

JUDGE LEON SCHYDLOWER

UNITED STATES COURT
FOR THE WESTERN DISTRICT OF TEXAS

FILED

2025 OCT 29 AM 11:53

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY 

Gennadiy Yuryevich Glushchuk

A# 

Petitioner,

v.

Pam Bondi, ATTORNEY GENERAL,
Kristi Noem, SECRETARY OF THE DEPARTMENT
OF HOMELAND SECURITY, Maria Deandra Ybara,
U.S. ICE FIELD OFFICE DIRECTOR, Angel C. Garcia,
ASSISTANT FIELD OFFICE DIRECTOR OF EL PASO
PROCESSING CENTER

Respondents

EP 25 CV 0501

Civil Action No.
PETITION FOR A WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. §2241, BY A PERSON
SUBJECT TO INDEFINITE IMMIGRATION
DETENTION.

BACKGROUND

Petitioner, Gennadiy Yuryevich Glushchuk, hereby petitions this Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents, and to enjoin Petitioner's continued unlawful detention by the Respondent. In support of this petition and complaint for injunctive relief, Petitioner alleges as follows:

CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is detained at the El Paso Processing Center in El Paso, Texas. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, 28 U.S.C. §2241(c)(1), and the Immigration and Nationality Act ("INA"), 8 U.S.C. §1101 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §2241, Art. I §9, cl. 2 of the United States Constitution ("Suspension Clause"); and 28 U.S.C. §1331, as Petitioner is presently in custody under color of the authority of the United States., and such custody is in violation of the Constitution, laws, or treaties of the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) ("We conclude that §2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention."); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) ("at its historical core, the writ of habeas corpus has served as a means of reviewing the legality of executive detention, and it is in that context that its protections have been strongest.")' *Clark v. Martinez*, 543 U.S. 371 (2005) (holding that *Zadvydas* applies to aliens found inadmissible as well as removable).

VENUE

3. Venue lies in the Western District of Texas, because Petitioner is currently detained in the territorial jurisdiction of this Court, at the El Paso Processing Center. 28 U.S. C. §1391.

EXHAUSTION OF REMEDIES

4. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action. After the Supreme Court decision in *Zadvydas*, the Department of Justice issued regulations governing the custody of aliens removed. See 8 C.F.R. §241.4. Petitioner received a final order of removal on Januray 2009. 180-Days after the final order

removal on or about July 2009 petitioner was released from ICE custody and placed on Order of Supervision. The decision was based upon the petitioner not being deportable in the foreseeable future. The petitioner was again detained by ICE June 13, 2025 even though there were not any violations and the Order of Supervision was not broken and ICE did not obtain travel documents. Petitioner requested Humanitarian Parole but was denied on or about July, 2025. On September 10, 2025 ICE did a 90-Day review and has not shared the results. In October, 2025 the petitioner has again requested to be placed on Order of Supervision since two countries from which ICE requested travel documents responded that they will not issue them. ICE has not responded to the petitioners request. The custody review regulations do not provide for appeal from a HQPDU custody review decision. See 8 C.F.R. §241.4(d).

5. For further clarity the petitioner has already been detained for the initial 180-Days after the final order of removal and was released on the Order of Supervision in 2009. Petitioner was detained again by ICE in 2025 even though the Order of Supervision was not broken and travel documents were not obtained. The petitioner as of October 27, 2025 has been detained for an additional 137 days and there have been no changes to the possibility of deportation in the foreseeable future. Despite multiple attempts Ukraine has consistently refused to issue travel documents citing that the petitioner is not their citizen. Mexico has also refused to issue travel documents. I have safety concerns because of my faith, criminal record, young family; and dont foresee the possibility of a third country deporation in the foreseeable future. I will continue to work diligently with ICE on deportation while on Order of Supervision and concurrently I will provide support, care and income for my three young children and wife, who desperately need it.

6. No statutory exhaustion requirements apply to Petitioner's claim of unlawful detention.

PARTIES

7. Petitioner was first taken into ICE custody in Septemeber 2008, and was placed on Order of Supervision on or about July 2009. The petitioner was again detained on June 13, 2025 and has remained in ICE custody continuously since that date. Petitioner was ordered removed in January 2009. Petitioner is currently detained at the El Paso Processing Center.

8. Respondent Pam Bondi is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Naturalization Act (INA). As such, Pam Bondi has ultimate custodial authority over Petitioner.

9. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the administration of ICE and the implementation and enforcement of the INA. As such, Kristi Noem is the legal custodian of Petitioner.

10. Respondent Maria Deanda Ybara is the ICE Field Office Director of the EOIR Field Office of ICE and is Petitioner's immediate custodian. *See Vásquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), *cert. denied*, 122 S. Ct. 43 (2001).

11. Respondent Angel C. Garcia is the Assistant Field Office Director of El Paso Processing Center, where Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

STATEMENT OF THE FACTS

12. I, Gennadiy Glushchuk, Petitioner, was born in U.S.S.R. on [REDACTED] 1984. I immigrated to the United States with my mother, Valentina Glushchuk, and younger sister, [REDACTED] Glushchuk, on March 16, 1995 through sponsorship. We lived in Los Angeles, California. My mother, sister, and I obtained our Lawful Permanent Residence on or about September 1995. My mother and sister became Naturalized Citizens of the United States in May 2005, during which time I was incarcerated.

13. Before my family immigrated to the United States my father was killed in our house in Ukraine. I was seven years old. Once we arrived to Los Angeles my mother worked many jobs and attended night school, she later studied to become a Registered Nurse. During the first years in the U.S. I got mixed up in the wrong crowd and developed an addiction to drugs.

My choices in life have led me to three prison terms. My first prison term was in September 2005. I was convicted of a charge of Robbery and served three years in the California State Prison. Upon my release date on or about September 2008 I was taken into custody by ICE and detained at the Florence, Arizona facility.

I applied for asylum due to the murder of my father and potential danger to me, but I lost my trial in January 2009 and was ordered to be removed from the United States to the country of Ukraine. After the 180-Days I was released on or about July 2009 and placed on Order of Supervision due to Ukraine issuing a letter stating that I am not a citizen of Ukraine and travel documents will not be issued.

Upon my release a life of drug addiction and crime continued and on February 2010 I was arrested on the charges of credit card fraud and sent to prison for the second time. As my release date of February 2014 drew near ICE interviewed me and determined that I can not be deported in the foreseeable future and placed me on Order of Supervision.

At that time my life continued to be one of drug addiction and crime and in 2015 I was once again convicted of 2nd Degree Robbery and sent to prison. This turned out to be my final prison term from which I was released in September 2017. Before my release ICE interviewed me and determined that I can not be deported in the foreseeable future and place me back on Order of Supervision.

14. During my last prison term I finally had an awakening and began to ask questions that I have never asked myself before. Even though my life was full of horrible choices, drugs, and crime, I asked myself if I can live a different life, a better one, one with purpose. I experienced a yearning for "more to life" and prayed to God asking Him to reveal Himself to me if possible. I experienced this for four months while being held in a disciplinary section of the prison. Upon my release from the disciplinary section of the prison and placement into the main population I had a phone call with a childhood friend. My friend lived a similar life as I did before but he informed me that he is now a Christian and that he has been praying for me for the past four months. Some may call it coincidence, to me it was my first steps towards my new found faith in Christ.

Upon my release from prison in, September 2017, my life changed. It was not a smooth journey but one of redemption. I became a member of a local Christian church, Refuge L.A., and was water baptized on Easter 2018. As I navigated my new life I realized that there are many roots in my past which have to be dealt with and in July 2019 I enlisted myself in a Faith Based Drug Rehabilitation, God Will Provide Evangelical Church, Program in Sacramento, California. Christ did a miracle on me through this program and I graduated in January 2020.

15. I felt a calling to contribute to society as someone who has experienced redemption in their life. In January 2020 I became a director of a new program, God Will Provide Christian Church, in Vacaville, CA.

16. On June 24, 2021 I married Yekaterian Dushkov, now Mrs. Glushchuk, (U.S. Citizen) and was ordained as an Evangelist in the God Will Provide Christian Church. (*Exhibit B. Page, 23*)

17. On [REDACTED] 2022 our first daughter was born, [REDACTED]. (*Exhibit C. Page, 25*)

18. During this time I was able to become a Licensed California Fence Contractor (CSLB# [REDACTED]) and established Kingdom Gates and Fences, a company that now employees ten

people on average. *(Exhibit H. Page, 39. and Exhibit F. Pages, 34 -35)*

19. In December 2023 I was ordained as a Pastor in the God Will Provide Christian Church. *(Exhibit G. Page, 37)*

20. On [REDACTED], 2024 our second daughter was born, [REDACTED]. *(Exhibit C. Page, 26)*

21. During my work and ministry in Vacaville, California I felt a calling to return to my home city of Los Angeles and contribute to a solution to the problem of drug addiction in the city.

In June, 2024 my family and I relocated to Los Angeles, California and launched a new church, God Will Provide Christian Church, in Montebello, California of which I am the Senior Pastor and now President of the God Will Provide Christian Church Non-Profit. During this time we have also opened a Drug Rehabilitation Program in Pico Rivera, California as a branch of our ministry in the city. *(Exhibit E. Pages, 31 -32)*

22. During my time in Vacaville, CA and Los Angeles, CA I have followed the Supervised Release program with ICE and reported as required.

23. My last required date to report was August 12, 2025 in the Los Angeles, CA Field Office. On June, 2025 I received a letter in the mail requesting for me to come to the ICE Field Office on June 14, 2025 instead of the initial date of August 12th. During this time my wife was eight months pregnant with our third child. My wife and I also knew that ICE Operations had begun in Los Angeles, CA and based on the events we were witnessing on the television we understood that I will likely be detained on reporting even though I had been cooperating with my Supervised Release, without any violations.

My wife and I decided that we will both show up at the Field Office a day earlier in good faith to show the ICE authorities that I would not evade them and to request for them to allow me to return on August 12, 2025 (my initial report date) so that I can be present for my son's birth.

24. Unfortunately when I reported to the Field Office on June 13, 2025 I was taken into custody, and unable to be by my wife's side for my son's delivery.

25. On [REDACTED] 2025 my wife gave birth to our son, [REDACTED], while I was in the El Paso Processing Center. *(Exhibit C. Page, 27)*

26. Since my detention ICE has once again requested for Ukraine to issue travel documents and Ukraine, again, has responded that they will not because I am not their citizen. *(Exhibit D. Page, 29)*

27. My family and I have requested for me to be placed back on Supervised Release and have provided documentation to show that I am not a flight risk and that I am not a danger to the community. We have provided letters from people whom I have ministered to and friends and family. Humanitarian Parole was denied.

28. I was informed that ICE will attempt to deport me to a third country and asked me which country I have ties to. As a devout Christian pastor with a young family, and past history of crime there are limited options for safe countries that would accept my family and I as permanent residence. Due to limited options of safe countries, ICE, my wife and myself have tried diligently to get Mexico to accept us. Our efforts have included the following:

i) My wife established a temporary residence in Mexico. This took considerable effort, while looking after our three young children.

ii) We have retained an attorney in Mexico to assist us and to work with INM to obtain travel documents.

iii) We have emailed INM in Mexico City and provided documentation to show that even though I have a past criminal record my life has now shown that I have found redemption and learned from my mistakes, and have been contributing to society in a positive manner.

29. In October 2025 Mexico notified us that they will not issue travel documents.

30. I request (and pray) to be allowed parole and to be placed back on Supervised Release. I understand that my past is full of horrible choices and wrongs committed. Since 2017 I realized my upbringing had led me to make the wrong choices, and turned my life around and follow a life of redemption. By God's grace I became a pastor, got married and have three wonderful children, and have built a successful fencing company that provides for my family and me to be independent and self supporting.

31. ICE can not deport me in the foreseeable future since no safe country is willing to accept me (and my family) for residence. They have attempted two separate countries.

32. I have cooperated with ICE during my Order of Supervision and during my detention.

33. I have many commitments to family, work, and church. I am not a flight risk and I am not a danger to the community. I am married to a U.S. Citizen and have three children who were born in the U.S. My wife needs her husband and my children need their father. I am a Pastor of a church, a

President of a Non-Profit, and a CEO of a Company. The members of our church need their pastor and the employees of my company need their employer.

I cooperated with ICE and came to them when they requested me to do so, I have not done anything for ICE to believe I will evade them, be a flight risk, or a danger to society.

34. Since my Final Order of Removal I have been initially detained for the 180-Days and now have been detained for an additional 137 days since June 13, 2025. I did not give any cause to be detained on June 13, 2025 because I cooperated with my Order of Supervision and ICE did not obtain any travel documents.

I thank you for your time and consideration.

LEGAL FRAMEWORK FOR RELIEF SOUGHT

35. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the U.S. Supreme Court held that 8 U.S.C. §1231(a)(6), when “read in light of the Constitution’s demands, limits an alien’s post-removal-period detention to a period reasonably necessary to bring about that alien’s removal from the United States.” 533 U.S. at 689. A “habeas court must [first] ask whether the detention in question exceeds a period reasonably necessary to secure removal.” *Id.* at 699. If the individual’s removal “is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by the statute.” *Id.* at 699-700.

36. In determining the length of a reasonable removal period, the Court adopted a “presumptively reasonable period of detention” of six months. *Id.* at 701. After six months, the government bears the burden of disproving an alien’s “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *See Zhou v. Farquharson*, 2001 U.S. Dist. LEXIS 18239, *2-*3 (D. Mass. Oct. 19, 2001) (quoting and summarizing *Zadvydas*). Moreover, “for detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.” *Zadvydas*, 533 U.S. at 701. ICE’s administrative regulations also recognize that the HQPDU has a six-month period for determining whether there is a significant likelihood of an alien’s removal in the reasonably foreseeable future. *See* 8 C.F.R. §241.4 (k)(2)(ii).

37. Evidence showing successful repatriation of other persons to the country at issue is not sufficient to meet the government’s burden to establish that an alien petitioner will be deported in the reasonably foreseeable future. *See Thompson v. INS*, 2002 U.S. Dist. LEXIS 23936 (E.D. La.

September 16, 2002) (government failed to show that alien's deportation to Guyana was reasonably foreseeable where the government offered historical statistics of repatriation to Guyana, but failed to show any response from Guyana on the application for travel documents that INS and the petitioner had requested). Rather for the government to meet its burden of showing that an alien's repatriation is reasonably foreseeable, it must provide some meaningful evidence particular to the individual petitioner's case.

38. An alien who has been detained beyond the presumptive six months should be released where the government is unable to present documented confirmation that the foreign government at issue will agree to accept the particular individual in question. See *Agbada v. John Ashcroft*, 2002 U.S. Dist. LEXIS 15797 (D. Mass. August 22, 2002) (court "will likely grant" habeas petition after fourteen months if ICE is "unable to present document confirmation tha the Nigerian government has agreed to [petitioner's] repatriation"); *Zhou*, 2001 U.S. Dist. LEXIS 19050 at *7 (W.D. Wash. February 28, 2002) (government's failure to offer specific information regarding how or when it expected to obtain the necessary documentation or cooperation from the foreign government indicated that there was no significant likelihood of petitioner's removal in the reasonably foreseeable future).

CLAIMS FOR RELIEF COUNT ONE STATUTORY VIOLATION

39. Petitioner re-alleges and incorporates by reference paragraphs 1 through 38 above.

40. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 1231(a) (6) as interpreted by the U.S. Supreme Court in *Zadvydas*. The six-month presumptively reasonable period for continued removal efforts has expired in 2009 and the petitioner has now been detained again for an additional five months with no changes to the petitioners deportation in the foreseeable future. The Supreme Court held in *Zadvydas* and *Martinez* that ICE's continued detention of someone after six months where deportation is not reasonably foreseeable is unreasonably and in violation of 8 U.S.C. §1231(a). 533 U.S. at 701.

COUNT TWO SUBSTANTIVE DUE PROCESS VIOLATION

41. Petitioner re-alleges and incorporates by reference paragraphs 1 through 40 above.

42. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint. See e.g., *Tam v. INS*, 14 F.Supp.2d 1184 (E.D. Cal 1998) (aliens retain substantive due process rights).

43. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite detention of Petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. The U.S. Supreme Court in *Zadvydas* thus interpreted 8 U.S.C. §1231(a) to allow continued detention only for a period reasonably necessary to secure the alien's removal, because any other reading would go beyond the government's articulated interest - to effect the alien's removal. See *Kay v. Reno*, 94 F.Supp.2d. 546, 551 (M.D. Pa. 2000) (granting writ of habeas corpus, because petitioner's substantive due process rights were violated, and noting that "If deportation can never occur, the government's primary legitimate purpose in detention - executing removal - is nonsensical.")

COUNT THREE PROCEDURAL DUE PROCESS VIOLATION

44. Petitioner re-alleges and incorporates by reference paragraphs 1 through 43 above.

45. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that s/he should not be detained. Petitioner in this case has been denied that opportunity. ICE does not make decisions concerning aliens' custody status in a neutral and impartial manner. The failure of Respondents to provide a neutral decision-maker to review the continued custody of Petitioner violates Petitioner's right to procedural due process. Further, Respondents have failed to acknowledge or act upon the Petitioner's administrative request for release in a timely manner. There is no administrative mechanism in place for the Petitioner to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates *Zadvydas*.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release Petitioner from custody, under reasonably conditions of supervision;
- 3) Order Respondents to refrain from transferring the Petitioner out of the jurisdiction of the ICE EOIR Field Office of El Paso Processing Center Director during the pendency of these proceedings and while the Petitioner remains in Respondent's custody; and

I affirm, under penalty of perjury, that the foregoing is true and correct. Respectfully submitted this

27th of October, 2025.



Gennadiy Yuryevich Glushchuk, *Pro Se*

A# 
El Paso SPC

8915 Montana Ave
El Paso, Texas 79925

I, Gennadiy Yuryevich Glushchuk, certify that a true copy of the above document (Petition for Writ of Habeas Corpus) together with the attached documents, was served on October 27, 2025, upon the following:

Western District Court of Texas
Albert Armendariz, Sr. United States Courthouse
525 Magoffin Avenue
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El Paso, Texas 79901

by placing a copy of the above in the mail system at the facility where I am detained.



Gennadiy Yuryevich Glushchuk, *Pro Se*



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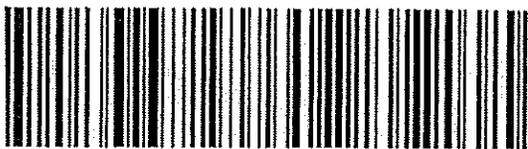
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EXHIBIT INDEX

Exhibit A: Referene Letters. *Pages, 15 - 21*

Exhibit B: Marriage Certificate. *Page, 23*

Exhibit C: Children's Birth Certificates. *Pages, 25 - 26*

Exhibit D: Letter from Ukrainian Consulate. *Page, 29*

Exhibit E: California Secretary of State Non-Profit. *Pages, 31 - 32*

Exhibit F: California Secretary of State Company. *Pages, 34 - 35*

Exhibit G: Pastor Ordination Photograph. *Page, 37*

Exhibit H: CA CSLB Contractor Card and Employment Authorization. *Page, 39*

Exhibit I: Tax Returns 2022, 2023, 2024. *Pages, 41 - 44*

Exhibit J: FOX L.A. News Story. *Page, 46*