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

9 GADZHI ISAEV,
10 Plaintiff,

11 vs.

12 CHRISTOPHER LAROSE, warden of
13 Otay Mesa Detention Center
14 PATRICK DIVVER, San Diego Field
15 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 MARKWAYNE MULLIN, Secretary of
22 the Department of Homeland Security
23 (“DHS”);
24 ACTING Attorney General of the United
25 States,
26 U.S. DEPARTMENT OF HOMELAND
27 SECURITY;
28 U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;

Respondents.

Case No.: '26CV2470 LL DDL

Agency Number: 

PETITION FOR WRIT OF HABEAS
CORPUS

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INTRODUCTION

1. Gadzhi ISAEV is a Chechen from Russia. He grew up in Russia where he suffered such persecution that he could no longer remain in Russia safely. To avoid persecution, he made his way to the United States. He presented himself at the port of entry at San Ysidro, California. He presented his passport there as asked for asylum.

2. He entered the United States on July 31, 2021. He was vetted by the Respondents. They determined he was not a flight risk or a danger to the community and they granted him Parole into the United States. See Exhibit A.

3. Mr. Isaev began his life in the United States after he was released. He received work authorization, found a place to live and integrated himself into the local community. In the 6 years he has lived here he has established himself financially as well. He filed his I-589 application for Asylum in 2022.

4. On March 14, 2026, Mr. Isaev was driving for UBER and he received a ride request from someone on the base at Camp Pendleton. Mr. Isaev had been on Camp Pendleton in May of 2025 and was allowed on base with no problem. He had no idea that anything would be different. When he arrived to guard booth he explained that he was there to pick up a rider. The guard asked to see his ID. Then he asked if Mr. Isaev had a green card. When Mr. Isaev answered no he was instructed to pull over to the side of the road, just past the guard gate.

1 Another guard came up to the window of my his and asked where he was from. He
2 told him he was from Russia. He asked his immigration status and Mr. Isaev told
3 him he was waiting for a final decision on his asylum case. He also told him to
4 wait in the car.
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7 5. Mr. Isaev asked again why he was being detained. He was simply
8 told to wait. About 20 minutes later Military police approached the car. They told
9 Mr. Isaev that ICE wanted to see him. He was instructed to get out of the car. He
10 was handcuffed, placed in a military vehicle and then he was driven to another
11 location where the ICE officers were waiting for him. He asked again why he was
12 being detained. He was told that there was no final decision yet on his case and he
13 must wait in detention for a decision. He was not told what law he had violated. He
14 was not advised of his Miranda rights. With no cause and no explanation and no
15 warrant he was put in the ICE vehicle and transferred to the ICE facility in
16 downtown San Diego. He was then transferred to the Otay Mesa facility.
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21 6. One of the benefits that petitioner enjoyed with parole has been his
22 ability to work, to go to school and to more actively participate in his asylum
23 application process. Suddenly, with no notice, no neutral determination that there
24 has been a change in circumstances, Respondents seek to revoke Mr. Isaev liberty
25 and force him to remain in custody for the duration of his application process.
26 Respondents do so based not on Mr. Isaev' personal circumstances but because of
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1 Respondents' interpretation of President Trump's whim and categorical
2 determination that, the Fifth Amendment notwithstanding, noncitizens are not
3 entitled to due process.
4

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

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

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18 9. This action arises under the Constitution of the United States and
19 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.").

1 10. This court has subject matter jurisdiction under 28 U.S.C. § 2241
2 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the
3 United States Constitution (Suspension Clause).
4

5 11. This Court may grant relief under the habeas corpus statutes, 28
6 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq.,
7 the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8
8 U.S.C. § 1252(e)(2).
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10

11 VENUE

12 12. Venue is proper because Petitioner is in Respondents' custody in
13 San Diego, California. Venue is further proper because a substantial part of the
14 events or omissions giving rise to Petitioner's claims occurred in this District,
15 where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).
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18 13. For these same reasons, divisional venue is proper under Local
19 Rule HC.1
20

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

22 14. The Court must grant the petition for writ of habeas corpus or
23 issue an order to show cause (OSC) to the Respondents "forthwith," unless the
24 petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court
25 must require Respondents to file a return "within three days unless for good cause
26 additional time, not exceeding twenty days, is allowed." *Id.*
27
28

1 Otay Mesa Detention Center. Respondent Sidney Aki is a legal custodian of
2 Petitioner.
3

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 Petitioner.
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9 21. Respondent Markwayne Mullin is the Secretary of the Department
10 of 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 immigration laws of the United States.
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16 22. Respondent Acting Attorney General of the United States has
17 authority over the Department of Justice and is charged with faithfully
18 administering the immigration laws of the United States.
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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.
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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 28. Noncitizens seeking asylum are guaranteed Due Process under the
2 Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306
3 (1993).

4
5 29. Noncitizens who are applicants for asylum are entitled to a full
6 hearing in immigration court before they can be removed from the United States. 8
7 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative
8 appellate review before the Board of Immigration Appeals of removal orders
9 entered against them and judicial review in federal court upon a petition for
10 review. 8 U.S.C. § 1252(a) *et seq.*


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

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

20
21 32. When a noncitizen arrives in the United States, the Attorney
22 General or his designees also have the authority to either detain, release on bond or
23 release on parole the noncitizen. INA § 212(d)(5)(A).

1 33. Parole must be terminated upon written notice after an
2 individualized determination that the humanitarian purposes no longer apply. 8
3 C.F.R. § 212.5(e)(2)(i). That petitioner’s parole may have expired is irrelevant
4 because “petitioner’s liberty interest did not expire along with his parole.” Omer
5 G.G. v. Kaiser, et al., 2025 WL 3254999, *5 (E.D. Cal. 2025)
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9 **FACTUAL BACKGROUND**
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11 34. Petitioner is an ethnic Chechen and citizen of Russia. He was born
12  in Russia and is currently a citizen of Russia.
13

14 35. Petitioner was repeatedly persecuted in Russia. He became afraid
15 for his life and believed he could no longer remain in Russia.
16

17 36. On July 31, 2021, Petitioner was paroled into the United States to
18 seek asylum. This release was based on the individualized facts in his case
19 determined during his border interview, under 8 U.S.C. § 1182(d)(5).
20

21 37. He was also issued an NTA and placed in 240 removal
22 proceedings.
23

24 38. He has attended all scheduled hearings in connection with his
25 removal proceedings.
26

27 39. On information and belief, Petitioner continues to meet all the
28 requirements of his parole.

1 40. Petitioner applied for asylum within one year of his entry into the
2 United States.
3

4 41. Respondents issued work authorization to Petitioner pursuant to 8
5 C.F.R. § 274a.12(c)(08).
6

7 42. On March 14, 2026, Mr. Isaev was driving for UBER and he
8 received a ride request from someone on the base at Camp Pendleton. Mr. Isaev
9 had been on Camp Pendleton in May of 2025 and was allowed on base with no
10 problem. He had no idea that anything would be different. When the arrived to
11 guard booth he explained that he was there to pick up a rider. The guard asked to
12 see his ID. Then he asked if Mr. Isaev had a green card. When Mr. Isaev answered
13 no he was instructed to pull over to the side of the road, just past the guard gate.
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15 told him he was from Russia. He asked his immigration status and Mr. Isaev told
16 him he was waiting for a final decision on his asylum case. He also told him to
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22 43. Mr. Isaev asked again why he was being detained. He was simply
23 told to wait. About 20 minutes later Military police approached the car. They told
24 Mr. Isaev that ICE wanted to see him. He was instructed to get out of the car. He
25 was handcuffed, placed in a military vehicle and then he was driven to another
26 location where the ICE officers were waiting for him. He asked again why he was
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1 being detained. He was told that there was no final decision yet on his case and he
2 must wait in detention for a decision. He was not told what law he had violated. He
3 was not advised of his Miranda rights. With no cause and no explanation and no
4 warrant he was put in the ICE vehicle and transferred to the ICE facility in
5 downtown San Diego. He was then transferred to the Otay Mesa facility.
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8 44. Mr. Isaev was never presented with a warrant for his arrest. The
9 ICE agents did not provide him any process. The ICE agents did not offer him any
10 opportunity to be heard prior to arresting and detaining him.
11

12 45. On January 20, 2025, President Donald Trump issued several
13 executive actions relating to immigration, including “Protecting the American
14 People Against Invasion,” an executive order (EO) setting out a series of interior
15 immigration enforcement actions. The Trump administration, through this and
16 other actions, has outlined sweeping, executive branch-led changes to immigration
17 enforcement policy, establishing a formal framework for mass deportation. The
18 “Protecting the American People Against Invasion” EO instructs the DHS
19 Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to
20 prioritize civil immigration enforcement procedures including through the use of
21 mass detention.
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26 46. On information and belief, Respondents are detaining Petitioner
27 regardless of the individual facts and circumstances of his case.
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1 47. On information and belief, Respondents are using the immigration
2 detention system as a means to punish individuals for asserting rights under the
3 Refugee Act.
4

5 48. On information and belief, Petitioner has no criminal history.
6

7 **CLAIMS FOR RELIEF**

8 **COUNT ONE**

9 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**
10

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

12 **Unlawful Detention**

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

16 50. Under the APA, a court shall “hold unlawful and set aside agency
17 action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).
18

19 51. An action is an abuse of discretion if the agency “entirely failed to
20 consider an important aspect of the problem, offered an explanation for its decision
21 that runs counter to the evidence before the agency, or is so implausible that it
22 could not be ascribed to a difference in view or the product of agency expertise.”
23

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

25 (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*,
26 463 U.S. 29, 43 (1983)).
27
28

1 52. To survive an APA challenge, the agency must articulate “a
2 satisfactory explanation” for its action, “including a rational connection between
3 the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551,
4 2569 (2019) (citation omitted).
5

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7 53. By categorically revoking Petitioner’s liberty and transferring him
8 to Otay Mesa Detention Center without consideration of his individualized facts
9 and circumstances, Respondents have violated the APA.
10

11 54. Respondents have made no finding that Petitioner is a danger to
12 the community.
13

14 55. Respondents have made no finding that Petitioner is a flight risk.

15 56. By detaining the Petitioner categorically, Respondents have
16 further abused their discretion because there have been no changes to his facts or
17 circumstances since the agency made its initial determination to parole him into the
18 United States that support detention.
19

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21 57. Respondents have already considered Petitioner’s facts and
22 circumstances and determined that he was not a flight risk or danger to the
23 community when they granted him parole. There have been no changes to the facts
24 that justify this revocation of his parole.
25

26 **COUNT TWO**

27 **Violation of Fifth Amendment Right to Due Process**

Procedural Due Process

58. Petitioner restates and realleges all paragraphs as if fully set forth here.

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

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

61. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.

62. Here, Respondents have chosen to revoke Petitioner’s liberty in an arbitrary manner and not based on a rational and individualized determination of whether he is a safety or flight risk, in violation of due process. Because no individualized custody determination was made prior to his detention and no circumstances have changed to make Petitioner a flight risk or a danger to the

1 community, Respondents' revocation of Petitioner's release violates his right to
2 procedural due process.

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4 63. That petitioner's parole may have expired is irrelevant because
5 "petitioner's liberty interest did not expire along with his parole." *Omer G.G. v.*
6 *Kaiser, et al.*, 2025 WL 3254999, *5 (E.D. Cal. 2025); *see, e.g., Ramirez Tesara v.*
7 *Wamsley*, 800 F.Supp.3d 1130, 1136 (W.D. Wash. 2025) (finding, on similar facts,
8 that "[c]ontrary to Respondents' arguments, this private interest did not expire
9 along with Petitioner's parole agreement."). Put differently, the fact "[t]hat the
10 express terms of Petitioner's parole allowed for discretionary termination or
11 expiration does not somehow obviate the need for the government to" comport
12 with due process "prior to re-detaining him given the significance of his liberty
13 interest." *Rodriguez Cabrera*, 2025 WL 3072687, *11 (D. Nev. 2025).

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18 **Bond is not the appropriate remedy**

19 64. Many courts recently have been ordering a bond hearing as an
20 alternative avenue for relief. If Mr. Isaev's detention was unlawful, *ab initio*, he
21 should not be required to post a bond and, in effect, pay a ransom to be released
22 from this illegal detention. Nothing indicates that Mr. Isaev has somehow become
23 a flight risk or a danger to the community. He was not detained at Camp Pendleton
24 because he was suddenly a flight risk or a danger to the community. When ICE put
25 him in handcuffs, they did not assert that they had suddenly determined he was a
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1 flight risk or a danger to the community. He was simply swept up in this
2 administrations scheme to lock up all immigrants without green cards.
3

4 65. Ordering a bond hearing because he is no longer deemed subject to
5 mandatory detention rewards the government's unlawful behavior. First, it
6 legitimizes his detention. Second, it allows the government to detain without a
7 prior determination of a change in individual circumstances regarding flight risk
8 and danger. Third, it requires the petitioner to prove that he is not a flight risk or a
9 danger to the community, something the government already determined when
10 they released him. Fourth, it requires the petitioner to pay a fee to the parties that
11 unlawfully detained him in order to be released from his unlawful detention.
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15 66. Upon release from Otay Mesa it is the custom of ICE to immediately
16 place detainees in Alternative to Detention Programs and affix an ankle monitor to
17 them. As the name of the program indicates, this is just another form of detention
18 that is made without any determination that there has been a change in
19 circumstances such that Mr. Isaev's movements must now be restricted to a 75
20 mile radius and monitored with an ankle monitor. Mr. Isaev should be returned to
21 his predetention status. This should also include the return to him of any and all
22 documents and/or identification cards and work authorization cards in his
23 possession when he was detained.
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PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

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

(3) Declare that Petitioner's detention without notice and an individualized determination prior to his arrest violates the Due Process Clause of the Fifth Amendment and the Administrative Procedures Act;

(4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;

(5) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;

(6) Issue an Order that, upon his release, Respondents are prohibited from enrolling the Petitioner in any Alternative to Detention program, specifically barring them from requiring an ankle monitor;

(7) Issue an Order required Respondents to return to Mr. Isaev any and all documents that were with him upon his detention;

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

2 Dated: April 19, 2026

3 /s/ Brian J. McGoldrick
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