

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION



Olga LIPSKAIA,)
)
 Petitioner,)
)
 v.)
)
 Christopher J. LAROSE, in his official capacity)
 as Warden of Otay Mesa Detention Center;)
 Daniel A. BRIGHTMAN, in his official capacity as)
 San Diego Field Office Director (FOD), Immigration)
 and Customs Enforcement (ICE) Enforcement and)
 Removal Operations (ERO); Todd LYONS, in his)
 official capacity as Acting Director of ICE; and Kristi)
 NOEM, in her official capacity as Secretary of)
 Homeland Security, Pamela BONDI, U.S. Attorney)
 General; ICE; DEPARTMENT OF HOMELAND)
 SECURITY (DHS),)
)
 Respondents.)

'26CV3 JLS VET

**PETITION FOR WRIT
OF HABEAS CORPUS**

A# 

I. INTRODUCTION

1. Petitioner Olga LIPSKAIA (“Ms. LIPSKAIA”) is a 40-year-old Russian national who last entered the United States in September 18, 2024. She arrived at the Calexico Port of Entry with her husband, Andrei POPOV, and two children; K  (15 years-old daughter), and K  (11 years-old son).

2. Border agents arrested and detained Ms. LIPSKAIA as an Arriving Alien under 8 U.S.C. § 1225(b). Ms. LIPSKAIA was the only person in the family detained. The rest of the family was released on their own recognizance into the U.S. and live in the Los Angeles area undergoing Removal Proceedings and seeking asylum relief

under the same set of facts and circumstances as Ms. LIPSKAIA.¹

3. The government has not justified why Ms. LIPSKAIA was detained while the rest of the family was allowed to go free, nor why she remains detained after more than sixteen (16) months.²

4. Mr. LIPSKAIA therefore seeks a writ of habeas corpus directing her immediate release, or in the alternative, a custody redetermination hearing in Immigration Court based on her prolonged detention.

5. Ms. LIPSKAIA is represented here in Pro Bono by undersigned Counsel.

II. VENUE AND JURISDICTION

6. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution (Suspension Clause), as Ms. LIPSKAIA is presently in custody under the authority of the United States and challenging her detention as in violation of the Constitution, laws, or treaties of the United States.

7. The federal district courts have jurisdiction under Section 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).

8. Venue is proper because Ms. LIPSKAIA is detained in the Otay Mesa Detention Center, within the San Diego Division, and Christopher J. LAROSE, in

¹ Exhibit C: Credible Fear Interview Determination, page 4-5 of 46, Form I-8705B, DHS, Oct. 11, 2024 ([REDACTED])

² Exhibit B: Form I-213, DHS, dated 9/19/2024 (filed as evidence with Immigration Court on 2/11/2025).

his official capacity as Warden of Otay Mesa Detention Center; and Daniel A. BRIGHTMAN, in his official capacity as San Diego Field Office Director (AFOD), as her immediate custodians. *See* 28 U.S.C. §§ 2241(d), 1391(e).

III. PARTIES

9. Petitioner, Ms. Olga LIPSKAIA, is a 40-year-old Russian being held in San Diego, California. She is currently detained by Respondents at the Otay Mesa Detention Center in San Diego, California, pending removal proceedings.

10. Respondent Christopher J. LAROSE is the Warden of Otay Mesa Detention Center. Respondent LAROSE is responsible for the operation of the Detention Center where Ms. KIPSKAIA is detained. As such, Respondent LAROSE has immediate physical custody of the Petitioner. He is being sued in his official capacity.

11. Daniel A. BRIGHTMAN, in his official capacity as San Diego Field Office Director, ICE-ERO. Respondent BRIGHTMAN is responsible for the oversight of ICE operations at the Otay Mesa Detention Center. Respondent BRIGHTMAN is being sued in his official capacity.

12. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including immigrant detention. As such, Respondent Lyons is a legal custodian of Ms. LIPSKAIA and is being sued in his official capacity.

13. Respondent Kristi Noem is the Secretary of the Department of

Homeland Security (“DHS”). As Secretary of DHS, Secretary Noem is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Noem is being sued in her official capacity.

IV. EXHAUSTION OF REMEDIES

14. No statutory exhaustion requirement applies. *See* 8 § U.S.C. 2241; *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). Therefore, exhaustion is not jurisdictionally required.

15. The DHS has determined no bond or parole is warranted here despite Ms. LIPSKAIA being detained for over sixteen (16) months, with no end in sight.³ She has spent two Christmas holidays away from her children. Additional agency steps would be futile given that DHS has already rejected Ms. LIPSKAIA’s Parole Request filed in May 9, 2025, eight months into her detention, and has failed to justify her continued detention in contrast to the similar circumstances under which her family was granted parole upon arrival with her.

16. Therefore, Ms. LIPSKAIA has exhausted her administrative remedies to the extent required by law, and her only remedy is by way of this judicial action.

V. STATEMENT OF FACTS

17. DHS detained Ms. LIPSKAIA under INA 235(b) – People who are “applicants for entry” and who are “arriving” to the United States. Although the government classifies these kinds of entries as mandatory detention, DHS has the authority to release aliens arriving in this matter under Section 235(b) of the

³ Exhibit A: Notification Declining to Grant Parole, ICE

Immigration and Nationality Act (INA) through the discretionary parole authority granted under INA § 212(d)(5)(A). This provision allows the Secretary of the DHS to parole individuals into the United States on a case-by-case basis for "urgent humanitarian reasons" or "significant public benefit". *Arias v. LaRose*, Southern District of California, November 25, 2025 (citing *Doe v. Noem*, 152 F.4th 272, 1st Cir. 2025).

18. Although Ms. LIPSKAIA arrived with her family at the Calexico Port of Entry, she was the only person detained, while her family was released on their own recognizance. All four members of this family arrived at the same time, under the same circumstances, all seeking asylum protection, none with criminal histories or prior immigration violations. DHS has provided no justification for the disparate treatment of her detention, leading to the appearance of an arbitrary and capricious application of the law.

19. DHS has set no bond for Ms. LIPSKAIA. On May 9, 2025, Ms. LIPSKAIA, through Counsel here, filed a Parole Request with DHS via FedEx, as well as by E-Mail. Ms. LIPSKAIA and Counsel have received no response to this request and she remains in DHS' detention at Otay Mesa, CA.

20. Ms. LIPSKAIA's lack of criminal history demonstrates she poses no reasonable risk to public safety.⁴

21. Ms. LIPSKAIA has 1) no prior Immigration Violations, 2) has a viable asylum claim as evidenced by her positive credible fear result, and 3) a husband

⁴ Exhibit B.

and two children in the Los Angeles area in asylum proceedings related to her claims of fear, thus she poses no risk of absconding given that she has a stable address, local relationships, and incentive to appear for her Immigration Court proceedings in the future.⁵

22. Her Individual Merit's Hearing was supposed to be held on **July 9, 2025**. However, the Immigration Court vacated the July hearing and reset it to **September 5, 2025**. During that hearing before a new Immigration Judge, the DHS stated it needed more time to review evidence and also questioned translation certifications. So the court reset the matter to **December 16, 2025**. At this last hearing the government prevented the hearing from taking place by filing a Motion to Pretermite Asylum, proposing Ms. LIPSKAIA be sent to Uganda to have her asylum case held there under a new scheme by the Trump Administration known as an Asylum Cooperative Agreement (ACA). This motion was served after the filing deadline (11/17/2025) and without a Motion to Accept Untimely Filing.

23. Ms. LIPSKAIA's right to have her asylum case heard by the Immigration Court is further delayed by the government's latest motion, and any delays likely to occur from Ms. LIPSKAIA's next hearings to resolve the DHS' Motion to Pretermite. Thus, her detention is likely to continue for many more months.

24. This prolonged detention has caused Ms. LIPSKAIA an extreme decline in her physical and mental health. She has suffered racism and verbal abuse by detention staff, including medical personnel who yelled at her "you Russians should

⁵ Exhibit C: Credible Fear Interview Determination, page 4-5 of 46, Form 1-8705B, DHS, Oct. 11, 2024.

die.”

25. This prolonged detention has caused Ms. LIPSKAIA’s family severe mental distress.⁶ Without Ms. LIPSKAIA, her husband cannot work to support the family given that he needs to be present to watch over the kids.

VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

26. Habeas corpus relief extends to a person “in custody under or by color of the authority of the United States” if the person can show he is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner’s claims are proper under 28 U.S.C. section 2241 if they concern the continuation or execution of confinement).

27. “[H]abeas corpus is, at its core, an equitable remedy,” *Schlup v. Delo*, 513 U.S. 298, 319 (1995), that “[t]he court shall ... dispose of [] as law and justice require,” 28 U.S.C. § 2243. “[T]he court’s role was most extensive in cases of pretrial and noncriminal detention.” *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008). “[W]hen the judicial power to issue habeas corpus properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner’s release.” *Id.* at 787.

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⁶ Exhibit D: Declaration from Petitioner’s daughter, Kristina Popov.

VII. CAUSES OF ACTION

COUNT ONE (PROCEDURAL DUE PROCESS)

28. Petitioner incorporates paragraphs 1 through 27 as if fully set out herein.

29. The Fifth Amendment forbids deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision-maker. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001); *Trump v. J. G. C.*, 604 U.S. 670, 673 (2025)(“The Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.”).

30. Applying *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001), Petitioner’s liberty interest is paramount; the risk of deprivation of Ms. LIPSKAIA’s interest is extreme considering the lack of a non-independent adjudicator here, the fifteen-month detention, and the anticipated further delays caused by the government’s recent motion to Pretermit the Removal Proceedings.

31. While the government has discretion to detain individuals this discretion is not “unlimited” and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.

COUNT THREE (SUBSTANTIVE DUE PROCESS)

32. Petitioner incorporates paragraphs 1 through 27 as if fully set out

herein.

33. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment.

34. The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be ... deprived of life, liberty, or property, without due process of law.” U.S. CONT. amend. V. Freedom from bodily restraint is at the core of the liberty protected by the Due Process Clause. This vital liberty interest is at stake when an individual is subject to detention by the federal government.

35. Under the civil-detention framework set out in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and its progeny, the Government may deprive a non-citizen of physical liberty only when the confinement serves a legitimate purpose—such as ensuring appearance or protecting the community—and is reasonably related to, and not excessive in relation to, that purpose.

36. Given that government filings with the Immigration Court show Ms. LIPSKAIA has no criminal history, no immigration violations, and no indications she will abscond, the Government’s continued detention here serves no legitimate purpose. Thus, continued confinement bears no reasonable, non-punitive relationship to any legitimate aim and is unconstitutionally arbitrary and capricious.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;

- 2) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release her from custody, under reasonable conditions of supervision;
- 3) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while the Petitioner remains in Respondents' custody;
- 4) Order Respondents to file a response within 3 business days of the filing of this petition;
- 5) Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing with an Immigration Judge under 8 U.S.C. § 1226(a) within seven days;
- 6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- 7) Grant any other and further relief which this Court deems just and proper.

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

Respectfully submitted this 1st day of January, 2025.

/s/Eduardo (Ed) Perez
Law Offices of Ed Perez
1079 Third Ave., Unit D
Chula Vista, CA 91911
CA Bar # 354544
Attorney for Petitioner in Pro Bono


Exhibit A

Office of Enforcement and Removal Operations

U.S. Department of Homeland Security
880 Front Street, Suite 3200
San Diego, California 92101



U.S. Immigration
and Customs
Enforcement

Reference: Lipskaia, Olga 

NOTIFICATION DECLINING TO GRANT PAROLE

The purpose of this letter is to inform you that U.S. Immigration and Customs Enforcement (ICE) has decided not to grant you parole from detention at this time. The decision to authorize parole is discretionary. The parole determination process consists of a review of your immigration record and any supplemental documentation that you provided. After reviewing all available information, ICE has determined that parole is not appropriate in your case at this time based on the following reasons:

- You have not established your identity to the satisfaction of ICE.
 - You did not present valid, government-issued documentation of identity, or any documents you submitted did not, to ICE's satisfaction, establish your identity.
 - You did not provide third-party verification of your identity, or any third-party information you provided did not, to ICE's satisfaction, establish your identity.
 - You did not, to ICE's satisfaction; establish your identity through credible statements.

- You have not established to ICE's satisfaction that you are not a flight risk.
 - You failed to provide, to ICE's satisfaction, a valid U.S. address where you will reside while your immigration case is pending.
 - You did not establish, to ICE's satisfaction, substantial ties to the community.
 - Imposition of a bond or other conditions of parole would not ensure, to ICE's satisfaction, your appearance at required immigration hearings pending the outcome of your case.

- You have not established to ICE's satisfaction that you are not a danger to the community or U.S. security. In making this determination, ICE has considered any evidence of past criminal activity, activity contrary to U.S. national security interests, activity giving rise to concerns of public safety or danger to the community, disciplinary infractions or incidents, or other criminal or detention history that shows you have harmed or would likely harm yourself or others.

Additional exceptional, overriding factors are as follows:

SUBJECT: Lipskaia, Olga
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- ICE previously provided you with a written decision declining to grant parole and you have failed to provide additional documentation, or the additional documentation provided did not demonstrate any significant change in circumstances which would alter ICE's previous determination.

If you request redetermination of this decision, please direct your written request to the address +above, include a copy of this letter and any other prior ICE written decision(s) declining to grant you parole, and clearly explain what changed circumstances or additional documents you would like considered. Failure to provide satisfactory documentation and explanation may result in a denial of your request for redetermination.




Sincerely,

A handwritten signature in black ink, appearing to be 'Logan C. Wolf'.

Logan C. Wolf
Assistant Field Office Director

Exhibit B


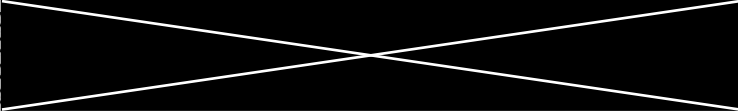


U.S. Department of Homeland Security Subject ID : 396077405 Record of Deportable/Inadmissible Alien

Family Name (CAPS) LIPSKAIA, OLGA		First	Middle	Sex F	Hair BLN	Eyes BLU	Cmplxn LBR
Country of Citizenship RUSSIA	Passport Number and Country of Issue	File Number		Height 61	Weight 150	Occupation	
U.S. Address CALIFORNIA, 92780				Scars and Marks			
Date, Place, Time, and Manner of Last Entry 09/19/2024 02:48, CAL, VEHICLE			Passenger Boarded at See Narrative				
Number, Street, City, Province (State) and Country of Permanent Residence 1 PEREYLOK KOSTICHEVA 11 NOVOSIBIRSK, RUSSIA							
Date of Birth [Redacted]	Age: 39	Date of Action 09/19/2024	Location Code CAL/C25				
City, Province (State) and Country of Birth NOVOSIBIRSK, RUSSIA		AR <input checked="" type="checkbox"/>	Form : (Type and No.) Lifted <input type="checkbox"/> Not Lifted <input type="checkbox"/>				
NIV Issuing Post and NIV Number		Social Security Account Name					
Date Visa Issued		Social Security Number					
Immigration Record NEGATIVE				Criminal Record None Known			
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)						Number and Nationality of Minor Children None	
Father's Name, Nationality, and Address, if Known SAVELEV, DRII NATIONALITY: RUSSIA				Mother's Present and Maiden Names, Nationality, and Address, if Known SAVELEVA, ELENA NATIONALITY: RUSSIA			
Monies Due/Property in U.S. Not in Immediate Possession None Claimed		Fingerprinted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Systems Checks See Narrative	Charge Code Word(s) See Narrative			
Name and Address of (Last)(Current) U.S. Employer		Type of Employment	Salary	Employed from/to Hr			
Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.) FIN: [Redacted] Left Index fingerprint Right Index fingerprint   							
Subject Health Status -----							
Current Criminal Charges ----- 09/26/2024 - 8 USC 1182 - ALIEN INADMISSIBILITY UNDER SECTION 212							
Current Administrative Charges ----- ... (CONTINUED ON I-831)							
Alien has been advised of communication privileges _____ (Date/Initials)		_____ (Signature and Title of Immigration Officer)					
Distribution: FILE COPY COPY			Received: (Subject and Documents) (Report of Interview) Officer: JONATHAN MARTINEZ on: September 19, 2024 (time) Disposition: Expedited Removal with Credible Fear Examinee Officer: RUBEN ANAYA				

EOIR - 4 of 7

U.S. Department of Homeland Security


Continuation Page for Form I-213

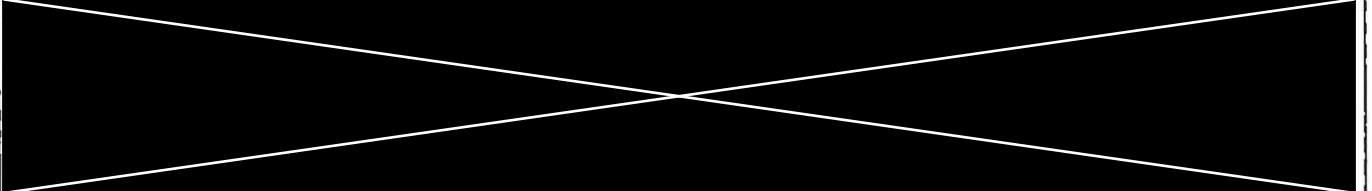
Alien's Name LIPSKAIA, OLGA	File Number 	Date 09/19/2024		
----- 09/26/2024 - 212a7AiI - IMMIGRANT WITHOUT AN IMMIGRANT VISA ----- Previous Criminal History ----- Subject has no criminal history ----- BOARDED AT ----- CALEXICO ----- Records Checked ----- TECS Neg NCIC Neg CCD Neg IAFIS Neg EARM Neg ----- SECTION CODES ----- 904 ----- null: CLAIMED DOCUMENTS ----- Passport: Russian PP: -----  ----- RECORDS CHECKED ----- TECS: Negative NCIC: Negative CIS: Negative CCD: Negative EARM: Negative IAFIS: Negative ----- SECTION CODES: Sec212(a)(7)(A)(i)(I) 8 USC 1182-ALIEN INADMISSIBILITY UNDER SEC 212(a) ----- Family Summary: ----- - POPOV, Andrei; DOB:  Citizenship: Russian; A#:  Role in Family: ----- Signature JONATHAN MARTINEZ			Title	

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U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name LIPSKAIA, OLGA	File Number 	Date 09/19/2024
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On September 18, 2024, at approximately 2348 hrs., the Russian family listed above, traveling with a group of other Russians arrived at the Calexico Port of Entry in Calexico, California. Subjects did not have a scheduled CBP One appointment or documents sufficient for lawful entry into the United States. Subjects arrived via Vehicle Lanes and were apprehended past the international boundary line in the United States. Subjects do not have legal documentation to be in the United States and fall under the new processing proclamation for Secure the Border.

LIPSKAIA, Olga was escorted to vehicle secondary where pat down was conducted by CBPO Pharmes, witnessed by CBPO Solis, and approved by SCBPO Lopez with negative results. Subjects were turned over to the Calexico Admissibility Enforcement Unit (AEU) for further disposition (NTA/ATD/EBC). \$1051 USD.

As per the Secure the Border Proclamation, subject did not manifest fear of return or expressed an intention to apply for asylum or related protection, express a fear of persecution or torture, or expresses a fear of return to his/her country or country of removal.

As per the Secure the Border Proclamation, no sworn statement was taken from the subject.

Consular Notification: The subject was notified of the right to communicate with a consular officer from the subject's native country as per Article 36(a)(b) of the Vienna Convention of Consular Relations. The subject acknowledged understanding the right to speak to Consulate and approved. Subject's home country consular office was notified as per mandatory notification guidelines. CBP form I-264 was created and submitted to Russian Consulate.

Subject was queried, and record checks were completed. No links to terrorism or gang affiliation could be established at the time of apprehension.

Subject appeared to be in good health and did not identify any medical concerns during any interaction. Subject was medically screened and cleared by on-site medical staff. Form 2501 was uploaded to event.

Form I-831 "Notice of Rights in Accordance with the Cancino Castellar Settlement Agreement" was provided to subject.

Noncitizen is Subject to the Secure the Border Interim Final Rule (IFR).

Noncitizen was provided a copy of the Information on Credible Fear interview Sheet.


- POPOV, Andrei submitted DNA test kit #F4114054.
- LIPSKAIA, Olga submitted DNA test kit #F4118488.
- LIPSKAIA, Kristina submitted DNA test kit #F4114051.
- LIPSKII, Konstantin submitted no DNA test due to age, minor.

Signature JONATHAN MARTINEZ	Title
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EOIR - 6 of 7

U.S. Department of Homeland Security

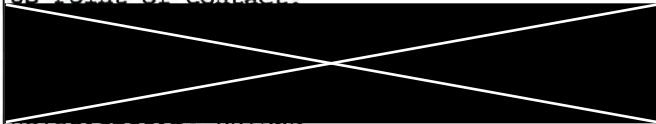
Continuation Page for Form I-213

Alien's Name LIPSKAIA, OLGA	File Number 	Date 09/19/2024
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U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) Senior Leadership, from the San Diego Field Office, advised that the Detention Center (IRDF) does not have the capabilities to detain family units at this time. Advised to refer case to ATD program.

In concurrence with local management and after consultation with Office of Chief Counsel (OCC), a family separation was approved by APD R. Koseor. CBP Family Unity Policy allows for the separation of a parent or legal guardian from his or her child or children and spouse under basis for separation 1 - National Security Threats. Through their vetting, NTC recommends referral to ICE ERO due to sufficient unresolved national security information. Olga LIPSKAIA was processed as an Expedited Removal under the EBC Proclamation, provided with a tear sheet documenting the separation, and referred in CAS for placement request. The family was served with CBP 852 and HES tear sheets.

Disposition: Subject was processed under the Suspension Period for Expedited Removal under the Presidential Proclamation, Secure the Border, on June 3, 2024. The subject does not fall under any exceptions under section 3 of the Proclamation. The subject is inadmissible pursuant to the President's authority to suspend entry of certain classes of noncitizens under section 212(f) of the Immigration and Nationality Act (INA), 8 USC 1182(f).

US Point of Contact:


relationship: FRIEND

ADDENDUM

Addendum Reason: SWB WD Closeout Questions
Added By: MORENOVELARDE, Raquel
Added on: 09/27/2024 09:28
CALEXICO - 2503

Addendum Narrative:
NTC Vetting Feed detected derogatory information. What was the reason for release?
ANSWER: N/A (WILL NOT BE RELEASED)

Other Identifying Numbers

ALIEN- 

Signature JONATHAN MARTINEZ	Title
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Exhibit C

Exhibit D