

United States District Court
for the
Middle District of Georgia

Anna Kolesnikova

Petitioner

v.

Case No. 4:25-cv-101

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

FILED 25 APR 21 PM 8:08 MDG-02

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. §2241

INTRODUCTION

Petitioner, Anna Kolesnikova (A-number XXXXXXXXXX), is currently in detention at Stewart Detention Center, Lumpkin Georgia. She respectfully submits this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. §2241, challenging the legality of her continued detention. Petitioner has been in detention for more than 9,5 months.

PARTIES

1. Petitioner:

Anna Kolesnikova (A-number XXXXXXXXXX), currently detained at Stewart Detention Center, 145 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)

FACTUAL BACKGROUND

1. On May 27, 2024, the Petitioner Anna Kolesnikova (A-number [REDACTED]) arrived at the Port of Nogales together with her husband pursuant to their scheduled CBP-1 appointment. They provided all documentation establishing their identities and their right to meet with an ICE officer.
2. Despite providing the necessary documents and passing the interview with a CBP officer at the border, the Petitioner together with her legal spouse Andrei Kolesnikov (A-number [REDACTED]), who is the main Petitioner in the case, were detained and sent to immigration detention center.
3. In the early of June, 2024, the Petitioner had credible fear interview and received a "positive" response. Despite this, the Petitioner was not released from custody and has remained in custody for over 9,5 months. At the present moment the Petitioner locates at Stewart Detention Center, 146 CCA Road, PO Box 248, Lumpkin, GA 31815.
4. The Petitioner has repeatedly provided the documentation required for release on parole under the care of a sponsor, including evidence of a clean criminal record, letters of support from persons vouching for her good character, and assurances that she will comply with all immigration rules and court proceedings; however, ICE continues to deny requests for her release.
5. The Petitioner was not provided with an official document obliging her to go through all immigration processes in the detention center.
6. The Petitioner had the right to have her detention status reviewed after 180 days from the date of her detention, however, the Petitioner was not given such this opportunity.
7. At a Bond Hearing on February 19, 2025, the Immigration Judge ruled against the Petitioner explaining that the Petitioner was an "arriving alien".
8. The Petitioner does not pose a threat to society, is not a criminal record in any country in the world.
9. The continued detention of Petitioner may extend more than 9,5 months.

GROUND 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 any objective and valid reasons for her ongoing detention.

C. Relevant Precedents

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

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.

Application: Anna Kolesnikova has been unlawfully detained for almost 10 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: Anna Kolesnikova 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: Anna Kolesnikova has no criminal history, has a sponsor, and guarantees compliance with all release conditions.

4. *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018)

The U.S. Supreme Court ruled that detained immigrants have the right to a hearing on their detention.

Application: The refusal to release Anna Kolesnikova violates this precedent.

5. *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.

6. *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: Anna Kolesnikova was detained without objective grounds.

7. *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: Anna Kolesnikova has been unlawfully detained for longer than this period.

8. *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 Anna Kolesnikova's detention.

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

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

Application: Anna Kolesnikova has been detained for over 9,5 months without lawful grounds.

D. Federal Legislation

10. 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: Anna Kolesnikova poses no threat, and her detention violates this law.

11. 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: Anna Kolesnikova's detention is not justified.

12. 8 C.F.R. § 241.4

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

Application: Anna Kolesnikova meets all the criteria for release.

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

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

Application: Anna Kolesnikova has demonstrated a threat of persecution in Russia.

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

Protects against arbitrary detention and requires fair judicial proceedings.

Application: Anna Kolesnikova's rights to a fair process have been violated.

15. 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.

16. 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 Anna Kolesnikova.

E. International Norms Relevant to the Case of Anna Kolesnikova

17. 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: Anna Kolesnikova'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.

18. 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 Anna Kolesnikova violates her right to liberty. It is a disproportionate measure since her detention lacks legal justification and extends beyond reasonable limits.

19. 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: Anna Kolesnikova, 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.

20. 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 Stewart Detention Center, including poor hygiene, inadequate medical care, and prolonged confinement in inhumane conditions, violate the protections provided under this covenant. These conditions subject Anna Kolesnikova 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.

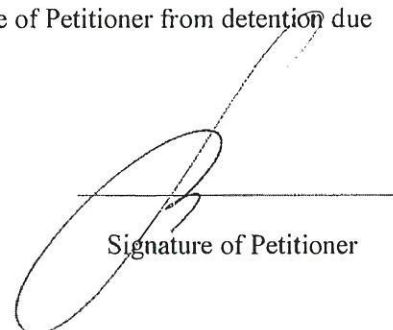
CONCLUSION

Petitioner respectfully requests that the Court to take account of the attached letters of support, and the documents confirming that Petitioner has no criminal record and poses no threat to the U.S. security. Petitioner 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 respectfully requests that the Court:

1. Issue a writ of Habeas Corpus requiring the immediate release of Petitioner from detention due to the unlawful and unjustified continuation of her detention;

Date: 03/15/2025



Signature of Petitioner

CERTIFICATE OF SERVICE

I, Anna Kolesnikova hereby certify that on 03/15/2025, I sent a copy of this RESPONDENTS MOTION to the following parties via U.S. Mail:

The Honorable Kristi Noem

Secretary of Homeland Security

U.S. Department of Homeland Security

Washington, D.C. 20528

DHS/ICE Office of Chief Counsel - SDC

146 CCA Road, P.O. BOX 248

Lumpkin, GA 31815

U.S. Department of Homeland Security

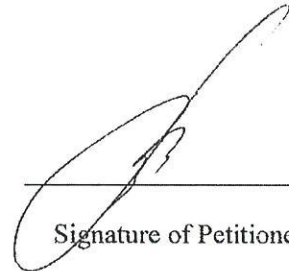
Washington, D.C. 20528

U.S. Immigration and Customs Enforcement

500 12th Street SW

Washington, D.C. 20536

Date: 03/15/2025



Signature of Petitioner