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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9 **POUYA GOLESTANEH,**
10 **Petitioners,**

11 **vs.**

12 **CHRISTOPHER LAROSE, warden of**
13 **Otay Mesa Detention Center;**
14 **PATRICK DIVVER, San Diego Field**
15 **Office Director, Immigration and**
16 **Customs Enforcement and Removal**
17 **Operations (“ICE/ERO”);**
18 **TODD LYONS, Acting Director of**
19 **Immigration Customs Enforcement**
20 **(“ICE”);**
21 **MARKWAYNE MULLIN, Secretary of**
22 **the Department of Homeland Security**
23 **(“DHS”);**
24 **ACTING Attorney General of the United**
25 **States,**
26 **U.S. DEPARTMENT OF HOMELAND**
27 **SECURITY;**
28 **U.S. IMMIGRATION AND CUSTOMS**
ENFORCEMENT;

Respondents.

Case No.: **'26CV3588 DMS SBC**

Agency Number: 

PETITION FOR WRIT OF HABEUS
CORPUS

INTRODUCTION

1. Pouya GOLESTANEH (“Mr. Golestaneh” or “Petitioner”) is a 52-year-old man from Iran. He lawfully entered the United States in 2012 on an immigrant visa, Exhibit A, and was granted a green card as the spouse of a U.S. citizen, Exhibit B. He returned to Iran in 2014 and re-entered the United States as a legal permanent resident in 2014.

2. In 2013 the parties divorced. His ex-wife would no longer support his resident status and he filed an I-751, petition to remove conditions on residence. This was pending for several years. Each time his green card was going to expire he filed a request to renew his green card, showing his I-751 was pending. Whenever Respondents required Mr. Golestaneh to appear for an interview or another biometrics appointment he would appear as required, Exhibit C. At no time did the Respondents make a new determination that he was a risk. Rather Respondents would re-issue another temporary green card. Eventually, in 2025, Respondents chose not to re-issue a temporary green card. However, when the green card was not renewed, Petitioner was still allowed to remain at liberty.

3. Unbeknownst to Mr. Golestaneh, Respondents issued a Notice to Appear in 2025. However, even though Respondents had the correct address, they sent the Notice to an old address. As a result, Mr. Golestaneh never actually received notice of the hearing scheduled by the issuance of the NTA. In January,

1 2026, an *in absentia* removal order was entered against petitioner. Mr. Golestaneh
2 filed a Motion to Reconsider which the court denied. Even then, Respondents
3 chose not detain Mr. Golestaneh but allowed him to remain at liberty. Mr.
4 Golestaneh filed an appeal of the Motion to Reconsider and he awaits resolution of
5 that issue.
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8 4. On May 31, 2026, as Mr. Golestaneh was driving for Uber , he
9 entered Camp Pendleton. When he approached the entrance kiosk he was asked
10 for his ID. He was then asked if he had a green card. He said no and explained that
11 he had a pending appeal, work authorization, and was legally going about his
12 business. The gate guard instructed him to pull over and wait. He was given no
13 other explanation. After about 2 hours, ICE agents showed up, he was handcuffed
14 and taken to the San Diego Downtown ICE office. After processing there he was
15 taken to Otay Mesa Detention Center where he remains today. Respondents did not
16 conduct a pre-detention hearing. Respondents did not make an individualized
17 determination that the petitioner was a flight risk or a danger to the community.
18 Respondents continue to detain him based not on his personal circumstances or
19 individualized facts, but because of Respondents' interpretation of President
20 Trump's whim and categorical determination that, the Fifth Amendment
21 notwithstanding, noncitizens are not entitled to due process.
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5. But Respondents cannot evade the law so easily. The law which they purport to detain the petitioners does not authorize their actions and the U.S. Constitution requires the Respondents provide at least the rights available to him when he was granted liberty into the United States.

6. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. The petitioner asks this Court to find that Respondents' attempts to detain him are arbitrary and capricious and in violation of the law, and to immediately issue an order preventing his transfer out of this district.

JURISDICTION

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

8. 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).

9. 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., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

VENUE

1 10. Venue is proper because Petitioner is in Respondents' custody in
2 San Diego County, California. Venue is further proper because a substantial part
3 of the events or omissions giving rise to Petitioner's claims occurred in this
4 District, where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).
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7 **REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

8 11. The Court must grant the petition for writ of habeas corpus or
9 issue an order to show cause (OSC) to the Respondents "forthwith," unless the
10 petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court
11 must require Respondents to file a return "within three days unless for good cause
12 additional time, not exceeding twenty days, is allowed." *Id.*
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15 12. Courts have long recognized the significance of the habeas statute
16 in protecting individuals from unlawful detention. The Great Writ has been
17 referred to as "perhaps the most important writ known to the constitutional law of
18 England, affording as it does a swift and imperative remedy in all cases of illegal
19 restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).
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22 13. Petitioner is "in custody" for the purpose of § 2241 because he
23 was arrested and detained by Respondents.
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25 **PARTIES**

1 14. Pouya Golestaneh is a 52-year-old citizen of Iran. He is currently
2 detained at Otay Mesa Detention Center and is present within the state of
3 California as of the time of the filing of this petition.
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5 15. Respondent Christopher LaRose is the warden of the Otay Mesa
6 Detention Center and is the legal custodian of Petitioner.
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8 16. Respondent, Patrick Divver, is the San Diego Field Office
9 Director, Immigration and Customs Enforcement and Removal Operations. The
10 San Diego Field Office is responsible for local custody decisions relating to non-
11 citizens charged with being removable from the United States, including the arrest,
12 detention, and custody status of non- citizens. The San Diego Field Office area of
13 responsibility includes the Otay Mesa Detention Center. Respondent Patrick
14 Divver is a legal custodian of Petitioners.
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18 17. Respondent Todd Lyons is the acting director of U.S. Immigration
19 and Customs Enforcement, and he has authority over the actions of respondent
20 Patrick Divver and ICE in general. Respondent Lyons is a legal custodian of
21 Petitioner.
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23 18. Respondent Markwayne Mullin is the Secretary of the Department
24 of Homeland Security (DHS) and has authority over the actions of all other DHS
25 Respondents in this case, as well as all operations of DHS. Respondent Mullin is a
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1 legal custodian of Petitioner and is charged with faithfully administering the
2 immigration laws of the United States.
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4 19. Respondent Acting Attorney General of the United States has
5 authority over the Department of Justice and is charged with faithfully
6 administering the immigration laws of the United States.
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8 20. Respondent U.S. Immigration Customs Enforcement is the federal
9 agency responsible for custody decisions relating to non-citizens charged with
10 being removable from the United States, including the arrest, detention, and
11 custody status of non-citizens.
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13 21. Respondent U.S. Department of Homeland Security is the federal
14 agency that has authority over the actions of ICE and all other DHS Respondents.
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16 22. This action is commenced against all Respondents in their official
17 capacities.
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19 **LEGAL FRAMEWORK**
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21 23. The Constitution establishes due process rights for "all 'persons'
22 within the United States, including [noncitizens], whether their presence here is
23 lawful, unlawful, temporary, or permanent." *Hernandez v. Sessions*, 872 F.3d 976,
24 990 (9th Cir. 2017)(quoting *Zadvydas*, 533 U.S. at 693). These due process rights
25 are both substantive and procedural.
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1 24. First, "[t]he touchstone of due process is protection of the
2 individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S.
3 539, 558 (1974), including "the exercise of power without any reasonable
4 justification in the service of a legitimate government objective," *Cnty. of*
5 *Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).
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8 25. These protections extend to noncitizens facing detention, as
9 "[i]n our society liberty is the norm, and detention prior to trial or without trial is
10 the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755
11 (1987). Accordingly, "[f]reedom from imprisonment-from government custody,
12 detention, or other forms of physical restraint-lies at the heart of the liberty that
13 [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.
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16 26. Substantive due process requires that all forms of civil
17 detention-including immigration detention-bear a "reasonable relation" to a non-
18 punitive purpose. See *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme
19 Court has recognized only two permissible non-punitive purposes for immigration
20 detention: ensuring a noncitizen's appearance at immigration proceedings and
21 preventing danger to the community. *Zadvydas*, 533 U.S. at 690-92; see also
22 *Demore v. Kim*, 538 U.S. 510 at 519- 20, 527-28, 31 (2003).
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1 27. Second, the procedural component of the Due Process Clause
2 prohibits the government from imposing even permissible physical restraints
3 without adequate procedural safeguards.
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5 28. Generally, "the Constitution requires some kind of a hearing
6 before the State deprives a person of liberty or property." *Zinerman v. Burch*, 494
7 U.S. 113, 127 (1990). This is so even in cases where that freedom is lawfully
8 revocable. *See Hurd v. D. C., Gov 't*, 864 F. 3d at 683 (citing *Young v. Harper*,
9 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision
10 requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)
11 (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in
12 parole context).
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16 29. After an initial release from custody on conditions, even a
17 person paroled following a conviction for a criminal offense for which they may
18 lawfully have remained incarcerated has a protected liberty interest in that
19 conditional release. *Morrissey* at 408 U.S. at 482. As the Supreme Court
20 recognized, "[t]he parolee has relied on at least an implicit promise that parole will
21 be revoked only if he fails to live up to the parole conditions." *Id.* "By whatever
22 name, the liberty is valuable and must be seen within the protection of the
23 [Constitution]." *Id.*
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1 30. This reasoning applies with equal if not greater force to people
2 like Petitioner. After all, noncitizens living in the United States have a protected
3 liberty interest in their ongoing freedom from confinement. See *Zadvydas*, 533
4 U.S. at 690. And, "[g]iven the civil context [of immigration detention], [the]
5 liberty interest [of noncitizens released from custody] is arguably greater than the
6 interest of parolees.", 415 F. Supp. 3d 963,970 (N.D. Cal. 2019). Applying this
7 principle to Petitioner's case, the government lawfully permitted him to enter the
8 country by issuing him a Visa and then granting him a green card. This necessarily
9 entailed a finding that he was not a danger.
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11 31. Furthermore, the government made a second series of decisions
12 not to detain Petitioner when it processed his I-485 application, took his
13 biometrics, processed his I-751, and advised him to appear for multiple hearings
14 over a period of years. These repeated interactions with Petitioner—each of which
15 resulted in the decision not to detain him—created a liberty interest on Petitioner's
16 part that he would remain free unless he violated the conditions of release.
17 Moreover, Congress itself made clear that Petitioner is not to be detained. It did so
18 by statute when it allowed those who have overstayed visas and marrying
19 American Citizens to adjust status while remaining in the United States. This
20 indicates that an immigrant adjusting status who entered with inspection, like
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1 Petitioner, need not return to another country to adjust. *Id.* This creates a liberty
2 interest on Petitioner's part.
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4 CAUSES OF ACTION

5 Count I: Violation of Fifth Amendment Due Process Rights

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7 32. Petitioner realleges and incorporates by reference all preceding
8 paragraphs as if fully set forth herein.

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10 33. The Fifth Amendment guarantees that no person shall be deprived
11 of liberty without due process of law. Detention without an individualized custody
12 determination by a neutral arbiter violates due process. *See Zadvydas v. Davis*, 533
13 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003); *Jennings v. Rodriguez*, 583
14 U.S. 131 (2018).
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17 34. The Due Process Clause applies to all persons in the United States,
18 including noncitizens, and prohibits government action that strips them of liberty
19 without fair process.

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21 35. Access to counsel is a cornerstone of due process in immigration
22 proceedings. Courts have recognized that the right to counsel in immigration
23 proceedings is rooted in the Due Process Clause and codified at 8 U.S.C. § 1362
24 and 8 U.S.C. § 1229a(b)(4)(A).
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27 36. Petitioner's detention constitutes a clear violation of both
28 procedural and substantive due process rights. Procedurally, Petitioner was

1 deprived of notice, a fair hearing, and an opportunity to challenge his detention
2 before an impartial decision-maker before his actual detention. The government's
3 failure to provide these fundamental safeguards runs contrary to the most basic
4 principles of due process. As the Supreme Court emphasized in *Mathews v.*
5 *Eldridge*, 424 U.S. 319, 333 (1976), the "fundamental requirement of due process
6 is the opportunity to be heard at a meaningful time and in a meaningful manner."
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8 Petitioner has been neither.
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11 37. Substantively, ICE's conduct in arresting Petitioner, after he had
12 demonstrated over a decade of compliance with immigration procedures, is
13 arbitrary, capricious, and without rational justification. Such actions undermine
14 public confidence in the immigration process and deter individuals from engaging
15 in good-faith efforts to regularize their status. Courts have long recognized that
16 government action that "shocks the conscience" or lacks any legitimate purpose
17 violates substantive due process. *County of Sacramento v. Lewis*, 523 U.S. 833,
18 846-47 (1998).
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22 **Count II: Violation of the Administrative Procedure Act —**
23 **Unlawful Detention**
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25 38. The Due Process Clause of the Fifth Amendment protects all
26 "person[s]" from deprivation of liberty "without due process of law." U.S. Const.
27 amend. V. "Freedom from imprisonment—from government custody, detention, or
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1 other forms of physical restraint—lies at the heart of the liberty that [the Due
2 Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.
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4 39. Immigration detention is constitutionally permissible only when it
5 furthers the government’s legitimate goals of ensuring the noncitizen’s appearance
6 during removal proceedings and preventing danger to the community. *See id.*
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8 40. Petitioner is not a flight risk or danger to the community.
9 Respondents’ detention of Petitioner is therefore unjustified and unlawful.
10 Accordingly, Petitioner is being detained in violation of the Due Process Clause of
11 the Fifth Amendment.
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13 41. Moreover, Petitioner’s detention is punitive as it bears no
14 “reasonable relation” to any legitimate government purpose. *Id.* (finding
15 immigration detention is civil and thus ostensibly “nonpunitive in purpose and
16 effect”). Here, the purpose of Petitioner’s detention appears to be “not to facilitate
17 deportation, or to protect against risk of flight or dangerousness, but to incarcerate
18 for other reasons”—namely, to meet newly imposed DHS quotas and enact a mass
19 deportation campaign. *See Demore*, 538 U.S. at 532-33 (Kennedy, J., concurring).
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22 **ORDERING A BOND HEARING IS NOT THE APPROPRIATE RELIEF**
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25 42. Many courts recently have been ordering a bond hearing as an
26 alternative avenue for relief. If Mr. Golestaneh’ detention was unlawful, *ab initio*,
27 he should not be required to post a bond and, in effect, pay a ransom to be released
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1 from this illegal detention. Nothing indicates that Mr. Golestaneh has somehow
2 become a flight risk or a danger to the community. He was not detained at the
3 checkpoint because he was suddenly a flight risk or a danger to the community.
4 When ICE put him in handcuffs, they did not assert that they had suddenly
5 determined he was a flight risk or a danger to the community. He was simply
6 swept up in this administrations scheme to lock up all immigrants without green
7 cards.
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11 43. Ordering a bond hearing because he is no longer deemed subject to
12 mandatory detention rewards the government's unlawful behavior. First, it
13 legitimizes his detention. Second, it allows the government to detain without a
14 prior determination of a change in individual circumstances regarding flight risk
15 and danger. Third, it requires the petitioner to prove that he is not a flight risk or a
16 danger to the community, something the government already determined when
17 they released him. Fourth, it requires the petitioner to pay a fee to the parties that
18 unlawfully detained him in order to be released from his unlawful detention.
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22 44. Upon release from Otay Mesa it is the custom of ICE to immediately
23 place detainees in Alternative to Detention Programs and affix an ankle monitor to
24 them. As the name of the program indicates, this is just another form of detention
25 that is made without any determination that there has been a change in
26 circumstances such that Mr. Golestaneh's movements must now be restricted to a
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1 75-mile radius and monitored with an ankle monitor. Mr. Golestaneh should be
2 returned to his predetention status. This should also include the return to him of
3 any and all documents and/or identification cards and work authorization cards in
4 his possession when he was detained. This court has authority to order more than
5 just release in a habeas action. See *Boumediene v. Bush*, 553 U.S. 723, 779–80
6 (2008). Barring Alternative to Detention and return of documents seized are part
7 and parcel of returning Petitioner to the state he was in when he was detained.
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11 **PRAYER FOR RELIEF**

12 WHEREFORE, Petitioner respectfully requests this Court to grant the
13 following:
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15 1. Assume jurisdiction over this matter;
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17 2. Issue a writ of habeas corpus requiring Petitioner's immediate
18 release and prohibiting his re-detention unless the government provides seven
19 days' notice and a hearing before a neutral arbiter in which it proves by clear and
20 convincing evidence that Petitioner is a danger or flight risk;
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22 3. Declare that Petitioner's arrest and detention violates the Due
23 Process Clause of the Fifth Amendment;
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25 4, Enjoin Respondents from transferring Petitioner outside this
26 District or deporting Petitioner pending these proceedings;
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1 5. Enjoin Respondents from enrolling Petitioner in an Alternative to
2 Detention program and specifically prohibit an ankle monitor upon his release;
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4 6. Order Respondents to return any documents confiscated from
5 Petitioner upon his arrest and detention;
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7 7. Award Petitioner his costs and reasonable attorneys' fees in this
8 action as provided for by the Equal Access to Justice Act and 28 U.S.C. § 2412;
9 and
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11 8. Grant such further relief as the Court deems just and proper.
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14 Dated: June 17, 2026

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