

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ALDAR KULISHOV,

*Petitioner,*

v.

DAVID O'NEILL, Field Office Director of Enforcement and Removal Operations, Philadelphia Field Office, Immigration and Customs Enforcement; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; PAMELA BONDI, U.S. Attorney General; JAMAL L. JAMISON, Warden of Philadelphia Federal Detention Center,

*Respondents.*

**PETITION FOR WRIT OF  
HABEAS CORPUS**

**Case No. 2:25-cv-7171**

**INTRODUCTION**

1. Petitioner Aldar Kulishov is in the physical custody of Respondents at the Philadelphia Federal Detention Center. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have unlawfully revoked his parole.

2. Petitioner is 32-year-old ethnic Kalmyk, who fled Russia with his wife on December 14, 2022. Kalmyks have a long history of oppression, persecution, and marginalization in Russia and so they fled to seek Asylum in the United States. Per the U.S. Government's instructions, and in the interest of doing things 'the right way' Petitioner made an appointment at the U.S. port of entry at Brownsville, Texas through the CBP One mobile app.

3. On February 9, 2023, Petitioner and his wife presented themselves to the U.S. Customs and Border Protection (CBP) agency at the Brownsville, Texas port of entry at their scheduled appointment. Upon presenting themselves and expressing their intent to seek asylum

in the United States, CBP was well within their right to place them in mandatory detention pursuant to 8 U.S.C. § 1225(b). CBP interviewed the couple to review their potential asylum claim and determine whether they presented a security risk or a risk of absconding. According to CBP “All individuals processed at POEs are thoroughly screened and vetted, and individuals who pose a national security or public safety concern are detained. On a case-by-case basis, those with CBP One appointments may be enrolled in immigration proceedings that will determine whether they have a legal basis to remain in the United States.” *See* Exhibit D.

4. Based on Petitioner’s individualized facts and circumstances, Petitioner and his partner were granted permission to lawfully enter the United States on a temporary basis and given humanitarian parole under 8 U.S.C. § 1182(d)(5) while they pursued their applications for asylum. Thus, on February 9, 2023, Petitioner was permitted lawfully to enter and remain in the United States while his immigration proceedings progressed. *See* Exhibits A & B. He was issued an I-94, Record of Entry, as well as a Notice to Appear (NTA) in immigration court. *Id.* Additionally, as a condition of his parole he was required to check-in with Immigration and Customs Enforcement (ICE) at regular intervals.

5. Petitioner submitted a timely asylum application on April 4, 2024, attended his immigration court hearings, and complied with his ICE check-ins. *See* Exhibit C. He obtained employment authorization and a social security card and was otherwise a law abiding and productive member of society.

6. So far, everything had been done precisely as Congress had directed under federal immigration laws, including 8 U.S.C. §§ 1182(d)(5) and 1225. That is until December 17, 2025, when Petitioner appeared for his ICE check-in; at that appointment, without notice or any change

in circumstances, Petitioner was detained by ICE officers and informed that, in essence, ICE was revoking his parole and now choosing to detain him under § 1225(b), simply ‘because.’

7. Petitioner, though he followed the law and instruction of the government in lockstep over the nearly three-year period since he entered, has now had his liberty stripped from him without meaningful notice, explanation or rationale.

8. Petitioner’s abrupt revocation of his parole and detention violates the Administrative Procedures Act (APA) and the agency’s own regulations.

9. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released immediately.

#### **JURISDICTION**

10. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Philadelphia Federal Detention Center in Philadelphia, Pennsylvania.

11. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

#### **VENUE**

13. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Eastern District of Pennsylvania, the judicial district in which Petitioner is currently detained.

14. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial

part of the events or omissions giving rise to the claims occurred in the Eastern District of Pennsylvania.

### **REQUIREMENTS OF 28 U.S.C. § 2243**

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

16. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

### **PARTIES**

17. Petitioner Aldar Kulishov is a citizen of Russia who has been in immigration detention since December 17, 2025, having had his parole unlawfully revoked without notice.

18. Respondent David O’Neill is the Director of the Philadelphia Field Office of ICE’s Enforcement and Removal Operations division. As such, Respondent O’Neill is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

19. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act

(INA), and oversees ICE, which is responsible for Petitioner's detention. Secretary Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

20. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

21. Respondent Jamal L. Jamison, is employed by the Federal Bureau of Prisons as Warden of the Philadelphia Federal Detention Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

#### LEGAL FRAMEWORK

22. 8 U.S.C. § 1182 provides that parole may be granted “only on a case-by-case basis for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A). After parole has been granted, the Secretary may only revoke parole, when a DHS official with authority decides either that the “the purpose for which parole was authorized” has been “accomplish[ed]” or that “neither humanitarian reasons nor public benefit warrants the continued presence of the [noncitizen]” in the United States.” *Id.* Several courts have found that, as in the case of grants of parole, *see Jean v. Nelson*, 472 U.S. 846, 853 (1985), Section 1182 requires an individualized case-by-case determination before parole can lawfully be revoked. *See Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1147 (D. Or. 2025) (revocation of parole was unlawful where there was “no evidence, let alone any opinion or finding” that the purpose of petitioner's parole had been served at the time of the purported termination); *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 146 (W.D.N.Y. 2025)(“a decision to revoke parole ‘must attend to the reasons an individual [noncitizen] received parole.’ ”); *Doe v. Noem*, No. 25-1384, 2025 WL 1505688, at \*1 (1st Cir.

May 5, 2025) (statute suggests that parole may only be terminated on case-by-case basis which “cuts against a finding that *en masse* termination is immune to judicial review.”); *Orellana v. Francis*, No. 25-CV-04212 (OEM), 2025 WL 2402780, at \*5 (E.D.N.Y. Aug. 19, 2025) (“Respondents have admittedly failed, as the statute requires, to make a “case-by-case” determination as to the revocation of Petitioner's parole.”).

23. The statute states, in pertinent part:

The Secretary of Homeland Security may ... in his discretion parole into the United States temporarily under such conditions as he may prescribe *only on a case-by-case basis* for urgent humanitarian reasons or significant public benefit *any alien* applying for admission to the United States, but *such parole of such alien* shall not be regarded as an *admission of the alien* and when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the alien shall forthwith return or be returned to the custody from which *he was paroled* and thereafter *his case* shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

8 U.S.C. § 1182(d)(5)(A) (emphasis added).

24. There is no indication that—as required by the statute and regulations—an official with authority made a determination specific to Petitioner that either “the purpose for which [his] parole was authorized” has been “accomplish[ed]” or that “neither humanitarian reasons nor public benefit warrants [his] continued presence ... in the United States.” As a result, Petitioner’s detention and revocation of his parole violates his rights under the statute and regulations.

25. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

## FACTS

26. Petitioner incorporates herein by reference paragraphs 1-9, *supra*.

## CLAIMS FOR RELIEF

### COUNT I

#### **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A), (C) Not in Accordance with Law and in Excess of Statutory Authority Unlawful Detention**

27. Petitioner restates and realleges all paragraphs as if fully set forth here.

28. Under the Under the Administrative Procedure Act, “[t]he reviewing court shall ... hold unlawful and set aside agency action, findings, and conclusions found to be ... not in accordance with law ... [or] in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(A), (C).

29. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

30. By categorically revoking Petitioner’s parole without consideration of his individualized facts and circumstances, Respondents have violated the APA.

31. Respondents have made no finding that Petitioner is a danger to the community.

32. Respondents have made no finding that Petitioner is a flight risk because, in fact, he was arrested while appearing at his immigration check-in.

33. By detaining Petitioner categorically, Respondents have further abused their discretion because there have been no changes to his facts or circumstances since the agency made

its initial determination to parole him into the United States that support detention. Respondents have already considered Petitioner's facts and circumstances and determined that he was not a flight risk or danger to the community. There have been no changes to the facts that justify this revocation of his parole.

**COUNT II**  
**Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**  
**Arbitrary & Capricious**

34. Petitioner restates and realleges all paragraphs as if fully set forth here.

35. Under the APA, a court must “hold unlawful and set aside agency action ... found to be—arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” or “without observance of procedure required by law.” 5 U.S.C. § 706(2). An agency action is “arbitrary and capricious if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Motor Vehicles Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

36. As the Supreme Court has explained, “[a]n agency may not, for example, depart from a prior policy sub silentio or simply disregard rules that are still on the books. And of course the agency must show that there are good reasons for the new policy,” even though it need not convince the court of the merits of its new policy. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515, 129 S.Ct. 1800, 173 L.Ed.2d 738 (2009).

37. It is Respondents' burden to “provide [a] reasoned explanation for [their] action.” *Id.* “A reasonable basis exists where the agency considered the relevant factors and articulated a rational connection between the facts found and the choices made.” *Arrington v. Daniels*, 516

F.3d 1106, 1112 (9th Cir. 2008). Post hoc explanations of agency action by ... counsel cannot substitute for the agency's own articulation of the basis for its decision. Respondents, cannot provide any reason for the change to terminate Petitioner's parole, let alone a "rational basis for its decision. This unexplained inconsistency between agency actions is a reason for holding the decision to be an arbitrary and capricious change.

**COUNT III**  
**Violation of Due Process**

38. Petitioner restates and realleges all paragraphs as if fully set forth here.

39. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

40. Petitioner has a fundamental interest in liberty and being free from official restraint.

41. The government's detention of Petitioner and revocation of his parole without meaningful notice or rationale violates his right to due process.

**COUNT IV**  
**Violation of the *Accardi* Doctrine**

42. Petitioner restates and realleges all paragraphs as if fully set forth here.

43. Under elementary principles of administrative law, as well as fundamental fairness, agencies are required to follow their own policies. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). According to well-established case law, failure to do so constitutes a violation of the *Accardi* doctrine.

44. Respondents have failed to follow their own rules, statutes, and regulations in the revocation of Petitioner's parole and in detaining Petitioner. By violating the *Accardi* doctrine, Respondents have irreparably injured Petitioner by depriving him of his liberty interests.

#### **PRAYER FOR RELIEF**

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

- a. Assume jurisdiction over this matter;
- b. **Order that Petitioner shall not be transferred outside the Eastern District of Pennsylvania while this habeas petition is pending;**
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Issue a Writ of Habeas Corpus requiring that Respondents **immediately release Petitioner;**
- e. Declare that Petitioner's detention and revocation of his parole as unlawful;
- f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- g. Grant any other and further relief that this Court deems just and proper.

Respectfully Submitted,

Date: December 18, 2025

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