

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

ROMAN ANTATOLEVICH  
SUROVTSEV,

*Petitioner,*

v.

KRISTI NOEM, et al.,

*Respondents.*

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Case No. 1:25-CV-160-H

**REPLY TO RESPONDENTS' RESPONSE DETAILING CITIZENSHIP AND  
THIRD-COUNTRY REMOVAL (ECF No. 21)**

Petitioner submits this reply to Respondents' Response Detailing Citizenship and Third-Country Removal pursuant to the Court's September 26, 2025 order.

**A. Respondents Have Failed to Show Petitioner is a Citizen of Ukraine.**

Respondents have failed to provide evidence that Mr. Surovtsev is a citizen of Ukraine, arguing merely that the Notice to Appear shows a DHS trial attorney stated Mr. Surovtsev was a citizen of Ukraine and that an Immigration Judge ("IJ") ordered him removed to Russia, or in the alternative, to Ukraine.<sup>1</sup> ECF No. 21, at 1-2. But DHS trial attorneys and IJs do not determine who is and who is not a citizen of Ukraine, the government of Ukraine does. And the reason Mr. Surovtsev was not removed to Ukraine in the first place is because the government of Ukraine determined Mr. Surovtsev's "Ukrainian citizenship . . . cannot be confirmed" and that

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<sup>1</sup> Respondents make no attempt to explain why, if Mr. Surovtsev were a citizen of Ukraine, the Immigration Judge would have ordered him removed to *Russia* with Ukraine merely as an alternative.

“the Consulate General of Ukraine cannot issue the Ukrainian travel document.” *See* Pet., ECF No. 1 ¶¶ 3-4. The government of Ukraine made this sovereign decision with the knowledge of the NTA and removal order that Respondents reference today. Respondents acknowledge Ukraine’s determination, ECF No. 18, App. 3 ¶ 6, and do not attempt to engage with this key fact because it decisively establishes Mr. Surovtsev is not a citizen of Ukraine.

That is not all. Respondents also fail to engage with their own documents and statements by their own officials showing Mr. Surovtsev is not considered a citizen of Ukraine. One internal ICE document contains an advisal explaining that “[f]ormer USSR documents such as birth certificates, CCCP passports, etc. does not confer current Ukrainian citizenship. [] There are numerous cases of former USSR citizens who lived in Ukraine before its independence who are stateless . . .” ECF No. 1-1, at 33. Another states that “some former USSR Ukraine passport [sic] may have been stamped *after 1991* by the new Ukraine government which can verify Ukrainian citizenship, but most [like Mr. Surovtsev] do not have this stamp.” (emphasis added). *Id.*

Respondents’ declarations further contradict their assertion that Mr. Surovtsev is a citizen of Ukraine. Deportation Officer Zachery Hagerty declared that “[o]n or about July 20, 2015, the Consulate General of Ukraine informed ERO that SUROVTSEV’s citizenship could not be confirmed . . .” ECF No. 18, App. 3 ¶ 6. The bottom line is that no NTA or removal order trumps the Ukrainian consulate’s sovereign determination that Mr. Surovtsev is not a citizen of its country.

**B. Respondents Have Confirmed Again That There Are No Changed Circumstances in Mr. Surovtsev's Case.**

Petitioner does not dispute that he is subject to a final order of removal or that the Immigration and Nationality Act permits third-country removals. The instant petition is not a challenge to his removability, but to his detention.

The only "evidence" Respondents have provided this Court are documents that all parties, as well as the Ukrainian government, were aware of ten years ago when Respondents tried and failed to remove Mr. Surovtsev to Ukraine.

An order of supervision cannot be revoked unless Immigration and Customs Enforcement ("ICE") determines that "on account of changed circumstances, . . . there is a significant likelihood that the [non-citizen] may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(h)(4)(i)(2). "Upon revocation of supervised release, it is [Immigration and Customs Enforcement's] burden to show a significant likelihood that the [non-citizen] may be removed." *Escalante v. Noem*, No. 9:25-cv-00182-MJR, 2025 WL 2206113, at \*3 (E.D. Tex. Aug. 2, 2025). Respondents have not met this burden.

The fact that Respondents' only evidence of Mr. Surovtsev's citizenship is his NTA and the IJ's order confirms as much. Both were in place when ICE failed to secure Ukrainian travel documents a decade ago. The conditions that prevented Ukraine from accessing the information necessary to issue travel documents have worsened. See Pet., ECF No. 1 ¶¶ 5, 50-51. Respondents assert that simply asking

Ukraine again<sup>2</sup> or theorizing that they might pursue third-country removal is enough to satisfy its burden to demonstrate changed circumstances rendering Mr. Surovtsev's removal significantly likely. See ECF No. 18, App. 3-4 ¶¶ 8-10. That is not the case. Nothing Respondents have provided the Court suggests Mr. Surovtsev is any more likely to be removed now than he was when he filed his petition on August 20, 2025, or indeed when the government failed to remove him in 2015.

Because Respondents have not met their burden to demonstrate that there are any changed circumstances at all, let alone those that would indicate Mr. Surovtsev is significantly likely to be removed in the reasonably foreseeable future, the revocation of his order of supervision and ongoing detention are unlawful.

Dated: October 9, 2025

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Respectfully Submitted,

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<sup>2</sup> On September 10, 2025, Deportation Officer Hagerty declared that he would complete a travel document request to Ukraine "this week." It is now almost one month later, and Mr. Surovtsev still has not been provided an English translation of the travel document application.

**CERTIFICATE OF SERVICE**

I certify that on October 9, 2025, I electronically filed the foregoing on the Court's CM/ECF system, that all participants in the case are registered CM/ECF users, and that service will be accomplished by the CM/ECF system.

/s/ Eric Lee  
Eric Lee  
Attorney for Petitioner