Veronica Cardenas (NJ022052010)
Cardenas Immigration Law
Veronica Cardenas, Esq.
2 Arnot St.,
Ste 6, Unit 122
Lodi, NJ 07644
Phone: (201) 470-4549
Email: veronica.cardenas@cardenasimmigrationlaw.com

Counsel for Petitioner

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.:

GRIGOR DEPELIAN,

Petitioner,

v.

JUAN BALTAZAR, Warden, Denver Contract Detention Facility;
ROBERT HAGAN, Acting Denver Field Office Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement (ICE);
KRISTI NOEM, in her Official Capacity, Secretary of the U.S. Department of Homeland Security;

Respondents.

PETITION FOR HABEAS CORPUS UNDER
28 U.S.C. § 2241

PRELIMINARY STATEMENT

1. This case challenges the prolonged detention of Petitioner, Grigor Depelian, who has been in removal proceedings without an individualized bond hearing since his detention on August 29,

2025. He was granted asylum relief by an Immigration Judge on January 12, 2026, and DHS has appealed the decision. Under the Due Process Clause, prolonged detention requires an individualized bond hearing at which the Government bears the burden to justify continued detention. See Garcia Abanil v. Baltazar, No. 1:2121-cv-02269-PAB (D. Colo. 2022); also see German Santos v. Warden Pike Cnty. Corr. Facility, 965 F.3d 203 (3d Cir. 2020).

2. Petitioner seeks an order directing Respondents to release him, or provide a prompt, constitutionally adequate bond hearing whereby the government bears the burden of showing by clear and convincing evidence as to why Petitioner is a flight risk or danger, because his detention has become unreasonably prolonged and violates due process.

CUSTODY

3. Petitioner is currently in the custody of ICE at the Denver Contract Detention Facility, located at 3130 N Oakland ST. NA, Aurora, CO 80010. See ICE Detainee Locator Results, Exhibit A. He is therefore in custody of the Department of Homeland Security, ICE, within the meaning of the habeas corpus statute. See *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION

4. This court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq.

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.

6. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging both the lawfulness and the constitutionality of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

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

7. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to Respondents "forthwith," unless Petitioner is not entitled to relief. *See* 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.*

8. Petitioner is "in custody" for the purpose of § 2241 because he was arrested and remains detained by Respondents.

VENUE

9. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees or officers of the United States acting in their official capacity and because a substantial part of the events or omissions giving rise to the claim occurred in the District of Colorado. Petitioner is under the jurisdiction of ICE's Denver Field Office, and he is currently detained in Aurora, Colorado. *See* Exhibit A.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

10. Administrative exhaustion is unnecessary as it would be futile. *See, e.g., Aguilar v. Lewis*, 50 F. Supp. 2d 539, 542–43 (E.D. Va. 1999).

11. It would be futile for Petitioner to seek a custody redetermination hearing before an IJ because of the BIA's recent decision holding that anyone who has entered the U.S. without inspection is now considered an "applicant for admission" who is "seeking admission" and therefore subject to mandatory detention under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *see also Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025) (noting that BIA's decision in *Yajure Hurtado* renders exhaustion futile).

12. Additionally, the agency does not have jurisdiction to review Petitioner's claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative

remedies. *Reno v. American-Arab Anti-Discrimination Committee,* 525 U.S. 471 (1999)(finding exhaustion to be a "futile exercise because the agency does not have jurisdiction to review" constitutional claims).

PARTIES

13. Petitioner Grigor Depelian is of Armenian ethnicity, and a citizen and national of Russia. He is currently detained by DHS/ICE at the Denver Contract Detention Facility, 3130 N Oakland St., Aurora, Colorado 80010, since August 2025.

14. Respondent Juan Baltazar is the Warden of the Denver Contract Detention Facility, where Petitioner is detained. Respondent has immediate physical custody of Petitioner and he is sued in his official capacity.

15. Respondent Robert Hagan is the Acting Director of the Denver Field Office of ICE's Enforcement and Removal Operations division (ERO). As such, he is a legal custodian of Petitioner, is responsible for Petitioner's detention and removal, and has the authority to release him. He is sued in his official capacity.

16. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in the District of Colorado; is legally responsible for pursuing any effort to detain and remove the Petitioner; and as such is a custodian of the Petitioner. At all times relevant hereto, Respondent Noem's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

LEGAL BACKGROUND

17. Section 2241 of 28 United States Code provides in relevant part that "[w]rits of habeas corpus may be granted by . . . the district courts within their respective jurisdictions" when a petitioner "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(a), (c)(3); *see also I.N.S. v. St. Cyr*, 533 U.S. 289, 305, 121 S. Ct. 2271 (2001).

18. District courts grant writs of habeas corpus to those who demonstrate their custody violates the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3).

19. Habeas corpus "entitles [a] prisoner to a meaningful opportunity to demonstrate that he is being held pursuant to 'the erroneous application or interpretation' of relevant law." *Boumediene v. Bush*, 553 U.S. 723, 779, 128 S. Ct. 2229 (2008) (*quoting*, *St. Cyr*, 533 U.S. at 302.

20. The Fifth Amendment's Due Process Clause protects the right of all persons to be free from "depriv[ation] of life, liberty, or property, without due process of law." U.S. Const. amend. V.

21. "It is well established that the Fifth Amendment entitles aliens to due process of law[.]" *Trump v. J. G. G.*, 604 U.S. ---, 145 S. Ct. 1003, 1006 (2025) (*quoting Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439 (1993)).

22. "Freedom 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.

STATEMENT OF THE FACTS

23. Petitioner, Grigor Depelian, is currently in the physical custody of the Department of Homeland Security ("DHS"), detained at Denver Contract Detention Facility, 3130 Oakland St. NA, Aurora,

Colorado 80010.

24. Petitioner has been detained by ICE since August 29, 2025.

25. Petitioner entered the United States at or near San Ysidro Port of Entry on or about October 18, 2022, seeking refuge from persecution in Russia. He was apprehended by U.S. Border Patrol, and was initially inspected, processed and detained.

26. On October 19, 2022, the Department of Homeland Security ("DHS") issued the Notice to Appear ("NTA") initiating removal proceedings under section 240 of the Immigration and Nationality Act ("INA").

27. After processing by DHS and following DHS's determination that he did not pose a danger to the community or a risk of flight, Petitioner was released from custody in December 2022 pursuant to 8 U.S.C. § 1182(d)(5). He was required to pay a $5,000.00 bond as a condition of his parole and was subject to parole reporting requirements.

28. He timely filed an application for asylum. He appeared at every USCIS appointment as well as immigration court hearing. He complied with every ICE reporting requirement. He never missed a court date. He never violated a condition of release. He has no criminal record, a fact confirmed by the Government's own records.

29. Petitioner was later re-detained by Immigration and Customs Enforcement ("ICE") during a routine check-in appointment on August 29, 2025.

30. On August 29, 2025, Petitioner received a call from his parole officer that he come in to have an application on his phone updated. However, when Petitioner arrived, he was arrested, taken into custody, and re-detained by Immigration and Customs Enforcement ("ICE").

31. He remains detained for over six (6) months.

32. While complying with DHS directives, Petitioner was taken into custody. His liberty was revoked without intervening misconduct, without any individualized determination that he posed a danger

or flight risk, without parole termination, without any hearing and without any change in circumstances.

33. Petitioner consistently paid taxes, lawfully worked under a valid employment authorization document, supported his family as its sole provider, maintained his address, and complied with all conditions of parole. Nevertheless, the process, afforded to him fell short of the fundamental fairness required and guaranteed by the Fifth Amendment.

34. Petitioner's removal proceedings have been conducted in Aurora Immigration Court, and Petitioner has remained detained throughout those proceedings.

35. On January 12, 2026, an Immigration Judge granted Petitioner asylum after a full merits hearing, found his testimony credible and determined that he met the legal standard for asylum protection in the United States.

36. On February 10, 2026, DHS filed an appeal, which is currently pending.

37. As of the filing of this Petition, Petitioner's detention has become prolonged. He has been held in civil immigration custody for over six months without release and without a constitutionally adequate opportunity to obtain release from detention.

38. Immigration detention is civil, not punitive. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Even where authorized by statute, detention must bear a reasonable relation to its purpose and may not become arbitrary or indefinite. *Demore v. Kim*, 538 U.S. 510 (2003); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. 2011). As detention becomes prolonged, due process requires increasingly rigorous procedural safeguards.

39. Immigration Judge granted Petitioner's application for asylum after a full merits hearing. Given the asylum granted, and the pendency of DHS's appeal before the Board of Immigration Appeals ("BIA"), Petitioner's removal is not imminent and is not reasonably foreseeable. Continued detention under these circumstances violates the Fifth Amendment and the constitutional

limitations articulated in *Zadvydas*.

40. Prolonged civil immigration detention without a meaningful mechanism for release violates the Due Process Clause. In the Tenth Circuit, when detention becomes unreasonably prolonged, due process requires a meaningful opportunity to be heard and an individualized determination of whether continued confinement is justified. Absent such procedural safeguards, continued detention becomes arbitrary and constitutionally infirm. At such a hearing, the Government bears the burden of justifying continued detention by clear and convincing evidence of dangerousness or flight risk.

41. This Court's habeas jurisdiction exists precisely to remedy unlawful executive detention. *See* 28 U.S.C. § 2241; *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (describing habeas corpus as a fundamental mechanism for testing the legality of executive detention).

42. Petitioner's detention is prolonged and continues to impose severe and irreparable harm. Continued detention without a constitutionally adequate bond hearing is arbitrary and unreasonable, and habeas relief is warranted.

CLAIM FOR RELIEF

FIRST CLAIM FOR RELIEF
Fifth Amendment Procedural Due Process

43. Petitioner restates and realleges all paragraphs as if fully set forth here.

44. Petitioner is currently subject to mandatory civil immigration detention that has become unreasonably prolonged, in violation of the Due Process Clause of the Fifth Amendment to the United States Constitution.

45. Absent an individualized bond hearing, Mr. Depelian's detention will continue to be prolonged under conditions resembling those of a prison, qualifying him for a bond

hearing under *Santos v. Warden Pike County Correctional Facility*, 965 F.3d 203 (3d Cir. 2020).

46. The constitutional case for continued detention without inquiry into its necessity becomes more and more suspect as detention continues beyond the brief period contemplated in *Demore. Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 234–35 (3d Cir. 2011). The Tenth Circuit has likewise recognized that subsequent delay may warrant relief in appropriate circumstances. *Soberanes v. Comfort*, 388 F.3d 1305, 1311 (10th Cir. 2004).

47. Mr. Depelian's continued detention has exceeded the time reasonably necessary to complete removal proceedings and has become arbitrary and unreasonable.

48. Under the Due Process Clause of the Fifth Amendment, Mr. Depelian is entitled to a prompt, individualized bond hearing.

49. As detention becomes prolonged, due process concerns intensify and require meaningful custody review. See *Martinez Escobar v. Baltazar*, No. 1:26-cv-00296, Order (D. Colo. Feb. 18, 2026).

50. Because Mr. Depelian has been denied a constitutionally adequate bond hearing despite his prolonged detention, his continued custody violates the Fifth Amendment.

51. Mr. Depelian is therefore entitled to habeas relief in the form of an order directing Respondents to provide a prompt, constitutionally adequate bond hearing, or, in the alternative, his immediate release.

.

SECOND CLAIM FOR RELIEF
Failure to Follow Governing Parole Regulations and Internal Procedures

52. Petitioner incorporates all factual allegations as though restated here.

53. Under the Accardi doctrine, agencies must follow their own regulations and internal procedures, and courts may set aside agency action that does not comply.

54. Here, DHS's own regulations require that parole consideration for § 235(b)/§ 1225 detainees be conducted under § 212(d)(5) and 8 C.F.R. § 212.5(b).

55. In addition, ICE's credible-fear parole directive (ICE Directive 11002.1) reflects ICE's internal procedures for individualized parole determinations in the credible-fear pipeline.

56. Petitioner alleges Respondents have denied parole (or failed to meaningfully consider parole) through a process that is boilerplate, conclusory, unsupported by individualized reasoning, and not supported by a reviewable administrative record, contrary to the governing parole regulations and internal procedures.

57. Because Respondents have not provided lawful, individualized parole consideration after his asylum grant by an Immigration Judge and a record sufficient for judicial review, especially as detention becomes prolonged, Petitioner's continued custody is unlawful and the Court should order compliance or release.

THIRD CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

58. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

59. Petitioner has a strong liberty interest under the Due Process Clause in not being incarcerated after prior release. See *Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); see also *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969–70 (N.D. Cal. 2019) (holding that a noncitizen has a protected liberty interest in remaining out of custody following an IJ's bond

determination); *Nadia Cristina Da Rocha Rosado v. Fred Figueroa, Warden, Eloy Det. Ctr.*, 2025 U.S. Dist. LEXIS 156344, at *35.

60. Accordingly, "[i]n the context of immigration detention, it is well-settled that due process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (cleaned up); see also *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (generally, "the Constitution requires some kind of a hearing before the State deprives a person of liberty or property"). In the immigration context, for such hearings to comply with due process, the government must bear the burden to demonstrate, by clear and convincing evidence, that the noncitizen poses a flight risk or a danger to the community. See *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); see also *Martinez v. Clark*, 124 F.4th 775, 785–86 (9th Cir. 2024).

61. Petitioner's continued detention without a prior hearing constitutes an ongoing violation of Petitioner's constitutional rights under the Due Process Clause.

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 seventy-two hours;

C. Declare that his detention is unlawful;

D. Issue a Writ of Habeas Corpus ordering Respondents to release him from custody or provide him with a constitutionally adequate custody hearing before a neutral arbiter in which the government bears the burden by proving by clear and

convincing evidence that Petitioner is a flight risk or danger to the community;

E. Enjoin Respondents from removing Petitioner from the United States without notice and an opportunity to be heard;

F. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;

G. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and

H. Grant any further relief this Court deems just and proper.

Dated: March 4, 2026

Respectfully Submitted,

/s/ Veronica Cardenas
VERONICA CARDENAS
New Jersey State Bar No. 02205-2010
CARDENAS IMMIGRATION LAW, LLC
Veronica Cardenas, Esq.
2 Arnot St.,
Ste 6, Unit 122
Lodi, NJ 07644
Telephone: 201.470.4549
E: veronica.cardenas@cardenasimmigrationlaw.com

Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2026, I caused the foregoing document to be electronically filed with the Clerk of the Court for the United States District Court for the District of Colorado by using the CM/ECF system.

/s/ Veronica Cardenas
VERONICA CARDENAS, ESQ.