

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

EGOR RUBANOV,

A 

Petitioner

v.

DONALD J. TRUMP, in his official capacity)
as President of the United States; KRISTI)
NOEM, U.S. Secretary of Homeland)
Security; PAMELA BONDI, Attorney)
General, TODD M. LYONS, in his official)
capacity as Acting Director, U.S. Immigration)
and Customs Enforcement; ZOELLE)
RIVERA, Assistant Field Office Director,)
Krome Processing Center; KROME)
DETENTION CENTER WARDEN,)

Respondents

Case No. 1:25-cv-23034-CMA

**EMERGENCY
AMENDED PETITION FOR WRIT
OF HABEAS CORPUS**

INTRODUCTION

1. On July 7, 2025, Petitioner Egor Rubanov, through undersigned counsel, filed a petition for a writ of habeas corpus to challenge his unlawful apprehension and continued immigration detention, requesting this Court order his release from custody. The Court has not yet issued an Order to Show Cause.
2. Mr. Rubanov files this amended petition for a writ of habeas corpus requesting emergency relief in light of his continued unlawful detention, there being no evidence that there is a significant likelihood of removal in the reasonably foreseeable future, and his deteriorating medical condition while in custody.
3. Mr. Rubanov—a fitness blogger with a notable online presence within his community—is a native of the USSR and a citizen of Russia. He fled his native Russia after being extorted

and persecuted for his failure to support the United Russia political party. He came to the United States lawfully in June 2013, and shortly thereafter applied for asylum and protection from removal.

4. An immigration judge denied his application and, in November 2016, the Board of Immigration Appeals issued a final order of removal. Since that time, Mr. Rubanov has complied with all Department of Homeland Security ("DHS") and Immigration and Customs Enforcement ("ICE") directives, including as part of the DHS Alternatives to Detention ("ATD") program, and he has never been removed from the United States.
5. Mr. Rubanov suffers from several medical conditions, and he has undergone several surgeries and visits to the Emergency Room just in the last year. His heart condition is worsening and not being addressed in immigration custody, and his other medical issues are also aggravated. He has reported his worsening conditions and has not received medical attention in response.
6. Mr. Rubanov has now been detained for weeks without due process or necessary medical care.
7. On June 21, 2025, Mr. Rubanov attended a scheduled appointment at the ICE office in Orlando, Florida, purportedly to have his ankle monitor removed. Instead of his release from the ATD program, ICE shackled and arrested him at that appointment without any explanation in the language he understands best, without a warrant of arrest, and without a custody re-determination.
8. Over the course of the following 24 hours, Mr. Rubanov was further mistreated in violation of his constitutional rights. He was eventually transferred to the Krome Detention Center,

where he has sought—but has not received for several weeks—necessary medical attention.

9. It also took more than eight days for the Krome Detention Center to complete a call between Mr. Rubanov and the undersigned law firm in violation of his constitutional right to counsel.
10. Mr. Rubanov has pending motions to reopen and stay of removal before the Board of Immigration Appeals, in which he seeks to present a new claim for asylum and protection from removal to Russia. His removal from the United States would violate his right under 8 U.S.C. § 1231(b)(3)(A) to seek protection from a country he fears.
11. In light of the statutory and constitutional violations surrounding Mr. Rubanov's arrest, detention, and current efforts towards removal, Mr. Rubanov brings this petition for a writ of habeas corpus to secure his immediate release from custody.

JURISDICTION AND VENUE

12. This habeas action arises under the Suspension Clause, the Due Process Clause of the Fifth Amendment, and the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*
13. This Court has subject-matter jurisdiction under U.S. CONST. art. 1, § 9, cl. 2 (Suspension Clause), 28 U.S.C. § 1331 (federal question), and 28 U.S.C. § 2241 (habeas corpus). *See Nance v. Ward*, 597 U.S. 159, 167-68 (2022) (distinguishing claims seeking release as a remedy, which must be brought in a habeas petition, from claims solely challenging conditions of confinement, which are proper under 42 U.S.C. § 1983); *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001).
14. Venue is proper because Petitioner is detained in the Southern District of Florida.

PARTIES

15. Petitioner, Egor Rubanov, is a citizen of Russia who lives in Orlando, Florida. He is currently in immigration detention in the Krome Detention Center in Miami, Florida.
16. Respondent Donald J. Trump is the President of the United States.
17. Respondent Kristi Noem is the U.S. Secretary of Homeland Security.
18. Respondent Pamela Bondi is the U.S. Attorney General.
19. Respondent Todd Lyons is the Acting Director for U.S. Immigration and Customs Enforcement.
20. Respondent Zoelle Rivera is the Assistant Field Office Director of the Krome Processing Center.
21. Respondent Warden of the Krome Detention Center oversees the facility where Mr. Rubanov is detained and is his immediate custodian.
22. All Respondents are named in their official capacities.

APPLICATION FOR ORDER TO SHOW CAUSE UNDER 28 U.S.C. § 2243

23. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the respondents “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 respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
24. 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).

25. Mr. Rubanov requests the Court issue an order to show cause immediately on an emergency basis, with a response due in three days. For the reasons discussed in this petition, his apprehension was unlawful, his continued detention remains unlawful, and his medical conditions are deteriorating such his release would protect his constitutional rights.

RELEVANT FACTS

Mr. Rubanov’s Immigration History

26. Mr. Rubanov was born in the Union of Soviet Socialist Republics (“USSR”). He became a Russian citizen in 1993.
27. Mr. Rubanov first entered the United States in June 2013 as a non-immigrant visitor.
28. Through the use of a notario, Mr. Rubanov affirmatively applied for asylum and protection from removal. An asylum officer referred his application to the immigration court and, in January 2014, DHS placed him in removal proceedings. *See* Exhibit A, Notice to Appear.
29. In October 2014, an immigration judge issued an order of removal. On December 20, 2016, the Board of Immigration Appeals issued a final order of removal, upholding the immigration judge’s decision. *See* Exhibit B, Executive Office for Immigration Review Case Status.
30. Mr. Rubanov filed a petition for review with the Eleventh Circuit Court of Appeals, but did not seek a stay of removal. *See* Dkt. 17-10261 (11th Cir.). In October 2017, the Eleventh Circuit Court of Appeals denied his petition for review. *Rubanov v. United State Att’y Gen.*, 704 F. App’x 900 (11th Cir. 2017).

31. Beginning in 2018, DHS placed Mr. Rubanov on an Order of Supervision. *See* Exhibit C, Order of Supervision. He attended all required check-ins between 2018 and 2022.
32. In September 2023, through new counsel, Mr. Rubanov filed a motion to reopen his removal proceedings based on changed conditions. *See* Ex. B. He has sought a stay of removal with the Board of Immigration Appeals. The motions to reopen and for a stay of removal are pending adjudication at the Board of Immigration Appeals. *Id.*
33. Mr. Rubanov has a fear of persecution or torture if he were to return to Russia at this time. He is awaiting his opportunity to present that claim before the Board of Immigration Appeals and immigration court.
34. Mr. Rubanov has complied with all DHS and ICE directives since his initial arrival in the United States. *See* Exhibit D, Affidavit of Egor Rubanov.
35. This includes participation in DHS's Order of Supervision program and its ATD program, during which he was supplied with an electronic ankle monitor. *See* Exhibit E, Notice of Alternatives to Detention.
36. Mr. Rubanov has attended every ICE check-in. *See* Exs. C, D.
37. At ICE's recent request, and in order to comply with ICE directives as part of his participation in the ATD program, Mr. Rubanov began the lengthy process to obtain a Russian passport, despite his fear of returning to that country. *See* Ex. D.
38. Since his detention, Mr. Rubanov said that ICE agents have indicated they may seek to remove him to Moldova. *See* Ex. D. However, Mr. Rubanov is not a citizen of Moldova. *Id.* In any event, upon information and belief, DHS has not sought travel documents for Mr. Rubanov to be removed to Moldova.

Mr. Rubanov's Medical Conditions

39. Mr. Rubanov has been diagnosed with several medical conditions, including but not limited to Wolff-Parkinsons-White Syndrome (a heart condition causing abnormal heart rhythms), mild coronary artery disorder, acute kidney disease, benign prostatic hyperplasia, high blood pressure, lipoma, chronic shoulder pain and tendinitis, and prostatitis.
40. Mr. Rubanov has undergone several surgeries in the last year, including a cardiac catheterization and cardiac electrophysiology procedure, shoulder surgeries, and prostate surgery. He also received treatment in the emergency room in January 2025 for his heart condition. *See* Ex. D.
41. At a recent ICE check-in, he suffered from heart attack symptoms. ICE allowed him to leave and he subsequently sought medical attention. *See* Ex. D; *see also* Exhibit F, Affidavit of Iuliia Rubanova.¹
42. He takes multiple medications every day for his heart, prostate, and blood pressure. *See* Ex. F.

Mr. Rubanov's Warrantless Arrest

43. On June 21, 2025, Mr. Rubanov attended a check-in appointment at ICE. He had been told that if he prepared an application to obtain a Russian passport that ICE would remove his ankle bracelet. *See* Ex. D.

¹ Despite several attempts to schedule and participate in calls, the Krome Detention Center has only been able to complete one call between undersigned law firm and Mr. Rubanov since his detention. Mr. Rubanov's application was prepared during that single, one-hour call. His wife, Iuliia, also provided an affidavit for the court to provide information that is not contained in Mr. Rubanov's affidavit. While Ms. Rubanova's affidavit admittedly contains hearsay, Mr. Rubanov, through counsel, submits the second affidavit to support some of the factual assertions and can seek to obtain an affidavit from Mr. Rubanov should any hearsay evidence become material.

44. More than an hour after he arrived at his appointment on June 21, 2025, ICE agents detained and shackled Mr. Rubanov. The officers did not speak to Mr. Rubanov or identify themselves. When he asked what was happening, the agents either ignored him and remained silent or said that everything would be ok. The officers ignored his request to speak to his attorney. He also told the agents about his heart condition that required regular medication, but the officers did not respond to his statements. *See Ex. D.*
45. The ICE agents took Mr. Rubanov to an office in Orlando where he and other individuals were placed in a freezing cold room. They were not chained or shackled during this time. Mr. Rubanov asked for medical attention due to his racing and pounding heart rate, in light of his prior heart attack. An officer told him “That’s your problem” and provided no medical assistance. ICE did not provide food or water during this time. *See Ex. D.*
46. ICE agents asked Mr. Rubanov to sign unidentified paperwork in English but he refused to sign. *See D.*
47. Later that day, ICE agents chained Mr. Rubanov again—on his wrists, waist, and ankles—and transported him and many others to a bus. Mr. Rubanov and the other detainees remained chained on the bus and could barely move their hands. *See Ex. D.*
48. The bus transported Mr. Rubanov from Orlando, Florida to Miami, Florida. *See Ex. D.*
49. The bus arrived at the Krome Detention Center in Miami, Florida around 10:00 or 11:00 pm. *See Ex. D.*
50. The administration at the Krome Detention Center refused to accept the detainees, and they were told to wait until the Facility Chief arrived. *See Exs. D, F.*
51. Mr. Rubanov and others remained chained on the bus overnight.

Mr. Rubanov's Mistreatment, and Lack of Medical Care in ICE Detention

52. At sunrise on Sunday, June 22, 2025, due to extreme physical conditions and uncertainty, Mr. Rubanov experienced shortness of breath, chest pressure and heart pain. Mr. Rubanov lost consciousness. *See Ex. D.*
53. Mr. Rubanov was taken to a local hospital, and was later returned to the Krome Detention Center by ICE agents. *See Ex. D.*
54. Mr. Rubanov has requested medical attention several times every day since arriving at Krome. Guards have responded that they could not help him and that the medical center would contact him when necessary, or that they would pass along his request. *See Ex. D.*
55. Upon information and belief, a nurse or medical assistant at the Krome Detention Center conducted an intake of Mr. Rubanov but he was not provided with a doctor's visit until Friday, June 27, 2025.
56. On Friday, June 27, 2025, Mr. Rubanov was provided with a doctor's visit. He explained to the doctor all of the medications he regularly takes. The doctor did not provide all of his medication, saying that his needed medications were not available. *See Ex. D.*
57. At first, the facility only provided aspirin. They have more recently provided blood thinners and medication for his prostate.
58. Mr. Rubanov has not been provided all of his necessary, daily medication since he was taken into ICE custody on June 21, 2025.
59. Mr. Rubanov has requested an appropriate diet to address his chronic medical issues. Specifically, prior to his detention on June 21, 2025, his doctors advised him that he needed to eat reduced carbohydrates. However, the food provided at the Krome Detention Center consists of heavy and refined carbohydrates including sugary cereal, a bun, or a cookie.

- See Ex. D.* These items significantly increase his risk of heart attack or stroke. He asked the facility doctor to provide a different diet, but he has not been provided any of the specific, medically necessary accommodations that he requested due to his heart condition.
60. Because he has not received the requested diet necessary for his medical conditions, Mr. Rubanov has attempted to retain healthier food as it is served. Upon information and belief, the officers have taken these items from him.
61. Mr. Rubanov's cell at the Krome Detention Center is overcrowded. Upon information and belief, there are more than double the number of people in the cell or unit than there should be. There are not sufficient facilities to sleep or sit. There are no windows and no proper air circulation in the cell. The cell or unit is very warm with insufficient air conditioning, and it is believed that the air conditioning malfunctions or is turned off when the room is most crowded.
62. Many of the detainees are experiencing respiratory symptoms. Mr. Rubanov has developed a cough, sore throat, nasal congestion, and a headache. His eyesight has deteriorated and in addition to his shoulder pain he has developed severe back pain, which he fears may be related to a previous kidney condition, and ear pain, which makes it difficult for him to hear. *See Ex. D.*
63. Mr. Rubanov has been provided almost no time outside since his detention on June 21, 2025. The limited time he has outside is in the middle of the day in extreme heat. *See Ex. D.*

LEGAL BACKGROUND

Warrantless Arrests

64. The Immigration and Nationality Act (“INA”) allows ICE officers to make warrantless arrests. 8 U.S.C. § 1357(a). However, this authority “is subject to the principles of the Fourth Amendment.” *United States v. Vasquez-Ortiz*, 344 F. App’x 551, 554 (11th Cir. 2009). And the statute limits ICE’s authority to make warrantless arrests to exigent circumstances. *See* 8 U.S.C. § 1357(a).
65. Specifically, the statute authorizes ICE to “arrest any alien who in [the officer’s] presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, expulsion, or removal of aliens.” 8 U.S.C. § 1357(a)(2).
66. The statute also allows an immigration officer to “arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation *and is likely to escape before a warrant can be obtained for his arrest.*” *Id.* (emphasis added).
67. The likelihood of escape requirement “is always seriously applied.” *United States v. Cantu*, 519 F.2d 494, 496-97 (7th Cir. 1975); *see also Diogo v. Holland*, 243 F.2d 571 (3d Cir. 1957).
68. Numerous courts, consistent with the plain language of the statute, have held that ICE exceeds its statutory authority under 8 U.S.C. § 1357(a) “without a determination that a suspected removable individual is likely to escape before a warrant can be obtained.” *Creedle v. Miami-Dade Cty.*, 349 F. Supp. 3d 1276, 1294-95 (S.D. Fla. 2018) (listing cases).

Immigration Detention Authority

69. 8 U.S.C. § 1231(a)(1)(A) requires that “when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the ‘removal period’).”

70. Pursuant to 8 U.S.C. § 1231(a)(1)(B), the removal period begins on the latest of the following:

- (i) The date the order of removal becomes administratively final.
- (ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court’s final order.
- (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

71. Per statute, the removal period can only extend beyond the 90-day period “if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien’s departure or conspires or acts to prevent the alien’s removal subject to an order of removal.” 8 U.S.C. § 1231(a)(1)(C).

72. During the removal period, a noncitizen “shall” be detained. 8 U.S.C. § 1231(a)(2)(A). After the 90-day removal period runs, if the noncitizen has not been removed, the noncitizen is placed on an order of supervision. 8 U.S.C. § 1231(a)(3); 8 C.F.R. § 241.3, 241.5.

73. Detention beyond the 90-day removal period is authorized only where there is a danger to the community or the noncitizen is unlikely to comply with the removal order. 8 U.S.C. § 1231(a)(6); *see* 8 C.F.R. §§ 241.4, 241.14.

74. To avoid finding detention under 8 U.S.C. § 1231(a)(6) unconstitutional under the Fifth Amendment, in *Zadvydas v. Davis* the Supreme Court “read an implicit limitation into the

statute[.]” 533 U.S. 678, 689 (2001). “In our view, 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 the alien’s removal from the United States. It does not permit indefinite detention.” *Id.*

75. Detention for six months from the date an order of removal becomes final is presumptively reasonable, but beyond that, detention ceases to be “reasonable” and exceeds the implicit temporal limitation imposed by the Supreme Court when there is no “significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701; *Akinwale v. Ashcroft*, 287 F.3d 1050, 1051-52 (11th Cir. 2002).

76. For individuals who are released after receiving a final removal order, re-detention is authorized if there has been changed circumstances establishing a significant likelihood of removal in the reasonably foreseeable future. 8 C.F.R. § 241.4(l). DHS regulations specifically outline a process required for revocation of release. 8 C.F.R. § 241.4(l).

The Government’s Obligation to Care for those in Custody

77. Any conditions of confinement must be rationally related to a legitimate government objective. *Bell v. Wolfish*, 441 U.S. 520, 538 (1979) (internal marks and citation omitted). Congress has provided for mandatory detention of individuals subject to a final order of removal, but only for an initial 90-day period after the removal order can be effectuated. 8 U.S.C. § 1231(a)(1)(A). Detention after that date is only justified for individuals who do not make a good faith effort to secure travel documents or otherwise act to prevent their removal. 8 U.S.C. § 1231(a)(2)(C).

78. When the government “takes a person into its custody and holds him there against his will, the Constitution imposes upon it a corresponding duty to assume some responsibility for

his safety and general well-being.” *Deshaney v. Winnebago County Dep’t of Social Services*, 489 U.S. 189, 199-200 (1989). Thus, the government is required to provide “basic human needs – e.g., food, clothing, shelter, *medical care*, and reasonable safety” and when those basic needs are not provided “it transgresses the substantive limits on state action set by the Eighth Amendment and the Due Process Clause.” *Id.* at 200 (emphasis added and citations omitted).

79. An individual in federal custody “must rely on prison authorities to treat his medical needs; if the authorities fail to do so, those needs will not be met.” *Estelle v. Gamble*, 420 U.S. 97, 103 (1976).
80. Moreover, for immigration detainees who are held under civil immigration laws, their detention may not be punitive at all. *See Darnell v. Pineiro*, 849 F.3d 17, 29 (2d Cir. 2017) (stating that civil detainees “may not be punished in any manner—neither cruel and unusually nor otherwise”) (internal quotation marks and citations omitted); *see Zadvydas*, 533 U.S. at 690 (recognizing that immigration detainees are held pursuant to civil immigration laws).
81. The Eleventh Circuit has reasoned that a government official’s failure to provide a prisoner “with necessary medical treatment that the state does not intend to withhold as punishment, that failure becomes part of the punishment.” *Wade v. McDade*, 106 F.4th 1251, 1268 (11th Cir. 2024). It follows, then, that the failure to provide medical treatment to a civil detainee constitutes unlawful punishment in violation of a Constitutional right.

CLAIMS FOR RELIEF
COUNT ONE

Petitioner’s Warrantless Arrest Exceeded ICE’s Statutory Authority (8 U.S.C. § 1357)

82. Petitioner incorporates and re-alleges paragraphs 1 through 81 as if fully set forth herein.

83. 8 U.S.C. § 1357(a) sets forth the limited circumstances under which ICE may detain a noncitizen without a warrant.

84. The statute authorizes ICE to “arrest any alien who in [the officer’s] presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, expulsion, or removal of aliens.”

8 U.S.C. § 1357(a)(2).

85. Mr. Rubanov was not observed entering or attempting to leave the United States. He was appearing for what he was told was a check-in for his completion of the Alternatives to Detention (“ATD”) program.

86. The May 14, 2025 notice regarding Mr. Rubanov’s enrollment in the ATD program states that “Failure to comply with the requirements of the ATD program will result in a redetermination of your release conditions or your arrest and detention.” *See* Ex. E.

87. ICE has not alleged that he has failed to comply with the requirements of the ATD program.

88. ICE did not provide a redetermination of his release conditions or a warrant of arrest.

89. ICE did not inform Mr. Rubanov in his native language for the reasons for his detention.

90. The statute also allows the officer to “arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest.” 8 U.S.C. § 1357(a)(2).

91. There were no exigent circumstances indicating a likelihood of escape that would justify forgoing the warrant requirement. Mr. Rubanov has complied with all ICE directives when he was under an Order of Supervision and when he was enrolled in the ATD program.

92. Mr. Rubanov appeared at his check-in on the premise that he would be removed from the ATD program based on compliance. Ex. D. “Law enforcement does not have carte blanche to use deception to effect a . . . seizure.” *United States v. Ramirez*, 976 F.3d 946, 955 (9th Cir. 2020); *Pagan-Gonzales v. Moreno*, 919 F.3d 582, 591-92 (1st Cir. 2019) (“The right to deceive . . . is not unbounded.”).

93. ICE’s warrantless arrest of Mr. Rubanov exceeded its statutory authority.

COUNT TWO

Petitioner’s Arrest Violated His Right to Procedural Due Process under the Fifth Amendment

94. Petitioner incorporates and re-alleges paragraphs 1 to 81 as if fully set forth herein.

95. Mr. Rubanov was arrested and has been detained by federal agents without cause and in violation of his constitutional rights to due process of law.

96. All individuals within the United States, including noncitizens, are entitled to due process. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

97. In order to establish a procedural due process violation, Mr. Rubanov must demonstrate that he has a constitutionally protected interest, that the government deprived him of that interest, and the government did not afford constitutionally adequate due process. *See Bank of Jackson County v. Cherry*, 980 F.2d 1362, 1366 (11th Cir. 1993) (citations omitted).

98. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690; *Reno v. Flores*, 507 U.S. 292, 306 (1993) (“It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings.”).

99. Congress explained that a noncitizen who is not removed within the statutory 90-day removal period is subject to release and supervision outlined by regulations. 8 U.S.C. § 1231(a)(3).
100. DHS has outlined several circumstances providing for detention beyond the removal period. 8 C.F.R. §§ 241.4, 241.14. These regulations focus on factors including dangerousness and community safety, flight risk, and cooperation in obtaining travel documents. *Id.*
101. DHS's regulations enumerate five requirements for individuals released on an order of supervision: (1) regular reporting to a specified officer and providing information as directed, (2) continue efforts to obtain travel documents, (3) report for mental or physical examination as directed, (4) obtain advanced approval of travel beyond specified times and distances, and (5) provide DHS with written notice of any change of address. 8 C.F.R. § 241.5(a)(1)-(5).
102. Should DHS choose to re-detain a noncitizen based on violations of the conditions of release, DHS must provide notice of the detention and an opportunity to respond. 8 C.F.R. § 241.4(l). Only certain individuals have authority to order revocation of release. 8 C.F.R. § 241.4(l).
103. DHS did not detain Mr. Rubanov during the 90-day removal period, which expired several years ago. *See* 8 U.S.C. § 1231(a)(1). DHS has placed him under an Order of Supervision and in the ATD program since that time. 8 U.S.C. § 1231(a)(3).
104. Mr. Rubanov was most recently provided notice of his participation in the ATD program on May 14, 2025. Ex. E.

105. That notice indicated that only failure to comply with the terms would result in a redetermination of his custody status. Ex. E.
106. Weeks later, DHS, without notice or reason, revoked Mr. Rubanov's participation in the program and placed him in detention. *See* Ex. D.
107. Mr. Rubanov was not served with a notice of custody determination, warrant of removal, or an arrest warrant. *See* 8 U.S.C. § 1357; 8 C.F.R. §§ 236.1(g)(1), 241.2, 241.4(l).
108. Mr. Rubanov was not told why he was being detained.
109. Mr. Rubanov was not told who made the determination for his detention.
110. Mr. Rubanov has not violated the terms of the ATD program, nor has he been provided any notice or process regarding his warrantless arrest.
111. Mr. Rubanov has been complying with all DHS directives, including preparing an application to obtain a Russian passport—despite his fear of returning to that country. *See* Ex. D.
112. Mr. Rubanov does not currently have a Russian passport and it is a lengthy process to obtain one. Thus, his “immediate removal is not practicable.” 8 C.F.R. § 241.4(g)(3).
113. Because ICE did not follow its own regulations that outline the process and justification for re-detention, Mr. Rubanov's arrest violates his right of freedom of restraint. *Zadvydas*, 533 U.S. at 690.
114. Accordingly, this Court should order that his arrest violated the regulations and his procedural due process rights and order his release.

COUNT THREE

Petitioner's Detention Violates 8 U.S.C. § 1231(a)(6).

115. Petitioner incorporates and re-alleges paragraphs 1 to 81 as if fully set forth herein.

116. As a person living within the United States for more than a decade, Mr. Rubanov is entitled to due process of law. U.S. Const. amend. V.; *Zadvydas*, 533 U.S. at 699-700.
117. The Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and prevent flight. *See Demore v. Kim*, 538 U.S. 510, 528 (2003); *see also Matter of Patel*, 15 I. & N. Dec. 666 (BIA 1976) (“An alien generally is not and should not be detained or required to post bond except on a finding that he is a threat to the national security, or that he is a poor bail risk[.]” (internal citation omitted)).
118. However, the INA only provides a 90-day “removal period” during which noncitizens who have been ordered removed shall be removed. See 8 U.S.C. § 1231(a)(1).
119. The INA only authorizes an extension of the removal period “if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal subject to an order of removal.” 8 U.S.C. § 1231(a)(1)(C).
120. During the removal period, a noncitizen shall be detained. 8 U.S.C. § 1231(a)(2). After the removal period has run, if removal cannot be effectuated, the INA contemplates that a noncitizen should be released from custody under supervision. 8 U.S.C. § 1231(a)(3).
121. The government is not precluded from re-detention after the removal period, but only if re-detention is “shown to be appropriate” and also “upon a showing that, on the basis of matters transpiring after the decision of the court, there has then become a substantial likelihood of removal in the reasonably foreseeable future” or “from seeking a modification of the conditions of his release on the same basis (or on the basis of some

other material change in conditions. . . .”) *Zadvydas v. Davis*, 285 F.3d 398, 404 (5th Cir. 2002) (on remand from the Supreme Court).

122. Other courts have recently ruled that detention or redetention once the removal period has lapsed is available only in limited circumstances. *Cordon-Salguero v. Noem*, 1:25-cv-1626, *32-33 (D. Md. June 18, 2025) (concluding that § 1231(a)(6) allows for detention beyond the removal period only for those inadmissible under 8 U.S.C. § 1182, those subject to certain criminal grounds of removability under 8 U.S.C. § 1227, and “those who immigration authorities have determined to be a risk to the community or unlikely to comply with the order of removal”); *see also Hernandez-Esclaante v. Noem*, 9:25-cv-182 (E.D. Tex. July 11, 2025) (Report and Recommendation); *Nguyen v. Hyde*, -- F. Supp. 3d --, 2025 U.S. Dist. LEXIS 117495 (D. Mass. June 20, 2025); *Liu v. Carter*, 2025 U.S. Dist. LEXIS 115275 (D. Kan. June 17, 2025); *Tadros v. Noem*, 2025 U.S. Dist. LEXIS 113198, *8-9 (D. N.J. June 13, 2025).

123. Mr. Rubanov’s removal period began on December 20, 2016 when the Board of Immigration Appeals entered a final order of removal. Ex B. The period expired 90 days later, on March 20, 2017.

124. Detention beyond March 20, 2017 is presumptively unlawful absent evidence of a significant likelihood that Mr. Rubanov will be removed in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701.

125. DHS has produced no evidence of a change in circumstances that Mr. Rubanov’s removal is likely in the reasonably foreseeable future. *Singh v. United States Att’y Gen.*, 945 F.3d 1310, 1313-14 (11th Cir. 2019) (recognizing that if a noncitizen has not been removed within the six-month period after the removal order, and if “a detainee provides

good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the government must respond with evidence sufficient to rebut that showing. If the government fails to rebut the detainee's assertion, he must be released.") (internal marks and citation omitted); *cf. Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002) (concluding that no evidence was presented of "a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.").

126. Mr. Rubanov has been living and working in the United States for more than eight years after his removal order became final. DHS has made no efforts to remove him during this time.

127. DHS has not provided any notice that it has undertaken efforts to effectuate Mr. Rubanov's removal at this time or that circumstances have otherwise changed such that his removal is now likely. 8 C.F.R. §§ 241.13, 241.14.

128. DHS asked Mr. Rubanov to begin the process to seek a Russian visa—despite being on notice that he has a fear of returning to that country—but this process can take many months. *See* Ex. D.

129. Because Mr. Rubanov does not have travel documents to be removed to Russia and obtaining such documentation is a process that takes a long time, his "immediate removal is not practicable." 8 C.F.R. § 241.4(g)(3). *See Nguyen*, -- F. Supp. 3d --, 2025 U.S. Dist. LEXIS 117495, at * 17.

130. Mr. Rubanov is also afraid that DHS will attempt to remove him to Moldova. *See* Ex. D. Mr. Rubanov is a Russian citizen, not a citizen of Moldova. And DHS cannot remove

him to Moldova unless removal to Russia, the country designated in his removal order, is “impracticable, inadvisable, or impossible.”² 8 U.S.C. § 1231(b)(2)(E)(vii).

131. Mr. Rubanov has complied with all DHS directives and requirements since his initial entry into the United States. And Mr. Rubanov has appeared at every check-in appointment and is not a flight risk.

132. In 2023, Mr. Rubanov sought reopening of his removal proceedings based on changed country conditions that have caused him to fear being removed to Russia. Ex. B. He has a fear of returning to Russia at this time, and has asked the Board of Immigration Appeals for an emergency stay of removal to protect him from removal to that country while it evaluates the claim in his motion to reopen. Upon information and belief, the BIA has not adjudicated his motions, and DHS does not have any travel documents allowing the agency to effectuate Mr. Rubanov’s removal in the meantime.

133. DHS and DOJ are aware of Mr. Rubanov’s claimed fear and pending motions before the BIA. Any efforts to remove Mr. Rubanov to a country he fears at this point would violate his safety and due process rights.

134. Because the removal period expired in 2017 and Mr. Rubanov has complied with all DHS directives since that time, the government bears the burden of demonstrating that his removal is significantly likely in the reasonably foreseeable future.

135. However, the government has produced no evidence that there is a significant likelihood of his removal in the reasonably foreseeable future.

² Although speculative at this point, should DHS indicate that it is contemplating removal to Moldova, Mr. Rubanov preserves a claim that the March 30, 2025 DHS memo regarding third-country removals and the subsequent July 9, 2025 DHS directive are both unlawful. *See* Mr. Rubanov also would request the Court order DHS to provide notice and an opportunity to raise a claim of fear of removal to any identified third country.

136. Therefore, Mr. Rubanov's continued detention is unlawful and this Court should order his release.

COUNT FOUR

Petitioner's Detention Violates His Fifth Amendment Rights Against Unconstitutional Confinement

137. Petitioner incorporates and re-alleges paragraphs 1 to 81 as if fully set forth herein.
138. A writ of habeas corpus is the proper vehicle to seek release from unconstitutional confinement. *Nance*, 597 U.S. at 167; *Deng Chol A. v. Barr*, 450 F. Supp. 3d 896, 901 (D. Minn. 2020) ("Although the court may not review discretionary decisions made by immigration authorities, it may review immigration-related detentions to determine if they comport with the demands of the Constitution.").
139. Mr. Rubanov's continued detention in the conditions in Krome Detention Facility violates his Constitutional rights and thus release is warranted.³
140. Mr. Rubanov recognizes that pure conditions of confinement claims are ordinarily not appropriate in habeas. *See, e.g., France v. Ripa*, 2025 U.S. Dist. LEXIS 82572, *2 (S.D. Fla. Jan. 15, 2025). However, the relief requested here is release, which is relief appropriate in habeas proceedings, not civil rights actions for damages. *Id.* at *2-3.
141. Mr. Rubanov is medically vulnerable, having been diagnosed with a heart condition and issues involving his prostate, and he has undergone several surgeries in the last year.
142. Krome Detention Center is overcrowded and there is no indication that the immigration detainee population will decrease to levels within the appropriate capacity in

³ Mr. Rubanov seeks release from custody, which can be achieved via a writ of habeas corpus. He does not (currently) seek monetary damages and thus does not, in this action, seek relief under *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971). *See Nance*, 597 U.S. at 167 (recognizing that habeas is appropriate for an inmate seeking "immediate or speedier release.").

the near future in light of ICE's daily arrest quotas. See Jasmine Garsd, *In recorded calls, reports of overcrowding and lack of food at ICE detention centers*, June 6, 2025, available at <https://www.npr.org/2025/06/05/nx-s1-5413364/concerns-over-conditions-in-u-s-immigration-detention-were-hearing-the-word-starving>; Hunter Geisel, *Detainees seen signaling "SOS" at Krome Detention Center, as allegations grows over overcrowding, inhumane conditions*, June 5, 2025, available at: <https://www.cbsnews.com/miami/news/krome-detention-center-sos-immigration-miami-dade/>; Ted Hesson and Kristina Cooke, *ICE's tactics draw criticism as it triples daily arrest targets*, June 10, 2025, available at: <https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/>.

143. Mr. Rubanov has requested—but has not received—medical attention. After asking to see a doctor for more than five days, he finally spoke to a doctor whom he told that he takes blood thinners and has a heart condition. He was provided some but not all of his necessary medication. Ex. D; cf. *Gamble*, 429 U.S. at 107 (noting that the individual had been seen by medical officials seventeen times over the course of three months).
144. Upon information and belief, Mr. Rubanov has still not received all needed medical attention as of July 14, 2025, including a response from a doctor to his request for medical attention because his heart condition is worsening. All of Mr. Rubanov's health conditions have worsened due to the conditions in the facility.
145. Mr. Rubanov has been deprived of his complete necessary medication since the beginning of his detention. Mr. Rubanov has also been kept in an overcrowded room at an inconsistent temperature that is detrimental to his health. This constitutes unlawful punishment.

146. DHS was aware of Mr. Rubanov's medical conditions prior to his intake at Krome Detention Center; he suffered a health event during a recent ICE check in that resulted and when he was detained in June 2025 he was taken to a hospital and treated after he lost consciousness on the bus sitting outside Krome Detention Center for several hours. *See* Ex. D.

147. DHS has not provided any indication that Mr. Rubanov is subject to mandatory detention, or that his detention is necessary in light of dangerousness or flight risk. This is a key distinction between this case and others in which this Court has declined to address conditions of confinement in a habeas petition. *See, e.g., Heraud St. Louis v. Martin*, 2020 U.S. Dist. LEXIS 112986 (S.D. Fla. June 26, 2020). Notably, Mr. Rubanov is not seeking in this action injunctive relief while he is detained. He is seeking his release because his detention is not mandated by statute or regulation and it violates his Constitutional rights. *See Wilson v. Williams*, 961 F.3d 829, 837 (6th Cir. 2020) ("To the extent petitioners argue that the alleged unconstitutional conditions of their confinement can be remedied only by release, 28 U.S.C. § 2241 conferred upon the district court jurisdiction to consider the petition.").

148. There is no indication why Mr. Rubanov cannot be released and placed back on supervised release or in the ATD program pending resolution of his motion to reopen and/or DHS's consideration as to what third country he can be removed to without persecution or torture.

149. Because DHS cannot establish that it can detain Mr. Rubanov in conditions that do not violate his constitutional rights and because his detention is not mandatory, under the unique facts of this case, this Court should determine that his continued detention violates

his constitutional rights. *Cf. Vaz v. Skinner*, 634 F. App'x 778, 781 (11th Cir. 2015) (distinguishing a claim challenging solely conditions of confinement from one challenging "the fact or duration of that confinement.").

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that the Petitioner's arrest violated the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment;
- (4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
- (5) Declare that the conditions of Petitioner's confinement violate his constitutional rights under the Fifth Amendment;
- (6) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (7) Award Mr. Rubanov attorney's fees and costs under the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. 2412; and

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

July 11, 2025

Respectfully submitted,

/s/ Jessica Dawgert

JESSICA DAWGERT
Partner, Federal Litigation
Blessinger Legal, PLLC
7389 Lee Highway, Suite 320
Falls Church, VA 22042
(703)738-4248
jdawgert@blessingerlegal.com
Admitted Pro Hac Vice

/s/ John Gihon

JOHN GIHON
Lasnetski Gihon Law
409 Montgomery Road, Ste. 115
Altamonte Springs, FL 32714
Phone: (407) 228-2019
Fax: (904) 685-4580
john@lglawflorida.com
Local Counsel