

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

DMITRII MARKOV,

Petitioner,

Case No. '25CV3811 JLS SBC

v.

**VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS**

ORAL ARGUMENT REQUESTED

CHRISTOPHER J. LAROSE, Field Office Director,
U.S. Immigration and Customs Enforcement,
San Diego Field Office, in his official capacity;
KRISTI NOEM, Secretary, U.S. Department of Homeland Security;
PAMELA BONDI, Attorney General of the United States, et al.,

Respondents.

INTRODUCTION

1. This Petition challenges Petitioner's prolonged and mandatory immigration detention without a constitutionally adequate bond hearing.
2. Petitioner Dmitrii Markov is a noncitizen currently detained at the Otay Mesa Detention Center in San Diego, California.
3. Petitioner entered the United States on or about January 13, 2025, at or near the San Ysidro Port of Entry, where he was taken into custody by U.S. Immigration and Customs Enforcement ("ICE").
4. Petitioner was invited to enter the United States using the CBP One application.
5. ICE charged Petitioner as an applicant for admission under INA §§ 212(a)(7)(A)(i)(I) and detained him pursuant to INA § 235(b)(2)(A).

6. Petitioner has remained continuously detained since January 13, 2025, a period now exceeding eleven months, without release or a meaningful opportunity to contest his detention.
7. On December 5, 2025, Petitioner appeared before an Immigration Judge (“IJ”) in the San Diego Immigration Court and requested a bond hearing.
8. The Immigration Judge denied bond solely on the ground that the court lacked jurisdiction, concluding that Petitioner is subject to mandatory detention under INA § 235(b)(2)(A).
9. As a result of Respondents’ novel and erroneous interpretation of the Immigration and Nationality Act (“INA”), Petitioner is being held without any individualized determination of flight risk or danger and without a constitutionally sufficient hearing.
10. Absent relief from this Court, Petitioner faces indefinite detention while his removal proceedings remain pending, in violation of the INA and the Fifth Amendment’s Due Process Clause.

JURISDICTION

11. This Court has jurisdiction pursuant to 28 U.S.C. § 2241, 28 U.S.C. § 1331, and the Suspension Clause of the United States Constitution.
12. Petitioner is “in custody” within this District for purposes of habeas review.
13. 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

14. Venue is proper in the Southern District of California because Petitioner is detained within this District and Respondent LaRose exercises immediate custodial authority over him.
15. 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 and relevant facts occurred in this District.

PARTIES

16. Petitioner Dmitrii Markov is a citizen of Russia and is currently detained at Otay Mesa Detention Center under ICE custody. He has been detained since January 13, 2025.
17. Respondent Christopher J. LaRose is the Field Office Director of ICE's San Diego Field Office and Petitioner's immediate custodian.
18. Respondent Kristi Noem is the Secretary of the Department of Homeland Security and oversees ICE. She is responsible for the implementation and enforcement of the INA which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.
19. Respondent Pamela Bondi is the Attorney General of the United States and oversees the Executive Office for Immigration Review ("EOIR") and the immigration system it operates is a component agency. She is sued in her official capacity.

FACTS

20. Petitioner entered the United States on or about January 13, 2025, and was immediately taken into ICE custody.

21. Petitioner was invited to enter the United States through the CBP One program and app.
22. Petitioner has a pending application for asylum.
23. ICE initiated removal proceedings, which remain pending before the San Diego Immigration Court. No final merits hearing date has been set.
24. Petitioner has no criminal history, strong community ties, and a U.S. citizen sponsor.
25. On December 5, 2025, Petitioner requested a bond hearing pursuant to 8 C.F.R. § 1236.
26. The Immigration Judge denied bond without considering the merits, holding that the court lacked jurisdiction under INA § 235(b)(2)(A).
27. The Board of Immigration Appeals would dismiss any appeal as interlocutory, rendering administrative review futile.
28. Petitioner has now been detained for nearly a year without any individualized custody determination.

LEGAL FRAMEWORK

A. Prolonged Detention Without a Bond Hearing Violates Due Process

29. Freedom from physical restraint lies at the core of the liberty protected by the Fifth Amendment.
30. Civil immigration detention must bear a reasonable relation to its regulatory purpose and must include adequate procedural safeguards.
31. Prolonged detention without a bond hearing at which the government bears the burden of proof violates due process.
32. Here, Petitioner has been detained for over eleven months without a constitutionally adequate bond hearing.

B. Mandatory Detention Under INA § 235(b)(2)(A) Is Unlawful as Applied

33. Respondents' application of INA § 235(b)(2)(A) to mandate detention without bond is inconsistent with the INA's structure, history, and purpose.
34. Courts across the country have overwhelmingly rejected this interpretation when applied to noncitizens held long after entry and during pending § 1229a removal proceedings.
35. Petitioner is statutorily entitled to a bond hearing under INA § 1226(a).

CLAIMS FOR RELIEF

COUNT I

Prolonged Detention in Violation of Due Process

36. Petitioner's continued detention without a meaningful bond hearing violates the Fifth Amendment.

COUNT II

Violation of the Immigration and Nationality Act

37. Respondents' application of § 235(b)(2)(A) to Petitioner unlawfully deprives him of bond eligibility under § 1226(a).
38. In a September 5, 2025, decision, the Board of Immigration Appeals ("BIA") issued a decision that holds that all noncitizens who entered the United States without admission or parole are ineligible for bond hearings before an immigration judge. *See, Matter of YAJURE HURTADO*, 29 I & N Dec. 216.

39. In particular, the Respondents have determined that immigration judges no longer have jurisdiction to hold bond hearings for noncitizens like Petitioner. The BIA's decision is binding on all immigration judges.

COUNT III

Mandatory Detention Without Individualized Findings Violates Due Process

40. Detention without requiring the government to justify confinement by clear and convincing evidence violates substantive and procedural due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus ordering Petitioner's immediate release or, in the alternative,
- c. Order Respondents to provide Petitioner with a constitutionally adequate bond hearing within 3 days, at which the government bears the burden of proof;
- d. Enjoin Respondents from transferring Petitioner outside this District; and
- e. Grant any other relief this Court deems just and proper.

Dated: December 29, 2025

Respectfully submitted,

/s/ John D. Shaw

John D. Shaw
Law Office of John D. Shaw
1536 W Thomas Rd.
Phoenix, Arizona 85015
Telephone: 602-265-1603
Email: john@johndshaw.com
California Bar No. 103565
Attorney of Record for Petitioner

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have either independently confirmed the events described in this Petition and Complaint or discussed the events with Petitioner's attorney. On the basis of those discussions and my own investigation, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

/s/ John D. Shaw

John D. Shaw
Attorney for Petitioner