

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

OCT 17 2025

MITCHELL R. ELFERS
CLERK

Case Title: Derevianko v. Castro et al
Case No.: **2:25-cv-00869-JB-JHR**

From:
Dmytro Derevianko A-234 917 776
Detention Facility: Otero County Processing Center
Address: 26 McGregor Range Rd, Chaparral, NM 88081

**MOTION TO STAY REMOVAL AND REQUEST FOR RELEASE WITHIN
THE UNITED STATES OR VOLUNTARY DEPARTURE (SELF-DEPARTURE)**

I, Dmytro Derevianko (A-234 917 776), respectfully submit this Motion to Stay Removal due to the ongoing war in Ukraine and request permission for release within the United States or, alternatively, voluntary departure (self-departure). I am a citizen of Ukraine, currently detained at the Otero County Processing Center, and facing removal. Deportation under conditions of active armed conflict and severe humanitarian crisis would contradict the international obligations of the United States and violate the principle of non-refoulement.

LEGAL BASIS

1. **1951 refugee Convention and 1967 Protocol (Article 33 – Non-Refoulement):** No Contracting State shall expel or return a refugee to the frontiers of territories where his life or freedom would be threatened. The United States, as a party to the 1967 Protocol, is bound by this principle.
2. **Convention Against Torture (CAT), Article 3:** Prohibits returning any person to a State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture or inhuman treatment.
3. **International Covenant on Civil and Political Rights (ICCPR), Articles 6 and 7:** Guarantee the right to life and prohibit torture, cruel, inhuman, or degrading treatment or punishment.
4. **United States Law:** 8 U.S.C. §1231(b)(3)(prohibition of removal where persecution is likely); 8 C.F.R. §§ 208.16-208.18 (CAT protection regulations); and the Fifth Amendment to the U.S. Constitution (right to due process).

5. **DHS Designation of Ukraine for TPS.** DHS and USCIS have officially recognized that “extraordinary and temporary conditions prevent nationals of Ukraine from safely returning to their home country” (Federal Register Notice, 2022).

Given the ongoing armed conflict in Ukraine, any forced return would expose the Applicant to serious danger and would be inconsistent with the principle of non-refoulement under both International and United States Law.

REQUEST FOR RELIEF

1. Stay all removal actions (Stay of Removal) based on the ongoing war in Ukraine and the principle of non-refoulement;
2. Recognize the applicability and binding effect of international and domestic legal provisions, including the 1951 Refugee Convention, 1967 Protocol, CAT, ICCPR, 8 U.S.C. § 1231(b)(3), 8 C.F.R. §§ 208.16-208.18, and the Fifth Amendment to the U.S. Constitution;
3. Grant the Applicant immediate release within the territory of the United States, pending further review or humanitarian consideration, given the unlawful nature of continued detention and the impossibility of safe removal;
4. Alternatively, Grant the Applicant voluntary departure (self-departure).

Respectfully submitted,

Dmytro Derevianko A-234 917 776

Date: 10/14/2025

Signature 

Dmytro Derevianko A. 234 917 776
Otero County Processing Center
26 McGregor Range Rd,
Chaparral, New Mexico 88081

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United States District Court
District of New Mexico
Office of the Clerk
Suite 230
333 Lomas Blvd. N.W.
Albuquerque, New Mexico 87102