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10 Attorney for Petitioner, KAVEH MOMTAZIAN

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13 LOS ANGELES, CALIFORNIA

14 KAVEH MOMTAZIAN

15 Petitioner,

16 V.

17
18 KRISTI NOEM, Secretary of Homeland
19 Security; PAMELA J. BONDI,
20 Attorney General of the US; THOMAS
21 GILES, LA Field Office Director, ICE-
22 ERO; JAMES PILKINGTON, Assistant
23 Field Office Director, Adelanto
24 Detention Facility; Warden, Geo Group
25 Inc, Adelanto Detention Facility and,
26 DOES 5 through 10, inclusive, Jointly
27 and Severally.

28 Respondents.

} CASE NO.

} **PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner KAVEH MOMTAZIAN is in the physical custody of Respondents at the Adelanto Detention Facility. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.
2. Petitioner KAVEH MOMTAZIAN has a final order of removal from February 16, 2006 wherein he did not fight his removal case given that he was informed he would be released from custody on an order of supervision.
3. Petitioner KAVEH MOMTAZIAN then from 2006 until he was taken into custody appeared as requested for check-ins with Immigration and Customs Enforcement (ICE) while building his life here including marriage to a US Citizen and having four (4) US Citizen children.
4. Seemingly for no reason, on or about June 22, 2025, Petitioner KAVEH MOMTAZIAN was taken into ICE Custody.
5. Petitioner KAVEH MOMTAZIAN, on or about October 9, 2025 moved to reopen his removal proceedings, which was denied by the Immigration Judge. The case is currently on appeal at the Board of Immigration Appeals.

- 1 6. Petitioner's detention on this basis violates the plain language of the
2 Immigration and Nationality Act. Section 1231 does not apply to individuals
3 like Petitioner who cannot and have not be removed within 90 days. If the
4 Detainee cannot be removed in 90 days, then they should be released on
5 supervision. Such individuals are subject to a different statute, § 1226(a),
6 that allows for release on conditional parole or bond. That statute expressly
7 applies to people who, like Petitioner, who the Government has been trying
8 to remove for close to 180 days, in excess of 90 days called for in the statute.
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12 7. Additionally, Petitioner KAVEH MOMTAZIAN has not sat idly by waiting
13 for his removal, he sought a Motion to Reopen, which is currently on appeal.
14 Before being re-detained, he built a life here and complied with the Order of
15 Supervision. He previously tried to fix his criminal cases in or around 2016
16 but did not do so property, so before filing the Motion to Reopen, he vacated
17 two of his old convictions on legal and procedural grounds, thus rendering
18 him eligible for Adjustment of Status but for the removal order.
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22 8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be
23 released within 3 days or unless Respondents provide a bond hearing under
24 § 1226(a) within seven days.
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JURISDICTION

9. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Adelanto Detention Facility in Adelanto, California.

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

11. This Court may grant relief pursuant to 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.

VENUE

12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Central District of California, the judicial district in which Petitioner currently is detained.

13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Central District of California.

REQUIREMENTS OF 28 U.S.C. § 2243

14. The Court must grant the petition for writ of habeas corpus or order

Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

15. Habeas corpus is “perhaps the most important writ known to the

constitutional law . . . 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). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

16. Here, Petitioner KAVEH MOMTAZIAN was re-detained after being on an Order of Supervision for 19 years without incident. The government did not provide him due process in carrying out the re-detention.

PARTIES

17. Petitioner KAVEH MOMTAZIAN is a citizen of IRAN who has been in immigration detention since June 22, 2025. After arresting Petitioner in

1 [location], ICE did not set bond and Petitioner is unable to obtain review of
2 his custody by an IJ, pursuant to Immigration and Nationality Act section
3 1231.
4

5 18. Respondent THOMAS GILES is the Director of the Los Angeles Field
6 Office of ICE's Enforcement and Removal Operations division. As such,
7 THOMAS GILES is Petitioner's immediate custodian and is responsible for
8 Petitioner's detention and removal. He is named in his official capacity.
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11 19. Respondent KRISTI NOEM is the Secretary of the Department of Homeland
12 Security. She is responsible for the implementation and enforcement of the
13 Immigration and Nationality Act (INA), and oversees ICE, which is
14 responsible for Petitioner's detention. Ms. Noem has ultimate custodial
15 authority over Petitioner and is sued in her official capacity.
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18 20. Respondent Department of Homeland Security (DHS) is the federal agency
19 responsible for implementing and enforcing the INA, including the detention
20 and removal of noncitizens.
21

22 21. Respondent PAMELA BONDI is the Attorney General of the United States.
23 She is responsible for the Department of Justice, of which the Executive
24 Office for Immigration Review and the immigration court system it operates
25 is a component agency. She is sued in her official capacity.
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1 22. Respondent Executive Office for Immigration Review (EOIR) is the federal
2 agency responsible for implementing and enforcing the INA in removal
3 proceedings, including for custody redeterminations in bond hearings.
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5 23. Respondent WARDEN is employed by Geo Group, Inc. as Warden of the
6 Adelanto Detention Facility, where Petitioner is detained. They have
7 immediate physical custody of Petitioner. They are sued in their official
8 capacity.
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11 LEGAL FRAMEWORK

12 24. The INA prescribes three basic forms of detention for the vast majority of
13 noncitizens in removal proceedings.
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15 25. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard
16 removal proceedings before an IJ. See 8 U.S.C. § 1229a. Individuals in §
17 1226(a) detention are generally entitled to a bond hearing at the outset of
18 their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens
19 who have been arrested, charged with, or convicted of certain crimes are
20 subject to mandatory detention, see 8 U.S.C. § 1226(c).
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23 26. Second, the INA provides for mandatory detention of noncitizens subject to
24 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals
25 seeking admission referred to under § 1225(b)(2).
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1 27.Last, the INA also provides for detention of noncitizens who have been
2 ordered removed, including individuals in withholding-only proceedings, see
3 8 U.S.C. § 1231(a)–(b).
4

5 28.This case concerns specifically the detention provisions at § 1231.
6

7 29.The detention provisions at § 1226(a) and § 1231 were enacted as part of the
8 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of
9 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–
10 582 to 3009–583, 3009–585. Section 1226(a) was most recently amended
11 earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3
12 (2025).
13
14

15 30.Section 1231 of the INA applies here and therefore after 90 days in
16 detention, Petitioner KAVEH MOMTAZIAN shall be placed on an order of
17 supervision. In fact, he was on such supervision for approximately 19 years,
18 without incident, before being detained for an unknown reason.
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21 31.Petitioner KAVEH MOMTAZIAN was given a 90-day review but it
22 contained boilerplate language regarding his continued detention. He should
23 be placed back on supervision.
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FACTS

32. Petitioner has resided in the United States since September 22, 1996 and resided in Santa Maria before being detained.

33. On or about June 22, 2025, Petitioner was arrested presumably because of the old removal order. Petitioner is now detained at the Adelanto Detention Facility

34. DHS has held Petitioner under INA section 1231 attempting to remove him either to Iran or a third country.

35. To date, Petitioner has met with the official designated to assist Iranian's obtain documents since the United States no longer have an Iranian Embassy in the United States.

36. At each meeting, the official informs Petitioner that he cannot assist him with a travel document.

37. Petitioner KAVEH MOMTAZIAN has been married to a US Citizen for over 12 years. The couple has four (4) US citizen children, ages 7, 5, 3 and 8 months. Petitioner has a business called Sir Grout, which he runs with his brother-in-law. Petitioner has three (3) misdemeanor convictions which are all approximately 20 years old. Two are nuisance violations and the third is

1 for evading/disobeying a police officer. Petitioner is neither a flight risk nor
2 a danger to the community.

3
4 38.Following Petitioner's arrest and transfer to Adelanto Detention Facility,
5 ICE issued a custody determination to continue Petitioner's detention
6 without an opportunity to post bond or be released on other conditions.
7

8 39.Additionally, after 90 days in custody, Petitioner received a letter indicating
9 that the officer did a review per 8 CFR 241.4 but without analysis found that
10 his overwhelming positive factors were outweighed by his minor and
11 extremely old criminal record.
12

13
14 40.As a result, Petitioner remains in detention. Without relief from this court, he
15 faces the prospect of months, or even years, in immigration custody,
16 separated from his family and community.
17

18 **CLAIMS FOR RELIEF**

19 **COUNT I**

20 **Violation of the INA**

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22 41.Petitioner incorporates by reference the allegations of fact set forth in the
23 preceding paragraphs.
24

25 42.INA section 1231 should apply and Petitioner should have been released on
26 supervision since he could not be removed within 90 days.
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COUNT II

Violation of Due Process

43. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

44. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

45. Petitioner has a fundamental interest in liberty and being free from official restraint.

46. The government’s detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

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

- a) Assume jurisdiction over this matter;
- b) Order that Petitioner shall not be transferred outside the Central District of California while this habeas petition is pending;

- 1 c) Issue an Order to Show Cause ordering Respondents to show cause why
2 this Petition should not be granted within three days;
3
4 d) Issue a Writ of Habeas Corpus requiring that Respondents release
5 Petitioner or, in the alternative, provide Petitioner with a bond hearing
6 pursuant to 8 U.S.C. § 1226(a) within seven days;
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8 e) Declare that Petitioner's detention is unlawful;
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10 f) Award Petitioner attorney's fees and costs under the Equal Access to
11 Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other
12 basis justified under law; and
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14 g) Grant any other and further relief that this Court deems just and proper.

15 DATED this 17 of December 2025.
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18 Respectfully submitted,
19 BERJIS | MYERS PLC
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21 /s/ Robert E Myers
22 Robert Myers, Esq.
23 Counsel for Petitioner
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