IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

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RUSTAM SADULLOEV,

Petitioner,

v.

Juan Baltasar, in his official capacity as Warden of the Denver Contract Detention Facility, Aurora, Colorado; ROBERT GUADIAN, in his official capacity as the Denver Field Office Director for U.S. Immigration and Customs Enforcement; TODD LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; PAMELA BONDI, in her official capacity as Attorney General of the United States; KRISTI NOAM, in her official capacity as Secretary of the United States Department of Homeland Security,
Respondents.

Civil Action No. 1:26-cv-1137

APPLICATION FOR A WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

Rustam Sadulloev, is a 32-year-old man from Tajikistan who has experienced unjust, prolonged detention at the Denver Contract Detention Facility ("Aurora Facility") for thirty months. Mr. Sadulloev fled Tajikistan after he was illegally detained and subjected to horrific abuse on account of his religion. Mr. Sadulloev claimed asylum in the United States on September 18, 2023. He was granted asylum on April 24, 2025, but has remained in detention during the pendency of the government's appeal. Mr. Sadulloev's detention has been unnecessarily prolonged and violates the Fifth Amendment's protection against deprivation of liberty and offends the core promises America made to those fleeing persecution.

Accordingly, Mr. Sadulloev seeks a writ of habeas corpus requiring that he be released immediately on parole, or alternatively, provided with a bond hearing with sufficient constitutional due process protections, within seven days of this Court issuing an order.

PARTIES

Petitioner Rustam Sadulloev is a Tajikistan man who was granted asylum on April 15, 2025, after being in ICE detention since September 18, 2023. Mr. Sadulloev is currently detained at the Aurora Facility. Petitioner entered the United States on September 18, 2023, and claimed asylum at the Hidalgo, Texas Port of Entry. The Petitioner is in the custody, and under the direct control, of Respondents and their agents.

Respondent Juan Baltasar is named in his official capacity as the Warden of the Aurora Facility. Respondent Robert Guadian is named in his official capacity as the Denver Field Office Director for U.S. Immigration and Customs Enforcement ("ICE").

Respondent Todd Lyons is named in his official capacity as the Acting Director for ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States and is legally responsible for pursuing efforts to remove the Petitioner and is a custodian of the Petitioner.

Respondent Pamela Bondi is named in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). She has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the BIA. Respondent Bondi is a custodian of the Petitioner.

Respondent Kristi Noam is named in her official capacity as the Secretary of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1103(a) (2007). She is legally responsible for pursuing any effort to detain and remove the Petitioner and is a custodian of the Petitioner.

JURISDICTION and VENUE

Mr. Sadulloev is under the direct control of Respondents and their agents and has been since his declaration at the border on September 18, 2023. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101 *et seq*. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause); 28 U.S.C. § 2201 (declaratory judgment). This Court has habeas jurisdiction to examine the statutory and constitutional bases for an immigration detention unrelated to a final order of removal. *Mohit v.*

U.S. Dep't of Homeland Sec., 478 F. Supp. 3d 1106., 1109 (D. Colo. 2020) (citing *Demore v. Kim*, 538 U.S. 510, 517–18 (2003)).

Non-citizens may bring habeas petitions under 28 U.S.C. § 2241(c)(3) if their confinement violates the Fifth Amendment's guarantee of due process. *Juarez v. Choate*, No. 1:24-CV-00419-CNS, 2024 WL 1012912 (D. Colo. Mar. 8, 2024), appeal dismissed (June 24, 2024) (not reported). Mr. Sadulloev's detention constitutes a "severe restraint[] on his individual liberty" interest such that Mr. Sadulloev is "subject to restraints not shared by the public generally" and "in custody in violation of the . . . laws . . . of the United States." *See Hensley v. Municipal Court,* 411 U.S. 345, 351 (1973); 28 U.S.C. § 241.

The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness of their detention by DHS. 8 U.S.C. § 1252(a); *Jennings v. Rodriguez,* 138 S. Ct. 830, 839–41 (2018); *Demore v. Kim,* 538 U.S. 510, 516–17 (2003); *Zadvydas v. Davis,* 533 U.S. 678, 687 (2001).

Venue is proper because Mr. Sadulloev is detained at the Aurora Facility, which is within the District of Colorado.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

Exhaustion is not necessary because Congress did not codify a requirement that petitioners seeking a writ of habeas corpus exhaust administrative remedies. *McCarthy v. Madigan,* 503 U.S. 140, 144 (1992) ("Where Congress specifically mandates, exhaustion is required . . . But where Congress has not clearly required exhaustion, sound judicial discretion governs.").

Even if meaningful administrative remedies were promptly available, Mr. Sadulloev, as a noncitizen challenging the lawfulness of his ongoing immigration detention, is not required to exhaust those remedies under 8 U.S.C. § 2241. *Quintana Casillas v. Sessions*, 2017 WL 3088346, at *8 (D. Colo. July 20, 2017)("But the court [Tenth Circuit] has held that 'with regard to immigration laws, exhaustion of remedies is statutorily required only for appeals of final orders of removal.'" *(citing Hoang v. Comfort*, 282 F.3d 1247, 1254 (10th Cir. 2002)).

Exhaustion of remedies is unnecessary if futile. *Goodwin v. State of Okl.,* 923 F.2d 156, 157 (10th Cir. 1991) (finding that exhaustion is not required due to futility where the state's highest court recently decided the precise legal issue petitioner raised in his federal habeas petition); *L.G. v. Choate*, 744 F. Supp. 3d 1172, 1181–82 (D. Colo. 2024) (holding "[w]hen Congress does not require exhaustion in the statute then the district court has discretion to decide if administrative exhaustion is required."); *de Zarate v. Choate*, No. 3:22-cv-01661 (D. Colo.), 2023 WL 2574370, at *2 (D. Colo. June 19, 2023) (holding "[m]oreover, exhaustion of remedies is not required if exhaustion would be futile") (citing *Goodwin*, 923 F.2d at 157)).

Exhaustion here would be futile because the detention statute does not provide for a bond hearing when an individual is held pursuant to 8 U.S.C. § 1225(b). Immigration Judges ("IJs") lack jurisdiction to render an individualized custody determination for individuals incarcerated pursuant to § 1225(b). 8 U.S.C. § 1225(b); *see Valerga v. Holder,* No. 13-CV-03014-PAB, 2014 WL 103551, at *3 (D. Colo. Jan. 9, 2014) (determining exhaustion to be futile for persons in immigration detention whose cases are determined to be subject to mandatory detention under a similarly situated section of the Immigration National Act ("INA"), 8 U.S.C. § 1226(c)).

EOIR, the agency housing the nation's immigration courts and appellate body, lacks authority to rule on the constitutionality of the immigration statutes, and both the immigration courts and BIA lack jurisdiction to interpret issues beyond the scope of the INA and its corresponding regulations. *Matter of G-K-*, 26 I. & N. Dec. 88 (BIA 2013); *Matter of Valdovinos,* 18 I. & N. Dec. 343, 345–46 (BIA 1982) (disclaiming jurisdiction to rule on the constitutionality of an immigration statute).

Requesting EOIR to review Mr. Sadulloev's detention therefore "would be to demand a futile act." *Houghton v. Shafer,* 392 U.S. 639, 640 (1968) (requiring the petitioner to exhaust administrative remedies was futile because the attorney general had decided that the rules were appropriately applied to the petitioner).

Nevertheless, Mr. Sadulloev exhausted the administrative remedies available to him. Mr. Sadulloev formally requested parole on September 30, 2024. Respondents stated that Mr. Sadulloev received a denial of his request for parole. Mr. Sadulloev's EOIR record does not reflect this response and Mr. Sadulloev's counsel does not have a record of this response.

Mr. Sadulloev has also requested release twenty times through the Office of Immigration Detention Ombudsman online portal between November 20, 2023, and April 26, 2025. *See* Ex. 4. Mr. Sadulloev also submitted eleven "KITEs," formal requests to Aurora Facility officials, requesting his release between November 22, 2023, and August 25, 2025. *Id.* Mr. Sadulloev received conflicting denials: (a) he was in court proceedings, (b) he could request a bond hearing in front of a judge, (c) he is not "eligible for bond since [he] claimed fear," (d) his request for parole was being considered, and (e) could not be released while his appeal was pending. *Id.*

Therefore, exhaustion is satisfied because it is not required, is futile, and has occurred.

FACTUAL SUMMARY AND PROCEDURAL HISTORY

Mr. Sadulloev was born in Dushanbe, Tajikistan on [redacted] Ex. 3 at 1. He is married with three young daughters. *Id.* Prior to fleeing Tajikistan, Mr. Sadulloev worked as an electrician and owned a wedding events business and animal husbandry business. *Id.*

Around late 2022 and early 2023, Mr. Sadulloev converted to Salafism, a branch of Sunni Islam. *Id.* Tajikistan has formally banned Salafism as an "extremist movement" since 2009; a designation that the Tajik government has arbitrarily applied to other religious groups, including Jehovah Witnesses and non-government sanctioned sects of Islam. Ex. 1 at 19; Ex. 6 at 3–5.

On March 6, 2023, Dushanbe police officials illegally arrested Mr. Sadulloev outside of a mosque. Ex. 3 at 2. He was detained for fourteen days without being charged. *Id.* Tajik government officials beat, starved, and threatened Mr. Sadulloev because he is a practicing Salafi. Ex. 1 at 14.

When he was released, Tajik government officials told Mr. Sadulloev that if he continued to associate with Salafi people, the government officials would make him regret being born. *Id.* During his detention, he was mocked for his beliefs, threatened for his beliefs, and told to sign a paper saying that he was a Salafi conspiring against the government. *Id.*

The beatings were so severe that Mr. Sadulloev believed that he would die in that basement. Ex. 3 at 3. The damage inflicted on his feet alone was so violent that Mr. Sadulloev could not walk properly out of the jail. Ex. 1 at 13. The government officials threatened to rape his wife. *Id.*

Fearing the government would again subject him to the horrors he had already experienced, Mr. Sadulloev fled to the United Kingdom on July 12, 2023. Ex. 3 at 4. While

working on a farm in Great Britain, Mr. Sadulloev lived with several other individuals from Tajikistan. *Id.* During a gathering at his home, Mr. Sadulloev was recorded, unbeknownst to him, criticizing the Tajikistan president and sharing his experience of being abused, tortured, and threatened in Tajikistan for his adherence to Salafism. *Id.* at 4–5.

An unknown individual sent the recording to Tajik government officials. *Id.* at 5. Shortly after, Mr. Sadulloev was issued a Notice to Appear. Ex. 5. When he did not appear as he was in Great Britain, the Tajik government officials went to Mr. Sadulloev's family's home, terrorizing his wife and children and arresting Mr. Sadulloev's brother, [redacted] Ex. 1 at 19. The police detained [redacted] for four days, beating him and playing him the recording of Mr. Sadulloev's criticisms of the government. Ex. 3 at 5. Upon releasing [redacted] the government officials informed [redacted] that they knew where Mr. Sadulloev was and that they will make Mr. Sadulloev beg for death. Ex. 3 at 5. The United State Commission on International Religious Freedom has determined that Tajikistan one of the world's worst perpetrators of transnational repression. Ex. 6 at 5.

Fearing the Tajikistan government's reach, Mr. Sadulloev fled Great Britain on September 12, 2023, and arrived in Mexico that same day. Ex. 3 at 6. On September 18, 2023, Mr. Sadulloev claimed asylum at the port of entry. Ex. 1 at 6. That same day, Mr. Sadulloev provided sworn statements to a Customs Border Patrol officer, which were documented on a Record of Sworn Statement in Proceedings under Section 235(b)(1) ("Sworn Statement"). *Id.* The Sworn Statement identifies that a "Farsi – Afghan – Dari" translator was provided for Mr. Sadulloev; languages Mr. Sadulloev does not speak or understand proficiently. *Id.* at 6, 8. The

Sworn Statement contains confusing and misleading responses that suggest a notable language barrier between Mr. Sadulloev and the interpreter. *Id.* at 7–9.

Mr. Sadulloev was transferred to the Aurora Facility on November 13, 2023, where he remains detained. Between December 8, 2023, and February 19, 2026, Mr. Sadulloev has had eleven hearings. *See* Ex. 2. In five of the hearings, including the first four hearings, Mr. Sadulloev was not provided with a Tajik interpreter he could understand. Ex. 2 at 2, 4, and 16–17. On January 26, 2024, the Immigration Judge ("IJ") noted that Mr. Sadulloev would be provided with an interpreter who did not speak Tajikistan with an Irani accent. *Id.* at 5.

The February 23, 2024, was the first hearing where Mr. Sadulloev was provided with Tajik interpreter he understood. Ex. 2 at 8. At this hearing, Mr. Sadulloev was given, for the first time, six months after he was detained, an application for asylum, an I-589. *Id.* at 12. The IJ explained the process to Mr. Sadulloev, including that the I-589 must be completed in English. *Id.* at 9–12.

Yet, at the following hearing on April 23, 2024, hearing, two language barriers arose. The first was that Mr. Sadulloev could only understand 40–50 percent of what the interpreter was saying, stating that the interpreter spoke "Irani." *Id.* at 17. Mr. Sadulloev proceeded to tell the IJ that "it is very difficult for me to understand you," and that he did not want to continue with the hearing because of this difficulty. *Id.* 17–18. The I.J. informed Mr. Sadulloev that "[i]f there's not a better language that you would understand, then you're just gonna have to try and understand this." *Id.* at 17.

The second is that Mr. Sadulloev explained that he was struggling to complete the I-589 because he lacked adequate access to translation services. *Id.* at 18. To assist with translations,

the Respondents provide tablets at the Aurora Facility equipped with languages to assist detainees with translations so they can complete the I-589 in English. Ex. 3 at 9. The Aurora Facility tablets are not, or were not in April 2024, equipped with Tajik. *Id.* The Aurora Facility denied Mr. Sadulloev's request to use his phone for translation. *Id.* At this hearing, Mr. Sadulloev was provided with a list of pro bono organizations who could assist with asylum applications. Ex. 2 at 18–19. The list was not in Tajik. Ex. 2 at 19.

Mr. Sadulloev relied on translations by other detainees who spoke combinations of English, Russian, and Tajik to complete his asylum application. Ex. 3 at 9. The result is a brief application that fully states the claims required for asylum. Ex. 7. Mr. Sadulloev, with the assistance of counsel and a Tajik interpreter, later submitted an amended I-589. *Id.*

Mr. Sadulloev attended his merits hearing on March 13, 2025 ("March Merits Hearing"). Ex. 2 at 61. At the hearing, Mr. Sadulloev testified to the nature of the abuse he suffered in the basement of the Dushanbe police station, the terror he felt knowing the Tajik government could reach him in the United Kingdom, and his fear of returning to Tajikistan. *See* Ex. 2 at 61–152.

The IJ granted Mr. Sadulloev asylum on April 24, 2025. Ex. 1. The IJ found Mr. Sadulloev credible based on his testimony and that even if Mr. Sadulloev's testimony was deemed insufficient, his corroborating evidence further bolstered his claim for eligibility. *See generally* Ex. 1.

The Department of Homeland Security ("DHS") appealed the decision on May 27, 2025. Ex. 9. The Notice of Appeal solely raises issue with the Sworn Statement. *Id.* DHS subsequently raised new arguments in the brief on appeal. Mr. Sadulloev, through counsel, filed his appeal brief on July 18, 2025. On November 13, 2025, the Board of Immigration Appeals

("BIA") remanded Mr. Sadulloev's case to the Aurora Immigration Court with orders to make additional findings related to Mr. Sadulloev's Sworn Statement and other aspects of his corroborating evidence.

Mr. Sadulloev was initially provided with a Notice to Appear on January 7, 2026. Ex. 8 at 1. Mr. Sadulloev appeared, but the hearing was improperly scheduled and no IJ was available.

Mr. Sadulloev appeared before the Aurora Immigration Court on January 21, 2026. *Id.* at 3. Due to time constraints, the Mr. Sadulloev's case was continued to Feb. 17, 2026. *Id.* at 5. On February 17, 2026, Mr. Sadulloev appeared before the Aurora Immigration Court. *Id.* at 5. Mr. Sadulloev could not understand the interpreter, so the hearing was continued. *Id.* at 7. Mr. Sadulloev again appeared on March 19, 2026. *Id.* at 7. The interpreter provided spoke the Farsi dialect of Tajik, and Mr. Sadulloev could not understand the interpreter. Mr. Sadulloev has fifth hearing scheduled for April 10, 2026. *Id.* at 9. Mr. Sadulloev remains detained.

CLAIM FOR RELIEF

Violation of Fifth Amendment Right to Due Process

1. **For Petitioners Detained Under § 1225(b), the Fifth Amendment Bars the Government from Unreasonably Delaying Asylum Proceedings and Requires that Unreasonably Delayed Proceedings Be Evaluated to Determine Compliance with Due Process.**

    a. *The Fifth Amendment Bars the Government from Unreasonably Delaying Asylum Proceedings.*

The Fifth Amendment's Due Process Clause provides that no person shall be "deprived of . . . liberty . . . without due process of law." U.S. CONT. FIFTH AMED. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*,

533 U.S. 678, 693 (2001). The government is therefore "constitutionally obligated to provide due process." *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025) (per curiam). However, in the District of Colorado, "procedural due process rights are limited to the process the federal government has established through statute." *Bonilla Espinoza v. Ceja,* No. 25-CV-01120-GPG, 12 (D. Colo. May 21, 2025).

Mr. Sadulloev is detained under § 1225(b). § 1225(b) provides that an individual who is arriving in the United States and is inadmissible for lack of proper documentation shall be removed, unless the individual asserts an intention to apply for asylum or expresses a fear of persecution. 8 U.S.C.A. §§ 1225(b)(1)(A)(i); 1182(a)(7). Individuals applying for asylum "shall be detained for further consideration of the application for asylum." 8 U.S.C.A. § 1225(b)(1)(A)(i). The Supreme Court has concluded that the language of § 1225(b) mandates the detention of applicants for admission until certain proceedings have concluded. *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018).

Individuals detained under § 1225(b), however, may be temporarily released for "for urgent humanitarian reasons or significant public benefit," with the understanding that the temporary parole is not an admission to the United States. 8 C.F.R. § 1182(d)(5)(A). Individuals whose continued detention is not in the public interest are a category of individuals who may be paroled on a case-by-case basis. 8 C.F.R. § 212.5(b)(5). Provided, however, that the individual must present "neither a security risk nor a risk of absconding." 8 C.F.R. § 212.5(b).

b. The Failure to Provide Adequate Language Services Can Result in Unreasonable Delays Caused by the Government Warrant Scrutiny under the Singh Factors to Determine Whether a Prolonged Detention Warrants Remedy.

i. Careless or Bad Faith Actions by the Government Are a Source of Unreasonable Delays.

Mandatory detention is not indefinite detention. *Viruel Arias v. Choate*, No. 1:22-CV-02238-CNS, 2022 WL 4467245, *2 (D. Colo. Sept. 26, 2022) (citing *Demore v. Kim*, 538 U.S. 510, 527–28) (2003). A continued detention under § 1225(b) may become unreasonable or unjustified if there is an "unreasonable delay by the INS in pursuing and completing deportation proceedings." *Bonilla Espinoza*, No. 25-CV-01120-GPG at 22 (citing *Demore v. Kim*, 538 U.S. 510, 532–33 (2003) (J. Kennedy concurrence)). The *Singh* six-factor test, detailed below, provides comparable examples of when the government's actions delayed the proceedings. Cases where EOIR is responsible for half of the prolonged detention weighs against the government. *Sheikh v. Choate*, No. 1:22-CV-01627-RMR, 2022 WL 17075894, *4 (D. Colo. July 27, 2022). The sources of these delays include careless or bad-faith mishaps. *Arostegui-Maldonado v. Baltazar*, No. 25-CV-2205-WJM-STV, 2025 WL 2280357, *8 (D. Colo. Aug. 8, 2025).

ii. The Denial of Language Services Integral to the Asylum Proceedings is a Bad Faith, or at Least Careless, Mishap that Can Unreasonably Delay a Petitioner's Proceedings.

Careless or bad-faith mishaps include the denial of language services. Language services are an essential aspect of any deportation proceedings. Asylum applicants rarely speak English and allowances are made for asylee seekers given the pressures those escaping persecution face. *Solomon v. Gonzales*, 454 F.3d 1160, 1164 (10th Cir. 2006); *Ismaiel v. Mukasey*, 516 F.3d 1198, 1206 (10th Cir. 2008) (explaining that allowances should be made for the omission of details in early accounts given the pressures upon those facing persecution). DHS is prohibited from discriminating against noncitizens' language under Title VI of the Civil Rights Act of 1964, as

amended. 42 U.S.C. § 2000d. To avoid this discrimination, BIA has long held that the presence of a competent interpreter in asylum proceedings is "important to the fundamental fairness of a hearing" if the petitioner cannot speak English. *Matter of Tomas*, 19 I&N Dec. 464 (BIA 1987). The Tenth Circuit has determined that the provision of an interpreter whom a petitioner can understand is an aspect of due process. *See Matumona v. Barr*, 945 F.3d 1294, 1309 (10th Cir. 2019) (no due process violation because the self-identified proficient French speaking petitioner had a French-speaking interpreter at the hearing).

This fairness extends to the preparation of asylum applications and translations used in the asylum proceedings. Accurate translation and transcription of proceedings is an implicit part of a proceeding's due process. *Panjaitan v. Gonzales*, 172 F. App'x 870, 872 (10th Cir. 2006). Mistranslations that result in unfairly prejudicial situations can result in procedural due process violations. *Hadjimehdigholi v. I.N.S.*, 49 F.3d 642, 650 (10th Cir. 1995) (explaining that even if a translation is not perfect, there must be an indication that the petitioner was unfairly prejudiced or prevented from presenting their case as a result). A check on mistranslations is that a person has assistance completing their asylum application from an individual who is proficient in a language the petitioner speaks. *Matumona v. Barr*, 945 F.3d at 1309 (no due process violation because the self-identified proficient French speaking petitioner had a French-speaking volunteer to assist with preparing the asylum application).

iii. <u>The Government's Unreasonable Delay of a Petitioner's Case Requires an Evaluation under the *Singh Factors* to Determine Whether the Petitioner's Detention is "For Other Reasons" and Requires Remedy.</u>

If an unreasonable delay occurs, the question becomes "whether the detention is to not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for

other reasons." *Sheikh v. Choate*, No. 1:22-CV-01627-RMR, 2022 WL 17075894, *4 (D. Colo. July 27, 2022). This question is evaluated through the six-factor test laid out in *Singh v. Choate* to assess whether a petitioner's continued detention violates due process. *Bonilla Espinoza*, No. 25-CV-01120-GPG at 24–25 (explaining that the court will evaluate the *Singh* factors only once the unreasonable delay prerequisite is demonstrated). The *Singh* factors are properly applied to detention under § 1225(b) because much like §§ 1226(c) and 1231, the statutes under which most *Singh* analysis has occurred, detention under § 1225(b) involves "the same important interest [] at stake—freedom from prolonged detention." *Juarez v. Choate*, No. 1:24-CV-00419-CNS, 2024 WL 1012912, *6 (D. Colo. Mar. 8, 2024), appeal dismissed (June 24, 2024). The *Singh* factors consist of:

> (1) the total length of detention to date;
> (2) the likely duration of future detention;
> (3) the conditions of detention;
> (4) delays in the removal proceedings caused by the detainee;
> (5) delays in the removal proceedings caused by the government; and
> (6) the likelihood that the removal proceedings will result in a final order of removal.

Arostegui-Maldonado v. Baltazar, 794 F. Supp. 3d 926 (D. Colo. 2025) (citing *Singh*, 2019 WL 3943960, at *5). The considerations for each factor are analyzed below.

1. Total Length of Detention to Date.

In *Singh*, this court noted that a detention for over twenty months "weigh[ed] strongly in [the petitioner's] favor." *Singh, 2019 WL 3943960, at* *5. Other cases in which the length of detention under the *Singh* factors weighed in the petitioners' favor were fourteen and thirty months. *Viruel Arias*, 2022 WL 4467245 at *2 (fourteen months of detention weighed in the petitioner's favor); *Villaescusa-Rios v. Choate*, No. 20-CV-03187-CMA, 2021 WL 269766, *3 (D. Colo. Jan. 27, 2021) (thirty months of detention weighed in the petitioner's favor).

2. Likely Duration of Future Detention.

This factor favors the petitioner when the petitioner's detention "will definitely terminate at some point, but that point is likely to be many months or even years from now." *Singh* at *6. When either party may appeal a decision, either from an IJ or BIA, or when the petitioner may face a potential six-month removal period, there cannot be reliance on a presumption that the case will be resolved in "due course." *Singh, 2019 WL 3943960, at* *6; *see also Viruel Arias*, 2022 WL 4467245 at *2 (holding that this factor weighs more heavily in the petitioner's favor if either party may appeal); *Zadvydas*, 533 U.S. at 701 (holding that a person may be detained for six months prior to removal).

3. Conditions of Detention.

The more similar the petitioner's detention is to that of a penal institute, the heavier this factor favors the petitioner. *Viruel Arias*, 2022 WL 4467245 at *2; *see also Ramirez v. Bondi*, 2025 WL 1294919, at *5 (D. Colo. Apr. 25, 2025). The conditions of petitioner's detention must be "meaningful different" from penal institutions for this factor to err toward neutral. *Id.* at *6. If the respondents fail to explain the difference between a penal institute and the petitioner's detention, this factor inherently favors the petitioner. *Id.* The Aurora Facility is functionally a penal institution. In *Singh*, the petitioner was detained at the Aurora Facility. He was in "locked down conditions 24 hours a day" and subjected to "the same conditions as U.S. Marshall detainees." *Singh, 2019 WL 3943960, at* *6. In six years, nothing has changed and the conditions are materially the same to a penal institute. *Arostegui-Maldonado*, 794 F. Supp. 3d 926 at 940. One recent petitioner confined at the Aurora Facility said that he had not been

allowed outside for eight months; the court determined that the Aurora Facility's conditions "abhorrent." *Id.*

4. Delays in Removal Proceedings Caused by Detainee.

When the petitioner has engaged in "dilatory tactics" that have resulted in an extension of their detention, this factor points towards a permitted detention. *Viruel Arias*, 2022 WL 4467245 at *3. Delays requested in "good faith" are not considered "dilatory tactics." *Villaescusa-Rios*, 2021 WL 269766 at *4. Good faith delay requests include requests "to obtain legal counsel [and] to allow counsel time to prepare for proceedings." *Id.* Appealing to BIA or even requesting seven continuances in the removal proceedings are not dilatory tactics. *Viruel Arias*, 2022 WL 4467245 at *3; *Villaescusa-Rios*, 2021 WL 269766 at *4. If there are delays and none are attributable to the petition, this factor weighs in the Petitioner's favor. *Vizguerra-Ramirez v. Baltazar*, No. 25-CV-00881-NYW, *12 (D. Colo. Dec. 17, 2025).

5. Delays in Removal Proceedings Caused by the Government.

The delays in the removal proceedings caused by the government is the fifth *Singh* factor. Careless or bad-faith mishaps can be held against the government in evaluating the *Singh* factors. *Arostegui-Maldonado*, 794 F. Supp. 3d 926 at 941. Appeals made in bad faith can be considered against the government. *Id.* (suggesting that it is a "troubling question for this factor if the government made bad faith appeals).

iv. Likelihood that the Removal Proceedings will Results in a Final Order of Removal.

Finally, the court must consider the likelihood that the removal proceedings will result in a final order of removal. *Arostegui-Maldonado,* 794 F. Supp. 3d 926 at 941 (quoting *Singh*, 2019 WL 3943960, at *5). This factor weighs in favor of non-citizens who have appeals pending before

BIA concerning an Immigration Judge's affirmative grant of asylum. *Villaescusa-Rios*, 2021 WL 269766 at *5.

When the balance of these factors favors the petitioner, the petitioner's continued detention requires that the custodian justify the continued detention. *Viruel Arias*, 2022 WL 4467245 at *3.

2. The Respondents Have Unreasonably Delayed Mr. Sadulloev's Proceedings Through the Bad Faith Denial of Adequate Language Services and Administrative Backlogs.

The ability to understand the proceedings is a constitutionally mandated aspect of the due process required in asylum proceedings and one that is especially poignant for asylum seekers. The Respondents' bad faith carelessness in fulfilling this obligation has materially and unreasonably delayed Mr. Sadulloev's proceedings.

a. The Respondent's Failure to Provide Mr. Sadulloev Proper Interpreters at his Interview and the Border Were Bad Faith Actions that Have Unreasonably Delayed Mr. Sadulloev's Asylum Proceedings.

i. Mr. Sadulloev's Was Provided with an Interpreter He Could Not Understand During His Initial Interview at the Border, Which Resulted in a Materially Flawed Record that Has Prejudiced Mr. Sadulloev's Hearing and Delayed His Asylum Application.

The Record of Sworn Statement in Proceedings ("Sworn Statement") prepared when Mr. Sadulloev gave his interview at the border was created in circumstances that violated Mr. Sadulloev's due process rights to accurate interpretations, resulting in a prejudicial document that the Respondents have weaponized against Mr. Sadulloev to delays in his proceedings.

The Sworn Statement interview was conducted in "Farsi-Afghani-Dari" ("Farsi"), a language Mr. Sadulloev does not speak proficiently. Ex. 3 at 1; Ex. 2 at 133. And unlike the petitioner in *Matumona*, there is no other language Mr. Sadulloev speaks proficiently. Ex. 1 at 9.

The languages are similar and Mr. Sadulloev can understand some Farsi due to the similarities, but similar and partial understanding is not proficiency. Ex. 2 at 4. Mr. Sadulloev testified that he told the interpreter during the Sworn Statement interview that he did not understand everything that was being said. The interpreter instead wrote that Mr. Sadulloev understood.

The result is an inaccurate and misleading transcription. The IJ noted that any response on the Sworn Statement longer than a sentence was "difficult to comprehend in the context of the respondent's claim" and that some of the responses were not "quite coherent." Ex. 1 at 7, 8. One response says that Great Britain arrested Mr. Sadulloev and threatened with deportation in Great Britain for speaking poorly of Tajik people. Ex. 3 at 3. There is no record of Mr. Sadulloev being arrested in Great Britain and Mr. Sadulloev denied that he was ever arrested. Ex. 1 at 7. Another response says that Mr. Sadulloev "worked in the field as an agriculture." Ex. 3 at 3. One does not work as an agriculture, unless there is a poor translation or a mismatched interpreter.

The comparison to other court transcripts provides additional evidence that the Sworn Statement is a bad faith translation of Mr. Sadulloev's statements. When Mr. Sadulloev speaks at hearings with a Tajik interpreter, his responses are coherent, detailed, and orderly. *See generally Exhibit 2.* The Sworn Statement responses are short and incoherent. Ex. 3. Mr. Sadulloev's manner of speaking could not have changed dramatically between September 2023 and February 23, 2024, when he had his first hearing with a proper Tajik interpreter, *see below*.

The Sworn Statement is the result of the Respondent's careless, at best, efforts to provide Mr. Sadulloev with procedurally required language services. The failure to do so created an unfairly prejudicial situation and delayed Mr. Sadulloev's proceedings. The Sworn Statement

was the only evidence, other than a country condition report, that DHS submitted against Mr. Sadulloev. The Sworn Statement was the sole matter DHS included in its Notice of Appeal. Ex. 9. On appeal, DHS argued that the Sworn Statement undermines Mr. Sadulloev's credibility. *Id.* There is no acknowledgement that DHS controlled the interpretation process. The IJ's findings on the record regarding the Sworn Statement's weaknesses are ignored. Ex. 1 at 7–10. The appeal process has extended Mr. Sadulloev's detention by a year.

ii. The Lack of Proper Interpreters at Mr. Sadulloev's Hearings Unreasonably Delayed the Progress of Mr. Sadulloev's Asylum Application.

The Respondents have exclusive control over the interpreters provided at asylum-related proceedings. The Respondent-provided interpreters are recognized as the "official interpreters" on the record. *See generally Exhibit 2.* At seven separate hearings, the Respondents have provided Mr. Sadulloev with an interpreter he does not understand, most recently at the February 19, 2026, and the March 19, 2026, hearings. Mr. Sadulloev has repeatedly explained on the record that he does not understand individuals from Iran who speak Tajik due to the different accent and dialect, having first raised the issue at the December 8, 2023, hearing. Ex. 2 at 4, 16, 18. The Aurora Immigration Court has acknowledged the variation between Irani Tajik and Tajikistan Tajik. Ex. 2 at 2, 5. On January 26, 2024, the IJ stated that Mr. Sadulloev would be provided with an interpreter who does not have an "Iranian accent." Ex. 2 at 5. The Respondents repeatedly provide Mr. Sadulloev with interpreters who speak Irani Tajik.

Mr. Sadulloev was detained for 81 days before he appeared before a judge because the Respondents did not find an interpreter for Mr. Sadulloev. Ex. 4 at 2; Ex. 2 at 1. It was another 77 days for Mr. Sadulloev to receive an I-589 Application for Asylum because the Respondents repeatedly provided Mr. Sadulloev with interpreters he did not understand. Ex. 2 at 8, 12. Nor is

this a resolved issue. At the two most recent hearings, the Respondents provided Mr. Sadulloev with interpreters who spoke the Farsi dialect of Tajik. The improper interpreters have delayed Mr. Sadulloev's remand hearings alone by two months.

Nor are the Respondents justified in their withholding of interpreters Mr. Sadulloev. As demonstrated by the five hearings at which Mr. Sadulloev understood the interpreter, Mr. Sadulloev's language is not impossible or unrealistic to accommodate. Mr. Sadulloev understood the interpreter on the day when the I-589 was explained. He understood the interpreter at his March Merits Hearing and at the April 2025 hearing. These were substantive appearances and Mr. Sadulloev understood the interpreter.

Even when Mr. Sadulloev has expressed concerns about proceeding due to the inability to understand the interpreters, his concerns were dismissed. At the April 23, 2024, hearing, Mr. Sadulloev expressed that he could understand 40–50 percent of what the interpreter was saying, stating that the interpreter spoke "Irani." Ex. 2 at 16. Mr. Sadulloev expressed that "it is very difficult for [him] to understand" the IJ. Ex. 2 at 17. The IJ informed Mr. Sadulloev that "[i]f there's not a better language that you would understand, then you're just gonna have to try and understand this." *Id.*

b. The Inadequate Access to Translation Services in the Aurora Detention Facility Unreasonably Delayed Mr. Sadulloev's Proceedings.

Once he obtained the I-589, the Respondent's management of the Aurora Facility denied Mr. Sadulloev access to tools to help him complete the I-589 and added another unreasonable delay to Mr. Sadulloev's proceedings.

The I-589 must be completed in English. Ex. 2 at 12. To assist with translations, the Respondents provide tablets at the Aurora Facility equipped with languages to assist detainees

with translations so they can complete the I-589 in English. Ex. 2 at 18; Ex. 3 at 3. The Aurora Facility tablets are not, or were not in April 2024, equipped with Tajik. Ex. 2 at 18; Ex. 4 at 3. Mr. Sadulloev explained in his April 23, 2024, hearing that finding someone to help with translations "proves to be very difficult." Ex. 2 at 19. The arbitrary exclusion of certain languages, including those available on platforms such as Google Translate, unfairly denied Mr. Sadulloev of an essential tool in his asylum proceedings on the basis of his national origin.

The inability to fill out his I-589 because the only translation tools Mr. Sadulloev could access did not have his language meant that it took another two months for Mr. Sadulloev to submit his completed I-589. Ultimately, Mr. Sadulloev relied on a convoluted game of telephone with other detainees involving translations from English to Russian to Tajik to complete his I-589. Ex. 4 at 3. This process is a far cry from the petitioner in *Matumona* who had assistance from a volunteer who spoke a language in which the petitioner said he was proficient.

Mr. Sadulloev was, however, provided with a list of pro bono organizations who could assist with asylum applications during his April 23, 2024, hearing. Ex. 2 at 19. At this same hearing, Mr. Sadulloev explained that he could understand maybe 50 percent of what the interpreter was saying. Ex. 2 at 17. On top of the language barrier, at no point was the concept of "pro bono" legal assistance explained to Mr. Sadulloev. Ex. 2 at 18–19. The court was then unsure if any of the organizations on the list could assist with Tajik. Ex. 2 at 18–19. Finally, the list was not in Tajik. As established, Mr. Sadulloev had no tools to translate the list while detained.

c. The Respondents' Delay in Scheduling Hearings and Issuing Remands Has Unreasonably Delayed Mr. Sadulloev's Asylum Proceedings.

Each step of Mr. Sadulloev's case has taken an inordinate amount of time to schedule. It took eighteen months for Mr. Sadulloev to receive a full merits hearing. Ex. 2 at 60. For a civil violation involving eighteen months of detention before the initial hearing has occurred, this timeline is unreasonable. Mr. Sadulloev's master calendar hearing was set 14 months after he was detained. Ex. 2 at 29. This is vastly different from *Bonilla Espinoza* where the respondent had a merits hearing in under a year.

The backlog at BIA has also contributed to a prolonged detention. The Respondents have identified an "already sizable backlog at the Board." 91 Fed. Reg. 5267, 5267 (Feb. 6, 2026). BIA took another month and a half to issue a briefing schedule. Once briefs were submitted, it was another four months for BIA to remand the case. BIA alone contributed five and a half months to Mr. Sadulloev's detention.

Even the remanded hearings have drawn out Mr. Sadulloev's detention. Mr. Sadulloev is now facing his fourth remand hearing scheduled for March 19, 2026, after the first one was mistakenly scheduled, the second one was truncated, and the third involved an interpreter Mr. Sadulloev could not understand.

These delays are entirely in the Respondent's control. The insistence in detaining Mr. Sadulloev while these delays have occurred has now created an unreasonably prolonged detention.

3. Mr. Sadulloev's Detention is the Result of Unreasonable Government Actions Delaying His Proceedings and Warranting a Release based on the *Singh* Factors.

The Respondents have caused an unreasonable delay on account of the bad faith efforts to provide Mr. Sadulloev with proceedings he understood and significant delays in processing his application. The *Singh* factors demonstrate Mr. Sadulloev's detention is unconstitutionally

prolonged and requires that the Respondents release Mr. Sadulloev on parole or justify his continued detention.

a. The Length of Mr. Sadulloev's Detention Exceeds Previously Recognized Impermissibly Long Detentions.

Mr. Sadulloev has been detained for almost 1000 days and is rapidly approaching the thirty-month point akin to the petitioner in *Villaescusa-Rios* and well past the 14 months identified in *Viruel Arias*.

b. Mr. Sadulloev's Detention Has No Definitive End, Making His Future Detention a Factor in His Favor.

Mr. Sadulloev's detention will terminate, but this may be months or years from now. As both parties have the right to appeal, Mr. Sadulloev is facing an indeterminate period of detention. Even if he is granted asylum and the Respondents waive appeal, he will not be released for another month. As he is faced with an unknown period of continued detention, Mr. Sadulloev's current detention requires justification.

c. The Conditions of Mr. Sadulloev's Detention at the Aurora Facility are Equivalent to that of a Penal Institution and "Abhorrent."

Mr. Sadulloev's is experiencing the same "abhorrent" conditions at the Aurora Facility as identified in *Arostegui-Maldonado*, as the petitioner in this case overlapped with Mr. Sadulloev's detention. The conditions of Mr. Sadulloev's detention are poor and akin to the worst kinds of penal confinement, all for a civil violation. This factor weighs in Mr. Sadulloev's favor.

d. Mr. Sadulloev has Not Engaged in any Dilatory Tactics That Has Delayed His Proceedings.

Mr. Sadulloev is not the cause of delays in his removal proceedings. Any delays that Mr. Sadulloev has requested for additional time to gather evidence and prepare for a hearing were the

same good faith efforts detailed in *Villaescusa-Rios* that the court did not hold against the petitioner. There is no indication that the efforts were dilatory tactics that should be held against Mr. Sadulloev.

e. The Government Has Unnecessarily Delayed Mr. Sadulloev's Removal Proceedings.

The arguments detailed in Section 2 are incorporated by reference here. The chronic failure to provide Mr. Sadulloev with access to equal and adequate language services is a bad-faith mishap and demonstrate cause for a justification of Mr. Sadulloev's detention.

f. There is a Strong Likelihood That Removal Proceedings Will Result in a Final Order in Mr. Sadulloev's Favor.

There is a strong likelihood that removal proceedings will result in a final order in Mr. Sadulloev's favor because he has already been granted asylum one. Unlike the petitioner in *Bonilla Espinoza*, Mr. Sadulloev is not challenging an order denying him asylum. The IJ found that Mr. Sadulloev had experienced past persecution in Tajikistan on account of the horrific beatings that he suffered during his two week-long illegal detention by a government with a well-documented record targeting of people, like Mr. Sadulloev, who practice Salafism. Ex. 1 at 13–15. The IJ found that even in the absence of past persecution, Mr. Sadulloev has established a well-founded fear of future persecution on account of the police continuing to visit Mr. Sadulloev's home and harass his family. Ex. 1 at 18–19. Salafism remains banned in the country and Tajikistan has a record of torturing individuals in custody. Ex. 1 at 19. Mr. Sadulloev is a refugee eligible for asylum and has a strong likelihood of being granted asylum.

Overall, the *Singh* factors heavily favor Mr. Sadulloev. As such, his detention is an incarceration for other reasons and requires individualized bond hearing to rectify the due

process violation occurring. Accordingly, the Court should order that Mr. Sadulloev be released immediately on parole for the pendency of his proceedings or scheduled for a bond hearing.

4. Even Independent of the Prolonged Detention, the Government Has No Legitimate Interest in Mr. Sadulloev's Continued Detention.

Even absent the due process concerns associated with Mr. Sadulloev's thirty-month long detention, the Respondents do not have good cause to continue detaining Mr. Sadulloev. The Respondents have the discretion to release Mr. Sadulloev on parole as an individual whose continued detention is not in the public interest, and it is against public interest to continue detaining Mr. Sadulloev. 8 C.F.R. § 212.5(b)(5).

Mr. Sadulloev's existing positive asylum determination nullifies concerns that Mr. Sadulloev is a flight risk because he has good reason to believe that he will be successful should he continue to appear at his court hearings. Further, the original asylum decision concluded that Mr. Sadulloev is not a security risk. A mandatory bar to asylum is that there are reasonable grounds that the petitioner is a danger to the security of the United States. 8 U.S.C. § 1158(b)(2)(A)(iv). The IJ did not find that mandatory bars applied to Mr. Sadulloev, nor did the Respondents raise any argument that Mr. Sadulloev is a security risk.

Because the Respondents had an opportunity to raise their concerns about his risk to public safety in the March Merits Hearing and declined to do so, immediate parole is appropriate. A bond hearing would be a reiteration of the same information raised in Mr. Sadulloev's March Merits Hearing: which was no information. Thus, it is in the interest of judicial efficiency to order an immediate temporary parole.

5. Should the Court Order Individualized Bond Hearing, this Court Should Order Specific Procedural Requirements to Protect Mr. Sadulloev's Due Process Rights.

a. **The Court Should Order that at the Individualized Bond Hearing; the Government Bears the Burden of Proof to Justify Mr. Sadulloev's Detention.**

The Fifth Amendment requires the government in a bond hearing to show by clear and convincing evidence that the petitioner is not a flight risk or dangerous to the community. *Viruel Arias,* 2022 WL 4467245, *4. Placing the burden of proof on a non-citizen violates the Constitution. *Id.* (quoting *Rajnish v. Jennings*, No. 3:20-CV-07819-WHO, 2020 WL 7626414, at *9 (N.D. Cal. Dec. 22, 2020)).

b. **Due Process Requires Any Assigned Bond must Consider Mr. Sadulloev's Ability to Pay a Bond.**

Due process requires that IJ consider an individual's ability to pay a bond and alternative conditions of release when setting a bond. *Salerno*, 481 U.S. at 754 ("bail must be set by a court at a sum designed to [prevent flight] and no more"); *Sheikh*, No. 22-CV-01627, at * 11–12. Mr. Sadulloev has been paid a $1 a day while working in detention. Any bond amount must take this fact into account when setting bond.

PRAYER FOR RELIEF

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

1. Assume jurisdiction of this proceeding.

2. Order directing Respondents to release Mr. Sadulloev on his own recognizance for the duration of the proceedings related to Petitioner's asylum case pending on appeal before the Board of Immigration Appeals and/or other federal adjudicative or judicial bodies.

3. Or, in the alternative, issue a writ of habeas corpus directing Respondents provide Mr. Sadulloev, within seven days of this Court's order, a constitutionally adequate, individualized bond hearing before an impartial adjudicator where: (1) DHS bears the burden of establishing by clear and convincing evidence that continued detention is justified; (2) the adjudicator is required to meaningfully consider alternatives to imprisonment such as community-based alternatives to detention including conditional

release, parole, as well as Mr. Sadulloev's ability to pay a bond;

4. Declare that Respondents' actions to detain Petitioner violate the Due Process Clause of the Fifth Amendment; and

5. Grant such further relief as the Court deems just and proper.

Respectfully submitted,

/s/ *Austin S. McCleery*

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Dated: March 17, 2026

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

I represent Petitioner, Rustam Sadulloev, and submit this verification on his behalf. On information and belief, 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 19 day of March, 2026.

s/*Austin S. McCleery*

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was mailed to Respondents' counsel at:

United States Attorney, District of Colorado
1801 California Street, Suite 1600
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c/o Civil Process Clerk

on March 19, 2026. A copy was also uploaded to the Case Management/Electronic Case Filing (CM/ECF) system.

Dated this 19 day of March, 2026.

/s/ Austin S. McCleery

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