

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

VALERII DMITRIYEVICH PRIIMOV,

PETITIONER,

v.

KRISTI NOEM, Secretary, U.S. Department of
Homeland Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; Todd Lyons,
Acting Director of ICE; Pamela BONDI, U.S.
Attorney General; Joshua Johnson, Field Office
Director of Enforcement and Removal
Operations, Dallas Field Office, Immigration
and Customs Enforcement; Warden of the
Bluebonnet Detention Facility,

RESPONDENTS.

Case No.

**PETITION FOR A WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. §
2241, BY A PERSON SUBJECT TO
UNLAWFUL DETENTION**

PETITION FOR WRIT OF HABEAS CORPUS

RESPECTFULLY SUBMITTED,

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INTRODUCTION

97
98
99 1. This case challenges Respondents' unlawful re-detention of Petitioner,
100 Valerii Dmitriyevich Priimov. He is currently in the physical custody of Respondents at
101 the Bluebonnet Detention Facility in Anson, Texas.

102 2. Petitioner is a citizen of Russia who arrived at the United States on
103 November 13, 2022 at the Dallas Fort Worth International Airport. Petitioner sought
104 admission into the United States using his valid Russian passport and B1/B2 tourist visa.
105 When interviewed by Customs and Border Protection (CBP), Petitioner stated that he came
106 to the United States to request asylum and expressed a fear of persecution should he return
107 to Russia.

108 3. Based upon his statements to CBP, Petitioner was detained at the airport by
109 CBP and given a credible fear interview. An asylum officer completed the credible fear
110 interview on the same date as Petitioner's arrival, November 13, 2022. Upon completion
111 of the interview, the asylum officer determined that Petitioner had established a credible
112 fear of return to Russia. He was then released from CBP custody at the airport so that he
113 could proceed with removal proceedings before an Immigration Judge (IJ).

114 4. CBP determined that Petitioner did not pose a danger to the community or a
115 flight risk. Petitioner was released on his own recognizance with the conditions to report
116 to Immigration and Customs Enforcement (ICE) as instructed, to keep his address and
117 contact information updated with ICE, and to attend any/all future court hearings.
118 Petitioner complied with these conditions of release throughout the duration of his release
119 on his own recognizance, from November 13, 2022 until November 20, 2025.

120 5. On November 20, 2025, Petitioner reported to ICE for his scheduled check-
121 in and was abruptly and unlawfully detained by Respondents.

122 6. Prior to his re-detention, Petitioner was not provided with any sort of notice
123 as to why his release was being revoked, was not afforded a re-detention hearing before a
124 neutral decisionmaker where the Department of Homeland Security (DHS) would have to
125 prove he was a flight risk or danger to the community, and he was likewise not afforded
126 the opportunity to challenge any such allegations all in violation of the Due Process Clause.

127 7. Petitioner has always complied with his conditions of release, has no
128 criminal history, and there have been no changes in circumstances that would lead to any
129 lawful revocation of his prior release or re-detention.

130 8. Due process requires that a hearing be held *prior* to the government's
131 decision to terminate a person's liberty. By failing to provide such a hearing, Respondents
132 have violated Petitioner's constitutional right to due process.

133 9. Therefore, this Court should grant the instant petition for a writ of habeas
134 corpus and order Petitioner's immediate release.

135 10. Petitioner's positions are supported by reasoned, persuasive, and detailed
136 analysis from Article III courts across the country who have granted similar habeas
137 petitions.¹

¹ See e.g., *Villanueva Herrera v. Tate*, 5:25-cv-03364, 2025 WL 2774610 (S.D. Tex. Sept. 26, 2025); *Madrazo Rodriguez v. Noem*, 5:25-cv-01657, 2025 WL 3654332 (W.D. Tex. Dec. 2025); *Sarail A. v. Bondi*, File No. 25-cv-2144 (ECT/JFD), 2025 WL 2533673 (D. Minn. Sept. 3, 2025); *Roble v. Bondi*, No. 25-cv-3196, 2025 WL 2443453 (D. Minn. Aug. 25, 2025); *Duong v. Charles*, No. 1:25-cv-01375 (E.D. Cal. Nov. 14, 2025).

138 **JURISDICTION AND VENUE**

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140 11. This case arises under the Constitution of the United States, the Immigration
141 and Nationality Act (“INA”), 8 U.S.C. § 1101, *et seq.*, and the Administrative Procedures
142 Act (“APA”), 5 U.S.C. §§ 500-596, 701-706.

143 12. This Court has subject matter jurisdiction under 28 U.S.C. § 2241, *et seq.*
144 (habeas corpus), U.S. Const. art. I, § 9, cl. 2 (Suspension Clause), 28 U.S.C. § 1331 (federal
145 question), 28 U.S.C. § 1346 (United States as Respondent), and 28 U.S.C. § 1651 (All
146 Writs Act). Respondents have waived sovereign immunity for purposes of this suit. 5
147 U.S.C. §§ 702, 706.

148 13. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. §
149 2241, *et seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*; the All Writs Act,
150 28 U.S.C. § 1651; and the Court’s inherent equitable powers.

151 14. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e)(1) because
152 Respondents are agencies or officers of agencies of the United States. Respondents and
153 Petitioner reside in this District, Petitioner is detained in this District at the Prairieland
154 Detention Facility in Alvarado, Texas, and a substantial part of the events or omissions
155 giving rise to Petitioner’s claims occurred in this District.

156 **PARTIES**

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158 15. Petitioner, Valerii Dmitriyevich Priimov, is a citizen of Russia who arrived
159 at the United States on November 13, 2022 at the Dallas Fort Worth International Airport.
160 Petitioner was detained at the airport by CBP and given a credible fear review. Upon

161 completion of the credible fear review and establishing that he had positive a credible fear
162 of return to Russia, Petitioner was released from CBP custody on his own recognizance.
163 He was then served via mail with a NTA placing him in formal removal proceedings.
164 Petitioner remained released on his own recognizance for a period of three years, and was
165 abruptly re-detained by DHS on November 20, 2025, without proper notice or access to a
166 re-detention hearing, when he arrived at his DHS check-in as required by the conditions of
167 his release. Petitioner remains detained at the Prairieland Detention Facility in Alvarado,
168 Texas.

169 16. Respondent Kristi Noem is the Secretary of the Department of Homeland
170 Security. She is responsible for the implementation and enforcement of the Immigration
171 and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's
172 detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her
173 official capacity.

174 17. Respondent Department of Homeland Security (DHS) is the federal agency
175 responsible for implementing and enforcing the INA, including the detention and removal
176 of noncitizens.

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

181 19. Respondent Todd Lyons is Acting Director and Senior Official Performing
182 the Duties of the Director of ICE. Respondent Lyons is responsible for ICE's policies.

183 practices, and procedures, including those relating to removal procedures and the detention
184 of immigrants during their removal procedures. Respondent Lyons is a legal custodian of
185 Petitioner. Respondent Lyons is sued in his official capacity.

186 20. Respondent Joshua Johnson is the Director of the Dallas Field Office of
187 ICE's Enforcement and Removal Operations division. As such, Joshua Johnson is
188 Petitioner's immediate custodian and is responsible for Petitioner's detention and removal.
189 He is named in his official capacity.

190 21. Respondent Warden of Bluebonnet Detention Facility, is who has immediate
191 physical custody of Petitioner. Warden is sued in their official capacity.

192 **HABEAS CORPUS PURPOSE AND REQUIREMENTS**

193
194 22. The writ of habeas corpus is "available to every individual detained
195 within the United States."² "The essence of habeas corpus is an attack by a person in
196 custody upon the legality of that custody, and ... the traditional function of the writ is to
197 secure release from illegal custody."³ "Historically, 'the writ of habeas corpus has served
198 as a means of reviewing the legality of Executive detention, and it is in that context that its

² *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art I, § 9, cl. 2).

³ *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

199 protections have been strongest.”⁴ “A district court’s habeas jurisdiction,” therefore,
200 “includes challenges to immigration-related detention.”⁵

201 23. Pursuant to 28 U.S.C. § 2243, a court may grant the petition for writ of habeas
202 corpus or issue an order to show cause (“OSC”) to the respondents “forthwith.”⁶ If an order
203 to show cause is issued, respondents should generally be required to file a return “within
204 *three* days unless for good cause additional time . . . is allowed.”⁷

205 24. This Motion is predicated on a petition for a Writ of Habeas Corpus under 28
206 U.S.C. § 2241, a remedy that Congress and the courts have long recognized demands swift
207 judicial review. Indeed, 28 U.S.C. § 2243 mandates an expedited show-cause response
208 precisely because the petition’s central claim is an ongoing, unlawful deprivation of liberty.
209 It is axiomatic that the loss of liberty, even for a single day, constitutes profound and
210 irreparable harm. Therefore, the failure to rule on the requested injunction within 14 days
211 is not mere delay; it is a constructive denial of the motion itself. Each day of inaction inflicts
212 the very irreparable injury the petition seeks to prevent, rendering the extraordinary remedy
213 of habeas functionally meaningless and frustrating the “swift” relief that § 2243 requires.

⁴ *Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082, at *3–6 (D. Nev. Sept. 17, 2025) (quoting *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001)).

⁵ *Id.* (citing *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) and *Demore v. Kim*, 538 U.S. 510, 517 (2003)).

⁶ 28 U.S.C. § 2243.

⁷ *Id.* (emphasis added).

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STATEMENT OF FACTS

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25. The Petitioner, Valerii Dmitriyevich Priimov, is a citizen of Russia who arrived at the United States on November 13, 2022 at the Dallas Fort Worth International Airport. Petitioner sought admission into the United States using his valid Russian passport and B1/B2 tourist visa. Petitioner was encountered at the airport by CBP and interviewed by same. Petitioner stated to CBP officers that he came to the United States to request asylum and expressed a fear of persecution should he return to Russia.

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26. Based upon his statements to CBP, Petitioner was detained at the airport and given a credible fear interview. An asylum officer completed the credible fear interview via telephone on the same date as Petitioner's arrival, November 13, 2022. Upon completion of the interview, the asylum officer determined that Petitioner had established a credible fear of return to Russia.

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27. Upon completion of the credible fear interview, and a positive finding of having established a credible fear of return to Russia, Respondent was released from CBP custody at the airport on November 13, 2022. Respondent was determined not to be a flight risk or a danger to the community, and so was released on his own recognizance. The conditions of his release included a duty to report to ICE as instructed, the duty to keep his address and contact information current with ICE, and the requirement to attend any/all future court hearings.

235 28. Petitioner was then served via mail with a Notice to Appear (NTA) dated
236 November 23, 2022 placing him in removal proceedings before the Executive Office for
237 Immigration Review (EOIR).

238 29. Petitioner remained out of ICE custody, released on his own recognizance,
239 from November 13, 2022 until November 20, 2025. During that time, he complied with
240 any/all conditions of his release, had no encounters with law enforcement, sought out legal
241 counsel, and filed for asylum with EOIR.

242 30. On November 20, 2025, Petitioner reported to ICE for his scheduled check-
243 in and was taken into ICE custody and then transferred to the Bluebonnet Detention
244 Facility. Petitioner was not provided with any notice as to the reason for the revocation of
245 his release and was not provided with a re-detention hearing before a neutral decisionmaker
246 prior to his being taken back into ICE custody.

247 31. Petitioner remains in ICE custody at the Bluebonnet Detention Facility. To
248 date, ICE has not alleged, nor provided notice of, any change of circumstances that would
249 cause Petitioner's prior conditions of release to be revoked, any basis on which to argue he
250 is a flight risk or danger to the community, nor have they provided Petitioner with the
251 opportunity to appear at a re-detention hearing before a neutral decisionmaker allowing
252 him to challenge the basis of his re-detention.

253 LEGAL FRAMEWORK

254 255 Overview of Relevant Constitutional Principles. 256

257 32. The Due Process Clause of the Fifth Amendment guarantees that no person
258 in the United States shall be deprived of liberty without due process.⁸ These substantive
259 and procedural due process protections apply to all people, including noncitizens,
260 regardless of their immigration status.⁹ The Due Process Clause provides heightened
261 protection against government interference with certain fundamental rights—and freedom
262 from detention lies at the heart of the Due Process Clause’s protections. For persons in the
263 United States (even unlawfully), courts have found that noncitizens who have established
264 a life here—albeit without authorization—possess a strong liberty interest in their freedom
265 from detention.

266 33. The Supreme Court has explained the critical distinction between those
267 outside the U.S. and those within it when it comes to the due process required before they
268 may be deprived of their liberty:

269 The distinction between an alien who has effected an entry into the United
270 States and one who has never entered runs throughout immigration law. It is
271 well established that certain constitutional protections available to persons
272 inside the United States are unavailable to aliens outside of our geographic
273 borders. But once an alien enters the country, the legal circumstance changes,
274 for the Due Process Clause applies to all “persons” within the United States,
275 including aliens, whether their presence here is lawful, unlawful, temporary, or
276 permanent. Indeed, this Court has held that the Due Process Clause protects an
277 alien subject to a final order of deportation, though the nature of that protection
278 may vary depending upon status and circumstance.¹⁰
279

⁸ U.S. Const. amend. V.

⁹ *Trump v. J.G.G.*, 604 U. S. ---145 S. Ct. 1003, 1006 (2025) (*per curiam*) (“It is well established that the Fifth Amendment entitles aliens to due process of law’ in the context of removal proceedings.” (quoting *Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439 (1993))).

¹⁰ *Zadvydas v. Davis*, 533 U.S. 678, 693–94 (2001)

280 34. In *Zadvydas v. Davis*, the Supreme Court left no doubt that civil detention,
281 including in the immigration context, requires a sufficient justification— namely
282 preventing flight or danger to the community.¹¹ Where no such justification exists
283 detention without due process is unconstitutional.¹²

284 35. Similarly, individuals released on parole or other forms of conditional release
285 have a liberty interest in their “continued liberty.”¹³ This “continued liberty” is protected
286 by the Fifth Amendment because “it includes many of the core values of unqualified
287 liberty.... And its termination inflicts a ‘grievous loss’ on the [released individual] and
288 often on others.”¹⁴

289 36. In order to protect individuals against arbitrary re-detention, due process
290 requires procedures that will ensure that that the justification for confinement “outweighs
291 the individual’s constitutionally protected interest in avoiding physical restraint.”¹⁵

292 37. Such procedures must include notice of the reasons for re-detention and a
293 hearing before a neutral decisionmaker to determine danger and/or flight risk *prior* to the
294 revocation of a noncitizen’s release.¹⁶

¹¹ *Id.*

¹² *Id.*

¹³ *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

¹⁴ *Id.*

¹⁵ *Zadvydas*, 533 U.S. at 690 (citation modified).

¹⁶ *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) (“The fundamental requisite of due process of law is the opportunity to be heard... at a meaningful time in a meaningful manner.” (citation modified)); *see also*, *e.g.*, *Morrissey*, 408 U.S. at 485 (requiring a “preliminary hearing to determine whether there is probable cause or reasonable grounds to believe that the arrested parolee has committed.... a violation of parole

295 38. These principles likewise apply to non-citizens who are arbitrarily re-
296 detained by DHS after having been released years prior.

297 39. Based upon same, Petitioner must be granted immediate release from his re-
298 detention or face irreparable harm.

299 40. Continued unlawful detention is, by its very nature, an irreparable injury.¹⁷
300 The Supreme Court has affirmed that “[f]reedom from imprisonment...lies at the heart of
301 the liberty” protected by the Due Process Clause.¹⁸ “Where, as here, the ‘alleged
302 deprivation of a constitutional right is involved, most courts hold that no further showing
303 of irreparable injury is necessary’.”¹⁹

304 41. Everyday Petitioner remains re-detained in ICE custody in direct
305 contravention of the U.S. Constitution; he suffers irreparable harm. The complete and
306 sudden loss of one’s freedom and liberty take a significant toll on anyone in Petitioner’s
307 circumstances.

308 42. Recently, many aliens in ICE custody have suffered the ultimate irreparable
309 harm of death while in ICE custody. On May 14, 2025, in an oversight hearing before the

conditions” and that such determination be made “by someone not directly involved in the case” (citation modified)).

¹⁷ *Phong Phan v. Moises Becerra*, No. 2:25-cv-01757-DC-JDP, 2025 WL 1993735, at *5 (E.D. Cal. July 16, 2025) (“Further, “[i]t is well established that the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’”) (citing *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976))).

¹⁸ *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

¹⁹ *Phan*, 2025 WL 1993735, at *5 (citing *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (quoting Wright, Miller, & Kane, *Federal Practice and Procedure*, § 2948.1 (2d ed. 2004))).

310 House Appropriations Committee, Todd Lyons, acting director of Immigration and
311 Customs Enforcement, testified that 9 people have died in ICE custody since January 20,
312 2025.²⁰ A month after this testimony, on June 23, 2025, a 49-year old Canadian citizen
313 died in ICE custody.²¹ Reports of overcrowding, individuals being detained at facilities
314 that are meant for processing and not set up for detention beyond a few hours are
315 increasing, and other inhumane detention practices continue to rise. The risk of death,
316 emotional trauma, and/or other irreparable harm coming to Petitioner is, tragically, all too
317 real a possibility.

318 43. Meanwhile, there will be ZERO harm to Respondents if Petitioner is
319 immediately released from ICE custody.

320 44. There are no administrative remedies to exhaust that would not be futile.

321 45. Based upon same, the law compels that Petitioner be immediately released.

322 CAUSES OF ACTION

323 COUNT I: Violation of Due Process Clause under the 5th Amendment

324
325 46. Petitioner repeats, re-alleges, and incorporates by reference each and every
326 allegation in the preceding paragraphs as if fully set forth herein.

327 47. The government may not deprive a person of life, liberty, or property without
328 due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from

²⁰ This testimony can be found at the following link: <https://www.youtube.com/watch?v=QvoURiaxBmA>.

²¹ The ICE press release on this death can be found at the following link: <https://www.ice.gov/news/releases/canadian-national-ice-custody-passes-away>

329 government custody, detention, or other forms of physical restraint—lies at the heart of the
330 liberty that the Clause protects.”²²

331 48. Petitioner has a fundamental interest in liberty and being free from official
332 restraint.

333 49. The government’s re-detention of Petitioner without a hearing before a
334 neutral decisionmaker, in which the DHS has the burden to prove that Petitioner is a flight
335 risk or danger, *prior* to his re-detention violates his right to due process. Accordingly, it is
336 unlawful.

337 50. To determine whether government conduct violates procedural due process,
338 the Court weighs three factors: (1) the private interest affected by the government action;
339 (2) the risk that current procedures will cause an erroneous deprivation of the private
340 interest, and the extent to which that risk could be reduced by additional safeguards; and
341 (3) the government’s interest in maintaining the current procedures.²³

342 51. Petitioner’s private interest is the right to be free from government
343 detention. Being free from physical detention by the government is at the core of due
344 process protection, and “is the most elemental of liberty interests.”²⁴ In our country,
345 “liberty is the norm, and detention without trial “is the carefully limited exception.”²⁵

²² *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

²³ *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

²⁴ *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

²⁵ *Id.*

346 52. The private interest here is fundamental: freedom from detention. It weighs
347 heavily in the consideration of the *Mathews* factors.

348 53. The second factor—the risk of erroneous deprivation of Petitioner's liberty—
349 is likewise substantial. The government's sudden and arbitrary re-detention of Petitioner is
350 woefully unfair. Petitioner was not provided with any sort of notice as to why he was being
351 re-detained, was not given the opportunity to contest any such reasons before a neutral
352 arbiter, and was re-detained solely because of the policy changes put forth by the new
353 administration. This is tantamount to a complete lack of procedural protections for
354 Petitioner, and other noncitizens who find themselves arbitrarily re-detained. When
355 procedural protections are almost non-existent, it markedly increases the risk of erroneous
356 deprivation of Petitioner's liberty interests.²⁶

357 54. The government has no valid interest in re-detaining Petitioner. The
358 government's interest is supposed to be in upholding the Constitution and laws, both of
359 which are plainly violated by its recent actions and continued unlawful re-detention of
360 Petitioner. Depriving anyone of their liberty is a serious thing that should only be done
361 when necessary to prevent flight or danger to the community. In Petitioner's case, neither
362 of those have been argued or proven by DHS.

363 55. To balance liberty interests against interests in assuring appearance and
364 safety, the regulations explicitly provide procedures for when and how a noncitizen can be

²⁶ See *Black v. Dir. Thomas Decker*, 103 F.4th 133, 152 (2d Cir. 2024).

365 re-detained after a prior release from DHS.²⁷ The government, however, wants to detain
366 everyone without any regard to whether they are a danger or a flight risk.²⁸ On balance, the
367 private interests affected and the risk of erroneous deprivation under the current procedures
368 greatly outweigh the government's interest in detaining anyone they want regardless of
369 whether it is necessary or lawful. Petitioner's arbitrary detention thus violates Petitioner's
370 due process rights as guaranteed by the Fifth Amendment.

371 **COUNT II: ICE Violated Their Own Regulations and Procedures**

372
373 56. Petitioner re-alleges and incorporates by reference all the foregoing
374 paragraphs above.

375 57. ICE violated the Due Process Clause when ICE revoked Petitioner's prior
376 order of release and detained him without following its own procedures and regulations.

377 58. Petitioner was out of DHS custody since his release on his own recognizance
378 on November 13, 2022, after CBP officers determined the Petitioner was not a flight risk
379 or danger to the community. *See* 8 C.F.R. §§ 241.4(d)(1), (e).

380 59. Pursuant to regulation, an order of release may be revoked if a noncitizen
381 violates the conditions of his release, when it is required to enforce a removal order, or
382 when a change in circumstances indicates that the noncitizen's release is no longer
383 appropriate. 8 C.F.R. §§ 241.4(1)(1), (1)(2)(ii), (1)(2)(iii), (1)(2)(iv). Only the Executive

²⁷ *See* 8 C.F.R. §§ 241.4(1)(1), (1)(2)(ii), (1)(2)(iii), (1)(2)(iv).

²⁸ *Jacinto v. Trump*, 2025 WL 2402271, at *4 ("The governmental interest in the continued detention of these least-dangerous individuals, in contravention of the order of a neutral fact-finder, does not outweigh the liberty interest at stake.").

384 Associate Commissioner of ICE has the authority to revoke a noncitizen's release, unless
385 impracticable, then the authority may be delegated to the district director of ICE. 8 C.F.R.
386 § 241.4(1)(2).

387 60. Regulations require that the noncitizen be provided with notice of the reason
388 for the revocation of his release and with an opportunity to challenge those reasons. 8
389 C.F.R. § 241.4(1)(1).

390 61. In Petitioner's case, ICE failed to follow these regulations, thereby resulting
391 in the loss of his personal liberty which is subject to due process protections.²⁹

392 62. To date, Petitioner has not been provided with a reason for the revocation of
393 his prior release. For almost three years, he was fully compliant with all conditions of his
394 release: he reported for all scheduled check-ins and he kept his address and contact
395 information updated with ICE. He has not been arrested or encountered by law enforcement
396 in the United States and has otherwise been compliant with any/all applicable laws.

397 63. Additionally, Petitioner is actively pursuing relief from removal in the form
398 of asylum before EOIR. Petitioner met his burden to establish a credible fear of return to
399 Russia, and has a high probability of being granted asylum on the same basis. Thus, the
400 likelihood of him being subject to an order of removal is low, and there is insufficient basis
401 to revoke his prior release on that basis as well.

²⁹ *Santamaria Orellana v. Baker*, No. CV 25-1788-TDC, 2025 WL 2444087, at *6 (D. Md. Aug. 25, 2025).

402 64. Because ICE has failed to follow the required procedures in presenting any
403 sort of justification for the revocation of Petitioner's release, and in allowing Petitioner to
404 challenge those justifications, they have failed to afford Petitioner with due process.³⁰

405 65. "Under deeply rooted principles of administrative law, not to mention
406 common sense, government agencies are generally required to follow their own
407 regulations."³¹

408 66. Other district courts addressing similar petitions have held that a failure to
409 adhere to these regulations violates due process.³²

410 67. Here, ICE violated its own regulations by failing to have the appropriate
411 authorized official make the revocation decision, failing to provide Petitioner with notice
412 of the reasons for the revocation, and failing to allow Petitioner the opportunity to challenge
413 those reasons. Thus, Petitioner's detention must be deemed unlawful. And for this reason,

³⁰ See *Villanueva*, No. CV H-25-3364, 2025 WL 2774610, at *6 (reaching the same conclusion).

³¹ *Villanueva*, No. CV H-25-3364, 2025 WL 2774610, at *7 (quoting *Fed. Defs. of New York, Inc. v. Fed. Bureau of Prisons*, 954 F.3d 118, 130 (2nd Cir. 2020); see also *Gov't of Canal Zone v. Brooks*, 427 F.2d 346, 347 (5th Cir. 1970) (per curiam) ("It is equally well established that it is a denial of due process for any government agency to fail to follow its own regulations providing for procedural safeguards to persons involved in adjudicative processes before it.").

³² See, e.g., *Bonitto v. Bureau of Immigr. & Customs Enf't*, 547 F. Supp. 2d 747, 756 (S.D. Tex. 2008) ("DHS cannot constitutionally continue to detain [petitioner] without complying with the procedures laid out in the regulations."); *Zhu v. Genalo*, No. 1:25-CV-06523 (JLR), 2025 WL 2452352, at *9 (S.D.N.Y. Aug. 26, 2025) ("ICE's failure to follow its own regulations and provide Petitioner with notice or an interview violated Petitioner's procedural due process rights."); *Cesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 166 (W.D.N.Y. 2025) ("In sum, because ICE did not follow its own regulations in deciding to re-detain [petitioner], his due process rights were violated, and he is entitled to release."); *Rombot v. Souza*, 296 F. Supp. 3d 383, 389 (D. Mass. 2017) ("The Supreme Court has... never given ICE a carte blanche to reincarcerate someone without basic due process protection"); *Villanueva v. Tate*, No. CV H-25-3364, 2025 WL 2774610, at *7 ("The government's position that it can choose, based on a change in administration, not to comply with its own regulations is unprecedented.")

414 the Petitioner must be granted immediate release and reinstatement of his prior order for
415 release on his own recognizance, pursuant to the same conditions of release. Further,
416 Petitioner requests a preliminary injunction preventing his future re-detention by ICE
417 unless the above sated procedures are properly followed by ICE.

418 68. Immediate release is required on the above articulated basis alone. Thus,
419 while Petitioner argues that his re-detention also violated the *Zadvydas* standard, because
420 his removal is not reasonably foreseeable (because he has already established a credible
421 fear of return to Russia and is likely to be granted asylum on the same basis), the fact that
422 ICE failed to follow their procedures is sufficient basis for this court to grant immediate
423 release.³³

424 69. Petitioner's continued re-detention by Respondents is unlawful as ICE and
425 DHS have failed to adhere to the law and mandatory process. As here, "where an
426 immigration regulation is promulgated to protect a fundamental right derived from the
427 Constitution or a federal statute ... and [ICE] fails to adhere to it, the challenged [action] is
428 invalid."³⁴ Petitioner's detention is unlawful and his immediate release is appropriate.

³³ See, e.g., *Santamaria Orellana*, No. 25-cr-01788, 2025 WL 2444087, at *8 (granting habeas relief where supervision was revoked in violation of ICE's regulations and due process and therefore not reaching question of whether re-detention was otherwise unlawful under *Sadvydas*); *Zhu*, 2025 WL 2452352, at *9 (same).

³⁴ *Nguyen v. Hyde*, 2025 WL 1725791, at *5 (quoting *Rombot v. Souza*, 296 F. Supp. 3d 383, 388 (D. Mass. 2017)); see also *Zadvydas*, 533 U.S. at 690 ("The Fifth Amendment's Due Process Clause forbids the Government to 'depriv[e]' any 'person ... of ... liberty ... without due process of law.' Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.").

429 **PRAYER FOR RELIEF**

430
431 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 432 a. Assume jurisdiction over this matter;
- 433
- 434 b. Issue an Order to Show Cause ordering Respondents to show cause within
435 three days why this Petition should not be granted;
- 436
- 437 c. Issue a writ of habeas corpus requiring that Respondents release Petitioner
438 immediately and permanently enjoining his re-detention during the
439 pendency of his removal proceeding absent written notice and a hearing
440 *prior to* re-detention where Respondents must prove by clear and
441 convincing evidence that Petitioner is a flight risk or danger to the
442 community and that no alternatives to detention would mitigate those risks;
- 443
- 444 d. Order that Respondent be released in a public place within the Northern
445 District of Texas, and his counsel be given notice of the date, time, and
446 location of his release;
- 447
- 448 e. Declare that re-detention of Petitioner while removal proceedings are
449 ongoing, without first providing an individualized determination before a
450 neutral decisionmaker violates the Due Process Clause of the Fifth
451 Amendment;
- 452
- 453 f. Award Petitioner attorney's fees and costs under the Equal Access to
454 Justice Act ("EAJA"), and on any other basis justified under law; and
- 455
- 456 g. Grant any other and further relief that this Court deems just and proper.
- 457

458 RESPECTFULLY SUBMITTED,

459 /s/ Dan Gividen

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