UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

SAN ANTONIO DIVISION

SAIDZODA SHAYXIDDINXOJAEV, Petitioner, v. TODD BLANCHE, Attorney General of the United States, MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; TODD M. LYONS, Director of Enforcement and Removal Operations for the United States; MIGUEL VERGARA, Field Office Director for San Antonio Field Office of ICE Enforcement and Removal Operations; and BOBBY THOMPSON, Warden, South Texas Detention Facility, Respondents.	No. 5:26-cv-4204

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Saidzoda Shayxiddinxojaev, ("Petitioner") (A# [redacted]) remains in ICE custody in Texas despite having been detained without justification since his entry with his family on January 1st, 2026. While Petitioner's parents and sister were released after his father's credible fear interview, contrary to statute and DHS policy, the positive credible fear result was not shared with Petitioner despite him being part of a family unit that entered the United States together. Respondents refused to release Petitioner and delayed his credible fear interview for

over five months before engaging in a perfunctory interview and eventually, after more than five months of detention, issuing a Notice to Appear (attached hereto as Exhibit A). Petitioner's continued detention was and continues to be arbitrary, unlawful, and prolonged, and he requests that this Court order his immediate release from Respondents' custody.

2. Respondents' failure to timely apply Petitioner's family's credible fear determination to him as well as their five-month failure to provide him with his own credible fear interview violated the Administrative Procedure Act (APA) and due process in that Respondent's dereliction of their duties under the law were flagrant and knowing done resulting in the unconstitutional prolonging of Petitioner's detention. See *Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

JURISDICTION & VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 2201, 2202 (Declaratory Judgment Act).

4. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. See, e.g., *Zadvydas v. Davis*, 533 U.S. at 687.

5. Additionally, through the APA, federal courts have federal question jurisdiction empowering them to "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by "any applicable form of legal action, including actions for declaratory

judgments or writs of prohibitory or mandatory injunction or habeas corpus"). The APA affords a right of review to a person who is "adversely affected or aggrieved by agency action." 5 U.S.C. § 702. The continued detention of Petitioner by Respondents for an arbitrarily prolonged period has adversely and severely affected Petitioner's liberty and freedom.

6. Pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1), venue is proper in this district and division because Petitioner is detained within this district at the South Texas Detention Facility in Pearsall, Texas.

PARTIES

7. Petitioner is a native and citizen of Uzbekistan. He entered the United States on January 1st, 2026. He has been detained and denied due process at South Texas Detention Facility for over six months since his entry into the United States.

8. Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security (DHS). DHS oversees ICE, which is responsible for administering and enforcing the immigration laws. Secretary Mullin is the ultimate legal custodian of Petitioner. He is sued in his official capacity.

9. Todd Blanche is the Attorney General of the United States. He oversees the immigration court system, which is housed within the Executive Office for Immigration Review (EOIR) and includes all Immigration Judges and the Board of Immigration Appeals (BIA). He is sued in his official capacity.

10. Bobby Thompson is the Warden of the South Texas Detention Facility, a Core Civic facility that contracts with ICE to detain non-citizens. He is responsible for overseeing the South Texas Detention Facility's administration and management. Mr. Thompson is Petitioner's immediate custodian. He is sued in his official capacity.

11. Miguel Vergara is the Field Office Director of the ICE Enforcement and Removal Operations (ERO) San Antonio Field Office and is the federal agent charged with overseeing five ICE detention centers in Texas, including the Southern Texas Detention Facility. Mr. Vergara is a legal custodian of Petitioner. He is sued in his official capacity.

STATEMENT OF FACTS

12. Petitioner was born in Uzbekistan and is a citizen of Uzbekistan. Petitioner is not a citizen of any other country.

13. Petitioner fled Uzbekistan because of [redacted] He came to the United States to seek asylum.

14. Respondents, contrary to law, detained Petitioner for over five months without providing him the positive credible fear finding granted his father as part of a family unit, without granting a separate credible fear interview, and without charging him and issuing a Notice to Appear. After over five months of unjustified, capricious disregard regarding their statutory duties to either conduct a credible fear interview or parole Petitioner into the United States, Respondents conducted a cursory credible fear interview and subsequently, without explanation lodged a Notice to Appear for Petitioner with the Immigration Court. Respondents failed to notify Petitioner's counsel of the issuing of a Notice to Appear, violating their duties under 8 CFR 292.4(a), demonstrating an ongoing disregard for their statutory duties. Counsel for Petitioner was only able to discover that Petitioner had been issued a Notice to Appear through regular searches of the EOIR Case Status Portal in the absence of communication from Respondents regarding the outcome of his credible fear interview.

15. DHS charged Petitioner as removable under Sections 212(a)(7)(A)(i)(1) and 212(a)(7)(A)(i) of the Immigration and Nationality Act.

16. Despite subsequent release requests from Petitioner's counsel's office to Respondents, Petition remains detained.

17. Petitioner's unjustified and prolonged detention is causing Petitioner extreme duress and has prejudiced his asylum proceedings.

ARGUMENT

I. RESPONDENTS VIOLATED PETITIONER'S DUE PROCESS RIGHT AND VIOLATED THE APA BY FAILING TO TIMELY INCLUDE HIM IN HIS FAMILY UNIT DETERMINATION OR PROVIDE HIM WITH A CREDIBLE FEAR SCREEING

18. If an immigration officer determines that an alien … who is arriving in the United States or is described in clause (iii) is inadmissible under section 1182(a)(6)(C) or 1182(a)(7) of this title and the alien indicates either an intention to apply for asylum under section 1158 of this title or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer under subparagraph (B). (*See* 8 U.S.C. § 1225(b)(1)(A) (ii)). A spouse or child of a principal alien who arrived in the United States concurrently with the principal alien shall be included in that alien's positive credible fear evaluation and determination, unless the principal alien or the spouse or child declines such inclusion. (*See* 8 CFR § 208.30 (c)). Upon expressing an intent to apply for asylum, matters relating to a credible fear screening are to be handled in a prompt manner, as exemplified by the requirement of "prompt review by an immigration judge" upon an applicant's request. (*See* 8 U.S.C. § 1225(b)(1)(B)(iii)(III) ("within 24 hours, but in no case later than 7 days")).

19. Petitioner's father received a positive credible fear determination after entering the United States. Despite being required by statute to apply the positive credible fear determination to Petitioner as a member of a family unit that entered the United States together, Respondents choose to detain him separately from his family while releasing his family from detention. Compounding their initial violation of 8 CFR § 208.30 (c), Respondents then went on to refuse to provide Petitioner with his own credible fear screening for more than five months, despite being required to "promptly" provide him with a credible fear interview as required for individuals in "expedited" removal proceedings. As a result, Respondents unlawfully and without justification detained Petitioner in violation of his due process rights. Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

20. Respondents have yet to provide a justification, discretionary or otherwise as to why Petitioner was held in excess of five months without the protections guaranteed him by the statutes governing asylum, expedited removal, and credible fear determinations.

II. RESPONDENTS HAVE SUBJECTED PETITIONER TO AN UNCONSITUTIONALLY PROLONGED DETENTION IN VIOLATION OF HIS DUE PROCESS RIGHTS

21. Although the Supreme Court has not yet addressed the constitutionality of indefinite detention during the pendency of removal proceedings, the Court has previously suggested in *Demore v. Kim* that aliens may be detained for the brief period necessary for their removal proceedings. 538 U.S. at 513. *See also id.* at 526 (noting the longstanding view that the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings). Additionally, in a concurring opinion in *Demore*, Justice Anthony

Kennedy declared that a detained alien could be entitled to an individualized determination as to his risk of flight and dangerousness if the continued detention became unreasonable or unjustified. *Id.* at 532 (Kennedy, J., concurring) (citing Zadvydas v. Davis, 533 U.S. 678, 684–86 (2001)).

22. Petitioner is properly categorized as subject to 8 U.S.C. § 1225(b)(1) in that upon entering the United States he expressed a desire to seek asylum for fear of persecution in his home country. ("If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States or is described in clause (iii) is inadmissible under section 1182(a)(6)(C) or 1182(a)(7) of this title, the officer shall order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum under section 1158 of this title or a fear of persecution." 8 U.S.C. § 1225(b)(1)(A)(i).) While the Supreme Court in *Jennings v. Rodriguez* reversed the Ninth Circuit holding that detainees under the relevant statutes were entitled to a periodic bond hearing every six months, it did not rule on whether prolonged detention, as is the case here, violated the Constitution, remanding the matter to the lower court to consider such due process challenges.

23. As a consequence of Respondents' refusal to either apply the family unit credible fear determination to him and delay his own credible fear interview for over five months, they effectively and capriciously lengthened the "brief period necessary" for his removal proceedings envisioned as reasonable by the Supreme Court into an unreasonable and unjustified detention that is ongoing, indefinite, and now in excess of six months.

24. Because Petitioner's removal is not reasonably foreseeable, *Zadvydas* requires that he be immediately released. To order his immediate release, this Court need only determine that Petitioner's removal is not reasonably foreseeable under *Zadvydas*; it need not analyze whether he poses a danger to the community or a flight risk. See 533 U.S. at 699-700 ("[I]f removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.").

25. To the extent this Court considers any factors outside of the foreseeability of Petitioner's removal, which it need not do, Petitioner has significant equities that warrant release. In addition to rectifying Respondents' flouting of the law, Petitioner's release from a prolonged detention, would enable Petitioner to seek asylum alongside his parents and sister who are currently residing in in the United States and are actively seeking asylum themselves based on the same claim for asylum as Petitioner.

26. Additionally, this Court or ICE can impose conditions on release to mitigate any potential concerns regarding flight risk or danger. See *Zadvydas*, 533 U.S. at 700 ("[T]he [non- citizen]'s release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances.").

III. ONGOING DETENTION OF PETITIONER BY RESPONDENTS WITHOUT REVIEWING HIS CUSTODY VIOLATES THE APA AND DUE PROCESS

27. Per the *Accardi* doctrine, agencies are required to follow their own rules that impact the fundamental rights of individuals, even self-imposed policies and processes that limit discretionary decisions. See *Accardi*, 347 U.S. at 226 (finding that the BIA must follow its own regulations when exercising discretion); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (finding it incumbent upon agencies to follow their own regulations when individual's rights are impacted).

28. In the event an agency fails to adhere to their own policies, courts typically frame the violation as arbitrary, capricious, and contrary to law under the APA. Prejudice is generally presumed when an agency violates its own policy. See *Montilla v. INS*, 926 F.2d at 167 ("We hold that an alien claiming the INS has failed to adhere to its own regulations . . . is not required to make a showing of prejudice before he is entitled to relief. All that need be shown is that the subject regulations were for the alien's benefit and that the INS failed to adhere to them."); Heffner, 420 F.2d at 813 ("The Accardi doctrine furthermore requires reversal irrespective of whether a new trial will produce the same verdict.").

29. To remedy an *Accardi* violation, a court may direct the agency to properly apply its policy, see *Damus v. Nielsen*, 313 F. Supp. 3d at 343 ("[T]his Court is simply ordering that Defendants do what they already admit is required."), or a court may apply the policy itself and order relief consistent with the policy. See *Jimenez v. Cronen*, 317 F. Supp. 3d 626, 657 (D. Mass. 2018) (scheduling bail hearing to review petitioners' custody under ICE's standards because "it would be particularly unfair to require that petitioners remain detained . . . while ICE attempts to remedy its failure").

30. Respondents' failure to promptly comply with the credible fear regime was overtly prejudicial to his interest in only being detained for the "brief period necessary" to conduct his asylum proceedings. Prejudice can be presumed because Petitioner's fundamental liberty interests and due process rights are at issue. See *Delgado-Corea v. INS*, 804 F.2d 261, 263 (4th Cir. 1986) (holding that "violation of a regulation can serve to invalidate a deportation order when the regulation serves a purpose to benefit the [non-citizen]" and the violation affected "interests of the [non-citizen] which were protected by the regulation") (internal quotations

omitted). By arbitrarily and unjustly prolonging Petitioner's detention while failing to either apply his family unit determination of credible fear or provide him with his own screening, Respondents abused their discretion with a unreasonably and unjustly prolonged detention that was never justified under the law. See *Zadvydas*, 533 U.S. at 690 ("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.").

31. As a remedy, this Court should review Petitioner's custody and order his release accordingly.

CLAIMS FOR RELIEF

COUNT I

ARBITRARY AND CAPRICIOUS AGENCY ACTION UNDER THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A)

32. Petitioner realleges and incorporates by reference the paragraphs above.

33. Courts must hold unlawful and set aside agency action that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A).

34. Respondents have deviated from their own policy by detain Petitioner in excess of five months without complying with the credible fear screening requirements and without determining whether exceptional circumstances warrant his continued detention. This is arbitrary, capricious, and contrary to law in violation of the APA.

35. As a remedy, this Court should conduct its own review of Petitioner's custody and, barring any showing by Respondents by clear and convincing evidence that Petitioner is a flight risk or a threat to the community, order his release.

COUNT II

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

36. Petitioner realleges and incorporates by reference the paragraphs above.

37. Respondents have violated Petitioner's due process rights by unreasonably and unjustly subjecting him to a prolonged and ongoing detention in contravention of the due process protections espoused in *Zadvydas v. Davis* and *Demore v. Kim*.

38. As a remedy, this Court should find that Respondents abused their discretion and violated his due process rights by unjustly subjecting Petitioner to a prolonged detention and order Petitioner's release.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully request that this Court:

a. Assume jurisdiction over this matter;

b. Declare that Petitioner's continued detention violates the Immigration and Nationality Act; the Administrative Procedure Act; and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

c. Order Petitioner's immediate release;

d. Alternatively, review Petitioner's custody under the prolonged detention standard, requiring a showing by Respondents by clear and convincing evidence that Petitioner is a flight risk or a threat to society;

e. GRANT any other further relief this Court deems just and proper.

DATED: July 6, 2026. Respectfully submitted,

/s/ Joshua L. Goldstein, Esq
Attorney for Plaintiff
Goldstein Immigration Lawyers
611 Wilshire Blvd, Suite 317
Los Angeles, CA 90017
Telephone: (213) 425-1979
Email: jg@jgoldlaw.com
United States District Court for the Western District of Texas Bar No.CA Bar #332467

CERTIFICATE OF SERVICE

I hereby certify that on July 6, 2026, I caused the foregoing Petition for Writ of Habeas Corpus to be served by U.S. mail/electronically to the following:

TODD BLANCHE
United States Attorney General,
Office of Immigration Litigation
U.S. Department of Justice / Civil Division
P.O. Box 878, Ben Franklin Station
Washington, DC 20044

MIGUEL VERGARA
Director for San Antonio Field Office of ICE Enforcement and Removal Operations
1777 NE Loop 410
Floor 15
San Antonio, Texas 78217
United States

MARKWAYNE MULLIN
Secretary of U.S. Department of Homeland Security
245 Murray Lane SW
Washington, DC 20528
United States

TODD M. LYONS
Director of Enforcement and Removal Operations for the United States
500 12th St SW Washington, DC 20536
United States

BOBBY THOMPSON
Warden, South Texas Detention Facility
South Texas Detention Facility

566 Veterans Drive, Pearsall, TX 76061
United States

_____

Joshua L. Goldstein, Esq
Attorney for Plaintiff
Goldstein Immigration Lawyers
611 Wilshire Blvd, Suite 317
Los Angeles, CA 90017