UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SOSLAN PLIEV, Petitioner, v. KEVIN RAYCRAFT, Detroit Field Office Director, Immigration and Customs Enforcement and Removal Operations; KIMBERLY BALL, Warden of the North Lake Processing Center in Baldwin, Michigan; TODD LYONS, Acting Director of Immigration Customs Enforcement; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; KRISTI NOEM, Secretary of the Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; and PAMELA BONDI, Attorney General of the United States, Respondents.	Case No. _____ Agency No. A[redacted] **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241** ORAL ARGUMENT WAIVED Expedited Hearing Requested

INTRODUCTION

1. This case challenges the unlawful detention of Soslan Pliev ("Petitioner"), who is currently in the custody of Immigration and Customs Enforcement ("ICE") at North Lake Correctional Facility located at 1805 West 32nd Street in Baldwin, Michigan.

2. On January 14, 2024, Petitioner entered the United States at or near Tecate, California as an arriving alien to seek for asylum. Exhibit A, Notice to Appear.

3. On January 15, 2024, a watch commander of CBP in San Diego, California, issued a Notice to Appear (NTA) for Petitioner to appear before an Immigration Judge of the United States at 55 East Monroe, Suite 1500 in Chicago, Illinois on July 3, 2024, at 4:00 p.m. to show why he should not be removed from the United States. *Id.*

4. Since Petitioner was not detained at the time of NTA issuance, Customs Border and Patrol presumed him as neither a flight risk nor a danger to the community. *See* 8 CFR § 212.5.

5. Petitioner is currently in court removal proceedings on his asylum claim and he have an individual hearing scheduled before the Immigration Judge on March 11, 2026.

6. But on or about October 19, 2025, at approximately 9 a.m., during a document check-in at the truck stop on a gas station in Wheeling, Illinois, ICE detained Petitioner without notice or opportunity to be heard, despite his full compliance and absence of any criminal or behavioral concerns.

7. Respondents' actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution and the Immigration and Nationality Act and implementing regulations.

8. This Court should issue a writ of habeas corpus and determine that Petitioner is entitled to immediate release under reasonable conditions and pending further order of the Court.

9. In the alternative, this Court should order Petitioner's release unless he receives a bond hearing before a neutral arbiter where: (1) to justify his continued detention, the government bears the burden to establish by clear and convincing evidence that Petitioner is a danger or flight risk, even after consideration of alternatives to detention that could mitigate any risk his release would present; and (2) if the government cannot meet its burden, Petitioner must be ordered released on reasonable conditions, taking into account his ability to pay bond.

JURISDICTION & VENUE

10. This action arises under the Constitution of the United States and the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*

11. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the Constitution because this action is a habeas corpus petition and under 28 U.S.C. § 1331 because this action arises under federal law, including the Immigration and Nationality Act, 8 U.S.C. § 1101, *et seq.*, and Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*

12. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

13. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at North Lake Correctional Facility. Furthermore, a substantial part of the events or omissions giving rise to this action occurred and continued to occur at North Lake Correctional Facility in Baldwin, Michigan, within this division.

EXHAUSTION

14. Petitioner is not required to exhaust administrative remedies.

15. No applicable statute or rule requires administrative exhaustion here. *Gimenez Gonzalez v. Raycraft*, 2025 WL 3006185, at *2 (E.D.Mich., 2025); *see also Lopez-Campos v. Raycraft*, 2025 WL 2496379, at *4, —— F. Supp. 3d ——, —— (E.D. Mich. Aug. 29, 2025). Thus, whether to require exhaustion is within this Court's "sound judicial discretion." See *Shearson v. Holder*, 725 F.3d 588, 593–94 (6th Cir. 2013) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)).

16. Exhaustion for habeas claims is prudential, not jurisdictional. See *Laing v. Ashcroft*, 370 F.3d 994, 997 (9th Cir. 2004). The prudential exhaustion requirement may be waived if "'administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, [or] irreparable injury will result.'" *Id.* at 1000. Known as

prudential exhaustion, the court-made doctrine "must comport with the statutory scheme and congressional intent." *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *3 (E.D. Mich. Sept. 9, 2025) (citing *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 747 (6th Cir. 2019) and *Shearson*, 725 F.3d at 593-94).

17. "The Sixth Circuit has not decided whether courts should impose administrative exhaustion in the context of a noncitizen's habeas petition for unlawful mandatory detention." *Gimenez Gonzalez*, 2025 WL 3006185, at *2; *Pizarro Reyes*, 2025 WL 2609425, at *3. (citing *Hernandez v. U.S. Dep't of Homeland Sec.*, 2025 WL 2444114, at *8 (N.D. Ohio Aug. 25, 2025)).

18. However, this Court agreed with the majority of the district courts in this circuit and around the nation in deciding not to enforce an exhaustion of administrative remedies requirement for similar habeas corpus petitions. *Gimenez Gonzalez*, 2025 WL 3006185, at *3; *see also Casio-Mejia v. Raycraft*, 2025 WL 2976737, at *5 (E.D. Mich. Oct. 21, 2025).

19. Also, the Sixth Circuit has previously held that a due process challenge generally does not require exhaustion since the BIA lacks authority to review constitutional challenges. *See Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006); *accord Bangura v. Hansen*, 434 F.3d 487, 494 (6th Cir. 2006) ("exhaustion of administrative remedies may not be required in cases of nonfrivolous constitutional challenges to an agency's procedures.") (citation omitted); *Lopez-Campos*, 2025 WL 2496379, at *5.

20. Here, in light of the Board of Immigration Appeals' recent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), Petitioner is ultimately unlikely to obtain the bond hearing he seeks through the administrative process.

21. Since Petitioner is unlikely to obtain the relief he seeks through the administrative process, an application for bond determination to the Immigration Judge will not preclude but merely delay the need for judicial review.

22. Because administrative review in this instance would be futile, and because every additional day in unlawful detention presents a hardship for Petitioner, the Court should decline to impose an exhaustion requirement upon Petitioner and, thus, should address the merits of this petition.

PARTIES

23. Petitioner is a 23-year-old citizen of Russia who seeks protection in the United States after being persecuted by Russian authorities for his membership in particular social group of [redacted] He also seeks protection under the Convention Against Torture.

24. Prior to Petitioner's detention by the ICE on or about October 19, 2025, he was residing at 1653 Henley Ct in Wheeling, Illinois. Petitioner is currently detained at North Lake Correctional Facility in Baldwin, Michigan.

25. Respondent Kevin Raycraft is sued in his official capacity as ICE Field Office Director for Detroit, which includes North Lake Processing Center.

26. Respondent Kimberly Ball is sued in her official capacity as Warden of the North Lake Processing Center in Baldwin, Michigan, where Petitioner is currently detained.

27. Respondent Todd Lyons is sued in his official capacity as Acting Director of ICE.

28. Respondent U.S. Department of Homeland Security ("DHS") is a federal agency headquartered in Washington, D.C. and the parent agency of ICE.

29. Respondent ICE is a component agency of DHS.

30. Respondent Kristi Noem is sued in her official capacity as Secretary of DHS.

31. Respondent Pamela Bondi is sued in her official capacity as Attorney General of the United States.

GENERAL ALLEGATIONS

Background information

32. Petitioner was born on [redacted] in the city of Vladikavkaz, capital of North Ossetia–Alania, Russia. He is a citizen of Russia.

33. Petitioner's Alien Registration Number is A-[redacted] Exhibit A, Notice to Appear.

34. Petitioner entered the United States without inspection on January 14, 2024, at or near Tecate, California. *Id.*

35. On January 15, 2024, a watch commander of CBP in San Diego, California, issued a Notice to Appear (NTA) for Petitioner. *See* Exhibit A, Notice to Appear.

36. At the time when NTA was issued, Petitioner was not detained by CBP.

37. On March 12, 2024, Petitioner timely filed his Form I-589 application for asylum. Exhibit B, Form I-583. On January 7, 2025, Petitioner filed his amended Form I-589 application for asylum. Exhibit C, Amended Form I-583.

38. Petitioner sought asylum and as of today, his asylum application is pending before the Immigration Court in Chicago, Illinois. He has a scheduled individual hearing before the Immigration Judge on March 11, 2026.

39. Petitioner has no criminal history.

40. Petitioner was detained on or about October 19, 2025, at approximately 9 a.m., during a document check-in at the truck stop on a gas station in Wheeling, Illinois, ICE detained Petitioner without notice or opportunity to be heard, despite his full compliance and absence of any criminal or behavioral concerns.

41. Petitioner is currently held in custody of ICE at North Lake Correctional Facility located at 1805 West 32nd Street in Baldwin, Michigan.

LEGAL STANDARD

42. The Constitution guarantees that the writ of habeas corpus is "available to every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004)

(citing U.S. Const., Art I, § 9, cl. 2). Section 2241 of Title 28 confers the federal courts with the power to issue writs of habeas corpus to persons "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241. This includes challenges by non-citizens in immigration-related matters. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *see also A. A. R. P. v. Trump*, 145 S. Ct. 1364, 1367 (2025).

LEGAL ARGUMENT

Fifth Amendment Due Process

43. "The Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Id.* at 690 (2001).

44. Under substantive due process doctrine, a restraint on liberty like revocation of a non-citizen's order of supervision is only permissible if it serves a "legitimate nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has only recognized two legitimate objectives of immigration detention: preventing danger to the community or preventing flight prior to removal. *See Zadvydas v. Davis*, 533 U.S. 678, 690-92 (discussing constitutional limitations on civil detention).

45. "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty," like the decision to revoke a non-citizen's order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified). "The fundamental requirement of [procedural] due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.* at 333 (citation modified).

Petitioner Is Statutorily Entitled To A Bond Hearing

46. Under the general provisions of the INA, an "alien who arrives at a 'port of entry,' i.e., a place where an alien may lawfully enter, must apply for admission." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108, 140 S.Ct. 1959 (2020). Aliens who are detained trying to enter elsewhere are treated similarly. *Id.* (citing 8 U.S.C. §§ 1225(a)(1), (3)). However, "several classes of aliens are 'inadmissible' and therefore 'removable.'" *Id.* at 107-08, 140 S.Ct. 1959 (2020) (quoting 8 U.S.C. §§ 1182, 1229a(e)(2)(A)).

47. The removal process provides for an evidentiary hearing before an immigration judge, where the alien may challenge their removal, including applying for asylum. *Id.* (internal citations omitted). Should their challenge be rejected, the alien may appeal the removal order to the BIA and may also be entitled to review in a federal court of appeals. *Id.* While his removal proceedings are being litigated, the alien will generally be detained. *Id.* However, the classification of the alien determines whether that detention is mandatory or discretionary.

48. 8 U.S.C. §§ 1225(b)(2)(A) governs the expedited removal process and requires mandatory detention under its provisions, while § 1226 permits discretionary release from detention for certain aliens.

49. Section 1226, titled: "Apprehension and detention of aliens," provides for a discretionary detention framework, and states, in relevant part: an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the arrested alien may remain detained or may be released on bond. 8 U.S.C. § 1226(a).

50. Relevant here, noncitizens arrested and detained under Section 1226 have a right to request a custody redetermination (i.e., a bond hearing) before an Immigration Judge. *Santos Franco v. Raycraft*, 2025 WL 2977118, at *4 (E.D. Mich. Oct. 21, 2025) (citing 8 C.F.R. §§ 1236.1(c)(8), (d)(1)).

Petitioner Is Part of The Class Established in Bautista v. Santacruz, CV-25-01873-SSS-BFM, 2025 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025)

51. The Court in Bautista v. Santacruz certified the Bond Eligible Class, which is defined as follows:

> "All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination."
>
> 2025 WL 3713987, at *32 (C.D.Cal., 2025)

52. The Court concluded that "all members of the Bond Eligible Class are entitled to relief in the form of declaratory relief, which declares the DHS Policy unlawful, and grants vacatur under the APA, which sets aside the DHS Policy." *Id.*

CLAIMS FOR RELIEF

Count One

Violation of the Fifth Amendment of the U.S. Constitution Substantive Due Process

53. Petitioner realleges all paragraphs above as if fully set forth here.

54. When CBP did not detain Petitioner in January 2024, he was presumed as neither a danger to the community nor a flight risk.

55. Petitioner's asylum, withholding of removal, and protection under the Convention Against Torture application is under review before the Immigration Judge, and he has an individual hearing scheduled for March 11, 2026.

56. Given that it is not clear when Petition's asylum case will be decided, his detention violates Substantive Due Process of Fifth Amendment of the U.S. Constitution.

57. Further, Petitioner's detention does not bear a reasonable relationship to the two regulatory purposes of immigration detention: preventing danger to the community or flight prior to removal.

58. Because Respondents had no legitimate, non-punitive objective in Petitioner's detention, and there is no indication when the detention may possibly end, such detention violates substantive due process under the Fifth Amendment to the U.S. Constitution.

59. Thus, this habeas petition should be granted, and Respondents should be directed to release Petitioner.

Count Two
Petitioner should be treated as an alien detained under 8 U.S.C. §§ 1226(a), and thus, should be eligible for bond hearing

60. Petitioner realleges all paragraphs above as if fully set forth here.

61. Petitioner entered the United States in January 2024 and was not detained at the time of entry, neither he was detained at the time when CBP issued the NTA in January 2024.

62. Petitioner was detained on or about October 19, 2025, at approximately 9 a.m., during a document check-in at the truck stop on a gas station in Wheeling, Illinois, despite his full compliance and absence of any criminal or behavioral concerns.

63. Petitioner's asylum, withholding of removal, and protection under the Convention Against Torture application is under review before the Immigration Judge, and he has an individual hearing scheduled for March 11, 2026.

64. Thus, Petitioner is an alien detained under § 1226(a) and he should be entitled for bond hearing.

65. Nonetheless, the Michigan Immigration Court IJs have a policy and practice of applying § 1225(b)(2) to aliens like Petitioner.

66. The application of § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

67. Also, this Court previously agreed with the majority viewpoint in finding that §1226(a), not § 1225(b)(2), applies to noncitizens such as Petitioner and declined to adopt

BIA's reasoning from *Yajure Hurtado* that held § 1225(b)(2) applicable to noncitizens like Petitioner. *See Gimenez Gonzalez, 2025 WL 3006185, at *4.*

68. Thus, Petitioner is entitled to a discretionary bond determination hearing.

69. Since Petitioner has been detained without having received such a hearing, he is in federal custody in violation of federal law.

70. Thus, his habeas petition should be granted, and Respondents should be directed to provide Petitioner with a bond hearing under §1226(a) in a reasonable short time, or otherwise release him.

Count Three
Petitioner should be treated as an alien detained under 8 U.S.C. §§ 1226(a), and thus, should be eligible for bond hearing

71. Petitioner realleges all paragraphs above as if fully set forth here.

72. Petitioner entered the United States without inspection.

73. Petitioner were not apprehended upon arrival.

74. Petitioner are not subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security made an initial custody determination.

75. Thus, Petitioner is a class member of the Bond Eligible Class certified in *Bautista v. Santacruz*, CV-25-01873-SSS-BFM, 2025 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025).

76. Since Petitioner is the class member of the Bond Eligible Class, he is entitled to relief in the form of declaratory relief, which declares the DHS Policy unlawful, and grants vacatur under the APA, which sets aside the DHS Policy.

77. Therefore, Petitioner is an alien detained under § 1226(a) and he should be entitled for bond hearing.

78. Since Petitioner has been detained without having received such a hearing, he is in federal custody in violation of federal law.

79. Thus, his habeas petition should be granted, and Respondents should be directed to provide Petitioner with a bond hearing under §1226(a) in a reasonable short time, or otherwise release him.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

a. Exercise jurisdiction over this matter;

b. Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;

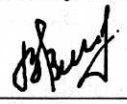
c. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA and implementing regulations;

d. Order Petitioner's immediate release, or, in alternative, order Respondents to provide Petitioner with a bond hearing under §1226(a) in a reasonable short time; and

e. Order such other relief as this Court may deem just and proper.

Dated: January 30th, 2026

Respectfully submitted,



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