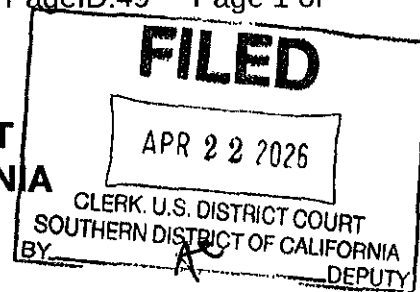


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA



YEVHENII DIBIZHEV,

Case No.: 26-cv-02228-JES-MMP

Petitioner,

v.

MARK WAYNE MULLIN,  
Secretary of the Department  
of Homeland Security, et al.

Respondents.

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**Petitioner's Opposition to Respondents' Reply to Petition for Writ of Habeas Corpus**

On April 17, 2026, Counsel for the Respondents filed Response to Petitioner for Writ of Habeas Corpus (hereinafter, "Response") erroneously stating that:

- Petitioner's claim is contrary to 8 U.S.C. § 1225(b)(2), which expressly mandates his detention without a bond hearing until the conclusion of his removal proceedings which are scheduled for an individual hearing on May 1, 2026;
- Petitioner's detention of less than nine months has not become unconstitutionally prolonged;
- Petition should be dismissed for lack of jurisdiction because it does not name the warden of OMDC as a respondent.

Petitioner opposes the Respondent's reply based on follows::

1. Under 8 USC 1225 (B)(1)(B) (IV) Mandatory detention "...Any alien subject to the procedures under this clause shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed..."
2. Petitioner's credible fear interview was overruled by Immigration Judge.  
Consequently, Petitioner was found credible and fear of persecution was found.  
Hence, Petitioner's detention is not mandatory "until removed".
3. Moreover, on February 18, 2026, Department of Homeland Security through U.S. Citizenship and Immigration Services approved the Respondent's Form I-821, Application for temporary protected status. Under the referenced status, Respondent will not be removed from the United States till at least October 19, 2026, the expiration date of the referenced status. See **Exhibit A**
4. Based on this information, Respondent's counsel, representing him in removal proceedings, filed Motion To Convert Individual Hearing to Master Calendar hearing scheduled on May 1, 2026, with the Immigration Court. It means Petitioner's removal proceedings more likely than will not be concluded on the scheduled date.
5. Next, Respondents stated that Petition should be dismissed for lack of jurisdiction because it does not name the warden of OMDC as a respondent.
6. Under *Guam v. Correctional Corp of America and Otay Mesa Immigration Court*, Case No.: 3:25-cv-3600-JES-DEB, some other district courts have acknowledged this technical defect, but do not dismiss the case, particularly where a pro se litigant is involved. See *Herrera-Ramirez v. United States*, No. 2:25-CV-01749-MMD-EJY, 2025 WL 3239043 (D. Nev. Nov. 19, 2025). In *Herrera*, the Court recognized the Ninth Circuit's statement in *Doe* as cited above and while acknowledging that the

petitioner there only named the Attorney General and the ICE field office director, the court stated:

*"In this way, the Petition does not follow the requirements laid out by statute. But notably, the Doe v. Garland petitioner was represented by multiple attorneys and civil rights organizations. See 109 F.4th at 1189. Here, Petitioner is unrepresented. The Court "has a duty to ensure that pro se litigants do not lose their right to a hearing on the merits of their claim due to ignorance of technical procedural requirements." Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1988)"*

7. Hence, in light of Petitioner's pro se status and the liberty interests at issue, the Court may follow suit and address the petition on the merits rather than dismiss the petition.
8. Next, The Supreme Court in *Zadvydas v. Davis* (2001) established that **after six months**, detainees can request release if removal is not reasonably foreseeable. It should be noted that 9 months detention of Petitioner will be upcoming on April 26, 2026, in **5 days** since filing presented Opposition.
9. Also, under *Hinojosa Garcia* and *Vasquez Carcamo*, the Court has jurisdiction because this action falls outside the scope of § 1252(g) and (b)(9). And like the petitioners in those cases, Dibizhev's detention is governed by § 1226(a), not § 1225(b)(2). As a noncitizen detained under § 1226(a), Dibizhev has a right to a bond hearing. See *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018) ("Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention.") (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)).

10. Additionally, Petitioner is "not asking for review of an order of removal;" he is not "challenging the decision to detain [him] in the first place or to seek removal;" and he is "not even challenging any part of the process by which [his] removability will be determined." *Jennings*, 583 U.S. at 294, 138 S.Ct. 830. The zipper clause does not apply."
11. Lastly, Dibizhev is not properly detained because his continuous detention violates the Fifth Amendment and the Administrative Procedure Act as stated in initial petition.
12. Moreover, Respondents have available option for Mr. Dibizhev as Supervised release with an ankle bracelet: legally grounded in the need to ensure compliance with immigration hearings while avoiding costly detention. Supervised release will be the least prejudicial and best remedy provided to Petitioner because his continuous detention for more than 265 days has served as "unreasonable punishment and harm" while legal statutorily and practicality are uncertain.
13. Hence, it is respectfully request the Petitioner be released from detention immediately with ankle bracelet supervised release, with bond obtained, or such other relief and the Court may order.

Respectfully submitted,

  
Yevhenii Dibizhev

*Pro Se*

**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing was served this 21th day of April 2026, via postal service to the parties listed below:

ADAM GORDON  
United States Attorney  
ALLIE MALONE SUBKE  
Assistant United States Attorney  
Office of the U.S. Attorney  
880 Front Street, Room 6293  
San Diego, CA 92101-8893

/s/ Sage Roman, LL.M.  
Server

Exhibit A

**Martin Druyan & Associates Attorneys**  
450 7th Ave, Suite 508  
New York, NY 10123  
Attorneys for Respondent  
Tel. (917) 861-4836

**DETAINED**

**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
OTAY MESA, CA**

-----X  
**IN THE MATTER OF**

**IN REMOVAL PROCEEDINGS**

**DIBIZHEV, Yevhenii**

File No.



**RESPONDENT**  
-----X

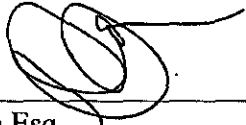
**Immigration Judge Ortiz, Ferdinand J. Next Hearing: May 1, 2026, at 8:30 a.m.**  
**United States Immigration Court**  
7488 Calzada De La Fuente  
San Diego, CA 92154

**MOTION TO CONVERT INDIVIDUAL HEARING TO MASTER CALENDAR  
HEARING**

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Respectfully submitted,



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Martin Druyan Esq.  
Attorney for Respondent

**MOTION TO CONVERT INDIVIDUAL HEARING TO MASTER CALENDAR  
HEARING**

The respondent, by and through her respective undersigned counsel, move the Immigration Judge to convert Individual Hearing to Master Calendar Hearing in the above-captioned matter(s).

In support of this motion, the undersigned counsel states the follows:

1. The last master Calendar Hearing upon the case was conducted on January 21, 2026. In the hearing the Court also considered Respondent was removable based on charges stated in the Notice to Appear and scheduled an Individual Hearing on May 21, 2026. Later, the Individual Hearing has been rescheduled on May 1, 2026.

2. Then, on February 18, 2026, Department of Homeland Security through U.S. Citizenship and Immigration Services approved the Respondent's Form I-821, Application for temporary protected status. Under the referenced status, Respondent will not be removed from the United States till at least October 19, 2026, the expiration date of the referenced status.

3. This newly observed fact prevents further removal proceeding because Respondent has not been removable anymore since February 18, 2026.

4. Hence, clarification of the Respondent's removability is necessary for further removal proceeding.

5. Thus, Master calendar hearing should be conducted by the Court in the matter asserted.

Based upon the foregoing, the party requests that the Immigration Judge grant this motion to convert individual hearing to master calendar hearing scheduled on May 1, 2026.

Respectfully submitted,

Martin Druyan, Esq.,



UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
OTAY MESA, CA

In the matter of: **DIBIZHEV, Yevhenii**



**ORDER OF THE IMMIGRATION JUDGE**

Upon consideration of the respondent's Motion to Covert IH to MH, it is HEREBY ORDERED that the motion be GRANTED DENIED because:

- DHS does not oppose the motion.
- The respondent does not oppose the motion.
- A response to the motion has not been filed with the court.
- Good cause has been established for the motion.
- The court agrees with the reasons stated in the opposition to the motion.

The motion is untimely per \_\_\_\_\_.  
Other: \_\_\_\_\_.

Deadlines:

The application(s) for relief must be filed by \_\_\_\_\_.  
The respondent must comply with DHS biometrics instructions by \_\_\_\_\_.

\_\_\_\_\_  
Immigration Judge Date

Certificate of Service

This document was served by:  Mail  Personal Service  
To:  Alien  Alien c/o Custodial Officer  Alien's Atty/Rep  DHS

Date: \_\_\_\_\_ By: Court Staff \_\_\_\_\_

**DIBIZHEV, Yevhenii**



**Proof Of Service**

On April 15, 2026, I, Roman Sage LL.M., uploaded this Motion to convert IH to MH, and any attached pages, into EACS. Both parties are participated in the system. No additional service required.

  
\_\_\_\_\_

**04/15/2026**

\_\_\_\_\_  
Date

Roman Sage LL.M.  
450 7th Ave, Suite 508  
New York, NY 10123  
(347) 961-9446