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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF ARIZONA**

10 **RUSLAN MAKHMUDOV, A** ) Case No. _____
11 **Petitioner,**)
12 **v.**) **PETITION FOR WRIT OF**
13 **WARDEN, FLORENCE CORRECTIONAL**) **HABEAS CORPUS**
14 **CENTER; FIELD OFFICE DIRECTOR, ICE**)
15 **ERO, PHOENIX FIELD OFFICE;**)
16 **SECRETARY, U.S. DEPARTMENT OF**)
17 **HOMELAND SECURITY; ATTORNEY**)
18 **GENERAL OF THE UNITED STATES,**)
19 **Respondents.**)

20
21 **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**
22

23 1. Petitioner Ruslan Makhmudov (A ) , a native and citizen of Russia, is a civil
24 immigration detainee in the custody of the U.S. Department of Homeland Security (“DHS”)
25 through U.S. Immigration and Customs Enforcement (“ICE”), currently confined at Florence
26 Correctional Center, 1100 Bowling Road, Florence, Arizona 85132. Petitioner brings this
27 action pursuant to 28 U.S.C. §§ 2241 and 2243 for a writ of habeas corpus directing his
28 immediate release from civil immigration detention, or in the alternative for a conditional writ

1 requiring a constitutionally adequate, individualized custody hearing before a neutral decision-
2 maker. *See* Exhibit 1 (ICE Detainee Locator).

3 2. Petitioner has been in continuous civil immigration detention since April 10, 2024 – a period
4 of approximately twenty-three (23) months as of the filing of this Petition. Throughout this
5 entire period, Petitioner has not received a single meaningful, individualized custody
6 determination by a neutral decision-maker assessing his current flight risk or dangerousness.
7 Respondents treat Petitioner as subject to mandatory detention under 8 U.S.C. §
8 1225(b)(1)(B)(iii)(IV) and maintain that no bond hearing before an Immigration Judge is
9 available, leaving DHS’s discretionary parole authority as the only purported avenue for
10 release.

11 3. On August 25, 2025, the Board of Immigration Appeals (“BIA”) issued its decision, dismissing
12 Petitioner’s appeal of the Immigration Court’s order and sustaining the Government’s appeal,
13 thereby reversing the Immigration Judge’s grant of deferral of removal under the Convention
14 Against Torture (“CAT deferral”). On the same date, Petitioner filed a petition for review with
15 the United States Court of Appeals for the Ninth Circuit, Case No. 25-5400. The Ninth Circuit
16 has stayed Petitioner’s removal pending further order of the Court pursuant to General Order
17 6.4(c). The Government’s answering brief is not due until April 14, 2026. Removal is therefore
18 legally impossible until the Court of Appeals issues a final order. *See* Exhibits 6–7.

19 4. Petitioner’s prolonged detention is compounded by severe, life-threatening medical conditions
20 and disabilities, including: (a) Marfan syndrome with serious cardiovascular complications;
21 (b) a complex, life-threatening open-heart surgery to reconstruct and replace the ascending
22 aorta under full cardiopulmonary bypass, performed in February 2025 while Petitioner was in
23 detention; (c) permanent pacemaker implantation for complete heart block; (d) a subsequent
24 hospitalization for NSTEMI (non-ST-elevation myocardial infarction) with critically elevated
25 troponin values; and (e) profound legal blindness (aphakia bilaterally) requiring caregiver
26 assistance for daily activities. Petitioner’s treating cardiologist, Robert J. Siegel, M.D., FACC,
27 of the Smidt Heart Institute at Cedars-Sinai/UCLA – a world-class specialist who directly
28 evaluated Petitioner – has opined that Petitioner requires urgent release to an appropriate

1 medical setting because continued detention conditions compromise his health and survival
2 and pose immediate, life-threatening risks absent cardiac rehabilitation, monitoring, and
3 specialist follow-up. *See* Exhibits 9–13.

4 5. This Petition does not seek review of any removal order. Petitioner challenges only the
5 constitutionality and lawfulness of his continued civil immigration detention absent a
6 meaningful, individualized custody determination. This Petition is materially different from
7 the prior habeas proceeding before this Court, Case No. 2:25-cv-01951-KML-MTM, which
8 was dismissed without prejudice on August 26, 2025. The prior petition was brought
9 principally as a conditions-of-confinement challenge; this Petition directly challenges the
10 lawfulness and duration of Petitioner’s continued detention under the Due Process Clause of
11 the Fifth Amendment, resting on materially new facts that postdate the prior dismissal, as
12 detailed below. *See* Exhibit 8.

13 14 I. JURISDICTION AND VENUE

15
16 6. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241(a) and § 2241(c)(3).
17 Petitioner is “in custody” within the meaning of the habeas statute, confined within this District
18 under color of federal authority, and challenges the constitutionality and lawfulness of that
19 custody. The district court has jurisdiction over habeas petitions brought by immigration
20 detainees challenging the legality or duration of their detention, as distinguished from
21 challenges to removal orders. *See* *Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018); *Singh*
22 *v. Holder*, 638 F.3d 1196, 1211 (9th Cir. 2011).

23 7. Habeas jurisdiction lies in the district of confinement and runs against the immediate custodian.
24 Petitioner is confined at Florence Correctional Center within the District of Arizona. *See*
25 *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004). Venue is proper in this District. *See id.*;
26 *Braden v. 30th Judicial Circuit Court of Ky.*, 410 U.S. 484, 494–95 (1973). Exhibit 1.

27 8. This Petition is not barred by 8 U.S.C. § 1252(b)(9) or § 1252(g) because it does not seek
28 review of any removal order and does not challenge the commencement, adjudication, or

1 execution of removal proceedings. It challenges only the constitutionality and duration of
 2 Petitioner's civil immigration detention and the absence of constitutionally adequate custody
 3 process. *See* *Jennings v. Rodriguez*, 138 S. Ct. at 840–41. Nor is this Petition barred by 8
 4 U.S.C. § 1226(e), because Petitioner raises a constitutional challenge to prolonged detention
 5 without individualized process, not a request to review the discretionary merits of any
 6 particular custody determination. *See* *Gutierrez-Chavez v. INS*, 298 F.3d 824, 829 (9th Cir.
 7 2002).

8 9 II. PARTIES

10
 11 9. Petitioner Ruslan Makhmudov (A [REDACTED]), date of birth [REDACTED], is a native and
 12 citizen of Russia, currently confined at Florence Correctional Center, 1100 Bowling Road,
 13 Florence, Arizona 85132. *See* Exhibit 1.

14 10. Respondents, each named in their official capacity only, are: (a) the Warden of Florence
 15 Correctional Center, as Petitioner's immediate physical custodian; (b) the Field Office
 16 Director, ICE Enforcement and Removal Operations, Phoenix Field Office, as the official
 17 exercising legal custody authority over Petitioner's immigration detention; (c) the Secretary of
 18 the U.S. Department of Homeland Security; and (d) the Attorney General of the United States.

19 20 III. ADMISSIBILITY OF THIS PETITION

21
 22 11. The prior habeas proceeding before this Court, Case No. 2:25-cv-01951-KML-MTM, was
 23 dismissed without prejudice on August 26, 2025. *See* Exhibit 8. That dismissal does not
 24 preclude this Petition for the following independent reasons.

25 12. First, the prior petition was dismissed on the ground that it was characterized as a conditions-
 26 of-confinement claim not cognizable in habeas. This Petition presents a materially distinct
 27 legal theory: it challenges the lawfulness and constitutionality of Petitioner's continued
 28 detention based on the absence of any meaningful, individualized custody determination by a

1 neutral decision-maker – a core habeas claim going to the fact and duration of confinement,
2 not merely its conditions. *See* Preiser v. Rodriguez, 411 U.S. 475, 484 (1973); *Zadvydas v.*
3 *Davis*, 533 U.S. 678, 688 (2001).

4 **13.** Second, this Petition rests on substantial new facts that did not exist at the time of the prior
5 dismissal: (a) the BIA issued its decision on August 25, 2025, reversing the CAT deferral and
6 rendering Petitioner potentially removable to Russia absent Ninth Circuit intervention; (b)
7 Petitioner filed his petition for review in the Ninth Circuit on August 25, 2025, and the Ninth
8 Circuit immediately stayed his removal under General Order 6.4(c); (c) the Government has
9 obtained two extensions of its answering brief deadline, now set for April 14, 2026, meaning
10 removal remains legally impossible for the foreseeable future; and (d) Petitioner’s detention
11 has continued to accumulate – he has now been detained for over twenty-three months, with
12 no end in sight. These facts materially alter the constitutional analysis. *See* Exhibits 6–8.

13 **14.** Third, this Petition is not “second or successive” and is subject to no procedural bar. The
14 Supreme Court held in *Slack v. McDaniel*, 529 U.S. 473, 485–86 (2000), that a habeas petition
15 filed after an initial petition was dismissed without prejudice and without adjudication on the
16 merits is categorically *not* a “second or successive” petition—it is treated as a first petition for
17 all procedural purposes. The Ninth Circuit further held in *Barapind v. Reno*, 225 F.3d 1100,
18 1111 (9th Cir. 2000), that AEDPA’s gatekeeping provisions under 28 U.S.C. § 2244(b) do not
19 apply to § 2241 petitions. Neither provision bars this Petition. Even under the common-law
20 abuse-of-the-writ doctrine, no bar exists: the prior petition was dismissed without reaching the
21 merits, this Petition rests on a legally distinct theory (duration and fact of confinement, not
22 conditions), and each additional month of detention constitutes a new factual predicate
23 physically impossible to raise earlier. *See McCleskey v. Zant*, 499 U.S. 467, 489–90 (1991)
24 (abuse of the writ requires inexcusable neglect or deliberate bypass; neither is present where
25 new facts and a distinct legal theory are presented).

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

15. For habeas claims challenging immigration detention, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive the prudential exhaustion requirement if “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)).

16. Petitioner has exhausted his administrative remedies to the extent required by law, and any further administrative requests would be futile. An Immigration Judge denied Petitioner bond for lack of jurisdiction, finding that as an arriving alien under 8 U.S.C. § 1225(b), the Immigration Court had no authority to set bond. ICE/ERO has repeatedly denied all requests for release on humanitarian parole, including requests submitted on November 3, 2024, November 8, 2024, December 7, 2024, and January 19, 2025—each denied without meaningful review. Petitioner’s continued detention is not subject to any pending administrative determination that could result in his release. His only remedy is by way of this judicial action. See *Hernandez*, 872 F.3d at 988.

V. STATEMENT OF FACTS

17. On February 1, 2022, Petitioner was admitted and paroled into the United States through the San Ysidro Port of Entry. His CBP Form I-94 reflects an entry date of February 1, 2022, and an “admit until” date of January 29, 2023. *See* Exhibit 2.

18. On July 6, 2022, ICE released Petitioner on his own recognizance pursuant to an Order of Release on Recognizance, Form I-220A. Petitioner remained in the community for an extended period after release. During this time, Petitioner complied with ICE reporting and check-in requirements, maintained a stable residence with his spouse, and did not engage in criminal conduct in the United States. The I-220A conditions and the documented release demonstrate

1 that Petitioner was previously managed safely in the community under ICE supervision. *See*
2 Exhibit 3.

3 19. On April 10, 2024, DHS issued a Notice to Appear (Form I-862), initiating removal
4 proceedings under INA § 240. The NTA alleges that Petitioner applied for admission at the
5 San Ysidro Port of Entry on or about January 31, 2022, and was paroled into the United States
6 on or about February 1, 2022. The NTA charges Petitioner as inadmissible under INA §
7 212(a)(7)(A)(i)(I) for lack of a valid entry document. *See* Exhibit 4.

8 20. Petitioner was taken into ICE custody on or about April 10, 2024, and has remained
9 continuously detained since that date. As of the filing of this Petition, Petitioner's civil
10 immigration detention spans approximately twenty-three (23) months, with no custody hearing
11 having been held and no release having been granted. *See* Exhibits 1, 4.

12 21. Petitioner was initially detained at the Otay Mesa Detention Facility in San Diego, California.
13 On or about September 19, 2024, ICE abruptly transferred Petitioner to the Eloy Detention
14 Center in Eloy, Arizona, disrupting his established care with a cardiologist at UC San Diego
15 Health and resulting in the loss of all prior medical records and diagnostic imaging. *See* Exhibit
16 15. ICE subsequently transferred Petitioner to his current facility, the Florence Correctional
17 Center, 1100 Bowling Road, Florence, Arizona 85132, where he remains confined.
18 *See* Exhibit 1.

19 22. On February 27, 2025, the Immigration Judge at the Eloy Immigration Court issued an Order
20 (Summary of Oral Decision) denying asylum and statutory withholding, denying withholding
21 under the CAT, granting deferral of removal under the Convention Against Torture, and
22 entering an order of removal. *See* Exhibit 5.

23 23. On August 25, 2025, the Board of Immigration Appeals issued a decision in *In the Matter of*
24 *Ruslan Makhmudov*, dismissing Petitioner's appeal of the Immigration Judge's denial of
25 asylum and withholding, and sustaining the Government's appeal of the Immigration Judge's
26 grant of CAT deferral, thereby vacating that protection. The BIA's reversal of the CAT deferral
27 renders Petitioner potentially removable to Russia, subject only to the Ninth Circuit stay
28 described below. *See* Exhibit 6.

- 1 24. On August 25, 2025, Petitioner filed a petition for review with the United States Court of
2 Appeals for the Ninth Circuit, Case No. 25-5400, challenging the BIA decision. On the same
3 date, the Ninth Circuit stayed Petitioner's removal pending further order of the Court, pursuant
4 to General Order 6.4(c). Removal cannot lawfully occur during the pendency of the stay. Under
5 8 U.S.C. § 1231(a)(1)(B)(ii), where a reviewing court orders a stay of removal, the "removal
6 period" begins only on the date of the reviewing court's final order. The removal period has
7 therefore not commenced, and Petitioner's detention continues indefinitely without a near-term
8 removal endpoint. *See Prieto-Romero v. Clark*, 534 F.3d 1053, 1059–63 (9th Cir. 2008);
9 Exhibit 7.
- 10 25. The Government has obtained two extensions of its answering brief deadline in the Ninth
11 Circuit. The answering brief is currently due April 14, 2026. After that, Petitioner's optional
12 reply brief would be due twenty-one days later, followed by briefing completion, submission,
13 argument scheduling, and decision – a process extending well into 2026 and likely 2027. There
14 is no imminent or scheduled removal date. Removal will remain legally impossible throughout
15 this period. *See Exhibit 7* (Ninth Circuit ACMS Docket Report).
- 16 26. Petitioner previously filed a habeas action in this Court, Case No. 2:25-cv-01951-KML-MTM,
17 filed June 5, 2025. On August 26, 2025, the Court dismissed that petition without prejudice,
18 characterizing it as a conditions-of-confinement claim not cognizable in habeas. For the
19 reasons set forth in Section IV above, this Petition is admissible and presents materially distinct
20 legal theories and new facts. *See Exhibit 8*.
- 21 27. Legal blindness and need for caregiver assistance. Petitioner suffers from aphakia in both eyes,
22 resulting in profound low vision. A treating provider at the Southern California Eye Institute
23 documented very low vision, the need for caregiver assistance from Petitioner's spouse or
24 another caregiver, and the irreversible, ongoing nature of the condition. A subsequent
25 certification from the same institution confirms that Petitioner meets the legal definition of
26 blindness based on acuity and visual-field criteria. Petitioner currently has no caregiver in
27 detention. *See Exhibits 9–10*.

1 28. Marfan syndrome, aortic disease, cardiac surgery, and pacemaker. Petitioner has Marfan
2 syndrome with serious cardiovascular complications, including an aortic aneurysm requiring
3 surgical intervention and bradycardia requiring permanent pacing. While in detention,
4 Petitioner underwent: (a) complex, life-threatening open-heart surgery to reconstruct and
5 replace the ascending aorta, performed under full cardiopulmonary bypass at St. Joseph's
6 Hospital in February 2025; and (b) implantation of a permanent biventricular cardiac
7 pacemaker for complete heart block. These procedures were followed by a hospitalization at
8 Banner Casa Grande Medical Center from February 19–22, 2025 for chest pain and NSTEMI,
9 with troponin values of 155 and 160 – critically elevated levels consistent with myocardial
10 injury in a patient with recent aortic surgery and pacemaker implantation. *See Exhibits 11–13.*

11 29. Treating cardiologist's urgent release recommendation. On May 28, 2025, Petitioner's treating
12 cardiologist, Robert J. Siegel, M.D., FACC, of the Smidt Heart Institute at Cedars-Sinai/UCLA
13 – a board-certified cardiovascular specialist with direct clinical knowledge of Petitioner's
14 condition – issued a letter stating that continued detention compromises Petitioner's health and
15 survival and poses immediate, life-threatening risks absent rehabilitation, monitoring, and
16 cardiac specialist follow-up, and recommending Petitioner's urgent release to an appropriate
17 medical setting. *See Exhibit 11.*

18 30. ICE's own records confirm the absence of adequate post-operative care. After each of
19 Petitioner's cardiac surgeries, ICE returned Petitioner to detention without cardiac
20 rehabilitation, without a heart-healthy diet as prescribed by the cardiac surgeon, without wound
21 care, and without caregiver assistance for a patient who could not walk, stand, or function
22 independently. Scheduled post-operative follow-up appointments with the cardiac surgeon
23 were not completed: on one occasion Petitioner was transported to the hospital but never
24 allowed out of the transport vehicle; on another, a different physician briefly spoke with him
25 without examination. ICE medical personnel stated they “do not have the capacity” to provide
26 required post-operative care, including dietary modifications, wound care, and rehabilitation.
27 These admissions are consistent with the Declaration of Elizabeth Casey of the Florence

1 Immigrant and Refugee Rights Project, who observed Petitioner's deterioration and
2 documented post-surgical concerns. *See* Exhibits 12–15.

3 **31.** Government's own medical chronology. The Declaration of Luis A. Rodriguez, M.D.,
4 submitted by Respondents in the prior habeas proceeding (Exhibit 16), is offered here solely
5 for its chronological recitation of off-site appointments and hospitalizations, which
6 corroborates the pattern of care described above. Petitioner expressly disputes all
7 characterizations of the adequacy of medical care contained in that declaration. Dr. Rodriguez
8 does not state that he ever personally examined, treated, or spoke with Petitioner. He is a
9 general practitioner without specialization in cardiology, aortic disease, electrophysiology, or
10 complex post-operative cardiac management. His medical adequacy opinions deserve no
11 weight against the direct clinical assessments of Petitioner's treating specialist physicians. *See*
12 Exhibit 16; cf. Exhibit 11 (Dr. Siegel letter).

13
14 **VI. GROUNDS FOR RELIEF**
15

16 **32.** The Fifth Amendment's Due Process Clause protects civil immigration detainees from
17 deprivation of liberty without due process of law. Civil detention that becomes prolonged and
18 excessive in relation to legitimate governmental purposes is unconstitutional. *See* *Zadvydas v.*
19 *Davis*, 533 U.S. 678, 690 (2001); *Bell v. Wolfish*, 441 U.S. 520, 539 (1979); *Casas-Castrillon*
20 *v. Department of Homeland Sec.*, 535 F.3d 942, 950 (9th Cir. 2008).

21 **33.** Respondents assert that Petitioner is subject to mandatory detention under 8 U.S.C. §
22 1225(b)(1)(B)(iii)(IV) as an arriving alien, and that no bond hearing before an Immigration
23 Judge is available. Even assuming *arguendo* that mandatory detention is statutorily authorized,
24 the Constitution imposes independent limits on civil immigration detention as it becomes
25 prolonged and untethered from any legitimate governmental purpose. *See* *Demore v. Kim*, 538
26 U.S. 510, 527 (2003) (upholding mandatory detention during removal proceedings as "brief"
27 and with a "defined termination point"; the Court expressly did not address indefinite detention
28 or cases where removal was stayed by judicial order); *Prieto-Romero v. Clark*, 534 F.3d 1053,

- 1 1065–67 (9th Cir. 2008) (prolonged detention during judicial review raises constitutional
2 concerns requiring individualized process).
- 3 34. *Johnson v. Arteaga-Martinez*, 596 U.S. 222 (2022), does not foreclose this Petition. *Johnson*
4 resolved only the statutory question—whether 8 U.S.C. § 1231(a)(6) independently requires
5 bond hearings—and expressly declined to decide the constitutional due process question. The
6 Court specifically stated: “The courts below did not reach [the] constitutional claims . . . we
7 leave them for the lower courts to consider in the first instance.” 596 U.S. at 231. The
8 constitutional claim Petitioner raises here is precisely the claim *Johnson* reserved. Likewise,
9 *DHS v. Thuraissigiam*, 591 U.S. 103 (2020), does not bar this Petition. *Thuraissigiam*
10 addressed only the constitutional limits on the expedited removal process as applied to the right
11 to be admitted to the United States—not the constitutional limits on prolonged civil detention
12 of a person already within the country. As courts in this Circuit have held, “any attempt to
13 extract from *Thuraissigiam* a broad rule that any inadmissible noncitizen possesses only those
14 due process rights afforded to them by statute is untethered to the claim in *Thuraissigiam*.” *See*
15 *Baghdasaryan v. Warden*, No. 1:25-cv-01555 (E.D. Cal. Feb. 11, 2026), slip op. at 9–10;
16 *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1171 (W.D. Wash. 2023).
- 17 35. Demore does not authorize Petitioner’s detention in these circumstances. In Demore, the
18 Supreme Court emphasized that mandatory detention was permissible because it operated for
19 a “brief” period with a “defined termination point” at the conclusion of removal proceedings.
20 538 U.S. at 529. Here, Petitioner has been detained for over twenty-three months, removal is
21 stayed indefinitely by the Ninth Circuit, and the Government’s own briefing deadline is April
22 14, 2026. No defined termination point exists. The “brief period” rationale of Demore does not
23 apply to detention of this duration and indeterminacy. *See Zadvydas*, 533 U.S. at 701 (six-
24 month period provides reasonable presumption for post-removal detention analysis); *Prieto-*
25 *Romero*, 534 F.3d at 1066.
- 26 36. The balancing framework of *Mathews v. Eldridge*, 424 U.S. 319 (1976), compels a finding of
27 a due process violation. The three factors weigh decisively in Petitioner’s favor:

1 (a) Petitioner's private interest is extraordinary: bodily liberty itself, compounded by
2 documented, life-threatening cardiac disease, permanent disability, and complete
3 dependence on a caregiver he cannot access in detention. *See* Exhibits 9–13.

4 (b) The risk of erroneous deprivation is extreme. Petitioner has received no individualized
5 assessment of his current flight risk or dangerousness in over twenty-three months. He was
6 previously released safely on his own recognizance under the I-220A and complied with
7 all conditions. No individualized determination of Petitioner's current dangerousness or
8 flight risk has ever been made in any custody forum. *See* Exhibit 3.

9 (c) The Government's interests in ensuring appearance and public safety can be fully
10 vindicated through less restrictive alternatives, including release to an appropriate medical
11 setting with conditions (reporting requirements, GPS monitoring, or other supervision)
12 identical to or more stringent than the I-220A conditions under which Petitioner previously
13 complied. *See* Exhibit 3.

14 37. The Ninth Circuit has recognized that prolonged civil immigration detention during judicial
15 review raises serious due process concerns requiring meaningful individualized process. *See*
16 *Casas-Castrillon*, 535 F.3d at 950–51; *Prieto-Romero*, 534 F.3d at 1063–67; *Diouf v.*
17 *Napolitano*, 634 F.3d 1081, 1086 (9th Cir. 2011) (prolonged immigration detention requires
18 individualized bond hearing). In Petitioner's case, where the Ninth Circuit has issued a stay,
19 the removal period under 8 U.S.C. § 1231(a)(1)(B)(ii) has not begun, and no definite endpoint
20 to detention is in sight. Continued mandatory detention without any individualized process is
21 constitutionally untenable.

22 38. Recent decisions in this Circuit confirm that the Fifth Amendment requires a bond hearing for
23 § 1225(b) detainees after prolonged detention. In *Baghdasaryan v. Warden*, No. 1:25-cv-
24 01555-KES-EPG (E.D. Cal. Feb. 11, 2026), the court applied *Mathews v. Eldridge* and ordered
25 release unless the government provided a bond hearing within 30 days, holding that 15 months
26 of § 1225(b) detention without an individualized custody determination violated due process.
27 Similarly, in *A.E. v. Andrews*, No. 1:25-cv-00107-KES-SKO, 2025 WL 1808676 (E.D. Cal.
28 July 1, 2025), the court ordered a bond hearing at which the government must justify continued

1 detention by clear and convincing evidence—the same standard Petitioner requests here.
2 Petitioner has been detained *eight months longer* than the detainee in *Baghdasaryan*. The
3 constitutional case for relief is correspondingly stronger.

4 **39.** Remedy for Count I. The appropriate remedy is Petitioner’s immediate release from DHS/ICE
5 custody subject to any reasonable conditions this Court deems appropriate. In the alternative,
6 the Court should issue a conditional writ directing Respondents, within seven (7) days, to
7 provide Petitioner a constitutionally adequate, individualized custody hearing before a neutral
8 decision-maker (an Immigration Judge or other neutral adjudicatory officer the Court
9 designates), at which the Government bears the burden of demonstrating by clear and
10 convincing evidence that continued detention is justified based on current flight risk or danger.
11 The Court should direct Petitioner’s release unless and until Respondents carry that burden.

12 **40.** Independently and cumulatively, Petitioner’s continued detention is unconstitutional as
13 applied. The Fifth Amendment’s substantive due process guarantee prohibits civil detention
14 that bears no reasonable relationship to legitimate governmental purposes and that results in
15 punishment or excessive harm to the detainee. *See* Bell v. Wolfish, 441 U.S. at 539; *Helling v.*
16 *McKinney*, 509 U.S. 25, 33–34 (1993).

17 **41.** This Count does not restate the prior conditions-of-confinement claims dismissed in the prior
18 proceeding. It raises a constitutionally distinct claim that goes to the core of habeas:
19 Petitioner’s continued detention has become “unreasonable or excessive when measured
20 against the regulatory goal” of ensuring appearance and protecting public safety, because (a)
21 removal is legally stayed and not imminent; (b) no individualized custody determination has
22 ever been made; (c) Petitioner was previously managed safely in the community under ICE
23 supervision; (d) Petitioner’s life-threatening medical vulnerability makes the duration of
24 detention itself—as opposed to any specific aspect of its conditions—disproportionate to any
25 governmental interest; and (e) qualified treating specialists have opined that continued
26 detention poses an immediate risk to Petitioner’s life. The constitutional cognizability of this
27 claim in habeas turns on whether it attacks the fact or duration of confinement, not any specific
28 condition. It does. Petitioner does not seek better food, medical care, or any improvement in

1 the terms of his custody. He seeks release from civil confinement that has become
2 constitutionally untenable in duration and untethered from any legitimate governmental
3 purpose. See *Zadvydas*, 533 U.S. at 690 (“[A] statute permitting indefinite detention of an alien
4 would raise a serious constitutional problem”); *Roman v. Wolf*, 977 F.3d 935, 943 (9th Cir.
5 2020); *Badea v. Cox*, 931 F.2d 573, 574 (9th Cir. 1991); *Hernandez v. Sessions*, 872 F.3d 976,
6 988 (9th Cir. 2017).

7 **42.** On the medical record before this Court, Petitioner’s life is in danger. His treating cardiologist,
8 who directly evaluated him and possesses world-class expertise in the specific conditions at
9 issue, has opined in his formal written clinical letter that Petitioner’s “current detention
10 environment appears to be compromising his health and survival,” that “the lack of
11 rehabilitation, monitoring, and cardiac follow-up are immediate life-threatening risks to him,”
12 and that he “most likely requires urgent release to an appropriate healthcare facility or setting
13 to receive the necessary life-saving care.” See Exhibit 11. The fact that Petitioner survived two
14 open-heart surgeries in detention does not demonstrate that his ongoing detention is safe; it
15 demonstrates that extraordinary medical interventions were required as a result of that
16 detention and that his prognosis requires the ongoing monitoring, rehabilitation, diet
17 management, and specialist follow-up that ICE has acknowledged it cannot provide. *See*
18 Exhibits 11–15.

19 **43.** The Government cannot demonstrate that Petitioner’s continued detention is reasonably
20 necessary to serve the interests of appearance or public safety. Petitioner is legally blind,
21 suffers from severe cardiac disease requiring close monitoring, has demonstrated consistent
22 compliance with supervision conditions, and poses no danger to the community. Any
23 legitimate governmental interest is served by supervised release with appropriate conditions.
24 Continued detention is not merely disproportionate – it is, according to treating physicians,
25 likely to result in Petitioner’s death or permanent serious injury. *See Helling*, 509 U.S. at 33–
26 34 (“a remedy for unsafe conditions need not await a tragic event”).

27 **44.** Remedy for Count II. Core habeas relief is required: Petitioner’s immediate release from
28 DHS/ICE custody to a suitable non-detention setting where he can access the cardiac

1 rehabilitation, specialist monitoring, cardiac-appropriate nutrition, and caregiver assistance
2 required to sustain his life. The Court has authority to direct such relief and, to the extent
3 necessary to prevent irreparable harm pending final disposition, to require that Respondents
4 ensure placement in an appropriate medical setting capable of providing this care.

5
6 **VII. CONCLUSION**
7

8 **45.** Petitioner Ruslan Makhmudov has been confined in civil immigration detention for over
9 twenty-three months without a single meaningful, individualized custody determination by a
10 neutral decision-maker. Removal is stayed by the Ninth Circuit and legally impossible for the
11 foreseeable future. Petitioner's treating cardiologist has stated that continued detention poses
12 an immediate, life-threatening risk. No legitimate governmental interest requires or justifies
13 detention of this duration and under these circumstances. Petitioner respectfully requests that
14 the writ issue and that he be ordered released immediately, or in the alternative that this Court
15 issue a conditional writ requiring a prompt, constitutionally adequate custody hearing with
16 release unless the Government carries its burden.

17
18 **PRAYER FOR RELIEF**
19

20 WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:
21

- 22 **A.** Issue an Order to Show Cause directing Respondents to file a return and response on an
23 expedited schedule and to set this matter for prompt hearing or disposition.
- 24 **B.** Grant the Petition and issue the writ of habeas corpus pursuant to 28 U.S.C. § 2241 ordering
25 Petitioner's immediate release from DHS/ICE custody to a suitable non-detention setting,
26 subject to any reasonable conditions the Court deems necessary to assure appearance and
27 community safety.

- 1 C. Alternatively, issue a conditional writ directing Respondents, within seven (7) days (or such
2 shorter deadline as the Court deems appropriate), to provide Petitioner a constitutionally
3 adequate, individualized custody hearing before a neutral decision-maker – including an
4 Immigration Judge if available, or any other neutral adjudicatory officer the Court designates
5 – to determine whether continued detention is justified based on Petitioner’s current flight risk
6 or dangerousness, with the Government bearing the burden of proof by clear and convincing
7 evidence; and directing Petitioner’s release unless and until Respondents carry that burden.
- 8 D. To the extent necessary to effectuate core habeas relief and to prevent imminent, irreparable
9 harm pending final disposition, order Respondents to ensure Petitioner is promptly placed in
10 an appropriate medical setting capable of providing necessary cardiac evaluation, monitoring,
11 specialist follow-up, cardiac rehabilitation, dietary support, and disability accommodations
12 required by his cardiac condition, pacemaker status, and legal blindness.
- 13 E. Retain jurisdiction and issue any orders necessary to ensure that the relief granted is effective
14 and is not rendered moot by transfer or other changes in custody status.
- 15 F. Grant such other and further relief as the Court deems just and proper.

16 Respectfully,
17 /s/ Magomed Esenditov
18 Magomed Esendirov, Esq.
19 Musaev & Associates, PC
20 March 20, 2026
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