

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

KOSTAK,

Petitioner,

v.

TRUMP, et al.,

Respondents.

Civil Action No.
3:25-CV-01093-JE-KDM

NOTICE

Pursuant to this Court's August 27, 2025 Order (ECF No. 20), Petitioner Larysa Kostak submits this notice updating the Court on the Petitioner's carceral status despite the bond hearing held on September 3, 2025 that resulted in a bond of \$8,000 being granted that same day.

As an initial matter, Larysa remains unlawfully detained, ostensibly due to the ultra vires and unconstitutional invocation of an automatic stay of the immigration judge's ("IJ") ruling by the Department of Homeland Security ("DHS"). *See Exhibit A, Correspondence.* "Invocation of the automatic stay per 8 C.F.R. §1003.19(i)(2) renders the IJ's custody redetermination order an 'empty gesture' absent demonstration of a compelling interest or special circumstance left unanswered by the IJ." *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025, at *13 (D. Md. Aug. 24, 2025); *id.* ("The Government's discretion in matters of immigration is deep and wide, but surely its chop does not overcome the banks of due process enshrined in the Constitution").

The automatic stay invoked will, presumably, result in Larysa's continued detention while Respondents contrive more reasons to keep her detained—despite no evidence of flight risk or

dangerousness; indeed, the Board of Immigration Appeals asserted today that Immigration Judges cannot hear bond requests for anyone “present without admission” – the same statutory interpretation this court, and others, have found unlawful. ECF No. 20; *see Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In short, the bond issuance of the IJ is likely to be overturned in short in Larysa’s case—absent intervention by this Court.

Larysa’s current detention is thus both arbitrary and violative of her substantive due process right guaranteed by the Fifth Amendment. *See Ashley v. Ridge*, 288 F. Supp. 2d 662, 669 (D.N.J. 2003) (holding that, “in effect, the automatic stay provision renders the Immigration Judge’s bail determination an empty gesture”); *Mohammad H. v. Trump*, Civil Case No. 25-cv-1576, 2025 WL 1692739, at *5 (D. Minn. June 17, 2025) (finding government violated due process rights of petitioner by invoking automatic stay per 8 C.F.R. § 1003.19(i)(2) after IJ granted bond, because continued detention is “rooted in improper purposes and lacks an individualized legal justification”); *Jacinto v. Trump*, Civil Case No. 25-cv-3161, 2025 WL 2402271 (D. Neb. Aug. 19, 2025) (finding government violated substantive and procedural due process rights of petitioner, and engaged in ultra vires conduct, by invoking automatic stay per 8 C.F.R. § 1003.19(i)(2) after IJ granted bond).

This Court previously contemplated that it would order Larysa’s release in the event she did not receive her bond hearing by September 5, 2025. ECF No. 20. Because Larysa remains unlawfully detained, she once again asks this Court to remedy her unlawful detention and to modify its August 27, 2025 Order, ECF No. 20, and order her immediate release pending adjudication. To that end, Petitioner intends to file (a) a Motion for Leave to Amend Petitioner’s Petition for Habeas Corpus, and an amended petition for habeas corpus; (b) a Motion for a Temporary Restraining Order enjoining Respondents from detaining Petitioner; and (c) a Motion

to Alter the Judgment of ECF No. 20, Pursuant to Fed. R. Civ. P 59 (e), to Order Her Release. *See, e.g., Nucor Steel Louisiana, LLC v. HDI Glob. Ins. Co., No. CV 21-1904, 2022 WL 4127161, at *1 (E.D. La. Aug. 9, 2022)* (“A motion pursuant to Rule 59(e) [...] ‘serve[s] the narrow purpose of allowing a party to [...] present newly discovered evidence’”) (*quoting Templet v. HydroChem Inc.*, 367 F.3d 473, 479 (5th Cir. 2004)).

To that end, Petitioner will propose the following briefing schedule:

- A Motion for Leave to Amend Petitioner’s Petition for Habeas Corpus, and the associated amended pleading:
 - Petitioner’s pleadings due September 9, 2025;
 - Respondents’ pleadings due September 12, 2025; and
 - Petitioner’s Reply pleadings due September 15, 2025
- A Motion for a Temporary Restraining Order enjoining Respondents from detaining Petitioner:
 - Petitioner’s pleadings due September 10, 2025;
 - Respondents’ pleadings due September 15, 2025; and
 - Petitioner’s Reply pleadings due September 18, 2025
- A Motion to Alter the Judgment of ECF No. 20, Pursuant to Fed. R. Civ. P 59 (e), to Order Her Release:
 - Petitioner’s pleadings due September 10, 2025;
 - Respondents’ pleadings due September 15, 2025; and
 - Petitioner’s Reply pleadings due September 18, 2025

On September 4, 2025, counsel for Petitioner contacted counsel for Respondents to request their position on these matters. Counsel for Petitioner have not received confirmation on Respondents’ respective positions.

Dated: September 5, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify on September 5, 2025, I electronically filed the foregoing Notice with the Clerk of the Court using the CM/ECF system, which will send the same to counsel for Respondents.

/s/ Charles Andrew Perry