

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Kirill Zavialov,

Petitioner,

v.

Pamela Bondi, Attorney General,

Kristi Noem, Secretary, U.S. Department
of Homeland Security,

Todd M. Lyons, Acting Director of
Immigration and Customs Enforcement,

David Easterwood, Acting Director, St.
Paul Field Office Immigration and
Customs Enforcement,

Respondents.

Case No. 0:26-cv-00899

**AMENDED VERIFIED PETITION
FOR WRIT OF
HABEAS CORPUS**

Expedited Handling Requested

INTRODUCTION

1. Petitioner, Mr. Kirill Zavialov, (“Mr. Zavialov”), by and through undersigned counsel hereby files this amended petition for a writ of habeas corpus and a complaint for declaratory and injunctive relief to require U.S. Immigration and Customs Enforcement (“ICE”) to release Mr. Zavialov from ICE detention, or in the alternative to enjoin their transfer to a facility outside of Minnesota.

JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (federal employee mandamus action); 28 U.S.C.

§ 1651 (All Writs Act); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, c. 2 of the U.S. Constitution (“Suspension Clause”); 5 U.S.C. § 702 (waiver of sovereign immunity); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

3. Federal question jurisdiction exists because Mr. Zavialov seeks to challenge this custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

4. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by the Department of Homeland Security (“DHS”). *Demore v. Kim*, 538 U.S. 510-516-17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018); and *Nielsen v. Preap*, 139 S. Ct. 954, 961-63 (2019).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Mr. Zavialov is detained within the District of Minnesota.

6. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A), because Respondents are operating in this district.

PARTIES

7. Petitioner is a citizen of Russia and a resident of Woodbury, Minnesota, who is currently being held at the Bishop Henry Whipple Building in Fort Snelling, Minnesota. Petitioner is under the direct control of the respondents and has no scheduled release date.

8. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice.

Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Mr. Zavalov.

9. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the Fort Snelling ICE Field Office, and is legally responsible for pursuing Mr. Zavalov's detention and removal. As such, Respondent Noem is a legal custodian of Mr. Zavalov.

10. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention.

11. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the Fort Snelling Field Office for ICE within DHS. In that capacity, Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Mr. Zavalov. The address for the Fort Snelling Whipple Building is 1 Federal Drive, Fort Snelling, Minnesota 55111.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

12. Petitioner is a resident of Woodbury and a citizen of Russia, and has lived in the United States since September 9, 2023 when he entered at a port of entry seeking asylum.

13. Mr. Zavalov has a pending asylum application with the Immigration Court and does not have a final order of removal. Prior to his detention, Mr. Zavalov retained undersigned counsel as his attorney of record with the Immigration Court in Fort Snelling, Minnesota.

14. On January 12, 2024, the Department of Homeland Security's ICE office released Mr. Zavalov from their custody pursuant to 8 U.S.C. § 1182(d)(5)(A).

15. Since his release, Mr. Zavalov has been employed pursuant to lawful employment authorization working the night shift, and has no criminal history. He complied with the terms of his parole and later made a good faith effort to comply with conditions imposed by the Intensive Supervision Appearance Program (ISAP) after his initial release from ICE custody. ISAP conditions included taking a photo of himself on a regular basis using an ISAP phone application.

16. On December 25, 2025 and January 2, 2026, Mr. Zavalov overslept his alarm and did not take a picture of himself during the prescribed time required by ISAP. Mr. Zavalov communicated with ISAP officers after the December 25th and January 2nd incident, explaining that because he worked overnight, he was asleep and had not heard the alarm he had set so he could take the picture of himself and send it to ISAP. The ISAP officer warned Mr. Zavalov that if he failed to take his picture the next time, that they would put an electronic bracelet on him. Subsequently, Mr. Zavalov strictly complied with the ISAP conditions.

17. Respondent ICE arrested Mr. Zavalov at the ISAP Office in Bloomington on January 30, 2026 after Mr. Zavalov appeared at his scheduled, in person, check-in

with ISAP. Mr. Zavialov was not informed that the purpose of his check-in would be for the purpose of detaining him.

18. This arrest is part of an operation in Hennepin and Ramsey counties called “Operation Metro Surge.” This operation has involved hundreds of masked, unidentified individuals in unmarked vehicles (many with illegally covered or mismatched license plates) holding themselves out as ICE agents but largely refusing to identify themselves by name or to present warrants, physically assaulting pedestrians, pepper spraying and arresting citizen observers, hitting passersby with vehicles, and generally attempting to take as many immigrants as possible into custody regardless of the constitutionality of their actions. *See, e.g., Compl., Tincher et. al. v. Noem*, No. 0:25-cv-04669. (D. Minn. 12/17/2025).

19. Since the operation began on December 1, 2025, the number of immigration officials in the twin city metro area has increased fourfold, and with them these new agents have brought a similarly massive increase in unconstitutional, unlawful, and downright violent behavior towards citizens and non-citizens alike. The people of Minnesota—of all races, nationalities, and citizenship status—are united in their shock and fear at the events of the past six weeks, and are begging for the attacks on their community to stop.

20. Given the massive volume of perceived non-citizens being taken off the streets, Respondents are running out of physical space to continue detaining people. Detainees are being held in cramped quarters at the federal building, before being

quickly sent to remote locations across Minnesota or to facilities as far away as El Paso, Texas.

21. In Mr. Zavialov's case, Petitioner's has been brought to the Fort Snelling Whipple Building located in Fort Snelling, Minnesota.

22. Detaining Mr. Zavialov is an expensive and pointless endeavor as he has consistently complied with all supervision requirements following his release from ICE custody in 2024 and no new facts here warrant his re-detention. Since his 2024 release, Mr. Zavialov has generally complied with his conditions of release. His recent lapse in compliance was not intentional, as Mr. Zavialov simply slept through the alarm he had set to remind himself to take his ISAP photo. Mr. Zavialov respectfully seeks the opportunity to return home and to continue following the legal processes set up by Congress and DHS for immigrants to seek status in this country, including protection under the US asylum laws.

23. Pending the adjudication of this Petition, Mr. Zavialov further seeks an order restraining the Respondents from transferring Petitioner to a location outside of the State of Minnesota, so that the jurisdiction of this Court is not impeded, and so that Petitioner remains accessible to legal counsel and loved ones located in Minnesota.

STANDARD OF LAW

24. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The "Great Writ" has been referred to by US Courts as "perhaps the most important writ known to the constitutional law of

England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law. 28 U.S.C. § 22441(c)(3), which should be granted if the petitioner meets their burden of proof—a preponderance of evidence. *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025).

25. Detained immigrants petitioning under 28 U.S.C. § 2241 face no statutory exhaustion requirements. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Nor is a judicially imposed prudential exhaustion requirement appropriate where, as here: time is of the essence, facts are largely undisputed, and the parties’ disagreement is based on a legal conclusion. *Id.* at 967-68.

26. Other courts in the Eighth Circuit have similarly declined to require prudential exhaustion when evaluating a detained immigrant’s habeas corpus petition under similar circumstances—to address a question of statutory interpretation that does not require developing a factual record, and where the agency is demonstrably unlikely to reverse its course. *Giron Reyes v. Lyons*, 2025 WL 2712427 at *3 (N.D. Iowa Sept. 23, 2025).

27. The Due Process Clause of the Fifth Amendment guarantees that “[n]o person shall be . . . deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V. “The essence of due process is the requirement that a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it.” *Mathews*, 424 U.S. at 348-49 (quoting *Joint Anti-Fascist Comm. v. McGrath*,

341 U.S. 123, 171-72, 71 S. Ct. 624, 95 L. Ed. 817 (Frankfurter, J., concurring)). "[D]ue process is flexible and calls [only] for such procedural protections as the particular situation demands." *Morrissey v. Brewer*, 408 U.S. 471, 481, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972). "[T]he Due Process Clause applies to all 'persons' within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

28. Most recently in *Ihor D. v. Noem*, No. 26-CV-351 (JMB/DTS) (D. Minn. Jan. 20, 2026) the Court found the government violated due process where a person was previously released on parole, had not violated terms of the release, and was re-arrested without explanation or paperwork concerning removal or revocation of parole. *See also Rodriguez-Acuero v. Almodovar*, No. 2:25-CV-6065 (NJC), 2025 WL 3314420 (E.D.N.Y. Nov. 28, 2025). While we concede, Mr. Zavialov did miss taking his photo twice for ISAP recently, these two small missteps do not support his detention. In fact, ISAP officers themselves had simply warned him that should he have another infraction, that the next step would be to wear an electronic bracelet, not detention.

29. 8 C.F.R. § 241.4(l) provides in relevant part regarding revocation of parole that:

Upon revocation, the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.

30. Mr. Zavialov therefore asks the Court to order his immediate release because a failure to comply with the revocation requirements of § 241.4(l) means that the detainee “must be released.” *K.E.O. v. Woosley*, 2025 U.S. Dist. LEXIS 172361, *20, 2025 LX 387195, 2025 WLii 2553394 (W.D. Ky. 2025).

31. Here, Respondents failed to provide Mr. Zavialov with due process of law when they revoked his parole in violation of his due process rights.

CLAIM FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

Respondents are Confining Petitioner without any Semblance of Due Process.

32. Petitioner realleges and incorporates by reference the allegations contained above.

33. Mr. Zavialov has due process rights as a resident of the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

34. Federal courts use the three-part test in *Mathews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

35. Here, all three factors favor the petitioner.

36. First, Mr. Zavialov has a significant private interest at stake. A person's interest in freedom from physical detention is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); see also *Zadvydas*, 533 U.S. at 690, 121 S.Ct. 2491 (“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”). Mr. Zavialov is wrongfully confined, a direct attack on Petitioner’s liberty interests.

37. Second, Mr. Zavialov will continue to be deprived of this interest if the current procedure (detaining Mr. Zavialov without first providing notice of parole revocation) is followed. There is no rational explanation for detaining Mr. Zavialov without providing notice of parole revocation as he was law abiding and largely compliant with the conditions of his release.

38. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Mr. Zavialov poses no safety threats to the community. Releasing Petitioner, would in fact *save* the government the resources and expense of continued imprisonment.

39. The placement of Mr. Zavialov in detention pending the resolution of ongoing immigration proceedings violates Zavialov’s constitutional rights to due process guaranteed in the Fifth Amendment.

REMEDY

40. An available remedy for Respondents' unlawful conduct as outlined in this complaint is for Petitioner to be immediately released.

41. A custody determination has already been made. On January 12, 2024, the Department of Homeland Security's ICE office paroled Mr. Zavialov from custody under 8 U.S.C. § 1182(d)(5)(A). In that intervening time, no facts appear to indicate that this initial determination to release Petitioner was somehow insufficient, or that Petitioner's circumstances or actions have changed substantially so as to now suddenly warrant re-detention. There is no legal basis for Respondents to revoke Petitioner's parole without notice.

42. Mr. Zavialov therefore asks the Court to order his immediate release because a failure to comply with the revocation requirements of § 241.4(l) means that the detainee "must be released." *K.E.O. v. Woosley*, 2025 U.S. Dist. LEXIS 172361, *20, 2025 LX 387195, 2025 WLii 2553394 (W.D. Ky. 2025).

REQUEST FOR ORDER TO SHOW CAUSE

43. Within three days, unless good cause for a delay is shown, "[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

PRAYER FOR RELIEF

WHEREFORE, Mr. Zavialov prays that this Court grant the following relief;

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Respondents from transferring Petitioner out of the District of Minnesota pending the duration of these proceedings;
- (3) Issue an Order requiring Respondents to show cause as to why Petitioner should not be released immediately;
- (4) Issue a writ of habeas corpus requiring Respondents to release Petitioner within 24 hours because his detention violated the Due Process Clause of the Fifth Amendment; and
- (5) Grant any other and further relief that this Court may deem just and proper.

Respectfully submitted,

Date: January 31, 2026

/s/ Malinda Schmiechen
Malinda Schmiechen
Aust Schmiechen, P.A.
MN Bar No. 0343729
825 Nicollet Mall, Suite 623
Minneapolis, MN 55402
(612)724-4860
Malinda@austschmiechen.com

Attorney for Petitioner

**Verification by Someone Acting on
Petitioner's Behalf Pursuant to 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I have discussed the factual assertions in this petition with Petitioner's family, who are also acting on Petitioner's behalf and who I understand to have personal knowledge of the facts alleged herein. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

Date: January 31, 2026

/s/ Malinda Schmiechen
Malinda Schmiechen