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Attorneys for Petitioner

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

ALIBEK ISLAMOV,

Petitioner,

v.

Christopher J. LaRose,
Senior Warden, Otay Mesa Detention Center;

Todd M. Lyons,
Acting Director, U.S. Immigration and
Customs Enforcement;

Markwayne Mullin,
Secretary of the U.S. Department of
Homeland Security; and

Pam Bondi,
Attorney General of the United States,
in their official capacities,

Respondents.

Case No. '26CV2239 AGS AHG

**PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. § 2241
AND ORDER TO SHOW CAUSE
WITHIN THREE DAYS**

I.

INTRODUCTION

1. Petitioner Alibek Islamov is a citizen of Russia who entered the United States on or about July 16, 2021, and was paroled until December 22, 2022. He filed an affirmative application for asylum with USCIS on June 28, 2022.

2. On December 22, 2022, DHS initiated removal proceedings by filing a Notice to Appear. Those proceedings were dismissed by the Immigration Court on August 17, 2023, to allow USCIS to adjudicate Petitioner's pending asylum application (*See Exhibit 1*).

3. Despite the pending asylum application, the prior dismissal of proceedings, and the absence of any criminal history or changed circumstances, DHS detained Petitioner on March 18, 2025.

4. Petitioner respectfully requests that this Court find his continued detention unlawful and order his immediate release under appropriate conditions, as it violates the U.S. Constitution and federal law.

II.

JURISDICTION

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

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (*habeas corpus*), 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the United States Constitution (the Suspension Clause).

7. 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.*; and 28 U.S.C. § 1651.

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6 **III.**

VENUE

7 8. Venue is proper in this Court because Petitioner is detained at the Otay Mesa
8 Detention Center in San Diego, California, which lies within the jurisdiction of the
9 Southern District of California.
10

11
12 **IV.**

REQUIREMENTS OF 28 U.S.C. § 2243

13 9. Under 28 U.S.C. § 2243, the Court must grant the petition for a writ of habeas
14 corpus or issue an order to show cause to the respondents forthwith, unless it appears
15 from the petition that the petitioner is not entitled to relief. If an order to show cause is
16 issued, the Court must require respondents to file a return “within three days unless for
17 good cause additional time, not exceeding twenty days, is allowed.” *Id.*
18
19
20

21 **V.**

PARTIES

22 10. Petitioner Alibek Islamov is a native of the former USSR and a citizen of Russia.
23 He entered the United States on or about July 16, 2021, in DT status, as reflected in his
24 I-94 Admission Record No.  He is currently detained at the Otay Mesa
25 Detention Center in San Diego, California (*See Exhibit C*). Petitioner is in custody and
26 under the direct control of Respondents and their agents.
27

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2 11. Respondent Christopher J. LaRose is sued in his official capacity as the Senior
3 Warden of the Otay Mesa Detention Center. In this capacity, Respondent LaRose is a
4 legal custodian of Petitioner and has authority to order his release.
5

6 12. Respondent Todd Lyons is sued in his official capacity as the Acting Director of
7 U.S. Immigration and Customs Enforcement ("ICE"), a component agency of the U.S.
8 Department of Homeland Security. In this capacity, Respondent Lyons is responsible for
9 the overall administration, supervision, and direction of ICE's enforcement, detention,
10 and removal operations nationwide. Respondent Lyons exercises supervisory authority
11 over ICE officers and Field Office Directors, including those responsible for Petitioner's
12 detention, and has legal authority over the policies and practices governing Petitioner's
13 custody. Respondent Lyons is therefore a proper respondent.
14

15 13. Respondent Markwayne Mullin, Secretary of the U.S. Department of Homeland
16 Security ("DHS"), is sued in his official capacity. In this capacity, Secretary Mullin is
17 responsible for the administration and enforcement of the Immigration and Nationality
18 Act and exercises supervisory authority over U.S. Immigration and Customs
19 Enforcement ("ICE"), the agency responsible for Petitioner's detention and custody.
20 Secretary Mullin has the legal authority to direct Petitioner's detention and release and is
21 therefore a proper respondent.
22

23 14. Respondent Pam Bondi, Attorney General of the United States, is sued in her
24 official capacity as the head of the U.S. Department of Justice ("DOJ"). In this capacity,
25 Attorney General Bondi exercises ultimate supervisory authority over the Executive
26 Office for Immigration Review ("EOIR"), including the immigration courts and the
27

1
2 Board of Immigration Appeals, and is responsible for the interpretation, administration,
3 and enforcement of the immigration laws governing removal proceedings. Attorney
4 General Bondi exercises legal authority over Petitioner's detention pursuant to federal
5 immigration law and is therefore a proper respondent.
6

7 VI. STATEMENT OF FACTS

8 15. Petitioner Alibek Islamov is a 40-year-old native of the former USSR and a
9 citizen of Russia. He is married to Bella Nakaeva and is the father of three children -
10  - all of whom currently
11 reside in San Diego, California.
12

13 16. Prior to his detention, Mr. Islamov resided with his wife and children in San
14 Diego, California, and operated his own trucking and transportation business through
15 Bisector LLC, a company he personally formed and owns, using his commercially
16 registered Freightliner truck (*See Exhibits D, E*).
17

18 17. Petitioner has strong community ties and no criminal history. His detention has
19 caused significant hardship to his family, including emotional and developmental impact
20 on his children, as reflected in the letter from his daughter and the letter from his son's
21 wrestling coach (*See Exhibits F and G*).
22

23 18. Petitioner has filed his individual income tax returns, reflecting his efforts to
24 comply with U.S. law and supporting the equities favoring release (*See Exhibit H*).
25

26 19. Petitioner entered the United States on or about July 16, 2021, in DT status. He
27 was granted parole through December 22, 2022, as reflected in his I-94 Admission
Record No.  (*See Exhibit A*).

1
2 20. On June 28, 2022, Petitioner filed Form I-589, Application for Asylum and for
3 Withholding of Removal with USCIS (*See Exhibit B*).
4

5 21. On December 22, 2022, DHS filed a Notice to Appear (“NTA”) with the
6 Immigration Court. The proceedings initiated by that NTA were subsequently dismissed
7 pursuant to an Immigration Judge’s order dated August 17, 2023 (*See Exhibit I*).
8

9 22. The August 17, 2023 order in its pertinent part states among other things:
10 “Reason for Dismissal: DHS motion – Respondent filed an application for asylum Form
11 I-589, with USCIS on 6-28-22, prior to the filing of the NTA (dated 12-22-22) with the
12 Court on 12-22-22. As confirmed by both parties, that application is currently pending
13 adjudication at USCIS (Receipt No. [REDACTED]). The dismissal of these
14 proceedings will allow USCIS to continue with the adjudication of the asylum
15 application.”
16

17 23. Notwithstanding the expiration of Petitioner’s parole in December 2022, and in
18 light of Petitioner’s Form I-589 asylum application that was then pending with USCIS,
19 Respondents elected to dismiss the removal proceedings initiated in 2022, thereby
20 permitting USCIS to continue adjudicating the asylum application. However, despite the
21 absence of any identified violation, new information, or change in circumstances, and
22 while the asylum application remained pending at that time, Respondents subsequently
23 detained Petitioner on March 18, 2025.
24

25 24. On March 18, 2025, Petitioner was served with another Notice to Appear (NTA)
26 charging him as removable under INA § 212(a)(7)(A)(i)(I) for allegedly not being in
27 possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or

1
2 other valid entry document required by the Act, and a valid unexpired passport, or other
3 suitable travel document, or document of identity and nationality as required under the
4 regulations issued by the Attorney General under section 211 (a) of the Act (*See Exhibit*
5 *I*).
6

7 25. On March 24, 2025, USCIS forwarded Petitioner's I-589, Application for
8 Asylum and for Withholding of Removal to EOIR (*See Exhibit J*).
9

10 26. On March 25, 2025, Petitioner filed an Application for Temporary Protected
11 Status (TPS) as a native of the former USSR and a permanent resident of Ukraine (*See*
12 *Exhibit K*).
13

14 27. On March 29, 2025, Petitioner filed Amended Written Pleadings with the Otay
15 Mesa Immigration Court indicating his intention to seek relief from removal in the forms
16 of asylum, withholding of removal, protection under the Convention Against Torture
17 ("CAT"), and Temporary Protected Status ("TPS") (*See Exhibit L*).
18

19 28. Notwithstanding the pending TPS application, the Otay Mesa Immigration Court
20 conducted Petitioner's individual hearing on September 17, 2025. At the conclusion of
21 that hearing, the Immigration Judge denied Petitioner's application for asylum on the
22 basis of an asserted firm-resettlement bar. The Immigration Judge granted withholding
23 of removal as to Russia but denied withholding of removal and CAT protection as to
24 Ukraine, and ordered Petitioner removed to Ukraine (*See Exhibit M*).
25

26 29. On October 14, 2025, Petitioner timely filed a Notice of Appeal with the Board
27 of Immigration Appeals ("BIA"), where his appeal remains pending (*See Exhibit N*).
28

1
2 30. DHS reserved its right to appeal but never filed an appeal within the permitted
3 time.

4
5 31. Should the BIA affirm the Immigration Judge's decision on the firm-resettlement
6 issue, Petitioner intends to seek review before the United States Court of Appeals for the
7 Ninth Circuit.

8 32. Under INA § 208(a)(1), 8 U.S.C. § 1158(a)(1), any noncitizen who is physically
9 present in the United States may apply for asylum, irrespective of immigration status.
10 Federal law further provides that "no period of time during which a bona fide asylum
11 application is pending shall be counted" as unlawful presence. 8 U.S.C. § 1182(a)(9)(B)
12 (iii)(II). Petitioner timely filed his Form I-589 on June 28, 2022, while still in valid
13 parolee status and prior to the expiration of his authorized stay. As a result, the
14 expiration date of his initial parole no longer governed his ability to remain in the
15 country. From that point forward, his continued presence has been expressly authorized
16 by statute during the pendency of his asylum proceedings. Accordingly, the allegation in
17 the Notice to Appear that Petitioner is not in possession of a valid entry document
18 required by the Immigration and Nationality Act is legally incorrect.
19
20
21

22 33. Petitioner has been in ICE custody since March 18, 2025, a period of more than a
23 year as of the filing of this petition. He remains detained with no imminent prospect of
24 removal, despite his pending appeal with the BIA, which underscores that removal is not
25 reasonably foreseeable.
26

27 34. Further underscoring that removal is not reasonably foreseeable, Petitioner's
Application for Temporary Protected Status ("TPS") remains pending with USCIS, and

1
2 current published processing times confirm that adjudication is not imminent. According
3 to the Service Center Operations (SCOPS) Processing Time Report for Form I-821,
4 Application for Temporary Protected Status, USCIS is presently taking up to 19 months
5 to complete 80% of cases (*See Exhibit O*). Thus, by USCIS's own published metrics,
6 Petitioner's TPS application is expected to remain pending for a substantial period of
7 time, making any removal not reasonably foreseeable and further undermining the
8 lawfulness of his continued detention.
9
10

11 35. An applicant who establishes *prima facie* eligibility receives "temporary
12 treatment benefits," including a temporary stay of deportation, for the entire duration of
13 the TPS adjudication process. See 8 C.F.R. §§ 244.5, 244.10(e). If TPS is ultimately
14 granted, the regulations explicitly provide that "the alien shall not be deported while
15 maintaining Temporary Protected Status." See 8 C.F.R. § 244.10(f)(2)(i). Because
16 Petitioner has a pending TPS application and may not be removed while his TPS claim
17 is adjudicated or while maintaining TPS, removal is not reasonably foreseeable in the
18 near future, further undermining the constitutionality of his continued detention.
19
20

21 36. Petitioner's ongoing detention is arbitrary, unlawful, and unconstitutional. It no
22 longer serves to protect the community, given his clean record and strong family ties,
23 nor to ensure his appearance at future proceedings, as he has a demonstrated history of
24 compliance with immigration requirements and significant equities binding him to his
25 community.
26

27 37. Absent judicial intervention, Petitioner will remain indefinitely detained at
taxpayer expense, separated from his family.

1
2 38. On December 2, 2025, Petitioner filed a Petition for Writ of Habeas Corpus
3 before this Court against Pam Bondi, Christopher J. LaRose, Todd M. Lyons, and Kristi
4 Noem. Case Name: Islamov v. LaRose et al, Case Number: 3:25-cv-03390-LL-MSB

5
6 39. On January 14, 2026, this Court granted the Petition and ordered Respondents,
7 within seven days, to provide Petitioner with an individualized bond hearing before a
8 neutral Immigration Judge, at which the Government bears the burden of establishing,
9 by clear and convincing evidence, that Petitioner poses a danger to the community or a
10 flight risk.
11

12 40. On or about January 20, 2026, the Immigration Judge conducted the bond
13 hearing and denied Petitioner's request for release, finding that DHS had met its burden
14 to establish that Petitioner is both a danger to the community and a flight risk (*See*
15 *Exhibit 2*).
16

17 41. In support of its claim that Petitioner is a danger to the community and a flight
18 risk, DHS relied on a Federal Bureau of Investigation ("FBI") Letterhead Memorandum
19 (*See Exhibit 4*).
20

21 42. The FBI Letterhead Memorandum explicitly states that "the FBI makes no
22 assessments," and contains only unverified summaries of statements and third-party
23 information, without any findings, conclusions, or evidence of criminal activity.

24 43. As reflected in the transcript of the individual merits hearing dated August 19,
25 2025, Respondent's counsel elicited testimony directly addressing topics later referenced
26 in the FBI Letterhead Memorandum, including Respondent's participation in WhatsApp
27 groups, employment history, and sources of income (*See Exhibit 5*).

1
2 44. Respondent testified under oath that his involvement in WhatsApp groups was
3 limited to community adaptation and business-related logistics for Chechen immigrants
4 in the United States, and he expressly denied any involvement with terrorist
5 organizations or unlawful activity. Tr. 62:23-25
6

7 45. DHS counsel did not pursue follow-up questioning on these topics during cross-
8 examination, nor did DHS introduce any evidence at that time to challenge or rebut
9 Respondent's testimony.
10

11 46. DHS's failure to question Respondent on these issues when presented with the
12 opportunity further underscores the speculative nature of the later-submitted FBI
13 Memorandum.
14

15 47. Accordingly, Respondent's testimony on these issues—given under oath and
16 subject to cross-examination—remained unrebutted.

17 48. The FBI Memorandum does not identify any unlawful conduct by Petitioner,
18 does not allege that Petitioner engaged in or supported any criminal or terrorist activity,
19 and does not assess Petitioner as a danger to the community or a flight risk.
20

21 49. Such uncorroborated, non-analytical material—explicitly disclaiming any
22 assessment—cannot, as a matter of law, satisfy the Government's burden of proof by
23 clear and convincing evidence.
24

25
26 **VII. LEGAL FRAMEWORK**

27 50. The Great Writ of Habeas Corpus, codified at 28 U.S.C. § 2241, authorizes
federal courts to inquire into the legality of an individual's detention and to order release

1
2 if such detention is unlawful. The Supreme Court has long recognized that *habeas*
3 *corpus* is a fundamental safeguard against arbitrary confinement. See *Boumediene v.*
4 *Bush*, 553 U.S. 723, 739 (2008) (“*The Framers viewed freedom from unlawful restraint*
5 *as a fundamental precept of liberty.*”).

6
7 51. The writ of habeas corpus is “available to every individual detained within the
8 United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). As explained by the
9 Supreme Court, “the essence of habeas corpus is an attack by a person in custody upon
10 the legality of that custody, and . . . the traditional function of the writ is to secure
11 release from illegal custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973); *Pinson v.*
12 *Carvajal*, 69 F.4th 1059, 1067 (9th Cir. 2023) (habeas actions limited to challenges of the
13 legality or duration of confinement). A petitioner bears the burden of demonstrating that
14 “[h]e is in custody in violation of the Constitution or laws or treaties of the United
15 States.” See *Espinoza v. Sabol*, 558 F.3d 83, 89 (1st Cir. 2009).

16
17
18 52. The Fifth Amendment’s Due Process Clause applies to “all persons” within the
19 United States, including noncitizens, regardless of immigration status. See *Zadvydas v.*
20 *Davis*, 533 U.S. 678, 693 (2001). Due process prohibits arbitrary detention and requires
21 that civil immigration custody serve legitimate regulatory purposes, ensuring appearance
22 at proceedings and protecting the community, not punishment. Where those justifications
23 do not apply, detention becomes unconstitutional.

24
25 53. Detention must be reasonably related to its purpose and cannot continue
26 indefinitely where removal is not reasonably foreseeable. *Zadvydas v. Davis*, 533 U.S.
27 678 (2001).

VIII.

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process Violation

54. Petitioner repeats and realleges paragraphs 1 through 53 as if fully set forth herein and incorporates them by reference.

55. Petitioner is currently being detained by DHS/ICE authorities without cause and in violation of his constitutional rights to due process of law.

56. Petitioner's continued detention serves no legitimate governmental purpose. He has a pending application for temporary protected status, and a pending appeal before the BIA, no criminal history, strong family and community ties, and has demonstrated compliance with immigration laws.

57. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment to the United States Constitution.

58. Courts in this District evaluate prolonged immigration detention under the six-factor balancing test first articulated in *Banda v. McAleenan*, 385 F. Supp. 3d 1099 (W.D. Wash. 2019), and applied in *Kydyrali v. Wolf*, 499 F. Supp. 3d 768 (S.D. Cal. 2020). The factors are: (1) total length of detention to date; (2) likely duration of future detention; (3) conditions of detention; (4) delays in the removal proceedings caused by the detainee; (5) delays caused by the government; and (6) the likelihood that removal proceedings will result in a final order of removal. Courts have held that when these factors weigh against the government, prolonged detention violates the Fifth Amendment. *Kydyrali*, 499 F. Supp. 3d at 773.

1
2 59. Application of these factors overwhelmingly favors Petitioner. First, Petitioner
3 has been detained for over a year—an unreasonably prolonged period for immigration
4 detention. Second, USCIS processing times show that adjudication of Petitioner’s TPS
5 application may take up to nineteen (19) months, meaning detention will continue
6 indefinitely through no fault of his own. Third, Petitioner is held at Otay Mesa under
7 restrictive conditions resembling penal detention. Fourth, Petitioner has caused no
8 delays; he has timely filed all applications for relief from removal and his appeal. Fifth,
9 delays are attributable to the Government, including USCIS backlogs. Sixth, removal is
10 not reasonably foreseeable because (i) Petitioner has been granted withholding of
11 removal as to Russia; (ii) he has a pending BIA appeal; and (iii) DHS is legally barred
12 from removing him if TPS is granted and temporarily prohibited from removing him
13 while TPS remains pending.
14

15
16
17 60. On balance, these factors demonstrate that Petitioner’s continued detention is
18 arbitrary, excessively prolonged, and unconstitutional. Because no legitimate
19 governmental interest is served by further detention, and removal is not reasonably
20 foreseeable, habeas relief is warranted.
21

22 61. Petitioner respectfully submits that exhaustion of administrative remedies is not
23 required in this case and, in any event, would be futile.

24 62. “Exhaustion can be either statutorily or judicially required.” *Acevedo-Carranza*
25 *v. Ashcroft*, 371 F.3d 539, 541 (9th Cir. 2004). Although 28 U.S.C. § 2241 does not
26 expressly require petitioners to exhaust direct appeals before filing a habeas petition, the
27 Ninth Circuit generally requires, as a prudential matter, that habeas petitioners exhaust

1
2 available judicial and administrative remedies before seeking relief under § 2241.
3 *Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001), abrogated on other grounds
4 by *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006).
5

6 63. Prudential exhaustion, however, is not absolute. The Ninth Circuit has explained
7 that it may be required only where: (1) agency expertise is necessary to develop a proper
8 record and reach a proper decision; (2) relaxing exhaustion would encourage deliberate
9 bypass of the administrative scheme; and (3) administrative review is likely to allow the
10 agency to correct its own mistakes and thereby obviate the need for judicial review.
11 *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007) (citing *Noriega-Lopez v. Ashcroft*,
12 335 F.3d 874, 881 (9th Cir. 2003)).
13
14

15 64. Courts may waive prudential exhaustion where “administrative remedies are
16 inadequate or not efficacious, pursuit of administrative remedies would be a futile
17 gesture, irreparable injury will result, or the administrative proceedings would be void.”
18 *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (quoting *Laing v. Ashcroft*, 370
19 F.3d 994, 1000 (9th Cir. 2004)).
20

21 65. Here, Petitioner respectfully submits that exhaustion would be futile. The Board
22 of Immigration Appeals is bound to apply its own precedential decisions, including
23 *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and *Matter of Q. Li*, 29 I. &
24 N. Dec. 66 (BIA 2025), which hold that detention is mandatory under 8 U.S.C. §
25 1225(b)(2). Because the BIA lacks authority to depart from its binding precedent,
26 administrative review would not permit meaningful consideration of Petitioner’s
27 constitutional challenge to his detention.

1
2 66. District courts within this Circuit have recognized that, under these
3 circumstances, exhaustion is futile. See, e.g., *Garcia v. Noem*, No. 25-CV-2180-DMS-
4 MMP, 2025 WL 2549431, at *4–5 (S.D. Cal. Sept. 3, 2025); *Valdovinos v. Noem*, No.
5 25-CV-2439-TWR-KSC, slip op. at 9 (S.D. Cal. Sept. 25, 2025).
6

7 67. Accordingly, Petitioner respectfully submits that exhaustion of administrative
8 remedies is not required and should be excused as futile in this habeas proceeding.
9

10 68. Courts assessing due process challenges to prolonged detention under § 1225(b)
11 commonly consider multiple factors, including: (1) the length of detention to date;
12 (2) the likely duration of future detention; (3) the conditions of detention; (4) delays
13 attributable to the detainee; (5) delays attributable to the government; and (6) the
14 likelihood that removal proceedings will culminate in a final order of removal. *Banda v.*
15 *McAleenan*, 385 F. Supp. 3d 1099, 1106 (W.D. Wash. 2019); *Kydyrali*, 499 F. Supp. 3d
16 at 773.
17
18

19 69. Considered together, these factors confirm that continued mandatory detention
20 without individualized review violates due process as applied to Mr. Islamov.
21

22 70. Mr. Islamov has been detained since March 18, 2025—more than a year as of
23 this filing. This is not a brief administrative hold but sustained civil confinement with no
24 mechanism for individualized assessment.

25 71. Mr. Islamov’s appeal before the BIA remains pending, and if unsuccessful, he
26 intends to seek review in the Ninth Circuit. The appellate process therefore presents a
27

1
2 significant and indeterminate period of continued detention, rendering custody
3 effectively open-ended absent judicial intervention.
4

5 72. Mr. Islamov remains in civil immigration detention, which is inherently
6 restrictive. Regardless of formal classification, such confinement must be justified by
7 individualized necessity rather than categorical rules.
8

9 73. There is no indication that Mr. Islamov has caused delay. He is exercising legal
10 rights to seek relief and appellate review. By contrast, DHS initiated the March 2025
11 detention after previously moving to dismiss removal proceedings in August 2023 so
12 USCIS could adjudicate the asylum application. The government's reversal of course—
13 and its decision to detain Mr. Islamov while referring the I-589 to EOIR—are not delays
14 attributable to him.
15

16 74. Although the Immigration Judge denied asylum, the Judge granted withholding
17 of removal as to Russia, reflecting that Mr. Islamov's fear-based claims are not frivolous
18 and materially affecting the practical path of removal.
19

20 75. In addition, Petitioner has a pending application for Temporary Protected Status
21 ("TPS"), filed on March 25, 2025. Under the Immigration and Nationality Act, once
22 Temporary Protected Status is granted, "the Attorney General...shall not remove the
23 alien from the United States during the period in which such status is in effect," and
24 must authorize employment. 8 U.S.C. § 1254a(a)(1)(A)–(B). Although Petitioner's TPS
25 application has not yet been adjudicated, its pendency—combined with USCIS's
26 published processing timelines—further demonstrates that removal is not imminent and
27 that continued detention is increasingly divorced from its purported regulatory purpose.

1
2 76. Beyond the multi-factor analysis, Mr. Islamov's individual history independently
3 supports relief. DHS previously exercised discretion to parole him in July 2021,
4 permitting him to live at liberty through December 22, 2022. During that time, he
5 complied with immigration requirements, obtained employment authorization, and lived
6 in the community without incident. In August 2023, DHS itself moved to dismiss
7 removal proceedings so USCIS could continue adjudicating the asylum application—
8 only to reverse course, file a new NTA, and detain Mr. Islamov in March 2025 without
9 any articulated explanation for the change in position. These circumstances demonstrate
10 that the government's insistence on continued detention without individualized review is
11 not grounded in any demonstrated necessity.
12
13

14
15 77. Because continued mandatory detention under § 1225(b)(2)(A) has become
16 unreasonable as applied to Mr. Islamov, due process warrants his immediate release
17 from custody.
18

19 78. Since at least 2004, the government's consistent position has been to release
20 detainees when an Immigration Judge grants any form of protection. *See Exhibit 3 - U.S.*
21 *Immigration & Customs Enforcement, Detention Policy Where an Immigration Judge*
22 *Has Granted Asylum and ICE Has Appealed* (Feb. 9, 2004) (memorandum from Michael
23 J. Garcia, Assistant Secretary, to Anthony Tangeman, Deputy Executive Associate
24 Commissioner, Office of Detention and Removal Operations).
25

26 79. The grant of withholding of removal has been held to weigh in favor of granting
27 habeas relief. In *A.L. v. Oddo*, the court noted that "[t]he longstanding and current policy
of DHS and ICE favors release of aliens who have been granted protection by an

1
2 immigration judge, to specifically include withholding of removal, absent exceptional
3 circumstances such as national security issues or danger to the community.” 761 F. Supp.
4 3d 822, 826 (W.D. Pa. 2025). The court further observed that the length of time the
5 petitioner’s appeal of the asylum denial was likely to take supported the conclusion that
6 continued detention was unreasonable.
7

8 80. Accordingly, Mr. Islamov respectfully asks this Court to order Respondents to
9 release him from custody immediately.
10

11 81. Petitioner has been detained since March 18, 2025 – more than a year - without
12 any constitutionally adequate individualized review.
13

14 82. Courts in this District and throughout the Ninth Circuit have recognized that
15 detention in the range of seven to ten months may raise serious due process concerns
16 where, as here, detention is mandatory, provides no opportunity for individualized
17 review, and is likely to continue for a significant and indeterminate period. See *Kydyrali*
18 *v. Wolf*, 499 F. Supp. 3d 768, 772–74 (S.D. Cal. 2020); *Masood v. Barr*, No. 19-
19 CV-07623-JD, 2020 WL 95633, at *3 (N.D. Cal. Jan. 8, 2020).
20

21 83. Respondents have presented no evidence that Petitioner’s removal to Ukraine is
22 foreseeable in the reasonably near future, such as proof that travel documents have been
23 issued or requested, that consular communication has occurred, or that removal
24 arrangements are underway.
25

26 84. Finally, this case is further distinguished by the government’s own prior actions.
27 DHS previously exercised discretion to release Petitioner on parole, later moved to
dismiss removal proceedings so USCIS could adjudicate his asylum application, and

1
2 then reversed course and re-detained him without any articulated change in
3 circumstances. That history underscores the absence of any demonstrated necessity for
4 continued detention without individualized review.
5

6 85. Courts within this District have recognized that where the government initially
7 releases a noncitizen, that release creates a protected liberty interest in remaining free
8 from detention absent a demonstrated change in circumstances. See, e.g., *Singh v.*
9 *Noem*, No. 26-cv-932-GPC-MMP, slip op. at 3–4 (S.D. Cal. Feb. 18, 2026). In *Singh*,
10 the court held that re-detention without meaningful process violates due process,
11 particularly where the government fails to present evidence that the individual poses a
12 danger to the community or a flight risk.
13
14

15 86. Here, although Respondents provided a bond hearing, that hearing was
16 constitutionally deficient. DHS relied on a Federal Bureau of Investigation
17 memorandum that explicitly disclaimed any assessment and contained no findings of
18 unlawful conduct, while failing to present any competent evidence that Petitioner poses
19 a danger or flight risk. Under these circumstances, the limited process afforded does not
20 satisfy due process, and immediate release is warranted.
21

22 **PRAYER FOR RELIEF**

23
24 WHEREFORE, Petitioner respectfully requests that this Court:

- 25 i. Assume jurisdiction over this matter.
26 ii. Issue an Order to Show Cause requiring Respondents to explain why this Petition should
27 not be granted within three days, as required by 28 U.S.C. § 2243;

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- iii. Declare that Petitioner's continued detention under 8 U.S.C. § 1225 violates the Due Process Clause of the Fifth Amendment;
 - iv. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately under reasonable conditions of supervision;
 - v. Grant such further relief as this Court deems just and proper.

Dated: April 9, 2026
Los Angeles, California

RESPECTFULLY SUBMITTED,

/s/ Inna Parizher
Inna Parizher, Esq.

/s/ Vano I. Haroutunian
Vano I. Haroutunian, Esq.

Attorneys for Petitioner

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

I, Vano I. Haroutunian, do depose and state:

I represent Petitioner Alibek Islamov in these habeas corpus proceedings. Mr. Islamov is currently being held in detention at the Otay Mesa Detention Center and cannot appear in my office to sign this Verification. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and belief.

Dated: April 3, 2026

New York, New York

RESPECTFULLY SUBMITTED,

/s/ Vano I. Haroutunian

Vano I. Haroutunian, Esq.

Attorney for Petitioner

LIST OF EXHIBITS

Exhibits	Description of Exhibits
1	Immigration Judge's order dated 08/17/2023
2	Immigration Judge's order denying Bond dated 01/20/2026
3	U.S. Immigration & Customs Enforcement, Detention Policy
4	Federal Bureau of Investigation ("FBI") Letterhead Memorandum
5	Transcript of the individual merits hearing dated 08/19/2025
A	Copy of the Petitioner's passport, Form I-94
B	Form I-797C, Notice of Action
C	Screen from website https://locator.ice.gov/
D	Copies of the Petitioner's Marriage certificate, Birth certificates of children, passports of spouse and children, Forms I-94
E	Articles of organization for BISECECTOR LLC, Certificate of title for the Freightliner truck
F	Letter of support from Victor Lopez
G	Letter of support from Petitioner's child
H	Petitioner's individual income tax returns
I	Notice to Appear
J	Form I-797C, Notice of Forwarding to EOIR
K	Form I-821, Application for Temporary Protected Status (TPS) and screen of the case status
L	Amended Written Pleadings
M	Immigration Judge's order denying Bond dated 01/20/2026
N	Notice of Appeal with the Board of Immigration Appeals ("BIA")
O	Screen of the case status