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DETAINED

Attorney for Petitioner Ian TRANDIN

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

In the Matter of:
TRANDIN, Ian

Petitioner,

v.

CHRISTOPHER J. LAROSE, Senior
Warden, Otay Mesa Detention Center;
PATRICK DIVVER, Field Office
Director, San Diego Office of Detention
and Removal, U.S. Immigration and
Customs Enforcement; TODD M.
LYONS, Senior Official Performing the
Duties of Director, U.S. Immigration
and Customs Enforcement;
MARKWAYNE MULLIN, Secretary,
U.S. Department of Homeland Security,
Respondents.

Case No.: **'26CV3772 DMS AHG**
A No.: 

**PETITION FOR WRIT OF
HABEAS CORPUS;
TEMPORARY RESTRAINING
ORDER FOR EMERGENCY
STAY OF REMOVAL; AND
ORDER TO SHOW CAUSE
WITHIN THREE DAYS**

28 U.S.C. § 2241

**PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241
EMERGENCY STAY OF REMOVAL AND ORDER TO SHOW CAUSE**

Petitioner Ian TRANDIN respectfully petitions this Honorable Court for a writ of habeas corpus, emergency preservation of this Court's jurisdiction, and an order to show cause requiring Respondents to justify his detention and the imminent removal consequences flowing from a materially defective credible-fear process.

INTRODUCTION

1. This is an emergency habeas action brought by a detained Russian national whose credible-fear screening was conducted under circumstances that deprived him of a meaningful opportunity to be heard, to consult counsel, and to present the legally material facts supporting asylum, withholding of removal, and protection under the Convention Against Torture ("CAT").

1 2. Mr. Trandin is thirty-two years old, a native and citizen of Russia, a native Russian speaker,
2 and a mining engineer by profession. His wife, who suffers from a precancerous medical condition,
3 and their three children depend on him, and his removal would inflict grave and irreparable harm on
4 a family that has no protection in the country to which the Government seeks to return him.

5 3. The roots of Mr. Trandin's fear are political. In Russia he engaged in peaceful political activity
6 — picketing and publishing statements criticizing the Russian government and the mayor of his city
7 — and the State responded by [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 [REDACTED] He credibly fears that he will be persecuted and tortured if
11 he is returned.

12 4. After Mr. Trandin expressed fear of return, the Government referred him for fear screening.
13 USCIS issued a negative determination, and on May 26, 2026, Immigration Judge Mark Sameit
14 affirmed the negative findings.

15 5. The negative determination was the product of a screening that failed to develop or analyze
16 the facts that are legally decisive: Mr. Trandin's political opinion as a protected ground, [REDACTED]
17 [REDACTED] the additional incidents of persecution he described
18 in 2025 and 2026, and the extensively documented conditions of political repression, torture, and
19 impunity in Russia.
20

21 6. The procedural history compounds the substantive error. Mr. Trandin asked for additional
22 time to obtain counsel and to obtain critical evidence that detention authorities (CoreCivic and ICE)
23 had withheld from him. The Immigration Judge nevertheless proceeded on May 26, 2026. Mr.
24 Trandin did not receive the withheld materials until June 10, 2026 — after the hearing had concluded
25 — and the screening rested on initial interviews that were marred by significant Russian-language
26 translation errors and omissions.
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1 7. Mr. Trandin does not ask this Court to reweigh the ultimate merits of his protection claims.
2 He seeks habeas relief from unlawful custody and emergency relief to preserve this Court's
3 jurisdiction, because Respondents' detention, imminent transfer, and imminent removal consequences
4 are tied to a constitutionally deficient and regulation-violating process.

5 8. The right at stake is fundamental: a detained person who faces possible return to a country
6 where he credibly fears death or torture must receive a fair, meaningful, and non-arbitrary screening
7 before the Government uses detention and summary procedures to remove him.

8 9. Because removal may occur quickly once the negative finding is treated as final, and because
9 no administrative appeal lies from the Immigration Judge's concurrence, immediate relief is
10 necessary. The Court should issue an order to show cause within the time required by 28 U.S.C. §
11 2243, stay removal and transfer absent the Court's approval, and order release or, at a minimum, a
12 prompt individualized custody hearing and a corrected fear-screening process.
13

14 JURISDICTION

15 10. This Court has jurisdiction under 28 U.S.C. §§ 1331, 2241, 2242, and 2243; Article I, § 9, cl.
16 2 of the United States Constitution; the Fifth Amendment; the Administrative Procedure Act, 5 U.S.C.
17 §§ 702 and 706; the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202; and the All Writs Act,
18 28 U.S.C. § 1651.
19

20 11. Habeas corpus is available to test the legality of executive detention. The Great Writ provides
21 a vital mechanism to prevent unlawful restraint, and the habeas statute requires swift judicial action.
22 *Fay v. Noia*, 372 U.S. 391, 400 (1963); *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000).
23

24 12. Under 28 U.S.C. § 2243, the Court must forthwith award the writ or issue an order to show
25 cause unless it appears from the petition that the person detained is not entitled to relief. The
26 respondent must make a return within three days unless the Court allows additional time for good
27 cause.
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1 13. This Petition challenges present custody and the procedures that render that custody unlawful;
2 it does not seek direct appellate review of any removal order. To the extent Respondents invoke
3 jurisdictional bars, those bars do not foreclose habeas review of constitutional custody claims,
4 procedural due process claims, and relief necessary to preserve the Court's jurisdiction over the
5 detained person.

6 14. The Court may grant declaratory and injunctive relief ancillary to habeas where necessary to
7 ensure that the remedy is meaningful. *Nken v. Holder*, 556 U.S. 418, 426-27 (2009); *Leiva-Perez v.*
8 *Holder*, 640 F.3d 962, 966-68 (9th Cir. 2011).
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10 VENUE

11 15. Venue is proper in this District because Mr. Trandin is detained at the Otay Mesa Detention
12 Center in San Diego, California, within the Southern District of California. *Doe v. Garland*, 109 F.4th
13 1188, 1197-99 (9th Cir. 2024).
14

15 16. Respondents exercise custody and control over Petitioner in this District, and the immigration-
16 court proceedings and fear review occurred at 7488 Calzada de la Fuente, San Diego/Otay Mesa,
17 California.

18 CUSTODY AND THE REQUIREMENTS OF 28 U.S.C. §§ 2241, 2242, AND 2243

19 17. Petitioner is in custody for purposes of 28 U.S.C. § 2241 because Respondents and their agents
20 physically confine him at the Otay Mesa Detention Center and exercise legal custody over him
21 through ICE and DHS.
22

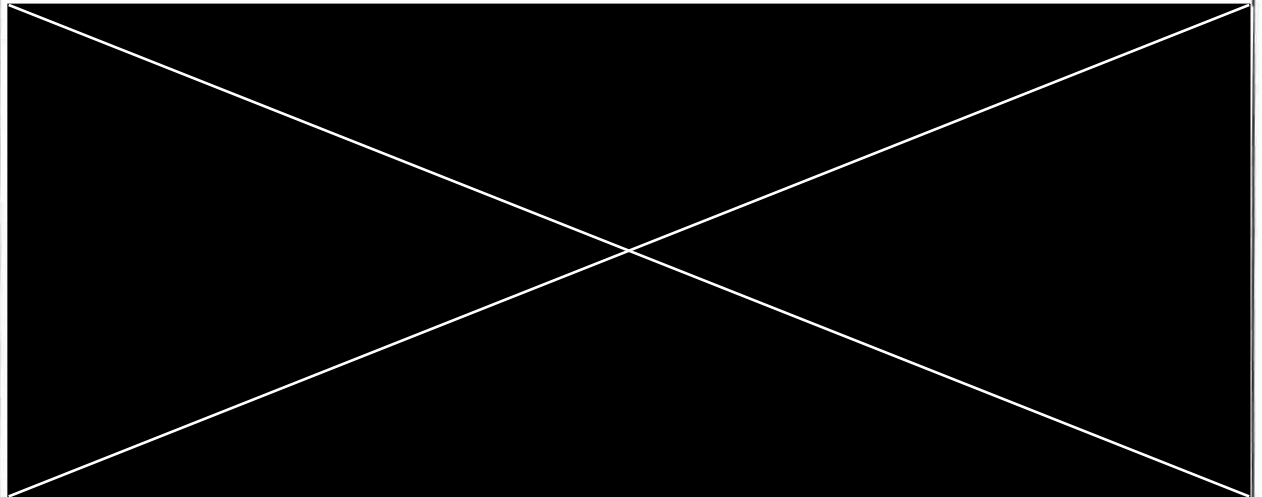
23 18. Section 2242 requires an application to allege the facts concerning the detention, the
24 custodian, and the claimed authority for custody. This Petition identifies the custodians and alleges
25 the facts and legal grounds demonstrating that Petitioner's detention and the consequences of
26 imminent removal are unlawful.
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1 19. Section 2243 requires expeditious treatment. The Court should issue the writ or an order to
2 show cause forthwith and require Respondents to certify the true cause of detention within three days,
3 or within such shorter period as the Court deems appropriate given the imminent risk of removal
4 following the negative fear determination.

5
6 **STATEMENT OF FACTS**

7 20. Petitioner Ian TRANDIN was born [REDACTED] in Russia. He is thirty-two years old,
8 male, and a native Russian speaker. By profession, he is a mining engineer.

9 21. Mr. Trandin's fear of return is rooted in his political activity. In Russia, he openly opposed the
10 government: he participated in pickets and published statements criticizing the Russian authorities
11 and, in particular, the mayor of his city.



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19 24. Mr. Trandin first entered the United States in or about 2023 and resided here for approximately
20 a year and a half. He was placed in removal proceedings and was granted voluntary departure in June
21 2024. The immigration court's records reflect a prior immigration matter associated with a September
22 3, 2024 date.

23
24
25 25. Mr. Trandin twice applied for a United States visitor visa; both applications were denied.

26 26. Mr. Trandin later returned to the United States, entering on or about May 5, 2026 near San
27 Diego, California, because he continued to fear persecution and torture in Russia.
28

1 27. DHS apprehended and detained Mr. Trandin on or about May 12, 2026, and placed him at the
2 Otay Mesa Detention Center, where he remains.

3 28. Because Mr. Trandin expressed fear of persecution and torture in Russia, the Government
4 referred him for fear screening. To the extent DHS treats his case as arising from a reinstated prior
5 order under INA § 241(a)(5), the applicable screening is reasonable fear under 8 C.F.R. § 208.31; to
6 the extent the case proceeds as an initial determination, the applicable screening is credible fear under
7 8 C.F.R. § 208.30. Under either framework the same core guarantees attach: a non-adversarial
8 interview, competent interpretation, a fair record, and reasoned consideration of the protected-ground
9 and CAT evidence.
10

11 29. USCIS issued a negative fear determination. The determination treated Mr. Trandin's claim
12 as generalized rather than as a political-opinion claim, and it did not meaningfully analyze the
13 pretextual prosecution, the additional incidents of harm he described, or the country-conditions
14 evidence bearing on political persecution and torture in Russia.
15

16 30. Mr. Trandin requested Immigration Judge review of the negative determination. An in-person
17 review was held on May 26, 2026 at 7488 Calzada de la Fuente, San Diego/Otay Mesa, California,
18 before Immigration Judge Mark Sameit, who affirmed the negative finding.

19 31. Before and during that proceeding, Mr. Trandin asked for additional time to obtain counsel
20 and to obtain critical evidence that detention authorities (CoreCivic and ICE) had withheld. Despite
21 indications that the matter should be continued so that he could secure representation, the proceeding
22 went forward on May 26, 2026.
23

24 32. Mr. Trandin did not receive the withheld materials until June 10, 2026 — after the hearing
25 had concluded — depriving him of a meaningful opportunity to present his claim. The screening also
26 relied on initial interviews that contained significant Russian-language translation errors and
27 omissions, producing an incomplete and inaccurate record.
28

1 33. Mr. Trandin testified to incidents of persecution in 2025 and 2026. Those incidents were
2 dismissed without adequate consideration of the cumulative harm he had suffered or its connection
3 to his political opinion.

4 34. The proceeding also failed to weigh significant humanitarian factors, including the
5 precancerous medical condition of Mr. Trandin's wife and the welfare of their three children.

6 35. Through counsel, Mr. Trandin has pursued every avenue available to him, including a
7 protective notice of appeal and an urgent request that USCIS reconsider the negative determination
8 and conduct a new fear interview with competent Russian interpretation. No adequate administrative
9 remedy exists.
10

11 36. As of this filing, Mr. Trandin remains detained at the Otay Mesa Detention Center. He poses
12 no danger to the community and has every incentive to appear, because his only protection from
13 return to Russia depends on pursuing his claims.
14

15 PARTIES

16 37. Petitioner Ian TRANDIN is a detained noncitizen in ICE custody at the Otay Mesa Detention
17 Center in San Diego, California. He is named in his individual capacity as the person detained and
18 seeking habeas relief.

19 38. Respondent Christopher J. LaRose is the Senior Warden of the Otay Mesa Detention Center,
20 the facility where Petitioner is detained. He is a custodian of Petitioner and is named in his official
21 capacity.
22

23 39. Respondent Patrick Divver is the ICE Field Office Director for the San Diego Field Office.
24 He exercises authority over ICE detention, custody, transfer, and removal operations affecting
25 Petitioner and is named in his official capacity.
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1 40. Respondent Todd M. Lyons is the Senior Official Performing the Duties of Director of U.S.
2 Immigration and Customs Enforcement. He exercises authority over ICE and its detention and
3 removal operations and is named in his official capacity.

4 41. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland
5 Security. He exercises authority over DHS components, including ICE and USCIS, and is named in
6 his official capacity.

7 42. Respondents collectively hold Petitioner in custody, control his detention and transfer, and
8 control the removal consequences that will follow if the defective fear process is allowed to become
9 the basis for removal.
10

11 **EXHAUSTION AND JUSTICIABILITY**

12 43. Petitioner has exhausted the administrative steps available to him to the extent practicable. He
13 expressed fear of return, underwent fear screening, requested Immigration Judge review of the
14 negative determination, and, through counsel, sought urgent reconsideration and a re-interview with
15 competent Russian interpretation.
16

17 44. No adequate administrative remedy exists to address the unlawful detention and imminent
18 removal consequences at issue here. If the Immigration Judge concurs in the negative finding, the
19 regulations provide no administrative appeal, and the matter is returned to DHS for removal. 8 C.F.R.
20 § 1208.30(g)(2)(iv)(A); see also 8 C.F.R. § 1208.31(g).

21 45. Judicial intervention is necessary now because the injury is imminent, the custody is ongoing,
22 and removal would defeat meaningful habeas review. The All Writs Act authorizes orders necessary
23 or appropriate in aid of this Court's jurisdiction. 28 U.S.C. § 1651(a).
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LEGAL ARGUMENT

I. Habeas Relief and an Order to Show Cause Are Required Forthwith.

46. The habeas statute requires this Court to act swiftly. Section 2243 provides that a court entertaining a habeas application shall forthwith award the writ or issue an order to show cause unless the petition itself shows that the detained person is not entitled to relief.

47. Courts have long recognized that habeas is a prompt and imperative remedy against unlawful restraint. *Fay v. Noia*, 372 U.S. 391, 400 (1963). The Ninth Circuit has likewise emphasized that habeas proceedings require expeditious determination. *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000).

48. Petitioner remains in custody and faces imminent removal consequences following a negative fear determination issued after a proceeding that denied him counsel, withheld evidence until after the hearing, relied on flawed interpretation, and never analyzed his political-opinion claim. The Court should order Respondents to show cause within three days and preserve Petitioner's presence in this District.

II. Due Process Requires a Meaningful Opportunity to Be Heard Before Civil Detention and Removal Consequences Become Irreversible.

49. Noncitizens within the United States are persons protected by the Due Process Clause of the Fifth Amendment. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003).

50. Freedom from physical restraint lies at the heart of the liberty protected by due process. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Even civil immigration detention must be reasonably related to legitimate purposes and accompanied by adequate procedural protections.

51. The procedural due process analysis balances (1) the private interest affected; (2) the risk of erroneous deprivation and the value of additional safeguards; and (3) the government's interest. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

1 52. Each *Mathews* factor favors Petitioner. His private interests are extraordinary: physical
2 liberty, family unity, and protection from removal to a country where he credibly fears persecution
3 and torture for his political opinion.

4 53. The risk of error here is acute. The proceeding was conducted in detention, without counsel
5 after Petitioner requested counsel, on a record from which critical evidence had been withheld until
6 after the hearing, through interpretation marred by significant translation errors, and without any
7 analysis of the political-opinion nexus or the country-conditions evidence.
8

9 54. The additional safeguards are modest and valuable: access to counsel, a reasonable
10 opportunity to obtain and present the withheld evidence, competent Russian interpretation, review of
11 the summary in Russian with meaningful corrections, a corrected fear interview or review, and an
12 individualized custody assessment.

13 55. The government's legitimate interests are not undermined by fair procedures. The government
14 has no legitimate interest in detaining a person through an unreliable process or in removing him
15 before this Court can determine whether the custody and its removal consequences are lawful.
16

17 **III. The Fear Regulations Require a Non-Adversarial, Meaningful, and Fair Interview With**
18 **Competent Interpretation.**

19 56. The regulations require the asylum officer to conduct the fear interview in a non-adversarial
20 manner, to ensure that the applicant understands the process, to permit representation at no expense
21 to the Government, and to elicit all relevant and useful information bearing on persecution and torture.
22 8 C.F.R. § 208.30(d); 8 C.F.R. § 208.31(c).

23 57. When the applicant cannot proceed effectively in English, the officer must provide competent
24 interpretation. The officer must also create a summary of the material facts, review it with the
25 applicant, and provide an opportunity to correct errors. 8 C.F.R. § 208.30(d).

26 58. A credible fear of persecution exists where there is a significant possibility that the applicant
27 can establish eligibility for asylum or withholding; a credible fear of torture exists where there is a
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1 significant possibility of eligibility for CAT protection. 8 C.F.R. § 208.30(e)(2)-(3). In the reasonable-
2 fear context, the standard is a reasonable possibility of persecution or torture. 8 C.F.R. § 208.31(c).

3 59. Upon a negative determination, the applicant may request de novo Immigration Judge review.
4 8 C.F.R. § 1208.30(g); 8 C.F.R. § 1208.31(g). But if the Immigration Judge concurs, the case is
5 returned to DHS for removal and no administrative appeal lies. That finality makes a fair screening
6 record and fair review essential.

7
8 60. The record here falls far short. The officer treated a political-opinion claim as generalized
9 fear; ignored [REDACTED] disregarded the incidents
10 of harm in 2025 and 2026; and rested on interpretation and a summary that Petitioner had no fair
11 opportunity to correct in Russian.

12
13 **IV. The Negative Nexus Analysis Was Arbitrary Because Persecution on Account of Political
Opinion Is a Protected Ground.**

14 61. Persecution on account of political opinion is a core protected ground. An applicant
15 establishes nexus by showing that a protected ground — including his actual or imputed political
16 opinion — was or would be a reason for the harm. *INS v. Elias-Zacarias*, 502 U.S. 478, 481-83
17 (1992).

18 62. Mr. Trandin's claim is paradigmatically political. He publicly criticized the Russian
19 government and the mayor of his city, and the State responded with [REDACTED]

20 [REDACTED]
21 [REDACTED] Where a government prosecutes a person [REDACTED]
22 because of his political activity, the persecution is on account of political opinion.

23 63. The Ninth Circuit has long recognized that opposition to government corruption and the
24 exposure of official wrongdoing can constitute political opinion. *Grava v. INS*, 205 F.3d 1177, 1181
25 (9th Cir. 2000). Mr. Trandin's public criticism of the mayor, [REDACTED]

26 [REDACTED]
27 [REDACTED] falls squarely within that principle.
28

1 64. The political opinion the State acted upon may also be imputed. Authorities who treat a critic
2 as an enemy of the State persecute him on account of the opinion they attribute to him. *Sangha v. INS*,
3 103 F.3d 1482, 1488-90 (9th Cir. 1997).

4 65. The officer's contrary analysis misunderstands mixed-motive nexus. Persecution can be on
5 account of a protected ground even when other motives are also present. *Navas v. INS*, 217 F.3d 646,
6 656-57 (9th Cir. 2000); *Parada v. Sessions*, 902 F.3d 901, 910-11 (9th Cir. 2018).

7 66. At the screening stage Mr. Trandin need not establish the ultimate merits or the final
8 formulation of every theory; the question is whether the credible facts present a significant or
9 reasonable possibility of eligibility. The political-opinion claim plainly does, and it was never
10 meaningfully analyzed.

11 67. The record also supports development of additional protected-ground theories — including
12 membership in a particular social group defined by his immediate family and his status as a returning
13 long-term resident — but the political-opinion nexus alone required a corrected and reasoned
14 screening.
15

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17 **V. The Negative CAT Analysis Was Arbitrary Because It Ignored State Action, Willful**
18 **Blindness, Futility of Reporting, and Country Conditions.**

19 68. CAT protection does not require nexus to a protected ground. It requires assessment of
20 whether the applicant faces a sufficient risk of torture by or with the consent or acquiescence of a
21 public official or other person acting in an official capacity, and at the screening stage whether that
22 risk presents a significant or reasonable possibility.

23 69. Government acquiescence includes willful blindness. *Zheng v. Ashcroft*, 332 F.3d 1186, 1194-
24 97 (9th Cir. 2003); *Reyes-Reyes v. Ashcroft*, 384 F.3d 782, 787-88 (9th Cir. 2004); *Cole v. Holder*,
25 659 F.3d 762, 771 (9th Cir. 2011).

26 70. A person need not report harm to the authorities where the authorities are themselves the
27 source of the harm or where reporting would be futile or dangerous. *Ornelas-Chavez v. Gonzales*,
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1 458 F.3d 1052, 1058-59 (9th Cir. 2006); *Bringas-Rodriguez v. Sessions*, 850 F.3d 1051, 1069-72 (9th
2 Cir. 2017).

3 71. Here, the torturer and the protector are one and the same. [REDACTED]

4 [REDACTED] Reporting state
5 persecution to the State is the paradigm of futility, and the facts directly establish official action and
6 acquiescence rather than mere private harm.

7 72. Country conditions corroborate the risk. Russia is widely documented as criminalizing
8 peaceful dissent, prosecuting government critics and opposition figures on pretextual charges, and
9 subjecting detainees to torture and ill-treatment with pervasive impunity. Freedom House rates Russia
10 Not Free and describes severe repression of political opposition, civil society, and independent media;
11 Human Rights Watch and Amnesty International document politically motivated prosecutions, torture
12 in custody, and the absence of effective state protection. These conditions bear directly on the well-
13 founded fear, the political-opinion nexus, and CAT acquiescence, and they should have been
14 considered.
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16

17 **VI. The Right to Counsel and the Request for Counsel Were Not Meaningfully Honored.**

18 73. Noncitizens have a statutory and regulatory right to counsel at no expense to the Government
19 in immigration proceedings and related screening settings where the regulations provide for
20 representation. 8 U.S.C. § 1362; 8 C.F.R. § 208.30(d); 8 C.F.R. § 208.31(c).

21 74. The Ninth Circuit has emphasized that the right to counsel in immigration proceedings is a
22 critical component of due process. *Biwot v. Gonzales*, 403 F.3d 1094, 1098-99 (9th Cir. 2005);
23 *Castro-O'Ryan v. INS*, 847 F.2d 1307, 1312-13 (9th Cir. 1987).

24 75. A denial of the right to counsel can be structural and does not require the same showing of
25 prejudice as an ordinary procedural error. *Montes-Lopez v. Holder*, 694 F.3d 1085, 1091-93 (9th Cir.
26 2012).
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1 76. Mr. Trandin asked for additional time to obtain counsel and to obtain the evidence withheld
2 by detention authorities. Rather than ensuring a meaningful opportunity to be represented, the
3 proceeding went forward without counsel on May 26, 2026.

4 77. The predictable result followed: no representative identified or developed the political-opinion
5 claim, explained mixed-motive nexus, marshaled the country-conditions evidence, or presented the
6 withheld materials and the corrected interpretation. This is precisely the harm that counsel safeguards
7 against, and it warrants a stay, an order to show cause, and a corrected process.
8

9 **VII. Petitioner's Continued Detention Is Arbitrary Without an Individualized Custody**
10 **Determination.**

11 78. Immigration detention is civil, not punitive. It is permissible only when reasonably related to
12 legitimate purposes such as preventing flight or protecting the community. *Zadvydas v. Davis*, 533
13 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 528 (2003).

14 79. Mr. Trandin has a powerful incentive to appear, because his only protection from return to
15 Russia depends on pursuing his claims, and he has family who depend on him. The record contains
16 no individualized, evidence-based finding that he is dangerous or a flight risk that cannot be addressed
17 through reasonable conditions.

18 80. A bond or custody redetermination hearing would impose minimal burden and significantly
19 reduce the risk of an erroneous deprivation of liberty. *Singh v. Holder*, 638 F.3d 1196, 1203-05 (9th
20 Cir. 2011); *Casas-Castrillon v. DHS*, 535 F.3d 942, 950-52 (9th Cir. 2008).

21 81. Even if Respondents invoke post-order detention authority, due process still requires detention
22 to be non-arbitrary and reasonably related to legitimate purposes. *Zadvydas v. Davis*, 533 U.S. 678,
23 699-701 (2001); *Clark v. Martinez*, 543 U.S. 371, 386 (2005).
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VIII. A Temporary Restraining Order Staying Removal and Transfer Is Necessary to Preserve Jurisdiction and Prevent Irreparable Harm.

82. A stay is warranted where the moving party shows serious legal questions, irreparable harm, a favorable balance of equities, and a public interest in lawful procedures. *Nken v. Holder*, 556 U.S. 418, 426, 434 (2009); *Leiva-Perez v. Holder*, 640 F.3d 962, 966-68 (9th Cir. 2011).

83. Petitioner raises serious legal questions concerning due process, the right to counsel, the fear regulations, the political-opinion nexus, CAT acquiescence, and the legality of detention based on a defective process.

84. The irreparable harm is immediate and absolute. If the negative finding is treated as final, no administrative appeal lies, and DHS may remove Petitioner to Russia — where he credibly fears persecution and torture — before this Court can adjudicate the legality of his custody and the process that produced it.

85. The equities favor a stay. Petitioner seeks only preservation of the status quo, access to counsel and evidence, a fair process, and an individualized custody determination. Respondents suffer no cognizable harm from complying with constitutional and regulatory safeguards.

86. The public interest favors fair immigration procedures, accurate fear determinations, lawful detention, and protection against return to persecution or torture. The public has no interest in removal based on a materially incomplete and unreliable record.

CAUSES OF ACTION

COUNT ONE

Violation of the Fifth Amendment Right to Procedural Due Process — Uncounseled and Defective Fear Process

87. Petitioner realleges and incorporates by reference each preceding paragraph.

88. The Fifth Amendment prohibits Respondents from depriving Petitioner of liberty without due process of law.

89. Petitioner had a protected liberty interest in fair procedures before his detention and imminent removal consequences became tied to a negative fear determination.

1 90. Respondents violated due process by proceeding with the May 26, 2026 fear review without
2 counsel after Petitioner asked for time to obtain counsel; by withholding critical evidence until June
3 10, 2026, after the hearing concluded; and by relying on interpretation and a summary marred by
4 significant translation errors that Petitioner had no fair opportunity to correct in Russian.

5 91. Respondents further violated due process by failing to elicit, develop, and fairly analyze the
6 material facts concerning Petitioner's political opinion, the pretextual prosecution, mixed-motive
7 nexus, official action and acquiescence, and the country-conditions evidence.

8 92. The deprivation is ongoing because Petitioner remains detained and faces imminent removal
9 based on the defective process.
10

11 **COUNT TWO**

12 **Violation of the Administrative Procedure Act and 8 C.F.R. §§ 208.30 and 1208.30 (and §§**
13 **208.31 and 1208.31)**

14 93. Petitioner realleges and incorporates by reference each preceding paragraph.

15 94. Under the APA, a court shall hold unlawful and set aside agency action that is arbitrary,
16 capricious, an abuse of discretion, not in accordance with law, contrary to constitutional right, in
17 excess of statutory authority, or without observance of procedure required by law. 5 U.S.C. §
18 706(2)(A)-(D).

19 95. Respondents and their agents failed to comply with the governing regulations, which require
20 a non-adversarial interview, a meaningful understanding of the process, an opportunity for
21 representation, competent interpretation, a material-facts summary, and an opportunity to correct
22 errors. 8 C.F.R. § 208.30(d); 8 C.F.R. § 208.31(c).

23 96. The negative determination was arbitrary and capricious because it failed to consider
24 important aspects of the problem, including political opinion as a protected ground, the pretextual
25 prosecution, mixed motive, futility of reporting, and official acquiescence. *Motor Vehicle Mfrs. Ass'n*
26 *of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).
27
28

1 97. The agency's decision lacked a rational connection between the facts found and the choice
2 made. *Dep't of Com. v. New York*, 588 U.S. 752, 773 (2019).

3 98. The Court should declare the process unlawful and order appropriate habeas and equitable
4 relief, including a corrected process and preservation of Petitioner's presence in this District.
5

6 **COUNT THREE**
7 **Violation of Fifth Amendment Substantive and Procedural Due Process — Arbitrary Civil**
8 **Detention**

9 99. Petitioner realleges and incorporates by reference each preceding paragraph.

10 100. Civil detention must be reasonably related to legitimate governmental purposes and must not
11 be arbitrary or punitive. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

12 101. Respondents detain Petitioner without a meaningful individualized determination that he
13 presents a danger or a flight risk that cannot be addressed through reasonable conditions.

14 102. Petitioner has every incentive to appear and has family who depend on him. Detention under
15 these circumstances, especially when tethered to a flawed fear process, violates due process.

16 103. The Court should order release or, at a minimum, a constitutionally adequate custody hearing
17 at which Respondents bear the burden of justifying continued detention by clear and convincing
18 evidence.

19 **COUNT FOUR**
20 **Violation of Due Process and Non-Refoulement Principles — Failure to Fairly Assess Asylum,**
21 **Withholding, and CAT Risk**

22 104. Petitioner realleges and incorporates by reference each preceding paragraph.

23 105. The United States may not remove a person to a country where he is more likely than not to
24 face persecution on account of a protected ground or torture with official consent or acquiescence.
25 INA § 241(b)(3); 8 C.F.R. §§ 1208.16 and 1208.17.

26 106. The fear-screening process exists to prevent unlawful return by screening for protection
27 claims. A defective screening process creates an unacceptable risk of refoulement.
28

1 107. Respondents violated due process by allowing a negative determination to issue without a
2 legally adequate analysis of political-opinion nexus, official action and acquiescence, and the
3 documented risk of torture in Russia.

4 108. The Court should stay removal and require Respondents to provide a meaningful process
5 before any return to Russia.

6
7 **COUNT FIVE**

8 **Suspension Clause and All Writs Act — Preservation of Habeas Jurisdiction**

9 109. Petitioner realleges and incorporates by reference each preceding paragraph.

10 110. The Suspension Clause protects the availability of habeas corpus as a meaningful remedy
11 against unlawful executive detention. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008).

12 111. If Respondents remove or transfer Petitioner before this Court adjudicates the legality of his
13 custody and the process, habeas relief may become ineffective or impossible.

14 112. The All Writs Act authorizes the Court to issue orders necessary or appropriate in aid of its
15 jurisdiction, including a temporary stay of removal and transfer. 28 U.S.C. § 1651(a).

16 113. The Court should prohibit transfer outside this District and removal from the United States
17 absent further order of the Court.

18
19 **COUNT SIX**

20 **A TRO staying removal and transfer is necessary to prevent irreparable harm and preserve jurisdiction.**

21 114. Petitioner is likely to succeed, or at minimum raises serious questions, on her *Zadvydas*, due
22 process, APA, and regulatory claims. Irreparable harm is immediate. Loss of physical liberty is
23 irreparable. Transfer would impair counsel access and evidence gathering. Removal would likely
24 defeat meaningful habeas review and deprive this Court of the ability to decide whether detention is
25 lawful before the consequences become irreversible.

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1 115. The balance of equities favors Petitioner. He seeks only preservation of the status quo, a
2 lawful custody review, and release or supervision under reasonable conditions. Respondents suffer
3 no cognizable harm from being required to comply with the Constitution and governing regulations.

4 116. The public interest favors lawful immigration enforcement, individualized custody
5 decisions, accurate post-order review, preservation of habeas jurisdiction, and release under
6 reasonable conditions when detention is not legally necessary.

7 117. The Court should therefore stay removal, prohibit transfer outside the District or to a location
8 that frustrates counsel's access, absent advance notice and Court approval, and require Respondents
9 to show cause within three days.
10

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Petitioner respectfully requests that this Court:

- 13 (1) Assume jurisdiction over this matter;
14
15 (2) Issue an Order to Show Cause requiring Respondents to show cause within three days why
16 the writ should not be granted;
17
18 (3) Issue a temporary restraining order staying Petitioner's removal from the United States
19 pending resolution of this habeas action and any related emergency motions;
20
21 (4) Prohibit Respondents from transferring Petitioner outside the Southern District of California
22 without advance notice to Petitioner and leave of Court;
23
24 (5) Declare that Petitioner's detention and the defective fear process violate the Fifth Amendment,
25 the governing fear regulations, and the Administrative Procedure Act;
26
27 (6) Order Respondents to release Petitioner from custody under reasonable conditions of
28 supervision;

1 (7) In the alternative, order Respondents to provide a prompt individualized custody hearing
2 before a neutral adjudicator, with the Government bearing the burden of proving by clear and
3 convincing evidence that continued detention is necessary;

4 (8) Grant such other and further relief as the Court deems just, equitable, and proper.
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6 Respectfully Submitted,

7 //s// Mario Portugal
8 Attorney for Petitioner Ian TRANDIN
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