

**UNITED STATE DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
SAN ANGELO DIVISION**

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SALAMAT BACHSHYGULOV,

Petitioner,

-against-

TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement (ICE); MARCOS CHARLES, in his official capacity as Acting Executive Associate Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; ALEJANDRO N. MAYORKAS, Secretary, U.S. Department of Homeland Security; KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security; and PAM BONDI, in her official capacity as Attorney General of the United States, and the WARDEN of EDEN DETENTION CENTER, in their official capacity as custodian of petitioner, THE WARDEN OF THE FACILITY WHERE PETITIONER IS CURRENTLY DETAINED, in his or her official capacity as custodian of Petitioner

Respondents.

**PETITION FOR A WRIT OF  
HABEAS CORPUS**

Case No.:

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**PARTIES**

1. Petitioner SALAMAT BACHSHYGULOV (“Petitioner” or “Mr. BACHSHYGULOV”) is a native and citizen of Kazakhstan, who entered the United States at or near Otay Mesa, CA port of entry (the “Border”) on or about June 18, 2023, and applied for asylum thereafter.

2. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (“ICE”), an agency of the U.S. Department of Homeland Security (“DHS”). In that capacity, he is responsible for overseeing ICE’s operations, including the detention and removal of noncitizens within the United States. He exercises authority over the policies and actions giving rise to Petitioner’s detention and is sued in his official capacity.
3. Respondent Marcos Charles is the Acting Executive Associate Director of Enforcement and Removal Operations (“ERO”), the division of ICE responsible for the arrest, detention, and removal of noncitizens. He is charged with implementing ICE detention policies nationwide and is sued in his official capacity.
4. Respondent Alejandro N. Mayorkas is the Secretary of the U.S. Department of Homeland Security (“DHS”), the federal department with ultimate authority over immigration enforcement and the administration of ICE. As the head of DHS, Secretary Mayorkas has ultimate responsibility for the custody and detention of individuals such as the Petitioner and is sued in his official capacity.
5. Respondent Kristi Noem is named in her official capacity as Secretary of the U.S. Department of Homeland Security. To the extent she currently holds or exercises the functions of that office, she is responsible for the policies and actions of DHS and its sub-agencies, including ICE, and is sued in her official capacity.
6. Respondent Pam Bondi is the Attorney General of the United States and head of the U.S. Department of Justice, which includes the Executive Office for Immigration Review (“EOIR”) and the nation’s immigration courts. The Attorney General is responsible for the

overall administration of immigration proceedings and the enforcement of federal immigration law and is sued in her official capacity.

7. Respondent WARDEN of EDEN DETENTION CENTER (“Warden”) in their official capacity as custodian of the Petitioner. The Warden is named herein in their official capacity as the Petitioner’s custodian.
8. Respondent “the Warden of the Facility Where Petitioner Is Currently Detained” is named in his or her official capacity as Petitioner’s immediate physical custodian. Because Petitioner’s place of detention may change during the pendency of this action (and in fact, has changed between the time the original petition was filed and the filing of this amended habeas corpus petition), this designation is intended to encompass any warden or equivalent official who exercises day-to-day custody over Petitioner at the time the Court issues its decision, thereby ensuring that the Court’s order may be promptly enforced.

### **INTRODUCTION/BACKGROUND INFORMATION**

#### **Petitioner’s Asylum Request and subsequent arrest.**

9. Shortly after applying for asylum, Petitioner was released from detention.
10. At all relevant times, Petitioner resided in Los Angeles, CA with his wife and and his child.
11. Shortly thereafter, Petitioner was released from detention.
12. At all relevant times, Petitioner resided in Los Angeles, CA with his wife and and his child.
13. On or about December 11, 2025, while driving his truck in the course of his professional duties, Petitioner was unjustifiably and indiscriminately apprehended by officers of U.S. Immigration and Customs Enforcement (“ICE”) during a traffic stop. At no time, either

following his entry into the United States or after applying for asylum, did Petitioner engage in any unlawful activity, commit any criminal offense, or violate any condition of release imposed by immigration authorities.

14. Subsequently the Petitioner was transported/transferred to the Eden Detention Center in Texas ("Detention Facility").

15. As of the date of this petition, the Petitioner remains in the custody of ICE/DHS at the Detention Facility.

### **JURISDICTION & VENUE**

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

15. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 2201, 2202 (Declaratory Judgment Act).

16. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. See, e.g., *Zadvydas*, 533 U.S. at 687.

17. Venue is proper in this district pursuant to 28 U.S.C. § 2241(d) because Petitioner is currently detained in the Detention Facility, within this district, and remains in ICE continuous custody.

### **STATUTORY AND LEGAL FRAMEWORK, AND ARGUMENT**

18. As a threshold matter, the Fifth Amendment's Due Process Clause forbids the government to "depriv[e]" any "person ... of [\*6] ... liberty ... without due process of law." U.S. CONST.

amend V. "Freedom from imprisonment - from government custody, detention, or other forms of physical restraint - lies at the heart of the liberty that Clause protects." Zadvydas v. Davis, 533 U.S. 678, 690, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001) (citing Foucha v. Louisiana, 504 U.S. 71, 80, 112 S. Ct. 1780, 118 L. Ed. 2d 437 (1992)). The Supreme Court "has said that government detention violates that Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections, see United States v. Salerno, 481 U.S. 739, 746, 107 S. Ct. 2095, 95 L. Ed. 2d 697 (1987), or, in certain special and 'narrow' nonpunitive 'circumstances,' Foucha, 504, U.S. at 80, where a special justification, such as harm-threatening mental illness, outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" Kansas v. Hendricks, 521 U.S. 346, 356, 117 S. Ct. 2072, 138 L. Ed. 2d 501 (1997). *Id.* "Procedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property." Carey v. Piphus, 435 U.S. 247, 259, 98 S. Ct. 1042, 55 L. Ed. 2d 252 (1978).

19. The Constitution guarantees that the writ of habeas corpus is "available to every individual detained within the United States." Hamdi v. Rumsfeld, 542 U.S. 507, 525 (2004) (citing U.S. CONST., Art. I, § 9, cl. 2). This includes immigration-related detention. Zadvydas v. Davis, 533 U.S. 678, 687 (2001).

20. "[T]he Fifth Amendment entitles noncitizens to due process of law...whether their presence here is lawful, unlawful, temporary, or permanent." Velasco Lopez v. Decker, 978 F.3d 842, 850 (2d Cir. 2020). "Noncitizens are also entitled to challenge through habeas corpus the legality of their ongoing detention," including "the lawfulness of detention when it is first imposed." *Id.* "The Supreme Court has been unambiguous that executive detention orders,

which occur without the procedural protections required in courts of law, call for the most searching review." *Id.*

21. The Petitioner is entitled to the Fifth Amendment's Due Process Clause protections (see Trump v. J. G. G., 145 S. Ct. 1003, 1006 (2025)).
22. In the case at bar Petitioner's indiscriminate detention violates the Fifth Amendment's Due process Clause.
23. "The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" Mathews v. Eldridge, 424 U.S. 319, 333 (1976) (quoting Armstrong v. Manzo, 380 U.S. 545, 552 (1965)). "[I]dentification of the specific dictates of due process generally requires consideration of three distinct factors": (1) "the private interest that will be affected by the official action"; (2) "the [g]overnment's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural [\*10] requirement would entail," and (3) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards." *Id.* at 335.
24. **First**, Petitioner has been deprived of his physical liberty, the fundamental private interest protected by the Fifth Amendment. Zadvydas, 533 U.S. at 690. Petitioner has continuously resided in the United States since June, 2023, established his life in California, and complied with all requirements following his release from DHS's/ICE's custody.
25. His sudden, warrantless, and unexplained arrest in December, 2025, followed by transfer to a remote Detention Facility, constitutes a severe intrusion on his liberty, separation from his family, and disruption of his established life. Therefore, Petitioner possesses a cognizable

interest in his freedom from detention. Accordingly, the first Mathews factor weights in Petitioner's favor.

26. **Second**, Petitioner is not a flight risk, nor he has a criminal history, nor he possess danger to the community/property. In fact, as stated above, Petitioner had been living openly in California for several years, while occasionally traveling across the United States in his truck due to the nature of his work and business. The government's generalized interest in immigration enforcement does not justify detention without the most basic safeguards. As has been determined time and again in Texas district courts, in situations where the respondent does not have a criminal record, "The [\*13] government's interest is generally protected by affording bond hearings like the one Petitioner is requesting". Cortina v. Anda-Ybarra, No. EP-25-CV-00523-DB, 2025 U.S. Dist. LEXIS 226367, at \*12-13 (W.D. Tex. Nov. 18, 2025). As such, the second Mathews factor also weights in Petitioner's favor.

27. **Third**, ICE's/DHS's reliance on indiscriminate, unexplained detention, without notice, without a custody determination, and without access to a neutral adjudicator, creates a significant risk of an erroneous deprivation of Petitioner's fundamental liberty interest. Petitioner has lived openly in the United States since June, 2023, established residence in California, complied with all release conditions, and has no history suggesting dangerousness or flight risk.

28. The government's indiscriminate arrest of Petitioner more than two years after his entry, followed by his transfer to the Detention Facility, constitutes the type of unchecked action that heightens the danger of mistaken or arbitrary confinement. Without individualized procedures, ICE's/DHS's approach risks detaining noncitizens who, like Petitioner, are fully

eligible for release and pose no threat to public safety or the integrity of removal proceedings. As such, the third Mathews factor also weights in Petitioner's favor.

29. Petitioner was detained pursuant to an ICE's/DHS's policy that categorically denies the individualized, pre-deprivation process required by the Fifth Amendment. Where the challenged detention arises from a systemic policy that forecloses the very remedy the government insists must be pursued, exhaustion is excused. See Beharry v. Ashcroft, 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.); see also Huamani v. Francis, 2025 U.S. Dist. LEXIS 219101, \*20.
30. The government is detaining Petitioner under 8 U.S.C. § 1226, which governs the arrest and detention of noncitizens pending the completion of removal proceedings. Under § 1226(a), ICE/DHS has the authority either to detain a noncitizen or to release the individual on bond or on their own recognizance.
31. When a noncitizen has been previously released, as Petitioner was, the government may not re-detain that individual arbitrarily or without adherence to the statutory and regulatory framework that governs civil immigration custody.
32. The applicable regulations require ICE/DHS to make an individualized determination addressing whether a noncitizen poses a danger to property or persons or is unlikely to appear for future proceedings. See 8 C.F.R. § 1236.1(c)(8).
33. These determinations are mandatory and must be grounded in actual evidence relevant to the individual's circumstances. Courts interpreting § 1226 and its implementing regulations have made clear that ICE/DHS may not revoke a person's release or re-detain them without basic procedural safeguards. In *Valdez* the district court held that a noncitizen whose civil release is

revoked is entitled to notice of the alleged grounds for revocation, a hearing, and the opportunity to testify. See Valdez v. Joyce, 2025 WL 1707737, \*5 (S.D.N.Y. June 18, 2025), at \*4.

34. Similarly, courts have consistently held that seizing a noncitizen without prior notice, without an individualized explanation, and without a meaningful opportunity to respond violates the Fifth Amendment's guarantee of procedural due process. See Lopez, 2018 U.S. Dist. LEXIS 98712, 2018 WL 2932726, at \*12.

35. Because DHS/ICE failed to satisfy even the minimal procedural obligations required by § 1226 and its implementing regulations, and because Petitioner's re-detention occurred without lawful justification, the government's actions violate the protections guaranteed by the Fifth Amendment.

36. Finally, it is well-settled that "...as of 2020, the 'vast majority' - an 'overwhelming consensus' - of courts granting immigration detainees' habeas petitions have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk". Cortina v. Anda-Ybarra, No. EP-25-CV-00523-DB, 2025 U.S. Dist. LEXIS 226367, at \*14 n.7 (W.D. Tex. Nov. 18, 2025).

#### **PRAYER FOR RELIEF**

**WHEREFORE**, the Petitioner respectfully request that this Court:


- A. Assumes jurisdiction over this matter;
- B. Issues a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and orders Respondents to immediately release Petitioner from ICE's/DHS's custody, and/or release under reasonable

conditions of supervision or any less restrictive alternative the Court deems appropriate, or in the alternative, -

- C. Order Respondents to provide Petitioner with a bond hearing before an immigration judge no later than a date set shortly after this Court grants the petition, at which the government shall bear the burden of justifying, by clear and convincing evidence, the dangerousness or flight risk posed by Petitioner's continued detention;
- D. Declare that Respondents' detention of Petitioner without notice, opportunity to be heard, or individualized determination of flight risk or dangerousness violates Petitioner's Fifth Amendment right to due process;
- E. Enjoin Respondents from re-detaining Petitioner upon his release from ICE's/DHS's custody without: (a) providing Petitioner with prior written notice of the grounds for detention; (b) affording Petitioner an opportunity to be heard and to present evidence demonstrating that his release would not pose a danger to property or persons and that he is likely to appear for any future proceeding; and (c) making an individualized determination, supported by specific facts and evidence, that Petitioner poses a flight risk or danger to the community;
- F. Award Petitioner his reasonable costs and attorneys' fees;
- G. Grant such other and further relief as this Court deems just, proper, and equitable.

Dated: January 20, 2026  
Port Washington, New York

Respectfully submitted,



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3 Main St.,

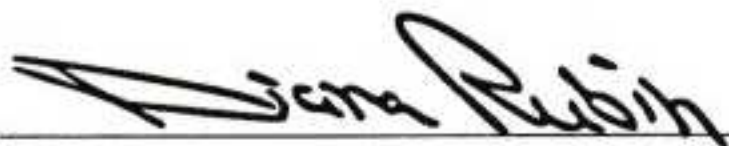
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**VERIFICATION**

I, Diana Rubin, Esq., declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am the attorney for Petitioner, SALAMAT BACHSHYGULOV, in this action.
2. Petitioner is currently detained by immigration authorities and, due to the conditions of confinement and practical limitations on access, is unable to sign this verification at this time.
3. I submit this verification on Petitioner's behalf pursuant to 28 U.S.C. § 2242, which permits a habeas petition to be verified "by the person for whose relief it is intended or by someone acting in his behalf."
4. I have reviewed the subject Petition for Writ of Habeas Corpus.
5. The factual statements contained in the Petition are true and correct to the best of my knowledge and belief based on information provided by Petitioner and my investigation.

Executed on this 20th day of January, 2026, in New York.



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