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7 UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF ARIZONA

9 ELZHIGIT NURBEKOV,

10
11 Petitioner,

12 v.

13 DAVID R. RIVAS, Warden, San Luis Regional
Detention and Support Center;
14 DANIEL A. BRIGHTMAN, Acting Field Office
Director, U.S. Immigration and Customs
15 Enforcement;
16 TODD M. LYONS, Acting Director, U.S.
Immigration and Customs Enforcement;
17 and
18 KRISTINOEM, Secretary of United States
Department of Homeland Security;

19 Respondents.
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Case No.:

**PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS**

Agency Doc. No. 

21
22 Petitioner, Elzhigit Nurbekov ("Mr. Nurbekov" or "Petitioner"), petitions this Court for a
23 writ of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents' detaining him unlawfully,
24 and states as follows:

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INTRODUCTION

1. Petitioner, Mr. Nurbekov, hereby petitions this Court under 28 U.S.C. § 2241, *et seq.*, to issue a Writ of Habeas Corpus ordering Mr. Nurbekov's release from immigration detention by the Department of Homeland Security, United States Immigration and Customs Enforcement ("ICE"). Mr. Nurbekov seeks immediate release from custody because Respondents have held him since November 14, 2024 – a prolonged period – even though an immigration judge ("IJ") granted him asylum on July 29, 2025. His continued detention without a hearing as to flight risk and danger to the community violated the U.S. Constitution and federal law.

CUSTODY

2. Mr. Nurbekov is currently in Respondents' legal and physical custody. They are detaining him at the San Luis Regional Detention and Support Center in San Luis, Arizona. He is under Respondents' and their agents' direct control.

PARTIES

3. Petitioner, Mr. Nurbekov, is a native and citizen of . He is currently detained by ICE at the San Luis Regional Detention and Support Center.

4. Mr. Nurbekov is currently in Respondents' legal and physical custody at the San Luis Regional Detention and Support Center.

5. Respondent, David R. Rivas, is the Warden at the San Luis Regional Detention and Support Center, where Mr. Nurbekov is being held. Respondent Rivas is Mr. Nurbekov's immediate custodian. Mr. Nurbekov sues him in his official capacity.

6. Respondent Daniel A. Brightman is the Acting Director of ICE's San Diego Field Office for Enforcement and Removal Operations. That office determines whether Mr. Nurbekov will be detained in ICE custody or released. Respondent Brightman has custodial authority over Mr. Nurbekov, who names him in his official capacity.

1 States” (28 U.S.C. § 2241(c)(3)), and this authority extends to immigration detention challenges that
2 survived the REAL ID Act’s jurisdictional restrictions. Because Mr. Nurbekov seeks the traditional
3 habeas remedy of release from allegedly unlawful detention, his petition presents precisely the type
4 of threshold legality-of-detention question that § 2241 was designed to address. *See INS v. St. Cyr*,
5 533 U.S. 289, 301 (2001); *see also Lopez-Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020).
6 And federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. *See, e.g., Zadvydas v.*
7 *Davis*, 533 U.S. 678, 687 (2001). No court has ruled on the legality of Mr. Nurbekov’s detention.

8 12. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (c)(1) because a
9 substantial part of the events or omissions giving rise to this claim have happened here, Mr.
10 Nurbekov is detained here, and his custodian resides here. Venue is also proper under 28 U.S.C. §
11 2243 because Mr. Nurbekov’s immediate custodian resides in this District. *See Rumsfeld v. Padilla*,
12 542 U.S. 426, 451-52 (2004).

13 FACTUAL BACKGROUND

14 13. Mr. Nurbekov applied for admission to the United States on or about November 14,
15 2024, at San Ysidro, California, with a CBP One appointment.

16 14. On, or about, November 15, 2024, DHS detained Mr. Nurbekov, and held him at Otay
17 Mesa Detention Center in San Diego, California.

18 14. On December 2, 2024, Mr. Nurbekov was placed in 240 removal proceedings, he was
19 designated an arriving alien.

20 15. On February 6, 2025, Mr. Nurbekov appeared at a hearing before an IJ and was
21 schedule for a merits hearing on July 15, 2024.

22 16. On February 24, 2025, Mr. Nurbekov filed his asylum application before the
23 immigration court.

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1 17. On July 14, 2025, Mr. Nurbekov, through counsel ("Counsel"), filed a parole request
2 with ICE, asking ICE to parole Mr. Nurbekov into the United States while his removal proceedings
3 were pending. Counsel received no response.

4 18. On July 15, 2025, DHS filed a "Notice to EOIR: Alien Address" at 2:03 PM,
5 informing the Court, and Counsel, that Mr. Nurbekov had been transferred to San Luis Regional
6 Detention and Support Center in San Luis, Arizona.

7 19. That same day, July 15, 2025, Mr. Nurbekov appeared before an IJ for an individual
8 hearing, via Webex. The hearing was delayed about one hour due to technical difficulties with
9 Webex. Due to the limited time allotted for individual hearings, and to DHS' counsel's conflicting
10 schedule, the individual hearing was continued for July 29, 2025.

11 20. On July 29, 2025, Mr. Nurbekov appeared again before an IJ for his continued
12 individual hearing through Webex. At the end of the hearing, the IJ granted asylum to Mr. Nurbekov.
13 That same day, DHS' counsel reserved appeal.

14 21. On August 28, 2025, DHS' counsel filed a notice of appeal with the Board of
15 Immigration Appeals ("BIA").

16 22. That appeal is pending.

17 23. In the unlikely case that Mr. Nurbekov's decision is reversed by the BIA, Mr.
18 Nurbekov intends to appeal to the Ninth Circuit.

19 24. On September 16, 2025, Counsel emailed Mr. Nurbekov's deportation officer
20 requesting Mr. Nurbekov's release. Again, Counsel received no response.

21 25. On November 10, 2025, Mr. Nurbekov, through Counsel, filed a second parole
22 request with ICE, based on Mr. Nurbekov's changed circumstances in the forms of 1) Mr.
23 Nurbekov's asylum being granted, and 2) Mr. Nurbekov' having a new sponsor, a U.S. Citizen.
24 Counsel received no response.

1 26. On November 19, 2025, Counsel emailed Mr. Nurbekov's deportation officer
2 inquiring about the status of Mr. Nurbekov's 2nd parole request. Again, Counsel received no response
3 regarding the Parole request status and was directed to inquire with another office.

4 27. Despite having been granted asylum, Mr. Nurbekov has remained in ICE custody
5 without a tenable justification since November 14, 2024, for more than twelve months.

6 28. Mr. Nurbekov's continued detention without a tenable justification and without a
7 demonstration that removal is significantly likely in the reasonably foreseeable future violates
8 constitutional due process. *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Kydyrali v. Wolf*, 499 F. Supp.
9 3d 768 (S.D. Cal. 2020).

10 29. Mr. Nurbekov's detention without a tenable justification violates his rights under the
11 Due Process Clause of the Fifth Amendment.

12 EXHAUSTION OF REMEDIES

13 30. Mr. Nurbekov has exhausted all administrative remedies, and no further ones are
14 available.

15 31. Mr. Nurbekov has not requested a Bond hearing before an IJ because he was
16 designated an arriving alien by DHS; therefore, an IJ has no jurisdiction to hear Mr. Nurbekov's
17 Bond request. 8 U.S.C §1225(b)(2)(A); *see also Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

18 FIRST CAUSE OF ACTION

19 Fifth Amendment Due Process Violation

20 32. Mr. Nurbekov re-alleges and incorporates by reference, as if fully set forth herein,
21 the allegations in paragraphs 1-31 above.

22 33. The Supreme Court has long recognized that the Fifth and Fourteenth Amendments
23 refer to all "persons," not just "citizens." Aliens, even inadmissible or removable aliens, must be
24 afforded due process protection. *See Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886) ("The Fourteenth

1 Amendment to the Constitution is not confined to the protection of citizens.”). As stated by the
2 Court, the provisions of the Fourteenth Amendment “are universal in their application, *to all persons*
3 within the territorial jurisdiction, without regard to any differences of race, of color, or of
4 nationality....” *Id.* (emphasis added).

5 34. The Supreme Court has held that “even one whose presence in this country is
6 unlawful, involuntary, or transitory is entitled to that constitutional protection [of the Due Process
7 Clauses of the Fifth and Fourteenth Amendments].” *Mathews v. Diaz*, 426 U.S. 67, 77 (1976); *see*
8 *also Plyler v. Doe*, 457 U.S. 202, 210 (1982) (“Whatever his status under the immigration laws, an
9 alien is surely a ‘person’ in any ordinary sense of that term. Aliens, even aliens whose presence in
10 this country is unlawful, have long been recognized as ‘persons’ guaranteed due process of law by
11 the Fifth and Fourteenth Amendments.”); *Wong Wing v. United States*, 163 U.S. 228, 238 (1896)
12 (“all persons within the territory of the United States ... even aliens shall not be ... deprived of life,
13 liberty, or property without due process of law.”).

14 35. As a result of DHS’ appeal to the IJ’s grant of asylum for Mr. Nurbekov, he remains
15 in detention without either a tenable justification or a demonstration that his removal is significantly
16 likely in the reasonably foreseeable future.

17 36. Although our case is different than *Zavvydas* in that Mr. Nurbekov has indeed been
18 granted asylum and there is not an order of removal against him, *Zavvydas* is informative in showing
19 that when removal is not reasonably foreseeable, the court should hold continued detention
20 unreasonable. *Zavvydas v. Davis*, 533 U.S. 678, 689, 699-700 (2001).

21 37. The sole issue here is whether unreasonably prolonged detention under § 1225(b)
22 without a bond hearing violates due process. The Ninth Circuit has expressed “grave doubts that any
23 statute that allows for arbitrary prolonged detention without any process is constitutional or that
24 those who founded our democracy precisely to protect against the government’s arbitrary deprivation

1 of liberty would have thought so.” *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1106 (W.D. Wash.
2 2019); see also *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018); *Demore v. Kim*, 538 U.S.
3 510, 532, 123 S.Ct. 1708, 155 L.Ed.2d 724 (2003) (Kennedy, J., concurring) (“[S]ince the Due
4 Process Clause prohibits arbitrary deprivations of liberty, [an] alien ...could be entitled to an
5 individualized determination as to his risk of flight and dangerousness if the continued detention
6 became unreasonable or unjustified.”).

7 38. To determine whether Mr. Nurbekov’s detention violates Due Process we can employ
8 a case-specific analysis articulated in *Banda v. McAleenan* that considers the following factors: (1)
9 the total length of detention to date; (2) the likely duration of future detention; (3) the conditions of
10 detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in the removal
11 proceedings cause by the government; and (6) the likelihood that the removal proceedings will result
12 in a final order of removal. *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1106 (W.D. Wash. 2019).

13 39. Applying the *Banda* six-factor framework here supports granting Mr. Nurbekov’s
14 petition.

15 40. Total length of detention to date – Mr. Nurbekov has been detained by ICE for more
16 than twelve months without a right to a bond hearing. This period is well beyond the presumptively
17 reasonable six-month period set forth in *Zadvydas*, 533 U.S. at 701. Courts consistently find
18 detention beyond this threshold triggers due process scrutiny. See *Kjodyraft*, 499 F. Supp. 3d at 774–
19 75.

20 41. Likely duration of future detention – In the unlikely case that Mr. Nurbekov’s grant
21 of asylum is reversed by the BIA, Mr. Nurbekov intends to appeal to the Ninth Circuit; therefore,
22 the duration of Mr. Nurbekov’s detention is uncertain.

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1 42. Conditions of detention – No specific constitutional concerns as to detention are
2 raised; however, Mr. Nurbekov was transferred from OMDC in California to San Luis Regional
3 Detention and Support Center in San Luis, Arizona, where his access to counsel is limited.

4 43. Delays in the removal proceedings caused by the detainee – There were no delays in
5 the removal proceedings caused by Mr. Nurbekov.

6 44. Delays in the removal proceedings cause by the government – The government has
7 caused delays in Mr. Nurbekov's removal proceedings. First, DHS gave notice of Mr. Nurbekov's
8 transfer to the immigration court and Counsel the day of his individual hearing. Delays on his
9 individual hearing were caused by his Webex appearance. Second, DHS's counsel did not accept the
10 initial date proposed by the IJ to continue the individual hearing. Finally, DHS reserved appeal on
11 July 29, 2025; however, a notice of appeal was not filed until August 28, 2025, about a month after
12 appeal was reserved.

13 45. Likelihood that the removal proceedings will result in a final order of removal – Mr.
14 Nurbekov has already been granted asylum; therefore, this factor strongly supports the grant of Mr.
15 Nurbekov's habeas petition. The remand of his asylum is, at most, speculative. Even if the BIA were
16 to remand to the immigration court, Mr. Nurbekov intends to appeal to the Ninth Circuit because his
17 asylum was granted based in strong precedent and ample evidence. Therefore, it is unlikely that Mr.
18 Nurbekov's removal proceedings will result in a final order of removal.

19 46. In addition to the *Banda* factors, the fact that ICE simply refuses to state any reason
20 for continued detention, or to reply to Counsel's inquiries in this regard, itself raises constitutional
21 concerns. Moreover, Mr. Nurbekov poses no flight risk, nor a danger to the community. During his
22 removal proceedings, DHS conducted background checks and confirmed that there were not
23 negative factors affecting Mr. Nurbekov's case. If there is no tenable reason to detain him, Mr.
24 Nurbekov should be released, or at a minimum, deserves a bond hearing.

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PRAYER FOR RELIEF

Mr. Nurbekov asks this court to grant the following relief:

1. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody immediately;
2. Declare the continued detention of Mr. Nurbekov without a tenable justification a violation of the Due Process Clause of the U.S. Constitution
3. Pursuant to 28 U.S.C. § 2243, order Respondents to show cause why the writ of habeas corpus should not be granted;
4. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;
5. Grant any other and further relief as the Court deems just and proper.

Dated: November 19, 2025

Respectfully Submitted,

By: /s/ Rocio Sanchez Flores
Rocio Sanchez Flores
Attorney for Petitioner

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**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF
PURSUANT TO 28 U.S.C. § 2242**

I, Rocio Sanchez Flores, declare as follows:

I represent Petitioner Elzhigit Nurbekov in these habeas corpus proceedings. Mr. Nurbekov is currently being held in detention at San Luis Regional Detention and Support Center in San Luis, Arizona, and cannot appear in my office to sign this Verification. I have reviewed the record of his detention and discussed this matter with Mr. Nurbekov. I verify that the information contained in the foregoing petition is true and correct to the best of my knowledge and belief

Dated: November 19, 2025

Respectfully Submitted,

By: /s/ Rocio Sanchez Flores
Rocio Sanchez Flores
Attorney for Petitioner

UNITED STATES DISTRICT COURT DISTRICT OF ARIZONA

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s): Elzhigit Nurbekov , ;

David R. Rivas , Warden, San Luis Regional Detention and Support Center ; Daniel A. Brightman , Acting Field Office Director, U.S. Immigration and Customs Enforcement; Todd M. Lyons , Acting Director, U.S. Immigration and Customs Enforcement ; Kristi Noem , Secretary of United States Department of Homeland Security ;

County of Residence: Yuma

County of Residence: Yuma

County Where Claim For Relief Arose: Yuma

Plaintiff's Atty(s):

Defendant's Atty(s):

Rocio Sanchez Flores , Pro Hac Vice Counsel
SFR Law Corporation
1927 Pueblo St
San Diego, CA 92113
619 738 5792

IFP REQUESTED

II. Basis of Jurisdiction:

2. U.S. Government Defendant

III. Citizenship of Principal Parties (Diversity Cases Only):

Plaintiff:-

N/A

Defendant:-

N/A

IV. Origin :

1. Original Proceeding

V. Nature of Suit:

463 Alien Detainee

VI. Cause of Action:

Petitioner, Mr. Nurbekov, hereby petitions this Court under 28 U.S.C. § 2241, et seq., to issue a Writ of Habeas Corpus ordering Mr. Nurbekov's release from immigration detention by the Department of Homeland Security, United States Immigration and Customs Enforcement ("ICE")

VII. Requested in Complaint

Class Action:

No

Dollar Demand:

Jury Demand:

No

VIII. This case is not related to another case.

Date: 11/20/2025

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.

Revised: 01/2014

Civil Cover Sheet

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The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

<p>Plaintiff(s): Elzhigit Nurbekov , ;</p> <p>County of Residence: Yuma</p> <p>County Where Claim For Relief Arose: Yuma</p> <p>Plaintiff's Atty(s): Rocio Sanchez Flores , Pro Hac Vice Counsel SFR Law Corporation 1927 Pueblo St San Diego, CA 92113 619 738 5792</p>	<p>Defendant(s): David R. Rivas , Warden, San Luis Regional Detention and Support Center ; Daniel A. Brightman , Acting Field Office Director, U.S. Immigration and Customs Enforcement; Todd M. Lyons , Acting Director, U.S. Immigration and Customs Enforcement ; Kristi Noem , Secretary of United States Department of Homeland Security ;</p> <p>County of Residence: Yuma</p> <p>Defendant's Atty(s):</p>
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IFP REQUESTED

<u>II. Basis of Jurisdiction:</u>	2. U.S. Government Defendant
<u>III. Citizenship of Principal Parties (Diversity Cases Only)</u>	
Plaintiff:-	N/A
Defendant:-	N/A
<u>IV. Origin :</u>	1. Original Proceeding
<u>V. Nature of Suit:</u>	463 Alien Detainee
<u>VI. Cause of Action:</u>	Petitioner, Mr. Nurbekov, hereby petitions this Court under 28 U.S.C. § 2241, et seq., to issue a Writ of Habeas Corpus ordering Mr. Nurbekov's release from immigration detention by the Department of Homeland Security, United States Immigration and Customs Enforcement ("ICE")
<u>VII. Requested in Complaint</u>	
Class Action:	No
Dollar Demand:	
Jury Demand:	No

VIII. This case is not related to another case.

Date: 11/20/2025

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