

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAKHIM RASULOVICH SHOIMOV

(A No. )

Petitioner,

v.

Case No. 1:25-at-1130

PETITION FOR WRIT OF
HABEAS CORPUS

PAMELA BONDI, *in her official
capacity as Attorney General of the United
States;*

KRISTI NOEM, *in her official capacity as
Secretary, U.S. Department of Homeland
Security;*

TODD M. LYONS, *in his official capacity
As Acting Director, Immigration and
Customs Enforcement, U.S. Department of
Homeland Security;*

SERGIO ALBARRAN, *in his official capacity
as Field Office Director of the ICE
San Francisco Field Office, Enforcement
And Removal Operations, U.S. Immigration and
Customs Enforcement; U.S. Department of
Homeland Security; and*

CRISTOPHER CHESTNUT, *in his official
capacity as Warden of California City Detention
Center.*

Respondents.

INTRODUCTION

1. Petitioner, Rakhim Rasulovich Shoimov, a citizen and national of Uzbekistan, challenges his custodial detention by the United States Department of Homeland Security, through its component arm, U.S. Immigration and Customs Enforcement (“ICE”).
2. Mr. Shoimov arrived in the United States at or near San Ysidro, California, on February 7, 2023. That same day, immigration officials arrested him pursuant to a warrant on February 7, 2023, informing him that he was “liable to be taken into custody as authorized by section 236 of the Immigration and Nationality Act [8 U.S.C. § 1226].” Exhibit A (Warrant for Arrest of Alien).
3. On February 8, 2023, immigration officials released Mr. Shoimov on his own recognizance. *See* Exhibit B (Notice of Custody Determination). That Notice also stated that the immigration officers were acting pursuant to authority contained in section 236 of the INA, 8 U.S.C. § 1226 and pending a final administrative decision in his immigration proceedings.
4. Immigration officials also served Mr. Shoimov with a Notice to Appear (“NTA”) in the Baltimore Immigration Court to defend against the charge under 8 U.S.C. § 1182(a)(6)(A)(i) of the INA as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. *See* Exhibit C (2023 Notice to Appear). The did not charge him as an “arriving alien.” *See id.*
5. On June 6, 2024, an Immigration Judge sitting in the Baltimore Immigration Court closed Mr. Shoimov’s proceedings based on the Department of Homeland Security’s failure to prosecute. *See* Exhibit D (Immigration Court Case Information)

6. On October 22, 2025, immigration officials rearrested Mr. Shoimov during a routine check-in appointment with U.S. Immigration and Customs Enforcement. In conjunction with their rearrest, the officers served Mr. Shoimov with a second NTA charging him, once again, under 8 U.S.C. § 1182(a)(6)(A)(i). *See* Exhibit E (2025 Notice to Appear). The officers again charged him as “an alien present in the United States who has not been admitted or paroled” and explicitly declined to charge him as an arriving alien. *See id.*
7. On September 5, 2025, the Board of Immigration Appeals issued its decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board opined that immigration judges lack jurisdiction to hold bond hearings for foreign nationals who are present in the United States without admission. *See id.* at 220.
8. Mr. Shoimov is currently detained at the California City ICE Processing Center located at 2844 Virginia Boulevard, California City, CA 93505. He has a custody redetermination (bond) hearing scheduled for November 13, 2025. On November 13, 2025, an Immigration Judge sitting in the Adelanto Immigration Court denied to consider Mr. Shoimov’s request for a custody determination based on *Yajure Hurtado*. *See* Exhibit F
9. There is a growing body of case law from the federal district courts holding that Respondents’ reinterpretation of 8 U.S.C. § 1225(b)(2)(A) is contrary to law. *See, e.g., Tut v. Noem*, 2025 U.S. Dist. LEXIS 204616, at *16-17 (C.D. Cal. Oct. 16, 2025) (granting application for TRO and enjoining Respondents from detaining petitioners charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) without a bond hearing); *Mosqueda v. Noem*, 2025 U.S. Dist. LEXIS 174828, at *13 (C.D. Cal. Sept. 8, 2025) (same). *Quispe v. Crawford*, 2025 U.S. Dist. LEXIS 194070 (E.D. Va. 2025) (“as Respondents recognize, other federal courts around the country have found that to be

detained under § 1225(b)(2), applicants for admission must be actively "seeking admission" and not be just "present" in the U.S."). This is another such case.

10. Mr. Shoimov's detention is unconstitutional and an unlawful restraint. He seeks an order from this Court requiring his immediate release or, alternatively, that the Respondents provide him with a bond hearing before a neutral and impartial adjudicator.
11. Mr. Shoimov's continued detention by Respondents without any mechanism to challenge his confinement violates the Due Process Clause of the Fifth Amendment to the United States Constitution and the Immigration and Nationality Act, (8 U.S.C. § 1101 et seq.).

JURISDICTION AND VENUE

12. On verification by the detention center, Mr. Shoimov is detained in the California City, Detention Center located at 22844 Virginia Boulevard California City, CA 93505 which is within the jurisdiction of the United States District Court for the Eastern District of California.
13. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 ("habeas corpus"), 28 U.S.C. § 1651 ("All Writs Act"), 28 U.S.C. § 1331 ("federal question"), the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq., and U.S. CONST. amend. V (the "Due Process Clause").
14. This Court may grant relief under 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.
15. This Court has jurisdiction to adjudicate habeas corpus claims brought by foreign nationals who challenge the legality of their detention by U.S. immigration officials. *See Reno v. Flores*, 507 U.S. 292, 307 (1993). ("It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings"). Title 8

U.S.C. § 1252(g) does not operate as a jurisdictional bar because that statute does not apply to actions taken to detain foreign nationals. *See Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (“Section 1252(g) ‘applies only to three discrete actions,’ i.e. commencement of removal proceedings, adjudication of removal cases, and execution of removal orders”). Additionally, 8 U.S.C. § 1252(b)(9), does not preclude jurisdiction because that statute applies to review of removal orders and not to detention decisions made prior to the issuance of a removal order. *See Demore v. Kim*, 538 U.S. 510, 517 (2003) (“‘where Congress intends to preclude judicial review of constitutional claims its intent to do so must be clear’”) (quoting *Webster v. Doe*, 486 U.S. 592, 603 (1988)).

EXHAUSTION

16. While 28 U.S.C. § 2241 “does not specifically require petitioners to exhaust direct appeals before filing petitions for habeas corpus,” the Ninth Circuit “require[s], as a prudential matter, that habeas petitioners exhaust available judicial and administrative remedies before seeking relief under § 2241.” *Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001), *abrogated on other grounds by*, *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006) (citations omitted)).
17. “[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.’” *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)).

18. In this case, Mr. Shoimov requested a bond redetermination hearing in the Adelanto Immigration Court. On November 13, 2025, an Immigration Judge declined to consider his request, citing *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), to find that he lacked authority to do so. Although Mr. Shoimov could appeal this decision to the Board, that effort would be futile because it is extremely unlikely that the Board will reverse the decision that it issued approximately two months ago. The Court should therefore waive the prudential exhaustion requirement. *See Hernandez*, 872 F.3d at 990.

REQUIREMENTS OF 28 U.S.C. § 2243

19. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the Respondents forthwith, unless Mr. Shoimov is not entitled to relief. *See* 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.*

PARTIES

20. Mr. Shoimov is a native and citizen of Uzbekistan and is now detained by Respondents in the California City, Detention Center at 22844 Virginia Boulevard California City, CA 93505. He is in the custody, and under the direct control, of Respondents and their agents.
21. Respondent Christopher Chestnut is sued in his official capacity as the Warden of California City Detention Center. Warden Chestnut has immediate physical custody of Mr. Shoimov and has the authority to release him.

22. Respondent Sergio Albarran is sued in his official capacity as the San Francisco Field Office Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement. Mr. Becerra is the immediate supervisor of Respondent Chestnut.
23. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement and supervises and oversees Respondent Betz.
24. Respondent Kristi Noem is sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Respondent Kristi Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act (“INA”), and oversees ICE, the component agency directly responsible for Mr. Shoimov’s detention. *See* 8 U.S.C. § 1103(a). Respondent Kristi Noem is a legal custodian of Petitioner.
25. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States. The Attorney General oversees the Executive Office for Immigration Review and, within the Executive Branch, is the arbiter of all questions of law pertaining to the Immigration and Nationality Act. *See* 8 U.S.C. § 1103(a)(1), 1103(g).

STATEMENT OF FACTS

26. Mr. Shoimov entered the United States in February 2023. On February 9, 2023, immigration officials arrested him under an administrative warrant stating that his custody was authorized under 8 U.S.C. § 1226. *See* Exhibit A. The following day, the officers, acting under 8 U.S.C. § 1226, released him on his own recognizance. *See* Exhibit B. The release order required Mr. Shoimov to, among other requirements, wear an ankle monitor and report to ICE’s Baltimore Field Office for routine check-in appointments. *See* Exhibit G (Order of Release on Recognizance). That same day, an

immigration officer served Mr. Shoimov with an NTA ordering him to appear in the Baltimore Immigration Court on June 6, 2024 to defend against the charge under 8 U.S.C. § 1182(a)(6)(A)(i) that he was present in the United States without being admitted or paroled or had entered the U.S. at a time and place other than as designated by the Attorney General.. *See* Exhibit C.

27. Since his arrival in the United States, immigration officials have consistently served Mr. Shoimov with documents stating that their detention authority stems from 8 U.S.C. § 1226(a). *See* Exhibits A, B & G.
28. On information and belief, since February 2023, Mr. Shoimov has complied with all requirements of his release.
29. In April 2023, two months after entering the United States, Mr. Shoimov applied for asylum and related protection from removal with U.S. Citizenship and Immigration Services (“USCIS”) based on his political opinion. USCIS issued a receipt notice on May 1, 2023.
30. On information and belief, Mr. Shoimov has no criminal record.
31. On October 22, 2025, Mr. Shoimov reported to immigration officers as instructed for his routine ICE check-in appointment. Immigration officers arrested Mr. Shoimov and took him into their custody.
32. That same day, immigration officers served Mr. Shoimov with a second NTA requiring him to appear on December 2, 2025, at the Hyattsville, Maryland, Immigration Court to defend against the charge under 8 U.S.C. § 1182(a)(6)(A)(i) that he was present in the United States without having been admitted or paroled. *See* Exhibit E. Immigration

officers explicitly declined to charge him as an arriving alien; rather, they charged him as “an alien present in the United States.” *Id.*

CLAIMS FOR RELIEF

COUNT ONE

Violation of 8 U.S.C. § 1225(b)(2)(A).

33. Mr. Shoimov incorporates and realleges all paragraphs as if fully set forth here.
34. Respondents’ theory that Mr. Shoimov is subject to mandatory detention under 8 U.S.C. § 1225(b) rests on their mistaken recent reinterpretation of the Immigration and Nationality Act’s detention provisions at 8 U.S.C. §§ 1225(b) and 1226(a). At least five reasons demonstrate the mistakenness of the Respondents’ position.
35. First, the Respondents’ theory conflicts with the Supreme Court’s opinion in *Jennings v. Rodriguez*, 583 U.S. 281 (2018).
36. In *Jennings*, the Supreme Court instructed that 8 U.S.C. § 1225(b) “applies primarily to aliens seeking entry into the United States (‘applicants for admission’ in the language of the statute).” *Id.* at 297. Section 1226, on the other hand, “applies to aliens already present in the United States.” *Id.* at 303. “Section 1226(a) creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings.” *Id.* “Section 1226(a) also permits the Attorney General to release those aliens on bond . . .” *Id.*
37. Mr. Shoimov has been in the United States for well over two years. By any measure, he is “already present in the United States.” *Jennings*, 583 U.S. at 303. Under these circumstances, *Jennings* instructs that he is entitled to a bond hearing under 8 U.S.C. §

1226(a). *See also Sanchez v. Minga Wofford, Warden, Mesa Verde Immigrant Processing Ctr.*, 2025 U.S. Dist. LEXIS 218266, at *13 (E.D. Cal. Nov. 5, 2025).

38. Second, the Respondents' reinterpretation of the law governing detention for foreign nationals without administratively final removal orders is contrary to common rules of statutory interpretation. It is settled that a "statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant . . ." *Hibbs v. Winn*, 542 U.S. 88, 101 (2004) (internal quotations omitted). The Respondents' "theory of § 1225(b) — that the provision applies to all persons who have not been admitted into the United States — would render multiple provisions of § 1226 superfluous." *Quispe-Ardiles v. Noem*, 2025 U.S. Dist. LEXIS 194069, at *16 (E.D. Va. Sept. 30, 2025). For example, "[i]f every 'applicant for admission'—which is defined, as relevant here, as an 'alien present in the United States who has not been admitted,' *see* 8 U.S.C. § 1226(a)(1)—is already subject to mandatory detention under section 1225(b)(2)(A), as the government contends, there would have been no need for the new section 1226(c)(1)(E), which mandates detention for every noncitizen who is 'present in the United States without being admitted or paroled' and who has been 'charged with, arrested for, or admits to' committing certain crimes." *Sanchez*, 2025 U.S. Dist. LEXIS 218266, at *16 (citing 8 U.S.C. § 1226(c)(1)(E)). "The passage of the Laken Riley Act provision shows that Congress understood that not all noncitizens present in the United States who entered without lawful admission were subject to mandatory detention under section 1225(b)(2)(A), and Congress wanted to ensure that those who had certain criminal histories would be detained." *Id.*

39. Third, the Respondents' application of their reinterpretation of § 1225(b)(2) to Mr. Shoimov flies in the face of their prior actions. On February 7, 2023, immigration officers arrested him on a warrant "as authorized by section 236 of the Immigration and Nationality Act . . ." *See* Exhibit A.
40. The following day, immigration officials also issued Mr. Shoimov a Notice of Custody Determination, *see* Exhibit B, and Order of Release on Recognizance. *See* Exhibit G. Both documents state that immigration officials were acting under authority set forth in 8 U.S.C. §1226(a).
41. In short, the Respondents' treatment of Mr. Shoimov "since he arrived in the United States unequivocally demonstrates that he is detained pursuant to § 1226(a)." *Hasan v. Crawford*, 2025 U.S. Dist. LEXIS 184734, at *18 (E.D. Va. Sept. 19, 2025).
42. Fourth, the Respondents' reinterpretation of the detention provisions "would upend decades of practice. Indeed, mandatory detention for all applicants has only been the official policy of the Department of Homeland Security ("DHS") . . . since July 8, 2025, when Acting Director of U.S. Immigration and Customs Enforcement, Todd M. Lyons, issued an internal memorandum explaining that the agency had revisited its legal position." *Martinez v. Hyde*, 2025 U.S. Dist. LEXIS 141724, at *12 (D. Mass. July 24, 2025) (internal quotation omitted).
43. Here, the Respondents' decision to detain Mr. Shoimov involved "revisit[ing] a position they had held since 1997. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1261-1262 (E.D. Wa. 2025) (discussing legislative history of 8 U.S.C. §§ 1225 and 1226 and immigration officials' interpretation of those provisions up until July 2025). The Respondents' nearly three-decade interpretation of the INA's detention provisions should

inform the Court as to the correctness of that interpretation. *See id.* (citing *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 386 (2024)).

44. Fifth, the Respondents themselves have issued conflicting interpretations of these detention provisions since July 2025. In an August 4, 2025, precedential decision, the Attorney General determined that foreign nationals arrested in the interior of the United States (other than at a port of entry) are entitled to bond hearings and are detained under 8 U.S.C. § 1226. She did this by designating as precedent “in all proceedings involving the same or similar issues” the Board’s decision in *Matter of Akhmedov*, 29 I. & N. Dec. 166 n.1 (BIA 2025).
45. In *Akhmedov*, the Board considered the Department of Homeland Security’s appeal of an Immigration Judge’s grant of bond to a foreign national arrested in the interior of the United States. *See* 29 I. & N. Dec. at 166, 168. The Board’s decision - as adopted by the Attorney General – could hardly be clearer: “The respondent’s custody determination is governed by the provisions of section 236(a) of the Immigration and Nationality Act, 8 U.S.C. § 1226(a) (2018).” *Id.* at 166.
46. Just like the foreign national in *Akhmedov*, Mr. Shoimov was arrested by immigration officers in the interior of the United States.
47. Under pertinent regulation, “[t]he Board shall be governed by the provisions and limitations prescribed by applicable law, regulations, and procedures, and by decisions of the Attorney General (through review of a decision of the Board, by written order, or by determination and ruling pursuant to section 103 of the Act).” 8 C.F.R. § 1003.1(d)(1)(i).

48. By statute, the Attorney General's determinations and rulings on all questions of law pertaining to the Immigration and Nationality Act bind the Executive Branch. *See* 8 U.S.C. § 1103(a)(1).
49. Despite this statutory and regulatory authority, and the Attorney General's order in *Akhmedov*, on September 5, 2025, the Board of Immigration Appeals issued its decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). There, the Board asserted that a foreign national who has not been admitted to the United States is not entitled to a bond hearing and is detained under 8 U.S.C. § 1225(b)(2)(A). *See id.* at 220. *Yajure Hurtado* cannot be reconciled with the Attorney General's decision in *Akhmedov* (decided a month earlier) where the Attorney General determined that 8 U.S.C. § 1226(a) governs foreign nationals who enter the United States unlawfully and who immigration officers later encounter. *See Akhmedov*, 29 I. & N. Dec. at 166.
50. The Board's attempt to reconcile the Attorney General's decision in *Akhmedov* with its own decision in *Yajure Hurtado* underscores this point. *See* 29 I. & N. Dec. at 226. In *Yajure Hurtado*, the Board articulated no reasoning for its disagreement with the Attorney General other than to state its opinion that a foreign national's presence in the United States "does not somehow eviscerate or nullify section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), or vest the Immigration Judge with authority over the respondent's bond request." *Id.* at 226.¹
51. The Board's observation in *Yajure Hurtado* that 8 U.S.C. § 1225(b) was not before the Attorney General in *Akhmedov* does not give license to the Board to act contrary to both

¹ It bears noting that the Board panel in *Hurtado* was apparently unaware that the Attorney General had designated *Akhmedov* as precedent. *See Yajure Hurtado*, 29 I. & N. Dec. at 226 (referencing "[t]he Board's statement" in *Akhmedov*).

statutory and regulatory authority declaring that the Attorney General – and not the Board – speaks for the Executive Branch with respect to “all questions of law.” 8 U.S.C. § 1103(a)(1); *see* 8 C.F.R. § 1003.1(d)(1)(i). Nor can it vitiate the Attorney General’s determination that custody determinations of foreign nationals arrested in the United States interior are “governed by the provisions of section 236(a) of the Immigration and Nationality Act, 8 U.S.C. § 1226(a) (2018).”

52. *Yajure Hurtado* is also inconsistent with an Attorney General opinion from 2003. In *Bond Proceeding of Undocumented Aliens Seeking to Enter the United States Illegally*, the Attorney General considered the case of a Haitian citizen who entered the United States illegally aboard a vessel and who immigration officials arrested after he attempted to evade them. 27 Op. O.L.C. 1, 1 (A.G. 2003) (available at <https://www.justice.gov/file/145786-0/dl>) (last accessed Nov. 20, 2025). After immigration officials charged the Haitian citizen under 8 U.S.C. § 1182(a)(6)(A)(i), he sought asylum and applied for bond. *See Bond Proceedings*, 27 Op. O.L.C. at 1. When assessing the Haitian citizen’s request for bond, the Attorney General stated, “[t]he law governing the detention or release of aliens such as respondent (i.e., aliens arrested and detained pending a decision on removal) is set forth in section 236(a) of the INA.” *Id.* at 3.
53. *Akhmedov* is consistent with *Bond Proceeding of Undocumented Aliens Seeking to Enter the United States*, 27 at 3. The sole outlier with respect to authoritative Department of Justice opinions on this issue is the Board’s decision in *Yajure Hurtado*. Because Attorney General decisions control Board decisions, it follows that *Yajure Hurtado* does

not control the Immigration Judge with respect to scheduling a bond hearing in Mr. Shoimov's case. *See Loper Bright Enters. V. Raimondo*, 603 U.S. 369, 394, 413 (2024).

COUNT TWO

Violation of Fifth Amendment Right to Due Process

54. Mr. Shoimov incorporates and realleges paragraphs 1-32 as if fully set forth herein.
55. It is settled that the Fifth Amendment's Due Process Clause applies to all "persons" within the United States. *See Matthews v. Diaz*, 426 U.S. 67, 77 (1976). The term "persons" includes foreign nationals such as Mr. Shoimov. *See id.*
56. It is equally well settled that freedom from confinement is a core liberty interest and violation of that liberty interest raises a colorable substantive due process claim. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)); *Reno v. Flores*, 507 U.S. 292, 301 (1993) (collecting cases); *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (bodily freedom is the "most elemental of liberty interests").
57. Mr. Shoimov has been in the United States for over two years. Respondents' departure from its position that they are detaining Mr. Shoimov under § 1226(a) and that their detention authority somehow transformed to 8 U.S.C. § 1225 (and that he is no longer eligible for bond), violates Mr. Shoimov's right to substantive due process.
58. Mr. Shoimov also has the right to procedural due process. Immigration proceedings are civil, and they are intended to be "nonpunitive in purpose and effect." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Over a century of Supreme Court precedent instructs that the Fifth Amendment entitles foreign nationals to procedural due process. *See Reno*, 507 U.S. at 306 (citing *The Japanese Immigrant Case*, 189 U.S. 86, (1903)). The Respondents'

refusal to provide any process whatsoever contravenes over a century of Supreme Court precedent interpreting the Due Process Clause as applying to foreign nationals such as Mr. Shoimov. *See, e.g., Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

59. To determine whether civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the three-part test articulated in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See Alvarez v. David Rivas, Warden of the San Luis Det. Ctr.*, 2025 U.S. Dist. LEXIS 200981, at *53 (D. Az. Oct. 7, 2025); *see also Singh v. Andrews*, 2025 U.S. Dist. LEXIS 132500, at *16-17 (E.D. Cal. Jul. 11, 2025) ("the procedural protections required in a given situation are evaluated using the *Mathews v. Eldridge* factors: First, the private interest that will be affected by the official action; second, 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; and finally, the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* (quoting *Mathews*, 424 U.S. at 335); *Hernandez v. Sessions*, 872 F.3d 976, 993 (9th Cir. 2017) (applying *Mathews* factors in immigration detention context).
60. First, Mr. Shoimov has a substantial private interest in remaining free from detention. He has been out of custody for over two years, and during that time, has lawfully worked full-time and has become an active member of his community. His detention denies him that freedom. *See Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (explaining that private interests include the freedom to "be gainfully employed and... to be with family and friends and to form the... enduring attachments of normal life").

61. Second, “the risk of an erroneous deprivation [of liberty] is high” where, as here, “[the petitioner] has not received any bond or custody redetermination hearing.” *A.E. v. Andrews*, 2025 U.S. Dist. LEXIS 94233, at *12 (E.D. Cal. May 15, 2025) (internal quotation omitted). Civil immigration detention, which is “nonpunitive in purpose and effect [,]” is justified when a noncitizen presents a risk of flight or danger to the community. *See Zadvydas*, 533 U.S. at 690. Here, on information and belief, Mr. Shoimov has no criminal history and indicates that he has attended every check-in and court hearing since he arrived in the United States. Nonetheless, ICE agents detained him during his routine ICE check-in appointment and now claim that he is subject to mandatory detention. He has not been provided with any procedural safeguards to determine whether his detention is justified. Thus, “the probable value of additional procedural safeguards, i.e., a bond hearing, is high.” *A.E.*, 2025 U.S. Dist. LEXIS 94233, at *12.
62. Third, the government’s interest in detaining Mr. Shoimov without a hearing is low. In immigration court, custody hearings are routine and impose a “minimal” cost. *See Doe v. Becerra*, 787 F. Supp. 3d 1083, 1094 (E.D. Cal. 2025). Further, immigration detention is civil, not punitive, and may only be used to prevent danger to the community or to ensure appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690.
63. Considering these factors, Mr. Shoimov respectfully requests this Court to order his immediate release from custody or provide him with a bond hearing.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;

- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that Mr. Shoimov's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1236, and is arbitrary and capricious and an abuse of discretion under 5 U.S.C. § 706.
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or, alternatively, order that a neutral and impartial adjudicator conduct a bond hearing pursuant to 8 U.S.C. § 1236(a);
- (5) Award him his attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

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Dated: November 20, 2025

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*Motion for admission pro hac vice
forthcoming.

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

I represent, Mr. Shoimov, 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 twentieth day of November, 2025.

/s/ Daniel I. Smulow
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Attorney for Petitioner

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

CERTIFICATE OF SERVICE

I, Daniel I. Smulow, hereby declare that, pursuant to Federal Rule of Civil Procedure 4(i), on November 20, 2025, I directed be served the following documents in the above-captioned matter:

- Petition for Writ of Habeas Corpus; and
- Civil Cover Sheet

I caused the aforementioned documents to be served by USPS certified mail, return receipt requested, at the following addresses:

Edward A. Olsen, Chief
Civil Division
U.S. Attorney's Office for the Eastern District of California
501 I Street, Suite 10-100
Sacramento, CA. 95814

Sergio Albarran, Field Office Director
Department of Homeland Security
Immigration and Customs Enforcement ERO
San Francisco Field Office
630 Sansome St.
San Francisco, CA 94111

Christopher Chestnut, Warden at California City
ATTENTION WARDEN:
22844 Virginia Boulevard,
California City, CA 93505

Todd Lyons, Director
U.S Immigration and Customs Enforcement
500 12th St SW
Washington, DC 20536

Pamela Bondi, Attorney General
Office of the Attorney General
950 Pennsylvania Ave., N.W.
Washington, DC 20530

And

Kristi Noem, Secretary of Homeland Security
Office of General Counsel
U.S. Department of Homeland Security 277
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on November ___, 2025 at Mountain View, California.

/s/ Daniel I. Smulow

Daniel I. Smulow.
Massachusetts Bar NO. 641668
Griffith Immigration Law
300 E. Lombard St., Suite 1030
Baltimore, MD 21202
(410) 244-5005

Attorney for Petitioner