

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ILDAR NIYAZOV

Petitioner,

v.

J.L. JAMISON, in his official capacity as
Warden of Federal Detention Center – Philadelphia;
BRIAN MCSHANE, in his official capacity as
Acting Philadelphia Field Office Director,
United States Immigration and Customs
Enforcement; TODD LYONS, in his
Official capacity as Acting Director of Immigration
and Customs Enforcement; KRISTI NOEM, in her
official capacity as Secretary of the Department of
Homeland Security; THE U.S. DEPARTMENT OF
HOMELAND SECURITY; PAMELA BONDI,
Attorney General of the United States

Respondents.

Case No.:

Before the Honorable _____

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Ildar Niyazov, A  submits his petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and the Suspension Clause (Article 1, Section 9, Clause 2) of the United States Constitution. Petitioner requests that this Court release him from detention by the Immigration and Customs Enforcement (“ICE”) or, alternatively, conduct or order a bond hearing in which the Respondents bear the burden of justifying Petitioner’s continued detention.

Mr. Niyazov is a native of Uzbekistan. He has been detained without a bond hearing for over two years by the Department of Homeland Security (“DHS”). On November 7, 2023, the DHS arrested Mr. Niyazov. The DHS served him with a Notice to Appear, placing Mr. Niyazov

in removal proceedings. Mr. Niyazov was detained at Moshannon Valley Processing Center (“MVPC”) until approximately February 28, 2025, when he was transferred to Federal Detention Center – Philadelphia (“FDC Philadelphia”).

The DHS charged Mr. Niyazov as removable pursuant to 8 U.S.C. § 1182(a)(7)(A)(i)(I). *Pro se* removal proceedings were held in the Elizabeth, New Jersey immigration court via televideo. On January 11, 2024, the Immigration Judge sustained the charge of removability. The DHS directed that Uzbekistan be the country of removal in the event that removal became necessary.

Seeking relief from removal, Mr. Niyazov applied for asylum, withholding of removal, and relief under the Convention Against Torture. On May 30, 2024, the immigration judge denied Mr. Niyazov’s applications for relief. Mr. Niyazov timely appealed to the Board of Immigration Appeals (“Board”). The Board dismissed his appeal on October 31, 2024. Mr. Niyazov filed a petition for review before the United States Court of Appeals, Third Circuit, on November 22, 2024. The Third Circuit granted Mr. Niyazov’s motion to stay his removal while the Court considered his petition. That petition remains pending.

The Respondents have detained Mr. Niyazov for so long—now over 24 months—that his continued detention without a bond hearing under 8 U.S.C. § 1225(b)(1) violates his due process rights under the U.S. Constitution, and entitles him to a writ of habeas corpus. *See German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203 (3rd Cir. 2020).

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 1331 (federal question); 5 U.S.C.

§ 702 (Administrative Procedures Act); U.S. Const. amend. V (Due Process Clause); and U.S. Const. art. I, § 9, cl. 2 (Suspension Clause).

2. Venue is proper in the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1391(b) and 28 U.S.C. § 2241(d), because at the time of filing his Petition for Writ of Habeas Corpus (Doc. 1), Mr. Niyazov is imprisoned at FDC Philadelphia in Philadelphia, Pennsylvania.

PARTIES

3. Petitioner Ildar Niyazov is a native of Uzbekistan who is detained at FDC Philadelphia in Philadelphia, Pennsylvania. Exh. A. He has been held in ICE detention since November 7, 2023.

4. Respondent J.L. Jamison is named in his official capacity as the Warden of FDC Philadelphia, which detains individuals suspected of civil immigration violations pursuant to a contract with ICE. Respondent Jamison is the immediate physical custodian responsible for the detention of Petitioner.

5. Respondent Brian McShane is the Acting Philadelphia Field Office Director for Immigration and Customs Enforcement's ("ICE") Enforcement and Removal Operations. In this capacity he is responsible for the custody of all noncitizens detained by ICE at FDC Philadelphia and has the authority to release Mr. Niyazov or transfer him to a different facility. He is one of Mr. Niyazov's immediate custodians and is sued in his official capacity.

6. Respondent Todd Lyons is the Acting Director of ICE. In this capacity he is responsible for enforcing immigration laws, and as such is a legal custodian of Mr. Niyazov. He is sued in his official capacity.

7. Respondent Kristi Noem is Secretary of Homeland Security. In this capacity she runs the Department of Homeland Security, and is charged pursuant to 8 U.S.C. 1103(a)(1) with administering and enforcing immigration laws. She is the ultimate legal custodian of Mr. Niyazov, and is sued in her official capacity.

8. The Department of Homeland Security (“DHS”) is the agency of the federal government responsible for enforcing the immigration laws. DHS is also Mr. Niyazov’s legal custodian.

9. Respondent Pamela Bondi is the Attorney General of the United States and the head of the U.S. Department of Justice, which encompasses the Board of Immigration Appeals and immigration courts, known collectively as the Executive Office of Immigration Review. Ms. Bondi shares responsibility for the implementation and enforcement of immigration laws along with Respondent Noem. Ms. Bondi is a legal custodian of Mr. Niyazov. She is sued in her official capacity.

FACTS AND PROCEDURAL HISTORY

10. Mr. Niyazov entered the United States in 2022 with his wife and two children.

11. The DHS detained Mr. Niyazov on or about November 7, 2023. Exh. B. The Notice to Appear (“NTA”) filed by the DHS alleged that Mr. Niyazov is removable under 8

U.S.C. § 1182(a)(7)(A)(i)(I), INA § 212(a)(7)(A)(i)(I). *Id.* Because he could not afford an attorney, Mr. Niyazov went through his removal proceedings before the immigration court without counsel. *See* Exh. D. Mr. Niyazov denied the charge of removability, which was ultimately sustained by the Immigration Judge (“IJ”) *See* Exh. C.

12. In order to seek relief from removal, Mr. Niyazov filed an application for asylum, withholding of removal, and relief under the convention against torture. Exh. D.

13. Mr. Niyazov was scheduled for an individual hearing on his application on April 17, 2024. Exh. E. His individual hearing began on that date, and was completed after further hearings on May 24, 2024, and May 29, 2024, not due to any delay of Mr. Niyazov’s making or request. *Id.*

14. On May 29, 2024, the Immigration Judge issued an oral decision denying Mr. Niyazov’s applications for relief and ordering him removed to Uzbekistan. Exh. C. The Immigration Judge found that Mr. Niyazov had met his burden of proof in demonstrating that he had suffered past persecution, but that DHS had succeeded in rebutting the presumption a well-founded fear of future persecution. *Id.*; *see* 8 C.F.R. § 1208.13(b)(1). In turn, the IJ denied Mr. Niyazov’s applications for asylum, withholding of removal, and relief under CAT. *Id.*

15. Mr. Niyazov submitted a timely appeal of the Immigration Judge’s removal order to the Board of Immigration Appeals (“BIA”) on June 18, 2024. Exh. F. On appeal, Mr. Niyazov challenged the Immigration Judge’s denial of his applications for relief. *Id.* On October 31, 2024, the Board of Immigration Appeals denied Mr. Niyazov’s appeal. Exh. G. Mr. Niyazov filed a petition for review before the United States Court of Appeals, Third Circuit, on November

22, 2024. Exh. H. The Third Circuit granted Mr. Niyazov's motion for a stay of removal on December 30, 2024. *Id.* The petition for review remains pending before the Third Circuit.

16. Mr. Niyazov's attorney contacted ICE-ERO by email on July 4, 2025 requesting that ICE-ERO release Mr. Niyazov on parole. releasing Mr. Niyazov. Exh. I. On August 29, 2025, ICE-ERO denied this request. Exh J.

17. There remains no timeline for when the Third Circuit will dispose of Mr. Niyazov's petition for review, and as such, he remains subjected to *de facto* mandatory detention, indefinitely. If he prevails on his petition, it is likely that his petition will be remanded back to the agency, prolonging his detention even further absent intervention from the Court.

CLAIM FOR RELIEF

COUNT ONE

VIOLATION OF DUE PROCESS, U.S. CONST. AMEND. V

Unreasonably prolonged detention without a constitutionally-adequate bond hearing at which the government bears the burden of justifying the detention

18. Petitioner alleges and incorporates by reference the paragraphs above.

19. Mr. Niyazov is currently being detained under 8 U.S.C. § 1225(b)(1) because the Immigration Judge sustained the 8 U.S.C. § 1182(a)(7)(A)(i)(I) charge of removability and designation of Mr. Niyazov as an arriving alien.

20. Mr. Niyazov's prolonged, arbitrary detention without a bond hearing violates the Due Process Clause of the Fifth Amendment by depriving him of liberty without due process of law. *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 474-75 (3d Cir. 2015).

21. “When detention becomes unreasonable, the Due Process Clause demands a hearing.” *Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 233 (3rd Cir. 2011). The Third Circuit has stated that a court should evaluate the reasonableness of a non-citizen’s detention using four factors. *German Santos*, 965 F.3d at 210. Those factors are: 1) “the duration of detention”; 2) “whether the detention is likely to continue”; 3) “the reasons for the delay, such as a detainee’s request for continuances”; and 4) “whether the alien’s conditions of confinement are ‘meaningfully different []’ from criminal punishment.” *German Santos*, 65 F.3d at 211. Courts have found that the *German Santos* prolonged detention analysis applies to non-citizens designated as arriving aliens who have been subjected to mandatory detention under 8 U.S.C. § 1225(b)(1). *A.L. v. Oddo*, No. 3:24-CV-302, 2025 WL 352471, at *2 (W.D. Pa. Jan. 6, 2025); *C.B. v. Oddo*, No. 3:25-CV-00263, 2025 WL 2977870, at *5 (W.D. Pa. Oct. 22, 2025).

22. Mr. Niyazov has been detained for over two years. The Third Circuit has stated that a “detention became unreasonable sometime between six months and one year.” *German Santos*, 65 F.3d at 211 citing *Chavez-Alvarez*, 783 F.3d at 478. Thus, Mr. Niyazov’s detention far surpasses the range of time in which civil immigration detention is often viewed as unreasonably prolonged. The length of Mr. Niyazov’s detention overwhelmingly favors granting this petition and affording him a bond hearing for the first time.

23. There is no timeline for the Third Circuit’s final disposition of Mr. Niyazov’s petition for review, which suggests that continued detention without a bond hearing is unreasonable. *See German Santos*, 65 F.3d at 211. Absent a bond hearing, Mr. Niyazov will be detained indefinitely. Mr. Niyazov has not requested any continuances nor has he delayed his

removal proceedings through other means. Accordingly these factors weigh in favor of granting the petition.

24. Mr. Niyazov's detention at FDC Philadelphia, a federal criminal detention facility, is not meaningfully different than criminal incarceration. Thus, this factor too weighs in favor of granting the petition.

25. Mr. Niyazov has been detained for over 23 months and it is unclear when he will be released from detention.

26. Applying the four factors, it is clear that the duration of Mr. Niyazov's detention is unreasonable. It follows, that Mr. Niyazov is entitled to a bond hearing.

27. In *German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203 (3rd Cir. 2020), the Third Circuit stated that "once detention...has become unreasonable, the Government must put forth clear and convincing evidence that continued detention is necessary." *Id* at 213.

28. Mr. Niyazov has been detained for over two years, which is beyond the time that the Third Circuit in *Chavez-Alvarez* indicated there would be little doubt that ongoing detention without a bond hearing would violate due process. *See* 783 F.3d at 478 ("[C]ertainly at the one-year mark [of] detention, we are convinced that any ground for credibly claiming that a final resolution was reasonably within reach would have vanished.").

29. The Respondents have failed to put forth clear and convincing evidence that Mr. Niyazov's continued detention is necessary.

30. In granting Mr. Niyazov's motion to stay removal, the Third Circuit necessarily concluded that Mr. Niyazov has a strong likelihood of success on the merits of his claims that the agency erred in denying his application for asylum. *See Nken v. Holder*, 129 S.Ct. 1749 (2009) (stating that "whether the stay applicant has made a strong showing that he is likely to succeed on the merits" is one of the two most critical factors in considering a motion for a stay of removal.) If the Third Circuit grants his petition, his case will be remanded to the Board of Immigration Appeals, and Mr. Niyazov will face ongoing proceedings for the foreseeable future. Thus, Mr. Niyazov will likely be subject to continued mandatory detention for the foreseeable future absent an individualized bond hearing.

31. Mr. Niyazov has acted promptly and in good faith, and has not contributed to any delay in resolving the case.

32. Further, as the length of Mr. Niyazov's detention increases, more weight must be given to the conditions of his confinement. *See Chavez-Alvarez*, 783 F.3d at 478. Mr. Niyazov is being held in a federal criminal detention facility, akin to criminal incarceration.

33. Mr. Niyazov is not a danger to the community. He has never been charged with, let alone convicted of, any crime.

34. For the foregoing reasons, Mr. Niyazov respectfully requests that the Court find that his detention without a bond hearing has become unreasonably prolonged in violation of the Due Process Clause of the U.S. Constitution, and that he is entitled to a bond hearing where the Government bears the burden of showing, by clear and convincing evidence, that his continued detention is necessary.

35. Further, this Court should conduct the bond hearing to ensure that Mr. Niyazov's liberty interest is properly safeguarded. *See Leslie v. Holder*, 865 F. Supp. 2d 627, 632, 633 (M.D. Pa. 2012) (noting the "profoundly flawed nature" of the bond hearing process in immigration court, and recognizing that "[t]his District Court has in a number of instances conducted . . . bail review in immigration habeas matters").

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody immediately on his own recognizance or under parole, bond or reasonable conditions of supervision, on the ground that his continued detention by the Department of Homeland Security violates his Due Process rights;

Alternatively, hold an individualized hearing at which Respondents bears the burden of establishing that Petitioner poses a danger or a flight risk that cannot be addressed by conditions of release;

As a final alternative, issue a writ requiring an immediate, constitutionally adequate hearing before an immigration judge, at which: (i) DHS bears the burden to demonstrate, by clear and convincing evidence, that Mr. Niyazov's continued detention is necessary, and (ii) the immigration judge considers Mr. Niyazov's ability to pay a bond.

While this petition is pending, order Mr. Niyazov's immediate release pursuant to the Court's inherent authority to release habeas corpus petitioners on bail;

Enter a judgment declaring that Respondent's detention of Mr. Niyazov is unauthorized by statute and contrary to law and the U.S. Constitution;

Award Petitioner reasonable costs and attorneys' fees;

Grant any further relief that this Court may deem fit and proper.

Dated: November 12, 2025

Respectfully submitted,

/s/ Christopher P. Setz-Kelly
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VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF
PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys, and I have discussed the claims with Petitioner's legal team. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: November 12, 2025

Respectfully submitted,

/s/ Christopher Setz-Kelly
Christopher Setz-Kelly, Esq.
Pro Bono Counsel for Petitioner

LIST OF EXHIBITS

- Exh. A. Federal Bureau of Prisons inmate locator record for Ildar Niyazov
- Exh. B. Notice to Appear
- Exh. C. May 29, 2024 Immigration Judge decision ordering Mr. Niyazov removed to Uzbekistan
- Exh. D. Form I-589: Application for Asylum and Withholding of Removal
- Exh. E. Notices of Individual Hearings
- Exh. F. Notice of Appeal to the Board of Immigration Appeals
- Exh. G. Decision of the Board of Immigration Appeals, Dated October 31, 2024
- Exh. H. Docket, Ildar Ruzmetovich Niyazov v. Attorney General, United States Court of Appeals for the Third Circuit, Case Number 24-3168
- Exh. I. Request for Parole
- Exh. J. Denial of Parole Request