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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 Vitaly Fedorov,
11 Petitioner,
12 v.
13 John Mattos, Michael Bernacke, Todd M.
Lyons, Kristi Noem, Pam Bondi and Kerri Ann
14 Quihuis,
15 Respondents.

Case No. 2:25-cv-02518-APG-NJK
**Federal Respondents' Response to
First Amended § 2241 Petition
(ECF No. 11) and Motion for
Temporary Restraining Order (ECF
No. 13)**

16 Federal Respondents, through undersigned counsel, hereby file this response to the
17 First Amended § 2241 Petition (ECF No. 11) and Motion for Temporary Restraining Order
18 (ECF No. 13) filed by Vitaly Fedorov ("Petitioner").

19 Petitioner Vitaly Fedorov is a citizen of Ukraine. ECF No. 11 at 2. He is currently
20 detained at the Nevada Southern Detention Center. *Id* at 3. On March 17, 2004, following
21 his guilty plea to Attempt Grand Larceny Auto in Clark County, Nevada, Petitioner was
22 sentenced to 12-36 months' imprisonment. *See* Exhibit A, Judgment of Conviction
23 (C193088). Separately, on May 3, 2004, following his guilty plea to Burglary and Grand
24 Larceny of a Firearm in Clark County, Nevada, Petitioner was sentenced to 14-48 months'
25 imprisonment. *See* Exhibit B, Judgment of Conviction (C199613). Following his term of
26 imprisonment from these convictions, Petitioner entered removal proceedings. *See* Exhibit
27 C, Form I-862.

1 On August 30, 2006, an Immigration Judge ordered that Petitioner be “removed from
2 the United States to Ukraine.” *See* Exhibit D, Removal Order. On December 5, 2006,
3 Petitioner was released on an Order of Supervision. *See* Exhibit E, Order of Supervision-
4 Addendum. Petitioner’s Order of Supervision was renewed in April 2018. *See* Exhibit F,
5 Order of Supervision. Since 2006, while on supervision, Petitioner sustained convictions for
6 offenses involving firearms, resisting police officers and larceny.

7 More recently, in January 2025, Petitioner entered into a plea agreement for the
8 offense of Ownership or Possession of a Firearm by a Prohibited Person in Clark County,
9 Nevada. On May 1, 2025, Petitioner was sentenced to Drug Court. *See* Exhibit G, Court
10 Minutes (C-25-388634-1). While the sentence was pending on this matter, Petitioner was
11 removed to ICE custody, on or about August 1, 2025, and served with a Notice of Failure to
12 Comply Pursuant to 8 CFR 241.4(g). *See* Exhibit H, Notice of Failure to Comply.

13 The Notice of Failure to Comply informed Petitioner that he was to remain in ICE
14 custody pursuant to 8 C.F.R. § 241.4(g). *Id.* It further provided that, as Petitioner was still
15 within his removal period, Petitioner was “to remain in ICE custody until you demonstrate
16 that you are making reasonable efforts to comply with the order of removal and that you are
17 cooperating with ICE’s efforts to remove you.” *Id.* On November 19, 2025, Petitioner was
18 given a Notice to Alien of File Custody Review, providing that Petitioner’s custody status
19 was scheduled to be reviewed on January 21, 2026. *See* Exhibit I, Notice to Alien of File
20 Custody Review.

21 INA § 241(a)(1)(C) requires that Petitioner make timely and good faith efforts to
22 obtain travel or other documents necessary for his removal from the United States.
23 According to ICE, a travel document has been requested from the government of Ukraine
24 after it was confirmed by the Consulate General of Ukraine that Petitioner would be
25 deemed a citizen of the country if it was established he was “permanently residing on the
26 territory of Ukraine” on August 24, 1991 when it declared independence from the former
27 USSR. *See* Exhibit J. According to ICE, Petitioner has assisted in requesting a travel
28 document from Ukraine but, to date, that process remains ongoing.

1 While Petitioner’s Amended Petition was filed shortly before his detention exceeded
2 six months, by February 1, 2026, Petitioner will have been in renewed post-removal
3 immigration custody for six months. The Supreme Court’s decision in *Zadvydas v. Davis*,
4 533 U.S. 678 (2001), will undoubtedly apply. Under *Zadvydas*, after six months of
5 detention, the Court must evaluate whether there is a “significant likelihood of removal in
6 the reasonably foreseeable future.” *Id.* at 701. As of today, ICE is unable to confirm
7 progress made toward removal to Ukraine other than an acknowledgement by the
8 Consulate General of Ukraine to “conduct an additional verification of a person’s
9 belonging to the citizenship of Ukraine upon receipt of a relevant request from the
10 competent authorities of the United States.” *See* Exhibit J. To the government’s
11 knowledge, ICE has also not identified any potential third country for Petitioner’s removal.

12 In other similar cases, such as *Barka v. Mattos*, No. 2:25-cv-1781-GMN-MDC and
13 *Bunnell v. United States*, Case No. 2:25-cv-2259-GMN-EJY (D. Nev.), courts in this district
14 have ordered the petitioner’s immediate release under reasonable terms of supervision
15 under 8 U.S.C. § 1231(a)(3). *See* ECF 22 (Order Granting Petition for Writ of Habeas
16 Corpus) at 15 in *Barka*; ECF 25 (Order Granting Motion for Temporary Restraining Order)
17 at 17 in *Bunnell*. The government would request that in this case the Court give ICE 48
18 hours to release Petitioner so that they can ensure a safe and orderly release during the
19 daytime.

20 Aside from release, Petitioner requests that the Court order injunctive relief
21 (1) “reinstating Petitioner’s release on supervision”; (2) “prohibiting the government from
22 revoking his supervision without first following the required statutory procedures”; and (3)
23 “prohibiting the government from removing him to a third country without an opportunity
24 to file a motion to reopen with an IJ.” ECF 13 at 2. The government is unable to provide
25 any material distinction between this Petitioner’s request and the requests in *Bunnell*.

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Respectfully submitted this 21st day of January 2026.

TODD BLANCHE
Deputy Attorney General

/s/ Brian Whang
BRIAN WHANG
Assistant United States Attorney

INDEX OF EXHIBITS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
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17
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19
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- Exhibit A Judgment of Conviction (C193088)
- Exhibit B Judgment of Conviction (C199613)
- Exhibit C Form I-862
- Exhibit D Removal Order (Aug. 30, 2006)
- Exhibit E Order of Supervision- Addendum (Dec. 5, 2006)
- Exhibit F Order of Supervision (Apr. 24, 2018)
- Exhibit G Court Minutes (C-25-388634-1)
- Exhibit H Notice of Failure to Comply (Aug. 5, 2025)
- Exhibit I Notice to Alien of File Custody Review (Nov. 19, 2025)
- Exhibit J Consulate General of Ukraine letter