

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

ALEKSEI KOVALKO,

A 

Case No. CV 526-267

Petitioner,

v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

TONY NORMAND, Warden, Folkston
ICE Processing Center

Respondent.

INTRODUCTION

1. On May 30, 2024, Petitioner Aleksei Kovalko, a Russian national, entered the United States pursuant to a CBP One appointment at a port of entry. Thereafter, Petitioner sought asylum.

2. Petitioner is currently detained by Immigration and Customs Enforcement at the Folkston ICE Processing Center in Folkston, Georgia.

3. Petitioner has now been detained for a prolonged period—exceeding one year—while his appeal remains pending before the Board of Immigration Appeals. Petitioner's removal order is not administratively final.

4. Despite the non-final nature of his proceedings and the extended duration of detention, Petitioner has never received an individualized bond hearing before an Immigration Judge.

5. Petitioner challenges only his continued detention without a bond hearing. This petition does not challenge his underlying removal order.

6. Prolonged mandatory detention without individualized process violates the Due Process Clause of the Fifth Amendment. Petitioner respectfully requests this Court to order Respondents to provide a constitutionally adequate bond hearing.

JURISDICTION

7. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Folkston Detention Center located in Folkston, Georgia.

1 8. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas
2 corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the
3 United States Constitution (the Suspension Clause).

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5 9. This Court may grant relief under 28 U.S.C. § 2241, the Declaratory
6 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

7 10. Petitioner challenges only the constitutionality of his continued
8 detention, not the validity of his removal order.

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10 **VENUE**

11 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
12 484, 493- 500 (1973), venue is proper in the U.S. District Court for the Southern
13 District of Georgia, Waycross Division, the judicial district in which Petitioner is
14 detained.

15 12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(c)
16 because Respondent is an employee, officer, and agent of the United States, and
17 because a substantial part of the events or omissions giving rise to the claims
18 occurred in the Southern District of Georgia.

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20 **REQUIREMENTS OF 28 U.S.C. § 2243**

21 13. The Court must grant the petition for writ of habeas corpus or order
22 Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief.
23 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return
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1 “within three days unless for good cause additional time, not exceeding twenty days,
2 is allowed.” *Id.*

3 14. Habeas corpus is “perhaps the most important writ known to the
4 constitutional law . . . affording as it does a *swift* and imperative remedy in all cases
5 of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis
6 added). “The application for the writ usurps the attention and displaces the calendar
7 of the judge or justice who entertains it and receives prompt action from him within
8 the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir.
9 2000) (citation omitted).

10 11 12 **PARTIES**

13 15. Petitioner Aleksei Kovalko is a citizen of Russia and is detained at the
14 Folkston ICE Processing Center.

15 16. Respondent Tony Normand is employed by Core Civic Group as
16 Warden of the Folkston Detention Center, where Petitioner is detained. He has
17 immediate physical custody of Petitioner. He is sued in his official capacity.

18 19 **LEGAL FRAMEWORK**

20 17. The Immigration and Nationality Act (“INA”) prescribes three basic
21 forms of detention for the majority of noncitizens in removal proceedings.

22 18. First, 8 U.S.C. § 1226 governs the detention of individuals placed in
23 standard removal proceedings under § 1229a. Noncitizens detained under § 1226(a)
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1 are generally entitled to a custody redetermination before an Immigration Judge
2 unless they fall into the narrow mandatory-detention categories of § 1226(c).

3
4 19. Second, 8 U.S.C. § 1225(b)(1)–(2) provides for mandatory detention of
5 certain individuals seeking admission who are inspected at the border and
6 determined not “clearly and beyond a doubt entitled to be admitted.” This detention
7 framework is tied to the process of arrival inspection performed by an examining
8 immigration officer.

9
10 20. Third, 8 U.S.C. § 1231 governs detention of individuals who are subject
11 to final orders of removal, including individuals in withholding-only proceedings,
12 *see* U.S.C. § 1231(a)–(b).

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14 21. This case turns on the due process violation of prolonged mandatory
detention without a bond hearing under 8 U.S.C. § 1225(b).

15 22. Respondents assert detention authority under 8 U.S.C. § 1225(b).

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17 23. Section 1225(b) mandates detention of certain applicants for admission
during removal proceedings.

18
19 24. This statute does not provide for bond hearings.

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21 25. The Constitution, via the Fifth Amendment’s Due Process Clause,
22 limits the government’s authority to impose prolonged civil detention without
23 individualized process. The Fifth Amendment prohibits deprivation of liberty
24 without due process of law.

1 26. Although § 1225(b) anticipates the detention of individuals pursuing
2 asylum during the time the case is pending and does not require a bond hearing, the
3 Due Process Clause places grave limitations on the government's ability to detain
4 any person indefinitely without individualized justification of detention itself.
5 *Zadvydas v. Davis*, 533 U.S. 678, 690 (121 S.Ct. 2491) (2001).
6

7 27. For noncitizens subject to final orders of removal, the Supreme Court
8 has held that individualized justification is necessary after a six-month period in
9 which detention is presumptively reasonable to effectuate removal. *Id.*
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11 28. The Supreme Court has made clear that this six-month rule does not
12 apply to noncitizens without a final order of removal. *Jennings v. Rodriguez*, 583
13 U.S. 281, 298 (2018) (holding that the Ninth Circuit had inappropriately applied the
14 canon of constitutional avoidance, and remanding for consideration of the statutory
15 text and due process concerns).
16

17 29. Although there is no clear controlling authority that settles the opposing
18 interests between mandatory detention under 8 U.S.C. § 1225(b) and the unequivocal
19 legal axiom that no person may be detained for an indefinite time without some
20 process justifying detention itself—some courts have adopted a balancing test to
21 determine when the constitution requires process regarding detention even absent a
22 final order of removal.
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1 30. In *Banda v. McAleenan*, the Court articulated a series of considerations
2 for cases involving prolonged detention of noncitizens not subject to final orders of
3 removal. 385 F. Supp. 3d 1099, 1106 (W.D. Wash. 2019).

4 31. The factors utilized are: “(1) the total length of detention to date; (2) the
5 likely duration of future detention; (3) the conditions of detention; (4) delays in the
6 removal proceedings caused by the detainee; (5) delays in the removal proceedings
7 caused by the government; and (6) the likelihood that the removal proceedings will
8 result in a final order of removal.” *Id.*

9 32. The *Banda* court found the petitioner was entitled to relief where (1) he
10 was detained for 17 months; (2) his appeal was in process with the Board of
11 Immigration Appeals and still subject to later Ninth Circuit review; (3) the parties
12 had not submitted evidence regarding the conditions of detention; (4) Petitioner was
13 not at fault for delays due to the need for an interpreter; (5) the government was to
14 blame for the slow process of securing a translator; and (6) it was unclear how likely
15 it was that proceedings would result in removal. *Id.* at 1118-20.

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19 **Prolonged Mandatory Detention Without A Hearing Violates Due Process**

20 33. In the present case, *Zadvydas* and the *Banda* factors militate for
21 Petitioner. For example, Petitioner has been detained longer than one year, for
22 approximately 20 months.

1 34. Petitioner has a pending BIA appeal without an assigned briefing
2 schedule. If Petitioner's BIA appeal is denied, further judicial review may likely
3 follow, thereby extending Petitioner's detention beyond 20 months.
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5 35. Petitioner —although not having any criminal history—is confined in a
6 secure detention facility indistinguishable from penal incarceration.

7 36. Petitioner timely exercised his appellate rights with the BIA and thus
8 did not prolong or delay the process.

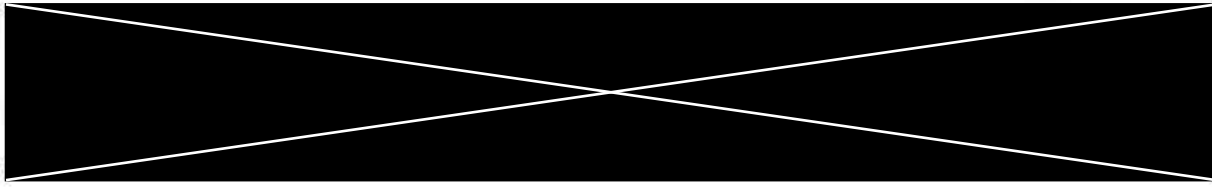
9 37. The Government controls the pace of the appellate adjudication.

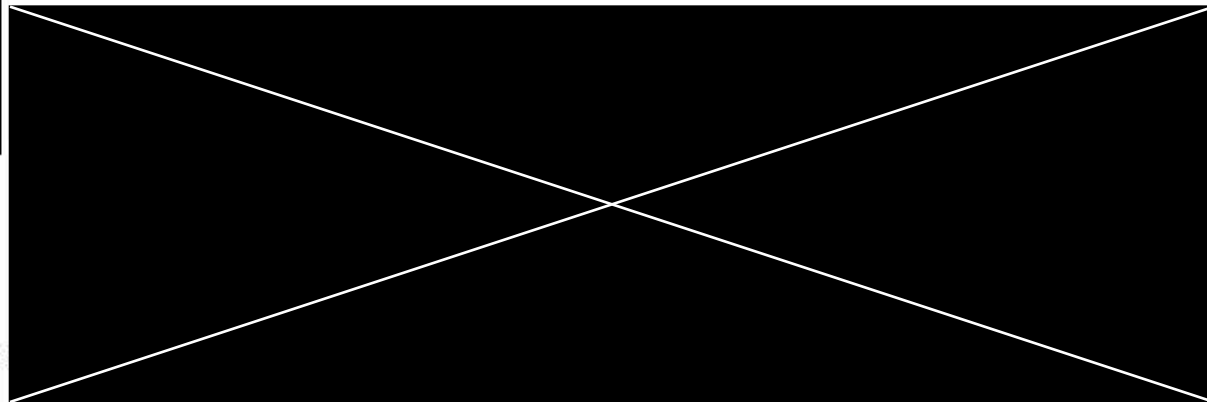
10 38. Petitioner's appeal is nonfrivolous. Removal is not a foregone
11 conclusion because Petitioner has presented substantial political-opinion and LGBT-
12 based claims on appeal.
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14 **FACTUAL BACKGROUND**

15 39. Petitioner, Aleksei Kovalko, is a Russian national who entered the
16 United States on May 30, 2024, pursuant to a CBP One appointment at a port of
17 entry.
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19 40. Petitioner Kovalko sought asylum based 





43. On September 10, 2025, an Immigration Judge denied Petitioner's asylum application.

44. Petitioner timely appealed to the Board of Immigration Appeals.

45. Petitioner's appeal remains pending. Petitioner has not received a BIA briefing schedule. Petitioner's removal order is not administratively final.

46. Petitioner has been detained since approximately May 30, 2024.

47. Petitioner's detention far exceeds one year.

48. Petitioner has no criminal history. Although his detention is civil in nature, Petitioner has not received an individualized bond hearing.

CLAIMS FOR RELIEF

COUNT I

Violation of Due Process

49. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

50. The government may not deprive a person of life, liberty, or property without due process of law. U.S. CONST. AMEND. V. "Freedom from

1 imprisonment—from government custody, detention, or other forms of physical
2 restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas*, 533
3 U.S. at 690.

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5 51. Petitioner has a fundamental interest in liberty and being free from
6 official restraint.

7 52. The government’s detention of Petitioner without a bond
8 redetermination hearing to determine whether he is a flight risk or danger to others
9 violates his right to due process.

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PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the Southern District of Georgia while this habeas petition is pending;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Require the Government to demonstrate by clear and convincing evidence that Petitioner is a danger to the community or flight risk;
- e. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing within seven (7) days and prohibit the denial of bond solely on the basis of 8 U.S.C. § 1225(b); and
- f. Grant any other and further relief that this Court deems just and proper.

DATED this 25th day of February, 2026.

/s/ Matthew K. Winchester

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VERIFICATION PURSUANT TO 28 U.S.C. 2242

I represent Petitioner, Aleksei Kovalko, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED this 25th day of February, 2026.

/s/ Matthew K. Winchester

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