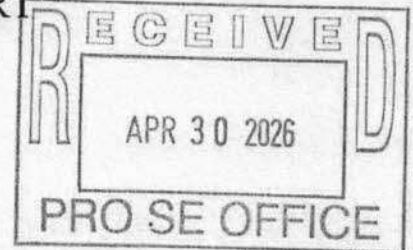


AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the

Eastern District of New York



Nona Tilley

Submitting on behalf of

TEMURI KUPRASHVILI, pro se

as next to friend
Petitioner

v.

MDC Brooklyn
Detention center

80 29th St, Brooklyn, NY 11232, United States

Respondent

(name of warden or authorized person having custody of petitioner)

Case No. 26-cv-02581-NRM

(Supplied by Clerk of Court)

Morrison, J

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: TEMURI KUPRASHVILI
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: MDC Brooklyn Detention center
(b) Address: 80 29th St, Brooklyn NY 11232, United States
(c) Your identification number: 
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: _____
(b) Docket number of criminal case: _____
(c) Date of sentencing: _____
☒ Being held on an immigration charge
☐ Other (explain): _____

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AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

Decision or Action You Are Challenging

5. What are you challenging in this petition:

- ☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)
- ☐ Pretrial detention
- ☒ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☐ Disciplinary proceedings
- ☐ Other (explain): _____

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: _____
Department of Homeland Security / U.S. Immigration and Customs Enforcement (New York City Field Office).
- (b) Docket number, case number, or opinion number: _____
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
ICE Detention
- (d) Date of the decision or action: 06/07/2025

Your Earlier Challenges of the Decision or Action7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes ☐ No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: DEPARTMENT OF HOMELAND SECURITY (most recent)
- (2) Date of filing: 02/26/2026
- (3) Docket number, case number, or opinion number: _____
- (4) Result: Denial
- (5) Date of result: 03/29/2026
- (6) Issues raised: Request of parole based on the fact that he is not flight risk

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(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

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(b) If you answered "No," explain why you did not file a third appeal:

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☐ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☒ Yes

☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: 06/07/2025

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals?

☒ Yes

☐ No

If "Yes," provide:

(1) Date of filing: 12/19/2024

(2) Case number: _____

(3) Result: Denial

(4) Date of result: 08/21/2025

(5) Issues raised: The immigration judge misapplied or misinterpreted immigration law and statutes.

The judge made factual findings that are clearly erroneous or not supported by the evidence in the record

The judge's decision was arbitrary, irrational, or contrary to established legal standards.

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☒ Yes

☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

Appeal of Immigration Court Motion to Reopen

(b) Name of the authority, agency, or court: _____

Board of Immigration Appeals

(c) Date of filing: 12/02/2019

(d) Docket number, case number, or opinion number: _____

(e) Result: Denial

(f) Date of result: 10/19/2020

(g) Issues raised: The appeal is based on changed country conditions in the respondent's home country, as new and material evidence has emerged demonstrating a significant deterioration of circumstances since the original hearing that was not available at the time of the prior proceedings.

Other information concerning past proceedings are provided in the brief

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: PROLONGED DETENTION VIOLATES DUE PROCESS

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Mr. Kuprashvili has now been detained for approximately ten months

There is no lawfully executable removal order and no reasonably foreseeable removal.

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☐ No

GROUND TWO: WARRANTLESS SEIZURE AND PROLONGED DETENTION VIOLATE THE FOURTH AMENDMENT

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

On June 7, 2025, Mr. Kuprashvili appeared voluntarily for a routine ICE check-in appointment at 26 Federal Plaza — an obligation he had honored without fail for over five years under his Order of Supervision.

ICE agents seized and detained him at that appointment without a judicial warrant.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☐ No

GROUND THREE:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☐ No

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GROUND FOUR:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: Issue a writ of habeas corpus ordering his immediate release from immigration detention under reasonable supervision conditions.

In the alternative, order ICE to conduct a meaningful custody review and release Petitioner within 30 days, absent proof of a significant likelihood of removal in the reasonably foreseeable future;

Grant any other relief the Court deems just and proper.

Issue temporary restraining order

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

04/30/2026

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 04/30/2026



Signature of Petitioner

Signature of Attorney or other authorized person, if any

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

TEMURI KUPRASHVILI,

Petitioner, pro se,

v.

WARDEN/OFFICER-IN-CHARGE, Metropolitan Detention Center, 80 29th Street, Brooklyn,
New York 11232;

WILLIAM P. JOYCE,

Acting Field Office Director, New York Field Office,
U.S. Immigration and Customs Enforcement;

Todd Blanche

(or a Successor), Attorney General of the United States;

Markwayne Mullin

(or a Successor), Secretary of Homeland Security,
Respondents.

**PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241
AND
EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Temuri Kuprashvili

Petitioner, Pro Se



c/o Metropolitan Detention Center
80 29th Street
Brooklyn, New York 11232

C/O Nino Veliashvili





Tel: 

INTRODUCTION

Petitioner Temuri Kuprashvili respectfully submits this Petition for Writ of Habeas Corpus and Motion for Temporary Restraining Order ("TRO") and Preliminary Injunction. Mr. Kuprashvili, a Georgian national who entered the United States on January 23, 2019 as an arriving alien, was detained by U.S. Immigration and Customs Enforcement ("ICE") on June 7, 2025 during a routine check-in appointment — despite his years of perfect compliance with all ICE reporting obligations since his release from detention in 2020.

Mr. Kuprashvili has committed no crime. He has reported faithfully and without a single violation to ICE since 2020. He is the approved beneficiary of a VAWA I-360 Special Immigrant Visa self-petition (Receipt No. LIN2427050502), which USCIS approved on the merits following a timely rebuttal to a Notice of Intent to Deny. Prior to his rearrest, Mr. Kuprashvili had also filed a VAWA-specific motion to reopen with the BIA on December 19, 2024, invoking the mandatory statutory stay of removal under 8 U.S.C. § 1229a(c)(7)(C)(iv), which "shall stay the removal of" a qualified VAWA alien pending final disposition of that motion. ICE rearrested Mr. Kuprashvili on June 7, 2025 — while that statutory stay was in effect — without a judicial warrant and without providing the mandatory pre-revocation notice and informal interview required under 8 C.F.R. Part 241.4 before revoking his Order of Supervision ("OSUP").

Mr. Kuprashvili's continued detention violates the Fourth and Fifth Amendments to the United States Constitution, constitutes arbitrary and indefinite civil detention, and is inconsistent with INA § 212(d)(5) and the constitutional standards set forth in *Zadvydas v. Davis*, 533 U.S. 678 (2001). ICE rearrested and detains him under the authority of 8 U.S.C. § 1231(a) — the post-final-order removal statute — but that authority presupposes an active, executable removal order. The VAWA mandatory stay suspended that removal order at the moment Mr. Kuprashvili filed his

VAWA motion to reopen; the removal period therefore had not properly commenced, and § 1231(a) detention authority does not apply. At most, Mr. Kuprashvili's detention is governed by 8 U.S.C. § 1226(a), which requires an individualized bond hearing that has never been provided. This Court should issue an immediate TRO and Order to Show Cause requiring Respondents to release Mr. Kuprashvili pending the adjudication of his adjustment of status application, or in the alternative, to release him on supervised parole pending resolution of these proceedings.

JURISDICTION AND VENUE

This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and 28 U.S.C. § 1651 (All Writs Act). Venue is proper in the Eastern District of New York. The Due Process Clause of the Fifth Amendment provides an independent basis for this Court's jurisdiction.

Despite 8 U.S.C. § 1252(a)(2)(B)(ii)'s jurisdiction-stripping provision, federal courts retain habeas jurisdiction over claims of unconstitutional prolonged civil detention. See *Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Zadvydas v. Davis*, 533 U.S. 678 (2001). This petition does not challenge a discretionary determination but rather the constitutional permissibility of indefinite, unreviewable detention.

PARTIES

Petitioner

Temuri Kuprashvili ([REDACTED]) is a Georgian national currently detained at the Metropolitan Detention Center ("MDC Brooklyn"), located at 80 29th Street, Brooklyn, New York 11232. He is subject to a final order of removal entered by the Immigration Court in Oakdale, Louisiana. Notwithstanding that order, as an arriving alien he retains eligibility to adjust status under 8 U.S.C. § 1255.

STATEMENT OF FACTS

A. Entry and Family Separation (January 2019)

On January 23, 2019, Mr. Kuprashvili entered the United States as an arriving alien together with his immediate family: his father Alexander Kuprashvili ([REDACTED] 6), his mother Nino Veliashvili ([REDACTED] 7), and his brother Anri Kuprashvili ([REDACTED] 8). Mr. Kuprashvili was 20 years old at the time, having been born on [REDACTED]. Despite being under 21, he was separated from his family at the border. His family members are currently in removal proceedings and are expected to be granted asylum imminently.

B. Removal Order and COVID-19 Release (2019–2020)

Due to numerous procedural failures in his removal proceedings, including ineffective assistance of counsel, Mr. Kuprashvili was ordered removed by the Immigration Court in Oakdale, Louisiana. He was subsequently released during the COVID-19 pandemic pursuant to the court's order in *Fraihat v. U.S. Immigration and Customs Enforcement*. Since his release in 2020, Mr. Kuprashvili has reported to the ICE office consistently, punctually, and without a single violation. He has no criminal record of any kind.

C. VAWA Petition Approval and Adjustment Eligibility

Mr. Kuprashvili is married to a U.S. citizen. That marriage, though it subjected him to domestic abuse and violence, gave rise to a valid VAWA self-petition under INA § 204(a)(1)(A)(iii). In August 2024, Mr. Kuprashvili filed his I-360 VAWA Special Immigrant Visa self-petition with USCIS (Receipt Number LIN2427050502). USCIS issued a prima facie determination of eligibility under 8 U.S.C. § 1641(c)(1)(B), formally recognizing him as a “qualified alien” under that provision. On December 19, 2024, Mr. Kuprashvili filed a motion to reopen with the BIA invoking the VAWA-specific mandatory stay provision at 8 U.S.C. § 1229a(c)(7)(C)(iv), which requires that a qualifying VAWA motion “shall stay the removal” of a qualified alien pending final disposition of the motion. That statutory stay went into effect automatically upon filing and remained operative at the time of his rearrest. On September 16, 2025, USCIS issued a Notice of Intent to Deny the I-360; Mr. Kuprashvili timely responded with substantial evidence of the bona fides of his petition. USCIS thereafter approved the I-360 petition. A card reflecting that approval was mailed by USCIS on November 25, 2025. He has further been issued Employment Authorization under category C(21), which is issued exclusively to approved VAWA petitioners. USCIS denied the I-485 application, and Mr. Kuprashvili timely filed a Form I-290B Notice of Appeal or Motion on April 29, 2026, which remains pending before USCIS.

As an arriving alien, Mr. Kuprashvili is eligible to adjust status notwithstanding his prior removal order, pursuant to 8 U.S.C. § 1255 and 8 C.F.R. § 245.

D. Detention During Check-In and Prolonged Imprisonment

On June 7, 2025, Mr. Kuprashvili appeared for his regular ICE check-in appointment at 26 Federal Plaza, New York — a routine obligation he had honored without fail for over five years pursuant to his Order of Supervision (“OSUP”). Rather than permitting him to continue reporting as a free man, ICE seized and detained him at that appointment. ICE did not present a judicial

warrant. ICE did not provide written notice or conduct the informal interview mandated by 8 C.F.R. Part 241.4 before revoking his OSUP. ICE asserted authority to detain under 8 U.S.C. § 1231(a), the post-removal-order detention statute, despite the existence of the operative VAWA mandatory stay of removal under § 1229a(c)(7)(C)(iv) that suspended the execution of Mr. Kuprashvili's removal order. Because the removal order was statutorily suspended, the "removal period" under § 1231(a)(1) had not lawfully commenced, and § 1231 detention authority did not attach. Mr. Kuprashvili's detention is therefore, at most, governed by 8 U.S.C. § 1226(a), which requires an individualized bond hearing that has never been conducted. He was housed at the Orange County Detention Center before being transferred to MDC Brooklyn, 80 29th Street, Brooklyn, New York 11232, where he remains detained. He has been detained for approximately ten months without a bond hearing or individualized custody determination. ICE's belated attempt to supply Part 241.4 procedures on September 4, 2025 — nearly three months after the arrest — does not cure the constitutional and regulatory violations that attended the initial seizure, by which time Mr. Kuprashvili had already lost any meaningful opportunity to contest the OSUP revocation before incarceration was imposed.

Throughout his detention, counsel has requested parole on multiple occasions. Each request has been denied arbitrarily and without individualized assessment of the required factors under INA § 212(d)(5). No meaningful consideration was given to the humanitarian circumstances, likelihood of relief, or absence of community danger. These denials are arbitrary and capricious, and constitute an abuse of discretion.

Habeas petition

On June 23, 2025, Temuri Kuprashvili filed a habeas corpus petition under 28 U.S.C. § 2241 in the Southern District of New York, challenging two things: first, the lawfulness of his

detention under § 1231(a) given that a VAWA statutory stay was in effect at the time of his rearrest, and second, ICE's revocation of his Order of Supervision without following the mandatory procedural requirements of 8 C.F.R. Part 241.4. The district court entered a stay of removal during the pendency of those proceedings, but on April 20, 2026, Judge Engelmayer denied the petition and lifted the stay, holding that detention was properly governed by § 1231(a). This denial is now appealed and pending.

LEGAL ARGUMENT

I. STANDARD FOR HABEAS RELIEF UNDER 28 U.S.C. § 2241

A writ of habeas corpus lies where a petitioner demonstrates that he is held 'in custody in violation of the Constitution or laws or treaties of the United States.' 28 U.S.C. § 2241(c)(3). Civil immigration detention is subject to constitutional due process limits. See *Zadvydas*, 533 U.S. at 690–92. A petitioner need only show that his detention violates these standards; this Court then must grant appropriate relief.

II. PETITIONER'S PROLONGED DETENTION VIOLATES DUE PROCESS

The Supreme Court in *Zadvydas* held that post-removal-order detention that is not reasonably necessary to accomplish removal violates the Due Process Clause of the Fifth Amendment. 533 U.S. at 699–701. The Court established a presumptive six-month period of reasonableness for post-order detention, after which the Government must demonstrate a significant likelihood of actual removal in the reasonably foreseeable future. *Id.* at 701. Critically, *Zadvydas* presupposes that the government has lawful authority to remove the detainee. *Id.* at 690. Where removal is legally barred — including by statutory stay — § 1231(a) detention authority

does not attach, and the government cannot bootstrap prolonged detention on the fiction of an executable removal order.

Mr. Kuprashvili has now been detained for approximately ten months — well beyond the six-month Zadvydas threshold. There is no lawfully executable removal order and no reasonably foreseeable removal for at least four independent reasons:

- First, the VAWA mandatory stay of removal under 8 U.S.C. § 1229a(c)(7)(C)(iv) — triggered by Mr. Kuprashvili's December 19, 2024 motion to reopen and the USCIS prima facie determination under § 1641(c)(1)(B) — operates by force of law to suspend the removal order. Because the removal period under § 1231(a)(1) cannot lawfully commence while a statutory stay is in effect, detention under § 1231 authority is without legal basis. Mr. Kuprashvili's custody must be reclassified under 8 U.S.C. § 1226(a), which requires an individualized bond hearing. No such hearing has ever been provided. See *Mavungo-Raymond v. [Warden]*, No. 26-cv-0013 (D.R.I. Jan. 21, 2026) (ordering release where VAWA statutory stay prevented § 1231 period from commencing); *Nken v. Holder*, 556 U.S. 418, 429 (2009) (stay “suspend[s] the removal order” and returns parties to the status quo ante).
- Second, Mr. Kuprashvili is the approved beneficiary of an I-360 VAWA petition, and his pending I-485 application — denied by USCIS on April 30, 2026 and now on appeal via a timely-filed I-290B — represents an active, congressionally created pathway to lawful permanent residence. Removal is inappropriate, legally and equitably, while that statutory adjudication remains pending before the only tribunal with jurisdiction to grant it.
- Third, as an arriving alien, USCIS has exclusive jurisdiction over his I-485 application. See *Matter of Yauri*, 25 I&N Dec. 103 (BIA 2009). The Immigration Court and the BIA

are without authority to adjudicate his adjustment of status; if he is removed before USCIS acts, no alternative forum exists. Removal would constitute an irreversible foreclosure of the sole available path to relief.

- Fourth, upon the grant of asylum to any of his immediate family members (proceedings currently pending), he will present an additional independent basis for relief.

Removal under these circumstances is neither imminent nor practicable. This Court should presume the unconstitutionality of continued detention and order release.

III. PETITIONER'S ARRIVAL ALIEN STATUS PRESERVES HIS ADJUSTMENT ELIGIBILITY NOTWITHSTANDING HIS REMOVAL ORDER

Under 8 U.S.C. § 1255(a), an alien may adjust status if he was inspected and admitted or paroled. Mr. Kuprashvili entered the United States as an arriving alien, meaning he presented himself for inspection at the border. That status has never been altered. As the Ninth and Second Circuits have recognized, an arriving alien who is the beneficiary of an approved immigrant visa petition may adjust status notwithstanding a prior removal order. See *Matter of Arrabally & Yerrabelly*, 25 I&N Dec. 771 (BIA 2012); cf. *Lona v. Barr*, 958 F.3d 1225 (9th Cir. 2020).

Mr. Kuprashvili's relief is not speculative. He satisfies all statutory prerequisites: (1) he is an arriving alien; (2) he is the beneficiary of an approved immigrant visa petition (the I-360 VAWA petition); and (3) he is otherwise eligible for adjustment. His eligibility is a matter of statutory right, not discretion.

IV. PETITIONER'S WARRANTLESS SEIZURE AND PROLONGED DETENTION VIOLATE THE FOURTH AMENDMENT

A. Mr. Kuprashvili's Seizure Without a Judicial Warrant Violated the Fourth Amendment

The Fourth Amendment guarantees the right of persons to be secure against unreasonable seizures. U.S. Const. amend. IV. A seizure of the person requires either a judicial warrant supported by probable cause or a recognized exception to the warrant requirement. See *Payton v. New York*, 445 U.S. 573, 585–86 (1980); *Torres v. Madrid*, 592 U.S. 306, 311 (2021). The Fourth Amendment’s protections extend to civil immigration arrests. See *Morales v. Chadbourne*, 793 F.3d 208, 214–16 (1st Cir. 2015); *Gonzalez v. ICE*, 975 F.3d 788, 808 (9th Cir. 2020).

On June 7, 2025, Mr. Kuprashvili appeared voluntarily for a routine ICE check-in appointment at 26 Federal Plaza — an obligation he had honored without fail for over five years under his Order of Supervision. ICE agents seized and detained him at that appointment without a judicial warrant. Administrative immigration warrants issued under 8 U.S.C. § 1226(a) are not issued by a neutral and detached magistrate and do not satisfy the Fourth Amendment’s warrant requirement. See *Morales*, 793 F.3d at 215; cf. *Coolidge v. New Hampshire*, 403 U.S. 443, 449–53 (1971) (warrant must be issued by neutral magistrate). ICE’s reliance solely on an administrative warrant to seize Mr. Kuprashvili in an environment where he had no opportunity to depart — having arrived for a required government appointment — rendered the seizure unreasonable and constitutionally infirm. Compounding the Fourth Amendment violation, ICE failed to provide the mandatory written notice and informal interview required under 8 C.F.R. Part 241.4 before revoking Mr. Kuprashvili’s OSUP. ICE did not supply these constitutionally and regulatorily required procedures until September 4, 2025 — nearly three months after the arrest — long after Mr. Kuprashvili had lost any meaningful opportunity to contest the revocation before incarceration was imposed. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (agencies must follow their own mandatory regulations). Furthermore, at the time of the arrest, a VAWA mandatory stay of removal under 8 U.S.C. § 1229a(c)(7)(C)(iv) was in effect,

which independently barred execution of the removal order that purportedly authorized the seizure. A seizure to execute a legally suspended removal order is unreasonable on its face.

No exception to the Fourth Amendment's warrant requirement applies here. Mr. Kuprashvili posed no flight risk — he had appeared voluntarily for five consecutive years of ICE reporting. He posed no danger to any person. There were no exigent circumstances. His seizure was therefore unreasonable within the meaning of the Fourth Amendment, and his continued imprisonment flows directly from that unlawful seizure. A writ of habeas corpus is the appropriate remedy. See *INS v. St. Cyr*, 533 U.S. 289, 301 (2001).

B. Petitioner's Prolonged Detention Without Individualized Justification Constitutes an Independent Fourth Amendment Violation

Even where an initial seizure is lawful, the Fourth Amendment independently prohibits unreasonably prolonged detention. See *Illinois v. Caballes*, 543 U.S. 405, 407 (2005); *Rodriguez v. United States*, 575 U.S. 348, 354–55 (2015) (a seizure “can become unlawful if it is prolonged beyond the time reasonably required” to accomplish its purpose). In the immigration context, the Second Circuit has recognized that prolonged civil detention without individualized justification offends the Fourth Amendment and related due process principles. See *Sajous v. Decker*, No. 18-cv-2447, 2018 WL 2357266, at *8–9 (S.D.N.Y. May 23, 2018); *Cabral v. Decker*, 331 F. Supp. 3d 255, 261–62 (S.D.N.Y. 2018).

Mr. Kuprashvili has been detained for approximately ten months. No bond hearing has been provided. No individualized assessment of dangerousness or flight risk — beyond the bare issuance of an administrative warrant — has ever been conducted and memorialized. The Government has not demonstrated, and cannot demonstrate, that his continued confinement is reasonably related to any legitimate regulatory purpose. Under the Fourth Amendment, a

prolonged deprivation of liberty that exceeds what is reasonably necessary to accomplish any legitimate governmental objective is presumptively unreasonable. The Government bears the burden of rebutting that presumption, and it cannot do so here. See *Zadvydas*, 533 U.S. at 690. ICE previously concluded, when it released Mr. Kuprashvili on OSUP in November 2020, that he was neither a danger to the community nor a flight risk. Nothing material changed in the intervening five years — if anything, his equities strengthened: he maintained lawful employment, married a U.S. citizen, and filed a bona fide VAWA petition that USCIS found prima facie eligible. ICE's rearrest appears to have been triggered solely by his filing of the VAWA motion to reopen. Using detention to penalize the invocation of statutory VAWA protections bears no reasonable relationship to any legitimate governmental interest and constitutes an independent constitutional violation. See *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 527–28 (2003).

Moreover, under 8 U.S.C. § 1226(a), detention pending removal proceedings is discretionary, not mandatory. Where, as here, the VAWA mandatory stay prevents § 1231(a) from attaching, and the governing framework is § 1226(a), the complete absence of any bond hearing or individualized flight-risk and dangerousness determination renders continued detention constitutionally deficient. See *Demore v. Kim*, 538 U.S. at 532–33 (Kennedy, J., concurring) (courts retain authority to consider whether particular prolonged detention is reasonable). After ten months — with removal neither imminent nor legally permissible — the detention of Mr. Kuprashvili serves no permissible purpose and must be terminated.

V. THE PAROLE DENIALS VIOLATE INA § 212(d)(5)

INA § 212(d)(5) authorizes the Secretary to parole arriving aliens on a case-by-case basis for 'urgent humanitarian reasons or significant public benefit.' Agency guidance requires that parole decisions reflect individualized assessment, including: (a) the likelihood of the alien

obtaining relief from removal; (b) the absence of criminal history; (c) the extent of community ties; and (d) the humanitarian circumstances of the case.

The repeated denial of parole here, without individualized assessment, is arbitrary and capricious. Mr. Kuprashvili has an approved VAWA petition, over five years of compliance, no criminal history, and documented community ties. ICE itself found him neither dangerous nor a flight risk when it released him on OSUP in 2020. No legitimate government interest is served by his continued detention. The denials must be vacated and parole ordered.

VI. ICE'S MISCLASSIFICATION OF PETITIONER'S DETENTION UNDER § 1231(a) RATHER THAN § 1226(a) IS INDEPENDENTLY UNLAWFUL AND REQUIRES IMMEDIATE BOND HEARING

ICE claims authority to detain Mr. Kuprashvili under 8 U.S.C. § 1231(a), the mandatory post-removal-order detention statute. That claim is legally untenable. Section 1231(a) applies only once an alien is "ordered removed" and a valid "removal period" has commenced. 8 U.S.C. § 1231(a)(1)(A)–(B). But as explained above, the VAWA mandatory stay under § 1229a(c)(7)(C)(iv) suspended the removal order at the moment Mr. Kuprashvili filed his motion to reopen with the prima facie determination in hand. A statutory stay "suspend[s] the removal order" and restores the "status quo — the state of affairs before the removal order was entered." *Nken v. Holder*, 556 U.S. 418, 429 (2009). Because no removal period had lawfully commenced, § 1231(a) detention authority did not attach, and the mandatory detention regime of § 1231(a) does not apply.

Mr. Kuprashvili's detention is therefore properly classified, at most, under 8 U.S.C. § 1226(a), which is discretionary and requires individualized bond determination weighing flight risk and dangerousness. See *Matter of Guerra*, 24 I.&N. Dec. 37, 40 (BIA 2006). ICE already made

precisely that determination in November 2020, concluding that Mr. Kuprashvili was neither a danger to the community nor a flight risk when it released him on OSUP. Nothing has changed to justify a different conclusion. Under § 1226(a), detention without a bond hearing after ten months of imprisonment — with a pending I-290B appeal of a denied I-485 and no history of non-compliance — is constitutionally impermissible. See *Sajous v. Decker*, No. 18-cv-2447, 2018 WL 2357266 (S.D.N.Y. 2018); *Cabral v. Decker*, 331 F. Supp. 3d 255 (S.D.N.Y. 2018). This Court should order an immediate individualized bond hearing or, given the weight of equities, direct Mr. Kuprashvili's release. See *Mavungo-Raymond v. [Warden]*, No. 26-cv-0013 (D.R.I. Jan. 21, 2026) (ordering release where VAWA statutory stay precluded § 1231 detention authority and § 1226(a) bond hearing had been denied).

**MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY
INJUNCTION**

Standard

A TRO and preliminary injunction are warranted where the moving party demonstrates: (1) likelihood of success on the merits; (2) irreparable harm absent injunctive relief; (3) the balance of equities tips in the movant's favor; and (4) an injunction is in the public interest. *Winter v. Natural Resources Defense Council*, 555 U.S. 7, 20 (2008).

I. Likelihood of Success on the Merits

For the reasons stated above, Petitioner is likely to succeed on his habeas petition. First, the VAWA mandatory stay of removal under § 1229a(c)(7)(C)(iv) suspended the removal order and prevented § 1231(a) detention authority from attaching, rendering his ten-month imprisonment without legal basis. Second, his warrantless seizure at an OSUP check-in, without the Part 241.4

procedures required before OSUP revocation, violated both the Fourth Amendment and due process. Third, his detention has exceeded the Zadvydas threshold and the parole denials were arbitrary and without individualized assessment. Fourth, as an approved VAWA I-360 beneficiary whose I-485 was denied on April 30, 2026 and is now on appeal via a timely I-290B, removal is not legally appropriate and his pathway to relief is concrete, not speculative.

II. Irreparable Harm

Mr. Kuprashvili faces irreparable harm on multiple grounds. Mr. Kuprashvili timely filed a Form I-290B Notice of Appeal or Motion on April 29, 2026, which remains pending before USCIS. As an arriving alien, USCIS has exclusive jurisdiction over his I-485 application. See *Matter of Yauri*, 25 I&N Dec. 103 (BIA 2009); 8 C.F.R. § 245.2(a)(1). The Immigration Court and the BIA are without statutory authority to adjudicate adjustment of status for arriving aliens. This jurisdictional reality transforms removal while the I-290B appeal remains pending from a mere delay into a permanent, irreversible foreclosure: if Mr. Kuprashvili is removed before USCIS adjudicates his appeal, no other tribunal exists to grant adjustment, and the congressionally designed VAWA relief mechanism is permanently destroyed for him. The harm is beyond monetary compensation. See *Nken v. Holder*, 556 U.S. 418, 435 (2009) (removal mooted appellate review constitutes irreparable harm).

Additionally, Mr. Kuprashvili has suffered and continues to suffer severe financial harm: he owns a vehicle and maintains a rental agreement both of which he cannot sustain while detained. These economic harms compound the constitutional violation.

III. Balance of Equities

The balance of equities overwhelmingly favors the Petitioner. He has committed no crime. He has complied with every ICE reporting requirement for over five years. He presents no flight risk — he appeared for the very appointment at which he was detained. He presents no danger to the community. On the other side, the Government has no cognizable interest in detaining a VAWA petitioner with a pending I-290B appeal of a denied I-485 who poses no risk and has demonstrated years of good faith compliance.

IV. Public Interest

The public interest is served by enforcement of constitutional due process protections, by ensuring USCIS can adjudicate the pending I-290B appeal without the distortion of unlawful detention, and by honoring Congress's statutory protections for VAWA petitioners. The public interest is not served by the prolonged indefinite detention of an individual who has broken no law, is lawfully pursuing permanent residence, and whose removal is not legally appropriate.

RELIEF REQUESTED

For the foregoing reasons, Petitioner Temuri Kuprashvili respectfully requests that this Court:

1. Issue an immediate Temporary Restraining Order (a) enjoining Respondents from removing Petitioner from the United States pending adjudication of his I-290B appeal and these proceedings; and (b) directing Respondents to release Petitioner from immigration custody forthwith, or in the alternative, to release him on supervision or parole with appropriate conditions;
2. Issue an Order to Show Cause why a Preliminary Injunction should not issue continuing the foregoing relief;

3. Following full briefing, issue a Preliminary Injunction maintaining the relief granted under the TRO;
4. Grant the Writ of Habeas Corpus, declare Petitioner's continued detention unconstitutional and unlawful, and order his immediate release;
5. Vacate the arbitrary parole denials and direct Respondents to conduct an individualized parole/bond determination consistent with INA § 212(d)(5) and applicable agency guidance;
6. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted this 30th day of April, 2026.



Temuri Kuprashvili

Petitioner, Pro Se

[REDACTED]

c/o Metropolitan Detention Center

80 29th Street

Brooklyn, New York 11232

C/O Nino Veliashvili

[REDACTED]

[REDACTED]

Tel: [REDACTED]

VERIFICATION

I, petitioner, declare under penalty of perjury under the laws of the United States that the factual statements in the foregoing Petition are true and correct to the best of my knowledge, information, and belief, based upon my review of the case file and records.

Executed on: April 30, 2026



Temuri Kuprashvili

Petitioner, Pro Se

[REDACTED]

c/o Metropolitan Detention Center

80 29th Street

Brooklyn, New York 11232

C/O Nino Veliashvili

[REDACTED]

[REDACTED]

Tel: [REDACTED]

CERTIFICATE OF SERVICE

I, Temuri Kuprashvili, Petitioner proceeding pro se, hereby certify that on April 30, 2026, I caused a true and correct copy of the foregoing Petition for Writ of Habeas Corpus and Emergency Motion for Temporary Restraining Order and Preliminary Injunction to be served upon the Respondent by depositing the same in the United States mail, first-class postage prepaid, or by hand, addressed as follows:

Acting Field Office Director
New York Field Office
U.S. Immigration and Customs Enforcement
26 Federal Plaza
New York, New York 10278



Temuri Kuprashvili

Petitioner, Pro Se



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Brooklyn, New York 11232

C/O Nino Veliashvili



Tel: 