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

9 NIKOLAI ZUBRIK,
10
11 Plaintiff,

Case No.: 3:26-cv-00320-TWR-BJW

12 vs.

13 TRVERSE TO PETITION FOR
14 WRIT OF HABEAS CORPUS

15 CHRISTOPHER LAROSE, warden of
16 Otay Mesa Detention Center
17 DANIEL A. BRIGHTMAN, San Diego
18 Field Office Director, Immigration and
19 Customs Enforcement and Removal
20 Operations (“ICE/ERO”);
21 TODD LYONS, Acting Director of
22 Immigration Customs Enforcement
23 (“ICE”);
24 KRISTI NOEM, Secretary of the
25 Department of Homeland Security
26 (“DHS”);
27 PAMELA BONDI, Attorney General of
28 the United States,
U.S. DEPARTMENT OF HOMELAND
SECURITY;
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;

Respondents.

1 **STATEMENT OF FACTS**

2 Russian can be a dangerous place for those who oppose government
3 policy and to those who dissent. It can be especially dangerous for those who
4 supported Navalny and his group of protesters. Their anti-corruption work put
5 many in danger, including the Petitioner, Nikolai Zubrik.
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8 In 2023, after return from an international trip, the government began
9 investigating Mr. Zubrik's politics and beliefs. They began to contact his family
10 members warning that they were investigating him. Eventually Mr. Zubrik came to
11 believe that life for him and his family was no longer safe in Russia. He made
12 plans to escape and come to America to seek refuge.
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15 Petitioner came to a United States port of entry on September 28,
16 2023 pursuant to a CBP One appointment. He was held at Imperial Detention
17 Center for approximately a month. He was given a Credible Fear Interview which
18 he passed. He was then paroled into the United States so he could file for asylum
19 and any other relief available to him. Respondents also commenced removal
20 proceedings against him in immigration court, entitling him to present his asylum
21 claim with the attendant due process rights under 8 U.S.C. § 1229a. He filed his
22 asylum application before the one-year bar date.
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26 On November 13, 2025, the Petitioner went to his local ICE office for
27 a regularly scheduled ICE check in. To his surprise and dismay, he was put in
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1 handcuffs and led away to detention. Respondents did not make an individualized
2 determination that the petitioner was a flight risk or a danger to the community. He
3 asked why he was being detained. He was not told why he was arrested. He was
4 not told what law he had violated. With no cause and no explanation and no
5 warrant he was put in the ICE vehicle and transferred to the ICE Detention Center
6 at Otay Mesa. The government's response does not refute the statement of facts
7 and any refutation is therefore waived.

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11 **The Petitioner was illegally detained and must be released.**

12 **Bond is not the appropriate remedy.**

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14 The government's response alleges that, pursuant to *Maldonado Bautista v.*
15 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.R.D. ----, 2025 WL 3289861
16 (C.D. Cal. Nov. 20, 2025) "Petitioner is detained under 8 U.S.C. § 1226(a) and is
17 entitled to an order from this Court directing a bond hearing be held pursuant to 8
18 U.S.C. § 1226(a)." ECF 5 p.2

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21 The process for revoking Mr. Zubrik's parole is that it must be
22 terminated upon written notice after an individualized determination that the
23 humanitarian purposes no longer apply. 8 C.F.R. § 212.5(e)(2)(i). However, the
24 government's arrest and detention of Mr. Zubrik was not authorized under color of
25 any law. His arrest and detention were a violation of his right to due process
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1 guaranteed by the Fifth Amendment to the Constitution and was a violation of the
2 Administrative Procedures Act.
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4 Count One of the Petition set out in detail how his detention was a violation
5 of due process because the government did not follow its own procedural rules
6 regarding revocation of parole. In addition, the government did not afford the
7 petitioner any pre-detention notice or hearing regarding the termination of his
8 liberty interest he had accrued during the time he was on parole. The government's
9 response is silent on these issues. As a result, the government has waived any
10 defense to this claim. The appropriate remedy for this violation of due process is
11 not a bond hearing. The appropriate remedy is Mr. Zubrik' immediate release from
12 custody.
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16 Count Two of the Petition set out in detail how his detention was a violation
17 of the APA because the government did not follow its own rules regarding
18 revocation of parole. The government's response is silent on this issue. As a result,
19 the government has waived any defense to this claim. The appropriate remedy for
20 this violation of the APA is not a bond hearing. The appropriate remedy is Mr.
21 Zubrik' immediate release from custody.
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25 If Mr. Zubrik' detention was unlawful, *ab initio*, he should not be required to
26 post a bond and, in effect, pay a ransom to be released from this illegal detention.
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1 Nothing in the government's response indicates that Mr. Zubrik has somehow
2 become a flight risk or a danger to the community.
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4 In addition, the current practice at Otay Mesa Detention Center is, upon
5 release, to immediately enroll detainees in an Alternative to Detention program and
6 put an ankle monitor on them before their actual release. This is also done without
7 any individualized consideration of whether the detainee is a potential flight risk or
8 a danger to the community. Mr. Zubrik has been at liberty for quite a while prior to
9 his detention and should not be enrolled in any ATD program and especially
10 should not be forced to wear an ankle monitor.
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13 CONCLUSION

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15 Petitioner respectfully requests this Court to grant the following:

16 (1) Declare that Petitioner's detention without an individualized
17 determination violates the Due Process Clause of the Fifth Amendment and the
18 Administrative Procedures Act;
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20 (2) Issue a Writ of Habeas Corpus ordering Respondents to release
21 Petitioner from custody;
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23 (3) Issue and Order prohibiting the Respondents from enrolling the
24 Petitioner in any Alternative to Detention program, specifically barring them from
25 requiring an ankle monitor;
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27 (4) In the alternative, order a bond hearing for the Petitioner.
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1 (5) Grant any further relief this Court deems just and proper.

2 Dated: January 26, 2026

3 /s/ Brian J. McGoldrick
4 BRIAN J. MCGOLDRICK, ESQ.
5 Counsel for Petitioner
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CERTIFICATE OF SERVICE

I, Brian J. McGoldrick, CERTIFY

I am over the age of 18 and not a party to this matter. My business address is 4916 Del Mar Avenue, San Diego, CA 92107. On January 23, 2026, I served a copy of this

TRAVERSE TO PETITION FOR WRIT OF HABEAS CORPUS

by the method and to the parties listed below:

On January 23, 2026, I accessed the electronic mailing list for CM/ECF users in this case and representatives of all parties are CM/ECF users and are noticed as follows:

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