

UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

Anton Mankovskyi,

Petitioner,

v.

Juan Baltasar, Warden, Aurora Detention
Center,

and

Robert Guadian, Field Office Director,
Immigration and Customs Enforcement,
Denver Field Office,

Respondents.

Civ. Action No. 1:25-cv-02886

Alien Number – A 

**PETITION FOR WRIT OF HABEAS
CORPUS AND FOR RELIEF UNDER
THE ADMINISTRATIVE PROCEDURE
ACT OR UNDER 42 U.S.C. SECTION
1983 OR UNDER THE U.S.
CONSTITUTION**

**PETITION FOR WRIT OF HABEAS CORPUS AND FOR RELIEF UNDER THE
ADMINISTRATIVE PROCEDURE ACT OR UNDER 42 U.S.C. SECTION 1983 OR
UNDER THE U.S. CONSTITUTION**

1. Petitioner Anton Mankovskyi (“Mr. Mankovskyi”) is a noncitizen who has been detained by the U.S. Immigration and Customs Enforcement (“ICE”) for more than twelve (12) months. He was served with a Notice to Appear and taken into immigration custody on September 9, 2024. *See* Notice to Appear, Warrant for Arrest of Alien and Notice of Custody Determination, dated September 9, 2024, copies of which are attached hereto as Exhibit A.

2. Petitioner is a citizen of Ukraine. He applied for asylum. Respondent ICE decided against paroling him by way of a letter dated November 27, 2025. *See* Parole Decision Letter, Exhibit B. A U.S. immigration judge ordered his removal to Canada, or in the alternative, to Ukraine in an order dated February 12, 2025. *See* Exhibit C, Removal Order.

3. A federal statute, 8 U.S.C. § 1231(a)(1)(A), gives the government three months (90 days) to effectuate such removal; yet over four (4) months later, the government has failed to do so and has failed to provide a date certain when such removal can be expected. Under such circumstances, continued detention violates the statute as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001) and as explained in the U.S. District Court for the Central District of California decision in *Trinh v. Homan*, 466 F.Supp.3d 1077 (C.D. Cal. 2020) (ICE detainees could not be sent back to Vietnam under an agreement between the two countries because they had arrived in the U.S. before 1995 as refugees), and Petitioner must be released from custody on an Order of Supervision until such time as a removal date is secured.

4. As the District Court in *Trinh v. Homan* explained:

After the Vietnam War, the North Vietnamese government established the current Socialist Republic of Vietnam (“Vietnam”). Around that time, waves of people from the former Republic of Vietnam (South Vietnam) fled the country to escape political prosecution. Under various humanitarian programs, the United States accepted hundreds of thousands of Vietnamese refugees, including Petitioners.

Between the end of the Vietnam War and 2008, Vietnam refused to repatriate any Vietnamese immigrants who had been ordered removed from the United States. Before a Vietnamese immigrant without a passport or travel document can be repatriated, Vietnam must issue a passport or other travel document in response to a request from ICE. In 2008, the United States and Vietnam reached a diplomatic agreement pursuant to which Vietnam agreed to start considering repatriation requests for certain Vietnamese immigrants. Specifically, the agreement obligated Vietnam to consider repatriation requests for Vietnamese immigrants who arrived in the United States after July 12, 1995. The agreement also provided that “Vietnamese citizens are not subject to return to Vietnam under this agreement if they arrived in the United States before July 12, 1995.” Relying on this provision, Vietnam maintained its policy of non-repatriation for pre-1995 Vietnamese immigrants after signing the 2008 agreement.

See Trinh, at page 1083 (internal citations omitted)

5. Petitioner was ordered removed on February 12, 2025. Respondents had 90 days to remove him to Canada, which period ended on May 13, 2025. It has now been one hundred and twenty-three (123) days since the statutory 90-day period expired. In addition, Petitioner’s multi-entry visa to Canada

expires on October 26, 2025. *See* Exhibit D, Visa to Canada.

6. If the Respondents do not remove the Petitioner to Canada, or release him to travel to Canada, by October 26, 2025, he will be unable to relocate there.

7. Petitioner suffers from chronic Lyme disease and has been asking for required medical care with a physician who is a Lyme disease specialist. To date, Petitioner has not received proper medical care from Respondents. *See* Requests for Medical Care and Responses, Exhibit E.

JURISDICTION AND VENUE

8. This action arises under the Immigration and Nationality Act of 1952 (“INA”), as amended, 8 U.S.C. § 1101 *et seq.*, and the Due Process Clause of the Fifth Amendment to the United States Constitution. This Court has jurisdiction pursuant to Art. I, § 9, cl. 2 of the United States Constitution; 28 U.S.C. § 2241 (general grant of habeas authority to the district courts); 28 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. §§2201, 2202 (Declaratory Judgment Act); and 28 U.S.C. § 1651 (All Writs Act). In addition, this Court may order Respondents to provide the Petitioner with proper medical care under 5 U.S.C. §§ 555 and 701, *et seq.* (the Administrative Procedure Act).

9. Venue is proper under 28 U.S.C. § 1391(e) because the Aurora Detention Center is located in Arapahoe County, within the District of Colorado. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 494–95 (1973).

PARTIES

10. Mr. Mankovskyi, the Petitioner, is a citizen of Ukraine. He is currently detained by Respondents at the Aurora Detention Center in Aurora, Colorado.

11. Respondent Juan Baltasar, the warden of the Aurora Detention Center, is the immediate legal custodian of Petitioner for purposes of a federal habeas petition. *Braden*, 410 U.S. at 494–95.

12. Respondent Robert Guadian, the Field Office Director of the Immigration and Customs Enforcement (“ICE”) Denver Field Office, is responsible for overseeing ICE operations pertaining to noncitizens within its territorial jurisdiction, such as Mr. Mankovskyi, including detentions, enforcement, and removal operations.

FACTUAL ALLEGATIONS

13. Mr. Mankovskyi is a citizen of Ukraine and is detained at the Aurora Detention Center in Aurora, Colorado. *See Exhibits A-C.*
14. A U.S. immigration judge ordered Mr. Mankovskyi deported to Canada or Ukraine on February 12, 2025. *See Exhibit C.*
15. Based on information and belief, Mr. Mankovskyi has been detained by Respondent ICE since September 9, 2024. *See Exhibit A.*
16. Respondents had a statutory 90-day deadline to remove the Petitioner to Canada or Ukraine by May 13, 2025. *See 8 U.S.C. § 1231(a)(1)(A)*
17. To date, Mr. Mankovskyi remains in immigration custody, and his multi-entry visa to Canada expires on October 26, 2025. *See Exhibit D.*
18. Furthermore, ICE has not provided a date by which it believes it can deport Mr. Mankovskyi.
19. Petitioner has requested proper medical treatment of his Lyme disease and skin diseases/disorders on many occasions.
20. Respondents have not provided the Petitioner with proper medical care, including medical under the supervision of a Lyme disease specialist.
21. Respondents have been deliberately indifferent to Petitioner’s need for proper medical care during his immigration detention.

LEGAL BACKGROUND

22. Title 8 U.S.C. §1231(a) permits ICE to detain noncitizens during the “removal period,” which is defined as the 90-day period during which “the Attorney General shall remove the alien from the United States.” 8 U.S.C. §1231(a)(1)(A). In this case, the removal period began when Mr. Mankovskyi was ordered removed by an Immigration Judge on February 12, 2025. The “removal period” therefore expired on May 13, 2025.
23. After the expiration of the removal period, 8 U.S.C. § 1231(a)(3) provides that ICE shall release unremovable noncitizens on an order of supervision (the immigration equivalent of supervised release, with strict reporting and other requirements). Pursuant to 8 U.S.C. § 1231(a)(6), even noncitizens with aggravated felony convictions may be “released” if “subject to the terms of supervision” set forth in 8 U.S.C. § 1231(a)(3).
24. Constitutional limits on detention beyond the removal period are well established. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas*, 533 U.S. at 701. “[W]here detention’s goal is no longer practically attainable, detention no longer ‘bear[s][a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Additionally, cursory or pro forma findings of dangerousness do not suffice to justify prolonged or indefinite detention. *Zadvydas*, 533 U.S. at 691 (“But we have upheld preventative detention based on dangerousness only when limited to especially dangerous individuals [like suspected terrorists] and subject to strong procedural protections.”)
25. The purpose of detention during and beyond the removal period is to “secure[] the alien’s removal.” *Zadvydas*, 533 U.S. at 682. In *Zadvydas*, the Supreme Court “read § 1231 to authorize continued detention of an alien following the 90-day removal period for only such time as is

reasonably necessary to secure the alien's removal." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 699).

26. As the Supreme Court explained, where there is no possibility of removal, continued immigration detention presents substantive due process concerns because "the need to detain the noncitizen to ensure the noncitizen's availability for future removal proceedings is "weak or nonexistent." *Zadvydas*, 533 U.S. at 690-92. Detention is lawful only when "necessary to bring about that alien's removal." See *id.* at 689. See also *Trinh v. Homan*, at p. 1087-88.
27. To balance these competing interests, the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a "reasonable period of detention" for noncitizens after a removal order. *Id.* at 700-01. The Court determined that six months detention could be deemed a "presumptively reasonable period of detention," after which the burden shifts to the government to justify continued detention if the noncitizen provides a "good reason to believe that there is not significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701.
28. Where a petitioner has provided "good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future," the burden shifts to the government to rebut that showing. *Zadvydas*, 533 U.S. at 701. Due deference is owed to the government's assessment of the likelihood of removal and the time it will take to execute removal. *Id.* at 700. However, just as pro forma findings of dangerousness do not suffice to justify indefinite detention, pro forma statements that removal is likely should not satisfy the government's burden.
29. The government may only rebut a detainee's showing that there is no significant likelihood of removal in the reasonably foreseeable future with "evidence of progress...in negotiating a petitioner's repatriation." *Gebrelibanos v. Wolf*, No. 20-cv-1575-WQH-RBB, 2020 U.S. Dist. LEXIS 185302, at *9 (S.D. Cal., Oct. 6, 2020) (citing *Kim v. Ashcroft*, 02cv1524-J(LAB) (S.D.

Cal., June 2, 2003), ECF No. 25 at 8 (citing *Khan v. Fasano*, 194 F. Supp. 2d 1134, 1136 (S.D. Cal. 2001); *Fahim v. Ashcroft*, 227 F. Supp. 2d 1359, 1366 (N.D. Ga. 2002)); *see also Carreno v. Gillis*, No. 5:20-cv- 44-KS-MTP, 2020 U.S. Dist. LEXIS 248926, at *5 (S.D. Miss., Dec. 16, 2020) (granting petitioner’s habeas claim because the government failed to show that removal would be imminent after obtaining a travel document and failing to remove petitioner within the document’s validity period) (emphasis added).

30. Factors courts consider in analyzing the likelihood of removal include “the existence of repatriation agreements with the target country, the target country’s prior record of accepting removed aliens, and specific assurances from the target country regarding its willingness to accept an alien.” *Hassoun v. Sessions*, 2019 WL 78984 at *4 (W.D.N.Y., Jan. 2, 2019) (citing *Callender v. Shanahan*, 281 F. Supp. 3d 428, 436-37 (S.D.N.Y. 2017)); *see also Nma v. Ridge*, 286 F. Supp. 2d 469, 475 (E.D. Pa. 2003).
31. Courts have found no significant likelihood of removal in five types of cases: (1) where the detainee is stateless and no country will accept him; (2) where the detainee’s country of origin refuses to issue a travel document; (3) where there is no repatriation agreement between the detainee’s native country and the United States; (4) where political conditions in the country of origin render removal virtually impossible; and (5) where a foreign country’s delay in issuing travel documents is so extraordinarily long that the delay itself warrants an inference that the documents will likely never issue. *See Ahmed v. Brott*, Civ. No. 14-5000 (DSD/BRT), 2015 WL 1542131, *4 (D. Minn. Mar. 17, 2015).
32. Other courts have denied habeas petitions primarily where the U.S. government has already procured petitioner’s travel documents and only travel arrangements are outstanding, which is not the case here. *See Berhe*, 2019 WL 3734110 at *4 (denying Petitioner’s habeas petition

because “Eritrea has issued a travel document and Petitioner has presented no evidence to suggest there are other barriers to his removal”); *Tekleweini-Weldemichael v. Book*, No. 1:20-CV- 660-P, 2020 WL 5988894, at *5 (W.D. La., Sept. 9, 2020), *report and recommendation adopted*, No. 1:20-CV-660-P, 2020 WL 5985923 (W.D. La., Oct. 8, 2020) (denying without prejudice Petitioner’s habeas petition because he possessed a travel document valid through December 19, 2020, and noting that he is not precluded from filing a new petition upon the expiration or cancellation of his travel document).

33. In this case, Mr. Mankovskyi has a valid multi-entry visa to travel to Canada. Respondents have failed to arrange for his removal to Canada, despite the fact that his visa to Canada expires on October 26, 2025. *See* Exhibit D.
34. Mr. Mankovskyi has been detained for more than 180 days following his final order of removal, beyond the 6-month period of presumptively reasonable detention. *Zadvydas*, 533 U.S. at 700-01. *See also Hassoun*, 2019 WL 78984, at *4; *Alexander*, 495 Fed. Appx. at 277. With neither a travel document nor an indication from Russia that one is soon to be forthcoming, several more months of detention is unreasonable, as removal is not imminent.
35. In addition, federal regulations dictate that where ICE detains an individual under 8 U.S.C. § 1231(a)(6), an individualized determination must be carried out, with the following criteria taken into account:

- (1) The nature and number of disciplinary infractions or incident reports received when incarcerated or while in Service custody;
- (2) The detainee’s criminal conduct and criminal convictions, including consideration of the nature and severity of the alien’s convictions, sentences imposed and time actually served, probation and criminal parole history, evidence of recidivism, and other criminal history;
- (3) Any available psychiatric and psychological reports pertaining to the detainee’s mental health;

- (4) Evidence of rehabilitation including institutional progress relating to participation in work, educational, and vocational programs, where available;
- (5) Favorable factors, including ties to the United States such as the number of close relatives residing here lawfully;
- (6) Prior immigration violations and history;
- (7) The likelihood that the alien is a significant flight risk or may abscond to avoid removal, including history of escapes, failures to appear for immigration or other proceedings, absence without leave from any halfway house or sponsorship program, and other defaults; and
- (8) Any other information that is probative of whether the alien is likely to—
 - (i) Adjust to life in a community,
 - (ii) Engage in future acts of violence,
 - (iii) Engage in future criminal activity,
 - (iv) Pose a danger to the safety of himself or herself or to other persons or to property, or
 - (v) Violate the conditions of his or her release from immigration custody pending removal from the United States.

8 C.F.R. § 241.4(f).

- 36. Mr. Mankovskyi is entitled to receive proper medical treatment while in immigration detention under the Fourteenth Amendment to the U.S. Constitution. *See Miles v. Rogers County Board of Commissioners*, 783 F. Supp. 3d 1314, 1319 (N.D. Okl. 2025).
- 37. A prison official's deliberate indifference to an inmate's serious medical needs violates the Eighth Amendment to the U.S. Constitution. *See Sealock v. Colorado*, 218 F.3d 1205, 1209 (10th Cir. 2000), citing to *Estelle v. Gamble*, 429 U.S. 97, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976).
- 38. The deliberate indifference standard applies to immigration detainees through the Fourteenth Amendment. *See Paugh v. Uintah Cnty.*, 47 F.4th 1139, 1153-54 (10th Cir. 2022)

**FIRST CLAIM FOR RELIEF:
Violation of 8 U.S.C. § 1231(a)(1)(A)**

39. Petitioner re-alleges and incorporates by reference the preceding paragraphs.
40. Petitioner's continued detention by the Respondents violates 8 U.S.C. § 1231(a)(1)(A), as interpreted by *Zadvydas*. Petitioner's 90-day statutory removal period and six-month presumptively reasonable period for continued removal efforts have passed.
41. Under *Zadvydas*, the continued detention of someone like Petitioner is unreasonable and not authorized by 8 U.S.C. § 1231.

**SECOND CLAIM FOR RELIEF:
Relief Under 5 U.S.C. § 706**

42. Petitioner re-alleges and incorporates paragraphs 1 to 38 as if fully set forth below.
43. Respondents have a legal obligation to provide Petitioner with proper medical care.
44. Respondents have failed to provide Petitioner with proper medical since he was detained on September 9, 2024.
45. This Court has the authority to compel Respondents to provide Petitioner with proper medical care under 5 U.S.C. § 706 of the Administrative Procedure Act, which provides for relief to compel federal agency action that has been unlawfully or unreasonably withheld.

**THIRD CLAIM FOR RELIEF:
Violation of 42 U.S.C. § 1983**

46. Petitioner re-alleges and incorporates paragraphs 1 to 38 as if fully set forth below.
47. Respondents deprived Petitioner of his rights through their deliberate indifference to his medical needs during his immigration detention from September 9, 2024 to the present.
48. Petitioner asks this Court to grant him declaratory and injunctive relief and order Respondents to provide him with proper medical care during the duration of his immigration detention.

FOURTH CLAIM FOR RELIEF:

**Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution,
Equal Protection Clause of the Fourteenth Amendment, and Cruel and Unusual
Punishment Clause of the Eighth Amendment**

49. Petitioner re-alleges and incorporates paragraphs 1 to 38 as if fully set forth below.
50. Petitioner requires medical care for his chronic Lyme disease and skin diseases/disorders.
51. Petitioner has made the Respondents aware that he has not received proper medical care since he was placed into immigration detention on September 9, 2024, on numerous occasions. *See* Exhibit E.
52. Respondents' failure to provide Petitioner with proper medical care and their deliberate indifference to his medical needs violate the Due Process clause of the Fifth Amendment, the Cruel and Unusual Punishment clause of the Eighth Amendment, and the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution.

FIFTH CLAIM FOR RELIEF:

Violation of Regulations

53. Petitioner re-alleges and incorporates paragraphs 1 to 38 as if fully set forth below.
54. As set forth above, Respondents continue to detain Petitioner in violation of 8 C.F.R. §§ 241.13, and 241.4, having not considered the substantive factors set forth in subsections (e) and (f) of that regulation. Were such factors to be properly weighed, it would be apparent that Petitioner is a candidate for release on an Order of Supervision pending removal or should be removed to Canada while his visa to that country is still valid.
55. Likewise, Respondent continues to detain Petitioner in violation of 8 C.F.R. §§ 241.4 and 241.13, since the proper procedures set forth in those regulations have not been carried out.

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court assume jurisdiction over this matter and enter an order:

- a. Declaring that his continued detention violates his due process rights;
- b. Granting him a writ of habeas corpus and ordering Respondents to either release him from detention on an Order of Supervision pursuant to 8 U.S.C. § 1231(a)(3) or to remove him to Canada before his visa to Canada expires on October 26, 2025;
- c. Ordering Respondents to reimburse his costs of suit and reasonable attorneys' fees incurred in relation to this petition, under the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- d. Granting him any other relief that this Court deems just and proper.

Date: September 12, 2025

Respectfully submitted,

/s/Brian Scott Green

Brian Scott Green

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent the Petitioner, Anton Mankovskyi, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus and for Relief under the Administrative Procedure Act or under 42 U.S.C. Section 1983 or under the U.S. Constitution are true and correct to the best of my knowledge.

Dated this 12th day of September, 2025.

s/Brian Scott Green
Brian Scott Green

Certificate of Service

I, Brian Scott Green, hereby certify that on this 12th day of September, 2025, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

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