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10 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
11 AT SEATTLE

12
13 Maksym Kruk

14 Petitioner,

15 v.

16 Pamela Bondi, Attorney General, Kristi
Noem, Sec. U.S. Department Homeland
17 Security, Department of Homeland
Security, Todd M. Lyons, Acting Director
18 of Immigration and Customs
Enforcement, Immigration and Customs
19 Enforcement, Camilla Wamsley,
Director, Seattle Field Office Immigration
20 and Customs Enforcement, Bruce Scott,
Warden, Northwest ICE Processing
21 Center

22 Respondent.
23
24

CASE NO. 2:25-cv-1899

VERIFIED PETITION FOR WRIT
OF HABEAS CORPUS

28 U.S.C. § 2241

AGENCY NUMBER: 

1
2 **INTRODUCTION**

3 1. Petitioner, Maksym Kruk, through Counsel, respectfully petitions this Court for a Writ of
4 Habeas Corpus under 28 U.S.C. § 2241 to remedy his unlawful detention.

5 **JURISDICTION AND VENUE**

6 2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question),
7 § 1361 (federal employee mandamus action), § 1651 (All Writs Act), and § 2241 (habeas
8 corpus); U.S. Const. art. I, § 9, cl. 2 (“Suspension Clause”); 5 U.S.C. § 702
9 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). This
10 action further arises under the Constitution of the United States and the Immigration and
11 Nationality Act (“INA”), specifically, 8 U.S.C. § 1254a.

12 3. Because Kruk seeks to challenge his custody as a violation of the Constitution and laws
13 of the United States, jurisdiction is proper in this Court.

14 4. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions
15 by noncitizens challenging the lawfulness or constitutionality of their detention by DHS.
16 *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Jennings v. Rodriguez*, 583 U.S. 281
17 (2018); *Nielsen v. Preap*, 586 U.S. 392 (2019); *Sopo v. U.S. Att’y Gen.*, 825 F.3d 1199,
18 1209–12 (11th Cir. 2016), *vacated*, 890 F.3d 952 (11th Cir. 2018).

19 5. Federal district courts have jurisdiction to enforce 8 U.S.C. § 1254a(d)(4). This statute, 8
20 U.S.C. § 1254a(d)(4), prohibits the detention of individuals maintaining Temporary
21 Protected Status.

22 6. Federal district courts have jurisdiction to declare if a party is violating the mandate of 8
23 U.S.C. § 1254a(d)(4) and to order appropriate remedies to cure this violation. 8 U.S.C. §
24 1254a(d)(4) prohibits the detention of individuals maintaining Temporary Protected
Status.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), (e)(1)(B), and 2241(d)
because Kruk is detained within this District. He is currently detained at the Tacoma

1 Northwest Detention Center in Tacoma, Washington. Venue is also proper in this Court
2 pursuant to 28 U.S.C. § 1391(e)(1)(A) because Respondents are operating in this district.

3 **PARTIES**

4 8. Petitioner Kruk is a citizen of Ukraine and a resident of Scott County, Minnesota.
5 Petitioner was taken into ICE Custody on August 9, 2025, and has
6 remained in detention since.

7 9. Kruk's alien registration number is A 

8 10. Kruk is currently in custody at the Immigration and Customs Enforcement ("ICE")
9 detention center in Tacoma, Washington, pursuant to a final order of removal.

10 11. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General
11 of the United States and the head of the Department of Justice, which encompasses the
12 Board of Immigration Appeals ("BIA") and the immigration judges through the
13 Executive Office for Immigration Review ("EOIR"). Attorney General Bondi shares
14 responsibility for implementation and enforcement of the immigration detention statutes,
15 along with Respondent Noem. Attorney General Bondi is a legal custodian of Kruk.

16 12. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the
17 Department of Homeland Security. In this capacity, Secretary Noem is responsible for the
18 administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely transacts
19 business in the Western District of Washington, supervises the Seattle ICE Field Office,
20 and is legally responsible for pursuing Kruk's detention. As such, Respondent Noem is a
21 legal custodian of Kruk.

22 13. Respondent Department of Homeland Security ("DHS") is the federal agency responsible
23 for implementing and enforcing the INA, including the detention and removal of
24 noncitizens, including Kruk. As such, DHS is a legal custodian of Kruk.

14. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs
Enforcement, which oversees the detention of aliens in the United States. Mr. Lyons is

1 sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention. As
2 such, Respondent Lyons is a legal custodian of Kruk.

3 15. Respondent Immigration and Customs Enforcement ("ICE") is the subagency within the
4 Department of Homeland Security responsible for implementing and enforcing the
5 Immigration & Nationality Act, including the detention of noncitizens. As such, ICE is a
6 legal custodian of Kruk.

7 16. Respondent Camilla Wamsley is being sued in her official capacity as the Field Office
8 Director for the Seattle Snelling Field Office for ICE within DHS. In that capacity, Field
9 Director Asher has supervisory authority over the ICE agents responsible for detaining
10 Kruk. The address for the Seattle Field Office is 1623 E J Street, Suite 2, Tacoma,
11 Washington, 98421-1615, and it is the field office with jurisdiction over Kruk's detention
12 in Washington. As such, Respondent Asher is a legal custodian of Kruk.

13 17. Respondent Bruce Scott is being sued in his official capacity as the warden of the
14 Northwest Detention Center. Because Petitioner is detained in the Northwest ICE
15 Processing Center. Respondent has immediate day-to-day control over Petitioner. As
16 such, Respondent Scott is a legal custodian of Kruk.

17 EXHAUSTION

18 18. A final order of removal has been entered against Petitioner.

19 19. There are no legal proceedings pending in any other federal court, state court, or
20 administrative tribunal.

21 20. Petitioner has exhausted his administrative remedies to the extent possible. His only
22 remedy is by way of this judicial action.

23 21. Kruk has maintained Temporary Protected Status since 2022.

24 22. Kruk had an application for an extension of his Temporary Protected Status pending prior
to his detention in compliance with the instructions set forth in the Federal Register.

1 23. 8 U.S.C. § 1254a(d)(4) is a non-discretionary directive prohibiting the detention of
2 individuals who hold temporary protected status. There is no administrative remedy for
3 compelling compliance with its mandate.

4 24. No statutory exhaustion requirement applies to Petitioner's claim of unlawful detention.
5 *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992); 8 U.S.C. § 1252(d)(1) (requiring
6 exhaustion of administrative remedies only when requesting review of a final removal
7 order).

8 25. Prudential exhaustion is not required when to do so would be futile or "the administrative
9 body . . . has . . . predetermined the issue before it." *McCarthy*, 503 U.S. at 148,
10 superseded by statute on other grounds as stated in *Woodford v. Ngo*, 548 U.S. 81 (2006).

11 26. Prudential exhaustion is additionally not required in cases where the agency "lacks the
12 institutional competence to resolve the particular type of issue presented, such as the
13 constitutionality of a statute." *McCarthy*, 503 U.S. at 147-48.

14 27. Immigration agencies have no jurisdiction over constitutional challenges of the kind
15 raised here. *See, e.g., Matter of C-*, 20 I. & N. Dec. 529, 532 (BIA 1992)("[I]t is settled
16 that the immigration judge and this Board lack jurisdiction to rule upon the
17 constitutionality of the Act and the regulations."); *Matter of Akram*, 25 I. & N. Dec. 874,
18 880 (BIA 2012); *Matter of Valdovinos*, 18 I. & N. Dec. 343, 345 (BIA 1982); *In Re*
19 *Fuentes-Campos*, 21 I. & N. Dec. 905, 912 (BIA 1997); *Matter of U-M-*, 20 I. & N. Dec.
20 327 (BIA 1991).

21 28. 8 U.S.C. § 1254a(d)(4) does not require exhaustion. It is a non-discretionary directive
22 prohibiting the detention of individuals who hold temporary protected status.

23 **FACTUAL ALLEGATIONS & PROCEDURAL HISTORY**

24 29. Kruk is a native and citizen of Ukraine.

30. On or about November 26, 2021, Kruk presented himself at a port of entry in Otay Mesa,
California.

- 1 31. Respondents paroled Kruk into the United States on November 28, 2021. Kruk's parole
2 expired on November 26, 2022. *See* Exhibit A.
- 3 32. Kruk was served with a Notice to Appear ("NTA") on November 28, 2021, which listed
4 Kruk's date and time of his hearing "to be set." *See* Exhibit B.
- 5 33. At some point, Kruk's initial immigration hearing was scheduled for June 21, 2022 at
6 10:00 AM central time at the immigration court sitting in Ft. Snelling, Minnesota.
- 7 34. Respondents mailed a subsequent Notice to Appear to Kruk on April 2, 2022. Kruk did
8 not receive this second NTA.
- 9 35. On April 19, 2022, Respondents designated Ukraine for Temporary Protected Status
10 ("TPS"). *See* Exhibit K. This initial designation lasted until October 19, 2023.
- 11 36. On April 21, 2022, the Court mailed Kruk a hearing notice for his June 21, 2022, hearing,
12 to the address the court had on record for Kruk. This hearing notice was returned to the
13 court as "not deliverable as addressed" and "unable to forward."
- 14 37. During the pendency of his removal proceedings, Kruk did move. Kruk did not update his
15 address with the immigration court in Fort Snelling but submitted a change of address
16 with U.S. Citizenship and Immigration Services on August 20, 2022, to alert them of his
17 move from Coon Rapids, Minnesota, to Savage, Minnesota.
- 18 38. Kruk submitted an I-821, Application for Temporary Protected Status on May 2, 2022.
19 *See* Exhibit E.
- 20 39. USCIS approved Kruk's application for Temporary Protected Status on October 6, 2022.
21 Kruk's initial TPS approval expired on October 19, 2023. *See* Exhibit D.
- 22 40. On June 21, 2022, Kruk was ordered removed *in absentia*. Kruk did not receive notice of
23 his court hearing on June 21, 2022. Kruk failed to attend the hearing scheduled for June
24 21, 2022, and was subsequently ordered removed *in absentia*. Kruk was not aware of the
in absentia removal order entered against him at this time.
41. On August 21, 2023, Respondents extended the TPS designation for Ukraine. *See* Exhibit
J.

- 1 42. On August 27, 2023, Kruk filed anr I-821 application to re-register and extend his
2 Temporary Protected Status. *See* Exhibit E.
- 3 43. USCIS approved application #2 on July 8, 2024.
- 4 44. USCIS' approved Kruk for Temporary Protected Status from October 20, 2023, until
5 April 19, 2025. *See* Exhibit F.
- 6 45. The TPS designation for Ukraine was then extended on January 13, 2025, effective from
7 April 20, 2025, through October 19, 2026.
- 8 46. The reregistration period for TPS was between January 17, 2025, through March 18,
9 2025. *See* Exhibit I.
- 10 47. On January 21, 2025, Kruk filed another I-821 application (application #3) to re-register
11 his Temporary Protected Status. This application remains pending to date. *See* Exhibit G.
- 12 48. On August 9, 2025, Kruk was traveling through Seattle, Washington. Respondents
13 detained him at the Seattle / Tacoma International Airport despite his Temporary
14 Protected Status.
- 15 49. Kruk remains detained in the State of Washington.

16 **LEGAL FRAMEWORK: TPS & DETENTION**

- 17 50. "An alien shall not be eligible for temporary protected status under this section if the
18 Attorney General finds that-
- 19 (i) the alien has been convicted of any felony or 2 or more misdemeanors
20 committed in the United States, or
- 21 (ii) the alien is described in section 1158(b)(2)(A) of this title.
22 8 U.S.C. § 1254a(c)(2)(B).
- 23 51. "An alien provided temporary protected status under this section **shall not be detained**
24 by the Attorney General on the basis of the alien's immigration status in the United
States." 8 U.S.C. § 1254a(d)(4) (emphasis added).
52. "Upon the granting of temporary protected status to an alien under this section, the
Attorney General shall provide for the issuance of such temporary documentation and

1 authorization as may be necessary to carry out the purposes of this section.” 8 U.S.C. §
2 1254a(d)(1).

3 53. In the absence of the termination of TPS, “such documentation shall be valid during the
4 initial period of designation of the foreign state (or part thereof) involved and any
5 extension of such period.” 8 U.S.C. § 1254a(d)(2).

6 8 U.S.C. § 1254a(d)(4) is clear. It provides

7 **Detention of alien**

8 An alien provided temporary protected status under this section **shall not be detained**
9 **by the Attorney General on the basis of the alien’s immigration status in the**
10 **United States.**

11 54. 8 U.S.C. § 1254a(d)(2) automatically extended Kruk’s previously approved Temporary
12 Protected Status benefit.

13 55. Respondents are violating 8 U.S.C. § 1254a(d)(4) because the automatic extension of
14 Kruk’s Temporary Protected Status under 8 U.S.C. § 1254a(d)(2) means that Kruk as
15 Temporary Protected Status.

16 56. Respondents detention of Kruk is in violation of the plain language of the Immigration &
17 Nationality Act.

18 **REMEDY**

19 57. Respondents’ detention of Kruk violates 8 U.S.C. § 1254a(d)(4).

20 58. Kruk seeks immediate release from custody.

21 59. Kruk seeks a declaratory judgement that Respondent violated 8 U.S.C. § 1254a(a)(4)(B)
22 and 8 U.S.C. § 1254a(d)(4).

23 60. Respondent has denied Kruk all rights available to him under 8 U.S.C. § 1254a as a
24 Temporary Protected Status beneficiary.

61. Although neither the Constitution nor the federal habeas statutes delineate the necessary
content of habeas relief, *I.N.S. v. St. Cyr*, 533 U.S. 289, 337 (2001) (Scalia, J., dissenting)
 (“A straightforward reading of [the Suspension Clause] discloses that it does not
guarantee any content to . . . the writ of habeas corpus”), implicit in habeas jurisdiction is

1 the power to order release. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008), *judgment*
2 *entered*, No. 07A1011, 2008 WL 11579668 (U.S. June 19, 2008) (“[T]he habeas court
3 must have the power to order the conditional release of an individual unlawfully
4 detained.”).

5 62. The Supreme Court has noted that the typical remedy for unlawful detention is release
6 from detention. *See, e.g., Munaf v. Geren*, 553 U.S. 674 (2008) (“The typical remedy for
7 [unlawful executive detention] is, of course, release.”).

8 63. That courts with habeas jurisdiction have the power to order outright release is justified
9 by the fact that, “habeas corpus is, at its core, an equitable remedy,” *Schlup v. Delo*, 513
10 U.S. 298, 319 (1995), and that as an equitable remedy, federal courts “[have] broad
11 discretion in conditioning a judgment granting habeas relief [and are] authorized . . . to
12 dispose of habeas corpus matters ‘as law and justice require.’” *Hilton v. Braunskill*, 481
13 U.S. 770, 775 (1987), quoting 28 U.S.C. § 2243. An order of release falls under court’s
14 broad discretion to fashion relief. *See, e.g., Jimenez v. Cronen*, 317 F. Supp. 3d 626, 636
15 (D. Mass. 2018) (“Habeas corpus is an equitable remedy. The court has the discretion to
16 fashion relief that is fair in the circumstances, including to order an alien’s release.”).

17 64. Immediate release is an appropriate remedy in this case.

18 CAUSE OF ACTION

19 **COUNT ONE: VIOLATION OF 8 U.S.C. § 1254a(d)(4).**

20 65. Kruk re-alleges and incorporates by reference the paragraphs above.

21 66. 8 U.S.C. § 1254a governs the treatment of TPS holders, including their detention and
22 removal under federal immigration law.

23 67. Kruk’s detention is in violation under 8 U.S.C. § 1254a(d)(4). 8 U.S.C. § 1254a(d)(4)
24 states “[a]n alien provided temporary protected status under this section **shall not be**
detained by the Attorney General on the basis of the alien’s immigration status in the
United States.” (emphasis added). There is no exception to this rule provided in the
statute.

1 68. Respondent must release Kruk without any conditions, including bond or other
2 monitoring requirements.

3 **COUNT TWO: DECLARATORY RELIEF**

4 69. Kruk re-alleges and incorporates by reference each and every allegation contained in the
5 preceding paragraphs as if set forth fully herein.

6 70. Kruk requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that 8 U.S.C. §
7 1254a(d)(4) prohibits his detention.

8 71. Kruk requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that he is eligible for
9 release from Respondents' custody.

10 **COUNT THREE: VIOLATION OF THE FIFTH AMENDMENT**

11 72. Kruk re-alleges and incorporates by reference the paragraphs above.

12 73. The Fifth Amendment Due Process Clause protects against arbitrary detention and
13 requires that detention be reasonably related to its purpose and accompanied by adequate
14 procedures to ensure that detention is serving its legitimate goals.

15 74. Kruk's detention is forbidden and therefore unreasonable under 8 U.S.C. § 1254a(d)(4)
16 and in violation of the Fifth Amendment's guarantee of due process.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Petitioner, Maksym Kruk, asks this Court for the following relief:

- 19 1. Assume jurisdiction over this matter.
- 20 2. Order Respondents to show cause for their continued detention of Kruk.
- 21 3. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action
22 brought under 28 U.S.C. § 153 and the continued detention of Kruk is contravention of
23 the plain language of 8 U.S.C. § 1254a.
- 24 4. Order Kruk's immediate release.
5. Declare that Kruk's detention violates the Immigration and Nationality Act, and
specifically 8 U.S.C. § 1254a.
6. Declare that Kruk's detention violates the Due Process Clause of the Fifth Amendment.

- 1 7. Enjoin Respondents from further detaining Kruk so long as TPS for Ukraine remains in
2 effect and he continues to maintain his TPS benefit.
- 3 8. Grant Kruk reasonable attorney fees and costs pursuant to the Equal Access to Justice
4 Act, 28 U.S.C. § 2412(d)(1)(A).
- 5 9. Grant all further relief this Court deems just and proper.

6 Respectfully submitted,

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DATED: October 2, 2025

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