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7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 VITALII MIRONOV,
11 Plaintiff,

12 vs.

13 JEREMY CASEY, Warden of Imperial
14 Regional Detention Center;
15 PATRICK DIVVER, San Diego Field
16 Office Director, Immigration and
17 Customs Enforcement and Removal
18 Operations ("ICE/ERO");
19 TODD LYONS, Acting Director of
20 Immigration Customs Enforcement
21 ("ICE");
22 MARKWAYNE MULLIN, Secretary of
23 the Department of Homeland Security
24 ("DHS");
25 ACTING Attorney General of the United
26 States,
27 U.S. DEPARTMENT OF HOMELAND
28 SECURITY;
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;

Respondents.

Case No.: '26CV2473 LEK B JW

Agency Number: A 

PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW
CAUSE

INTRODUCTION

1
2 1. Vitalii Mironov, b [REDACTED] a citizen of Russia. He
3
4 opposed the Russian government and he supported the anti-corruption movement
5 there. This support made him a target of the government and he eventually feared
6 for his life and escaped Russia. In 2021 he made his way to Mexico and then
7 crossed the border into the United States. He was apprehended not long after he
8 entered and was sent to the Imperial Detention Center. He was there for many
9 months until he was finally allowed to have a bond hearing. A copy of the bond
10 order and bond are attached as exhibits.
11

12
13 2. He was released on bond on November 16, 2021. *See* Exhibit A
14

15 3. Mr. Mironov began his life in the United States after he was
16 released. He received work authorization. He found a place to live and integrated
17 himself into the local community. In the more than four years he has lived here he
18 has established himself financially as well. He has a pending Asylum Application
19 and work authorization.
20
21

22 4. On April 16, 2026, Mr. Mironov was returning from Arizona to
23 Riverside, California. He was driving north on Highway 78 when he came to a
24 Border Control Booth. When he stopped the officer there asked to see his
25 identification. Mr. Mironov provided them with his Driver's License and his work
26 permit. After checking his information, one of the officers stated that he did not
27
28

1 have a court date and told him that he was being detained because he needed to see
2 the immigration judge. They did not provide any documents regarding his arrest.
3
4 They did not make a determination that he was suddenly a flight risk or a danger to
5 the community. They simply arrested and detained him. At no point did the agents
6 announce they were revoking Mr. Mironov's bond. At no point did the agents
7 assert that Mr. Mironov had violated any terms of his bond that subjected him to
8 revocation. He was simply put in hand cuffs and then put in detention.
9
10

11 5. He was then booked and transported to the Imperial Detention
12 Center. He was not told why he was arrested. He was not told what law he had
13 violated. With no cause and no explanation and no warrant he was put into
14 detention at the Imperial facility.
15

16 6. One of the benefits that petitioner enjoyed with his release on bond
17 has been his ability to work and to more actively participate in his asylum
18 application process. Suddenly, with no notice, no neutral determination that there
19 has been a change in circumstances, Respondents seek to revoke Mr. Mironov's
20 bond and force him to remain in custody for the duration of his application process.
21 This also cancels his work authorization. Respondents do all of this based not on
22 Mr. Mironov's personal circumstances but because of Respondents' interpretation
23 of President Trump's whim and categorical determination that, the Fifth
24 Amendment notwithstanding, noncitizens are not entitled to due process.
25
26
27
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7. But Respondents cannot evade the law so easily. The U.S. Constitution requires the Respondents provide at least the rights available to him when he was granted bond and when he filed his application for asylum¹.

8. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. Mr. Mironov asks this Court to find that Respondents' attempt to detain him are arbitrary and capricious and in violation of the law, and to immediately issue an order preventing his transfer out of this district.

JURISDICTION

9. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

10. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

11. 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.,

¹ See, e.g., NBC News, Meet the Press interview of President Donald Trump (May 4, 2025), <https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donaldtrump-interviewed-meet-press-mod-rca203514> (in response to a question whether noncitizens deserve due process under the Fifth Amendment, President Trump replied “I don’t know. It seems—it might say that, but if you’re talking about that, then we’d have to have a million or 2 million or 3 million trials.”).

1 the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8
2 U.S.C. § 1252(e)(2).

3 4 **VENUE**

5 12. Venue is proper because Petitioner is in Respondents' custody in
6 Imperial, California. Venue is further proper because a substantial part of the
7 events or omissions giving rise to Petitioner's claims occurred in this District,
8 where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).

9
10 13. For these same reasons, divisional venue is proper under Local
11 Rule HC.1

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

13
14 14. The Court must grant the petition for writ of habeas corpus or
15 issue an order to show cause (OSC) to the Respondents "forthwith," unless the
16 petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court
17 must require Respondents to file a return "within three days unless for good cause
18 additional time, not exceeding twenty days, is allowed." *Id.*

19
20 15. Courts have long recognized the significance of the habeas statute
21 in protecting individuals from unlawful detention. The Great Writ has been
22 referred to as "perhaps the most important writ known to the constitutional law of
23 England, affording as it does a swift and imperative remedy in all cases of illegal
24 restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

1 16. Petitioner is “in custody” for the purpose of § 2241 because he is
2 arrested and detained by Respondents.
3

4 **PARTIES**

5 17. Vitalii Mironov (“Petitioner”) is a citizen of Russia. He is currently
6 a resident of Imperial, California, and is present within the state of California as of
7 the time of the filing of this petition.
8

9 18. Respondent Jeremy Casey, Respondent is the Warden of the
10 Imperial Regional Detention Center and is a legal custodian of Petitioner.
11

12 19. Respondent Patrick Divver is the Field Office Director for the San
13 Diego Field Office, Immigration and Customs Enforcement and Removal
14 Operations (“ICE”). The San Diego Field Office is responsible for local custody
15 decisions relating to non-citizens charged with being removable from the United
16 States, including the arrest, detention, and custody status of non- citizens. The San
17 Diego Field Office’s area of responsibility includes San Diego, California and the
18 Otay Mesa Detention Center. Respondent Daniel A. Brightman is a legal custodian
19 of Petitioner.
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22

23 20. Respondent Todd Lyons is the acting director of U.S. Immigration
24 and Customs Enforcement, and he has authority over the actions of respondent
25 Sidney Aki and ICE in general. Respondent Lyons is a legal custodian of
26 Petitioner.
27
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1 21. Respondent Markwayne Mullin is the Secretary of the Department
2 of Homeland Security (DHS) and has authority over the actions of all other DHS
3 Respondents in this case, as well as all operations of DHS. Respondent Noem is a
4 legal custodian of Petitioner and is charged with faithfully administering the
5 immigration laws of the United States.
6

7
8 22. Respondent Acting Attorney General of the United States has
9 authority over the Department of Justice and is charged with faithfully
10 administering the immigration laws of the United States.
11

12 23. Respondent U.S. Immigration Customs Enforcement is the federal
13 agency responsible for custody decisions relating to non-citizens charged with
14 being removable from the United States, including the arrest, detention, and
15 custody status of non-citizens.
16

17
18 24. Respondent U.S. Department of Homeland Security is the federal
19 agency that has authority over the actions of ICE and all other DHS Respondents.
20

21 25. This action is commenced against all Respondents in their official
22 capacities.
23

24 **LEGAL FRAMEWORK**

25 26. The Refugee Act of 1980, the cornerstone of the U.S. asylum system,
26 provides a right to apply for asylum to individuals seeking safe haven in the United
27 States. The purpose of the Refugee Act is to enforce the “historic policy of the
28

1 United States to respond to the urgent needs of persons subject to persecution in
2 their homelands.” Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102
3 (1980).
4

5 27. The “motivation for the enactment of the Refugee Act” was the
6 United Nations Protocol Relating to the Status of Refugees, “to which the United
7 States had been bound since 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424,
8 432-33 (1987). The Refugee Act reflects a legislative purpose “to give ‘statutory
9 meaning to our national commitment to human rights and humanitarian concerns.’”
10 *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).
11
12

13 28. The Refugee Act established the right to apply for asylum in the
14 United States and defines the standards for granting asylum. It is codified in
15 various sections of the INA.
16
17

18 29. The INA gives the Attorney General or the Secretary of Homeland
19 Security discretion to grant asylum to noncitizens who satisfy the definition of
20 “refugee.” Under that definition, individuals generally are eligible for asylum if
21 they have experienced past persecution or have a well-founded fear of future
22 persecution on account of race, religion, nationality, membership in a particular
23 social group, or political opinion and if they are unable or unwilling to return to
24 and avail themselves of the protection of their homeland because of that
25 persecution of fear. 8 U.S.C. § 1101(a)(42)(A).
26
27
28

1 30. Although a grant of asylum may be discretionary, the right to
2 apply for asylum is not. The Refugee Act broadly affords a right to apply for
3 asylum to any noncitizen “who is physically present in the United States or who
4 arrives in the United States[.]” 8 U.S.C. § 1158(a)(1).
5

6 31. Because of the life-or-death stakes, the statutory right to apply for
7 asylum is robust. The right necessarily includes the right to counsel, at no expense
8 to the government, see 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the
9 right to counsel, see 8 U.S.C. § 1158(d)(4), and the right to access information in
10 support of an application, see § 1158(b)(1)(B) (placing the burden on the applicant
11 to present evidence to establish eligibility.).
12
13
14

15 32. Noncitizens seeking asylum are guaranteed Due Process under the
16 Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306
17 (1993).
18

19 33. Noncitizens who are applicants for asylum are entitled to a full
20 hearing in immigration court before they can be removed from the United States. 8
21 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative
22 appellate review before the Board of Immigration Appeals of removal orders
23 entered against them and judicial review in federal court upon a petition for
24 review. 8 U.S.C. § 1252(a) *et seq.*
25
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1 34. Immigration detention is a form of civil confinement that
2 “constitutes a significant deprivation of liberty that requires due process
3 protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).
4

5 35. Immigration detention should not be used as a punishment and
6 should only be used when, under an individualized determination, a noncitizen is a
7 flight risk because they are unlikely to appear for immigration court or a danger to
8 the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
9
10

11 36. Granting an immigration bond is based on the presumption that
12 the bond will only be revoked if the noncitizen violates the terms of the bond.
13 Revocation is only automatic under certain conditions, such as failure to appear for
14 a hearing. This did not happen in this case. Mr. Mironov did not violate the terms
15 of his bond and Respondents had no cause to return him to detention.
16
17

18 **FACTUAL BACKGROUND**

19 37. Petitioner is a citizen of Russia.
20

21 38. Petitioner was persecuted in Russia. His life was threatened for
22 participation in anticorruption activities and supporting those who sought to
23 change the government.
24

25 39. On November 16, 2021, Petitioner was granted release from
26 detention on bond. This release was based on the individualized facts in his case
27
28

1 determined during the bond hearing. It was determined that he was not a flight risk
2 or a danger to the community and he should be released on bond.

3
4 40. He was issued an NTA but it is not clear if it was ever recorded.

5 41. He has attended all scheduled check-ins, interviews and
6 appointments.
7

8 42. On information and belief, Petitioner continues to meet all the
9 requirements of his bond.
10

11 43. Petitioner applied for asylum within one year of his entry into the
12 United States.
13

14 44. Respondents issued work authorization to Petitioner pursuant to 8
15 C.F.R. § 274a.12(c)(08).
16

17 45 On April 16, 2026, Mr. Mironov was returning from Arizona to
18 Riverside, California. He was driving north on Highway 78 when he came to a
19 Border Control Booth. When he stopped the officer there asked to see his
20 identification. Mr. Mironov provided them with his Driver's License and his work
21 permit. After checking his information, one of the officers stated that he did not
22 have a court date and told him that he was being detained because he needed to see
23 the immigration judge. They did not provide any documents regarding his arrest.
24 They did not make a determination that he was suddenly a flight risk or a danger to
25 the community. They simply arrested and detained him. At no point did the agents
26
27
28

1 announce they were revoking Mr. Mironov's bond. At no point did the agents
2 assert that Mr. Mironov had violated any terms of his bond that subjected him to
3 revocation. He was simply put in hand cuffs and then put in detention.
4

5 46. He was then booked and transported to the Imperial Detention
6 Center. He was not told why he was arrested. He was not told what law he had
7 violated. With no cause and no explanation and no warrant he was put into
8 detention at the Imperial facility. Mr. Mironov must now defend his asylum
9 application process while in detention.
10
11

12 47. Mr. Mironov was never presented with a warrant for his arrest.
13 The ICE agents did not provide him any process. The ICE agents did not offer him
14 any opportunity to be heard prior to arresting and detaining him.
15

16 48. On January 20, 2025, President Donald Trump issued several
17 executive actions relating to immigration, including "Protecting the American
18 People Against Invasion," an executive order (EO) setting out a series of interior
19 immigration enforcement actions. The Trump administration, through this and
20 other actions, has outlined sweeping, executive branch-led changes to immigration
21 enforcement policy, establishing a formal framework for mass deportation. The
22 "Protecting the American People Against Invasion" EO instructs the DHS
23 Secretary "to take all appropriate action to enable" ICE, CBP, and USCIS to
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1 prioritize civil immigration enforcement procedures including through the use of
2 mass detention.
3

4 49. On information and belief, Respondents are detaining Petitioner
5 regardless of the individual facts and circumstances of his case.
6

7 50. On information and belief, Respondents are using the immigration
8 detention system as a means to punish individuals for asserting rights under the
9 Refugee Act.
10

11 51. On information and belief, Petitioner has no criminal history.
12

13 **CLAIMS FOR RELIEF**

14 **COUNT ONE**

15 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**

16 **Not in Accordance with Law and in Excess of Statutory Authority**

17 **Unlawful Detention**

18
19 52. Petitioner restates and realleges all previous paragraphs as if fully
20 set forth here.
21

22 53. Under the APA, a court shall “hold unlawful and set aside agency
23 action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).
24

25 54. An action is an abuse of discretion if the agency “entirely failed to
26 consider an important aspect of the problem, offered an explanation for its decision
27 that runs counter to the evidence before the agency, or is so implausible that it
28

1 could not be ascribed to a difference in view or the product of agency expertise.”

2 *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007)

3
4 (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*,
5 463 U.S. 29, 43 (1983)).

6
7 55. To survive an APA challenge, the agency must articulate “a
8 satisfactory explanation” for its action, “including a rational connection between
9 the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551,
10 2569 (2019) (citation omitted).

11
12 56. By categorically revoking Petitioner’s bond and transferring him
13 to Imperial Detention Center without consideration of his individualized facts and
14 circumstances, Respondents have violated the APA.

15
16 57. Respondents have made no finding that Petitioner is a danger to
17 the community.

18
19 58. Respondents have made no finding that Petitioner is a flight risk.

20
21 59. By detaining the Petitioner categorically, Respondents have
22 further abused their discretion because there have been no changes to his facts or
23 circumstances since the agency made its initial determination to grant him a bond
24 that support detention.

25
26 60. Respondents have already considered Petitioner’s facts and
27 circumstances and determined that he was not a flight risk or danger to the
28

1 community when they granted him a bond. There have been no changes to the facts
2 that justify this revocation of his bond.
3

4 **COUNT TWO**

5 **Violation of Fifth Amendment Right to Due Process**

6 **Procedural Due Process**

7
8 61. Petitioner restates and realleges all paragraphs as if fully set forth
9 here.
10

11 62. The Due Process Clause of the Fifth Amendment to the U.S.
12 Constitution prohibits the federal government from depriving any person of “life,
13 liberty, or property, without due process of law.” U.S. Const. Amend. V. Due
14 process protects “all ‘persons’ within the United States, including [non-citizens],
15 whether their presence here is lawful, unlawful, temporary, or permanent.”
16

17 *Zadvydas*, 533 U.S. at 693; *accord Flores*, 507 U.S. at 306.
18

19 63. Due process requires that government action be rational and non-
20 arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).
21

22 64. While the government has discretion to detain individuals under 8
23 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this
24 discretion is not “unlimited” and must comport with constitutional due process. *See*
25 *Zadvydas*, 533 U.S. at 698.
26
27
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1 65. Here, Respondents have chosen to revoke Petitioner's liberty in an
2 arbitrary manner and not based on a rational and individualized determination of
3 whether he is a safety or flight risk, in violation of due process. Because no
4 individualized custody redetermination was made prior to April 16, 2026, no bond
5 conditions have been violated, and no circumstances have changed to make
6 Petitioner a flight risk or a danger to the community, Respondents' revocation of
7 Petitioner's release violates his right to procedural due process.

8
9
10
11 **PRAYER FOR RELIEF**

12 WHEREFORE, Petitioner respectfully requests this Court to grant the
13 following:
14

15 (1) Assume jurisdiction over this matter;

16 (2) Issue an Order to Show Cause ordering Respondents to show
17 cause why this Petition should not be granted within three days;

18 (3) Declare that Petitioner's detention without a prior individualized
19 determination violates the Due Process Clause of the Fifth Amendment and the
20 Administrative Procedures Act;
21

22 (4) Issue a Writ of Habeas Corpus ordering Respondents to release
23 Petitioner from custody;
24

25 (5) Issue an Order prohibiting the Respondents from transferring
26 Petitioner from the district without the court's approval;
27
28

1 (6) Issue an Order prohibiting the Respondents from enrolling the
2 Petitioner in any Alternative to Detention program, specifically barring them from
3 requiring an ankle monitor;
4

5 (7) Grant any further relief this Court deems just and proper.

6
7 Dated: April 17, 2026

/s/ Brian J. McGoldrick
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