

1 **Sajjad Hussain, Esq. CSBN 318154**  
2 **Indus Pacific Law Office, Law Corp**  
3 **8996 Miramar Road Suite 306**  
4 **San Diego, Ca 92126**  
5 **Ph# 858-786-3142**  
6 **Induspacificlaw@Gmail.Com**

7 **UNITED STATES DISTRICT COURT**  
8 **EASTERN DISTRICT OF CALIFORNIA**

9 **HAMID NIAZAI,**

10 **Petitioner**

11 **VS.**

12 **Sixto Marrero, Warden Imperial Regional**  
13 **Adult Detention Facility; Markwayne Mullin,**  
14 **Secretary Department of Homeland Security;**  
15 **Todd M Lyons Acting Director United States**  
16 **Immigration and Customs Enforcement;**  
17 **Todd Blanche United States Attorney**  
18 **General**

19 **Respondents**

Case No.: **'26CV2221 RSH MSB**

**PETITION FOR WRIT OF HABEAS  
CORPUS**

20 **PETITION FOR WRIT OF HABEAS CORPUS**  
21 **PURSUANT TO 28 U.S.C. §2241**

22  
23 **Petitioner respectfully petitions this Honorable court for writ of habeas corpus to remedy**  
24 **petitioner's unlawful detention by the respondents as follows:**

25 **Dated this April 08, 2026.**

26 \_\_\_\_\_  
27 **Sajjad Hussain, Esq.**

28 **PETITION FOR WRIT OF HABEAS CORPUS**

1           **I.       INTRODUCTION:**

- 2           1. Petitioner, Hamid Niazai, a native and citizen of Afghanistan, *Ex 1 NTA*, brings this  
3           Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 to challenge the  
4           legality of his current immigration detention. After more than twenty months of liberty  
5           in the community under an Order of Supervision, during which he fully complied with  
6           all conditions and committed no offenses, the Department of Homeland Security  
7           (“DHS”) summarily re-arrested him without notice, without a hearing, and without any  
8           individualized determination.  
9  
10          2. Petitioner was initially released in April 2024 on parole with an ankle monitoring  
11          device. Within three days of his release, he reported to ICE and requested removal of  
12          the ankle monitor, which ICE approved. Thereafter, Petitioner remained compliant with  
13          all terms and conditions of his release and reported to ICE as required, *Ex 2 Parole*.  
14  
15          3. However, on December 30, 2025, when Petitioner appeared for a routine ICE check-in,  
16          he was taken into custody without any prior notice, without a pre-detention hearing, and  
17          without any explanation for his detention.  
18  
19          4. Petitioner’s detention is unlawful and violates the Due Process Clause of the Fifth  
20          Amendment.  
21  
22          5. First, DHS violated Petitioner’s procedural due process rights by revoking long-  
23          standing, government-authorized liberty without providing notice or a meaningful  
24          opportunity to be heard. For over twenty months, DHS permitted Petitioner to live in  
25          the community under supervision and repeatedly accepted his compliance. On  
26          December 30, 2025, Petitioner appeared for a routine ICE check-in as required. DHS  
27          took him into custody on the spot, without advance warning, without stating any basis  
28

1 for re-detention, and without conducting any custody review. This summary deprivation  
2 of liberty violates core procedural due process protections.

- 3  
4 6. Second, DHS violated substantive due process by detaining Petitioner even though  
5 detention is no longer reasonably related to any legitimate immigration purpose. DHS  
6 previously determined that detention was unnecessary and that supervision was  
7 sufficient. Nothing material changed at the time of Petitioner's re-arrest. He remained  
8 compliant, posed no flight risk, and was not alleged to be dangerous. Under these facts,  
9 continued detention is excessive, punitive in effect, and unsupported by any regulatory  
10 justification.
- 11  
12 7. DHS failed to identify any changed circumstances, failed to determine that removal had  
13 become reasonably foreseeable, and failed to provide any of the required procedural  
14 protections. DHS's disregard of the relevant regulations renders Petitioner's detention  
15 unlawful from its inception.
- 16  
17 8. Petitioner's continued confinement has caused concrete harm. Because Petitioner's  
18 detention results from multiple constitutional and regulatory violations, habeas relief is  
19 required. Liberty was withdrawn without due process, and detention no longer serves  
20 any legitimate immigration purpose. Under these circumstances, continued confinement  
21 is punitive and unlawful. Petitioner therefore seeks immediate release from immigration  
22 custody, subject to reasonable conditions of supervision if the Court deems them  
23 necessary.  
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1           **II.     CUSTODY**

2           9. Mr. Niazi is detained in the legal and physical custody of Respondents at Imperial  
3           Regional Detention Center, Calexico, CA where he is under the direct control of  
4           Respondents and their agents.  
5

6           **III.    JURISDICTION**

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

9           11. Jurisdiction is proper under 28 U.S.C § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal  
10           question); 28 U.S.C. § 1651 (All Writs Act); U.S. Const. art. I, § 9, cl. 2 (the Suspension  
11           Clause); and 5 U.S.C. § 702 (Administrative Procedure Act).  
12

13           **IV.    VENUE**

14           12. Venue is proper in this district under 28 U.S.C. § 1391(b) and (e) because at least one  
15           Respondent—Respondent Jeremy Casey, the legal custodian of Mr. Niazi—is in this  
16           District, and a substantial part of the events giving rise to the claims in this action took  
17           place in this District. All material decisions about Mr. Niazi’s detention have been made  
18           within this jurisdiction.  
19

20           **V.     EXHAUSTION**

21           13. Mr. Niazi is not required to exhaust administrative remedies. Exhaustion for habeas  
22           claims is prudential, not jurisdictional. See *Laing v. Ashcroft*, 370 F.3d 994, 997 (9th  
23           Cir. 2004). The prudential exhaustion requirement may be waived if “administrative  
24           remedies are inadequate or not efficacious, pursuit of administrative remedies would be  
25           a futile gesture, [or] irreparable injury will result.” *Id.* at 1000. Administrative remedies  
26           would be futile, inadequate, and not efficacious for Mr. Niazi Exhausting his  
27  
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1 constitutional claim would be futile because the agency does not have the authority to  
2 rule on constitutional questions. See *Wang v. Reno*, 81 F.3d 808, 815–16 (9th Cir. 1996)  
3 (per curiam) (“the inability of the INS to adjudicate the constitutional claim completely  
4 undermines most, if not all, of the purposes underlying exhaustion”).  
5

6 14. Exhausting his statutory claim would also be futile because the Immigration Judge (“IJ”)  
7 adjudicating Mr. Niazi’s merits case—and to whom his bond hearing request would  
8 likely be assigned—acts under the authority of the Attorney General and is required to  
9 follow precedent set by the Board of Immigration Appeals (BIA). The BIA, in *Matter*  
10 *of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), held that Immigration Judges lack  
11 authority to hear bond requests or grant bond to individuals who are present in the  
12 United States without admission.  
13

14 15. Even if exhaustion were not futile, waiver is warranted because Mr. Raza’s claim  
15 presents purely legal issues and no purpose is served by requiring an administrative  
16 appeal. See *Hernandez v. Sessions*, 872 F.3d 976, 988–89 (9th Cir. 2017).).  
17

## 18 VI. PARTIES

19 16. Petitioner is a native and citizen of Afghanistan who is detained in the custody of  
20 Immigration and Customs Enforcement at Imperial Detention Facility Calexico, CA.  
21

22 17. Respondent **Sixto Marrero** is the Warden of Imperial Regional Adult Detention  
23 Facility Calexico, CA, where Petitioner is detained. He is sued in his official capacity.

24 18. Respondent **Markwayne Mullin** is the Secretary of the Department of Homeland  
25 Security, an agency of the United States. He is responsible for the administration and  
26 enforcement of the immigration laws. See 8 U.S.C. § 1103(a). Respondent is a legal  
27 custodian of Petitioner. He is sued in his official capacity.  
28

1 19. Respondent **Todd M. Lyons** is performing the duties of the Director of U.S.  
2 Immigration and Customs Enforcement (ICE). He is sued in his official capacity.

3  
4 20. Respondent **Todd Blanche** is the Acting Attorney General of the United States. As  
5 Attorney General, Respondent has the authority to interpret the immigration laws and  
6 adjudicate removal cases and bond hearings. See 8 U.S.C. § 1103(g). The Attorney  
7 General delegates this responsibility to the Executive Office for Immigration Review,  
8 which administers the immigration courts and the BIA. Respondent is a legal custodian  
9 of Petitioner. He is sued in his official capacity.

10  
11 **VII. FACTUAL ALLEGATIONS**

12 21. Petitioner, **Hamid Niajai**, is a native and citizen of Afghanistan who is currently in the  
13 custody of U.S. Immigration and Customs Enforcement (“ICE”). Petitioner was born  
14 on [REDACTED] in Afghanistan and is a member of the [REDACTED] ethnic  
15 group, *Ex 4 CFI*.

16  
17 22. Petitioner entered the United States on or about **February 25, 2024**, at or near San  
18 Diego, California, without being admitted or paroled after inspection by an immigration  
19 officer, *Ex 1 NTA*. On that same date, he was apprehended by immigration authorities  
20 and placed into immigration detention at the Otay Mesa Detention Center in San Diego,  
21 California.

22  
23 23. Shortly after his apprehension, Petitioner underwent a **credible fear**  
24 **interview** conducted by an asylum officer on March 12, 2024, *Ex 4*. During this  
25 interview, Petitioner explained that he fears persecution and death at the hands of the  
26 Taliban due to his political opinion and advocacy related to women’s rights, including  
27 supporting education and equal participation for girls in Afghan society. The asylum  
28

1 officer found Petitioner **credible** and determined that he had established a **credible fear**  
2 **of persecution**, specifically noting political opinion and membership in a particular  
3 social group as relevant grounds, *Id.*  
4

5 24. Following this determination, removal proceedings were initiated against Petitioner  
6 through the issuance of a Notice to Appear (“NTA”), charging him as removable under  
7 section 212(a)(6)(A)(i) of the Immigration and Nationality Act as a noncitizen present  
8 in the United States without admission or parole.

9  
10 25. After approximately two months in detention, ICE exercised its discretion to release  
11 Petitioner on **parole** on or about April 2024, subject to reporting conditions and  
12 compliance requirements. Petitioner complied with all conditions of his release,  
13 including attending required appointments and maintaining communication with  
14 immigration authorities, *Ex 2*. A call-in letter issued by ICE directed Petitioner to appear  
15 for monitoring and enrollment in alternatives to detention, further demonstrating his  
16 compliance with supervisory conditions.  
17

18 26. Petitioner timely filed an application for asylum, withholding of removal, and protection  
19 under the Convention Against Torture (Form I-589), asserting that he fears being killed  
20 or severely harmed by the Taliban due to his political beliefs and advocacy for women’s  
21 rights. He has consistently maintained these claims throughout his proceedings.  
22

23 27. In addition, Petitioner complied with all immigration-related requirements, including  
24 appearing for biometrics collection and applying for employment authorization.  
25 Petitioner was subsequently issued an Employment Authorization Document, further  
26 demonstrating his compliance with all procedural requirements while his case remained  
27 pending, *Ex 5 & 6*.  
28

1 28. Petitioner has no criminal history and has not been accused, charged, or convicted of  
2 any crime in the United States. Throughout his time in the United States, he has  
3 maintained a stable residence in Salt Lake City, Utah, and has demonstrated strong  
4 compliance with all legal obligations imposed upon him.  
5

6 29. Despite his full compliance, lack of criminal history, and established eligibility for relief  
7 from removal, Petitioner has been re-detained by ICE and remains in custody. His  
8 removal proceedings are ongoing, and his applications for relief, including asylum and  
9 withholding of removal, have not yet reached final adjudication.  
10

11 30. Given the nature of immigration proceedings, which often involve significant delays, it  
12 is likely that Petitioner will remain in detention for a prolonged and indefinite period  
13 while his case continues through the immigration court system and any potential appeals.  
14

15 31. Petitioner's continued detention serves no legitimate purpose. He has already  
16 demonstrated that he is neither a flight risk nor a danger to the community. He  
17 previously complied with all conditions of release, appeared for all required  
18 appointments, and actively pursued his immigration case. There is no evidence to  
19 suggest that any condition short of detention would be insufficient to ensure his  
20 appearance at future proceedings.  
21

22 32. Accordingly, Petitioner remains detained without a meaningful individualized custody  
23 determination that comports with due process, warranting this Court's intervention.  
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1           **VII. LEGAL ARGUMENT**

2           **COUNT I**

3           ***A. Violation of the Fifth Amendment Due Process Clause***

4  
5       33. The Fifth Amendment's Due Process Clause applies to all persons within the United  
6       States, including noncitizens held in civil immigration custody. *Zadvydas*, 533 U.S. at  
7       693. Because immigration detention is civil rather than criminal, it is constitutionally  
8       permissible only insofar as it remains nonpunitive and reasonably related to a legitimate  
9       governmental purpose, and only when imposed through constitutionally adequate  
10      procedures. *Id.* at 690; *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).

11  
12     34. Freedom from physical restraint lies at the core of the liberty protected by the Due  
13     Process Clause. *Zadvydas*, 533 U.S. at 690. Accordingly, civil detention that loses its  
14     regulatory justification, becomes excessive in relation to its purpose, or is imposed  
15     without adequate procedural safeguards raises serious constitutional concerns. Outside  
16     limited and carefully regulated contexts, the government may not deprive an individual  
17     of physical liberty without strong justification and meaningful processes. *United States*  
18     *v. Salerno*, 481 U.S. 739, 746 (1987); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

19  
20     35. These principles frame the constitutional inquiry here. Where the government has  
21     affirmatively authorized liberty, allowed that liberty to persist for about two years, and  
22     then withdrawn it through physical detention without notice, hearing, or individualized  
23     justification, habeas corpus provides the appropriate vehicle for judicial review. The  
24     Court must therefore assess whether Petitioner's re-detention remains reasonably  
25     related to a legitimate immigration purpose and whether it was imposed through  
26     procedures sufficient to satisfy the Fifth Amendment.  
27  
28

1           **(i) Substantive Due Process**

2           36. Petitioner seeks immediate release because, under the Fifth Amendment's Due Process  
3           Clause, his continued detention is no longer reasonably related to a legitimate  
4           immigration purpose and has instead become punitive and harmful in effect.  
5

6           37. Under the substantive component of the Fifth Amendment's Due Process Clause, civil  
7           immigration detention violates the Constitution when it ceases to advance its regulatory  
8           purpose and instead inflicts serious harm. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001);  
9           *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).  
10

11           38. Here, DHS re-arrested Petitioner on December 30, 2025, after he had lived in the  
12           community for more than twenty months under an Order of Supervision without  
13           incident. During that period, Petitioner complied with all conditions of supervision,  
14           including reporting to ICE as directed. He did not commit any criminal offenses. DHS  
15           did not provide advance notice, an opportunity to be heard, or any individualized  
16           custody determination prior to his re-detention. Under these facts, detention no longer  
17           advances removal or any other legitimate civil objective.  
18

19           39. Here, the current detention has also become affirmatively harmful. When DHS initially  
20           released Petitioner and allowed him to live in the community, it created an implied  
21           promise on which Petitioner relied in structuring his life. Prior to detention, Petitioner  
22           worked and contributed to the community.  
23

24           40. Moreover, DHS is not detaining Petitioner after making any findings of dangerousness  
25           supported by the heightened safeguards the Constitution requires. Instead, DHS relies  
26           solely on general immigration detention authority after allowing Petitioner to remain at  
27           liberty under supervision. Under the Fifth Amendment, civil detention that inflicts  
28

1 serious harm while failing to serve its regulatory purpose is unconstitutional, even where  
2 statutory detention authority exists. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

3  
4 41. Courts in California have granted habeas relief on materially similar facts. In *Rios*  
5 *v. Noem*, No. 3:25-cv-02866-JES-VET (S.D. Cal. Nov. 10, 2025), the court ordered  
6 release where DHS re-detained a noncitizen after years of successful supervision  
7 without demonstrating that renewed detention was reasonably related to a legitimate  
8 regulatory purpose. Similarly, in *Constantinovici v. Bondi*, No. 3:25-cv-02405-RBM-  
9 AHG (S.D. Cal. Oct. 10, 2025), the court granted habeas relief where DHS revoked  
10 supervision despite years of compliance and no materially changed circumstances. The  
11 court reached the same conclusion in *Kaztashyan v. Warden of the Golden State Annex*  
12 *Detention Facility*, No. 1:25-cv-01526-DC-SCR (E.D. Cal. 2025), emphasizing that  
13 prolonged compliance under supervision weighs strongly against re-detention absent an  
14 individualized justification.  
15

16  
17 42. As in those cases, detention here has ceased to function as a civil regulatory measure.  
18 In addition, unlike many re-detention cases, the harm here is acute and documented.  
19 Recent reports indicate that number of detainees have been died in the custody of  
20 respondent under similar conditions for lack or medical care<sup>1</sup>

21  
22 43. Assuming arguendo that DHS retains statutory detention authority, the Fifth  
23 Amendment independently forbids continued detention under these circumstances.  
24 Substantive due process therefore requires Petitioner's immediate release from custody.  
25

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<sup>1</sup> <https://www.fox4news.com/news/afghan-soldier-dies-ice-custody-mohammad-paktyawal>  
PETITION FOR WRIT OF HABEAS CORPUS

1           (ii)    *Procedural Due Process Violation*

2           44. Separately and independently, Petitioner seeks immediate release because DHS violated  
3           procedural due process under the Fifth Amendment when it revoked his long-standing,  
4           government-authorized liberty without notice and without a meaningful opportunity to  
5           be heard.  
6

7           45. Under the Fifth Amendment, procedural due process is required whenever the  
8           government seeks to deprive a person of physical liberty. At its core, due process  
9           requires notice and an opportunity to be heard at a meaningful time and in a meaningful  
10          manner. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Here, when petitioner was  
11          rearrested at ICE check-in, he was not given notice or an opportunity to be heard in the  
12          incept of the detention, notice is required before detention and without such procedure,  
13          the current detention is unlawful.  
14

15          46. When the government affirmatively confers liberty and later withdraws that liberty  
16          through detention, due process requires procedures sufficient to guard against erroneous  
17          or arbitrary confinement. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). Here,  
18          petitioner was allowed to live at liberty for over twenty months that the government  
19          gave him, such liberty cannot be summary withdrawn without safeguards.  
20

21          47. Courts assess the adequacy of procedural protections by balancing three factors: (1) the  
22          private interest affected, (2) the risk of erroneous deprivation under the procedures used  
23          and the value of additional safeguards, and (3) the government's interest. *Mathews*, 424  
24          U.S. at 335.  
25

26          48. Courts in California have applied this framework to challenges arising from  
27          immigration re-detention following supervised release. See, e.g., *Rios v. Noem*, No.  
28

1 3:25-cv-02866-JES-VET (S.D. Cal. Nov. 10, 2025); Constantinovici v. Bondi, No.  
2 3:25-cv-02405-RBM-AHG (S.D. Cal. Oct. 10, 2025); Kaztashyan v. Warden of the  
3 Golden State Annex Detention Facility, No. 1:25-cv-01526-DC-SCR (E.D. Cal. 2025);  
4 Khan v. Noem, No. 1:25-cv-01411-EPG-HC, 2025 WL 3089352, at \*5 (E.D. Cal. Nov.  
5 5,2025).  
6

7 *a. Private Interest*

8 49. The private interest at stake is significant. Freedom from physical confinement lies at  
9 the core of the liberty protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S.  
10 678, 690 (2001); *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). That interest retains  
11 constitutional protection even when liberty is conditional. When the government  
12 permits a person to live in the community subject to conditions, that conditional liberty  
13 “is valuable and must be seen as within the protection of the Due Process  
14 Clause.” *Morrissey*, 408 U.S. at 482.  
15

16 50. Here, beginning in or around April 2024, DHS released Petitioner into the community  
17 under an Order of Supervision and permitted him to remain at liberty for more than  
18 twenty months. During that period, Petitioner complied with the terms of his Order of  
19 Supervision, including reporting to ICE as directed. DHS repeatedly accepted his  
20 compliance and did not allege any violation of supervision prior to his re-detention.  
21 *Kaztashyan; Khan; Doe v. Becerra*, 787 F. Supp. 3d 1083, 1093 (E.D. Cal. 2025).  
22

23 51. Petitioner relied on that government-authorized liberty and structured his life  
24 accordingly. He worked, supported his family, and contributed to the community.  
25

26 52. On December 30, 2025, DHS withdrew that long-standing liberty while Petitioner was  
27 complying with supervision, taking him into custody at his ICE check-in without notice,  
28

1 an opportunity to be heard, or any individualized custody determination. The  
2 withdrawal of years of relied-upon liberty through physical confinement constitutes a  
3 grievous loss. *Morrissey*, 408 U.S. at 482. This factor weighs heavily in Petitioner's  
4 favor.  
5

6 ***b. Risk of Erroneous Deprivation***

7 53. The second Mathews factor examines the risk that the procedures used will result in an  
8 erroneous deprivation of liberty and the value of additional safeguards. *Mathews*, 424  
9 U.S. at 335.  
10

11 54. That risk was high here. Petitioner was re-detained on December 30, 2025, without  
12 advance notice, without a written custody determination, and without any opportunity  
13 to respond. DHS made no individualized assessment of flight risk, danger to the  
14 community, or changed circumstances. Detention was imposed first, without any pre-  
15 deprivation process.  
16

17 55. Courts have recognized that this sequence presents a substantial risk of error. In *Valdez*  
18 *v. Joyce*, 2025 WL 1707737, at \*4 (S.D.N.Y. June 18, 2025), the court held that re-  
19 detention without changed circumstances or procedure creates a high risk of erroneous  
20 deprivation. *R.D.T.M. v. Wofford*, 2025 WL 2617255, at \*4 (E.D. Cal. Sept. 9,  
21 2025); *Manzanarez v. Bondi*, 2025 WL 3247258, at \*4 (E.D. Cal. Nov. 20, 2025).  
22

23 56. The risk of error was further heightened by what DHS did not do at the time of re-  
24 detention. DHS provided no notice and no opportunity to be heard before imposing  
25 confinement after about two years of supervised release and compliance.  
26

27 57. By contrast, the value of additional safeguards was substantial. Even minimal  
28 procedures, such as notice of the basis for re-detention and an opportunity to respond,

1 would have allowed Petitioner to demonstrate his long-standing compliance and the  
2 absence of any changed circumstances justifying re-detention. This factor strongly  
3 favors Petitioner.

4  
5 *c. Government's Interest*

6 58. The third Mathews factor considers the government's interest and the administrative  
7 burdens of additional procedures. Mathews, 424 U.S. at 335.

8 59. The government's general interests include ensuring appearance at proceedings and  
9 protecting the community. Zadvydas, 533 U.S. at 690. Those interests are not  
10 meaningfully advanced by summary re-detention on these facts. DHS managed  
11 Petitioner through community supervision, during which he consistently appeared for  
12 check-ins and was never alleged to have violated conditions or posed a danger.  
13 Hernandez v. Sessions, 872 F.3d 976, 994 (9th Cir. 2017); Garcia v. Andrews, 2025 WL  
14 1927596, at \*5 (E.D. Cal. July 14, 2025).

15  
16 60. There was no advance notice, no opportunity to be heard, and no individualized custody  
17 determination prior to Petitioner's re-detention. Courts have repeatedly rejected the  
18 notion that providing notice and an individualized custody determination imposes a  
19 significant administrative burden. Custody hearings are routine, and the government's  
20 interest in detaining a petitioner without a hearing is low. Khan v. Noem, 2025 WL  
21 3089352, at \*5; Diaz v. Kaiser, 2025 WL 1676854, at \*3 (N.D. Cal. June 14, 2025);  
22 Carballo v. Andrews, 2025 WL 2381464, at \*8 (E.D. Cal. Aug. 15, 2025); Ortega v.  
23 Bonnar, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).  
24  
25  
26  
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28

1 61. Requiring minimal procedural safeguards would not impede enforcement. It would  
2 simply require DHS to justify detention through an individualized determination rather  
3 than default incarceration.

4 *d. Balancing the Mathews Factors*

5  
6 62. When the Mathews factors are balanced, they favor Petitioner. Petitioner's liberty  
7 interest is substantial. The risk of erroneous deprivation is significant where DHS  
8 withdraws long-standing conditional liberty without notice or an opportunity to be heard.  
9 At the same time, the government's interests can be adequately protected through  
10 procedures requiring individualized justification for detention. Kaztashyan; Khan;  
11 R.D.T.M.; Doe v. Becerra, 787 F. Supp. 3d at 1093.

12  
13 63. Accordingly, DHS's summary re-detention of Petitioner, by revoking his liberty without  
14 notice and without a meaningful opportunity to be heard, violates the Due Process  
15 Clause of the Fifth Amendment.

16  
17 *(iii). DHS's failure to follow 8 C.F.R. §§ 241.13 and 241.4 in revoking Petitioner's  
18 release violates the Due Process Clause.*

19 64. Independently, Petitioner seeks immediate release because DHS failed to comply with  
20 its own regulations governing post-order custody and supervision under 8 C.F.R. §§  
21 241.13 and 241.4, resulting in unlawful detention in violation of the Fifth Amendment.

22 65. As a threshold matter, due process is violated when an agency fails to follow regulations  
23 that were promulgated to protect individual liberty interests. United States ex rel.  
24 Accardi v. Shaughnessy, 347 U.S. 260, 268 (1954). Where a regulation governs the  
25 revocation of previously authorized liberty, the agency's disregard of that regulation  
26 renders the resulting detention unlawful. Montilla v. INS, 926 F.2d 162, 169 (2d Cir.  
27 1991).  
28

1 66. Here, Petitioner was released into the community pursuant to an Order of release and  
2 remained at liberty for more than twenty months. The regulations constrain DHS's  
3 authority to revoke release and require specific substantive findings and procedural  
4 protections before re-detention may occur.  
5

6 67. Critically, the regulation sets out mandatory procedures that must accompany any  
7 revocation of release. Upon revocation, DHS must notify the noncitizen of the reasons  
8 for revocation and must conduct an initial informal interview promptly after return to  
9 custody to afford the person an opportunity to respond. 8 C.F.R. § 241.13(h)(3). These  
10 procedural requirements are designed to prevent arbitrary re-detention and to ensure that  
11 custody remains reasonably related to a legitimate regulatory purpose.  
12

13 68. DHS did not comply with these requirements. On December 30, 2025, DHS re-detained  
14 Petitioner during his ICE check-in without prior written notice, without identifying any  
15 changed circumstances. DHS did not allege that Petitioner violated supervision,  
16 committed any offense, or posed a danger to the community.  
17

18 69. Courts in California have granted habeas relief where DHS re-detains an individual  
19 following prolonged supervised release without complying with the post-order custody  
20 regulations. See, e.g., *Rios v. Noem*, No. 3:25-cv-02866-JES-VET (S.D. Cal. Nov. 10,  
21 2025); *Constantinovici v. Bondi*, No. 3:25-cv-02405-RBM-AHG (S.D. Cal. Oct. 10,  
22 2025).  
23

24 70. The regulatory violation is especially significant on these facts. Petitioner lived in the  
25 community from approximately April 2024 to December 2025. He remained on  
26 supervised release since and complied with all supervision requirements. He was re-  
27  
28

1 detained while complying with those conditions. The safeguards DHS disregarded exist  
2 precisely to prevent arbitrary detention in situations such as this.

3  
4 71. Because DHS failed to comply with 8 C.F.R. §§ 241.13 and 241.4 before revoking  
5 Petitioner's liberty, his continued detention is unlawful and independently violates the  
6 Due Process Clause of the Fifth Amendment. This failure provides a separate and  
7 sufficient basis for habeas relief.

8 ***COUNT II***

9 ***Violation of Article III and Separation of Powers Through Executive Defiance of***  
10 ***Judicial Authority***

11 72. Petitioner seeks immediate release from custody because the Executive Branch has  
12 exceeded its constitutional authority and encroached upon the exclusive role of Article  
13 III courts. Where the executive branch detains a person while openly disregarding  
14 binding federal court decisions and insulating detention decisions from meaningful  
15 judicial enforcement, continued confinement violates the Constitution's separation of  
16 powers and renders executive adjudication constitutionally inadequate.

17  
18 73. Article III of the United States Constitution vests the judicial power of the United States  
19 exclusively in the federal courts. U.S. Const. art. III, § 1. That authority includes the  
20 power to interpret the law and to ensure that executive detention complies with  
21 constitutional limits. Habeas corpus serves as a core structural safeguard against  
22 executive overreach by permitting courts to test the legality of detention and to order  
23 release where constitutional violations persist. *Boumediene v. Bush*, 553 U.S. 723, 765  
24 (2008).

25  
26 74. Federal courts have repeatedly condemned executive branch detention practices that  
27 operate in defiance of Article III authority. That executive defiance was addressed  
28

1 directly in *Inzunza v. Warden of Adelanto Detention Facility et al.*, No. 5:26-cv-00078-  
2 SSS-BFM (C.D. Cal. Jan. 27, 2026), where the court found that Respondents had  
3 “deliberate[ly]” continued to rely on legal interpretations that had already been held  
4 unlawful. The court observed that “[d]espite the final judgment in *Maldonado Bautista*,  
5 it appears that immigration judges continue to rely on legal interpretations that were  
6 expressly found unlawful,” and collaterally estopped Respondents from relitigating the  
7 issue.  
8

9  
10 75. Similarly, the United States District Court for the Western District of Texas granted  
11 habeas relief based on executive detention conducted in disregard of constitutional  
12 limits. In *Conejo Arias v. Noem*, No. SA-26-CV-415-FB (W.D. Tex. Jan. 31, 2026),  
13 Judge Fred Biery ordered immediate release, holding that “the Constitution of these  
14 United States trumps this administration’s detention” and emphasizing that  
15 “[a]dministrative warrants issued by the executive branch to itself do not pass probable  
16 cause muster.” The court further underscored that “[t]he Constitution requires an  
17 independent judicial office  
18

19 76. Here, this Court can resolve Petitioner’s motion either by ordering his immediate release  
20 or by directing Respondent to provide him with a bond hearing before an immigration  
21 judge. However, Petitioner submits that immediate release is the appropriate remedy to  
22 safeguard against constitutional overreach by the executive branch and to preserve his  
23 constitutional rights to due process.  
24

25 ***VIII. CONCLUSION***

26 77. For the reasons set forth above, Petitioner’s continued detention is unlawful. DHS re-  
27 arrested Petitioner after more than twenty months of successful supervision in the  
28

1 community, without notice, without any individualized justification, and without  
2 procedures sufficient to protect against the erroneous deprivation of liberty. Petitioner  
3 complied with all conditions of supervision, committed no offenses, and was re-  
4 *detained without any allegation of noncompliance. Under these facts, detention no*  
5 *longer advances any legitimate immigration purpose and instead constitutes punitive*  
6 *confinement in violation of the Fifth Amendment's Due Process Clause.*

7  
8 78. Independently, DHS failed to comply with the governing post-order custody regulations  
9 that strictly limit when previously authorized liberty may be withdrawn. For more than  
10 twenty months, DHS determined that supervision was appropriate. DHS nevertheless  
11 re-detained Petitioner without identifying any changed circumstances, without  
12 determining that removal had become reasonably foreseeable, and without providing  
13 the notice and opportunity to respond required by regulation. When DHS disregards  
14 these binding regulatory constraints, the resulting detention is unlawful and violates due  
15 process.  
16  
17

18 79. Finally, DHS's own conduct confirms that continued detention serves no legitimate  
19 regulatory function. DHS managed Petitioner through community supervision. Nothing  
20 changed on December 30, 2025, other than DHS's unilateral decision to incarcerate him  
21 at a routine check-in. No additional administrative action can cure these defects.  
22 Immediate judicial intervention is therefore required.  
23

24 ***IX. PRAYER FOR RELIEF***

25 *WHEREFORE, Petitioner respectfully requests that this Court:*

- 26 a. Grant the Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.  
27  
28

- 1 b. Order Petitioner's immediate release from ICE custody, subject to the same terms and  
2 conditions as were before his re-detention.
- 3 c. Declare that Petitioner's re-arrest and continued detention, following more than twenty  
4 months of compliance under an Order of Supervision and without notice, an  
5 individualized determination, or compliance with governing regulations, violate the  
6 Fifth Amendment's Due Process Clause.
- 7
- 8 d. In the alternative, order Respondents to provide Petitioner forthwith with an  
9 individualized custody determination before a neutral decision-maker, at which the  
10 Government bears the burden of justifying continued detention and less restrictive  
11 alternatives to detention must be meaningfully considered.
- 12
- 13 e. Order that any future arrest, detention, or revocation of supervision involving Petitioner  
14 comply with the Constitution and governing law, including advance notice, an  
15 individualized determination, and strict adherence to applicable regulations, including  
16 but not limited to 8 C.F.R. §§ 241.4 and 241.13;
- 17
- 18 f. Award Petitioner reasonable attorney's fees and costs, including pursuant to the Equal  
19 Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
- 20 g. Grant such other and further relief as the Court deems just and proper.

21 *Respectfully Submitted April 08, 2026.*

22

23

24

25 /s/ Sajjad Hussain  
26 Sajjad Hussain, Esq.  
27 Indus Pacific Law Office, Law Corp  
28 Attorney for Petitioner