UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

DUSTMUROD RAKHIMOV, Petitioner, v. KEVIN RAYCRAFT, Acting Field Director, United States Immigration and Customs Enforcement, in his official capacity; United States Secretary of Homeland Security, in his official capacity; and United States Attorney General, in his official capacity; Respondents.	Case No. 1:26-cv-00444 District Judge Jeffery P. Hopkins Magistrate Judge Kimberly A. Jolson **AMENDED PETITION FOR WRIT FOR WRIT OF HABEAS CORPUS**

1. Petitioner, Dustmurod Rakhiomov, hereby files the following amended petition for a writ of habeas corpus to seek enforcement of his rights to a bond hearing as an alien detainee under 8 U.S.C. § 1226(a) and his constitutional right to due process under the Fifth Amendment of the United States Constitution.
2. Petitioner faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) deprived him of a bond hearing on April 15, 2026, and again on May 19, 2026, the dates on which the immigration court in Cleveland, Ohio, issued an order finding that it did not have authority to set a bond on the ground that the Petitioner was mandatorily detained as an alien seeking admission under 8 U.S.C. § 1225 rather than as an arrested and detained alien under 8 U.S.C. § 1226.

3. After apprehending Petitioner applying for admission at the San Ysidro, California, port of entry, on August 16, 2023, the DHS initially detained him mandatorily as an arriving alien under 8 U.S.C. § 1225; however, as set forth in more detail below, the Petitioner was subsequently released on parole and then re-detained under circumstances which render an individualized bond hearing both statutorily and constitutionally required.

JURISDICTION

4. Petitioner is in the physical custody of Respondents. Petitioner has been detained at the Butler County Jail in Hamilton, Ohio, since July 31, 2025.
5. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).
6. 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

7. 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 Southern District of Ohio, the judicial district in which Petitioner currently is detained.
8. 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 Southern District of Ohio.

PARTIES

9. The Petitioner, Dustmurod Rakhimov, is a thirty-two-old citizen of Uzbekistan..

10. Respondent, Kevin Raycraft, is the acting Director of the Detroit Field Office for U.S. Immigration and Customs Enforcement, is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

11. Respondent, Secretary of the Department of Homeland Security, is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. The Secretary of Homeland Security has ultimate custodial authority over Petitioner and is named in his official capacity.

12. Respondent, Attorney General of the United States, is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is named in his official capacity.

STATEMENT OF FACTS

13. The Petitioner ("Mr. Rakhimov") fled his native Uzbekistan on June 11, 2023, after being [redacted]

14. Mr. Rakhimov was initially apprehended by United States immigration authorities applying for admission at the San Ysidro, California, port of entry on August 16, 2023.

15. At the time of his application for admission, Mr. Rakhimov was subject to mandatory detention under 8 U.S.C. § 1225 and processed for expedited removal; however, because Mr. Rakhimov claimed a fear of return to Uzbekistan, he was entitled to a credible fear interview by an asylum officer. 8 U.S.C. § 1225(b)(1)(B).

16. On September 23, 2023, after an asylum officer determined that Mr. Rakhimov had a credible fear of persecution in Uzbekistan and was therefore entitled to make his case for asylum to an immigration judge, Mr. Rakhimov was placed in removal proceedings under 8 U.S.C. § 1229a and charged with removability under 8 U.S.C. § 1182(a)(7)(A)(i)(I) (as an immigrant who at the time of application for admission is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act). *See* Exhibit A, Notice to Appear in Removal Proceedings.
17. Shortly after he was found to have a credible fear of persecution, Mr. Rakhimov was released from mandatory detention through the exercise of parole under 8 U.S.C. § 1182(d)(5).
18. Following his release on parole, Mr. Rakhimov retained immigration counsel and voluntarily attended hearings in immigration court to pursue his asylum case while working lawfully in the United States.
19. Mr. Rakhimov's removal proceedings remain pending. While he has not contested that he is removable from the United States, he has applied for lawful forms of relief from removal, which remain under consideration by the immigration court.
20. On December 31, 2025, Mr. Rakhimov was once again detained by Respondents (see Exhibit B, Form I-213), following his arrest approximately three weeks earlier on charges of domestic violence and strangulation, charges that were later dismissed at the explicit request and with the full cooperation of the alleged victim (Exhibit C).
21. Mr. Rakhimov, through his immigration counsel, submitted his first request for custody redetermination to the immigration court in Cleveland, Ohio.

22. On April 15, 2026, the Immigration Judge denied the first request for custody redetermination on the basis of lack of jurisdiction (Exhibit D). The Immigration Judge's written order was solely and expressly based on lack of jurisdiction (without specifying any legal grounds therefor), not an any finding that Mr. Rakhimov was a flight risk or a danger to the community.

23. Following the Sixth Circuit's decision in *Juan Manuel Copez Campos v. Raycraft,* -- F.4th --, 2026 WL 1283891 (6th Cir. May 11, 2026), Mr. Rakhimov submitted a second custody redetermination motion to the Immigration Judge in Cleveland, Ohio, pending the resolution of which the parties agreed to submit a status report to this Court.

24. On May 19, 2026, a second custody redetermination hearing was held, during which the Respondents took the position that Mr. Rakhimov was an "arriving alien"; therefore, the Immigration Judge lacked jurisdiction over his custody pursuant to 8 C.F.R. § 1003.19(h)(2)(i)(B).

25. Based on the Respondents' position with regard to Mr. Rakhimov's status as an "arriving alien," the Immigration Judge again denied the request for a custody redetermination, based on lack of jurisdiction (Exhibit E).

26. Mr. Rakhimov remains detained by the Respondents, and the next hearing on his application for asylum is scheduled for June 16, 2026.

CLAIMS FOR RELIEF

I. Violation of the INA

27. The continued detention of the Petitioner without possibility of bond violates the Petitioner's statutory rights under the plain language of 8 U.S.C. § 1226(a), which states in pertinent part as follows

:

> On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General-
> (1) may continue to detain the arrested alien; and
> (2) may release the alien on-
> (A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or
> (B) conditional parole.

28. Although the Petitioner was admittedly subject to mandatory detention under 8 U.S.C. § 1225 at the time he was initially apprehended at a port of entry, his subsequent release into the interior of the United States ended his legal status as an alien seeking admission at the border under 8 U.S.C. § 1225, bringing him within the general detention statute governing aliens residing in the interior of the United States, i.e., 8 U.S.C. § 1226(a).
29. This court has explicitly held that, where the government, utilizing its parole authority, chooses to release an alien seeking admission at the border, it cannot subsequently re-detain that alien without exercising its general detention authority under 8 U.S.C. § 1226 (and thus cannot exercise its mandatory detention powers under 8 U.S.C. § 1225). *See Bajwa v. Raycraft,* 1:26-cv-242, 2026 WL 1029670 (S.D. Ohio 04/15/2026).
30. In *Bajwa,* the government argued that, since the petitioner was initially detained under 8 U.S.C. § 1225(b)(1)(B) for expedited removal proceedings, he remained subject to mandatory detention under that provision, even after being released on parole; however, the *Bajwa* court specifically rejected this argument.
31. Citing a sister court's decision in *Rafibaev v. Noem,* 26-cv-461, 2026 WL 607559 (D. Colo. March 4, 2026), the *Bajwa* court reasoned that "it did not make sense to hold that a noncitizen who has been in the country for two years was subject to mandatory detention

under [Section 1225] because that provision only applies to aliens who are arriving in the United States."

32. The Petitioner's case is indistinguishable from *Bajwa,* inasmuch as Mr. Rakhimov was released from mandatory detention under 8 U.S.C. § 1225(b)(1)(B) in or around September 2023 and subsequently resided in the United States until late 2025, for a period of at least two years.

33. Thus, when the Respondents re-detained Mr. Rakhimov on December 31, 2025, they could only detain him under 8 U.S.C. § 1226(a), and it follows that Mr. Rakhimov is entitled to an individualized bond hearing pursuant to that statute.

34. This result has only been reinforced by the Sixth Circuit's decision in *Juan Manuel Lopez Campos v. Raycraft,* -- F.4th --, 2026 WL 1283891 (6th Cir. May 11, 2026), which held that aliens present within the United States, i.e., not seeking admission at the border, are generally entitled to a custody redetermination hearing under 8 U.S.C. § 1226 and cannot lawfully be held without a bond hearing under 8 U.S.C. § 1225 on the sole ground that they are technically "applicants for admission."

35. The Sixth Circuit's decision in *Lopez Campos* was also consistent with the vast majority of U.S. District Court to examine the question . *See, e.g., Hernandez Lopez v. Woodall,* 3:26-cv-117, 2026 WL 804174 (M.D. Fl. March 26, 2026); *Guinac Vasquez v. Crawford,* 3:26-cv-51, 2026 WL 802852 (E.D. Va. March 23, 2026); *Ramirez Quintant v. Lynch,* 1:25-cv-919, 2026 WL 746359 (S.D. Ohio March 17, 2026).

36. In conclusion, the technicality that Mr. Rakhimov was initially subject to mandatory detention upon his arrival at a port of entry, as a valid exercise of the government's mandatory detention power under 8 U.S.C. § 1225, does not mean that he can be

mandatorily detained at will, after being released and living in the interior of the United States for an extended period.

37. For all of the foregoing reasons, Mr. Rakhimov's petition should be granted under the plain language of the Immigration and Nationality Act.

II. Violation of Due Process

38. Detaining the Petitioner without possibility of bond during the pendency of his removal proceedings not only violates the INA; it is also a violation of the Petitioner's right to due process under the Fifth Amendment. It is well established that "non-punitive detention in the immigration context violates the Due Process Clause," *Padilla v. U.S.I.C.E.* 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023), absent "adequate procedural protections" or a "special justification" outweighing a petitioner's liberty interests." *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001). In this case, the Petitioner's detention without bond is clearly non-punitive unsupported by any special justification, yet he has never been afforded any consideration for release under any conditions whatsoever. That is a clear violation of the Petitioner's due process rights and must be remedied by this court.

39. As this court held in *Batwa,* an alien's initial detention under 8 U.S.C. § 1225 makes no difference to the due process inquiry; therefore, after he or she is released on parole, the government's re-assertion of mandatory detention without possibility of bond is in itself a violation of due process.

40. But even if this Court should find that the Petitioner is subject to the mandatory detention provisions of 8 U.S.C. § 1225, his continued detention for six months is unreasonably lengthy, thus constituting a violation of his due process rights.

41. Other courts have found that, even where an alien is subject to mandatory detention under 8 U.S.C. § 1225, the detention must be reasonable in duration and cannot be indefinitely prolonged. *See, e.g., Gao v. Larose,* 805 Fed. Supp. 3d 1106, 1110-1111 (holding that mandatory detention under Section 1225 subject to temporal limits as a matter of due process and finding detention of ten months unreasonable under the circumstances).
42. The Petitioner has been detained for a period of approximately six months, and his asylum application is still being considered by the Immigration Court; therefore, even assuming he is subject to the mandatory detention provisions of 8 U.S.C. § 1225 (and he argues that he is not), this Court should still provide a remedy, due to the unreasonably long duration of his detention.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;
b. Issue a writ of habeas corpus requiring that Respondents release the Petitioner;
c. Alternatively, issue a writ of habeas corpus requiring the Respondents to afford Petitioner a constitutionally adequate bond hearing where the government shall bear the burden of justifying his continued detention without bond;
d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
e. Grant any other and further relief that this Court deems just and proper.

DATED this 5th day of June, 2026.

/s/ Paul W. Shonk
Paul W. Shonk
Counsel for Petitioner

CERTIFICATE OF SERVICE

I submitted the foregoing Amended Petition for Writ of Habeas Corpus to the Court's ECF system on June 5, 2026. I certify that all parties are participants in ECF; therefore, no separate service was completed.

/s/ Paul W. Shonk
Paul W. Shonk
Counsel for Petitioner