

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
Akbar Tukhtamurodov
(b) County of Residence of First Listed Plaintiff Philadelphia
(c) Attorneys (Firm Name, Address, and Telephone Number)
David M Bercovitch, Bercovitch Law Offices, 100 S Broad Street, Suite 1902 Philadelphia, PA 19110; 215-220-6310, david@berclaw

DEFENDANTS
Warden, Philadelphia Federal Detention Center, et al.
County of Residence of First Listed Defendant Philadelphia
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)
Unknown

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
[X] 1 U.S. Government Plaintiff
[] 2 U.S. Government Defendant
[] 3 Federal Question (U.S. Government Not a Party)
[] 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State PTF [] DEF []
Citizen of Another State PTF [] DEF []
Citizen or Subject of a Foreign Country PTF [] DEF []

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT: 110 Insurance, 120 Marine, 130 Miller Act, 140 Negotiable Instrument, 150 Recovery of Overpayment & Enforcement of Judgment, 151 Medicare Act, 152 Recovery of Defaulted Student Loans (Excludes Veterans), 153 Recovery of Overpayment of Veteran's Benefits, 160 Stockholders' Suits, 190 Other Contract, 195 Contract Product Liability, 196 Franchise.
REAL PROPERTY: 210 Land Condemnation, 220 Foreclosure, 230 Rent Lease & Ejectment, 240 Torts to Land, 245 Tort Product Liability, 290 All Other Real Property.
TORTS: PERSONAL INJURY: 310 Airplane, 315 Airplane Product Liability, 320 Assault, Libel & Slander, 330 Federal Employers' Liability, 340 Marine, 345 Marine Product Liability, 350 Motor Vehicle, 355 Motor Vehicle Product Liability, 360 Other Personal Injury, 362 Personal Injury - Medical Malpractice.
PRISONER PETITIONS: Habeas Corpus: 463 Alien Detainee, 510 Motions to Vacate Sentence, 530 General, 540 Mandamus & Other, 550 Civil Rights, 555 Prison Condition, 560 Civil Detainee - Conditions of Confinement.
FORFEITURE/PENALTY: 625 Drug Related Seizure of Property 21 USC 881, 690 Other.
LABOR: 710 Fair Labor Standards Act, 720 Labor/Management Relations, 740 Railway Labor Act, 751 Family and Medical Leave Act, 790 Other Labor Litigation, 791 Employee Retirement Income Security Act.
IMMIGRATION: 462 Naturalization Application, 465 Other Immigration Actions.
BANKRUPTCY: 422 Appeal 28 USC 158, 423 Withdrawal 28 USC 157.
INTELLECTUAL PROPERTY RIGHTS: 820 Copyrights, 830 Patent, 835 Patent - Abbreviated New Drug Application, 840 Trademark, 880 Defend Trade Secrets Act of 2016.
SOCIAL SECURITY: 861 HIA (1395ff), 862 Black Lung (923), 863 DIWC/DIWW (405(g)), 864 SSID Title XVI, 865 RSI (405(g)).
FEDERAL TAX SUITS: 870 Taxes (U.S. Plaintiff or Defendant), 871 IRS—Third Party 26 USC 7609.
OTHER STATUTES: 375 False Claims Act, 376 Qui Tam (31 USC 3729(a)), 400 State Reapportionment, 410 Antitrust, 430 Banks and Banking, 450 Commerce, 460 Deportation, 470 Racketeer Influenced and Corrupt Organizations, 480 Consumer Credit (15 USC 1681 or 1692), 485 Telephone Consumer Protection Act, 490 Cable/Sat TV, 490 Securities/Commodities/Exchange, 890 Other Statutory Actions, 891 Agricultural Acts, 893 Environmental Matters, 895 Freedom of Information Act, 896 Arbitration, 899 Administrative Procedure Act/Review or Appeal of Agency Decision, 950 Constitutionality of State Statutes.

V. ORIGIN (Place an "X" in One Box Only)
[X] 1 Original Proceeding
[] 2 Removed from State Court
[] 3 Remanded from Appellate Court
[] 4 Reinstated or Reopened
[] 5 Transferred from Another District (specify)
[] 6 Multidistrict Litigation - Transfer
[] 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. 2241
Brief description of cause:
Illegal detention of a foreign national by Immigration and Customs Enforcement

VII. REQUESTED IN COMPLAINT:
[] CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint:
JURY DEMAND: [] Yes [] No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE January 19, 2026 SIGNATURE OF ATTORNEY OF RECORD /s/ david m bercovitch

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

Place of Accident, Incident, or Transaction: Philadelphia Federal Detention Center

RELATED CASE IF ANY: Case Number: Judge:

- 1. Does this case involve property included in an earlier numbered suit? Yes
2. Does this case involve a transaction or occurrence which was the subject of an earlier numbered suit? Yes
3. Does this case involve the validity or infringement of a patent which was the subject of an earlier numbered suit? Yes
4. Is this case a second or successive habeas corpus petition, social security appeal, or pro se case filed by the same individual? Yes
5. Is this case related to an earlier numbered suit even though none of the above categories apply? Yes

I certify that, to the best of my knowledge and belief, the within case is / is not related to any pending or previously terminated action in this court.

Civil Litigation Categories

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Wage and Hour Class Action/Collective Action
6. Patent
7. Copyright/Trademark
8. Employment
9. Labor-Management Relations
10. Civil Rights
11. Habeas Corpus
12. Securities Cases
13. Social Security Review Cases
14. Qui Tam Cases
15. Cases Seeking Systemic Relief *see certification below*
16. All Other Federal Question Cases. (Please specify):

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify):
7. Products Liability
8. All Other Diversity Cases: (Please specify):

I certify that, to the best of my knowledge and belief, that the remedy sought in this case does / does not have implications beyond the parties before the court and does / does not seek to bar or mandate statewide or nationwide enforcement of a state or federal law including a rule, regulation, policy, or order of the executive branch or a state or federal agency, whether by declaratory judgment and/or any form of injunctive relief.

ARBITRATION CERTIFICATION (CHECK ONLY ONE BOX BELOW)

I certify that, to the best of my knowledge and belief:

[X] Pursuant to Local Civil Rule 53.2(3), this case is not eligible for arbitration either because (1) it seeks relief other than money damages; (2) the money damages sought are in excess of \$150,000 exclusive of interest and costs; (3) it is a social security case, includes a prisoner as a party, or alleges a violation of a right secured by the U.S. Constitution, or (4) jurisdiction is based in whole or in part on 28 U.S.C. § 1343.

[] None of the restrictions in Local Civil Rule 53.2 apply and this case is eligible for arbitration.

NOTE: A trial de novo will be by jury only if there has been compliance with F.R.C.P. 38.

1182(d)(5). DHS allowed him to reside in the community while his removal case proceeded, and he complied with all DHS reporting obligations.

3. Respondents are detaining Mr. Tukhtamurodov as if he were subject to mandatory detention under INA § 235, 8 U.S.C. § 1225(b), notwithstanding that he was previously paroled into the United States under INA § 212(d)(5). Respondents take the position that he is ineligible for a bond (custody redetermination) hearing before an Immigration Judge.

4. Mr. Tukhtamurodov is properly detained, if at all, under INA § 236(a), 8 U.S.C. § 1226(a), and therefore is entitled to a prompt custody redetermination (bond) hearing.

5. Absent an order from this Court, Mr. Tukhtamurodov will continue to be detained without the bond-hearing procedures Congress provided in § 1226(a).

6. Mr. Tukhtamurodov asks this Court to issue an Order to Show Cause, declare that § 1226(a) governs his detention, order Respondents to release Mr. Tukhtamurodov (or, in the alternative, order Respondents to provide him a prompt bond hearing before an Immigration Judge).

JURISDICTION AND VENUE

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


8. 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).

9. 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.

10. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9), (f)(1), or 1226(e).

11. Venue is proper because Petitioner is detained at the Philadelphia Federal Detention Center in Philadelphia, PA, which is within the jurisdiction of this District.

PARTIES

12. Petitioner Mr. Tukhtamurodov is a citizen and national of Uzbekistan (See attached “**Exhibit A**”). His A-Number is .

13. Mr. Tukhtamurodov is currently in civil immigration detention. ICE is holding Mr. Tukhtamurodov at the Philadelphia Federal Detention Center, 700 Arch Street, Philadelphia PA 19106 (See attached “**Exhibit A**”).

14. Respondent Warden, Philadelphia Federal Detention Center, Philadelphia, PA is Mr. Tukhtamurodov’s immediate custodian at the facility where he is confined and has day-to-day control over him.

15. Respondent David O’Neill, Acting Field Office Director, Philadelphia Field Office Immigration and Customs Enforcement (“ICE”) Enforcement and Removal Operations (“ERO”), is responsible for ICE detention operations and custody decisions in the Philadelphia area.

16. Respondent, Kristi Noem, Secretary of the U.S. Department of Homeland Security (“DHS”) is sued in her official capacity and has authority to effectuate the relief requested.

17. Respondent, Pam Bondi, Attorney General of the United States is sued in her official capacity and has authority to effectuate the relief requested.

18. Respondent Executive Office for Immigration Review (“EOIR”) is a federal government agency responsible for adjudicating immigration proceedings. EOIR has the authority to release and/or schedule a bond hearing for the unlawfully detained Petitioner Mr. Tukhtamurodov.

FACTUAL BACKGROUND

19. Upon information and belief, on or about February 16, 2018, Mr. Tukhtamurodov (who was then a minor) presented to immigration authorities at or near the San Ysidro, Mexico port of entry, was inspected, and was paroled into the United States pursuant to INA § 212(d)(5), 8 U.S.C. § 1182(d)(5) (See attached “**Exhibit B**”).

20. DHS did not place Mr. Tukhtamurodov into expedited removal at the time of parole.

21. Instead, DHS permitted him to enter the United States under parole and to reside in the community pending further proceedings.

22. At the aforementioned date, time and location DHS served Mr. Tukhtamurodov with a Form I-862 Notice to Appear and commenced section 240 removal proceedings against Mr. Tukhtamurodov.

23. Upon information and belief, after Mr. Tukhtamurodov was paroled and processed, DHS issued a Notice of Custody Determination (Form I-286) reflecting that, pursuant to INA § 236 and 8 C.F.R. part 236, he would be released on his own recognizance pending removal proceedings.

24. Mr. Tukhtamurodov’s parole and release resulted in his physical presence in the United States for years before the January 16, 2026 arrest; he has consistently complied with DHS supervision, including required ICE ERO check-ins.

25. After his arrival to the United States Mr. Tukhtamurodov was scheduled for and attended regularly ICE ERO “check-in” appointments at the Philadelphia Field Office.

26. Upon information and belief, on January 16, 2026, Mr. Tukhtamurodov appeared for his “check-in” appointment at ICE ERO, Philadelphia Field Office. However, this time Mr. Tukhtamurodov was taken into ICE custody.

27. Respondents have taken the unconstitutional and unlawful position that Mr. Tukhtamurodov is subject to mandatory detention under INA § 235, 8 U.S.C. § 1225(b), and therefore is not eligible for a bond hearing before the Immigration Court.

LEGAL FRAMEWORK

28 U.S.C. § 2241

28. This court has authority to grant habeas relief under 28 U.S.C. § 2241, which empowers federal courts to issue the writ to a person “in custody” in violation of the Constitution or laws of the United States. A noncitizen held in immigration detention satisfies the “in custody” requirement, and § 2241 is the proper vehicle to challenge the fact and legality of detention and to seek release or other relief directed to the custodian.

28 U.S.C. § 2243

29. 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).

30. 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).

CLAIMS FOR RELIEF

COUNT I (Statutory/Ultra Vires) DHS lacks authority to detain under § 1225(b); detention is governed by § 1226(a); refusal to provide bond hearing violates the INA/regulations

31. The averments contained in the preceding paragraphs one (1) – thirty (30) are incorporated by reference as if fully contained herein.

32. Section 1225(b) (INA § 235) governs inspection-related detention of noncitizens who are arriving at the border; Section 1226 (INA § 236) governs arrest, detention, and release of noncitizens who have entered the United States and are held pending a decision on removal. INA § 236(a), 8 U.S.C. § 1226(a).

33. This case involves a parolee who was inspected and paroled into the United States; once paroled, he is no longer in the process of "arriving" and the statutory detention authority, if any, is § 1226(a).

34. DHS previously exercised discretionary custody authority and released Mr. Tukhtamurodov into the community, including by issuing a custody determination reflecting release on recognizance.

35. Respondents now attempt to reclassify Mr. Tukhtamurodov as subject to mandatory detention under § 1225(b) to deny him any bond hearing. That position is inconsistent with the INA’s text, structure, and purpose as applied to parolees who have already been inspected and permitted to enter under parole.

36. Detention of an individual paroled into the United States under INA § 212(d)(5) and later arrested in the interior is governed by INA § 236(a), 8 U.S.C. § 1226(a), not INA § 235(b), 8 U.S.C. § 1225(b).

37. Section 1225(b) is inspection-related detention authority that applies to arriving noncitizens in the border/inspection posture.

38. Here, DHS inspected Petitioner, granted parole, released him into the community for years, and then arrested him at an ICE check-in. That enforcement posture is governed, if at all, by § 1226(a), which provides for discretionary detention and release on bond or conditional parole pending a decision on removal. See 8 U.S.C. § 1226(a) (authorizing arrest and detention pending removal decision and permitting release on bond or conditional parole).

39. Courts have repeatedly held that noncitizens arrested in the interior after release into the community are detained under § 1226(a), not § 1225(b), and are entitled to the bond-hearing procedures Congress provided. See, e.g., *Coalition for Humane Immigrant Rights v. Noem*, --- F. Supp. 3d ----, 2025 WL 2192986 (D.D.C. Aug. 1, 2025) (staying DHS action that expanded expedited removal to noncitizens previously paroled into the United States, concluding plaintiffs showed substantial likelihood of success that DHS exceeded statutory authority); *Rodrigo A. Paz Hernandez v. Wofford*, No. 1:25-cv-00986-KES-CDB (E.D. Cal. Aug. 21, 2025), 2025 WL 2420390 (ordering immediate release and holding respondents may not re-detain absent a pre-deprivation bond hearing before a neutral arbiter at which the government must prove by clear and convincing evidence that detention is required); and *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) (granting petitioners partial summary judgment that § 1226(a) governs and bond process applies). See also *Cantu-Cortes v. O'Neill*, No. 25-cv-6338, 2025 WL 3171639 (E.D. Pa. Nov.

13, 2025) (granting habeas); and *Alberto Picon v. O'Neill*, CV 25-6731, 2025 WL 3634212 (E.D. Pa. Dec. 15, 2025) (granting habeas and ordering immediate release).

40. Because § 1226(a) governs, Mr. Tukhtamurodov is entitled to a prompt bond (custody redetermination) hearing before an Immigration Judge pursuant to 8 C.F.R. § 236.1(d) and related regulations.

41. This Court should declare that § 1226(a) governs Mr. Tukhtamurodov's detention and order Respondents to release Mr. Tukhtamurodov unless and until such a hearing is provided.

COUNT II (Due Process): Misclassification and categorical denial of any bond hearing deprives liberty without due process

42. The averments contained in the preceding paragraphs one (1) – forty-one (41) are incorporated by reference as if fully contained herein.

43. Civil immigration detention must comport with due process. By holding Mr. Tukhtamurodov without any meaningful opportunity to seek release through the bond-hearing procedures Congress and the regulations provide under § 1226(a), Respondents are depriving him of liberty without due process of law.

44. Where a person has been living in the community pursuant to DHS release and is then taken into custody, due process at minimum requires a prompt hearing before a neutral adjudicator to assess flight risk and danger. See *Rodrigo A. Paz Hernandez v. Wofford*, No. 1:25-cv-00986-KES-CDB (E.D. Cal. Aug. 21, 2025), 2025 WL 2420390 (ordering immediate release and requiring, as a condition of any re-detention, a pre-deprivation bond hearing with a clear-and-convincing burden on the government).

45. Consistent with *Paz Hernandez*, due process requires that, before continued confinement (or re-detention) of a parolee who has been living in the community, the

government must bear the burden to prove by clear and convincing evidence that detention is necessary because the individual is a flight risk or danger, and the adjudicator must consider conditions of release.

46. Applying *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), Petitioner's private interest in liberty is at its apex; the risk of erroneous deprivation is substantial when ICE can re-detain a compliant parolee at a routine check-in without any neutral review; and the government's interests are adequately served by less restrictive alternatives and by requiring the government to justify detention with evidence. These factors require, at minimum, a prompt individualized hearing before a neutral adjudicator.

47. Accordingly, this Honorable Court should order Respondents to immediately release Mr. Tukhtamurodov. In the alternative, the Court should order Respondents to provide a prompt individualized bond hearing before an Immigration Judge at which the government bears the burden to justify continued detention.

48. This Court should grant any additional relief necessary to remedy the due process violation.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Issue an Order to Show Cause under 28 U.S.C. § 2243 directing Respondents to respond promptly to this Petition;
- B. Declare that Respondents are unlawfully detaining Mr. Tukhtamurodov under 8 U.S.C. § 1225(b) and that 8 U.S.C. § 1226(a) governs his detention;
- C. Order Respondents to immediately release Mr. Tukhtamurodov from custody; or, in the alternative, order Respondents to provide a prompt individualized bond hearing before a neutral adjudicator (an Immigration Judge) within seven (7) days

at which the government bears the burden to prove by clear and convincing evidence that continued detention is necessary based on flight risk or danger, and to consider conditions of release as alternatives to detention;

D. Grant such other and further relief as the Court deems just and proper.

Date: January 19, 2026

Respectfully submitted,

/s/ David M. Bercovitch
David M. Bercovitch, Esq.
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Counsel for Petitioner Akbar
Tukhtamurodov
Bueno



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Search Results: 1

AKBAR TUKHTAMURODOV

Country of Birth : Uzbekistan

A-Number:

Status : In ICE Custody

State: PA

Current Detention Facility: Philadelphia Federal Detention Center

* Click on the Detention Facility name to obtain facility contact information

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Department of Homeland Security
U.S. Immigration and Customs Enforcement

Notice to EOIR: Alien Address

Date: February 18, 2018 File No:   

To: Office of the Immigration Judge
Executive Office for Immigration Review
900 Market Street, Suite 504
Philadelphia, PA 19107

From: Office of the Field Director
U. S. Immigration and Customs Enforcement
1600 Callowhill St., 6th Floor
Philadelphia, PA 19130

Respondent: TUKHTAMURODOV, AKBAR

This is to notify you that this respondent is:

Currently incarcerated by other than ICE. A charging document has been served on the respondent, and an Immigration Detainer-Notice of Action by the ICE (Form I-247) has been filed with the institution shown below. He/she is incarcerated at:

His/her anticipated release date is: _____

Currently detained by ICE at: _____

Currently detained by ICE and transferred this date to a new location: _____

ICE Motion for Change of Venue attached. Yes NO



Released from ICE custody on the following condition(s):

- Personal Recognizance
- Order of Recognizance (Form I-220A)
- Bond in the amount of \$ _____ Surety bond Cash bond
- Other Paroled pursuant to 8 CFR 212.5.

Upon release from ICE custody, the respondent reported his/her address and telephone number will be:

TUKHTAMURODOV, AKBAR

C/O NARGIZA MOKUMOVA

Upon release from ICE custody, the respondent was reminded of the requirements contained in Section 239 (a)(1)(F)(ii) of the Immigration and Nationality Act and was provided with an EOIR change of address form (EOIR-33).

_____ DEPORTATION OFFICER

A. Hall 702086 Title-ICE Officer

Signature-ICE Officer

_____ San Diego, CA

A. HALL /DO Location

Printed Name of ICE Officer