

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Meysam Khabazha

*Petitioner,*

v.

Paul ARTETA, Warden, Orange County Jail;  
LaDeon FRANCIS, in his official capacity as  
Acting Director of the New York Field Office  
of United States Immigration and Customs  
Enforcement; Pamela BONDI, in her official  
capacity as Attorney General; Kristi NOEM,  
in her official capacity as the Secretary of the  
United States Department of Homeland  
Security,

*Respondents.*

**SECOND AMENDED PETITION  
FOR A WRIT  
OF HABEAS CORPUS**

**PRELIMINARY STATEMENT**

The petitioner Meysam Khabazha is an asylum seeker from Iran who initially filed this petition to challenge his sudden and unjustified redetention by masked immigration agents who came to his home in the Bronx and jailed him without notice or explanation. Respondents have since released Mr. Khabazha from custody but have imposed drastic and physically painful restrictions on his liberty. Those restraints are the direct result of Mr. Khabazha's unlawful redetention. As such, they preserve this Court's jurisdiction to review that redetention ab initio and to order Mr. Khabazha's release *without* those restraints. In seeking this, like in challenging his sudden and unlawful redetention, Mr. Khabazha is not alone: in a small but growing number of cases successfully challenging unlawful detention, courts have ordered Respondents not to impose significant restraints on liberty upon petitioners' release. *See* Memorandum of Law in Support of Second Amended Petition at 1-2. Mr. Khabazha asks the Court to do the same here.

When Mr. Khabazha entered the U.S. in 2022, Respondents determined he posed neither a flight risk nor a danger and released him from custody on his own recognizance. He lived in the United States thereafter without incident: he has no criminal history; he filed a timely asylum application; he attended immigration court; he obtained employment authorization; and he spent his time working two jobs, parking cars and in catering, and attending church.

When Respondents redetained him, no individual changed circumstances existed to justify a change in his custody status. Instead, the only change appears to be a widespread campaign by Respondents to detain Iranian nationals contemporaneous in time to the U.S. bombing of Iran, including students; a grandmother; and church-going asylum seekers like Mr. Khabazha, with no individualized basis beyond their nationality. Underscoring the purposelessness of his detention, an immigration judge initially set a \$1,500 bond for Mr. Khabazha and he was released. But the judge subsequently *revoked* that bond, nearly leading to his (second) redetention but for a concession brokered in the context of the instant litigation. *See* Resp. Ltr. Dated July 17, 2025 (ECF No. 15).

Since Mr. Khabazha's release on July 8, Respondents have imposed extreme restrictions on his liberty, including GPS monitoring which has exacerbated his ankle pain and prevented follow-up medical treatment; time-consuming weekly reporting; and geographic restrictions on his movement. These conditions, like his initial redetention, have no individualized basis in Mr. Khabazha's case or circumstances, as he poses no risk of flight.

Mr. Khabazha now amends his pending habeas action to seek full release on the same conditions as he had prior to his unlawful redetention on June 23, 2025.

**PARTIES**

1. Mr. Khabazha is a Bronx resident who was detained in Manhattan, New York at the time of filing of the instant petition. His immigration case is pending before the Executive Office of Immigration Review's New York Broadway Immigration Court.
2. Respondent Paul Areta is named in his official capacity as Warden of the Orange County Jail. Respondent Areta's address is Warden, Orange County Jail, 110 Wells Farm Road, Goshen, NY 10924.
3. Respondent LaDeon Francis is named in his official capacity as Acting Field Office Director of the New York Field Office of Immigration and Customs Enforcement, within the United States Department of Homeland Security. In his capacity, he is responsible for the administration of immigration laws as well as the execution of detention and removal determinations and is a custodian of the Petitioner. Respondent Francis' address is New York ICE Field Office Director, 26 Federal Plaza, 7th Floor, New York, NY 10278.
4. Respondent Pamela Bondi is named in her official capacity as Attorney General of the United States. In this capacity, she routinely transacts business in the Southern District of New York; is responsible for the administration of the immigration laws pursuant to INA § 103(a), 8 U.S.C. § 1103(g); and as such is a custodian of the Petitioner. Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530-0001.
5. Respondent Kristi Noem is named in her official capacity as Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a); routinely transacts business in the Southern District of New York; is legally responsible for pursuing any effort to detain and remove the Petitioner; and as such is a

custodian of the Petitioner. Respondent Noem's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

### **JURISDICTION**

6. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), as well as Article I, § 9, cl. 2 (the Suspension Clause), Article III, and the Fourth and Fifth Amendments of the U.S. Constitution.
7. Mr. Khabazha is in custody for the purposes of habeas jurisdiction because he is subject to restraints on his liberty not imposed on the general public. *Hensley v. Municipal Court*, 411 U.S. 345, 348-49 (1973); *Rumsfeld v. Padilla*, 542 U.S. 426, 437 & n.10 (2004); *Nowakowski v. New York*, 835 F.3d 210, 215-16 (2d Cir. 2016); *see also* Memorandum of Law In Support of Second Amended Habeas Petition at I(A). The current restrictions on Mr. Khabazha's liberty stem from his unlawful confinement. Federal district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).
8. An actual and justiciable controversy exists between the parties under 28 U.S.C. § 2201, and this Court has authority to grant declaratory and injunctive relief. *Id.* §§ 2201, 2202. The Court has additional remedial authority under the All Writs Act, *Id.* § 1651.

### **VENUE**

9. Venue is proper in this Court under 28 U.S.C. §§ 2241(a), 1391(b)(2), and 1391(e)(1) because the petition was filed while Mr. Khabazha was physically detained within the district, in Manhattan. *See Araujo-Cortes*, 35 F. Supp. 3d 533, 537-38 & n.2 (S.D.N.Y. 2014). 28 U.S.C. §

2241(d). He also resides in this district in the Bronx and was detained by Respondents at his home in the district.

### **LEGAL FRAMEWORK – DETENTION**

10. Congress has authorized civil detention of noncitizens in removal proceedings for specific, non-punitive purposes. *See Jennings v. Rodriguez*, 138 S.Ct. 830, 833 (2018); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 528 (2003). For individuals who are arriving in the U.S. or who are subject to expedited removal because they have been present under two years and meet certain other requirements, mandatory detention is authorized by 8 U.S.C. § 1225(b)(2). For individuals who are in removal proceedings following entry without inspection and who, like Mr. Khabazha, have no criminal history, detention has historically been authorized by 8 U.S.C. § 1226(a). Individuals with a final order of removal may be subject to mandatory or discretionary detention pursuant to 8 U.S.C. § 1231(a).
11. DHS makes custody determinations pursuant to 8 C.F.R. § 1236.1(c)(8), which requires that noncitizens be released from custody *only* “if they demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the [noncitizen] is likely to appear for any future proceeding.”
12. Currently there are no publicly-disclosed procedures or guidelines pursuant to which individuals released from custody can challenge or appeal the imposition of conditions upon release from detention with DHS.
13. In May 2025, the Board of Immigration Appeals held that “an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under

section 236(a) of the INA, 8 U.S.C. § 1226(a).” *Matter of Q. Li*, 29 I. & N. Dec. 66, 69 (BIA 2025). This was a change from decades of previous case law, which held that individuals who entered the country without inspection and were placed into removal proceedings were eligible for bond pursuant to 8 U.S.C. § 1226(a).

14. On July 8, Respondents promulgated an internal memo directing ICE attorneys to argue for an even more expansive interpretation of who is subject to mandatory detention. This memo, now leaked to the public, states that “effective immediately, it is the position of DHS that [any noncitizens who have not been admitted to the country] are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)] and may not be released from ICE custody except by INA § 212(d)(5) [8 U.S.C. § 1182(d)(5)] parole. These [noncitizens] are also ineligible for a custody redetermination hearing (“bond hearing”) before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS.” Exh. J to Nystedt Decl.

#### **FACTS ABOUT PETITIONER**

15. Mr. Khabazha is a citizen of Iran who fled his country in 2010 after participating in protests against the government and suffering persecution and torture as a result. Khabazha Decl. at ¶ 2. He subsequently resided for many years in Ecuador, but fled again after Iranian authorities there threatened him. *Id.* at ¶ 2-3. He entered the United States in November of 2022. He was detained by Respondents, who issued and docketed a Notice to Appear placing him into removal proceedings before the Executive Office of Immigration Review. Respondents also determined that he merited release on recognizance and released him from custody on or about November 28, 2022. *See* Exh. A to Nystedt Decl. (order of release on recognizance).

16. Mr. Khabazha had once-annual reporting requirements to ICE but was not placed on GPS monitoring and was not enrolled in an intensive ISAP supervision program. Nystedt Decl. at ¶¶ 4, 14.
17. Mr. Khabazha appeared for immigration court hearings as directed and filed a timely asylum application in September of 2023. In April 2024, he obtained representation in his removal proceedings and was scheduled for a merits hearing in February 2025 at the Broadway Immigration Court in Manhattan. However, several months beforehand, the court sua sponte rescheduled that hearing for January 2026. Nystedt Decl. at ¶ 2.
18. Mr. Khabazha presents a meritorious asylum claim. He fled Iran following torture by the Islamic Revolutionary Guard Corps on account of his political opinion. Khabazha Decl. at ¶ 2-3. He now additionally fears return to Iran as he has converted to Christianity. *Id.* at ¶ 3, 7.
19. Mr. Khabazha has no criminal history in any country. Because he is an only son, he never served in the Iranian military. *Id.* at ¶ 4. He lives in the Bronx and worked two jobs, one of them overnight. *Id.* at ¶ 10-11. He also joined The Persian Church of New York, a small congregation that met in a pastor's home. *Id.* at ¶ 7.
20. At the time of his detention, Mr. Khabazha was in the process of receiving dental treatment for two broken teeth, each on a different side of his mouth. He was scheduled for a follow-up appointment on June 25, 2025 but could not attend because he was detained. In custody, he had difficulty eating due to his lack of dental treatment and was losing weight. *Id.* at ¶ 9.
21. Mr. Khabazha also suffers from chronic ankle pain following fractures in 2022 and subsequent surgery. *Id.* at ¶¶ 5, 10. He attended physical therapy and had recently seen a specialist who prescribed him medication and referred him for additional imaging. Exh. D to Nystedt Decl.

(records pertaining to podiatry treatment in June 2025). He planned to follow up and complete the imaging the week of his redetention. Khabazha Decl. at ¶ 10.

22. On the date that he was detained, Mr. Khabazha's partner's sister, Jannette Lucio, received a call from a "212" number alleging that Mr. Khabazha was ill and needed to be contacted urgently. The person called repeatedly. After receiving Mr. Khabazha's permission, Ms. Lucio relayed his contact information. Mr. Khabazha then received a call from someone identifying as an immigration official asking for his home address and employer information, as well as his hours. He shared the information. *Id.* at ¶ 11-12. He then received another call stating immigration was at his door and asking him to come out. He did. Several masked individuals, at least one in plainclothes, then said he needed to go with them. They handcuffed him and placed him into a black car. He asked why he was being detained and they did not respond other than to state he had crossed the border. *Id.* at ¶ 13-14.
23. Mr. Khabazha was transported to Manhattan, where he was held in a succession of holding cells for two days. At night he estimated there were about 40 people in the room; it was extremely cold and they did not have beds. Only if people asked repeatedly were they given any call access: Mr. Khabazha was only able to speak with his partner's sister once and for approximately two minutes. *Id.* at ¶ 15-16.
24. While in Manhattan, Mr. Khabazha met four other Iranian nationals who had been recently detained—each reported confusion regarding the reason for their detention. *Id.* at ¶ 17.
25. At no point did officers provide Mr. Khabazha any explanation for why he was being detained, other than having crossed the border in 2022. *Id.* at ¶ 14.
26. After his detention, Mr. Khabazha's family immediately reached out to his immigration counsel on his behalf. That counsel notified ICE of their representation via email and repeatedly

attempted to contact ICE via phone. Nystedt Decl. at ¶¶ 4-5. At 2:30pm on June 24, 2025, ICE ERO responded alleging that Mr. Khabazha's was "not an ERO NYC case," and that counsel had to wait for updated information on the publicly available immigration detainee locator. Exh. C to Nystedt Decl. (emails). As of the time of original filing, the locator still reflected Mr. Khabazha was held at 26 Federal Plaza, New York, New York. Nystedt Decl. at ¶ 6.

27. Once the instant habeas petition was pending, Respondents through counsel agreed to detain Mr. Khabazha locally and he was transferred to Orange County Jail in Goshen, New York. Nystedt Decl. at ¶ 6.
28. In Orange County Jail, Mr. Khabazha suffered from his continued lack of dental treatment, as a result of which he was unable to eat normally and began losing weight. He was also in pain from his ankle injury and missed his follow-up appointments to address that pain. He did not receive medical assistance in custody. Khabazha Decl. at ¶ 18.
29. On July 7, Mr. Khabazha had a bond hearing in immigration court. Mr. Khabazha's immigration counsel moved for a bond hearing based on Respondents' representations in the context of the instant litigation that he was detained pursuant to 8 U.S.C. § 1226(a) irrespective of *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025). Nystedt Decl. at ¶¶ 9, 12. At the hearing, the DHS attorney did not contest that Mr. Khabazha was detained pursuant to 8 U.S.C. § 1226(a). Nystedt Decl. at ¶ 12.
30. Following testimony and argument, the immigration judge set a bond in the amount of \$1,500, which is the statutory minimum. Nystedt Decl. at ¶ 12. The bond order stated that Respondents were free to impose additional conditions. Exh. G to Nystedt Decl. (bond order). DHS reserved appeal. *Id.*
31. Mr. Khabazha posted bond and was released the next day. Nystedt Decl. at ¶ 14.

32. Upon his release, Respondents imposed significant restraints on Mr. Khabazha's liberty that they had not imposed prior to his redetention on June 23, 2025. He was fitted with a GPS ankle bracelet which he is required to wear at all times; he cannot go more than 75 miles from his home; and he has to report as directed for weekly visits. Exhibit H to Nystedt Decl, (Exhibit D to Motion to Ameliorate [Khabazha Imm. Decl. at ¶ 2]).
33. The ankle monitor is physically painful for Mr. Khabazha because it is heavy, particularly when he leaves home and needs to carry the battery. He broke both ankles in 2022 and required surgery and, as noted, he suffers ongoing pain. Now, he explains "[t]he weight of the ankle monitor makes it more difficult to walk and be on my feet for a long time because it can swell up due to the additional weight." *Id.* at ¶ 4. He has also been unable to schedule an x-ray for his ankles, to address his ongoing pain, because he cannot have an x-ray while wearing a GPS. *Id.* at ¶ 5.
34. Mr. Khabazha's weekly reporting requirements are also onerous and interfering with his ability to work. When he is directed to appear for a virtual visit, he has to remain at home until they call from 6 a.m. until 6 p.m. This has made it difficult for him to resume working. *Id.* at ¶ 6.
35. The current restrictions on Mr. Khabazha's liberty would not exist but for his unlawful redetention on June 23, 2025.
36. On July 14, Mr. Khabazha via his immigration counsel moved the immigration court to ameliorate the conditions of his release pursuant to 8 C.F.R. § 1236.1(d)(1). Exh. H to Nystedt Decl. (motion to ameliorate bond conditions).
37. On July 16, Mr. Khabazha's immigration counsel received two orders from the immigration judge. The first was a sua sponte revocation of Mr. Khabazha's bond, based on the immigration

judge's conclusion that he was not in fact bond eligible. The second was a denial of the motion to ameliorate the conditions as moot given the revocation. Exh. I to Nystedt Decl. (IJ orders).

38. Mr. Khabazha's habeas counsel immediately reached out to the U.S. Attorney's Office to request assurance he would not be re-detained. Because Respondents' counsel was unable to offer such an assurance, Mr. Khabazha filed a motion for a temporary restraining order early the next morning. Less than 15 minutes prior to the start of a conference on that motion, the U.S. Attorney's Office was able to provide an assurance that Mr. Khabazha would not be re-detained. Nystedt Decl. at ¶¶ 16-17. That representation was subsequently made in writing on the docket. Due to Respondents' assurances, the Court then denied Mr. Khabazha's motion.
39. At the July 17 conference, counsel for Respondents represented to the Court that Mr. Khabazha was now effectively subject to release on bond at the discretion of DHS, rather than the IJ. Hearing Transcript at 8-9 ("The vacatur of the immigration judge's order doesn't deprive ICE of the ability to release someone on bond" in its "independent authority").
40. Since the authority for Mr. Khabazha's release was shifted from a now-vacated IJ order to a discretionary determination by DHS on July 17, the conditions of Mr. Khabazha's release have not changed.

#### **RESPONDENTS' DETENTION CAMPAIGN AGAINST IRANIANS**

41. Around the same time that the U.S. bombed Iranian nuclear sites on June 22, Respondents began a targeted campaign to seek out and detain Iranian nationals around the U.S. This has included individuals present in the U.S. for several decades as well as more recent asylum seekers and students.
42. On June 24, Respondents issued a press release describing the detention of 11 Iranians whom it described as having significant criminal histories. However, press reports and public statements

indicate that the total number of Iranians detained was significantly higher, with at least 200 Iranians detained. *See* Exhibit F to Nystedt Decl. (Roll Call transcript); *see also id.* (ABC7) (“DHS data shows the number of Iranian nationals detained in the past few days represents a spike when compared to annual rates of detention of this demographic.”).

43. In New Orleans, an Iranian woman present in the U.S. for 47 years was detained while gardening. *Id.* (ABC News). In Los Angeles, five members of the same church congregation were detained, including a couple and their three-year-old daughter, and a man detained in front of his wife and pastor, causing his wife to have a panic attack and collapse. *Id.* (Christian Post). In Oregon, the husband of a U.S. citizen was detained on his way to the gym. *Id.* (ABC7). A married couple, both PhD students, were detained in their off campus apartment at Louisiana State University. *Id.* (Louisiana Illuminator). More recently, an Iranian father married to a U.S. citizen was detained while dropping his child off at preschool in Seattle and his car windows smashed in full view of children and their families. *Id.* (Seattle Times)
44. In response to the initial spate of detentions, an Iranian-American group expressed its alarm at “the possibility that Homeland Security is using global tensions as an excuse to racially profile and erode the rights of Iranian Americans.” *Id.* (ABC7).
45. While he was detained at 26 Federal Plaza, Mr. Khabazha met several other Iranians in custody, all suddenly detained either at home or pursuant to call-in letters, and none of whom could account for the sudden change in their custody status. Khabazha Decl. at ¶ 17.
46. Mr. Khabazha’s detention appears to have been part of this nationwide campaign targeting individuals of Iranian origin for detention based primarily if not exclusively on their national origin.

### **CLAIMS FOR RELIEF**

**FIRST CLAIM**  
**Violation of the Due Process Clause of the Fifth Amendment**  
**to the United States Constitution (Substantive Due Process)**

47. Mr. Khabazha repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.
48. Mr. Khabazha is not a flight risk nor is he a danger to the community. There was no basis for a change in his custody status. Respondents' redetention of him on June 23 was therefore unjustified and unlawful and Mr. Khabazha was detained in violation of his constitutional right to Due Process under the Fifth Amendment.

**SECOND CLAIM**  
**Violation of Due Process Clause of the Fifth Amendment**  
**to the United States Constitution (Procedural Due Process)**

49. Mr. Khabazha repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.
50. The Due Process Clause of the Fifth Amendment protects all "person[s]" from deprivation of liberty "without due process of law." U.S. CONST AMEND. V.
51. The Due Process Clause entitles Mr. Khabazha to meaningful process in any determination as to whether to detain him or impose restrictions on his liberty. The government made the reasoned decision to release Mr. Khabazha from custody in 2022 while he pursued his asylum claim in the United States and for over 2.5 years, from late 2022 until he was detained in June 2025, he was on minimal conditions of supervision. His sudden redetention, without notice or an opportunity to be heard, after he had been living and working in the United States for over two years, and then his release on onerous conditions curtailing his liberty, provided insufficient process and violated the Due Process Clause of the Fifth Amendment of the Constitution.

**THIRD CLAIM**  
**Violation of the Fourth Amendment**

**to the U.S. Constitution (Unlawful Arrest and Conditions)**

52. Mr. Khabazha repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.
53. Mr. Khabazha was detained by federal immigration officials as removable when he entered the United States. The government exercised its discretion under the Immigration and Nationality Act to release him while he litigated that charge in immigration court. At the time of Mr. Khabazha's arrest, he had been living at liberty pursuant to that determination by federal immigration authorities.
54. The government lacked reliable information of changed or exigent circumstances that would justify his arrest after federal immigration authorities had already decided he could pursue his claims for immigration relief at liberty. His re-arrest and the subsequent imposition of restraints on his liberty, based solely on the fact that he is subject to removal proceedings, are unreasonable and violate the Fourth Amendment.

**PRAYER FOR RELIEF**

WHEREFORE, petitioner respectfully requests that this court:

- a) Assume jurisdiction over this matter;
- b) Declare Respondents' actions unlawful;
- c) Issue a Writ of Habeas Corpus ordering Mr. Khabazha's unconditional release from custody on conditions equivalent to those that existed prior to his June 23, 2025 detention;
- d) Award Petitioner his costs and reasonable attorneys' fees in this action as provided by the Equal Access to Justice Act, 28 U.S.C. § 2412, or other statute; and
- e) Grant such further relief as the court deems just and proper.

Dated: 7/24/25  
New York, NY

Respectfully Submitted,

By: /s/ Kendal Nystedt

Kendal Nystedt  
UNLOCAL  
45 W. 29<sup>th</sup> Street, Suite 203  
New York, NY 10001  
kendal@unlocal.org  
646-240-4135

Paige Austin  
MAKE THE ROAD NEW YORK  
301 Grove Street  
Brooklyn, NY 11237  
Paige.austin@maketheroadny.org  
718-565-8500 ext 4139

*Attorneys for Petitioner*

**CERTIFICATE OF SERVICE**

I certify that on July 24, 2025, I electronically filed the attached the foregoing Second Amended Petition for Writ of Habeas Corpus and accompanying Exhibits with the Clerk of the Court for the United States District Court for the Southern District of New York using the CM/ECF system. Service will therefore be effected by the CM/ECF system.

Dated: 7/24/25

Respectfully Submitted,

By: /s/ Kendal Nystedt

Kendal Nystedt  
UNLOCAL  
45 W. 29<sup>th</sup> Street, Suite 203  
New York, NY 10001  
[kendal@unlocal.org](mailto:kendal@unlocal.org)  
646-240-4135