

1 Bashir Ghazialam (CA Bar No. 212724)
2 LAW OFFICES OF BASHIR GHAZIALAM
3 P.O. Box 928167
4 San Diego, California 92192
5 Tel: (619) 795-3370
6 Fax: (866) 685-4543
7 bg@lobg.net

8 Attorneys for Petitioner

9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 HAMIDEH SADEQI,

12 Petitioner,

13 v.

14 CHRISTOPHER J. LAROSE, Senior
15 Warden, Otay Mesa Detention Center, San
16 Diego, California;
17 JOSEPH FREDEN, Acting Field Office
18 Director, San Diego Office of Detention
19 and Removal, U.S. Immigrations and
20 Customs Enforcement; U.S. Department
21 of Homeland Security;
22 TODD M. LYONS, Acting Director,
23 Immigration and Customs Enforcement,
24 U.S. Department of Homeland Security;
SIRCE OWEN, Acting Director for
Executive Office for Immigration Review;
KRISTI NOEM, Secretary, U.S.
Department of Homeland Security;
PAM BONDI, Attorney General of the
United States;

Respondents.

Case No.: '25CV2587 RSH BJW

**PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW CAUSE
WITHIN THREE DAYS; COMPLAINT
FOR DECLARATORY AND INJUNCTIVE
RELIEF**

Agency Doc. No.: A 

Petitioner HAMIDEH SADEQI petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents' detaining him unlawfully, and states as follows:

INTRODUCTION

1. Petitioner, HAMIDEH SADEQI (“Ms. Sadeqi” or “Petitioner”), by and through her undersigned counsel, hereby petitions this Court under 28 U.S.C. § 2241, et seq., to issue a Writ of Habeas Corpus ordering Ms. Sadeqi’s release from immigration detention by the Department of Homeland Security, United States Immigration and Customs Enforcement (“ICE”). Ms. Sadeqi seeks immediate release from custody because Respondents have held her since December 1, 2024—a prolonged period—even though she has hired counsel and has acted diligently to have her asylum application heard by an immigration judge (“IJ”), and her proceedings have been continued through no fault of her own. Her continued detention without a hearing as to flight risk and danger to the community violates the U.S. Constitution and federal law.

CUSTODY

2. Ms. Sadeqi is currently in Respondents' legal and physical custody. They are detaining her at the Otay Mesa Detention Center in San Diego, California. She is under Respondents' and their agents' direct control.

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PARTIES

3. Ms. Sadeqi is a 31-year-old citizen of Afghanistan, a member of the ethnic minority Hazara group, who was born in Iran to Afghan refugees residing in Iran. She is currently detained at the Otay Mesa Detention Center in San Diego, California.

4. Ms. Sadeqi is currently in Respondents' legal and physical custody at the Otay Mesa Detention Center in San Diego, California. CoreCivic, Inc., a Maryland corporation, operates that facility.

5. Respondent Christopher LAROSE is the Warden of the Otay Mesa Detention Center where Petitioner is being held. Respondent Christopher LaRose oversees the day-to-day operations of the Otay Mesa Detention Center and acts at the Direction of Respondents Freden, Lyons and Noem. Respondent Christopher LaRose is a custodian of Petitioner and is named in his official capacity.

6. Respondent Joseph FREDEN is the Acting Field Office Director of ICE in San Diego, California and is named in his official capacity. ICE is the component of the DHS that is responsible for detaining and removing noncitizens according to immigration law and oversees custody determinations. In his official capacity, he is the legal custodian of Petitioner.

7. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official capacity. Among other things, ICE is a component of the DHS, 6 U.S.C. § 271, and an "agency" within the meaning of the Administrative Procedure Act, 5 U.S.C. §

1 701(b)(1). It is the agency responsible for enforcing immigration laws, and it is
2 detaining Ms. Sadeqi. Respondent Lyons has custodial authority over Ms. Sadeqi,
3 who names him in his official capacity.

4 8. Respondent Kristi NOEM is the Secretary of the DHS and is named in her
5 official capacity. DHS is the federal agency responsible for enforcing immigration
6 laws and granting immigration benefits. See 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1.
7 Respondent Noem has ultimate custodial authority over Ms. Sadeqi, who names her
8 in her official capacity.
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10 9. Respondent Pam BONDI is the Attorney General of the United States and the
11 most senior official in the U.S. Department of Justice (DOJ) and is named in her
12 official capacity. She is responsible for the Immigration and Nationality Act's
13 implementation and enforcement (see 8 U.S.C. §§ 1103(a)(1), (g)), and oversees the
14 Executive Office for Immigration Review, the office that administers Ms. Sadeqi's
15 removal proceedings and is responsible for adjudicating Ms. Sadeqi's asylum
16 application. Ms. Sadeqi names her in her official capacity.
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18 JURISDICTION AND VENUE

19 10. This action arises under the United States Constitution and the
20 Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., INA § 101 et seq., to
21 challenge Ms. Sadeqi's detention under the INA and any inherent or plenary powers
22 the government may claim to continue holding her.
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1 11. This Court has jurisdiction under 28 U.S.C. § 1331, § 2241; 5 U.S.C. §§
2 701–706 (Administrative Procedure Act, “APA”); and the Suspension Clause, U.S.
3 Const. art. I, § 9, cl. 2, and the Fifth and Eighth Amendments of the United States
4 Constitution. Jurisdiction is not limited by a petitioner’s nationality, immigration
5 status, or any other classification. *See Boumediene v. Bush*, 553 U.S. 723, 747
6 (2008). The Court may grant relief under the Suspension Clause; the Fifth and
7 Eighth Amendments; 5 U.S.C. § 706 (APA); and 28 U.S.C. §§ 1361 (Mandamus Act),
8 1651 (All Writs Act), 2001 (Declaratory Judgment Act), and 2241 (habeas corpus).

10 12. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review
11 Ms. Sadeqi’s detention. Federal district courts possess broad authority to issue writs
12 of habeas corpus when a person is held “in custody in violation of the Constitution
13 or laws or treaties of the United States” (28 U.S.C. § 2241(c)(3)), and this authority
14 extends to immigration detention challenges that survived the REAL ID Act’s
15 jurisdictional restrictions. Because Ms. Sadeqi seeks the traditional habeas remedy
16 of release from allegedly unlawful detention, her petition presents precisely the type
17 of threshold legality-of-detention question that § 2241 was designed to address. *See*
18 *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *see also Lopez-Marroquin v. Barr*, 955 F.3d
19 759, 759 (9th Cir. 2020) (citing *Singh v. Holder*, 638 F.3d 1196, 1211-12 (9th Cir.
20 2011)). And federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252.
21 *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). No court has ruled on the
22 legality of Ms. Sadeqi’s detention.
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1 13. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and
2 (e)(1) because a substantial part of the events or omissions giving rise to this claim
3 have happened here, Ms. Sadeqi is detained here, and her custodian resides here.
4 Venue is also proper under 28 U.S.C. § 2243 because Ms. Sadeqi's immediate
5 custodian resides in this District. See *Rumsfeld v. Padilla*, 542 U.S. 426, 451-52
6 (2004) (Kennedy, J., concurring).
7

8 **FACTUAL BACKGROUND**

9 14. Ms. Sadeqi was born in Iran to Afghan parents who had fled Afghanistan
10 due to their Hazara ethnicity and her father and grandfather's opposition and
11 resistance against the persecution of Hazaras by the previous Afghan governments
12 as well as other majority ethnic groups. She is afraid to return to Afghanistan as she
13 has never resided there and because of her fear persecution due to being a Hazara
14 woman, her political opinion and the fact that her father served in the previous U.S.
15 supported Afghan government, including as a member of the parliament, and as a
16 result of which he received threats and harm by the Taliban. Due to being under
17 imminent threat of deportation from Iran to Afghanistan, Ms. Sadeqi left Iran in
18 2004 and entered the United States on or about December 1, 2024, at the San Ysidro
19 Port of Entry and was inspected after having made an appointment at the Port of
20 Entry with the CBP One application. Instead of paroling Ms. Sadeqi, DHS decided to
21 detain her and after Ms. Sadeqi expressed a fear of returning to her country of
22 citizenship, Afghanistan, she was placed in credible fear proceedings.
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1 15. On December 12, 2024, an asylum officer interviewed Ms. Sadeqi and
2 found her credible and that she had a credible fear of persecution in Afghanistan.

3 16. On December 21, 2024, Respondents issued Ms. Sadeqi a Notice to
4 Appear, charging her as an arriving alien.

5 17. Ms. Sadeqi has not moved for a bond redetermination due to the fact
6 that she was designated as an arriving alien and IJ's have consistently ruled that
7 they do not have jurisdiction to redetermine the conditions of custody over arriving
8 aliens.
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10 18. On January 29, 2025, Ms. Sadeqi appeared for her first master calendar
11 hearing, represented by counsel. After taking pleadings in the case, the IJ reset the
12 matter to February 5, 2025, for another master calendar and ordered that Ms.
13 Sadeqi file her asylum application by that date.

14 19. On January 28, 2025, Ms. Sadeqi filed here asylum application.

15 20. On February 1, 2025, only a few days prior to her February 5, 2025
16 schedule hearing, Ms. Sadeqi was transferred to the San Luis Detention Facility in
17 San Luis Arizona, and at the February 5, 2025 hearing at which Ms. Sadeqi's counsel
18 appeared without her, the IJ issued a scheduling order setting the matter for an
19 individual hearing on July 8, 2025. DHS promised to return Ms. Sadeqi to Otay Mesa
20 prior to that hearing.
21

22 21. Although Ms. Sadeqi was returned to Otay Mesa Detention Center, on
23 June 7, 2024, she was transferred again to San Luis Arizona, restricting counsel's
24

1 access to Ms. Sadeqi and to adequately prepare for her upcoming July 8, 2025
2 individual merits hearing.

3 22. On June 25, 2025, Ms. Sadeqi's individual merits hearing was reset to
4 August 26, 2025, and the case was reassigned to a different IJ (this IJ is not
5 physically located in Otay Mesa, but instead is located in downtown, San Diego, and
6 conducts detained hearings via video while Respondents and their counsel are
7 present at Otay Mesa and DHS counsel are present in downtown.
8

9 23. Ms. Sadeqi was subsequently transferred back to the Otay Mesa
10 Detention Center and her individual hearing began on August 26, 2025, as
11 previously rescheduled. However, the IJ had multiple cases scheduled for that
12 morning and Ms. Sadeqi was only allowed approximately one hour and a half to
13 present her case. However, due to the time restraint, Ms. Sadeqi's hearing was not
14 completed on that date and the IJ continued her hearing to December 2, 2025, which
15 was the earliest date available on that IJ's calendar.
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17 24. Ms. Sadeqi's continued detention without a tenable justification and
18 without a demonstration that removal is significantly likely in the reasonably
19 foreseeable future violates constitutional due process. *Zadvydas v. Davis*, 533 U.S.
20 678 (2001); *Kydyrali v. Wolf*, 499 F. Supp. 3d 768 (S.D. Cal. 2020).

21 25. The government has failed to effectuate Ms. Sadeqi's removal within a
22 reasonable period of time or present any evidence that his removal is significantly
23 likely to occur in the reasonably foreseeable future.
24

26. Ms. Sadeqi's detention without a tenable justification violates her rights under the Due Process Clause of the Fifth Amendment.

EXHAUSTION OF REMEDIES

27. Ms. Sadeqi has exhausted all administrative remedies, and no further ones are available. Furthermore, for habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez*, 872 F.3d at 988. A court may waive the prudential exhaustion requirement if “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted)). Petitioner asserts that exhaustion should be waived because administrative remedies are (1) futile and (2) her continued detention results in irreparable harm.

28. Exhausting administrative remedies here is futile because Respondents contend Ms. Sadeqi is subject to mandatory detention. As such, no request to release her from custody would be considered by ICE. Moreover, immigration judges in this district claim to have no jurisdiction to conduct a custody redetermination hearing as to individuals procedurally situated like Ms. Navarro Sanchez. Indeed, in contravention to the INA and long-standing precedent and practice, the Board of Immigration Appeals and Attorney General have deemed no noncitizen eligible for bond before an immigration judge (with the exception of only noncitizens who

1 entered the U.S. on a visa). As such, any attempts to exhaust administrative
2 remedies would be entirely futile.

3 29. Moreover, no statutory exhaustion requirements apply to Petitioner's
4 claim of unlawful custody in violation of her due process rights, and there are no
5 administrative remedies that she needs to exhaust. *See Am.-Arab Anti-*
6 *Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) (finding
7 exhaustion to be a "futile exercise because the agency does not have jurisdiction to
8 review" constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098, 1099
9 (C.D. Cal. 2000) (same).

11 30. More importantly, every day that Petitioner remains detained causes
12 her harm that cannot be repaired. Her continued detention puts her mental health at
13 greater risk, further warranting a finding of irreparable harm and the waiver of the
14 prudential exhaustion requirement. The Court must consider this in its irreparable
15 harm analysis of the effects on Petitioner as her detention continues. *See De Paz*
16 *Sales v. Barr*, No. 19-CV-07221-KAW, 2020 WL 353465, at *4 (N.D. Cal. Jan. 21,
17 2020) (noting that the petitioner "continues to suffer significant psychological
18 effects from his detention, including anxiety caused by the threats of other inmates
19 and two suicide attempts," in finding that petitioner would suffer irreparable harm
20 warranting waiver of exhaustion requirement).

FIRST CAUSE OF ACTION
Fifth Amendment Due Process Violation

31. Ms. Sadeqi re-alleges and incorporates by reference, as if fully set forth herein, the allegations in paragraphs 1-30 above.

32. The Supreme Court has long recognized that the Fifth and Fourteenth Amendments refer to all “persons,” not just “citizens.” Aliens, even inadmissible or removable aliens, must be afforded due process protection. *See Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886) (“The Fourteenth Amendment to the Constitution is not confined to the protection of citizens.”). As stated by the Court, the provisions of the Fourteenth Amendment “are universal in their application, to all persons within the territorial jurisdiction, without regard to any differences of race, of color, or of nationality ” *Id.* (emphasis added).

33. The Supreme Court has held that “even one whose presence in this country is unlawful, involuntary, or transitory is entitled to that constitutional protection [of the Due Process Clauses of the Fifth and Fourteenth Amendments]” *Mathews v. Diaz*, 426 U.S. 67, 75 n.7 (1976); see also *Plyler v. Doe*, 457 U.S. 202, 210 (1982) (“Whatever his status under the immigration laws, an alien is surely a ‘person’ in any ordinary sense of that term.”); *Wong Wing v. United States*, 163 U.S. 228, 238 (1896) (“Persons within the territory of the United States... even aliens... [may not]... be deprived of life, liberty or property without due process of law.”).

34. As there is no final order of removal, and there doesn’t appear to be one in the reasonably foreseeable future, Ms. Sadeqi may not be removed from the

1 United States. Her removal is not reasonably foreseeable, and her detention no
2 longer serves any legitimate purpose under the INA.

3 35. In *Kydyrali v. Wolf*, 499 F. Supp. 3d 768 (S.D. Cal. 2020), a judge in this
4 District granted habeas relief in a substantially similar case, applying a six-factor
5 balancing test first articulated in *Banda v. McAleenan*, 385 F. Supp. 3d 1099 (W.D.
6 Wash. 2019), which considers: (1) total length of detention to date; (2) likely
7 duration of future detention; (3) conditions of detention; (4) delays in the removal
8 proceedings caused by the detainee; (5) delays in the removal proceedings caused
9 by the government; and (6) the likelihood that the removal proceedings will result
10 in a final order of removal. The court determined that prolonged detention, when
11 considered alongside other due process concerns, can rise to the level of a
12 constitutional violation warranting release. *Kydyrali*, 499 F. Supp. 3d at 773.

14 36. Applying the *Banda* six-factor framework here supports granting Ms.
15 Sadeqi's petition.

17 37. The final factor—finality—strongly supports the grant of this habeas
18 petition and request for a bond hearing. Ms. Sadeqi is statutorily eligible to apply for
19 asylum and does not appear to be subject to any bars thereto, and until that
20 application is finally adjudicated, she cannot be removed from the United States.
21 Thus, the only prospect for removal from the United States would be a speculative,
22 and no factually unsupported prospect of removal to a third country. Although Ms.
23 Sadeqi born in Iran, she is not considered by Iranian law to be a citizen of that
24 country due to the fact that she was born to non-Iranian citizen parents and the lack

1 of recognition of birthright citizenship in that country. In fact, her visa to Iran, along
2 with her entire family's, have been revoked and the family is currently facing
3 imminent detention and removal to Taliban controlled Afghanistan.

4 38. All delays in this case are attributable to the government, and none
5 whatsoever are attributable to Ms. Sadeqi. She promptly applied for asylum at the
6 Port of Entry pursuant to a U.S. government program, CBPONE appointment system,
7 she has timely attended all of her interviews and court hearings. She has never
8 requested any continuances in her case and has retained counsel at a very early
9 stage of her case to represent her. She was transferred on two different occasions to
10 a different facility in Arizona, including shortly prior to her scheduled first individual
11 hearing of July 8, 2025, where she was denied access to her counsel, and which
12 caused a delay of her case. After her case was rescheduled to August 26, 2025, due
13 to the limited window of time provided to her to present her case, her hearing was
14 not completed and continued all the way to December 2, 2025.

16 39. Ms. Sadeqi has now been detained by ICE for ten months since her
17 arrival in the United States on December 1, 2025. At her next scheduled hearing, she
18 will have been detained for over a year. This period is well beyond the
19 presumptively reasonable six-month period set forth in *Zadvydas*, 533 U.S. at 701.
20 Courts consistently find detention beyond this threshold triggers due process
21 scrutiny. *See Kydyrali*, 499 F.Supp. 3d at 774–75.

23 40. Conditions of confinement do not raise constitutional concerns.
24

1 41. Ms. Sadeqi poses no risk of flight and no danger to the community. She
2 has no criminal history, has demonstrated compliance with all prior immigration
3 requirements, and has community support in the United States.

4 42. Ms. Sadeqi's continued detention without a tenable justification violates
5 her Fifth Amendment right to due process.
6

7 **PRAYER FOR RELIEF**

8 Ms. Sadeqi asks this Court to grant the following relief:

- 9 1. Issue a Writ of Habeas Corpus ordering Respondents to release
10 Petitioner from custody immediately;
- 11 2. Declare the continued detention of Ms. Sadeqi without a tenable
12 justification a violation of the Due Process Clause of the U.S. Constitution;
- 13 3. Order Respondents to show cause why Ms. Sadeqi is being
14 subjected to unlawful and unconstitutional detention; and
- 15 4. Grant any other relief that may be fit and proper.

16 Dated: October 1, 2025

Respectfully submitted,

17
18 By: /s/ Bashir Ghazialam
19 Bashir Ghazialam

20 Attorney for Petitioner
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Executed on this October 1, 2025, in San Diego, California.

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