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

Respondents.

Case No.: 3:26-cv-02470-LL-DDL

TRAVERSE TO PETITION FOR
WRIT OF HABEAS CORPUS

1 **The Petitioner was illegally detained and must be released.**

2 **Bond is not the appropriate remedy.**

3
4 The government's response states "... the government does not oppose the
5 petition and defers to the Court on the appropriate relief." ECF 4 p. 3. Petitioner
6 asserts the government's arrest and detention of Mr. Isaev was not authorized
7 under color of any law. His arrest and detention were a violation of his right to due
8 process guaranteed by the Fifth Amendment to the Constitution and was a
9 violation of the Administrative Procedures Act.
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11

12 Count One of the Petition set out in detail how his detention was a violation
13 of the APA because the government did not follow its own rules regarding
14 revocation of his liberty. The appropriate remedy for this violation of the APA is
15 not a bond hearing. The appropriate remedy is Mr. Isaev's immediate release from
16 custody.
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18

19 Count Two of the Petition set out in detail how his detention was a violation
20 of due process because the government did not follow its own procedural rules
21 regarding revocation of his liberty. In addition, the government did not afford the
22 petitioner any pre-detention notice or hearing regarding the termination of his
23 liberty interest he had accrued during the time he was on parole and thereafter. The
24 appropriate remedy for this violation of due process is not a bond hearing. The
25 appropriate remedy is Mr. Isaev's immediate release from custody.
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1 If Mr. Isaev' detention was unlawful, *ab initio*, he should not be required to
2 post a bond and, in effect, pay a ransom to be released from this illegal detention.
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4 Nothing in the government's response indicates that Mr. Isaev has somehow
5 become a flight risk or a danger to the community.
6

7 In addition, the current practice at Otay Mesa Detention Center is, upon
8 release, to immediately enroll detainees in an Alternative to Detention program and
9 put an ankle monitor on them before their actual release. This is also done without
10 any individualized consideration of whether the detainee is a potential flight risk or
11 a danger to the community. Mr. Isaev has been at liberty for quite a while prior to
12 his detention and should not be enrolled in any ATD program and especially
13 should not be forced to wear an ankle monitor. This court has authority to include
14 conditions upon release. While habeas relief commonly includes reprieve from
15 physical imprisonment, "release need not be the exclusive remedy." *Boumediene v.*
16 *Bush*, 553 U.S. 723, 779–80 (2008) ("depending on the circumstances, more
17 [relief] may be required").
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22 Finally, another practice at Otay Mesa Detention Center is to retain the
23 Petitioner's documents that were taken when he was unlawfully detained. In
24 particular they retain the driver's license and the work authorization card of the
25 petitioner. This ends up being a huge burden for the petitioner because it is so
26 difficult to get those documents replaced, especially the work authorization
27
28

1 document. Petitioner requests the court order that any documents taken from Mr.
2 Isaev upon his detention be returned upon his release.
3

4 CONCLUSION

5 Petitioner respectfully requests this Court to grant the following:

6
7 (1) Declare that Petitioner's detention violates the Due Process Clause
8 of the Fifth Amendment and the Administrative Procedures Act;

9
10 (2) Issue a Writ of Habeas Corpus ordering Respondents to release
11 Petitioner from custody;

12
13 (3) Issue an Order prohibiting Petitioner's redetention without notice
14 and a predetention hearing before a neutral third party as to flight risk and danger
15 to the community;

16
17 (4) Issue an Order prohibiting the Respondents from enrolling the
18 Petitioner in any Alternative to Detention program, specifically barring them from
19 requiring an ankle monitor upon his release;

20
21 (5) Issue an Order requiring the Respondents to return Petitioner's
22 documents that were confiscated upon his arrest and detention;

23
24 (6) Grant any further relief this Court deems just and proper.

25 Dated: April 27, 2026

/s/ Brian J. McGoldrick
26 BRIAN J. MCGOLDRICK, ESQ.
27 attorney@brianmgoldrick.com
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1 **CERTIFICATE OF SERVICE**

2 I, Brian J. McGoldrick, CERTIFY

3
4 I am over the age of 18 and not a party to this matter. My business
5 address is 4916 Del Mar Avenue, San Diego, CA 92107. On April 27, 2026, I
6 served a copy of this **TRAVERSE TO PETITION FOR WRIT OF HABEAS**
7 **CORPUS** by the method and to the parties listed below:
8

9 On April 27, 2026, I accessed the electronic mailing list for CM/ECF
10 users in this case and representatives of all parties are CM/ECF users and are
11 noticed as follows:
12

13
14 • **Jacob Tyler Metzger**

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18
19 /s/Brian J. McGoldrick
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21 Counsel for Respondent
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