

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

MINDIA ABASHIDZE

Petitioner,

-vs-

DAVID L. KURZDORFER, in his official capacity as Field Office Director Buffalo Field Office  
of Immigration and Customs Enforcement;

KRISTI NOEM, in her official capacity as Secretary of Homeland Security; and

PAM BONDI, in her official capacity as Attorney General of the United States, ICE  
ENFORCEMENT AND REMOVAL OPERATIONS, -

Respondents.

**PETITION FOR WRIT OF HABEAS CORPUS**

**INTRODUCTION**

1. Petitioner MINDIA ABASHIDZE ("Petitioner") is a citizen of Georgia who has been detained by U.S. Immigration and Customs Enforcement ("ICE") since November 5, 2025. He was detained on November 5, 2025, after he and his U.S. citizen friend, Irakli Aburjania, went to retrieve Petitioner's impounded vehicle and truck from a parking lot following an earlier traffic stop that resulted in no criminal charges, citations, or violations against Petitioner. Before arriving at the parking lot, Mr. Aburjania spoke with Officer Kyle Schraufstetter of the Amherst Police Department, who explicitly stated that only Petitioner (Mindia) would be permitted to retrieve the vehicles. When Petitioner and Mr. Aburjania arrived at the parking lot, Officer Schraufstetter examined only Petitioner's driver's license and informed them that \$2,104.31 in cash was required for repairs to brakes and a tire. Petitioner and Mr. Aburjania left to withdraw cash from a bank and returned approximately 30 minutes later. Upon their return, they were met by one ICE officer and one U.S. Marshal officer who had not been present earlier. The officers

took Petitioner's driver's license, placed handcuffs on him, and asked Mr. Aburjania whether he was a U.S. citizen, which Mr. Aburjania confirmed. The officers then placed chains on Petitioner despite his already being handcuffed, photographed both men's driver's licenses, and appeared to transmit the photographs to check immigration status. Officer Schraufstetter was no longer present during the arrest, and there is no evidence that he requested or authorized ICE involvement, suggesting that ICE officers were conducting targeted surveillance of the location rather than responding to any specific law enforcement concern about Petitioner. After the officers took Petitioner into custody, Mr. Aburjania was permitted to take control of the vehicles, despite Officer Schraufstetter's earlier insistence that only Petitioner could retrieve them, demonstrating that the requirement for Petitioner's personal presence was a pretext to facilitate his detention by ICE and that the stated justification for requiring Petitioner's attendance was false. At the time of his detention, Petitioner had no criminal history whatsoever, had been fully compliant with all immigration supervision requirements since his release under 8 U.S.C. § 1226, had successfully maintained community ties and stable housing throughout his period of liberty, had a meritorious pending asylum case before the Immigration Court with an Individual Hearing scheduled for April 22, 2027, which is now jeopardized by his detention as he cannot effectively gather evidence, locate and prepare witnesses, or adequately consult with counsel while incarcerated, had maintained continuous employment demonstrating financial stability and community integration, and had established deep family and social connections in New York including relationships with U.S. citizens who can provide housing and support upon release. See Exhibit A (Notice to Appear (Form I-862) and ICE Notice of Custody Determination, dated October 22, 2025). See also Exhibit B (Declaration of Irakli Aburjania, U.S. Citizen eyewitness to the detention).

2. Petitioner is currently detained at Buffalo Federal Detention Facility under the jurisdiction of the Buffalo Detention Center-Enforcement and Removal Operations ("ERO"). The Detaining Officer of record is Officer M. Mulvey (DO11449). His detention is arbitrary, unlawful, and violates the Due Process Clause of the Fifth Amendment, the Fourth Amendment's prohibition against unreasonable seizures and requirement of probable cause for arrest, the statutory requirements of 8 U.S.C. § 1226(a) which mandate individualized custody determinations, the Administrative Procedure Act ("APA") prohibition against arbitrary and capricious agency action under 5 U.S.C. § 706(2)(A), the Equal Protection component of the Fifth Amendment's Due Process Clause prohibiting discriminatory enforcement based on national origin, and the principles of fundamental fairness embodied in the Constitution's Suspension Clause, Article I, Section 9, Clause 2. The detention also contravenes ICE's own prior individualized determination that community supervision was appropriate, represents a constructive denial of Petitioner's right to pursue his asylum claim under conditions that permit adequate preparation, violates the principle of legitimate expectations created by the government's prior release determination and Petitioner's three years and nine months of perfect compliance, and constitutes an abuse of discretion under established administrative law principles prohibiting unexplained reversals of prior agency determinations without changed circumstances or reasoned analysis.

3. Petitioner seeks a writ of habeas corpus ordering his immediate release from Buffalo Federal Detention Facility, as his continued confinement serves no lawful purpose given his demonstrated reliability and lack of danger or flight risk, violates multiple constitutional and statutory protections, and is the product of an unconstitutional ICE enforcement campaign systematically targeting asylum seekers and immigrants of Georgian national origin attending

check-ins or court hearings without cause, notice, probable cause, or any consideration of individual circumstances, in violation of equal protection principles and constituting selective enforcement based on national origin and immigration status. In the alternative, Petitioner requests an immediate custody redetermination hearing with full due process protections, including the right to present evidence and be represented by counsel.

#### PARTIES

4. Petitioner MINDIA ABASHIDZE is a citizen of Georgia who resided in New York prior to his detention on November 5, 2025. He entered the United States on January 15, 2022, seeking humanitarian protection from persecution on account of [REDACTED]

[REDACTED] He has an Individual Hearing scheduled for April 22, 2027 before Immigration Judge Mimi Tzankov at the Immigration Court. Petitioner's asylum claim is based on credible and well-documented evidence of [REDACTED]

[REDACTED]

[REDACTED] The claim has substantial likelihood of success on the merits as demonstrated by country conditions reports from the U.S. State Department's Country Reports on Human Rights Practices, expert declarations from recognized scholars of Georgian politics and human rights, documentary evidence, and the Immigration Judge's preliminary assessment at the Master Calendar Hearing indicating the claim warrants a full merits hearing. Petitioner has maintained this stable residence throughout his period of liberty and has established significant community ties in New York.

5. Respondent David L. Kurzdorfer is sued in his official capacity as Field Office Director of the Buffalo Field Office of ICE Enforcement and Removal Operations, which has immediate physical custody and control over Petitioner at the Buffalo Federal Detention Facility located at 4250 Federal Drive, Batavia, NY 14020, and who has the unilateral authority to order Petitioner's immediate release without requiring approval from any higher authority. He is the proper respondent under 28 U.S.C. § 2243 as the person having custody of Petitioner and is responsible for all decisions regarding detention and release of individuals held at Buffalo Federal Detention Facility, including the authority to order Petitioner's immediate release.

6. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS") and is responsible for enforcing and administering the immigration laws of the United States, including Petitioner's detention.

7. Respondent Pam Bondi is the Attorney General of the United States and oversees the Executive Office for Immigration Review ("EOIR"), which administers immigration court proceedings, including Petitioner's pending asylum case.

#### **JURISDICTION AND VENUE**


This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) in addition to the habeas jurisdiction described below.

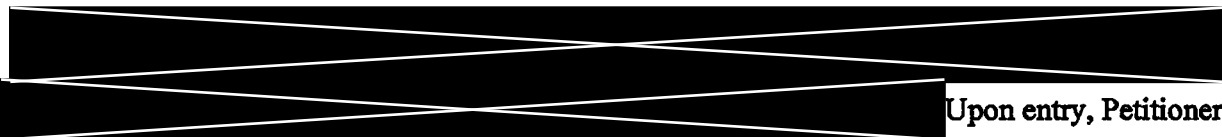
8. This Court has jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause), 8 U.S.C. § 1252(e)(2) (preserving habeas jurisdiction to review constitutional claims and questions of law), and the Supreme Court's holdings in *INS v. St. Cyr*, 533 U.S. 289 (2001) and *Boumediene v. Bush*, 553 U.S. 723 (2008), which confirm that habeas jurisdiction cannot be stripped for constitutional challenges to detention. While 8 U.S.C. § 1252(b)(9) channels certain immigration-related

claims through the petition for review process, that provision does not divest this Court of habeas jurisdiction over challenges to the fact or duration of detention, particularly where, as here, the detention violates constitutional rights and the petition for review process would be inadequate because it cannot provide the immediate relief necessary to prevent irreparable harm to Petitioner's liberty interests and asylum case preparation. This Court may grant the requested habeas relief under 28 U.S.C. § 2241, and may grant ancillary declaratory and injunctive relief under 28 U.S.C. §§ 2201–2202, the All Writs Act, 28 U.S.C. § 1651, and its inherent equitable powers to remedy constitutional violations, prevent mootness through transfer, ensure Petitioner can adequately prepare his asylum defense, and protect against the irreparable harm of wrongful deportation to a country where he faces persecution.

9. Venue is proper in the Western District of New York pursuant to 28 U.S.C. § 2241(d) because Petitioner is detained within this District at the Buffalo Federal Detention Facility, and alternatively, venue is proper under 28 U.S.C. § 1391(e) as this is an action against officers of the United States acting in their official capacity. The immediate custodian, Field Office Director David L. Kurzdorfer, operates within this District.

## **FACTUAL BACKGROUND**

10. Petitioner, MINDIA ABASHIDZE, entered the United States on January 15, 2022, without being admitted or inspected, seeking asylum from persecution in Georgia based on 

 Upon entry, Petitioner

was apprehended by immigration authorities near the border and was subsequently released under 8 U.S.C. § 1226 following an individualized custody determination by ICE. Petitioner was not paroled under 8 U.S.C. § 1182(d)(5) at the time of entry, and ICE's records confirm that. Since his release under § 1226, Petitioner has been at liberty for approximately three years and nine months (from January 2022 to November 2025), during which time he has demonstrated exceptional reliability and integration into his community and has remained fully compliant.,

11. On November 5, 2025, without prior notice, warning, or explanation, ICE officers detained him at a parking lot in Amherst, New York, and transferred him to the Buffalo Federal Detention Facility. When Petitioner inquired about the reason for his detention, officers informed him that were unable to tell him, explicitly indicating a blanket enforcement practice lacking any individualized review, legal basis, or consideration of Petitioner's demonstrated reliability, lack of criminal history, or pending asylum proceedings.

12. Petitioner has never been charged or convicted of any crime—his criminal history is completely nonexistent. He poses no danger to the community or risk of flight, as demonstrated by his perfect compliance record since his release under § 1226. He has a pending asylum application and an Individual Hearing set for April 22, 2027 before Immigration Judge Mimi Tzankov. Petitioner's sustained liberty without incident and his continued engagement with immigration proceedings establish that community supervision, not detention, is appropriate.

### **STATEMENT OF EXHAUSTION AND LEGAL FRAMEWORK**

13. The Immigration and Nationality Act (“INA”) provides limited authority for civil immigration detention. Under 8 U.S.C. § 1226(a), the Secretary of Homeland Security “may” detain noncitizens pending removal proceedings, but only after making an individualized determination that detention is necessary to ensure appearance at removal proceedings or to protect public safety. This discretionary authority is constrained by constitutional due process requirements and cannot be exercised in an arbitrary or blanket fashion without consideration of individualized circumstances such as criminal history, compliance with supervision, community ties, and the strength of the underlying immigration claim. See *Rodriguez v. Robbins*, 715 F.3d 1127, 1138 (9th Cir. 2013) (“Section 1226(a)’s use of the word ‘may’ makes clear that [detention] authority is discretionary”), vacated on other grounds sub nom. *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018). Petitioner was released under § 1226 following his initial apprehension, demonstrating that ICE conducted an individualized custody determination and concluded that Petitioner did not require mandatory detention and could be safely supervised in the community. This prior determination is entitled to weight and creates a presumption in favor of continued supervision that cannot be arbitrarily reversed without changed circumstances, new information, or a reasoned explanation for the policy change.

14. Detaining individuals without notice or individualized assessment, violates the Fifth Amendment’s guarantee of due process and exceeds the statutory limits of 8 U.S.C. § 1226(a). See *Demore v. Kim*, 538 U.S. 510, 531 (2003) (recognizing due process limitations on immigration detention).

15. Petitioner has exhausted all available administrative remedies, and further pursuit of administrative relief would be futile. Under *Matter of Hurtado*, 23 I&N Dec. 179 (BIA 1998), immigration judges lack jurisdiction to conduct bond hearings for certain categories of detained individuals, including those subject to mandatory detention provisions. Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c) because he has no criminal history and was previously released under the discretionary provisions of § 1226(a). Under the plain language of § 1226(c), mandatory detention applies only to noncitizens with specified criminal convictions, which Petitioner does not have. Despite Petitioner's clear eligibility for a bond hearing under § 1226(a), ICE has provided no bond hearing to date.

16. ICE has provided no explanation for why Petitioner, who was previously released under § 1226 and maintained perfect compliance with zero criminal history, now requires detention. Given ICE's blanket detention policy and the absence of any individualized assessment or changed circumstances, Petitioner has no meaningful opportunity to obtain a bond hearing through administrative channels that would consider his specific circumstances. The administrative process cannot remedy a detention that violates statutory and constitutional requirements from its inception. Administrative exhaustion would serve no purpose and would only prolong Petitioner's unlawful detention while he remains separated from his community and unable to adequately prepare his asylum case. The detention also prevents Petitioner from meeting with counsel to prepare his defense, gathering evidence and witnesses for his April 22, 2027 hearing, and maintaining the employment and housing that demonstrate his ties to the community. Each day of continued detention increases the practical harm to Petitioner's ability to prevail in his asylum case and undermines the individualized factors that support his release.

**CLAIMS FOR RELIEF**

**COUNT I – VIOLATION OF THE FIFTH AMENDMENT (DUE PROCESS)**

17. Petitioner's detention is arbitrary, capricious, and lacks any individualized determination as required by 8 U.S.C. § 1226(a) and constitutional due process, in violation of constitutional due process requirements. Despite Petitioner's sustained compliance with supervision, complete absence of criminal history, pending asylum proceedings, significant community ties within New York including stable employment and housing, and demonstrated reliability through consistent attendance at all required check-ins, ICE detained him without prior notice, without any written or oral explanation, and without conducting any individualized assessment of whether he poses a danger to the community or flight risk as required by constitutional due process and statutory requirements.

18. ICE has failed to provide any hearing whatsoever, any written explanation of the detention decision, any statement of reasons for reversing the prior release determination, any opportunity to present evidence demonstrating that community supervision remains appropriate, or any documentation showing compliance with ICE's own detention standards and policies as required by agency regulations and Second Circuit case law governing detention decisions in this jurisdiction. Petitioner received absolutely no advance notice that detention was being considered, no opportunity whatsoever to present evidence of his exemplary compliance record and extensive community ties within New York, no explanation of what factors (if any) ICE actually considered in making this life-altering decision, no statement of why the prior carefully-considered release determination was supposedly incorrect, and no access to any decision-making official who could review his individual circumstances before he was taken into custody. This complete absence of process violates both substantive due process—because the detention

serves no legitimate government interest whatsoever, is not narrowly tailored to any articulated interest, and fails the strict scrutiny analysis required for fundamental liberty deprivations—and procedural due process—because Petitioner received absolutely no meaningful opportunity to be heard before being deprived of his liberty, in violation of the minimum procedural safeguards required by *Mathews v. Eldridge* and consistently enforced by courts in this jurisdiction. See *Mathews v. Eldridge*, 424 U.S. 319 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("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"). The detention is particularly arbitrary and constitutionally suspect given that ICE previously determined, through what was represented as a thorough individualized assessment, that Petitioner could be safely supervised in the community under § 1226, and absolutely nothing in Petitioner's circumstances, behavior, or risk profile has changed since that determination except ICE's unlawful adoption of a blanket detention policy that categorically ignores individual circumstances and prior agency determinations, in direct violation of the statute's requirement for individualized assessments. Indeed, the facts have become significantly more favorable to Petitioner since his initial release: he has now demonstrated months of sustained and perfect compliance with all supervision requirements, maintained stable housing and full-time employment within New York, established deeper community ties including family relationships and community involvement, paid all required fees and costs, attended every single required check-in and court appearance without exception, and proven through his actions that he presents zero flight risk and zero danger to the community. ICE's decision to detain him despite this exceptionally favorable track record and the complete absence of any negative factors conclusively demonstrates that the agency is not engaged in the individualized determinations required by statute and constitution,

but is instead implementing an unlawful categorical detention policy that mechanically ignores individual circumstances, violates the statutory scheme, and effectively nullifies the individualized assessment requirement that Congress mandated in § 1226(a), thereby exceeding the agency's statutory authority and violating separation of powers principles.

**COUNT II – VIOLATION OF THE FOURTH AMENDMENT (UNREASONABLE SEIZURE)**

19. ICE's arrest and continued detention of Petitioner without any new factual basis, without probable cause, without reasonable suspicion of changed circumstances, and without any individualized assessment of current risk factors, constitutes an unreasonable seizure in violation of the Fourth Amendment and the protections against unreasonable seizures recognized by the Supreme Court and courts in this Circuit. See *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975) (Fourth Amendment protections apply to immigration enforcement); *United States v. Martinez-Fuerte*, 428 U.S. 543 (1976).

Petitioner had been released under § 1226 following ICE's individualized determination that he did not require detention and could be safely supervised in the community, and he had been at liberty for an extended period fully complying with all supervision requirements including every single required check-in and court appearance, demonstrating through his actions that ICE's initial release determination was correct and that he poses no flight risk or danger to the community. ICE had absolutely no new information whatsoever suggesting Petitioner posed any danger or flight risk, no evidence of any violation of supervision conditions, no reports of any concerning behavior or contacts, no intelligence suggesting any risk factors, and no facts indicating any changed circumstances that would justify or even arguably support reversing the

prior carefully-considered release determination, making the re-detention decision arbitrary on its face. Petitioner's complete lack of any criminal history whatsoever, his voluntary and punctual appearance at the parking lot on October 22, 2025 (demonstrating his continued reliability and willingness to comply with all requirements), his established community ties within New York including family relationships and community involvement, his stable housing and full-time employment, and his pending asylum claim with substantial likelihood of success, all further demonstrate the complete absence of any legitimate basis for the seizure and the pretextual nature of ICE's stated justifications. The seizure is particularly unreasonable because it occurred during Petitioner's voluntary compliance with a government-mandated check-in, effectively punishing Petitioner for his cooperation with immigration authorities, creating a trap for individuals who faithfully comply with supervision requirements, and potentially chilling future compliance by similarly situated individuals who may reasonably fear detention rather than continued supervision despite their reliability.

**COUNT III – VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT  
(ARBITRARY AND CAPRICIOUS ACTION)**

20. ICE's conduct constitutes an arbitrary and capricious agency action under 5 U.S.C. § 706(2)(A). ICE has failed to consider critical factors including: (1) Petitioner's initial release under 8 U.S.C. § 1226, demonstrating ICE's prior determination that detention was unnecessary; (2) Petitioner's sustained liberty and perfect compliance with supervision since release, with no violations of any kind; (3) Petitioner's complete lack of criminal history; (4) the absence of any new facts or circumstances justifying re-detention; and (5) Petitioner's pending asylum proceedings. ICE's blanket detention policy, as evidenced by officers' statement that "everyone like him" was being detained, represents a categorical approach that fails to account for

individual circumstances, contradicts the agency's own prior individualized assessment, and violates the statutory mandate for case-by-case determinations under § 1226(a). The agency has provided no reasoned explanation for this policy change, no analysis of reliance interests created by the prior release determination, and no consideration of alternatives to detention despite Petitioner's demonstrated suitability for community supervision. See *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42 (1983) (agency action is arbitrary and capricious when the agency fails to consider important aspects of the problem or offers an explanation that runs counter to the evidence).

#### **PRAAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Order Respondents to show cause why the writ should not be granted;
3. Declare that Petitioner's detention violates the Fifth and Fourth Amendments and the Administrative Procedure Act;
4. Issue a writ of habeas corpus ordering Petitioner's immediate release from custody at Buffalo Federal Detention Facility, or in the alternative, order a bond hearing before an immigration judge within 7 days with the burden on the government to demonstrate by clear and convincing evidence that detention is necessary;
5. Enjoin Respondents from transferring Petitioner outside the Western District of New York during this proceeding;
6. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
7. Grant such other relief as this Court deems just and proper.

Dated: November 15, 2025

Respectfully submitted,

  
/s/ Lina Stillman

Lina Stillman, Esq.

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Attorney for Petitioner

#### VERIFICATION

I, Lina Stillman, Esq., attorney for Petitioner MINDIA ABASHIDZE, verify under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have discussed this Petition with Petitioner and/or persons acting on his behalf and that the factual statements contained herein are true and correct to the best of my knowledge and belief.

  
/s/ Lina Stillman

Lina Stillman, Esq.

Date: November 15, 2025