

**United States District Court  
Western District of Texas  
El Paso Division**

Islambek Getigezhev  
Petitioner,

v.

U.S. Immigration and Customs Enforcement,  
*et al*,  
Respondents.

No. 3:25-CV-00494-KC

**Federal Respondents' Response to Show Cause Order**

Federal<sup>1</sup> Respondents submit this response per this Court's Order to Show Cause. ECF No. 2. Petitioner's sister, as "next friend" files this petition seeking ICE expedite Petitioner's voluntary departure from the United States or any other order to ensure his removal is carried out without possible delay. ECF No. 1 at 2.

Statement of the Issues:

1. Whether this Court may order Petitioner's removal from the United States or direct ICE to expedite the voluntary departure of Petitioner? ECF Nos. 1 at 2; 2 at 3–4.

Relevant Background

Petitioner is a native and citizen of Russia. ECF No. 1 at 6. The Notice to Appear alleges Petitioner is an 'arriving alien,' who, on November 16, 2021, applied for admission at the Otay Mesa port of entry. Exh. A at 1.; 8 C.F.R. § 1001.1(q) (defining an arriving alien as an applicant for admission coming or attempting to come into the United States at a port-of-entry...).

On November 3, 2025, ICE filed a form I-830 which notified the Newark, New Jersey, immigration court of Petitioner's detention and location to allow the immigration court to change venue of Petitioner's immigration case to the El Paso immigration court. Exh. B. Petitioner seeks 'voluntary departure,' but as an arriving alien, an immigration judge cannot grant Petitioner voluntary departure. ECF No. 1 at 2; INA § 240B(a)(4); 8 U.S.C. § 1229(a)(4). With the concurrence of ICE, an immigration judge may allow an arriving alien to withdraw their application for admission. 8 C.F.R. § 1235.4; 8 C.F.R. § 1240.1(d).

Argument

This Court cannot consider Petitioner's request to expedite his case as, "no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or

---

<sup>1</sup> The Department of Justice does not represent the warden.

action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.” 8 U.S.C. § 1252(g). Section 1252(g) applies, “to three discrete actions that the Attorney General may take: [the] ‘decision or action’ to ‘commence proceedings, *adjudicate* cases, or *execute* removal orders.’” *Reno v American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (emphasis in original). Petitioner’s specific requests for this Court to direct ICE to expedite Petitioner’s voluntary departure or issue any other order to ensure his removal process is carried out without unnecessary delay fall within the proscribed decisions of this Court. *Id.*; ECF No. 1 at 2. Petitioner’s petition should be denied for lack of subject matter jurisdiction.

To the extent Petitioner is seeking this Court enter an order of removal, this Court could not enter such order as Petitioner is not before the Court in a criminal case. *See* Fed. R. Crim. P. 11; INA § 238(c)(5); 8 U.S.C. § 1228(c)(5). A person subject to removal may waive his right to a hearing and stipulate to a judicial removal order as part of a plea agreement as a condition of probation. *Id.*; 18 U.S.C. § 3563(b)(21).

When the Newark, New Jersey immigration court transfers the case to the El Paso immigration court, Petitioner will be assigned a court date on the detained docket. At that hearing, Petitioner can request the immigration judge allow him to voluntarily depart, withdraw his application for admission or make any other requests he chooses.

#### Conclusion

Federal Respondents request this Court deny Petitioner’s writ. In the alternative, Federal Respondents propose filing a status update with the court in 7 days, or a period designated by the Court.

Respectfully submitted,

Justin R. Simmons  
United States Attorney

By: /s/ Anne Marie Cordova

Anne Marie Cordova  
Special Assistant United States Attorney  
Texas Bar No. 24073789  
601 N.W. Loop 410, Suite 600  
San Antonio, Texas 78216  
(210) 384-7100 (phone)  
(210) 384-7118 (fax)  
Anne.Marie.Cordova@usdoj.gov

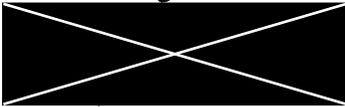
Attorneys for Federal Respondents

**Certificate of Service**

On November 3, 2025, I caused a copy of this filing to be served by mail on Petitioner, *pro se*, at the following address and on Petitioner's sister, as "next friend":

Islambek Getigezhev  
A#XXX-XXX-  
El Paso Service Processing Center  
8915 Montana Ave  
El Paso, TX 79925

Liliana Getigezhev



---

/s/ Anne Marie Cordova  
Anne Marie Cordova  
Special Assistant United States Attorney