UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

IURII BAZELIUK Petitioner, vs. **WARDEN**, Irwin County Detention Center; **KRISTEN SULLIVAN**, in her official capacity as Acting Field Office Director of Enforcement and Removal Operations, Atlanta Field Office, Immigration and Customs Enforcement; **MARKWAYNE MULLIN**, in his official capacity as Secretary, U.S. Department of Homeland Security; **TODD BLANCHE**, Acting Attorney General of the United States; Respondents.	Case No.: 7:26-cv-159 **PETITION FOR WRIT OF HABEAS CORPUS** **A#** [redacted]

INTRODUCTION

1. Petitioner Iurii Bazeliuk ("Petitioner") is a citizen and national of Russia who is currently unlawfully detained in the physical and legal custody of Respondents at the Irwin County Detention Center, Ocilla, Georgia, in violation of his Due Process rights.
2. The Respondents keep the Petitioner detained against his constitutional rights. The Petitioner was paroled in the country creating a legitimate expectation of liberty. *See* Exhibit A, I-94. Under the three-factor test set forth in *Matthews v. Eldridge*, 424 U.S. 319, 335 (1976), the Petitioner's Fifth Amendment rights have been violated and such

immediate release as habeas corpus relief is proper.

JURISDICTION AND VENUE

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

4. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), the INA, 8 U.S.C. §§ 1101–1537, regulations implementing the INA, the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706, and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

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

6. The federal government has waived its sovereign immunity and permitted judicial review of agency action under 5 U.S.C. § 702. In addition, sovereign immunity does not bar claims against federal officials that seek to prevent violations of federal law (rather than provide monetary relief).

7. Venue is proper because Petitioner is detained in Respondents' custody at the Irwin County Detention Center, Ocilla, Georgia. The federal courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their immigration detention. *See, e.g.*, *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

8. Venue is further proper because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Georgia.

9. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Middle District of Georgia, the judicial district in which the Petitioner is currently detained.

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

10. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

11. This Honorable Court is not bound by and is not required to give deference to any agency interpretation of a statute. *See Loper Bright Enter. v. Raimond*o, 603 U.S. 369, 413 (2024) (holding that federal judges are not required to, and pursuant to the APA are not to defer to an agency interpretation of the law simply because a statute is ambiguous, as that is the role of the federal courts).

12. Finally, the Petitioner's constitutional challenge to his detention does not require exhaustion. "[W]here Congress does not say there is a jurisdictional bar, there is none." *Santiago-Lugo v. Warden,* 785 F.3d 467, 473 (11th Cir. 2015). "Congress knows how to limit counts· subject matter jurisdiction to decide § 2241 petitions when it wishes to do so. The fact that it did not limit courts' subject matter jurisdiction to decide unexhausted §2241 claims compel the conclusion that any failure of [the respondent] to exhaust administrative remedies is not a jurisdictional defect." *Id.* at 474. In the absence of a statutorily-mandated exhaustion requirement, whether to apply a common law exhaustion requirement is a decision that rests soundly within the broad discretion of district courts. *See J.N.C.G. v.*

Warden, Stewart Del. Ctr., No. 4:20-CY-62-MSH, 2020 WL 5046870, at *3 (M.D. Ga. Aug. 26, 2020) (citing *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992));

13. Thus, requiring prudential exhaustion is a futile exercise, and will only result in the extended, unlawful detention of the Petitioner.

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

15. Petitioner is "in custody" for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

16. Petitioner Iurii Bazeliuk is a citizen of Russia who has been in immigration detention since May 7, 2026. Petitioner initially entered the United States on May 28, 2022, and was released into the United States with a humanitarian parole under 8 U.S.C. § 1182(d)(5)(A).

17. Respondent Warden of the Irwin County Detention Centre is the physical custodian of the Petitioner and is responsible for the Petitioner's detention. He is named in his official capacity.

18. Respondent Kristen Sullivan is the Director of the Atlanta Field Office of ICE's Enforcement and Removal Operations division. As such, she is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. She is named in her official capacity.

19. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security.

He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

20. Respondent Todd Blanche is sued in his official capacity as the Acting Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA.

LEGAL FRAMEWORK

21. The Fifth Amendment to the Constitution of the United States mandates that no person shall be deprived of liberty without due process of law. U.S. Const. amend. V. As emphasized by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of liberty that [the Fifth Amendment] protects." The Supreme Court has long recognized that noncitizens situated like the Petitioner are entitled to the protections of the Fifth Amendment's Due Process Clause. Indeed, the Court has made clear that the Due Process Clause applies to noncitizens in the context of removal proceedings. *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (citing *Reno v. Flores*, 507 U.S. 292, 306 (1993)).

22. To determine whether a civil detention violates a detainee's due process rights, courts within the Seventh Circuit apply the three-part balancing test articulated in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). *Arrebato-Blanco v. Dep't of Homeland Sec.*, 2:26-cv-01140-SPC-NPM, 2026 U.S. Dist. LEXIS 92640 (M.D. FLA. April 28, 2026):

1) The private interest that will be affected by the official action;
2) The risk of erroneous deprivation of such interest through the procedures used (…); and
3) The government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

23. This three-part balancing test has previously been applied by other district courts in *Azalyar v. Raycraft*, No. 1:25-cv-916, 2026 U.S. Dist. LEXIS 3705 (S.D. Ohio Jan. 2, 2026) when analyzing detention issues involving arriving aliens who were paroled into the country. In *Azalyar*, the court held that the detention of noncitizens under circumstances materially similar to those of the Petitioner—namely, individuals who were paroled into the United States and subsequently detained without any violation of their conditions of release—violated the Due Process Clause of the Fifth Amendment under *Mathews*.

FACTUAL BACKGROUND

24. Petitioner Iurii Bazeliuk("Petitioner") is a citizen and national of Russia who is currently unlawfully detained in the physical and legal custody of Respondents at the Irwin County Detention Center, Ocilla, Georgia.

25. Petitioner has no criminal record.

26. Upon information and belief, Respondents unlawfully detained Petitioner at his ICE check-in.

27. Petitioner was paroled into the United States by U.S. Immigration and Customs Enforcement ("ICE"), an agency within the U.S. Department of Homeland Security ("DHS"), pursuant to its authority under 8 U.S.C. § 1182(d)(5)(A).

28. The Petitioner developed ties with the community during the time he spent in freedom. The Petitioner established deep employment ties and lives with his wife and two children.

29. The Petitioner timely filed for asylum soon after his entry to the United States.

30. Once in Respondents' custody, the Petitioner was transferred to the Irwin County Detention Centre, where he remains detained.

CLAIMS FOR RELIEF

A. Violation of the Fifth Amendment to the United States Constitution (Civil Detention violates Petitioner's due process)

31. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

32. The Petitioner, as in *Azalyar*, U.S. Dist. LEXIS 3705 at *5, is not disputing which statute governs his detention. Because the Petitioner is an arriving alien, his detention is governed by 8 U.S.C. § 1225(b)(2) and the only proper relief is immediate release.

33. What the Petitioner challenges is Respondents' application of § 1225(b)(2), which has resulted in a violation of his Fifth Amendment due process rights. As in *Padilla v. United States Immigr. & Customs Enf't*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. Dec. 4, 2023), the Petitioner raises a constitutional due process challenge to his detention, and therefore his claim is not barred by *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020). See also *Azalyar*, U.S. Dist. LEXIS 3705 at *5.

34. Likewise, the Petitioner's claim is not foreclosed by *Demore v. Kim*, 538 U.S. 510 (2003), which involved mandatory detention under § 1226(c) based on the petitioner's criminal conduct. See also *Azalyar*, U.S. Dist. LEXIS 3705 at *5–6. As the court in *Padilla* explained, "[n]othing in *Demore* suggest that such (…) detention would be justified to keep such individuals in custody particularly where there is no evidence presently before the Court that the Plaintiff (…) present a particular risk of flight or danger." *Padilla*, 704 F. Supp. 3d at 1173.

35. As emphasized in *Padilla* and adopted by the court in *Azalyar*, "non-punitive detention

violates the Constitution unless it is strictly limited(...)." *Azalyar*, U.S. Dist. LEXIS 3705 at *5 (citing *Padilla*, 704 F. Supp. 3d at 1172). Constitutional violations are especially acute where, as here, detention is imposed without adequate procedural protections or any special justification sufficient to outweigh the Petitioner's fundamental liberty interest. *Azalyar*, U.S. Dist. LEXIS 3705 at *5 (citing *Zadvydas*, 533 U.S. at 690).

36. Because the Petitioner's confinement constitutes non-punitive administrative detention, determining whether it violates due process requires application of the balancing test set forth in *Mathews v. Eldridge*.

B. The Petitioner's interest in liberty is affected by official action

37. As stated above, and as discussed here, freedom from physical detention constitutes the most fundamental liberty interest. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). As previously recognized by other courts, individuals who were released on parole, or otherwise released from civil immigration detention, possess a protectable liberty interest in remaining at liberty. *Azalyar*, U.S. Dist. LEXIS 3705 at *9; see also *Rodriguez*, U.S. Dist. LEXIS 261955 at 17 ("Here, Petitioners entered the United States at a port of entry, and Respondents granted Petitioners parole into the United States, determining that Petitioners were not a flight risk or danger."); see also *Zapata v. Kaiser*, No. 25-cv-07492, 2025 U.S. Dist. LEXIS 173992, at *8 (N.D. Cal. Sept. 5, 2025) (citing *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019)). This protectable liberty interest is further reinforced where noncitizens have spent years establishing a life in the interior of the United States, "regardless of their citizenship status." *Ordonez-Lopez v. United States Dep't of Homeland Sec.*, No. EP-25-CV-470-KC, 2025 U.S. Dist. LEXIS 221975 (W.D. Tex. Nov. 7, 2025).

38. In this case, the Petitioner was released on parole upon his entry into the United States. After his release on parole, the Petitioner established substantial ties to the United States, including, among others, a family and stable employment. Taken together, these facts demonstrate that the Petitioner "possesses a significant private interest in his freedom from detention." *Azalyar*, U.S. Dist. LEXIS 3705 at *10

C. Risk of Erroneous Deprivation

39. The Petitioner has no meaningful avenue to seek redetermination or review of his detention. Because he is detained under 8 U.S.C. § 1225, the Petitioner has no access to a bond hearing at which an immigration judge could conduct an individualized assessment of whether his re-detention serves any of the statute's authorized purposes. *Azalyar*, U.S. Dist. LEXIS 3705, at *10; see also *Rodriguez*, U.S. Dist. LEXIS 261955 at 18. Moreover, even if such a bond hearing were theoretically available, it would be futile, as immigration judges are bound by decisions of the Board of Immigration Appeals, which in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), stripped immigration judges of jurisdiction to conduct bond hearings in these circumstances. *Id.*

40. Civil immigration detention must be nonpunitive in purpose and must bear a reasonable relationship to the statutorily authorized goals of preventing flight and protecting the community from danger. *Zapata*, U.S. Dist. LEXIS 173992, at *9–10 (quoting *Zadvydas*, 533 U.S. at 690).

41. As emphasized by the court in *Azalyar*, the risk of erroneous deprivation is substantially heightened where "Respondents previously determined that [Petitioner] did not pose a risk under those criteria (…)." *Azalyar*, U.S. Dist. LEXIS 3705, at *11. Because Respondents lack any basis grounded in the statute's purposes to justify the Petitioner's re-detention,

the risk of erroneous deprivation of his liberty is exceptionally high.

D. Government interest

42. Courts have recognized that it is in the best interests of the United States to ensure that "noncitizens do not harm their community and that appear for future immigration proceedings." *Ballesteros v. Noem*, No. 3:25-cv-594-RGJ, 2025 U.S. Dist. LEXIS 200246, at *5 (W.D. Ky. Oct. 9, 2025) (citing *Sampiao v. Hyde*, No. 1:25 cv 11981 JEK, 2025 WL 2607924, at *12 (D. Mass. Sept. 9, 2025)). Accordingly, civil immigration detention must be narrowly circumscribed to serve only its authorized statutory purposes—namely, protecting the community and ensuring the noncitizen's appearance in removal proceedings. *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (citing *Zadvydas*, 533 U.S. at 690 ("any detention incidental to removal must 'bear [a] reasonable relation to [its] purpose.'")).

43. In case similar to the one at bar, the Southern District of Ohio decided that:

> "Once a noncitizen has been released, the law prohibits federal agents from rearresting him merely because he is subject to removal proceedings. Rather, the federal agents must be able to present evidence of materially changed circumstances — namely, evidence that the noncitizen is in fact dangerous or has become a flight risk, or is now subject to a final order of removal." *Azalyar*, U.S. Dist. LEXIS 3705, at 12 citing *Saravia v. Sessions*, 280 F.Supp.3d 1168, 1176 (N.D. Cal. Nov. 20, 2017).

44. In the present case, the Government has presented neither a change in circumstances nor any individualized redetermination regarding the Petitioner's release. There are no compelling circumstances demonstrating that the Petitioner poses a risk to the community or a flight risk. On the contrary, the Petitioner has established strong roots in the community and has fully complied with all mandatory obligations imposed by Respondents, including ICE check-in appointments and scheduled hearing dates.

45. Accordingly, in the absence of any proper redetermination considering the Petitioner's individual circumstances, the Government's asserted interest does not outweigh the Petitioner's significant private interest in liberty.

E. Requested relief

46. In the same vein, and to safeguard the Petitioner's Fifth Amendment due process rights, the Petitioner respectfully requests that this Court order his immediate release and award fees under the Equal Access to Justice Act (EAJA) as applicable.

47. Immediate release is the only remedy in this matter because of the Petitioner's detention classification and the Executive Office for Immigration Review (EOIR) has instructed immigration judges to deny bonds based on alleged flight risk, regardless of the actual circumstances or conditions of the individual noncitizen. This blanket policy precludes the individualized assessment required by due process. In support of this contention, the Petitioner refers to Exhibit B, affidavits from attorneys; and Exhibit C, the affidavit of former immigration judge Lawrence O. Burman, which cover the experience of other attorneys, not related to the case at bar.

48. The Petitioner further emphasizes that his due process rights, as well as those of similarly situated individuals, are subject to an increased and concrete risk. In particular, the neutrality of Immigration Judges—the adjudicators tasked with deciding liberty interests—has been called into question by recent actions of the Executive Office for Immigration Review ("EOIR").

49. As reflected in Exhibit D the EOIR Immigration Judge Job Posting, recent job announcements no longer consistently refer to adjudicators as "Immigration Judges," but instead employ the term "deportation judges." While this reclassification may appear superficial at first glance, it

reflects an institutional framing that risks undermining the appearance—and potentially the reality—of adjudicatory neutrality in immigration proceedings.

50. Furthermore, the Respondents' disregard for Fifth and Fourth Amendment rights is reinforced by the memorandum issued to ICE officers on May 12, 2025. Exhibit E, ICE memorandum. These institutional shifts underscore the necessity of judicial intervention, as the administrative process can no longer be presumed to provide the impartial, individualized assessment that the Due Process Clause requires.

51. Where liberty interests are at stake, even the appearance of structural bias weighs heavily against continued detention. Given this context, the prospect of a bond hearing before an adjudicatory system increasingly characterized in enforcement-oriented terms—as evidenced by the "deportation judge" classification and recent ICE directives—raises serious concerns that the Petitioner's Fifth Amendment liberty interest would be adjudicated under a biased framework.

52. Accordingly, to avoid further infringement of the Petitioner's due process rights, this Court should find that the existing administrative remedies are constitutionally inadequate and order his immediate release.

53. For these reasons, the Petitioner respectfully requests that this Court order his immediate release and grant any further relief it deems just and proper.

CONCLUSION

54. In light of the foregoing, the Petitioner's Fifth Amendment due process rights have been violated under the *Mathews* framework. Accordingly, the Petitioner respectfully requests that this Honorable Court grant his immediate release.

PRAYER FOR RELIEF

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

a) Assume jurisdiction over this matter;

b) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three (3) days;

c) Declare that Petitioner's warrantless arrest and detention violates the Due Process Clause of the Fifth Amendment;

d) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody immediately;

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

f) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

g) Grant any further relief this Court deems just and proper.

Dated: 5/28/2026

/s/Helen Parsonage
Helen Parsonage
NC Bar 35492, GA Bar 435330
Elliot Morgan Parsonage PLLC
328 N Spring Street
Winston-Salem, NC 27101
336-537-1439
hparsonage@emplawfirm.com
Counsel for Petitioner

VERIFICATION

I, the undersigned attorney for the Petitioner, hereby verify under penalty of perjury, pursuant to 28 U.S.C. § 1746, that I have reviewed the foregoing Petition for Writ of Habeas Corpus and, based on my knowledge, information, and belief formed after reasonable inquiry, the facts stated therein are true and correct to the best of my knowledge.

Respectfully Submitted

/s/Helen Parsonage
Helen Parsonage
NC Bar 35492, GA Bar 435330
Elliot Morgan Parsonage PLLC
328 N Spring Street
Winston-Salem, NC 27101
336-537-1439
hparsonage@emplawfirm.com