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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

TATIANA ZAIKO

Plaintiff,
v.

JAMES JANECKA, in his official
capacity as warden of the
Adelanto ICE processing center;
TINA PATEL, in her official
capacity as Field Office Director
of the Immigration and Customs
Enforcement Los Angeles Office;
ALEJANDRO MAYORKAS, in his
official capacity as Secretary of
the Department of Homeland
Security; MERRICK GARLAND
in his official capacity as Attorney
General of the United States,

Respondents.

Case No.

PETITION FOR A WRIT OF
HABEAS CORPUS

Introduction

1. Petitioner Tatiana Zaiko ("Ms. Zaiko" or "Petitioner") is currently detained at the Adelanto ICE Processing Center without any charging document having been filed against her and without any immigration proceedings having been initiated. Immigration and Customs Enforcement ("ICE") has subjected Ms. Zaiko to coercive tactics, including waking her in the middle of the night and pressuring her to sign removal documents under duress. Ms. Zaiko's detention is unlawful, and she seeks immediate release through this petition for a writ of habeas corpus.

2. Ms. Zaiko's detention violates fundamental principles of due process and statutory requirements. She has not been served with a Notice to Appear ("NTA") as required by 8 U.S.C. § 1229 to initiate immigration proceedings. Without such charging document, there is no legal basis for her continued detention. Furthermore, ICE's use of sleep deprivation and coercive tactics to obtain her signature on removal documents violates her constitutional rights and renders any such documents invalid.

3. This Court should order Ms. Zaiko's immediate release because her

detention is unlawful under the Immigration and Nationality Act, the Administrative Procedure Act, and the Due Process Clause of the Fifth Amendment.

Subject Matter Jurisdiction

4. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority); Art. I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause); 28 U.S.C. § 1331 (federal question jurisdiction); and 28 U.S.C. §§ 2201, 2202 (Declaratory Judgment Act).

5. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. See, e.g., *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

Venue

6. Venue is proper in this district pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at the Adelanto ICE Processing Center, located in Adelanto, California.

Parties

7. Petitioner Tatiana Zaiko is a native and citizen of Russia who is

currently detained at the Adelanto ICE Processing Center in Adelanto, California.

8. Respondent James Janecka is the Warden of the Adelanto ICE Processing Center and is responsible for the custody and detention of immigration detainees at that facility. He is Petitioner's immediate custodian and is sued in his official capacity.

9. Respondent Tina Patel is the Field Office Director of the ICE Enforcement and Removal Operations ("ERO") Los Angeles Field Office and is the federal agent charged with overseeing all ICE detention facilities in the Los Angeles area of responsibility, including the Adelanto ICE Processing Center. She is a legal custodian of Petitioner and is sued in her official capacity.

10. Respondent Alejandro Mayorkas is the Secretary of the U.S. Department of Homeland Security ("DHS"). DHS oversees ICE, which is responsible for administering and enforcing the immigration laws. Secretary Mayorkas is the ultimate legal custodian of Petitioner and is sued in his official capacity.

11. Respondent Merrick Garland is the Attorney General of the

United States. He oversees the immigration court system, which is housed within the Executive Office for Immigration Review ("EOIR"). He is sued in his official capacity.

Legal Framework

I. INITIATION OF REMOVAL PROCEEDINGS

12. The Immigration and Nationality Act ("INA") establishes specific procedures for initiating removal proceedings against non-citizens. Under 8 U.S.C. § 1229(a), removal proceedings are initiated when DHS files an NTA with the immigration court and serves it on the non-citizen.

13. The NTA must specify, inter alia: (1) the nature of the proceedings; (2) the legal authority for the proceedings; (3) the acts or conduct alleged to violate the law; (4) the charges against the alien and the statutory provisions alleged to have been violated; (5) the alien's right to representation; and (6) the consequences of failing to appear. 8 U.S.C. § 1229(a)(1).

14. Without a properly filed and served NTA, the immigration court lacks jurisdiction over the non-citizen, and there is no legal basis for detention pending removal proceedings. See *Pereira v. Sessions*, 138 S.

Ct. 2105 (2018).

II. VOLUNTARY DEPARTURE AND REMOVAL

15. A non-citizen may accept voluntary departure or removal only if such acceptance is knowing and voluntary. 8 C.F.R. § 241.1 requires that any waiver of rights must be made voluntarily and with full understanding of the consequences.

16. Coercion, duress, or misleading information invalidates any purported waiver or consent to removal. Courts have consistently held that sleep deprivation and repeated interrogation constitute coercive tactics that undermine the voluntariness of any agreement.

17. The Due Process Clause of the Fifth Amendment protects all persons within the United States, including non-citizens, from deprivation of liberty without due process of law. *Zadvydas*, 533 U.S. at 693.

18. Due process requires, at minimum, notice of charges and an opportunity to be heard. Detention without charges or legal process violates these fundamental requirements.

III. STATEMENT OF FACTS

19. Ms. Zaiko is currently detained at the Adelanto ICE Processing Center. She was initially detained on August 21, 2025.

20. To date, no NTA has been filed with the immigration court initiating removal proceedings against Ms. Zaiko. Without such charging document, there is no legal basis for her detention.

21. ICE officials have engaged in a pattern of coercive conduct designed to pressure Ms. Zaiko into signing removal documents. Specifically, ICE officers have repeatedly woken Ms. Zaiko in the middle of the night and presented her with documents to sign while she was disoriented from sleep.

22. During these nighttime encounters, ICE officers have provided misleading information about the documents and the consequences of signing or not signing them. Ms. Zaiko has been subjected to these tactics multiple times, creating a coercive environment designed to overcome her will.

23. The use of sleep deprivation as an interrogation tactic is widely recognized as coercive and undermines the voluntariness of any statements or agreements obtained through such means.

24. Ms. Zaiko has not been provided with adequate information about her rights or the opportunity to consult with counsel before being pressured to sign documents affecting her immigration status.

25. Despite the absence of any charging document or removal proceedings, ICE continues to detain Ms. Zaiko indefinitely.

IV. ARGUMENT

I. MS. ZAIKO'S DETENTION IS UNLAWFUL BECAUSE NO REMOVAL PROCEEDINGS HAVE BEEN INITIATED

26. Ms. Zaiko's detention violates the INA because ICE has failed to initiate removal proceedings by filing an NTA with the immigration court. Under 8 U.S.C. § 1229(a), removal proceedings begin only when DHS files an NTA containing the required information.

27. Without an NTA, there are no pending proceedings that would justify Ms. Zaiko's detention. The immigration court has no jurisdiction over her case, and ICE has no authority to detain her pending proceedings that do not exist.

28. Courts have consistently held that detention must be tethered to removal proceedings. See, e.g., *Jennings v. Rodriguez*, 138 S. Ct. 830, 846

(2018) (analyzing detention in context of pending proceedings). Where no proceedings exist, detention lacks any statutory basis.

29. ICE's failure to file an NTA while continuing to detain Ms. Zaiko constitutes detention without legal authority in violation of the habeas statute and the Constitution.

II. ANY PURPORTED CONSENT TO REMOVAL WAS OBTAINED THROUGH COERCION AND DURESS

30. To the extent ICE claims Ms. Zaiko has agreed to removal, any such agreement is invalid because it was obtained through coercion and duress.

31. ICE's practice of waking Ms. Zaiko in the middle of the night to pressure her to sign documents constitutes coercive conduct that undermines the voluntariness of any agreement. Sleep deprivation is a recognized form of coercion that impairs cognitive function and decision-making capacity.

32. Courts have long recognized that agreements obtained through coercive interrogation techniques, including sleep deprivation, are involuntary and legally invalid. See, e.g., *Reck v. Pate*, 367 U.S. 433, 440-

41 (1961).

33. The regulatory requirement that removal be "voluntary" cannot be satisfied when the purported consent is obtained through repeated nighttime interrogations designed to wear down the subject's resistance.

8 C.F.R. § 241.1.

34. Additionally, Ms. Zaiko was not provided with accurate information about the documents she was being asked to sign or their consequences, further undermining any claim of voluntary consent.

III. MS. ZAIKO'S DETENTION VIOLATES DUE PROCESS

35. The Due Process Clause prohibits the government from depriving any person of liberty without due process of law. At its core, due process requires notice and an opportunity to be heard

36. Ms. Zaiko has been detained without any notice of charges against her. No NTA has been filed specifying what immigration violations she is alleged to have committed or what proceedings she faces.

37. Furthermore, the conditions of her detention—including repeated nighttime interrogations and coercive tactics—independently violate due process by subjecting her to punishment without any adjudication of guilt

or removability.

38. The Supreme Court has made clear that civil detention cannot be used as punishment and must be reasonably related to its purpose. *Zadvydas*, 533 U.S. at 690. Detention without charges and accompanied by coercive interrogation tactics fails this standard.

IV. THIS COURT SHOULD ORDER IMMEDIATE RELEASE

39. Because Ms. Zaiko's detention is unlawful on multiple grounds, this Court should order her immediate release. No purpose would be served by remanding to the agency when the fundamental defect—absence of any charging document—cannot be cured retroactively.

40. At minimum, if ICE wishes to pursue removal proceedings against Ms. Zaiko, it must file proper charges and afford her due process, including the right to counsel and a hearing before an impartial adjudicator. Until such proceedings are properly initiated, there is no legal basis for her detention.

CLAIMS FOR RELIEF

COUNT I.

UNLAWFUL DETENTION IN VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT

41. Petitioner realleges and incorporates by reference the allegations in paragraphs 1-40.

42. The INA requires that removal proceedings be initiated through the filing of an NTA containing specific information. 8 U.S.C. § 1229(a).

43. No NTA has been filed against Ms. Zaiko, and no removal proceedings have been initiated.

44. Absent properly initiated proceedings, there is no statutory authority for Ms. Zaiko's detention.

45. Ms. Zaiko's continued detention without charges violates the INA and must cease immediately.

COUNT II

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

46. Petitioner realleges and incorporates by reference the allegations in paragraphs 1-45.

47. The Administrative Procedure Act ("APA") requires that agency action be lawful and not arbitrary, capricious, or contrary to law. 5 U.S.C. § 706(2)(A).

48. ICE's detention of Ms. Zaiko without filing charges or initiating proceedings is arbitrary, capricious, and contrary to the statutory scheme governing immigration detention.

49. ICE's use of coercive tactics to obtain Ms. Zaiko's signature on removal documents is arbitrary, capricious, and contrary to regulations requiring voluntary consent.

50. This Court should hold unlawful and set aside ICE's detention of Ms. Zaiko as violating the APA.

COUNT III

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

51. Petitioner realleges and incorporates by reference the allegations in paragraphs 1-50.

52. The Due Process Clause protects all persons within the United States from deprivation of liberty without due process of law.

53. Ms. Zaiko has been detained without any charges being filed against her and without notice of the basis for her detention.

54. ICE has subjected Ms. Zaiko to coercive interrogation tactics, including sleep deprivation, in violation of her due process rights.

55. Ms. Zaiko's detention without charges or fair procedures violates the Due Process Clause and warrants immediate release.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- (a.) Assume jurisdiction over this matter;
- (b.) Issue a writ of habeas corpus requiring Respondents to show cause why Ms. Zaiko should not be released;
- (c.) Declare that Ms. Zaiko's detention violates the Immigration and Nationality Act, the Administrative Procedure Act, and the Due Process Clause of the Fifth Amendment;
- (d.) Order Ms. Zaiko's immediate release from custody;
- (e.) Enjoin Respondents from re-detaining Ms. Zaiko absent the filing of a proper NTA and compliance with due process;
- (f.) Award Ms. Zaiko her costs and attorneys' fees; and
- (g.) Grant such other relief as this Court deems just and proper

Respectfully submitted this 11th day of September, 2025.

/s/ Gary Minevich
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VERIFICATION

I, Gary Minevich, declare under penalty of perjury under the laws of the United States of America as follows:

1. I am the attorney of record for Petitioner Tatiana Zaiko in the above-captioned matter.
2. I have personal knowledge of the facts set forth in this Petition based upon my communications with Ms. Zaiko and my review of the relevant records.
3. The facts alleged in the Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.
4. I verify under penalty of perjury that the foregoing is true and correct.

Executed on September 11, 2025, at Encino, California.



Gary Minevich

CERTIFICATE OF SERVICE

I hereby certify that on September 11, 2025, I served a true and correct copy of the foregoing Petition for Writ of Habeas Corpus, along with all attachments, on the following parties by the methods indicated:

Via CM/ECF (if applicable) and U.S. Mail:

James Janecka, Warden
Adelanto ICE Processing Center
10250 Rancho Road
Adelanto, CA 92301

Tina Patel, Field Office Director
U.S. Immigration and Customs Enforcement
Los Angeles Field Office
300 North Los Angeles Street, Room 7631
Los Angeles, CA 90012

Via U.S. Mail:

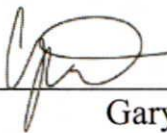
Alejandro Mayorkas, Secretary
U.S. Department of Homeland Security
Office of the General Counsel
3801 Nebraska Avenue NW
Washington, DC 20016

Merrick Garland, Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

U.S. Attorney's Office
Central District of California
Civil Division
312 N. Spring Street, 14th Floor
Los Angeles, CA 90012

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on September 11, 2025, at Encino, California.



Gary Minevich