

UNITED STATES DISTRICT COURT ^{FILED 25 FEB 5 AM 8:04 1104-03}
FOR THE Middle District of Georgia

Sergey Shaburov, AA 
Petitioner,

v.
Pam Bondi _____, ATTORNEY
GENERAL;
Keisti Noem _____,
SECRETARY OF THE DEPARTMENT
OF HOMELAND SECURITY;
LaDion Francis _____,
U.S. ICE FIELD OFFICE DIRECTOR FOR
THE Georgia _____ FIELD OFFICE;
and WARDEN OF IMMIGRATION
DETENTION FACILITY, Terrence
Dickerson
Respondents.

Civil Action No. 4:25-CV-45

PETITION FOR A WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241

Petitioner, Sergey Shaburov, hereby petitions this Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents. In support of this petition and complaint for injunctive relief, Petitioner alleges as follows:

CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is detained at the

Steward Detention Center in
146 CCA Road, Cumkin, Georgia 31815

Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104 - 208, 110 Stat. 1570, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq.

3. This Court has jurisdiction under 28 U.S.C. § 2241; art. I § 9, cl. 2 of the United States Constitution ("Suspension Clause"); and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651.

4. Petitioner has exhausted any and all administrative remedies to the extent required by law.

VENUE

5. Pursuant to Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 434, 493 - 500 (1973), venue lies in the United States District Court for the

Middle District of Georgia, the judicial district in which Petitioner resides.

PARTIES

6. Petitioner is a native and citizen of Russia. Petitioner was first taken into ICE custody on 06.26.24, and has remained in ICE custody continuously since that date. Petitioner was ordered removed on

03.06.2014 Immigration Court
180 Spring st. SW suite 241, Atlanta, GA, 30305

7. Respondent Pam Bondi is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Naturalization Act (INA). As such, ICE has ultimate custodial authority over Petitioner.

8. Respondent Keisti Noem is the Secretary of the Department of Homeland Security. He is responsible for the administration of ICE and the implementation and enforcement of the INA. As such, ICE is the legal custodian of Petitioner.

9. Respondent LaDion Francis is the Field Office Director of the Georgia Field Office of ICE and is Petitioner's immediate custodian. See Vásquez v. Reno, 233 F.3d 688, 690 (1st Cir. 2000), cert. denied, 122 S. Ct. 43 (2001).

10. Respondent Warden of Steward Detention Center, where Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

FACTUAL ALLEGATIONS

11. Petitioner, Sergey Shaburov, is a native and citizen of Russia. Petitioner has been in ICE custody since 06.26.2024. An Immigration Judge ordered the Petitioner removed on 03.06.2014 (See attachment #1)

12. Petitioner are native and citizen of the former USSR, Russia, who entered the United State at New York NY on September 24, 1992, as a Refugee. Thereafter his status was adjusted to that of a lawful permanent resident. Green Card # [REDACTED]

13. Petitioner have been arrested on 06.24.2010 for the crimes of: ARSON, Burglary and Assault; case # 10CR4762-4; in the Superior Court of DeKalb County the State of Georgia; convicted, sentenced MAY 17, 2011 to Thirty (30) years to serve

14. On June 26, 2024, Parole Board of Georgia commute Petitioner's 30 years sentence to 14 years, and Grant his Parole for release. During Petitioner's

release 06.26.2024 ICE took Petitioner in the custody. (See attachment # 2)

15. To date, however, ICE has been unable to remove Petitioner to Russia or any other country. Petitioner come to USA from former USSR as a refugee, also he against the Russian-Ukrainian war (2022-present) all this above subject for the future prosecution, if Petitioner will return to Russia. In the final removed order state: ". Respondent was ordered removed from the United State to Russia or alternative to" (see attach. # 1)
Petitioner asked ICE for opportunity to apply for the citizenship in any other countries.

16. Petitioner has cooperated fully with all efforts by ICE to remove him from the United States. During Petitioner's time in the detention center (06-26-24 to present) he did sign all applications, which ICE given to him, regarding the travel documents. Petitioner was in prison 14+ years, for this time he lost all his properties and documents.

17. Petitioner's custody status was first reviewed on August 12, 2024. On September 26, 2024, Petitioner was served with a written decision ordering his/her continued detention. (see attachment # 3)

18. On November 6, 2024, Petitioner was served with a notice transferring authority over his/her custody status to ICE Headquarters Post-Order Detention Unit ("HQPDU"). On 01.15.25 Petitioner was served with a written decision ordering his continue detention. (see attach. #4) Also in this letter state: "ICE is currently working with the Government of the Russian Federation to secure a travel document for your removal, ... significant likelihood that your removal will occur in the near future" (see attach. #5, continue)

LEGAL FRAMEWORK FOR RELIEF SOUGHT

19. In Zadvydas v. Davis, 533 U.S. 678 (2001), the Supreme Court held that six months is the presumptively reasonable period during which ICE may detain aliens in order to effectuate their removal. Id. at 702. In Clark v. Martinez, 543 U.S. 571 (2005), the Supreme Court held that its ruling in Zadvydas applies equally to inadmissible aliens. Department of Homeland Security administrative regulations also recognize that the HQPDU has a six-month period for determining whether there is a significant likelihood of an alien's removal in the reasonably foreseeable future. 8 C.F.R. § 241.13(b)(2)(ii).

20. Petitioner was ordered removed on 03.06.2014, and the removal order became final on 06.26.2024. Therefore, the six-month presumptively reasonable removal period for Petitioner ended on 12.26.2024.

CLAIMS FOR RELIEF

COUNT ONE

STATUTORY VIOLATION

21. Petitioner re-alleges and incorporates by reference paragraphs 1 through 20 above.

22. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 1231(a)(6) as interpreted by the Supreme Court in Zadvydas. The six-month presumptively reasonable period for removal efforts has expired. Petitioner still has not been removed, and Petitioner continues to languish in detention. Petitioner's removal to Russia or any other country is not significantly likely to occur in the reasonably foreseeable future. The Supreme Court held in Zadvydas and Martinez that ICE's continued detention of someone like Petitioner under such circumstances is unlawful.

COUNT TWO

SUBSTANTIVE DUE PROCESS VIOLATION

23. Petitioner re-alleges and incorporates by reference paragraphs 1 through 22 above.

24. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.

25. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling

government interest. While Respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite detention of Petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. Zadvdas recognized that ICE may continue to detain aliens only for a period reasonably necessary to secure the alien's removal. The presumptively reasonable period during which ICE may detain an alien is only six months. Petitioner has already been detained in excess of six months and Petitioner's removal is not significantly likely to occur in the reasonably foreseeable future.

COUNT THREE

PROCEDURAL DUE PROCESS VIOLATION

26. Petitioner re-alleges and incorporates by reference paragraphs 1 through 25 above.

27. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that s/he should not be detained. Petitioner in this case has been denied that opportunity. ICE does not make decisions concerning aliens' custody status in a neutral and impartial manner. The failure of Respondents to provide a neutral decision-maker to review the continued custody of Petitioner violates Petitioner's right to procedural due process.

Petitioner 62 year old, with serious chronic health conditions: twice cancer survivor (thyroid), heart, blood pressure, losing vision, more exacerbated by the stress of his prolonged detention

PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release Petitioner from custody;
- 3) Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
- 4) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
- 5) Grant any other and further relief that this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

S. Shoburov
Petitioner

01.29.25
Date executed

Sergey Shoburov

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