

Dec 02 2025

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY *danielmartinez* DEPUTY

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

PROKOPEV, NIKITA,)
)
 Petitioner,)
)
 v.)
)
LAROSE, CHRISTOPHER J., Warden,)
)
 OTAY MESA DETENTION CENTER)
ARCHAMBEAULT, GREGORY J.,)
 Director of the San Francisco CA Field Office of)
 U.S. Immigration and Customs Enforcement;)
NOEM, KRISTI, Secretary of the U.S.)
 Department Homeland Security; and)
BONDI, PAMELA, Attorney General of the)
 United States, in their official capacities,)
)
 Respondents.)
)

Case No. '25CV3441 JES MSB

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Nikita Prokopev is a 22-year-old citizen and native of the Russian Federation who has been held in immigration detention at the Otay Mesa Detention Center ("OMDC") in San Diego, California since November 20, 2024. Petitioner lawfully presented himself at the United States border seeking humanitarian parole, was inspected and admitted under parole authority, and has never entered the United States unlawfully. His prolonged and continued detention now exceeds eleven months, despite his full cooperation with all immigration processes and his pursuit of asylum relief. His detention has become arbitrary, punitive, and constitutionally unlawful, and violates both statutory and constitutional limitations on federal civil detention.

2. As detailed below, Petitioner suffers from significant mental health deterioration, acute anxiety, depression, sleep disturbance, and physical decline, all of which have been

exacerbated by his prolonged imprisonment in a facility ill-equipped to address his worsening medical and psychiatric needs. Absent intervention from this Court, Petitioner faces continued unlawful detention, further deterioration of his health, and irreparable harm.

3. Petitioner therefore respectfully asks this Court to find that his continued civil detention violates the U.S. Constitution, the INA, and binding Supreme Court and Ninth Circuit precedent, and to order his immediate release, or, in the alternative, to order Respondents to provide a constitutionally adequate bond hearing before a neutral adjudicator where the government bears the burden of proving by clear and convincing evidence that continued confinement is justified.

JURISDICTION

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

2. This Court has subject matter jurisdiction under 28 U.S.C. § 2241, because Petitioner challenges the legality of his federal civil detention; under 28 U.S.C. § 1331, because the case arises under federal law; and under the Suspension Clause, U.S. Const. art. I, § 9, cl. 2. Habeas corpus remains available to those in immigration custody who challenge the lawfulness of detention. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

3. This Court may grant relief under the habeas corpus statutes, the Declaratory Judgment Act, 28 U.S.C. § 2201, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

1. Venue is proper in the Southern District of California because Petitioner is detained at OMD in San Diego, California, within this District.

2. Venue is proper in this District because Respondent LaRose—the official with immediate custody over Petitioner—resides and exercises authority within this District. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

1. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

2. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

1. Petitioner NIKITA PROKOPEV is a 22-year-old citizen and native of the Russian Federation who is currently detained at the Otay Mesa Detention Center in San Diego, California. He is in the physical custody of Respondents and under their direct control. Petitioner was lawfully admitted into the United States under humanitarian parole on November 20, 2024.

2. Respondent CHRISTOPHER J. LAROSE is the Warden of the Otay Mesa Detention Center. He exercises immediate physical custody over Petitioner and is Petitioner’s primary legal custodian.

3. Respondent GREGORY J. ARCHAMBEAULT is the Director of the San

Francisco Field Office of U.S. Immigration and Customs Enforcement (ICE). He is responsible for the detention and custody decisions affecting Petitioner and is a legal custodian with authority to release him.

4. Respondent KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security, oversees ICE and CBP and is responsible for the implementation and enforcement of immigration laws, including detention authority. She is a legal custodian of Petitioner.

5. Respondent PAMELA BONDI, in her official capacity as Attorney General of the United States, is responsible for oversight of the Department of Justice and the Executive Office for Immigration Review (EOIR), which adjudicates Petitioner's removal case. She is a legal custodian of Petitioner.

STATEMENT OF FACTS

1. Petitioner is a 22-year-old citizen of Russia fleeing persecution based on political opinion and refusal to participate in the Russian military system, including objections to participation in the ongoing war.

2. Petitioner lawfully entered the United States on November 20, 2024, seeking humanitarian parole. He was inspected, processed, and granted humanitarian parole by U.S. Customs and Border Protection.

3. Immediately upon entry, Petitioner was detained by Immigration and Customs Enforcement (ICE) and transferred to the Otay Mesa Detention Center, where he has remained since that date.

4. While detained, Petitioner submitted an asylum application (Form I-589) and fully litigated his claim before the Immigration Court. On June 2, 2025, the Immigration Judge denied asylum, withholding of removal, and CAT protection. A removal order was entered.

5. Petitioner timely appealed the IJ's decision to the Board of Immigration Appeals (BIA) on June 23, 2025, where his appeal remains pending.

6. Petitioner's detention has now exceeded eleven months, during which time he has not posed any danger or flight risk. He has no criminal history, no history of immigration violations, and no history of failing to appear.

7. Petitioner's mental health has deteriorated severely during his prolonged confinement. He suffers escalating anxiety, panic episodes, depressive symptoms, inability to sleep, and diminished appetite. His physical health has likewise deteriorated—he experiences recurrent headaches, weight loss, worsening stomach pain, and symptoms consistent with severe stress.

8. Despite repeated requests, Petitioner has not received consistent mental health treatment or adequate medical care inside OMDC. His condition places him at heightened risk of self-harm and long-term psychological trauma.

9. Conditions at OMDC are punitive, not civil, in nature. Petitioner spends most days in near-solitary confinement, with limited outdoor access, inadequate recreation, minimal mental health support, and chronic exposure to noise, stress, and violence among detainees.

10. ICE has failed to consider reasonable alternatives to detention, despite mandatory statutory and regulatory obligations to periodically reassess custody for parolees and asylum seekers.

11. Petitioner's continued detention serves no legitimate governmental purpose, especially now that he is pursuing a bona fide appeal. His detention is prolonged, arbitrary, and in violation of due process.

LEGAL FRAMEWORK

1. Immigration detention is civil, not criminal, and is strictly limited by the Due Process Clause. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

2. The Supreme Court has held that prolonged immigration detention without individualized justification is unconstitutional. *Demore v. Kim*, 538 U.S. 510 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018). The Ninth Circuit requires bond hearings for prolonged detention under the Due Process Clause. See *Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir. 2013), vacated on other grounds; post-*Jennings*, district courts continue to order constitutionally required hearings under the Fifth Amendment.

3. Due process prohibits the government from detaining a noncitizen for a prolonged period absent a showing—by clear and convincing evidence—that the individual poses a danger or flight risk. See *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011).

4. The government may not subject a civil detainee to punitive conditions. See *Jones v. Blanas*, 393 F.3d 918, 933–34 (9th Cir. 2004).

5. Under *Zadvydas*, removal detention becomes presumptively unconstitutional after six months unless removal is significantly likely in the reasonably foreseeable future. 533 U.S. at 701.

6. Petitioner's continued detention during the pendency of his appeal is governed by 8 U.S.C. § 1231(a)(1)(B)(ii), but the 90-day "removal period" does not begin until the BIA

appeal is resolved. Prolonged detention during appeal is therefore regulated by due process, not by statute.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

1. Petitioner re-alleges and incorporates the above paragraphs.
2. Petitioner's detention has become unreasonably prolonged, exceeding eleven months without any individualized determination of necessity.
3. Respondents have not demonstrated—let alone by clear and convincing evidence—that Petitioner poses a danger or flight risk that would justify continued imprisonment.
4. Petitioner is subjected to punitive conditions, inadequate medical and mental health care, and an environment that is indistinguishable from penal confinement.
5. Petitioner's worsening psychological and physical health, coupled with Respondents' failure to provide adequate treatment, magnifies the constitutional violation.
6. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

Violation of 8 U.S.C. § 1231 and Implementing Regulations

1. Petitioner re-alleges and incorporates the above paragraphs.
2. Under the INA and its implementing regulations, the government must conduct periodic custody reviews and consider less restrictive alternatives to detention. Respondents have failed to do so.

3. Petitioner is not within the statutory "removal period" because his appeal is pending before the BIA. Thus, his continued detention is purely discretionary and constrained by constitutional and statutory limits.

4. Respondents' failure to reassess custody, failure to provide medical treatment, and reliance on blanket detention policies violate 8 U.S.C. § 1231 and 8 C.F.R. § 241.4.


5. For these reasons, Petitioner's continued detention violates 8 U.S.C. § 1231 and the corresponding regulations.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause within three days under 28 U.S.C. § 2243;
- (3) Declare Petitioner's detention unconstitutional under the Fifth Amendment and unlawful under 8 U.S.C. § 1231 and 8 C.F.R. § 241.4;
- (4) Issue a writ of habeas corpus ordering Petitioner's immediate release or, in the alternative, a constitutionally adequate bond hearing where the government bears the burden of proving by clear and convincing evidence that continued detention is justified;
- (5) Grant any other relief the Court deems just and proper.

Respectfully submitted,



Nikita Prokopen
Petitioner

Dated: November 21, 2025.