

AUG 25 2025

DANIEL J. MCCOY, CLERK

**UNITED STATES DISTRICT COURT**
for the

WESTERN DISTRICT OF LOUISIANA

BY: _____

VIKTORIIA KARMANOVA,

Petitioner,

WARDEN SOUTH LOUISIANA ICE PROCESSING CENTER,
TODD M. LYONS, ACTING DIRECTOR, U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;

Respondent

(name of warden or authorized person having custody of petitioner)

) Case No. 6:25-cv-00803
)

)

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER (TRO)

The established Supreme Court precedent

I. INTRODUCTION

Petitioner Viktoriia Karmanova, appearing pro se (without counsel), respectfully requests that this Court issue a Temporary Restraining Order (TRO) pursuant to Federal Rule of Civil Procedure 65(b), prohibiting Respondents from deporting or transferring her while her habeas corpus petition, filed on June 6, 2025, is pending before this Court.

Viktoriia has been detained for nearly 13 months at the South Louisiana ICE Processing Center. She has submitted more than 41 written parole requests, none of which received a substantive response. Viktoriia has never signed Form I-229(a) (stipulated request for removal) and continues to challenge the legality of her detention.

Absent urgent intervention, Viktoriia faces irreparable harm from unlawful deportation or indefinite detention, in violation of the United States Constitution, including:

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- Fifth Amendment (Due Process Clause) — absence of meaningful review and violations of both procedural and substantive due process;
- Eighth Amendment — deterioration of health under conditions of prolonged detention (argument of "cruel and unusual punishment"); ICE's refusal to provide medical examinations constitutes deliberate indifference under *Estelle v. Gamble*, 429 U.S. 97 (1976);
- Fourteenth Amendment (Equal Protection Clause) — mass denials of parole and discriminatory treatment
- Suspension Clause (Art I, § 9 of the U.S. Constitution) — the writ of habeas corpus cannot be suspended; habeas is not to re-litigate removal proceedings, but to challenge unlawful detention conditions and denial of parole review.
- Article III (Separation of Powers) — the federal judiciary has an obligation to preserve its jurisdiction and review executive branch actions, preventing ICE from exceeding its lawful authority. A TRO preserves the balance of powers and is not a circumvention of BIA jurisdiction.

These violations are compounded by violations of the INA and contradict established Supreme Court precedent

II. LEGAL STANDARD

- She had a final order of removal and was repeatedly denied release.
- She filed a habeas corpus petition and then a TRO in federal court.
- After the TRO was filed, the U.S. government did not oppose the temporary relief.
- A TRO may be granted where the applicant demonstrates:
 1. A likelihood of success on the merits;
 2. A threat of irreparable harm;
 3. A balance of equities in the applicant's favor;
 4. That the injunction serves the public interest

Federal courts have consistently reaffirmed these principles in key precedents:

- *Zadvydas v. Davis* — limits detention to six months where removal is not reasonably foreseeable.
- *Demore v. Kim* — allows only brief detention but does not justify indefinite or prolonged detention.

- Viktoriia has been detained since July 2024.
- She has filed 41 parole requests without response (mass parole denials violate the Equal Protection Clause).
- Evidence of these submissions has already been attached as Exhibits to both her habeas corpus petition and her Objections.
- She is a participant in the class action Mons v. Mayorkas (ACLU).
- Her physical and mental health continues to deteriorate (Eighth Amendment).
- While in detention, Viktoriia was denied even the opportunity to verify her medical condition: she was not given necessary medical tests and was prevented from presenting medical evidence. This is a direct violation of Due Process and constitutes deliberate indifference.
- She never signed Form I-229(a).
- ICE continues to violate INA § 241 by detaining her without meaningful review (Fifth Amendment).

Precedent (Miss A. from Cameroon):

A woman known as Miss A. was held in immigration detention for 13 months at the South Louisiana ICE Processing Center.

- She had a final order of removal and was repeatedly denied release.
- She filed a habeas corpus petition and then a TRO in federal court.
- After the TRO was filed, the U.S. government did not oppose the temporary relief.
- The Court ultimately dismissed the case as moot after ICE released her.

This case is not binding precedent but demonstrates the practice that TRO filings often result in release from custody, even where a removal order exists. It illustrates ICE's pattern of releasing detainees after TROs are filed to avoid judicial scrutiny.

- Habeas corpus is an independent constitutional safeguard under the Suspension Clause, not limited by BIA procedures. Habeas is not to re-litigate removal proceedings, but to challenge unlawful detention conditions and denial of parole review.
- Judicial review through habeas corpus exists precisely to check arbitrary executive actions and ICE's abuse of authority.
- The Supreme Court has repeatedly affirmed that access to habeas corpus cannot be suspended even in the context of removal orders.
- TROs are not substitutes for BIA appeals and do not duplicate their functions; they are designed to preserve the federal court's jurisdiction and prevent irreparable harm while habeas petitions are pending.

1. Irreparable Harm — imminent threat of removal and prolonged detention without meaningful review violates both the Suspension Clause and the Due Process Clause.
 - Additionally, denial of medical testing and the inability to present evidence of her health condition aggravate the irreparable harm. This constitutes deliberate indifference under *Estelle v. Gamble*.
2. Likelihood of Success — the habeas corpus petition was filed before the immigration hearing. *Zadvydas* and *Demore* confirm: the former limits detention to six months; the latter allows only short-term detention but does not justify indefinite confinement
3. Balance of Equities — the harm to Viktoria is disproportionate compared to ICE's interests. Preserving the status quo causes no prejudice to the government but protects constitutional rights.
 - The public has an interest in ensuring that ICE acts within the law and not arbitrarily.
4. Public Interest — compliance with the U.S. Constitution (Fifth, Eighth, Fourteenth Amendments, Suspension Clause, and Article III) and the protection of individual rights serve the public interest.
 - The public is specifically interested in ensuring that executive power remains subject to judicial review, preventing ICE from abusing its authority.
5. Example of Miss A. — illustrates that TROs are an effective mechanism for relief in prolonged detention at the same facility.

Anticipated Government Argument of "BIA Jurisdiction" or "Circumvention of Immigration Process":

The government may argue that a TRO improperly interferes with BIA jurisdiction following a final removal order. This is an incorrect claim:

- Habeas corpus is an independent constitutional safeguard under the Suspension Clause, not limited by BIA procedures. Habeas is not to re-litigate removal proceedings, but to challenge unlawful detention conditions and denial of parole review.
- Judicial review through habeas corpus exists precisely to check arbitrary executive actions and ICE's abuse of authority.
- The Supreme Court has repeatedly affirmed that access to habeas corpus cannot be suspended even in the context of removal orders.
- TROs are not substitutes for BIA appeals and do not duplicate their functions; they are designed to preserve the federal court's jurisdiction and prevent irreparable harm while habeas petitions are pending.

Petitioner respectfully requests that this Court

1. Temporarily restrain ICE from deporting Viktorila Karmanova;
2. Temporarily restrain ICE from transferring her from the South Louisiana ICE Processing Center;
3. Preserve her current status until her habeas corpus petition is adjudicated;
4. Petitioner respectfully requests, if the Court deems appropriate, that Respondents be ordered to respond to this Motion no later than 09/02/2025.

CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2025, I mailed a true and correct copy of this Motion to the ICE Officer at South Louisiana ICE Processing Center. Proof of mailing is attached as Exhibit A.

Respectfully submitted,

Viktorila Karmanova

Viktorila Karmanova, Petitioner pro se
South Louisiana ICE Processing Center
Dated: August 22, 2025