

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the Southern District of California

AIGUL KAZYBAYEVA

Petitioner

v.

WARDEN OF OTAY MESA DETENTION CENTER

Respondent

(name of warden or authorized person having custody of petitioner)

Case No. '26CV0421 GPC MMP (Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

- 1. (a) Your full name: AIGUL KAZYBAYEVA (b) Other names you have used: N/A
2. Place of confinement: (a) Name of institution: OTAY MESA DETENTION CENTER (b) Address: 7488 CALZADA DE LA FUENTE SAN DIEGO, CA 92154 (c) Your identification number: [redacted]
3. Are you currently being held on orders by: [x] Federal authorities [] State authorities [] Other - explain:
4. Are you currently: [] A pretrial detainee (waiting for trial on criminal charges) [] Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime If you are currently serving a sentence, provide: (a) Name and location of court that sentenced you: (b) Docket number of criminal case: (c) Date of sentencing: [x] Being held on an immigration charge [] Other (explain):

Decision or Action You Are Challenging

- 5. What are you challenging in this petition: [] How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- Pretrial detention
- Immigration detention
- Detainer
- The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- Disciplinary proceedings
- Other (*explain*): _____

6. Provide more information about the decision or action you are challenging:
- (a) Name and location of the agency or court: OTAY MESA DETENTION CENTER
7488 CALZADA DE LA FUENTE, SAN DIEGO, CA 92154
 - (b) Docket number, case number, or opinion number: _____
 - (c) Decision or action you are challenging (*for disciplinary proceedings, specify the penalties imposed*):
Detention without bond hearing, because Immigration Judge "has no jurisdiction".
SEE ATTACHED EXHIBIT "A"-ORDERS ON DENYING BOND.
 - (d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. **First appeal**
- Did you appeal the decision, file a grievance, or seek an administrative remedy?
- Yes No
- (a) If "Yes," provide:
- (1) Name of the authority, agency, or court: _____
 - (2) Date of filing: _____
 - (3) Docket number, case number, or opinion number: _____
 - (4) Result: _____
 - (5) Date of result: _____
 - (6) Issues raised: _____
- _____
- _____
- _____
- (b) If you answered "No," explain why you did not appeal: _____
- _____

8. **Second appeal**
- After the first appeal, did you file a second appeal to a higher authority, agency, or court?
- Yes No

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(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: _____
- (2) Date of filing: _____
- (3) Docket number, case number, or opinion number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: _____
- (2) Date of filing: _____
- (3) Docket number, case number, or opinion number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes No

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If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

Yes No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 11/24/2025
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?

Yes No

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If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Date of filing: _____
- (3) Case number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____
- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____

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Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Due process clause of the Fifth Amendment of the US Constitution.

Detention without bond hearing.

As a remedy, this Court should conduct its own review of Petitioners custody, or at least, order ICE to review Petitioner's custody under the standard articulated in ICE custody.

(a) Supporting facts (Be brief. Do not cite cases or law.):

Petitioner entered the US on 07/09/2022 with her daughter Dariya Karmamoldoyeva and 2 other children , and was granted parole. Petitioner has been residing and working in the US since 07/09/2022. On 11/24/2025, Petitioner and her daughter Dariya Karmamoldoyeva inadvertently crossed the military base as an Uber driver, wherein they have detained. On 11/24/2025, ICE terminated Petitioner's and her daughter Dariya Karmamoldoyeva parole without notice. Petitioner has complied with all conditions of her parole.

(b) Did you present Ground One in all appeals that were available to you?

Yes

No

GROUND TWO: VIOLATION OF IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. SECTION 1231(a)(6)

8 U.S.C. SECTION 1231(a)(6), as interpreted by the Supreme Court in Zadvydas.

Freedom from Imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects." Zadvydas, 533 U.S. at 690

(a) Supporting facts (Be brief. Do not cite cases or law.):

Relief Petitioner is entitled to is not limited to a bond hearing; Petitioner has a protected liberty interest in remaining out of custody. As Petitioner has a protected liberty interest, the Due Process Clause requires procedural protections before she can be deprived of that interest. Government's revocation of Petitioner's parole without notification, reasoning, or an opportunity to heard, denied Petitioner of her due process rights.

(b) Did you present Ground Two in all appeals that were available to you?

Yes

No

GROUND THREE: ARBITRARY AND CAPRICIOUS AGENCY ACTION UNDER THE ADMINISTRATIVE PROCEDURE ACT 5 U.S.C. SECTION 706(2)(A). Courts must "hold unlawful and set aside agency action" that is "arbitraty, caprisious, an abuse of discretion, or otherwise in accordance with law." 5 U.S.C. SECTION 706(2)(A).

(a) Supporting facts (Be brlef. Do not cite cases or law.):

The risk of an erroneous deprivation of such interest is high as Petitioner's parole was revoked without providing a reason for revocation or giving her an opportunity to be heard. Since DHS's initial determination that Petitioner be paroled because she posed no danger to the community and was not a flight risk, there is no evidence that this have been changed. She has a fixed address where she'll live with her children and husband.

(b) Did you present Ground Three in all appeals that were available to you?

Yes

No

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GROUND FOUR: Petitioner's health condition has been deteriorating.

(a) **Supporting facts** *(Be brief. Do not cite cases or law.):*

Detention exacerbated Petitioner's preexisting condition.
Continued detention causes more severe problems.

(b) Did you present Ground Four in all appeals that were available to you?

Yes No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: Assume jurisdiction over this matter; issue an order to show why this petition should not be granted within (3) days; declare that Petitioner's detention/challenged action violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. section 1231 (a)(96) and violates Administrative Procedure Act; Issue a Writ of Habeas Corpus ordering Respondent to be released; award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; grant any further relief as Court deems just and proper.

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Declaration Under Penalty Of Perjury

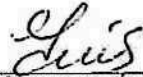
If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 01/23/2026



Signature of Petitioner



Signature of Attorney or other authorized person, if any



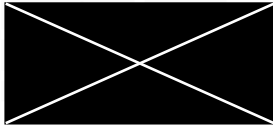
UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OTAY MESA IMMIGRATION COURT

Respondent Name:

KAZYBAYEVA, AIGUL

To:

Zohrabyan, Naira



A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

01/14/2026

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

Denied, because

The Court lacks jurisdiction. Matter of Q. Li, 29 I&N Dec. 66 (BIA 2025) - An applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1225(b) (2018), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a) (2018).

Alternatively, respondent does not appear to be a member of the Bond Eligible Class certified in Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d -- -, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025).

Granted. It is ordered that Respondent be:

- released from custody on his own recognizance.
- released from custody under bond of \$
- other:

Other:



Immigration Judge: Grande, Guy 01/14/2026


Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved
Appeal Due: 02/13/2026

Certificate of Service

This document was served:

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To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : KAZYBAYEVA, AIGUL | A-Number : 

Riders:

Date: 01/14/2026 By: Alilin, Vanessa, Court Staff



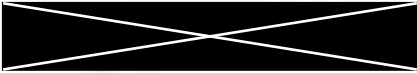
**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OTAY MESA IMMIGRATION COURT**

Respondent Name:

KAZYBAYEVA, AIGUL

To:

Knutson, Yana



A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

12/10/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

- Denied, because

- Granted. It is ordered that Respondent be:
 - released from custody on his own recognizance.
 - released from custody under bond of \$
 - other:

- Other:
Withdrawn at respondent's counsel's request



Immigration Judge: Grande, Guy 12/10/2025

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved


Appeal Due:

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : KAZYBAYEVA, AIGUL | A-Number : 

Riders:

Date: 12/10/2025 By: GONZALEZ, EMELY, Court Staff