

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

Civil Action No. 25-cv-1711

VAGE IARIBEKIAN (alien registration number A )

Petitioner,

v.

DAWN CEJA, in her official capacity as Warden of the ICE Denver Contract Detention Facility,

ROBERT GUADIAN, in his official capacity as Director of the Denver Field Office of Immigration and Customs Enforcement, Enforcement and Removal Operations,

KRISTI NOEM, in her official capacity as Secretary of Homeland Security, and

PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

Introduction

1. Petitioner Vage Iaribekian came to the United States in November 2023 seeking Asylum after he had been beaten and threatened with lengthy imprisonment as a result of his opposition to the Russian government. This entry followed a stay in northern Mexico for over two months while he waited to present himself at a port of entry pursuant to an appointment he had scheduled through the government's CBP One application. Under the regulations in force at that time, this delay was necessary if he wished to be eligible for asylum.
2. Though he had scrupulously followed the procedures the government set out for the orderly processing of those seeking asylum at the border and has no criminal history, the government detained him as soon as he presented himself. He was then transferred to the ICE Denver Contract Detention Facility in Aurora, Colorado, where he remains confined to this day.
3. Over two months after he was initially detained, the government placed him in removal proceedings, where he requested Asylum, Restriction on Removal (also called statutory Withholding of Removal), and Protection under the regulations implementing the Convention Against Torture. An immigration judge denied his applications, and he appealed that decision to the Board of Immigration Appeals (the BIA). Five months later, the BIA dismissed his appeal. He filed a petition for review with the United States Court of Appeals for the Tenth Circuit. In February 2025, the court granted the parties' joint motion to remand the

proceedings to the BIA. The BIA has ordered that Mr. Iaribekian and the government submit briefs by June 5, and it is likely that a decision will not be forthcoming for several more months.

4. Mr. Iaribekian's mental and physical health have deteriorated during the eighteen months he has spent in detention. He is increasingly distraught about his inability to communicate with and support his two young children (ages 8 and 10). Moreover, he has developed several toothaches and has been unable to obtain any treatment while in the detention center.
5. It is not certain which statute authorizes Mr. Iaribekian's detention. The government likely considers that he is detained pursuant to Immigration and Nationality Act (I.N.A.) § 235(b)(2)(A), which mandates the detention of applicants for admission who are not in expedited removal proceedings. Alternatively, he might be detained under either I.N.A. § 235(b)(1)(B), 8 U.S.C. § 1225(b)(1)(B), which also mandates detention, because an order of expedited removal was entered against him when he presented himself at the border, or under I.N.A. § 236(a)(1), 8 U.S.C. § 1226(a)(1) because the United States Citizenship and Immigration Services (USCIS) exercised its discretion to place him in full removal proceedings under I.N.A. § 240, 8 U.S.C. § 1229a. Even if he is detained under I.N.A. § 236(a)(1), 8 U.S.C. § 1226(a)(1), however, he is ineligible for a bond hearing before an immigration judge because he has been classified as an arriving alien. *See* 8 C.F.R. § 1003.19(h)(2)(i)(B). In short, whichever statutory

scheme presently governs his detention, he cannot request bond from an immigration judge. His only avenue for requesting release is through a grant of parole under DHS's authority as provided for in I.N.A. § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A).

6. Mr. Iaribekian has requested parole from DHS on at least two occasions. Both requests have been denied.
7. The government has no grounds to believe that Mr. Iaribekian presents a danger to the community. His detention for eighteen months is therefore a violation of his due process rights under the Fifth Amendment to the United States Constitution. Thus, he petitions the Court to issue a writ of habeas corpus ordering either his immediate release or that he be provided with a bond hearing within ten days at which the government will bear the burden of proving by clear and convincing evidence that his continued detention is justified and during which his ability to pay must be considered in fixing any bond amount.

Jurisdiction and Venue

8. The court has federal question subject matter jurisdiction over this petition because it arises under the laws of the United States. *See* 28 U.S.C. § 1331. Specifically, the Court has jurisdiction to issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241(a), (c)(1), (3). *See also* U.S. Const. Art. I, § 9, Cl. 2. He is in the

custody of the United States government and pursuant to its authority, and his continue detention violates his Fifth-Amendment due-process rights.

9. Venue is proper in the District of Colorado insofar as all the events giving rise to this action, which does not involve any real property, occurred in Colorado and Mr. Iaribekian is detained at the Denver Contract Detention Facility in Aurora, Colorado. *See* 28 U.S.C. § 1391(e)(1)(B), (C).

The Parties

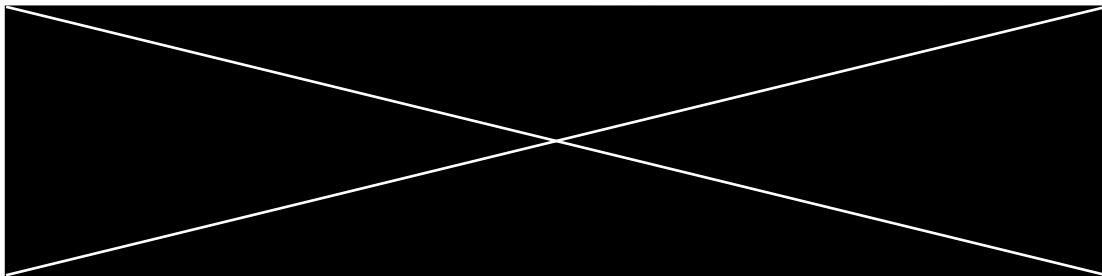
10. Mr. Iaribekian is a 40-year-old citizen of Russia. He has opposed the Russian government for over 15 years and fled Russia to seek a life free from persecution in the United States. He is currently detained at the ICE Denver Contract Detention Facility.
11. Dawn Ceja is the warden of the ICE Denver Contract Detention Facility, which is run by the Geo Group. She oversees the facility where Mr. Iaribekian is physically confined. She is sued solely in her official capacity.
12. Robert Guadian is the director of the Denver Field Office of United States Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO). He oversees ICE's work in Colorado and Wyoming to detain and, as necessary, remove noncitizens suspected of violating the Immigration Laws. He is sued solely in his official capacity.

13. Kristi Noem is Secretary of Homeland Security. She is one of the several cabinet officials charged with the overall administration and enforcement of the immigration laws. She bears overall responsibility for DHS's detention policies nationwide. ICE is a component of the Department of Homeland Security and therefore falls under her authority. She is sued solely in her official capacity.

14. Pamela Bondi is Attorney General of the United States. The Executive Office for Immigration Review (EOIR), which operates the United States immigration courts and the BIA, is part of the Department of Justice (DOJ) and thus falls under her control. She is sued solely in her official capacity.

Factual and Legal Background

15. Mr. Iaribekian is a 40-year-old male citizen of Russia. He has openly opposed the Russian government since at least 2008, and the Russian government has



16. He traveled to Mexico, and on September 6, 2023, he registered on the CBP One Application for an appointment to present himself at the border. The appointment was scheduled for November 24, 2023.

17. Mr. Iaribekian's case was subject to the provisions of the Circumvention of Lawful Pathways (CLP) rule, which took effect on May 11, 2023, and is codified at 8 C.F.R. §§ 208.33, 1208.33. This rule establishes a rebuttable presumption of asylum ineligibility for any noncitizen who entered the United States (1) between May 11, 2023, and May 11, 2025; (2) from Mexico at the southwest land border or adjacent coastal borders; (3) without documents authorizing lawful admission; (4) after having traveled through a third country that was a signatory to either the 1951 United Nations Convention Relating to the Status of Refugees or the 1967 Protocol Relating to the Status of Refugees. But the presumption does not apply to noncitizens who presented themselves at a port of entry pursuant to an appointment scheduled through the CBP One Application.
18. Since Mexico is a signatory to a treaty providing for the protection of refugees and Mr. Iaribekian did not apply for asylum in that country, he would thus be presumed ineligible for asylum unless he presented himself at a port of entry pursuant to a pre-scheduled CBP One appointment.
19. Mr. Iaribekian remained in Mexico for two and a half months – until November 24, 2023, the date of the appointment he had received through the CBP One application. He presented himself at the San Ysidro Port of Entry, and notwithstanding his strict compliance with the CLP's procedures and his lack of any criminal history, ICE immediately issued an order of expedited removal – an order requiring his removal from the United States without a hearing before an

Immigration Judge — against him and detained him. *See* Exhibits A and B, *See also* I.N.A. § 235(b)(1)(A)(i), 8 U.S.C. § 1225(b)(1)(A)(i). He was later transferred to the ICE Denver Contract Detention Facility and has remained there ever since.

20. Because he expressed a fear of returning to Russia, he was referred to USCIS so that an asylum officer could interview him to determine whether he had a credible fear of persecution or torture in Russia and should be allowed to fully present his claims for protection in Immigration Court. *See* I.N.A. § 235(b)(1)(A)(ii), 8 U.S.C. § 1225(b)(1)(A)(ii). On January 26, 2024, two months after his detention, USCIS elected not to interview him and instead issued a Notice to Appear (NTA), the document that initiates removal proceedings under I.N.A. § 240, 8 U.S.C. § 1229a. *See* Exhibit C. The NTA was not filed with the Aurora Immigration Court until February 9, 2024. *See* Exhibit D. On The NTA, he is designated as an arriving alien. *See id.*

21. It is not altogether clear under which statutory scheme Mr. Iaribekian was detained at the time the NTA was filed. The fact that an order of expedited removal was issued against him might suggest that he is subject to the mandatory-detention provisions at I.N.A. § 235(b)(1)(B), 8 U.S.C. § 1225(b)(1)(B). But both mandatory detention provisions in this subparagraph require that an asylum officer first determine whether the noncitizen has a credible fear of persecution or torture. *See id.* § 235(b)(1)(B)(ii), 1225(b)(1)(B)(ii) (mandatory detention if asylum officer finds that noncitizen has credible fear), §

235(b)(1)(B)(iii)(IV), 1225(b)(1)(B)(iii)(IV) (mandatory detention if asylum officer finds that noncitizen does not have credible fear). But no asylum officer interviewed Mr. Iaribekian, so neither of the predicate determinations to invoke the expedited-removal mandatory-detention provisions exists. Thus, I.N.A. § 235(b)(1)(B), 8 U.S.C. § 1225(b)(1)(B) does not govern his detention.

22. When the government issued the NTA, it also issued a warrant for Mr.

Iaribekian's arrest consistent with the procedures at 8 C.F.R. § 236.1(b)(1). *See* Exhibit D at 4. This would seem to indicate that he was, in DHS's view, detained under I.N.A. § 236(a)(1), which governs the detention of noncitizens "pending a decision on whether [they are] to be removed from the United States." This would also be consistent with the statement in the memorandum to the file that USCIS submitted on January 26, 2024, that he was now in removal proceedings under I.N.A. § 240, 8 U.S.C. § 1229a. *See* Exhibit C. Though I.N.A. § 236(a)(2) does allow for release on bond, the DOJ's regulations dictate that immigration judges do not have jurisdiction to consider requests for bond by arriving aliens such as Mr. Iaribekian. *See* 8 C.F.R. § 1003.19(h)(2)(i)(B).

23. But the BIA's recent decision in *Q. Li*, 29 I. & N. Dec. 66 (B.I.A. 2025), though not precisely on point, suggests that EOIR would not consider Mr. Iaribekian to be detained under I.N.A. § 236(a)(1), 8 U.S.C. § 1226(a)(1), but rather under I.N.A. § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A). This subparagraph mandates the detention of all applicants for admission who cannot prove that they are clearly and

beyond a doubt entitled to be admitted to the United States. But subparagraph (b)(ii) specifically says that subparagraph (a) does not apply to anyone “to whom paragraph (1) applies,” i.e., who can be subject to an order of expedited removal.

24. Whichever statutory scheme applied, the result was the same: Mr. Iaribekian could not request a bond hearing before an Immigration Judge. His only hope for release was a grant of parole by ICE.

25. On April 25, 2024, an immigration judge held a hearing on the merits of Mr. Iaribekian’s applications for Asylum, Restriction on Removal, and Protection under the Convention Against Torture, denied all these applications, and ordered his removal to Russia. He reserved his right to appeal this decision to the BIA.

26. He filed an appeal with the BIA on May 8, 2025. The BIA dismissed his appeal five months later – on October 10, 2025. At that point, he became subject to a final order of removal and was then detained under I.N.A. § 241(a), 8 U.S.C. § 1231(a).

27. On June 11, 2024, while his appeal was still pending with the BIA, he requested humanitarian parole and included information about a United States citizen who was willing to provide him financial support, including room and board. *See* Exhibit E. But the deportation officer handling his case replied very quickly that since he had been ordered removed – the officer erroneously characterized this order as a “final” order of removal, the request would be denied even though he had an appeal pending. *See* Exhibit F.

28. On November 12, 2024, Mr. Iaribekian filed a Petition for Review of the BIA's order with the United States Court of Appeals for the Tenth Circuit. After he submitted his opening brief in support of the petition, the government agreed that the matter should be remanded to the BIA to reevaluate several aspects of its decision. On February 10, 2025, the Tenth Circuit granted the parties' Joint Motion to Remand. *See* Exhibit G. As of that date, the order of removal was no longer final, and Mr. Iaribekian was no longer detained under I.N.A. § 241(a), 8 U.S.C. § 1231(a), but rather under either I.N.A. §§ 235 or 236, 8 U.S.C. §§ 1225 or 1226.
29. On May 15, 2025, the BIA issued a briefing schedule setting a deadline of June 5, 2025, for any submissions. *See* Exhibit H.
30. Mr. Iaribekian requested parole from ICE again in the fall of 2024, but the request was again denied.
31. His case is in the same posture now as it was when ICE denied his parole request on June 11, 2025.
32. Mr. Iaribekian has been continuously detained for over 18 months. During that time, he has not been able to communicate with or financially support his children, who live outside the United States. This is his first experience of prolonged detention, and it has significantly impacted his mental and emotional well-being, particularly in light of his efforts to comply with the United States' laws and procedures by waiting in Mexico until he could present himself at the

scheduled date and time so that he would be able to exercise his right under United States and international law to seek asylum. He is having dental problems, and the only care the detention facility offers for such complaints is painkillers and the option of having his teeth extracted.

33. Mr. Iaribekian has only ever been arrested for political offenses in Russia. He has never been arrested or convicted for any conduct that would be considered criminal in the United States. The government, then, has no basis to consider him a danger to the community.

34. The BIA likely will not issue a decision for several more months – not before August or September at the earliest. The strong probability is that it will either remand the case to an immigration judge for further fact-finding or order his removal, at which point he will again petition the Tenth Circuit for review. Both outcomes will result in his continuing detention. Thus, unless the court intervenes, he could easily find himself detained for more than two years while he fights to vindicate his claims for protection from persecution and torture.

Statement of Claims

COUNT ONE – VIOLATION OF MR. IARIBEKIAN'S DUE-PROCESS RIGHTS UNDER THE FIFTH AMENDMENT

35. Mr. Iaribekian incorporates by reference paragraphs 1 through 34 as if fully set forth herein.

36. The Fifth Amendment to the United States Constitution provides that “No person shall . . . be deprived of . . . liberty . . . without due process of law.” As the Supreme Court has stated, “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due-Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

37. Mr. Iaribekian has a strong interest in being free from confinement. There is no reason to believe that he poses a danger to the community. And his demonstrated compliance with all immigration procedures, along with the willingness of a friend to sponsor him, count against any allegation that he is a flight risk. Moreover, his detention has already lasted for eighteen months and will likely continue for several months more.

38. Mr. Iaribekian does not seek to circumvent or abridge the procedures for consideration of his applications for relief from removal. All he asks is to be at liberty, able to communicate with his children and seek medical care, while this consideration proceeds.

39. Mr. Iaribekian has already been detained for at least three times the length of detention the Supreme Court approved of in *Demore v. Kim*, 538 U.S. 510, 530 (2003). As matters stand, he faces the prospect of being detained for at least six more months. This timeframe is substantially disproportionate to the

government's interest in promptly determining whether he will be allowed to remain in the United States.

Prayer for Relief

Wherefore, Mr. Iaribekian respectfully prays the Court to grant the following relief:

- A. Assume jurisdiction over this matter;
- B. Issue a writ of habeas corpus ordering that the government either release Mr. Iaribekian or provide him with a bond hearing at which the government will bear the burden of proving by clear and convincing evidence that his continued detention is justified and during which his ability to pay will be considered in fixing the amount of any bond;
- C. Award him reasonable attorney's fees and costs;
and
- D. Grant such further relief as the Court deems just and proper.

Respectfully submitted this 30th day of May 2025,

s/ Henry D. Hollithron

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