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*Pro Hac Vice application forthcoming*

Attorneys for Petitioner

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**


**ALIBEK ISLAMOV,**  
  
*Petitioner,*  
  
v.  
  
**Christopher J. LaRose,**  
Senior Warden, Otay Mesa Detention Center;  
  
**Todd M. Lyons,**  
Acting Director, U.S. Immigration and  
Customs Enforcement;  
  
**Kristi Noem,**  
Secretary of the U.S. Department of  
Homeland Security;  
  
and **Pam Bondi,**  
Attorney General of the United States,  
in their official capacities,  
  
*Respondents.*

Case No. '25CV3390 LL MSB

**PETITION FOR WRIT OF HABEAS  
CORPUS UNDER 28 U.S.C. § 2241  
AND ORDER TO SHOW CAUSE  
WITHIN THREE DAYS**

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I. INTRODUCTION

1. Alibek Islamov is a native of the former USSR and a citizen of Russia who entered the United States on or about July 16, 2021, in DT status, as reflected in his I-94 Admission Record No.  He was paroled until December 22, 2022. Mr. Islamov subsequently filed an affirmative application for asylum with USCIS on June 28, 2022 (*See Exhibits A and B*). Nevertheless, on March 18, 2025, despite his pending asylum application and lack of any criminal history, Mr. Islamov was detained by the Department of Homeland Security (“DHS”).

2. Petitioner respectfully asks this Court to find that his detention is unlawful and to order his immediate release from custody under appropriate conditions. His continued detention without a hearing as to flight risk and danger to the community violates the U.S. Constitution and federal law.

II. JURISDICTION

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (*habeas corpus*), 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the United States Constitution (the Suspension Clause).

3. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*; and 28 U.S.C. § 1651.

III. VENUE

4. Venue is proper in this Court because Petitioner is detained at the Otay Mesa Detention Center in San Diego, California, which lies within the jurisdiction of the Southern District of California.

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IV. REQUIREMENTS OF 28 U.S.C. § 2243

5. Under 28 U.S.C. § 2243, the Court must grant the petition for a writ of habeas corpus or issue an order to show cause to the respondents forthwith, unless it appears from the petition that the petitioner is not entitled to relief. If an order to show cause is issued, the Court must require respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

V. PARTIES

6. Petitioner Alibek Islamov is a native of the former USSR and a citizen of Russia. He entered the United States on or about July 16, 2021, in DT status, as reflected in his I-94 Admission Record No. ~~XXXXXXXXXX~~ He is currently detained at the Otay Mesa Detention Center in San Diego, California (*See Exhibit C*). Petitioner is in custody and under the direct control of Respondents and their agents.



7. Respondent Christopher J. LaRose is sued in his official capacity as the Senior Warden of the Otay Mesa Detention Center. In this capacity, Respondent LaRose is a legal custodian of Petitioner and has authority to order his release.

8. Respondent Kristi Noem, Secretary of the U.S. Department of Homeland Security (DHS), is sued in her official capacity. In this capacity, Secretary Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees U.S. Immigration and Customs Enforcement, the agency responsible for Petitioner’s detention and custody. Secretary Noem is therefore a legal custodian of Petitioner.

9. Respondent Pam Bondi, Attorney General of the United States, is sued in her official capacity as the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has ultimate supervisory authority over the immigration courts and the Board of Immigration

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2 Appeals (BIA) and is responsible for the interpretation and enforcement of the immigration laws  
3 in removal proceedings. Attorney General Bondi is therefore a legal custodian of Petitioner.  
4

5 **VI. STATEMENT OF FACTS**

6 10. Petitioner Alibek Islamov is a 39-year-old native of the former USSR and a citizen  
7 of Russia. He is married to Bella Nakaeva and is the father of three children -   
8  - all of whom currently reside in San Diego,  
9 California.

10 11. Prior to his detention, Mr. Islamov resided with his wife and children in San Diego,  
11 California, and operated his own trucking and transportation business through Bisector LLC, a  
12 company he personally formed and owns, using his commercially registered Freightliner truck  
13  
14 (*See Exhibits D, E*).

15 12. Petitioner has strong community ties and no criminal history. His detention has  
16 caused significant hardship to his family, including emotional and developmental impact on his  
17 children, as reflected in the letter from his daughter and the letter from his son's wrestling coach  
18  
19 (*See Exhibits F and G*).

20 13. Petitioner has timely filed his individual income tax returns. His consistent tax  
21 compliance reflects his adherence to U.S. law and underscores the equities favoring release (*See*  
22 *Exhibit H*).

23 14. On March 18, 2025, Petitioner was apprehended by agents of U.S. Immigration  
24 and Customs Enforcement ("ICE"). Despite having a pending affirmative asylum application, and  
25 showing valid documentation (driver's license, SSN, and work permit), the agents detained  
26 Petitioner and transported him to immigration custody at the Otay Mesa Detention Center  
27 (OMDC) in San Diego, California, operated by CoreCivic under contract with ICE.

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15. On March 18, 2025, Petitioner was served with a Notice to Appear (NTA) charging him as removable under INA § 212(a)(7)(A)(i)(I) for allegedly not being in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211 (a) of the Act (*see Exhibit I*).

16. On March 24, 2025, USCIS forwarded Petitioner’s I-589, Application for Asylum and for Withholding of Removal to EOIR (*See Exhibit J*).

17. On March 25, 2025, Petitioner filed an Application for Temporary Protected Status (TPS) as a native of the former USSR and a permanent resident of Ukraine. This application has been pending ever since (*See Exhibit K*).

18. On March 29, 2025, Petitioner filed Amended Written Pleadings with the Otay Mesa Immigration Court indicating his intention to seek relief from removal in the forms of asylum, withholding of removal, protection under the Convention Against Torture (“CAT”), and Temporary Protected Status (“TPS”) (*See Exhibit L*).

19. Notwithstanding the pending TPS application, the Otay Mesa Immigration Court conducted Petitioner’s individual hearing on September 17, 2025. At the conclusion of that hearing, the Immigration Judge denied Petitioner’s application for asylum on the basis of an asserted firm-resettlement bar. The Immigration Judge granted withholding of removal as to Russia but denied withholding of removal and CAT protection as to Ukraine, and ordered Petitioner removed to Ukraine (*See Exhibit M*).

20. On October 14, 2025, Petitioner timely filed a Notice of Appeal with the Board of Immigration Appeals (“BIA”), where his appeal remains pending (*See Exhibit N*).

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2           21.     Should the BIA affirm the Immigration Judge’s decision on the firm-resettlement  
3 issue, Petitioner intends to seek review before the United States Court of Appeals for the Ninth  
4 Circuit.

5  
6           22.     Under the Immigration and Nationality Act, civil immigration detention is  
7 permissible only where necessary to ensure an individual’s appearance at future proceedings or  
8 to protect the community from danger. See 8 U.S.C. § 1226(a); *Matter of Guerra*, 24 I&N Dec.  
9 37 (BIA 2006). Contrary to *Matter of Guerra*, Petitioner was not arrested while committing any  
10 crime or engaging in unlawful activity. DHS and ICE provided no explanation, evidence, or  
11 justification at the time of his arrest, or thereafter, as to why his detention was necessary under  
12 statutory standards. The absence of such justification renders Petitioner’s confinement arbitrary,  
13 unlawful, and contrary to due process.

14  
15           23.     Moreover, under INA § 208(a)(1), 8 U.S.C. § 1158(a)(1), any noncitizen who is  
16 physically present in the United States may apply for asylum, irrespective of immigration status.  
17 Federal law further provides that “no period of time during which a bona fide asylum application  
18 is pending shall be counted” as unlawful presence. 8 U.S.C. § 1182(a)(9)(B)(iii)(II). Petitioner  
19 timely filed his Form I-589 on June 28, 2022, while still in valid parolee status and prior to the  
20 expiration of his authorized stay. As a result, the expiration date of his initial parole no longer  
21 governed his ability to remain in the country. From that point forward, his continued presence has  
22 been expressly authorized by statute during the pendency of his affirmative asylum application.

23  
24           24.     Petitioner has been in ICE custody since March 18, 2025, a period of more than  
25 eight months as of the filing of this petition. He remains detained with no imminent prospect of  
26 removal, despite his pending appeal with the BIA, which underscores that removal is not  
27 reasonably foreseeable.

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2           25. Further underscoring that removal is not reasonably foreseeable, Petitioner's  
3 Application for Temporary Protected Status ("TPS") remains pending with USCIS, and current  
4 published processing times confirm that adjudication is not imminent. According to the Service  
5 Center Operations (SCOPS) Processing Time Report for Form I-821, Application for Temporary  
6 Protected Status, USCIS is presently taking up to 19 months to complete 80% of cases (*See*  
7 *Exhibit O*). Thus, by USCIS's own published metrics, Petitioner's TPS application is expected to  
8 remain pending for a substantial period of time, making any removal not reasonably foreseeable  
9 and further undermining the lawfulness of his continued detention.  
10

11           26. An applicant who establishes prima facie eligibility receives "temporary treatment  
12 benefits," including a temporary stay of deportation, for the entire duration of the TPS  
13 adjudication process. See 8 C.F.R. §§ 244.5, 244.10(e). If TPS is ultimately granted, the  
14 regulations explicitly provide that "the alien shall not be deported while maintaining Temporary  
15 Protected Status." See 8 C.F.R. § 244.10(f)(2)(i). Because Petitioner has a pending TPS  
16 application and may not be removed while his TPS claim is adjudicated or while maintaining  
17 TPS, removal is not reasonably foreseeable as a matter of law, further undermining the  
18 constitutionality of his continued detention.  
19

20           27. Petitioner's ongoing detention is arbitrary, unlawful, and unconstitutional. It  
21 serves neither to protect the community, given his clean record and strong family ties, nor to  
22 ensure his appearance at future proceedings, as he has a demonstrated history of compliance with  
23 immigration requirements and significant equities binding him to his community.  
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25           28. Absent judicial intervention, Petitioner will remain indefinitely detained at  
26 taxpayer expense, separated from his family.  
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VII. LEGAL FRAMEWORK

29. The Great Writ of Habeas Corpus, codified at 28 U.S.C. § 2241, authorizes federal courts to inquire into the legality of an individual’s detention and to order release if such detention is unlawful. The Supreme Court has long recognized that *habeas corpus* is a fundamental safeguard against arbitrary confinement. See *Boumediene v. Bush*, 553 U.S. 723, 739 (2008) (“*The Framers viewed freedom from unlawful restraint as a fundamental precept of liberty.*”).

30. Immigration detention is governed primarily by 8 U.S.C. § 1226(a), which authorizes the Attorney General to detain a noncitizen pending a decision on removal, or to release the noncitizen on bond or conditional parole. The statute expressly provides for discretionary release where the individual is not a danger to the community and does not present a flight risk.

31. Petitioner has not been charged with or convicted of any crime, nor has he violated any regulation that would warrant punitive confinement. He is therefore not subject to mandatory detention, and his ongoing custody is unlawful.

32. The Fifth Amendment’s Due Process Clause applies to “all persons” within the United States, including noncitizens, regardless of immigration status. See *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Due process prohibits arbitrary detention and requires that civil immigration custody serve legitimate regulatory purposes, ensuring appearance at proceedings and protecting the community, not punishment. Where those justifications do not apply, detention becomes unconstitutional.

33. Detention must be reasonably related to its purpose and cannot continue indefinitely where removal is not reasonably foreseeable. *Zadvydas v. Davis*, 533 U.S. 678 (2001).

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3 **VIII. CLAIMS FOR RELIEF**

4 **COUNT ONE**

5 **Fifth Amendment Due Process Violation**

6 34. Petitioner repeats and realleges paragraphs 1 through 33 as if fully set forth herein  
7 and incorporates them by reference.

8 35. Petitioner is currently being detained by DHS/ICE authorities without cause and  
9 in violation of his constitutional rights to due process of law.

10 36. Petitioner's continued detention serves no legitimate governmental purpose. He  
11 has a pending application for temporary protected status, and a pending appeal before the BIA,  
12 no criminal history, strong family and community ties, and has demonstrated compliance with  
13 immigration laws.

14 37. For these reasons, Petitioner's detention violates the Due Process Clause of the  
15 Fifth Amendment to the United States Constitution.

16 38. Courts in this District evaluate prolonged immigration detention under the six-  
17 factor balancing test first articulated in *Banda v. McAleenan*, 385 F. Supp. 3d 1099 (W.D. Wash.  
18 2019), and applied in *Kydyrali v. Wolf*, 499 F. Supp. 3d 768 (S.D. Cal. 2020). The factors are: (1)  
19 total length of detention to date; (2) likely duration of future detention; (3) conditions of detention;  
20 (4) delays in the removal proceedings caused by the detainee; (5) delays caused by the  
21 government; and (6) the likelihood that removal proceedings will result in a final order of  
22 removal. Courts have held that when these factors weigh against the government, prolonged  
23 detention violates the Fifth Amendment. *Kydyrali*, 499 F. Supp. 3d at 773.

24 39. Application of these factors overwhelmingly favors Petitioner. First, Petitioner has  
25 been detained for over eight months—an unreasonably prolonged period for immigration  
26 detention. Second, USCIS processing times show that adjudication of Petitioner's TPS  
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Dated: December 1, 2025  
Glendale, California

**RESPECTFULLY SUBMITTED,**

/s/ Inna Parizher  
Inna Parizher, Esq.

/s/ Vano I. Haroutunian  
Vano I. Haroutunian, Esq.

*Attorneys for Petitioner*

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**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I, Vano I. Haroutunian, do depose and state:

I represent Petitioner Alibek Islamov in these habeas corpus proceedings. Mr. Islamov is currently being held in detention at the Otay Mesa Detention Center and cannot appear in my office to sign this Verification. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and belief.

Dated: December 1, 2025  
Glendale, California

**RESPECTFULLY SUBMITTED,**

/s/ Vano I. Haroutunian  
Vano I. Haroutunian, Esq.  
*Attorney for Petitioner*