

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

BOBAN MIRCEVSKI,

Petitioner,

Civil No. 25-12400

v.

Honorable Judith E. Levy

KEVIN RAYCRAFT, Field Office  
Director of Enforcement and Removal  
Operations, Detroit Field Office,  
Immigration and Customs Enforcement;  
KRISTI NOEM, Secretary of the U.S.  
Department of Homeland Security;  
U.S. DEPARTMENT OF HOMELAND  
SECURITY; PAMELA BONDI, U.S.  
Attorney General; EXECUTIVE  
OFFICE FOR IMMIGRATION  
REVIEW; SHERIFF MAT KING,  
Sheriff of St. Clair County Jail,

Magistrate Judge Patricia T. Morris

Respondents.

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**RESPONSE TO PETITION FOR A WRIT OF HABEAS CORPUS**

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Respondents Kevin Raycraft, Kristi Noem, U.S. Department of Homeland Security, Pamela Bondi, and the Executive Office for Immigration Review, by and through their attorneys, Jerome F. Gorgon Jr., United States Attorney, and Benjamin A. Anchill, Assistant United States Attorney, submit this response to Petitioner's petition for a writ of habeas corpus.

Respectfully submitted,

JEROME F. GORGON JR.  
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*Office for Immigration Review*

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**BRIEF IN SUPPORT OF RESPONSE TO  
PETITION FOR A WRIT OF HABEAS CORPUS**

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## INTRODUCTION

Petitioner Boban Mircevski is a non-U.S. citizen who is detained by the Department of Homeland Security, Immigration and Customs Enforcement (ICE), pending his removal from the United States. ICE requested travel documents from four countries on behalf of Mircevski. All four countries have declined to issue a travel document for Mircevski. Shortly after the last country declined to issue a travel document, ICE's Detroit Field Office, Office of Enforcement and Removal Operations (Detroit ERO), forwarded its recommendation to ICE ERO Headquarters Removal Division in Washington, D.C., that Mircevski be released from immigration detention due to Detroit ERO's belief that Mircevski's removal is not likely to occur in the reasonably foreseeable future. As of the date of this filing, that recommendation is pending with ERO Headquarters Removal Division, the component charged with making the ultimate decision about Mircevski's release.

## BACKGROUND

Petitioner Boban Mircevski is a native of former Yugoslavia and a citizen of Macedonia. Exhibit 1 – Moore Decl. ¶ 3. Mircevski arrived in the United States as a refugee in 1974 and became a lawful permanent resident in 1976. *Id.* ¶¶ 3–4.

In 1992, Mircevski was convicted of conspiracy to break and enter a coin telephone and sentenced to 12 months' probation. *Id.* ¶ 5. In 1996, Mircevski was convicted of disorderly person, vagrancy, and was sentenced to fines, costs, and

restitution. *Id.* ¶ 6. In 1998, Mircevski was convicted of second-degree home invasion and sentenced to two years of probation. *Id.* ¶ 7.

In 2001, Mircevski was arrested and charged with removability pursuant to 8 U.S.C. § 1227(a)(2)(A)(ii), which permits the deportation of noncitizens convicted of two or more crimes of moral turpitude. *Id.* ¶ 8. Mircevski was released on bond. *Id.*

In 2005, an immigration judge granted Mircevski's application for cancellation of removal. *Id.* ¶ 9.

Later in 2005, Mircevski filed an application to adjust his status (Form I-485), which was approved in 2009. *Id.* ¶¶ 10–11.

In 2023, Mircevski was convicted of armed robbery and sentenced to a term of imprisonment of two to eight years. *Id.* ¶ 12.

On November 13, 2024, upon his release from Michigan Department of Corrections custody, ICE arrested Mircevski and charged him with removability under 8 U.S.C. § 1227(a)(2)(A)(iii), which permits the removal of noncitizens convicted of an aggravated felony, and § 1227(a)(2)(A)(ii), which permits removal of noncitizens convicted of two or more crimes involving moral turpitude. *Id.* ¶ 14.

On November 25, 2025, an immigration judge concluded that Mircevski is subject to mandatory detention pursuant to 8 U.S.C. § 1226(c). *Id.* ¶ 15.

On December 18, 2024, an immigration judge entered a final order of removal against Mircevski. *Id.* ¶ 16.

In March 2025, ICE received a letter from the North Macedonian Consulate stating that Mircevski is not a citizen of Macedonia and declining to issue a travel document on behalf of Mircevski. *Id.* ¶ 17.

ICE also requested travel documents on behalf of Mircevski from Serbia, Montenegro, and Kosovo. Over the course of March to May 2025, all three countries declined to issue a travel document to Mircevski based on their respective conclusions that Mircevski is not a citizen of those countries. *Id.* ¶¶ 19-21.

Also in March 2025, ICE completed a 90-day custody review and advised Mircevski that he will continue to be detained because he posed a danger to the community due to his criminal convictions. Additionally, at the time, ICE was still awaiting responses from other potential countries of removal formerly within Yugoslavia. *Id.* ¶ 18.

On June 4, 2025, after North Macedonia, Serbia, Montenegro, and Kosovo all declined to issue travel documents for Mircevski, a panel of Detroit ERO officers interviewed Mircevski pursuant to 8 C.F.R. § 241.4(i) to determine whether to recommend continued detention beyond the removal period. *Id.* ¶ 22. On June 16, 2025, Detroit ERO forwarded its recommendation to the ICE ERO Headquarters Removal Division in Washington, D.C., that Mircevski be released from custody.

The panel determined that travel documents for Mircevski were not available and that Mircevski did not pose a flight risk. *Id.* ¶ 23.

As of the date of this filing, Detroit ERO’s recommendation to release Mircevski is pending with ICE ERO Headquarters Removal Division, the component charged with making the ultimate decision whether continued detention of Mircevski is appropriate. *Id.* ¶ 24.

Mircevski filed his petition seeking a writ of habeas corpus on August 4, 2025. *See* ECF No. 1.

### **STANDARD**

A district court may grant a writ of habeas corpus if a petitioner is in federal custody in violation of the Constitution or a federal law. 28 U.S.C. § 2241. To demonstrate that the duration of detention violates the Fifth Amendment, a petitioner must demonstrate “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

### **ARGUMENT**

Under 8 U.S.C. § 1231, a noncitizen must be detained for 90 days after an immigration judge issues a final order of removal and a noncitizen ordered removed under 8 U.S.C. § 1227(a)(2) may be released “[u]nder no circumstances” during that period. 8 U.S.C. §§ 1231(a)(1), (2). An immigration judge ordered Mircevski

removed under 8 U.S.C. § 1227(a)(2) on December 18, 2024. Exhibit 1 – Moore Decl. ¶ 16. Therefore, Mircevski was subject to mandatory detention for 90 days, or until March 18, 2025. *See* 8 U.S.C. § 1231(a)(2).

In addition, noncitizens ordered removed under 8 U.S.C. § 1227(a)(2) may be detained beyond the 90-day initial removal period if the Department of Homeland Security concludes that the noncitizen is unlikely to comply with the order of removal or poses a danger to the community. 8 U.S.C. § 1231(a)(6).<sup>1</sup> ICE’s detention of noncitizens under § 1231(a)(6) beyond the initial 90-day removal period is presumptively lawful under the Fifth Amendment for at least another 90 days. *See* 8 U.S.C. § 1231(a)(6); *Zadvydas*, 533 U.S. at 701. Mircevski was ordered removed under § 1227(a)(2) and ICE has determined as of March 2025 that he posed a danger to the community. Exhibit 1 – Moore Decl. ¶ 18. Therefore, ICE’s detention of Mircevski was presumptively reasonable under the Fifth Amendment for another 90 days, or until June 16, 2025. *See Zadvydas*, 533 U.S. at 701.

An alien may be held in confinement after 180 days “until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. A petitioner seeking release under this standard bears the initial burden of demonstrating “good reason to believe that

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<sup>1</sup> While the statute refers to the Attorney General, Congress has delegated the power to enforce the Immigration and Nationality Act to the Department of Homeland Security. 8 U.S.C. § 1103; *see also Nielsen v. Preap*, 586 U.S. 392, 397 n.2 (2019).

there is no significant likelihood of removal in the reasonably foreseeable future.”

*Id.* If the petitioner meets that burden, the burden shifts to the government to “respond with evidence sufficient to rebut that showing.” *Id.*

On June 16, 2025, Detroit ERO forwarded its recommendation to release Mircevski to ICE ERO Headquarters Removal Division. Exhibit 1 – Moore Decl. ¶ 23. The decision to release Mircevski is not made locally. *Id.* As of today’s date, Detroit ERO’s recommendation is pending. *Id.*

Respectfully Submitted,

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United States Attorney

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Dated: August 27, 2025

### **CERTIFICATION OF SERVICE**

I certify that on August 27, 2025, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system.

*/s/ Benjamin A. Anchill*

BENJAMIN A. ANCHILL (P70968)  
Assistant United States Attorney