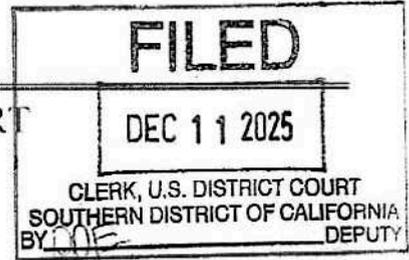


AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
for the
Southern District of California



EVGENIIA MARKOVA)

Petitioner)

v.)

v.)

Warden, Otay Mesa Detention Center)

Respondent

(name of warden or authorized person having custody of petitioner)

Case No. **'25CV3580 LL VET**
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Evgeniia Markova
- (b) Other names you have used: Evgeniia Nikishina
2. Place of confinement:
 - (a) Name of institution: Otay Mesa Detention Center
 - (b) Address: 7488 Caizada de la Fuente, San Diego, California 92154
- (c) Your identification number: A-Number:
3. Are you currently being held on orders by:

Federal authorities State authorities Other - explain: _____
4. Are you currently:

A pretrial detainee (waiting for trial on criminal charges)

Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

If you are currently serving a sentence, provide:

 - (a) Name and location of court that sentenced you: _____
 - (b) Docket number of criminal case: _____
 - (c) Date of sentencing: _____

Being held on an immigration charge

Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:

How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- Pretrial detention
- Immigration detention
- Detainer
- The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- Disciplinary proceedings
- Other (explain): _____

6. Provide more information about the decision or action you are challenging:
- (a) Name and location of the agency or court: U.S. Department of Homeland Security
ICE Enforcement and Removal Operations, San Diego, California.
 - (b) Docket number, case number, or opinion number: Unknown
 - (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
Continued immigration detention without parole or release determination.
 - (d) Date of the decision or action: 06/04/2025

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

- Yes
- No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: _____
- (2) Date of filing: _____
- (3) Docket number, case number, or opinion number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: I am an immigration detainee and have not been provided access to bond, parole, or meaningful review of my detention.

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

- Yes
- No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes No

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If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

Yes No

If "Yes," provide:

(a) Date you were taken into immigration custody: 06/04/2025

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals?

Yes No

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If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Date of filing: _____
- (3) Case number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____
- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____

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Grounds for Your Challenge in This Petition

- 13. State every ground (reason) that supports your 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. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Unlawful prolonged immigration detention and denial of release determination.

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

I have been detained in ICE custody since May 2025 at Otay Mesa Detention Center.

I have not been granted parole, bond, or meaningful custody review. I have no criminal conviction and pose no no danger or flight risk.

Reason:

No administrative remedy for prolonged detention was available.

(b) Did you present Ground One in all appeals that were available to you?

Yes No

GROUND TWO: _____

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

(b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE: _____

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

(b) Did you present Ground Three in all appeals that were available to you?

Yes No

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GROUND FOUR:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

Yes No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: No administrative or judicial mechanism was provided to challenge prolonged detention before filing habeas corpus.

Request for Relief

15. State exactly what you want the court to do: Immediate release from detention under reasonable supervision, bond, parole, or any less restrictive alternative to confinement.

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 12/05/2025



Signature of Petitioner

Signature of Attorney or other authorized person, if any

Evgeniia Markova

A# 

Otay Mesa Detention Center
7488 Calzada de la Fuente
San Diego, CA 92154

Date: 12/05/2025

Clerk of Court

United States District Court
Southern District of California
333 West Broadway, Suite 420
San Diego, CA 92101

RE: Filing of Habeas Corpus Petition Under 28 U.S.C. § 2241

Dear Clerk of Court,

Please accept for filing my enclosed Petition for a Writ of Habeas Corpus pursuant to **28 U.S.C. § 2241**. I am currently detained in the custody of U.S. Immigration and Customs Enforcement (ICE) at the Otay Mesa Detention Center in San Diego, California.

I am submitting this petition on my own behalf, as I believe that the continued duration of my detention has become unlawful, unreasonably prolonged, and inconsistent with constitutional protections, federal statutes, and applicable procedural standards.

The required **\$5.00 filing fee** has been requested through the **Trust Account Withdrawal** process used by this facility. Funds are available in my ICE detainee trust account, and I have already submitted the withdrawal request to facility staff. However, I am unable to personally issue or mail a check, as all financial transactions must be processed by the detention facility administration.

If the filing fee does not arrive immediately, I respectfully request that my petition be **docketed and accepted pending receipt of payment**, consistent with standard procedures for detained individuals who lack the ability to directly manage or mail trust account funds.

Enclosed with this submission are:

1. **Petition for Writ of Habeas Corpus (AO-242 Form)**
2. **Copy of Trust Account Withdrawal Request (if available)**
3. **Any additional supporting documentation**

I respectfully request notification of the assigned case number once the petition has been entered into the docket. As I do not have electronic access due to my detention, please send all correspondence by mail to the address listed above.

Thank you for your time, attention, and assistance in processing this filing.

Respectfully submitted,

Evgeniia Markova

A# 

Otay Mesa Detention Center
San Diego, California

DECLARATION OF EVGENIIA MARKOVA

UNDER PENALTY OF PERJURY

I, **Evgeniia Markova**, A# hereby declare under penalty of perjury that the following is true and correct to the best of my knowledge and belief:

I am currently detained in immigration custody at the **Otay Mesa Detention Center** in San Diego, California. My husband and I were taken into immigration custody on or about **June 3-4, 2025** after crossing the United States border to request asylum. We were forced to cross the border because returning to our home country would place our safety, freedom, and lives at serious risk.

After we were detained, neither my husband nor I received a **Notice to Appear (NTA)**. The NTA was provided to us only on **August 25, 2025**, and only after repeated requests and prolonged delays.

My immigration court hearings are scheduled as follows:

- First master calendar hearing: **September 11, 2025**
- Second master calendar hearing: **September 25, 2025**
- Third master calendar hearing: **October 10, 2025**
- Individual (final) hearing scheduled for: **February 6, 2026**

The conditions of my detention are not suitable for long-term confinement. The housing unit is overcrowded, movement is restricted, food portions are inadequate, and access to basic hygiene items and other necessities is inconsistent.

I have **chronic heart-related medical conditions** and a history of psychological difficulties for which I received treatment prior to arriving in the United States. The prolonged uncertainty, lack of progress in my case, and stressful conditions inside detention have significantly worsened my physical and mental health.

Recently, when I experienced **chest pain and shortness of breath** and requested medical assistance, the response I received was approximately:

“If it does not hurt now and you can breathe, then you are fine.”

Considering my medical history and ongoing symptoms, this response was inadequate, dismissive, and medically inappropriate. I have not received regular or specialized medical monitoring consistent with my condition.

My husband, who is also detained, has **pulmonary sarcoidosis**, a condition requiring medical oversight and monitoring. I am deeply concerned about his health, as well as our emotional well-being as a married couple separated inside detention and living under uncertainty.

Earlier in my detention, I did not request parole because I repeatedly observed other detainees being denied without consistent reasoning or clear explanations. Based on this pattern, I believed such a request would likely be futile.

The delays in my case are not caused by me. Even after multiple master hearings, I was not informed why additional hearings were necessary. My previous attorney — whose services were paid for by a third party — stopped communicating after the final hearing was scheduled and no longer responded to me or to the person who paid for representation. I currently do not have access to the documents previously filed in my case, and I do not fully understand my current procedural posture.

Given the length of my detention, the absence of timely information about my case, the decline in my physical and mental health, inadequate medical treatment, and loss of legal representation, I respectfully request to be released from detention while my immigration case proceeds.

I do not pose any danger to the community, I have no criminal record, and I have complied with all rules and requirements during my time in custody. My only intention in coming to the United States was to lawfully request protection and seek asylum.

CERTIFICATION

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

Executed on: 5 December, 2025

Evgenia Markova

A# ~~XXXXXXXXXX~~

Otay Mesa Detention Center
San Diego, California

LEGAL MEMORANDUM

IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

Submitted by: Evgeniia Markova (A# )

1.

Prolonged Detention Violates Constitutional Limits and Federal Legal Standards

Immigration detention is permitted only for a reasonable and limited duration. In **Zadvydas v. Davis**, 533 U.S. 678 (2001), the Supreme Court held that immigration detention that becomes excessively prolonged or indefinite violates the **Fifth Amendment**, as liberty is a core constitutional protection.

Courts in the **Ninth Circuit** have applied this principle to prolonged pre-removal detention, including asylum seekers:

Case	Legal Principle
Diouf v. Napolitano (Diouf II) , 634 F.3d 1081 (9th Cir. 2011)	Prolonged detention requires meaningful review and government justification.
Rodriguez v. Robbins , 715 F.3d 1127 (9th Cir. 2013)	Continued detention cannot continue automatically; the government must justify it.
Nadarajah v. Gonzales , 443 F.3d 1069 (9th Cir. 2006)	Five-year detention of an asylum seeker found unlawful.
Singh v. Holder , 638 F.3d 1196 (9th Cir. 2011)	Government bears burden of proving danger or flight risk.

Despite months in detention, I have not received meaningful review or justification for continued confinement.

2.

Violations of Due Process and Interference with Access to a Fair Immigration Process

The **Due Process Clause** requires timely notice, procedural transparency, and meaningful participation.

In my case:

- The **Notice to Appear** was not issued until **August 25, 2025**;
- I was never informed of the procedural status of my case;
- My prior attorney ceased communication and did not provide filed documents;
- I currently lack access to my case file.

Key legal authorities confirm that denial of meaningful process violates constitutional protections, including:

- **Mathews v. Eldridge**, 424 U.S. 319 (1976);
- **Singh v. Holder** (9th Cir.).

3.

Medical Vulnerability Makes Continued Detention Harmful and Unjustified

I have chronic heart-related medical conditions and a history of psychological treatment.

Inside detention:

- I have not received consistent medical care,
- When reporting chest pain and breathing difficulty, I was told:

“If it doesn’t hurt right now and you can breathe, you’re fine.”

Courts recognize that medical harm during prolonged detention warrants release:

- **Ahn v. INS**, 1 F. Supp. 2d 1139 (N.D. Cal. 1998).

Continued detention endangers my health and is excessive.

Case Timeline

Event	Date
Taken into custody	June 3–4, 2025
NTA issued	August 25, 2025
Master Hearing #1	September 11, 2025

Event	Date
Master Hearing #2	September 25, 2025
Master Hearing #3	October 10, 2025
Individual Hearing scheduled	February 6, 2026

Requested Relief

I respectfully request that the Court:

- Order my release pending adjudication,

or, in the alternative:

- Require a **bond hearing** at which the burden of proof is on the government.

Conclusion

My detention is now **excessively prolonged, medically harmful, legally unsupported, and inconsistent with constitutional protections and controlling Ninth Circuit precedent.**

Accordingly, I respectfully request that the Court grant my petition for habeas corpus.



U.S. Citizenship
and Immigration
Services

Applicant: VLADIMIR MARKOV
A #

Officer: Moricco Pamplin
Date of Determination: Jul 5, 2025

Convention Against Torture Assessment Notice For Alien(s) Whose Entry Has Been Suspended and/or Restricted Pursuant to INA §§ 212(f) and 215(a) (Rev. 01/31/2025)

A Number:

Last Name: **MARKOV**

First Name: **VLADIMIR**

Interview Date: **2025-07-05**

Determination Date:

You were interviewed by a DHS asylum officer to determine whether it is more likely than not that you will be tortured in **RUSSIA**. The assessment made by the DHS asylum officer, indicated below, will be considered by DHS in determining whether you may be sent to **RUSSIA**. DHS will provide you with additional information regarding how you will be processed.

- You established it is more likely than not that you will be tortured in RUSSIA
- You did not establish it is more likely than not that you will be tortured in RUSSIA

The following family members are included in this assessment:

EVGENIIA MARKOVA (Spouse)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Instructions

1. **Who Should Use This Form.** You should use this form if
 - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
 - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
 - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
 - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
 - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
 - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. A false statement may lead to prosecution.
4. **Answer all the questions.** You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**
5. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
6. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
7. **Submitting Documents to the Court.** Mail your petition and 1 copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
8. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.