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7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 IKHTIER ISOEV,
11
12 Plaintiff,

13 vs.

14 CHRISTOPHER LAROSE, Warden of
15 Otay Mesa Detention Center;
16 DANIEL A. BRIGHTMAN, San Diego
17 Field Office Director, Immigration and
18 Customs Enforcement and Removal
19 Operations ("ICE/ERO");
20 TODD LYONS, Acting Director of
21 Immigration Customs Enforcement
22 ("ICE");
23 KRISTI NOEM, Secretary of the
24 Department of Homeland Security
25 ("DHS");
26 PAMELA BONDI, Attorney General of
27 the United States,
28 U.S. DEPARTMENT OF HOMELAND
SECURITY;
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;

Respondents.

Case No.: '26CV1361 JES DDL

Agency Number: 

PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW
CAUSE

INTRODUCTION

1. Ikhtier ISOEV, [REDACTED] is an immigrant from Russia. He was a supporter of Alexei Navalny and the anticorruption reforms he supported. The Russian authorities have severely oppressed these supporters and Mr. Isoev became a target for persecution by the government. He realized his life was in danger so he fled Russia for the United States. He has applied for asylum with the United States.

2. His attorney was able to get him an appointment with CBP in Brownsville. He was admitted into the United States on 9 January 2023 and was granted Humanitarian Parole for one year. He was also presented with an NTA which initiated a removal process with EOIR. He filed for Asylum on November 30, 2023. He eventually was granted was granted work authorization.

3. Mr. Isoev continued his life in the United States after his release on parole. He received work authorization. He found a place to live and integrated himself into the local community. In the more than three years he has lived here he has established himself financially as well. Most recently he has been working as a rideshare driver for UBER.

4. On December 25, 2025, Mr. Isoev got a request to a customer. The request required him to drive onto Camp Pendleton Marine Base. Mr. Isoev had no idea that picking him up at the base would be a problem. He exited the freeway

1 saw that he was immediately in the entry lane for the base. There are several entry
2 lanes that go to the gate. Once you enter the lane, there is no way to exit. When he
3 arrived at the gate, the guard asked to see his identification. He showed him his ID
4 and the guard asked if he had a green card. Mr. Isoev said no. The guard then
5 asked him to pull to the side and wait there. He lied to him and told him a
6 supervisor need to ask him a few questions and they were doing a security check. I
7 asked several times to have my license returned so I could leave. I was told I could
8 not go. Approximately 2 hours later ICE agents showed up. He was escorted out of
9 his car and led to a building near the gate. He was then placed in handcuffs, waist
10 and leg irons. He was taken to downtown San Diego for initial processing and then
11 transferred to Otay Mesa Detention Center where he remains today.

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17 5. He was not told what law he had violated. He was not advised of his
18 Miranda rights. With no cause and no explanation and no warrant he was put into
19 detention at the Otay Mesa Detention Center.

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21 6. One of the benefits that petitioner enjoyed with his liberty has been
22 his ability to work and to more actively participate in his asylum application
23 process. Suddenly, with no notice, no neutral determination that there has been a
24 change in circumstances, Respondents seek to revoke Mr. Isoev' liberty and force
25 him to remain in custody for the duration of his application process. This also
26 cancels his work authorization. Respondents seek to make Mr. Isoev continue with
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28

1 this asylum process behind bars. Respondents do all of this based not on Mr.
2 Isoev's personal circumstances but because of Respondents' interpretation of
3 President Trump's whim and categorical determination that, the Fifth Amendment
4 notwithstanding, noncitizens are not entitled to due process.
5

6
7 7. But Respondents cannot evade the law so easily. The U.S.
8 Constitution requires the Respondents provide at least the rights available to him
9 when he was granted parole and when he filed his application for asylum¹.
10

11 8. Accordingly, to vindicate Petitioner's rights, this Court should grant
12 the instant petition for a writ of habeas corpus. Mr. Isoev asks this Court to find
13 that Respondents' attempt to detain him are arbitrary and capricious and in
14 violation of the law, and to immediately issue an order preventing his transfer out
15 of this district.
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17 JURISDICTION

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19 9. This action arises under the Constitution of the United States and
20 the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.
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26 ¹ See, e.g., NBC News, Meet the Press interview of President Donald Trump (May 4, 2025),
27 <https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donaldtrump-interviewed-meet-press-mod-rcna203514> (in response to a question whether noncitizens
28 deserve due process under the Fifth Amendment, President Trump replied "I don't know. It seems—it might say that, but if you're talking about that, then we'd have to have a million or 2 million or 3 million trials.").

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).

12. Venue is proper because Petitioner is in Respondents' custody in Imperial, California. 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).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

1 15. Courts have long recognized the significance of the habeas statute
2 in protecting individuals from unlawful detention. The Great Writ has been
3 referred to as “perhaps the most important writ known to the constitutional law of
4 England, affording as it does a swift and imperative remedy in all cases of illegal
5 restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).
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8 16. Petitioner is “in custody” for the purpose of § 2241 because he is
9 arrested and detained by Respondents.
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11 PARTIES

12 17. Azad Isoev (“Petitioner”) is a 38-year-old citizen of Russia born
13  He is currently a resident of San Diego, and is present within
14 the state of California as of the time of the filing of this petition.
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16 18. Respondent Christopher LaRose is the Warden of the Otay Mesa
17 Detention Center and is a legal custodian of Petitioner.
18

19 19. Respondent Daniel A. Brightman is the Field Office Director for
20 the San Diego Field Office, Immigration and Customs Enforcement and Removal
21 Operations (“ICE”). The San Diego Field Office is responsible for local custody
22 decisions relating to non-citizens charged with being removable from the United
23 States, including the arrest, detention, and custody status of non- citizens. The San
24 Diego Field Office’s area of responsibility includes San Diego, California and the
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1 Otay Mesa Detention Center. Respondent Daniel A. Brightman is a legal custodian
2 of Petitioner.
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4 20. Respondent Todd Lyons is the acting director of U.S. Immigration
5 and Customs Enforcement, and he has authority over the actions of respondent
6 Sidney Aki and ICE in general. Respondent Lyons is a legal custodian of
7
8 Petitioner.

9 21. Respondent Kristi Noem is the Secretary of the Department of
10 Homeland Security (DHS) and has authority over the actions of all other DHS
11 Respondents in this case, as well as all operations of DHS. Respondent Noem is a
12 legal custodian of Petitioner and is charged with faithfully administering the
13
14 immigration laws of the United States.
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16 22. Respondent Pamela Bondi is the Attorney General of the United
17 States, and as such has authority over the Department of Justice and is charged
18 with faithfully administering the immigration laws of the United States.
19
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21 23. Respondent U.S. Immigration Customs Enforcement is the federal
22 agency responsible for custody decisions relating to non-citizens charged with
23 being removable from the United States, including the arrest, detention, and
24 custody status of non-citizens.
25

26 24. Respondent U.S. Department of Homeland Security is the federal
27 agency that has authority over the actions of ICE and all other DHS Respondents.
28

1 25. This action is commenced against all Respondents in their official
2 capacities.
3

4 **LEGAL FRAMEWORK**

5 26. The Refugee Act of 1980, the cornerstone of the U.S. asylum system,
6 provides a right to apply for asylum to individuals seeking safe haven in the United
7 States. The purpose of the Refugee Act is to enforce the “historic policy of the
8 United States to respond to the urgent needs of persons subject to persecution in
9 their homelands.” Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102
10 (1980).
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13 27. The “motivation for the enactment of the Refugee Act” was the
14 United Nations Protocol Relating to the Status of Refugees, “to which the United
15 States had been bound since 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424,
16 432-33 (1987). The Refugee Act reflects a legislative purpose “to give ‘statutory
17 meaning to our national commitment to human rights and humanitarian concerns.’”
18 *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).
19
20
21

22 28. The Refugee Act established the right to apply for asylum in the
23 United States and defines the standards for granting asylum. It is codified in
24 various sections of the INA.
25

26 29. The INA gives the Attorney General or the Secretary of Homeland
27 Security discretion to grant asylum to noncitizens who satisfy the definition of
28

1 “refugee.” Under that definition, individuals generally are eligible for asylum if
2 they have experienced past persecution or have a well-founded fear of future
3 persecution on account of race, religion, nationality, membership in a particular
4 social group, or political opinion and if they are unable or unwilling to return to
5 and avail themselves of the protection of their homeland because of that
6 persecution of fear. 8 U.S.C. § 1101(a)(42)(A).
7

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9 30. Although a grant of asylum may be discretionary, the right to
10 apply for asylum is not. The Refugee Act broadly affords a right to apply for
11 asylum to any noncitizen “who is physically present in the United States or who
12 arrives in the United States[.]” 8 U.S.C. § 1158(a)(1).
13
14

15 31. Because of the life-or-death stakes, the statutory right to apply for
16 asylum is robust. The right necessarily includes the right to counsel, at no expense
17 to the government, see 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the
18 right to counsel, see 8 U.S.C. § 1158(d)(4), and the right to access information in
19 support of an application, see § 1158(b)(1)(B) (placing the burden on the applicant
20 to present evidence to establish eligibility.).
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22

23 32. Noncitizens seeking asylum are guaranteed Due Process under the
24 Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306
25 (1993).
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1 33. Noncitizens who are applicants for asylum are entitled to a full
2 hearing in immigration court before they can be removed from the United States. 8
3 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative
4 appellate review before the Board of Immigration Appeals of removal orders
5 entered against them and judicial review in federal court upon a petition for
6 review. 8 U.S.C. § 1252(a) *et seq.*
7

9 34. Immigration detention is a form of civil confinement that
10 “constitutes a significant deprivation of liberty that requires due process
11 protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).
12

13 35. Immigration detention should not be used as a punishment and
14 should only be used when, under an individualized determination, a noncitizen is a
15 flight risk because they are unlikely to appear for immigration court or a danger to
16 the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
17

18 36. Due Process requires that the government must provide notice and
19 an opportunity to be heard prior to depriving someone of their liberty, even after
20 their parole has expired.
21

22 23 24 25 **FACTUAL BACKGROUND**

26 37. Petitioner is a citizen of Russia. He was born  in
27 Russia and is currently a citizen of Russia.
28

1 38. Petitioner was persecuted in Russia. He was repeatedly threatened
2 by the authorities for his support of Mr. Navalny and the anticorruption campaign
3 he championed.
4

5 39. On January 9, 2023, Petitioner was lawfully admitted into the
6 United States with Humanitarian Parole. The purpose of this parole was to allow
7 him to file for asylum and any other immigration relief that may be available to
8 him.
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11 40. When he was released he was also issued an NTA and was placed
12 in 240 removal proceedings.
13

14 41. He has attended all scheduled check-ins, interviews and
15 appointments.
16

17 42. On information and belief, Petitioner continues to meet all the
18 requirements of his admission to the United States.
19

20 43. Petitioner applied for asylum on November 30, 2023.
21

22 44. Respondents issued work authorization to Petitioner pursuant to 8
23 C.F.R. § 274a.12(c)(08).
24

25 45. On December 25, 2025 entered the entrance lane for Camp
26 Pendleton near Oceanside, California. He was responding to an Uber request.
27 When he got to the gate he was asked for his ID. He was then asked if he had a
28 green card. When he said no, he was asked to pull over to the side. He asked what

1 the problem was and was told that he needed to wait for a security check. He sat
2 there for approximately 2 hours. Eventually, ICE showed up, instructed him to get
3 out of his vehicle and then placed him under arrest.
4

5 46. He was then handcuffed and taken into custody. He was never
6 given a written notice that his liberty was been revoked. He was not given any
7 particularized reason for why he was being placed into detention. He was never
8 presented with a warrant for his arrest. He was never given any Miranda warnings.
9 He was eventually transported to Otay Mesa Detention Center. Mr. Isoev must
10 now defend his asylum application process while in detention.
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12

13 47. Mr. Isoev was never presented with a warrant for his arrest. The
14 ICE agents did not provide him any process. The ICE agents did not offer him any
15 opportunity to be heard prior to arresting and detaining him.
16
17

18 48. On January 20, 2025, President Donald Trump issued several
19 executive actions relating to immigration, including “Protecting the American
20 People Against Invasion,” an executive order (EO) setting out a series of interior
21 immigration enforcement actions. The Trump administration, through this and
22 other actions, has outlined sweeping, executive branch-led changes to immigration
23 enforcement policy, establishing a formal framework for mass deportation. The
24 “Protecting the American People Against Invasion” EO instructs the DHS
25 Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to
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28

1 prioritize civil immigration enforcement procedures including through the use of
2 mass detention.
3

4 49. On information and belief, Respondents are detaining Petitioner
5 regardless of the individual facts and circumstances of his case.
6

7 50. On information and belief, Respondents are using the immigration
8 detention system as a means to punish individuals for asserting rights under the
9 Refugee Act.
10

11 51. On information and belief, Petitioner has no criminal history.
12

13 **CLAIMS FOR RELIEF**

14 **COUNT ONE**

15 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**

16 **Not in Accordance with Law and in Excess of Statutory Authority**

17 **Unlawful Detention**

18
19 52. Petitioner restates and realleges all previous paragraphs as if fully
20 set forth here.
21

22 53. Under the APA, a court shall “hold unlawful and set aside agency
23 action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).
24

25 54. An action is an abuse of discretion if the agency “entirely failed to
26 consider an important aspect of the problem, offered an explanation for its decision
27 that runs counter to the evidence before the agency, or is so implausible that it
28

1 could not be ascribed to a difference in view or the product of agency expertise.”

2 *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007)

3
4 (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*,

5 463 U.S. 29, 43 (1983)).

6
7 55. To survive an APA challenge, the agency must articulate “a
8 satisfactory explanation” for its action, “including a rational connection between
9 the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551,
10 2569 (2019) (citation omitted).

11
12 56. By categorically revoking Petitioner’s liberty and transferring him
13 to Otay Mesa Detention Center without consideration of his individualized facts
14 and circumstances, Respondents have violated the APA.

15
16 57. Respondents have made no finding that Petitioner is a danger to
17 the community.

18
19 58. Respondents have made no finding that Petitioner is a flight risk.

20
21 59. By detaining the Petitioner categorically, Respondents have
22 further abused their discretion because there have been no changes to his facts or
23 circumstances since the agency made its initial determination to admit him into the
24 United States that support detention.

25
26 60. Respondents have already considered Petitioner’s facts and
27 circumstances and determined that he was not a flight risk or danger to the
28

1 community when they initially paroled him. The fact that Mr. Isoev's parole has
2 expired does not mean he has lost his liberty interest. It also does not mean the
3 government must not follow their own process before detaining him.
4

5 **COUNT TWO**

6 **Violation of Fifth Amendment Right to Due Process** 7 **Procedural Due Process**

8 61. Petitioner restates and realleges all paragraphs as if fully set forth
9 here.
10

11 62. The Due Process Clause of the Fifth Amendment to the U.S.
12 Constitution prohibits the federal government from depriving any person of "life,
13 liberty, or property, without due process of law." U.S. Const. Amend. V. Due
14 process protects "all 'persons' within the United States, including [non-citizens],
15 whether their presence here is lawful, unlawful, temporary, or permanent."
16 *Zadvydas*, 533 U.S. at 693; *accord Flores*, 507 U.S. at 306.
17

18 63. Due process requires that government action be rational and non-
19 arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).
20

21 64. While the government has discretion to detain individuals under 8
22 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this
23 discretion is not "unlimited" and must comport with constitutional due process. *See*
24 *Zadvydas*, 533 U.S. at 698.
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1 65. Here, Respondents have chosen to revoke Petitioner's liberty in an
2 arbitrary manner and not based on a rational and individualized determination of
3 whether he is a safety or flight risk, in violation of due process. Because no prior
4 individualized custody determination was made and no circumstances have
5 changed to make Petitioner a flight risk or a danger to the community,
6 Respondents' revocation of Petitioner's release violates his right to procedural due
7 process.
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9
10

11 **COUNT THREE**

12 **Violation of the Fourth Amendment to the Constitution**

13 66. Petitioner restates and realleges all paragraphs as if fully set forth
14 here.
15

16 67. The Fourth Amendment protects "[t]he right of the people to be
17 secure in their persons ... against unreasonable searches and seizures." U.S. Const.
18 Amend. IV. The Supreme Court has recognized that immigration arrests and
19 detentions are "seizures" within the meaning of the Fourth Amendment. *INS v*
20 *Lopez-Mendoza*, 468 U.S. 1032, 1044f (1984) (acknowledging that deportation
21 proceedings are civil, but the Fourth Amendment still applies to the "Seizure" of
22 the person.)
23
24
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26 68. The Fourth Amendment requires that arrests entail a neutral,
27 judicial determination of probable cause. See *Gerstein v. Pugh*, 420 U.S. 103, 114
28

1 (1975). That neutral, judicial determination can occur either before the arrest in the
2 form of a warrant, or promptly afterward, in the form of a prompt judicial probable
3 cause determination. *Id.* Arrest and detention of a person, including of a
4 noncitizen, absent a neutral judicial determination of probable cause violates the
5 Fourth Amendment of the Constitution. *Id.* See also *Cnty. Of Riverside v*
6 *McLaughlan*, 500 U.S. 44, 57 (1991). This determination must occur within 48
7 hours of detention, which includes weekends, unless there is a bona fide
8 emergency or other extraordinary circumstances. *Id.*

12 69. Congress enacted a strong preference that immigration arrests be
13 based on warrants. See *Arizona v. United States*, 567 U.S. 387, 407-08 (2012). The
14 Immigration and Nationality Act thus provides immigration officers with only
15 limited authority to conduct warrantless arrests. See 8 C.F.R § 287.8(c)(2)(ii).

18 70. Mr. Isoev, at the moment of the arrest by Respondents, was
19 lawfully present based on the Respondents' prior grant of release and parole. He
20 did not receive any judicial determination of probable cause for his arrest or
21 continued detention by Respondents.

23 71. The Government cannot salvage this seizure by invoking
24 generalized immigration enforcement interests. The Fourth Amendment's
25 reasonableness inquiry is fact-specific and demands individualized justification for
26 both the arrest and the extended detention. See *United States v Brignoni-Ponce*,
27
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1 422 U.S. 873, 882-84 (1975). *Gerstein*, 420 U.S. at 114. Mr. Isoev was admitted
2 into the United States in 2023 and did not pose any danger to any person in the
3 community at large.
4

5 72. Respondents' warrantless arrest of Mr. Isoev constitutes an
6 unreasonable and unlawful seizure in violation of the Fourth Amendment.
7

8 **Bond is not the appropriate remedy**

9 73. Many courts recently have been ordering a bond hearing as an
10 alternative avenue for relief. If Mr. Isoev's detention was unlawful, *ab initio*, he
11 should not be required to post a bond and, in effect, pay a ransom to be released
12 from this illegal detention. Nothing in the government's actions indicates that Mr.
13 Isoev has somehow become a flight risk or a danger to the community. He was not
14 detained at Camp Pendleton because he was suddenly a flight risk or a danger to
15 the community. When ICE put him in handcuffs, they did not assert that they had
16 suddenly determined he was a flight risk or a danger to the community. He was
17 simply swept up in this administration's scheme to lock up all immigrants without
18 green cards.
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23 74. Ordering a bond hearing rewards the government's unlawful
24 behavior. First, it legitimizes his detention. Second, it allows the government to
25 detain without a prior determination of a change in individual circumstances
26 regarding flight risk and danger. Third, it requires the petitioner to prove that he is
27
28

1 not a flight risk or a danger to the community, something the government already
2 determined when they released him. Fourth, it requires the petitioner to pay a fee to
3 the parties that unlawfully detained him in order to be released from his unlawful
4 detention.
5

6
7 **PRAYER FOR RELIEF**

8 WHEREFORE, Petitioner respectfully requests this Court to grant the
9 following:
10

11 (1) Assume jurisdiction over this matter;

12 (2) Issue an Order to Show Cause ordering Respondents to show
13 cause why this Petition should not be granted within three days;
14

15 (3) Declare that Petitioner's detention without a prior individualized
16 determination violates the Due Process Clause of the Fifth Amendment and the
17 Administrative Procedures Act;
18

19 (4) Declare that Petitioner's warrantless arrest and detention
20 constitutes an unreasonable and unlawful seizure in violation of the Fourth
21 Amendment;
22

23 (5) Issue a Writ of Habeas Corpus ordering Respondents to release
24 Petitioner from custody;
25

26 (6) Issue an Order prohibiting the Respondents from transferring
27 Petitioner from the district without the court's approval;
28

1 (7) Issue and Order prohibiting the Respondents from enrolling the
2 Petitioner in any Alternative to Detention program, specifically barring them from
3 requiring an ankle monitor;
4

5 (8) Grant any further relief this Court deems just and proper.

6
7 Dated: March 3, 2026

/s/ Brian J. McGoldrick
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VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 3rd day of March, 2026, in San Diego, California.

/s/ Brian J. McGoldrick
Brian J. McGoldrick, Esq.
Attorney for Petitioner