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Attorney for Plaintiff/Petitioner
TATIANA ZAIKO

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;
KRISTI NOEM, in her official
capacity as Secretary of the
Department of Homeland
Security; PAMELA BONDI in her
official capacity as Attorney
General of the United States,

Respondents.

Case No.

PETITIONER'S OPENING
BRIEF IN SUPPORT OF HER
APPLICATION FOR A
PRELIMINARY INJUNCTION

Introduction and Statement of Facts

On December 22, 2021, Petitioner Tatiana Zaiko (“Ms Zaiko” or “Petitioner”) was lawfully admitted into the United States through a port of entry in New York, New York on a valid B2 tourist visa with permission to remain in the country until June 21, 2023. She was traveling from her former home country of Russia with her husband, Mr. Anton Perevalov (“Mr Perevalov”), and their 14 year old minor son,  Perevalov  both of whom were likewise admitted lawfully on B2 visas and given permission to stay until June 21, 2023. True and correct copies of the family’s I-94 admission records are attached hereto as Exhibit A.

In March 2023, approximately three months after entry, and while still in status on their B2 visas, Mr. Perevalov filed a Form I-589, Application for Asylum and Withholding of Removal with United States Citizenship and Immigration Services (“USCIS”). Mr. Perevalov included Ms. Zaiko and Ivan as dependents on his application. Mr. Perevalov’s I-589 Application was based on his political opinion because he was threatened and physically harmed by law enforcement agencies in Russia for his political opinion. He further claimed a fear of death,

torture or imprisonment by Russian government agencies. A true and correct copy of Mr. Perevalov's I-589 Application is attached hereto as Exhibit B.

The asylum application was received and accepted by USCIS on March 23, 2023, according to a Form I-797C, Notice of Action ("I-589 Receipt Notice") mailed to the offices of the family's counsel. The I-589 Receipt Notice explicitly stated: "You may remain in the U.S. until your asylum application is decided." A true and correct copy of the I-589 Receipt Notice is attached hereto as Exhibit C.

On or about August 25, 2023, while the I-589 Application was pending and the family awaited Mr. Perevalov's USCIS asylum interview, Petitioner filed an I-765 Application for Employment Authorization ("EAD Application"). EAD Applications were also filed on behalf of Mr. Perevalov and Ivan at the same time. These applications were all received by USCIS on August 25, 2023, and Employment Authorizations were issued by USCIS for all three members of the family thereafter. Petitioner's Employment Authorization gave her permission to work between September 21, 2023-September 20, 2025. Mr. Perevalov was permitted to work between September 19, 2023-September 18, 2025

and Ivan's authorization was valid between September 20, 2023-September 19, 2025. True and correct copies of the family's Employment Authorizations are attached hereto as Exhibit D.

Ms. Zaiko began working in April 2024 as a full-time assistant and housekeeper to Ms. Michelle Fateh ("Ms. Fateh") at her private residence. Ms. Fateh had been diagnosed with breast cancer in January 2024 and was recovering from her first major surgery in March 2024 to treat her diagnosis. Ms. Zaiko was hired to help care for Ms Fateh's home and her family in addition to the full-time nursing care Ms. Fateh was receiving. Ms. Zaiko helped maintain the home, feed Ms. Fateh (who was on a medically supervised diet), coordinate the schedule of caregivers, and many other essential tasks, even cleaning up vomit caused by the cancer treatment. Ms. Zaiko continued to work for Ms. Fateh through five major surgeries and until Ms. Zaiko was detained. Ms. Fateh has two more major surgeries still to come and feels lost without the help of Ms. Zaiko. A declaration from Ms. Fateh describing how essential Ms. Zaiko has been to her and her family is attached hereto as Exhibit E.

Ms. Zaiko has been diagnosed with hypothyroidism and is required to take Levothyroxine daily to regulate her body's metabolism. She is

required to take it in the morning with food. This medication is crucial to avoid the symptoms of hypothyroidism such as heart failure or myxedema coma. A true and correct photograph of Ms. Zaiko's medication and a description of Hypothyroidism from MedlinePlus, an official website of the U.S. government (medlineplus.gov) is attached hereto as Exhibit F.

On Thursday, August 21, 2025, at approximately 7:15 a.m., Mr. Perevalov was arrested by a team led by Supervisory Border Patrol Agent-Intelligence (SBPA-I) Mark Clinton ("Agent Clinton") while walking his dog in front of the family's home in Thousand Oaks, California. According to a Form I-213 Record of Deportable/Inadmissible Alien ("I-213 Form"), Agent Clinton had been surveilling Mr. Perevalov's residence since 6:00 a.m. that morning, and had issued an I-200 arrest warrant for him. Agent Clinton had "received an intelligence packet indicating that PEREVALON (sic) was a visa overstay, who failed to depart the United States as required." A true and correct copy of the I-213 Form is attached hereto as Exhibit G.

Mr. Perevalov requested that his dog be turned over to his wife, Ms. Zaiko, who Agent Clinton had also issued an I-200 arrest warrant for as

a visa overstay. The agents allowed Mr. Perevalov to call his wife on his personal cellphone to come get the family dog and then proceeded to arrest her too. Both were handcuffed and placed in unmarked government vehicles. Id.

The I-213 Form claims that Ms. Zaiko stated that she did not have documents allowing her to enter or remain in the U.S., but Ms. Zaiko has denied ever making this statement. She said she had legal paperwork in this country and an attorney. Ms. Zaiko listed documents she and her family had, including a pending I-589 Application, Employment Authorizations, social security numbers, and stated unequivocally that she believed that was in the U.S. legally. According to Ms. Zaiko, the border patrol responded: “this is not important, it is not true, you do not have those documents.” A declaration from Petitioner’s counsel, Mr. Gary Minevich, referencing Ms. Zaiko’s contentions is attached hereto as H. Id., ¶4.

Ms. Zaiko requested that the agents return the family dog to their home. The agents attempted to contact a person they believed to be in the home whom they presumed to be the couple’s minor son, Ivan, but were unable to do so. Ultimately, they lifted the dog over the backyard

fence. Agent Clinton then contacted Ventura County Child Protective Services and notified them that an unaccompanied minor was in the residence with both parents in federal custody. Agent Clinton acknowledges that he was aware that Mr. Perevalov was admitted into the U.S. on December 22, 2022 as a B2 visitor until June 21, 2023 and filed his I-589 Application on March 23, 2023, which was pending at the time of the arrest. Agent Clinton also acknowledges that Mr. Perevalov has no criminal history. Exh. G.

Both Ms. Zaiko and Mr. Perevalov were transferred to ERO Los Angeles and housed at an informal confinement or shadow detention site on the day of their arrest, August 21, 2025. Ms. Fateh was able to drop off Ms. Zaiko's medication to her on August 22, 2025, her second day of detention, but Ms. Zaiko was not given her medication until that evening, and was able to take her next dose on the morning of August 23, 2025. Ms. Zaiko was not able to take her medication for three days. During the period of time she was without medication she was experiencing fever-like symptoms and a rapid heart beat. Exh. E, Decl. of Ms. Fateh, ¶6.

Ms. Zaiko was transferred to Adelanto ICE Processing Center on or about August 25, 2025 or August 26, 2025. Exh. H, Decl. of Mr. Minevich.

¶¶2-3.

Officers at Adelanto ICE Processing Center have recently told Ms. Zaiko that they have lost her medication and have given her some type of replacement pills to take. It is unclear what this medication is or how it is affecting her health condition. *Id.*, ¶5.

At the time of filing her Ex Parte Application for Temporary Restraining Order and Order to Show Cause on September 11, 2025, Petitioner had been detained without any charging document having been filed against her and without any immigration proceedings having been initiated. Immigration and Customs Enforcement ("ICE") had subjected Ms. Zaiko to coercive tactics, including waking her in the middle of the night and pressuring her to sign removal documents under duress.

According to Ms. Zaiko, she was woken up on multiple occasions at approximately 2:30 a.m. beginning on or about August 23 or 24, 2025, and pressured to sign a document to self-deport. She was shown a machine and told to sign it without reading it. She asked for an interpreter, but officers told her she did not need one. Only when Ms. Zaiko repeatedly refused to sign without knowing what she was signing

did officers read the document to her, at which time it became clear to her that it was an agreement to self-deport. Officers attempted to coerce her by making false and misleading statements, such as claims that her husband, Mr. Perevalov, had already signed a document to self-deport and why didn't she. At no time did officers tell Ms. Zaiko that she had a court date scheduled. Id., ¶6.

Officers at Adelanto ICE Processing Center have refused to allowed Ms. Zaiko to meet privately with her attorney via video conference. Despite multiple attempts by her counsel and his office spanning two weeks between September 2, 2025 and September 16, 2025, Petitioner was only allowed a single telephone call to be scheduled on September 16, 2025. Requests to schedule a second telephone call have before and since been ignored repeatedly. For these reasons counsel was not able to quickly obtain a declaration from Petitioner herself. Id., ¶¶7-8.

Ms. Zaiko's son  now 17 years old, was attending Westlake High School as a senior at the time of his parents' detention. He has not attended school since for fear of being detained by ICE. He is currently in hiding and unable to continue his education or maintain a normal childhood. He has missed schoolwork, senior pictures, college

preparatory events, and the school is threatening to unenroll him. Naturally, he is also dealing with significant emotional trauma as a result of his parents' detention and the upheaval of his life. A true and correct copy of some of  school truancy letters and emails are attached hereto as Exhibit I.

Mr. Perevalov is currently detained at Otay Mesa Detention Center. He was employed full time as a manager at Autostop Group, Inc. in Los Angeles, California at the time of the detentions. It is unclear whether his employer has terminated his employment at this point for perceived abandonment. Because both he and his wife are detained, there has been a substantial economic burden to the family and to  who is living without his parents. Mr. Perevalov has been receiving notices of financial demands that no one in the family, nor anyone acting on their behalf, has been able to respond to. True and correct copies of past due credit card notices, insufficient funds notices, and utility bills are attached hereto as Exhibit J.

Just prior to being detained, Ms. Zaiko and her husband had received a notice to vacate the residence they have been renting in Thousand Oaks by December 1, 2025, because the owner/landlord

decided to move back into the residence after finding out he was having a child. Ms. Zaiko signed a new lease for another home in Thousand Oaks to commence on September 15, 2025. Pursuant to the new lease agreement, Ms. Zaiko was required to pay for the first month's rent and an initial deposit prior to that date, but she was obviously unable to do so because of her detention. The landlord at the new residence has decided to hold the family to their contract, and she may be liable for the entirety of the contract for breach. Petitioner may also be in breach if she is not able to vacate the home where she and her family had lived prior to the detention by December 1, 2025. Ms. Zaiko and her family will not likely have a family home to return to if she continues to be detained. A true and correct copy of Ms. Zaiko's new lease agreement is attached hereto as Exhibit K.

Ms. Zaiko's detention is unlawful, and she seeks immediate release. Ms. Zaiko's detention further violates fundamental principles of due process and statutory requirements. She was not served with a Notice to Appear ("NTA") as required by 8 U.S.C. § 1229 to initiate immigration proceedings. Without such charging document, there was no legal basis for her continued detention.

An NTA dated August 23, 2025 was filed with the Executive Office for Immigration Review (“EOIR”) on September 10, 2025, but was never served on Petitioner, and was not reflected in the EOIR Automated Case Information system as of September 11, 2025, at 4:30 p.m. The NTA purports to have been served to Ms. Zaiko on August 23, 2025, claiming she resided at Adelanto ICE Processing Center at a time when she was still housed at ERO Los Angeles. It also indicated a hearing date of November 4, 2025 at 8:00 a.m. at Adelanto ICE Processing Center two days before she was transferred there. Moreover, the NTA includes the factual allegation that Ms. Zaiko remained in the U.S. beyond June 21, 2023 without authorization despite the authorization to remain afforded to her by USCIS in the I-589 Receipt Notice. (Exh. C.) It is not lost on Petitioner that the NTA attached as Exhibit A to the Government’s Opposition to Ms. Zaiko’s Ex Parte Application, which the Government claims was served on Ms. Zaiko on August 23, 2025, redacts her residence address of the Adelanto ICE Processing Center. True and Correct Copies of the unredacted NTA filed with EOIR and the unredacted NTA attached to the Government’s Opposition to Petitioner’s Ex Parte Application are attached hereto as Exhibit L.

This Court should order Ms. Zaiko's immediate release because the underlying immigration charges are legally defective, and her detention is unlawful under the Immigration and Nationality Act, the Administrative Procedure Act, and the Due Process Clause of the Fifth Amendment. Ms. Zaiko has suffered irreparable harm as outlined by the facts and evidence presented herein, and the balance of equities weighs in Petitioner's favor.

Legal Framework

I. INITIATION OF REMOVAL PROCEEDINGS

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.

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).

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

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.

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.

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.

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. ARGUMENT

A. Ms. Zaiko Is Entitled to a Preliminary Injunction

The standard for a preliminary injunction is the same as for a TRO: Ms. Zaiko must show (1) likelihood of success on the merits; (2) likelihood of irreparable harm absent the injunction; (3) the balance of equities tips in her favor; and (4) an injunction is in the public interest. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

B. Ms. Zaiko Has Shown a Strong Likelihood of Success on the Merits.

1. The NTA Is Fatally Defective and Cannot Sustain Removal Proceedings

Ms. Zaiko has a strong likelihood of success because the purported NTA is legally deficient on multiple grounds, requiring termination of any removal proceedings.

First, the NTA could not have been properly served on Ms. Zaiko as required by 8 U.S.C. § 1229(a). The NTA is dated August 23, 2025, and claims service on that date at Adelanto ICE Processing Center. However, the Government's own I-213 Form establishes that Ms. Zaiko was detained at ERO Los Angeles on August 23, 2025, and she was not

transferred to Adelanto until August 25 or 26, 2025. Exh. G; Exh. H, Decl. of Mr. Minevich, ¶3. An NTA served at a location where the respondent was not present is no service at all. See *Pereira v. Sessions*, 138 S. Ct. 2105, 2113-14 (2018) (emphasizing strict compliance with NTA requirements).

Second, the factual allegations in the NTA are demonstrably false. The NTA alleges that Ms. Zaiko "remained in the United States beyond June 21, 2023, her authorized period of stay" without authorization. (Exh. I.) This allegation is directly contradicted by USCIS's own I-797C Notice of Action, which explicitly states: "You may remain in the U.S. until your asylum application is decided." Exh. C. The asylum application was filed on March 23, 2023—before the expiration of Ms. Zaiko's B-2 status—and remains pending. Ms. Zaiko's continued presence in the United States is therefore authorized by USCIS itself. Exh. B.

Under 8 C.F.R. § 1003.14(a), an Immigration Judge "shall terminate proceedings" when "[n]o charge of deportability, inadmissibility, or excludability can be sustained." Here, the sole charge of removability—overstaying a visa—is factually unsupported because

Ms. Zaiko has authorization to remain pending her asylum application. The regulation mandates termination, not discretionary relief.

Third, Ms. Zaiko would, at minimum, qualify for bond given the factors enumerated herein. Her employer, Ms. Fateh, is a United States Citizen who has signed a notarized letter of support promising a place for Ms. Zaiko to reside, financial support, and guaranteed attendance at any and all immigration appointments if Ms. Zaiko is released. She has also offered to pay for a bond if one is required. Exh. E, ¶8; Exh. M.

Ms. Zaiko would qualify for a bond based on her legal entry into the U.S, and there is absolutely no indication Ms. Zaiko would be a flight risk.

2. The Coercive Removal Attempts Violate Due Process

Ms. Zaiko is also likely to succeed on her due process claim. The Supreme Court recently reaffirmed that "'no person shall be' removed from the United States 'without opportunity, at some time, to be heard.'" A.A.R.P. v. Trump, 605 U.S. ___, 145 S. Ct. 1364, 1367 (2025). ICE's repeated nighttime interrogations—waking Ms. Zaiko at 2:30 a.m. to pressure her to sign removal documents while disoriented—constitute coercion that violates fundamental due process. See *Reck v. Pate*, 367

U.S. 433, 440-41 (1961) (agreements obtained through sleep deprivation are involuntary).

Further, Ms. Zaiko has not been granted adequate attorney representation. Her counsel has only been allowed to speak to her confidentially one time in the last few weeks further disadvantaging her in the present action, as well as her upcoming Immigration Court hearings. Exh. H, ¶¶ 7-8. 8 C.F.R. § 1229a(b)(4)(A) grants an alien the right to be represented by an attorney of the alien's choosing. That right has been limited at best.

3. Ms. Zaiko Has Suffered Irreparable Harm Due to Her Detention Which Will Be Compounded. Her Immediate Release is Critical.

The facts detailed in the Introduction and Statement of Facts establish multiple forms of irreparable harm:

- **Deprivation of Constitutional Rights:** The denial of due process "unquestionably constitutes irreparable injury." *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017).
- **Medical Harm:** Ms. Zaiko has been deprived of her prescribed hypothyroidism medication, experiencing fever-like symptoms and

rapid heartbeat. Officers have "lost" her medication and provided unknown replacement pills.

- **Family Separation:** Her 17-year-old son Ivan lives in hiding, missing school and facing threats of disenrollment. The psychological trauma to a minor child constitutes irreparable harm. See Hernandez, 872 F.3d at 995.

- **Risk of Persecution:** As Mr. Perevalov's dependent on an asylum application based on political persecution by Russian authorities, Ms. Zaiko faces potential persecution if removed.

- **Loss of Essential Employment:** Ms. Zaiko provides critical care to Ms. Fateh, a cancer patient recovering from five surgeries with two more pending. This unique caregiver relationship cannot be replaced.

- **Financial and Personal Harm:** The unlawful detention has caused irreparable financial harm and personal by perhaps leaving her without a home and with many financial obligations due to potential multiple breaches of contract between her former and new residence. In addition, she may lose her personal belongings, furniture, and items critical to her asylum claim, as well as default on

payments for utilities, telephone, credit cards, car payments, and other obligations.

4. The Balance of Equities and Public Interest Favor Ms. Zaiko.

While the government has an interest in enforcing immigration laws, that interest is minimal when enforcement is based on a defective NTA containing false charges. The public has no interest in detention based on demonstrably incorrect allegations.

Conversely, the equities strongly favor Ms. Zaiko:

- She entered lawfully and filed for asylum while in status.
- She has work authorization through September 2025.
- She supports a cancer patient through critical medical treatment.
- Her minor son faces educational and psychological harm.
- She faces potential persecution if removed.

As this Court recognized, "[t]he public interest benefits from an injunction that ensures that individuals are not deprived of their liberty and held in immigration detention in violation of the Constitution." (Order at 4-5, citing Hernandez, 872 F.3d at 996.)

C. Release is the Appropriate Remedy.

Because the NTA cannot sustain removal proceedings as a matter of law under 8 C.F.R. § 1003.14(a), continued detention lacks any legal basis. Where detention is predicated on removability proceedings that must be terminated, the appropriate remedy is release. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (detention must be reasonably related to its purpose).

Prayer For Relief

WHEREFORE, Petitioner respectfully requests that this Court:

- a. Grant a preliminary injunction preventing Respondents from removing Ms. Zaiko from the United States;
- b. Order Ms. Zaiko's immediate release from custody based on the legally deficient NTA that cannot sustain removal proceedings;
- c. In the alternative, order Ms. Zaiko's release on reasonable bond or conditions of supervision;
- d. Enjoin Respondents from subjecting Ms. Zaiko to coercive interrogation tactics;
- e. Award Ms. Zaiko her costs and attorneys' fees; and
- f. Grant such other relief as this Court deems just and proper.

Respectfully submitted this 18th 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 Preliminary Injunction Opening Brief 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 18, 2025, at Encino, California.

/s/Gary Minevich —

CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2025, I served a true and correct copy of the foregoing Preliminary Injunction Opening Brief, along with all attachments, on the following parties by the methods indicated:

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

James Janecka, Warden
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Via U.S. Mail:

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

Executed on September 18, 2025, at Encino, California.

/s/ Gary Minevich

Gary Minevich