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5 *Pro Hac Vice application forthcoming*

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7
8 **UNITED STATES DISTRICT COURT**
9 **FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

10
11 **ZAUR ALESKEROV,**

12 *Petitioner,*

13 v.

14 **Craig A. Lowe,**
15 Senior Warden, Pike County Correctional
16 Facility;

17 **Todd M. Lyons,**
Acting Director, U.S. Immigration and
18 Customs Enforcement;

19 **Kristi Noem,**
Secretary of the U.S. Department of
20 Homeland Security;

21 and **Pam Bondi,**
22 Attorney General of the United States,
in their official capacities,

23 *Respondents.*
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25
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Case No. 1:26-CV-00420

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS UNDER 28 U.S.C. §
2241 AND ORDER TO SHOW CAUSE
WITHIN THREE DAYS**

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I. INTRODUCTION

1. Zaur Aleskerov is a native of Georgia and a citizen of Georgia who entered the United States on or about January 1, 2024, at or near TECATE, CA. Mr. Aleskerov subsequently filed a defensive I-589, Application for Asylum and for Withholding of Removal with Immigration Court on April 01, 2024 (*See Exhibits A Passport for Zaur Aleskerov and Exhibit B I 589 Form for Zaur Aleskerov*). Nevertheless, on January 19, 2026, despite his pending asylum application and lack of any criminal history, Mr. Aleskerov was detained by the Department of Homeland Security (“DHS”).

2. Petitioner respectfully asks this Court to find that his detention is unlawful and to order his immediate release from custody under appropriate conditions. His continued detention without a hearing as to flight risk and danger to the community violates the U.S. Constitution and federal law.

II. JURISDICTION

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*

2. Petitioner is in the physical custody of Respondent. Petitioner is detained at the Pike County Correctional Facility within the jurisdiction of this Court.

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (*habeas corpus*), 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the United States Constitution (the Suspension Clause).

4. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*; and 28 U.S.C. § 1651.

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III. VENUE

5. Venue is proper in this Court because Petitioner is detained at the Pike County Correctional Facility in Lords Valley, Pennsylvania, which lies within the jurisdiction of the Middle District of Pennsylvania.

6. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondent is an employee or officer of the United States and because a substantial part of the events or omissions giving rise to the claims occurred in this district.

IV. REQUIREMENTS OF 28 U.S.C. § 2243

7. Under 28 U.S.C. § 2243, the Court must grant the petition for a writ of habeas corpus or issue an order to show cause to the respondents forthwith, unless it appears from the petition that the petitioner is not entitled to relief. If an order to show cause is issued, the Court must require respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

V. PARTIES

8. Petitioner Zaur is a native of Georgia and a citizen of Georgia. He entered the United States on or about January 1, 2024, at or near TECATE, CA. He is currently detained at the Pike County Correctional Facility in Lords Valley, Pennsylvania (*See Exhibit C I 830 Alien address*). Petitioner is in custody and under the direct control of Respondents and their agents.

9. Respondent Craig A. Lowe is sued in his official capacity as the Senior Warden of the Pike County Correctional Facility. In this capacity, Respondent Craig A. Lowe is a legal custodian of Petitioner and has authority to order his release.

10. Respondent Kristi Noem, Secretary of the U.S. Department of Homeland Security (DHS), is sued in her official capacity. In this capacity, Secretary Noem is responsible for the

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2 implementation and enforcement of the Immigration and Nationality Act and oversees U.S.
3 Immigration and Customs Enforcement, the agency responsible for Petitioner's detention and
4 custody. Secretary Noem is therefore a legal custodian of Petitioner.
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6 11. Respondent Pam Bondi, Attorney General of the United States, is sued in her
7 official capacity as the senior official of the U.S. Department of Justice (DOJ). In that capacity,
8 she has the authority to adjudicate removal cases and to oversee the Executive Office for
9 Immigration Review (EOIR), which administers the immigration courts and the Board of
10 Immigration Appeals. Attorney General Bondi is therefore a legal custodian of Petitioner.
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12 **VI. STATEMENT OF FACTS**

13 12. Petitioner Zaur Aleskerov is a 44-year-old native of Georgia and a citizen of
14 Georgia. He has three children: Edgar Aleskerov born on [REDACTED] 2004, Adem Aleskerov born on
15 [REDACTED] 2006 and M [REDACTED] born on [REDACTED].
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17 13. Prior to his detention, Mr. Aleskerov resided at [REDACTED]
18 [REDACTED]

19 14. Petitioner has strong community ties, no criminal history, and is widely regarded
20 as a calm and peaceful individual by members of his community (*See Exhibit D Sponsor's letter*).
21 His detention has caused significant hardship to his family.

22 15. On January 19, 2026, before leaving for a job Petitioner was apprehended by
23 agents of U.S. Immigration and Customs Enforcement ("ICE"). Despite having a pending
24 defensive asylum application, and showing valid documentation (SSN, and work permit), the
25 agents detained Petitioner and transported him to immigration custody. On or about January 29,
26 2026 Petitioner was transferred to Pike County Correctional Facility.
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16. On January 1, 2024, Petitioner entered United States without inspection and on
January 3, 2024 was served with a Notice to Appear (NTA) charging him as removable under

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2 INA § 212(a)(6)(A)(i)(I) for allegedly that he is an alien present in the United States without being
3 admitted or paroled, or who arrived in the United States at any time or place other than as
4 designated by the Attorney General. (*See Exhibit E I 862 Notice To Appear*).

5
6 17. On January 27, 2024, the Petitioner retained attorney Haroutunian, who filed
7 written pleadings on March 6, 2024 on his behalf before the Immigration Court in New York,
8 New York. (*See Exhibit F E-28 Form and Exhibit G Written Pleadings*).

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10 18. On April 1, 2024, Petitioner filed defensive form of I-589, Application for Asylum
11 and for Withholding of Removal indicating his intention to seek relief from removal in the forms
12 of asylum, withholding of removal, protection under the Convention Against Torture (“CAT”).

13 19. In January 2025, Mr. Aleskerov’s relocated to [REDACTED]
14 [REDACTED] accordingly his attorney informed the court and filed E 33 Change of
15 address and Motion for Change of Venue which was granted on January 17, 2025. (*See Exhibit*
16 *H Immigration Judge’s order*)

17 20. Mr. Aleskerov was scheduled for a Master Hearing on May 17, 2027 before
18 Philadelphia Immigration Court. (*See Exhibit I Case Notice*).

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20 21. Under the Immigration and Nationality Act, civil immigration detention is
21 permissible only where necessary to ensure an individual’s appearance at future proceedings or
22 to protect the community from danger. See 8 U.S.C. § 1226(a); *Matter of Guerra*, 24 I&N Dec.
23 37 (BIA 2006). Contrary to *Matter of Guerra*, Petitioner was not arrested while committing any
24 crime or engaging in unlawful activity. DHS and ICE provided no explanation, evidence, or
25 justification at the time of his arrest, or thereafter, as to why his detention was necessary under
26 statutory standards. The absence of such justification renders Petitioner’s confinement arbitrary,
27 unlawful, and contrary to due process.

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2 22. Moreover, under INA § 208(a)(1), 8 U.S.C. § 1158(a)(1), any noncitizen who is
3 physically present in the United States may apply for asylum, irrespective of immigration status.
4 Federal law further provides that “no period of time during which a bona fide asylum application
5 is pending shall be counted” as unlawful presence. 8 U.S.C. § 1182(a)(9)(B)(iii)(II). Petitioner
6 timely filed his Form I-589 April 1, 2024. His continued presence has been expressly authorized
7 by statute during the pendency of his asylum proceedings.
8

9 23. The Supreme Court has held that the term “the people” in the Bill of Rights refers
10 to a class of persons who are part of a national community or who have developed sufficient
11 connection with the United States to be considered part of that community. *United States v.*
12 *Verdugo-Urquidez*, 494 U.S. 259, 265 (1990). Courts have applied this principle to recognize that
13 noncitizens with substantial ties to the United States, such as lawful entrants, long-term residents,
14 or asylum applicants, fall within the scope of constitutional protections, including the Second
15 Amendment. See also *Plyler v. Doe*, 457 U.S. 202, 210 (1982) (holding that undocumented
16 immigrants are “persons” entitled to the protections of the Fourteenth Amendment); *District of*
17 *Columbia v. Heller*, 554 U.S. 570, 580 (2008) (confirming that the Second Amendment secures
18 an individual right).
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21 24. Petitioner has been in ICE custody since January 19, 2026. He remains detained
22 with no imminent prospect of removal, despite his pending asylum case, which underscores that
23 removal is not reasonably foreseeable. Petitioner’s Venue was changed and scheduled for Master
24 hearing.

25 25. Petitioner’s ongoing detention is arbitrary, unlawful, and unconstitutional. It
26 serves neither to protect the community, given his clean record and strong family ties, nor to
27 ensure his appearance at future proceedings, as he has a demonstrated history of compliance with
immigration requirements and significant equities binding him to his community.

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2 26. Absent judicial intervention, Petitioner will remain indefinitely detained at
3 taxpayer expense, separated from his family.

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5 **VII. LEGAL FRAMEWORK**

6 27. The Great Writ of Habeas Corpus, codified at 28 U.S.C. § 2241, authorizes federal
7 courts to inquire into the legality of an individual's detention and to order release if such detention
8 is unlawful. The Supreme Court has long recognized that *habeas corpus* is a fundamental
9 safeguard against arbitrary confinement. See *Boumediene v. Bush*, 553 U.S. 723, 739 (2008)
10 (“*The Framers viewed freedom from unlawful restraint as a fundamental precept of liberty.*”).

11 28. Immigration detention is governed primarily by 8 U.S.C. § 1226(a), which
12 authorizes the Attorney General to detain a noncitizen pending a decision on removal, or to release
13 the noncitizen on bond or conditional parole. The statute expressly provides for discretionary
14 release where the individual is not a danger to the community and does not present a flight risk.

15 29. Petitioner has not been charged with or convicted of any crime, nor has he violated
16 any regulation that would warrant punitive confinement. He is therefore not subject to mandatory
17 detention, and his ongoing custody is unlawful.

18 30. The Fifth Amendment's Due Process Clause applies to “all persons” within the
19 United States, including noncitizens, regardless of immigration status. See *Zadvydas v. Davis*,
20 533 U.S. 678, 693 (2001). Due process prohibits arbitrary detention and requires that civil
21 immigration custody serve legitimate regulatory purposes, ensuring appearance at proceedings
22 and protecting the community, not punishment. Where those justifications do not apply, detention
23 becomes unconstitutional.

24 31. Detention must be reasonably related to its purpose and cannot continue
25 indefinitely where removal is not reasonably foreseeable. *Zadvydas v. Davis*, 533 U.S. 678
26 (2001).
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VIII. CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process Violation

32. Petitioner repeats and realleges paragraphs 1 through 33 as if fully set forth herein and incorporates them by reference.

33. Petitioner is currently being detained by DHS/ICE authorities without cause and in violation of his constitutional rights to due process of law.

34. Petitioner’s continued detention serves no legitimate governmental purpose. He has a pending application for asylum, no criminal history, strong family and community ties, and has demonstrated compliance with immigration laws.

35. For these reasons, Petitioner’s detention violates the Due Process Clause of the Fifth Amendment to the United States Constitution.

36. Courts in this District evaluate prolonged immigration detention under the six-factor balancing test first articulated in *Banda v. McAleenan*, 385 F. Supp. 3d 1099 (W.D. Wash. 2019), and applied in *Kydyrali v. Wolf*, 499 F. Supp. 3d 768 (S.D. Cal. 2020). The factors are: (1) total length of detention to date; (2) likely duration of future detention; (3) conditions of detention; (4) delays in the removal proceedings caused by the detainee; (5) delays caused by the government; and (6) the likelihood that removal proceedings will result in a final order of removal. Courts have held that when these factors weigh against the government, prolonged detention violates the Fifth Amendment. *Kydyrali*, 499 F. Supp. 3d at 773.

37. Application of these factors overwhelmingly favors Petitioner. First, Petitioner has been detained at Pike County Correctional Facility. Petitioner has caused no delays; he has timely

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2 filed all applications for relief from removal. Delays are attributable to the Government, including
3 backlogs. Removal is not reasonably foreseeable because petitioner has shown *Prima Facie*
4 eligibility for asylum.
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6 38. On balance, these factors demonstrate that Petitioner's continued detention is
7 arbitrary, excessively prolonged, and unconstitutional. Because no legitimate governmental
8 interest is served by further detention, and removal is not reasonably foreseeable, habeas relief is
9 warranted.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Petitioner respectfully requests that this Court:

- 12
- 13 i. Assume jurisdiction over this matter.
 - 14 ii. Issue an Order to Show Cause requiring Respondents to explain why this Petition should
15 not be granted within three days, as required by 28 U.S.C. § 2243;
 - 16 iii. Declare that Petitioner's continued detention violates the Due Process Clause of the Fifth
17 Amendment, 8 U.S.C. § 1226(a), and 8 C.F.R. § 1236.1(d);
 - 18 iv. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately
19 under reasonable conditions of supervision, or in the alternative, to provide him with a
20 bond hearing before an Immigration Judge at which the Government bears the burden of
21 justifying continued detention.
 - 22 v. Grant such further relief as this Court deems just and proper.
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24 Dated: February 19, 2026

25 **RESPECTFULLY SUBMITTED,**

26 /s/ Vano I. Haroutunian
27 Vano I. Haroutunian, Esq.
Attorneys for Petitioner

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

I, Vano I. Haroutunian, do depose and state:

I represent Petitioner Zaur Aleskerov in these habeas corpus proceedings. Mr. Aleskerov is currently being held in detention at the Pike County Correctional Facility and cannot appear in my office to sign this Verification. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and belief.

Dated: February 19, 2026

RESPECTFULLY SUBMITTED,

/s/ Vano I. Haroutunian
Vano I. Haroutunian, Esq.
Attorney for Petitioner