

UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

Emmanuil Manoukian,

Petitioner,

v.

Warden, Aurora Detention Center,

Field Office Director,
Immigration and Customs Enforcement,
Denver Field Office,

Respondents.

Civ. Action No. 1:25-cv-01018

Alien Number – A070 941 519

PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioner Emmanuil Manoukian (“Mr. Manoukian”) is a noncitizen who has been detained by the U.S. Immigration and Customs Enforcement (“ICE”) for more than seven (7) months. He fled the Union of Soviet Socialist Republics (“U.S.S.R.”) in the custody of his mother as a small child. While Mr. Manoukian was born in what is now the post-Soviet state of the Republic of Georgia in 1984, **that country does not recognize him as a citizen of Georgia.** See Letter from the Consulate General of Georgia in New York, dated May 12, 2024, a copy of which is attached hereto as Exhibit A.

2. After the Republic of Georgia declared its independence after the fall of the U.S.S.R., the country adopted a law defining who would be considered a citizen of the new country. This law was enacted on March 25, 1993 and I became effective the same day. Under the Republic of Georgia’s nationality law, a person born in the U.S.S.R. had to be physically present on March 25, 1993 and had been living in what became the Republic Georgia for at least

five (5) years on that date to automatically gain “Georgian citizenship.” With regard to stateless persons who were born in the U.S.S.R before March 25, 1993 and their ability to acquire Georgian citizenship, the United Nations High Commissioner for Refugees (“UNHCR”) has found that:

The Georgian nationality law, finally, does not contain a simplified procedure facilitating the acquisition of nationality for ethnic Georgians residing abroad on the day of entry into force of the nationality law and who wish to repatriate to the newly created Republic of Georgia. If these persons want to acquire Georgian nationality they have to fulfill all conditions for naturalization, including ten years of residence...

See Refworld article, “Nationality Laws of the Former Soviet Republics,” authored by the UNCHR Regional Bureau for Europe, July 1, 1993,
<https://www.refworld.org/legal/natlegcomp/unhcr/1993/en/39359> (last visited on March 29, 2025).

3. Mr. Manoukian is a permanent resident of the United States, but not a citizen of the United States, and is considered a “stateless person” due to his lack of any citizenship. He is currently being held in federal immigration detention while ICE officials try to find a “third country” that will accept his deportation and transfer. A federal statute, 8 U.S.C. § 1231(a)(1)(A), gives the government three months to effectuate such removal; yet over seven (7) months later, the government has failed to do so and has failed to provide a date certain when such removal can be expected. Under such circumstances, continued detention violates the statute as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001) and as explained in the U.S. District Court for the Central District of California decision in *Trinh v. Homan*, 466 F.Supp.3d 1077 (C.D. Cal. 2020) (ICE detainees could not be sent back to Vietnam under an agreement between the two countries because they had arrived in the U.S. before 1995 as refugees), and Mr. Manoukian must be released from custody on an Order of Supervision until such time as a removal date is secured.

4. As the District Court in *Trinh v. Homan* explained:

After the Vietnam War, the North Vietnamese government established the current Socialist Republic of Vietnam (“Vietnam”). Around that time, waves of people from the former Republic of Vietnam (South Vietnam) fled the country to escape political prosecution. Under various humanitarian programs, the United States accepted hundreds of thousands of Vietnamese refugees, including Petitioners.

Between the end of the Vietnam War and 2008, Vietnam refused to repatriate any Vietnamese immigrants who had been ordered removed from the United States. Before a Vietnamese immigrant without a passport or travel document can be repatriated, Vietnam must issue a passport or other travel document in response to a request from ICE. In 2008, the United States and Vietnam reached a diplomatic agreement pursuant to which Vietnam agreed to start considering repatriation requests for certain Vietnamese immigrants. Specifically, the agreement obligated Vietnam to consider repatriation requests for Vietnamese immigrants who arrived in the United States after July 12, 1995. The agreement also provided that “Vietnamese citizens are not subject to return to Vietnam under this agreement if they arrived in the United States before July 12, 1995.” Relying on this provision, Vietnam maintained its policy of non-repatriation for pre-1995 Vietnamese immigrants after signing the 2008 agreement.

See Trinh, at page 1083 (internal citations omitted)

5. Mr. Manoukian arrived in the United States on August 24, 2004 as a lawful permanent resident. *See* Notice to Appear, Exhibit B.

6. On March 29, 2017, a U.S. immigration judge ordered Mr. Manoukian removed (deported) to Georgia. *See* Order of the Immigration Judge, Ex. C.

7. On March 1, 2025, ICE issued a “Decision to Continue Detention” that Mr. Manoukian would not be released from detention, because he posed a “significant risk of flight pending your removal from the United States.” *See* Decision to Continue Detention, Exhibit D.

8. On March 21, 2025, ICE completed a “HQ POCR Checklist for 241.13 Reviews” for Mr. Manoukian and stated that he would continue to be detained while ICE completed further investigation into the Republic of Georgia’s refusal to issue him a travel document and his “possible Russian citizenship.” ICE instructed the ICE Denver Field Office to gather information on Mr. Manoukian’s parents and “establish if there is an alternate country nexus that exist (sic) for

purposes of obtaining a [travel document].” This document admits that “Georgia post reports negative finding for citizenship.” *See* HQ POCR Checklist for 241.13 Reviews, a copy of which is attached hereto as Exhibit E.

JURISDICTION AND VENUE

9. This action arises under the Immigration and Nationality Act of 1952 (“INA”), as amended, 8 U.S.C. § 1101 *et seq.*, and the Due Process Clause of the Fifth Amendment to the United States Constitution. This Court has jurisdiction pursuant to Art. I, § 9, cl. 2 of the United States Constitution; 28 U.S.C. § 2241 (general grant of habeas authority to the district courts); 28 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. §§2201, 2202 (Declaratory Judgment Act); and 28 U.S.C. § 1651 (All Writs Act).

10. Venue is proper under 28 U.S.C. § 1391(e) because the Aurora Detention Center is located in Arapahoe County, within the District of Colorado. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 494–95 (1973).

PARTIES

11. Mr. Manoukian, the Petitioner, is a U.S. lawful permanent resident who has lived in United States for the past twenty (20) years. He is currently detained by Respondents at the Aurora Detention Center in Aurora, Colorado.

12. The Warden of the Aurora Detention Center is the immediate legal custodian of Petitioner for purposes of a federal habeas petition. *Braden*, 410 U.S. at 494–95.

13. The Field Office Director of the Immigration and Customs Enforcement (“ICE”) Denver Field Office is responsible for overseeing ICE operations pertaining to noncitizens within its territorial jurisdiction, such as Mr. Manoukian, including detentions, enforcement, and removal operations.

FACTUAL ALLEGATIONS

14. Mr. Manoukian was born in 1984 in the U.S.S.R. He is a U.S. permanent resident but does not hold any citizenship or any country. *See* Exhibits A and E.

15. Mr. Manoukian entered the United States on August 24, 2004 with an immigrant visa, making him a U.S. lawful permanent resident upon his admission into the U.S. *See* Ex. B.

16. A U.S. immigration judge ordered Mr. Manoukian deported to the Republic of Georgia on March 29, 2017. *See* Exhibit C, page 1.

17. Based on information and belief, Mr. Manoukian was detained by ICE officers in Los Angeles, CA after he failed to appear for a scheduled check-in with his supervising ICE officer. He was transferred to the Aurora Detention Facility in Aurora, Colorado.

18. To date, Mr. Manoukian remains in immigration custody, and ICE has so far not been able to secure a travel document for him or the agreement of any country to receive him.

19. Furthermore, ICE has not provided a date by which it believes it can deport Mr. Manoukian or any other indication that it believes removal will occur within the foreseeable future.

20. Based on information and belief, ICE has not made any efforts to remove Mr. Manoukian to any country other than the Republic of Georgia, because there are no articulable facts that would cause ICE to believe that he is removable to any country other than the Republic of Georgia. He possesses no claim to citizenship or residence in any other country, and there is no third country on earth generally willing to accept non-nationals for deportation from the United States (especially not those with criminal convictions like that of Mr. Manoukian).

LEGAL BACKGROUND

21. Title 8 U.S.C. §1231(a) permits ICE to detain noncitizens during the “removal period,” which is defined as the 90-day period during which “the Attorney General shall remove

the alien from the United States.” 8 U.S.C. §1231(a)(1)(A). In this case, pursuant to 8 U.S.C. § 1231(a)(2)(B)(i), the removal period began when Mr. Manoukian was detained by ICE. The “removal period” therefore expired (or expires) sometime in late 2024.

22. After the expiration of the removal period, 8 U.S.C. § 1231(a)(3) provides that ICE shall release unremovable noncitizens on an order of supervision (the immigration equivalent of supervised release, with strict reporting and other requirements). Pursuant to 8 U.S.C. § 1231(a)(6), even noncitizens with aggravated felony convictions may be “released” if “subject to the terms of supervision” set forth in 8 U.S.C. § 1231(a)(3).

23. Constitutional limits on detention beyond the removal period are well established. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas*, 533 U.S. at 701. “[W]here detention’s goal is no longer practically attainable, detention no longer ‘bear[s][a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Additionally, cursory or pro forma findings of dangerousness do not suffice to justify prolonged or indefinite detention. *Zadvydas*, 533 U.S. at 691 (“But we have upheld preventative detention based on dangerousness only when limited to especially dangerous individuals [like suspected terrorists] and subject to strong procedural protections.”)

24. The purpose of detention during and beyond the removal period is to “secure[] the alien’s removal.” *Zadvydas*, 533 U.S. at 682. In *Zadvydas*, the Supreme Court “read § 1231 to authorize continued detention of an alien following the 90-day removal period for only such time as is reasonably necessary to secure the alien’s removal.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 699).

25. As the Supreme Court explained, where there is no possibility of removal, continued immigration detention presents substantive due process concerns because “the need to detain the noncitizen to ensure the noncitizen’s availability for future removal proceedings is “weak or nonexistent.” *Zadvydas*, 533 U.S. at 690-92. Detention is lawful only when “necessary to bring about that alien’s removal.” *See id.* at 689. *See also Trinh v. Homan*, at p. 1087-88.

26. To balance these competing interests, the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a “reasonable period of detention” for noncitizens after a removal order. *Id.* at 700-01. The Court determined that six months detention could be deemed a “presumptively reasonable period of detention,” after which the burden shifts to the government to justify continued detention if the noncitizen provides a “good reason to believe that there is not significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

27. Where a petitioner has provided “good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future,” the burden shifts to the government to rebut that showing. *Zadvydas*, 533 U.S. at 701. Due deference is owed to the government’s assessment of the likelihood of removal and the time it will take to execute removal. *Id.* at 700. However, just as pro forma findings of dangerousness do not suffice to justify indefinite detention, pro forma statements that removal is likely should not satisfy the government’s burden.

28. The government may only rebut a detainee’s showing that there is no significant likelihood of removal in the reasonably foreseeable future with “evidence of progress...in negotiating a petitioner’s repatriation.” *Gebrelibanos v. Wolf*, No. 20-cv-1575-WQH-RBB, 2020 U.S. Dist. LEXIS 185302, at *9 (S.D. Cal., Oct. 6, 2020) (citing *Kim v. Ashcroft*, 02cv1524-J(LAB) (S.D. Cal., June 2, 2003), ECF No. 25 at 8 (citing *Khan v. Fasano*, 194 F. Supp. 2d 1134, 1136 (S.D. Cal. 2001); *Fahim v. Ashcroft*, 227 F. Supp. 2d 1359, 1366 (N.D. Ga. 2002)); *see also*

Carreno v. Gillis, No. 5:20-cv- 44-KS-MTP, 2020 U.S. Dist. LEXIS 248926, at *5 (S.D. Miss., Dec. 16, 2020) (granting petitioner’s habeas claim because the government failed to show that removal would be imminent after obtaining a travel document and failing to remove petitioner within the document’s validity period) (emphasis added).

29. Factors courts consider in analyzing the likelihood of removal include “the existence of repatriation agreements with the target country, the target country’s prior record of accepting removed aliens, and specific assurances from the target country regarding its willingness to accept an alien.” *Hassoun v. Sessions*, 2019 WL 78984 at *4 (W.D.N.Y., Jan. 2, 2019) (citing *Callender v. Shanahan*, 281 F. Supp. 3d 428, 436-37 (S.D.N.Y. 2017)); see also *Nma v. Ridge*, 286 F. Supp. 2d 469, 475 (E.D. Pa. 2003).

30. Courts have found no significant likelihood of removal in five types of cases: (1) where the detainee is stateless and no country will accept him; (2) where the detainee’s country of origin refuses to issue a travel document; (3) where there is no repatriation agreement between the detainee’s native country and the United States; (4) where political conditions in the country of origin render removal virtually impossible; and (5) where a foreign country’s delay in issuing travel documents is so extraordinarily long that the delay itself warrants an inference that the documents will likely never issue. See *Ahmed v. Brott*, Civ. No. 14-5000 (DSD/BRT), 2015 WL 1542131, *4 (D. Minn. Mar. 17, 2015).

31. Other courts have denied habeas petitions primarily where the U.S. government has already procured petitioner’s travel documents and only travel arrangements are outstanding, which is not the case here. See *Berhe*, 2019 WL 3734110 at *4 (denying Petitioner’s habeas petition because “Eritrea has issued a travel document and Petitioner has presented no evidence to suggest there are other barriers to his removal”); *Tekleweini-Weldemichael v. Book*, No. 1:20-CV-

660-P, 2020 WL 5988894, at *5 (W.D. La., Sept. 9, 2020), *report and recommendation adopted*, No. 1:20-CV-660-P, 2020 WL 5985923 (W.D. La., Oct. 8, 2020) (denying without prejudice Petitioner's habeas petition because he possessed a travel document valid through December 19, 2020, and noting that he is not precluded from filing a new petition upon the expiration or cancellation of his travel document).

32. In this case, the Republic of Georgia has told ICE that Mr. Manoukian is not a citizen of the Republic of Georgia and refused to issue him a travel document. While ICE has been instructed to explore Mr. Manoukian's possible claim to Russian citizenship, there is no evidence to support the premise that Russia will determine him to be a Russian citizen and issue him a travel document. ICE has not shown any meaningful progress determining if Russia will issue Mr. Manoukian a travel document. This is insufficient evidence for the government to meet its burden that there is a significant likelihood of removal in the reasonably foreseeable future. *See Gebrelibanos*, 2020 WL 5929487, at *3; *Tekleweini-Weldemichael*, 2020 WL 5988894 (finding significant likelihood of removal in reasonably foreseeable future *only because* government had already obtained a valid travel document).

33. Mr. Manoukian has been detained for more than 180 days following his final order of removal, beyond the 6-month period of presumptively reasonable detention. *Zadvydas*, 533 U.S. at 700-01. *See also Hassoun*, 2019 WL 78984, at *4; *Alexander*, 495 Fed. Appx. at 277. With neither a travel document nor an indication from Russia that one is soon to be forthcoming, several more months of detention is unreasonable, as removal is not imminent.

34. In addition, federal regulations dictate that where ICE detains an individual under 8 U.S.C. § 1231(a)(6), an individualized determination must be carried out, with the following criteria taken into account:

- (1) The nature and number of disciplinary infractions or incident reports received when incarcerated or while in Service custody;
- (2) The detainee's criminal conduct and criminal convictions, including consideration of the nature and severity of the alien's convictions, sentences imposed and time actually served, probation and criminal parole history, evidence of recidivism, and other criminal history;
- (3) Any available psychiatric and psychological reports pertaining to the detainee's mental health;
- (4) Evidence of rehabilitation including institutional progress relating to participation in work, educational, and vocational programs, where available;
- (5) Favorable factors, including ties to the United States such as the number of close relatives residing here lawfully;
- (6) Prior immigration violations and history;
- (7) The likelihood that the alien is a significant flight risk or may abscond to avoid removal, including history of escapes, failures to appear for immigration or other proceedings, absence without leave from any halfway house or sponsorship program, and other defaults; and
- (8) Any other information that is probative of whether the alien is likely to—
 - (i) Adjust to life in a community,
 - (ii) Engage in future acts of violence,
 - (iii) Engage in future criminal activity,
 - (iv) Pose a danger to the safety of himself or herself or to other persons or to property, or
 - (v) Violate the conditions of his or her release from immigration custody pending removal from the United States.

8 C.F.R. § 241.4(f).

**FIRST CLAIM FOR RELIEF:
Violation of 8 U.S.C. § 1231(a)(6)**

35. Mr. Manoukian re-alleges and incorporates by reference the preceding paragraphs.
36. Mr. Manoukian's continued detention by the Respondent violates 8 U.S.C. § 1231(a)(6), as interpreted by *Zadvydas*. Mr. Manoukian's 90-day statutory removal period and six-

month presumptively reasonable period for continued removal efforts have passed.

37. Under *Zadvydas*, the continued detention of someone like Mr. Manoukian is unreasonable and not authorized by 8 U.S.C. § 1231.

SECOND CLAIM FOR RELIEF:

Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution

38. Mr. Manoukian re-alleges and incorporates by reference paragraphs 1 to 34.

39. Mr. Manoukian's detention during the removal period is only constitutionally permissible when there is a significant likelihood of removal in the reasonably foreseeable future. In Mr. Manoukian's case, the Republic of Georgia has refused to issue any travel documents for his removal; he has also not been recognized as a national of any other country. These factors lend support to the conclusion that there is no likelihood of Mr. Manoukian's removal in the reasonably foreseeable future. Respondent continues to detain Mr. Manoukian without evidence that Russia will ultimately issue a travel document and with no reason to believe that they will obtain a travel document within a reasonable amount of time.

40. Respondent's detention of Mr. Manoukian no longer bears any reasonable relation to a legitimate government purpose, and thus violates the Due Process Clause.

THIRD CLAIM FOR RELIEF:

Violation of Regulations

41. Mr. Manoukian re-alleges and incorporates by reference paragraphs 1 to 34.

42. As set forth above, Respondent continues to detain Mr. Manoukian in violation of 8 C.F.R. § 241.4, having not considered the substantive factors set forth in subsections (e) and (f) of that regulation. Were such factors to be properly weighed, it would be apparent that Mr. Manoukian is a candidate for release on an Order of Supervision pending removal.

43. Likewise, Respondent continues to detain Mr. Manoukian in violation of 8 C.F.R. §§ 241.4 and 241.13, since the proper procedures set forth in those regulations have not been carried out.

PRAYER FOR RELIEF

44. Mr. Manoukian respectfully requests that this Court assume jurisdiction over this matter and enter an order:

- a. Declaring that Mr. Manoukian's continued detention violates his due process rights;
- b. Granting the writ of habeas corpus and order Respondent to release Mr. Manoukian from detention on an Order of Supervision pursuant to 8 U.S.C. § 1231(a)(3);
- c. Ordering Respondent to reimburse Mr. Manoukian's costs of suit and reasonable attorneys' fees incurred in relation to this petition, under the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- d. Granting any other relief that this Court deems just and proper.

Respectfully submitted,

Date: March 29, 2025

/s/Brian Scott Green
Brian Scott Green
Colorado State Bar No. 56087
Law Office of Brian Green
9609 S University Boulevard
#630084
Highlands Ranch, CO 80130
Telephone: (443) 799-4225
BrianGreen@greenUSImmigration.com

Certificate of Service

I, Brian Scott Green, hereby certify that on this 29th day of March, 2025, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

Warden, Aurora Detention Center
3130 North Oakland Street
Aurora, CO 80010

Civil Process Clerk
U.S. Attorney's Office for the District of Colorado
1801 California Street, Suite 1600
Denver, CO 80202

Pam Bondi, Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW, Mail Stop 5900
Washington, DC 20536-5900

Director, Denver Field Office
U.S. Immigration and Customs Enforcement
12445 E. Caley Avenue
Centennial, Colorado 80111

Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, SW, Mail Stop 0485
Washington, D.C. 20528-0485

/s/Brian Scott Green
Brian Scott Green
Colorado State Bar No. 56087
Law Office of Brian Green
9609 S University Boulevard
#630084
Highlands Ranch, CO 80130
Telephone: (443) 799-4225
BrianGreen@greenUSImmigration.com