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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

RUSLAN MAKHMUDOV,

Petitioner,

v.

PAMELA BONDI,
U.S. Attorney General

KRISTI NOEM, Secretary
U.S. Department of Homeland Security

JOHN CANTU, Phoenix Field Office Director
ICE Enforcement and Removal Operations,

FRED FIGUEROA, Warden,
Eloy Detention Center,

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Ruslan Makhmudov, a native and citizen of Russia, moves this Court to issue a Writ of Habeas Corpus to compel the Respondents to show cause for why the Petitioner should not be released from the custody of the U.S. Department of Homeland Security ("DHS"). Petitioner suffers from life-threatening medical conditions and his continued detention will likely result in his death if he does not get urgent access to life-saving medical care.

2. Petitioner is ineligible for release on bond because he is an "arriving alien" who

1 presented himself at a port of entry on January 31, 2022, to seek asylum in the United States.

2 3. However, Petitioner sought humanitarian parole from the Immigration and Customs
3 Enforcement (“ICE”)/Enforcement and Removal Operations (“ERO”) under 8 C.F.R. §
4 212.5(b)(1), based on his medical conditions.

5 4. ICE/ERO denied Petitioner’s repeated requests for humanitarian parole.

6 5. On February 27, 2025, an immigration judge denied Petitioner’s applications for
7 asylum and withholding of removal based on the IJ’s finding that Petitioner likely committed
8 a serious non-political crime in Russia.

9 6. On this same date, the IJ granted Petitioner’s application for deferral of removal under
10 the Convention Against Torture (“CAT”) after the IJ determined that if Petitioner returns to
11 Russia, given his medical conditions, he will more likely than not be subjected to harsh and
12 life threatening conditions amounting to torture.

13 7. ICE/ERO’s denial of Petitioner’s requests for humanitarian parole are punitive and a
14 violation of his Fifth Amendment right to life and liberty.

15 8. Petitioner respectfully requests that this Court grant him a Writ of Habeas Corpus, and
16 order Respondents to immediately release him from custody so that he can access life-saving
17 medical care.

18 **SUMMARY OF THE ARGUMENT**

19 9. Petitioner’s continued detention is a violation of his Fifth Amendment right to life.
20 Petitioner suffers from Marfan Syndrome¹. Exh. A. He has also been diagnosed with aortic
21 aneurysm and bradycardia. *Id.* He is legally blind and has undergone two open-heart
22 surgeries while in the custody of DHS. *Id.*

23 10. The Respondents have repeatedly failed to provide medical care, rehabilitation, and
24 treatment to the Petitioner. The Respondents delayed surgery against medical advice until
25

26 ¹ Marfan Syndrome is an inherited disorder that affects connective tissue—the fibers that
27 support and anchor your organs and other structures in your body. This syndrome most commonly
28 affects the heart, eyes, blood vessels and skeleton. *See* <https://www.mayoclinic.org/diseases-conditions/marfan-syndrome/symptoms-causes/syc-20350782>

1 the Petitioner had to be rushed in for a life-saving open heart surgery. Respondents have
2 utterly failed to provide adequate medical care for the Petitioner. Their repeated failures
3 have resulted a dire threat to the Petitioner's life.

4 11. ICE/ERO has repeatedly denied all requests by Petitioner for release on humanitarian
5 parole. Petitioner's current detention is compromising his overall health and survival. Ex.
6 A. Petitioner requires urgent release to an appropriate healthcare facility to receive life-
7 saving care. *Id.*

8 12. ICE/ERO's decisions to deny Petitioner's requests for release on humanitarian parole
9 were unilateral, and against medical advice, and will result in the deprivation of the
10 Petitioner's life.

11 13. Petitioner fled Russia to escape political persecution and torture. He sought refuge
12 in the United States and was granted relief by an IJ in the form of deferral of removal under
13 CAT.

14 14. Petitioner's continued detention without access to life-saving medical care will result
15 in torture the Petitioner risked his life to escape from.

16 **JURISDICTION AND VENUE**

17 15. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 2241
18 ("Habeas Corpus"), Article I § 9, Clause 2 of the United States Constitution ("Suspension
19 Clause"), and 28 U.S.C. § 1331, as the Petitioner is presently in custody under color of the
20 authority of the United States, and such custody is in violation of the Constitution, laws,
21 regulations, and, or treaties of the United States.

22 16. This Court may also exercise jurisdiction under 28 U.S.C. § 1361 ("Mandamus
23 Clause"), the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28
24 U.S.C. § 1651, to protect Petitioner's rights under the Due Process Clause of the Fifth
25 Amendment to the United States Constitution and under applicable Federal law.

26 17. Venue is properly with the U.S. District Court for the District of Arizona pursuant
27 to 28 U.S.C. § 1391(e) because Petitioner is detained at the Eloy Detention Center in Eloy,
28 Arizona, which is within the geographical jurisdiction of the U.S. District Court for the

1 District of Arizona, and because the events or omissions giving rise to this claim occurred
2 there. Further, this is a civil action in which the Respondents are employees or officers of the
3 United States or, as in the case of Respondent Figueroa, contracted by the United States.

4 **PARTIES**

5 18. Petitioner, Ruslan Makhmudov, is a native and citizen of Russia who is currently in
6 the custody of the DHS in Eloy, Arizona.

7 19. Respondent Pamela Bondi is the Attorney General of the United States and is the
8 most senior official in the United States Department of Justice (“DOJ”). She has the
9 authority to interpret the immigration laws and adjudicate removal cases. The Attorney
10 General delegates this responsibility to the Executive Office for Immigration Review
11 (“EOIR”), which administers the immigration courts and the Board of Immigration Appeals
12 (“BIA”). She is named as a party in her official capacity.

13 20. Respondent, Kristi Noem, is the Secretary of the DHS and she has authority over the
14 detention and departure of noncitizens, like Petitioner, because she administers and enforces
15 immigration laws pursuant to section 402 of the Homeland Security Act of 2002. In this role,
16 Respondent Noem has “control direction, and supervision” of all employees of DHS,
17 including Respondent Cantu. *See* U.S.C. § 1003(a)(2). Ms. Noem, is named as a party in
18 her official capacity.

19 21. Respondent John E. Cantu, is the Phoenix Filed Office Director for ICE/ERO, which
20 has administrative jurisdiction over Petitioner’s case. As such, Respondent Cantu is the
21 federal official most directly responsible for overseeing the Eloy Detention Center. He is a
22 legal custodian of Petitioner and is named in his official capacity.

23 22. Respondent Fred Figueroa is the Warden of the Eloy Detention Center, which is
24 operated by CoreCivic and contracted by DHS. As such, he is the immediate physical
25 custodian of Petitioner and he is named in his official capacity.

26 **FACTUAL ALLEGATIONS**

27 23. Petitioner is a thirty-four (34) year-old male and citizen of Russia. Exh. B and D.

28 24. Petitioner was a member of the Anti-Corruption Foundation in Russia. As a member,

1 Petitioner participated in rallies, recruited members, and was the administrator of a social
2 media site that attracted over 20,000 people who criticized the Russian government. Exh.
3 C.

4 25. On January 31, 2022, Petitioner applied for admission at the San Ysidro Port of Entry
5 and expressed a fear of return to Russia. Exh. D.

6 26. Petitioner was paroled into the United States for a period not to exceed January 29,
7 2023, and was placed in expedited removal proceedings. *Id.*

8 27. On February 16, 2022, Petitioner was released from DHS custody on his own
9 recognizance after passing a credible fear interview. *Id.*

10 28. On August 16, 2022, the Pereslavl District Court of the Yaroslavl region of Russia,
11 issued an arrest warrant for Petitioner for the offense of illegal making of narcotic drugs. *Id.*

12 29. On January 27, 2023, Petitioner filed an I-589 Application for Asylum, Withholding
13 of Removal, and protection under the Convention Against Torture with the United States
14 Citizenship & Immigration Services (“USCIS”). *Id.*

15 30. On April 10, 2024, Petitioner was arrested by ICE/ERO at his scheduled check-in
16 in Los Angeles and was issued a Notice to Appear (“NTA”). *Id.*

17 31. The NTA charged the Petitioner with removability under Section 212(a)(7)(A)(i)(I)
18 of the Immigration and Nationality Act (“INA”). *Id.*

19 32. At a master calendar hearing held on May 23, 2024, the Petitioner conceded the
20 charge of removability in the NTA and declined to designate a country of removal. The IJ
21 designated Russia as the country of removal. Exh. C.

22 33. On May 29, 2024, the Petitioner filed an I-589 application for asylum in removal
23 proceedings. *Id.*

24 34. In October 2024, Petitioner’s counsel submitted a request for release on parole to
25 ICE/ERO along with medical evidence of Petitioner’s medical conditions and needs. Exh.
26 E.

27 35. On November 3, 2024, ICE/ERO denied the parole request. Exh. F.

28 36. On November 8, 2024, Petitioner, through his counsel, submitted a request for

1 reconsideration of the denial of his prior request for parole. Exh. G.

2 37. On December 7, 2024, Petitioner, through his counsel, submitted a new request
3 for parole to ICE/ERO. Exh. H. Petitioner submitted additional medical evidence from the
4 Pacific Heart Institute (“PHI”), along with evidence from the Southern California Eye
5 Institute (“SCEI”), evidencing Petitioner suffers from aphakia in both eyes (displacement of
6 the native lens due to Marfan syndrome). *Id.*

7 38. PHI opined the Petitioner requires regular office visits for imaging of aorta since it
8 was enlarged to 4.9 cm, approaching the criteria for cardiac surgery at 5.0 cm. *Id.* PHI
9 recommended urgent follow-up care to prevent aneurysm rupture and death. *Id.*

10 39. SCEI opined the Petitioner requires the assistance from his wife or care giver due
11 to his very low vision (legal blindness). *Id.*

12 40. On January 29, 2025, Petitioner submitted another request for reconsideration of his
13 parole request. Exh. I. With the request, Petitioner, through counsel, submitted evidence of
14 two additional sponsors who swore that Petitioner would attend all court hearings and ERO
15 appointments as required. *Id.* The request also included additional evidence that Petitioner
16 had a recent CT scan showing further elevation of his aortic root in the coronal panel. *Id.*

17 41. On February 5, 2025, Petitioner underwent an aortic root surgery and pacemaker
18 implantation. Exh. A. A day later, Petitioner was returned in shackles to ICE detention
19 without any monitoring, rehabilitation, or pain control. *Id.*

20 42. On February 12, 2025, Petitioner underwent a second major surgery. Exh. A and
21 B. He was implanted a permanent pacemaker to manage his dangerously low heart rate. Exh.
22 B, ¶ 61.

23 43. On February 19, 2025, Petitioner was admitted to Banner Health after experiencing
24 chest pain. Exh. J. Petitioner had a heart attack while in detention. *Id.* Specifically,
25 Petitioner was diagnosed with non-ST-elevated Myocardial Infarction (“NSTEMI”), aortic
26 aneurysm, chest pain, and elevated troponin. *Id.* Petitioner was discharged after a three-day
27 hospital stay with instructions to follow-up with cardiology. *Id.*

28 44. On February 27, 2025, the IJ found the Petitioner statutorily ineligible for Asylum

1 and Withholding of Removal on the basis that Petitioner committed a serious non-political
2 crime as defined in INA § 241(b)(3)(B)(iii). Exh. C. However, the IJ found that this bar did
3 not preclude the Petitioner from seeking relief of removal under CAT. *Id.*

4 45. Ultimately, the IJ found that the Petitioner is at risk of being tortured if he is
5 returned to Russia and granted his application for deferral of removal under the Convention
6 Against Torture. *Id.* at 10.

7 46. On March 27, 2025, the DHS appealed the IJ's grant of CAT protection to the BIA.
8 and the Petitioner cross-appealed the denial of his asylum application. The appeal is
9 currently pending.

10 47. The Petitioner has been detained at the Eloy Detention Center for approximately **420**
11 days.

12 48. Each day that Petitioner remains in DHS custody, his health continues to decline
13 causing him irreparable injury that will result in his death.

14 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

15 49. For habeas claims, exhaustion of administrative remedies is prudential, not
16 jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive
17 the prudential exhaustion requirement if "administrative remedies are inadequate or not
18 efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury
19 will result, or the administrative proceedings would be void." *Id.* (quoting *Laing v. Ashcroft*,
20 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted)).

21 50. Here, Petitioner argues that he has exhausted his administrative remedies, and any
22 further requests for parole or reconsideration would be futile. Moreover, an immigration
23 judge denied Petitioner bond on May 15, 2015, for lack of jurisdiction. Exh. K. Therefore,
24 Petitioner has exhausted his administrative remedies to the extent required by law, and his
25 only remedy is by way of this judicial action.

26 **FIRST CLAIM FOR RELIEF**

27 **VIOLATION OF THE DUE PROCESS CLAUSE OF THE** 28 **FIFTH AMENDMENT TO THE U.S. CONSTITUTION**

1 51. Plaintiff repeats and realleges the foregoing paragraphs as if fully set forth and
2 incorporated herein by reference.

3 52. Petitioner is in custody “under or by color of the authority of the United States” and
4 in custody “in violation of the Constitution or laws . . . of the United States.” 28 U.S.C. §
5 2241.

6 53. The Fifth Amendment’s Due Process Clause provides that “[n]o person shall be ...
7 deprived of life, liberty, or property, without due process of law.” It specifically “entitles
8 aliens to due process of law in deportation proceedings.” *Reno v. Flores*, 507 U.S. 292, 306,
9 113 S. Ct. 1439, 123 L. Ed. 2d 1 (1993). The Supreme Court held more than a century ago
10 that civil detention of a removable noncitizen violates the Constitution if it is punitive. *Wong*
11 *Wing v. United States*, 163 U.S. 228, 237-38, 16 S. Ct. 977, 41 L. Ed. 140 (1896).

12 54. Noncitizens subject to civil immigration detention “cannot be subjected to
13 conditions that ‘amount to punishment.’” See *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir.
14 2004) (quoting *Bell v. Wolfish*, 441 U.S. 520, 535, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979)).

15 At some point, civil detention can become punitive, resulting in a due process violation.
16 *United States v. Torres*, 995 F.3d 695, 708 (9th Cir. 2021).

17 55. Petitioner in this case is ineligible for release on bond because he is an “arriving
18 alien.” 8 C.F.R. § 212.5(b)(1). Nonetheless, ICE/ERO has the discretion to parole Petitioner
19 based on serious medical conditions, provided Petitioner does not present a security risk or
20 a risk of absconding. *Id.*

21 56. ICE/ERO was indifferent to Petitioner’s requests for release on humanitarian parole
22 despite evidence of his medical needs. Exh. L. ICE/ERO’s denial of Petitioner’s parole
23 requests was reckless disregard of known life-threatening health risks to Petitioner.

24 57. Petitioner has no criminal history in the United States. Exh. D. ERO released
25 Petitioner on his own recognizance on February 16, 2022 and reported to ERO until his arrest
26 on April 10, 2024. *Id.*

27 58. DHS continues to hold Petitioner in detention presumably on a warrant issued by
28 the Russian government after Petitioner left Russia. It is no secret that the Russian

1 government has used Interpol's Red Notice System to fabricate criminal charges against their
2 political opposition figures and dissidents both domestically and internationally. The
3 Petitioner has not been convicted of any crimes and his detention is purely punitive since he
4 does not present a risk of danger to justify his detention, especially considering the state of
5 his health.

6 59. Petitioner has now been detained for approximately 420 days. Petitioner is being
7 deprived of rehabilitation, monitoring, and cardiac follow-up care by DHS. This deprivation
8 poses life-threatening risks to Petitioner that if not ameliorated by his release, will lead to
9 death. Death and life-altering medical conditions are surely irreparable injuries. *Fraihat v.*
10 *United States Immigration & Customs Enf't*, 16 F.4th 613, 658 (9th Cir. 2021).

11 60. Petitioner's death is a natural, probable, and foreseeable consequence of his
12 continued detention. "The right to life is fundamental and is protected against unreasonable
13 or unlawful takings by the procedural due process safeguards of the fifth and fourteenth
14 amendments." *Landrum v. Moats*, 576 F.2d 1320, 1325 (8th Cir. 1978).

15 61. Because the Petitioner's detention threatens to take his life, the Petitioner is entitled
16 to the protections of due process under the Fifth Amendment, in spite of the Respondents'
17 otherwise lawful authority to detain the Petitioner.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff prays that the Court grant the following relief:

- 20 (1) Assume jurisdiction over this action pursuant to 28 U.S.C. § 2241;
 - 21 (2) Find Petitioner's detention by DHS violates the Due Process Clause of the
22 Fifth Amendment;
 - 23 (3) Issue a writ of habeas corpus and order Petitioner's release;
 - 24 (4) Award attorney's fees, costs, and expenses under the Equal Access to Justice
25 Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412(2).; and
 - 26 (5) Grant such other relief as the Court deems just and proper.
- 27
28

1 RESPECTFULLY SUBMITTED this 5th day of June, 2025.

2 POPE & ASSOCIATES PC

3 */s/ Luciana Galarza*

4 _____
Luciana Galarza, Esq.
Counsel for Petitioner

CERTIFICATE OF SERVICE

On the 5th day of June, 2025, I, Luciana Galarza, the undersigned, served via certified U.S. Mail, return receipt requested, the foregoing Petition for Writ of Habeas Corpus, on each person/entity listed below addressed as follows:

Pamela Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Kristi Noem
Secretary, Department of Homeland Security
U.S. Department of Homeland Security
3801 Nebraska Ave NW
Washington, DC 20528

John Cantu
Phoenix Field Office Director
ICE Enforcement and Removal Operations
2035N. Central Ave
Phoenix, AZ 85004

Fred Figueroa
Warden,
Eloy Detention Center
1705 E. Hanna Rd
Eloy, AZ 85131

Served via ECF the attached **Petition**:
Civil Clerk
United States Attorney's Office
District of Arizona
Two Renaissance Square
40 N. Central Avenue, Suite 1200
Phoenix, AZ 85004-4408

I declare under penalty of perjury that the foregoing is true and correct. Executed on the 5th of June, 2025, at Phoenix, Arizona.

/s/ Luciana Galarza

Attorney for Plaintiff