

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

FILED
U.S. DISTRICT COURT
2025 DEC 16 10:47

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[Signature]
CLERK
S.D. DIST. OF GA.

ALEKSANDR KHARCHENKO,

A-Number: 

Petitioner,


v.

Civil Action No. 5:25cv 229

WARDEN, FOLKSTON D. RAY
ICE PROCESSING CENTER
3262 HIGHWAY 252 EAST
FOLKSTON, GA 31537

Respondent.

PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241

Aleksandr Kharchenko, the Petitioner, is currently detained at the D. Ray James ICE Processing Center in Folkston, Georgia. He files this petition through his father and next friend, Sergei Kharchenko, a United States citizen residing at  Charlotte, NC 28215. Prior to his detention, Petitioner resided at the same address. Sergei Kharchenko serves as Petitioner's sponsor and guarantor.

Petitioner is unable to prepare or file this petition on his own because:

- His limited command of English legal language makes it difficult to independently prepare pleadings.
- He has restricted access to legal resources and no internet while detained at the D. Ray James ICE Processing Center, making it impossible to effectively research and prepare his petition.

Accordingly, Sergei Kharchenko has standing to file this petition as next friend to ensure Petitioner's constitutional and statutory rights are protected.

Aleksandr Kharchenko entered the United States on September 30, 2022, declaring his intention to seek asylum under U.S. law. He was granted permission to remain and issued an I-94 reflecting an "Admit Until Date" of September 29, 2023, with the Class of Admission designated as DT. At the time of his initial release, Immigration and Customs Enforcement (ICE) exercised its discretionary authority under 8 U.S.C. §§ 1182(d)(5)(A) and 1226 to parole him, recognizing that he had a reliable U.S. citizen sponsor and residence in Charlotte, North Carolina.

On October 8, 2025, Petitioner's first hearing took place, at which his application for asylum was denied. The Immigration Court issued a Removal Order requiring him to leave the United States within thirty (30) days or file an appeal. Shortly after his hearing, Aleksandr visited the ICE office, where he was instructed to return on November 24, 2025.

Petitioner's attorney timely filed an appeal with the Board of Immigration Appeals on October 20, 2025. Consistent with that appointment notice, Aleksandr appeared at the ICE office on November 24, 2025, to check in and present proof of his pending appeal, as directed during his prior visit.

Despite submitting documentation of his appeal, including the receipt notice, Petitioner was nevertheless taken into custody by ICE. The officer asserted that Petitioner was already subject to a Removal Order, disregarding the fact that his appeal remained pending before the BIA.

Upon request that a bond be set to secure Aleksandr's release and guarantee compliance, ICE denied the request, stating: "No Immigration Judge custody redetermination hearing. No legal entry. Subject has Final Order. Continued detention."

ICE has improperly treated Petitioner as though subject to a final removal order, despite his pending appeal. Under INA § 101(a)(47)(B), a removal order does not become final until the BIA has issued its decision or the time to appeal has expired. Accordingly, ICE's reliance on "final order" authority was legally erroneous. Detention under these circumstances violates due process and punishes lawful compliance, contrary to precedent such as *Nken v. Holder*, 556 U.S. 418 (2009), and *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Nothing has changed in Petitioner's circumstances since ICE's initial release decision in 2022. Aleksandr continues to have his sponsor, Sergei Kharchenko, and maintains his permanent residence at [REDACTED] Charlotte, North Carolina 28215. He has no criminal record, not even a traffic violation.

Aleksandr has consistently pursued his profession as a truck driver and maintained a stable income throughout 2025, demonstrating financial responsibility and reliability. Importantly, he has not relied on public benefits such as Medicaid or Food Stamps, underscoring his independence and self-sufficiency. He was also preparing to pay his taxes, further reflecting his commitment to compliance and civic responsibility.

His continued detention, despite these stable and productive ties to the community, serves no legitimate purpose and undermines community interests compared to release under supervision. ICE's reliance on "No legal entry" as a reason to deny bond and continue detention under Section 236 of the Immigration and Nationality Act (INA), codified at 8 U.S.C. § 1226, reflects an arbitrary and capricious application of the law. ICE previously granted parole under the same circumstances, and its reversal without change in facts raises serious due process concerns.

CONCLUSION AND REQUEST FOR RELIEF

For the reasons set forth above, Petitioner respectfully requests that this Court order his immediate release from custody at the D. Ray James ICE Processing Center. He has consistently complied with ICE instructions, maintains strong family and community ties, has no criminal record, and continues to contribute positively to society. His continued detention under the guise of a “final order” and the guise of “no legal entry” is legally erroneous, arbitrary, and capricious.

Petitioner therefore asks this Court to grant habeas relief and direct his release under appropriate bond, consistent with the Immigration Judge’s order and the appeal process before the Board.

Respectfully submitted,

Sergei Kharchenko
as next friend of
Aleksandr Kharchenko



Dated: December 11, 2025

LIST OF ATTACHED DOCUMENTS

Exhibit A – Certificate of Naturalization of Sergei Ivanovich Kharchenko

Exhibit B – I-94 Form

Exhibit C – Order of the Immigration Judge dated October 8, 2025

Exhibit D – Board of Immigration Appeals Notice

Exhibit E – ICE Bond Denial Notice from cebonds.ice.gov

Exhibit F – Aleksandr Kharchenko North Carolina Driving Record