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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MIKHEILI KOBIASHVILI,

Petitioner,

v.

WILLIAM JOYCE, the Acting ICE Field Office Director, KRISTI NOEM, the Secretary of the Department of Homeland Security, TODD M. LYONS, the Acting Director of U.S. Immigration and Customs Enforcement (ICE), PAMELA BONDI, the Attorney General of the United States

Defendants

Civil Action No. 26-cv-1178

[redacted]

AMENDED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner, Mikheili Kobiashvili ("Petitioner"), respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging the legality of his arrest and continued immigration detention. After being released into the United States by the government and permitted to reside at liberty pending adjudication of his asylum application, Petitioner has lived in this country for nearly three years. Notwithstanding this, officers of U.S. Immigration and Customs Enforcement ("ICE") abruptly arrested Petitioner on February 27, 2026. He is

presently detained at U.S. Courthouse, 200 Federal Plaza, Central Islip, New York 11722 (the "Central Islip Hold Room").

2. For the reasons stated below, the Petitioner respectfully asks this Court to grant his habeas petition and order such relief as justice requires.

JURISDICTION

3. This action arises under the Constitution, laws, and treaties of the United States, including 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution (the Suspension Clause). Relief is also authorized by the All Writs Act, 28 U.S.C. § 1651, and the Declaratory Judgment Act, 28 U.S.C. § 2201.

4. Federal courts retain habeas jurisdiction to review the legality of immigration detention. *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Hensley v. Municipal Court*, 411 U.S. 345 (1973); *Martinez v. Clark*, 144 S. Ct. 1339 (2024). Petitioner is "in custody" within the meaning of § 2241 while confined at U.S. Courthouse, 200 Federal Plaza, Central Islip, New York 11722 (the "Central Islip Hold Room"). See *Doe v. Barr*, 479 F. Supp. 3d 20 (S.D.N.Y. 2020).

VENUE

5. Venue lies in this District because, at the time of filing this habeas petition, Petitioner was confined at the Central Islip Hold Room at the U.S. Courthouse, 200 Federal Plaza, Central Islip, New York 11722, and William Joyce, the Acting ICE Field Office Director, exercised custody and control over Petitioner. See *Farez-Espinoza v. Chertoff*, 600 F. Supp. 2d 488, 495 (S.D.N.Y. 2009).

6. "In support of its holding that it had jurisdiction over Khalil's petition, the District Court relied on 28 U.S.C. § 1631. That statute lets a federal court that lacks jurisdiction transfer a case to another court where it could have been brought. The District Court acknowledged that Khalil had filed his original petition in the Southern District of New York—a court that lacked jurisdiction because he was detained in New Jersey at the time of filing. But because the petition was filed when Khalil was detained in New Jersey, the Court held that it satisfied the district-of-confinement requirement. The Court "assumed jurisdiction over the . . . petition, since it 'would have been able to exercise jurisdiction on the date that the petition was filed.'" Khalil v.

Joyce, 777 F. Supp. 3d 369, 392 (D.N.J. 2025) (quoting Martinez-Nieto v. Att'y Gen., 805 F. App'x 131, 135 (3d Cir. 2020)). We agree." See *Khalil v. President of the United States*, Nos. 25-2162 & 25-2357 (3d Cir. Jan. 15, 2026).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

7. There is no statutory exhaustion requirement applicable to petitions brought under 28 U.S.C. § 2241. *McCarthy v. Madigan*, 503 U.S. 140 (1992); *Laing v. Ashcroft*, 370 F.3d 994 (9th Cir. 2004).

8. Even if exhaustion were required, it should be excused because:

(a) ICE's revocation of supervision is not meaningfully reviewable; (b) continued detention causes ongoing and irreparable constitutional harm; and (c) Petitioner challenges the constitutionality of the detention framework itself. *Hardy v. Fischer*, 701 F. Supp. 2d 614, 619 (S.D.N.Y. 2010).

9. Following Petitioner's arrest, ICE did not set a bond. Moreover, under the prevailing practice within the immigration court system, Petitioner is categorically barred from obtaining custody review before an Immigration Judge. See, e.g., *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).[1]

10. Accordingly, no administrative avenue exists through which Petitioner may seek review of his detention, rendering exhaustion futile. *See Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.) (as amended) (judicial exhaustion may be excused when "available remedies provide no genuine opportunity for adequate relief" or exhaustion "would be futile" (internal citation omitted)).

PARTIES

11. Petitioner Mikheili Kobiashvili is a citizen of Georgia. He is now detained at the Central Islip Hold Room at U.S. Courthouse, 200 Federal Plaza, Central Islip, New York 11722.

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[1] *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), was vacated by the United States District Court for the Central District of California in *Maldonado Bautista et al. v. Santacruz Jr. et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Feb. 18, 2026). Immigration Judges nevertheless continue to deny bond hearings on jurisdictional grounds.

12. Respondent William Joyce is the Acting ICE Field Office Director, New York, and was the Petitioner's immediate custodian at the time this habeas petition was filed.

13. Respondent Kristi Noem is Secretary of the Department of Homeland Security and oversees ICE.

14. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE).

15. Respondent Pamela Bondi is the Attorney General of the United States.

16. Each Respondent is sued solely in his or her official capacity. Petitioner seeks only declaratory and injunctive relief directed at Respondents' official actions and policies resulting in Petitioner's unlawful detention.

STATEMENT OF FACTS

17. Petitioner arrived in the United States in 2023 through the Mexican border, without inspection, to seek asylum. He was released from ICE custody and filed for asylum with the Immigration Court on the ground that he was persecuted on account of his political opinion.

18. Since his release from ICE custody, Petitioner has resided in Brooklyn, New York, legally worked, complied with all the conditions of release, and has no criminal records.

19. On February 27, 2026, Petitioner was arrested by police officers during a routine traffic stop and handed over to ICE officers. He was taken into custody without a warrant, without prior notice, without a pre-deprivation bond hearing, and without any individualized assessment of risk.

20. Therefore, Petitioner's arrest and continued detention violates the Immigration and Nationality Act ("INA"), the Administrative Procedure Act, the Due Process Clause of the Fifth Amendment, and the Fourth Amendment's prohibition on unreasonable seizures.

LEGAL CLAIMS

COUNT I

Violation of the INA: Detention under the Wrong Statutory Provision

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

22. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to individuals who entered the United States, were apprehended at or near the border, subsequently released on their own recognizance, and continuously resided in the country prior to being re-detained. Such noncitizens are detained under § 1226(a), unless they are subject to § 1226(c) or § 1231.

23. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA. Petitioner was released into the interior of the United States, has continuously resided in New Jersey, for more than three years, has developed deep community ties, complied with ICE reporting requirements, legally worked, paid taxes, and therefore cannot be analogized to a person detained at the port of entry or stopped within 25 yards of the border. See *Rodriguez-Acurio v. Almodovar*, No. 2:25-cv-06065 (E.D.N.Y. 2025).

24. Petitioner's detention pending removal under § 1226(a) is discretionary, and noncitizens detained under the statute are afforded an initial determination as to eligibility for release and the opportunity for a bond hearing upon detention. 8 C.F.R. § 1236.1(d)(1). Here, Petitioner was afforded neither of these guarantees in violation of § 1226(a)

COUNT III

Violation of the Fourth Amendment

25. Petitioner's arrest constituted an unreasonable seizure in violation of the Fourth Amendment because it was executed without a warrant, without probable cause, and pursuant to a blanket enforcement policy rather than individualized suspicion. Civil immigration enforcement remains subject to Fourth Amendment constraints. *Morales v. Chadbourne*, 793 F.3d 208 (1st Cir. 2015); *Manuel v. City of Joliet*, 580 U.S. 357 (2017).

COUNT III

Violation of Due Process: Revocation of Release without Notice or Hearing

26. The Fifth Amendment's Due Process Clause prevents the Government from depriving any person of "life, liberty, or property without due process of law," U.S. Const. amend. V., regardless of "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); see also *Reno v. Flores*, 507 U.S. 292, 306 (1993). Due process demands that unless a person is "given[ ] notice of the case against [her] and opportunity to meet it," she may not be detained. *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976). Indeed, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

27. The adequacy of the process provided in civil immigration confinement is determined through application of the Mathews v. Eldridge balancing test. *Valdez v. Joyce,* No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at *3 (S.D.N.Y. June 18, 2025) (citing *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)). This test evaluates "(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest through the procedures used; and (3) the Government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail." Id. (citing *Mathews*, 424 U.S. at 335); see also *Lopez Benitez*, 2025 WL 2371588, at *9 (S.D.N.Y. Aug. 13, 2025).

28. As to *factor one*, in Petitioner's case, "the private interest affected by the official action is the most significant liberty interest there is—the interest in being free from imprisonment." *Black v. Decker*, 103 F.4th 133, 151 (2d Cir. 2024). While the Government undoubtedly has authority to detain Petitioner under Section 1226, Petitioner is entitled to "adequate procedural protections" before being deprived of her liberty. *Zadvydas*, 533 U.S. at 690.Before the Government may exercise its discretion to detain a noncitizen pursuant to Section 1226(a), the statute and its implementing regulations "require ICE officials to make an individualized custody determination." *Lopez Benitez*, 2025 WL 2371588, at *10; see also *Tumba Huamani*, 2025 WL 3079014, at *7 ("But Due Process still requires that such discretion actually be exercised—i.e., that some determination actually be made."). In making that determination, the relevant DHS official must consider two factors, whether the non-citizen

poses a "danger to property or persons" and whether he or she is "likely to appear for any future proceeding." *Lopez Benitez*, 2025 WL 2371588, at *10 (quoting 8 C.F.R. § 1236.1(c)(8)).

29. Instead, Petitioner's arrest stemmed from a blanket "policy" to detain "everyone who crossed the border," without regard to compliance history, criminal record, or individualized risk factors. Petitioner is neither a flight risk nor a danger to the community, and Respondents have not provided any evidence of changed circumstances.

30. As to the *second Mathews factor*, "[t]he purpose of requiring an exercise of discretion prior to the decision to detain a noncitizen who is not subject to mandatory detention is to prevent an erroneous deprivation of liberty." *Lopez Benitez*, 2025 WL 2371588, at 12. The risk of erroneous deprivation is high where, as here, Petitioner was arrested and placed into detention facility without consideration of any relevant factors.

31. As to the *third factor*, "to require that the Government justify continued detention promotes the Government's interest—one we believe to be paramount—in minimizing the enormous impact of incarceration in cases where it serves no purpose." *Black*, 103 F.4th at 154; see also *Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (observing that "any amount of actual jail time . . .has exceptionally severe consequences for the incarcerated individual and for society which bears the direct and indirect costs of incarceration" (internal quotation marks and alterations omitted)). Detention that serves no bona fide removal or safety purpose violates substantive due process. *See Zadvydas*, 533 U.S. at 690–91; *Gordon v. Shanahan*, 2015 WL 1176706 (S.D.N.Y. Mar. 13, 2015). ICE's "bed-availability" rationale is administrative convenience, not a lawful justification for depriving liberty. The continued detention of Petitioner not only infringes upon his protected liberty interest, but also does not serve the interests of the Government or the public.

32. Accordingly, ICE's summary revocation of Petitioner's release from custody violated the Due Process Clause of the Fifth Amendment. Rather than exercising the individualized discretion required by law, ICE effectuated Petitioner's detention pursuant to a blanket policy—without notice, without an individualized assessment, and without affording Petitioner any opportunity to be heard. Because Petitioner possessed a protected liberty interest in his continued release from custody, the Government's failure to provide even the most basic procedural

safeguards resulted in an unconstitutional deprivation of liberty. See *Mathews v. Eldridge*, 424 U.S. 319 (1976).

SCOPE OF RELIEF

33. For the reasons set forth above, Petitioner respectfully requests that the Court grant the writ of habeas corpus and order his immediate release from custody. Petitioner's continued detention pursuant to discretionary authority, without any individualized determination before a neutral adjudicator, violates the Fifth Amendment's guarantee of due process and therefore cannot lawfully continue. Immediate release is the appropriate remedy where detention proceeds in violation of constitutional safeguards.

34. For example, in *Salto-Salto v. Soto,* No. 1:26-cv-00612 (D.N.J. Jan. 23, 2026) the Court explained that "[w]hereas the basis for the Petitioner's continued "detention [was] blatantly unlawful from the start, the only commensurate and appropriate equitable remedy to even partially restore [Petitioner] is to immediate release him and enjoin the Government from further similar transgressions," *see, e.g.*, *Martinez v. McAleenan*, 385 F. Supp. 3d 349, 366, 371–73 (S.D.N.Y. 2019) ("[T]he Supreme Court has repeatedly upheld prisoners' rights to challenge the constitutionality of their detentions, and allow[ed] courts to implement corrective remedies, regardless of whether there were other bases for the petitioners to be subsequently detained."). See also *Rodriguez-Acurio v. Almodovar.*

35. The Court also declined to allow Respondents "[t]o transform an unlawful detention into a lawful one through alternative, retrospective, *post hoc* justification presented mid-litigation, as doing so would give the Government a free pass to violate a person's statutory and constitutional rights first and search" (citing *Lopez-Campos v. Raycraft*, No. 25-12486, 2025 WL 2496379, at *7& n.4 (E.D. Mich. Aug. 29, 2025) ("The Court cannot credit this new position that was adopted *post-hoc*, despite clear indication that Lopez-Campos was not detained under this provision."); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 486 (S.D.N.Y. 2025)).

36. Therefore, the Petitioner's arrest was unlawful from the outset, as it was effectuated without proper legal grounds and an individual assessment of risk, constituting a clear violation of the Petitioner's constitutional rights. Such a fundamental violation cannot be remedied through any means other than the immediate release of the Petitioner.

37. At minimum, however, the Court should order Respondents to provide a prompt bond hearing before an Immigration Judge consistent with constitutional requirements. Where civil immigration detention continues under 8 U.S.C. § 1226, due process requires more than a perfunctory custody review; it requires a meaningful adversarial hearing at which continued confinement is justified by evidence rather than presumption.

38. Critically, such a hearing must place the burden on the Government—not the detained individual—to justify ongoing detention. Civil immigration confinement is non-punitive in nature, and "[f]reedom from imprisonment… lies at the heart of the liberty that the Due Process Clause protects." *Id.* at 850 (quoting *Zadvydas*, 533 U.S. at 690). In light of the substantial liberty interest at stake and the risk of erroneous deprivation inherent in prolonged executive detention, due process requires that the Government demonstrate, by *clear and convincing evidence*, that continued detention is necessary because Petitioner poses either a danger to the community or a genuine risk of flight. This allocation of the burden is particularly essential to preserve the neutrality and reliability of custody determinations in the modern immigration detention system, where liberty turns on individualized factual findings rather than categorical assumptions. Requiring the Government to justify detention ensures that civil confinement remains carefully limited to those cases where it is genuinely necessary, rather than functioning as automatic or indefinite detention without meaningful review.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be removed from the United States without an order by this Court allowing such removal and transferred, except to the detention facility within this District, absent further order of this Court;

c. Expedite consideration of this Petition under 28 U.S.C § 1657 ("the court shall expedite the consideration of any action brought under chapter 153", which includes petitions for habeas corpus);

d. Issue an Order to Show Cause directing Respondents to explain why the writ should not be granted within three days, as required by 28 U.S.C. § 2243;

e. Declare Petitioner's detention unlawful;

f. Order Petitioner's immediate release;

g. *In the alternative,* order Respondents to provide, within a fixed and prompt period set by the Court, an individualized bond hearing before an Immigration Judge at which:

- the Government bears the burden of proof;
- the standard of proof is clear and convincing evidence; and
- continued detention is permitted only upon a finding that Petitioner presents a danger to the community or a risk of flight.

h. Order enjoining Respondents from re-detaining Petitioner absent a valid exercise of discretion under 8 U.S.C. § 1226(a);

i. Order limiting Respondents to the restraints on Petitioner's liberty that existed prior to his re-detention on February 22, 2026. See *Khabazha v. United States Immigr. & Customs Enf't,* No. 25-cv-5279, 2025 WL 3281514, at *8 (S.D.N.Y. Nov. 25, 2025); *Tornike Ambroladze v. Maldonado,* No. 1:26-cv-00474 (E.D.N.Y. Feb. 3, 2026);

j. Order Respondents to return to Petitioner any and all funds or property seized from Petitioner at the time of his arrest. See *Vakhtang Ambroladze v. Maldonado,* No. 1:26-cv-00473 (E.D.N.Y. Feb. 4, 2026);

k. Order that the Immigration Judge, in determining whether the government has met its burden of proof, shall consider whether less restrictive alternatives to detention can reasonably address the government's interest in Petitioner's continued detention, and, if the government fails to meet its burden, shall consider Petitioner's ability to pay and alternative conditions of release in setting any bond. See *Ivonin v. Rhoney*, No. 6:25-cv-06673-EAW, ECF No. 21 (W.D.N.Y. Jan. 26, 2026).

l. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and

m. Grant such further relief as this Court deems just and proper.

Respectfully submitted,
Date: March 2, 2026

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

I, Alina Kats, Esq., represent the Petitioner, Mikheili Kobiashvili, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Amended Petition for Writ of Habeas Corpus under 28 U.S.C. § 2242 or under the U.S. Constitution are true and correct to the best of my knowledge.

Date: March 2, 2026

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