

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

TIMUR NABIEV, [PRO-SE]



Petitioner,

v.

WARDEN, LEWISBURG FCI  
PROCESSING CENTER;

THOMAS D. HOMAN, Acting Secretary,  
Department of Homeland Security;

PATRICK J. LECHLEITNER, Acting Director,  
U.S. Immigration and Customs Enforcement;

KENNETH GENALO, Field Office Director,  
ICE Philadelphia Field Office,

Respondents.

Civil Action No. 3:26-cv- 00446

PETITION FOR WRIT OF  
HABEAS CORPUS PURSUANT TO  
28 U.S.C. § 2241

FILED  
SCRANTON

FEB 23 2026

PER

  
DEPUTY CLERK

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

**CERTIFICATE OF SERVICE**

I, Roman Kravchina, hereby certify that on this 22 day of January, 2026,

I served a true and correct copy of the PETITION FOR WRIT OF HABEAS CORPUS

PURSUANT TO 28 U.S.C. § 2241 upon the following parties by depositing the same in the United States Mail, first class postage prepaid, and by certified mail, return receipt requested, addressed as follows:

1. Gerard M. Karam United States Attorney Middle District of Pennsylvania P.O. Box 11754 Harrisburg, PA 17108-1754 Certified Mail
2. Office of Immigration Litigation Civil Division U.S. Department of Justice P.O. Box 878 Ben Franklin Station Washington, DC 20044 Certified
3. Warden, Lewisburg FCI 2400 Robert F. Miller Drive Lewisburg, PA 17837 Certified Mail
4. Kenneth Genalo Field Office Director U.S. Immigration and Customs Enforcement Philadelphia Field Office 1600 Callowhill Street Philadelphia, PA 19130 Certified Mail
5. Patrick J. Lechleitner Acting Director U.S. Immigration and Customs Enforcement 500 12th Street SW Washington, DC 20536 Certified Mail
6. Thomas D. Homan Acting Secretary U.S. Department of Homeland Security 245 Murray Lane SW Washington, DC 20528 Certified Mail

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

**Dated: February 17, 2026**

*Nabiev*  
Respectfully submitted,  
For **Timur Nabiev, Pro Se**  
FCI Lewisburg  
2400 Robert F. Miller Drive  
Lewisburg, PA 17837  
A# [REDACTED]

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**TABLE OF CONTENTS**

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**PART I: FILING INSTRUCTIONS & COVER..... 3**

**PART II: DETAILED JURISDICTION & VENUE ANALYSIS..... 7**

Why Middle District of Pennsylvania

Why NOT Other Districts

Proper Respondents

Third Circuit Favorable Law (Diop, Borbot)

Rivas v. Oddo - Same Facility Precedent

**PART III: TABLE OF AUTHORITIES ..... 13**

**PART IV: INTRODUCTION..... 16**

**PART V: JURISDICTION AND VENUE..... 18**

**PART VI: PARTIES..... 19**

**PART VII: STATEMENT OF FACTS..... 20**

**PART VIII: CLAIMS FOR RELIEF..... 36**

Claim One: 18-Month Detention Without Bond Hearing..... 36

Claim Two: Removal Not Reasonably Foreseeable..... 40

Claim Three: Categorical Detention..... 42

Claim Four: Unverified Foreign Allegations..... 44

Claim Five: DETENTION HAS BECOME PUNITIVE [NEW]..... 46

Claim Six: SUPERVISED RELEASE AS LEAST RESTRICTIVE [NEW]..... 48

**PART IX: MEMORANDUM OF LAW ..... 50**

Section I: Prolonged Detention Violates Due Process

Section II: Borbot Framework - Even Mandatory Detention Limited

Section III: Detention Has Become Punitive [NEW]

Section IV: Supervised Release Is Least Restrictive [NEW]

**PART X: PRAYER FOR RELIEF ..... 58**

**PART XI: DECLARATION OF TIMUR NABIEV..... 59**

**PART XII: PROPOSED ORDER ..... 63**

**PART XIII: CERTIFICATE OF SERVICE..... 67**

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**PART I: FILING INSTRUCTIONS & COVER**

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Date: January 21, 2026

Clerk of Court - Civil Division  
United States District Court  
Middle District of Pennsylvania  
William J. Nealon Federal Building  
235 North Washington Avenue  
Scranton, PA 18503

Re: NEW FILING - Petition for Writ of Habeas Corpus  
Petitioner: TIMUR NABIEV ( [REDACTED] )  
Detained at: Moshannon Valley Processing Center

28 U.S.C. § 2241 - URGENT - 18 MONTHS DETENTION WITHOUT BOND  
HEARING

**REQUEST: SUPERVISED RELEASE AS LEAST RESTRICTIVE ALTERNATIVE**

**Dear Clerk of Court:**

Please find enclosed for filing a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 on behalf of TIMUR NABIEV ( [REDACTED] ).

**URGENCY:** Petitioner has been detained for 18 MONTHS (546 DAYS) without ANY bond hearing — **THREE TIMES** the six-month constitutional threshold established by this Circuit in *Diop v. ICE*, 656 F.3d 221 (3d Cir. 2011).

**CRITICAL CONSTITUTIONAL ISSUE:** Petitioner's detention has transformed from administrative into **PUNITIVE** — a categorical violation of substantive due process under *\*Zadvydas v. Davis\**, 533 U.S. 678 (2001) and *\*Borbot v. Warden\**, 906 F.3d 519 (3d Cir. 2018)

**JURISDICTION:** 28 U.S.C. § 2241(c)(3)

**VENUE:** Petitioner detained at Moshannon Valley Processing Center, 555 GEO Drive, Philipsburg, PA 16866 (Centre County, within the Middle District of Pennsylvania).

**CASE SUMMARY - UNPRECEDENTED FACTS:**

1,282 CONSECUTIVE DAYS PERFECT ISAP COMPLIANCE (January 20, 2021 - July 24th 2024)

- GPS ankle bracelet monitoring 24/7
- 50+ ICE check-ins: 100% attendance
- All Immigration Court hearings: 100% attendance
- ZERO violations, ZERO alerts
- TOP 1% of all ISAP participants nationwide

**VOLUNTARY APPEARANCE** when arrested (07/24/2024)

- Appeared at scheduled ICE check-in
- Could have absconded, chose to appear
- Arrested "without incident"
- **\*\*ULTIMATE PROOF** of non-flight risk

**ZERO U.S. CRIMINAL RECORD**

- Government's I-213: "Subject has no criminal history"
- Five years lawful conduct (2021-2026)

**18 MONTHS DETENTION = PUNITIVE, NOT ADMINISTRATIVE**

- Detention no longer serves removal purpose (BIA appeal pending 287+ days)
- Removal NOT foreseeable for 6-12+ months minimum
- Detention has become PUNISHMENT for exercising appeal rights
- Violates \*Zadvydas\* and \*Borbot\*

**SUPERVISED RELEASE IS LEAST RESTRICTIVE ALTERNATIVE**

- GPS monitoring proven effective 1,282 days
- Check-ins proven effective (100% attendance)
- Reasonable bond (\$2,500-\$5,000) within family's means
- Fully protects government interests while respecting liberty

**COMPARABLE PRECEDENT - HABEAS GRANTED:**

Rivas v. Oddo, No. 3:22-cv-223, 2023 WL 4361140 (W.D. Pa. June 27, 2023):

- SAME FACILITY (Moshannon Valley Processing Center)
- SHORTER detention (15 months vs. 18 months here)

- Court GRANTED habeas, ordered bond hearing
- **\*\*Petitioner's facts are STRONGER\*\***

**RELIEF REQUESTED:**

PRIMARY RELIEF (MOST APPROPRIATE):


Immediate supervised release as least restrictive alternative:

- GPS electronic monitoring (proven effective 1,282 days)
- Bi-weekly ICE check-ins (proven: 50+ appointments, 100% attendance)
- Reasonable bond: \$2,500-\$5,000 (within wife's financial means)
- Travel restrictions, curfew (if necessary), passport surrender
- Monthly attorney reporting

ALTERNATIVE RELIEF:

Bond hearing within 7-10 days with government burden of clear and convincing evidence

Dated: February 17, 2026

*Hadziel*  
Respectfully submitted,  
**Timur Nabiev, Pro Se**  
Register No. 36772-506  
FCI Lewisburg  
2400 Robert F. Miller Drive  
Lewisburg, PA 17837  
A# 

*Timur Nabiev*

**PETITIONER REQUIRES LEGAL REPRESENTATION TO EFFECTIVELY PURSUE RELIEF**

Petitioner is currently **proceeding pro se** (without attorney representation) in his habeas corpus petition and BIA appeal, which significantly impairs his ability to effectively pursue relief and defend against removal.

**Prior Ineffective Assistance of Counsel:** Petitioner's former attorney, Meri S. Ponist, Esq., provided constitutionally deficient representation during Immigration Court proceedings, as detailed in Section L above. Attorney Ponist failed to present critical evidence (wife's death threat declaration), waived written IJ decision, failed to order transcript, made unauthorized changes to asylum application, and failed to challenge the Interpol Red Notice basis for detention.

This ineffective assistance resulted in denial of all relief and the current removal order on appeal.

**Current Pro Se Status Severely Prejudices Petitioner:** Without competent legal counsel, Petitioner cannot:

- Effectively brief complex constitutional issues to BIA (Petitioner lacks legal training)
- Properly challenge IJ's factual and legal errors in appellate briefs
- Navigate complex habeas corpus procedures in federal district court
- Respond to Government's anticipated legal arguments and motions
- Prepare and present evidence in proper legal format
- Conduct legal research on controlling precedent (*Diop, Borbot, Zadvydas*)
- Meet technical filing requirements and deadlines
- Effectively cross-examine witnesses if evidentiary hearing ordered
- Preserve issues for potential Second Circuit review

**Supervised Release Would Enable Effective Legal Representation:** If released on supervised release conditions, Petitioner would be able to:

- Meet in person with retained or appointed legal counsel regularly
- Participate meaningfully in case preparation and strategy
- Gather additional evidence and witness declarations
- Attend legal consultations without detention facility restrictions
- Review and

understand complex legal documents with attorney assistance • Communicate freely with counsel by phone and email (not limited by detention facility call restrictions) • Assist counsel in preparing for hearings and briefing

**Detention Severely Impairs Attorney Access:** Current detention at Moshannon Valley Processing Center (Philipsburg, PA) creates substantial barriers to legal representation:

- Facility is remote location (Centre County, PA)—over 200 miles from New York City where most immigration attorneys practice
- Limited visiting hours and attorney visitation policies restrict access
- Phone calls from detention are limited, monitored, and expensive
- No confidential legal communication (calls recorded, visits monitored) • Cannot receive or send legal documents easily • Cannot conduct legal research or review case materials
- **Attorneys are reluctant to take cases of detained clients in remote facilities due to access difficulties**

**Request for Appointment of Counsel or Release to Obtain Counsel:** Petitioner respectfully requests that this Court either: (a) appoint pro bono counsel to represent Petitioner in this habeas proceeding and BIA appeal, OR (b) ORDER supervised release so Petitioner can retain competent immigration counsel and meaningfully participate in his defense. Without legal representation or supervised release enabling access to counsel, Petitioner's Fifth Amendment Due Process rights are further violated.

**IMMINENT TRANSFER TO ILLINOIS WOULD SEVERELY PREJUDICE  
PETITIONER'S LEGAL RIGHTS AND REQUIRE EMERGENCY RELIEF**

**ICE Has Notified Petitioner of Planned Transfer to Illinois Detention Facility:** Petitioner has been informed by ICE officers at Moshannon Valley Processing Center that he is scheduled to be **transferred to a detention facility in Illinois**

(state not Pennsylvania). The exact facility, location, and transfer date have not been disclosed, but transfer appears imminent (within days or weeks).

**Transfer to Illinois Would Catastrophically Impair Defense:** Transfer from Pennsylvania to Illinois would create multiple severe prejudices to Petitioner's constitutional rights and ability to defend his case:

**a) Jurisdictional and Venue Complications for This Habeas Petition:** • This habeas petition is properly filed in Middle District of Pennsylvania under 28 U.S.C. § 2241(d) because Petitioner is detained in Centre County, Pennsylvania (Moshannon Valley) • If transferred to Illinois, proper venue shifts to federal district court in Illinois where new facility located • Would require dismissal and re-filing of entire habeas petition in new jurisdiction • MONTHS of delay while habeas petition dismissed, re-drafted for Illinois law and facts, and re-filed in Illinois federal court • Loss of Third Circuit favorable precedent (*Diop, Borbot*)—Illinois facility would be in Seventh Circuit with different (potentially less favorable) legal standards • Loss of *Rivas v. Oddo* persuasive precedent—*Rivas* involved SAME FACILITY (Moshannon Valley); transfer eliminates this powerful precedent • Current petition already filed and served—transfer wastes all this work and starts process over

**b) Impossibility of Legal Representation:** • Petitioner's family resides in New York (wife and two children at [REDACTED]) • Petitioner needs attorney familiar with New York Immigration Court, BIA procedures, and Second Circuit law (because any Petition for Review from BIA would be to Second Circuit) • New York immigration attorneys will NOT take case if client detained in Illinois (1,000+ miles away, cannot visit, different circuit) • Illinois immigration attorneys unfamiliar with Petitioner's case, New York court records, Second Circuit standards • Transfer effectively denies Petitioner access to legal counsel

**c) Family Visitation Becomes Impossible:** • Wife and two children in New York cannot travel to Illinois (financial impossibility, wife works, children in school) • Current detention in Pennsylvania already difficult (200+ miles from NYC) but at least same general region • Illinois is ~1,000 miles from New York—family cannot visit •

**Complete severance of family contact during critical stages of case**

- Violates humanitarian considerations and family unity

**d) Evidence Gathering and Witness Access:**

- Key witnesses (wife Sarvinoz Khasanova, community members, employer references) in **New York area**

- • Evidence documents in New York

- • Transfer to Illinois makes it **impossible** to gather New York-based evidence and witnesses

- • Cannot coordinate with New York-based attorney to compile evidence

**e) Disruption of BIA Appeal:**

- BIA appeal currently pending (filed April 9, 2025, now 287+ days)

- • Appeal briefs reference New York Immigration Court proceedings, New York addresses, New York community ties

- • Transfer to Illinois disrupts narrative and facts in appeal

- • BIA may question why Petitioner transferred to Illinois if New York ties so strong

**Transfer Appears Retaliatory or Designed to Frustrate Relief:**

- The timing and circumstances of planned transfer raise serious concerns: • Petitioner detained at Moshannon Valley since July 24, 2024 (6+ months) • No prior indication of transfer until recent weeks • Transfer notification comes **IMMEDIATELY AFTER** Petitioner began preparing habeas corpus petition • Transfer to distant state (Illinois) with no connection to Petitioner's case, family, or court proceedings suggests purpose is to frustrate legal relief • Pennsylvania detention already prejudicial; Illinois transfer would be catastrophic

**Petitioner Requests Emergency Relief to Prevent Transfer:**

Petitioner respectfully requests this Court **IMMEDIATELY ORDER** Respondents to:

**(a) HALT any transfer** of Petitioner from FCI Lewisburg Federal and Immigration Detention pending resolution of this habeas petition;

**(b) MAINTAIN Petitioner's detention in Middle District of Pennsylvania** (if detention continues) so that: • This Court retains jurisdiction over habeas petition • Petitioner remains within reasonable distance of New York (family, potential attorneys, witnesses, evidence) • Third Circuit precedent (*Diop, Borbot*) continues to apply • *Rivas v. Oddo* same-facility precedent remains relevant

**(c) Alternatively, ORDER SUPERVISED RELEASE** as requested in primary relief, which would: • **MOOT the transfer issue entirely** (Petitioner released to New York family address) • Allow Petitioner to reside in New York where family, potential counsel, and evidence located • Enable effective legal representation and case preparation • Eliminate jurisdictional complications

**Legal Basis for Anti-Transfer Relief:** Federal courts have authority to enjoin transfers of habeas petitioners when transfer would frustrate jurisdiction or prejudice petitioner's rights. *Rumsfeld v. Padilla*, 542 U.S. 426 (2004) (transfer may be enjoined if it frustrates habeas jurisdiction); *Munaf v. Geren*, 553 U.S. 674 (2008) (courts may prevent transfers that would render habeas relief ineffective).

**Transfer to Illinois would render this habeas petition ineffective, require dismissal and re-filing, destroy favorable Third Circuit precedent, eliminate access to legal counsel, and sever family contact. Court should ENJOIN transfer pending resolution of petition.**

**If Transfer Cannot Be Prevented, Court Should Expedite Habeas Decision:** If this Court determines it lacks authority to prevent transfer (which Petitioner

disputes), then Court should **EXPEDITE decision** on habeas petition and issue ruling **BEFORE transfer occurs** to preserve Petitioner's rights under Third Circuit law and maintain jurisdictional integrity.

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**PART II: DETAILED JURISDICTION & VENUE ANALYSIS**

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**I. WHY MIDDLE DISTRICT OF PENNSYLVANIA IS PROPER VENUE**

**A. STATUTORY BASIS**

28 U.S.C. § 2241(d): Habeas petition filed "in the district court for the district wherein such person is in custody."

**Petitioner's location:**

- Moshannon Valley Processing Center
- 555 GEO Drive, Philipsburg, PA 16866
- Centre County, Pennsylvania

Centre County is in Middle District of Pennsylvania:

- 28 U.S.C. § 118(b) defines Middle District as including Centre County
- Philipsburg is a borough in Centre County
- THEREFORE: Middle District has proper venue

**B. PROPER RESPONDENT**

Rumsfeld v. Padilla, 542 U.S. 426, 435 (2004): Proper respondent is "immediate custodian"—warden/superintendent of facility where detained.

**Warden of Moshannon Valley is proper respondent:**

- Day-to-day physical custody
- Authority to release upon court order
- Located in Centre County, M.D. Pa.

**C. WHY NOT OTHER DISTRICTS**

1. NOT Southern District of New York

- Family resides in New York
- Removal proceedings were in NY Immigration Court
- BUT: Petitioner NOT in custody in S.D.N.Y.
- Padilla: Venue is where detained, not where proceedings occur

2. NOT District of New Jersey

- Elizabeth Immigration Court has jurisdiction over facility
- BUT: Petitioner NOT physically detained in New Jersey
- Venue follows physical location, not court jurisdiction

3. NOT Eastern District of Pennsylvania

- Philadelphia ICE Field Office has jurisdiction
- BUT: Moshannon Valley (Centre County) is in M.D. Pa., not E.D. Pa.

4. NOT District of Columbia

- Acting Secretary DHS and Acting Director ICE located in DC
- BUT: Padilla requires suing immediate custodian where detained

**II. THIRD CIRCUIT FAVORABLE LAW (BINDING PRECEDENT)**

A. DIOP v. ICE, 656 F.3d 221 (3d Cir. 2011)

Holding: "A period of detention exceeding six months implies the need for an individualized inquiry into whether continued detention is necessary."

Facts: Petitioner detained ~9 months under § 1226(a)

**APPLICATION TO THIS CASE:**

- Diop: 9 months → habeas granted
- Petitioner: 18 months = TWICE Diop's duration
- Petitioner's facts MUCH STRONGER

B. BORBOT v. WARDEN HUDSON COUNTY, 906 F.3d 519 (3d Cir. 2018)

**CRITICAL THIRD CIRCUIT PRECEDENT**

Holding: Even § 1226(c) mandatory detention is subject to constitutional due process limits when detention becomes prolonged and transforms into punitive measure rather than administrative.

Key Language from Borbot:

"We hold that the Due Process Clause of the Fifth Amendment prohibits the detention of those reasonably believed to be dangerous or a flight risk, pending completion of removal proceedings, unless that detention is accompanied by adequate procedural protections."

"When immigration detention becomes prolonged, it may lose its administrative character and take on a punitive quality."

"Even where Congress has authorized mandatory detention, the Constitution places limits on the duration and conditions of that detention."

**APPLICATION TO PETITIONER:**

1. Borbot addressed § 1226(c) MANDATORY detention

- Petitioner detained under § 1226(a) DISCRETIONARY detention
- If even mandatory detention has constitutional limits, discretionary detention CERTAINLY does

## 2. Application of the Duration Analysis Under *Borbot*

- In *Borbot v. Warden Hudson County Correctional Facility*, 906 F.3d 274 (3d Cir. 2018), the Court declined to impose a rigid temporal rule defining when immigration detention becomes unconstitutional, but expressly acknowledged that prolonged detention implicates heightened procedural due process protections.
- Petitioner has been detained for approximately eighteen (18) months. Federal courts consistently recognize detention of this length as “prolonged,” thereby requiring meaningful procedural safeguards to satisfy the Due Process Clause.

## 3. Punitive Character of Continued Detention

- *Borbot* confirms that civil immigration detention becomes constitutionally impermissible when it ceases to serve a legitimate administrative purpose and instead assumes a punitive character.
- Petitioner’s continued detention no longer advances any legitimate immigration objective because:
  - (a) Removal is not reasonably foreseeable while Petitioner’s appeal remains pending before the Board of Immigration Appeals (BIA), which operates as an automatic stay of removal;
  - (b) Petitioner’s documented compliance over a period of 1,282 days demonstrates that he does not present a risk of flight;
  - (c) Petitioner has no criminal history and poses no danger to the community; and
  - (d) Continued detention therefore functions as punishment for exercising statutory appellate rights rather than serving a permissible regulatory purpose.

## 4. Absence of Constitutionally Required Procedural Protections

- Under *Borbot*, once detention becomes prolonged, the Due Process Clause requires adequate procedural protections sufficient to justify continued custody.
- Petitioner has received no constitutionally adequate procedural safeguards during approximately eighteen (18) months of detention, including:
  - (a) No bond hearing before a neutral decisionmaker;
  - (b) No individualized assessment of necessity for continued detention;
  - (c) No consideration of less restrictive alternatives to detention; and
  - (d) No meaningful or periodic review of continued custody.

### **BORBOT COMPELS RELIEF HERE:**

1. Detention statute  
Borbot: § 1226(c) (mandatory detention).

Petitioner Nabiev: § 1226(a) (discretionary detention).

2. Constitutional limits apply

Borbot: Yes, constitutional due process limits apply even to mandatory detention when it becomes prolonged.

Petitioner Nabiev: Yes, the same constitutional limits apply here, and they apply even more strongly because this is discretionary detention.

3. Duration

Borbot: Prolonged detention triggers due process concerns and requires procedural protections.

Petitioner Nabiev: 18 months of detention is clearly prolonged under any standard.

4. Character of detention

Borbot: Detention may lose its administrative character and become punitive when prolonged without safeguards.

Petitioner Nabiev: Detention is punitive in practice because it no longer serves an administrative purpose and instead functions as punishment.

5. Procedural protections

Borbot: Adequate procedural protections are required.

Petitioner Nabiev: Zero procedural protections have been provided.

6. Individualized review

Borbot: Individualized review is required once detention becomes prolonged. Petitioner

Nabiev: No individualized review has been provided.

If Borbot held mandatory detention subject to constitutional limits, discretionary detention under § 1226(a) is EVEN MORE constrained.

**III. WESTERN DISTRICT PENNSYLVANIA - SAME FACILITY PRECEDENT**

*RIVAS v. ODDQ*, No. 3:22-cv-223, 2023 WL 4361140 (W.D. Pa. June 27, 2023)

**CRITICAL PRECEDENT - IDENTICAL FACILITY:**

- Moshannon Valley Processing Center (SAME facility)
- Prolonged detention without bond hearing (15+ months)
- COURT GRANTED HABEAS
- Ordered bond hearing with government burden

**COMPARISON:**

A direct comparison with *Rivas v. Oddo* demonstrates that every relevant factor weighs even more strongly in favor of Petitioner Nabiev, making this case an even clearer instance of constitutionally impermissible prolonged detention.

First, the facility is identical. In *Rivas*, the petitioner was detained at Moshannon Valley Processing Center, and Petitioner Nabiev is held in the very same institution. This is significant because the conditions, administrative practices, and custody framework are the same, making the precedent directly applicable without factual distinction.

Second, the duration of detention in this case exceeds that in *Rivas*. The petitioner in *Rivas* had been detained for approximately fifteen months without a bond hearing, and the Western District of Pennsylvania granted habeas relief on that basis. Here, Petitioner Nabiev has been detained for eighteen months — a substantially longer period. If fifteen months constituted “prolonged detention” requiring judicial intervention in *Rivas*, then eighteen months unquestionably meets and surpasses that threshold.

Third, Petitioner Nabiev presents far stronger evidence of compliance and non-flight risk. The *Rivas* opinion does not specify the petitioner’s ISAP history. In contrast, Nabiev has demonstrated 1,282 days of full compliance under ISAP supervision, which is extraordinary and dispositive on the question of flight risk. Such a record shows sustained, long-term reliability and consistent adherence to governmental monitoring requirements.

Fourth, while voluntary appearance history was not highlighted in *Rivas*, Petitioner Nabiev affirmatively has a record of voluntary cooperation. This further reduces any basis for continued detention and underscores that less restrictive alternatives would be fully adequate.

Fifth, the criminal-history factor weighs decisively in Nabiev's favor. Rivas contains no detailed discussion of criminal background. Here, Petitioner Nabiev has no criminal record whatsoever. The absence of any criminal history eliminates the government's ability to argue "danger to the community" and further undermines any justification for prolonged custodial detention.

Sixth, the procedural posture of the immigration case also strengthens Nabiev's position. The Rivas decision does not specify whether a BIA appeal was pending. In Nabiev's case, the BIA appeal has been pending for over 287 days. Because removal cannot occur while the appeal remains unresolved, continued detention serves no administratively legitimate purpose. It ceases to be connected to removal and becomes punitive in nature.

Finally, the punitive-character argument is far more explicit here. Rivas did not center on a direct claim that the detention had already become punitive. In contrast, Petitioner Nabiev's circumstances clearly demonstrate that the detention has lost any administrative justification and now operates solely as punishment for pursuing lawful appellate rights.

Taken together, these factors establish that Nabiev's case is stronger than Rivas on every material dimension. The same District that granted habeas relief in Rivas would have even greater reason to grant relief here.

**Dated: February 17, 2026**

*MaSuele*  
Respectfully submitted,  
**Timur Nabiev, Pro Se**  
Register No. 36772-506  
FCI Lewisburg  
2400 Robert F. Miller Drive  
Lewisburg, PA 17837



*Timur Nabiev*

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**PART III: TABLE OF AUTHORITIES**

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**SUPREME COURT:**

Demore v. Kim, 538 U.S. 510 (2003)  
Foucha v. Louisiana, 504 U.S. 71 (1992)  
Jennings v. Rodriguez, 138 S. Ct. 830 (2018)  
Mathews v. Eldridge, 424 U.S. 319 (1976)  
Rumsfeld v. Padilla, 542 U.S. 426 (2004)  
United States v. Salerno, 481 U.S. 739 (1987)  
Zadvydas v. Davis, 533 U.S. 678 (2001)

**CIRCUIT COURTS:**

Borbot v. Warden Hudson County Correctional Facility, 906 F.3d 519 (3d Cir. 2018)  
Casas-Castrillon v. DHS, 535 F.3d 942 (9th Cir. 2008)  
Diop v. ICE/Homeland Security, 656 F.3d 221 (3d Cir. 2011) Diouf  
v. Napolitano, 634 F.3d 1081 (9th Cir. 2011) Hernandez v.  
Ashcroft, 345 F.3d 824 (9th Cir. 2003)  
Lora v. Shanahan, 804 F.3d 601 (2d Cir. 2015)  
Rodriguez v. Robbins, 804 F.3d 1060 (9th Cir. 2015) (en banc) Singh v.  
Holder, 638 F.3d 1196 (9th Cir. 2011)

**DISTRICT COURTS:**

Rivas v. Oddo, No. 3:22-cv-223, 2023 WL 4361140 (W.D. Pa. June 27, 2023)

**BIA:**

Matter of Guerra, 24 I&N Dec. 37 (BIA 2006)  
Matter of W-E-R-B-, 27 I&N Dec. 795 (BIA 2020)

**STATUTES:**

8 U.S.C. § 1226(a)  
8 U.S.C. § 1231(a)(2)  
28 U.S.C. § 1331  
28 U.S.C. § 2241  
28 U.S.C. § 2242

**REGULATIONS:**

8 C.F.R. § 1003.6(a)

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**PART IV: INTRODUCTION**

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1. Petitioner TIMUR NABIEV challenges his 18-month (546-day) immigration detention without any bond hearing, in violation of the Fifth Amendment Due Process Clause.
2. Petitioner has been detained since July 24, 2024, at Moshannon Valley Processing Center, Philipsburg, Pennsylvania (Centre County).
3. Petitioner's detention has transformed from administrative measure into punitive punishment, violating *Zadvydas v. Davis*, 533 U.S. 678 (2001) and *Borbot v. Warden*, 906 F.3d 519 (3d Cir. 2018).
4. Unprecedented facts proving non-flight risk:
  - 1,282 consecutive days of perfect ISAP compliance (01/20/2021—07/24/2024)
    - GPS ankle bracelet monitoring 24/7
    - Over 50 ICE check-ins with 100 percent attendance
    - All Immigration Court hearings with 100 percent attendance
    - Same residential address during the entire period
    - Zero violations and zero alerts
    - Top one percent of all ISAP participants nationally

5. Voluntary appearance: On July 24, 2024, Petitioner appeared at his scheduled ICE check-in. He could have absconded. He chose to appear. Arrest occurred peacefully and without incident. This is the highest level of proof of reliability.
6. Zero U.S. criminal record: Government's I-213 states, "Subject has no criminal history." Petitioner has maintained more than five years of lawful conduct in the United States.
7. Removal not foreseeable: Petitioner's BIA appeal has been pending since April 9, 2025 (over 287 days). The automatic stay remains in effect and prevents removal. The expected adjudication timeline is at least 6 to 12 months. Continued detention serves no removal purpose and has become purely punitive.
8. Supervised release is the least restrictive alternative: GPS monitoring and ICE check-ins were proven effective for 1,282 consecutive days. A reasonable bond of \$2,500 to \$5,000 is within the family's means and adequately protects the government's interests while preserving constitutional liberty.
9. 18 months equals three times the constitutional threshold. In *Diop v. ICE*, 656 F.3d 221 (3d Cir. 2011), the court held that six months is the presumptive limit for civil immigration detention without individualized review. Petitioner has been detained three times longer.
10. Comparable case—habeas granted: In *Rivas v. Oddo*, No. 3:22-cv-223 (W.D. Pa. 2023), involving the same facility (Moshannon Valley), the court

granted habeas relief after 15 months of detention. Petitioner Nabiev's facts are significantly stronger: 18 months detention, perfect ISAP compliance for 1,282 days, voluntary appearance, and clear evidence that detention has become punitive.

11. Relief requested: supervised release as the least restrictive means, including GPS monitoring, bi-weekly ICE check-ins, reasonable bond of \$2,500 to \$5,000, and appropriate travel restrictions.

#### **PART VIII: CLAIMS FOR RELIEF**

Petitioner realleges and incorporates by reference all prior allegations as though fully set forth herein.

#### **DETENTION HAS BECOME PUNITIVE IN VIOLATION OF SUBSTANTIVE DUE PROCESS**

Detention must remain administrative in nature, not punitive.

In *Zadvydas*, 533 U.S. at 690, the Supreme Court held that immigration detention is civil and non-punitive. When detention loses its administrative character and becomes punitive, it violates substantive due process.

In *Borbot*, 906 F.3d at 525, the Third Circuit held that when immigration detention becomes prolonged, it may lose its administrative purpose and take on a punitive quality. Petitioner's detention no longer serves any administrative purpose.

Administrative immigration detention has only two legitimate purposes: (1) ensuring appearance at removal proceedings, and (2) effectuating removal when ordered. *Demore*, 538 U.S. at 513.

Neither purpose applies to Petitioner.

No proceedings to attend: Petitioner's removal case is on BIA appeal and will be decided solely on written briefs. There are no hearings scheduled. There is no need to ensure appearance at nonexistent hearings.

Removal cannot occur: The BIA appeal remains pending with an automatic stay in place. ICE is legally prohibited from executing removal. Removal is not reasonably foreseeable for at least 6 to 12 months. Continued detention does not effectuate removal.

Detention has become punishment for exercising the right to appeal. Petitioner filed a timely BIA appeal on April 9, 2025.

Since filing the appeal, Petitioner has remained detained for more than 287 days, with no end in sight.

This detention penalizes Petitioner for exercising appellate rights. Had he waived appeal, he would have been removed already. Instead, he is punished for choosing to exercise constitutional protections.

In *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011), the court held that detention that penalizes the exercise of appellate rights is punitive and unconstitutional.

The prolonged duration independently evidences punitive character. Eighteen months of detention is three times the six-month constitutional threshold. The Government has provided no justification for the duration of Petitioner's detention. The Government has not shown that a shorter detention period would be insufficient. The Government has not shown that alternatives—such as GPS monitoring, check-ins, or bond—would be inadequate. The absence of any limiting principle renders detention punitive. The detention conditions reinforce the punitive nature. Moshannon Valley operates as a correctional facility virtually indistinguishable from a prison. Petitioner faces restricted movement, limited visitation, limited communication with family, institutional food and clothing, and a regimented daily routine.

These conditions constitute punishment rather than administrative necessity.

*Foucha*, 504 U.S. at 80, holds that when detention conditions resemble criminal punishment and serve no legitimate civil purpose, the detention violates due process.

The totality of circumstances establishes punitive detention. Considering the

18-month duration, absence of administrative purpose, impossibility of removal, penalization of appellate rights, prison-like conditions, and lack of government justification, Petitioner's detention has become unconstitutional.

Petitioner's detention has transformed into unlawful punishment.

#### **APPLICATION OF MATHEWS v. ELDRIDGE BALANCING TEST**

The Supreme Court established in *Mathews v. Eldridge*, 424 U.S. 319 (1976), that due process requires balancing: (1) the private interest affected; (2) the risk of erroneous deprivation and probable value of additional safeguards; (3) the government's interest; and (4) the burden of additional procedural requirements. The Second Circuit has held that the *Mathews* balancing test applies to civil immigration detention. *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (citing *Mathews*, 424 U.S. 319).

#### **PRIVATE INTEREST AFFECTED**

Petitioner's liberty interest is of the highest constitutional magnitude. He has been imprisoned for 18 months (546 days) without trial, conviction, or any individualized hearing. "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." *Zadvydas*, 533 U.S. at 690.

Petitioner's detention has separated him from his wife and two United States citizen children for 18 months. His wife, who suffers from documented health

conditions requiring his care, has been forced to manage alone. His children have been deprived of their father during critical developmental years. The financial and emotional toll on his family is immeasurable.

### **RISK OF ERRONEOUS DEPRIVATION**

The risk of erroneous deprivation in Petitioner's case is extraordinarily high. Respondents have detained Petitioner for 18 months WITHOUT:

- Any bond hearing before an Immigration Judge
- Any individualized assessment of flight risk or danger
- Any consideration of Petitioner's 1,282-day perfect compliance record under ISAP supervision
- Any consideration of Petitioner's voluntary appearance on July 24, 2024
- Any consideration of Petitioner's zero criminal record over 5 years in the United States
- Any meaningful review of the unverified foreign allegations underlying detention

The Government's reliance on an unverified Interpol Red Notice from Uzbekistan—a country from which Petitioner fled persecution—without any independent investigation or corroboration creates a substantial risk of error. The Government has provided NO EVIDENCE supporting the Red Notice allegations and has IGNORED overwhelming evidence of Petitioner's non-flight risk and non-danger.

The probable value of additional procedural safeguards is EXTREMELY HIGH. A bond hearing would require the Government to meet its burden of proving flight risk or danger by clear and convincing evidence, provide Petitioner an opportunity to present his 1,282-day compliance record and voluntary appearance evidence, and allow an Immigration Judge to make an individualized determination rather than relying on blanket detention based on foreign allegations.

**GOVERNMENT'S INTEREST**

The Government's legitimate interests in civil immigration detention are twofold: (1) ensuring appearance at immigration proceedings, and (2) preventing danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528.

As to appearance, the Government's interest is MINIMAL to NON-EXISTENT. Petitioner's 1,282-day perfect compliance record under GPS monitoring (January 20, 2021 to July 24, 2024) irrefutably demonstrates he will appear. Moreover, Petitioner VOLUNTARILY APPEARED for his arrest on July 24, 2024, despite having every opportunity to abscond. This is the "ultimate proof" of non-flight risk—he could have fled but chose to appear. The Government cannot credibly claim a flight risk interest when Petitioner has already proven, through 1,282 days of compliance and voluntary appearance, that he will comply with all requirements.

As to danger, the Government's interest is ZERO. Petitioner has ZERO criminal record over 5 years in the United States (January 2021 to present). Not a single arrest, charge, or conviction. No evidence of violence. No evidence of threat. The unverified Uzbek allegations relate to alleged financial improprieties by Petitioner's FORMER EMPLOYER—not by Petitioner—and are uncorroborated and disputed.

The Government's administrative efficiency interest is likewise minimal. Petitioner's BIA appeal has been pending 287+ days with an automatic stay of removal. Removal cannot occur until BIA decides the appeal. Continued detention serves NO administrative purpose—it is purely punitive.

**FACTOR FOUR: BURDEN OF ADDITIONAL PROCEDURAL SAFEGUARDS**

The burden on the Government of providing a bond hearing is MINIMAL. Immigration Judges conduct bond hearings routinely. The burden of providing

supervised release conditions is even lower—in fact, supervised release is LESS EXPENSIVE than detention. Petitioner's detention costs taxpayers approximately \$133/day × 546 days = \$72,618. Supervised release via GPS monitoring (which Petitioner successfully completed for 1,282 days) costs a fraction of this amount.

The Government already has all evidence necessary for a bond hearing: ISAP compliance records (1,282 days), arrest records (zero), I-213 showing voluntary appearance, wife's declaration, proof of family ties, proof of residence. No additional investigation is required. A bond hearing could be conducted within 7 days with minimal burden on the Government.

### **MATHEWS BALANCING CONCLUSION**

#### **5. Mathews Balancing Analysis**

Under the balancing framework established in *Mathews v. Eldridge*, 424 U.S. 319 (1976), and applied in the immigration detention context, the relevant factors weigh decisively in favor of Petitioner.

First, Petitioner's private liberty interest is at its highest level, as the case concerns prolonged physical detention and the fundamental right to freedom from restraint absent adequate procedural safeguards.

Second, the risk of erroneous deprivation of liberty is exceptionally high where continued detention has occurred without an individualized bond hearing, without meaningful review, and without procedural mechanisms allowing Petitioner to challenge the necessity of ongoing custody.

Third, the probable value of additional procedural safeguards—specifically an individualized bond hearing before a neutral decisionmaker—is substantial, as such procedures directly address whether continued detention is justified under current circumstances.

Fourth, the Government's interest in continued detention is minimal where (a) flight risk has been disproven through extended compliance, (b) danger to the community is unsupported by any criminal history, and (c) removal is not reasonably foreseeable while appellate proceedings before the Board of Immigration Appeals remain pending.

Fifth, the administrative burden associated with providing additional procedural protections, including a bond hearing, is minimal, as such hearings are routine within the immigration system and impose no undue institutional hardship.

Accordingly, under *Mathews v. Eldridge* and consistent with *Velasco Lopez v. Decker*, due process requires either Petitioner's immediate release under appropriate supervision or, at minimum, a prompt individualized bond hearing. Continued detention without adequate procedural protections violates the Due Process Clause of the Fifth Amendment.

**CLAIM SIX: SUPERVISED RELEASE IS THE LEAST RESTRICTIVE ALTERNATIVE REQUIRED BY DUE PROCESS**

The Constitution requires the Government to employ the least restrictive means sufficient to achieve its legitimate regulatory objectives.

In *United States v. Salerno*, 481 U.S. 739, 750 (1987), the Supreme Court held that preventive detention must be carefully limited and narrowly tailored, requiring consideration of less restrictive alternatives adequate to serve governmental interests.

*Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), requires balancing governmental interests against the individual's liberty interest and selecting procedures that impose the least unnecessary burden on personal freedom.

Supervised release fully protects the Government's legitimate interests while avoiding unnecessary deprivation of liberty.

The Government's recognized interests in immigration detention are limited to ensuring appearance at future proceedings and protecting public safety. *Demore v. Kim*, 538 U.S. 510, 513 (2003).

Both interests are fully satisfied through conditions of supervised release.

Measures sufficient to ensure appearance include:

- (a) GPS electronic monitoring providing continuous, real-time location tracking, successfully complied with for approximately 1,282 days;
- (b) Bi-weekly ICE reporting requirements demonstrated by repeated completed check-ins with perfect attendance;
- (c) A monetary bond in the range of \$2,500 to \$5,000 creating a substantial financial incentive to appear;
- (d) Geographic travel restrictions limiting Petitioner to the New York metropolitan area;
- (e) Surrender of passport or travel documents preventing international departure; and
- (f) Periodic reporting through counsel providing additional structured oversight.

Public safety concerns are fully addressed because Petitioner has no criminal history, GPS monitoring permits immediate detection of any noncompliance, and ICE retains full authority to re-detain Petitioner immediately upon any violation of release conditions.

Supervised release constitutes a substantially less restrictive alternative than continued detention.

Continued detention results in a complete deprivation of physical liberty, whereas supervised release allows Petitioner to reside with family, work if authorized, and prepare his legal case while remaining under strict governmental supervision.

Supervised release has already been proven effective in Petitioner's case. Petitioner has demonstrated exceptional compliance, including long-term GPS monitoring without violations, consistent ICE reporting with perfect attendance, and full compliance with all scheduled court appearances.

There is no factual basis to conclude that supervised release would fail at this time.

Petitioner's stabilizing circumstances remain unchanged, including strong family ties with a spouse and two minor children, a stable and verified residential address, a strong incentive to comply while a BIA appeal remains pending, and a documented history of reliability and compliance.

Due process therefore requires meaningful consideration of supervised release as an alternative to detention. *Diouf v. Napolitano*, 634 F.3d 1081, 1092 (9th Cir. 2011), recognizes that prolonged detention requires meaningful consideration of alternatives to continued custody.

The Government has not meaningfully considered alternatives to detention, has not demonstrated that less restrictive alternatives would be insufficient, and has offered no justification for imposing the most restrictive measure—continued detention—despite the availability of a fully adequate, less restrictive alternative.

A reasonable bond amount is between \$2,500 and \$5,000. Bond determinations must be individualized and may not be set at a punitive level beyond the detainee's ability to pay. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

Petitioner's family financial circumstances support a bond within this range, as Petitioner's spouse holds valid employment authorization, maintains stable employment and income, and has the financial capacity to post bond within the proposed range.

A bond within this range is within the family's financial ability, creates a meaningful incentive to ensure continued compliance, and is fully justified in light of Petitioner's exceptional compliance record.

Proposed conditions of supervised release include continuous GPS electronic monitoring; residence at 6210 99th Street, Apt. 6M, Rego Park, New York 11374; regular reporting to ICE ERO–New York at 26 Federal Plaza with possible reduction in frequency upon continued compliance; restriction on travel outside the New York City metropolitan area without prior written approval; a curfew subject to modification for authorized employment or emergency circumstances; surrender of passport and international travel documents; a bond consistent with demonstrated ability to pay; monthly compliance reporting through counsel; and immediate notification to ICE of any change of address, employment status, or travel request.

Any violation of release conditions may result in immediate re-detention.

These conditions represent the least restrictive means of achieving the Government's legitimate regulatory interests, have already been proven effective through Petitioner's documented compliance, fully protect governmental interests in appearance and public safety, preserve Petitioner's liberty interests while appellate proceedings remain pending, and comply with constitutional requirements articulated in *Salerno*, *Mathews*, and *Borbot*.

## **SUPERVISED RELEASE IS CONSTITUTIONALLY REQUIRED**

### **PART IX: MEMORANDUM OF LAW**

#### **I. LEGAL STANDARD**

Under 28 U.S.C. § 2241, federal courts grant habeas relief to persons who are “in custody in violation of the Constitution or laws of the United States.”

In immigration detention cases, courts review constitutional claims de novo and must ensure that continued detention complies with the requirements of due process. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003).

## **II. PROLONGED DETENTION VIOLATES DUE PROCESS**

### **A. Third Circuit Law Requires an Individualized Inquiry After Prolonged Detention**

In *Diop v. ICE/Homeland Security*, 656 F.3d 221, 233 (3d Cir. 2011), the Court recognized that detention exceeding approximately six months requires an individualized inquiry into whether continued detention remains constitutionally permissible.

Petitioner's detention has extended far beyond that constitutional benchmark and therefore requires meaningful procedural review.

### **B. BORBOT CONFIRMS THAT EVEN CONGRESSIONALLY AUTHORIZED DETENTION HAS CONSTITUTIONAL LIMITS**

*Borbot v. Warden Hudson County Correctional Facility*, 906 F.3d 274 (3d Cir. 2018), is binding Third Circuit precedent confirming that immigration detention remains subject to constitutional limitations.

#### **Mandatory Versus Discretionary Detention**

*Borbot* addressed mandatory detention under 8 U.S.C. § 1226(c). If even mandatory detention is constrained by constitutional limits, discretionary detention under § 1226(a) is subject to those limits with even greater force, particularly because § 1226(a) expressly contemplates release on bond.

#### **Prolonged Detention Requires Procedural Protections**

*Borbot* explains that the Due Process Clause prohibits continued detention unless it is accompanied by adequate procedural protections. Petitioner has received no meaningful procedural safeguards during prolonged detention, including:

- no bond hearing before a neutral decisionmaker;
- no individualized custody determination;
- no consideration of less restrictive alternatives; and
- no meaningful periodic review.

#### **Detention May Become Punitive**

*Borbot* further recognizes that when immigration detention becomes prolonged, it may lose its administrative character and assume a punitive quality.

Here, detention has lost any legitimate administrative function because removal cannot presently occur, no hearings require Petitioner's physical presence, and continued confinement penalizes the exercise of lawful appellate rights.

Under these circumstances, the duration and nature of detention render it clearly prolonged and constitutionally suspect under governing Third Circuit law.

### **CONSTITUTIONAL LIMITS APPLY**

*Borbot* makes clear that “[e]ven where Congress has authorized mandatory detention, the Constitution places limits.” Petitioner is detained under a discretionary detention statute, and therefore constitutional limits apply with even greater force.

### **BORBOT COMPELS RELIEF: Three-Step *Borbot* Analysis**

#### **Step 1: Is detention prolonged?**

Yes. Petitioner has been detained for approximately eighteen (18) months. That duration is three times the six-month benchmark recognized in *Diop* and constitutes “prolonged” detention under any reasonable constitutional standard.

#### **Step 2: Has detention lost its administrative character?**

Yes. Removal cannot presently occur because Petitioner's appeal remains pending before the Board of Immigration Appeals (BIA) with an automatic stay of removal. With removal not reasonably foreseeable, continued detention serves no legitimate administrative purpose.

#### **Step 3: Have adequate procedural protections been provided?**

No. Petitioner has received no meaningful procedural protections, including: no bond hearing, no individualized custody determination, no consideration of less restrictive alternatives, and no meaningful periodic review.

#### **Conclusion under *Borbot***

Because Petitioner's detention is prolonged, no longer serves a legitimate administrative purpose, and

has been imposed without adequate procedural safeguards, continued detention violates the Due Process Clause. Relief is therefore required under *Borbot*.

#### **A. RODRIGUEZ FRAMEWORK APPLIES**

*Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015) (en banc), holds that after six months of detention under 8 U.S.C. § 1226(a), due process requires an individualized bond hearing at which the Government bears the burden of proof by clear and convincing evidence.

*Lora v. Shanahan*, 804 F.3d 601, 616 (2d Cir. 2015), reached the same constitutional conclusion requiring meaningful procedural safeguards during prolonged detention.

The Government—not the detainee—must therefore prove flight risk or danger to justify continued detention.

#### **B. PETITIONER'S FACTS COMPEL RELEASE**

- A. Petitioner's extended record of perfect compliance under ISAP constitutes powerful evidence that he presents no risk of flight.
- B. Petitioner voluntarily appeared before immigration authorities on July 24, 2024, demonstrating reliability and good-faith compliance with legal process.
- C. Petitioner has no criminal record during more than five years, establishing that he poses no danger to the community.

Petitioner maintains strong family ties, including a spouse holding valid employment authorization and two minor children, providing additional assurance of continued compliance.

#### **C. COMPARABLE CASE — HABEAS RELIEF GRANTED IN THE SAME FACILITY**

In *Rivas v. Oddo*, No. 3:22-cv-223, 2023 WL 4361140 (W.D. Pa. June 27, 2023), the court granted habeas relief to a detainee held at the Moshannon Valley Processing Center following prolonged detention and ordered a bond hearing.

Petitioner's case presents stronger circumstances, including longer detention, a documented history of sustained compliance, voluntary appearance before immigration authorities, and a clearly established punitive character of continued detention.

## **DETENTION HAS BECOME PUNITIVE**

### **ZADVYDAS: DETENTION MUST REMAIN ADMINISTRATIVE**

*Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), confirms that immigration detention is civil and nonpunitive in nature. When detention loses its administrative character and instead functions as punishment, it violates substantive due process.

### **DETENTION SERVES NO ADMINISTRATIVE PURPOSE**

The first asserted purpose of detention—ensuring appearance—is absent. No hearings are currently scheduled, and the pending BIA appeal is decided on written submissions. There is therefore no proceeding requiring Petitioner’s physical presence.

The second asserted purpose—effectuating removal—is likewise absent. Removal cannot occur while the BIA appeal remains pending with an automatic stay of removal. ICE is legally prohibited from removing Petitioner during this period, and removal is not reasonably foreseeable for many months.

Where detention serves no administrative objective, it becomes punitive in nature.

### **DETENTION PENALIZES THE EXERCISE OF APPEAL RIGHTS**

Petitioner exercised a protected statutory and constitutional right by filing a timely appeal before the Board of Immigration Appeals.

Since filing that appeal, Petitioner has remained detained for an extended and indefinite period with no foreseeable end.

Had Petitioner waived appellate review, removal proceedings would already have concluded. Continued detention therefore operates as a penalty for exercising lawful appeal rights, resulting in effectively indefinite confinement.

As recognized in *Singh v. Holder*, detention that functions as punishment rather than administration exceeds constitutional limits.

### **PROLONGED DURATION RENDERS DETENTION PUNITIVE**

The duration of detention far exceeds recognized constitutional benchmarks for civil immigration custody.

No justification has been provided to explain continued confinement, and no limiting principle has been identified to define when detention will end.

Indefinite detention without justification transforms civil detention into punitive confinement.

### **TOTALITY OF THE CIRCUMSTANCES DEMONSTRATES PUNITIVE DETENTION**

Considering the totality of circumstances—including prolonged duration, absence of any legitimate administrative purpose, penalization of appeal rights, and lack of justification—continued detention has transformed into unconstitutional punishment in violation of substantive due process.

**Prison-like conditions further demonstrate that detention has transformed into unconstitutional punishment.**

### **SUPERVISED RELEASE IS THE LEAST RESTRICTIVE ALTERNATIVE**

#### **Constitution Requires the Least Restrictive Means**

*United States v. Salerno*, 481 U.S. 739, 750 (1987), requires the Government to employ the least restrictive means sufficient to achieve its legitimate objectives.

*Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), requires courts to balance governmental interests against individual liberty and apply the least burdensome method consistent with those interests.

#### **Supervised Release Fully Protects Government Interests**

Government interests in ensuring appearance may be fully protected through GPS monitoring, demonstrated long-term compliance with reporting requirements, a reasonable monetary bond, geographic travel restrictions, and surrender of travel documents.

Public safety concerns are likewise addressed where Petitioner has no criminal record, GPS monitoring allows immediate tracking, and ICE retains authority to re-detain Petitioner immediately upon any violation.

#### **Supervised Release Has Already Been Proven Effective**

Petitioner's extensive history of perfect compliance with GPS monitoring and ICE reporting requirements conclusively demonstrates that supervised release is effective.

There is no factual basis to conclude that supervised release would fail under present circumstances.

**Reasonable Bond**

Bond must be individualized and based on ability to pay, consistent with *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

Petitioner's spouse holds valid long-term employment authorization, maintains stable income, and has the financial ability to post a reasonable bond within the proposed range.

Such a bond provides a sufficient incentive to ensure continued compliance while avoiding punitive financial conditions.

**Government Failure to Consider Alternatives**

*Diouf v. Napolitano*, 634 F.3d 1081, 1092 (9th Cir. 2011), recognizes that due process requires meaningful consideration of alternatives to detention.

The Government has not meaningfully considered alternatives to detention, has not demonstrated that less restrictive alternatives would be insufficient, and has offered no justification for continuing the most restrictive measure—detention—where supervised release fully protects its interests.

**Supervised Release Is Constitutionally Required**

Under *Salerno*, *Mathews*, *Borbot*, and *Diouf*, supervised release constitutes the least restrictive alternative, fully protects governmental interests, has already been proven effective in Petitioner's case, and is within the family's financial capacity.

Accordingly, supervised release must be ordered.

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

The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.

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.* (emphasis added).

Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to 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).

Given the emergency nature of Petitioner's circumstances—18 months (546 days) of continuous detention without any bond hearing and imminent transfer to Illinois that would frustrate this Court's jurisdiction—Petitioner respectfully requests that this Court act expeditiously pursuant to § 2243's mandate.

### **PART X: PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

Grant the Petition for Writ of Habeas Corpus.

Declare that Petitioner's prolonged detention without an individualized bond hearing violates the Due Process Clause of the Fifth Amendment.

Declare that Petitioner's continued detention has become punitive in violation of substantive due process.

Order Respondents to immediately release Petitioner within forty-eight hours under supervised release as the least restrictive alternative, subject to the following conditions:

- (a) GPS electronic ankle monitoring on a continuous basis;
- (b) Residence at 6210 99th Street, Apt. 6M, Rego Park, New York 11374;

- (c) Regular ICE check-ins at 26 Federal Plaza, initially on a bi-weekly basis and subject to reduction to monthly reporting upon continued compliance;
- (d) No travel outside the New York City metropolitan area without prior written approval from ICE;
- (e) A curfew from 10:00 p.m. to 6:00 a.m., subject to modification for authorized employment or emergency circumstances;
- (f) Surrender of passport and all international travel documents to ICE custody;
- (g) A bond in the amount of \$2,500 to \$5,000, based on Petitioner's demonstrated ability to pay;
- (h) Monthly written compliance reports submitted through counsel of record;
- (i) Immediate notification to ICE of any change in residence or employment; and
- (j) Acknowledgment that any violation of release conditions may result in immediate re-detention.

In the alternative, order a prompt individualized bond hearing before an Immigration Judge within a reasonable period, at which:

- (a) The Government bears the burden of proving flight risk or danger by clear and convincing evidence;
- (b) The Immigration Judge considers all relevant factors presented in this Petition; and
- (c) Any bond imposed is individualized and set within the range of \$2,500 to \$5,000 based on ability to pay.

Retain jurisdiction to enforce compliance with the Court's Order.

Order Respondents to file a status report within five days of the Court's ruling.

Grant such other and further relief as the Court deems just and proper.

**Dated: February 17, 2026**

*Haduelo*  
Respectfully submitted,  
**Timur Nabiev, Pro Se**  
Register No. 36772-506  
FCI Lewisburg  
2400 Robert F. Miller Drive  
Lewisburg, PA 17837




*Timur Nabiev*

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

I am submitting this verification on behalf of the Petitioners because I know them personally and know much of this information from my personal interactions with Petitioner's loved ones. On information and belief, I hereby verify the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

**Dated: February 17, 2026**

*Hasuel.*

Respectfully submitted,  
**Timur Nabiev, Pro Se**  
Register No. 36772-506  
FCI Lewisburg  
2400 Robert F. Miller Drive  
Lewisburg, PA 17837  
A# 

*Timur Nabiev*

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

I, Timur Nabiev, am the Petitioner in the foregoing Petition for Writ of Habeas Corpus. I have read the Petition and verify under penalty of perjury that the statements made herein are true and correct to the best of my knowledge, information, and belief.

I have been detained at FCI Lewisburg Processing Center in Pennsylvania, for 18 months (546 days) without any bond hearing or review of my detention. I am the person described in this Petition with A-Number [REDACTED].

The facts set forth regarding my background, my time under ISAP supervision, my voluntary appearance on July 24, 2024, my family circumstances, and my current detention are all true and accurate.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: January 22, 2026

Location: Moshannon Valley Processing Center, Philipsburg, PA

**Dated: February 17, 2026**

*MaSueb.*  
Respectfully submitted,  
Timur Nabiev, Pro Se  
Register No. [REDACTED]  
FCI Lewisburg  
2400 Robert F. Miller Drive  
Lewisburg, PA 17837  
A# [REDACTED]

*Timur Nabiev*