

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
Western Division**

CASE NO. _____

MEDET BAKYT, PETITIONER
705 Hanover Street
Hamilton, OH 45011

vs.

KRISTI NOEM, SECRETARY
DEPARTMENT OF HOMELAND SECURITY
c/o Office of the General Counsel
2707 Martin Luther King Jr. Ave SE,
Washington, DC 20528-0485

And
PAM BONDI
U. S. ATTORNEY GENERAL
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

RESPONDENTS
IN THEIR OFFICIAL CAPACITIES

**PETITION FOR A WRIT OF HABEAS CORPUS & A JUDICIAL ORDER FOR
RELEASE FROM DETENTION BY THE UNITED STATES DEPARTMENT OF
HOMELAND SECURITY**

Comes now Medet Bakyt, by and through counsel, and states that he is currently detained by the Secretary of the U. S. Department of Homeland Security (hereinafter DHS) at the Butler County Jail, 705 Hanover Street, Hamilton Ohio 45011. Accordingly, he petitions this Honorable Court for a writ of *habeas corpus* and for a judicial order favoring his release from detention by the Immigration and Customs Enforcement of the U S

Department of Homeland Security. *Boumediene v. Bush*, 553 U.S. 723 (2008). This case arises under the Constitution of the United States and statutes of the United States. The petitioner alleges as follows:

I. JURISDICTION

1. That jurisdiction of this Honorable Court is vested by reason of 28 U.S.C. Sections 2241 *et seq* and the Suspension (Habeas Corpus) Clause, Article I Section 9 Clause 2 of the United States Constitution, and 8 U. S. C. 1252(g) *notwithstanding* because this petition challenges the right of the Secretary of Homeland Security to detain him unlawfully when he is lawfully present in the United States at the time of his detention and continuing to this time.
2. That this Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651.
3. That jurisdiction is also conferred by reason that there exists a federal question as the petitioner is being unlawfully detained by a federal agency under provisions of the Immigration and Nationality Act, *as amended*, and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (hereinafter USA PATRIOT ACT) Act of 2001, and that such unlawful detention violates the United States Constitution, in particular the Fourth Fifth, and Eighth Amendments to the United States Constitution and the applicable provisions of the Immigration and Nationality Act, *as amended*.
4. That petitioner has been detained by the Secretary since June 27, 2025 and continuing to this time.

II. PARTIES

5. Petitioner is a citizen of Kazakhstan whose address at the time of his detention is



6. Kristi Noem in her official capacity is the Secretary of the U. S. Department of Homeland Security.

7. Pam Bondi in her official capacity is the Attorney General of the United States.

III. FACTS

8. Petitioner's A Number is



9. Petitioner first arrived in the USA on or about August 24, 2024.

10. Petitioner was initially detained by Customs and Border Protection, DHS and was issued a Notice to Appear (DHS Form I-862) which notified him to appear for removal proceedings in U. S. immigration court in Cleveland, Ohio on December 14, 2025 at 2:00 PM, whereupon he was released into the United States. Please see Exhibit A for

copy of NTA.

11. Petitioner's NTA has never been docketed by any U. S. immigration court.

12. Petitioner affirmatively filed an Application for Asylum USCIS Form I-589 on May 27, 2025 with US Citizenship and Immigration Services (USCIS), an agency within DHS. See Exhibit B for a copy of the USCIS Receipt of the I-589 (Form I-797C). See Exhibit C for a copy of the I-589.

13. Upon filing of said I-589 with USCIS and for the reason that the his NTA has never been docketed in any U. S. immigration court, jurisdiction over the I-589 is properly vested with USCIS and his application for asylum was timely and properly filed and pending with USCIS.

14. At this juncture, Petitioner cannot be lawfully removed from the USA until his lawfully filed application for asylum I-589 is adjudicated by a USCIS asylum officer.

15. Petitioner was lawfully residing in Cincinnati Ohio when he presented himself to Immigration and Customs Enforcement (ICE) an agency of DHS on June 27, 2025 pursuant to the advice of Petitioner's former immigration attorney.

16. At the time Petitioner was detained by ICE, no explanation for his detention was given to him

17. Petitioner has since been transported to and is currently unlawfully detained at the Butler County Jail.

18. The failure of the U. S. immigration court in Cleveland, Ohio to docket the NTA does not render Petitioner subject to detention by ICE DHS and certainly does not give rise to a final order of removal.

IV. FOURTH AMENDMENT VIOLATED

19. The unlawful detention of Petitioner arises to unconstitutional seizure of his person under the Fourth Amendment to the United States Constitution.

V. FIFTH AMENDMENT VIOLATED

20. The unlawful detention of Petitioner arises to unconstitutional deprivation of liberty under the Due Procass Clause of the Fifth Amendment to the United States Constitution.

VI. EIGHT H AMENDMENT VIOLATED

21. The unlawful detention of Petitioner, arises to unreasonable punishment that is cruel and unusual and which violates Eighth Amendment to the United States Constitution.

VII. LOPER BRIGHT VIOLATED

22. Any immigration statute that Respondents may purport to interpret as authorizing the detention of Petitioner violates *Loper Bright Enterprises v. Raimondo* 603 U.S. 369, 144 S. Ct. 2244 (2024).

PRAYER FOR RELIEF

WHEREFORE, your Petitioner Medet Bakyt respectfully prays that this Honorable Court issue a Writ of *Habeas Corpus* pursuant to 28 U.S.C. Section 2241 and to issue a judicial order commanding the person of your petitioner be brought before this Honorable Court, together with the complete administrative record to be ordered delivered to this court with his person. Further upon return of the writ, Petitioner prays for an Order of Release from unlawful detention if necessary after further discovery and hearing on the complete evidence. Petitioner also prays for all emergency relief at equity and at law Court deems appropriate for the protection of the constitutional and statutory rights of the Petitioner.

Respectfully submitted,

s// Charleston C K Wang
Charleston C. K. Wang
Trial Attorney for Petitioner
The Wanglaw Building
6924 Plainfield Road
Cincinnati OH 45236
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Exhibit List

- A NTA to immigration court Cleveland Ohio.
- B USCIS Receipt of the I-589 (Form I-797C)
- C I-589 filed affirmatively with USCIS

PRAECIPE

To the Clerk of Court:

Please serve the Respondent as follows:

Kristi Noem Secretary of Homeland Security
c/o Office of the General Counsel
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave SE,
Washington, DC 20528-0485

and

Pam Bondi United States Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

And

The U S Attorney
U.S. Attorney's Office
221 E. Fourth Street, Suite 400
Cincinnati, OH 45202

Respectfully submitted,

s// Charleston C K Wang
Charleston C. K. Wang
Trial Attorney for Petitioner