UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

GULADI GELKHVIIDZE,

Petitioner,

v.

JUAN BALTASAR, *in his official capacity* as Warden of the GEO Aurora ICE Detention Facility;

ROBERT HAGAN, *in his official capacity* as Field Office Director of the Denver Field Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement,

TODD M. LYONS, *in his official capacity* as Acting Director, U.S. Immigration and Customs Enforcement;

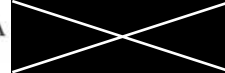
KRISTI NOEM, *in her official capacity* as Secretary, U.S. Department of Homeland Security;

and

PAMELA JO BONDI, *in her official capacity* as Attorney General of the United States;

Respondents.

Civ. Action No. 1:25-cv-03684

Alien Number – A 

PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioner Guladi Gelkhviidze ("Mr. Gelkhviidze") is a noncitizen who has been detained by the U.S. Immigration and Customs Enforcement ("ICE") for more than seventeen (17) months. He is a citizen of Georgia. *See* Exhibit A, ICE Detainee Locator Results.

2. Mr. Gelkhviidze was detained by ICE on June 25, 2024. As of the date of the filing of his petition, he has been detained for five hundred and ten (510) days. *See* Exhibit B, TimeAndDate.com calculation.

3. In March 2025, Mr. Gelkhviidze was granting "Withholding of Removal" barring his removal to Georgia by a U.S. Immigration Judge under 8 U.S.C. Section § 208.16.

4. Mr. Gelkhviidze is currently being held in federal immigration detention while ICE officials try to find a "third country" that will accept his deportation and transfer. A federal statute, 8 U.S.C. § 1231(a)(1)(A), gives the government three months to effectuate such removal; yet over fourteen (14) months later, the government has failed to do so and has failed to provide a date certain when such removal can be expected. Under such circumstances, continued detention violates the statute as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001) and as explained in the U.S. District Court for the Central District of California decision in *Trinh v. Homan*, 466 F.Supp.3d 1077 (C.D. Cal. 2020) (ICE detainees could not be sent back to Vietnam under an agreement between the two countries because they had arrived in the U.S. before 1995 as refugees), and Mr. Gelkhviidze must be released from custody on an Order of Supervision until such time as a removal date is secured.

5. As the District Court in *Trinh v. Homan* explained:

> After the Vietnam War, the North Vietnamese government established the current Socialist Republic of Vietnam ("Vietnam"). Around that time, waves of people from the former Republic of Vietnam (South Vietnam) fled the country to escape political prosecution. Under various humanitarian programs, the United States accepted hundreds of thousands of Vietnamese refugees, including Petitioners.
>
> Between the end of the Vietnam War and 2008, Vietnam refused to repatriate any Vietnamese immigrants who had been ordered removed from the United States. Before a Vietnamese immigrant without a passport or travel document can be repatriated, Vietnam must issue a passport or other travel document in response to a request from ICE. In 2008, the United States and Vietnam reached a diplomatic agreement pursuant to which Vietnam

> agreed to start considering repatriation requests for certain Vietnamese immigrants. Specifically, the agreement obligated Vietnam to consider repatriation requests for Vietnamese immigrants who arrived in the United States after July 12, 1995. The agreement also provided that "Vietnamese citizens are not subject to return to Vietnam under this agreement if they arrived in the United States before July 12, 1995." Relying on this provision, Vietnam maintained its policy of non-repatriation for pre-1995 Vietnamese immigrants after signing the 2008 agreement.

See Trinh, at page 1083 (internal citations omitted)

JURISDICTION AND VENUE

6. This action arises under the Immigration and Nationality Act of 1952 ("INA"), as amended, 8 U.S.C. § 1101 *et seq*., and the Due Process Clause of the Fifth Amendment to the United States Constitution. This Court has jurisdiction pursuant to Art. I, § 9, cl. 2 of the United States Constitution; 28 U.S.C. § 2241 (general grant of habeas authority to the district courts); 28 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. §§2201, 2202 (Declaratory Judgment Act); and 28 U.S.C. § 1651 (All Writs Act).

7. Venue is proper under 28 U.S.C. § 1391(e) because the GEO Aurora Detention Center is located in Arapahoe County, within the District of Colorado. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 494–95 (1973). *See* Exhibit A.

PARTIES

8. Mr. Gelkhviidze, the Petitioner, is currently detained by Respondents at the GEO Aurora Detention Center in Aurora, Colorado. *See* Exhibit A.

9. Juan Baltasar is the warden of the GEO Aurora Detention Center is the immediate legal custodian of Petitioner for purposes of a federal habeas petition. *Braden*, 410 U.S. at 494–95. He is sued in his official capacity only.

10. Robert Hagan is the Field Office Director of the Immigration and Customs Enforcement ("ICE") Denver Field Office is responsible for overseeing ICE operations pertaining to noncitizens within

its territorial jurisdiction, such as Mr. Gelkhviidze, including detentions, enforcement, and removal operations. In his official capacity, Mr. Hagan is Petitioner's legal custodian. He is sued in his official capacity only.

11. Todd M. Lyons is the Acting Director of ICE and is responsible for overseeing all ICE operations. As Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner. He is sued in his official capacity only.

12. Kristi Noem is the Secretary of the U.S. Department of Homeland Security ("DHS") and is responsible for overseeing ICE, which is a sub-component agency of DHS. As head of the U.S. Department of Homeland Security, the agency tasked with enforcing U.S. immigration laws, Secretary Noem is Petitioner's ultimate legal custodian. She is sued in her official capacity only.

13. Pamela Jo Bondi is sued in her official capacity only as the Attorney General of the United States. As Attorney General, she has authority over the U.S. Department of Justice and is charged with faithfully administering the immigration laws of the United States.

CUSTODY

14. Petition is currently in the custody of ICE at the GEO Aurora Denver Contract Detention Facility. *See* Exhibit A. He is therefore in "'custody of the Department of Homeland Security, ICE, within the meaning of the habeas corpus statute.'" *See Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

FACTUAL ALLEGATIONS

15. Petitioner is a noncitizen who has been detained by ICE for more than seventeen (17) months. He is a citizen of Georgia. *See* Exhibit A.

16. Mr. Gelkhviidze was detained by ICE on June 25, 2024. As of the date of the filing of his petition, he has been detained for five hundred and ten (510) days. *See* Exhibit B.

17. A U.S. immigration judge granted "Withholding of Removal" to Mr. Gelkhviidze on March 29, 2025. This means that ICE cannot deport him to Georgia under 8 U.S.C. Section § 208.16.

18. To date, Mr. Gelkhviidze remains in immigration custody, and ICE has so far not been able to secure a travel document for him or the agreement of any country to receive him. *See* Exhibit A.

19. Furthermore, ICE has not provided a date by which it believes it can deport Mr. Gelkhviidze or any other indication that it believes removal will occur within the foreseeable future.

20. Based on information and belief, ICE may have made efforts to remove Mr. Gelkhviidze to Canada, Norway, and/or Armenia. But to date, no country has agreed to accept him.

21. There are no articulable facts that would cause ICE to believe that Mr. Gelkhviidze is removable to any country other than Georgia. He possesses no claim to citizenship or residence in any other country, and there is no third country that appears willing to accept his deportation from the United States.

LEGAL BACKGROUND

22. Title 8 U.S.C. §1231(a) permits ICE to detain noncitizens during the "removal period," which is defined as the 90-day period during which "the Attorney General shall remove the alien from the United States." 8 U.S.C. §1231(a)(1)(A). In this case, pursuant to 8 U.S.C. § 1231(a)(2)(B)(i), the removal period began when Mr. Gelkhviidze was detained by ICE. The "removal period" therefore expired sometime in late June 2025 (three months after the Immigration Judge's grant of Withholding of Removal).

23. After the expiration of the removal period, 8 U.S.C. § 1231(a)(3) provides that ICE shall release unremovable noncitizens on an order of supervision (the immigration equivalent of supervised release, with strict reporting and other requirements). Pursuant to 8 U.S.C. § 1231(a)(6), even noncitizens with aggravated felony convictions may be "released" if "subject to the terms of

supervision" set forth in 8 U.S.C. § 1231(a)(3).

24. Constitutional limits on detention beyond the removal period are well established. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas*, 533 U.S. at 701. "[W]here detention's goal is no longer practically attainable, detention no longer 'bear[s][a] reasonable relation to the purpose for which the individual [was] committed.'" *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Additionally, cursory or pro forma findings of dangerousness do not suffice to justify prolonged or indefinite detention. *Zadvydas*, 533 U.S. at 691 ("But we have upheld preventative detention based on dangerousness only when limited to especially dangerous individuals [like suspected terrorists] and subject to strong procedural protections.")

25. The purpose of detention during and beyond the removal period is to "secure[] the alien's removal." *Zadvydas*, 533 U.S. at 682. In *Zadvydas*, the Supreme Court "read § 1231 to authorize continued detention of an alien following the 90-day removal period for only such time as is reasonably necessary to secure the alien's removal." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 699).

26. As the Supreme Court explained, where there is no possibility of removal, continued immigration detention presents substantive due process concerns because "the need to detain the noncitizen to ensure the noncitizen's availability for future removal proceedings is "weak or nonexistent." *Zadvydas*, 533 U.S. at 690-92. Detention is lawful only when "necessary to bring about that alien's removal." *See id.* at 689. *See also Trinh v. Homan*, at p. 1087-88.

27. To balance these competing interests, the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a "reasonable period of detention" for noncitizens after a removal order. *Id.* at 700-01. The Court determined that six months detention could be deemed a

"presumptively reasonable period of detention," after which the burden shifts to the government to justify continued detention if the noncitizen provides a "good reason to believe that there is not significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701.

28. Where a petitioner has provided "good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future," the burden shifts to the government to rebut that showing. *Zadvydas*, 533 U.S. at 701. Due deference is owed to the government's assessment of the likelihood of removal and the time it will take to execute removal. *Id.* at 700. However, just as pro forma findings of dangerousness do not suffice to justify indefinite detention, pro forma statements that removal is likely should not satisfy the government's burden.

29. The government may only rebut a detainee's showing that there is no significant likelihood of removal in the reasonably foreseeable future with "evidence of progress…in negotiating a petitioner's repatriation." *Gebrelibanos v. Wolf*, No. 20-cv-1575-WQH-RBB, 2020 U.S. Dist. LEXIS 185302, at *9 (S.D. Cal., Oct. 6, 2020) (citing *Kim v. Ashcroft*, 02cv1524-J(LAB) (S.D. Cal., June 2, 2003), ECF No. 25 at 8 (citing *Khan v. Fasano*, 194 F. Supp. 2d 1134, 1136 (S.D. Cal. 2001); *Fahim v. Ashcroft*, 227 F. Supp. 2d 1359, 1366 (N.D. Ga. 2002)); *see also Carreno v. Gillis*, No. 5:20-cv- 44-KS-MTP, 2020 U.S. Dist. LEXIS 248926, at *5 (S.D. Miss., Dec. 16, 2020) (granting petitioner's habeas claim because the government failed to show that removal would be imminent after obtaining a travel document and failing to remove petitioner within the document's validity period) (emphasis added).

30. Factors courts consider in analyzing the likelihood of removal include "the existence of repatriation agreements with the target country, the target country's prior record of accepting removed aliens, and specific assurances from the target country regarding its willingness to accept an alien." *Hassoun v. Sessions*, 2019 WL 78984 at *4 (W.D.N.Y., Jan. 2, 2019) (citing

Callender v. Shanahan, 281 F. Supp. 3d 428, 436-37 (S.D.N.Y. 2017)); *see also Nma v. Ridge*, 286 F. Supp. 2d 469, 475 (E.D. Pa. 2003).

31. Courts have found no significant likelihood of removal in five types of cases: (1) where the detainee is stateless and no country will accept him; (2) where the detainee's country of origin refuses to issue a travel document; (3) where there is no repatriation agreement between the detainee's native country and the United States; (4) where political conditions in the country of origin render removal virtually impossible; and (5) where a foreign country's delay in issuing travel documents is so extraordinarily long that the delay itself warrants an inference that the documents will likely never issue. *See Ahmed v. Brott*, Civ. No. 14-5000 (DSD/BRT), 2015 WL 1542131, *4 (D. Minn. Mar. 17, 2015).

32. Other courts have denied habeas petitions primarily where the U.S. government has already procured petitioner's travel documents and only travel arrangements are outstanding, which is not the case here. *See Berhe*, 2019 WL 3734110 at *4 (denying Petitioner's habeas petition because "Eritrea has issued a travel document and Petitioner has presented no evidence to suggest there are other barriers to his removal"); *Tekleweini-Weldemichael v. Book*, No. 1:20-CV- 660-P, 2020 WL 5988894, at *5 (W.D. La., Sept. 9, 2020), *report and recommendation adopted*, No. 1:20-CV-660-P, 2020 WL 5985923 (W.D. La., Oct. 8, 2020) (denying without prejudice Petitioner's habeas petition because he possessed a travel document valid through December 19, 2020, and noting that he is not precluded from filing a new petition upon the expiration or cancellation of his travel document).

33. In this case, an immigration judge-issued grant of withholding of removal prevents ICE from removing Mr. Gelkhviidze to Georgia. While ICE has been contacting third countries to inquire about his transfer, there is no evidence to support any country issuing him a travel document.

There is insufficient evidence for the government to meet its burden that there is a significant likelihood of removal in the reasonably foreseeable future. *See Gebrelibanos*, 2020 WL 5929487, at *3; *Tekleweini-Weldemichael*, 2020 WL 5988894 (finding significant likelihood of removal in reasonably foreseeable future *only because* government had already obtained a valid travel document).

34. Mr. Gelkhviidze has been detained for far more than 180 days following his final order of removal, and far beyond the 6-month period of presumptively reasonable detention. *Zadvydas*, 533 U.S. at 700-01. *See also Hassoun*, 2019 WL 78984, at *4; *Alexander*, 495 Fed. Appx. at 277. With neither a travel document nor an indication that one is soon to be forthcoming, any additional detention is unreasonable, as removal is not imminent.

35. In addition, federal regulations dictate that where ICE detains an individual under 8 U.S.C. § 1231(a)(6), an individualized determination must be carried out, with the following criteria taken into account:

> (1) The nature and number of disciplinary infractions or incident reports received when incarcerated or while in Service custody;
>
> (2) The detainee's criminal conduct and criminal convictions, including consideration of the nature and severity of the alien's convictions, sentences imposed and time actually served, probation and criminal parole history, evidence of recidivism, and other criminal history;
>
> (3) Any available psychiatric and psychological reports pertaining to the detainee's mental health;
>
> (4) Evidence of rehabilitation including institutional progress relating to participation in work, educational, and vocational programs, where available;
>
> (5) Favorable factors, including ties to the United States such as the number of close relatives residing here lawfully;
>
> (6) Prior immigration violations and history;
>
> (7) The likelihood that the alien is a significant flight risk or may abscond to avoid removal, including history of escapes, failures to appear for immigration

or other proceedings, absence without leave from any halfway house or sponsorship program, and other defaults; and

(8) Any other information that is probative of whether the alien is likely to—

(i) Adjust to life in a community,

(ii) Engage in future acts of violence,

(iii) Engage in future criminal activity,

(iv) Pose a danger to the safety of himself or herself or to other persons or to property, or

(v) Violate the conditions of his or her release from immigration custody pending removal from the United States.

8 C.F.R. § 241.4(f).

FIRST CLAIM FOR RELIEF:
Violation of 8 U.S.C. § 1231(a)(6)

36. Mr. Gelkhviidze re-alleges and incorporates by reference the preceding paragraphs.

37. Mr. Gelkhviidze's continued detention by the Respondents violates 8 U.S.C. § 1231(a)(6), as interpreted by *Zadvydas*. Mr. Gelkhviidze's 90-day statutory removal period and six-month presumptively reasonable period for continued removal efforts have long since passed.

38. Under *Zadvydas*, the continued detention of someone like Mr. Gelkhviidze is unreasonable and not authorized by 8 U.S.C. § 1231.

SECOND CLAIM FOR RELIEF:
Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution

39. Mr. Gelkhviidze re-alleges and incorporates by reference paragraphs 1 to 35.

40. Mr. Gelkhviidze's detention during the removal period is only constitutionally permissible when there is a significant likelihood of removal in the reasonably foreseeable future. In Mr. Gelkhviidze's case, he cannot be returned to Georgia and no other country has agreed to accept his transfer. These factors lend support to the conclusion that there is no likelihood of Mr.

Gelkhviidze's removal in the reasonably foreseeable future.

41. Respondents' detention of Mr. Gelkhviidze no longer bears any reasonable relation to a legitimate government purpose, and thus violates the Due Process Clause.

THIRD CLAIM FOR RELIEF:
Violation of Regulations

42. Mr. Gelkhviidze re-alleges and incorporates by reference paragraphs 1 to 35.

43. As set forth above, Respondent continues to detain Mr. Gelkhviidze in violation of 8 C.F.R. § 241.4, having not considered the substantive factors set forth in subsections (e) and (f) of that regulation. Were such factors to be properly weighed, it would be apparent that Mr. Gelkhviidze is a candidate for release on an Order of Supervision pending removal.

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court assume jurisdiction over this matter and enter an order:

a. Declaring that his continued detention violates his due process rights;

b. Granting him a writ of habeas corpus and ordering the Respondents to release him from detention on an Order of Supervision pursuant to 8 U.S.C. § 1231(a)(3);

c. Ordering Respondent to reimburse him his costs of suit and reasonable attorneys' fees incurred in relation to this petition, under the Equal Access to Justice Act, 28 U.S.C. § 2412; and

d. Granting any other relief that this Court deems just and proper.

Respectfully submitted, Date: November 16, 2025

/s/Brian Scott Green
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Low bono counsel for the Petitioner

Certificate of Service

I, Brian Scott Green, hereby certify that on this 16th day of November, 2025, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing ("NEF") to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I, Brian Scott Green, hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 16th of November, 2025.

/s/Brian Scott Green
Brian Scott Green