

Eduardo (Ed) Perez
(California Bar ID: 354544)
(Arizona Bar ID: 031187)
Law Offices of Ed Perez, P.C.
1079 Third Ave., Unit D
Chula Vista, California 91911
Telephone/Fax: (619) 913-7003
ed@edperezlaw.com
Attorney for Petitioner in Pro Bono

May 26, 2026

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

Adrien JAFARI,

Petitioner,

v.

Christopher J. LAROSE, in his official capacity
as Warden of Otay Mesa Detention Center;
Daniel A. BRIGHTMAN, in his official capacity as
San Diego Field Office Director (FOD), Immigration
and Customs Enforcement (ICE) Enforcement and
Removal Operations (ERO); Todd LYONS, in his
official capacity as Acting Director of ICE; and
Markwayne MULLIN, in his official capacity as
Secretary of Homeland Security, Todd BLANCHE,
U.S. Attorney General; ICE;
DEPARTMENT OF HOMELAND
SECURITY (DHS),

Respondents.

File No: '26CV3222 CAB MSB



**PETITION FOR WRIT
OF HABEAS CORPUS**

I. INTRODUCTION

1. Petitioner Adrien JAFARI (“Mr. JAFARI”) is a 29-year-old Afghan national who last entered the United States on or around May 10, 2025. Mr. JAFARI was detained by ICE officials in Dulzura, California and transported to the San Diego Central Processing Center for further processing.¹ Mr. JAFARI was then sent to Otay Mesa Detention Center on May 12, 2025, where he was referred to USCIS for a Convention Against Torture (“CAT”) assessment. MR. JAFARI was interviewed by USCIS on May 20, 2025, where a USCIS officer determined that MR. JAFARI “established it is more likely than not that he will be tortured in Afghanistan².” Mr. JAFARI’s detention continued for almost **two months** before the Department of Homeland Security (“DHS”) took the next important step by placing Mr. JAFARI in removal proceedings with the issuance of a Notice to Appear.

2. Mr. JAFARI was issued a Notice to Appear (“NTA”)³ on July 30, 2025. Mr. JAFARI was charged as an “alien present without being admitted or paroled, or who has arrived in the United States at a time or place other than as designated by the Attorney General” under 8 U.S.C. § 1226.

3. The government has not justified why Mr. JAFARI remains detained after more than **one year**.⁴

4. Mr. JAFARI therefore seeks a writ of habeas corpus directing his

¹ Exhibit A: DHS Form I-213.

² Exhibit B: USCIS Convention Against Torture Assessment

³ Exhibit C: DHS Form I-862, “Notice to Appear”, dated July 30, 2025.

⁴ *Id.*

immediate release, or in the alternative, a custody redetermination hearing in Immigration Court based on his prolonged detention.

5. Mr. JAFARI is represented here in Pro Bono by undersigned Counsel.

II. VENUE AND JURISDICTION

6. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution (Suspension Clause), as Mr. JAFARI is presently in custody under the authority of the United States and challenging his detention as in violation of the Constitution, laws, or treaties of the United States.

7. The federal district courts have jurisdiction under Section 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).

8. Venue is proper because Mr. JAFARI is detained in the Otay Mesa Detention Center, within the San Diego Division, and Christopher J. LAROSE, in his official capacity as Warden of Otay Mesa Detention Center; and Daniel A. BRIGHTMAN, in his official capacity as San Diego Field Office Director (AFOD), as his immediate custodians. *See* 28 U.S.C. §§ 2241(d), 1391(e).

III. PARTIES

9. Petitioner, Mr. JAFARI, is a 29-year-old Afghan national being held in San Diego, California. He is currently detained by Respondents at the Otay Mesa Detention Center in San Diego, California, pending removal proceedings.

10. Respondent Christopher J. LAROSE is the Warden of Otay Mesa

Detention Center. Respondent LAROSE is responsible for the operation of the Detention Center where Mr. JAFARI is detained. As such, Respondent LAROSE has immediate physical custody of the Petitioner. He is being sued in his official capacity.

11. Daniel A. BRIGHTMAN, in his official capacity as San Diego Field Office Director, ICE-ERO. Respondent BRIGHTMAN is responsible for the oversight of ICE operations at the Otay Mesa Detention Center. Respondent BRIGHTMAN is being sued in his official capacity.

12. Respondent Todd LYONS is the Acting Director of ICE. Respondent LYONS is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including immigrant detention. As such, Respondent LYONS is a legal custodian of Mr. JAFARI and is being sued in his official capacity.

13. Respondent Markwayne MULLIN is the Secretary of the Department of Homeland Security ("DHS"). As Secretary of DHS, Secretary MULLIN is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary MULLIN is being sued in his official capacity.

IV. EXHAUSTION OF REMEDIES

14. No statutory exhaustion requirement applies. *See* 8 § U.S.C. 2241; *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). Therefore, exhaustion is not jurisdictionally required.

15. Therefore, Mr. JAFARI has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

V. STATEMENT OF FACTS

16. DHS detained Mr. JAFARI under 8 U.S.C. § 1226(a) / INA 236(a) – as an alien present without being admitted or paroled, or who has arrived in the United States at a time or place other than as designated by the Attorney General.

17. Mr. JAFARAI has a strong form of relief via asylum, on account of a well-founded fear of persecution based on MR. JAFARI's sexuality. Additionally, a USCIS officer deemed it would be more likely than not that Mr. JAFARI would be tortured if he were returned to Afghanistan⁵.

18. Mr. JAFARI's lack of criminal history demonstrates he poses no reasonable risk to public safety.

19. Mr. JAFARI has 1) no prior immigration violations, and 2) he poses no risk of absconding given that he has a strong form of relief via his pending asylum claim, which is incentive to appear for his Immigration Court proceedings in the future.

20. Mr. JAFARI's Individual Merits hearing is scheduled for June 9, 2026. Mr. JAFARI would be detained OVER ONE YEAR at the time of his scheduled merits hearing.

21. This prolonged detention has caused Mr. JAFARI an extreme decline in his mental health.

VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

22. Habeas corpus relief extends to a person "in custody under or by color of the authority of the United States" if the person can show he is "in custody in violation

⁵ See Exhibit B.

of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241 (c)(1), (c)(3); see also Antonelli v. Warden, U.S.P. Atlanta, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner’s claims are proper under 28 U.S.C. section 2241 if they concern the continuation or execution of confinement).

23. “[H]abeas corpus is, at its core, an equitable remedy,” Schlup v. Delo, 513 U.S. 298, 319 (1995), that “[t]he court shall ... dispose of the matter as law and justice require,” 28 U.S.C. § 2243. “[T]he court’s role was most extensive in cases of pretrial and noncriminal detention.” Boumediene v. Bush, 553 U.S. 723, 779–80 (2008). “[W]hen the judicial power to issue habeas corpus properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner’s release.” *Id.* at 787.

VII. CAUSES OF ACTION

COUNT ONE (PROCEDURAL DUE PROCESS)

24. Petitioner incorporates paragraphs 1 through 23 as if fully set out herein.

25. The Fifth Amendment forbids deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision-maker. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” Zadvydas v. Davis, 533 U.S. 678, 698 (2001); Trump v. J. G. C., 604 U.S. 670, 673 (2025)(“The

Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.”).

26. Applying *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001), Petitioner’s liberty interest is paramount; the risk of deprivation of Mr. JAFARI’s interest is extreme considering the lack of a non-independent adjudicator here, the eight month detention, and the anticipated further delays caused by the possible pretermission of his asylum proceedings, and the likelihood of MR. JAFARI appealing that decision to the Board of Immigration Appeals.

27. While the government has discretion to detain individuals, this discretion is not “unlimited” and must comport with constitutional due process. See *Zadvydas*, 533 U.S. at 698.

COUNT THREE (SUBSTANTIVE DUE PROCESS)

28. Petitioner incorporates paragraphs 1 through 23 as if fully set out herein.

29. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment.

30. The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be ... deprived of life, liberty, or property, without due process of law.” U.S. CONT. amend. V. Freedom from bodily restraint is at the core of the liberty protected by the Due Process Clause. This vital liberty interest is at stake when an individual is subject to detention by the federal government.

31. Under the civil-detention framework set out in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and its progeny, the Government may deprive a non-citizen of physical liberty only when the confinement serves a legitimate purpose—such as ensuring appearance or protecting the community—and is reasonably related to, and not excessive in relation to, that purpose.

32. Given that government filings with the Immigration Court show Mr. JAFARI has no criminal history, no immigration violations, and no indications he will abscond, the Government's continued detention here serves no legitimate purpose. Thus, continued confinement bears no reasonable, non-punitive relationship to any legitimate aim and is unconstitutionally arbitrary and capricious.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release him from custody, under reasonable conditions of supervision;
- 3) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while the Petitioner remains in Respondents' custody;
- 4) Order Respondents to file a response within 3 business days of the filing of this petition;
- 5) Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing with an Immigration Judge under 8 U.S.C. § 1226(a) within seven days wherein the government bears the burden to show why Petitioner should not be released;

6) Grant any other and further relief which this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this May 26, 2026.

/s/Eduardo (Ed) Perez

Law Offices of Ed Perez

1079 Third Ave., Unit D

Chula Vista, CA 91911

CA Bar # 354544

Attorney for Petitioner in Pro Bono

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