Risko Law Group, PLLC
Sergey Risko, Esq.
227 West Street, Suite 2121
Brooklyn, NY 11222
(718)-757-7734
riskolawgroup@gmail.com

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JURABEK MUSINOV,

Petitioner,

v.

RAUL MALDONADO , the warden of Brooklyn Metropolitan Detention Center, , KRISTI NOEM, the Secretary of the Department of Homeland Security, TODD M. LYONS, the Acting Director of U.S. Immigration and Customs Enforcement (ICE), PAMELA BONDI, the Attorney General of the United States

Defendants

Civil Action No. 1:26-cv-00628

A# A220-356-526

PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner Jurabek Musinov ("Petitioner") is a citizen of Uzbekistan who has lived in the United States since December 2021. He seeks immediate release from the custody of the U.S. Department of Homeland Security ("DHS") and its component, U.S. Immigration and Customs Enforcement ("ICE"), because his arrest and continued detention are unlawful, unconstitutional, and unsupported by any individualized determination of necessity.
2. On October 31, 2025, Petitioner was detained by ICE officers after attending an asylum interview, and later was placed in removal proceedings. On December 17, 2025, an Immigration Judge denied relief and ordered him removed. Petitioner timely filed a notice of appeal. A briefing schedule has not yet been set by the BIA. His I-589 application and appeal are currently pending.
3. He was taken into custody without a warrant, without prior notice, without explanation, and without any individualized assessment of risk.

JURISDICTION

4. This action arises under the Constitution, laws, and treaties of the United States, including 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution (the Suspension Clause). Relief is also authorized by the All Writs Act, 28 U.S.C. § 1651, and the Declaratory Judgment Act, 28 U.S.C. § 2201.

5. Federal courts retain habeas jurisdiction to review the legality of immigration detention. *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Hensley v. Municipal Court*, 411 U.S. 345 (1973); *Martinez v. Clark*, 144 S. Ct. 1339 (2024). Petitioner is "in custody" within the meaning of § 2241 while confined at the Brooklyn Metropolitan Detention Center, Brooklyn, New York, NY. *Doe v. Barr*, 479 F. Supp. 3d 20 (S.D.N.Y. 2020).

VENUE

6. Venue lies in this District because Petitioner is confined at the Brooklyn Metropolitan Detention Center, and the Warden of the Brooklyn Metropolitan Detention Center, exercised

custody and control over Petitioner at the time of seizure. *Farez-Espinoza v. Chertoff*, 600 F. Supp. 2d 488, 495 (S.D.N.Y. 2009).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

7. There is no statutory exhaustion requirement applicable to petitions brought under 28 U.S.C. § 2241. *McCarthy v. Madigan*, 503 U.S. 140 (1992); *Laing v. Ashcroft*, 370 F.3d 994 (9th Cir. 2004).

8. Even if exhaustion were required, it should be excused because:

(a) ICE's revocation of supervision is not meaningfully reviewable;
(b) continued detention causes ongoing and irreparable constitutional harm; and
(c) Petitioner challenges the constitutionality of the detention framework itself. *Hardy v. Fischer*, 701 F. Supp. 2d 614, 619 (S.D.N.Y. 2010).

9. Following Petitioner's arrest, ICE did not set bond, and Petitioner is categorically barred from obtaining custody review by an Immigration Judge under the Board of Immigration Appeals's decision in the *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Accordingly, no administrative avenue exists through which Petitioner may seek review of his detention, rendering exhaustion futile. *See Beharry v. Ashcroft,* 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.) (as amended) (judicial exhaustion may be excused when "available remedies provide no genuine opportunity for adequate relief" or exhaustion "would be futile" (internal citation omitted)).

PARTIES

10. Petitioner Jurabek Musinov is a national and citizen of Uzbekistan, born May 17, 1996, in Uzbekistan. He is now detained at the Brooklyn Metropolitan Detention Center, Brooklyn, NY.

11. Respondent Raul Maldonado, the Warden of the Brooklyn Metropolitan Detention Center, and has immediate authority over Petitioner's custody.

12. Respondent Kristi Noem is Secretary of the Department of Homeland Security and oversees ICE.

13. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE).

14. Respondent Pamela Bondi is the Attorney General of the United States.

STATEMENT OF FACTS

15. Petitioner entered the United States in December 2021 through the U.S.–Mexico border without inspection, was released from ICE custody, and has since resided in Brooklyn, New York. He subsequently filed an asylum application with USCIS.

16. Since his release from ICE custody, Petitioner has complied with every ICE appointment, maintained a stable residence, and committed no criminal offenses.

17. On October 31, 2025, Petitioner was detained by ICE officers after attending an asylum interview, and later was placed in removal proceedings. On December 17, 2025, an Immigration Judge denied relief and ordered him removed. Petitioner timely filed a notice of appeal. A briefing schedule has not yet been set by the BIA. His I-589 application and appeal are currently pending.

18. Petitioner's arrest was the result of a generalized enforcement directive tied to detention bed availability, rather than Petitioner's individual conduct or risk profile.

LEGAL CLAIMS

COUNT I

Violation of the INA: Detention under the Wrong Statutory Provision

19. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

20. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As

relevant here, it does not apply to individuals who previously entered the United States without inspection, were apprehended and released from custody by Respondents, and were residing in the country before being re-apprehended and placed in removal proceedings. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II

Violation of Due Process: Revocation of Release without Notice or Hearing

The Fifth Amendment's Due Process Clause prevents the Government from depriving any person of "life, liberty, or property without due process of law," U.S. Const. amend. V., regardless of "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); see also *Reno v. Flores*, 507 U.S. 292, 306 (1993). Due process demands that unless a person is "given[ ] notice of the case against [her] and opportunity to meet it," she may not be detained. *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976). Indeed, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

In the Second Circuit, the adequacy of the process provided in civil immigration confinement is determined through application of the Mathews v. Eldridge balancing test. *Valdez v. Joyce,* No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at *3 (S.D.N.Y. June 18, 2025) (citing *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)). This test evaluates "(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest through the procedures used; and (3) the Government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail." Id. (citing *Mathews*, 424 U.S. at 335); see also *Lopez Benitez*, 2025 WL 2371588, at *9.

As to *Factor one*, in Petitioner's case, "the private interest affected by the official action is the most significant liberty interest there is—the interest in being free from imprisonment." *Black v. Decker*, 103 F.4th 133, 151 (2d Cir. 2024). While the Government undoubtedly has

authority to detain Petitioner under Section 1226, Petitioner is entitled to "adequate procedural protections" before being deprived of her liberty. *Zadvydas*, 533 U.S. at 690. Before the Government may exercise its discretion to detain a noncitizen pursuant to Section 1226(a), the statute and its implementing regulations "require ICE officials to make an individualized custody determination." *Lopez Benitez*, 2025 WL 2371588, at *10; see also *Tumba Huamani*, 2025 WL 3079014, at *7 ("But Due Process still requires that such discretion actually be exercised—i.e., that some determination actually be made."). In making that determination, the relevant DHS official must consider two factors, whether the non-citizen poses a "danger to property or persons" and whether he or she is "likely to appear for any future proceeding." *Lopez Benitez*, 2025 WL 2371588, at *10 (quoting 8 C.F.R. § 1236.1(c)(8)).

25 Instead, Petitioner's arrest stemmed from a blanket "policy" to detain "everyone who crossed the border," without regard to compliance history, criminal record, or individualized risk factors.

26 As to the *second Mathews factor*, "[t]he purpose of requiring an exercise of discretion prior to the decision to detain a noncitizen who is not subject to mandatory detention is to prevent an erroneous deprivation of liberty." *Lopez Benitez*, 2025 WL 2371588, at 12. The risk of erroneous deprivation is high where, as here, Petitioner was arrested while his asylum application was still pending, without consideration of any relevant factors.

27 As to the *third factor*, "to require that the Government justify continued detention promotes the Government's interest—one we believe to be paramount—in minimizing the enormous impact of incarceration in cases where it serves no purpose." *Black*, 103 F.4th at 154; see also *Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (observing that "any amount of actual jail time . . . has exceptionally severe consequences for the incarcerated individual and for society which bears the direct and indirect costs of incarceration" (internal quotation marks and alterations omitted)).

28 Detention that serves no bona fide removal or safety purpose violates substantive due process. *See Zadvydas*, 533 U.S. at 690–91; *Gordon v. Shanahan*, 2015 WL 1176706 (S.D.N.Y. Mar. 13, 2015). ICE's "bed-availability" rationale is administrative convenience, not a lawful justification for depriving liberty.

29 Accordingly, ICE's summary revocation of Petitioner's release from custody violated the Due Process Clause of the Fifth Amendment. Rather than exercising the individualized discretion required by law, ICE effectuated Petitioner's detention pursuant to a blanket policy— without notice, without an individualized assessment, and without affording Petitioner any opportunity to be heard. Because Petitioner possessed a protected liberty interest in his continued release from custody, the Government's failure to provide even the most basic procedural safeguards resulted in an unconstitutional deprivation of liberty. See *Mathews v. Eldridge*, 424 U.S. 319 (1976).

COUNT III

Violation of the Fourth Amendment

30 Petitioner's arrest constituted an unreasonable seizure in violation of the Fourth Amendment because it was executed without a warrant, without probable cause, and pursuant to a blanket enforcement policy rather than individualized suspicion. Civil immigration enforcement remains subject to Fourth Amendment constraints. *Morales v. Chadbourne*, 793 F.3d 208 (1st Cir. 2015); *Manuel v. City of Joliet*, 580 U.S. 357 (2017).

STATUTORY PROCEDURE UNDER 28 U.S.C. § 2243

31 Under 28 U.S.C. § 2243, the Court must "forthwith" grant the writ or issue an order to show cause. Respondents must file a return within three days unless the Court allows additional time not exceeding twenty days for good cause. Prompt review is essential to prevent continued unlawful restraint.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be removed from the United States without an order by this Court allowing such removal and transferred, except to a facility within the Eastern District of New York;

c. Issue an Order to Show Cause directing Respondents to explain why the writ should not be granted within three days, as required by 28 U.S.C. § 2243;

d. Declare Petitioner's detention unlawful;

e. Order Petitioner's immediate release;

f. Order enjoining Respondents from re-detaining Petitioner absent a valid exercise of discretion under 8 U.S.C. § 1226(a);

g. Order limiting Respondents to the restraints on Petitioner's liberty that existed prior to his re-detention;

h. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and

i. Grant such further relief as this Court deems just and proper.

Respectfully submitted,

Date: February 4, 2026

Sergey Risko, Esq.
Risko Law Group, PLLC
227 West Street, Suite 2121
Brooklyn, NY 11222
(718)-757-7734
riskolawgroup@gmail.com

Attorney for Petitioner