

ADAM GORDON
United States Attorney
ERIN M. DIMBLEBY
Assistant U.S. Attorney
California Bar No. 323359
STEPHANIE A. SOTOMAYOR
Assistant U.S. Attorney
Illinois Bar No. 6325877
Office of the U.S. Attorney
880 Front Street, Room 6293
San Diego, CA 92101-8893
Tel/Fax: (619) 546-6987/9590/7751
Email: Erin.Dimbleby@usdoj.gov
Email: Stephanie.Sotomayor@usdoj.gov

Attorneys for Respondents

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

IVAN RUDIUK,

Petitioner,

v.

MERRICK GARLAND, et. al;

Respondents.

Case No.: 25-cv-02600-BTM-SBC

**RESPONSE TO PETITION FOR
WRIT OF HABEAS CORPUS**

Respondents respectfully submit this response to Petitioner's habeas petition in accordance with the Court's order, ECF No. 4. Petitioner is currently detained in Immigration and Customs Enforcement (ICE) custody at the Imperial Regional Detention Facility in Calexico, California.

ICE's position is that Petitioner is lawfully detained as there is a significant likelihood of removal to a third country. *See* Declaration of Fernando Valenzuela (Valenzuela Decl.) at ¶ 11. Petitioner is a native and citizen of Russia. On January 13, 2025, an Immigration

1 Judge (IJ) denied Petitioner's application for asylum and ordered him removed from the
 2 United States to Russia. Within the same order, the IJ granted Petitioner's application for
 3 statutory withholding of removal as to Russia. Since that time, ICE Enforcement and
 4 Removal Operations (ERO) has worked to effectuate Petitioner's removal as expeditiously
 5 as possible. Valenzuela Decl. at ¶¶ 6-10.

6 Petitioner is subject to a final, executable order of removal, which means that he has
 7 no right to remain in the United States. ICE has long-standing authority to remove
 8 noncitizens and resettle them in third countries where removal to the country designated in
 9 the final order is "impracticable, inadvisable, or impossible." 8 U.S.C. § 1231(b)(2)(E)(vii);
 10 *see also* 8 U.S.C. § 1231(b) (outlining framework for designation). Accordingly,
 11 noncitizens like Petitioner, whose country of removal is providing difficulty, may be
 12 removed and resettled in third countries.

13 Section 1231(b)(2)(E) provides that the Secretary of Homeland Security shall
 14 remove the noncitizen to any of the following countries:

15 (i) The country from which the alien was admitted to the United States.

16 (ii) The country in which is located the foreign port from which the
 17 alien left for the United States or for a foreign territory contiguous to the
 18 United States.

19 (iii) A country in which the alien resided before the alien entered the
 20 country from which the alien entered the United States.

21 (iv) The country in which the alien was born.

22 (v) The country that had sovereignty over the alien's birthplace when
 23 the alien was born.

(vi) The country in which the alien's birthplace is located when the alien
 is ordered removed.

(vii) If impracticable, inadvisable, or impossible to remove the alien to
 each country described in a previous clause of this subparagraph, another
 country whose government will accept the alien into that country.

24 *Id.* Accordingly, if the Secretary of Homeland Security is unable to remove a noncitizen to
 25 a country of designation or an alternative country in subparagraph (D), the Secretary may,
 26 in her discretion, remove the noncitizen to any country listed in subparagraphs (E)(i)
 27 through (E)(vi). To effectuate Petitioner's removal to a third country, "ERO has contacted
 28 Mexico, Ecuador, and Guatemala to request that Petitioner be accepted as a third country

1 removal. . . . As of February 5, 2025, each of these countries declined to accept him.”
2 Valenzuela Decl. at ¶ 8. On or about August 8, 2025, “ERO in Calexico requested
3 assistance from its Removal and International Operations (HQRIO) in processing
4 Petitioner for a third country removal. HQRIO is continuing to work with the State
5 Department on third country removal cases, including this case.” Valenzuela Decl. at ¶ 10.
6 According to the declaring officer’s experience, “there is a significant likelihood of
7 removal from the United States to a third country.” Valenzuela Decl. at ¶ 11.

8
9 DATED: October 31, 2025

Respectfully submitted,

10 ADAM GORDON
11 United States Attorney

12 s/ Stephanie A. Sotomayor
13 STEPHANIE A. SOTOMAYOR
Assistant United States Attorney

14 Attorneys for Respondents
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 ADAM GORDON
United States Attorney
2 STEPHANIE A. SOTOMAYOR
Assistant U.S. Attorney
3 Illinois Bar No. 6325877
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Tel/Fax: (619) 546-9590/7751
6 Email: Stephanie.Sotomayor@usdoj.gov

7 Attorneys for Respondents

8
9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 IVAN RUDIUK,

12 Petitioner,

13 v.
14

15 MERRICK GARLAND, et. al;

16 Respondents.
17

Case No.: 25-cv-02600-BTM-SBC

**DECLARATION OF FERNANDO
VALENZUELA**

18
19 I, Fernando Valenzuela, pursuant to 28 U.S.C. § 1746, hereby declare under penalty
20 of perjury that the following statements are true and correct, to the best of my knowledge,
21 information, and belief:

22 1. I am currently employed by the U.S. Department of Homeland Security (DHS),
23 U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations
24 (ERO), as Assistant Field Office Director for the Calexico suboffice of the ICE ERO San
25 Diego Field Office.

26 2. I have been employed by ICE as a law enforcement officer since August 7,
27 2005.
28

1 3. As Assistant Field Office Director of the Calexico, California suboffice of the
2 ICE ERO San Diego Field Office, I am responsible for, among other things, supervising the
3 daily operations of ICE ERO deportation officers assigned to the San Luis Regional
4 Detention Center in San Luis, Arizona and ensuring that those officers are in compliance
5 with all relevant laws, regulations, and policies.

6 4. This declaration is based on my personal knowledge and experience as a law
7 enforcement officer and information provided to me in my official capacity as Assistant
8 Field Office Director of the Calexico suboffice of the ICE ERO San Diego Field Office.

9 5. Petitioner is a native and citizen of Russia. He applied for admission to the
10 United States in the vehicle lane at the Calexico, California Port of Entry on June 3, 2024.
11 He was not then in possession of any valid immigration documents, nor did he have a valid
12 CBP One appointment.

13 6. At the time of his application for admission, Petitioner was determined to be
14 inadmissible under INA 212(a)(7)(A)(i)(I). He was then placed into expedited removal
15 proceedings pursuant to INA 235(b)(1).

16 7. On January 13, 2025, an Immigration Judge denied Petitioner's application for
17 asylum and ordered him removed to Russia. However, the IJ granted Petitioner's
18 application for statutory withholding of removal as to Russia.

19 8. ERO has a current, unexpired Russian passport for Petitioner on file. ERO has
20 contacted Mexico, Ecuador, and Guatemala to request that Petitioner be accepted as a third
21 country removal after the IJ entered a removal order. As of February 5, 2025, each of these
22 countries declined to accept him. Petitioner's order of removal became final on February
23 25, 2025.

24 9. ERO's removal efforts remain ongoing.

25 10. On or about August 8, 2025, ERO in Calexico requested assistance from its
26 Removal and International Operations (HQRIO) in processing Petitioner for a third country
27 removal. HQRIO is continuing to work with the State Department on third country removal
28 cases, including this case.

1 11. Based on my experience, there is a significant likelihood of removal from the
2 United States to a third country.

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

5 Executed on October 31, 2025, in Calexico, California.

6
7 

8 FERNANDO VALENZUELA
9 Assistant Field Office Director
10 San Diego Field Office
11 Enforcement and Removal Operations
12 U.S. Immigration and Customs Enforcement
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28