

PETITION FOR WRIT OF HABEAS CORPUS

United States District Court Western of Washington

Dmytro Malakhov (A# )

PETITION FOR WRIT OF HABEAS CORPUS

(28 U.S.C. § 2241)

AND

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

This Court has jurisdiction pursuant to 28 U.S.C. &2241, because Petitioner Dmytro Malakhov is currently detained within the jurisdiction of the Western District of Washington.

PARTIES:

Petitioner is Dmytro Malakhov, currently detained at Northwest Detention Center, Tacoma, Washington.

Respondents include:

The Warden of the detention facility where Petitioner is held

- The Secretary of the Department of Homeland Security
- The ICE Field Office Director responsible for Petitioner's detention.

Case No.: ____



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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

I. INTRODUCTION

Petitioner Dmytro Malakhov respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241. He challenges the lawfulness of his immigration detention as a violation of his constitutional right to due process under the Fifth Amendment.

Petitioner has been detained by ICE since December 29, 2025. As of the date of filing, he has been detained for approximately 71 days.

Although his detention is discretionary under 8 U.S.C. § 1226(a), he remains confined despite serious and documented medical vulnerabilities and without individualized justification demonstrating that he poses a danger or flight risk.

Due to urgent medical risks, Petitioner also seeks immediate injunctive relief in the form of a Temporary Restraining Order.

II. JURISDICTION

This Court has jurisdiction pursuant to:

28 U.S.C. § 2241

28 U.S.C. § 1331

The Fifth Amendment to the United States Constitution

Petitioner is detained within this District.

III. FACTUAL BACKGROUND

Petitioner, Dmytro Malakhov (A#), is a citizen of Ukraine and not a citizen of the United States.

On June 5, 2023, he arrived in the United States through Los Angeles International Airport and was paroled pursuant to § 212(d)(5) of the Immigration and Nationality Act (INA).

Petitioner has no final order of removal.

Since December 29, 2025, he has been detained at Northwest Detention Center (Tacoma, Washington).

His immigration proceedings are currently active:

A decision on re-parole under the Uniting for Ukraine (U4U) program is pending;

A primary application for Temporary Protected Status (TPS) has been submitted;

He is included as a derivative applicant in his spouse's asylum case.

Petitioner has previously complied with parole conditions, cooperated with immigration authorities, and has no history of failing to appear in court.

He has strong family ties in the United States.

Medical Conditions

Petitioner suffers from serious chronic and congenital medical conditions:

Congenital malformation of the urinary tract

Aplasia of the right kidney (only the left kidney functions)

Chronic pyelonephritis of the single left kidney

Chronic pancreatitis

Status post surgery: ureteropelvic junction repair (Andersen-Hynes procedure, 1998, left side)

Varicose vein disease of the right lower extremity with ostial valve insufficiency

Status post March 2021 surgery: crossectomy, long stripping, ligation of incompetent perforating and communicating veins in the right lower extremity

Sliding hiatal hernia and gastritis,

congenitally small lumbar spinal canal.

While in detention, Petitioner's health has deteriorated, including:

Sand detected in urine

Pulmonary abnormality requiring further evaluation

Persistent rash on both feet

Subconjunctival hemorrhage (blood vessel rupture in the eye)

IV. LEGAL BASIS

A. Discretionary Detention under § 236(a) INA

Detention under 8 U.S.C. § 1226(a) is discretionary, not mandatory. Continued confinement must be justified by individualized evidence of flight risk or danger to the community. No such evidence exists for Petitioner.

B. Due Process Violation

Civil immigration detention must be reasonably related to its purpose of ensuring court appearance

or enforcing potential removal. Prolonged detention without adequate medical care and without individualized review violates the Fifth Amendment.

C. Medical Vulnerability and Constitutional Considerations Petitioner has a single functioning kidney with chronic pyelonephritis. Any delay in specialized medical evaluation and treatment may result in irreversible loss of kidney function.

New symptoms observed in detention, including sand in urine, pulmonary abnormality, persistent rash, and eye hemorrhage, demonstrate ongoing health deterioration.

Any delay in evaluation or treatment could result in permanent organ damage or other serious complications that cannot be remedied later.

V. EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

Under Federal Rule of Civil Procedure 65, a TRO is warranted to prevent irreparable harm.

A. Likelihood of Success on the Merits

Petitioner raises serious constitutional questions regarding the lawfulness of his detention and due process violations. His detention is discretionary, there is no removal order, and no evidence demonstrates risk of flight or danger.

B. Irreparable Harm: The Combination of Serious Medical Risks and the Impact on Minor Children, Including a U.S. Citizen

- The continued detention of the Petitioner poses a real and immediate risk of irreparable harm both to the Petitioner and to his minor children.

The Petitioner suffers from serious chronic medical conditions, including a congenital anomaly of the urinary tract, a single functioning kidney with chronic inflammation, and other significant health issues. While in detention, his condition has deteriorated, and new symptoms have appeared, creating a risk of irreversible organ damage and long-term health consequences.

At the same time, the Petitioner is the father of two minor children: a 3-year-old daughter and a 9-year-old son, who is a citizen of the United States.

The U.S. citizen son has independent constitutional interests, including the right to family integrity and parental support. The prolonged detention of his father causes significant emotional harm to the child and undermines his financial stability.

The 3-year-old daughter is at a critical stage of development and is fully dependent on parental care. The absence of her father, combined with financial instability, increases the stress burden on the family.

The Petitioner is the primary source of income for the family. His detention creates significant economic hardship, directly affecting the welfare of the U.S. citizen minor child.

Taken together:

- the risk of irreparable medical harm,
- the lack of individualized assessment of the need for detention,
- the presence of two minor children,
- the family's financial dependence on the Petitioner,

demonstrate that the continued detention is excessive and contrary to the due process guarantees of the Fifth Amendment.

This combination of factors establishes the existence of irreparable harm and necessitates immediate judicial intervention, including consideration of the Petitioner's release from detention as a measure necessary to prevent constitutional violations in these circumstances.

C. Balance of Equities

Release under supervision would protect Petitioner's health while preserving the Government's interests. The Government retains the ability to impose conditions of supervision if necessary.

D. Public Interest

Protecting constitutional rights and preventing avoidable deterioration of health in civil detention serves the public interest.

VI. REQUEST FOR RELIEF

Petitioner respectfully requests that this Court:

Declare his continued detention unlawful;

Find a violation of the Fifth Amendment;

Issue a Temporary Restraining Order and release Petitioner under supervision pending final resolution;

Expedite review of this petition;

Grant any further relief the Court deems just and proper.

VII. VERIFICATION

I, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Date: 10/03/2026

Signature: 

Dmytro Malakhov

VIII. EXHIBITS

Medical records and translation (if applicable)

TPS and U4U re-parole filings

Spouse's asylum case documents

Proof of family ties and residence