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Attorney for Petitioner

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA
Phoenix Division**

Artyk Osmonaliev, an adult,


Petitioner,

v.

John Cantu, Phoenix Field Office
Director Immigration and Customs
Enforcement and Removal Operations
("ICE/ERO"); Todd Lyons, Acting
Director of Immigration Customs
Enforcement ("ICE") U.S.
Immigration and Customs
Enforcement; Kristi Noem,
Secretary of the Department of
Homeland Security ("DHS"); U.S.
Department of Homeland Security;
and Pamela Bondi,
Attorney General of the United States,

Respondents.

Case No.

Agency No. 

**Petition For Writ Of Habeas
Corpus**

INTRODUCTION

1. Petitioner Osmonaliev is a noncitizen and longtime resident of the United States who is harmed by Respondents' new, draconian policy reinterpreting the immigration detention statutes to preclude Petitioner from eligibility for bond under the Immigration and Nationality Act (INA), 8 U.S.C. § 1226(a), and for bond hearings under 8 C.F.R. §§ 1003.19(a), 1236.1(d). Instead, pursuant to this new policy, Respondents now consider Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), without the opportunity for release on bond during the pendency of his lengthy removal proceedings.
2. Petitioner was paroled into the United States on or around May 22, 2023, over two years ago, by Respondents; he then applied for asylum before the U.S. immigration authorities on June 12, 2023. Respondents commenced removal proceedings against him in immigration court, entitling him to present his asylum claim with the due process rights under 8 U.S.C. § 1229a. Yet, in a deceptive sleight of hand, Respondents now seek to eject Petitioner from his own asylum case and detain him, so that they can rapidly deport him under an entirely separate and inapposite law, 8 U.S.C. § 1225. Respondents do so based not on Petitioner's personal circumstances or individualized facts but because of Respondents' interpretation of President Trump's whim and categorical determination that, the Fifth Amendment notwithstanding, noncitizens are not entitled to due process¹.

3. Based on this allegation in Petitioner's removal proceedings, DHS denied his release from immigration custody. That denial was consistent with a new DHS policy issued on July 8, 2025, instructing all ICE employees to consider anyone alleged to be inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A) and therefore eligible for release only on parole.

4. Petitioner sought a bond redetermination hearing before an immigration judge (IJ) at the Eloy Immigration Court, but the IJ denied Petitioner bond.

5. By arresting and detaining Petitioner, ICE also unlawfully revoked the parole that Petitioner has enjoyed since May 2023 without any neutral evaluation of the supposed justifications. That is unconstitutional. In recent months, multiple federal district courts have ordered ICE to release individuals that it arrested like Petitioner, who were previously granted parole or some other form of release from immigration custody, and to not re-arrest them without first providing a pre-detention bond hearing. *See Y-Z-L-H v. Bostock*, --- F. Supp. 3d ----, 2025 WL 1898025, at *9–12 (D. Or. Apr. 17, 2025) (holding DHS's termination of parole by mass email without the findings required by 8 U.S.C. § 1182(d)(5)(A) and 8 C.F.R. § 212.5(e)(2)(i) was arbitrary and

¹ *See, e.g.*, NBC News, Meet the Press interview of President Donald Trump (May 4, 2025), <https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donald-trump-interviewed-meet-press-mod-rcna203514> (in response to a question whether noncitizens deserve due process under the Fifth Amendment, President Trump replied, "I don't know. It seems—it might say that, but if you're talking about that, then we'd have to have a million or 2 million trials.").

capricious under the APA and ordering release); *Rodriguez Orellana v. Francis*, No. 1:25-cv-04212, 2025 WL 1755685, at *6–8 (E.D.N.Y. July 14, 2025) (granting habeas relief where DHS revoked humanitarian parole and detained petitioner without notice or a reasoned explanation, finding the termination unlawful under the APA); *Mata Velasquez v. Kurzdorfer*, No. 1:25-cv-00493-LJV, 2025 WL 1953796, at *11 (W.D.N.Y. July 16, 2025) (found that “the words of the statute require parole revocation to be analyzed on a case-by-case basis and that a decision to revoke parole ‘must attend to the reasons an individual [noncitizen] received parole.’” Where the petitioner received a summary letter informing him of the revocation, “there [was] no indication that—as required by the statute and regulations—an official with authority made a determination specific to” the petitioner and therefore the petitioner’s rights were violated under the Parole Statute. *Id*; see also *Castellon v. Kaiser*, 2025 WL 2373425, at *5-6 (E.D. Cal. Aug. 14, 2025).

6. Respondents’ new legal interpretation is plainly contrary to the statutory framework and its implementing regulations. Respondents’ new policies are thus not only contrary to law, but arbitrary and capricious in violation of the Administrative Procedure Act (APA). They were also adopted without complying with the APA’s procedural requirements.

7. Accordingly, to vindicate Petitioner’s rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court to find that Respondents’ attempts to detain and deport Petitioner are arbitrary and

capricious and in violation of the law, and to immediately issue an order preventing Petitioner's transfer out of this district.

JURISDICTION

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

9. 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).

10. 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

11. Venue is proper because Petitioner is in Respondents' custody in Eloy, Arizona. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondents' custody. 28 U.S.C. § 1391(e).

12. For these same reasons, divisional venue is proper under LRCiv 5.1(b).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

13. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.

14. If an OSC 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.*

15. 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).

16. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

17. Petitioner is a 28-year-old citizen of Kyrgyzstan. Petitioner is present within the state of Arizona as of the time of the filing of this petition.

18. Respondent John Cantu is the Field Office Director for the Phoenix Field Office, Immigration and Customs Enforcement and Removal Operations (“ICE”). The Phoenix Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens. Respondent Cantu is a legal custodian of Petitioner.

19. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent John Cantu and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

20. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

21. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

22. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to noncitizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens.

23. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

24. This action is commenced against all Respondents in their official capacities.

LEGAL FRAMEWORK

25. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

26. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their

detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention until their removal proceedings are concluded, *see* 8 U.S.C. § 1226(c).

27. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals "seeking admission" referred to under § 1225(b)(2).

28. Last, the INA also provides for detention of noncitizens who have received a final order of removal from the United States, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231 (a)-(b).

29. This case concerns the detention provisions at §1226(a) and § 1225(b)(2).

30. The detention provisions at §1226(a) and §1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

31. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for

admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

32. For decades, this interpretation has governed the administration of custody. Noncitizens who were not deemed "arriving aliens" at the time of inspection, or who were released into the United States after inspection and issuance of an NTA, were treated as detained under § 1226. *See* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (explaining that § 1226(a) "restates" the detention authority previously codified at 8 U.S.C. § 1252(a) (1994)).

33. On July 8, 2025, ICE, "in coordination with the Department of Justice (DOJ)," announced a corresponding policy that rejected the well-established understanding of the statutory and regulatory framework and reversed decades of practice.

34. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection shall now be deemed subject to mandatory detention under § 1225(b)(2)(A). *Id.* The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

35. It is estimated that this novel interpretation of the INA would require a person's detention any time that immigration authorities arrest one of the

millions of immigrants residing in the United States who entered without inspection and who has not since been admitted or paroled.²

36. Nationwide, pursuant to its July 8, 2025, policy, Respondents are now asserting that all persons who entered without inspection are subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A).

37. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

38. While some IJs in other immigration courts have continued to grant bond to people like Petitioner, consistent with its new policy, DHS also has begun filing Form EOIR-43, Notice of Service Intent to Appeal Custody Redetermination. This notice not only appeals any IJ decision granting bond but also triggers an automatic stay of the bond decision during the appeal. *See* 8 C.F.R. § 1003.19(i)(2).

39. The "auto-stay" provision of 8 C.F.R. § 1003.19(i)(2) prevents noncitizens from posting bond and being released even in jurisdictions where IJs have rejected DHS's unlawful reinterpretation of §1225(b)(2) and have granted bond.

² Maria Sacchetti & Carol D. Leonnig, *ICE declares millions of undocumented immigrants ineligible for bond hearings*, Washington Post (July 14, 2025), <https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-immigrants-bond-hearings/> [<https://perma.cc/5ZTR-EN4B>].

40. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

41. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025).

42. Similarly, various Federal District Courts have recognized that Respondents violated the APA when they terminated parole and detained noncitizens like Petitioner without individualized findings or explanation. *See Y-Z-L-H v. Bostock*, --- F. Supp. 3d ----, 2025 WL 1898025, at *9–12 (D. Or. Apr. 17, 2025) (holding DHS's termination of parole by mass email without the findings required by 8 U.S.C. § 1182(d)(5)(A) and 8 C.F.R. § 212.5(e)(2)(i) was arbitrary and capricious under the APA and ordering release); *Rodriguez*


Orellana v. Francis, No. 1:25-cv-04212, 2025 WL 1755685, at *6–8 (E.D.N.Y. July 14, 2025) (granting habeas relief where DHS revoked humanitarian parole and detained petitioner without notice or a reasoned explanation, finding the termination unlawful under the APA); *Mata Velasquez v. Kurzdorfer*, No. 1:25-cv-00493-LJV, 2025 WL 1953796, at *11 (W.D.N.Y. July 16, 2025) (found that “the words of the statute require parole revocation to be analyzed on a case-by-case basis and that a decision to revoke parole ‘must attend to the reasons an individual [non-citizen] received parole.’” Where the petitioner received a summary letter informing him of the revocation, “there [was] no indication that—as required by the statute and regulations—an official with authority made a determination specific to” the petitioner and therefore the petitioner’s rights were violated under the Parole Statute. *Id.*; see also *Castellon v. Kaiser*, 2025 WL 2373425, at *5-6 (E.D. Cal. Aug. 14, 2025).

43. Generally, “the Constitution requires some kind of a hearing before the State deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so even in cases where that freedom is lawfully revocable. See *Hurd v. D.C., Gov’t*, 864 F.3d at 683 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).


44. After an initial release from custody on conditions, even a person paroled following a conviction for a criminal offense for which they may lawfully have remained incarcerated has a protected liberty interest in that conditional release. *Morrissey*, 408 U.S. at 482. As the Supreme Court recognized, "[t]he parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." *Id.* "By whatever name, the liberty is valuable and must be seen within the protection of the [Constitution]." *Id.* 22.

45. This reasoning applies with equal, if not greater, force to people released from civil immigration detention at the border, like Petitioner. After all, noncitizens living in the United States have a protected liberty interest in their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. And "[g]iven the civil context [of immigration detention], [the] liberty interest [of noncitizens released from custody] is arguably greater than the interest of parolees." *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

FACTUAL BACKGROUND

46. Petitioner is a citizen and national of Kyrgyzstan born on 



47. Petitioner was threatened by 



48. Fearing for his life, he sought protection in the United States.

49. On or about September 21, 2022, Petitioner came to the DeConcini Port of Entry in Nogales, Arizona to seek asylum. Respondents paroled him into the

United States, based on Petitioner's individual facts and circumstances, under 8 U.S.C. § 1182(d)(5), INA 212 (d)(5) and released him from custody pursuant to the same statute.

50. On or about May 24, 2023, Respondents initiated removal proceedings against Petitioner under 8 U.S.C. § 1229a in Chicago, Illinois and filed his Notice to Appear.

51. Petitioner applied for asylum before the Chicago Immigration Court on June 12, 2023.

52. Respondents alleged that Petitioner was inadmissible to the United States under 8 U.S.C. § 1182(a)(7)(A)(i)(I) and commanded that Petitioner appear for a hearing in the immigration court in Chicago, IL on November 24, 2023.

53. The Chicago Immigration Court sent a new Notice of Hearing scheduling Petitioner's master hearing on April 14, 2025.

54. On or around January 13, 2024, USCIS approved Petitioner's Employment Authorization Document with a validity date through 2029.

55. Petitioner appeared for his scheduled immigration court hearing, where an Immigration Judge (IJ) scheduled an individual/merits hearing for January 11, 2027, in Chicago, IL.

56. On September 10, 2025, Petitioner was arrested in Phoenix and then transferred into DHS custody.

57. DHS then transported Petitioner to Eloy, Arizona.

58. As a result, Petitioner remains in detention. Without relief from this

Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

59. On September 25, 2025, IJ in Eloy, AZ denied bond reasoning that Petitioner is an arriving alien.

60. Any appeal to the Board of Immigration Appeals (BIA) is futile. DHS's new policy was issued "in coordination with" DOJ. EOIR, the immigration court system, is a component agency of DOJ. Further, as noted, a recent BIA decision held that persons like Petitioner are subject to mandatory detention as applicants for admission. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Finally, in the *Rodriguez Vazquez* litigation, where EOIR and the Attorney General are defendants, DOJ has affirmed its position that individuals like Petitioner are subject to detention under § 1225(b)(2)(A). *See, e.g., Mot. to Dismiss, Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27-30.

CLAIMS FOR RELIEF

COUNT I

Violation of Fifth Amendment Right to Due Process Procedural Due Process

61. Petitioner restates and realleges all paragraphs as if fully set forth here.

62. Petitioner's detention by DHS violates his rights under the Due Process Clause of the Fifth Amendment to the United States Constitution.

63. Immigration detention violates due process if it is not reasonably related to the purpose of ensuring a noncitizen's removal from the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 690-92, 699-700 (2001); *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Where removal is not reasonably foreseeable, detention cannot be reasonably related to the purpose of effectuating removal and is unlawful. *See id.* at 699-700.

64. The Supreme Court has also established that noncitizens in deportation or removal proceedings are just as entitled to due process protections as anyone else. *See Zadvydas*, 533 U.S. at 690 (2001) (“A statute permitting indefinite detention of an alien would raise a serious constitutional problem. The Fifth Amendment’s Due Process Clause forbids the Government to ‘depriv[e]’ any “person . . . of . . . liberty . . . without due process of law.””).

65. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

66. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.

67. Here, Respondents have chosen to revoke Petitioner’s release in an arbitrary manner and not based on a rational and individualized determination of whether he is a safety or flight risk, in violation of due process. Because no individualized custody revocation has been made and no circumstances have

changed to make Petitioner a flight risk or a danger to the community, Respondents' revocation of Petitioner's release violates his right to procedural due process.

COUNT II

Violation of Substantive Due Process

68. Petitioner restates and realleges all paragraphs as if fully set forth here.

69. The Due Process Clause of the Fifth Amendment protects all “person[s]” from deprivation of liberty “without due process of law.” U.S. Const. amend. V. “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.

70. Immigration detention is constitutionally permissible only when it furthers the government's legitimate goals of ensuring the noncitizen's appearance during removal proceedings and preventing danger to the community. *See id.*

71. Petitioner is not a flight risk or danger to the community. Respondents' detention of Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being detained in violation of the Due Process Clause of the Fifth Amendment.

72. Moreover, Petitioner's detention is punitive as it bears no “reasonable relation” to any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly “nonpunitive in purpose and effect”). Here, the purpose

of Petitioner’s detention appears to be “not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons”—namely, to meet newly-imposed DHS quotas and facilitate DHS's new draconian expedited removal scheme. *Demore*, 538 U.S. at 532-33 (Kennedy, J., concurring).

COUNT III

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with Law and in Excess of Statutory Authority Unlawful Detention

73. Petitioner restates and realleges all paragraphs as if fully set forth here.

74. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

75. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

76. Federal regulations specify that where parole has been granted under 8 U.S.C. § 1182(d)(5), it may terminate on its expiration date, when a noncitizen departs the U.S., or “upon the accomplishment of the purpose for which parole was authorized.” 8 C.F.R. §§ 212.5(e)(1), (2)(i). If none of these conditions are met, parole may only be terminated following an individualized determination

that “neither humanitarian reasons nor public benefit warrants the continued presence of the [noncitizen] in the United States.” 8 C.F.R. § 212.5(e)(2)(i).

77. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

78. By categorically revoking Petitioner’s parole and detaining Petitioner without consideration of Petitioner’s individualized facts and circumstances, Respondents have violated the INA, implementing regulations, and the APA.

79. On information and belief, Respondents have made no finding that Petitioner is a danger to the community.

80. On information and belief, Respondents have made no finding that Petitioner is a flight risk.

81. By detaining the Petitioner categorically, Respondents have further abused their discretion because, since the agency made its initial determination to parole Petitioner into the United States, on information and belief, there have been no changes to Petitioner’s facts or circumstances that support detention.

82. Respondents have already considered Petitioner’s facts and circumstances and determined that Petitioner was not a flight risk or danger to the community. On information and belief, there have been no changes to the facts that justify this revocation of his parole.

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 Petitioner's re-detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
- (5) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the Court's approval;
- (6) Grant any further relief this Court deems just and proper.

Dated: September 26, 2025

/s/ Eli Goldmann
Eli Goldmann, Esq.
6664 Coral Springs Cir
Las Vegas, NV 89108
Attorney for Petitioner

VERIFICATION

I, Eli Goldmann, attorney for the petitioner in the above-entitled proceeding, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Petition for Writ of Habeas Corpus and, based on information and belief and records reasonably available to me, verify that its contents are true and correct to the best of my knowledge. Because many of the allegations of this Petition require legal knowledge not possessed by Petitioner, I am making this verification on his behalf.

Date: September 26, 2025

/s/ Eli Goldmann
Eli Goldmann
Attorney for Petitioner

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Artyk Osmonaliev, an adult,


Petitioner,

v.

John Cantu, Phoenix Field Office
Director Immigration and Customs
Enforcement and Removal Operations
("ICE/ERO"); Todd Lyons, Acting
Director of Immigration Customs
Enforcement ("ICE") U.S.
Immigration and Customs
Enforcement; Kristi Noem,
Secretary of the Department of
Homeland Security ("DHS"); U.S.
Department of Homeland Security;
and Pamela Bondi,
Attorney General of the United States,

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INDEX

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<u>Exhibit</u>	<u>Description</u>
A	Petitioner's Parole Determination: NTA
B	IJ order denying bond

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act: Eve 
 Subject ID :  File No: 
 SIGMA Event: 
 In the Matter of: OSMONALIEV, ARTYK
 Respondent: OSMONALIEV, Artyk currently residing at:

 (Number, street, city, state and ZIP code) (Area code and phone number)


You are an arriving alien.
 You are an alien present in the United States who has not been admitted or paroled.
 You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:
 1. You are not a citizen or national of the United States;
 2. You are a native of Kyrgyzstan and a citizen of Kyrgyzstan;
 3. On or about May 22, 2023, you applied for admission at the DeConcini Port of Entry in Nogales, Arizona;
 4. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act
 5. On or about May 22, 2023, you were paroled into the United States pursuant to Section 212(d)(5) of the Immigration and Nationality Act

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:
 See Continuation Page Made a Part Hereof

This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
 Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an Immigration judge of the United States Department of Justice at:
 525 West Van Buren Street Suite 500,
 Chicago, IL, US 60607
(Complete Address of Immigration Court, including Room Number, if any)

on November 24, 2023 at 01:00 PM to show why you should not be removed from the United States based on the
(Date) *(Time)* KARLINSEY, Ty
 charge(s) set forth above. CHIEF CBP OFFICER 
(Signature and Title of Issuing Officer) (Sign in Ink) Digitally Acquired Signature

Date: May 22, 2023 NOGALES, ARIZONA
(City and State)

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Allen Registration: This copy of the Notice to Appear served upon you is evidence of your allen registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the Immigration Judge. You will be advised by the Immigration Judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the Immigration Judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form 1-589, Application for Asylum and for Withholding of Removal. The Form 1-589, instructions, and information on where to file the Form can be found at www.uscis.gov/1-589. Failure to file the Form 1-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the Immigration Judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an Immigration Judge and request my hearing be scheduled.

Before:

(Signature of Respondent) (Sign in ink)

Date: _____

(Signature and Title of Immigration Officer) (Sign in ink)

Certificate of Service

This Notice To Appear was served on the respondent by me on May 22, 2023, in the following manner and in compliance with section 239(a)(1) of the Act.

- In person by certified mail, returned receipt # _____ requested by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the RUSSIAN language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.



Digitally Acquired Signature

(Signature of Respondent if Personally Served) (Sign in ink)

SOTO, Bogart
CBP OFFICER



Digitally Acquired Signature

(Signature and Title of officer) (Sign in ink)

Privacy Act Statement

Authority:

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following OHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorn>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/opcl/doj-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned OHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and OHS policy, the information you provide may be shared internally within OHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

U.S. Department of Homeland Security

Continuation Page for Form 1862

Alien's Name OSMONALIEV, ARTYK		Date May 22, 2023
ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW: =====		
212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.		
25		
Signature 	KARLINSEY, Ty	Title CHIEF CBP OFFICER

Digitally Acquired Signature

4 of 4 Pages



**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
ELOY IMMIGRATION COURT**

Respondent Name:

OSMONALIEV, ARTYK

To:

Goldmann, Eli
6664 Coral Springs Cir
Las Vegas, NV 89108

A-Number:



Riders:

In Custody Redetermination Proceedings

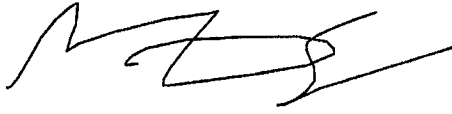
Date:

09/25/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

- Denied, because
DHS designated Respondent as an arriving alien. Accordingly, the Court is without jurisdiction to redetermine the custody conditions imposed by DHS during proceedings. See 8 C.F.R. § 1236.1(c)(11). The Court finds that Respondent failed to demonstrate that the Court has jurisdiction to reconsider his custody status. The Court therefore declines to determine bond.
- Granted. It is ordered that Respondent be:
 - released from custody on his own recognizance.
 - released from custody under bond of \$
 - other:
- Other:



Immigration Judge: SCHNITZER, MICHAEL 09/25/2025

Appeal:	Department of Homeland Security:	<input checked="" type="checkbox"/>	waived	<input type="checkbox"/>	reserved
	Respondent:	<input type="checkbox"/>	waived	<input checked="" type="checkbox"/>	reserved


Appeal Due: 10/27/2025

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : OSMONALIEV, ARTYK | A-Number : 

Riders:

Date: 09/25/2025 By: ALARCON, STEPHANIE, Court Staff