IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

TEVDORE KHATCHAPURIDZE,	§	
Petitioner,	§	
vs.	§	
KRISTI NOEM, Secretary, U.S. Dept of	§	**Civil Action No. 5:25CV169**
Homeland Security; PAMELA BONDI,	§	
Attorney General of the United States;	§	
TODD LYONS, Acting Director, U.S.	§	
Immigration and Customs Enforcement	§	
(ICE);MIGUEL VERGARA, ICE Field	§	
Office Director, Harlingen Field Office;	§	
MARIO GARCIA, Warden of WEBB	§	
COUNTY DETENTION CENTER, in their	§	
official capacities,	§	
Respondents.	§	

FIRST AMENDED PETITION[1] FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Tevdore Khatchapuridze is a native and citizen of Georgia.
2. Petitioner was found credible after his credible fear interview.
3. Petitioner had a full merits hearing by the Immigration Court on June 25, 2025, and the Immigration Judge granted him withholding of removal under INA § 241(b)(3) due to a clear probability of persecution if returned to his home country. Exh. 1 (IJ Order).
4. Given that DHS did not file an appeal to the decision of withholding of removal during the 90 days since that decision, the decision is final and binding. See Group Exh. 2

[1] This First Amended Petition for Writ of Habeas Corpus is filed pursuant to 28 U.S.C. §2242 and Fed. R. Civ. P. 15(a)(1)(A).

(Petitioner's Pro Se Amended Petition for Writ of Habeas Corpus filed on 10/22/25 and Supporting Documents).

5. Petitioner states that he sought parole from his ICE officers on September 25, 2025 and was denied on or about September 30, 2025 under "flight risk" considerations without any explanation of that finding. See *Id.* and Group Exh. 3 (Notice to Alien of Custody Review and Decision to Continue Detention).
6. Despite his eligibility for protection, he remains indefinitely detained by immigration authorities at the Webb County Detention Center since he arrived on December 12, 2024, over ten and a half months.
7. Petitioner seeks judicial review and release from continued immigration detention following a final, unappealed grant of withholding of removal under INA § 241(b)(3) as he is neither a flight risk nor a danger to the community.
8. Petitioner respectfully submits this Amended Petition for Writ of Habeas Corpus in support of the Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2241 on October 22, 2025 and respectfully requests an order requiring Respondents to release him from custody.

JURISDICTION

9. Petitioner is detained under 8 U.S.C. § 1231(a) in the physical custody of Respondents at the Webb County Detention Center in Laredo, Texas. This case arises under the Immigration and Act ("INA"), 8 U.S.C. § 1101 *et seq.*, the regulations implementing the INA and the Foreign Affairs Reform and Restructuring Act of 1998 ("FARRA"), Pub. L. No. 105–277, div. G, Title XXII, § 2242(a), 112 Stat. 2681, 2681–822 (1998) (codified as

Note to 8 U.S.C. § 1231), the regulations implementing the FARRA and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 *et seq.*

10. District courts have jurisdiction to consider habeas petitions from non-citizens who challenge the lawfulness of their detention. *SeeJennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018), *Demore v. Kim*, 538 U.S. 510, 516-17 (2003), *Zadvydas v. Davis*, 533 U.S. 678 (2001).; *Garza-Garcia v. Moore*, 539 F. Supp.2d 899, 903-04 (S.D. Tex. 2007) (courts retain jurisdiction over questions of law regarding statutory authority and regulatory framework).
11. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus statute), 28 U.S.C. § 1331 (federal question), 1651 (All Writs Act) and the U.S. Const. I, § 9, Cl. 2 (Suspension Clause).
12. This Court may grant relief pursuant to 28 U.S. C. §§ 2241, 2201 (Declaratory Judgment Act) and 1651.

VENUE

13. Venue lies in the U.S. District Court for the Southern District of Texas because Petitioner is detained at the Webb County Detention Center in Laredo, Texas. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 498 (1973).
14. Venue is also proper in this Court under 28 U.S.C. §1391 because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in this district.

PARTIES

15. Petitioner is a 26 year old native and citizen of Georgia who fled persecution by the Pro-Russian government, and entered the United States on December 12, 2024. On that day, Petitioner was detained at the Webb County Detention Center in Laredo, Texas, where he has remained for almost eleven months.

16. Respondent Kristi Noem is the Secretary of the Department of Homeland Security, She is responsible for the implementation and enforcement of the Immigration and Nationality Act ("INA") and oversees the U.S. Immigration and Customs Enforcement ("ICE"), which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

17. Respondent Miguel Vergara is the Director of the Harlingen and San Antonio Field Offices of ICE's Enforcement and Removal Operations division. As such, Respondent Vergara is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is sued in his official capacity.

18. Respondent Todd Lyons is the Acting Director of ICE. He is responsible for implementation and enforcement of the INA and oversees ICE's Enforcement and Removal Operations division, which is responsible for Petitioner's detention. He is sued in his official capacity.

19. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

20. Respondent Mario Garcia is the Warden of the Webb County Detention Center. He is responsible for overseeing, directing and controlling the daily operations of the facility. He is the immediate physical custodian of all individuals detained at Webb County Detention Center, including ICE detainees. He is sued in his official capacity.

ARGUMENT AND AUTHORITIES

21. Petitioner files a Writ of Habeas Corpus under 28 U.S.C. § 2241 because he is in custody in violation of the Constitution and laws of the United States. He must establish by a preponderance of the evidence that his custody violates federal law or constitutional protections.

Legal Framework

Convention Against Torture Protection

22. Withholding and deferral of removal are mandatory forms of protection preventing deportation to the country or countries where an immigration judge finds that the individual is more likely than not to be persecuted or tortured. *See* 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. §§ 208.16–18, 1208.16–18; *see also Moncrieffe v. Holder*, 569 U.S. 184, 187 n.1 (2013) ("[T]he Attorney General has no discretion to deny relief to a noncitizen who establishes his eligibility [for withholding of removal or CAT protections]."). The CAT affords mandatory protection against deportation to a country where the individual is likely to be tortured. *See* 8 U.S.C. § 1231; 8 C.F.R. §§ 208.16–18, 1208.16–18; 28 C.F.R. § 200.1; *see also Moncrieffe*, 569 U.S. at 187 n.1.

23. Noncitizens, including those subject to final orders of removal, are protected by the U.S. Constitution. *See Zadvydas*, 533 U.S. at 693. And while DHS may have changed how it prioritizes the removals of noncitizens, it may not do so at the expense of fairness and due process. *See Trump v. J.G.G.*, No. 24A931, 2025 WL 1024097, at *2 (Apr. 7, 2025) (per curiam) ("It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in the context of removal proceedings."). For detention to be authorized, the government must comply with both the applicable statutory provisions and its agency regulations. *See United States v. Caceres*, 440 U.S. 741, 760 (1979).

24. In *Zadvydas*, the Supreme Court held that 8 U.S.C. § 1231(a)(6), when "read in light of the Constitution's demands, limits a [noncitizen]'s post-removal-period detention to a period reasonably necessary to bring about that [noncitizen]'s removal from the United States." *Id.* at 689. A "habeas court must [first] ask whether the detention in question exceeds a period reasonably necessary to secure removal." *Id.* at 699.

25. In order to balance the statutory language with constitutional limitations, the Supreme Court adopted a "presumptively reasonable period of detention" of six months when reviewing detention during the removal period. *Zadvydas*, 533 U.S. at 701. After six months, if there is "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." *Id.* Moreover, "for detention to remain reasonable, as the period of prior post- removal confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink." *Zadvydas*, 533 U.S. at 701. In sum, "if removal is not reasonably

foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute." *Id.* at 699–700.

26. After *Zadvydas*, DHS added additional regulations creating "special review procedures" to determine whether detained noncitizens are likely to be removed in the reasonably foreseeable future. *See Continued Detention of Subject to Final Orders of Removal*, 66 Fed. Reg. 56,967 (Nov. 14, 2001). If ICE HQ determines that removal is not reasonably foreseeable but nonetheless seeks to continue detention based on "special circumstances," it must justify the detention based on narrow grounds such as national security or public health concerns, *id.* § 241.14(b)–(d), or by demonstrating, by clear and convincing evidence before an immigration judge, that the noncitizen is "specially dangerous."

Violation of the Fifth Amendment (Due Process Clause)

27. Petitioner's prolonged detention, despite a final order of protection and without a legitimate removal purpose, violates substantive and procedural due process. He is suffering irreparable harm by his continuous unlawful detention. *See* Id.

28. The Fifth Circuit court of appeals has relied on the three part balancing test in *Mathews v. Eldridge,* 424 U.S. 319 (1976), to assess whether detainees received constitutionally sufficient process in the immigration detention context (See *Flores v. Sessions*, 862 F.3d 863 (5th Cir. 2017); *Mendoza v. Sessions*, 891 F.3d 672 (5th Cir. 2018); Vasquez v. Sessions, 885 F.3d 862 (5th Cir. 2018); United States v. Calderon, 391 F. App'x 452 (5th Cir. 2010); Noriega v. Johnson, 996 F.2d 1449 (5th Cir. 1993)). The three-part *Mathews v. Eldridge* test, established by the U.S. Supreme Court in 1976, is used to determine what procedural protections are due under the Constitution before the government can

lawfully deprive an individual of life, liberty, or property. The three factors are as follows:

i. Private Interest at Stake:

The private interest—petitioner's liberty interest in freedom from civil detention—is substantial. Petitioner has not been ordered removed to Georgia due to a credible fear of persecution and has already been granted withholding of removal. Prolonged detention causes severe disruptions to family, employment, health, and emotional well-being, and extends beyond what is necessary for removal processing since he cannot lawfully be sent to Georgia. The liberty interest at stake is heightened after months of post-order detention with no prospect of imminent removal and no articulated danger to the community or risk of flight.

ii. Risk of Erroneous Deprivation & Value of Safeguards:

Absent meaningful review, there is a significant risk that the petitioner's continued detention is erroneous. The government may be detaining him even though removal is not reasonably foreseeable, as required by *Zadvydas v. Davis*, 533 U.S. 678 (2001). The value of additional procedural safeguards—such as a custody review or individualized bond hearing—is great, as it would allow determination of whether the client is a flight risk or danger and whether his detention serves any legitimate government purpose. Judicial oversight can correct erroneous continued detention when removal is not possible or the client does not pose a public safety risk.

iii. Government Interest:

The government's interest lies in ensuring compliance with immigration laws, administering the detention system efficiently, and protecting public safety. However, once withholding of removal has been granted, and when the person is not a flight risk or danger to the community, the government's administrative or public safety rationale for continued detention diminishes. Any

fiscal or administrative burden imposed by providing regular custody reviews or bond hearings is outweighed by the risk of depriving someone of liberty without justification.

Balancing these three factors from *Mathews v. Eldridge*, prolonged detention of an individual who has been granted withholding of removal and is not a flight risk or danger warrants heightened due process protections—specifically, a prompt judicial review or bond hearing. This process is necessary to ensure that continued deprivation of liberty is not arbitrary but justified under the law, consistent with *Zadvydas v. Davis* and procedural due process guarantees under the Fifth Amendment.

Issue of Third Country Removal

29. Petitioner's continued detention violates due process because there is no significant likelihood of removal in the reasonably foreseeable future. (See *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Medina v. Noem*, 2025 WL 2306274, at *6 (D. Md. Aug. 11, 2025) (quoting *Munoz-Saucedo*, 2025 WL 1750346, at *6).)

30. There are specific regulations pertaining to noncitizens like Petitioner whose removal to a particular country has been withheld. See 8 C.F.R. § 1208.16(b). To address any concerns that a noncitizen could be removed to a third country that could send the citizen back to his home country, a noncitizen with an order withholding removal to a particular country must be given notice of the country to which the government intends to remove him and an opportunity to apply for protection from removal to that country. See 28 C.F.R. § 200.1; see also *Dep't of Homeland Sec. v. D. V.D.*, 145 S. Ct. 2153, 2154 (2025) (Sotomayor, J., dissenting) (describing limits on third country removals). Due process requires that a noncitizen be detained for no longer than the time "reasonably necessary

to secure removal." Zadvydas at 699. Therefore, "if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statutes." Id. at 699-700.

31. Under certain circumstances, noncitizens can be removed to "third countries" that are not their country of origin. 8 U.S.C. § 1231(b)(1)–(3). Under such circumstances, the government may remove noncitizens to any country that is not their own country of citizenship or where the foreign government will accept them. 8 U.S.C. § 1231(b)(2)(E)(vii). Although third country removals are contemplated by the INA, they are not common. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 537 (2021) (addressing the contention that "DHS often does not remove [a noncitizen] to an alternative country if withholding relief is granted" and "only 1.6% of [noncitizens] who were granted withholding of removal were actually removed to an alternative country").

32. Removal under this authority cannot be effectuated if the person's "life or freedom would be threatened" due to persecution on account of a protected ground, 8 U.S.C. § 1231(b)(3)(A), or if they are likely to face future torture, 8 C.F.R. §§ 208.16(c), 208.17(b)(2), 1208.16(c), 1208.17(b)(2). Pursuant to § 1231(b)(3)(A), courts repeatedly have held that individuals cannot be removed to a country that was not properly designated by an immigration judge if they have a fear of persecution or torture in that country. *See Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Kossov v. INS*, 132 F.3d 405, 408–09 (7th Cir. 1998); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004); *cf. Protsenko v. U.S. Att'y Gen.*, 149 F. App'x 947, 953 (11th Cir. 2005) (per curiam) (permitting designation of third country where individuals received "ample notice and an

opportunity to be heard"). Meaningful notice and opportunity to present a fear-based claim prior to deportation to a country where a person fears persecution or torture are also fundamental due process protections under the Fifth Amendment. *See Andriasian*, 180 F.3d at 1041; *Protsenko*, 149 F. App'x at 953; *Kossov*, 132 F.3d at 408; *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019).

33. In February of 2025 DHS issued a policy directive instructing the Enforcement and Removal Operations (ERO) division of ICE to review the cases of noncitizens granted withholding of removal or CAT protection "to determine the viability of removal to a third country and accordingly whether theyshould be re-detained." DHS Policy Directive on Expedited Removal and Nondetained Docket (Feb. 18, 2025), https://perma.cc/T8TV-GT84 ("February DHS Policy Directive"); *see also D.V.D. v. U.S. Dep't of Homeland Sec.*, 778 F. Supp. 3d 355, 367 (D. Mass. 2025).

34. In March of 2025, the Secretary of Homeland Security, Kristi Noem, issued a memorandum entitled Guidance Regarding Third Country Removals ("March Guidance"). *D.V.D. v. U.S. Dep't of Homeland Sec.*, No. CV 25-10676-BEM, 2025 WL 1142968, at *23 (D. Mass. Apr. 18, 2025). The March Guidance provided instructions to immigration agencies on how to initiate removal to a third country (a country not designated in a removal order) for individuals granted withholding of removal. *Id.*

35. The U.S. District Court for the District of Massachusetts initially enjoined this policy, finding that "[b]lanket diplomatic assurances do not address DHS's obligation to undertake an assessment as to the sufficiency of the assurances, as required under the statutory and regulatory framework." Nor do they offer

"protection against either torture by non-state actors or chain refoulement, whereby the third country proceeds to return an individual to his country of origin." *D.V.D.*, 2025 WL 1142968, at *22. However, on June 23, 2025, without providing any reasoning, the Supreme Court stayed the lower court's order, allowing the DHS policy to remain in effect. *U.S.Dep't of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025); *see also Merrill v. Milligan*, 142 S. Ct. 879, 879 (2022) (Kavanaugh, J., concurring) ("[t]he stay order is not a ruling on the merits, but instead simply stays the District Court's injunction pending a ruling on the merits.").

36. The Government bears the burden of demonstrating that Petitioner's continued detention is necessary

- The Supreme Court in *Addington v. Texas*, 441 U.S. 418 (1979) required a "clear and convincing" standard for civil commitment due to the serious deprivation of liberty at stake, and many lower courts have extended this reasoning to immigration cases.
- Recent Texas district court decisions (including Case 1:25-cv-00584-RP (W.D. Tex. Aug. 12, 2025 and *N.Z.M. v. Wolf* (S.D. Tex. Laredo, 2020)) have required that after prolonged detention (e.g., beyond six months), the government must justify continued immigration detention by clear and convincing evidence of flight risk or danger, if a bond hearing is ordered.
- Additionally, the 2025 case of *J.M.P. v. Arteta* (S.D.N.Y., No. 1:25-cv-04987) stands for the principle that when a noncitizen in immigration detention files a successful habeas petition, the federal court may order that the government provide the detainee with an individualized bond hearing. In that case, the district court granted the habeas petition in part, requiring the government to hold a bond hearing where the government must bear

the burden of proving—by clear and convincing evidence—that continued detention is justified. If such a hearing is not provided, the court ordered that the detainee must be released.

RELIEF REQUESTED

Petitioner requests that this Court grant the following relief:

A. Assume jurisdiction over this matter;

B. Order Respondents to timely respond to this petition in accordance with 28 U.S.C. §2243;

C. Issue a writ of habeas corpus requiring that Respondents release Petitioner from custody;

D. Require an immediate individualized bond hearing before the district court with the government bearing the burden of proof, or direct release from immigration detention subject to an order of supervision, as there is no reasonable likelihood of removal to Georgia or any third country, and he is not a flight risk or danger.

E. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 USC §2412, and on any other basis justified under law; and

F. Grant any other and further relief that this Court deems just and proper.

Dated: November 6, 2025.

Respectfully submitted,

/s/ Carlos M. Garcia

Carlos M. Garcia
State Bar No. 24065265
S.D. Tex Bar No. 1081768
Garcia & Garcia Attorneys at Law, P.L.L.C.
P.O. Box 4545
McAllen, Texas 78504
(956) 630-3889 (phone)
(956) 630-3899 (fax)
cgarcia@garciagarcialaw.com

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

As of the date of filing, Respondents and their counsel have not appeared. Counsel for Petitioner will deliver a copy of the foregoing First Amended Petition for Writ of Habeas Corpus by certified mail to Respondents along with the summons and petition and any other documents required to be served by the Court. Additionally, Counsel for Petitioner has emailed a copy of this First Amended Habeas Petition to Assistant United States Attorney Baltazar Salazar at Baltazar.Salazar@usdoj.gov.

/s/ Carlos M. Garcia

Carlos M. Garcia

Pursuant to 28 USC §1746, Petitioner has previously declared under penalty of perjury under the laws of the United States that the statements included in his Petition for Writ of Habeas Corpus are true and correct. *See* Exh. 2.