

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 26-cv-00780

Marat Salakhov,

Petitioner,

v.

JUAN BALTASAR, Warden of Denver Contract Detention Facility;
PAMELA BONDI, Attorney General of the United States;
KRISTI NOEM, Secretary of the Department of Homeland Security (“DHS”);
TODD LYONS, Acting Director U.S. Immigration and Customs Enforcement;
ROBERT GUADIAN, Acting Denver Field Office Director,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Marat Salakhov is a noncitizen and resident of the United States who is harmed by Respondents’ new, draconian policy reinterpreting the immigration detention statutes to preclude Petitioner from eligibility for bond under the Immigration and Nationality Act (INA), 8 U.S.C. § 1226(a), and for bond hearings under 8 C.F.R. §§ 1003.19(a), 1236.1(d). Instead, pursuant to this new policy, Respondents now consider Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), without the opportunity for release on bond during the pendency of his lengthy removal proceedings.

2. Petitioner arrived in the U.S. over four years ago, on September 28, 2021, after being inspected and admitted at the Port of Entry on a B-2 visa. Ex. A.

3. Although Petitioner is not an “arriving alien,” Respondents have nevertheless misclassified him as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) pursuant to *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025).

4. As of the writing of this Petition, “courts have addressed this issue in over 362 cases heard by over 160 different judges” and rejected the Respondents’ new draconian detention policy. (quoting *Dambreville v. Noem*, No. 4:25-cv-00514-SMR-SBJ, at 7 (S.D. Iowa Jan. 12, 2026).

5. Most recently, on February 18, 2026, Judge Sykes granted Petitioners’ motion to enforce judgment in *Lazaro Maldonado Bautista v. Santacruz Jr.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. 2026), vacated *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), and expressly repudiated Respondents’ continued reliance on that decision to justify mandatory detention. Order Granting Pls.’ Mot. to Enforce J. at 10–11, 14–15, *Lazaro Maldonado Bautista v. Santacruz Jr.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Feb. 18, 2026), ECF No. 116.

6. The *Bautista* Court held that Respondents “have far crossed the boundaries of constitutional conduct” and condemned their Opposition as a “shameless submission” that “deliberately seeks to erode any semblance of separation of powers.” *Id.* at 10–11. In enforcing its judgment, the court made clear that executive officials cannot not continue detaining class members under

a legal theory already declared unlawful, and that continued adherence to *Hurtado* in defiance of an Article III ruling cannot stand. *Id.* at 14–15.

7. Further, on December 11, 2025, the Seventh Circuit concluded the Department of Homeland Security and the U.S. Immigration and Customs Enforcement were “not likely to succeed on the merits of their argument” regarding “mandatory detention under § 1225(b)(2)(A).” *Castanon-Nava v. U.S. Dep’t of Homeland Sec.*, No. 25-3050, 2025 WL3552514, at *9 (7th Cir. Dec. 11, 2025).

8. The Due Process Clause of the Fifth Amendment forbids such arbitrary and prolonged detention. Respondents have never justified Petitioner’s continued detention at a hearing before a neutral decisionmaker with any evidence of danger or flight risk.

9. Accordingly, Petitioner asks this Court for a writ of habeas corpus to vindicate his right to due process and to seek relief from his continued arbitrary detention. He requests that the Court declare his continued detention unconstitutional as applied to him and to order his immediate release.

JURISDICTION

10. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

11. 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., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

VENUE

12. Venue is proper because Petitioner is in Respondents' custody at the Denver Contract Detention Facility in Aurora, Colorado and Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).


ORDER TO SHOW CAUSE: REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

13. 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 OSC 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.*

14. 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).

15. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

16. Petitioner is a 32-year-old citizen of Russia born on  Petitioner is detained at the Denver Contract Detention Facility in Colorado.

17. Respondent Robert Guadian is the Field Office Director for the Denver Field Office, Immigration and Customs Enforcement and Removal Operations (“ICE”). The Denver Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens. Respondent Guardian is a legal custodian of Petitioner.

18. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of Respondent Guadian and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

19. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

20. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

21. Respondent Juan Baltasar is the Warden of the Denver Contract Detention Facility, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

22. This action is commenced against all Respondents in their official capacities.

LEGAL FRAMEWORK

23. “In 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).

24. This fundamental principle of our free society is enshrined in the Fifth Amendment’s Due Process Clause, which specifically forbids the Government to “deprive[]” any “person . . . of . . . liberty . . . without due process of law.” U.S. Const. amend. V.

25. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (“[A]liens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law”).

26. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 678.

27. Congress has implemented this constitutional balance through three mutually exclusive detention statutes.

28. First, individuals seeking admission at the border are detained without bond under 8 U.S.C. § 1225(b)(2), subject to humanitarian parole. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); 8 U.S.C. § 1182(d)(5)(A).

29. Second, individuals arrested inside the United States are placed in removal proceedings under 8 U.S.C. § 1229a and detained, if at all, under 8 U.S.C. § 1226. *Jennings*, 583 U.S. at 288–89. Because those proceedings often last months or years, § 1226(a) generally entitles detainees to a custody redetermination hearing before an Immigration Judge. 8 C.F.R. §§ 1003.19(a), 1236.1(d). This right is the constitutional baseline for § 1226 detention. The only narrow exception permits brief mandatory detention of certain noncitizens with qualifying criminal convictions who have conceded removability. *Demore v. Kim*, 538 U.S. 510, 513 (2003).

30. Third, once removal proceedings and appeals conclude and a final removal order is issued, detention is governed by 8 U.S.C. § 1231. That statute authorizes ninety days of mandatory detention during the removal period and limited discretionary detention thereafter, which may not continue if removal is not reasonably foreseeable. *Zadvydas*, 533 U.S. at 699–700.

31. This framework has existed in its current form since the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which codified § 1226. Congress intended § 1226(a) to restate prior law authorizing arrest, detention, and release on bond. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260

(W.D. Wash. 2025) (quoting H.R. Rep. No. 104-469, at 229 (1996)). That approach reflected nearly a century of practice allowing noncitizens inside the country to seek release while deportation was adjudicated. *See* 34 Stat. 904–05 (1907); 39 Stat. 874, 890–91 (1917); 66 Stat. 163 (1952).

32. Bond eligibility has therefore long applied to individuals arrested inside the United States regardless of how they entered. The agency confirmed in implementing IIRIRA that noncitizens present without admission or parole would be eligible for bond and bond redetermination. 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997). For nearly thirty years, DHS and DOJ adhered to that interpretation. *Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238, at *4 n.9 (D. Mass. July 24, 2025).


33. In July 2025, DHS, in coordination with DOJ, directed Immigration Judges to reclassify bond-eligible § 1226 detainees as mandatory § 1225(b)(2) detainees and to deny bond hearings on that basis. Some judges adopted that position, and detainees sought federal relief. Numerous courts, including courts in the District of Colorado¹, rejected the reclassification as unlawful and ordered prompt bond hearings.

¹ *E.g.*, *Diaz Marquez v. Baltasar*, No. 26-cv-00293-CYC, 2026 WL 370864 (D. Colo. Feb. 10, 2026); *Abarca v. Baltasar*, No. 25-cv-04086-CYC, 2026 WL 309198 (D. Colo. Feb. 5, 2026); *Hernandez-Redondo v. Bondi*, No. 25-cv-03993-2 PAB, 2026 WL 290989 (D. Colo. Feb. 4, 2026); *Jimenez Facio v. Baltasar*, No. 25-cv-03592-CYC, 2025 WL 3559128 (D. Colo. Dec. 12, 2025); *Garcia Cortes v. Noem*, No. 25-cv-02677-CNS, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Batz Barreno v. Baltasar*, No. 25-cv-03017-GPG-TPO, 2025 WL 3190936 (D. Colo. Nov. 14, 2025); *Loa Caballero v. Baltasar*, No. 25-cv-03120-NYW, 2025 WL 2977650 (D. Colo. Oct. 22, 2025).

34. On September 5, 2025, the Board of Immigration Appeals within DOJ issued *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), purporting to mandate this misclassification nationwide. Federal courts have declined to defer to that decision under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412–13 (2024) and have rejected it as contrary to law. *See, e.g., Chogllo Chafra v. Scott*, No. 25-437, 2025 WL 2688541, at *7 (D. Me. Sept. 21, 2025); *Hilario Rodriguez*, No. 25-12358, D.E. 22 at 4 n.4; *Sampiao*, No. 25-11981, 2025 WL 2607924, at *8 n.11; *Pizarro Reyes*, 2025 WL 2609425, at *7.

35. On February 18, 2026, Judge Sykes vacated *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), and expressly repudiated Respondents' continued reliance on that decision to justify mandatory detention. Order Granting Pls.' Mot. to Enforce J. at 10–11, 14–15, *Lazaro Maldonado Bautista v. Santacruz Jr.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Feb. 18, 2026), ECF No. 116.

FACTUAL BACKGROUND

36. Petitioner is a 32-year-old citizen and national of Russia born on 



37. On September 28, 2021, Petitioner arrived in the United States on a B-2 visa and after being inspected was admitted.

38. Fearing his return to Russia, Petitioner applied for asylum with the United States Citizenship and Immigration Service (USCIS) on September 27, 2022.

39. On information and belief, on February 24, 2026, ICE detained Petitioner

while he was driving his vehicle near Cheyenne, Wyoming.

40. Respondents then transported Petitioner to the Denver Contract Detention Facility in Colorado.

41. Respondents alleged that Petitioner is being charged with having been admitted and inspected, however, removable from the United States under 8 U.S.C. § 1227(a)(1)(C)(i).

42. As a result, Petitioner remains in detention. Without relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

CLAIMS FOR RELIEF

COUNT I

Violation of Fifth Amendment Right to Due Process

43. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

44. Petitioner's detention by DHS violates his rights under the Due Process Clause of the Fifth Amendment to the United States Constitution.

45. Immigration detention violates due process if it is not reasonably related to the purpose of ensuring a noncitizen's removal from the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 690-92, 699-700 (2001); *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Where removal is not reasonably foreseeable, detention cannot be reasonably related to the purpose of effectuating removal and is unlawful. *See id.* at 699-700.

46. The Supreme Court has also established that noncitizens in deportation or removal proceedings are just as entitled to due process protections as anyone else. *See Zadvydas*, 533 U.S. at 690 (2001) (“A statute permitting indefinite detention of an alien would raise a serious constitutional problem. The Fifth Amendment’s Due Process Clause forbids the Government to ‘depriv[e]’ any ‘person . . . of . . . liberty . . . without due process of law.’”).

47. Here, there is no reason to justify Petitioner’s detention. Petitioner has been living in the United States for over four years, where he has very strong ties to the community.

48. In *Jennings v. Rodriguez*, the Supreme Court makes a clear distinction between noncitizens who are detained while entering the country and noncitizens who are already present in the United States. *Jennings v. Rodriguez*, 804 F. 3d 106. The opinion of the Supreme Court recognizes that “§ 1226 applies to aliens already present in the United States. . . .” and that “§ 1226(a) authorizes the Attorney General to arrest and detain an alien ‘pending a decision on whether the alien is to be removed from the United States.’” § 1226(a). As long as the detained alien is not covered by § 1226(c), the Attorney General “may release” the alien on “bond . . . or conditional parole.” § 1226(a). Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention. See 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1).

49. Here, Petitioner has been living in the United States for over four years prior to his detention, and the reason for his current detention is not related to his detention as an “applicant for admission.” In the present case, there is not

the issue of a continued detention of someone who is trying to enter the country, but rather a new detention for someone who has been in the country for over four years.

50. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of removability because they previously entered the country after being admitted. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

51. Therefore, Petitioner 's detention itself in the absence of a bond hearing to determine if he poses a danger to community or a flight risk, violated his Fifth Amendment Due Process rights under the Constitution.

COUNT II

Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19 Unlawful Denial of Release on Bond

52. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

53. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) *will be eligible for bond and bond redetermination.*" 62 Fed. Reg. at

10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. §1226 and its implementing regulations.

54. Nonetheless, Respondents adopted a policy and practice of applying §1225(b)(2) to Petitioner.

55. The application of §1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Declare that Petitioner's re-detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- (3) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody;
- (4) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
- (5) Grant any further relief this Court deems just and proper.

Dated: February 25, 2026

Respectfully submitted,

/s/ Eli Goldmann
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VERIFICATION OF PETITION PURSUANT TO 28 U.S.C. § 2242

I, Eli Goldmann, attorney for the petitioner in the above-entitled proceeding, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Petition for Writ of Habeas Corpus and, based on information and belief and records reasonably available to me, verify that its contents are true and correct to the best of my knowledge. Because many of the allegations of this Petition require a legal knowledge not possessed by Petitioner, I am making this verification on his behalf.

Date: February 25, 2026

/s/ Eli Goldmann
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