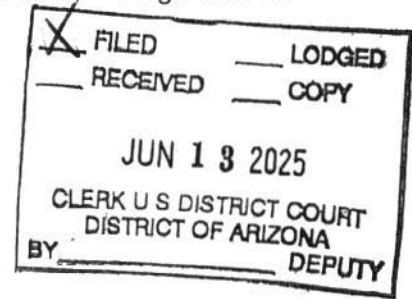


Liubov Zakhlenaiaz
 Name and Prisoner Number/Alien Registration Number

Eloy Detention Center
 Place of Confinement

1705 E Hanna Rd.,
 Mailing Address

Eloy, AZ 85131
 City, State, Zip Code



(Failure to notify the Court of your change of address may result in dismissal of this action.)

**IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF ARIZONA**

Liubov Zakhlenaiaz,)
 (Full Name of Petitioner))
)
 Petitioner,)
)
 vs.)
)
Fred Figueroa, ICE, Dept. of Homeland Security,)
 (Name of Warden, Jailor or authorized person)
 having custody of Petitioner))
)
 Respondent.)
 _____)

CASE NO. **CV25-02069-PHX-DWL--JFM**
 (To be supplied by the Clerk)

**PETITIONER UNDER 28 U.S.C. § 2241
 FOR A WRIT OF HABEAS CORPUS
 BY A PERSON IN FEDERAL CUSTODY**

PETITION

1. What are you challenging in this petition?
☒ Immigration detention
☐ Bureau of Prisons sentence calculation or loss of good-time credits
☐ Probation, parole or supervised release
☐ Other (explain): _____
2. (a) Name and location of the agency or court that made the decision you are challenging: _____
 Immigration and Customs Enforcement, Dept. of Homeland Security
- (b) Case or opinion number: N/A
- (c) Decision made by the agency or court: To continue my detention in immigration custody beyond six months after the final order of removal despite the fact that removal to Senegal is not "reasonably foreseeable" under Zadvydas v. Davis, 533 U.S. 678 (2001).

(d) Date of the decision: October 23, 2024 (date of final order);

3. Did you appeal the decision to a higher agency or court? Yes ☐ No ☒

If yes, answer the following:

(a) First appeal:

(1) Name of the agency or court: N/A

(2) Date you filed: N/A

(3) Opinion or case number: N/A

(4) Result: N/A

(5) Date of result: N/A

(6) Issues raised: N/A

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(b) Second appeal:

(1) Name of the agency or court: N/A

(2) Date you filed: N/A

(3) Opinion or case number: N/A

(4) Result: N/A

(5) Date of result: N/A

(6) Issues raised: N/A

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(c) Third Appeal

(1) Name of the agency or court: N/A

(2) Date you filed: N/A

(3) Opinion or case number: N/A

(4) Result: N/A

(5) Date of result: N/A

(6) Issue raised: N/A

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

4. If you did not appeal the decision to a higher agency or court, explain why you did not: On October 23, 2024, the Immigration Judge affirmed the CFI denial and issued a removal order. I was not afforded the opportunity to fight my case, and since I had exhausted my remedies, I was hoping to just leave this detention center as soon as possible. It has been over seven months since the removal order was issued and I am still detained. It is important to note that there is no statutory requirement of exhaustion of administrative remedies in 28 U.S.C. § 2241— exhaustion is a prudential requirement, rather than a jurisdictional requirement. See Singh, 638 F. 3d at 1203 n.3; Arando Marquez v. INS, 346 F.3d 892, 897 (9th Cir. 2003); see also Acevedo-Carranza v. Ashcroft, 371 F.3d 539, 541 (9th Cir. 2004).

5. Other than the appeals listed above, have you filed any other petitions, applications or motions concerning the issues raised in this petition? Yes ☐ No ☒

If yes, answer the following:

(a) Name of agency or court N/A

(b) Date you filed: N/A

(c) Opinion or case number: N/A

(d) Result: N/A

(e) Date of result: N/A

(f) Issues raised: N/A

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

6. For this petition, **state every ground on which you 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.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available administrative remedies on each ground on which you request action by the federal court.

GROUND ONE: In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the U.S. Supreme Court found that aliens with a final order of removal should not be detained beyond a 180-day period unless there is evidence that the alien's removal is significantly likely to occur in the reasonably foreseeable future. Since my order of removal became final over a seven months ago, and since my removal is not significantly likely to occur in the reasonably foreseeable future, my continued detention is in violation of *Zadvydas*.

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim):

1. I am not a United States citizen. I am a native of Russia.
2. My native language is Russian.
3. I do not have a criminal history in the U.S., Russia, or any other country.
4. On or about September 23, 2024, I arrived at the Nogales, Arizona port of entry requesting admission into the United States.
5. On October 8, 2024, I had a credible fear interview with an asylum officer.
6. On or about October 18, 2024, I was informed of the negative credible fear finding and an IJ Review hearing was scheduled.
7. On October 23, 2024, the Immigration Judge affirmed the CFI denial and issued a removal order. I was not aware that I could file a motion for reconsideration before the Asylum Office within seven days of the Immigration Judge's order, so I never filed it. When I found out about this option, the seven-day deadline had passed.
8. I have been willing to cooperate with the Russian consulate in attempts to obtain my travel documents.
9. I have cooperated fully with ICE but have received no documentation or further information apart from the Custody Review Determinations.
10. I have been on my best behavior while I await my deportation.
11. I have been detained in ICE's custody for over eight (8) months, and it has been over seven (7) months since I received my final order of removal. However, I am still detained, and I have yet to receive travel documents or any updates from ICE to make it significantly likely that travel documents will be procured in the reasonably foreseeable future.

(b) Did you exhaust all available administrative remedies relating to Ground One? Yes ☐ No ☐

(c) If yes, did you present the issue to:

- ☐ The Board of Immigration Appeals
 - ☐ The Office of General Counsel
 - ☐ The Parole Commission
 - ☐ Other: _____
- _____

(d) If you did not exhaust all available administrative remedies relating to Ground One, explain why:
N/A

N/A

Please answer these additional questions about this petition:

7. Are you challenging your conviction or sentence in any of the grounds raised above? Yes ☐ No ☒
(Claims challenging a federal conviction or sentence may only be raised in a motion under 28 U.S.C. § 2255, unless the § 2255 motion is legally inadequate or ineffective.)

If yes, answer the following:

- (a) Have you filed a motion under 28 U.S.C. § 2255? Yes ☐ No ☒

If yes, answer the following:

(1) Name of court: N/A

(2) Case number: N/A

(3) Opinion or case number: N/A

(4) Result: N/A

(5) Date of result: N/A

(6) Issues raised: N/A

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

- (b) Explain why the remedy under § 2255 is inadequate or ineffective: N/A

8. If this case concerns immigration removal proceedings, answer the following:

- (a) Date you were taken into immigration custody:

- (b) Date of removal or reinstatement order: October 23, 2024

- (c) Did you file an appeal with the Board of Immigration Appeals? Yes ☐ No ☒

(1) Date you filed: N/A

(2) Case number: N/A

(3) Result: N/A

(4) Date of result:

N/A

(5) Issues raised: N/A

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(d) Did you file an appeal with the federal court of appeals? Yes ☐ No ☒

(1) Name of the court: N/A

(2) Date you filed: N/A

(3) Case number: N/A

(4) Result: N/A

(5) Date of result: N/A

(6) Issues raised: N/A

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

9. Petitioner asks that the Court grant the following relief: To order the Department of Homeland Security to immediately grant me supervised release or any other relief to which Petitioner may be entitled. (Money damages are not available in habeas corpus cases.)

I declare under penalty of perjury that the foregoing is true and correct


Signature of Petitioner

Signature of attorney, if any

06/03/25
Date

Certificate of Service

I Liubov Zakhlenaiaz hereby certify that a copy of the attached was sent by U.S. mail to the people listed below, on the date indicated below.

Signature *M. Zakhlenaiaz* Date 06/03/25

Fred Figueroa
Warden
Eloy Detention Center
1705 E Hanna Rd.
Eloy, AZ 85131

Field Office Director
Immigration and Customs Enforcement
2035 N. Central Ave.
Phoenix, AZ 85004

Secretary of Department of Homeland Security
Nebraska Avenue Center, NW
Washington DC 20528

William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

U.S. Attorney for the District of Arizona
Two Renaissance Square
40 N. Central Ave.
Suite 1200
Phoenix, AZ 85004-4408

EXHIBIT A



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
ELOY IMMIGRATION COURT

Respondent Name:

ZAKHLEBNAIA, LIUBOV

To:

ZAKHLEBNAIA, LIUBOV
1705 E HANNA ROAD
ELOY, AZ 85131

A-Number:



Riders:

In Credible Fear Review Proceedings
Initiated by the Department of Homeland Security

Date:

10/23/2024

ORDER OF THE IMMIGRATION JUDGE

On 10/23/2024, a review of the Department of Homeland Security's (DHS's) negative credible fear determination was held in this matter. This Court considered testimony and any documentary evidence submitted regarding the Applicant's fear of persecution or torture.

Upon de novo consideration, the Court makes the findings below —

[Complete section 1, then complete section 2 only if applicable.]

(1) — Final Rule ("FR") limitation on asylum eligibility

A. The Applicant

☒ Is covered by the asylum limitation at 8 C.F.R. § 1208.35(a)(1), because the Applicant entered the United States during the time and in the manner described in § 1208.13(g), and there is not a significant possibility that the Applicant could establish that they are described under section 3(b) of the Presidential Proclamation of June 3, 2024, as amended by the Presidential Proclamation of September 27, 2024. *See* 8 C.F.R. §§ 1208.13(g), 1208.35(a)(1).

[If this box is checked, proceed to Part B.]

or

☐ Is not covered by the asylum limitation at 8 C.F.R. § 1208.35(a)(1), because there is a significant possibility that the Applicant could establish that they are described under section 3(b) of the Presidential Proclamation of June 3, 2024, as amended by the Presidential Proclamation of September 27, 2024. *See* 8 C.F.R. § 1208.35(b)(2)(ii). **[If this box is checked, proceed to Part C.]**

or

☐ Is not covered by the asylum limitation at 8 C.F.R. § 1208.35(a)(1), because there is a significant possibility that the Applicant could establish that they did not enter the United States during the time and in the manner described in § 1208.13(g). *See* 8 C.F.R. §§ 1208.13(g); 1208.35(b)(2)(i). **[If this box is checked, proceed to Section 2.]**

B. If the Applicant is covered by the limitation on asylum eligibility at 8 C.F.R. § 1208.35(a)(1)

☐ There is a significant possibility the Applicant could establish an exception based on exceptionally compelling circumstances. *See* 8 C.F.R. § 1208.35(a)(2)(i). **[If this box is checked, proceed to Part C.]**

or

☒ There is not a significant possibility that the Applicant could establish an exception based on exceptionally compelling circumstances. *See* 8 C.F.R. § 1208.35(a)(2)(i). **[If this box is checked, proceed to Part D.]**

C. If the Applicant is not covered by the limitation on asylum eligibility at 8 C.F.R. § 1208.35(a)(1) because there is a significant possibility the Applicant could establish that they are described in section 3(b) of the Proclamation, *see* 8 C.F.R. § 1208.35(b)(2)(ii); or if there is a significant possibility they could establish an exception based on exceptionally compelling circumstances under 8 C.F.R. § 1208.35(a)(2)(i), the Applicant

☐ Has established a significant possibility of eligibility for asylum under section 208 of the Immigration and Nationality Act (Act), withholding of removal under section 241(b)(3) of the Act, or withholding of removal under the Convention Against Torture (CAT). **[If this box is checked, vacate.]**

☐ Has not established a significant possibility of eligibility for asylum under section 208 of the Immigration and Nationality Act (Act), withholding of removal under section 241(b)(3) of the Act, or withholding of removal under the Convention Against Torture (CAT). **[If this box is checked, affirm.]**

D. If the Applicant is covered by the limitation on asylum eligibility at 8 C.F.R. § 1208.35(a)(1), and there is not a significant possibility that they could establish an exception based on exceptionally compelling circumstances, the Applicant

☐ Has established a reasonable probability (substantially more than a reasonable possibility, but somewhat less than more likely than not) of persecution or torture. *See* 8 C.F.R. § 1208.35(b)(2)(iii). **[If this box is checked, vacate.]**

☒ Has not established a reasonable probability (substantially more than a reasonable possibility, but somewhat less than more likely than not) of persecution or torture. *See* 8 C.F.R. § 1208.35(b)(2)(iii). **[If this box is checked, affirm.]**

(2) — Lawful pathways condition on asylum eligibility

A. The Applicant

☒ Is covered by the presumption of asylum ineligibility at 8 C.F.R. § 1208.33(a)(1)-(2),

or

☐ Is not covered by the presumption of asylum ineligibility at 8 C.F.R. § 1208.33(a)(1)-(2).

B. If the Applicant is covered by the presumption of asylum ineligibility

☐ There is a significant possibility the Applicant could establish that the presumption does not apply or that they meet an exception to or can rebut the presumption under 8 C.F.R. § 1208.33(a)(3),

or

☐ There is not a significant possibility the Applicant could establish that the presumption does not apply or that they meet an exception to or can rebut the presumption under 8 C.F.R. § 1208.33(a)(3).

C. If the Applicant is not covered by the presumption or has rebutted the presumption, the Applicant

☐ Has established a significant possibility of eligibility for asylum under section 208 of the Immigration and Nationality Act (Act), withholding of removal under section 241(b)(3) of the Act, or withholding of removal under the Convention Against Torture (CAT). **[If this box is checked, vacate.]**

☐ Has not established a significant possibility of eligibility for asylum under section 208 of the Immigration and Nationality Act (Act), withholding of removal under section 241(b)(3) of the Act, or withholding of removal under the Convention Against Torture (CAT). **[If this box is checked, affirm.]**

D. If the Applicant is covered by the presumption and has not rebutted the presumption, the Applicant

☐ Has established a reasonable possibility of persecution (meaning a reasonable possibility of being persecuted because of their race, religion, nationality, political opinion, or membership in a particular social group) or torture. **[If this box is checked, vacate.]**

☒ Has not established a reasonable possibility of persecution (meaning a reasonable possibility of being persecuted because of their race, religion, nationality, political opinion, or membership in a particular social group) or torture. **[If this box is checked, affirm.]**

Based on the findings above, the Court issues the following order -

IT IS HEREBY ORDERED THAT:

- ☒ The DHS credible fear determination is **AFFIRMED**, and the case is returned to DHS for removal of the Applicant.
- ☐ The DHS credible fear determination is **VACATED**.

This is a final order. There is no appeal from this decision.



Immigration Judge: MABRY III, WILLIAM 10/23/2024

Certificate of Service

This document was served:

Via: ☐ M] Mail | ☐ P] Personal Service | ☐ E] Electronic Service | ☐ U] Address Unavailable

To: ☐] Noncitizen | ☐ M] Noncitizen c/o custodial officer | ☐] Noncitizen's atty/rep. | ☐ M] DHS

Respondent Name : ZAKHLEBNAIA, LIUBOV | A-Number : 

Riders:

Date: 10/23/2024 By: Jess Ridgeway, Court Staff