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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Zhan Andryan,
Petitioner-Plaintiff,

v.

Warden, Florence Service Processing Center,

Christopher McGregor, Field Office Director of Phoenix Office of Detention and Removal, U.S. Immigrations and Customs Enforcement; U.S. Department of Homeland Security;

Todd M. Lyons, Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security;

Kristi Noem, in her Official Capacity, Secretary, U.S. Department of Homeland Security; and

Pamela Bondi, in her Official Capacity, Attorney General of the United States;
Respondents-Defendants.

Case No.

A[redacted]

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, Zhan Andryan, a native and citizen of USSR, moves this Court to issue a writ of Habeas Corpus to compel the Respondents to show cause for why the Petitioner should not be released from the custody of the U.S. Department of Homeland Security ("DHS"). Petitioner is an asylum seeker from USSR, and is married to a United States citizen who filed a petition for him on December 15, 2025. Exh. A. Petitioner will have lasting irreversible effects on his physical and mental health if he is not released from custody.

2. Petitioner seeks his immediate release from detention in the Florence Service Processing Center where ICE detained and continues to imprison him without a custody hearing to demonstrate that he is a flight risk or danger to the community, as required by the Due Process clause of the Fifth Amendment.

3. As background, Petitioner entered the United States as an arriving alien. He filed an asylum application which was pretermitted. The Petitioner filed an appeal with the Board of Immigration Appeals. However, it is not clear what happened with that appeal. He came into immigration custody after being in an area where police conducted an investigation. He was questioned and turned over to ICE over six months ago. Nonetheless, the fact that the Petitioner has been detained for over six months indicates that the Department of Homeland Security has been unable to effectuate the Petitioner's removal.

4. The Petitioner filed a bond redetermination request and on January 12, 2026, he had a bond redetermination hearing where the Immigration Judge found no jurisdiction to set a bond. Exh. B.

5. The Petitioner fled persecution and torture in USSR only to be detained in the United States and denied the right to a bond redetermination hearing. As each day passes, the Petitioner

continues to suffer great anxiety and anguish from his continued detention with no due process.

CUSTODY

6. The Petitioner is currently in the custody of ICE at the Florence Service Processing Center, in Florence Arizona. The Petitioner is therefore in "'custody' of [the DHS] within the meaning of the habeas corpus statute." *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION

7. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general federal question jurisdiction; 5 U.S.C. § 701, *et seq.*, All Writs Act; 28 U.S.C. § 2241, *et seq.*, habeas corpus; 28 U.S.C. § 2201, the Declaratory Judgment Act; Art. 1, § 9, Cl. 2 of the United States Constitution (Suspension Clause); Art. 3 of the United States Constitution, and the common law.

REQUIREMENTS OF 28 U.S.C. § 2243

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

9. Courts have long recognized the significance of the habeas statute in protecting from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

10. Habeas corpus must remain a swift remedy. Importantly, "the statute itself directs courts to give petitions for habeas corpus 'special, preferential consideration to insure expeditious hearing and determination.'" *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations

omitted). The Ninth Circuit warned against any action creating the perception "that courts are more concerned with efficient trial management than with the vindication of constitutional rights." *Id.*

VENUE

11. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because the Respondents are employees or officers of the United States, acting in their official capacity; because a substantial part of the events or omissions giving rise to the claim occurred in the District of Arizona. The Petitioner is under the jurisdiction of the Phoenix ICE Field Office, ICE has held him without a bond redetermination hearing in violation of 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9); *Matter of Sugay*, 17 I&N Dec. 647, 640 (BIA 1981), and he is being detained in Arizona. There is no real property involved in this action.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

12. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez*, 872 F.3d at 988. A court may waive the prudential exhaustion requirement if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Id.* (*quoting Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted)).

13. Moreover, the Petitioner requested a bond redetermination and a custody hearing was held on January 12, 2026. The Immigration Judge found no jurisdiction to set a bond. Therefore, the Petitioner has exhausted his remedies.

PARTIES

14. Petitioner is a citizen and national of USSR who entered the U.S. as an arriving alien seeking asylum. His application for asylum, withholding of removal, and protection under the convention against torture were pretermitted and the Petitioner appealed. It is unclear to undersigned counsel what happened with that appeal.

15. Respondent Warden of the Florence Service Processing Center, which is operated by CoreCivic and contracted by DHS. As such, he is the immediate physical custodian of Petitioner and he is named in his official capacity.

16. Respondent Christopher McGregor is the Field Office Director of ICE, in Phoenix, Arizona, and is named in his official capacity. ICE is the component of the DHS that is responsible for detaining and removing noncitizens according to immigration law and oversees custody determinations. In his official capacity, he is the legal custodian of the Petitioner.

17. Respondent Todd M. Lyons is the Acting Director of ICE and is named in his official capacity. Among other things, ICE is responsible for the administration and enforcement of the immigration laws, including the removal of noncitizens. In his official capacity as head of ICE, he is the legal custodian of the Petitioner.

18. Respondent Kristi Noem is the Secretary of DHS and is named in her official capacity. DHS is the federal agency encompassing ICE, which is responsible for the administration and enforcement of the INA and all other laws relating to the immigration of noncitizens. In her capacity as Secretary, Respondent Noem has responsibility for the administration and enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. § 1103(a). Respondent Noem is the ultimate legal custodian of the Petitioner.

19. Respondent Pamela Bondi is the Attorney General of the United States and the most senior official in the U.S. Department of Justice (DOJ) and is named in her official capacity. She has the authority to interpret immigration laws and adjudicate removal cases. The Attorney General delegates this responsibility to the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA.

FACTUAL ALLEGATIONS

20. The Petitioner is citizen and national of USSR who entered the United States as an arriving alien. He filed an application for asylum, withholding of removal, and protection under the convention against torture that were pretermitted. It is unclear to undersigned counsel what happened with that appeal. Nonetheless, the fact that the Petitioner has been detained for over six months indicates that the Department of Homeland Security has been unable to effectuate the Petitioner's removal.

21. On January 12, 2026, the Petitioner had a bond redetermination hearing before an immigration judge, who found there was no jurisdiction to set a bond.

22. The Petitioner has been detained at the Florence Service Processing Center and was denied the right to a bond redetermination. Each day that the Petitioner remains in custody his physical and mental health decline causing irreparable injuries to his person.

CLAIM FOR RELIEF

I. VIOLATION OF THE DUE PROCESS CLAUSE OF THE FITH AMENDMENT TO THE U.S. CONSTITUTION

23. Petitioner repeats and realleges the foregoing paragraphs as if fully set forth and incorporated herein by reference.

24. The Petitioner's liberty from immigration custody is protected by the Due Process Clause:

"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 v. Davis*, 533 U.S. 678, 690 (2001).

25. Petitioner is in custody "under or by color of the authority of the United States" and in custody "in violation of the Constitution or laws . . . of the United States." 28 U.S.C. §2241. The Fifth Amendment's Due Process Clause provides that "[n]o person shall be ... deprived of life, liberty, or property, without due process of law." It specifically "entitles aliens to due process of law in deportation proceedings." *Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439, 123 L. Ed. 2d 1 (1993). The Supreme Court held more than a century ago that civil detention of a removable noncitizen violates the Constitution if it is punitive. *Wong Wing v. United States*, 163 U.S. 228, 237-38, 16 S. Ct. 977, 41 L. Ed. 140 (1896).

26. Noncitizens subject to civil immigration detention "cannot be subjected to conditions that 'amount to punishment.'" See *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004) (quoting *Bell v. Wolfish*, 441 U.S. 520, 535, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979)). At some point, civil detention can become punitive, resulting in a due process violation. *United States v. Torres*, 995 F.3d 695, 708 (9th Cir. 2021).

27. Noncitizens may be detained under mandatory detention provisions during a relatively brief period for processing and removal, courts have found that Congress did not intend, or have the power, to impose prolonged detention on a noncitizen simply because they may be deportable. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001)("We do have reason to believe, however, that Congress previously doubted the constitutionality of detention for more than six months").

28. Petitioner has been denied the right to a bond redetermination. Petitioner is being deprived of liberty in a detention center that could lead to his death. Death and life-altering medical

conditions are surely irreparable injuries. *Fraihat v. United States Immigration & Customs Enf't*, 16 F.4th 613, 658 (9th Cir. 2021).

A. The Petitioner's Liberty Interest Mandates His Immediate Release or in the Alternative a Custody Redetermination Hearing

29. "Adequate, or due, process depends upon the nature of the interest affected. The more important the interest and the greater the effect of its impairment, the greater the procedural safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82). This Court must "balance [the Petitioner] liberty interest against the [government's] interest in the efficient administration of" its immigration laws in order to determine what process she is owed to ensure that ICE does not unconstitutionally deprive her of her liberty. *Id.* at 1357. Under the test set forth in *Mathews v. Eldridge*, this Court must consider three factors in conducting its balancing test: "first, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probative value, if any, of additional or substitute procedural safeguards; and finally the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail." *Haygood*, 769 F.2d at 1357 (*citing Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

30. Releasing the Petitioner from custody or in the alternative, providing the Petitioner with a custody hearing, would decrease the risk of his being erroneously deprived of his liberty.

31. "A neutral judge is one of the most basic due process protections." *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), *abrogated on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006). The Ninth Circuit has noted that the risk of an erroneous deprivation of liberty under *Mathews* can be decreased where a neutral decisionmaker, rather than ICE alone,

makes custody determinations. *Diouf v. Napolitano* ("*Diouf II*"), 634 F.3d 1081, 1091-92 (9th Cir. 2011).

32. Due process also requires consideration of alternatives to detention at any custody redetermination hearing that may occur. The primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this purpose if there are alternatives to detention that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly, alternatives to detention must be considered in determining whether the Petitioner 's incarceration is warranted.

PRAYER FOR RELIEF

WHEREFORE, the Petitioner prays that this Court grant the following relief:

(1) Assume jurisdiction over this matter;

(2) Find Petitioner's detention by DHS violates the Due Process Clause of the Fifth Amendment;

(3) Issue a writ of habeas corpus and order the Petitioner's immediately release from detention, or in the alternative that he be provided with a custody redetermination hearing before a neutral adjudicator;

(4) Award attorney's fees, costs, and expenses under the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412(2).; and

(5) Grant such further relief as the Court deems just and proper.

Dated: March 29, 2026,

RESPECTFULLY SUMBITED,

/s/ Bianca L. Torres
Bianca L. Torres
Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this March 29, 2026, in Phoenix, AZ.

/s/ Bianca L. Torres
Bianca L. Torres
Attorney for Petitioner