

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

SHOKHRUKH KHASANOV,

PETITIONER,

v.

KRISTI NOEM, et al.,

RESPONDENTS.

Civil Case No. 1:26-CV-126

**PETITIONER’S EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION**

1
2
3
4

5
6
7
8

TABLE OF CONTENTS

9

10 TABLE OF AUTHORITIES.....3

11 INTRODUCTION.....5

12 STATEMENT CONCERNING THE NEED FOR PROMPT REVIEW AND

13 ADJUDICATION.....6

14 STATEMENT OF FACTS.....8

15 LEGAL STANDARD.....10

16 I. Petitioner Is Likely to Succeed on the Merits of His Claim.....10

17 i. His Detention Violates Due Process.....11

18 ii. His Detention Violates Relevant Regulations.....14

19 II. Petitioner Faces Immediate and Irreparable Harm.....15

20 III. The Balance of Equities and Public Interest Weighs in Petitioner’s Favor...16

21 IV. Petitioner Seeks the Same Injunctive Relief Being Granted to Nearly Every

22 Similarly Situated Habeas Petitioner.....17

23 CONCLUSION.....18

24

25

26

27

28

TABLE OF AUTHORITIES

29

30 **Cases**

31 *Aransas Project v. Shaw*, 775 F.3d 641 (5th Cir. 2014).....15

32 *Demore v. Kim*, 538 U.S. 510 (2003).....11

33 *Duong v. Charles*, No. 1:25-cv-01375 (E.D. Cal. Nov. 14, 2025).....6

34 *Granny Goose Foods, Inc. v. Bhd. Of Teamsters & Auto Truck Drivers Loc. No. 70 of*

35 *Alameda Cnty.*, 415 U.S. 423 (1974).....10

36 *Günaydin v. Trump*, No. 25-cv-01151 (JMB/DLM), 2025 WL 1459154 (D. Minn. May 21,

37 2025).....12, 13

38 *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004)12

39 *Hamidi v. Bondi*, Case No. CIV-25-1205-G, 2025 WL 3452454 (W.D. Okla. Dec. 1, 2025).....6

40 *Madrazo Rodriguez v. Noem*, 5:25-cv-01657, 2025 WL 3654332 (W.D. Tex. Dec. 2025)..6

41 *Matthews v. Eldridge*, 424 U.S. 319 (1976).....11, 12, 13

42 *Morrissey v. Brewer*, 408 U.S. 471 (1972).....16

43 *Nguyen v. Hyde*, 788 F.Supp. 3d 144 (D. Mass. 2025).....6

44 *Nken v. Holder*, 556 U.S. 418 (2009).....16, 17

45 *Roble v. Bondi*, No. 25-cv-3196, 2025 WL 2443453 (D. Minn. Aug. 25, 2025).....6

46 *Rosa v. McAleenan*, 583 F. Supp. 3d 840 (S.D. Tex. 2019).....17

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

48 25, 2025)..... 15

49 *Sarail A. v. Bondi*, File No 25-cv-2144 (ECT/JFD), 2025 WL 2533673 (D. Minn. Sept. 3,

50 2025).....6

51 *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020).....12

52	<i>Villanueva Herrera v. Tate</i> , 5:25-cv-03364, 2025 WL 2774610 (S.D. Tex. Sept. 26, 2025) ..	6
53	<i>Winter v. Nat. Res. Def. Council, Inc.</i> , 555 U.S. 7 (2008)	10
54	<i>Matter of Yajure Hurtado</i> , 29 I&N Dec. 216 (BIA 2025)	5, 9
55	<i>Zadvydas v. Davis</i> , 533 U.S. 678 (2001)	16
56		
57	Statutes	
58	28 U.S.C. § 2241	6
59	28 U.S.C. § 2243	6, 7
60	Regulations	
61	8 C.F.R. § 241.4	13, 14
62	Acts	
63	INA § 212(d)(5)(A)	8

64 **INTRODUCTION**

65 Petitioner, SHOKHRUKH KHASANOV, by and through undersigned counsel, files
66 this emergency motion for a Temporary Restraining Order (“TRO”) and/or a Preliminary
67 Injunction. Petitioner seeks an immediate order compelling Respondents to release him
68 from the custody of U.S. Immigration and Customs Enforcement (“ICE”). Petitioner is a
69 citizen and native of Uzbekistan who entered the United States without inspection on
70 October 7, 2021 near Florence, Arizona. Petitioner was briefly detained by ICE, but then
71 released pursuant to authorized parole. On December 28, 2025, Petitioner's release on
72 parole was revoked without notice, and he was re-detained by ICE. Petitioner then had a
73 bond redetermination hearing on January 6, 2026 before an Immigration Judge. The
74 Immigration Judge denied him bond finding she lacked jurisdiction.¹ No findings were
75 made as to flight risk, dangerousness, or changed conditions that would warrant the
76 revocation of his release on parole, nor was he allowed to challenge same. Thus, his re-
77 detention without proper notice or the access to a re-detention hearing *prior* to his re-
78 detention violates the Due Process Clause of the U.S. Constitution. The instant petition is
79 being filed seeking this Court's urgent intervention in the form of an order enjoining ICE
80 from continuing to unlawfully detain him.

¹ The Immigration Judge cited the Matter of Yajure Hurtado in finding she lacked jurisdiction. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

81 District Courts across the country have been ruling that the government's failure to
82 follow the regulations regarding when and how a noncitizen can be re-detained violates the
83 due Process Clause, and have been granting habeas petitions of individuals similarly
84 situated to Petitioner.² In so finding, they are ordering that ICE immediately release the
85 noncitizens from ICE custody. Petitioner respectfully requests that this Court join the
86 rapidly growing list of courts finding such re-detention unlawful and expeditiously order
87 the government to remedy it.

88 **STATEMENT CONCERNING THE NEED FOR PROMPT REVIEW AND**
89 **ADJUDICATION**

90 This Motion is predicated on a petition for a Writ of Habeas Corpus under 28 U.S.C.
91 § 2241, a remedy that Congress and the courts have long recognized demands swift judicial
92 review. Indeed, 28 U.S.C. § 2243 mandates an expedited show-cause response precisely
93 because the petition's central claim is an ongoing, unlawful deprivation of liberty. It is
94 axiomatic that the loss of liberty, even for a single day, constitutes profound and irreparable
95 harm. Therefore, the failure to rule on the requested injunction within 14 days is not mere
96 delay; it is a constructive denial of the motion itself. Each day of inaction inflicts the very

² 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); *Hamidi v. Bondi*, Case No. CIV-25-1205-G, 2025 WL 3452454 (W.D. Okla. Dec. 1, 2025); *Nguyen v. Hyde*, 788 F. Supp. 3d 144 (D. Mass. 2025)

97 irreparable injury the petition seeks to prevent, rendering the extraordinary remedy of
98 habeas functionally meaningless and frustrating the "swift" relief that § 2243 requires.

99 The irreparable harm of Petitioner's unlawful re-detention is particularly
100 unnecessary when one considers that there was no reason provided for Petitioner's re-
101 detention. Rather, it appears the only reasons for his re-detention are the political whims
102 of the current administration. In Petitioner's case, the Department of Homeland Security
103 (DHS) has not alleged that Petitioner violated any conditions of his release, or that he poses
104 any sort of flight risk or danger to the community. On the contrary, no justification for his
105 re-detention has been provided. He has been compliant with all conditions of his release,
106 has no criminal history, and has abided by all the laws of the United States while present
107 herein. His arbitrary re-detention without due process continues to cause him irreparable
108 harm each day that he remains in ICE custody.

109 Delays in the adjudication of this habeas petition and those brought by aliens like
110 Petitioner facilitates exactly what the government is trying to achieve: the arbitrary
111 detention of noncitizens purely on the basis of their not having status in the United States.
112 Accordingly, the failure to promptly address Petitioner's motion (in no more than 10-days)
113 effectively acts as a constructive denial of it.

114 **STATEMENT OF FACTS**

115 Petitioner is a citizen of Uzbekistan who entered the United States without
116 inspection on October 7, 2021 near Florence, Arizona. On that same date, he was
117 encountered by Border Patrol (BP) and taken into the custody of ICE.

118 ICE released Petitioner from custody on October 23, 2021 pursuant to an Interim
119 Notice Authorizing Parole and Notice of Custody Redetermination. ICE paroled Petitioner
120 into the United States via INA § 212(d)(5)(A), and then released him on his own
121 recognizance, finding that he did not pose a danger or flight risk. No NTA was issued to
122 Petitioner.

123 Petitioner filed a Form I-589, application for asylum, withholding of removal, and
124 protection under the Convention Against Torture, with USCIS on February 3, 2022. His
125 application remains pending.

126 Since his release from ICE custody on October 23, 2021, Petitioner has established
127 a life for himself in Pennsylvania. He has a stable residence, ties to the community, and
128 stable employment. He has been working pursuant to valid work authorization, and paying
129 his taxes as required. Petitioner has a United States Citizen girlfriend whom he intends on
130 marrying. He also has a United States Citizen three-month-old daughter. Petitioner has no
131 criminal history and does not pose a danger to the community, or flight risk.

132 On December 28, 2025, Petitioner was driving. His truck had a mechanical issue,
133 and he pulled over on the highway. This led to an encounter whereby he was taken back
134 into ICE custody.

135 Petitioner's parole was revoked and he was re-detained at the Denver Contract
136 Detention Facility (Aurora) in Aurora, Colorado. Petitioner was not provided with notice
137 as to why his parole was revoked and he was being re-detained, nor was he provided with
138 a fair hearing before a neutral arbiter *prior* to his re-detention.

139 On January 6, 2025, a bond hearing was held in Petitioner's case before an
140 Immigration Judge. The Immigration Judge denied Petitioner's bond redetermination
141 request purely on jurisdictional grounds, citing *Matter of Yajure Hurtado*.³ The
142 Immigration Judge found that she did not have authority to hear Petitioner's bond request
143 merely because he is present in the United States without inspection. She did not make
144 any findings as to changed circumstances, danger, or flight risk. Additionally, it was not
145 the Respondents' burden at the bond hearing to prove by clear and convincing evidence
146 that Petitioner's circumstances have changed, and that he poses a danger or flight risk.
147 Thus, Petitioner was denied his due process right to a fair hearing before a neutral arbiter
148 as to why his prior parole and release were being revoked *prior* to his re-detention, and he
149 was prevented from challenging same.

³ *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

150 Petitioner remains in ICE custody at the Denver Contract Detention Facility
151 (Aurora). To date, ICE has not alleged, nor provided notice of, any change of
152 circumstances that would cause Petitioner's prior parole and conditions of release to be
153 revoked, any basis on which to argue he is a flight risk or danger to the community, nor did
154 they provided Petitioner with the opportunity to challenge the basis of his re-detention *prior*
155 to his re-detention.

156 Because Petitioner is being detained in ICE custody without having been afforded
157 the due process required under the law, he now seeks this Court's urgent intervention.

158 **LEGAL STANDARD**

159 The purpose of a TRO is to preserve the status quo and prevent irreparable harm
160 until the court makes a final decision on injunctive relief.⁴ To obtain a TRO, an applicant
161 must establish four elements: (1) substantial likelihood of success on the merits; (2)
162 substantial threat of irreparable harm; (3) the threatened injury outweighs any harm the
163 order might cause the defendant; and (4) the injunction will not disserve the public interest.⁵

164 **I. Petitioner Is Likely to Succeed on the Merits of his Claims.**

165 *Petitioner Is Likely to Succeed on the Merits of His Claim that His Re-Detention Based*
166 *on Nothing More than Being EWI is Unconstitutional and Unlawful.*
167

⁴ *Granny Goose Foods, Inc. v. Bhd. Of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty.*, 415 U.S. 423, 439 (1974).

⁵ *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

168 Petitioner is substantially likely to succeed on the merits of his claims because his
169 detention is unlawful under the Due Process Clause of the Fifth Amendment. Respondents'
170 practice of arbitrarily re-detaining noncitizens who were previously released from ICE
171 custody without following the proper regulations and procedures is an egregious violation
172 of noncitizens' due process rights. As numerous federal district courts have already
173 concluded, this practice is legally indefensible. The multitude of detailed legal reasons with
174 citations to supporting authority demonstrating a strong likelihood of success are included
175 in the Habeas Petition filed immediately before the instant motion, and are hereby
176 incorporated herein by reference.

177 **i.** *His Detention Violates Due Process.*

178 Noncitizens are entitled to due process of the law under the Fifth Amendment.⁶ To
179 determine whether a civil detention violates a detainee's due process rights, courts apply
180 the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Pursuant to
181 *Mathews*, courts weight the following factors:

182 (1) the private interest that will be affected by the official action;

183 (2) the risk of an erroneous deprivation of such interest through the
184 procedures used, and the probable value, if any, of additional or substitute
185 procedural safeguards; and
186

⁶ *Demore v. Kim*, 538 U.S. 510, 523 (2003).

187 (3) the Government’s interest, including the function involved and the fiscal
188 and administrative burdens that the additional or substitute procedural
189 requirement would entail.⁷
190

191 Petitioner addresses the *Mathews* factors in turn.

192 *Private interest.* It is undisputed Petitioner has a significant private interest in being
193 free from detention. “The interest in being free from physical detention” is “the most
194 elemental of liberty interests.”⁸ Moreover, when assessing the private interest, courts
195 consider the detainee’s conditions of confinement, namely, “whether a detainee is held in
196 conditions indistinguishable from criminal incarceration.”⁹

197 Petitioner has been held in ICE detention without access to a re-detention hearing
198 or the possibility of obtaining one. As in *Günaydin*, “he is experiencing all the deprivations
199 of incarceration, including loss of contact with friends and family, loss of income earning,
200 . . . lack of privacy, and, most fundamentally, the lack of freedom of movement.”¹⁰ The first
201 *Mathews* factor supports Petitioner’s claim of a Fifth Amendment violation.

⁷ *Mathews*, 424 U.S. at 335.

⁸ *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

⁹ *Günaydin v. Trump*, No. 25-cv-01151 (JMB/DLM), 2025 WL 1459154, at *7 (D. Minn. May 21, 2025) (citing *Hernandez-Lara v. Lyons*, 10 F.4th 19, 27 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)).

¹⁰ *Id.*

202 *Risk of erroneous deprivation.* Under this factor, courts must “assess whether
203 the challenged procedure creates a risk of erroneous deprivation of individuals’ private
204 rights and the degree to which alternative procedures could ameliorate these risks.”¹¹

205 There are procedures in place on when and how to revoke a noncitizen’s release.¹²
206 The DHS is merely choosing not to follow them. In so doing, they are affirmatively
207 depriving Petitioner, and those similarly situated, of access to the regulations whose
208 intended purpose are to protect his due process rights. Thus, this *Mathews* factor weighs in
209 favor of Petitioner, too.

210 *Respondents’ competing interests.* Under this factor, the court weighs the private
211 interests at stake and the risk of erroneous deprivation of those interests against
212 Respondents’ interests.¹³ Petitioner does not dispute that the government and the public
213 have a strong interest in the enforcement of the immigration laws. Ironically, it is Petitioner
214 who is asking the Court to enforce such laws as they currently exist; meanwhile, the
215 government is asking everyone to ignore multiple regulations regarding the detention and
216 re-detention of noncitizens. Petitioner is not a flight risk nor a danger to the community,
217 and he has fully complied with the conditions of his prior release. Accordingly, the

¹¹ *Id.* at *8.

¹² *See* 8 C.F.R. §§ 241.4(1)(1), (1)(2)(ii), (1)(2)(iii), (1)(2)(iv).

¹³ *Mathews*, 424 U.S. at 335.

218 government's interest in upholding the Constitution and immigration laws is fulfilled
219 through the relief sought by Petitioner's habeas petition.

220 Because all three *Mathews* factors favor Petitioner's position, this Court should
221 determine that Petitioner is likely to succeed in demonstrating that his re-detention without
222 proper notice and a re-determination hearing contravenes his due process rights under the
223 Fifth Amendment.

224 **ii.** *His Detention Violates the Relevant Regulations.*

225 The government's re-detention of Petitioner without proper notice and a re-
226 determination hearing before a neutral decisionmaker *prior* to his re-detention, is contrary
227 to the plain text of the regulations governing same.

228 Pursuant to regulation, an order of release may be revoked if a noncitizen violates
229 the conditions of his release, when it is required to enforce a removal order, or when a
230 change in circumstances indicates that the noncitizen's release is no longer appropriate. 8
231 C.F.R. §§ 241.4(1)(1), (1)(2)(ii), (1)(2)(iii), (1)(2)(iv). Only the Executive Associate
232 Commissioner of ICE has the authority to revoke a noncitizen's release, unless
233 impracticable, then the authority may be delegated to the district director of ICE. 8 C.F.R.
234 § 241.4(1)(2). Regulations require that the noncitizen be provided with notice of the reason
235 for the revocation of his release and with an opportunity to challenge those reasons. 8
236 C.F.R. § 241.4(1)(1).

237 In Petitioner’s case, ICE failed to follow these regulations, thereby resulting in the
238 loss of his personal liberty which is subject to due process protections.¹⁴

239 To date, Petitioner has not been provided with a reason for the revocation of his
240 prior release. For over four years, he was fully complaint with all conditions of his release:
241 he reported for all scheduled check-ins and he kept his address and contact information
242 updated with ICE. He has no criminal history, and has otherwise been compliant with
243 any/all applicable laws. He has been gainfully employed pursuant to valid work
244 authorization, has paid his taxes as required, and has a United States citizen daughter and
245 United States citizen girlfriend, whom he intends to marry, and for whom he cares for and
246 provides for.

247 Here, Petitioner is likely to succeed on his claim that his re-detention violates the
248 aforementioned regulations for all the reasons discussed above.

249 **II. Petitioner Faces Immediate and Irreparable Harm.**

250 A movant “must show a real and immediate threat of future or continuing injury
251 apart from any past injury.”¹⁵ Continued unlawful detention is, by its very nature, an
252 irreparable injury. The Supreme Court has affirmed that “[f]reedom from imprisonment . .

¹⁴ *Santamaria Orellana v. Baker*, No. CV 25-1788-TDC, 2025 WL 2444087, at *6 (D. Md. Aug. 25, 2025).

¹⁵ *Aransas Project v. Shaw*, 775 F.3d 641, 648 (5th Cir. 2014).

253 . lies at the heart of the liberty” protected by the Due Process Clause.¹⁶ Each day Petitioner
254 remains in custody, he is irreparably harmed by the loss of his fundamental liberty.
255 Additionally, Individuals released on parole or other forms of conditional release have a
256 liberty interest in their “continued liberty.”¹⁷ This “continued liberty” is protected by the
257 Fifth Amendment because “it includes many of the core values of unqualifies liberty....
258 And its termination inflicts a ‘grievous loss’ on the [released individual] and often on
259 others.”¹⁸

260 Absent relief from this Court, Petitioner will remain detained and denied his liberty,
261 removed from his livelihood and freedom.

262 **III. The Balance of Equities and Public Interest Weighs in Petitioner’s**
263 **Favor.**

264 The final two factors for a preliminary injunction—the balance of hardships and
265 public interest—“merge when the Government is the opposing party.”¹⁹ Here, the balance
266 of hardships weighs overwhelmingly in Petitioner’s favor. The injury to Petitioner—
267 unconstitutional detention and risk to his well-being—is severe and immediate. Moreover,
268

¹⁶ *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

¹⁷ *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

¹⁸ *Id.*

¹⁹ *Nken v. Holder*, 556 U.S. 418, 435 (2009).

269 it is always in the public interest to prevent violations of the U.S. Constitution and ensure
270 the rule of law.²⁰

271 Conversely, the harm to Respondents is nonexistent. Petitioner does not pose a
272 danger to the community or a flight risk. Furthermore, the public interest is served by
273 preserving “life, liberty, and happiness” and by preventing the waste of taxpayer resources
274 on unlawful and unnecessary detention.

275 **IV. Petitioner Seeks the Same Injunctive Relief Being Granted to Nearly**
276 **Every Similarly Situated Habeas Petitioner.**

277
278 Petitioner seeks injunctive relief to maintain the status quo by requiring ICE to
279 immediately release him and reinstate the prior conditions of his release. The status quo
280 ante litem is “the last uncontested status which preceded the pending controversy.” Petitioner
281 was previously released from DHS custody on his own recognizance after they determined
282 that he did not pose a danger or a flight risk. For over four years, from October 23, 2021 to
283 December 28, 2025, Petitioner complied with the conditions of his release: he attended
284 scheduled ICE check-ins and kept his address and contact information current with DHS.
285 He has not been arrested or charged with any crime while in the United States. His release
286 and constant compliance with the terms of his release was the status quo. Injunctive relief is,
287 therefore, appropriate in Petitioner’s case so that he may be returned to same.

²⁰ *Id.* at 436 (describing public interest in preventing noncitizens “from being wrongfully removed, particularly to countries where they are likely to face substantial harm”); *see also Rosa v. McAleenan*, 583 F. Supp. 3d 840 (S.D. Tex. 2019).

288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court immediately grant his petition and this motion, and issue a Temporary Restraining Order and/or Preliminary Injunction ordering his immediate release from ICE custody. Petitioner further requests that he be released, and that his attorney be provided with notice of the date, time, and location of his release. Lastly, Petitioner requests that DHS be enjoined from re-detaining him again in the future unless, *prior* to any future re-detention, they follow the regulations in affording him notice and a re-determination hearing before a neutral decisionmaker where it is Respondents' burden to show by clear and convincing evidence that circumstances have changed, and that Petitioner poses a flight risk or danger to the community.

RESPECTFULLY SUBMITTED,

/s/ Dan Gividen
Dan Gividen
Texas State Bar No. 24075434
18208 Preston Rd., Ste. D9-284
Dallas, TX 75252
972-256-8641
Dan@GividenLaw.com