UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Nabijon NIYOKOV, **Petitioner,** **v.** **ERIC TOLLEFSON, Sheriff, Kandiyohi County Sheriff's Office; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; DAVID EASTERWOOD, Acting Field Office Director, St. Paul ERO, U.S. Immigration and Customs Enforcement; TODD BLANCHE, Acting Attorney General of the United States,** **Respondents.**	**Case No. _____** **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241** **Expedited Handling Requested**

INTRODUCTION

Petitioner, Nabijon Niyozov, by and through undersigned counsel, petitions this Court for a Writ of Habeas Corpus to remedy his unlawful, unconstitutional, and arbitrary detention by U.S. Immigration and Customs Enforcement ("ICE"). In support of this Petition, Petitioner states as follows:

I. PRELIMINARY STATEMENT

1. Petitioner, Nabijon Niyozov, is currently unlawfully detained by ICE at the Kandiyohi County Jail in Willmar, Minnesota, following an illegal, warrantless re-detention executed outside his home in April 2026.

2. Petitioner previously filed a Petition for Writ of Habeas Corpus in this District challenging his prior detention, which was granted in part before being dismissed without prejudice on July 16, 2026. (*Nabijon Niyozov v. Markwayne Mullin, et al.*, Case No. 0:26-cv-02469).

3. Petitioner last entered the United States without inspection on July 13, 2023. Upon his entry, he was briefly detained by Customs and Border Protection ("CBP") before being released on his own recognizance.

4. Since his 2023 entry, Petitioner has resided continuously in the interior of the United States. On April 18, 2025, United States Citizenship and Immigration Services ("USCIS") approved Petitioner's application for Special Immigrant Juvenile Status ("SIJS") and granted him Deferred Action, which remained valid and unrevoked at the time of his April 2026 re-detention.

5. Respondents targeted and arrested Petitioner outside his home without a pre-existing warrant and without any articulable facts demonstrating that he was "likely to escape before a warrant can be obtained," in direct violation of 8 U.S.C. § 1357(a)(2) (INA § 287(a)(2)) and 8 C.F.R. § 287.8(c). The post-arrest service of an administrative warrant (Form I-200) cannot retroactively cure this fundamental statutory defect.

6. Following his unlawful arrest, Respondents subjected Petitioner to arbitrary and mandatory detention under the erroneous pretense of 8 U.S.C. § 1225(b)(2)(A). Because Petitioner has resided in the interior of the United States for over two years and held active deferred action following his SIJS approval, he is not an "applicant for admission" subject to mandatory detention under § 1225(b)(2)(A).

7. Furthermore, Respondents failed to observe mandatory post-arrest procedural safeguards under 8 C.F.R. § 287.3, failing to perform an independent examination and failing to

provide a pre-deprivation bond hearing or properly release Petitioner on bond or recognizance under 8 U.S.C. § 1226(a).

II. JURISDICTION AND VENUE

8. This Court has subject-matter jurisdiction over this action under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, Section 9, Clause 2 of the United States Constitution (the Suspension Clause).

9. Venue is proper in the District of Minnesota under 28 U.S.C. § 1391(e) and 28 U.S.C. § 2241(d) because Petitioner was returned to federal ICE custody following the conclusion of his state criminal proceedings and is physically detained within this judicial district at the Kandiyohi County Jail in Willmar, Minnesota, where Respondent Eric Tollefson exercises direct physical custody over Petitioner.

III. STATEMENT OF FACTS

10. Petitioner Nabijon Niyozov entered the United States without inspection on July 13, 2023.

11. Upon entry in 2023, Petitioner was briefly detained by CBP and subsequently released on his own recognizance. He has maintained continuous physical presence in the interior of the country since that time.

12. In August 2024, Mr. Niyozov was arrested in Hennepin County on a gross misdemeanor charge.

13. On or about October 11, 2024, Mr. Niyozov posted a $6,000 bond, and he was released from state jail. He did not violate the terms of his state court bond, and he remained at liberty for approximately 18 months.

14. In February of 2025, USCIS approved Mr. Niyozov's Form I-360, Petition for Special Immigrant Status (SIJS), and on April 18, 2025, granted him Deferred Action, which remained active and unrevoked.

15. On or about April 16, 2026, ICE targeted Mr. Niyozov and re-detained him outside his home without a pre-existing warrant or a pre-deprivation bond hearing, issuing a Form I-200, Warrant for Arrest of Alien, to him post-arrest. Removal proceedings were subsequently initiated.

16. On May 18, 2026, Mr. Niyozov filed a Petition for Habeas Corpus with this Court challenging his unlawful detention (*Nabijon Niyozov v. Markwayne Mullin, et al.*, Case No. 0:26-cv-02469).

17. On June 18, 2026, this Court granted Mr. Niyozov's Petition for Habeas Corpus and ordered Respondents to provide a bond hearing by June 25th, or in the alternative, to immediately release him. (The prior habeas proceeding was ultimately dismissed without prejudice).

18. However, on or about June 5, 2026, Mr. Niyozov was transferred to state jail pursuant to a Hennepin Writ to face criminal trial for his gross misdemeanor charge.

19. The Hennepin Writ stated that at the end of his criminal trial, Hennepin County would return Mr. Niyozov to ICE at the Whipple Federal Building.

20. Despite having previously paid a $6,000 state bond, Mr. Niyozov remained detained in state jail solely because of Respondents' restraint on his liberty.

21. Following the conclusion of his state trial, Hennepin County returned Mr. Niyozov to ICE custody, and ICE subsequently transferred and detained him at the Kandiyohi County Jail in Willmar, Minnesota.

22. At the time of his re-detention in April 2026, Petitioner was not an immediate flight risk, was residing at his established address, working with legal authorization, and posed no risk of escaping prior to officers securing a warrant.

23. Following the arrest, ICE performed a post-arrest assessment and improperly determined that Petitioner was subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) as an "applicant for admission," a framework under which the Government asserts the arrest was executed.

24. ICE failed to evaluate Petitioner under 8 U.S.C. § 1226(a) for release on bond or conditional parole and violated post-arrest procedural duties under 8 C.F.R. § 287.3.

IV. CAUSES OF ACTION

COUNT I: VIOLATION OF 8 U.S.C. § 1357(a)(2) AND 8 C.F.R. § 287.8(c) (UNLAWFUL WARRANTLESS ARREST)

25. Petitioner realleges and incorporates Paragraphs 1 through 24 as if fully set forth herein.

26. Under 8 U.S.C. § 1357(a)(2) (INA § 287(a)(2)) and 8 C.F.R. § 287.8(c)(2)(ii), an immigration officer possesses statutory authority to execute a civil arrest without a warrant only if the officer has probable cause to believe that the noncitizen is unlawfully present and "is likely to escape before a warrant can be obtained."

27. Because Petitioner's initial physical seizure outside his home occurred prior to the service of any warrant, the lawfulness of his arrest is strictly governed by the dual-prong requirements of 8 U.S.C. § 1357(a)(2). District Judge Provinzino stated the arrest occurred before the warrant in her previous decision granting Habeas Corpus. *Nabijon Niyozov v. Markwayne Mullin, et al.*, Case No. 0:26-cv-02469, Doc. No. 11, p.11, referring to Doc. No. 9-3.

28. ICE officers possessed no specific, articulable facts establishing that Petitioner was "likely to escape before a warrant can be obtained," in either the I-213 records from his initial entry or at the time of his arrest and in the Warrant of Arrest of Alien. Petitioner was an established resident in the interior of the United States with an approved SIJS classification and active deferred action at the time of his arrest on April 16, 2026.

29. The later issued I-213 record states, "On April 16, 2026 at approximately 0730, ERO officers encountered NIYOZOV, Nabijon near his apartment in New Brighton, MN. NIYOZOV was apprehended without incident and transported to the Sherburne County Jail for ICE direct booking and administrative processing." Exh. 1.

30. The subsequent service of a Form I-200 administrative arrest warrant after physical restraint was already accomplished does not retroactively validate an ultra vires, warrantless arrest. Because the initial seizure failed both prongs of 8 U.S.C. § 1357(a)(2), Petitioner's arrest and derivative detention are unauthorized by statute and illegal.

COUNT II: VIOLATION OF 8 C.F.R. § 287.3 AND PROCEDURAL DUE PROCESS (POST-ARREST ASSESSMENT & IMPROPER MANDATORY DETENTION)

31. Petitioner realleges and incorporates Paragraphs 1 through 24 as if fully set forth herein.

32. Following a warrantless arrest, 8 C.F.R. § 287.3(a) dictates that an arrested individual must be examined by an officer other than the arresting officer (unless no other officer is readily available) to determine whether there is prima facie evidence for removal and to make a threshold custody determination under 8 C.F.R. § 287.3(d).

33. Respondents violated 8 C.F.R. § 287.3 by subjecting Petitioner to a flawed post-arrest examination that misapplied the statutory framework.

34. Respondents improperly classified Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), taking the position that he was arrested and detained under this

provision. Statutory authority under § 1225(b)(2)(A) applies only to "applicants for admission" arriving at the border or noncitizens who cannot establish two years of continuous physical presence in the United States.

35. Because Petitioner has continuously resided in the United States since his summer 2023 entry, was previously released on his own recognizance, and was granted SIJS and deferred action on April 18, 2025, he cannot statutorily or constitutionally be subjected to § 1225(b)(2)(A) summary processing or mandatory detention.

36. Petitioner's detention is governed strictly by 8 U.S.C. § 1226(a). Under a proper 8 C.F.R. § 287.3 assessment, Respondents were required to consider Petitioner for discretionary release on bond or on his own recognizance.

37. Respondents' failure to adhere to their own regulations under 8 C.F.R. § 287.3 and their arbitrary application of § 1225(b)(2)(A) violated Petitioner's procedural rights under federal regulations and the Due Process Clause of the Fifth Amendment.

COUNT III: VIOLATION OF MANDATORY DHS REGULATIONS (8 C.F.R. §§ 287.8(c)(2)(v), 287.3(c)) AND FIFTH AMENDMENT DUE PROCESS FOR FAILURE TO PROVIDE ARREST ADVISEMENTS IN A LANGUAGE PETITIONER UNDERSTANDS

38. DHS failed to comply with its clear regulatory mandates under 8 C.F.R. § 287.8(c)(2)(v) and 8 C.F.R. § 287.3(c) during Respondent's apprehension and administrative processing.

39. Under 8 C.F.R. § 287.8(c)(2)(v), immigration officers have an affirmative duty during an arrest to ensure that required warnings—including the right to counsel, that any statement made may be used against the arrestee, and custody determinations—are provided in a language the subject actually understands, and that the subject affirmatively acknowledges understanding those warnings.

40. Furthermore, 8 C.F.R. § 287.3(c) explicitly requires that an arrested noncitizen be advised of these rights and that such advisement be documented on official Department forms.

41. The government's own evidence demonstrates a total failure to comply with these binding regulatory commands.

42. Neither the April 16, 2026 Form I-213 nor the July 13, 2023 Form I-213 contains any record or notation indicating that arresting officers administered required administrative rights warnings to Respondent. Neither document reflects that warnings were provided in Farsi or Russian—the languages Respondent best understands—nor is there any record showing Respondent acknowledged understanding any such rights.

43. On the April 16, 2026 Form I-200 Warrant for Arrest, the Certificate of Service is left entirely blank regarding language. The field designating the language in which the warrant's contents were read to Respondent was left unfilled, confirming he was never advised of the warrant in Farsi or Russian.

44. Demonstrating the pervasive failure of language access throughout his arrest processing, the July 14, 2023 Notice to Appear contains a Certificate of Service asserting that Respondent was provided oral notice of proceedings in *Spanish*. Respondent is a native of Tajikistan who speaks Farsi and Russian; he does not comprehend Spanish.

45. DHS's failure to administer required arrest warnings in a language Respondent understands violates 8 C.F.R. §§ 287.8(c)(2)(v) and 287.3(c). This failure infected the entire initiation of proceedings, depriving Respondent of fundamental procedural safeguards guaranteed by Department regulations and the Due Process Clause of the Fifth Amendment.

V. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

(1) **GRANT** the Petition for Writ of Habeas Corpus;

(2) **DECLARE** that Petitioner's warrantless arrest in April 2026 violated 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8(c);

(3) **DECLARE** that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), and that his custody is governed by 8 U.S.C. § 1226(a);

(4) **ORDER** Respondents to immediately release Petitioner from custody on his own recognizance or under reasonable conditions of supervision;

a. **IN THE ALTERNATIVE**, order Respondents to provide Petitioner with an individualized custody and bond hearing before an Immigration Judge under 8 U.S.C. § 1226(a) within seven (7) days, where the Government bears the burden of justifying detention by clear and convincing evidence, and

(5) **GRANT** such other and further relief as this Court deems just and proper.

Dated this 11th of September of 2026

By: /s/ Sherene Mostaghimi

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. My firm has discussed the factual assertions in this petition with Petitioner, Petitioner's close friend, and Petitioner's previous attorneys, who are acting on Petitioner's behalf and who I understand has personal knowledge of the facts alleged herein. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

Date: September 11, 2026

/s/ Sherene Mostaghimi
Sherene Mostaghimi