FILED
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US DISTRICT COURT
EASTERN DIST. TENN.

UNITED STATES DISTRICT COURT

for the

Eastern District of Tennessee

Oleg Kharchenko, by and through his next friend Yevheniia Nikolaichuk

Petitioner

v.

John Doe, Immediate Custodian of Petitioner; Field Office Director, ICE; Director, ICE; Director, USCIS; Secretary, DHS; Attorney General of the United States

Respondent
(name of warden or authorized person having custody of petitioner)

Case No. 3:26-CV-467
(Supplied by Clerk of Court)
Atchley/McCook

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Oleg Kharchenko

   (b) Other names you have used: None

2. Place of confinement:

   (a) Name of institution: Not disclosed by Respondents. See Declaration of Next Friend.

   (b) Address: Unknown at the time of filing.

   (c) Your identification number: [redacted]

3. Are you currently being held on orders by:

   ☑ Federal authorities ☐ State authorities ☐ Other - explain:

4. Are you currently:

   ☐ A pretrial detainee (waiting for trial on criminal charges)

   ☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

   If you are currently serving a sentence, provide:

   (a) Name and location of court that sentenced you:

   (b) Docket number of criminal case:

   (c) Date of sentencing:

   ☑ Being held on an immigration charge

   ☐ Other *(explain)*:

Decision or Action You Are Challenging

5. What are you challenging in this petition:

☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

☐ Pretrial detention

☑ Immigration detention

☐ Detainer

☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)

☐ Disciplinary proceedings

☐ Other *(explain)*: _____

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: U.S. Immigration and Customs Enforcement, arrest near Cleveland, Bradley County, Tennessee, and ongoing detention.

(b) Docket number, case number, or opinion number: None. No charging document issued.

(c) Decision or action you are challenging *(for disciplinary proceedings, specify the penalties imposed)*:
Arrest and continued detention on 09/24/2026, with no warrant shown or served. No Notice to Appear was served, no removal order exists, and no custody determination has been provided. The only reason given by officers was an expired visa.

(d) Date of the decision or action: 09/24/2026

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☑ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: There is no administrative appeal from an ICE arrest. Oleg Kharchenko has been served with no charging document or custody determination that could be appealed, and has been in custody less than one day.

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not file a second appeal:

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not file a third appeal:

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☑ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☑ Yes ☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: 09/24/2026

(b) Date of the removal or reinstatement order: None. No removal order has ever been entered.

(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes ☑ No

If "Yes," provide:

(1) Date of filing:

(2) Case number:

(3) Result:

(4) Date of result:

(5) Issues raised:

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☑ No

If "Yes," provide:

(1) Name of court:

(2) Date of filing:

(3) Case number:

(4) Result:

(5) Date of result:

(6) Issues raised:

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☑ No

If "Yes," provide:

(a) Kind of petition, motion, or application:

(b) Name of the authority, agency, or court:

(c) Date of filing:

(d) Docket number, case number, or opinion number:

(e) Result:

(f) Date of result:

(g) Issues raised:

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: Detention without any statutory authority.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Oleg Kharchenko filed Form I-589 for asylum on 04/19/2017, while still in lawful B-2 status, receipt [redacted] USCIS interviewed him on 10/08/2025 at Arlington and has issued no decision. He has never been served a Notice to Appear, and no removal order has ever been entered against him. The immigration court system returns "No case found" for his A-number. On 09/24/2026 ICE stopped the vehicle he was traveling in near Cleveland, Tennessee and seized him. No traffic violation was cited. The only reason given was that his visa had expired, though he applied for asylum before it did.

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes ☐ No

GROUND TWO:

Detention without any individualized custody determination.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Oleg Kharchenko is 66 years old and has lived openly in the Charlotte, North Carolina area since 2016, at addresses of which USCIS has always been informed. He appeared for every appointment, including an interview scheduled eight years after he filed. On 09/10/2026, two weeks before his arrest, he signed a request under penalty of perjury asking his congressman about the delay. Exhibit C. His wife, daughter, son and three grandchildren are here; his daughter is a lawful permanent resident and two grandchildren are US citizens. He has no arrests or convictions in the United States. No neutral adjudicator has considered whether his custody is necessary.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes ☐ No

GROUND THREE:

Detention endangers Oleg Kharchenko's life given his medical condition.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Oleg Kharchenko's blood pressure has been measured at 200/160. He needs three medicines every day and continuous monitoring. He has episodes of rapid heartbeat with severe tremor of the hands, and disturbances of vision and coordination. He has a spinal deformity and damage to both knees; under stress he cannot walk. [redacted] He has no diagnosis and has never been evaluated here, but his family fears that the trauma of that imprisonment, revived by this one, will stop him asking for medical help from the people now holding him. They do not know whether he has his medicine.

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes ☐ No

GROUND FOUR:

Mandatory detention cannot apply; Oleg Kharchenko has no conviction.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Oleg Kharchenko has never been arrested or convicted of any offense in the United States. Respondents have served no charging document and have identified no conviction of any kind as a basis for holding him.

(b) Did you present Ground Four in all appeals that were available to you?

❒ Yes ❒ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: Order Oleg Kharchenko's immediate release. In the alternative, order a bond hearing within seven days at which the government must justify custody. Restrain Respondents from transferring him out of this District or removing him from the United States pending this petition. Order USCIS to decide his asylum application, filed 04/19/2017 and interviewed 10/08/2025, forthwith: the only reason given for his arrest was an expired visa, which a grant of asylum ends. Order production of the detention file and all blood-pressure records.

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 09/25/2026

Signature of Petitioner

Signature of Attorney or other authorized person, if any

Yevheniia Nikolaichuk
Next friend of Oleg Kharchenko, appearing pro se
Knoxville, Tennessee