immigrant is a flight risk or dangerous to others. 8 C.F.R. §1236.1(c)(8). Respondents or their predecessors made that determination in Mr. Ahmadi's case nearly three years ago, when they released him on his own recognizance, necessarily finding him neither a danger to others nor a flight risk. 8 C.F.R. §1236.1(c)(8). Respondents do not now allege any changed circumstances which would justify denying his release. Accord, *Qasemi*, supra at *13 n.7. On the contrary, Mr.

Ahmadi's ties to the community, his steady job, and his compliance with all directives of the government during the past three years prove that he is not at risk of flight. And his lack of a criminal record, as well as his steady job and payment of taxes, show that he is not dangerous. There is no point to scheduling a hearing about a non-existent issue.

Moreover, Respondents have already held Mr. Ahmadi for nearly two weeks, two weeks in which there was ample time to hold a bond hearing. But Respondents chose not to hold a bond hearing. This court should not reward the government's violation of law by giving the government still more time to comply with the law that it violated.

CONCLUSION

For nearly three years, Respondents permitted Petitioner to live freely in the United States while his asylum application was pending. Petitioner complied with all the requirements of his parole, obtained work authorization, maintained employment, paid taxes and pursued his asylum claim with diligence. Respondents' sudden arrest and detention of Petitioner violates Petitioner's constitutional and statutory rights.

For the foregoing reasons, Petitioner respectfully requests that this Court issue an order and judgment:

1. Issuing a writ of habeas corpus directing Respondents to release Petitioner from custody immediately, without any additional restraints on Petitioner's liberty, and enjoining any re-detention of Petitioner; or

2. In the alternative, conducting a prompt individualized bond hearing for Petitioner; or

3. In the alternative, ordering Respondents to conduct an individualized bond hearing for Petitioner in front of an impartial adjudicator, at which:

a. Respondents will bear the burden of establishing by clear and convincing evidence that the continued detention of Petitioner is justified;

b. The adjudicator must meaningfully consider alternatives to imprisonment, such as release on recognizance, parole, or electronic monitoring; and

c. The adjudicator must meaningfully consider Petitioner's ability to pay if the adjudicator sets a monetary bond; and

4. Awarding Petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412; and

5. Granting such further relief as the Court deems just and proper.

Dated: New York, NY
January 23, 2026

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CERTIFICATE OF COMPLIANCE

Pursuant to Local Civil Rule 7.1(c) and Rule 4B of the Individual Rules and Practices of this Court, I hereby certify that this memorandum complies with the word-count limitations of this District and the Individual Rules of this Court. As counted by WordPerfect X9, this document contains 4,691 words.

S/ Carolyn A. Kubitschek
Carolyn A. Kubitschek