

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

ISMOILJON SULTONKULOV, by and )  
through his next of kin and authorized agent, )  
BAHORA IBRAGIMOVA, )

Petitioner, )

v. )

NOEM, KRISTI, Secretary of the U.S. )  
Department Homeland Security; )  
BONDI, PAMELA, Attorney General of the )  
United States; )  
LYONS, TODD, Acting Director, Immigration and )  
Customs Enforcement, in his official capacity; )

Respondents. )

Case No. '26CV0171 TWR DEB

PETITION FOR WRIT OF  
HABEAS CORPUS

INTRODUCTION

1. Petitioner ISMOILJON SULTONKULOV is in the physical custody of Respondents at the Imperial Regional Detention Facility. He now faces unlawful detention because the Department of Homeland Security (“DHS”) and the Executive Office of Immigration Review (“EOIR”) have concluded Petitioner is subject to mandatory detention.

2. As detailed below, Petitioner suffers from significant mental health deterioration, acute anxiety, depression, sleep disturbance, and physical decline, all of which have been exacerbated by his prolonged imprisonment in a facility ill-equipped to address his worsening medical and psychiatric needs. Absent intervention from this Court, Petitioner faces continued unlawful detention, further deterioration of his health, and irreparable harm.

3. Petitioner therefore respectfully asks this Court to find that his continued civil

detention violates the U.S. Constitution, the Immigration Nationality Act, and binding judicial precedent, and to order his immediate release, or, in the alternative, to order Respondents to provide a constitutionally adequate bond hearing before a neutral adjudicator where the government bears the burden of proving by clear and convincing evidence that continued confinement is justified.

4. On January 6<sup>th</sup>, 2026, Immigration Judge Kristina Perry found no jurisdiction to hear petitioner's bond application but made an alternative ruling that in case if jurisdiction was determined to rest with Immigration Judge a bond of \$2,000 would be sufficient to assure petitioner's compliance with immigration regulations.

5. Therefore, Immigration Judge essentially admitted the existence of alternative legal regime that bestows jurisdiction upon her.

### JURISDICTION

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

2. This Court has subject matter jurisdiction under 28 U.S.C. § 2241, because Petitioner challenges the legality of his federal civil detention; under 28 U.S.C. § 1331, because the case arises under federal law; and under the Suspension Clause, U.S. Const. art. I, § 9, cl. 2. Habeas corpus remains available to those in immigration custody who challenge the lawfulness of detention. See Zadvydas v. Davis, 533 U.S. 678, 687 (2001).

3. This Court may grant relief under the habeas corpus statutes, the Declaratory Judgment Act, 28 U.S.C. § 2201, and the All-Writs Act, 28 U.S.C. § 1651.

### VENUE

1. Venue is proper in the Southern District of California because Petitioner is detained at the Imperial Regional Detention Facility in Calexico, California, within this District.

2. Venue is proper in this District because the Respondent corporation—the party with immediate custody over Petitioner—is subject to this District’s personal jurisdiction. 28 U.S.C. § 1391(e).

#### **REQUIREMENTS OF 28 U.S.C. § 2243**

1. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

2. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” Fay v. Noia, 372 U.S. 391, 400 (1963) (emphasis added).

#### **PARTIES**

1. Petitioner ISMOILJON SULTONKULOV is a citizen and native of the Republic of Uzbekistan who is currently detained at the Imperial Regional Detention Facility (“IRDF”) in Calexico, California. He is in the physical custody of Respondents and under their direct control.

Petitioner has been detained by ICE following his apprehension by immigration authorities.

Petitioner has no criminal history in the United States, has longstanding ties to his community, and has diligently pursued all forms of relief available to him under the Immigration and

Nationality Act. Petitioner remains in indefinite detention without a constitutionally adequate custody review or any meaningful opportunity to seek release.

2. Petitioner's authorized agent, BAHORA IBRAGIMOVA, is a United States resident and the biological mother and authorized representative of Petitioner. Because Petitioner is detained, has limited access to legal resources, and is unable to meaningfully prepare or file pleadings on his own behalf, Ms. IBRAGIMOVA brings this petition in a "next friend" capacity pursuant to 28 U.S.C. § 2242. She is authorized to act on Petitioner's behalf, has a significant relationship with him, and is meaningfully committed to asserting his legal rights. Her participation satisfies the constitutional and statutory requirements for next-friend standing.

3. Respondent KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security ("DHS"), oversees Immigration and Customs Enforcement ("ICE") and the Customs and Border Protection ("CBP") and is responsible for the implementation and enforcement of immigration laws, including detention authority. She is a legal custodian of Petitioner. Respondent Secretary has ultimate authority over the agency's detention operations and policies, including the statutory and regulatory framework that governs Petitioner's continued confinement. Respondent Secretary has the power to order Petitioner's release, modify detention conditions, or terminate his placement at the facility.

4. Respondent PAMELA BONDI, in her official capacity as Attorney General of the United States, is responsible for oversight of the Department of Justice and the Executive Office for Immigration Review (EOIR), which adjudicates Petitioner's removal case. She is a legal custodian of Petitioner. Respondent Attorney General supervises immigration judges and the Board of Immigration Appeals ("BIA"), whose actions and delays have contributed to the indefinite and uncertain nature of Petitioner's custody.

5. Respondent TODD LYONS is the Acting Director for Immigration and Customs Enforcement. As such, he is responsible for Petitioner's detention and removal. He is named in his official capacity.

#### **STATEMENT OF FACTS**

1. Petitioner is a native and citizen of the Republic of Uzbekistan fleeing political persecution.

2. Petitioner entered the United States on or around November 22, 2022. He was processed by CBP.

3. While residing in the United States, Petitioner filed an Application for Asylum and for Withholding of Removal (Form I-589), and his asylum application remains pending.

4. Petitioner was properly authorized by DHS, through the U.S. Citizenship and Immigration Services ("USCIS"), to be lawfully employed in the United States, and he received an Employment Authorization Document based on his pending asylum application.

5. Petitioner was detained, following a civil apprehension by immigration authorities. His apprehension was not the result of any criminal arrest. He was subsequently transferred to CLPS, where he remains detained.

6. Petitioner continues to pursue protection-based relief before the immigration authorities and has fully complied with all requirements placed upon him by DHS.

7. Petitioner's medical and mental health decline is documented, ongoing, and escalating. Since detention, Petitioner has experienced panic attacks, chest tightness, nightmares, suicidal ideation, inability to eat, rapid weight loss, persistent abdominal pain, and migraines, which materially impair daily functioning. Petitioner has submitted repeated written and verbal

requests for care, including requests for (1) mental health evaluation, (2) consistent therapy or psychiatric treatment, and (3) appropriate medication management.

8. Despite these requests, Petitioner has not received clinically adequate, consistent treatment. Appointments are sporadic or perfunctory, follow-up is inconsistent, and Petitioner's symptoms remain uncontrolled. The conditions of confinement exacerbate these symptoms, including prolonged isolation-like housing, noise, intimidation, and stressors that are punitive in effect. Absent prompt release or a meaningful custody hearing with authority to order release, Petitioner faces irreparable harm, including heightened risk of self-harm and long-term psychiatric injury.



9. Conditions at IRDF are punitive and harsh. Petitioner is confined to his cell for over 23 hours per day with minimal human interaction, constituting de facto solitary confinement. Outdoor recreation is limited to a small, enclosed concrete yard for one hour, weather permitting. The facility is chronically understaffed, leading to frequent lockdowns. Petitioner has witnessed and been subjected to intimidation and violence from other detainees, and his requests for protective custody have been ignored. The environment is one of constant noise, stress, and fear, with no meaningful programming or mental health support.

10. ICE has failed to consider reasonable alternatives to detention, despite mandatory statutory and regulatory obligations to periodically reassess custody for parolees and asylum seekers.

11. Petitioner's continued detention serves no legitimate governmental purpose, especially now that he is pursuing a bona fide appeal. His detention is arbitrary and in violation of due process.

12. Throughout Petitioner's detention, ICE has conducted only perfunctory custody reviews, automatically denying release based on a blanket policy applied to all § 1225(b) detainees, without an individualized assessment of Petitioner's flight risk or danger. His pending asylum claim demonstrates his willingness to comply with legal processes, and he has strong community ties, including his U.S. resident mother who is willing to act as a custodian.

13. On January 6, 2026, the Imperial Immigration Court conducted a custody hearing. While the Immigration Judge held she lacked jurisdiction to grant bond under Respondents' current legal interpretation (citing *Matter of Yajure Hurtado*), she conditionally set a bond amount of \$2,000, explicitly stating that such bond would be effective if the case is appealed and is found otherwise on appeal. This conditional order underscores the arbitrary nature of Petitioner's detention—a neutral adjudicator has already determined that a minimal financial condition would sufficiently guarantee his appearance, yet Respondents' blanket policy prohibits his release to satisfy it.

14. Petitioner has a stable, verifiable release plan and is prepared to comply with any conditions the Court deems appropriate. If released, Petitioner will reside at:   
 with his family, who are committed to provide housing, transportation to court, and support for medical and mental health treatment. Petitioner will continue to appear at all immigration court hearings and comply with all DHS reporting requirements.

15. Petitioner is also willing to submit to reasonable conditions of supervision, including ICE check-ins, electronic monitoring, home confinement, or any alternative-to-detention program. These readily available alternatives eliminate any conceivable justification

for continued incarceration absent an individualized finding—based on evidence—that Petitioner poses a danger or a flight risk.

### **LEGAL FRAMEWORK**

1. Immigration detention is civil, not criminal, and is strictly limited by the Due Process Clause. See Zadvydas v. Davis, 533 U.S. 678, 690 (2001).
2. Prolonged or indefinite detention without adequate procedural safeguards raises grave constitutional concerns. In *Zadvydas*, the Supreme Court held that government detention “violates the [Due Process] Clause unless it is ordered in a criminal proceeding with adequate procedural safeguards or a special justification outweighs the individual's liberty interest.” 533 U.S. at 701.
3. Due process prohibits the government from detaining a noncitizen for a prolonged or indefinite period absent a showing—by clear and convincing evidence—that the individual poses a danger or flight risk. See Zadvydas v. Davis, 533 U.S. 678, 690 (holding that an allegation of detainee’s danger or flight risk “must also be accompanied by some other special circumstance, such as mental illness, that helps to create the danger”).
4. Civil detainees may not be subject to punitive conditions of confinement. The Supreme Court holds that civil detention violates due process if conditions are intended to punish or are excessive in relation to their legitimate governmental purpose. *Bell v. Wolfish*, 441 U.S. 520, 535 (1979).
5. Under *Zadvydas*, removal detention becomes presumptively unconstitutional after six months unless removal is significantly likely in the reasonably foreseeable future. 533 U.S. at 701.

6. ICE must consider less restrictive alternatives and provide periodic custody reviews. Federal regulations require DHS to reassess detention on an ongoing basis and to consider release when continued detention is not justified. 8 C.F.R. § 241.4; see also *Zadvydas*, 533 U.S. at 700 (detention must remain reasonably related to its purpose).

7. The Department of Homeland Security issued a new policy on July 8, 2025, instructing all Immigration and Customs Enforcement ("ICE") employees to consider anyone inadmissible under §1182(a)(6)(A)(i)-i.e., those who entered the United States without admission or inspection-to be subject to detention under 8 U.S.C. §1225(b)(2)(A) and therefore ineligible to be released on bond. According to one court, DHS "revisited its legal position on detention and release authorities" and "determined that [section 1225]..., rather than [section 1226], is the applicable immigration detention authority for all applicants for admission," meaning all non-citizens who were "present in the United States [without having] been admitted," 8 U.S.C. §1225(a)(1). See *Diaz Martinez v. Hyde*, 792 F. Supp. 3d 211, 217–18 & n.10 (D. Mass. 2025) (quoting the same internal ICE memorandum issued by Acting Director Todd M. Lyons).

8. Thereafter, on September 5, 2025, the Board of Immigration Appeals ("BIA") issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. See *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The BIA determined that such individuals are subject to detention under 8 U.S.C. §1225(b)(2)(A) and are therefore ineligible to be released on bond.

9. Respondents' new legal interpretation is plainly contrary to the statutory framework, contrary to decades of agency practice and violates the Due Process Clause.

10. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released. In the alternative, Petitioner seeks an order requiring Respondents to provide a bond hearing within five days.

**CLAIMS FOR RELIEF**

**COUNT ONE**

**Violation of Fifth Amendment Right to Due Process**

1. Petitioner re-alleges and incorporates the above paragraphs.
2. Respondents have not demonstrated—let alone by clear and convincing evidence—that Petitioner poses a danger or flight risk that would justify continued imprisonment.
3. Petitioner is subjected to punitive conditions, inadequate medical and mental health care, and an environment that is indistinguishable from penal confinement.
4. Petitioner’s worsening psychological and physical health, coupled with Respondents’ failure to provide adequate treatment, magnifies the constitutional violation.
5. For these reasons, Petitioner’s detention violates the Due Process Clause of the Fifth Amendment.

**COUNT TWO**

**Violation of 8 U.S.C. § 1231 and Implementing Regulations**

1. Petitioner re-alleges and incorporates the above paragraphs.
2. Under the INA and its implementing regulations, the government must conduct periodic custody reviews and consider less restrictive alternatives to detention. Respondents have failed to do so.
3. Respondents’ failure to reassess custody, failure to provide medical treatment, and reliance on blanket detention policies violate 8 U.S.C. § 1231 and 8 C.F.R. § 241.4.

4. For these reasons, Petitioner's continued detention violates 8 U.S.C. § 1231 and the corresponding regulations.

**PRAYER FOR RELIEF**

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

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause within three days under 28 U.S.C. § 2243;
- (3) Declare Petitioner's detention unconstitutional under the Fifth Amendment and unlawful under 8 U.S.C. § 1231 and 8 C.F.R. § 241.4;
- (4) Issue a writ of habeas corpus ordering Petitioner's immediate release or, in the alternative, a constitutionally adequate bond hearing where the government bears the burden of proving by clear and convincing evidence that continued detention is justified;
- (5) Grant any other relief the Court deems just and proper.

Respectfully submitted,



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ISMOILJON SULTONKULOV  
*Petitioner*



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BAHORA IBRAGIMOVA  
*Petitioner's Authorized Agent*

Dated: January 7, 2026.