

81

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA – JACKSONVILLE DIVISION

Vladislav Bernshtein, A# 

Petitioner,

v.

Merrick Garland, U.S. Attorney General

U.S. Department of Homeland Security

U.S. Immigration and Customs Enforcement (ICE)

Respondents.

3:25-CV-1153-MMH-PDB

PETITION FOR WRIT OF HABEAS CORPUS

Pursuant to 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner Vladislav Bernshtein respectfully seeks this Court's intervention to end his unlawful and prolonged immigration detention by ICE. Mr. Bernshtein is a stateless refugee who has been detained since March 31, 2025. He cannot be removed to any country because multiple countries have already refused to accept him.
2. ICE has made no meaningful progress toward removing him, and his continued detention violates the U.S. Constitution, federal law, and Supreme Court precedent under *Zadvydas v. Davis*, 533 U.S. 678 (2001).

JURISDICTION AND VENUE

3. This Court has jurisdiction under 28 U.S.C. § 2241.
4. Venue is proper in the Middle District of Florida because Petitioner is detained in Baker County, Florida, which lies within this District.

PARTIES

5. Petitioner: Vladislav Bernshtein (A# [REDACTED]), currently detained at:
North Florida Detention Facility
20706 US Highway 90 West, Sanderson, FL 32087.

6. Respondents include:

- o Merrick Garland, U.S. Attorney General
- o U.S. Department of Homeland Security
- o U.S. Immigration and Customs Enforcement (ICE)

FACTS

7. Petitioner was born in the Soviet Union on [REDACTED] 1980. He entered the U.S. as a refugee on January 25, 1990.

- 8. He is stateless and has no citizenship in any country.
- 9. He was previously subject to a final order of removal around June 3, 2020. ICE attempted to deport him to Russia and Belarus, but both countries denied repatriation.
- 10. After being released under ICE supervision, he was re-detained by ICE on March 31, 2025, following a misdemeanor DUI arrest.
- 11. He has now been detained for more than six months (180 days) with no foreseeable removal.

LEGAL CLAIMS

12. Under *Zadvydas v. Davis*, continued detention beyond six months (180 days) is unconstitutional when there is no significant likelihood of removal in the reasonably foreseeable future.

- 13. ICE has made no progress and no country will accept him.
- 14. Continued detention violates his Fifth Amendment due process rights and exceeds ICE's lawful detention authority.

RELIEF REQUESTED

Petitioner respectfully requests that this Court:

- Issue a Writ of Habeas Corpus
 - Order his immediate release from ICE custody
 - Grant any other relief the Court deems just and proper
-

Respectfully submitted,

Vladislav Bernshtein

[A# 

North Florida Detention Facility

20706 US Highway 90 West

Sanderson, FL 32087

Date: 9/23 2025

Signature: DIA Bernshtein AS POA FOR VLADISLAV BERNSHTEIN



Subrena Khadoo
SUBRENA KHADOO
Notary Public, State of Florida
Commission# HH 295346
My comm. expires Sept. 17, 2026

9/23/25
Prager County, Florida

LIMITED POWER OF ATTORNEY

BE IT KNOWN, that Vladislav Bernstein has made and appointed, and by these presents does make and appoint Olga Bernstein true and lawful attorney for him/her and in his/her name, place and stead, for the following specific and limited purposes only: (Type or Print)

Sign any and all my Immigration paperwork (documents) Habeas Corpus etc

giving and granting said attorney, full power and authority to do and perform all and every act and thing whatsoever necessary to be done in and about the specific and limited premises (set out herein) as fully, to all intents and purposes, as might or could be done if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that said attorney shall lawfully do or cause to be done by, virtue hereof.

This Power of Attorney is not affected by subsequent incapacity of the Principal except as provided in Florida Statute 709.08.

DATE OF SIGNATURE (Optional) The ___ day of _____, _____

Appointer Signature: _____

Vlad Bernstein

IN WITNESS WHEREOF, I have hereunto set my hand and seal this

13th

day of August, 2025

Signed, sealed and delivered in the presence of:

Jacob Taylor Jacob Taylor
Witness (Signature) (Printed Name)

Susan C. Henry Susan C. Henry
Witness (Signature) (Printed Name)

State of FLORIDA
County of BAKER

The foregoing instrument was acknowledged before me by means of ☒ physical presence OR ☐ online notarization

This 13th day of August, 2025

By Vladislav Bernstein

Samuel Dylan Adams

(signature of Notary Public)

Samuel Dylan Adams

(Print Name of Notary Public)

Personally known ☐ OR Produced Identification ☒

Type of Identification Produced An Inmate ID



Vladislav Bernshtein
North Florida Detention Facility
20706 US Highway 90 West
Sanderson, FL 32087

Date: 9/23/25

Clerk of Court
U.S. District Court
Middle District of Florida
Jacksonville Division
Bryan Simpson United States Courthouse
300 North Hogan Street, Suite 9-150
Jacksonville, FL 32202

3:25-CV-1153-mmH-PDB

Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241

Dear Clerk of Court:

Please find enclosed my original Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, along with one copy for filing. I am currently detained by U.S. Immigration and Customs Enforcement (ICE) at North Florida Detention Facility in Sanderson, Florida.

Also enclosed are supporting exhibits and a certificate of service showing that a copy has been served on the United States Attorney's Office for the Middle District of Florida.

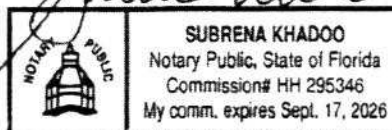
Please file this petition and return a file-stamped copy to me in the enclosed self-addressed stamped envelope. Thank you for your time and consideration.

Respectfully,

0164 Bernshtein as POA FOR VLADISLAV BERNSHTEIN

Vladislav Bernshtein
Pro Se Petitioner

A# 
North Florida Detention Center
20706 US Highway 90 West
Sanderson, FL 32087



9/23/25
Flagler County, Florida

MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Vladislav Bernshtein, respectfully submits this Memorandum of Law in support of his Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

I. INTRODUCTION

Petitioner was born in the former Soviet Union in 1980 and entered the U.S. as a refugee in 1990. He has been held in ICE custody since March 31, 2025, despite having no prospect of removal to any country. ICE has previously attempted to deport him to both Russia and Belarus, and both countries denied acceptance. His continued detention violates the U.S. Constitution and governing Supreme Court precedent.

II. LEGAL STANDARD

Under 28 U.S.C. § 2241, a federal court may grant habeas relief to a person in custody in violation of the Constitution or laws of the United States.

In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the U.S. Supreme Court held that ICE may not detain a noncitizen for more than six months or 180 days after a final order of removal unless there is a significant likelihood of removal in the reasonably foreseeable future. Where removal is not reasonably foreseeable, continued detention is unlawful.

III. ARGUMENT

Mr. Bernshtein's continued detention is unconstitutional because there is no significant likelihood of removal in the reasonably foreseeable future. He is stateless. ICE has already attempted to deport him to Russia and Belarus, and both governments rejected him. The United States government has no other country willing to accept him.

The war between Russia and Ukraine has further destabilized the region, making it unsafe and geopolitically complex. Returning Petitioner to any country involved in or bordering this conflict would put his life at risk and violate his right to due process.

Petitioner's detention is also causing significant personal hardship. His mother, Olga Bernshtein, is critically ill, undergoing multiple surgeries, and relies entirely on his support. Mr. Bernshtein is her only son, the only family she has. Prolonged, indefinite detention under these circumstances is a violation of the Fifth Amendment.

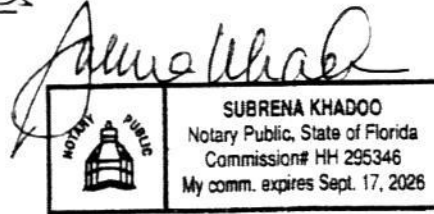
IV. CONCLUSION

For the foregoing reasons, this Court should grant Mr. Bernshtein's Petition for Writ of Habeas Corpus and order his immediate release from ICE custody.

Respectfully submitted,

Olga Bernshtein as POA FOR VLADISLAV BERNSTEIN
Vladislav Bernshtein

Date: 9/23/2025



9/23/25
Flagler County, Florida

DECLARATION OF VLADISLAV BERNSHTEIN

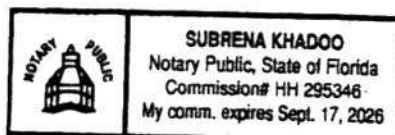
I, Vladislav Bernshtein, declare under penalty of perjury that the following is true and correct to the best of my knowledge:

1. I am currently detained by U.S. Immigration and Customs Enforcement (ICE) at North Florida Detention Facility in Sanderson, Florida. I previously was detained at Baker County Detention Center in Macclenny, Florida. I am the petitioner in the habeas corpus case submitted to this Court.
2. I am a stateless person. I have no citizenship or legal status in any country. My removal order was issued in 2020, but no country is willing to accept me. ICE has attempted to deport me, but those attempts have failed due to my statelessness.
3. I have now been held in ICE detention for over six months (or 180 days), since March 31, 2025, after I was re-detained. There is no foreseeable prospect of my removal in the reasonably near future.
4. I am not a danger to the community and I am not a flight risk. I have a stable and loving relationship with my U.S. citizen fiancée, Irina Borovinskikh, who is willing to support me and provide a place to live. I also have my mom who is critically ill and needs me to take care of her. I have no violent criminal history.
5. My continued detention is causing me severe emotional and psychological distress. I spend every day uncertain of my future. It is extremely difficult to endure these conditions knowing that I cannot be deported but also cannot be released without this Court's help.
6. I respectfully ask the Court to grant my petition and order my release from ICE custody. I will fully comply with all conditions of supervision imposed by the Court or ICE.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

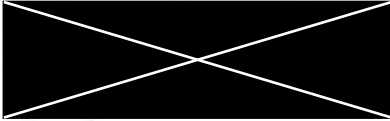
Executed on: 9/25/2025, at North Florida Detention Facility.

Signature: Oleg Bernshtein as POA for VLADISLAV BERNSHTEIN
Vladislav Bernshtein A# XXXXXXXXXX



Subrena Khadoo
Frazier County, Florida
9/25/2025

Irina Borovinskikh



Irinaanatolyevna85@gmail.com

September 19, 2025

To:
Clerk of Court
U.S. District Court
Middle District of Florida
Jacksonville Division
300 North Hogan Street, suite 9-150
Jacksonville, FL 32202

Support Letter for Vladislav Bernshtein – A# A black rectangular box with a white 'X' drawn across it from corner to corner, used to redact information.

To Whom It May Concern,

My name is Irina Borovinskikh, and I am a United States citizen. I am writing this letter to express my deepest support for my fiancé, Vladislav Bernshtein, who is currently in immigration custody and currently detained at North Florida Detention Facility. He previously was detained at Baker County Detention Center from March 31, 2025.

My fiancée, Vladislav Bernshtein, came to the United States with his parents as a refugee from the Soviet Union, when he was only 8 years old and has lived here for over 35 years. He has made the United States his only home. He has no other country to return to, he does not write or read any language but English, and removing him would not only tear apart the life he has built here, but would also cause him, me and his family tremendous pain and hardship.

We have been in a committed relationship for over 2 years and got engaged on August 11, 2024. We were in the process of planning our future together when he was detained. I am fully committed to supporting him emotionally and financially. We planned to marry, start a family, and continue building our life together here in the United States.

He is not a threat to society. He is a kind and loving person, and he means everything to me and his mom. He was building his career by trying to promote his own Painting company, we both worked hard to build customers and do anything to raise it financially. My fiancée was a respected member of the BNI group as well, everyone talks highly

about him as a person or as a professional. He has strong family ties in the U.S., most important his elderly mother, Olga Bernshtein, who is a U.S. citizen and deeply relies on him for emotional and physical support. His father died on June 25, 2022 and was buried in our county, so his mother is all alone since then and has nobody else but her son to take care of her. She is currently in a critical health condition, going through many surgeries. She is having very serious surgery September 19, 2025, and will have more soon, she really needs her son's support. His removal would cause extreme hardship to me and most importantly to her. I have been emotionally devastated since he was detained. I struggle with anxiety, sadness, and the fear that I could lose the person I love forever.

I respectfully ask that you consider exercising prosecutorial discretion and allow him to remain in the United States, his home, where he has deep roots and loved ones who support and depend on him. I also request that he be considered for release so we may begin the legal process to resolve his case properly.

Please consider this heartfelt request with compassion and humanity. I am willing to provide any additional documentation or appear in person to further support my statement. Please feel free to contact me as well. I am also writing this from Olga Bernshtein, my fiancée's mom, because she is in critical condition and preparing for surgery.

Thank you for your time and consideration.

Sincerely,
Irina Borovinskikh
including Olga Bernshtein.

To Whom It May Concern,

I am writing on behalf of **Mr. Vladislav Bernstein**, who has worked with me over the years. I am a licensed general contractor and the owner of **A to Z Complete Renovations LLC**, with projects in Ohio, Florida, and Atlanta. During the time I have known Vladislav, he has consistently proven himself to be an outstanding worker and an honorable individual.

Vladislav has always demonstrated a strong work ethic, reliability, and a positive attitude—even under challenging circumstances. He does not complain, even when unexpected tasks or additional responsibilities were added to his projects. He carried out his work with dedication and integrity, and his contributions were greatly valued.

Beyond his work ethic, Vladislav is a good man and a respectful, responsible person. He treats others with fairness and kindness, and he has always been a dependable member of our team. If given the opportunity to be released, I am confident that Vladislav would return immediately to productive employment. I am personally willing to support him in getting back to work so that he can continue to contribute positively to his community and provide for himself.

It is my sincere hope that Vladislav is given the opportunity to remain in the United States and put these difficulties behind him. I believe he would make a valuable and law-abiding citizen if granted that chance.

Thank you for your time and consideration.

Sincerely,

Ronald Sanzo

Owner & Licensed General Contractor

A to Z Complete Renovations LLC

Email: sanzoronald@gmail.com

To whom It May Concern,

My Name is Vladislav Bernshtein A# [REDACTED]

I am writing this letter with all the respect to you, to plead my case and for you to better understand my situation. My deportation officer at Baker County Detention Center was Daniel Sepulveda, who informed me that he recommended me for release. He also mentioned that people with my situation should not even be in the detention center. He recommended ICE supervision release, feel free to contact him anytime if you have any questions daniel.sepulveda@ICE.DHS.gov, phone number is: 904-288-4662. Im currently at North Florida Detention Facility and my Deportation Officer at the moment Fonyi S. Agendia who is also recommending me for release, if you have any questions his email address is fonyi.s.agendia@ICE.DHS.gov.

I am a very polite, respectful and kind person, I am not a flight risk to society, I do not have any violent crimes, and to be honest I was changing my life around completely. I was working on my own business, promoting it and working with other companies to make stability in my finances, so I can help my mom and make a family with my fiance Irina Borovinskikh.

My parents and I left the Soviet Union in 1989 as Jewish refugees. I have been living in the U.S over 35 years and never went back to Russia or Belarus. All my family are U.S. citizens and I can truly tell you, that without a doubt in my heart and mind, I believe I am American as anyone else who was born here. I have no family in Belarus or Russia, everyone is here in America, I can't read or write any other language but English.

I was born Jewish and what I went through before I came to America still hurts me today, I was completely traumatized. I get so emotional when I recollect those horrific years I had growing up there. No one should ever endure that much pain, violence, hatred let alone young children at age 5 through 8 years old. When kids and adults found out I was Jewish they were beyond nasty to me. I was getting beaten up on a daily basis, tied to trees and rocks thrown at me. They would undress me on the streets to and from school, to embarrassed me and I had to walk naked back home. I would miss school at times due to these ignorant people committing these acts. They would also freeze the ice skate track during winter season travelling down hill and throw me nacked down it. These are just a few things they did to me, but the one that stands out in my mind (sorry I just got teared up right now) is when they hung up a baby kitten around its neck from a tree branch and I saved the kitten. They told me not to or they will hang me, but I did not care and acted without thinking twice. I only cared about saving the kitten, and I am glad I did. They kept their word and tried to hang me after, but luckily a by standard intervened and saved my life. Who knows what would of happen and maybe I would not be writing this letter to you now. I don't know who that by standard was, but I'll be more than grateful to that man for the rest of my life.

When my parents went to the police, you know what they said: "What do you guys expect you are jews". No one will ever understand what I went through unless this has happened to them. You can only listen and try to sympathize. My parents were scared for my life, they left everything behind and moved to the U.S., just to save me from these horrific tortures. They want me to be able to grow up like a normal child should. It is unfortunate this ignorance still lingers around till these days where I am from. My parents took care of me when I was young and I am doing what is my duty, by taking care of them. Now I'm a caretaker for my mother. As you can


see from these doctors/ hospitals documents we have submitted to you, my moms health is horrible and declining. These records are just a fraction of what is wrong with her. I wish I could add my father in this equation as also my mothers care caretaker. It is extremely sad to inform you that my father passed away three years ago June 25 2022. He was buried at the cemetery 10 minutes away from the house and we visit his grave frequently. As I am my mothers driver due to her strokes. He lost his battle to cancer and I will never forget how I dragged his motionless body to use the bathroom or shower. My mother was not able to do those heavy lifting, and also there have been times they both would be in the hospital at the same time, due to their health issues. Right before he passed away all my father kept saying is for my mom and I to stick together, because all we have left is each other.

Now all I think about is ICE would take me away from my mother while she is extremely ill. My mom has high blood pressure, which she takes over 10 pills a day to not get worse. She had three strokes, which left half of her body semi paralyzed. Countless surgeries, hips replacement, brain tumor, breast cancer removed pacemaker and much more. She has been putting off this next surgery she needs for months now, thinking I'LL be out of Immigration Jail. She can not put it off any longer, the Doctor said. September 19, 2025 they scheduled a surgery for her. I don't even know how and who will help her to get through this if I'm still detained for much longer. She has lost 60-70 lbs in the last 6 months. I always talk to my mother on voice calls but recently we spoke on the video call. I barely recognized my own mother from her health declining, losing extremely all that weight and plus all the stress she has from losing her only child (me). To be detained in ICE, my mother needs me now more than ever. Please let me be there for her. I do have a fiance. Her name is Irina Borovinskikh , her phone number is [REDACTED], we were supposed to get married in May, but being detained in ICE obviously forbids us to get married. We are trying to start a family and I have faith I will be released from ICE on probation. I am willing to comply with ICE probation, supervision and anything is necessary and expected from me.

Thank you for your time and consideration,
Sincerely Vladislav Bernshtein.

Department of Homeland Security
Immigration and Customs Enforcement

Warning for Failure to Depart

Name: BERNSHTEIN, Vladislav	District Office: MIA	File #: A
Section 243(a) of the Immigration and Nationality Act of 1952, as amended, provides, in part, that:		
<p>Any alien against whom a final order of removal is outstanding by reason of being a member of any of the classes described in section 237(a) who –</p> <p>(A) willfully fails or refuses to depart from the United States within a period of 90 days* from the date of the final order or removal under administrative processes, or if judicial review is had, then from the date of the final order of the court,</p> <p>(B) willfully fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure,</p> <p>(C) connives or conspires, or takes any other action, designed to prevent or hamper or with the purpose of preventing or hampering the alien's departure pursuant to such, or</p> <p>(D) willfully fails or refuses to present himself or herself for removal at the time and place required by the Attorney General pursuant to such order,</p> <p>shall be fined under title 18, United States Code, or imprisoned not more than four years (or 10 years if alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 237(a)), or both.</p>		
Nothing in this section shall make it a violation to take proper steps for the purpose of securing cancellation of or exemption from such order of removal or for the purpose of securing the alien's release from incarceration or custody.		
Any action that the Immigration and Customs Enforcement (ICE) may take to obtain a travel document for your departure or to remove you will NOT relieve you of the liability for compliance with the provisions of law referred to in the first paragraph above.		
* Section 241(a)(1)(C) provides for the extension of that period of time if the alien refuses, during the detention period, to make application in good faith, for a travel or other document necessary for the alien's removal or departure or conspires or acts to prevent the alien's removal subject to an order of removal.		
Date Order Final: 11/18/2020	Ordered Removed Under Section: Section: 237a2Bi	
Record of Service (Check method used)		
<p>(<input checked="" type="checkbox"/>) Record of Personal Service</p> <p>Served By: (Print Name and Title of Officer) C. Luna, DO Date: 11/24/2020</p> <p>Officer's Signature:  Location of Service: Wakulla County Jail</p> <p>Served On: (Alien's Signature) BERNSHTEIN, Vladislav Date: 11/24/2020</p>		
(<input type="checkbox"/>) Certified Mail Service		Record of Personal Service (Cont)
Attach certified mail receipts here.		Fingerprint of Alien (Right Index Finger)


INSTRUCTION SHEET TO DETAINEE REGARDING REQUIREMENT TO ASSIST IN REMOVAL

The following is a list of things you are required to complete within 30 days of receiving this form, in order to comply with your obligation to assist in obtaining a travel document.

Mandatory requirements will be checked off by ICE officer depending on the facts of each case. Failure to comply or provide sufficient evidence of your inability to comply, may result in the extension of the removal period and subject you to further detention. In addition, you may be subject to criminal prosecution. If you need assistance in complying with any of the requirements, please contact a Deportation Officer.

- ☒ Submit passports (current and expired) to ICE. If you have a copy of your passport, you are to submit it.
- ☒ Apply for a travel document/passport from your embassy or consulate, or directly from your government in your native country, or any other embassy or consulate of your native country in another country.
- ☒ Comply with all instructions from all embassies or consulates requiring completion of documentation for issuance of a travel document.
- ☒ Submit to ICE birth certificates, national identification cards, and any other document issued by a foreign government indicating your citizenship, nationality, place of birth, and place of residence prior to entering the United States.
- ☒ Provide names and addresses of family and friends residing in the United States and request that they contact your embassy or consulate in the United States, in order to facilitate the issuance of a travel document.
- ☒ Provide names and addresses of family and friends residing in your country of citizenship and request family and friends residing abroad contact your government in reference to issuing a travel document.
- ☒ You are required to take measures to request reinstatement of your previous nationality, register as required, or take any other action that will ensure the issuance of a travel document and your removal from the United States.
- ☒ Provide ICE with written copies of requests to embassies or consulates requesting issuance of a travel document.
- ☒ Provide ICE with written copies of responses from embassies or consulates regarding your Requests.
- ☒ Solicit permission from another country, which may be able to accept you, to enter that country to effect your removal from the United States.
- ☐ Other: _____

Alien's Signature _____ A Number 

Served by  C. Luna, DO on 11/24/2020 at Wakulla County Jail
 Officer's Name & Title Date Location

To be served with I-229(a) no later than 30 days after the final order (Rev. 10/24/02)

ORDERS OF THE IMMIGRATION JUDGE

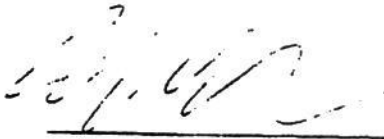
IT IS HEREBY ORDERED that the Respondent's application for asylum under section 208(a) of the INA be **DENIED**.

IT IS FURTHER ORDERED that the Respondent's application for withholding of removal under section 241(b)(3)(A) of the INA be **DENIED**.

IT IS FURTHER ORDERED that the Respondent's application for protection under the Convention Against Torture be **DENIED**.

IT IS FURTHER ORDERED that Respondent be **REMOVED** to Belarus.

DATED this 2 day of June 2020.



Daniel Lippman
Immigration Judge

Appeal: Reserved by Respondent. Appeal must be filed 30 days from the mailing of this written decision. 8 C.F.R. § 1003.38(b).

Failure to Depart

The Court has ordered you removed from the United States. If you willfully fail or refuse to apply for the required travel documents to depart the United States, to present yourself for removal as instructed, to depart the United States as instructed, or to take any action, or conspire to take any action, to prevent or hamper your departure, you will be subject to a civil monetary penalty of not more than \$500 per day you are in violation. INA §§ 240(c)(5), 274D(a); 8 C.F.R. § 1240.13(d).

[For aliens subject to removal pursuant to INA § 237(a)]: In addition, you may also be subject to criminal penalties, including monetary penalties and up to 10 years in prison. INA § 243(a).

Certificate of Service

THIS DOCUMENT WAS SERVED BY: ☒ MAIL (M) ☒ PERSONAL (P)
TO: [] ALIEN [] ALIEN c/o Custodial Officer [] ALIEN'S ATTY/REP [] DHS
DATE: 6/2/2020 BY: COURT STAFF [Signature]
Attachments: [] EOIR-33 [] EOIR-28 [] Legal Services List [] Other

U.S. Department of Justice
Executive Office for Immigration Review

Decision of the Board of Immigration Appeals

Falls Church, Virginia 22041

File: A  - Orlando, FL

Date: **NOV 18 2020**

In re: Vladislav BERNSHTEIN

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Matthew A. Shirk, Esquire

ON BEHALF OF DHS: Anna Adams Holbrook
Assistant Chief Counsel

APPLICATION: Asylum; withholding of removal; Convention Against Torture

The respondent, a native of the former U.S.S.R. and a citizen of Belarus,¹ appeals from an Immigration Judge's June 2, 2020, decision denying his applications for asylum under section 208 of the Immigration and Nationality Act, 8 U.S.C. § 1158, for withholding of removal under section 241(b)(3) of the Act, 8 U.S.C. § 1231(b)(3), and for protection pursuant to the Convention Against Torture, 8 C.F.R. §§ 1208.13; 1208.16-.18. The appeal will be dismissed.

We review an Immigration Judge's factual determinations, including credibility determinations, for clear error. *See* 8 C.F.R. § 1003.1(d)(3)(i). The Board reviews de novo questions of law, discretion, and judgment, and all other issues in appeals from decisions of Immigration Judges. *See* 8 C.F.R. § 1003.1(d)(3)(ii).

The respondent contends that he faces persecution in Belarus due to his Jewish religion, and testified that when he was a child living there with his parents, he was beaten and harassed frequently on religious grounds (IJ at 4; Exh. 4). His mother offered testimony in support of his application and corroborated his claims.

We will adopt and affirm the Immigration Judge's decision denying asylum due to a lack of evidence reflecting that the respondent personally was the victim of past persecution that the government could not or would not control,² that the record does not reflect that he has a well-

¹ The respondent admitted the factual allegation that he was a citizen of Belarus (Tr. at 10-11). Nevertheless, he stated below and contends on appeal that he was "stripped of Belarus citizenship" when he and his family left Belarus and were admitted to the United States as refugees in or about 1990. Respondent's Br. at 1; Tr. at 66. This contention is not supported by objective evidence and was not the subject of a factual finding to which we can defer. Accordingly, we will consider the respondent to be a citizen of Belarus for purposes of this appeal.

² We note that the respondent challenges this finding on appeal, pointing out that his and his family's 1990 admission as refugees undermines a finding that he suffered no past persecution.

A 

founded fear of future persecution based on objective evidence, and that the respondent is not deserving of a grant of asylum in the exercise of discretion (IJ at 5-7). *Matter of Burbano*, 20 I&N Dec. 872 (BIA 1994).

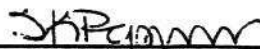
Because the respondent failed to satisfy the lower burden of proof applicable to asylum, he necessarily has failed to establish eligibility for withholding of removal which carries a higher burden of proof. *Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987).

The Immigration Judge also found that the record did not support a grant of protection under the Convention Against Torture. The respondent did not address in his appeal the Immigration Judge's decision regarding that aspect of his claim, so this issue is waived, *Matter of R-A-M*, 25 I&N Dec. 657, 658 n.2 (BIA 2012).

Accordingly, we will dismiss the appeal on the entry of the following order.

ORDER: The appeal is dismissed.

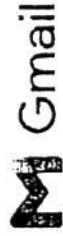
NOTICE: If a respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, or to present himself or herself at the time and place required for removal by the Department of Homeland Security, or conspires to or takes any action designed to prevent or hamper the respondent's departure pursuant to the order of removal, the respondent shall be subject to a civil monetary penalty of up to \$813 for each day the respondent is in violation. See section 274D of the Immigration and Nationality Act, 8 U.S.C. § 1324d; 8 C.F.R. § 280.53(b)(14).



FOR THE BOARD

See Respondent's Br. at 1. While we acknowledge the respondent's contention, we observe that the Immigration Judge specifically referred to the lack of evidence in the record bearing on the questions of past persecution and the ability and willingness of the government to control the third parties that perpetrated the harm against the respondent. As the respondent alleges no clear error in this finding, we affirm it.

7/29/22, 2:18 PM



Olga Bernshtein <19olga52@gmail.com>

Vlad's Immigration Case

1 message

Matthew Shirk <mshirklaw@aol.com>

Reply-To: Matthew Shirk <mshirklaw@aol.com>

To: "19olga52@gmail.com" <19olga52@gmail.com>

Fri, Jul 29, 2022 at 1:50 PM

Good afternoon Mrs. Bernshtein, first let me express my sincere condolences about the passing of your husband. I know this must be a very difficult time for you.

I am attaching the latest effort we are making to get Vlad his green card back. I want to reassure you that you DO NOT need to worry about him. ICE is not going to come pick him up. He is on an order of supervision and both Belarus and Russia have denied a travel document. Vlad is going to be here for the foreseeable future. Hopefully this latest effort will be successful and he will get his green card back.

If you need anything from me, please don't hesitate to call me.

Take care,
Matt

Matthew A. Shirk
Attorney at Law

25 North Market Street
Jacksonville, Florida 32202
Phone (904) 705-1831
Fax (904) 289-2661
mshirklaw@aol.com

 Letter to Chief Counsel 7.29.22.pdf
1145K

#6

Matthew A. Shirk

Attorney at Law

Cell: (904) 705-1831

mshirklaw@aol.com

Fax: (904) 289-2661

July 29, 2022

Ian D. Fiske
Chief Counsel
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
3535 Lawton Road, Suite 100
Orlando, Florida 32803

RE: BERNSHTEIN, Vladislav; A# [REDACTED]
Request for Prosecutorial Discretion

Dear Chief Counsel:


I represented Mr. Bernshtein in removal proceedings. My client was ordered removed following a detained individual hearing. He was a green card holder that had previously been granted 42A cancellation after being convicted twice for possession of marijuana. He was again arrested and convicted of two (2) counts of felony possession of a controlled substance. The IJ denied his application for asylum. The BIA dismissed the appeal.

Mr. Bernshtein is no longer a citizen of Belarus, nor is he a citizen of Russia. Therefore, he was released from custody and is on an order of supervision. We filed motions for post conviction relief. His convictions were vacated and set aside and then he entered pleas to two (2) counts of misdemeanor possession of paraphernalia. We then filed a motion to reopen at the BIA. As you can see from the attached decision, the BIA denied the motion.

I would hereby request your office consider a grant of Prosecutorial Discretion in the form of a joint motion to reopen. My client has lived in this country since he was a child. His only criminal convictions are misdemeanors. He completed a substantial part of the drug court program prior to being placed in removal proceedings and has been clean and sober now since his arrest in 2019. Mr. Bernshtein is an only child. A few weeks ago his father passed away. He has since moved in with his mother to help support her financially.

If any other questions arise or remain, please don't hesitate to call me on my cell phone at 904-705-1831 or email at mshirklaw@aol.com. Thank you.

Respectfully,


Matthew A. Shirk
Attorney at Law

U.S. Department of Homeland Security
Miami Field Office-Tallahassee



U.S. Immigration
and Customs
Enforcement

BERNSHTEIN, Vladislav
C/O Wakulla County Jail
15 Oak Street
Crawfordville, FL 32327

Notice to Alien of File Custody Review

You are detained in the custody of the Immigration and Customs Enforcement (ICE) and you are required to cooperate with the ICE in effecting your removal from the United States. If the ICE has not removed you from the United States within the removal period as set forth in INA 241(a) (normally 90-days) of either: 1) your entering ICE custody with a final order of removal, deportation or exclusion, or 2) the date of any final order you receive while you are in ICE custody, the ICE deciding official will review your case for consideration of release on an Order of Supervision. Release, however, is dependent on your demonstrating to the satisfaction of the Secretary of Homeland Security that you will not pose a danger to the community and will not present a flight risk.

Your custody status will be reviewed on or about: 02/16/2024. The Deciding Official may consider, but is not limited to considering the following:

1. Criminal convictions and criminal conduct;
2. Other criminal and immigration history;
3. Sentence(s) imposed and time actually served;
4. History of escapes, failures to appear for judicial or other proceedings, and other defaults;
5. Probation history;
6. Disciplinary problems while incarcerated;
7. Evidence of rehabilitative effort or recidivism;
8. Equities in the United States;
9. Cooperation in obtaining your travel document.
10. Any available mental health reports.

You may submit any documentation you wish to be reviewed in support of your release, prior to the date listed above, to the attention of the Officer and address below. English translations must be provided pursuant to 8 CFR 103.2(b)(3). An attorney or other person may submit materials on your behalf. The district director will notify you of the decision in your case.

U.S. Department of Homeland Security
Immigration and Customs Enforcement
Tallahassee Sub-Office
Attn: Officer C. Luna Jr
1530 Commonwealth Business Drive
Tallahassee, Florida 32303

METHOD OF SERVICE

I certify that this form was provided to the alien by:

☐ CC: Attorney of Record or Designated Representative

☒ CC: A-file

☒ In person

☐ Institution Mail


Signature of Officer

C. Luna Jr, DO
Print Name of Officer

11/24/2020
Date

IMMIGRATION COURT
18201 SW 12TH ST, BLDG 1 STE C
MIAMI, FL 33194

In the Matter of

Case No.: 

BERNSHTEIN, VLADISLAV
Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on May 16, 2017.
This memorandum is solely for the convenience of the parties. If the
proceedings should be appealed or reopened, the oral decision will become
the official opinion in the case.

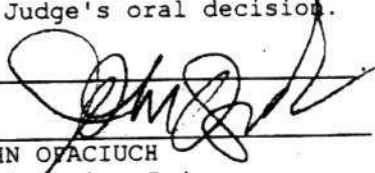
- [] The respondent was ordered removed from the United States to
or in the alternative to .
- [] Respondent's application for voluntary departure was denied and
respondent was ordered removed to or in the
alternative to .
- [] Respondent's application for voluntary departure was granted until
upon posting a bond in the amount of \$ _____
with an alternate order of removal to .

Respondent's application for:

- [] Asylum was () granted () denied () withdrawn.
- [] Withholding of removal was () granted () denied () withdrawn.
- [] A Waiver under Section _____ was () granted () denied () withdrawn.
- [] Cancellation of removal under section 240A(a) was () granted () denied
() withdrawn.

Respondent's application for:

- [] Cancellation under section 240A(b)(1) was () granted () denied
() withdrawn. If granted, it is ordered that the respondent be issued
all appropriate documents necessary to give effect to this order.
- [] Cancellation under section 240A(b)(2) was () granted () denied
() withdrawn. If granted it is ordered that the respondent be issued
all appropriated documents necessary to give effect to this order.
- [] Adjustment of Status under Section _____ was () granted () denied
() withdrawn. If granted it is ordered that the respondent be issued
all appropriated documents necessary to give effect to this order.
- [] Respondent's application of () withholding of removal () deferral of
removal under Article III of the Convention Against Torture was
() granted () denied () withdrawn.
- [] Respondent's status was rescinded under section 246.
- [] Respondent is admitted to the United States as a _____ until _____.
- [] As a condition of admission, respondent is to post a \$ _____ bond.
- [] Respondent knowingly filed a frivolous asylum application after proper
notice.
- [] Respondent was advised of the limitation on discretionary relief for
failure to appear as ordered in the Immigration Judge's oral decision.
- [] Proceedings were terminated.
- [] Other: _____
- [] Date: May 16, 2017


JOHN OPACIUCH
Immigration Judge

Appeal: Waived/Reserved Appeal Due By:

51

CERTIFICATE OF SERVICE

I, Vladislav Bernshtein, hereby certify that on September 23rd, 2025, I served a true and correct copy of the foregoing Petition for Writ of Habeas Corpus and all supporting documents by placing them in the custody of the U.S. Postal Service, properly addressed and with postage prepaid, to:

Clerk of Court, U.S. District Court
Middle District of Florida- Jacksonville Division
300 North Hogan Street, Suite 9-150,
Jacksonville, FL 32202

Civil Process Clerk
United States Attorney's Office
Middle District of Florida- Jacksonville Division
300 North Hogan Street, Suite 700
Jacksonville, FL 32202

U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

Office of the Principal Legal
Advisor (OPLA)
ICE Office of Chief Counsel-
Orlando
3535 Lawton Road, Suite 100
Orlando, FL 32803

Executed on:

9/23, 2025

Respectfully submitted,

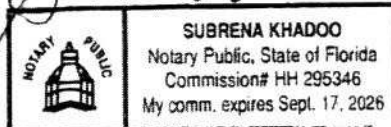
016# Bernshtein as POA for VLADISLAV BERNSHTEIN

Vladislav Bernshtein

Pro Se Petitioner

A# 

North Florida Detention Facility
20706 US Highway 90 West,
Sanderson, FL 32087



Subrena Khadoo 9/23/25
Flagler County, Florida

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Document 1-4 Filed 09/29/25
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U.S. District Court Middle District
of Florida - Jacksonville Division
300 North Hogan Street, Suite 150,
Jacksonville, FL 32202

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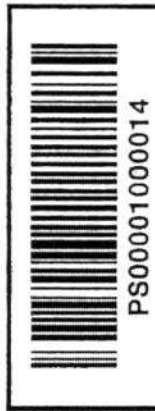
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