

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

_____)	
KSENIIA PETROVA,)	
)	
Petitioner-Plaintiff,)	
)	
v.)	Case No. 2:25-cv-00240-CR
)	
U.S. DEPARTMENT OF HOMELAND)	
SECURITY; KRISTI NOEM, Secretary of the)	
U.S. Department of Homeland Security, in her)	
official capacity; THERESA MESSIER,)	
Superintendent, Chittenden Regional Correctional)	
Facility, in her official capacity; PETE R. FLORES,)	
Acting Commissioner, U.S. Customs and Border)	
Protection; JULIO CARAVIA, Director, U.S.)	
Customs and Border Protection; PAMELA J.)	
BONDI, U.S. Attorney General; PAUL)	
CAMBELL, Warden, Ouachita Correctional Center;))	
KEITH DEVILLE, Warden, Richwood Correctional))	
Center,)	
)	
Respondents-Defendants.)	
_____)	

**FEDERAL RESPONDENTS-DEFENDANTS' ANSWER TO
PLAINTIFF'S AMENDED COMPLAINT**

Federal Respondents-Defendants, through undersigned counsel, answer¹ the amended complaint of Plaintiff Kseniia Petrova, on information and belief, as follows:

AFFIRMATIVE DEFENSES

Federal Defendants deny that Plaintiff is entitled to relief and maintain that this action should be dismissed based on the affirmative defenses raised in their motion to dismiss. ECF No. 37, Federal Resp. Mot. to Dismiss (Apr. 25, 2025), but recognize the district court's contrary

¹ Federal Defendants file this answer with leave provided by the Court on December 16, 2025.

ruling. *Petrova v. U.S. Dep't of Homeland Sec.*, No. 2:25-cv-240-cr, — F. Supp. 3d —, 2025 WL 2772764 (D. Vt. Sept. 26, 2025).

SUMMARY OF THE CASE

1. Paragraph 1 contains a summary of Plaintiff's legal claims and request for relief, to which no response is required. Federal Defendants deny that it engaged in any arbitrary, capricious, or unlawful action involving Plaintiff's immigration inspection at Boston Logan Airport on February 16, 2025.

2. Paragraph 2 contains a summary of Plaintiff's legal claims and request for relief, to which no response is required. Federal Defendants deny that the habeas petition sought limited relief authorized by 8 U.S.C. § 1252(e)(4)(B). Further, Plaintiff is no longer in federal immigration custody and the district court dismissed Plaintiff's habeas corpus petition in *Petrova v. U.S. Dep't of Homeland Sec.*, No. 2:25-cv-240-cr, — F. Supp. 3d —, 2025 WL 2772764 (D. Vt. Sept. 26, 2025).

3. Federal Defendants deny that a Form I-860, Notice and Order of Expedited Removal was not issued to Plaintiff. Additionally, Federal Defendants deny that Plaintiff is not subject to limitations set forth in 8 U.S.C. § 1252(e)(4)(B). Plaintiff is no longer in federal immigration custody and the district court dismissed Plaintiff's habeas corpus petition in *Petrova v. U.S. Dep't of Homeland Sec.*, No. 2:25-cv-240-cr, — F. Supp. 3d —, 2025 WL 2772764 (D. Vt. Sept. 26, 2025), so Federal Defendants deny that Plaintiff is entitled to relief under 28 U.S.C. § 2241.

4. In Paragraph 4, Federal Defendants deny Plaintiff's characterization of the basis for her inadmissibility determination. The Form I-860, Notice and Order of Expedited Removal prepared by CBP identifies the basis for Plaintiff's inadmissibility to the United States.

5. In Paragraph 5, Federal Defendants deny that Plaintiff's continued detention was based on CBP's inadmissibility finding and visa cancellation. Instead, Federal Defendants contend that the detention was based on Plaintiff's claim of fear to return to Russia. Federal Defendants deny Plaintiff's conclusory statements that CBP's and ICE's actions were unlawful.

6. Federal Defendants admit that U.S. Marshals arrested and transported Plaintiff for criminal proceedings on May 14, 2025. Federal Defendants lack sufficient knowledge or information about when that transfer to criminal custody occurred and, therefore, deny the allegation that the transfer occurred "within two hours" of a hearing scheduling a future bail hearing.

7. Federal Defendants admit that Plaintiff was previously detained in Monroe, Louisiana. Federal Defendants admit that Plaintiff was transferred by U.S. Marshals from Louisiana to Massachusetts to address criminal charges in *United States v. Kseniia Petrova*, 25-cr-10272-LTS (D. Mass.).

8. Paragraph 8 is denied. The district court authorized Federal Respondents to re-detain Plaintiff if she violates the conditions of her release from immigration detention. ECF No. 89, Order (June 16, 2025).

JURISDICTION

9. Admit that Plaintiff invokes the U.S. Constitution, Immigration and Nationality Act, and Tariff Act of 1930 as grounds for jurisdiction. Federal Defendants deny that the district court may provide any relief under any of those statutes for the reasons raised in Federal Defendants' motion to dismiss. ECF No. 37, Federal Resp. Mot. to Dismiss (Apr. 25, 2025).

10. Paragraph 10 is denied. Plaintiff is no longer in federal immigration custody and the district court dismissed Plaintiff's habeas corpus petition as moot in *Petrova v. U.S. Dep't of Homeland Sec.*, No. 2:25-cv-240-cr, — F. Supp. 3d —, 2025 WL 2772764 (D. Vt. Sept. 26, 2025).

11. Admit that this Court generally has jurisdiction to review agency action under the Administrative Procedures Act. Deny that the district court has jurisdiction to review a visa revocation by a U.S. Customs and Border Protection officer or that the government's waiver of sovereign immunity extends to determinations about visa revocation, inadmissibility, or admission to the United States.

12. Deny that Freedom of Information Act (FOIA) claims may be brought through a habeas corpus petition. Plaintiff's Freedom of Information Act claims were all dismissed for improper venue. *Petrova v. U.S. Dep't of Homeland Sec.*, No. 2:25-cv-240-cr, — F. Supp. 3d —, 2025 WL 2772764 (D. Vt. Sept. 26, 2025).

VENUE

13. Deny that venue over Plaintiff's APA and FOIA claims is proper in the District of Vermont. The district court dismissed Plaintiff's habeas corpus petition in *Petrova v. U.S. Dep't of Homeland Sec.*, No. 2:25-cv-240-cr, — F. Supp. 3d —, 2025 WL 2772764 (D. Vt. Sept. 26, 2025).

REQUIREMENTS OF 28 U.S.C. § 2243

14. Paragraph 14 is denied. Paragraph 14 includes information regarding the petition for writ of habeas corpus and an order to show cause, which are no longer active aspects of the case because the district court dismissed Plaintiff's habeas corpus petition. *Petrova v. U.S. Dep't*

of Homeland Sec., No. 2:25-cv-240-cr, — F. Supp. 3d —, 2025 WL 2772764 (D. Vt. Sept. 26, 2025).

15. Paragraph 15 includes Plaintiff’s summary of the habeas statute and U.S. Supreme Court caselaw recognizing habeas corpus, to which no response is required. Federal Defendants deny that Plaintiff’s immigration detention was unlawful.

PARTIES

16. Federal Defendants admit that Plaintiff is a native of Russia and resides in Boston, Massachusetts. Federal Defendants also admit that Plaintiff has conducted research at Harvard University since May 2023. However, Federal Defendants lack sufficient knowledge to admit or deny Plaintiff’s characterization that she possessed a “a valid J-1 exchange visitor visa” since 2023. Federal Defendants deny that Plaintiff is currently being detained in immigration custody in Monroe, Louisiana.

17. Federal Defendants admit that the U.S. Department of Homeland Security (DHS) and its component agencies are responsible for the enforcement of the Immigration and Nationality Act and the Tariff Act of 1930 to the extent that this statement identifies two of numerous legal authorities provided for by Congress. Federal Defendants deny Plaintiff’s characterization of the separate roles and authorities of CBP and ICE.

18. Federal Defendants admit that the Secretary of the Department of Homeland Security is being sued in her official capacity.

19. Federal Defendants deny that Pete R. Flores is sued in his official capacity as he is no longer the Acting Commissioner of the U.S. Customs and Border Protection. The current commission of U.S. Customs and Border Protect is Rodney S. Scott.

20. Federal Defendants admit that Julio Caravia is the Area Port Director, Office of Field Operations, CBP, and is responsible for overseeing CBP operations at Logan International Airport in Boston, Massachusetts.

21. Paragraph 21 is admitted.

22. Paragraph 22 is admitted.

23. Paragraph 23 is admitted to the extent that it identifies Keith Deville as the Warden of the Richwood Correctional Center. Paragraph 23 is denied to the extent that it alleges that Plaintiff will be returned to that facility upon release from criminal custody because Plaintiff remains at liberty subject to the conditions established by the district court. ECF No. 89, Order (June 16, 2025).

LEGAL FRAMEWORK

I. PROCESS AND PENALTIES FOR FAILURE TO DECLARE

Paragraphs 24 through 27 characterize the statutory and regulatory framework of the duty to declare merchandise upon arrival in the United States and consists of legal conclusions to which a response is not required. Respondents respectfully refer the Court to the applicable statute, implementing regulations, and agency mitigation guidelines for a full and accurate statement of their content.

24. Federal Defendants deny that the Tariff Act of 1930 encompasses all of the legal authority U.S. Custom and Border Protection possesses to regulate commerce and immigration. Paragraph 24 is otherwise admitted to the extent that it quotes 19 U.S.C. § 1497.

25. Federal Defendants deny that the Tarriff Act of 1930 or the quoted legal authorities encompass all of U.S. Custom and Border Protection's legal authority to regulate commerce and immigration. Paragraph 25 is otherwise admitted.

26. Federal Defendants deny that the Tariff Act of 1930 or the quoted legal authorities encompass all of U.S. Custom and Border Protection's legal authority to regulate commerce and immigration. Paragraph 26 is otherwise admitted.

27. Federal Defendants deny that the Tariff Act of 1930 or the quoted legal authorities encompass all of U.S. Custom and Border Protection's legal authority to regulate commerce and immigration. Paragraph 27 is otherwise admitted to the extent that it identifies possible civil penalties for failing to declare.

II. SMUGGLING

28. Federal Defendants admit that 18 U.S.C. § 545 criminalizes smuggling. Federal Defendants deny that a district court can review criminal statutes under the Administrative Procedure Act.

29. Paragraph 29 is denied.

III. EXPEDITED REMOVAL PROCESS

Paragraphs 30 through 37 paraphrase and characterize the statutory and regulatory framework pertaining to the expedited removal of inadmissible travelers to the United States and consists of legal conclusions to which a response is not required. Federal Defendants respectfully refer the Court to the applicable statute and implementing regulations for a full and accurate statement of their content. To the extent that a response is required, Federal Defendants:

30. Admit that immigration officers have legal authority to conducted expedited removal proceedings under 8 U.S.C. § 1225. Federal Defendants deny that expedited removal "effectively concludes" with an inspection by an immigration officer where, as here, a noncitizen asserts a fear of returning to their home country.

31. Admit that noncitizens who lack a valid entry document or who commit fraud may be subjected to expedited removal procedures.

32. Paragraph 32 is admitted.

33. Admit that the credible fear interview process and the credible fear review process screens for claims of persecution or protection under the regulations implementing the Convention Against Torture.

34. Paragraph 34 is admitted to the extent that it quotes applicable regulations and statutes and describes the credible fear review process before immigration judges. Federal Defendants deny Plaintiff's characterization that the credible fear interview process is "rudimentary."

35. Paragraph 35 is admitted.

36. Paragraph 36 is admitted.

37. Paragraph 37 is admitted.

IV. VISA CANCELLATION BY CBP OFFICERS

Paragraphs 38 and 39 characterize the statutory and regulatory framework of the visa cancellation process followed by CBP and consists of legal conclusions to which a response is not required. Federal Defendants respectfully refer the Court to the applicable statute and implementing regulations for a full and accurate statement of their content. To the extent that a response is required, Federal Defendants:

38. Paragraph 38 is admitted.

39. Federal Defendants admit that immigration officers are authorized by the Secretary of State of revoke visas under 22 C.F.R. § 41.122(e). Federal Defendants deny that 22 C.F.R.

§ 41.112(e) is a currently promulgated regulation or that it implicates the visa revocation authority of immigration officers.

V. FREEDOM OF INFORMATION AND PRIVACY ACT

40-43. This Court dismissed Plaintiff's Freedom of Information Act claim for improper venue, which is addressed in Paragraphs 40, 41, 42, 43. *Petrova v. U.S. Dep't of Homeland Sec.*, No. 2:25-cv-240-cr, — F. Supp. 3d —, 2025 WL 2772764 (D. Vt. Sept. 26, 2025). Therefore, Federal Defendants will not further address Paragraphs 40-43.

STATEMENT OF FACTS

44. Federal Defendants admit that Plaintiff is a 30-year-old research scientist born in Russia. Federal Defendants admit that on May 11, 2023, Plaintiff was admitted to the United States on a J-1 visa. Federal Defendants lack sufficient information or knowledge to admit or deny Plaintiff's characterization of the J-1 visa.

45. Federal Defendants lack sufficient information or knowledge to admit or deny the allegations about Plaintiff's research and, therefore, deny them.

46. In the first sentence of Paragraph 46, Federal Defendants admit that Plaintiff was previously admitted to the United States on a J-1 visa. As for the second sentence of the paragraph, Federal Defendants lack sufficient information or knowledge to admit or deny the allegation that she has never violated "the terms of conditions of her nonimmigrant status."

47. Federal Defendants lack sufficient information or knowledge to admit or deny the allegations in Paragraph 47 and, therefore, deny them.

48. In Paragraph 48, Federal Defendants lack sufficient information or knowledge to admit or deny the allegations claimed in the paragraph and, therefore, deny them.

49. Federal Defendants lack sufficient information or knowledge to admit or deny the

Allegations in Paragraph 49 and, therefore, deny them.

50. Federal Defendants lack sufficient information or knowledge to admit or deny the allegations in Paragraph 50 and, therefore, deny them.

51. Federal Defendants lack sufficient information or knowledge to admit or deny the allegations in Paragraph 51 and, therefore, deny them.

52. Federal Defendants lack sufficient information or knowledge to admit or deny the allegations in Paragraph 52 and, therefore, deny them.

53. Federal Defendants admit that Plaintiff presented a J-1 visa to a CBP officer who, during the primary inspection, placed an admission stamp in her passport and generated an I-94 Record of Admission. Federal Defendants aver that Plaintiff was still subject to further inspection by CBP at that time.

54. Federal Defendants admit that the Plaintiff was approached by CBP personnel in the baggage inspection area following a CBP canine alert to her luggage.

55. Federal Defendants deny Paragraph 55 to the extent that it provides for a requirement by CBP to take action against Plaintiff pursuant to 19 U.S.C. § 1497. Federal Defendants admit that Plaintiff was not issued a penalty for failure to declare and therefore was not provided any related documentation.

56. Federal Defendants admit that the frog embryos were seized but deny that the CBP officer was required to refer seizure of the frog embryos to the CBP Fines, Penalties, and Forfeitures Office to issue a formal notice of seizure. Federal Defendants admit that no notice of seizure was issued to Plaintiff.

57. Federal Defendants deny any obligation to address Plaintiff's self-alleged customs violation. Federal Defendants admit that Plaintiff was escorted by CBP personnel to conduct an

interview as part of her secondary inspection following the discovery of frog embryos in her luggage.

58. Federal Defendants deny Paragraph 58 as a mischaracterization of CBP's secondary inspection of Plaintiff. The sworn statement reviewed and signed by Plaintiff is an accurate description of questions asked and answered during that interview.

59. Federal Defendants admit that, following the secondary inspection, Plaintiff was found inadmissible to the United States and her J-1 admission stamp was cancelled, and I-94 was updated to reflect that an expedited removal order was being issued.

60. Admit that "CANCELLED-BOS" and "22 CFR 41.122" were written on Plaintiff's visa by a CBP officer.

61. Paragraph 61 is denied.

62. Federal Defendants deny the first two sentences of Paragraph 62. Federal Defendants admit that, in the third sentence, Plaintiff was admitted to the United States on previous occasions. However, Federal Defendants lack sufficient information or knowledge to admit or deny that Plaintiff "always maintained her lawful nonimmigrant status" and, therefore, denies that allegation.

63. Paragraph 63 summarizes a statement released by the U.S. Attorney's Office in the District of Massachusetts related to the federal criminal prosecution of the Plaintiff for smuggling goods into the United States in violation of 18 U.S.C. § 545. Federal Defendants deny Plaintiff's characterization of the statement, which speaks for itself.

64. Admit Plaintiff was found to be inadmissible, subject to expedited removal that carries a five-year bar on re-entry, and was offered the ability to withdraw her application for admission.

65. Paragraph 65 is admitted.

66. Federal Defendants lack sufficient information or knowledge to admit or deny that Plaintiff's Schengen visa remains valid and, therefore, denies the allegation. Federal Defendants admit that Plaintiff's passport contains a visa for the Schengen region with stated validity until



67. Federal Defendants admit that Plaintiff was asked about whether she had a fear of returning to her country of citizenship, Russia, but deny that the question was asked "instead of" granting Plaintiff the ability to withdraw her application for admission.

68. Federal Defendants admit that Plaintiff expressed a fear of returning to her country of citizenship, Russia.

69. Paragraph 69 is denied.

70. Federal Defendants admit that Plaintiff was issued an expedited removal order following her claim of fear to return to Russia, which was documented in a CBP Form I-860 that included the basis of CBP's inadmissibility determination.

71. Federal Defendants admit to Paragraph 71 to the extent that it refers to the "Order of Removal" section in the Form I-860 that was not executed at the time to avoid effectuating her removal from the United States as a result of Plaintiff's claim of credible fear.

72. Federal Respondents admit that Plaintiff was detained in Chittenden, Vermont, by Immigration and Customs Enforcement temporarily while awaiting placement and transfer logistics prior to her transfer to Oakdale, Louisiana.

73. Federal Respondents admit that Enforcement and Removal Operations in Boston received a parole request that contained a letter from her attorney, a foreign research lab, a Harvard

professor, and Senator Markey. The parole request was not adjudicated because of Plaintiff's transfer.

74. Paragraph 74 is admitted.

75. Federal Defendants admit that Plaintiff was transferred to the Richwood Correctional Center in Monroe, Louisiana on February 24, 2025. Federal Defendants lack sufficient information or knowledge to admit or deny whether Plaintiff's attorney was aware of her transfer.

76. Deny that Plaintiff was not afforded an opportunity to have a credible fear interview because the *Padilla* class action settlement required Enforcement and Removal Operations to serve a discretionary Notice to Appear where Plaintiff's credible fear claim was not referred to an asylum officer within a specified timeframe. Admit that U.S. Immigration and Customs Enforcement issued a Notice to Appear in removal proceedings under 8 U.S.C. § 1229a on March 7, 2025.

77. Federal Defendants lack sufficient information or knowledge to admit or deny Paragraph 77.

78. Paragraph 78 is admitted to the extent that Immigration and Customs Enforcement issued a letter on March 26, 2025, denying Plaintiff parole after determining that she failed to demonstrate that she was not a risk of flight.

79. Paragraph 79 is admitted to the extent that Immigration and Customs Enforcement issued a letter on March 30, 2025, denying Plaintiffs parole after determining that she failed to demonstrate that she was not a flight risk or danger to the community.

80. Paragraph 80 is admitted to the extent that it identifies the FOIA request submitted by Plaintiff to CBP.

81. Paragraph 81 is denied. U.S. Customs and Border Protection issued a response to Plaintiff's counsel on August 1, 2025. Plaintiff's counsel filed an appeal of CBP's decision on October 22, 2025, which remains pending.

82. Admit that U.S. Marshals arrested Plaintiffs to transport her for criminal proceedings on May 14, 2025. Federal Defendants lack insufficient knowledge or information about when that transfer occurred and, therefore, deny the allegation that the transfer occurred "within two hours" of a hearing that scheduled a future bail hearing.

83. Admit that a criminal complaint against Plaintiff in *United States v. Kseniia Petrova*, 25-cr-10272-LTS (D. Mass.), was unsealed on May 14, 2025.

84. Admit that U.S. Immigration and Customs Enforcement lodged an immigration detainer against Plaintiff.

85. Paragraph 85 is admitted.

86. Paragraph 86 is admitted.

87. Paragraph 87 is denied. Plaintiff was transferred to Massachusetts and released from criminal and immigration detention.

88. Paragraph 88 is admitted.

89. Paragraph 89 is admitted.

90. Paragraph 90 is denied.

91. Paragraph 91 is denied.

92. Federal Defendants lack sufficient information or knowledge to admit or deny Plaintiff's characterization the impact her immigration detention had on her research.

CLAIMS FOR RELIEF

COUNT 1

Violation of Administrative Procedures Act 5 U.S.C. § 706

93. Federal Defendants admit that Plaintiff reincorporates her factual allegations and reincorporates the answers, denials, defenses, and responses above.

94. Paragraph 94 is denied.

95. Paragraph 95 is denied.

96. Paragraph 96 is denied.

97. Paragraph 97 is denied.

98. Paragraph 98 is denied.

99. Paragraph 99 is denied.

COUNTS 2-4

Violation of FOIA, 5 U.S.C. § 552.

100-113. Plaintiff's Freedom of Information Act claims were all dismissed for improper venue. *Petrova v. U.S. Dep't of Homeland Sec.*, No. 2:25-cv-240-cr, — F. Supp. 3d —, 2025 WL 2772764 (D. Vt. Sept. 26, 2025). Federal Defendants therefore deny Paragraphs 100 through 113.

COUNT 5

Violation of Due Process

114. Federal Defendants admit that Plaintiff reincorporates her factual allegations and reincorporates the answers, denials, defenses, and responses above.

115. Paragraph 115 is a statement of law to which no response is required. To the extent that a response is required, Federal Defendants admit that the due process clause applies to persons within the United States.

116. Paragraph 116 is denied.

117. Paragraph 117 is denied.

118. Paragraph 118 is denied.

PRAYER FOR RELIEF

The remainder of the complaint constitutes Plaintiff 's prayer for relief, to which no response is required. To the extent that a response is deemed necessary, Federal Defendants deny Plaintiff is entitled to any remedy whatsoever.

Federal Defendants deny that Plaintiff is entitled to any relief with respect to her dismissed habeas corpus petition and Freedom of Information Act Claims because they were dismissed by the district court. *Petrova v. U.S. Dep't of Homeland Sec.*, No. 2:25-cv-240-cr, — F. Supp. 3d — , 2025 WL 2772764 (D. Vt. Sept. 26, 2025).

Federal Defendants further deny that Plaintiff is entitled to an award of attorney's fees, costs, or expenses under the Equal Access to Justice Act or any other statute, regulation, rule, or order, including 5 U.S.C. § 552(a)(4)(E).

All allegations in paragraphs 1 through 118 that have not been specifically admitted are denied.

Defendants reserve the right to plead the affirmative defense of failure to state a claim and any and all other affirmative defenses as they become known or available to them during the course of this litigation.

Respectfully submitted,

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