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10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 TAKHIR RUSTAMOVICH SABIROV,

Case No. '26CV3213 LEK AHG



13  
14 Petitioner,

**VERIFIED PETITION FOR WRIT  
OF HABEAS CORPUS**

15 v.

16 CHRISTOPHER J. LAROSE, Facility  
17 Administrator of Otay Mesa Detention  
18 Center; GREGORY J.  
19 ARCHAMBEAULT, Field Office  
20 Director of the San Diego Immigration  
21 and Customs Enforcement Office; TODD  
22 M. LYONS, Acting Director of United  
23 States Immigration and Customs  
24 Enforcement; MARKWAYNE MULLIN,  
25 Secretary of the United States Department  
26 of Homeland Security; TODD  
27 BLANCHE, Acting Attorney General of  
28 the United States, acting in their official  
capacities,

Respondents.

1 INTRODUCTION

2 1. Petitioner, Takhir Rustamovich Sabirov (“Mr. Sabirov” or “Petitioner”), is  
3 *stateless*. At present, he is unlawfully detained in the physical and legal custody of  
4 Respondents in the Otay Mesa Detention Center in Otay Mesa, California. U.S.  
5 Immigration and Customs Enforcement (“ICE”) intends to imminently deport Mr.  
6 Sabirov to Uzbekistan, which stripped him of his citizenship nearly 22 years ago. He  
7 currently lives in San Diego, California, with his wife who is a naturalized United States  
8 citizen. They are in the process of awaiting adjudication on a pending waiver of  
9 inadmissibility in order to adjust Mr. Sabirov’s immigration status through his U.S.  
10 citizen wife. This process is a viable path to residency.

11 2. Petitioner first entered the United States in 1997 on a student visa.  
12 (Declaration of Takhir Rustamovich Sabirov (“Sabirov Decl.”) at ¶ 3.) He earned a  
13 Bachelor of Science and a Master of Science at the University of Alabama in 2001 and  
14 2003, respectively. (*Id.* at ¶ 3.) Thereafter, he resided in Alabama, Florida, and San  
15 Diego, California. (*Id.* at ¶ 3, 13, 21.) He currently lives in San Diego, California with  
16 his wife, a naturalized U.S. citizen, who relies on him for financial and emotional  
17 support. (*Id.* at ¶¶ 18-19.) He is employed as a financial analyst at a San Diego based  
18 technology company. (*Id.* at ¶ 21.) He has resided in the United States approximately  
19 twenty-nine years. (*Id.* at ¶ 3.)

20 3. Mr. Sabirov was detained on May 14, 2026. (*Id.* at ¶ 32.) He was not  
21 provided with pre-deprivation process as required by the Administrative Procedure Act.  
22 His removal has been pending since 2011 because he has been unable to obtain a travel  
23 document to Uzbekistan, which stripped him of his citizenship in approximately 2004  
24 and has refused to recognize him as a citizen since that time. (*Id.* at ¶ 6, 10, 35).  
25 Additionally, his waiver of inadmissibility has been pending with United States  
26 Citizenship and Immigration Services (“USCIS”) since 2022. Mr. Sabirov’s detention  
27 is unlawful because he has a viable avenue for relief through his United States citizen  
28 wife, and his citizenship or statelessness status remains indeterminable.

1 4. Petitioner seeks habeas relief based on these violations.

2 **JURISDICTION AND VENUE**

3 5. This action arises under the Constitution of the United States and the  
4 Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.* This Court has  
5 jurisdiction under 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal  
6 question); 28 U.S.C. § 2201-2 (Declaratory Judgment Act); Article I, § 9, cl. 2 of the  
7 U.S. Constitution (Suspension Clause).

8 6. Venue properly lies with the Southern District of California under 28  
9 U.S.C. § 2241(a) and 28 U.S.C. § 1391(b)(2) because this is a civil action in which  
10 Respondents are agencies of the United States, Petitioner is detained in this District, and  
11 a substantial part of the events or omissions giving rise to this action occurred in the  
12 District. In addition, at least one of the Respondents is a resident of this District, and a  
13 substantial part of the events giving rise to the claims in this action took place within  
14 this District. 28 U.S.C. § 1391(e)(1); *see also Braden v. 30th Judicial Circuit*, 410 U.S.  
15 484, 493–94 (1973).

16 **REQUIREMENTS OF 28 U.S.C. § 2243**

17 7. The Court must grant the petition for writ of habeas corpus or issue an  
18 order directing the respondents to show cause (an “OSC”) explaining why the writ  
19 should not be granted, unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If  
20 an OSC is issued, the Court must require respondents to file a return “*within three days*  
21 unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*  
22 (emphasis added).

23 8. Courts have long recognized the significance of habeas corpus in  
24 protecting individuals from unlawful detention. It has been considered “perhaps the  
25 most important writ known to the constitutional law . . . affording as it does a *swift* and  
26 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372  
27 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the  
28 attention and displaces the calendar of the judge or justice who entertains it and receives

1 prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208  
2 F.3d 1116, 1120 (9th Cir. 2000) (internal quotation marks omitted).

3 **PARTIES**

4 9. Petitioner, Mr. Takhir Rustamovich Sabirov, is currently detained by  
5 Respondents at the Otay Mesa Detention Center in Otay Mesa, California.

6 10. Respondent Christopher J. LaRose is the Facility Administrator of Otay  
7 Mesa Detention Center where Petitioner is detained. He has immediate physical custody  
8 of Petitioner and is sued in his official capacity.

9 11. Respondent Gregory J. Archambeault is the Field Office Director  
10 responsible for the San Diego Field Office of ICE Enforcement and Removal  
11 Operations, which has administrative jurisdiction over Petitioner’s case. He is a legal  
12 custodian of Petitioner and is named in his official capacity.

13 12. Respondent Todd M. Lyons is the Acting Director of ICE and has authority  
14 over the operations of ICE. In that capacity and through his agents, Respondent Lyons  
15 has broad authority over the operation and enforcement of the immigration laws.  
16 Respondent Lyons is sued in his official capacity.

17 13. Respondent Markwayne Mullin is the Secretary of the Department of  
18 Homeland Security (“DHS”). He is responsible for the implementation and enforcement  
19 of the Immigration and Nationality Act and oversees ICE, which is responsible for  
20 Petitioner’s detention. Mr. Mullin has ultimate custodial authority over Petitioner. He  
21 is sued in his official capacity.

22 14. Respondent Todd Blanche is the Acting Attorney General of the United  
23 States and the most senior official at the Department of Justice. In that capacity and  
24 through his agents, he is responsible for overseeing the implementation and  
25 enforcement of the federal immigration laws. The Attorney General delegates this  
26 responsibility to the Executive Office for Immigration Review, which administers the  
27 immigration courts and the BIA. Respondent Blanche is sued in his official capacity.  
28

1 **EXHAUSTION OF REMEDIES**

2 15. Habeas petitions are not subject to statutory exhaustion requirements. *See*  
3 28 U.S.C. § 2241; *Braden*, 410 U.S. at 490–491; *Singh v. Holder*, 638 F.3d 1196, 1203,  
4 n. 3 (9th Cir. 2011).

5 16. Pursuant to *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 413  
6 (2024), this Court is not required to defer to any agency interpretation of a statute.  
7 Federal judges must exercise independent judgment in determining the meaning of  
8 statutory provisions, regardless of ambiguity. *Id.*

9 **STATEMENT OF FACTS**

10 17. Petitioner Takhir Rustamovich Sabirov was born in 1979 in the former  
11 Soviet Union. Sabirov Decl. at ¶ 2. After the dissolution of the Soviet Union, he  
12 established Uzbek citizenship and obtained an Uzbek citizen passport. *Id.* at ¶ 2. He was  
13 accepted through an educational program to study at the University of Alabama in  
14 Huntsville, Alabama, and began studying there in 1997. *Id.* at ¶ 3. His first entry to the  
15 United States was on a J-1 visa on approximately August 19, 1997. *Id.* at ¶ 3; *see also*  
16 Declaration of Jeff Carlin (“Carlin Decl.”) at ¶ 2, Ex. A, Notice to Appear (“NTA”).

17 18. Mr. Sabirov returned to Uzbekistan several times as he earned his diploma,  
18 always reentering with the J-1 visa. Sabirov Decl. at ¶ 3. He eventually earned a  
19 Bachelor of Science and Master of Science diploma from the University of Alabama.  
20 *Id.* at ¶ 3-4.

21 19. In 2000, Mr. Sabirov was in Uzbekistan during the summer break from  
22 school. *Id.* at ¶ 4. He attended a conference with other students who had studied abroad  
23 and discussed differences between Uzbekistan and the other countries. *Id.* Specifically,  
24 Mr. Sabirov spoke negatively about the unstable political and economic situation in  
25 Uzbekistan, especially in comparison to the United States. *Id.* The next day, Mr. Sabirov  
26 was threatened and beaten by several National Security Service (SNB) agents who  
27 accused him of criticizing the government. *Id.* A few weeks later, he was arrested and  
28 charged with criminal mischief for opposition to the government of Uzbekistan. *Id.* He

1 was released and quickly left for the United States on August 20, 2000. *Id.* He has not  
2 returned to Uzbekistan and has not left the United States since that time. *Id.*; *see also*  
3 Carlin Decl. at ¶ 2; Ex. A, NTA (confirming last entry to United States on Aug. 20,  
4 2000).

5 20. Mr. Sabirov's mother and brother left Uzbekistan in 2001 and permanently  
6 relocated to the United Kingdom because of their concerns about abuse and oppression  
7 in Uzbekistan. Sabirov Decl. at ¶ 5.

8 21. In 2004, Mr. Sabirov attempted to renew his Uzbek passport. *Id.* at ¶ 6.  
9 The renewal application was denied, and authorities indicated that he was not  
10 considered an Uzbek citizen because of his opposition to the government. *Id.*

11 22. In 2006, Mr. Sabirov submitted an application for asylum, withholding of  
12 removal, and protection under the Convention Against Torture because he feared return  
13 to Uzbekistan on account of his political opinion. *Id.* at ¶ 7. As it was untimely filed, it  
14 was referred to the immigration court on June 21, 2006. *Id.*; *see also* Carlin Decl. at ¶  
15 2, Ex. A, NTA.

16 23. On August 19, 2009, the immigration judge denied his application for  
17 relief and ordered removal to Uzbekistan. Sabirov Decl., *Id.* at ¶ 8; *see also* Carlin Decl.  
18 at ¶ 3; Ex. B, Automated Case Information. The immigration judge found Mr. Sabirov's  
19 claims to not be credible, largely because they lacked corroboration. Sabirov Decl. at ¶  
20 8.

21 24. Mr. Sabirov filed a timely appeal to the Board of Immigration Appeals  
22 ("BIA"). The appeal was dismissed on July 15, 2010, affirming the immigration judge's  
23 decision. *Id.*; *see also* Carlin Decl. at ¶ 3; Ex. B, Automated Case Information.

24 25. On approximately May 15, 2011, Mr. Sabirov was detained by  
25 Immigration and Customs Enforcement ("ICE") for removal. Sabirov Decl. at ¶ 10. He  
26 provided information to ICE as required to request a travel document to Uzbekistan, but  
27 no document was issued. *Id.*; *see also* Carlin Decl. at ¶ 4, Ex. C, 2011 Habeas Corpus  
28 and Detention Records.

1 26. On June 29, 2011, Mr. Sabirov hired an attorney to help him file a motion  
2 to reopen. Sabirov Decl. at ¶ 11. His attorney encouraged him to misrepresent in the  
3 motion that he was a homosexual, which his attorney said would strengthen the motion.  
4 *Id.* He ultimately followed his attorney’s advice. *Id.*

5 27. On July 29, 2011, the Board denied the motion. *Id.* at ¶ 12; *see also* Carlin  
6 Decl. at ¶ 3, Ex. B, Automated Case Information.

7 28. Mr. Sabirov was detained for approximately eight and a half months  
8 without ICE being able to deport him to Uzbekistan. Sabirov Decl. at ¶ 13.

9 29. On December 14, 2011, Mr. Sabirov filed a *pro se* habeas corpus petition  
10 challenging his prolonged detention. *Id.* at ¶ 14.

11 30. On approximately January 24, 2012, ICE released Mr. Sabirov from  
12 detention and placed him on an Order of Supervision. *Id.* at ¶ 14.

13 31. The habeas petition was dismissed as moot on March 3, 2012. *Id.* at ¶ 15;  
14 *see also* Carlin Decl. at ¶¶ 4-5, Ex. D, Orders of Supervision; Ex. E, 2011 Habeas  
15 Corpus and Detention Records.

16 32. On November 24, 2017, Mr. Sabirov married Katsiaryna Karnachova in  
17 Las Vegas, Nevada. Sabirov Decl. at ¶ 17; *see also* Carlin Decl. at ¶ 7, Ex. F, Marriage  
18 Certificate.

19 33. On July 11, 2018, Ms. Karnachova became a naturalized U.S. citizen.  
20 Sabirov Decl. at ¶ 18; *see also* Carlin Decl. at ¶ 8, Ex. G, Naturalization Certificate.

21 34. On July 16, 2020, Ms. Karnachova filed an I-130 Petition for Alien  
22 Relative for Mr. Sabirov as his U.S. citizen spouse. Sabirov Decl. at ¶ 22.

23 35. On October 27, 2021, the I-130 Petition was approved. *Id.* at ¶ 23; *see also*  
24 Carlin Decl. at ¶ 9; Ex. H, I-130 Approval Notice.

25 36. On October 5, 2020, Mr. Sabirov filed an I-485 Application to Adjust  
26 Status. Sabirov Decl. at ¶ 24.

27 37. On October 25, 2022, US Citizenship and Immigration Services  
28 (“USCIS”) issued a Notice of Intent to Deny the I-485 Application because it alleged

1 that Mr. Sabirov was inadmissible under INA § 212(a)(6)(C)(i) due to  
2 misrepresentations in the I-589 asylum application as part of the 2011 motion to reopen.  
3 *Id.* at ¶ 25; *see also* Carlin Decl. at ¶ 10, Ex. I, Notice of Intent to Deny.

4 38. In response, Mr. Sabirov filed an I-601 Application for Waiver of Grounds  
5 of Inadmissibility on November 10, 2022. Sabirov Decl. at ¶ 26; *see also* Carlin Decl.  
6 at ¶ 11, Ex. J, I-601 Receipt Notice. Mr. Sabirov and Ms. Karnachova prepared and  
7 submitted all forms and evidence as part of this process without the assistance of an  
8 attorney. Sabirov Decl. at ¶ 26.

9 39. On March 6, 2023, USCIS denied the I-485 Application because it asserted  
10 that only an immigration judge has jurisdiction to grant or deny adjustment of status  
11 when an individual is in INA § 240 removal proceedings. *Id.* at ¶ 27; *see also* Carlin  
12 Decl. at ¶ 12, Ex. K, I-485 Denial Decision. The I-601 application remains pending.  
13 Sabirov Decl. at ¶ 28.

14 40. On October 6, 2025, Mr. Sabirov attended a regularly scheduled ICE  
15 check-in as part of his Order of Supervision. *Id.* at ¶ 29. Despite full compliance with  
16 the Order of Supervision since 2012, including attending all check-ins; keeping his  
17 contact information updated; applying for travel documents and otherwise cooperating  
18 with ICE attempts to remove him, ICE put an ankle monitor on Mr. Sabirov and  
19 increased his supervision requirements. *Id.* No legitimate explanation was given for this  
20 escalation. *Id.*

21 41. Beginning on October 6, 2025, and continuing until his detention on May  
22 14, 2026, Mr. Sabirov wore an ICE-imposed ankle monitor and complied with  
23 heightened supervision requirements for approximately seven months. *Id.* at ¶ 30.  
24 During this period, Mr. Sabirov fully complied with all conditions of his enhanced  
25 supervision, including all electronic monitoring requirements. *Id.*

26 42. On May 12, 2026, ICE contacted Mr. Sabirov and directed him to appear  
27 at the ICE office in San Diego on May 14, 2026. Sabirov Decl. at ¶ 31.

28 43. On May 14, 2026, Mr. Sabirov voluntarily reported to the Immigration and

1 Customs Enforcement office in San Diego for a check-in, pursuant to the terms of his  
2 supervised release under INA § 241(a)(3). *Id.* at ¶ 32.

3 44. Mr. Sabirov had been attending these check-ins without incident for over  
4 14 years. *Id.* at ¶ 34. Since at least 2012, he was repeatedly told by the U.S. government  
5 and the government of Uzbekistan that he could not be deported because he was not  
6 recognized as a citizen of any country. *Id.*

7 45. On May 14, 2026, Mr. Sabirov was told for the first time that Uzbekistan  
8 had issued him a travel document and was accepting him for removal. *Id.* at ¶ 34; *see*  
9 *also* Carlin Decl. at ¶¶ 13-14; Ex. L, Stateless Travel Document; Ex. M, Revocation of  
10 Release and Warrant of Arrest.

11 46. That same day, ICE detained Mr. Sabirov, and he remains detained to this  
12 day, awaiting removal to Uzbekistan. Sabirov Decl. at ¶ 32.


13 47. ICE produced a document which purports to be a travel document for  
14 stateless persons issued by Uzbekistan, valid from May 11, 2026 to August 11, 2026.  
15 *Id.* at ¶ 32; *see also* Carlin Decl. at ¶¶ 13-14; Ex. L, Stateless Travel Document; Ex. M,  
16 Revocation of Release and Warrant of Arrest (reflecting scheduled removal no later  
17 than Aug. 11, 2026).

18 48. Since his detention on May 14, 2026, Mr. Sabirov, through his outside  
19 counsel at United Stateless, has made multiple attempts to contact the embassy of  
20 Uzbekistan, but has received no response. Carlin Decl. at ¶ 16.

21 49. On May 21, 2026, Mr. Sabirov filed an Emergency Motion to Reopen and  
22 Request for Stay with the Board of Immigration Appeals, citing the new fact of his  
23 proven statelessness and ability to be removed, and other extraordinary circumstances.  
24 That Motion is now pending before the Board.

25 50. For about a year, Mr. Sabirov has been working with United Stateless, a  
26 non-profit organization affiliated with the United Nations High Commissioner for  
27 Refugees (UNHCR), because Uzbekistan stripped him of his citizenship in  
28 approximately 2004 and has not recognized him as a citizen since that time. The travel

1 document issued by Uzbekistan is explicitly a “Travel Document of Stateless Person”  
2 and does not confer citizenship or any legal right to reside in the country. Sabirov Decl.  
3 at ¶¶ 34-35.

4 51. Mr. Sabirov has been a financial analyst at the same U.S. company,  
5  for seven years. *Id.* at ¶ 21. He lives in Oceanside, California  
6 with his United States citizen wife who will experience great financial and  
7 psychological hardship if he is removed from the country. *Id.* at ¶¶ 19-20. This  
8 has caused his wife serious psychological distress. *Id.* at ¶ 19; *see also* Carlin Decl. at ¶  
9 15, Ex. N, Psych Record. Petitioner also has an important upcoming colon cancer  
10 screening that he cannot attend because he is detained. *Id.* ¶ 42.

11 52. Mr. Sabirov is not a flight risk or a danger to society. Sabirov Decl. at ¶¶  
12 37-38. He was taken into ICE custody without warning, without pre-deprivation  
13 process, despite not knowing whether he is a citizen of any country and despite having  
14 a USCIS petition pending.

### 15 LEGAL FRAMEWORK

16 53. The Constitution establishes due process rights for “all ‘persons’ within  
17 the United States, including [noncitizens], whether their presence here is lawful,  
18 unlawful, temporary, or permanent.” *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir.  
19 2017) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)). “Freedom from  
20 imprisonment—from government custody, detention, or other forms of physical  
21 restraint—lies at the heart of the liberty protected by the Due Process Clause.”  
22 *Zadvydas*, 533 U.S. at 690. Even “[i]n the context of immigration detention, it is well-  
23 settled that due process requires adequate procedural protections to ensure that the  
24 government’s asserted justification for physical confinement outweighs the individual’s  
25 constitutionally protected interest in avoiding physical restraint.” *Hernandez*, 872 F.3d  
26 at 99054. The Court has jurisdiction to review the authority under which  
27 Respondents claim to detain Petitioner as well as whether that detention comports with  
28 constitutional and statutory requirements. *See Jennings v. Rodriguez*, 583 U.S. 281,

1 294–295 (2018).

2 **A. Petitioner Was Denied Notice and an Opportunity to be Heard Prior**  
3 **to Being Arrested.**

4 a. Re-detention, Without Prior Notice, Changed Circumstances, or an  
5 Opportunity to Respond, Violates the Fifth Amendment.

6 55. As a severe deprivation of his liberty, due process required the  
7 Government’s physical detention of Petitioner at the Otay Mesa Detention Center to be  
8 supported by an individualized determination and pre-deprivation process, neither of  
9 which was provided.

10 56. As the Supreme Court has held, “the Constitution requires some kind of a  
11 hearing *before* the State deprives a person of liberty or property.” *Zinerman v. Burch*,  
12 494 U.S. 113, 127 (1990). This is so even in cases where that freedom is lawfully  
13 revocable. *See Hurd v. D.C., Gov’t*, 864 F.3d 671, 683 (D.C. Cir. 2017) (citing *Young*  
14 *v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre parole conditional  
15 supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782  
16 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471, 479 (1972)  
17 (same, in parole context). *See also Constantinovici v. Bondi*, 806 F.Supp.3d 1155, 1164-  
18 165 (S.D. Cal. Oct. 10, 2025) (granting habeas petition where ICE failed to comply with  
19 its own governing regulations, including (1) providing notice that Order of Supervision  
20 was revoked; (2) conducting an informal interview or affording Petitioner with an  
21 opportunity to be heard; and (3) sufficiently demonstrating the changed circumstances  
22 that render removal significantly likely in the reasonably foreseeable future).

23 57. Indeed, after an initial release from custody on conditions, even a person  
24 paroled following a conviction for a criminal offense for which they may lawfully have  
25 remained incarcerated has a protected liberty interest in that conditional release.  
26 *Morrissey*, 408 U.S. at 482. As the Supreme Court recognized, “[t]he parolee has relied  
27 on at least an implicit promise that parole will be revoked only if he fails to live up to  
28 the parole conditions.” *Id.* Accordingly, the protections of due process apply with equal

1 force to people previously released from civil immigration detention, like Petitioner.  
2 Noncitizens living in the United States have a protected liberty interest in their ongoing  
3 freedom from confinement. *See Zadvydas*, 533 U.S. at 690. And “[g]iven the civil  
4 context [of immigration detention], [the] liberty interest [of noncitizens released from  
5 custody] is arguably greater than the interest of parolees.” *Ortega v. Bonnar*, 415 F.  
6 Supp. 3d 963, 970 (N.D. Cal. 2019).

7 58. Re-detention, without notice, a prior hearing, a showing of changed  
8 circumstances, or a meaningful opportunity to respond, violates the procedural  
9 requirements of the Fifth Amendment. *See Ortega*, 415 F. Supp. 3d at 970; *Lopez v.*  
10 *Sessions*, No. 18 Civ. 4189 (RWS), 2018 WL 2932726, \*10 (S.D.N.Y. June 12, 2018);  
11 and *Meza v. Bonnar*, No. 18-cv-02708-BLF, 2018 WL 2554572, \*3 (N.D. Cal. June 4,  
12 2018) *see also*, *Rosales-Garcia v. Holland*, 322 F.3d 386, 409 (6th Cir. 2003)  
13 (“Excludable aliens—like all aliens—are clearly protected by the Due Process Clauses  
14 of the Fifth and Fourteenth Amendments.”) (citing *Yick Wo v. Hopkins*, 118 U.S. 356,  
15 369 (1886)).

16 59. For example, the INA establishes various procedures through which  
17 individuals may be detained pending a decision on whether the noncitizen is to be  
18 removed, including custody determinations for individuals in removal proceedings. *See*  
19 8 U.S.C. §§ 1226 and 1229(a). Under § 1226(a), an individual may be released if he  
20 does not present a danger to persons or property and is not a flight risk. *Zadvydas*, 533  
21 U.S. 678, 691-92 (2001); *Matter of Guerra*, 24 I. & N. Dec. 37, 37 (BIA 2006). These  
22 custody determinations are individualized and fact specific. But once a determination  
23 to release an individual from custody is made, the release order may be revisited only  
24 when the facts or circumstances warrant revocation or reconsideration. 8 U.S.C. §  
25 1226(b). Indeed, revocation and return to custody are authorized only based on the  
26 individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation,  
27 revocation decisions are limited in nature and may only be made by certain authorized  
28 officials. 8 C.F.R. § 1236.1(c)(9).

1 60. Similarly, though ICE has the ability to unilaterally revoke any  
2 noncitizen’s immigration bond and re-arrest the noncitizen at any time (8 U.S.C. §  
3 1226(b); 1 C.F.R. § 236.1(c)(9)), the BIA recognized an implicit limitation on ICE’s  
4 authority to re-arrest noncitizens. In practice, DHS “require[es] a showing of changed  
5 circumstances both where the prior bond determination was made by an immigration  
6 judge and where the previous release decision was made by a DHS officer.” *Saravia v.*  
7 *Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H.*,  
8 905 F.3d 1137 (9th Cir. 2018).

9 61. The Ninth Circuit has also assumed that, under *Matter of Sugay*, 17 I. &  
10 N. Dec. 637, 640 (BIA 1981), ICE has no authority to re-detain an individual absent  
11 changed circumstances. *Panosyan v. Mayorkas*, 854 F. App’x 787, 788 (9th Cir. 2021)  
12 (“Thus, absent changed circumstances ... ICE cannot re-detain Panosyan.”). ICE itself  
13 has further limited its authority as described in *Sugay*, and “generally only re-arrests  
14 [noncitizens] pursuant to § 1226(b) after a material change in circumstances.” *Saravia*,  
15 280 F. Supp. 3d at 1197. Thus, under BIA case law and ICE practice, ICE may re-arrest  
16 a noncitizen who had been previously released only after a material change in  
17 circumstances. *See Saravia*, 280 F. Supp. 3d at 1176; *Matter of Sugay*, 17 I&N Dec. at  
18 640.

19 62. Thus, the power to re-arrest a noncitizen who is at liberty following a  
20 release is fundamentally constrained by the demands of due process. *See Hernandez*,  
21 872 F.3d at 981 (“the government’s discretion to incarcerate non-citizens is always  
22 constrained by the requirements of due process”). This is because the “deprivation of  
23 constitutional rights unquestionably constitutes irreparable injury.” *Melendres v.*  
24 *Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012); *Delkash v. Noem*, No. 5:25-CV-01675,  
25 2025 WL 2683988, at \*6 (C.D. Cal. Aug. 28, 2025) (same).

26 b. The Procedural Safeguards of the Fifth Amendment Were Not Met  
27 Here.

28 63. Petitioner’s detention was already found to be unnecessary to prevent

1 flight or to protect the community when ICE itself released Petitioner on January 24,  
2 2012 under the Order of Supervision. DHS was thus required to afford Petitioner the  
3 opportunity to advance arguments in favor of his freedom before it robbed him of his  
4 liberty. Under federal law and ICE policy, DHS would have nevertheless found it  
5 impossible to re-arrest him following a pre-deprivation due process hearing because he  
6 is neither a flight risk nor a danger to the community.

7 64. Petitioner must be released from custody unless and until DHS proves to a  
8 neutral decisionmaker, by clear and convincing evidence, that he is a flight risk or a  
9 danger to the community. *See Esquivel Pacheco v. LaRose*, 818 F.Supp.3d 1168, 1179  
10 (S.D. Cal. Jan. 29, 2026) (granting Petitioner’s immediate release when he had complied  
11 with release conditions and record contained no indication DHS reassessed Petitioner’s  
12 flight risk or danger to the public). During any custody redetermination hearing that  
13 occurs, the neutral adjudicator must further consider whether, in lieu of incarceration,  
14 alternatives to detention exist to mitigate any risk that DHS may establish. This is so  
15 where, as here, Petitioner has a pending lawful pathway to citizenship and has been  
16 complying with the supervision orders without issue for years.

17 c. Fear-Based Claims and Mandatory Obligations in Connection with  
18 Third Country Removals Further Warrant Petitioner’s Release

19 65. Non-citizens in immigration removal proceedings may seek relief based  
20 on a fear of returning to their home country, among other bases, under the Convention  
21 Against Torture (CAT). When an IJ grants a non-citizen CAT relief, though it issues a  
22 removal order, it withholds it with respect to the countries for which the non-citizen  
23 demonstrated a sufficient risk of persecution or torture. *See Johnson v. Guzman Chavez*,  
24 141 S. Ct. 2271, 2283 (2021).

25 66. Importantly, on March 23, 2025, a putative nationwide class challenged  
26 the government’s practice of deporting individuals to third countries and obtained a  
27 temporary restraining order and later a preliminary injunction for a certified class,  
28 blocking removals ordered or conducted without notice and a meaningful opportunity

1 to seek CAT protection. *See D.V.D. v. DHS*, 778 F. Supp. 3d 355, 392–93 (D. Mass.  
2 Apr.18, 2025). Under the *D.V.D.* injunction, the government was required to provide  
3 class members the following: (1) Written notice of the third country in a language that  
4 the non-citizen can understand to the individual and their attorney, if any; (2) an  
5 automatic 10-day stay between notice and any actual removal, (3) ability to raise a fear-  
6 based claim for CAT protection prior to removal; and (a) if the noncitizen demonstrates  
7 “reasonable fear” of removal to the third country, DHS must move to reopen the  
8 noncitizen’s immigration proceedings; or (b) if the noncitizen does not demonstrate a  
9 “reasonable fear” of removal to the third country, DHS must provide a meaningful  
10 opportunity, and a minimum of fifteen days, for the noncitizen to seek reopening of  
11 their immigration proceedings. *Id.*

12 67. Here, Uzbekistan does not consider Petitioner to be its citizen and has  
13 instead issued a travel document meant for *stateless* individuals. Vis-à-vis Petitioner,  
14 Uzbekistan is a third country. Thus, under the fear-based claim framework, the  
15 Government must provide Petitioner with mandatory statutory and due process  
16 protections prior to removing him to Uzbekistan.

17 68. Though the Supreme Court issued a summary order granting the  
18 Government’s request to stay the district court’s preliminary injunction in *D.V.D. (DHS*  
19 *v. D.V.D.*, No. 24A1153, 2025 WL 1732103 (U.S. June 23, 2025)), an increasing  
20 number of courts across the country have enjoined the Government from effectuating  
21 unlawful third-country removals without adhering to mandatory statutory and  
22 constitutional protections. *See Vaskanyan v. Janecka*, No. 5:25-CV-01475-MRA-AS,  
23 2025 WL 2014208, at \*6-9 (C.D. Cal. June 25, 2025) (holding “Petitioner’s removal to  
24 a third country without due process . . . is likely to result in irreparable harm” and  
25 enjoining Petitioner’s removal to a third country without the same protections mandated  
26 in the *D.V.D.* injunction); *J.R. v. Bostock*, No. 2:25-CV-01161-JNW, 2025 WL  
27 1810210, at \*4 (W.D. Wash. June 30, 2025) (granting TRO enjoining Government from  
28 removing petitioner to “any third country in the world absent prior approval from this

1 Court”); *Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL 2097979, at \*3 (W.D. Wash.  
2 July 25, 2025) (same); *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL  
3 1993735, at \*7 (E.D. Cal. July 16, 2025) (granting TRO and preliminary injunction  
4 enjoining removal of “Petitioner to a third country without notice and an opportunity to  
5 be heard”); *Misirbekov v. Venegas*, No. 1:25-CV-00168, 2025 WL 2201470, at \*2 (S.D.  
6 Tex. Aug. 1, 2025) (granting TRO barring Government “from transferring, relocating,  
7 or removing Petitioner outside the Southern District of Texas without an Order from  
8 the Court”); *Gomez v. Chestnut*, No. 2:25-CV-00975-GMN-BNW, 2025 WL 1695359,  
9 at \*4 (D. Nev. June 17, 2025) (ordering Government to “provide 72-hours’ notice to  
10 Petitioner’s counsel before it is the Government’s intent to remove Petitioner out of the  
11 country or to a different facility”).

12 69. Respondents are preparing to remove Petitioner to a third country without  
13 providing a meaningful opportunity to be heard on his fear-based claims. Petitioner  
14 must therefore be released from custody unless and until he is provided with due process  
15 in connection with any potential deportation to Uzbekistan. This is especially true  
16 because Petitioner has moved to re-open his immigration case, and he could be subject  
17 to persecution and torture in a third country. *See D.V.D.*, 778 F.Supp.3d at 388.

18 **B. Petitioner’s Detention Violates the Administrative Procedure Act**  
19 **Under 5 U.S.C. § 706(2)(A)-(D).**

20 a. A Court Must Hold Unlawful an Agency’s Action that is Arbitrary,  
21 Capricious, an Abuse of Discretion, Not in Accordance with Law, or  
22 Procedurally Improper.

23 70. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is  
24 “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory  
25 jurisdiction, authority, or limitations;” or “without observance of procedure required by  
26 law.” 5 U.S.C. § 706(2)(A)-(D). Further, an agency must provide “reasoned explanation  
27 for its action” and “may not . . . depart from a prior policy *sub silentio* or simply  
28 disregard rules that are still on the books.” *FCC v. Fox Television Stations, Inc.*, 556

1 U.S. 502, 515 (2009). *See also Dep't of Homeland Sec. v. Regents of the Univ. of*  
2 *California*, 591 U.S. 1, 24-33 (2020) (holding that rescission of immigration policy  
3 without considering “particular reliance interests” is arbitrary and capricious in  
4 violation of the APA).

5 71. Under the APA, a court must “hold unlawful and set aside agency action .  
6 . . . found to be—arbitrary, capricious, an abuse of discretion, or otherwise not in  
7 accordance with law,” or “without observance of procedure required by law.” 5 U.S.C.  
8 § 706(2). An agency action is “arbitrary and capricious if the agency has relied on  
9 factors which Congress has not intended it to consider, entirely failed to consider an  
10 important aspect of the problem, offered an explanation for its decision that runs counter  
11 to the evidence before the agency, or is so implausible that it could not be ascribed to a  
12 difference in view or the product of agency expertise.” *Motor Vehicles Mfrs. Ass'n of*  
13 *U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). In particular, parole  
14 may be granted “on a case-by-case basis for urgent humanitarian reasons or significant  
15 public benefit.” 8 U.S.C. § 1182(d)(5)(A). Thereafter, § 1182 requires an individualized  
16 case-by-case determination before parole can lawfully be revoked. *Jean v. Nelson*, 472  
17 U.S. 846, 853 (1985).

18 b. Petitioner’s Detention is Arbitrary and Capricious: He Did Not  
19 Receive Advance Notice or an Individualized Assessment Prior to  
20 His Detention.

21 72. Here, Respondents failed to provide advance notice or an individualized  
22 assessment prior to detaining Mr. Sabirov, which was arbitrary and capricious. Instead,  
23 he was apprehended on May 14, 2026 after 29 years in the country and having complied  
24 with all ICE directives and supervision order—including wearing an ankle bracelet  
25 without issue for the preceding seven months. This lack of adequate protection for Mr.  
26 Sabirov’s established reliance interest in remaining in the United States means his  
27 detention violates the APA. *See Singh v. Andrews*, 803 F. Supp. 3d 1035, 1048 (E.D.  
28 Cal. July 11, 2025) (citing *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. Nov.

1 22, 2019)) (“As numerous other courts have concluded, petitioner is entitled to pre-  
2 deprivation process because he is faced with grave harm that could be guarded with  
3 minimal cost to the government.”); *see also Navarro Sanchez v. LaRose, et al.*, No. 25-  
4 cv-02396-JES-MMP, 2025 WL 2770629, at \*5 (S.D. Cal. Sept. 26, 2025) (granting  
5 noncitizen’s habeas petition on APA grounds); *Mayen v. Warden, California City Det.*  
6 *Center*, No. 1:26-cv-02354-DAD-AC, 2026 WL 1158217, at \*2 (E.D. Cal. Apr. 29,  
7 2026) (petitioner could not be properly detained pursuant to § 1226(a) without a  
8 warrant). Respondents provided no evidence Petitioner was properly detained pursuant  
9 to § 1226(a) with a warrant.

10 73. Mr. Sabirov’s liberty interest is particularly weighty because he has been  
11 living in the community—gainfully employed, married to a naturalized U.S. citizen,  
12 and paying taxes—under an Order of Supervision since January 2012. After an initial  
13 release from custody on conditions, even a person paroled following a conviction for a  
14 criminal offense has a protected liberty interest in that conditional release. *Morrissey*,  
15 408 U.S. at 482. As the Supreme Court recognized, “[t]he parolee has relied on at least  
16 an implicit promise that parole will be revoked only if he fails to live up to the parole  
17 conditions.” *Id.* “By whatever name, the liberty is valuable and must be seen within the  
18 protection of the [Constitution].” *Id.* Furthermore, “[g]iven the civil context [of  
19 immigration detention], [the] liberty interest [of noncitizens released from custody] is  
20 arguably greater than the interest of parolees.” *Ortega*, 415 F. Supp. at 970.

21 74. For more than forty years, Respondents’ established practice was to re-  
22 detain a noncitizen whom they had previously released only after making an  
23 individualized determination that the noncitizen’s circumstances had materially  
24 changed since their release, such that the noncitizen posed a flight risk or danger to the  
25 public. *See Garro Pinchi v. Noem*, 813 F. Supp. 3d 973, 1015 (N.D. Cal. Dec. 19, 2025).  
26 Respondents departed from this longstanding policy without providing a reasoned  
27 explanation and without considering the serious reliance interests of individuals like  
28 Mr. Sabirov, who has structured his life around the terms of his supervised release for

1 over 14 years.

2 75. Under the APA, an agency “may not depart from a prior policy sub silentio  
3 or simply disregard rules that are still on the books.” *FCC v. Fox Television Stations,*  
4 *Inc.*, 556 U.S. at 515. Respondents’ failure to provide any individualized determination  
5 of changed circumstances before re-detaining Mr. Sabirov renders his detention  
6 arbitrary and capricious.

7 **C. There is No Permissible Reason to Detain Petitioner**

8 a. There are Only Two Permissible Non-Punitive Reasons for  
9 Detention: Ensuring an Appearance at Immigration Proceedings and  
10 Preventing Danger to the Community.

11 76. Substantive due process requires that all forms of civil detention—  
12 including immigration detention—bear a “reasonable relation” to a non-punitive  
13 purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has  
14 recognized only two permissible non-punitive purposes for immigration detention:  
15 ensuring a noncitizen’s appearance at immigration proceedings and preventing danger  
16 to the community. *Zadvydas*, 533 U.S. at 690; *see also Demore v. Kim*, 538 U.S. 510,  
17 515 (2003).

18 b. Petitioner has Lived in the United States for 29 Years; He is Not a  
19 Flight Risk or Danger to the Community.

20 77. Mr. Sabirov is neither a flight risk nor a danger to the community. He has  
21 resided in the United States for approximately 29 years. Sabirov Decl. at ¶ 2. He has  
22 been employed as a financial analyst at the same company for seven years. *Id.* at ¶ 21.  
23 He is married to a United States citizen who he lives with in San Diego County. *Id.* at  
24 17. He provides her with financial and emotional support. *Id.* at ¶ 19-20. He complied  
25 with the terms of his Order of Supervision since 2012—for nearly 14 years—including  
26 attending all check-ins and keeping his contact information updated. *Id.* at ¶ 29. He  
27 voluntarily appeared at his May 14, 2026 check-in with ICE, where he was detained.  
28 *Id.* at ¶ 32. Nor has Mr. Sabirov had any interactions with the police in his 29 years

1 residing in the United States other than two incidents with drinking and driving, the  
2 most recent of which was over seven years ago. *Id.* at ¶ 38.

3 78. These facts demonstrate that his detention bears no reasonable relation to  
4 either ensuring his appearance or preventing danger. Instead, his detention “is not to  
5 facilitate deportation, or to protect against risk of flight or dangerousness, but to  
6 incarcerate for other reasons.” *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring).  
7 Mr. Sabirov’s detention is therefore punitive in nature and violates substantive due  
8 process.

9 79. To preserve the status quo and prevent irreparable harm, Mr. Sabirov must  
10 be released. *See E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 779 (9th Cir.  
11 2018); *Abrego Garcia v. Noem*, 777 F. Supp. 3d 501, 516 (D. Md. Apr. 6, 2025) (finding  
12 that the petitioner’s requested relief was “designed to re[s]tore the status quo ante”);  
13 *Pinchi v. Noem*, No. 25-cv-05632-RMI (RFL), 2025 WL 1853763, at \*3 (N.D. Cal. Jul.  
14 4, 2025) (finding that the “moment prior to the Petitioner’s likely illegal detention” is  
15 the status quo).

16 **D. Statutory Limits to Post-Final Order Detention.**

17 80. 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during “the  
18 removal period,” which is defined as the 90-day period following a final order of  
19 removal. 8 U.S.C. § 1231(a)(1)-(2). Although 8 U.S.C. § 1231(a)(6) permits detention  
20 “beyond the removal period” for noncitizens who have been ordered removed, the  
21 Supreme Court has recognized strict limits on such continued detention. In *Zadvydas*,  
22 the Supreme Court held that the statute limits a noncitizen’s detention “read in light of  
23 the Constitution’s demands” to “a period reasonably necessary to bring about that  
24 [noncitizen’s] removal from the United States.” *Zadvydas*, 533 U.S. at 689 (2001). The  
25 Court reasoned that “[a] statute permitting indefinite detention of an alien would raise  
26 a serious constitutional problem” because “[f]reedom from imprisonment—from  
27 government custody, detention, or other forms of physical restraint—lies at the heart of  
28 the liberty that [the Due Process] Clause protects.” *Id.* at 690. The Court thus

1 “conclude[d] that once removal is no longer reasonably foreseeable, continued  
2 detention is no longer authorized by statute.” *Id.* at 699.

3 81. Accordingly, detention becomes unlawful once it no longer bears a  
4 reasonable relation to the purpose of effectuating removal. To ensure uniform  
5 administration, the Court recognized six months as the “presumptively reasonable  
6 period of detention.” *Id.* at 701. After the six-month period elapses, “once the  
7 [noncitizen] provides good reason to believe that there is no significant likelihood of  
8 removal in the reasonably foreseeable future, the Government must respond with  
9 evidence sufficient to rebut that showing.” *Id.*

10 82. *Zadvydas* is rooted in the due process requirement that there be “adequate  
11 procedural protections” to ensure that the government’s asserted justification for a  
12 noncitizen’s physical confinement “outweighs the ‘individual’s constitutionally  
13 protected interest in avoiding physical restraint.”” *Id.* at 690 (quoting *Kansas v.*  
14 *Hendricks*, 521 U.S. 346, 356 (1997)). Thus, continued detention without reasonably  
15 foreseeable removal violates both § 1231(a)(6) and the Due Process Clause of the Fifth  
16 Amendment. *See Zadvydas*, 533 U.S. at 699–701; *see also Ahrach v. Baltazar*, No. 25-  
17 cv-03195-PAB, 2025 WL 3227529, \*5 n. 11 (D. Colo. Nov. 19, 2025) (granting habeas  
18 petition and ordering release from post-order detention when the government has not  
19 offered evidence that there is progress towards removal and acknowledging that  
20 *Zadvydas* courts have found that unsubstantiated assertions that the government will  
21 pursue removal are insufficient to satisfy its burden).

22 83. Here, Mr. Sabirov is not required to show that there is *no* significant  
23 likelihood of his removal in the reasonably foreseeable future. Instead, he must provide  
24 “good reason” to believe that his removal is not significantly likely in the reasonably  
25 foreseeable future. *Zadvydas*, 533 U.S. at 701.

26 84. *First*, Mr. Sabirov already spent 8 months in detention in 2012. Thus, the  
27 Court should consider his time in detention cumulatively. To wit, Mr. Sabirov’s time in  
28 detention has extended past the six-month period. *Phan v. Warden of Otay Mesa Det.*

1 *Facility*, 813 F.Supp.3d 1179, 1184 (S.D. Cal. 2025) (holding length of detention would  
2 be calculated cumulatively, instead of with clock restarting with each detention, and  
3 thus the total cumulative detention of nine months was presumptively unreasonable).

4 85. *Second*, Mr. Sabirov has demonstrated good reason to believe that there is  
5 no significant likelihood of removal in the reasonably foreseeable future. For more than  
6 a decade, both the United States and Uzbekistan treated Petitioner as effectively non-  
7 removable, as Uzbekistan did not recognize him as a citizen and refused to accept him.  
8 That fundamental barrier has not been resolved. Although Respondents now rely on a  
9 recently issued “Travel Document of Stateless Person,” that document does not confer  
10 citizenship, does not grant Petitioner any legal right to reside in Uzbekistan, and is  
11 expressly temporary, expiring on August 11, 2026. *See* Carlin Decl. at ¶13, Ex. L. In  
12 other words, it does not establish that Uzbekistan will accept Petitioner as a lawful  
13 entrant or permit him to remain there upon arrival. Given this longstanding history of  
14 non-removability and the limited, conditional nature of the current travel document,  
15 Petitioner has shown good reason to doubt that his removal is actually achievable in the  
16 reasonably foreseeable future.

17 86. Moreover, Respondents have offered no evidence of a flight itinerary.  
18 They cannot show that Uzbekistan will admit Mr. Sabirov as a *lawful* entrant, permit  
19 him to *remain* in the country, or otherwise accept him under circumstances that make  
20 removal practicable and *durable*. A temporary document coupled with an unsupported  
21 timeline does not satisfy the government’s burden under *Zadvydas* to demonstrate that  
22 removal is significantly likely in the reasonably foreseeable future. Because  
23 Respondents have failed to make that showing, Petitioner’s continued detention is no  
24 longer authorized under § 1231(a)(6).

25 87. Indeed, even if ICE officers were to assert that Mr. Sabirov will be  
26 deported by August 11, 2026—or even within two weeks—such representations alone  
27 are insufficient to satisfy the government’s burden under *Zadvydas*. The Supreme Court  
28 explicitly “rejected the proposition that continued detention is permissible ‘as long as

1 good faith efforts to effectuate . . . deportation continue.” *Ahrach*, 2025 WL 3227529,  
2 at \*4 (quoting *Zadvydas*, 533 U.S. at 702). “Instead, the government must actually make  
3 legitimate progress towards removal.” *Id.* (citing *Hassoun v. Sessions*, 2019 WL 78984,  
4 at \*5 (W.D.N.Y. Jan. 2, 2019)). “[T]he reasonableness of Petitioner’s detention turns  
5 on whether and to what extent the government’s efforts are likely to bear fruit. Diligent  
6 efforts alone will not support continued detention.” *Hassoun*, 2019 WL 78984, at \*5.  
7 Without concrete evidence that the receiving country will actually accept and permit  
8 Petitioner to reside there, an ICE officer’s verbal assurance of an anticipated removal  
9 date is an “unsubstantiated assertion” that does not justify continued detention. *Ahrach*,  
10 2025 WL 3227529, at \*5 n.11; *Himri v. Ashcroft*, 378 F.3d 932, 938–39 (9th Cir. 2004)  
11 (finding that Jordan could not be named as a country of removal because the  
12 government failed to demonstrate that Jordan would actually accept the petitioners,  
13 notwithstanding the existence of valid travel documents that did not confer residency  
14 rights).

15 88. Here, Uzbekistan’s “Travel Document of Stateless Person” explicitly does  
16 not confer citizenship or any right to reside in the country, nor does it establish that  
17 Uzbekistan will accept Mr. Sabirov as a lawful resident or permit him to remain upon  
18 arrival—and thus does not demonstrate that removal is permissible or significantly  
19 likely in the reasonably foreseeable future.

20 89. Additionally, to comply with *Zadvydas*, DHS issued additional regulations  
21 in 2001 that established “special review procedures” to determine whether detained  
22 noncitizens with final removal orders are likely to be removed in the reasonably  
23 foreseeable future. *See Continued Detention of Aliens Subject to Final Orders of*  
24 *Removal*, 66 Fed. Reg. 56,967 (Nov. 14, 2001). If ICE Headquarters determines that  
25 removal is not reasonably foreseeable but nonetheless seeks to continue detention based  
26 on “special circumstances,” it must justify the continued detention based on narrow  
27 grounds such as national security or public health concerns, 8 C.F.R. § 241.14(b)-(d),  
28 or by demonstrating, by clear and convincing evidence before an IJ, that the noncitizen

1 is “specially dangerous.” 8 C.F.R. § 241.14(f). As of this date, DHS has offered no such  
2 showing.

3 90. Finally, when ICE detains an individual under 8 U.S.C. § 1231(a)(6),  
4 federal regulations dictate an individualized determination be carried out.

5 91. To comport with Mr. Sabirov’s due process rights, he respectfully asks this  
6 Court to order his immediate release.

7 **CLAIMS FOR RELIEF**

8 **COUNT I**

9 **Violation of Fifth Amendment Right to**  
10 **Procedural Due Process**

11 1. Petitioner repeats, re-alleges, and incorporates by reference the paragraphs  
12 above.

13 2. The Due Process Clause of the Fifth Amendment to the U.S. Constitution  
14 prohibits the federal government from depriving any person of “life, liberty, or property,  
15 without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’  
16 within the United States, including [noncitizens], whether their presence here is lawful,  
17 unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

18 3. Petitioner has a protected liberty interest in his ongoing freedom from  
19 confinement. He was released from ICE custody on January 24, 2012, and lived in the  
20 community under an Order of Supervision for over fourteen years.

21 4. Respondents provided no pre-deprivation hearing, no advance notice, and  
22 no individualized determination before re-detaining Petitioner on May 14, 2026.

23 5. Respondents’ failure to provide Petitioner with notice and a hearing prior  
24 to re-detention, and their failure to demonstrate changed circumstances or a legitimate  
25 basis for re-detention before a neutral decisionmaker, violates Petitioner’s procedural  
26 due process rights under the Fifth Amendment. Petitioner must be released from  
27 custody unless and until Respondents prove to a neutral decisionmaker, by clear and  
28 convincing evidence, that he is a flight risk or a danger to the community.

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**COUNT II**

**Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)  
Not in Accordance with Law and in Excess of Statutory Authority**

6. Petitioner realleges and incorporates by reference the paragraphs above.

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

8. After having resided in the United States for 29 years, Mr. Sabirov was detained without notice and without pre-deprivation process. As such, Respondents violated the APA because Mr. Sabirov did not receive an individualized assessment prior to his detention.

**COUNT III**

**Violation of Substantive Due Process**

9. Mr. Sabirov realleges and incorporates by reference the paragraphs above.

10. Mr. Sabirov’s removal order became administratively final on September 29, 2025. The removal period began on that day and thus elapsed on December 29, 2025.

11. Mr. Sabirov cannot be removed to Uzbekistan, and ICE has offered no legitimate reason for his indefinite detention. Hence, there is “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701.

12. Consequently, Mr. Sabirov’s continued detention is untethered to any legal basis. At this stage, DHS’s refusal to release Mr. Sabirov is “the exercise of power without any reasonable justification” and a violation of due process principles. *County of Sacramento v. Lewis*, 523 U.S. 833, 845 (1998).

13. Furthermore, the public interest favors Petitioner’s release, as “neither equity nor the public’s interest are furthered by allowing violations of federal law to continue.” *Medrano-Rocha v. Santacruz*, No. CV 26-00404-KK-AGRX, 2026 WL 411355, at \*6 (C.D. Cal. Jan. 23, 2026) (citing *Galvez v. Jaddou*, 52 F.4th 821, 832 (9th

1 Cir. 2022)). Although the public has an interest in the execution of immigration laws,  
2 that interest extends only insofar as the execution of those laws is constitutional. *Id.*

3 **COUNT IV**  
4 **Violation of 8 U.S.C. Section 1231(a)(6) and *Zadvydas***  
5 **(Unlawful Post-Final Order Detention)**

6 14. Mr. Sabirov re-alleges and incorporates by reference the paragraphs above.

7 15. Mr. Sabirov’s continued detention by Respondents violates 8 U.S.C. §  
8 1231(a)(6), as interpreted by *Zadvydas*. Mr. Sabirov’s 90-day statutory removal period  
9 and six-month presumptively reasonable period for continued removal efforts have  
10 passed.

11 16. Hence, under *Zadvydas*, Mr. Sabirov’s continued detention is  
12 unreasonable and not authorized by 8 U.S.C. § 1231.

13 **PRAYER FOR RELIEF**

14 WHEREFORE Petitioner prays for this Court to grant the following relief:

- 15 a. Assume jurisdiction over this matter;
- 16 b. Declare that Respondents’ continued detention of Petitioner violates the  
17 INA, 8 U.S.C. § 1231(a)(6), the Due Process Clause of the Fifth  
18 Amendment of the U.S. Constitution, and the APA;
- 19 c. Pursuant to 28 U.S.C. § 2243, issue an Order to Show Cause or Order to  
20 Answer ordering Respondents to show cause within three days of why the  
21 writ should not be granted;
- 22 d. Grant a writ of habeas corpus directing Respondents to immediately  
23 release Petitioner;
- 24 e. Enjoin Respondents from transferring Petitioner outside this District or  
25 deporting Petitioner pending these proceedings;
- 26 f. Enjoin Respondents from re-detaining Petitioner unless Respondents  
27 provide advance notice and a pre-deprivation hearing before a neutral  
28 adjudicator at which the government bears the burden of proving, by clear

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and convincing evidence, that Petitioner is a flight risk or danger to the community;

g. Order Respondents to reimburse him his costs of suit and reasonable attorneys' fees incurred in relation to this petition, under the Equal Access to Justice Act, 28 U.S.C. § 2412; and

h. Grant any further relief as this Court deems just and proper.

DATED: May 22, 2026

**ALSTON & BIRD LLP**

/s/ Jeffrey P. Carlin

Jeffrey P. Carlin  
Attorney For Petitioner  
TAKHIR RUSTAMOVICH SABIROV

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**VERIFICATION**

I, Jeffrey P. Carlin, declare as follows: I am an attorney admitted to practice law before this Court and the State of California. I am authorized by Mr. Takhir Rustamovich Sabirov to file this Supplemental Petition for Writ of Habeas Corpus on his behalf. Because many of the allegations of this Petition require a legal knowledge not possessed by Petitioner, I am making this verification on his behalf and with his permission. I have read the foregoing Petition for Writ of Habeas Corpus and know the contents thereof to be true to my knowledge, information, or belief. I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on May 22, 2026.

Dated: May 22, 2026

**ALSTON & BIRD LLP**

/s/ Jeffrey P. Carlin

Jeffrey P. Carlin  
Attorney For Petitioner  
TAKHIR RUSTAMOVICH SABIROV