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U.S. DISTRICT COURT
DISTRICT OF NEW JERSEY
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Evgeny Mashchenko, Pro Se

2025 JUL 22 A 10:03

**Elizabeth Detention Center
625 Evans Street
Elizabeth, NJ 07201**

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

EVGENY MASHCHENKO

Petitioner,

v.

ERIC ROKOSKY, WARDEN,
Elizabeth Detention Center; **JOHN TSOUKARIS,**
Field Office Director, Newark Field Office,
U.S. Immigration and Customs Enforcement;
KRISTI NOEM, Secretary of the U.S. Department
of Homeland Security; and **PAM BONDI,**
Attorney General of the United States,
in their official capacities,

Respondents.

Civil Action No. 25-12378 (RK)

**MOTION TO CLARIFY OR
SUPPLEMENT RELIEF
REQUESTED IN HABEAS
PETITION**

INDEX OF DOCUMENTS FILED

1. Certificate of Service and Request for Service
2. Motion to Clarify or Supplement Relief Requested in Habeas Petition
3. Injunction order from RAICES v. Noem, Dkt. 73
4. D.C. Circuit administrative stay order from *RAICES v. Noem*, No. 25-5243, Dkt. 9

Filed Pro Se by
Evgeny Mashchenko



CERTIFICATE OF SERVICE / REQUEST FOR SERVICE BY CLERK

I, **Evgeny Mashchenko** certify under penalty of perjury that:


On 07.18.2025, I placed the original *Motion to Clarify or Supplement Relief Requested in Habeas Petition* and supporting documents in the U.S. Mail, postage prepaid, **addressed solely to the Clerk of Court** at:

Clerk of Court
United States District Court, District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07102
Attn: Pro Se Intake

Because I am detained and unable to serve the parties myself, I respectfully request that the Court:

Serve all respondents **previously named** in the habeas petition (including the U.S. Attorney, DHS Secretary, ICE Field Office Director, and Warden of the Elizabeth Detention Center) pursuant to Rule 5 of the Federal Rules of Civil Procedure.

Executed on 07.18.2025
at ~~Delancy Hall Detention Facility, 451 Doremus Avenue, Newark, NJ 07105~~
~~Elizabeth Detention Center, 625 Evans Street, Elizabeth, NJ, 07201~~

_____ 

Evgeny Mashchenko,



UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

EVGENY MASHCHENKO)

DETAINED

Petitioner,)

v.)

Civil Action No. 25-12378 (RK)

ERIC ROKOSKY, WARDEN,)
Elizabeth Detention Center; JOHN TSOUKARIS,)
Field Office Director, Newark Field Office,)
U.S. Immigration and Customs Enforcement;)
KRISTI NOEM, Secretary of the U.S. Department)
of Homeland Security; and PAM BONDI,)
Attorney General of the United States,)
in their official capacities,)

MOTION TO CLARIFY OR
SUPPLEMENT RELIEF
REQUESTED IN HABEAS
PETITION

Respondents.)
_____)

1. Petitioner, Evgeny Mashchenko, proceeding Pro se and with the Pro bono assistance of attorney Maria Kalmanovich (Cal. Bar No. 303621) as disclosed in his original habeas petition, respectfully submits this Motion to Clarify or Supplement Relief Requested in his Habeas Corpus Petition, previously docketed by this Court.

FACTUAL BACKGROUND

2. Petitioner, Evgeny Mashchenko, along with his wife and minor son, filed a Pro se Petition for Writ of Habeas Corpus, challenging his indefinite detention, family separation, and the unlawful denial of access to asylum, withholding of removal, and protections under the Convention Against Torture (CAT). As stated in the original petition, Petitioner entered the U.S. at a port of entry after waiting in Mexico since the summer of 2024 due to the unavailability of CBP One appointments following Presidential Proclamation 10888.

3. Petitioner's original habeas petition, already docketed by this Court, specifically invoked INA § 1158(a)(1), the Fifth Amendment, and the Supreme Court decision in *Clark v.*

Martinez, 543 U.S. 371 (2005), emphasizing his statutory right to apply for asylum irrespective of Presidential Proclamation 10888.

4. On July 2, 2025, the United States District Court for the District of Columbia in *RAICES v. Noem* (Civil Action No. 25-306) granted a class-wide injunction against Proclamation 10888, enjoining the government from implementing the Proclamation to deny access to statutory asylum procedures (Order, *RAICES v. Noem*, Dkt. 73). However, the effect of this injunction was administratively stayed by the D.C. Circuit on July 11, 2025, for all except named plaintiffs (Order, *RAICES v. Noem*, No. 25-5243, Dkt. 9). Petitioner is not a named plaintiff in *RAICES*, and thus, this injunctive relief does not presently protect his asylum claim.

REQUESTED RELIEF

5. Petitioner respectfully requests that this Court clarify or supplement the relief previously requested in his habeas petition as follows:

- (A) Explicitly direct Respondents to process Petitioner's asylum claim fully and fairly under the statutory requirements of INA § 1158(a)(1), without application of Presidential Proclamation 10888, consistent with the arguments already presented in the initial habeas petition;
- (B) Alternatively, order that if Petitioner's immigration court proceedings commence prior to a final resolution in *RAICES v. Noem*, his statutory and constitutional right to seek asylum be preserved and fully honored, and that he not face removal, delay in his proceedings, or any legal prejudice related to his asylum eligibility pending such resolution. Importantly, Petitioner also respectfully requests that the Department of Homeland Security not delay or suspend his proceedings for the purpose of awaiting resolution of *RAICES v. Noem*, as such delay would itself constitute prejudicial harm.

6. Petitioner respectfully highlights the urgent necessity of this clarification, as his immigration court claim may proceed imminently, risking irreparable harm if his statutory right to seek asylum is not explicitly preserved by this Court.

INDIVIDUAL MOTION

7. Petitioner, Evgeny Mashchenko, files this motion individually, as his wife, Evgeniia Mashchenko, is currently detained at Delaney Hall Detention Facility, within this Court's jurisdiction, and will file a similar motion from her facility.

ATTACHMENTS

8. Due to constraints on document printing and mailing from detention, Petitioner respectfully attaches only the following essential documents:

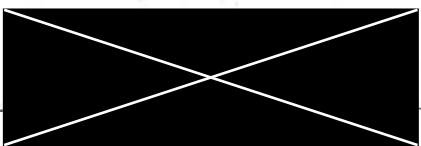
- (A) Injunction order from *RAICES v. Noem*, Dkt. 73, clarifying the injunction scope and delayed applicability for class members absent from the named plaintiffs;
- (B) D.C. Circuit administrative stay order from *RAICES v. Noem*, No. 25-5243, Dkt. 9, confirming the temporary stay as to absent class members.

CONCLUSION

9. Petitioner, Evgeny Mashchenko, respectfully requests the Court grant this Motion to Clarify or Supplement Relief Requested, ensuring his statutory and constitutional rights under INA § 1158(a)(1) and the Fifth Amendment are explicitly preserved during his pending habeas proceedings.

Respectfully submitted,

Evgeny MASHCHENKO, Pro Se, A 

(Signature) 

Date: 07.18.2025

Elizabeth Detention Center
625 Evans Street
Elizabeth, NJ 07201