

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF GEORGIA
Middle Division

Haqmal Amalzai



Petitioner

V.

JASON STREEVAL, Warden
Stewart County
Immigration Processing Center

MARK WAYNE MULLIN,
Secretary of the
Department of Homeland Security;

TODD BLANCHE,
Acting Attorney General of The
United States;

TODD M. LYONS,
Acting Director of U.S.
Immigration and Customs Enforcement;
and

MARY DE ANDA-YBARRA,
Director, El Paso ICE Field Office

Respondents.

**VERIFIED PETITION FOR A WRIT OF
HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241, AND
REQUEST FOR ORDER TO SHOW
CAUSE**

Petitioner, **Haqmal Amalzai**

(A# ) by and through undersigned
counsel, petitions this Court for a writ of habeas
corpus under 28 U.S.C. § 2241 to remedy his
unlawful detention in violation of the
Constitution and laws of the United States.

INTRODUCTION

Petitioner Haqmal Amalzai is currently detained by the United States government without any meaningful opportunity to seek release. Petitioner is an Afghan national with no criminal history who has lived in the United States since his entry on September 23, 2021, was admitted and paroled as OAR as evidenced through his i-94 *See, Ex. 1, Detainee I-94.*

On April 12, 2026, Petitioner presented himself for inspection as a returning lawful permanent resident at Charlotte Douglas International Airport, North Carolina, and was detained following an unsubstantiated allegation that a substance in his possession tested positive for THC. During inspection, officers alleged—without any confirmed laboratory analysis—that the substance tested positive for THC, a claim Petitioner disputes and maintains that the products were solely tobacco. Notably, despite this allegation, no criminal charges were filed and no criminal case has been initiated against Petitioner, raising serious questions as to the basis for his continued detention and even, his initial detention from the airport. Instead of allowing him to proceed as a lawful permanent resident, ICE officers arrested him and placed him in immigration detention and has since put him in removal proceedings. Petitioner has remained incarcerated ever since solely because the government applies a categorical policy that denies individuals like him any opportunity to seek release before an immigration judge. He is currently detained at the Stewart Detention Center in Lumpkin, Georgia, where he remains confined under a categorical “no-bond” policy that Respondents apply pursuant to the Board of Immigration Appeals’ September 5, 2025 decision in *Matter of Yajure Hurtado*.

This Petition challenges Petitioner's continued detention without any meaningful opportunity to challenge the necessity of his detention. Such detention violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution. Petitioner therefore seeks a writ of habeas corpus ordering his immediate release, or, at minimum, a prompt individualized bond hearing before a neutral immigration judge at which the government bears the burden to justify continued detention.

JURISDICTION

1. This action arises under the United States Constitution, the Immigration and Nationality Act of 1952, as amended ("INA"), 8 U.S.C. § 1101 *et seq.*, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 *et. seq.*

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under 28 U.S.C. § 2241 (habeas corpus authority); Article I, Section 9, Clause 2 of the United States Constitution (Suspension Clause), 28 U.S.C. § 1331 (federal question); and the Fifth Amendment to the United States Constitution (Due Process Clause of the U.S. Constitution).

3. This Court has authority to grant relief under 28 U.S.C. § 2241, the All Writs Act, 28 U.S.C. § 1651, and the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.* 4. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness and the constitutionality of their detention where such claims are independent of any final order of removal. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 291–995 (018); *Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346, at *1 (S.D. Tex. Oct. 7, 2025) (Rosenthal, J).

VENUE

5. Venue is proper in the district of confinement. *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004). Petitioner is currently in the custody of ICE at the Stewart Detention Center located in Lumpkin, Georgia, which is within the jurisdiction of this District. ***See, Ex. 2, DHS/ICE Online Detainee Locator information.***

6. Venue is proper in this District under 28 U.S.C. § 1391(e), because Respondents are officers, employees, or agencies of the United States, a substantial part of the events or omissions giving rise to his claims occurred in this district, and no real property is involved in this action.

REQUIREMENTS OF 28 U.S.C. § 2243

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

8. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most

9. Petitioner **Haqmal Amalzai** is a native and citizen of Afghanistan. Petitioner is currently in the physical and legal custody of Respondents at the Stewart Detention Center in Lumpkin, Georgia.

11. Respondent **Markwayne Mullin** is the Secretary of the United States Department of Homeland Security ("DHS"). In that capacity, he exercises ultimate control and supervisory authority over all components and personnel of DHS, including U.S. Immigration and Customs Enforcement ("ICE"). He is responsible for the administration and enforcement of the nation's immigration laws pursuant to 8 U.S.C. § 1103(a). Accordingly, she is the Petitioner's ultimate legal custodian, as Petitioner's detention is maintained under DHS authority.

13. Respondent **TODD M. LYONS** is the Acting Director of the U.S. Immigration and Customs Enforcement ("ICE"), a component agency within DHS. In that capacity, he exercises authority over ICE operations nationwide, including enforcement, detention, and removal functions. Accordingly, he is one of Petitioner's legal custodians, as he has direct oversight of the agency responsible for Petitioner's custody.

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Detention Center, where Petitioner is detained. Petitioner exercises day-to-day supervisory authority over custody determinations and the conditions of detention within his jurisdiction. Accordingly, she is a proper Respondent as one of Petitioner's legal custodians.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

15. Petitioner Haqmal Amalzai is a native and citizen of Afghanistan.

16. September 23, 2021 Petitioner entered the United States after being evacuated by the United States through the Operation Allied Resolute and Operation Allied Welcome programs, OAR and OAW, respectively.

17. Petitioner obtained his Green Card, or his U.S. permanent residency on May 15, 2024.

18. On May 05, 2024, U.S. Citizenship and Immigration Services ("USCIS") issued the Petitioner a Lawful Permanent Resident or a Green Card. ***See, Ex. 3, A copy of petitioner's Lawful Permanent Residency Card.***

19. Petitioner has no criminal history in the United States or anywhere else.

20. Petitioner is a resident of the State of Tennessee.

21. On April 24, 2026, after being detained, the Department of Homeland Security ("DHS") issued a Notice to Appear ("NTA") charging Petitioner with removability under INA § 212(a)(2)(A)(i)(II) Controlled Substance. ***See, Ex.***

4, Notice to Appear.

22. On December 27, 2024, the State of Tennessee issued Petitioner a Limited-Term Non-Domiciled Commercial Driver License valid through 02/12/2033. ***See, Ex. 5, Tennessee Driver License.***

23. Following his arrest, Petitioner was transferred to the Stewart Detention Center in Lumpkin, Georgia, where he remains detained.

24. Petitioner is a lawful permanent resident of the United States and petitioner possesses a

Court has long recognized that noncitizens physically present in the United States—including lawful permanent residents—are entitled to due process protections under the Fifth Amendment. See *Zadvydas v. Davis*; *Demore v. Kim*. Despite these protections, Respondents have detained Petitioner based on an unproven and uncharged allegation that he possessed a controlled substance at the airport, purportedly in violation of INA § 212(a)(2)(A)(i)(II). This detention is unlawful, unsupported by reliable evidence, and violative of due process.

25. Petitioner's background underscores the extraordinary and unjust nature of Respondents' actions. For approximately a decade, from September 17, 2010 through December 18, 2020, Petitioner faithfully served the United States Government as a Security Officer at the U.S. Department of State Annex in Afghanistan. In that role, he supported U.S. diplomatic and security operations in a high-risk environment, placing himself in danger in direct service of American personnel and national interests.

26. Letters of recommendation from the U.S. Department of State, submitted with this Petition, attest to his integrity, professionalism, and trustworthiness. Respondents' decision to detain such an individual based on an unsubstantiated allegation, without meaningful process, is particularly troubling and highlights the arbitrary nature of the detention at issue. ***See, Ex. 6, Letters of Support US Department of State and Certificate.***

27. Respondents' reliance on INA § 212(a)(2)(A)(i)(II) is legally deficient. That provision renders a noncitizen inadmissible only where there is either a qualifying conviction for a controlled substance offense or a legally valid admission to having committed the essential elements of such an offense. Here, there is neither.

28. Petitioner has not been charged with or convicted of any criminal offense, and he has made no knowing or voluntary admission that would satisfy the stringent requirements governing admissions under immigration law. See *Matter of K*, 7 I&N Dec. 594 (BIA 1957); *Matter of G-M-*, 7 I&N Dec.

inadmissibility under this provision based solely on an unproven allegation or preliminary testing result. See Matter of K; Matter of G-M-. Here, there is neither a conviction nor a valid admission. Petitioner has not been charged criminally, has not been convicted, and has consistently denied possessing any controlled substance. Respondents instead rely on an unverified allegation that tobacco in Petitioner's possession tested positive for THC—an assertion unsupported by any reliable evidentiary record. The government lacks both a qualifying conviction and any legally valid admission, and therefore cannot meet the evidentiary threshold required to sustain a controlled substance ground.

29. The government's failure to pursue criminal charges is not merely incidental; it is highly probative of the weakness of its claim. If Respondents genuinely possessed credible evidence of a controlled substance offense, criminal prosecution would have been the natural and expected course. The absence of such prosecution strongly suggests that the evidence is insufficient to meet even the lower thresholds of criminal probable cause, let alone the heightened scrutiny required when depriving a lawful permanent resident of liberty. Courts have repeatedly cautioned against allowing immigration detention to become a substitute for criminal processes where the government lacks sufficient proof. See, e.g., *Padilla v. Kentucky* (recognizing the severe consequences of immigration penalties tied to criminal conduct).

30. The evidentiary basis for detention is further undermined by the apparent reliance on preliminary or field testing for THC. Such tests are widely recognized as unreliable and prone to false positives, and they do not constitute definitive proof of the presence of a controlled substance. Respondents have produced no confirmatory laboratory analysis, no documentation establishing chain of custody, and no forensic report capable of withstanding scrutiny. Detention predicated on such scientifically questionable evidence falls far short of the "reasonable, substantial, and probative evidence" required in immigration proceedings, let alone the constitutional standards governing deprivation of liberty.

31. Due process requires, at a minimum, notice and a meaningful opportunity to be heard. Here, Petitioner has been detained based on untested allegations without any evidentiary hearing, without the ability to cross-examine the government's purported evidence, and without access to the underlying materials necessary to mount a defense. Such procedures are constitutionally inadequate, particularly where the individual detained is a lawful permanent resident with significant ties to the United States and history of working for US interests abroad.

32. Respondents also appear to improperly treat Petitioner as subject to inadmissibility grounds without satisfying the statutory requirements applicable to returning lawful permanent residents. Under INA § 101(a)(13)(C), a lawful permanent resident is not regarded as seeking admission unless specific, narrowly defined exceptions apply. See *Vartelas v. Holder*. Even where such an exception is invoked, the government bears the burden of establishing the underlying conduct. Here, Respondents have failed to meet that burden, relying instead on speculation and unverified allegations.

33. To the extent Respondents seek to justify detention under mandatory detention provisions, such reliance is misplaced. Mandatory detention under 8 U.S.C. § 1226(c) applies only where there is a qualifying offense supported by sufficient evidence. The Supreme Court in *Demore v. Kim* upheld mandatory detention in limited circumstances involving clear and undisputed criminal convictions. That rationale does not extend to cases, such as this one, where detention is based solely on unproven allegations. Extending mandatory detention to such circumstances would raise serious constitutional concerns.

34. The Supreme Court has made clear that civil detention must bear a reasonable relation to its purpose and must not become arbitrary or punitive. See *Zadvydas v. Davis*. Here, Respondents' actions amount to precisely the kind of arbitrary detention the Constitution forbids. There is no reliable evidence supporting the alleged violation, no meaningful process, and no legitimate justification for continued confinement.

35. Respondents' proposed approach reflects an understanding of the safeguards of both the criminal and immigration systems. By declining to prosecute while simultaneously imposing severe immigration detention, Respondents seek to deprive Petitioner of liberty without satisfying the evidentiary standards required in either forum. This Court should not permit such a circumvention of fundamental legal protections.

36. In sum, Petitioner's detention rests on an unsubstantiated allegation unsupported by a conviction, a valid admission, or reliable evidence. As a lawful permanent resident and a longtime supporter of United States government operations abroad—Petitioner is entitled to the full protections of due process. Respondents have failed to meet their burden under the Constitution and governing statutes. Accordingly, the Court should grant the writ and order Petitioner's immediate release.

37. Petitioner's continued detention has caused significant harm to him and his family and which has caused substantial economic, emotional, and psychological hardship.

38. Petitioner has not been afforded any meaningful opportunity to request release from detention before a neutral decisionmaker.

39. Upon information and belief, and based on current ICE practice, no warrant for his arrest, as required under 8 U.S.C. Section 1226(a), has been properly issued prior to Petitioner's arrest, making his current detention by ICE illegal.

40. On September 5, 2025, the Board of Immigration Appeals ("BIA") issued its precedential decision in *Matter of Yajure Hurtado*, addressing the availability of bond for certain categories of noncitizens in immigration custody. Although that decision involved individuals who entered without inspection, Respondents have applied a similarly categorical "no-bond" approach here to deny Petitioner any opportunity for release. Petitioner is a lawful permanent resident who was previously admitted to the United States after inspection. As a returning LPR, he is not properly treated as an applicant for admission absent a valid § 101(a)(13)(C) exception, which the government has not established. The government's reliance on a categorical denial of bond in this

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under the immigration statutes and the Constitution. Absent legally sufficient evidence of a qualifying offense, Respondents cannot rely on this allegation to justify either removability or the deprivation of Petitioner's liberty through continued detention.

41 Prior to that decision, the BIA had long recognized that immigration judges possessed discretionary authority under INA § 236(a) to grant release on bond following an individualized custody hearing, absent flight risk or danger. *See Matter of Akhmedov*, 29 I. & N. Dec. 166 (BIA June 30, 2025).

42. Consistent with that understanding, for decades ICE likewise treated noncitizens apprehended from within the United States as detained pursuant to 8 U.S.C. § 1226(a), and therefore eligible for individualized bond determinations. *Rocha Rosado v. Figueroa*, No. CV 25-02157, 2025 WL 2337099 (D. Arizona Aug. 11, 2025).

43. That longstanding interpretation abruptly changed on July 8, 2025, when ICE adopted a new interpretation of the detention statutes through internal guidance reclassifying most noncitizens who entered without inspection as subject to mandatory detention under 8 U.S.C. § 1225 rather than discretionary detention under § 1226(a).¹

44. As a direct result of *Matter of Yajure Hurtado* and Respondents' application of that decision, Petitioner is being detained under a categorical no-bond rule that treats him as ineligible for an individualized bond hearing.

45. Petitioner's continued detention is not the result of any individualized determination that he is a danger to the community or a flight risk. Instead, his detention flows solely from Respondents' application of a categorical no-bond rule that denies him any opportunity to seek release before an immigration judge.

46. Although the Fifth Circuit has recently held that statutory challenges to this interpretation are

¹ ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission, 07/08/2025, AILA Doc. No. 25071607, Available at: <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission> (last accessed on February 6, 2026).

fore Case 4:26-cv-00790-CDL v. Bendi, Document 16, 2026 WL 05706726 (5th Cir. Feb. 06, 2026), that decision expressly did not address whether such detention violates the Due Process Clause. Petitioner therefore raises a constitutional challenge to the lack of any individualized custody determination.

47. On February 18, 2026, the United States District Court for the Central District of California vacated *Matter of Yajure Hurtado* under the Administrative Procedure Act, concluding that the decision merely adopted the same detention policy previously set aside by the court. *Maldonado-Bautista v. Santacruz*, No. 5:25-cv-01873 (C.D. Cal. Feb. 18, 2026). The court held that the BIA's interpretation was "functionally equivalent" to the vacated DHS policy and therefore contrary to law.

48. This Petition for Habeas Corpus followed.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

49. There is no statutory requirement that a noncitizen exhaust administrative remedies before challenging immigration detention through a petition for writ of habeas corpus. Congress imposed an exhaustion requirement only for judicial review of final orders of removal. *See* 8 U.S.C. § 1252(d)(1); *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007) ("Under the INA, exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal.").

50. The Supreme Court has further recognized that exhaustion is not required where a plaintiff "may suffer irreparable harm if unable to secure immediate judicial consideration of [the] claim." *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). Continued civil detention without any opportunity to seek release before a neutral decisionmaker constitutes an ongoing and irreparable deprivation of physical liberty.

51. Even where exhaustion is considered as a prudential matter, it is unnecessary when pursuit of

issue. *McCarthy v. Madigan*, 503 U.S. 140, 147-48 (1992) (holding that an administrative remedy is inadequate when it “lacks institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute” or where the “challenge is to the adequacy of the agency procedure itself”). Moreover, the administrative immigration courts lack authority to adjudicate constitutional challenges to the legality of detention, making habeas corpus the only meaningful forum in which Petitioner may raise his due process claim.

52. In this case, exhaustion would be futile, because the Board of Immigration Appeals (“BIA”) has issued a binding precedential decision in *Matter of Yagure Hurtado*, 29 I&N Dec. 216 (BIA 2025), holding that immigration judges lack authority to grant bond to noncitizens deemed subject to detention under 8 U.S.C. § 1225(b)(2)(A). As a result of that decision, immigration judges have indicated that they lack jurisdiction to conduct bond hearings for individuals in Petitioner's position. Because immigration judges and the BIA are bound by that precedential decision, no administrative process exists through which Petitioner could obtain the relief sought. Accordingly, requiring exhaustion would serve no purpose other than delaying judicial review of Petitioner’s ongoing deprivation of liberty.

LEGAL FRAMEWORK

DUE PROCESS CLAUSE

53. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “The Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified). “Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects.” *Id.* at 690.

54. The Due Process Clause limits the government's authority to deprive a person of physical liberty

and *Casper*, 426 U.S. 1079, 1081 (1975) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976)). A deprivation of liberty is not constitutionally protected if it is not a compelling government interest. *See, Reno v. Flores*, 507 U.S. 292, 301-02 (1993) (holding that due process "forbids the government to infringe certain 'fundamental' liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest")

55. In the immigration context, the Supreme Court has recognized only two legitimate purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690, *Demore*, 538 U.S. at 528. Civil immigration detention is therefore justified only by the government's regulatory interests in preventing flight and protecting the community. *Zadvydas*, 533 U.S. at 690. In the present case, Petitioner is a U.S. permanent resident and is neither a flight risk or a danger to the community.

56. Because immigration detention is civil rather than punitive, the government must justify confinement based on an individualized determination that detention serves the regulatory purposes of preventing flight or protecting the community. *Zadvydas*, 533 U.S. at 690–91. Detention that is not reasonably related to these purposes or that is imposed categorically without individualized consideration raises serious due process concerns.

57. The Constitution requires some meaningful process through which a detainee may challenge the government's continued deprivation of his liberty. Courts evaluating procedural due process challenges to immigration detention routinely apply the *Mathews v. Eldridge* framework to determine whether additional procedural safeguards are required to protect a detainee's liberty interest. *See, e.g., Jennings v. Rodriguez*, 138 S. Ct. 830, 852 (2018) (recognizing that detainees may raise constitutional challenges to prolonged immigration detention).

58. Procedural due process requires, at minimum, "the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). In determining what process is due, courts consider: (1) the private interest affected by the government action; (2) the risk of an erroneous deprivation of that interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest, including the fiscal and administrative

59. Even where the government asserts statutory authority for detention, the Due Process Clause independently limits the circumstances under which the government may deprive a person of physical liberty. See *Zadvydas*, 533 U.S. at 690 (explaining that immigration detention must remain consistent with constitutional limitations).

DETENTION PROVISIONS UNDER THE IMMIGRATION AND NATIONALITY ACT

60. The Immigration and Nationality Act ("INA"), codified at Title 8 of the United States Code, Section 1101 *et seq.*, governs the authority of the United States Government to detain noncitizens during removal proceedings.

61. The INA authorizes the detention of noncitizens under four distinct statutory provisions:

- 1) **Discretionary Detention. Section 236(a) of the INA, 8 U.S.C. § 1226(a)**, generally governs the detention of noncitizens placed in regular, non-expedited removal proceedings and permits the release of noncitizens not subject to mandatory detention on bond or on their own recognizance.
- 2) **Mandatory Detention of Certain Criminal Noncitizens. Section 236(c) of the INA, 8 U.S.C. § 1226(c)**, generally requires the mandatory detention of noncitizens who are removable on the basis of specified criminal or terrorist-related grounds after their release from criminal custody.
- 3) **Mandatory Detention of "Applicants for Admission". Section 235(b) of the INA, 8 U.S.C. § 1225(b)**, generally mandates the detention of certain noncitizen applicants for admission, including noncitizens arriving at a port of entry and those who have not been admitted or paroled into the U.S. and are apprehended shortly after entering the country.
- 4) **Post-Removal-Order Detention. Section 241(a) of the INA, 8 U.S.C. § 1231(a)**, generally requires the detention of noncitizens subject to a final removal order during the 90-day removal period and authorizes continued detention of certain noncitizens beyond that period. See 8 U.S.C. § 1231(a)(2), (6).

62. This case concerns the detention provisions at 8 U.S.C. §§ 1225(b) and 1226(a). Both provisions were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104-208, Div. C, §§ 302-03, 110 Stat. 33009, 546 3009-582

CLAIMS FOR RELIEF

CLAIM ONE

**VIOLATION OF THE DUE PROCESS CLAUSE
OF THE FIFTH AMENDMENT OF THE U.S. CONSTITUTION
(UNCONSTITUTIONAL DETENTION)**

63. Petitioner realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein.

64. The Fifth Amendment's Due Process Clause protects all persons within the United States from arbitrary deprivation of liberty, regardless of their immigration status. *Zadvydas*, 533 U.S. at 693; *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Freedom from physical restraint "lies at the heart of the liberty that the Due Process Clause protects." *Zadvydas*, 533 U.S. at 690.

65. There is no dispute that Respondents have deprived Petitioner of his liberty. Petitioner is detained without any meaningful opportunity to seek release or obtain an individualized determination of whether his detention is justified.

A. Constitutional Limits on Civil Immigration Detention

66. Civil immigration detention is constitutional only when it bears a reasonable relationship to a legitimate governmental purpose. *Zadvydas*, 533 U.S. at 690–91; *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Brown v. Taylor*, 911 F.3d 235, 241 (5th Cir. 2018). In the immigration context, the Supreme Court has recognized only two legitimate purposes for civil detention: preventing flight and protecting the community from danger. *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 528 (2003).

67. Petitioner's continued detention bears no reasonable relationship to either purpose. Petitioner is categorically denied any bond hearing solely based on *Matter of Yajure Hurtado*, not because of

² Section 1226(a) was most recently amended in 2025 by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

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imposed by categorical rule rather than individualized justification is arbitrary and violates due process.

68. Respondents have made no showing—nor could they—that Petitioner cannot be safely released subject to reasonable conditions. Where detention is not justified by flight risk or dangerousness, continued confinement is unconstitutional. *Zadvydas*, 533 U.S. at 690.

B. Procedural Due Process

69. Procedural due process requires, at minimum, “the opportunity to be heard at a meaningful time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Whether the procedures provided satisfy due process is determined by balancing: (1) the private interest affected; (2) the risk of erroneous deprivation under existing procedures and the value of additional safeguards; and (3) the government’s interest. *Id.* at 335. Applying these factors here demonstrates that due process requires an individualized custody determination.

70. The private interest at issue, the right to be free from physical detention, strongly favors Petitioner. *Zadvydas*, 533 U.S. at 690. (“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects.”)

71. The risk of erroneous deprivation is extreme where, as here, Petitioner is categorically denied any opportunity to demonstrate he is neither a flight risk nor a danger to the community. In fact, Petitioner has a green card and was placed into removal proceedings only after he was unlawfully detained.

72. The government’s interest does not justify the complete denial of an individualized custody determination. Providing an individualized custody determination imposes minimal administrative burden and directly serves the government’s legitimate interests in ensuring appearance and public safety. By contrast, categorical detention without a hearing wastes governmental resources and forces unnecessary judicial intervention through habeas proceedings.

C. Application of *Matter of Yajure Hurtado*

73. Based on the Due Process Clause of the Constitution, the opportunity to be heard is a fundamental right. In *Matter of Yajure Hurtado*, Respondents have eliminated the individualized process required by the Due Process Clause. Detention imposed without any opportunity to be heard, and without any individualized justification, is unconstitutional as applied to Petitioner.

74. Petitioner's continued detention therefore violates both substantive and procedural due process under the Fifth Amendment.

75. Petitioner is entitled to immediate relief in the form of an order requiring Respondents to immediately release Petitioner from custody, or in the alternative, to provide a prompt bond hearing before a neutral immigration judge.

76. To satisfy due process, any bond hearing ordered by this Court must place the burden on the government to justify continued detention. *Loa Caballero v. Baltazar*, No. 1:25 cv 03120 NYW, 2025 WL 2977650, at *5-6 (D. Colo. Oct. 22, 2025); *L.G. v. Choate*, 744 F. Supp. 3d 1172, 1185 (D. Colo. 2024); *Diaz-Ceja v. McAleenan*, No. 19-cv-00824-NYW, 2019 WL 2774211, at 12 (D. Colo. July 2, 2019). Where the government seeks to deprive an individual of physical liberty through civil detention, due process requires the government to demonstrate that detention is necessary to serve a legitimate purpose. See *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001); *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Allocating the burden to the government is essential to reduce the risk of erroneous deprivation of liberty and to ensure that detention is not imposed arbitrarily.

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WHEREFORE, Petitioner, Haqmal Amalzai, respectfully requests that this Honorable Court grant the following relief.

A. Exercise jurisdiction over this action pursuant to 28 U.S.C. § 2241; B. Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243, directing Respondents to show cause, within a time set by the Court, why this Petition should not be granted; C. Enjoin Respondents from removing Petitioner from the United States or transferring him outside this District while this action is pending;

D. Declare that Respondents' continued detention of Petitioner violates the Due Process Clause of the Fifth Amendment;

E. Issue a Writ of Habeas Corpus ordering Respondents to promptly and immediately release Petitioner from ICE custody or, in the alternative, order Respondents to provide Petitioner with a prompt individualized bond hearing before a neutral immigration judge within a time certain set by this Court;

F. Order that, at any bond hearing conducted pursuant to this Court's Order, the government bears the burden of proving that continued detention is justified by flight risk or danger to the community;

G. Order Respondents, upon Petitioner's release from custody, to promptly return all personal property and identity documents seized in connection with his detention to the extent such items are in Respondents' possession, custody, or control, including but not limited to his driver's license, employment authorization document, and any other government-issued identification;

H. Award Petitioner reasonable attorneys' fees and costs to the extent permitted by law, including under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412; and

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

Date: May 6, 2026

Respectfully Submitted,

/s/ Alexis Ruiz

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Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner Haqmal Amalzi as his attorney. I have discussed with Mr. Amalzi the events described in this Petition and have examined all documents referenced herein. On the basis of those discussions and upon my review of those documents, on information and belief, I hereby verify that the factual statements made in the forgoing Verified Writ of Habeas Corpus under 28 U.S.C. § 2241 are true and correct to the best of my knowledge.

Date: May 6, 2026

/s/ Humira Noorestani

Humira Noorestani (*pro hac vice forthcoming*) :
attorney@humiralaw.com

Attorney for Petitioner