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

8 **GIORGI GZIRISHVILI,**
9 **Plaintiff,**

10 vs.

11
12 **CHRISTOPHER LAROSE**, warden of
13 **Otay Mesa Detention Center**
14 **DANIEL A. BRIGHTMAN**, San Diego
15 **Field Office Director, Immigration and**
16 **Customs Enforcement and Removal**
17 **Operations (“ICE/ERO”);**
18 **TODD LYONS**, Acting Director of
19 **Immigration Customs Enforcement**
20 **(“ICE”);**
21 **KRISTI NOEM**, Secretary of the
22 **Department of Homeland Security**
23 **(“DHS”);**
24 **PAMELA BONDI**, Attorney General of
the United States,
U.S. DEPARTMENT OF HOMELAND
SECURITY;
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;

25 Respondents.

Case No.: '26CV1647 CAB MMP

Agency Number: 


**PETITION FOR WRIT OF HABEAS
CORPUS**

ORAL ARGUMENT REQUESTED

**EXPEDITED HEARING
REQUESTED**

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INTRODUCTION

1. Giorgi GZIRISHVILI, born  is a Georgian man from Russia. Petitioner is Ossetian. This group is a persecuted minority in Georgia where he grew up. He eventually moved to Russia, but was persecuted there as well for his ethnicity. While in Russian he also became a supporter of democratic reforms promoted by Alexei Navalny. He was eventually identified by the government and believed his life was in danger if he stayed in Russia. On October 27, 2021 he entered the United States and presented himself to the authorities to request asylum in the United States.

2. He was held in detention at or near the border for about 10 days and then was moved to a detention center in New Mexico. He was given a credible fear interview, which he passed. After his CFI it was determined by Respondents that he was not a flight risk nor a danger to the community and he was granted conditional parole through release on his own recognizance on November 24, 2021. See Exhibit A.

3. Mr. Gzirishvili began his life in the United States after he was released. He filed for asylum in March of 2022. He received work authorization, found a place to live and integrated himself and his family into the local community.

1 He eventually earned a long-haul truck driver license. In the more than four years he
2 has lived here he has established himself financially as well.
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4 4. On February 26, 2026, Mr. Gzirishvili was driving his truck and
5 decided to pull in to a truck stop/rest area to get some sleep. He had made a
6 delivery from Philadelphia to Phoenix, then picked up a delivery in Phoenix to take
7 to Los Angeles. At approximate 3:00 a.m. on February 27, 2026, Mr. Gzirishvili
8 needed to use the toilet. He exited his sleeper cab and was walking toward the
9 restrooms when two cars suddenly drove in front of him. Masked men with their
10 guns drawn jumped out of the vehicles and ordered me to stop. They demanded to
11 know where he was from. Then they asked if he had a green card. When he told
12 them no, he was ordered to put his hands behind his back. He was manacled and
13 forced into their waiting vehicle.
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18 5. Mr. Gzirishvili asked why he was being detained. He was not told
19 why he was arrested. He was not told what law he had violated. He was not
20 advised of his Miranda rights. With no cause and no explanation and no warrant he
21 was put in the ICE vehicle and transferred to another unknown location. He was
22 eventually transferred to the Otay Mesa facility.
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25 6. One of the benefits that petitioner enjoyed with conditional parole
26 has been his ability to work, to go to school and to more actively participate in his
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1 asylum application process. Suddenly, with no notice, no neutral determination that
2 there has been a change in circumstances, Respondents seek to revoke Mr.
3 Gzirishvili liberty and force him to remain in custody for the duration of his
4 application process. Respondents do so based not on Mr. Gzirishvili' personal
5 circumstances but because of Respondents' interpretation of President Trump's
6 whim and categorical determination that, the Fifth Amendment notwithstanding,
7 noncitizens are not entitled to due process.
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11 7. But Respondents cannot evade the law so easily. The U.S.
12 Constitution requires the Respondents provide at least the rights available to him
13 when he was granted parole and when he filed his application for asylum¹.
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15 8. Accordingly, to vindicate Petitioner's rights, this Court should grant
16 the instant petition for a writ of habeas corpus. Mr. Gzirishvili asks this Court to
17 find that Respondents' attempt to detain him are arbitrary and capricious and in
18 violation of the law, and to immediately issue an order preventing his transfer out
19 of this district.
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25 ¹ See, e.g., NBC News, Meet the Press interview of President Donald Trump (May 4, 2025),
26 <https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donaldtrump-interviewed-meet-press-mod-rcna203514> (in response to a question whether noncitizens
27 deserve due process under the Fifth Amendment, President Trump replied "I don't know. It
28 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.").

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JURISDICTION

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

10. 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 in San Diego, 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).

13. For these same reasons, divisional venue is proper under Local Rule HC.1

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

1 27. The “motivation for the enactment of the Refugee Act” was the
2 United Nations Protocol Relating to the Status of Refugees, “to which the United
3 States had been bound since 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424,
4 432-33 (1987). The Refugee Act reflects a legislative purpose “to give ‘statutory
5 meaning to our national commitment to human rights and humanitarian concerns.’”
6 *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).
7

8 28. The Refugee Act established the right to apply for asylum in the
9 United States and defines the standards for granting asylum. It is codified in
10 various sections of the INA.
11

12 29. The INA gives the Attorney General or the Secretary of Homeland
13 Security discretion to grant asylum to noncitizens who satisfy the definition of
14 “refugee.” Under that definition, individuals generally are eligible for asylum if
15 they have experienced past persecution or have a well-founded fear of future
16 persecution on account of race, religion, nationality, membership in a particular
17 social group, or political opinion and if they are unable or unwilling to return to
18 and avail themselves of the protection of their homeland because of that
19 persecution of fear. 8 U.S.C. § 1101(a)(42)(A).
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25 30. Although a grant of asylum may be discretionary, the right to
26 apply for asylum is not. The Refugee Act broadly affords a right to apply for
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1 asylum to any noncitizen “who is physically present in the United States or who
2 arrives in the United States[.]” 8 U.S.C. § 1158(a)(1).
3

4 31. Because of the life-or-death stakes, the statutory right to apply for
5 asylum is robust. The right necessarily includes the right to counsel, at no expense
6 to the government, see 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the
7 right to counsel, see 8 U.S.C. § 1158(d)(4), and the right to access information in
8 support of an application, see § 1158(b)(1)(B) (placing the burden on the applicant
9 to present evidence to establish eligibility.).
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12 32. Noncitizens seeking asylum are guaranteed Due Process under the
13 Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306
14 (1993).
15


16 33. Noncitizens who are applicants for asylum are entitled to a full
17 hearing in immigration court before they can be removed from the United States. 8
18 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative
19 appellate review before the Board of Immigration Appeals of removal orders
20 entered against them and judicial review in federal court upon a petition for
21 review. 8 U.S.C. § 1252(a) *et seq.*
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1 34. Immigration detention is a form of civil confinement that
2 “constitutes a significant deprivation of liberty that requires due process
3 protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).
4

5 35. Immigration detention should not be used as a punishment and
6 should only be used when, under an individualized determination, a noncitizen is a
7 flight risk because they are unlikely to appear for immigration court or a danger to
8 the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
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11 36. Respondents’ decision to grant conditional parole to petitioner in
12 2021 “reflect[ed] a determination by the government that the noncitizen is not a
13 danger to the community or a flight risk.” *Fernández López*, 2025 WL 2959319, at
14 *2 (internal quotation marks omitted). The grant of conditional parole “constituted
15 an implied promise that [his] liberty would not be revoked unless [he] failed to live
16 up to the conditions of [his] release.” *Pinchi*, 792 F.Supp.3d at 1034 (internal
17 quotation marks omitted).
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21 **FACTUAL BACKGROUND**

22 37. Petitioner is a citizen of Russia. He was born  in
23 Georgia and is currently a citizen of Russia.
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1 38. Petitioner was repeatedly persecuted in Georgia and then Russia.
2 He was repeatedly threatened for participation in rights rallies and became a target
3 of the authorities.
4

5 39. On November 24, 2021, Petitioner was conditional parole into the
6 United States to seek asylum. This release was based on the individualized facts in
7 his case determined during interviews with the officers that were overseeing him
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9 40. He was also issued an NTA and placed in 240 removal
10 proceedings.
11

12 41. He has attended all scheduled hearings in connection with his
13 removal proceedings.
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15 42. On information and belief, Petitioner continues to meet all the
16 requirements of his parole.
17

18 43. Petitioner applied for asylum in March 2022.

19 44. Respondents issued work authorization to Petitioner pursuant to 8
20 C.F.R. § 274a.12(c)(08).
21

22 45. On February 27, 2026, Mr. Gzirishvili was working as long-haul
23 trucker. He had left Pennsylvania a few days earlier, made a delivery in Phoenix,
24 AZ and was on his way to Los Angeles. He had been heading west on Interstate 10
25 when he decided to rest. About 20 miles after crossing from Arizona to California
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1 he pulled off the road for the night. At about 3:00 a.m. on February 27, 2026, he
2 got up to use the toilet. As he was crossing the lot he was surrounded by masked
3 men with their guns drawn. They demanded to know if he was a citizen. They
4 demanded to see his identity documents. When asked if he had a green card, he
5 told them no. They immediately told him to turn around, put him in handcuffs and
6 forced him into their vehicle.
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9 46. He asked why he was being detained. He was not told why he was
10 arrested. He was not told what law he had violated. He was not advised of his
11 Miranda rights. With no cause and no explanation and no warrant he was put in the
12 ICE vehicle and eventually transferred to the ICE facility in downtown San Diego.
13 He was then transferred to the Otay Mesa facility.
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16 47. Mr. Gzirishvili was never presented with a warrant for his arrest.
17 The ICE agents did not provide him any process. The ICE agents did not offer him
18 any opportunity to be heard prior to arresting and detaining him.
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21 48. On January 20, 2025, President Donald Trump issued several
22 executive actions relating to immigration, including “Protecting the American
23 People Against Invasion,” an executive order (EO) setting out a series of interior
24 immigration enforcement actions. The Trump administration, through this and
25 other actions, has outlined sweeping, executive branch-led changes to immigration
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1 enforcement policy, establishing a formal framework for mass deportation. The
2 “Protecting the American People Against Invasion” EO instructs the DHS
3 Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to
4 prioritize civil immigration enforcement procedures including through the use of
5 mass detention.
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8 49. On information and belief, Respondents are detaining Petitioner
9 regardless of the individual facts and circumstances of his case.
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11 50. On information and belief, Respondents are using the immigration
12 detention system as a means to punish individuals for asserting rights under the
13 Refugee Act.
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15 51. On information and belief, Petitioner has no criminal history.
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17 **CLAIMS FOR RELIEF**

18 **COUNT ONE**

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

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

21 **Unlawful Detention**

22 52. Petitioner restates and realleges all paragraphs as if fully set forth
23 here.
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1 53. Under the APA, a court shall “hold unlawful and set aside agency
2 action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).
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4 54. An action is an abuse of discretion if the agency “entirely failed to
5 consider an important aspect of the problem, offered an explanation for its decision
6 that runs counter to the evidence before the agency, or is so implausible that it
7 could not be ascribed to a difference in view or the product of agency expertise.”
8 *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551U.S. 644, 658 (2007)
9 (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*,
10 463 U.S. 29, 43 (1983)).
11
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13 55. To survive an APA challenge, the agency must articulate “a
14 satisfactory explanation” for its action, “including a rational connection between
15 the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551,
16 2569 (2019) (citation omitted).
17
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19 56. By categorically revoking Petitioner’s conditional parole and
20 transferring him to Otay Mesa Detention Center without consideration of his
21 individualized facts and circumstances, Respondents have violated the APA.
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23 57. Respondents have made no finding that Petitioner is a danger to
24 the community.
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26 58. Respondents have made no finding that Petitioner is a flight risk.
27

1 Amend. IV. The Supreme Court has recognized that immigration arrests and
2 detentions are “seizures” within the meaning of the Fourth Amendment. *INS v*
3 *Lopez-Mendoza*, 468 U.S. 1032, 1044f (1984) (acknowledging that deportation
4 proceedings are civil, but the Fourth Amendment still applies to the “Seizure” of
5 the person.)
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8 68. The Fourth Amendment requires that arrests entail a neutral,
9 judicial determination of probable cause. See *Gerstein v. Pugh*, 420 U.S. 103, 114
10 (1975). That neutral, judicial determination can occur either before the arrest in the
11 form of a warrant, or promptly afterward, in the form of a prompt judicial probable
12 cause determination. *Id.* Arrest and detention of a person, including of a
13 noncitizen, absent a neutral judicial determination of probable cause violates the
14 Fourth Amendment of the Constitution. *Id.* See also *Cnty. Of Riverside v*
15 *McLaughlan*, 500 U.S. 44, 57 (1991). This determination must occur within 48
16 hours of detention, which includes weekends, unless there is a bona fide
17 emergency or other extraordinary circumstances. *Id.*
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22 69. Congress enacted a strong preference that immigration arrests be
23 based on warrants. See *Arizona v. United States*, 567 U.S. 387, 407-08 (2012). The
24 Immigration and Nationality Act thus provides immigration officers with only
25 limited authority to conduct warrantless arrests. See 8 C.F.R § 287.8(c)(2)(ii).
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1 70. Mr. Gzirishvili, at the moment of the arrest by Respondents, was
2 lawfully present based on the Respondents' prior grant of release and parole. He
3 did not receive any judicial determination of probable cause for his arrest or
4 continued detention by Respondents.
5

6 71. The Government cannot salvage this seizure by invoking
7 generalized immigration enforcement interests. The Fourth Amendment's
8 reasonableness inquiry is fact-specific and demands individualized justification for
9 both the arrest and the extended detention. See *United States v Brignoni-Ponce*,
10 422 U.S. 873, 882-84 (1975). *Gerstein*, 420 U.S. at 114. Mr. Gzirishvili was
11 granted release from DHS custody in 2021 and did not pose any danger to any
12 person in the community at large.
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16 72. Respondents' warrantless arrest of Mr. Gzirishvili constitutes an
17 unreasonable and unlawful seizure in violation of the Fourth Amendment.
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19 **PRAYER FOR RELIEF**

20 **BOND IS NOT AN APPROPRIATE REMEDY IN THIS CASE**

21 73. In many cases like this Respondents have suggested the
22 appropriate remedy is for this court to order a bond hearing.
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25 74. Many District Court Judges then immediately order a bond
26 hearing as a remedy to the Petition. This remedy does not address the due process
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1 (6) Issue an Order prohibiting the Respondents from transferring
2 Petitioner from the district without the court's approval;
3

4 (7) Issue and Order prohibiting the Respondents from enrolling the
5 Petitioner in any Alternative to Detention program, specifically barring them from
6 requiring an ankle monitor. Rather, he must be returned to the status he enjoyed
7 prior to his unlawful detention;
8

9 (8) Grant any further relief this Court deems just and proper.
10

11 Dated: March 16, 2026

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