

**United States District Court**  
for the  
**Middle District of Georgia**

Elena Mukhanova

Petitioner

v.

Case No. 4:25-cv-102-CDL-AGH  
28 U.S.C. §2241

Kristi Noem, Secretary of  
the Department of Homeland Security;

DHS/ICE Office of Chief Counsel – SDC;

US Department of Homeland Security;

US Immigration and Customs Enforcement


Respondents

**PETITIONER BRIEF  
IN SUPPORT OF WRIT OF HABEAS CORPUS**

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## I. INTRODUCTION

Petitioner, Elena Mukhanova (A-number ) is currently in detention at Stewart Detention Center, Lumpkin Georgia. She respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. §2241, challenging the legality of her continued detention by ICE, for over 11 months without sufficient grounds, solely because she holds a Russian Federation passport. Petitioner requests that this Court order her immediate release on reasonable terms from ICE custody because her continued detention violates of the Due Process Clause of the Fifth Amendment to the U.S. Constitution.

## II. PARTIES

### 1. Petitioner:

Elena Mukhanova (A-number ) currently detained at Stewart Detention Center, 146 CCA Road, PO Box 248, Lumpkin, GA 31815

### 2. Defendants:

Kristi Noem, Secretary of the US Department of Homeland Security;

DHS/ICE Office of Chief Counsel – SDC;

US Department of Homeland Security;

US Immigration and Customs Enforcement (ICE).

## III. JURISDICTION & VENUE

This court has jurisdiction under 28 U.S.C. §2241, the Suspension Clause, U.S. Constitution Art. 1, § 9, cl. 2 of the U.S. Constitution.

Federal courts also have federal question jurisdiction, through the APA 5 U.S.C. §702 (establishing the right of review for a person suffering a legal wrong due to agency action).

Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See, e.g., Zadvydas, 533 U.S. At 687.*

Venue lies in the United States District Court for Middle District of Georgia, the judicial District where Petitioner is detained – Stewart Detention Center, 146 CCA Road, Lumpkin, GA, 31815.

#### **IV. FACTS OF THE CASE**

##### **Introduction to the Case**

1. Petitioner Elena Mukhanova is a citizen of Russian Federation. Petitioner was born in July 5, 1988, in Moscow, where she lived till she had to flee Russia. Petitioner graduated from a university in 2011 and worked as an interior designer at several companies. Petitioner worked as a flight attendant at “Aeroflot – Russian airlines” from 2015 to 2018. Petitioner volunteered doing environmental work and educational event organizing.

2. In 2024 Petitioner had to leave Russia due to persecution by police for her political views. Petitioner had been trying to receive CBP appointment date since March 8, 2024 using CBP-1 application adopted by U.S. government for refugees seeking political asylum. Since the Petitioner was in Mexico the entire time, she did not feel safe.

##### **Main Facts of the Case**

3. On May 9, 2024, Petitioner crossed USA border at the official admission point Otay Mesa where right after crossing the border she handed over her passport to CBP officer and requested a political asylum.

4. At the border Petitioner presented all the documents she had to prove her identity - internal Russian passport and international Russian Passport. Petitioner answered all the CBP officer's questions, where confirmed her reasons for crossing the border and seeking asylum in the U.S.

5. After being detained at Otay Mesa border (24 hours) and then San Ysidro (4 days) Petitioner was transferred to Otay Mesa Detention Center for 5 days more and then to Stewart



Detention Center (SDC) where she has been detained for almost 11 months until now.

6. 14 days after transfer to SDC on June 3 Petitioner underwent a Credible Fear Interview. On June 5 Petitioner was informed about a positive decision at the interview. At that moment Petitioner met all the criteria for being released under supervision: she had an address and a sponsor in USA, US government never declared Petitioner dangerous, and proved that she was a refugee. However Petitioner has not been granted a supervision release for the following 11 months without any reasonable grounds.

ICE officers did not provide any official notice informing that she is required to be detained during all of her court proceedings as well as any explanation, the only reason being (obtain through request on the Talton tablet) parole was not approved by the upper management.

This raises legitimate questions about the observance of the principles of equal treatment and non-discrimination enshrined in both international and national acts (*See* Article 31 of the Refugee Convention (1951)). Article 31 of the Refugee Convention (1951) states: "States shall not impose penalties on refugees for their illegal entry or presence if they come directly from a territory where their life or freedom was threatened and are seeking asylum". The Petitioner complied with all these requirements by immediately presenting herself to the authorities upon crossing the border and proving in an Credible Fear Interview of her return in home country.

And also violates fundamental human rights, in particular the right to liberty and security of person guaranteed by Article 9 of the International Covenant Civil and Political Rights: "Everyone has the right to liberty and security of person. No one shall be arbitrarily arrested or detained... Anyone arrested shall be promptly informed of the reasons for his arrest and of any charge against him".

7. During the summer 2024 Petitioner almost had no communication with ICE besides requests on the Talton tablet answers to which did not clarify reasons for prolonged detention. In

spite of a notice on a wall of the dorm informing that officers of ICE are to visit the detainees according to the "Deportation Officer Visitation Schedule" three times a week, ICE officers almost did not come to the dorm from the middle approximately three months after June 14, 2024. *See attachment F.*

8. At the end of October a different ICE officer was assigned to Petitioner's case. The new officer informed in person that request for a supervised release was sent. After October, when the Ice officer changed, communication with ICE improved and he was assisting with release, but all attempts to be released on parole were rejected by upper management for the following 6 months ether.

9. The only way of communication with ICE representatives was sending requests via tablets. It sometimes took 8-10 days for the ICE officer to respond and no clear answers were provided. Documents to prepare for the court were never provided as well. The officer dis-informed regarding the courts (wrong dates were given as well as the wrong instructions to inquire about parole or bond at the final court).

10. In August, 2024, Petitioner filed for a bail hearing, but on the day before the bail hearing an ICE officer informed her that according ICE information she can not be released on bail. At the trial, Petitioner withdrew her paperwork and reported the information she had received from ICE. The Prosecutor informed the Immigration Judge that Petitioner was not eligible for bail under the "Matter of MS".

#### **Discrimination policy of ICE**

11. One of the reasons of such a groundless long detention of Petitioner could be the policy of ICE/DHS towards the citizens from several countries including Russia, Georgia, Uzbekistan. Petitioner is of such an opinion due to the information provided to Petitioner by ICE officer during a conversation in person in June 14, 2024, when ICE officer told her that these is a "ban" or

“freeze” for the citizens of Russia, and several other countries and they will not be granted supervised release for a certain time. Following that conversation the isolation followed when ICE officers stopped coming over to the unit and responding with definite information via tablet. The situation with the constantly prolonged of people from the above-mentioned countries lasted 6 months till December 2024. After mid December citizens of these countries started to be released in different states on bond or parole. However the detainees at SDC continue being detained. The detainees from these countries are still being refused release on parole or bond (referring either on “Matter of MS” or on the grounds of detainee is arriving alien). If they lose final court their deportation takes a very long time (6-9 months after Final order of deportation) if they win a court decision is appealed and detention continues. Thus the ICE officers utilize any possible measure to prevent the citizens of these countries to be released.

The three court proceedings takes 6-9 months and appeal another 6+ months and it can be appealed again.

Petitioner understands that in some cases safety concerns justify some harsher procedures however Petitioner believes that in this case the reasons for such a prolonged detention are not safety concerns but bureaucratic problems in the management of ICE/DHS (sometimes ICE officers directly answering Petitioner's questions by saying that they were not releasing her because she is Russian; when Petitioner asked that she is not dangerous or flight risk so why they were keeping her in detention for so long, they said that they could do nothing about it). If ICE management were indeed operating with safety concerns in mind they would have granted supervised release to at least some refugees from aforementioned countries after some additional checks. While in most cases ICE does release refugees of other nationalities on supervision immediately after passing the Credible Fear Interview (if they meet all other conditions). Petitioner is not aware of any Russian national in the same situation who was let go on supervised release from SDC starting June 2024 (in



the exception of one woman who filed Habeas Corpus as well). When asked about supervised release ICE responded that the nationals of mentioned countries were to undergo additional checks but the by so called “check” by the upper management means that if a detainee is Russian, Georgian or Uzbek then he or she is not to be released. Petitioner can not be considered dangerous and be isolated from society and family, be detained solely based on them being Russian. This is a violation of equality and constitution of USA.

12. According to the ICE officers information, her deportation to a third country is also impossible because she is Russian. In essence, this makes the Petitioner a hostage of the system, because it is dangerous for her to return, she cannot go to a third country and she cannot leave the detention center.

13. Refugees from Russia are also people, they need protection more than ever in recent times, given what is happening now in Russia – the escalation of persecution of dissidents, torture in prisons, a cruel and cynical attitude toward human rights.

#### **Obstacles in Preparation for Courts**

14. When Petitioner was preparing for the court she faced the following difficulties:

- Several attorneys refused to work on the case openly admitting that winning a court at the detention is extremely difficult.

- CoreCivic officers refused access to the proof located at the luggage that was requested via Talton tablet, multiple times Petitioner addressed the Unit Manager in person informing about the court date and the due date of submitting the documents. Petitioner was given access to the property only a month after the request was sent, the following day after the court, when it was too late.

- Simple requests like making copies and sending fax could take up to 4 days.

- Not enough time was given for law library. Out of the approved 3 hours only an hour and a half was in fact allowed after which Petitioner was returned to the dorm without any explanation.



– Approvals of calls with the lawyer were given irregularly: a limited 1 hour for a call was allowed, sometimes it was given only 1-2 times a week, despite lawyer asking 4–5 days (which constituted only 1–2 hours of legal consultation per week despite the lawyer's requests on the grounds of there being not that much time to prepare for the court.)

### **Conditions of Detention**

15. Detentions centers for immigrants are not prisons and utilized not as a punishment but a deterrence for the society from immigrants in case they present a danger or till their cases resolved. In all the bulletins or documents it is emphasized that the detention centers are for detainees, not inmates. However according to the testimonies of people who were held in both federal prisons and SDC the conditions of detention at the prisons were much better; the food, the medical, officer's treatment of the inmates was more human and respectful.

16. In the handbook it is said that "all the dishes contain a balanced nutritious diet, approved by a nutritionist, well prepared and served in healthy, clean and safe environment."

However in fact:

– Most of the time not everything on the menu is present on the actual tray. At the Petitioner's Unit coffee or other drinks are never served though they are on the menu and being served in other units.

– The food is mostly unhealthy and of poor quality. Bread, buns of poor quality, powdered mashed potatoes, no fat beside margarine, artificial cheese, low-quality bologna.

– There are small portions of vegetables and the vegetables are of poor quality (potatoes with black rotten spots, broccoli without nutrition parts) Fruits rarely served (apple once a week).

– It is impossible to improve the diet even by purchasing food items at the commissary since there are no healthy diet options.

– The food is often uneatable and goes to garbage (over cooked pasta or rice, powdered

mashed potatoes with lumps etc).

– There were times when food was spoiled – bread with mold, bad smelling bologna. Complaints for spoiled food are ignored. Sometimes food are replaced and sometimes detainees are told that "it happens" or "everyone get the same" and refused to replace the food.

– Breakfast lunch and dinner are served at different times not according to schedule. Time between breakfast/lunch or lunch/dinner is sometimes up to 9 hours. There were cases when between lunch and dinner there were up to 12 hours. For examples on March 17, 2025, when lunch was at 11:30 am and dinner at 11:30 pm.

17. Schedule is constantly disrupted and not only when it comes to meal but also count times, rec-yard times and shutdowns.

18. During count time the detainee have to stay on their beds and are not allowed to use the phones, the tablets, the showers. Using toilet only is allowed. Sometimes count times take many hours in a row.

19. Shutdown can be at 10 pm according to schedule, sometimes it shifts and lights don't go out till midnight. There was been a time when officer never turned all the lights off all through the night or turned the lights back in the middle of the night and left them on.

20. Even when the lights are off they are too bright and that is enough to prevent one from sleeping.

21. Sometimes there is no hot water for several days and the detainees are forced to take cold showers. Once there was no water at all for 11 hours from 11:30 am till midnight. The officers gave out one bottle of water 0.5 per person for that whole time no other drinks were offered. The officers wouldn't allow using toilets.

22. Medical help is offered rarely and randomly. The petitioner was sometimes not called at all for a medical request, sometimes she was called, but after a very long time (from 1 to 3 weeks).

Other detainees were also denied medical care for a long time and were taken only in case of serious deterioration.

It constantly happens that there is no soap in the common area (it is not provided), soap dispensers don't work considering then up to 45 people share the limited space. Sometimes toilet paper or pads are not provided and the detainees have to beg for hygiene items. Shampoo and tooth brushes are sometimes not provided.

23. The handbook states that the detainees are to look neat and clean. The clothes shouldn't be torn ordinary. However the provided clothing often has dirty stains that don't come off, it is faded, has holes and workout. When shoes could no longer be used sometimes they are not replaced for a while and the officers say that there are no shoes in stock and offer used ones or to continue wearing the old torn ones.

24. The blankets are very thin more like cotton coves and don't keep warm at night. Petitioner and other detainees sleep covered with jean jackets.

25. At the housing units it can be very cold due to air conditioning and multiple complaints about it don't help (The answer usually is that air conditioning system is frowned and they can't fix it).

26. For example in the summer 2024 Petitioner was transferred to a very cold dorm with AC's leaking cold water that got on some beds. The officers kept Petitioner at that room for 24 hours and returned to a normal housing only after the detainees started complaining about their conditions.

#### **The staff's treatment of the detainees**

27. The officers exhibit disrespect and are rude towards the detainees. They scream without a reason, and use swearing words, give orders discourteously can close the door in front of a detainee that goes to the rec-yard or to meal because the officer thinks that the detainee is not



moving fast enough. Any simple request is perceived as a big favor. A detainee can be told "Get out of my face" or "I don't care".

Instead of resolution of conflicts that start from time to time due to the big amount of people held at the confined space, the officers aggravate the situation. They use collective punishment - for example, if one detainee complains about another the whole dorm could be deprived of using tablet privileges for several days. Using strange chaotic punishment for example the officer locked the bag with all the belongings of the Petitioner at the closet and refused to give it back because she didn't place the bag back down after cleaning fast enough.

28. The conditions at SDC violate 8 amendment of the constitution of the USA forbidding unusually cruel punishment including. These detention conditions should be additional grounds for Petitioner's release.

#### **IN THE FINAL ANALYSIS**

29. Since crossing the border, for 11 months already, the Petitioner has been in detention under the control of ICE/DHS, where they are holding the Petitioner by administrative decision, without providing documents or compelling grounds for such a long detention, violating the Fifth Amendment to the U.S. Constitution, international agreements, human rights, violating their own operating rules, violating the principle of equality on the basis of nationality, pursuing a policy of discrimination against citizen of Russia, Georgia, Uzbekistan.

#### **V. PETITIONER'S HEALTH**

30. All of the aforementioned took place under a constant stress and unfavorable conditions of detention as well as isolation from family and friends which lead to health deterioration. Petitioner lost unhealthy amount of weight, her hair become mostly gray, and first problems with panic attacks appeared. Psychological problems appeared such as constant urge to cry or to sleep, apathy, lack of desire to communicate with others.

31. The Petitioner cannot return to Russia due to fear of persecution and therefore is forced to appeal, even while in detention in these harsh conditions. In this situation, Petitioner's detention can continue for a very long time, up to 2-3 years, provided that ICE appeals the won cases, does not release under supervision even after winning the appeal (if Petitioner wins the appeal of the lost case), does not release on bail and does not grant parole to Russian citizens since June 2024.

32. Petitioner respectfully requests that court consider whether such a long-term detention (11 months and more) under such harsh conditions is justified, given that she is not a criminal and is acting out of desperation. Petitioner requests that ICE provide sufficient justification to justify such a long-term detention under such harsh conditions.

33. The Petitioner understands that the burden of proof lies with her, but asks the court to take into account the fact that she is defending herself and fighting for her freedom without many resources - without a lawyer, without the Internet access and with limited access to work on computer and communication with the outside world.

34. Petitioner knew that upon release under supervision she would go through all immigration processes properly, if she had gone to the CA to the guarantor Murashova Nataliia. But since ICE needed guarantees from a third party, preferably a citizen and relative, Petitioner changed her sponsor and is now asking for parole under the guarantee of her cousin, Svetlana Itlyasheva, FL. With whom she also has a close relationship and who is ready to support Petitioner, upon release from parole.

## **VI. GROUNDS FOR PETITIONER**

### **A. Violation of 28 U.S.C. § 2241**

Under 28 U.S.C. § 2241, federal courts have the authority to review the legality of detention. The Petitioner's continued detention, despite the lack of objective reasons and grounds, is unlawful.

### **B. Violation of the Fifth Amendment to the U.S. Constitution**

Petitioner's continued detention violates the Fifth Amendment's guarantee of due process. The government has failed to provide reasonable justification for her ongoing detention.

### **C. Relevant Precedents**

#### **1. *Zadvydas v. Davis* 533 U.S. 678 (2001)**

"Indefinite detention and violation of the right liberty". In the case of *Zadvydas* the U.S. Supreme Court ruled that the indefinite detention of immigrants without a clear possibility of deportation violates the Fifth Amendment of the U.S. Constitution (due process) as detention without a reasonable time limit is unconstitutional. The U.S. Supreme Court ruled that immigrants cannot be held in detention indefinitely. If detention is prolonged and the government cannot justify it is necessity, the immigrant should be released under supervision. Petitioner's case reflects exactly the circumstances addressed in *Zadvydas*, as she has been unlawfully detained for over 11 months without sufficient justification for her detention and a foreseeable deportation date. Petitioner asylum application is still in process and there are no clear indications that her removal will be possible in the near future, which according to the *Zadvydas* ruling, means her detention is illegal and must be reviewed. The case established that when deportation is unlikely in the near future, detention must be limited to six months since her detention has exceeded this time limit. Elena Mukhanova has been unlawfully detained for over 11 months without sufficient justification for her detention.

#### **2. *Rodriguez v. Robbins*, 715 F. 3d 1127 (9th Cir. 2013)**

The Ninth Circuit Court of Appeals ruled that prolonged detention of immigrants without the right to release violates the U.S. Constitution.

Application: Elena Mukhanova poses no threat and has every reason to be released.

#### **3. *Demore v. Kim*, 538 U.S. 510 (2003)**



The U.S. Supreme Court confirmed that immigration authorities may detain immigrants, but only if there is a proven threat to society.

Application: Elena Mukhanova has no criminal history, has a sponsor, and guarantees compliance with all release conditions.

4. *Flores v. Reno*, 507 U.S. 292 (1993)

Established minimum standards for the detention of immigrants in the U.S.

Application: The conditions at Stewart Detention Center do not meet these standards.

5. *Nielsen v. Preap*, 139 S. Ct. 954 (2019)

The U.S. Supreme Court ruled that the detention of immigrants must meet clear criteria and not be arbitrary.

Application: Elena Mukhanova was detained without objective grounds.

6. *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. 2015)

Determined that detained immigrants have the right to a hearing for release within 6 months of detention.

Application: Elena Mukhanova has been unlawfully detained for longer than this period.

7. *Guerra v. Shanahan*, 831 F.3d 59 (2d Cir. 2016)

Confirmed that detention must be justified by substantial facts, not just an administrative decision.

Application: There are no justified reasons for Elena Mukhanova's detention.

8. *Barrera-Echavarria v. Rison*, 44 F. 3d 1441 (9th Cir. 1995)

Established that immigrants cannot be held indefinitely without proper judicial proceedings.

Application: Elena Mukhanova has been detained for more than 10 months without lawful grounds.

#### **D. Federal Legislation**

9. Immigration and Nationality Act (INA), 8 U.S.C. § 1226(a)

This law gives DHS the authority to detain immigrants but also provides the possibility of release on bond or Parole.

Application: Elena Mukhanova poses no threat, and her detention violates this law.

10. INA § 241(a)(6) (8 U.S.C. § 1231(a)(6))

Defines the grounds for prolonged detention of immigrants but requires that it be justified by necessity.

Application: Elena Mukhanova's detention is not justified.

11. 8 C.F.R. § 241.4

Regulates the process for reviewing decisions on detention and establishes criteria for release.

Application: Elena Mukhanova meets all the criteria for release.

12. United Nations Convention Against Torture (CAT), Article 3

The U.S. is obligated not to return immigrants to countries where they face persecution.

Application: Elena Mukhanova has demonstrated a threat of persecution in Russia.

13. Fifth Amendment to the U.S. Constitution (Due Process Clause)

Protects against arbitrary detention and requires fair judicial proceedings.

Application: Elena Mukhanova's rights to a fair process have been violated.

14. Eighth Amendment to the U.S. Constitution

Prohibits cruel and unusual punishment, including inhumane detention conditions.

Application: The conditions at Stewart Detention Center can be classified as cruel.

15. Administrative Procedure Act (APA), 5 U.S.C. §§ 701-706

Limits arbitrariness in the actions of government agencies.

Application: ICE and DHS have acted with clear procedural violations in relation to Elena Mukhanova.

**E. International Norms Relevant to the Case of Elena Mukhanova**

16. International Covenant on Civil and Political Rights (ICCPR), Article 9

Everyone has the right to liberty and security of person. No one shall be deprived of their liberty except on such grounds and in accordance with such procedures as are established by law.

Application: Elena Mukhanova's detention is arbitrary and illegal, as there are no sufficient legal grounds to justify her prolonged detention under U.S. law. The indefinite nature of her detention violates international standards set out in this provision.

17. European Convention on Human Rights (ECHR), Article 5

Everyone has the right to liberty and security of person. No one shall be deprived of their liberty except in accordance with a procedure prescribed by law.

Application: The detention of Elena Mukhanova violates her right to liberty. It is a disproportionate measure since her detention lacks legal justification and extends beyond reasonable limits.

18. UN Refugee Convention, Article 31

States shall not impose penalties on refugees for their illegal entry or presence if they come directly from a territory where their life or freedom was threatened and are seeking asylum.

Application: Elena Mukhanova, as an asylum seeker, should not be penalized for irregular entry into the US, as her circumstances meet the criteria for refugee status. Her detention while seeking asylum is an unlawful punishment under international law.

19. International Covenant on Economic, Social and Cultural Rights, Article 10

Persons detained shall be protected from cruel, inhuman, or degrading treatment or punishment.



Application: The conditions at SDC, including poor hygiene, inadequate medical care, and prolonged confinement in inhumane conditions, violate the protections provided under this covenant. These conditions subject Elena Mukhanova to cruel, inhuman, and degrading treatment.

The Immigration and Nationality Act allows for discretionary detention but requires periodic review of the detention status. Petitioner's continued detention without such review violates federal law.

20. The Policy provides Petitioner with a discrete opportunity to win her freedom from detention and that opportunity has thus far been withheld from her. The policy is precisely the type of rule ICE is obligated to follow under *Accardi*. In *Damus*, the U.S. District Court for the District of Columbia found that a similarly styled ICE directive from 2009 laying out "procedures ICE must undertake to determine whether a given asylum-seeker should be granted parole" fell "squarely within the ambit of those agency actions to which the [*Accardi*] doctrine may attach, in part because it "establish[ed] a set of minimum protections for those seeking asylum" and "was intended—at least in part—to benefit asylum-seekers navigating the parole process" 313 F. Supp. 3d at 324, 337-38. See *Zadvydas*, 533 U.S. at 690. According to the *Accardi* doctrine, ICE's departure from its own policy is arbitrary, capricious, and contrary to law under the APA and violates Petitioner's due process rights.

## VII. CONCLUSION

Petitioner respectfully requests to take account of that Petitioner has no criminal record and poses no threat to the U.S. Security. She also has strong community ties, and individuals are willing to vouch for her good character and guarantee that she will continue to comply with all immigration requirements. Petitioner ready to present all necessary documents to confirm these facts.

Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;

2. Issue a writ of Habeas corpus for Petitioner's immediate release under reasonable supervision;
3. Grant such other relief as the court deems necessary.

Dated: April 18, 2025

Respectfully submitted,



Elena Mukhanova

A-number: #



Stewart Detention Center

146 CCA Road, P.O. BOX 248

Lumpkin, GA 31815