THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

ROMAN ANTATOLEVICH SUROVTSEV, Petitioner, v. KRISTI NOEM, et al., Respondent.	Civil Action No. 1:25-CV-00160-H

RESPONSE TO MOTION FOR PRELIMINARY INJUNCTION AND HABEAS PETITION

Petitioner seeks a preliminary injunction and habeas relief to require his immediate release from immigration detention. *See* ECF Nos. 1; 2. As explained herein, Petitioner shows no entitlement to a preliminary injunction or habeas relief, and he is not entitled to immediate release. The Court should deny the requests for a preliminary injunction and habeas relief.

I. Background

Petitioner is a native of the Soviet Union and citizen of Ukraine. App. p. 2, ¶ 3. Petitioner was admitted to the United States as a refugee in December 1988. App. p. 26. Petitioner was convicted of carjacking in California state court and was sentenced to

thirteen years' confinement on August 26, 2003. App. pp. 9; 39.[1] Three years, later on September 17, 2007, Petitioner was convicted in California state court of first-degree burglary and was sentenced to two years' confinement. App. pp. 20-21.

On October 27, 2014, Petitioner was issued a Notice to Appear and removal proceedings were commenced in immigration court. App. 24. Thereafter, Petitioner was ordered removed to Ukraine by an immigration judge on November 4, 2014. App. p. 70. That decision became a final order of removal as Petitioner waived his right to appeal.

In December 2014, ERO sent travel document requests to Ukraine and Russia. App. p. 3, ¶ 6. On January 29, 2015, the Russian Consulate sent an email stating they had no records of Petitioner. ERO continued to seek travel document status updates from Ukraine. *Id.* Thereafter in May 2015, ERO released Petitioner on an order of supervision. *Id.* On July 20, 2015, the Consulate General of Ukraine informed ERO that Petitioner's citizenship could not be confirmed, and they therefore could not issue travel documents. *Id.*

On August 1, 2025, Petitioner appeared with his attorney at a check-in with ERO and was detained for removal. App. p. 3, ¶ 7. Deportation Officer Brian Shelton explained the revocation process and informed them that ERO was seeking a travel document to remove Petitioner. App. p. 6, ¶ 6. After this informal discussion, Petitioner's attorney stated that Petitioner was stateless and that his supervision should not be revoked. *Id.* Petitioner's attorney also attempted to file an I-246 Application for Stay of Removal. Officer Shelton

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[1] Respondent has attached a copy of the carjacking charge, but we do not have the judgment. Petitioner admits in his petition that he was sentenced to thirteen years for this offense. (*See* ECF 1, at ¶ 41).

did not accept the Application for Stay of Removal because the application requires an original passport, a copy of a passport, or proof that Petitioner applied for a passport or similar travel document. *Id.* Petitioner and his attorney could not provide any of the required valid or expired travel documents. *Id.*

On August 20, 2025, Petitioner filed a petition for a habeas corpus and request for preliminary injunction. ECF 1; 2. In connection with his habeas corpus claim seeking release, Petitioner alleges that his re-detention is unlawful and there is no evidence of changed circumstance specific to him that makes his removal reasonably foreseeable and therefore his detention is impermissible. ECF 1, ¶ 58. He additionally asserts that ICE did not follow its own regulations when re-detaining him and that he is therefore entitled to immediate release from custody. ECF 1, ¶66.

In his motion for a preliminary injunction, Petitioner seeks relief in connection with his habeas claims, by arguing that he is likely to succeed in establishing that his re-detention is in violation of ICE regulations and the Constitution. *See* ECF 2 at 2-6. Petitioner's motion for a preliminary injunction and habeas petition are both improper and should be denied.

II. Legal Standard

A preliminary injunction is an "extraordinary and drastic remedy." *Canal Auth. v. Callaway*, 489 F.2d 567, 573 (5th Cir. 1974). As such, it is "not to be granted routinely, but only when the movant, by a clear showing, carries [the] burden of persuasion." *Black Fire Fighters Ass'n v. City of Dallas*, 905 F.2d 63, 65 (5th Cir. 1990) (quoting *Holland Am. Ins. Co. v. Succession of Roy*, 777 F.2d 992, 997 (5th Cir. 1985)). "The four

prerequisites are as follows: (1) a substantial likelihood that plaintiff will prevail on the merits, (2) a substantial threat that plaintiff will suffer irreparable injury if the injunction is not granted, (3) that the threatened injury to plaintiff outweighs the threatened harm the injunction may do to defendant, and (4) that granting the preliminary injunction will not disserve the public interest." *Canal Auth.*, 489 F.2d at 572. A preliminary injunction should be granted only if the movant has "clearly" carried the burden of persuasion on all four of these prerequisites. *Id.* at 573.

III. Argument and Authorities

Petitioner is not entitled to habeas relief or a preliminary injunction.

Petitioner's preliminary injunction motion is premised on his habeas claim that his re-detention is unlawful and that he cannot be removed to Ukraine. ICE has authority to re-detain noncitizens such as Petitioner when there are changed circumstances such that there is a significant likelihood that the noncitizen may be removed in the reasonable future. Circumstances have changed in Petitioner's case—a travel document is being completed for the first time for Petitioner—therefore there is a significant likelihood that Petitioner will be removed to Ukraine. Petitioner's re-detention is proper, and his detention is not unconstitutional. Petitioner, therefore, is not entitled to habeas relief and cannot meet the requirements to obtain a preliminary injunction.

1. No likelihood of success on the merits is shown.

DHS ICE has authority to re-detain Petitioner. The authority of ICE to detain noncitizens under federal law derives from 8 U.S.C. § 1231, which directs the Attorney General of the United States to affect the removal of any noncitizen from this country

within 90 days of any order of removal. 8 U.S.C. § 1231(a)(1). However, once that time passes and after "removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute" and the noncitizen must be released. *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001).

Upon release, a noncitizen subject to a final order of removal must comply with certain conditions of release. 8 U.S.C. § 1231(a)(3), (6). The revocation of that release is governed by 8 C.F.R. § 241.13(i), which authorizes ICE to revoke a noncitizen's release for purposes of removal. Specifically, a noncitizen's release may be revoked "if, on account of changed circumstances," it is determined that "there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2).

Petitioner requests this Court enjoin ICE from re-detaining him claiming that there has been no change in circumstances and no individual assessment specific to Petitioner that would make his removal reasonably foreseeable. Petitioner is incorrect on both points. First, Petitioner has a final order of removal, and he was subsequently released pending removal on an order of supervision. *See* 8 U.S.C. § 1231(a)(3). However, due to a change in circumstances, a new Ukrainian travel document request, it is now likely that Petitioner will be removed in the reasonably foreseeable future pursuant to 8 C.F.R. § 241.13(i)(2).[2] *Accord* 8 C.F.R. § 241.13(f) (allowing re-detention for changed circumstances). App. p. 4, ¶ 10. Thus, Petitioner was properly re-detained and his detention is not unconstitutional.

[2] Under 8 C.F.R. § 241.13(i), the government, DHS ICE, may revoke an alien's release and return the alien to custody if the government determines a change of circumstances. *See also* 8 C.F.R. § 241.13(i)(2). Thus, the government has discretion to re-detain when the government, as here, identified changed circumstances (*e.g.*, the updated travel document request).

Second, Respondents did not fail to abide by their own regulations: Petitioner was notified of the reason for his revocation and an "informal" interview was conducted. App. p. 7, ¶ 6. The Code of Federal Regulations contains specific provisions regarding the release and revocation of release of a noncitizen with a final order of removal. Revocation of a prior release is governed by 8 C.F.R. § 241.13(i), which authorizes ICE to revoke a noncitizen's release for purposes of removal. The regulation provides that a noncitizen's release may be revoked "if, on account of changed circumstances," it is determined that "there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). At that point: "[T]he alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." *Id.* § 241.13(i)(3).

Respondents complied with this procedural requirement. Petitioner was notified of the reason for the revocation of his release (namely, ERO was seeking a travel document) and was given an informal interview. App. p. 7, ¶ 6. Petitioner was not entitled to additional process under the regulations. Petitioner cannot establish success on the merits: his re-detention is lawful and the regulations were followed.

2. The remaining preliminary-injunction factors do not favor relief.

With respect to the remaining equitable factors, Petitioner has not met his burden of establishing he is entitled to relief. This Court may not grant injunctive relief on the sweeping and speculative 'irreparable harm' claims, *see generally* ECF 2, supposed by

Petitioner. *See Mathews v. Diaz*, 426 U.S. 67, 80 (1976) (recognizing it is well established that detention is a constitutionally valid aspect of the deportation process and that in the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens).

Moreover. Petitioner has no due process right to never-ending supervision-pending-removal. From onset, the supervision period here inherently and plainly was limited to the date of foreseeable removal. In other words, the supervision duration period is conditional (and was always conditional) – and may be revoked (and was always subject to revocation) -- on operative removal which. is reasonably foreseeable. *See Ahmad v. Whitaker*, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4, 2018), adopted, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019).

Finally, with respect to the balancing of the equities and public interest, it cannot be disputed that (1) Petitioner is properly the subject of a final order or removal and the government is entitled to detain aliens in the post-removal period to bring about removal, and (2) both the government and the public at large have a strong interest in the enforcement of the immigration laws and the removal of aliens who are unlawfully present in the United States. Under these circumstances, equity does not support Petitioner's claims for relief from this Court.

IV. Conclusion

Petitioner's motion for preliminary injunction and petition for habeas should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On September 15, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Ann E. Cruce-Haag
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