

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION**

Abbas Kazimzada	)		
	)		
Petitioner	)	Case No.	
	)		
v.	)		
	)		
Warden of the Irwin County Detention Center, Field Office Director of Atlanta Field Office of Immigration and Customs Enforcement; Todd Lyons, acting Director of U.S. Immigration and Customs Enforcement; Markwayne Mullin, Secretary of the U.S. Department of Homeland Security; Todd Blanche, acting U.S. Attorney General; in their official capacities	)	<u>PETITION FOR WRIT OF</u>	
	)	<u>HABEAS CORPUS</u>	
	)		
	)		
Respondents.	)		

**INTRODUCTION**

1. This case challenges the unlawful detention of Abbas Kazimzada (“Petitioner”), who is currently in the custody of Immigration and Customs Enforcement (“ICE”) at Irwin County Detention Center.

2. Petitioner is a native and citizen of Azerbaijan who fled his country and entered the United States to escape persecution on or about November 17, 2024, whereupon he was taken into custody by the Department of Homeland Security (“DHS”). On the same date, DHS released Petitioner from custody on parole.

3. However, on or about May 7, 2026, during Petitioner’s visit to ICE Field Office in Charlotte, North Carolina, ICE re-detained the Petitioner without affording him an opportunity to be heard.

4. Respondents' actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act and implementing regulations, and the Administrative Procedure Act. *See Alvarez v Warden, Fed Det Ctr. Mia.*, Nos. 25-14065, 25-14075, 2026 LX 246233 (11th Cir. May 6, 2026), *J.A.M. v. Streeval*, No. 4:25-CV-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) *P R S v Streeval*, No. 4:25 cv 330 CDI., 2025 WL3269947 (M.D. Ga. Nov. 24, 2025); *Soto Hernandez v. Arnott*, No. 6:26-cv-3187 (W.D. Mo. Apr. 13, 2026)(finding that Petitioner's procedural due process rights were violated and ordering immediate release, where Petitioner was initially briefly detained upon entry and subsequently released on parole, resided in the United States for over three years while pursuing his asylum application, had no criminal history, and was re-arrested in 2026 without any opportunity to seek release); *see also Marin-Mendoza v. Arnott*, No. 6:26-cv-3185 (W.D. Mo. Apr. 15, 2026); *Orellana Mejia v. Arnott*, No. 6:26-cv-3190 (W.D. Mo. Apr. 13, 2026); *Lopez Pacheco v. Arnott*, No. 6:26-cv-3192 (W.D. Mo. Apr. 9, 2026); *Zheng v. Mullin*, No. 6:26-cv-3179 (W.D. Mo. Apr. 9, 2026); *Becerril v. Arnott*, No. 6:26-cv-03168-MDH (W.D. Mo. Apr. 8, 2026); *Medina v. Arnott*, No. 6:26-cv-03170-MDH (W.D. Mo. Apr. 3, 2026); *Cruz-Reyes v. Bondi*, No. 5:26-cv-00060 (S.D. Tx Feb. 3, 2026); *Bonilla Chicas v. Warden*, No. 5:26-CV-00131 (S.D. Tex. Feb. 20, 2026); *Destino v. FCI Berlin, Warden*, No. 1:25-cv-374-SE-AJ, 2025 WL 4010424 (D.N.H. Dec. 24, 2025).

5. Petitioner brings this action for habeas seeking relief ordering Respondents to release him; in the alternative, schedule a bond hearing before an immigration judge within five (5) days and, at such hearing, require Respondent DHS to bear the burden of proving, with the preponderance of evidence, that Petitioner is a flight risk or danger to the community.

**JURISDICTION AND VENUE**

6. This action arises under the Constitution of the United States, the Immigration Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*, and Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*

7. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

8. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

9. Venue is proper in this district under 28 U.S.C. § 1391(e)(1) because Petitioner is detained at Irwin County Detention Center, Ocilla, Georgia which is within the jurisdiction of this District. Respondent Warden of the Irwin County Detention Center is Petitioner's immediate custodian, Respondents are officers of United States agencies, and there is no real property involved in this action.

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

10. 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 order to show cause 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.* (emphasis added).

11. 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 important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

**PARTIES**

12. Petitioner has lived in the United States for over a year. Petitioner is currently detained at Irwin County Detention Center.

13. Respondent Warden, of the Irwin County Detention Center has immediate physical custody of Petitioner.

14. Respondent Field Office Director of Atlanta Field Office of U.S. ICE is sued in his official capacity as the Field Office Director of Atlanta Field Office of U.S. Immigrations and Customs Enforcement. Respondent Field Office Director of Atlanta Field Office of U.S. ICE is a legal custodian of Petitioner.

15. Respondent Todd Lyons is sued in his official capacity as the acting Director of the U.S. Immigration and Customs Enforcement. Respondent Lyons is a legal custodian of Petitioner.

16. Respondent Markwayne Mullin is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent Mullin is a legal custodian of Petitioner.

17. Respondent Todd Blanche is sued in her official capacity as the acting Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Blanche is a legal custodian of Petitioner.

**STATEMENT OF FACTS**

18. Petitioner is a 43-year-old citizen of Azerbaijan.

19. Petitioner fled Azerbaijan to seek protection in the United States.

20. On or about November 17, 2024, Petitioner came to the United States at Hidalgo, Texas Port of Entry. Respondents arrested and detained Petitioner.

21. On or about November 17, 2024, DHS issued a Notice to Appear (“NTA”) charging him with inadmissibility under 8 U.S.C. § 1182(a)(7)(A)(i)(I).

22. On or about November 17, 2024, DHS also released Petitioner from its custody on parole.

23. On or about November 19, 2024, DHS docketed the NTA with the Immigration Court and commenced the removal proceedings against the Petitioner.

24. Thereafter, Petitioner filed an Application for Asylum and Withholding of Removal (Form I-589) with the immigration court.

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

26. Upon information and belief, on July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

27. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all persons who entered the United States without inspection shall now

be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

28. On September 5, 2025, the Board of Immigration Appeals (BIA) adopted this same position in a published decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). There, BIA departed from decades-long interpretation and settled understanding of the Immigration and Nationality Act, holding that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for bond hearings before an Immigration Judge.

29. On or about May 7, 2026, following Petitioner's visit to ICE Field Office in Charlotte, North Carolina, ICE rearrested and detained Petitioner. Petitioner has remained in ICE custody since that date and is currently detained at the Irwin County Detention Center.

30. On or about May 13, 2026, Petitioner requested a custody redetermination by the Immigration Judge pursuant to 8 U.S.C. 1226(a) and 8 C.F.R. § 1236.

31. On or about May 15, 2026, Immigration Judge denied Petitioner an opportunity to be heard on his custody redetermination request finding that Immigration Judge has “[n]o jurisdiction” because “[Petitioner] is an Arriving Alien.”

32. During his time in the United States, Petitioner has maintained lawful employment, resided at a stable and verifiable address, and established significant community ties in the United States.

33. Petitioner has substantially complied with the requirements in his removal proceedings and demonstrated cooperation with immigration authorities.

34. Petitioner has no criminal history in the United States.

### **LEGAL FRAMEWORK**

35. Immigration detention is a form of civil confinement that “constitutes a significant deprivation of liberty that requires due process protection” *Addington v Texas*, 441 U.S. 418, 425 (1979).

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

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

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

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

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

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

### **EXHAUSTION**

42. There is no requirement to exhaust, because no other forum exists in which Petitioner can raise the claims herein. Prudential exhaustion is not appropriate where agency expertise does not make agency consideration necessary to generate a proper record and reach a proper decision, relaxation of the requirement would not encourage the deliberate bypass of the administrative scheme, and administrative review is not likely to allow the agency to correct its own mistakes and to preclude the need for judicial review. Prudential exhaustion is also not appropriate where a petitioner will “suffer irreparable harm if unable to secure immediate judicial consideration of [their] claim.” *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). There is also no statutory exhaustion requirement prior to challenging the constitutionality of an arrest or detention under the Administrative Procedure Act.

43. Therefore, the Court should consider the merits of the Petition.

### **CLAIMS FOR RELIEF**

#### **COUNT ONE**

#### **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A), and Violation of 8 U.S.C. §1226(a), 8 C.F.R. §236(d)**

44. The allegations in the above paragraphs are realleged and incorporated herein.

45. The Eleventh Circuit Court of Appeals held that noncitizens who were not actively pursuing lawful entry are not subject to mandatory detention under § 1225(b)(2)(A) and are eligible for bond under § 1226. *Alvarez v. Warden, Fed. Det. Ctr. Mia.*, Nos. 25-14065, 25-14075, 2026 LX 246233 (11th Cir. May 6, 2026).

46. Indeed, 8 U.S.C. §1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge. See 8 U.S.C. § 1229a. Individuals in § 1226 detention are generally entitled to a bond hearing at the outset of their detention. See 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention. See 8 U.S.C. § 1226(c).

47. Secondly, the INA provides mandatory detention for noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under §1225(b)(2).

48. Lastly, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. See 8 U.S.C. § 1231(a)-(b).

49. The detention provisions at § 1226(a) and § 1225(b)(2) 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. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

50. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). See *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

51. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many

more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a)(1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

52. Congress recently reaffirmed this understanding with the enactment of Laken Riley Act, which added language to 8 U.S.C. 1226(c) that directly references people who have entered without inspection or who are present without authorization. Pursuant to these amendments, noncitizens charged as inadmissible under INA § 212(a)(6)(A) (the inadmissibility ground for entry without inspection) or INA § (a)(7)(A) (the inadmissibility ground for lacking valid documentation to enter the United States) and who have been arrested, charged with, or convicted of new certain crimes (not previously covered by INA § 236(c)) are now subject to § 1226(c)’s mandatory detention provisions. See INA § 236(c)(1)(E). By including such individuals under INA § 236(c), Congress reaffirmed that § 236(a) covers noncitizens who are not subject to section (c) but are charged as removable under § 212(a)(6)(A) or 212(a)(7). *Gieg v. Howarth*, 244 F.3d 775, 776 (9th Cir. 2001) (“[w]hen Congress acts to amend a statute, [courts] presume it intends its amendment to have real and substantial effect.”).

53. Upon information and belief, on July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

54. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless

of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades

55. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). There, BIA departed from decades-long interpretation and settled understanding of the Immigration and Nationality Act, holding that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for bond hearings before an Immigration Judge.

56. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

57. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation.

58. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

59. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a).

60. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's

borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v Rodriguez*, 583 U.S. 281, 287 (2018).

61. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

62. Similarly, the mandatory detention provision of § 1225(b)(1) does not apply to the individuals like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

63. Moreover, the mandatory detention provision of § 1225(b)(1) does not apply to individuals like Petitioner, who have not been subjected to the credible interview proceedings under § 1225(b)(1).

64. Furthermore, the mandatory detention provision of § 1225(b)(1) does not apply to the individuals like Petitioner, who are in the removal proceedings pursuant to § 1229a.

65. For these reasons, Petitioner’s detention violates 5 U.S.C. § 706(2)(A), 8 U.S.C. § 1226(a), and 8 C.F.R. § 236(d).

## COUNT TWO

### **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A), and Abuse of Discretion Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

66. The allegations in the above paragraphs are realleged and incorporated herein.

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

68. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the

product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs Ass’n of U.S., Inc v State Farm Mut Auto Ins Co*, 463 U.S. 29, 43 (1983)).

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

70. By categorically revoking Petitioner’s release without consideration of his individualized facts and circumstances, Respondents have violated the APA.

71. By detaining the Petitioner categorically, Respondents have further abused their discretion because there have been no changes to his facts or circumstances since the agency made its initial custody determinations that support the revocation of his release from custody.

72. For these reasons, Petitioner’s detention violates 5 U.S.C. § 706(2)(A), 8 U.S.C. § 1226(b), and 8 C.F.R. § 1236.1(c)(9).

### **COUNT THREE**

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

#### **Not in Accordance with Law and in Excess of Statutory Authority**

#### **Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9), and 8 U.S.C. § 1182(d)(5)(A)**

73. The allegations in the above paragraphs are realleged and incorporated herein.

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

75. 8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may revoke a bond or parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen under the initial warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that such revocations of

release from custody may only be carried out in the “discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign).”

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

77. On information and belief, DHS has revoked or is revoking Petitioner’s prior custody determination as a result of a categorical policy prepared by and implemented by unidentified government officials in Washington D.C., not through the individual exercise of discretion required by law or by the individuals enumerated by regulation to do so.

78. Likewise, 8 U.S.C. § 1182(d)(5)(A) authorizes Respondents to terminate Petitioner’s parole only on the ground that “the purposes of such parole [ ], in the opinion of the Secretary of [DHS], have been served.” However, Respondents revoked Petitioner’s parole as an extension of a categorical policy determination.

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

**COUNT FOUR**  
**Violation of Fifth Amendment Right to Substantive Due Process**

80. The allegations in the above paragraphs are realleged and incorporated herein.

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

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

83. Here, Petitioner is challenging Respondents’ unlawful custody determination that Petitioner is subject to detention under 8 U.S.C. §1225(b) and is ineligible for bond, which violates Petitioner’s right to substantive due process of law afforded him through the Fifth Amendment to the United States Constitution.

84. For these reasons, Petitioner’s detention violates the Due Process Clause of the Fifth Amendment.

**COUNT FIVE**  
**Violation of Fifth Amendment Right to Procedural Due Process**

85. The allegations in the above paragraphs are realleged and incorporated into herein

86. In *Mathews v. Eldridge*, the U.S. Supreme Court set forth the factors to consider in determining if government action deprives an individual's Fifth Amendment right to procedural due process or whether the government process is constitutionally adequate. 424 U.S. 319 (1976) The Mathews factors are as follows: First, the private interest that will be affected by the official action; [S]econd, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; [Third], the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Id.* at 335; *see also Marin-*

*Mendoza v. Arnott*, No. 6:26-cv-3185 (W.D. Mo. Apr. 15, 2026); *Orellana Mejia v. Arnott*, No. 6:26-cv-3190 (W.D. Mo. Apr. 13, 2026); *Lopez Pacheco v. Arnott*, No. 6:26-cv-3192 (W.D. Mo. Apr. 9, 2026); *Zheng v. Mullin*, No. 6:26-cv-3179 (W.D. Mo. Apr. 9, 2026); *Becerril v. Arnott*, No. 6:26-cv-03168-MDH (W.D. Mo. Apr. 8, 2026); *Medina v. Arnott*, No. 6:26-cv-03170-MDH (W.D. Mo. Apr. 3, 2026), *Cruz-Reyes v. Bondi*, No. 5:26-cv-00060 (S.D. Tx Feb. 3, 2026); *Bonilla Chicas v. Warden*, No. 5:26-CV-00131 (S.D. Tex. Feb. 20, 2026); *Destino v. FCI Berlin, Warden*, No. 1:25-cv-374-SE-AJ, 2025 WL 4010424 (D.N.H. Dec. 24, 2025).

87. As to the private interest factor, it is the "most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Petitioner "has perhaps the most acute private interest known to personkind short of life itself: bodily freedom." *Leal-Hernandez v. Noem*, No. 1:25-cv-02428, 2025 LX 327685, at \*34 (D. Md. Aug. 24, 2025).

88. With respect to the second factor, erroneous deprivation of Petitioner's liberty is at risk. Petitioner's continued detention without an opportunity to be heard is the type of erroneous deprivation *Mathews* intends to stop.

89. As to the third factor, there is no significant governmental interest in continuing to hold Petitioner in custody. Moreover, a bond hearing would not undermine immigration enforcement; it would ensure that detention is exercised lawfully and in accordance with the Constitution.

90. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

#### **PRAYER FOR RELIEF**

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order prohibiting the Respondents from transferring Petitioner from the Middle District of Georgia absent prior leave of the Court;

- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (4) Declare that Petitioner's detention under 8 U.S.C. 1225(b) is unlawful, that his detention without an individualized determination and his revocation of parole from custody was made in violation of the Due Process Clause of the Fifth Amendment, statute and regulation;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately; in the alternative, issue a Writ of Habeas Corpus ordering Petitioner to be scheduled for a bond hearing before an immigration judge within five (5) days and, at such hearing, require Respondent DHS to bear the burden of proving, with the preponderance of evidence, that Petitioner is a flight risk or danger to the community;
- (6) Permanently enjoin Respondents from re-detaining Petitioner under § 1225(b);
- (7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (8) Grant any further relief this Court deems just and proper.

Respectfully submitted,

Dated: May 28, 2026

/s/Thomas Evans, Esq.

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Attorney for Petitioner

*Pro Hac Vice Application Forthcoming*

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

I represent Petitioner, Abbas Kazimzada, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 28<sup>th</sup> day of May 2026.

/s/Thomas Evans, Esq.  
*Thomas Evans, Esq.*  
*Kuck Baxter LLC*  
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