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#000-001

MARIIA LEONTEVA
A-Number: 
Clark County Jail
501 East Court
Jeffersonville, IN 47130

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF GEORGIA

MARIIA LEONTEVA,
Plaintiff,

vs.

**KRISTI NOEM, SECRETARY OF THE
DEPARTMENT OF HOMELAND
SECURITY; CHIEF COUNSEL, U.S.
DEPARTMENT OF HOMELAND
SECURITY; U.S. DEPARTMENT OF
HOMELAND SECURITY; U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT,**
Defendant

Case No.: 4:25-cv-00118-CDL-AGH

**PLAINTIFF'S BRIEF IN SUPPORT OF
WRIT OF HABEAS CORPUS (MARIIA
LEONTEVA)**

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PLAINTIFF'S BRIEF IN SUPPORT OF WRIT OF HABEAS CORPUS (MARIIA LEONTEVA) i

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11. List of Exhibits:

11.1 Marriage Certificate.

11.2. USCIS Memo to File (03/21/2024) confirming Mariia Leonteva added as dependent applicant to husband's asylum case.

11.3. Certificate of No Criminal Record.

11.4. Positive Credible Fear Determination for Mariia Leonteva.

11.5. Immigration Judge's Decision granting asylum to Mariia Leonteva.

11.6. Specialist Degree Diploma with honors.

11.7. CBP One Appointment.

11.8. Identification and Immigration Documents of Vladimir Leontev.

11.9. Letters of Support.

11.10. Bar Complaint.

1. INTRODUCTION.

Plaintiff Mariia Leonteva respectfully submits this reply in support of her petition for a writ of habeas corpus. Despite having been granted asylum by an immigration judge, Ms. Leonteva remains in ICE custody for over 14 months. The Department of Homeland Security (DHS) continues to detain her without individualized review, in violation of the U.S. Constitution and established case law. This prolonged detention is unjustified, especially given her clean record, strong community support, and lack of flight risk. Plaintiff respectfully requests that this Court

1 order her immediate release — or grant any other form of relief the Court deems just and
2 appropriate.

3
4 **2. DHS Misapplies the “Mandatory Detention” Regime.**

5 DHS asserts that 8 U.S.C. § 1225(b) requires the mandatory detention of the Plaintiff until the
6 completion of immigration proceedings. However, this provision does not grant the government
7 unlimited authority to detain a person for an indefinite period.

8 In *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018), the Supreme Court confirmed that even
9 provisions concerning mandatory detention do not preclude the possibility of judicial review
10 under the Fifth Amendment.

11
12 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Court explicitly stated:

13 “Accepting the government’s position would mean that the executive branch could detain a
14 person indefinitely, simply because they lack status. That is unacceptable in a society governed
15 by the rule of law.”

16
17 Even if the law permits mandatory detention, the Constitution requires that such detention be
18 reasonable in duration and subject to judicial review—especially when the individual has
19 prevailed on the merits of their case.

20 **3. DHS Misrepresents the Concept of “Arriving Alien”.**

21 DHS argues that as an “arriving alien,” Mariia has no rights other than those explicitly
22 provided by statute. However, such formalism does not justify indefinite detention.

23
24 In *Clark v. Martinez*, 543 U.S. 371 (2005), the Supreme Court rejected the notion that “arriving”
25 status permits indefinite detention.

1 In *Zadvydas*, as well as in *Rosales-Garcia v. Holland*, 322 F.3d 386 (6th Cir. 2003), the courts
2 affirmed that even individuals without lawful status are entitled to protection from arbitrary and
3 excessively prolonged detention.

4
5 The legal fiction that “arriving aliens” are considered “not admitted” does not negate the
6 factual reality of Mariia’s presence in the United States for over 14 months, her participation in
7 hearings, and the favorable decision she received. In *Landmark v. Plasencia*, 459 U.S. 21 (1982),
8 the Supreme Court emphasized that even an arriving alien has the right to due process when
9 physically present in the country.

10 11 **4. DHS Incorrectly Claims the Court Lacks Jurisdiction.**

12 The government asserts that the court cannot review ICE’s denial of parole, citing 8 U.S.C. §
13 1252(a)(2)(B)(ii). However, this provision does not deprive the court of authority to review
14 constitutional violations by the executive branch, including prolonged detention.

15 Courts have repeatedly held that when detention is:

- 16
17 • excessively prolonged,
18 • not based on an individualized risk assessment,
19 • continued after a favorable court ruling,
20 —it violates the Constitution.

21 See:

- 22 • *Gonzalez Aguilar v. McAleenan*, 448 F. Supp. 3d 1202 (D.N.M. 2019),
23
24 • *A.M.Y. v. Warden, Irwin Cnty. Det. Ctr.*, No. 7:20-cv-61-CDL-MSH (M.D. Ga. 2020).

25 **5. DHS Ignores Mariia’s Individual Circumstances.**

26 The government fails to consider:

- 27 • her impeccable reputation,
28

- support from the community and her sponsor,
- her victory in the immigration court of first instance(See Exhibit 5) ,
- the conditions of her detention,
- the moral, humanitarian, and medical consequences of her continued confinement.

Such a formalistic approach violates the principles of fair and humane immigration policy.

Throughout her detention, Mariia has experienced unfair and biased treatment. While hundreds of other detainees have been released — despite criminal histories, negative personal characteristics, and even while still in the early stages of their proceedings — she remains in custody.

It is also worth noting that Mariia’s husband, who accompanied her to the ICE appointment and is the principal applicant in their asylum case, has been free since April 2024 and continues to pursue his immigration process while at liberty (Exhibit 1, Exhibit 4, Exhibit 7).

6. Response to Government’s Legal Claims

DHS Arguments and Counterarguments

A. DHS: Arriving aliens have no rights except those provided by the INA.

Response: Constitutional guarantees, including the Fifth Amendment, apply to all individuals present in the United States, including arriving aliens. The Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), confirmed that a noncitizen physically present in the U.S. is entitled to protection from arbitrary and indefinite detention. The same position was affirmed in *Rosales-Garcia v. Holland*, 322 F.3d 386 (6th Cir. 2003).

Although the law formally classifies arriving aliens as “not admitted,” Mariia’s actual presence in the United States for over 14 months—including her participation in court

1 proceedings and the grant of protection from removal—entitles her to fundamental procedural
2 safeguards.

3 Furthermore, in *Landmark v. Plasencia*, 459 U.S. 21 (1982), the Supreme Court stated that
4 even at the point of entry, a person is entitled to due process if physically present and engaged in
5 legal proceedings in the United States.
6

7 **B. DHS: The INA requires mandatory detention.**

8 Response: Even if the INA mandates detention, the Constitution requires that such detention
9 be reasonable in duration and proportional. In *Diop v. ICE*, 656 F.3d 221 (3rd Cir. 2011), the
10 court held that prolonged detention requires individualized review. In *Guerrero-Sanchez v.*
11 *Warden*, 905 F.3d 208 (3rd Cir. 2018), it was determined that detention exceeding six months
12 requires reassessment of the detention conditions.
13

14 Moreover, in *Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015), the court stated that even
15 mandatory detention becomes unlawful when prolonged without a risk assessment and
16 consideration of alternatives.
17

18 **C. DHS: An appeal has been filed — the case is not final.**

19 Response: A victory in immigration court is a legally significant event that alters the nature
20 and justification of detention.

21 In *Gonzalez Aguilar v. McAleenan*, 448 F. Supp. 3d 1202 (D.N.M. 2019), the court held that
22 a DHS appeal does not justify continued detention following an immigration judge's ruling.
23

24 In *Ford v. Ducote*, 2020 WL 8642257 (W.D. La. 2020), the court released a noncitizen after a
25 successful outcome, despite the pending appeal.

26 Additionally, in *Mendoza-Linares v. Garland*, 2024 WL 3316306, the court ruled that
27 continued detention after winning in court, without new grounds, violates the right to liberty.
28

D. DHS: The court cannot review a denial of parole.

Response: The Plaintiff does not seek review of the parole denial itself. The subject of this petition is the excessive length of detention, which violates the Constitution. The Supreme Court in *Zadvydas*, as well as in *Demore v. Kim*, 538 U.S. 510 (2003), affirmed that the court has jurisdiction over cases involving due process violations. The same conclusion was reached in *A.M.Y. v. Warden*, by the Middle District of Georgia (2020).

Furthermore, in *Jean v. Nelson*, 472 U.S. 846 (1985), the Court emphasized that even discretionary decisions are subject to judicial review when they violate fundamental principles of justice.

E. DHS: Similar cases (such as D.A.V.V.) have been dismissed.

Response: None of the cited cases involve the unique set of factors present in Mariia's case: more than one year in detention, a favorable decision from the immigration court, a completely clean criminal record, available housing, personal guarantees, and strong community support. Applying the same legal reasoning to such factually distinct cases contradicts the principle of individualized justice.

Moreover, in *Savino v. Souza*, 459 F. Supp. 3d 317 (D. Mass. 2020), the court stated that the mechanical application of INA provisions without consideration of individual circumstances is impermissible when assessing constitutional rights.

7. DHS: There is a risk of flight or danger.

Response: In *Arce-Ipanaque v. Holder*, 742 F.3d 412 (9th Cir. 2014), and *Guerra v. Shanahan*, the courts held that the existence of a stable residence, guarantees from a sponsor, absence of criminal history, and a record of compliance with the law are sufficient grounds for release.

1 Mariia poses no danger, has a permanent address, strong community support, and a certificate
2 of no criminal record. There is no evidence to suggest that she would attempt to evade justice.
3 Throughout the entire course of her case, she has cooperated with ICE and has never given any
4 reason to question her impeccable reputation.
5

6 Moreover, ICE has not presented a single argument—direct or even indirect—indicating that
7 Mariia is a flight risk or would attempt to avoid attending immigration court, especially given
8 that she has already been granted asylum by the immigration judge.
9

10 **8. Psychological and Humanitarian Impact**

11 Prolonged detention without clarity violates humanitarian standards. In *Reyes v. Lynch*, 834
12 F.3d 1104 (9th Cir. 2016), the court held that immigration detention in cases involving
13 depression and vulnerability requires a humane approach. In *Basank v. Decker*, the court also
14 emphasized that detention conditions must not amount to punishment.
15

16 Mariia suffers from prolonged isolation and has an anxiety disorder. She avoids
17 communication, even with close family members. Her health condition is deteriorating each day.
18 She has no access to proper medical care. Ongoing complaints about her health are either ignored
19 or met with generic medications that only partially relieve her symptoms.
20

21 It is important to note that after her transfer to Clark County Jail—where she is held alongside
22 individuals detained for criminal offenses—she no longer has access even to outdoor recreation.
23 She is confined indoors at all times.

24 This has a severely negative impact on her health and violates all principles of human dignity
25 and humane treatment.

26 **9. Application of Risk Assessment Criteria from *Matter of Guerra*: Mariia Deserves** 27 **Release.** 28

1 When evaluating bond eligibility or flight risk, immigration courts rely on nine factors
2 established in the precedent Matter of Guerra, 24 I&N Dec. 37 (BIA 2006). These criteria are
3 used to assess reliability and risk level.

4
5 As applied to the Plaintiff:

6 **1. Nature of Entry into the United States:**

7 Mariia entered through a bridge in Texas with a scheduled CBP One appointment at the date
8 and time assigned by an immigration officer, and voluntarily turned herself in to authorities. This
9 demonstrates transparency and no intent to abscond.

10
11 **2. Length of Stay in the United States:**

12 She has been in the country for over 14 months, has participated in court proceedings, and has
13 cooperated with immigration authorities.

14 **3. Family Ties in the United States:**

15 She has a husband and a supportive community that guarantees housing and assistance.
16 Mariia's husband has received an Employment Authorization Document and all necessary
17 documentation (Exhibit 8). He is lawfully employed and has a stable income to support the
18 family. He remains at liberty and has demonstrated an impeccable reputation. He is pursuing his
19 immigration case and fully complies with ICE requirements.

20
21 **4. Employment History:**

22 Mariia has both a sponsor and a husband willing to provide support and assistance for her
23 legalization.

24
25 **5. Court Appearance Record:**

26 She has never failed to appear in court and has attended all scheduled hearings.

27
28 **6. Criminal History:**

1 Mariia has no criminal record in either the United States or Russia. An official certificate of
2 no criminal history is available (Exhibit 3).

3 **7. Community Ties and Positive Character Evidence:**

4 Letters of support confirm her strong integration into the community and a high level of trust
5 in her character (Exhibit 9).

6 **8. History of Attempts to Evade Deportation:**

7 There have been no such attempts. On the contrary, she has actively pursued a fair resolution
8 of her case
9

10 See (Exhibit 10).

11 **9. Other Factors:**

12 Mariia is experiencing severe psychological distress due to uncertainty and isolation. Fourteen
13 months of confinement has been deeply traumatic for her. She has already won her case, and her
14 continued detention is unjustified (Exhibit 6).

15 **10. CONCLUSION**

16 All factors weigh in favor of the immediate release of Mariia Leonteva. DHS has not
17 presented a single compelling argument to justify her continued detention. This violates the
18 principles of justice, humanity, and the United States Constitution.
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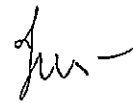
PRAYER FOR RELIEF

Plaintiff respectfully requests that this Court:

1. Grant the petition for writ of habeas corpus;
2. Order her immediate release from custody;
3. And/or grant any other relief the Court deems just and proper.

Date: 05.25.2025.

Signature of Plaintiff



CERTIFICATE OF SERVICE

I, Mariia Leonteva, hereby certify that on 05.25.2025, I sent a copy of this
PLAINTIFF'S BRIEF IN SUPPORT OF WRIT OF HABEAS CORPUS to the following parties
via U.S. Mail:

The Honorable Kristi Noem
Secretary of Homeland Security
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Date: 05.25.2025.

Signature of Plaintiff

Dated: 05.25.2025

