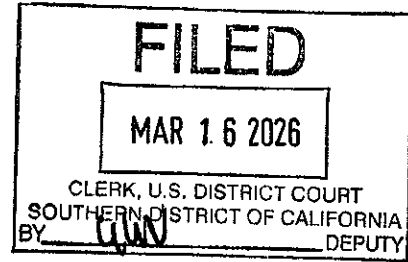


Almas Bayazitov
Otay Mesa Detention Center
7488 Calzada De La Fuente
San Diego, CA 92154
Pro Se Petitioner



**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

ALMAS BAYAZITOV)
Petitioner,)
)
)
)
v.)
)
CHRISTOPHER J. LAROSE, Senior Warden)
Otay Mesa, JOSEPH FREDEN, Acting Field)
Office Director, TODD LYONS, Acting)
Director U.S. Immigration and Customs)
Enforcement, U.S. Secretary of Homeland)
Security, PAMELA BONDI, Attorney General)
Of the United States)
)
Respondents.)
_____)

Case No. '26CV1642 BJC BLM
Agency No. 

**PETITION FOR WRIT OF HABEAS
CORPUS**

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INTRODUCTION

1. As a political activist in Kazakhstan, Petitioner ALMAS BAYAZITOV, was targeted by the authorities, suffering prolonged illegal detention, torture and injuries. He fled to seek protection in the United States.

2. Petitioner entered the United States on or about 06/09/2022 and was subsequently paroled from detention on 06/21/2022 by Respondents; Petitioner then applied for Asylum and Withholding of removal before the USCIS on 01/20/2023. Respondents later commenced removal proceedings against Petitioner in immigration court, entitling Petitioner to present an his asylum claim with the due process rights under 8 U.S.C. § 1229a.

3. Petitioner was re-detained on August 22, 2025 inside the Los Angeles Asylum Office after receiving positive determination on his credible fear interview.

4. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court to find that Respondents' attempts to detain and transfer Petitioner are arbitrary and capricious and in violation of the law, and to immediately issue an order preventing Petitioner's transfer out of this district.

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JURISDICTION

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

6. 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).

23 7. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et.
24 seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651,
25 and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

26

27

VENUE

28 8. Venue is proper because Petitioner is in Respondents' custody in Otay Mesa
29 Detention Center. Venue is further proper because a substantial part of the events or omissions
30 giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondent's
31 custody. 28 U.S.C. § 1391(e).

32 9. Divisional venue is proper in the San Diego Division under 28 U.S.C. § 2241
33 because Petitioner is detained within this division, and pursuant to Civil Local Rule 3.2(c) of the
34 Southern District of California.

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

39 11. Courts have long recognized the significance of the habeas statute in protecting
40 individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most
41 important writ known to the constitutional law of England, affording as it does a swift and
42 imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400
43 (1963).

44 12. Petitioner is "in custody" for the purpose of § 2241 because Petitioner is arrested
45 and detained by Respondents.

46

PARTIES

47

13. Petitioner ALMAS BAYAZITOV resided in Los Angeles, California, and is currently detained at the Otay Mesa detention center.

49

14. Respondent, the Secretary of the Department of Homeland Security (“DHS”) is sued in their official capacity. The Secretary of Homeland Security is charged with the administration and enforcement of immigration laws. 8 U.S.C. § 1103(a).

52

15. Respondent PAMELA BONDI is the Attorney General of the United States and is sued in her official capacity as the head of the Department of Justice. The Attorney General is responsible for the fair administration of the laws of the United States.

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16. Respondent TODD LYONS is the Acting Director of U.S. Immigration and Customs Enforcement (ICE) and is sued in his official capacity. ICE is responsible for the detention of Petitioner.

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18. Respondent JOSEPH FREDEN is the Immigration and Customs Enforcement Field Office Director at the ICE San Diego Filed Office and is sued in his official capacity. Respondent JOSEPH FREDEN is responsible for the detention of Petitioner.

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LEGAL FRAMEWORK

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19. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

67

20. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

68

69 21. The Immigration and Nationality Act (INA) establishes various procedures through
70 which individuals may be detained pending a decision on whether the noncitizen is to be removed.
71 8 U.S.C. § 1226(a).

72 22. Removal proceedings described in section 240 of the INA are used to determine
73 whether individuals, such as Petitioner, should be removed from the United States. *See* 8 U.S.C. §
74 1229a.

75 23. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a
76 right to apply for asylum to individuals seeking safe haven in the United States. The purpose of
77 the Refugee Act is to enforce the “historic policy of the United States to respond to the urgent
78 needs of persons subject to persecution in their homelands.” Refugee Act of 1980, § 101(a), Pub.
79 L. No. 96-212, 94 Stat. 102 (1980).

80 24. The “motivation for the enactment of the Refugee Act” was the United Nations
81 Protocol Relating to the Status of Refugees, “to which the United States had been bound since
82 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a
83 legislative purpose “to give ‘statutory meaning to our national commitment to human rights and
84 humanitarian concerns.’” *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).

85 25. The Refugee Act established the right to apply for asylum in the United States and
86 defines the standards for granting asylum. It is codified in various sections of the INA.

87 26. The INA gives the Attorney General or the Secretary of Homeland Security
88 discretion to grant asylum to noncitizens who satisfy the definition of “refugee.” Under that
89 definition, individuals generally are eligible for asylum if they have experienced past persecution
90 or have a well-founded fear of future persecution on account of race, religion, nationality,
91 membership in a particular social group, or political opinion and if they are unable or unwilling to

92 return to and avail themselves of the protection of their homeland because of that persecution of
93 fear. 8 U.S.C. § 1101(a)(42)(A).

94 27. Although a grant of asylum may be discretionary, the right to apply for asylum is
95 not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen “who is
96 physically present in the United States or who arrives in the United States[.]” 8 U.S.C. §
97 1158(a)(1).

98 28. Immigration detention is a form of civil confinement that “constitutes a significant
99 deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418, 4253
100 (1979).

101 29. Custody determinations for individuals in 1229a removal proceedings are governed
102 by 8 U.S.C. § 1226. Under § 1226(a), an individual may be released if he does not present a danger
103 to persons or property and is not a flight risk. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Matter*
104 *of Guerra*, 24 I&N Dec. 37 (BIA 2006).

105 30. Custody determinations under § 1226(a) are individualized and based on the facts
106 presented in those cases. Unlike § 1226(c), which can provide for categorical determinations for
107 detention regardless of flight risk or safety risks, § 1226(a) requires a case-by-case review of the
108 facts and circumstances.

109 31. Once a determination to release an individual from custody is made, the release
110 order may be revisited when the facts or circumstances warrant revocation or reconsideration. 8
111 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney General may take that
112 individual back into custody by revoking the individual’s release when the facts and circumstances
113 warrant it.

114 Revocation and return to custody is authorized only based on the individualized facts and
115 circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation, revocation decisions are limited in nature
116 and may only be made by certain authorized officials. 8 C.F.R. § 1236.1(c)(9).

117

118

FACTUAL BACKGROUND

119 32. Petitioner entered the United States on June 9, 2022, through Eagle Pass, Texas. He
120 was apprehended by immigration officials on the same day and put in expedited removal
121 proceedings on June 10, 2022.

122 33. Petitioner was paroled from immigration detention on June 21, 2022. He lived in
123 California since then, worked as a driver and paid his taxes.

124 34. On August 22, 2025, Petitioner was invited to attend a credible fear interview in Los
125 Angeles Asylum Office. After getting a positive determination on the interview, Petitioner was
126 detained with no explanation inside the asylum office.

127 35. Petitioner was transferred to Otay Mesa detention center on August 26, 2025, and
128 remains there in custody. Petitioner is currently in removal proceedings before IJ Anderson in Otay
129 Mesa Immigration Court. He is charged with being in the United States without being admitted or
130 paroled.

131 36. While detained Petitioner started suffering from severe Major Depressive Disorder and
132 trauma-related psychiatric impairment as a direct result of torture, prolonged unlawful detention,
133 and persecution in his country of origin, Kazakhstan. Petitioner was unlawfully detained for
134 approximately thirty days in a confined, isolated, and controlled environment, during which he
135 was subjected to physical abuse, psychological torture, threats, intimidation, and extreme
136 emotional distress. He was held in conditions designed to break his psychological stability and

137 induce fear, helplessness, and submission. These traumatic experiences caused profound and
138 lasting psychological damage, the effects of which continue to severely impair Respondent's
139 mental health, cognitive functioning, emotional stability, and ability to function in daily life.

140 37. Under *Matter of Q. Li*, 29 I.&N. Dec. 66 (May 15, 2025), individuals detained under
141 the applicable immigration detention statute are not entitled to a custody redetermination hearing
142 before an Immigration Judge. Because the Board of Immigration Appeals has held that
143 Immigration Judges lack authority to conduct a bond hearing in such circumstances, any request
144 for bond before the immigration court would be futile. Accordingly, Petitioner has no meaningful
145 administrative avenue to seek release on bond through the immigration court system, and
146 exhaustion of that remedy should be excused as futile.

147 38. On January 20, 2025, President Donald Trump issued several executive actions
148 relating to immigration, including "Protecting the American People Against Invasion," an
149 executive order (EO) setting out a series of interior immigration enforcement actions. The Trump
150 administration, through this and other actions, has outlined sweeping, executive branch-led
151 changes to immigration enforcement policy, establishing a formal framework for mass deportation.
152 The "Protecting the American People Against Invasion" EO instructs the DHS Secretary "to take
153 all appropriate action to enable" ICE, CBP, and USCIS to prioritize civil immigration enforcement
154 procedures including through the use of mass detention.

155 39. On information and belief, Respondents are detaining and seeking to transfer
156 Petitioner regardless of the individual facts and circumstances of his case.

157 40. On information and belief, Respondents are using the immigration detention
158 system, including extra-territorial transfer and detention, as a means to punish individuals for
159 asserting rights under the Refugee Act.

160 41. On information and belief, Petitioner has no criminal history.

161

162

CLAIMS FOR RELIEF

163

COUNT ONE

164 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Abuse of Discretion**

165

Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

166 41. Petitioner restates and realleges all paragraphs as if fully set forth here.

167 42. Under the APA, a court shall “hold unlawful and set aside agency action” that is an
168 abuse of discretion. 5 U.S.C. § 706(2)(A).

169 43. An action is an abuse of discretion if the agency “entirely failed to consider an
170 important aspect of the problem, offered an explanation for its decision that runs counter to the
171 evidence before the agency, or is so implausible that it could not be ascribed to a difference in view
172 or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S.
173 644, 658 (2007) (*quoting Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto.*
174 *Ins. Co.*, 463 U.S. 29, 43 (1983)).

175 44. To survive an APA challenge, the agency must articulate “a satisfactory
176 explanation” for its action, “including a rational connection between the facts found and the choice
177 made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

178 45. By categorically revoking Petitioner’s release and seeking to transfer him away
179 from the district without consideration of his individualized facts and circumstances, Respondents
180 have violated the APA.

181 46. By detaining and transferring the Petitioner categorically, Respondents have further
182 abused their discretion because there have been no changes to his facts or circumstances since the

183 agency made its initial custody determinations that support the revocation of his release from
184 custody.

185 47. Respondents have already considered Petitioner's facts and circumstances and
186 determined that he was not a flight risk or danger to the community. There have been no changes
187 to the facts that justify this revocation of his release on his own recognizance. The fact that
188 Petitioner has already been granted release by Respondents under the same facts and circumstances
189 shows that Respondents do not consider him, on an individualized basis, to be a danger to the
190 community or a flight risk. Moreover, Respondents have even lessened the conditions of his release
191 by relieving him of wearing an electronic ankle monitor device.

192

193

COUNT TWO

194 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance**
195 **with Law and in Excess of Statutory Authority Violation of 8 U.S.C. § 1226(b), 8 C.F.R. §**
196 **1236.1(c)(9)**

197 48. Petitioner restates and realleges all paragraphs as if fully set forth here.

198 49. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in
199 accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction,
200 authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. §
201 706(2)(A)-(D).

202 50. 8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may revoke
203 a bond or parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen under the initial
204 warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that such
205 revocations of release from custody may only be carried out in the “discretion of the district

206 director, acting district director, deputy district director, assistant district director for investigations,
207 assistant district director for detention and deportation, or officer in charge (except foreign).”

208 51. It is a well-established administrative principle that “agency action taken without
209 lawful authority is at least voidable, if not void ab initio.” *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d
210 1, 35 (D.D.C. 2020), *citing SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); *see also*
211 *Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating agency
212 action because it was taken by unauthorized official).

213 52. On information and belief, Respondents have revoked or are revoking Petitioner’s
214 prior custody determination because of a categorical policy prepared by and implemented by
215 unidentified government officials in Washington, not through the individual exercise of discretion
216 required by law or by the individuals enumerated by regulation to do so.

217 53. Because Petitioner’s revocation of release from custody has been made or will be
218 categorically directed by government officials not authorized by law to make this determination,
219 Respondents’ detention of Petitioner is not in accordance with law and in excess of statutory
220 authority.

221 **COUNT THREE**

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

223 54. Petitioner restates and realleges all paragraphs as if fully set forth here.

224 55. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits
225 the federal government from depriving any person of “life, liberty, or property, without due process
226 of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States,
227 including [non-citizens], whether their presence here is lawful, unlawful, temporary, or
228 permanent.” *Zadvydas*, 533 U.S. at 693; *accord Flores*, 507 U.S. at 306.

229 56. Due process requires that government action be rational and non-arbitrary. *See*
230 *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

231 57. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a)
232 and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and
233 must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.

234 58. Here, Respondents have chosen to revoke Petitioner’s release in an arbitrary
235 manner and not based on a rational and individualized determination of whether he is a safety or
236 flight risk, in violation of due process. Because no individualized custody revocation has been
237 made and no circumstances have changed to make Petitioner a flight risk or a danger to the
238 community, Respondents’ revocation of Petitioner’s release violates his right to procedural due
239 process.

240

241

PRAYER FOR RELIEF

242 WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- 243 (1) Assume jurisdiction over this matter;
- 244 (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition
245 should not be granted within three days;
- 246 (3) Declare that Petitioner’s detention without an individualized determination violates the
247 Due Process Clause of the Fifth Amendment;
- 248 (4) Declare that Petitioner’s revocation of parole from custody was made in violation of statute
249 and regulation;
- 250 (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
- 251 (6) Issue an Order prohibiting the Respondents from transferring Petitioner from

252 the district without the court's approval; and

253 (7) Grant any further relief this Court deems just and proper.

DATE: March 13, 2026

Respectfully submitted,

Pro Se Petitioner:

A handwritten signature in black ink, appearing to be a stylized name, possibly "D. A. [unclear]". The signature is written in a cursive style with a long horizontal stroke at the end.

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U.S. District Court

California Southern - San Diego

Alma Bayazitov


Receipt Date: Mar 16, 2026 4:24PM

Rcpt. No: 167868

Trans. Date: Mar 16, 2026 4:24PM

Cashier ID: #SN (6532)

CD	Purpose	Case/Party/Defendant	Qty	Price	Amt
202	Writ of Habeas Corpus	26CV1642	1	5.00	5.00

CD	Tender			Amt
CH	Check		03/12/2026	\$5.00
Total Due Prior to Payment:				\$5.00
Total Tendered:				\$5.00
Total Cash Received:				\$0.00

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