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United States District Court
for the
Middle District of Georgia

Anna Kolesnikova

Petitioner

vs

Case No. 4:25-cv-101-CDL-AGH

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

PETITION BRIEF
IN SUPPORT OF WRIT OF HABEAS CORPUS

TABLE OF CONTAINS

I. INTRODUCTION (3)	
II. FACTUAL BACKGROUND (3-4)	
III. FACTS ABOUT THE CASE (4-5)	
3.1. Communication with ICE (6-7)	
IV. CONDITIONS OF DETENTION (7)	
4.1. General conditions and treatment of detainee (7-10)	
4.2. Medical care (10-12)	
4.3. Nutrition (12)	
4.4. Condition effect on petitioner (12-13)	
V. INFORMATION ABOUT THE PETITIONER (13)	
VI. LEGAL ARGUMENTATION (14-16)	
VII. CONCLUSION (16)	
APPLICATIONS:	
Application A. Certificate of no criminal record	
Application B. Marriage certificate	
Application C. Educational Diplomas	
Application D. Employment Record Book	
Application E. Letters in support	
Application F. Notice to appear	
Application G. Passport	
Application H. Notifications declining to grant parole	

I. INTRODUCTION

Petitioner, Anna Kolesnikova A# [REDACTED] respectfully petitions the Court challenging the lawfulness of her continued detention by ICE for over 10 months without probable cause, solely because she holds a Russian Federation passport. Her continued detention **violates the principles of equal treatment and non-discrimination enshrined in both international and national law.**

II. FACTUAL BACKGROUND

The Petitioner, along with her legal spouse Kolesnikov Andrei A# [REDACTED], entered the United States through an **official Port** of Entry on the CBP-1 date of May 27, 2024, providing officers with valid identification documents and explanation of the reason for entry. She was then detained by ICE and taken to an immigration detention facility. (*Detention must be justified by substantial facts, not just an administrative decision. Guerra v. Shanahan, 831 F. 3d 59 (2d Cir. 2016)*)).

From May 28 to May 29, 2024, the Petitioner was in Florence Detention Center, AZ, from May 29 to December 7 in Eloy Detention Center, AZ (herein referred to as EDC), from December 8, 2024, to the present day in Stewart Detention Center, GA (herein referred to as SDC). In total, the Petitioner has been incarcerated for over 10 months.

The Petitioner was Credible Fear Interview and received a positive result. After which she provided information about the presense of a sponsor and documents confirming the absence of a

criminal record. Despite the fact that the above is not a mandatory condition, the Petitioner has been repeatedly denied parole and bond. Under 8 U.S.C § 1231 (a) (b), ICE must prove that continued detention is necessary. ICE has not identified any exceptional circumstances warranting her continued detention under ICE policy. Nor has ICE charged the Petitioner as "specially dangerous" under 8 C.F.R. § 241.14. The only basis for detention is her Russian citizenship, which is not, sufficient and reasonable given the lack of a detention order and other evidence that she poses a threat to public safety of a flight risk. The Petitioner was admitted to the 3rd Court, she complies with immigration procedures and is subject to supervised release.

III. FACTS ABOUT THE CASE

The Petitioner and her husband chose the most **legal way** of crossing the border, successfully went to the Credible Fear Interview, but were not released on parole. After the 2nd Court of the Petitioner's husband (the main applicant in the case), the case was combined and the date of the 3rd Court was set. The following problems arose during preparation for the court:

1. Collection of evidence. States bodies of the Russian Federation do not issue documents to 3rd persons. Documents required for the court can only be obtained by proxy, which cannot be issued in detention.

2. Providing evidence. There is no access to electronic devices that store information to confirm incidents that occurred in the case, therefore, it is not possible to provide the Court with a full package of evidence.

3. Defence of a lawyer. There is no way to control and monitor the work of a lawyer, she have to rely on his honestly and professionalism.

4. Legal onformation. All information that could help in preparing for the court is only in English. There is not possibility to translate it.

In connection with the above, it can be concluded that high-quality preparation for the Court in detention is almost impossible.

The Petitioner and her husband became victims of fraud, negligence and inprofessionalism of the lawyer. Before the Court, the lawyer assured the everything would be fine, there was nothing to worry about, and that it was possible to prepare for the court in 2 hours. The evidence was sent to the Court incompletely and late. The documents were drawn in incorrectly, which did not allow us to fully solve our case. The lawyer behaved inappropriately in Court, chewed gum, did not delve into the Court, instead, he searched for information on Google on his laptop on the topic "sports betting". The lawyer repeatedly deceived the petitioner's by sending documents by mail, but in fact they were sent a month later. He also often did not answer calls and did not shedule "visits" the prepare for the court. The lawyer did not study or delve into the history of the wards. Because of this attitude of the lawyer, the Petitioner lost the case and extended her detention in the detention center. The Petitioner and her husband were **the initiators of the appeal**, since returing to a country where their lives and freedom are in danger is impossible. On other states (California, Louisiana), people held in custody are released on appeal.

3.1. Communication with ICE.

Eloy Detention Center:

1. Despite the shedule of visiting units, ICE officers came very rarely; the Petitioner did not see her officer (Apodaca) even once in 6 months;

2. To questions about why Russians are not released, unlike their countries, they answered: "Russia is an aggressor country, your country is in a "ban" and we cannot release you";

3. To any questions and requests, including about parole, the officer answered very rudely and constantly **accused** the Petitioner of committing a crime, that she had no right to cross the border and that her confinement in detention was **punishment** for this crime. (*Refugees should not be penalised for illegal border crossing. UN Refugee Convention, Article 31*);

4. The Petitioner received the document on the refusal to release 2 months after receiving a "positive" interview;

5. When asked to provide a call with her husband, who was in another detention center at the time, the officer replied that calls between detention centers were prohibited, although other detainees had such an opportunity;

6. Three and a half weeks after the court, a new ICE officer (Viramontes) asked Petitioner to sign a deportation document; he was informed that the case was being appealed and refused to sign the document; a few days later, the officer transferred Petitioner to Georgia, to a detention facility with worse conditions, despite the fact that Petitioner and her husband had a joint case.

Stewart Detention Center:

The ICE officers on duty, who periodically come to the units, tell the Russians: "No one will let you go, we have the right to keep you here **indefinitely**". They constantly offer to deport if something is not right. (*The detention of immigrants must meet clear criteria and not be arbitrary. Nielsen v. Preap, 139 S. Ct. 954 (2019)*).

At the border, the Petitioner provided the ICE officers with the original documents with translation and notarization: a marriage certificate, certificates of illness of both petitioner's. To date, no one knows the location of these documents; it is believed that due to ICE negligence, **documents that cannot be restored were lost.**

IV. CONDITIONS OF DETENTION

4.1. General conditions and treatment of detainee

Upon arrival at the EDC, the Petitioner was placed in a small cold room with 27 other people, forced to take off her socks and shoes, and given shower shoes. The staff constantly shouted at her, did not give her a jacket, and did not allow her to sleep. The Petitioner suffered from hypothermia, after which she began **to have health problems**. She spent more than 25 hours in this room, in a room with only a toilet, a sink and iron ice benches.

The temperature in the holding cells was always very low, it was impossible to sleep or be in it. The staff ignored complaints about the cold. The toilets were in the cell, without a curtain or door, it was impossible to go to the toilet "without being watched"; officers (**including men**) often made rounds, not to mention other detainees who walked past the cell daily. An officer **could refuse**

to give a hygiene items if it was named incorrectly in English, accompanying this with phrase "how are you going to go to America if you don't know the language". There was no response to requests for the "Property" for 3 weeks. At work, they often underpaid, for the last 3 weeks, payment was not received at all; the unit-manager responded to requests for underpayment: "To demand money, you first need to earn it". An apple or an orange was given out twice a week, an officer could take a fruit right out of your hands and throw it away if you didn't manage to eat it within an hour. The dining room always had dirty and greasy cutlery, she had to eat very quickly, within 3-5 minutes, because the officers shouted and kicked you out. The officers locked you in the cells earlier than the time specified in the schedule and opened them later than they were supposed to, and they repeatedly called Russians obscene names. They gave you used underwear with stains.

After informing the Petitioner that she was being transferred to another detention center, she was placed in a small room with 34 other people; the room had no ventilation or an conditioning, and there was told to drink from the tap, which only had warm water. After 15 hours in this room, the Petitioner was roughly handcuffed, shackled, and chained around her stomach; she was put on a cold bus heading to the airport. She was roughly searched near the plane and put on board without removing the chains. After the flight she was taken by bus to SDC. The Petitioner spent about **30 hours** without sleep and normal food. Upon arrival at SDC, the Petitioner was placed in a cold emergency room where no one lived for 2-3 weeks; there were puddles on the floor, water ran down the walls and dripped from the ceiling, there were marks on the walls confirming that the roof was not airtight and there was dampness. The first days in this room, the Petitioner hardly slept because of the cold and constant hypothermia; she had to put socks on her hands, wrap a towel around her

head, put a denim jacket on top and cover herself with a thin blanket, but this did not help. On the 4th day, all the bed linen got wet due to a leaking roof, the officer refused to change it, the Petitioner had to **sleep in the terrible cold on a wet bed**. Given the Petitioner illness (autoimmune thyroiditis and hypothyroidism), hypothermia is contraindicated for her and low temperatures are **real torture** for her.

The SDC is overcrowded, the number of people reaches 60, with a capacity of 40 people; there are not enough tables for eating and other common areas. There is never silence: whistling, singing, shouting, praying, crying, hysterics and so on accompany the detainees around the clock. At night, the officers do not observe silence: they talk loudly, laugh, slam doors, walk around with a radio (small portable transmitter) on at high volume. The lights are not turned off, only dimmed by 50 %. In the morning, to wake up, they shout loudly, hit the pillow or bed, pull the blanket. The officers shout constantly, are rude and some make obscene gestures (the middle finger, for example), they may not let you go for a walk without a reason. They may open the toilet curtain when detainees are there and shout for you to finish faster. They may not give you a tablet all day, which is the only way to communicate with your family, ICE officer and others. Officers ignore your lack of knowledge of the language and make all announcements in English, translators are rarely provided. There is nothing in Russian: TVs, books, ads, tablets. Also, there is no translator in the tablets. Often there is no hand soap and hygiene products for women, often you have to "beg" for toilet paper. Periodically, they turn off the hot water, several times they turned off the water completely (the last time they turned it off for 11 hours and forbade going to the toilet). The uniform, socks, jacket and shoes are used, they can give you the wrong size and refuse to change.

Sometimes you have to deal with dangerous detainees, for example, while awaiting court or while working in the law library, detainees of different danger categories sit in the same room, **sometimes in the absence of an officer**. It is not uncommon to see fights detainees: there was a situation when a detainee brought razor blade for a walk and tried to harm another detainee.

4.2. Medical care

EDC:

1. There is no possibility to get emergency help, they say, sign up "sick-call";
- 2 . They may not call you by appointment, and if they do, the waiting time to speak with a nurse is on average 3-4 hours; the nurse says that she made an appointment with the doctor, but in fact it turns out that there was no appointment;
3. When taking blood for analysis, the nurse punctured a muscle or tendon, which was followed by severe **pain shock and the Petitioner almost lose consciousness**; a few minutes later, the skin at the puncture site swelled. Starting from the next day, the arm did not straighten for a month, and 2/3 of the arm was covered with **blue-black hematomas** that "migrated" throughout the entire arm.

SDC:

1. Waiting for a nurse to call takes several days, and they may not call at all;
2. Medical personnel offer to buy medicines at the "commissary", despite the fact that detainee has no money;

3. The Petitioner began to have severe stomach pains several weeks after arrival, which continued for a long time; the nurses offered only painkillers or tablets for diarrhea, which was not there at all; after 3 visits, the nurse made an appointment with the doctor, which still hadn't happened after 3 months;

4. Upon arrival at SDC, the Petitioner was not given thyroid support tablets for several days, which must not be missed and must be taken early in the morning before breakfast; after which she began to be given tablets by medical staff from other people's package; tablets could have been brought in after lunch;

5. After taking blood for analysis, it was found that there was too little of the drug in the blood (the first 3 months the dosage was 59 mg, then the doctor reduced it to 25 mg) the doctor said that it was necessary to increase the dosage to 50 mg, despite the fact that the Petitioner explained that this dosage was **not suitable for her**. Nevertheless, the doctor increased the dosage with the words "I also have problems with the thyroid gland, I know all about it". The Petitioner, in order not to harm herself, took a dosage of 37,5 mg, after 3 months the tests showed a good result, but if she had listened to the doctor, she would have received bad tests and health. This is a completely negligent and unprofessional attitude;

6. The Petitioner has progressive dermatitis on her scalp, which causes severe itching, wounds and hair loss. This problem was voiced to the nurse, to which the answer was "I have nothing, buy shampoo in the store". After the answer that regular shampoo does not help, the phrase "I repeat, I do not have medicine for you, wash your head with shampoo" followed. After this, the

Petitioner contacted the OIDO organization with a complaint, an OIDO employee, after listening to this story, said: "Well, you were invited to an appointment, you just didn't get the help you expected. You can make an appointment with a doctor for money".

There is also constant negligence towards other detainees. Instead of treatment and help, patients are given painkillers that destroy the liver. Also, new arrivals are not checked for various diseases. There were cases when other detainees had lies, fungus and venereal diseases; it is unsafe to use shared toilets and showers. **Health problems acquired here can be irreversible.**

4.3. Nutrition

The food quality in SDC is extremely low, the diet is unbalanced, mainly carbohydrates and legumes, beans instead of meat products; the food is monotonous, spicy and fatty. They give spoiled milk, rotten potato, moldy bread and sausage with worms. The portions are small, hair is often found in the food. The time break between meals reaches 12 hours, because of this you have to starve. The drinks indicated in the menu were not given even once. They don't give us fresh vegetables, and only apples as fruit.

4.4. Condition effect on petitioner

Poor sleep with abrupt awakenings, constant noise, shouting officers, lack of good hygiene, inadequate medical care and prolonged detention in inhumane conditions have left the Petitioner stressed and depressed for 10 months. **She is subjected to cruel and degrading treatment.** During

her entire stay, there have been many incidents, that have left a big mark on her consciousness and her psychological state has worsened (fights of other detainees, including mass, hysterics, detainees who have gone crazy, who go to the toilet "under them selves" and scream at night, etc.) The Petitioner **does not feel safe here and fears for her health. The conditions, in which the** Petitioner has to live contribute to the **deterioration** her physical and psychological health.

V. INFORMATION ABOUT THE PETITIONER

The Petitioner is a decent and sympathetic person. She has 2 educations: secondary vocational in the specialty "Accountant, tax specialist", and higher (university bachelor's degree) in the specialty "Management. Organization project management". She has been working since she was 19 and provides for herself, helping her mother and sister financially, since her father, the breadwinner of the family, died in 2008. She has always worked officially and paid all taxes and obligations. She has been a blood donor since she was 18. She volunteers, provides assistance in support of animal shelters and veterinary clinics that need financial assistance. She has no bad habits or addictions, has never tried or used drugs. She has no criminal past or even minor violations of the law.

The Petitioner **has cooperated** with ICE and CoreCivic employees through her incarceration, has never behaved disrespectfully toward others, is who she claims to be, has no intention of hiding, is not a danger, and deserves to be a full member of society.

VI. LEGAL ARGUMENTATION

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

Everyone has the right to liberty and security of person. No one may be arbitrarily arrested or detained. Key points:

- deprivation of liberty is permitted only on the basis of law and may not be arbitrary;
- a person, deprived of liberty has the right to judicial review of the lawfulness of detention;
- detention must be reasonable, necessary and proportionate.

2. UN Refugee Convention, Article 31.

Refugees should not be penalized for illegal border crossing if they arrive from a country where their life or freedom was threatened, present themselves to the authorities immediately and explain the reasons for entry. Key points:

- no penalty can be applied for illegal entry/presence if the refugee acts "promptly and with an explanation";
- States should not impose unreasonable restrictions on the freedom of such persons.

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

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

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

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

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

No one should be held in custody without due process of law. Prolonged detention without individual assessment violates this right. (*Zadvydas v. Davis* 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003)). ("*Freedom from imprisonment - from government custody, detention, or other forms of physical restraint - lies at the heart of the liberty that [the Due Process] Cause protects*". *Zadvydas* 533 U.S. at 690).

7. Eight Amendment to the U.S. Constitution.

Cruel and unusual punishments, including inhumane conditions of detention in immigration detention (overcrowded cells, poor living conditions, lack of necessary medical care), should not be imposed.

8. The [*Accardi*] doctrine "established a set of minimum protections for those seeking asylum" and "was intended - at least in part - to benefit asylum - seekers navigating the parole process". (*Damus*, 313 F. Supp. 3d at 432, 337 - 38).

The ICE Policy here establishes procedures for reviewing the custody of non-citizens who are granted immigration relief and is clearly intended, at least in part, to benefit those non-citizens. (Ex. C at 4 (referring to ICE Policy favoring a non-citizen's release). Therefore, the Petitioner has been prejudiced by ICE's failure to review his custody under the Policy's "exceptional circumstances" standard. According to the *Accardi* doctrine, ICE's departure from its own policy is arbitrary, capricious, contrary to law and violates the Petitioner due process rights.

9. ICE Detention Standards.

Requirements have been established to ensure adequate conditions, including medical care,

safety and human treatment of detainees.

Such treatment of a refugee may be considered **disproportionate, in violation of fundamental human rights**, in particular the right to liberty and security of person, and requires careful analysis in terms of compliance with procedural guarantees and standards of treatment of asylum seekers.

VII. CONCLUSION

In view of the above, the Petitioner respectfully requests the Court to:

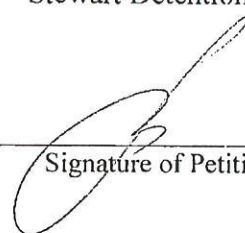
1. Order the immediate release of the Petitioner under reasonable supervision;
2. Grant any other just relief that the Court deems necessary.

Sincerely, Anna Kolesnikova

Stewart Detention Center

4.11.2025

Date:


Signature of Petitioner

CERTIFICATE OF SERVICE

I, Anna Kolesnikova hereby certify that on 4.11.2025, 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

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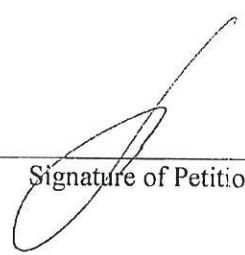
U.S. Immigration and Customs Enforcement

500 12th Street SW

Washington, D.C. 20536

4.11.2025

Date:



Signature of Petitioner