IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

Civil Action No. 26-cv-2129

ALBERT MAMYROV (alien registration number [redacted]),

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as Warden of the ICE Denver Contract Detention Facility,

GEORGE VALDEZ, in his official capacity as Director of the Denver Field Office of United States Immigration and Customs Enforcement, Enforcement and Removal Operations,

MARKWAYNE MULLIN, in his official capacity as Secretary of Homeland Security, and

TODD BLANCHE, in his official capacity as Acting Attorney General of the United States,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

Introduction

1. Petitioner Albert Mamyrov came to the United States in November 2023. He was fleeing years of discrimination and mistreatment he had suffered in Russia because of [redacted]. His wife and four children had traveled to this country a few months earlier, and he hoped to join them. In the event, he has not seen them for nearly three years.
2. Though he had scrupulously followed the procedures the government set out for the orderly processing of those seeking asylum at the border and has no criminal history, the government detained him as soon as he presented himself at a port of entry to request asylum in the United States. He was transferred to the ICE Denver Contract Detention Facility in Aurora, Colorado, a few days later and remains there to this day.
3. Over two months after he was initially detained, the government placed him in removal proceedings, where he requested Asylum, Restriction on Removal (also called statutory Withholding of Removal), and Protection under the regulations implementing the Convention Against Torture. An Immigration Judge denied his applications in June 2024. He appealed that decision.
4. In November 2024, the United States Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), Board of Immigration Appeals (the BIA) sustained his appeal and remanded his case to the Immigration Judge .

5. After another hearing in March 2025, a different immigration judge granted him Asylum in a written decision issued in May 2025. The United States Department of Homeland Security (DHS) appealed this decision.
6. In October 2025, the BIA sustained DHS's appeal, reversed the grant of Asylum, denied the application for Restriction on Removal, and remanded the case for the Immigration Judge to assess his eligibility for protection under the Convention Against Torture.
7. In March 2026, a third immigration judge denied him protection under the convention Against Torture. During the statutory thirty-day period he had to appeal this decision, and though a regulatory stay of removal was in place, officers from the United States Immigration and Customs Enforcement (ICE) asked Mr. Mamyrov to sign papers to effect his deportation.
8. Mr. Mamyrov appealed the Immigration Judge's decision at the end of March. That appeal remains pending before the BIA. Even after the proceedings before the BIA, a strong possibility exists that he will petition the United States Court of Appeals for the Tenth Circuit for review of the BIA's October 2024 decision at the very least.
9. The parties are liable to disagree about which statute authorizes Mr. Mamyrov's detention. The government likely considers that he is detained pursuant to 8 U.S.C. § 1225(b)(2)(A), which mandates the detention of applicants for admission who are not in expedited removal proceedings. Alternatively, he might be detained under either 8 U.S.C. § 1225(b)(1)(B), which also mandates detention, because an expedited order of removal appears to have been issued against him when he first entered the United states, or under 8 U.S.C. § 1226(a)(1) because DHS exercised its discretion to place him in full removal

proceedings under 8 U.S.C. § 1229a. Even if he is detained under 8 U.S.C. § 1226(a)(1), however, he is ineligible for a bond hearing before an immigration judge because he has been classified as an arriving alien. *See* 8 C.F.R. § 1003.19(h)(2)(i)(B). In short, whichever statutory scheme presently governs his detention, he cannot request bond from an immigration judge. His only avenue for requesting release is through a grant of parole under DHS's authority as provided for in 8 U.S.C. § 1182(d)(5)(A).

10. The government has no grounds to believe that Mr. Mamyrov presents a danger to the community. His continuous detention for over two and a half years is therefore a violation of his due process rights under the Fifth Amendment to the United States Constitution. Thus, he petitions the Court to issue a writ of habeas corpus ordering either his immediate release or that he be provided with a bond hearing within seven days at which the government will bear the burden of proving by clear and convincing evidence that his continued detention is justified and during which his ability to pay must be considered in fixing any bond amount.

Jurisdiction and Venue

11. The court has federal question subject matter jurisdiction over this petition because it arises under the laws of the United States. *See* 28 U.S.C. § 1331. Specifically, the Court has jurisdiction to issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241(a), (c)(1), (3). *See also* U.S. Const. Art. I, § 9, Cl. 2. Mr. Mamyrov is in the custody of the United States government and pursuant to its authority, and his continued detention violates his Fifth-Amendment due-process rights.

12. Venue is proper in the District of Colorado insofar as all the events giving rise to this action, which does not involve any real property, occurred in Colorado and Mr. Mamyrov is detained at the Denver Contract Detention Facility in Aurora, Colorado. *See* 28 U.S.C. § 1391(e)(1)(B), (C).

The Parties

13. Mr. Mamyrov is a 40-year-old native of Kyrgyzstan and citizen of Russia. He and his family fled Russia to escape the mistreatment he received because of [redacted] He is currently detained at the ICE Denver Contract Detention Facility.

14. Juan Baltazar is the warden of the ICE Denver Contract Detention Facility, which is run by the Geo Group, Inc. He oversees the facility where Mr. Mamyrov is physically confined. He is sued solely in his official capacity.

15. On information and belief, George Valdez is the director of the Denver Field Office of United States Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO). He oversees ICE's work in Colorado and Wyoming to detain and, as necessary, remove noncitizens suspected of violating the Immigration Laws. He is sued solely in his official capacity.

16. Markwayne Mullin is Secretary of the United States Department of Homeland Security. He is one of the several cabinet officials charged with the overall administration and enforcement of the immigration laws. He bears overall responsibility for DHS's detention policies nationwide. ICE is a component of the Department of Homeland Security and therefore falls under his authority. He is sued solely in his official capacity.

17. Todd Blanch is Acting Attorney General of the United States. The Executive Office for Immigration Review (EOIR), which operates the United States immigration courts and the BIA, is part of the Department of Justice (DOJ) and thus falls under his control. He is sued solely in his official capacity.

Factual And Legal Background

18. Mr. Mamyrov is a 40-year-old native of what is now Kyrgyzstan. He and his mother moved to Russia when he was 16 years old, and he obtained Russian citizenship in 2007. During that process, he renounced his Kyrgyz citizenship, so he is a citizen only of Russia. He is married and has four children.

19. Throughout his time in Russia, he has experienced continual harassment and discrimination on account of [redacted] He was also physically harmed on at least two occasions. During the second incident, [redacted] He sent his wife and children away first and himself departed three months later.

20. [redacted]

21. After arriving in Mexico, Mr. Mamyrov scheduled an appointment to present himself at the border to request asylum.

22. Mr. Mamyrov's case was subject to the provisions of the Circumvention of Lawful Pathways (CLP) rule, which took effect on May 11, 2023, and is codified at 8 C.F.R. §§ 208.33, 1208.33. This rule established a rebuttable presumption of asylum ineligibility for any noncitizen who entered the United States (1) between May 11, 2023, and May 11, 2025; (2) from Mexico at the southwest land border or adjacent coastal borders; (3) without documents authorizing lawful admission; (4) after having traveled through a third country that was a signatory to either the 1951 United Nations Convention Relating to the Status of Refugees or the 1967 Protocol Relating to the Status of Refugees. But the presumption does not apply to noncitizens who presented themselves at a port of entry pursuant to an appointment scheduled through the CBP One Application.
23. Since Mexico is a signatory to a treaty providing for the protection of refugees and Mr. Mamyrov did not apply for asylum in that country, he would thus be presumed ineligible for asylum unless he presented himself at a port of entry pursuant to a pre-scheduled CBP One appointment.
24. Mr. Mamyrov remained in Mexico until November 4, 2023, the date of the appointment he had received through the CBP One application. He presented himself at the Hidalgo, TX, Port of Entry, and notwithstanding his strict compliance with the CLP's procedures and his lack of any criminal history, ICE likely immediately issued an order of expedited removal—an order requiring his removal from the United States without a hearing before an Immigration Judge—against him and certainly did detain him. *See* 8 U.S.C. § 1225(b)(1)(A)(i). On November 13, 2023, he was transferred to the ICE Denver Contract Detention Facility, where he remains to this day.

25. He expressed a fear of returning to Russia, so he was likely referred to the United States Citizenship and Immigration Services (USCIS) so that an asylum officer could interview him to determine whether he had a credible fear of persecution or torture in Russia and should be allowed to fully present his claims for protection in Immigration Court. *See* 8 U.S.C. § 1225(b)(1)(A)(ii).
26. Mr. Mamyrov does not remember that this interview ever took place.
27. On January 14, 2024, a supervisory asylum officer issued a Notice to Appear (NTA), the document that initiates removal proceedings under 8 U.S.C. § 1229a. *See* Exh. 1 at 1–3. The NTA was not filed with the Aurora Immigration Court until January 19, 2024. *See id.* On The NTA, he is designated as an arriving alien. *See id.* at 1.
28. It is not altogether clear under which statutory scheme Mr. Mamyrov is detained. The fact that he was placed into the credible-fear process might suggest that he is subject to the mandatory-detention provisions at 8 U.S.C. § 1225(b)(1)(B). But both mandatory detention provisions in this subparagraph require that an asylum officer first determine whether the noncitizen has a credible fear of persecution or torture. *See id.* § 1225(b)(1)(B)(ii) (mandatory detention if asylum officer finds that noncitizen has credible fear), § 1225(b)(1)(B)(iii)(IV) (mandatory detention if asylum officer finds that noncitizen does not have credible fear). No asylum officer ever determined whether he did or did not have a credible fear of persecution or torture in Russia. Thus, 8 U.S.C. § 1225(b)(1)(B) does not govern his detention.
29. When the government issued the NTA, it also issued a warrant for Mr. Mamyrov's arrest consistent with the procedures at 8 C.F.R. § 236.1(b)(1). *See* Exh. 1 at 5. This would

seem to indicate that he was, in DHS's view, detained under 8 U.S.C. § 1226(a)(1), which governs the detention of noncitizens "pending a decision on whether [they are] to be removed from the United States." Though 8 U.S.C. § 1226(a)(2) does allow for release on bond, the DOJ's regulations dictate that immigration judges do not have jurisdiction to consider requests for bond by arriving aliens such as Mr. Mamyrov. *See* 8 C.F.R. § 1003.19(h)(2)(i)(B).

30. But the BIA's recent decisions in *Q. Li*, 29 I. & N. Dec. 66 (B.I.A. 2025) and *Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), though not precisely on point, suggest that EOIR would not consider Mr. Mamyrov to be detained under 8 U.S.C. § 1226(a)(1), but rather under 8 U.S.C. § 1225(b)(2)(A). This subparagraph mandates the detention of all applicants for admission who cannot prove that they are clearly and beyond a doubt entitled to be admitted to the United States. But subparagraph (b)(ii) specifically says that subparagraph (a) does not apply to anyone "to whom paragraph (1) applies," i.e., who can be subject to an order of expedited removal.

31. Whichever statutory scheme applies, the result is the same: Mr. Mamyrov cannot request a bond hearing before an Immigration Judge. His only hope for release is a grant of parole by ICE.

32. On June 27, 2024, an immigration judge held a hearing on the merits of Mr. Mamyrov's applications for Asylum, Restriction on Removal, and Protection under the Convention Against Torture and denied these applications.

33. Mr. Mamyrov appealed this decision to the BIA on July 17, 2024. The BIA remanded the case to the Immigration Judge on November 1, 2024.

34. A second immigration judge held a hearing to receive evidence and argument on March 20, 2025. On May 1, 2025, the Immigration Judge granted Mr. Mamyrov's application for Asylum.

35. DHS appealed this decision to the BIA on May 22, 2025. In a decision dated October 8, 2025, the BIA sustained DHS's appeal, reversed the Immigration Judge's grant of asylum, denied his application for restriction on removal, and remanded the case for evaluation of his claim for protection under the Convention Against Torture.

36. On March 12, 2026, a third immigration judge denied Mr. Mamyrov protection under the Convention Against Torture and ordered his removal to Russia.

37. Mr. Mamyrov had 30 days from the date of this decision to file an appeal with the BIA. During that time, DHS had no authority to execute the order of removal against him. *See* 8 C.F.R. § 1003.6(a). This stay of removal continued in effect after he filed his appeal with the BIA on March 30, 2026. *See* Exh. 2.

38. Notwithstanding their clear lack of authority, ICE officers came to Mr. Mamyrov in April 2026 and insisted that he sign paperwork for his deportation. When he refused on the grounds that he was appealing the Immigration Judge's order, he was placed in solitary confinement.

39. It is uncertain how long the appeal will be pending at the BIA. While appeals by detained noncitizens used to take an average of six months to process, it is now perfectly possible for an appeal to be pending for six months without even the issuance of a briefing schedule. In any event, whenever the BIA issues a decision, a strong probability exists

that Mr. Mamyrov will petition the United States Court of Appeals for the Tenth Circuit for review of the denial of his applications for Asylum and Restriction on Removal.

40. Mr. Mamyrov has never been arrested or convicted for any conduct that would be deemed criminal in the United States. The government, then, has no basis to consider him a danger to the community. Moreover, he has a wife and four children in the United States and has fully complied with all the government's lawful requests. There are not, then, grounds to justify a finding that he is a flight risk.

Statement of Claims

COUNT ONE – VIOLATION OF MR. MAMYROV'S DUE-PROCESS RIGHTS UNDER THE FIFTH AMENDMENT

41. Mr. Mamyrov incorporates by reference paragraphs 1 through 40 as if fully set forth herein.

42. The Fifth Amendment to the United States Constitution provides that "No person shall . . . be deprived of . . . liberty . . . without due process of law." As the Supreme Court has stated, "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due-Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

43. Mr. Mamyrov has a strong interest in being free from confinement. There is no reason to believe that he poses a danger to the community. And his demonstrated compliance with all immigration procedures, along with the presence of his immediate family members in the United States, count against any allegation that he is a flight risk. Moreover, his

detention has already lasted for over 30 months and will likely continue for several months more.

44. Mr. Mamyrov does not seek to circumvent or abridge the procedures for consideration of his applications for relief from removal. All he asks is to be at liberty, able to live with his family, while this consideration proceeds.

45. Mr. Mamyrov has already been detained for five times the length of detention the Supreme Court approved of in *Demore v. Kim*, 538 U.S. 510, 530 (2003). As matters stand, he faces the prospect of being detained for at least six more months. This timeframe is substantially disproportionate to the government's interest in promptly determining whether he will be allowed to remain in the United States.

Prayer for Relief

Wherefore, Mr. Mamyrov respectfully prays the Court to grant the following relief:

A. Assume jurisdiction over this matter;

B. Issue an order prohibiting Mr. Mamyrov's transfer outside this district or removal from the United States during the pendency of this petition;

C. Issue a writ of habeas corpus ordering that the government either release Mr. Mamyrov or provide him with a bond hearing within seven days at which the government will bear the burden of proving by clear and convincing evidence that his continued detention is justified and during which his ability to pay will be considered in fixing the amount of any bond;

D. Award him reasonable attorney's fees and costs;

and

E. Grant such further relief as the Court deems just and proper.

Respectfully submitted this 20th day of May 2026,

s/ Henry D. Hollithron
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