UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

Mohammad Rafi Sediqi Petitioner v. Juan Baltazar, warden of the Denver Contract Detention Facility, Aurora, Colorado; Robert Hagan, Field Office Director of Denver Field Office of U.S. Immigrations and Customs Enforcement; Todd Lyons, acting Director of U.S. Immigration and Customs Enforcement; Markwayne Mullin, Acting Secretary of the U.S Department of Homeland Security; and Pamela Bondi Attorney General of the United States, in their official capacities, Respondents.	)	Case No. 1:26-cv-01308 **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. This case challenges the unlawful detention of Mohammed Rafi Sediqi ("Petitioner"), a native and citizen of Afghanistan, who is currently in the custody of Immigration and Customs Enforcement ("ICE") at Denver Contract Detention Facility. Petitioner has been detained for a total period of over twenty months (20), including more than six (6) months after his removal order became final.

2. Petitioner has submitted multiple requests to U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations ("ICE ERO"), seeking a custody redetermination and information regarding the status of his removal proceedings. ICE ERO has failed to substantively respond to any such requests. An immigration judge has determined that Petitioner is ineligible for a custody redetermination hearing before the immigration court.

3. Petitioner has now been subject to prolonged detention after being ordered removed, without the rigorous review necessary under 8 U.S.C. § 1231 and 8 C.F.R. § 241 Petitioner's continued detention raises serious due process concerns under the Fifth Amendment to the United States Constitution.

4. Accordingly, Petitioner brings this action for a writ of habeas corpus, seeking immediate release pursuant to his rights under the Fifth Amendment to the United States Constitution.

JURISDICTION AND VENUE

5. This action arises under the Constitution of the United States, the Immigration Nationality Act (INA), 8 U.S.C. § 1101 *et seq*.

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

7. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq*., the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq*., and the All Writs Act, 28 U.S.C. § 1651.

8. Venue is proper in this district under 28 U.S.C. § 1391(e)(1) because Petitioner is detained at Denver Contract Detention Facility, Aurora, Colorado which is within the jurisdiction of this District. Respondent Juan Baltazar, warden of Denver Contract Detention Facility, is Petitioner's immediate custodian, Respondents are officers, employees, or agencies of the United States, and there is no real property involved in this action.

REQUIREMENTS OF 28 U.S.C. § 2243

9. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondent "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondent to file a return "within

three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

10. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, 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).

PARTIES

11. Petitioner is a native and citizen of Afghanistan, who has been ordered removed from the United States, and currently detained pursuant to 8 U.S.C. § 1231, at the Denver Contract Detention Facility in Aurora, Colorado.

12. Respondent Juan Baltazar is the warden Denver Contract Detention Facility and has immediate physical custody of Petitioner.

13. Respondent Robert Hagan is sued in his official capacity as the Field Office Director of Denver Field Office of U.S. Immigrations and Customs Enforcement. Respondent Hagan is a legal custodian of Petitioner.

14. Respondent Todd Lyons is sued in his official capacity as the Director of U.S. Immigration and Customs Enforcement. Respondent Lyons is a legal custodian of Petitioner.

15. Respondent Markwayne Mullin is sued in his official capacity as the acting Secretary of the U.S Department of Homeland Security. In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent Mullin is a legal custodian of Petitioner.

16. Respondent Pamela Bondi is sued in his official capacity as the Attorney General of the United States. In that capacity, 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 Board of Immigration Appeals (BIA) Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

17. Petitioner is a 26-year-old citizen of Afghanistan.

18. Petitioner fled Afghanistan to seek protection in the United States.

19. On or about July 24, 2024, Petitioner came to the United States at or near Otay Mesa, CA. Petitioner was taken into custody by immigration authorities upon entry into the United States.

20. On or about October 2, 2024, DHS issued a Notice to Appear classifying the Petitioner as "an alien present in the United States who has not been admitted or paroled" and alleging that Petitioner was inadmissible to the United States under 8 U.S.C. § 1182(a)(6)(A)(i) and 8 U.S.C. § 1182(a)(7)(A)(i)(I).

21. On October 9, 2024, Petitioner sought a custody redetermination from the immigration judge; however, on November 7, 2024, the Immigration Judge ("IJ") declined to provide an individualized custody redetermination hearing on jurisdictional grounds, stating that: "under INA §235(a), Matter of M-S- bc Respondent initially placed in expedited removal; and under INA §235(b) as an applicant for admission."

22. On or about November 26, 2024, Petitioner filed an Application for Asylum and Withholding of Removal (I-589) with the Executive Office for Immigration Review (EOIR), i.e. Immigration Court.

23. On December 6, 2024, Petitioner appealed the Immigration Judge's decision denying a custody redetermination hearing to the Board of Immigration Appeals ("BIA"). On September 25,

2025, the BIA dismissed the appeal, reasoning that "[a]t this time, neither Immigration Judge nor this Board has authority to set bond conditions because a final order has been entered in the [Petitioner's] case."

24. On January 23, 2025, Petitioner again sought a custody redetermination hearing before the Immigration Judge, and, on January 27, 2025, the Immigration Judge again found that it lacked jurisdiction to conduct such a hearing.

25. On July 29, 2025, the Immigration Judge denied Petitioner's Application for Asylum, Withholding of Removal, and Protection under the Convention Against Torture, and ordered him removed from the United States to Afghanistan.

26. On August 29, 2025, the Immigration Judge's decision became final, as no appeal was taken.

27. Since receiving a final order of removal, Petitioner has submitted multiple requests to U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations ("ICE ERO"), seeking a custody redetermination and information regarding the status of his removal proceedings.

28. Beginning in October 2025, Petitioner submitted multiple written communications to various foreign countries, including Brazil, Canada, Greece, Germany, Mexico, Italy, Iceland, the Netherlands, France, Spain, the United Kingdom, Ireland, and Colombia, seeking protection or permission to enter those countries. Some of these countries denied Petitioner's requests, while others have not responded.

29. On or about November 19, 2025, ICE served a notice of custody review pursuant to the 8 U.S.C. § 1231(a) and 8 C.F.R. § 241.4.

30. On or about December 9, 2025, ICE conducted a personal interview of Petitioner in connection with a custody review pursuant to 8 C.F.R. § 241.4(i)(3). ICE did not advise Petitioner of the outcome of this interview or the results of the custody review.

31. During the first ninety (90) days after the removal order became final, ICE did not remove Petitioner from the United States.

32. On or about January 4, 2026, Petitioner submitted a written inquiry to ICE requesting information regarding the status of his removal from the United States. ICE did not respond to the Petitioner's inquiry.

33. On or about January 19, 2026, Petitioner submitted another written inquiry to ICE requesting information regarding the status of his removal from the United States. In that correspondence, Petitioner advised ICE of his efforts to obtain permission to enter foreign countries and attached copies of his applications and any responses received from those governments. ICE acknowledged receipt of the foreign government applications and responses and indicated that they were added to Petitioner's file but did not provide a substantive response to Petitioner's inquiry.

34. On February 11, 2026, Petitioner submitted another written inquiry to ICE requesting information regarding the status of his removal from the United States. ICE did not respond to the Petitioner's inquiry.

35. Petitioner has remained continuously in immigration custody since his entry into the United States and continues to be detained at the present date.

36. Petitioner has been detained for a period of twenty months (20) total, including more than six (6) months after his removal order became final.

37. Upon information and belief, Respondents have failed to effectuate the removal of many other similarly situated natives and citizens of Afghanistan due to the current status of diplomatic relations or lack of effective repatriation arrangements between the United States and Afghanistan.

38. To date, ICE has not provided Petitioner with any written documentation regarding whether his removal to Afghanistan is feasible, which countries the agency has contacted for alternative removal, or otherwise updated Petitioner on the status of its efforts and actions.

39. Petitioner has experienced a significant deterioration in his physical health and increasing emotional distress as a result of his detention. He has been diagnosed with an H. pylori infection, which causes upper abdominal pain and burning, bloating, excessive belching, nausea, vomiting, and weight loss. Since the onset of his detention, Petitioner has lost significant weight. Although the detention facility has prescribed medication to address these conditions, the medical care provided has been plainly insufficient. In addition, Petitioner has been unable to obtain adequate medical care for ongoing dental pain and sinusitis.

40. Furthermore, the lack of transparency in ICE's attempts to remove Petitioner have led him to believe that he will not be removed any time soon, and consequently he remains detained while suffering physically and emotionally. Petitioner's detention is causing irreparable harm to him, and his release becomes urgent as his health declines.

41. Petitioner has sufficient ties in the United States to ensure access to housing and financial support, such that his release would not pose a burden to the community or the government.

42. Petitioner has no criminal history in the United States.

LEGAL FRAMEWORK

43. Immigration detention is a form of civil confinement that "constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 4253 (1979).

44. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

45. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

46. Generally, when a noncitizen is ordered removed, the Attorney General is required to effectuate removal from the United States within a 90-day removal period. 8 U.S.C. § 1231(a)(1)(A).

47. This 90-day period begins to run on the latest of: (1) the date the order of removal becomes administratively final; (2) the date of a reviewing court's final order, if judicial review is sought and a stay is entered; or (3) the date the noncitizen is released from detention or confinement. 8 U.S.C. § 1231(a)(1)(B).

48. If the noncitizen is not removed within the 90-day period, they may be released under supervision pursuant to regulations prescribed by the Attorney General, which may include requirements to appear before an immigration officer for identification, submit to medical examinations, and comply with other written restrictions or conditions. 8 U.S.C. § 1231(a)(3)(A)–(D).

49. The removal period may be extended, and continued detention may be authorized, if the noncitizen fails or refuses to make good faith efforts to obtain travel or other documents necessary for departure, or otherwise acts to prevent removal. 8 U.S.C. § 1231(a)(1)(C).

50. However, "the statute, read in light of the Constitution's demands, limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States. It does not permit indefinite detention." *Zadvydas v. Davis*, 533 U.S. 678, 689, 121 S. Ct. 2491, 2498 (2001).

51. In determining whether an alien ordered removed is being subjected to unlawfully prolonged mandatory detention under 8 U.S.C. § 1231, the Supreme Court determined that the post removal period described in 8 U.S.C. § 1231(a)(6) contained an implicit "reasonable time" limitation which would be considered reasonable for the Government to make efforts to remove an alien subject to detention. *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001).

52. Subsequently, the Supreme Court held that the presumptively reasonable time period for post-removal-order detention is six months. *Zadvydas v. Davis*, 533 U.S at 700-701. After the six-month period has passed, and if the alien has not been removed or released, an alien may provide good reason to believe that there is "no significant likelihood of removal in the reasonably foreseeable future," and the in response the Government "must furnish evidence sufficient to rebut that showing." *Zadvydas v. Davis*, 533 U.S at 680.

53. If the post-removal period continues to grow, then what the alien must show as "reasonably foreseeable future" gets smaller. *Zadvydas v. Davis*, 533 U.S at 701.

EXHAUSTION

54. There is no requirement to exhaust, because no other forum exists in which Petitioner can raise the claims herein. Prudential exhaustion is not appropriate where agency expertise does not

makes agency consideration necessary to generate a proper record and reach a proper decision, relaxation of the requirement would not encourage the deliberate bypass of the administrative scheme, and administrative review is not likely to allow the agency to correct its own mistakes and to preclude the need for judicial review. Prudential exhaustion is also not appropriate where a petitioner will "suffer irreparable harm if unable to secure immediate judicial consideration of [their] claim." *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992).

55. Petitioner's any further request for bond from an immigration judge would be futile considering the *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019) and BIA's dismissal of the Petitioner's appeal on September 25, 2025, reasoning that "[a]t this time, neither Immigration Judge nor this Board has authority to set bond conditions because a final order has been entered in the [Petitioner's] case."

56. Therefore, the Court should consider the merits of the Petition.

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Due Process

57. The allegations in the above paragraphs are realleged and incorporated herein.

58. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693; accord *Flores*, 507 U.S. at 306; *see also Clark v. Martinez,* 543 U.S. 371 (2005)(expanding the holding of *Zadvydas* to apply to inadmissible noncitizens).

59. Petitioner is entitled to the protections of the Due Process Clause of the Fifth Amendment to the United States Constitution.

60. Petitioner is presently detained by the Respondents pursuant to 8 U.S.C. § 1231.

61. Petitioner's continued detention has become unreasonably prolonged and unconstitutional in violation of the Fifth Amendment, as interpreted by *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), as well as 8 U.S.C. § 1231 and 8 C.F.R. § 241.13.

62. Petitioner's detention is unreasonably prolonged because Respondents have failed to effectuate his removal within the ninety (90)-day removal period following the entry of a final order of removal.

63. Petitioner's detention is further unreasonably prolonged because Respondents have failed to effectuate his removal within six (6) months following the entry of a final order of removal, thereby rendering his continued detention presumptively unreasonable.

64. There is no significant likelihood that Petitioner will be removed in the reasonably foreseeable future. Upon information and belief, the United States is presently unable to effectuate removals to Afghanistan due to the absence of functional diplomatic relations and/or effective repatriation mechanisms.

65. There is likewise no significant likelihood of removal in the reasonably foreseeable future where ICE have failed to respond to Petitioner's inquiries or provide any meaningful information regarding efforts undertaken to secure his removal.

66. Petitioner has demonstrated good-faith compliance with U.S. Immigration and Customs Enforcement ("ICE") and has not caused or contributed to any delay in his removal. Moreover, Petitioner has affirmatively undertaken efforts to facilitate his removal, including independently seeking permission to enter third countries for purposes of effectuating his departure from the United States.

67. Upon information and belief, Respondents have failed to take timely and appropriate steps to effectuate Petitioner's removal from the United States.

68. Petitioner's continued detention is presumptively unreasonable where he has been detained for a period exceeding six (6) months and has provided good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.

69. Respondents have failed to rebut this showing and have not demonstrated that Petitioner's removal is significantly likely in the reasonably foreseeable future. Specifically, Respondents have not provided Petitioner with any evidence sufficient to justify his continued detention, nor have they articulated a lawful basis for the same. Any purported justification based on risk of flight is insufficient where removal is not reasonably foreseeable, and where, as here, Petitioner poses no danger to the community and has no criminal history in the United States.

70. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO
Violation of Fifth Amendment Right to Procedural Due Process

71. The allegations in the above paragraphs are realleged and incorporated herein.

72. In *Mathews v. Eldridge*, the U.S. Supreme Court set forth the factors to consider in determining if government action deprives an individual's Fifth Amendment right to procedural due process or whether the government process is constitutionally adequate. 424 U.S. 319 (1976) The Mathews factors are as follows: First, the private interest that will be affected by the official action; [S]econd, 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; [Third], the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Id.* at 335.

73. As to the private interest factor, it is the "most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Petitioner "has perhaps the most acute private interest known to personkind short of life itself: bodily freedom." *Leal-Hernandez v. Noem*, No. 1:25-cv-02428, 2025 LX 327685, at *34 (D. Md. Aug. 24, 2025).

74. With respect to the second factor, erroneous deprivation of Petitioner's liberty is at risk. Petitioner is not subject to detention without individual determination of evidence sufficient to justify his continued detention.

75. As to the third factor, there is no significant governmental interest in continuing to hold Petitioner in custody.

76. For these reasons, Petitioner's detention violates his Right to Procedural Due Process Clause under the Fifth Amendment.

COUNT THREE
Violation of 8 U.S.C. § 1231 and
Implementing Regulations, including 8 C.F.R. §§ 241.4 and 241.13

77. The allegations in the above paragraphs are realleged and incorporated herein.

78. Petitioner's ninety-day removal period commenced on August 29, 2025, the date on which the Immigration Judge's order of removal to Afghanistan became final.

79. The ninety-day removal period expired on November 27, 2025. Accordingly, Petitioner is no longer subject to mandatory detention under 8 U.S.C. § 1231(a)(2) and may only be detained pursuant to 8 U.S.C. § 1231(a)(6), which authorizes discretionary detention.

80. Under *Zadvydas*, the continued detention of someone like Petitioner is unreasonable and not authorized by under 8 U.S.C. § 1231.

81. Furthermore, as set forth above, Respondents continue to detain Petitioner in violation of 8 C.F.R. §§ 241.4, having not considered the substantive factors set forth in subsections (e) and (f)

of that regulation. Were such factors to be properly weighed, it would be apparent that Petitioner is a candidate for release on an Order of Supervision pending removal.

82. For these reasons, Petitioner's continued detention violates 8 U.S.C. § 1231 and its implementing regulations, including 8 C.F.R. §§ 241.4 and 241.13.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Issue an Order prohibiting the Respondent from transferring Petitioner from the District of Colorado absent prior leave of the Court;

(3) Issue an Order to Show Cause ordering Respondent to show cause why this Petition should not be granted within three days;

(4) Declare that Petitioner's detention under 8 U.S.C. 1231 is unlawful and in violation of the Due Process Clause of the Fifth Amendment, statute and regulation;

(5) Issue a Writ of Habeas Corpus ordering Respondent to release Petitioner immediately; in the alternative, issue a Writ of Habeas Corpus ordering Petitioner to be scheduled for a bond hearing within five (5) days and, at such hearing, require Respondent DHS to bear the burden of proving, with the clear and convincing evidence, that Petitioner's continued detention is necessary;

(6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

Dated: March 27, 2026

/s/ *Nermin Funda Karadag*
Nermin Funda Karadag, Esq.
N.J. Bar ID: 518142025
Onal Gallant Bayram & Amin P.C.
619 River Dr., Suite 340
Elmwood Park, New Jersey 07407
case@onalgallant.com
Attorney for Petitioner

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

I represent Petitioner, Mohammad Rafi Sediqi, 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 27th day of March 2026.

/s/ Nermin Funda Karadag
Nermin Funda Karadag, Esq.
N.J. Bar ID: 518142025
Onal Gallant Bayram & Amin P.C.
619 River Dr., Suite 340
Elmwood Park, New Jersey 07407
case@onalgallant.com
Attorney for Petitioner

CERTIFICATE OF SERVICE

I, Nermin Funda Karadag, hereby certify that on this 27th day of March 2026, I uploaded the foregoing, with all attachments thereto, to this Court's CM.ECF system, which will send a Notice of Electronic Filing ("NEF") to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

Pamela Bondi, U.S. Attorney General
Department of Justice
950 Pennsylvania Avenue NW
Washington D.C. 20530

Markwayne Mullin, Secretary of the
Department of Homeland Security
2707 Martin Luther King Jr. Ave
Washington D.C. 20528

Todd M. Lyons, acting Director of
Immigration and Customs Enforcement
500 12th Street SW
Washington D.C. 20536

Robert Hagan, Field Office Director of
Denver Field Office of ICE
12445 E. Caley Ave.
Centennial CO 80111

Juan Baltazar, Warden of
Denver Contract Detention Facility
3130 Oakland St.
Aurora CO 80010

U.S. Attorney's Office for the District of Colorado
1801 California Street, Suite 1600
Denver, CO 80202

Civil Process Clerk, U.S. Attorney General
950 Pennsylvania Avenue N.W.
Washington D.C. 20530-0001

Respectfully submitted,

Dated: March 27, 2026

/s/ *Nermin Funda Karadag*
Nermin Funda Karadag, Esq.
N.J. Bar ID: 518142025
Onal Gallant Bayram & Amin P.C.
619 River Dr., Suite 340
Elmwood Park, New Jersey 07407
case@onalgallant.com
Attorney for Petitioner