

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION**

-----X

LASHA GUDASHVILI :

Petitioner, :

-against- :

KRISTI NOEM, IN HER OFFICIAL CAPACITY, :
SECRETARY, U.S. DEPARTMENT OF HOMELAND :
SECURITY; :

PAMELA BONDI, IN HER OFFICIAL CAPACITY, :
U.S. ATTORNEY GENERAL; :

TODD LYONS, IN HIS OFFICIAL CAPACITY, :
ACTING DIRECTOR, IMMIGRATION AND :
CUSTOMS ENFORCEMENT; :

NORBAL VASQUEZ, WARDEN, IN HIS OFFICIAL :
CAPACITY, RIO GRANDE PROCESSING :
DETENTION CENTER. :

Respondents. :

-----X

**PETITION FOR
WRIT OF HABEAS CORPUS.**

Case No. 5:25-cv-181

INTRODUCTION

1. Petitioner, Lasha Gudashvili ("Mr. Gudashvili"), is a citizen and national of Georgia.
2. Mr. Gudashvili entered the United States over two years ago, on February 20, 2023, after fleeing Georgia because he and his wife were targeted due to their political opinion.

3. On February 20, 2023, pursuant to 8 U.S.C. § 1229(a), he was issued a Notice to Appear at the Newark Immigration Court located at 970 Broad Street, Room 1200, in Newark, New Jersey.
4. Also on February 20, 2023, Mr. Gudashvili was processed under 8 U.S.C. § 1226(a) and issued an Order of Release on Recognizance and traveled to New Jersey with his wife, who was also traveling with him.
5. Mr. Gudashvili and his wife filed Form I-589, Application for Asylum and for Withholding of Removal, which was received by the Department of Homeland Security, ("DHS"), United States Citizenship and Immigration Services ("USCIS"), on December 21, 2023.
4. Mr. Gudashvili also moved to New York and filed a change of venue from the Newark Immigration Court to New York. He and his wife, whose cases were consolidated, were scheduled for an individual hearing on December 14, 2027.
5. Mr. Gudashvili has no criminal history.
6. On September 26, 2025, Mr. Gudashvili was encountered at a Customs and Border Protection ("CBP") checkpoint near Encinal, Texas. He provided his New York issued CDL license and his work authorization. Nonetheless, CBP unlawfully detained him and transferred him to the Rio Grande Processing Center in Laredo, Webb County, Texas, where he remains unlawfully detained.
7. On July 8, 2025, DHS issued a new policy memorandum to all , On July 8, 2025, DHS issued a memo to all employees of Immigration and Customs Enforcement ("ICE") stating that "[t]his message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited its legal position on detention and release

authorities. DHS has determined that section 235 of the Immigration and Nationality Act (INA), rather than section 236, is the applicable immigration detention authority for all applicants for admission. The following interim guidance is intended to ensure immediate and consistent application of the Department's legal interpretation while additional operational guidance is developed." Memorandum, U.S. Immigration & Customs Enf't, *Interim Guidance Regarding Detention Authority for Applications for Admission* (July 8, 2025), available at AILA Doc. No. 25071607, <https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

6. Through his pending asylum application, Mr. Gudashvili will have the opportunity to become a lawful permanent resident, and his removal is not reasonably foreseeable due to a pending application for relief.
7. Mr. Gudashvili is detained at the Rio Grande Processing Center away from his family and counsel located in New York.
8. On October 10, 2025, Mr. Gudashvili requested a custody re-determination from an immigration judge. However, it was denied as the immigration judge found it did not have jurisdiction to review his custody re-determination.
9. Through this petition, Mr. Gudashvili asks this Court to find that Respondents have unlawfully detained him and must immediately release him from custody. *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001).

JURISDICTION

10. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question).

11. Venue is proper because Petitioner was detained in Encinal, Texas, and now remains detained at the Rio Grande Processing Center in Webb County, Texas. *See generally Rumsfeld v. Padilla*, 542 U.S. 426, 447 (2004) (generally, “[w]henver a § 2241 habeas petitioner seeks to challenge his present physical custody within the United States,” he must file the petition in the district of confinement and name his immediate custodian as the respondent).

PARTIES

12. Petitioner Mr. Lasha Gudashvili is a citizen and national of Georgia. He resides with his wife at [REDACTED] NY 11228. He is currently in ICE custody and detained at the Rio Grande Processing Center, 1001 San Rio Boulevard, Laredo, Texas 78046.

13. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of ICE. He administers and enforces the immigration laws of the United States, routinely conducts business in the District of Texas, Laredo Division, is legally responsible for pursuing efforts to remove the Petitioner, and as such is the custodian of the Petitioner. At all times relevant hereto, Respondent Lyons’s address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington DC 20536-5900.

14. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in the District of Texas; is legally responsible for pursuing any effort to detain and remove the Petitioner; and as such is a custodian of the Petitioner. At all times relevant hereto, Respondent Noem’s

address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

15. Respondent Pamela Bondi is named in her official capacity as the Attorney General of the United States. She routinely transacts business in the District of Texas in this capacity; is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(g) (2007); and as such is a custodian of the Petitioner. At all times relevant hereto, Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530- 0001.

LEGAL BACKGROUND

16. Section 2241 of 28 United States Code provides in relevant part that “[w]rits of habeas corpus may be granted by . . . the district courts within their respective jurisdictions” when a petitioner “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(a), (c)(3); *see also I.N.S. v. St. Cyr*, 533 U.S. 289, 305, 121 S. Ct. 2271 (2001).
17. District courts grant writs of habeas corpus to those who demonstrate their custody violates the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3).
18. Habeas corpus “entitles [a] prisoner to a meaningful opportunity to demonstrate that he is being held pursuant to ‘the erroneous application or interpretation’ of relevant law.” *Boumediene v. Bush*, 553 U.S. 723, 779, 128 S. Ct. 2229 (2008) (*quoting, St. Cyr*, 533 U.S. at 302).
18. The Fifth Amendment’s Due Process Clause protects the right of all persons to be free from “depriv[ation] of life, liberty, or property, without due process of law.” U.S. Const. amend. V.

19. “It is well established that the Fifth Amendment entitles aliens to due process of law[.]”

Trump v. J. G. G., 604 U.S. ---, 145 S. Ct. 1003, 1006 (2025) (quoting *Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439 (1993)).

20. “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.

21. On July 8, 2025, DHS stated a new position with regard to custody determinations as follows:

An “applicant for admission” is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. INA § 235(a)(1). **Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole.** These aliens are also ineligible for a custody redetermination hearing (“bond hearing”) before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that “arriving aliens” have historically been treated. **The only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).**

Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants for admission because Form I-286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286. *See* <https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission> (emphasis original).

22. As a result, according to DHS all noncitizens who have entered the United States without inspection and are subject to the grounds of inadmissibility, including long-time U.S. residents,

are now considered to be subject to mandatory detention under INA § 235(b) and ineligible for release on bond. Conversely, according to DHS “[t]he only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).” Id.

23. Prior to July 8, 2025, the predominant form of detention authority for anyone arrested in the interior of the United States was 8 U.S.C. § 1226(a). Further, the Petitioner in this case was initially arrested and released pursuant to 8 U.S.C. § 1226(a), and is demonstrated by DHS’s own forms.

24. Under § 1226(a) the Attorney General may release a detainee on bond on the authority of ICE or by an Immigration Judge. There are standards for release: bond is available if the detainee “demonstrate[s] . . . that such release would not pose a danger to property or persons, and that [he] is likely to appear for any future proceeding.” 8 C.F.R. § 36.1(c)(8). “[T]he immigration judge is authorized to exercise the authority . . . to detain the alien in custody, release the alien, and determine the amount of bond.” Id. § 236.1(d)(1). If denied release at the initial bond hearing, a § 1226(a) detainee may request a custody redetermination hearing before an IJ. That request will “be considered only upon a showing that the alien’s circumstances have changed materially.” Id. § 1003.19(e).

STATEMENT OF THE FACTS

25. Mr. Gudashvili is a twenty-nine-year-old male with no criminal history.

26. On February 20, 2023, Mr. Gudashvili entered the United States under by presenting himself at the port of entry and requesting asylum.

27. Mr. Gudashvili was authorized, in accordance to section 236 of the Immigration and Nationality Act, for Release on Recognizance.
28. On December 21, 2023, USCIS received Mr. Gudashvili's Form I-589, Application for Asylum and for Withholding of Removal.
29. His asylum petition is pending and he was scheduled for a hearing, along with is wife, on December 14, 2027.
30. On September 26, 2025, CBP apprehended Mr. Gudashvili at a checkpoint at Encinal, Texas. Mr. Gudashvili presented a lawful work authorization and CDL license. He was nonetheless arrested, detained, and transferred into ICE custody without a warrant and without reasonable suspicion of a crime or civil immigration violation.
31. The officers did not disclose the basis for arresting or detaining Mr. Gudashvili.
32. Removal proceedings against Mr. Gudashvili had begun on February 20, 2023.
33. Mr. Gudashvili's wife, whose asylum case was joined with his, and his attorney are in the New York area.

CLAIM FOR RELIEF
CONTINUED DETENTION CONSTITUTES A VIOLATION OF DUE PROCESS

34. Petitioner incorporates all factual allegations as though restated here.
35. ICE detained Mr. Gudashvili without reasonable suspicion and continues to do so in violation of his constitutional rights protected under the Fifth Amendment.
36. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V.

37. “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 [of the Fifth Amendment] protects.” *Zadvydas*, 533 U.S. at 690.
38. Mr. Gudashvili’s detention violates his Fifth Amendment rights for at least three related reasons.
39. First, immigration detention must always “bear[] a reasonable relation to the purpose for which the individual was committed.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690).
40. Whereas here, the government has ordered release on recognizance, detention is not reasonably related to its purpose.
41. Second, the Due Process Clause requires that any deprivation of Mr. Gudashvili’s liberty be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301-02 (1993) (holding that due process “forbids the government to infringe certain ‘fundamental’ liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest”); *Demore*, 538 U.S. at 528 (applying less rigorous standard for “deportable aliens”).
42. Petitioner’s on-going imprisonment does not satisfy that rigorous standard as he did not commit any crime, was released from custody, and has a pending asylum case joined by his wife.
43. Third, “the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention.” *Zadvydas*, 533 U.S. at 718 (2001) (Kennedy, J., dissenting).
44. Detaining Mr. Gudashvili was arbitrary because he had been released on recognizance, has authorization to work in the United States, and has no criminal arrests or convictions.

45. Mr. Gudashvili was initially detained under §1226(a), and but for a new policy memorandum now subjecting everyone present in the United States who entered without a valid visa to mandatory detention, deprives the Petitioner of an individualized bond determination.
46. Moreover, “an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.
47. This is true for Mr. Gudashvili.

PRAYER FOR RELIEF

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

- A. Assume jurisdiction over this matter;
- B. Order Respondents to Show Cause why this Petition should not be granted within seventy-two hours;
- C. Issue an Order preventing Respondents from removing Petitioner from the United States without notice and an opportunity to be heard;
- D. Declare that Petitioner’s detention violates the Due Process Clause of the Fifth Amendment;
- E. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- F. Award reasonable attorney’s fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
- G. Grant any further relief this Court deems just and proper.

Dated: October 16, 2025

Respectfully Submitted,



DAVID H. SQUARE, ESQ.
SD TX FED. No. 1155619
TX S. Ct. 24076013
LAW OFFICE OF DAVID H. SQUARE, PLLC
225 PALM BLVD.
BROWNSVILLE, TX 78520
T: (956) 421-1010
E: DAVID@LAWOFFICEOFDHS.COM