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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

KHALIL SHAHIN,
Petitioner

v.

Christopher LAROSE, Senior Warden, Otay
Mesa Detention Center;

Markwayne MULLIN, Secretary, U.S.
Department of Homeland Security;

Todd LYONS, Acting Director, U.S. Immigration
and Customs Enforcement;

Todd BLANCHE, Acting Attorney General of the
United States

Respondents.

Case No.: '26CV2591 DMS MSB

Agency File No:



**PETITION FOR WRIT OF
HABEAS CORPUS AND
REQUEST FOR ORDER TO
SHOW CAUSE**

INTRODUCTION

1
2 1. Petitioner, Khalil SHAHIN , is a young adult native of Morocco
3 and citizen of Syria who entered the United States near Tecate, California, on or about
4 November 30, 2024. He was taken into custody by U.S. immigration authorities and has
5 remained detained at the Otay Mesa Detention Center since that time.

6 2. Petitioner has never been charged with or convicted of any crime. He has diligently
7 pursued relief from removal, including applications for asylum and withholding of removal. On
8 February 11, 2026, the Immigration Court granted withholding of removal as to Morocco.
9 Petitioner remains in removal proceedings and has appealed the decision. Petitioner previously
10 filed a habeas petition challenging his detention, which was denied prior to the grant of
11 withholding of removal. He now brings this petition based on materially changed circumstances,
12 including the elimination of Morocco as a country of removal and the absence of any reasonably
13 foreseeable alternative.

14 3. As a result of the grant of withholding, Petitioner cannot be removed to Morocco.
15 Although Syria has been identified as an alternative country of removal, removal to Syria is not
16 reasonably foreseeable due to ongoing armed conflict and the absence of practical repatriation
17 mechanisms.

18 4. Petitioner's continued detention now serves no legitimate regulatory purpose. Civil
19 immigration detention is constitutionally permissible only when it remains reasonably related to
20 its underlying purpose and does not become arbitrary or effectively indefinite. Here, detention no
21 longer advances removal or meaningfully facilitates adjudication, as Petitioner remains confined
22 without any realistic prospect of removal in the foreseeable future.

23 5. Absent habeas relief, Petitioner faces continued and potentially indefinite detention
24 despite the absence of any viable pathway to removal. Petitioner respectfully seeks a writ of
25 habeas corpus ordering his immediate release, or in the alternative, a constitutionally adequate
26 bond hearing at which the government bears the burden of proof by clear and convincing
27 evidence.

1 **JURISDICTION AND VENUE**

2 6. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in the custody
3 of the Department of Homeland Security within this District and he challenges the legality of
4 that custody.

5 7. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises
6 under the Constitution and laws of the United States, including the Immigration and Nationality
7 Act and the Due Process Clause of the Fifth Amendment.

8 8. Neither 8 U.S.C. § 1252(g) nor § 1252(b)(9) strips this Court of jurisdiction. Section
9 1252(g) bars only challenges to the Attorney General's discretionary decisions to "commence
10 proceedings, adjudicate cases, or execute removal orders," not independent challenges to
11 unlawful detention. Likewise, § 1252(b)(9) consolidates review of removal orders in the courts
12 of appeals, but does not foreclose habeas review of detention claims, which are collateral to the
13 removal proceedings.

14 9. Venue is proper in this District under 28 U.S.C. § 1391(e) because Petitioner is
15 detained at the Otay Mesa Detention Center, which lies within the jurisdiction of this Court.

16 **PARTIES**

17 10. Petitioner, Khalil Shahin, is a young adult native of Morocco and citizen of Syria
18 detained at the Otay Mesa Detention Center, in San Diego, California.

19 11. Respondent Christopher LaRose is the Senior Warden of the Otay Mesa Detention
20 Center.

21 12. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland
22 Security (DHS).

23 13. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs
24 Enforcement (ICE).

25 14. Respondent Todd Blanche is the Acting Attorney General of the United States and
26 the head of the U.S. Department of Justice (DOJ).

27 15. All Respondents are named in their official capacities.
28

FACTS

16. Petitioner, Khalil Shahin, is a native of Morocco and citizen of Syria who entered the United States near Tecate, California, on or about November 30, 2024.

17. Upon entry, Petitioner was taken into custody by U.S. immigration authorities, referred to credible fear proceedings, and transferred to Immigration and Customs Enforcement (“ICE”) custody at the Otay Mesa Detention Center in San Diego County, California, where he has remained continuously detained since that time.

18. Following a positive credible fear determination, Petitioner was placed in removal proceedings under INA § 240 and timely filed a Form I-589 application for asylum and withholding of removal.

19. On February 11, 2026, following a merits hearing, the Immigration Court granted withholding of removal as to Morocco. Petitioner has appealed the decision, and his case remains pending before the Board of Immigration Appeals.

20. As a result of the grant of withholding, Petitioner cannot be removed to Morocco. Although Syria has been identified as an alternative country of removal, removal to Syria is not reasonably foreseeable due to ongoing armed conflict, the absence of a functioning and cooperative receiving government, and the lack of practical repatriation mechanisms. Recent briefings to the United Nations Security Council further confirm that the political, security, and humanitarian conditions in Syria remain fragile and unstable, underscoring the absence of any realistic pathway for removal.

21. Petitioner has no criminal history whatsoever. He has never been charged with, arrested for, or convicted of any crime in the United States or abroad.

22. On July 23, 2025, prior to the merits hearing, Petitioner moved the Immigration Court for custody redetermination.

23. On August 4, 2025, the Immigration Judge denied Petitioner’s motion for custody redetermination, concluding that the court lacked jurisdiction under INA § 235(b) and *Matter of*

1 *M-S-*, 27 I&N Dec. 509 (A.G. 2019), and held that individuals in Petitioner’s posture must
2 remain detained absent DHS parole.

3 24. As a result, Petitioner has been categorically denied any bond hearing before a neutral
4 adjudicator and remains detained under a mandatory detention framework despite the absence of
5 any realistic prospect of removal in the foreseeable future.

6 25. Petitioner’s continued detention has become prolonged and effectively indefinite, as
7 there is no identifiable timeline for removal and no viable country of removal available. Under
8 these circumstances, there is no reasonably foreseeable prospect that Petitioner will be removed
9 in the future.

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

11 26. The Court must grant the petition for writ of habeas corpus or issue an Order to Show
12 Cause (“OSC”) to Respondents “forthwith,” unless it appears from the petition that the petitioner
13 is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require
14 Respondents to file a return “within three days unless for good cause additional time, not
15 exceeding twenty days, is allowed.” *Id.*

16 27. Habeas corpus is intended to provide a prompt and effective remedy for unlawful
17 detention. As the Supreme Court has recognized, it is a “swift and imperative remedy in all cases
18 of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

19 28. The statute reflects that purpose by requiring expeditious consideration of habeas
20 petitions. Courts must give such petitions “special, preferential consideration to insure
21 expeditious hearing and determination.” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000).

22 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

23 29. For habeas claims, exhaustion of administrative remedies is prudential, not
24 jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive the
25 prudential exhaustion requirement where administrative remedies are inadequate or not
26 efficacious, pursuit of administrative remedies would be futile, irreparable injury will result, or
27 the administrative proceedings would be void. *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994,

1 1000 (9th Cir. 2004)). Petitioner respectfully submits that exhaustion should be excused here
2 because administrative remedies are futile and because his continued detention results in
3 irreparable harm.

4 30. Exhaustion would be futile. On August 4, 2025, the Immigration Judge denied
5 Petitioner's motion for custody redetermination, concluding that the court lacked jurisdiction
6 under INA § 235(b) and Matter of M-S-, 27 I&N Dec. 509 (A.G. 2019). Immigration Judges in
7 this district consistently hold that they lack authority to conduct bond hearings for individuals in
8 Petitioner's posture. ICE likewise maintains that Petitioner is subject to mandatory detention and
9 categorically ineligible for release absent parole. Under these circumstances, further pursuit of
10 administrative remedies would serve no purpose.

11 31. Petitioner's continued detention also results in irreparable harm. Each additional day
12 of confinement imposes ongoing psychological and emotional injury that cannot be remedied
13 after the fact. Courts have recognized that such harm supports waiver of prudential exhaustion in
14 habeas proceedings. See *De Paz Sales v. Barr*, No. 19-CV-07221-KAW, 2020 WL 353465, at *4
15 (N.D. Cal. Jan. 21, 2020).

16 **CLAIM FOR RELIEF**

17 **COUNT 1**

18 **Violation of the Due Process Clause of the Fifth Amendment**

19 32. Petitioner realleges and incorporates the preceding paragraphs as if fully set forth
20 herein.

21 33. The Fifth Amendment to the United States Constitution provides that "[n]o person
22 shall be deprived of life, liberty, or property, without due process of law."

23 34. "Freedom from imprisonment—from government custody, detention, or other form of
24 physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533
25 U.S. 678, 690 (2001).

26 35. Civil immigration detention is constitutionally permissible only when reasonably
27 related to legitimate and achievable governmental objectives. However, even where detention is

1 initially authorized by statute, it must remain reasonably connected to its underlying purpose and
2 may not become arbitrary or effectively indefinite.

3 36. Although *Zadvydas v. Davis* arose in the context of post-removal-order detention, its
4 core constitutional principle governs here: civil immigration detention is permissible only so
5 long as it bears a reasonable relation to the Government's ability to effectuate removal. Where,
6 as here, there is no reasonably foreseeable country of removal, continued detention no longer
7 serves its regulatory purpose and becomes arbitrary and constitutionally impermissible.

8 37. Petitioner does not argue that detention has become unconstitutional solely due to its
9 length. Rather, detention has become unconstitutional because it is no longer tethered to any
10 realistic prospect of removal and there is no reasonable end in sight. Withholding of removal has
11 been granted as to Morocco, and removal to Syria is not reasonably foreseeable due to ongoing
12 armed conflict and the absence of practical repatriation mechanisms.

13 38. As a result, the government's continued detention of Petitioner no longer serves any
14 legitimate regulatory purpose. Under these circumstances, continued confinement is arbitrary and
15 excessive in relation to any permissible governmental objective and therefore violates the Due
16 Process Clause of the Fifth Amendment.

17 COUNT 2

18 Violation of the Immigration and Nationality Act (INA)

19 39. Petitioner incorporates by reference the allegations of fact set forth in the preceding
20 paragraphs.

21 40. Although 8 U.S.C. § 1225(b) authorizes detention of applicants for admission during
22 removal proceedings, that authority is not without limits and must be exercised in a manner
23 consistent with its statutory purpose.

24 41. The purpose of detention under § 1225(b) is to facilitate inspection, adjudication of
25 claims for relief, and, where appropriate, removal. Where detention no longer serves those
26 purposes, its continued application falls outside the scope of the authority granted by Congress.

42. Here, Petitioner's continued detention no longer serves any of those statutory purposes. Withholding of removal has been granted as to Morocco, and removal to Syria is not reasonably foreseeable, and there is no reasonable end in sight to Petitioner's detention. As a result, continued detention does not meaningfully advance removal or adjudication and exceeds the scope of detention contemplated by § 1225(b).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A) Assume jurisdiction over this matter;

B) Direct Respondents to refrain from transferring Petitioner outside the jurisdiction of this District while these proceedings are pending;

C) Declare that Petitioner's continued detention violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment;

D) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately; or, in the alternative, order Respondents to provide Petitioner with a prompt bond hearing before a neutral decision maker at which the Government bears the burden of proving flight risk or danger by clear and convincing evidence, and order Petitioner's release if such a hearing is not provided within a reasonable period of time;

E) Award Petitioner attorney's fees and costs, including under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, to the extent applicable, and on any other basis authorized by law;

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

Respectfully submitted,

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Dated: April 23, 2026

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am counsel for Petitioner in this action. The factual allegations contained in the Petition are based on information provided to me by Petitioner during a personal interview at the Otay Mesa Detention Center, as well as my review of relevant immigration records, including the Notice to Appear, the Immigration Judge's custody redetermination order, and the Immigration Judge's decision granting withholding of removal.

Based on those communications and records, and to the best of my knowledge, information, and belief, the factual statements in the Petition accurately reflect Petitioner's circumstances and the procedural history of his detention.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

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Dated: April 23, 2026