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6 **UNITED STATES DISTRICT COURT**  
7 **NORTHERN DISTRICT OF CALIFORNIA**  
8 **SAN FRANCISCO DIVISION**

9 MARIA KHARITONOVA,

10 Petitioner,

11 v.

12 SERGIO ALBARRAN, Field Office Director of  
13 the San Francisco Immigration and Customs  
Enforcement Office; TODD LYONS, Acting  
14 Director of United States Immigration and  
Customs Enforcement; KRISTI NOEM,  
15 Secretary of the United States Department of  
Homeland Security, PAMELA BONDI,  
16 Attorney General of the United States, acting in  
their official capacities,

17  
18 Respondents.  
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CASE No. 26-1362

**PETITION FOR WRIT OF HABEAS  
CORPUS AND COMPLAINT FOR  
ADMINISTRATIVE PROCEDURE  
ACT RELIEF**

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3 **INTRODUCTION**

4 Petitioner, through undersigned counsel, respectfully petitions this Court for a Writ of  
5 Habeas Corpus pursuant to 28 U.S.C. § 2241 and requests emergency injunctive relief to prevent  
6 her imminent transfer by Immigration and Customs Enforcement (ICE) outside of this District.  
7 In support, Petitioner alleges as follows:

8 **INTRODUCTION**

- 9 1. Petitioner Maria Kharitonova (“Petitioner”) is a noncitizen currently detained at the San  
10 Francisco Field Office of Immigration and Customs Enforcement (ICE), located within  
11 the jurisdiction of this Court. She was arrested on February 13, 2026, while entering the  
12 house where she works as a childcare provider.
- 13 2. Petitioner is not aware of any order of removal issued against her, and Respondents have  
14 not provided notice of charges or a lawful basis for her arrest and confinement.
- 15 3. Petitioner has resided in the United States since December 2012, has established strong  
16 family and community ties in California, and has filed a Form I-589, Application for  
17 Asylum and for Withholding of Removal.
- 18 4. ICE has indicated its intent to transfer Petitioner imminently to a distant detention  
19 facility, far from her community and counsel. Such a transfer could occur within hours or  
20 days, consistent with ICE’s usual practices.
- 21 5. Hours after her arrest, Petitioner did not appear in ICE’s Online Detainee Locator  
22 System, impeding her constitutional and statutory rights, and making it difficult for  
23 counsel and family to locate her and provide effective assistance.
- 24 6. If transferred, Petitioner will suffer irreparable harm, including the likely loss of  
25 meaningful access to counsel and family and the risk of life-threatening health  
26 complications if her high blood pressure and chronic kidney problems go untreated, as  
27 well as severe interference with her ability to understand and contest her custody or  
28 removal status.
7. Petitioner therefore seeks emergency intervention by this Court through a writ of habeas  
corpus under 28 U.S.C. § 2241 to prevent her transfer and to order her immediate release

1 from unlawful detention while she pursues her rights under the Immigration and  
2 Nationality Act (INA) and the U.S. Constitution.

3 **JURISDICTION AND VENUE**

4 8. This case arises under the Immigration and Nationality Act (INA), 8 U.S.C. §§ 1101–  
5 1538, and its implementing regulations; the Administrative Procedure Act (APA), 5  
6 U.S.C. §§ 500–596, 701–706; and the U.S. Constitution.

7 9. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28  
8 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States  
9 Constitution (Suspension Clause).

10 10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq.,  
11 the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28  
12 U.S.C. § 1651; Federal Rule of Civil Procedure 65; and the Court’s inherent equitable  
13 powers.

14 11. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(e) because  
15 Respondents are U.S. agencies and officers of the United States acting in their official  
16 capacities or because they reside in this district. In addition, a substantial part of the  
17 events or omissions giving rise to the claims occurred in this District, Petitioner is  
18 detained in this District, and no real property is involved in this action.

19 **REQUIREMENTS OF 28 U.S.C. § 2243**

20 12. The Court must grant the petition for writ of habeas corpus or issue an order to show  
21 cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief.  
22 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require  
23 respondents to file a return “within three days unless for good cause additional time, not  
24 exceeding twenty days, is allowed.” Id. (emphasis added).

25 13. Courts have long recognized the significance of the habeas statute in protecting  
26 individuals from unlawful detention. The Great Writ has been referred to as “perhaps  
27 the most important writ known to the constitutional law of England, affording as it does  
28 a swift and imperative remedy in all cases of illegal restraint or confinement.” Fay v.

1 Noia, 372 U.S. 391, 400 (1963) (emphasis added).

2 **PARTIES**

3 14. Maria Kharitonova is a citizen of Russia, lawfully admitted to the United States on a B-  
4 2 visitor visa in December 2012. Petitioner has a pending Form I-589, Application for  
5 Asylum and for Withholding of Removal.

6 15. Respondent Craig Meyer is the Field Office Director for ICE Enforcement and Removal  
7 Operations (ERO) in San Francisco, California. As the ERO San Francisco Field Office  
8 Director, he is Petitioner's immediate custodian, responsible for his detention at San  
9 Francisco Field Office, and the person with the authority to authorize her detention or  
10 release. Respondent Meyer is sued in his official capacity.

11 16. Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official  
12 Performing the Duties of the Director of ICE, he is responsible for the administration  
13 and enforcement of the immigration laws of the United States; routinely transacts  
14 business in this District; and is legally responsible for pursuing any effort to detain and  
15 remove the Petitioner. Respondent Lyons is sued in his official capacity.

16 17. Respondent Kristi Noem is the Secretary of Homeland Security and has ultimate  
17 authority over DHS. In that capacity and through her agents, Respondent Noem has  
18 broad authority over and responsibility for the operation and enforcement of the  
19 immigration laws; routinely transacts business in this District; and is legally responsible  
20 for pursuing any effort to detain and remove the Petitioner. Respondent Noem is sued in  
21 her official capacity.

22 18. Respondent Pamela Bondi is the Attorney General of the United States and the most  
23 senior official at the Department of Justice. In that capacity and through her agents, she  
24 is responsible for overseeing the implementation and enforcement of the federal  
25 immigration laws. The Attorney General delegates this responsibility to the Executive  
26 Office for Immigration Review, which administers the immigration courts and the BIA.  
27 Respondent Bondi is sued in her official capacity.

28 **STATEMENT OF FACTS**

1 19. Petitioner Maria Kharitonova is a citizen of Russia who entered the United States on a  
2 B-2 nonimmigrant visitor visa in December 2012.

3 20. Petitioner was lawfully admitted and intended to comply with the conditions of her  
4 nonimmigrant status.

5 21. Within one year of her arrival in the United States, Petitioner filed her Form I-589,  
6 Application for Asylum and Withholding of Removal, with U.S. Citizenship and  
7 Immigration Services (“USCIS”). On July 16, 2014, her asylum case was referred to the  
8 Executive Office for Immigration Review (“EOIR”), which issued her a Notice to  
9 Appear.

10 22. Petitioner has resided continuously in the United States since that time, maintaining  
11 good moral character and establishing strong community ties in the San Francisco Bay  
12 Area. She has attended all scheduled hearings and, at the time of her detention, was  
13 preparing to appear for her merits hearing scheduled on December 22, 2026.

14 23. Petitioner has not received any written notice of removal proceedings, nor is she aware  
15 of any final order of removal issued against her by the DHS or EOIR.

16 24. Petitioner’s continued detention therefore lacks a lawful basis. Petitioner has no  
17 criminal history, poses no flight risk, and remains fully eligible for asylum.

18 25. Petitioner’s confinement deprives her of liberty and imposes severe hardship and risk to  
19 her, given her life-threatening medical conditions. Her detention also prevents  
20 meaningful access to counsel and interferes with her ability to pursue her pending  
21 immigration case.

22 26. Petitioner seeks her immediate release from custody under 28 U.S.C. § 2241 because  
23 her detention violates the Immigration and Nationality Act, the Due Process Clause of  
24 the Fifth Amendment, and the Administrative Procedure Act, as it constitutes arbitrary  
25 and capricious agency action not in accordance with law.

**LEGAL BACKGROUND**

***Detention After Prior Liberty Interest***

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27. The Constitution establishes due process rights for “all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas*, 533 U.S. at 693). These due process rights are both substantive and procedural.

28. First, “[t]he touchstone of due process is protection of the individual against arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the exercise of power without any reasonable justification in the service of a legitimate government objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

29. These protections extend to noncitizens facing detention, as “[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, “[f]reedom 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.” *Zadvydas*, 533 U.S. at 690.

30. Substantive due process requires that all forms of civil detention—including immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen’s appearance at immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

31. Second, the procedural component of the Due Process Clause prohibits the government from imposing even permissible physical restraints without adequate procedural safeguards.

1 32. Generally, “the Constitution requires some kind of a hearing before the State deprives a  
2 person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so  
3 even in cases where that freedom is lawfully revocable. See *Hurd v. D.C., Gov’t*, 864  
4 F.3d at 683 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-  
5 parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*,  
6 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S.  
7 471 (1972) (same, in parole context).

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9 33. After an initial release from custody on conditions, even a person paroled following a  
10 conviction for a criminal offense for which they may lawfully have remained incarcerated  
11 has a protected liberty interest in that conditional release. *Morrissey* at 408 U.S. at 482.  
12 As the Supreme Court recognized, “[t]he parolee has relied on at least an implicit  
13 promise that parole will be revoked only if he fails to live up to the parole conditions.” *Id.*  
14 “By whatever name, the liberty is valuable and must be seen within the protection of the  
15 [Constitution].” *Id.*

16 34. This reasoning applies with equal if not greater force to people like Petitioner. After all,  
17 noncitizens living in the United States have a protected liberty interest in their ongoing  
18 freedom from confinement. See *Zadvydas*, 533 U.S. at 690. And, “[g]iven the civil  
19 context [of immigration detention], [the] liberty interest [of noncitizens released from  
20 custody] is arguably greater than the interest of parolees.” *Ortega v. Bonnar*, 415 F.  
21 Supp. 3d 963, 970 (N.D. Cal. 2019). Applying this principle to Petitioner’s case, the  
22 government lawfully permitted her to enter the country by issuing her a B1/B2 Visa. This  
23 necessarily entailed a finding that she was not a danger.

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25 35. Furthermore, the government made a second series of decisions not to detain Petitioner  
26 when it processed her asylum application, took her biometrics, referred her asylum case  
27 to EOIR, and advised her to appear for multiple hearings over a period of years. These  
28 repeated interactions with Petitioner—each of which resulted in the decision not to

1 detain her—created a liberty interest on Petitioner’s part that she would remain free  
2 unless she violated her conditions of release.

3 36. Moreover, Congress itself made clear that Petitioner is not to be detained. It did so by  
4 statute when it allowed those who have overstayed visas and subsequently been granted  
5 asylum to adjust status *while remaining in the United States*. 8 U.S.C. 209.2(a). This  
6 clear language from Congress indicates that an asylee adjusting status who entered with  
7 inspection, like Petitioner, need not return to another country to adjust. *Id.* This creates a  
8 liberty interest on Petitioner’s part.

9 **CAUSES OF ACTION**

10 **Count I: Violation of Fifth Amendment Due Process Rights**

11 37. Petitioner realleges and incorporates by reference all preceding paragraphs as if fully set  
12 forth herein.

13 38. The Fifth Amendment guarantees that no person shall be deprived of liberty without  
14 due process of law. Prolonged detention without an individualized custody  
15 determination by a neutral arbiter violates due process. See *Zadvydas v. Davis*, 533 U.S.  
16 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003); *Jennings v. Rodriguez*, 583 U.S. 131  
17 (2018).

18 39. The Due Process Clause applies to all persons in the United States, including non-  
19 citizens, and prohibits government action that strips them of liberty without fair process.

20 40. Access to counsel is a cornerstone of due process in immigration proceedings. Courts  
21 have recognized that the right to counsel in immigration proceedings is rooted in the  
22 Due Process Clause and codified at 8 U.S.C. § 1362 and 8 U.S.C. § 1229a(b)(4)(A).

23 41. Petitioner’s detention constitutes a clear violation of both procedural and substantive  
24 due process rights. Procedurally, Petitioner was deprived of notice, a fair hearing, and  
25 an opportunity to challenge her detention before an impartial decision-maker. The  
26 government’s failure to provide these fundamental safeguards runs contrary to the most  
27 basic principles of due process. As the Supreme Court emphasized in *Mathews v.*  
28 *Eldridge*, 424 U.S. 319, 333 (1976), the “fundamental requirement of due process is the

1 opportunity to be heard at a meaningful time and in a meaningful manner.” Petitioner  
2 has been afforded neither.

3 42. Substantively, ICE’s conduct in arresting Petitioner, after she had demonstrated over a  
4 decade of compliance with immigration procedures, is arbitrary, capricious, and without  
5 rational justification. Such actions undermine public confidence in the immigration  
6 process and deter individuals from engaging in good-faith efforts to regularize their  
7 status. Courts have long recognized that government action that “shocks the  
8 conscience” or lacks any legitimate purpose violates substantive due process. *County of*  
9 *Sacramento v. Lewis*, 523 U.S. 833, 846–47 (1998).

10 **Count III: Violation of the Administrative Procedure Act – Unlawful Detention**

11 43. The Due Process Clause of the Fifth Amendment protects all “person[s]” from  
12 deprivation of liberty “without due process of law.” U.S. Const. amend. V. “Freedom  
13 from imprisonment—from government custody, detention, or other forms of physical  
14 restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”  
15 *Zadvydas*, 533 U.S. at 690.

16 44. Immigration detention is constitutionally permissible only when it furthers the  
17 government’s legitimate goals of ensuring the noncitizen’s appearance during removal  
18 proceedings and preventing danger to the community. *See id.*

19 45. Petitioner is not a flight risk or danger to the community. Respondents’ detention of  
20 Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being  
21 detained in violation of the Due Process Clause of the Fifth Amendment.

22 46. Moreover, Petitioner’s detention is punitive as it bears no “reasonable relation” to any  
23 legitimate government purpose. *Id.* (finding immigration detention is civil and thus  
24 ostensibly “nonpunitive in purpose and effect”). Here, the purpose of Petitioner’s  
25 detention appears to be “not to facilitate deportation, or to protect against risk of flight  
26 or dangerousness, but to incarcerate for other reasons”—namely, to meet newly-  
27 imposed DHS quotas and enact a mass deportation campaign. *See Demore*, 538 U.S. at  
28 532–33 (Kennedy, J., concurring).

**PRAYER FOR RELIEF**

Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue a writ of habeas corpus requiring Petitioner’s immediate release and prohibiting her re-detention unless the government provides seven days’ notice and a hearing before a neutral arbiter in which it proves by clear and convincing evidence that Petitioner is a danger or flight risk;
3. Declare that Petitioner’s arrest and detention violates the Due Process Clause of the Fifth Amendment;
4. Enjoin Respondents from transferring Petitioner outside this District or deporting Petitioner pending these proceedings;
5. Award Petitioner her costs and reasonable attorneys’ fees in this action as provided for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and
6. Grant such further relief as the Court deems just and proper.

Date: February 13, 2026

Respectfully Submitted,

/s/ Ghassan J. Shamieh  
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*Attorney for Petitioner*

**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

1  
2 I, Ghassan Shamieh, am submitting this verification on behalf of the Petitioner because I am one  
3 of Petitioner's attorneys and Petitioner is in custody with limited ability to sign documents.

4 I hereby verify that the factual statements made in the attached Petition for Writ of Habeas  
5 Corpus are true and correct to the best of my knowledge.

6  
7 Executed on February 13, 2026, in San Francisco, California.

8  
9 /s/ Ghassan Shamieh  
10 Ghassan Shamieh  
11 Attorney for Petitioner  
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