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MAY 1 2 2025
CLERK U S DISTRICT COURT
DISTRICT OF ARIZONA
BY ___ DEPUTY

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
for the
District of Arizona

VLASOV DMITRII
Petitioner

v.

Field Office Director, U.S. Immigration and Customs Enforcement (ICE), San Diego Field Office
Respondent
(name of warden or authorized person having custody of petitioner)

Case No. CV25-01605-PHX-SMB--CDB
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Dmitrii Vlasov
(b) Other names you have used:
2. Place of confinement:
(a) Name of institution: San Luis Regional Detention Center
(b) Address: 406 N. Avenue D San Luis, Arizona 85349
(c) Your identification number: [redacted]
3. Are you currently being held on orders by:
☑ Federal authorities ☐ State authorities ☐ Other - explain:
ICE
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you:
(b) Docket number of criminal case:
(c) Date of sentencing:
☑ Being held on an immigration charge
☐ Other *(explain)*:

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

THIS DOCUMENT IS NOT IN PROPER FORM ACCORDING TO FEDERAL AND/OR LOCAL RULES AND PRACTICES AND IS SUBJECT TO REJECTION BY THE COURT.
REFERENCE LRCivP 5.4
(Rule Number/Section)

☐ Pretrial detention
☑ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other *(explain)*: ______

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: San Diego Immigration Court

(b) Docket number, case number, or opinion number: A[redacted]

(c) Decision or action you are challenging *(for disciplinary proceedings, specify the penalties imposed)*:
The decision or action being challenged is the continued unlawful detention by U.S. Immigration and Customs Enforcement (ICE) of Dmitrii Vlasov (A[redacted]) following the immigration court's final order granting Withholding of Removal on November 26, 2024. ICE refuses to release him under any conditions.

(d) Date of the decision or action: 11/26/2024

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?
☐ Yes ☑ No

(a) If "Yes," provide:
(1) Name of the authority, agency, or court: ______
(2) Date of filing: ______
(3) Docket number, case number, or opinion number: ______
(4) Result: ______
(5) Date of result: ______
(6) Issues raised: ______

(b) If you answered "No," explain why you did not appeal:
No further appeals were filed due to the lack of legal basis for continued detention.

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?
☐ Yes ☑ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not file a second appeal:

No further appeals were filed due to the lack of legal basis for continued detention.

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes ☑ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not file a third appeal:

No further appeals were filed due to the lack of legal basis for continued detention.

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☑ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:
(1) Name of court: ____
(2) Case number: ____
(3) Date of filing: ____
(4) Result: ____
(5) Date of result: ____
(6) Issues raised: ____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☑ No

If "Yes," provide:
(1) Name of court: ____
(2) Case number: ____
(3) Date of filing: ____
(4) Result: ____
(5) Date of result: ____
(6) Issues raised: ____

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: ____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☑ Yes ☐ No

If "Yes," provide:
(a) Date you were taken into immigration custody: 08/13/2024
(b) Date of the removal or reinstatement order: ____
(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes ☑ No

If "Yes," provide:
(1) Date of filing:
(2) Case number:
(3) Result:
(4) Date of result:
(5) Issues raised:

(d) Did you appeal the decision to the United States Court of Appeals?
☐ Yes ☐ No
If "Yes," provide:
(1) Name of court:
(2) Date of filing:
(3) Case number:
(4) Result:
(5) Date of result:
(6) Issues raised:

12. **Other appeals**
Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?
☐ Yes ☑ No
If "Yes," provide:
(a) Kind of petition, motion, or application:
(b) Name of the authority, agency, or court:
(c) Date of filing:
(d) Docket number, case number, or opinion number:
(e) Result:
(f) Date of result:
(g) Issues raised:

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: After the immigration court granted Withholding of Removal on November 26, 2024, the government has no legal authority to detain me indefinitely. Russia refuses to repatriate me, making my detention under 8 U.S.C. § 1231(a)(6) unconstitutional under Zadvydas v. Davis, 533 U.S. 678 (2001).

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Under 28 U.S.C. § 2241, federal courts have the authority to review the legality of detention. Petitioner's continued detention, despite a favorable decision from the immigration court, is unlawful.

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes ☑ No

GROUND TWO: My continued detention violates my due process rights under the Fifth Amendment, as I pose no flight risk or danger to the community. Alternatives to detention, such as electronic monitoring, are available and reasonable.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

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

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes ☑ No

GROUND THREE: My detention separates me from my spouse and young child, causing severe emotional and financial hardship, which contradicts humanitarian principles under international law.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes ☑ No

GROUND FOUR: Demore v. Kim, 538 U.S. 510 (2003): The Court emphasized that mandatory detention is permissible only for a limited period and that extended detention requires justification.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Petitioner respectfully requests that the Court consider the fact that asylum has already been granted, review the attached letters of support, and the documents confirming that Petitioner has no criminal record and poses no threat to U.S. security. Petitioner also has strong community ties, and individuals are willing to vouch for his good character and guarantee that he will continue to comply with all immigration requirements.

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes ☑ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: I request that the court immediately order my release from immigration detention under conditions such as electronic monitoring (GPS ankle bracelet) and schedule a custody hearing to reassess the legality of my detention.

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

N/A — The petitioner is not a criminal prisoner but is detained under immigration custody.

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 7 may 25

Signature of Petitioner

Signature of Attorney or other authorized person, if any

Print Save As... Reset

DMITRII VLASOV
A[redacted]

Standard Language Addendum: Asylum, Withholding, and Convention Against Torture

The following statements of law are hereby incorporated into the Immigration Judge's oral decision. These statements are not the sole legal basis for the decision and are meant to be read in conjunction with any law cited in the oral decision itself.

Credibility

Applications for asylum, withholding of removal, and Convention Against Torture (CAT) relief made on or after May 11, 2005, are subject to the provisions of the REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231 (2005). Under the REAL ID Act, a respondent can sustain their burden of proof through testimony alone, but only if the respondent satisfies the trier of fact that their testimony is credible. INA §§ 208(b)(1)(B)(iii), 241(b)(3)(C); *see Garland v. Dai*, 141 S. Ct. 1669, 1681 (2021) (noting that even if a respondent's testimony is credible, it may not be persuasive or sufficient to meet the burden of proof because credibility, persuasiveness, and legal sufficiency are separate requirements under the INA).

In making a credibility determination pursuant to the REAL ID Act, the Court must examine the totality of the circumstances, including the "demeanor, candor, [and] responsiveness of the [respondent] or witness, the inherent plausibility of the [respondent] or witness's account, consistency between the [respondent] or witness's written and oral statements, the internal consistency of each statement, and the consistency of statements with other evidence in the record," as well as any other relevant factors. *Shrestha v. Holder*, 590 F.3d 1034, 1040 (9th Cir. 2010).

The REAL ID Act permits the Court to make a credibility determination without regard to whether any inconsistency, inaccuracy, or falsehood goes to the heart of the respondent's claim. INA § 240(c)(4)(C). However, such broad standards "must be assessed under a rule of reason," and the Court may not base an adverse credibility finding on trivial inconsistencies. *Shrestha*, 590 F.3d at 1044.

Corroboration

A respondent's own testimony, without corroborating evidence, may be sufficient proof if that testimony is believable, consistent, and sufficiently detailed to provide a plausible and coherent account of the basis for their fear of persecution. INA § 208(b)(1)(A)(ii). However, "[w]here the trier of fact determines that the [respondent] should provide evidence that corroborates otherwise credible testimony, such evidence must be provided unless the [respondent] does not have the evidence and cannot reasonably obtain the evidence." INA § 208(b)(1)(B)(ii). In such situations, the Court must put the respondent on notice that they need to produce corroborative evidence and provide them with "an opportunity to either provide that corroboration or explain why [they] cannot do so." *Ren v. Holder*, 648 F.3d 1079, 1091–92 (9th Cir. 2011); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 516 (BIA 2015).

DMITRII VLASOV
A[redacted]

Asylum under INA § 208

As a preliminary matter, a respondent must prove by clear and convincing evidence that their asylum application was filed within one year of the date of their last arrival into the United States. INA § 208(a)(2)(B); 8 C.F.R. § 1208.4(a)(2). If the respondent files after the one-year deadline, they must show to the satisfaction of the Court that they qualify for an exception to the deadline. *Id.*

To qualify for asylum, a respondent must establish that they are a refugee as defined under INA § 101(a)(42). A refugee is a person who is "unable or unwilling" to return to their country of origin because of past persecution or a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. INA §§ 101(a)(42)(A), 208(b)(1)(A). Under the REAL ID Act, a respondent must demonstrate that the protected ground was or would be "at least one central reason" for the claimed persecution. INA § 208(b)(1)(B)(i); *Matter of J-B-N- & S-M-*, 24 I&N Dec. 208, 212 (BIA 2007).

Establishing past persecution requires a respondent show an incident or incidents rising to the level of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion that were committed by the government or forces the government is unable or unwilling to control. *See Navas v. INS*, 217 F.3d 646, 655–56 (9th Cir. 2000); *see also* 8 C.F.R. § 1208.13(b)(1). Persecution is an "extreme concept" and does not encompass all treatment that society regards as unfair, unjust, or even unlawful or unconstitutional. *Gu v. Gonzales*, 454 F.3d 1014, 1019 (9th Cir. 2006). It is usually characterized as severe, sustained, and "marked by the infliction of suffering or harm . . . in a way regarded as offensive." *Halim v. Holder*, 590 F.3d 971, 975 (9th Cir. 2009) (quoting *Li v. Ashcroft*, 356 F.3d 1153, 1158 (9th Cir. 2004) (en banc)). Various forms of physical violence constitute persecution, including rape, torture, assault, and beatings. *See, e.g., Chand v. INS*, 222 F.3d 1066, 1073 (9th Cir. 2000) (holding that "[p]hysical harm has consistently been treated as persecution"). To determine whether a respondent has suffered past persecution, the Court considers the cumulative effect of all the incidents of harm suffered. *Kumar v. Gonzales*, 439 F.3d 520, 527 (9th Cir. 2006).

If past persecution is established, a presumption arises that the respondent has a well-founded fear of future persecution based on their original claim. 8 C.F.R. § 1208.13(b)(1). DHS may rebut the presumption by showing, through a preponderance of the evidence, that the respondent's fear is no longer well-founded due to a fundamental change in circumstances, or that the respondent could avoid future persecution by relocating to another part of the country and that it would be reasonable to expect them to do so. *Id.* If DHS successfully rebuts the presumption, the Court may nonetheless grant asylum to a victim of past persecution if they establish (1) compelling reasons for being unwilling or unable to return to the country arising out of the severity of the past persecution, or (2) a reasonable possibility that they may suffer other serious harm upon removal to that country. 8 C.F.R. § 1208.13(b)(1)(iii)(A)–(B).

A respondent unable to establish past persecution may nevertheless be entitled to relief if they have a well-founded fear of future persecution. *INS v. Cardoza-Fonseca*, 480 U.S. 421, 430–

31 (1987). A well-founded fear must be subjectively genuine and objectively reasonable. *Reyes-Guerrero v. INS*, 192 F.3d 1241, 1244 (9th Cir. 1999). A respondent satisfies the subjective component by credibly testifying that they genuinely fear persecution. *Duarte de Guinac v. INS*, 179 F.3d 1156, 1159 (9th Cir. 1999). The objective component is satisfied if a respondent "shows[s] a good reason to fear future persecution by adducing credible, direct, and specific evidence in the record of facts that would support a reasonable fear of persecution." *Ladha v. INS*, 215 F.3d 889, 897 (9th Cir. 2000), *overruled on other grounds by Abebe v. Mukasey*, 554 F.3d 1203 (9th Cir. 2009). A respondent may meet their burden by establishing that there is a pattern or practice in their country of nationality, or if stateless, in their country of last habitual residence, of persecution of a group of persons similarly situated to the respondent on account of a protected ground. *See* 8 C.F.R. § 1208.13(b)(2)(iii).

Further, a respondent must establish that he/she is not statutorily barred from asylum. *See* INA §§ 208(b)(2) (listing mandatory bars relating to persecution of others, particularly serious crimes, serious nonpolitical crimes, aggravated felonies, and firm resettlement), 240(c)(4)(A).

Discretion

As a final matter, an applicant must merit a favorable exercise of discretion for a grant of asylum. INA § 208(b)(1) ("The Secretary of Homeland Security or the Attorney General *may* grant asylum to an alien") (emphasis added); see *Matter of Pula*, 19 I&N Dec. 467, 474 (BIA 1987). The court must balance the applicant's negative and positive equities to determine whether to exercise discretion favorably. *See Matter of Marin*, 16 I&N Dec. 581, 584 (BIA 1978) (outlining factors to consider when exercising discretion).

Withholding of Removal under INA § 241(b)(3)(A)

To establish eligibility for withholding of removal, a respondent must demonstrate that their life or freedom would be threatened in the country of removal for "a reason" described in INA § 241(b)(3)(A)—race, religion, nationality, membership in a particular social group, or political opinion. *Barajas-Romero v. Lynch*, 846 F.3d 351, 359 (9th Cir. 2017). The respondent may prove eligibility for withholding of removal either by establishing: (1) a presumption of future persecution based on past persecution, which DHS does not rebut, or (2) through an independent showing of a clear probability of future persecution. 8 C.F.R. § 1208.16(b)(1)–(2); *INS v. Stevic*, 467 U.S. 407, 429–30 (1984). The United States Supreme Court has interpreted "clear probability" of persecution to mean that it is "more likely than not" the respondent would be subject to persecution on account of a protected ground if returned to the proposed country of removal. *INS v. Cardoza-Fonseca*, 480 U.S. 421, 429 (1987). Withholding of removal is not a discretionary form of relief. *See* INA § 241(b)(3)(A).

A respondent must also establish that they are not statutorily barred from withholding of removal. *See* INA § 241(b)(3)(B) (listing mandatory bars relating to Nazis, persecution of others, particularly serious crimes, serious nonpolitical crimes, and threat of danger to the security of the United States).

Convention Against Torture (CAT Withholding of Removal)

Pursuant to the Convention Against Torture, "[n]o State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that [they] would be in danger of being subjected to torture." Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, S. Treaty Doc. No. 100–20 (1988). A respondent applying for withholding of removal under the Convention Against Torture bears the burden of proving that it is "more likely than not that [they] would be tortured if removed to the proposed country of removal." 8 C.F.R. § 1208.16(c)(2).

Torture is defined as the intentional infliction of severe physical or mental pain or suffering based on discrimination of any kind, or for the purpose of obtaining information or a confession, or to punish for an act or suspected act, or to intimidate or coerce any person or third party. 8 C.F.R. § 1208.18(a)(1); *Villegas v. Mukasey*, 523 F.3d 984, 988 (9th Cir. 2008) (construing the intent requirement under 8 C.F.R. § 1208.18(a)(5) to require a showing that the government actor "specifically intended" to torture the respondent by "inflict[ing] severe physical or mental pain or suffering"). "Torture is an extreme form of cruel and inhuman treatment and does not include lesser forms of cruel, inhuman or degrading treatment or punishment that do not amount to torture." 8 C.F.R. § 1208.18(a)(2). The pain and suffering associated with torture must be inflicted with the consent, acquiescence of, or at the instigation of a public official or other person acting in an official capacity. 8 C.F.R. § 1208.18(a)(1); *Matter of O-F-A-S-*, 28 I&N Dec. 35 (BIA 2020) (explaining what constitutes "acting in an official capacity"). A public official "acquiesces" in acts of torture by a private party when they are previously aware of activity constituting torture and breaches their legal responsibility to intervene to prevent such activity. 8 C.F.R. § 1208.18(a)(7); *Garcia-Milian v. Holder*, 755 F.3d 1026, 1034 (9th Cir. 2014). The Ninth Circuit Court of Appeals holds that the term "public official" includes police officers, even when they are off-duty, out of uniform, and/or acting in violation of official policy. *See, e.g., Macedo Templos v. Wilkinson*, 987 F.3d 877, 884 (9th Cir. 2021); *Barajas - Romero v. Lynch*, 846 F.3d 351, 362 (9th Cir. 2017).

In assessing whether it is more likely than not that a respondent will be tortured in the proposed country of removal, the Court may consider: (1) evidence of past torture inflicted upon the respondent; (2) evidence that the respondent could relocate to a part of the country of removal where they are not likely to be tortured; (3) evidence of gross, flagrant, or mass violations of human rights within the country of removal; and (4) other relevant information regarding conditions in the country of removal. 8 C.F.R § 1208.16(c)(3); *see also Maldonado v. Lynch*, 786 F.3d 1155, 1162–64 (9th Cir. 2015) (en banc) (explaining that no one factor under 8 C.F.R. 1208.16(c)(3) is determinative). The credible testimony of a respondent may be sufficient without corroboration to sustain their burden under the Convention Against Torture, and evidence of country conditions "can play a decisive role in determining eligibility." *Zhang v. Ashcroft*, 388 F.3d 713, 721 (9th Cir. 2004); 8 C.F.R. § 1208.16(c)(2). However, a respondent cannot meet their burden to establish eligibility for this form of relief by stringing together a series of suppositions. *Matter of J-F-F-*, 23 I&N Dec. 912, 917–18 (BIA 2006).

A respondent who falls under INA § 241(b)(3)(B) is not eligible for withholding of removal under the Convention Against Torture. 8 C.F.R. § 1208.16(c)(2).

Convention Against Torture (CAT Deferral)

There are no mandatory bars to a respondent seeking deferral of removal under the CAT. *See Lopez-Cardona v. Holder*, 662 F.3d 1110, 1113–14 (9th Cir. 2011). This form of relief is available to a respondent who demonstrates that it is more likely than not that they will be tortured in the country of removal but is subject to the bars under INA § 241(b)(3)(B), rendering them ineligible for withholding of removal under the CAT. *See* 8 C.F.R. §§ 1208.16(d)(2), 1208.17.