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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9
10 SVETLANA GRIGOROVICH,

11 Petitioner,

12 v.

Civil Action No.

13 CHRISTOPHER LAROSE, the Senior
14 Warden, Otay Mesa Detention Center,
15 PATRICK DIVVER, the Field Office
16 Director, ICE ERO San Diego; TODD
17 LYONS, the Acting Director, U.S.
18 Immigration and Customs Enforcement;
19 KRISTI NOEM, the Secretary, U.S.
20 Department of Homeland Security; and
21 PAMELA BONDI, the Attorney General
of the United States,

22 Defendants



**PETITIONER’S EMERGENCY
MOTION FOR A TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

23 **I. INTRODUCTION**

24 Petitioner Svetlana Grigorovich (“Petitioner”) is a 63-year-old citizen of
25 Russia, who has been in immigration detention in the United States since May 7,
26 2025. She filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241,
27 challenging the lawfulness of her immigration detention. Immigration and Customs
28 Enforcement (“ICE”) officers unlawfully detained her despite the government’s

1 earlier release into the United States allowing her to remain at liberty while awaiting
2 a final decision on her application for asylum in removal proceedings.

3 On May 7, 2025, Petitioner entered the United States at the Otay Mesa Port of
4 Entry, California, with her daughter, son-in-law, and their minor child, to seek
5 asylum.

6 All members of Petitioner's family were released into the United States to
7 await adjudication of their asylum claims while at liberty. Petitioner, however, was
8 taken into custody on the basis of the alleged lack of lawful immigration status or
9 valid entry documents, issued a Notice to Appear, and placed in removal
10 proceedings. Subsequently, she applied for asylum and for withholding of removal
11 with the Immigration Court based on persecution on account of her political opinion
12 and Torture Convention.

13 On January 26, 2026, the Immigration Judge denied Petitioner's application
14 for relief and ordered her removed to Russia. On February 7, 2026, Petitioner
15 appealed that order to the Board of Immigration Appeals ("BIA"). Her appeal
16 remains pending.

17 The Petitioner has no criminal record and has not incurred any disciplinary
18 infractions while in detention. She maintains strong family ties in the United States,
19 as both of her children and her grandchild are asylum seekers here due to persecution
20 in Russia on account of their political opinions.

21 There is no indication that the Petitioner poses a flight risk or a danger to the
22 community. She has consistently complied with all conditions of custody and has
23 established meaningful connections within her community.

24 Petitioner suffers from deteriorating health conditions and has been held in
25 punitive conditions at the Otay Mesa Detention Center for more than ten months. The
26 prolonged detention under such conditions has adversely affected her physical and
27 mental well-being.
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1 freedoms “for even minimal periods of time” constitutes irreparable injury).
2 Petitioner’s transfer or removal prior to that determination would risk prolonging or
3 fundamentally altering his custody in a manner inconsistent with the limited and
4 regulatory purposes of civil removal proceedings. Such action would convert what is
5 intended to be a narrowly tailored administrative detention into punitive or indefinite
6 confinement, undermining both due process and the statutory framework governing
7 immigration custody.

8 Second, removal at this stage—while this habeas proceeding remains pending
9 and undecided—would create a substantial risk of mootness and deprive this Court of
10 the ability to grant effective relief. Petitioner challenges the legality of his current
11 custody. If he is removed from the United States before this Court adjudicates the
12 merits of that claim, Respondents may argue that his release from U.S. custody
13 extinguishes the live controversy. Although removal does not formally divest a
14 federal court of habeas jurisdiction, it would, as a practical matter, render this
15 Petition moot by terminating the very custody being challenged and inviting
16 dismissal on the ground that the alleged injury has ceased. Once Petitioner is
17 removed, Respondents will inevitably contend that there is no longer a live case or
18 controversy, thereby extinguishing meaningful judicial review and depriving this
19 Court of the ability to grant effective relief. Courts have long recognized that
20 executive action may not be used to frustrate or hollow out judicial review. See *Ex*
21 *parte Endo*, 323 U.S. 283 (1944). Removal during the pendency of an active habeas
22 case risks doing precisely that.

23 Third, even transfer short of removal may materially impair this Court’s
24 jurisdiction and supervisory authority. Transfer to a distant facility often disrupts
25 attorney access, delays proceedings, and complicates enforcement of judicial orders.
26 Where a habeas petition challenges ongoing custody, any executive action that alters
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1 that custody in a manner designed to defeat or complicate review constitutes
2 irreparable harm.

3 This risk is not speculative. It is well established, that for many years, ICE has
4 engaged in a widespread practice of transferring detainees to geographically remote
5 detention facilities, often far from counsel and the courts where habeas petitions are
6 pending. In recent months, this practice has intensified significantly. In *a number of*
7 *egregious cases*, these transfers have resulted in *erroneous or coercive removals*,
8 including removals carried out through misinformation, lack of notice, or procedural
9 confusion, even where detainees have pending immigration or judicial proceedings.
10 As a result, the likelihood that Petitioner will be transferred to a distant facility—or
11 improperly removed despite a pending case—has substantially increased, for the
12 purpose or effect of impeding access to counsel and meaningful judicial review.

13 *Exhibit D.*

14 Finally, the balance of equities overwhelmingly favors temporary restraint.
15 Petitioner seeks only to maintain the status quo until this Court resolves the legality
16 of his detention. The administrative burden on Respondents is minimal compared to
17 the profound and irreversible consequence of mooted an active habeas proceeding.
18 Once judicial review is frustrated or rendered academic, that injury cannot later be
19 undone.
20

21 **B. Petitioner is Likely to Succeed on the Merits**

22 As detailed in the Petition for a Writ of Habeas Corpus, Petitioner is likely to
23 succeed on the merits because his arrest and detention are unlawful.
24

25 To assess the constitutionality of prolonged mandatory detention the courts
26 across this country, including this district, use the following factors: “(1) the total
27 length of detention to date; (2) the likely duration of future detention; (3) the
28 conditions of detention; (4) delays in the removal proceedings caused by the

1 detainee; (5) delays in the removal proceedings cause by the government; and (6) the
2 likelihood that the removal proceedings will result in a final order of removal.” See
3 *Banda v. McAleenan*, 385 F. Supp. 3d 1099 (W.D. Wash. 2019); *Markosian v. Bondi*,
4 No. 3:25-cv-03494-JES-BLM, 2026 WL 25850 (S.D. Cal. Jan. 5, 2026) (granting
5 request for a bond hearing for a petitioner held for thirteen months under 1225(b)’s
6 mandatory detention provision); *Amado v. United States Dep’t of Just.*, No.
7 25CV2687-LL-DDL, 2025 WL 3079052 (S.D. Cal. Nov. 4, 2025) (granting request
8 for a bond hearing for a petitioner held for thirteen months under 1225(b)’s
9 mandatory detention provision); *Abdul Kadir v. Larose*, No. 25CV1045-LL-MMP,
10 2025 WL 2932654 (S.D. Cal. Oct. 15, 2025) (same); *Sadeqi v. LaRose*, No. 25-CV-
11 2587-RSH-BJW, 2025 WL 3154520 (S.D. Cal. Nov. 12, 2025) (granting request for
12 a bond hearing for a petitioner held for eleven months under 1225(b)’s mandatory
13 detention provision).

14 *Factor one* heavily weighs in petitioner’s favor. Petitioner has been in
15 detention since May 7, 2025, which is now more than 10 months. Courts have found
16 in previous cases that detention for similar or even shorter term favored petitioners.
17 See *Masood v. Barr*, No. 19-CV-07623JD, 2020 WL 95633, at *3 (N.D. Cal. Jan. 8,
18 2020) (finding detention for nearly nine months weighs in favor of the petitioner);
19 *Cabral v. Decker*, 331 F. Supp. 3d 255, 261 (S.D.N.Y. 2018) (finding detention of
20 over seven months weighed in petitioner’s favor); *Perez v. Decker*, No. 18-CV-5279
21 (VEC), 2018 WL 3991497, at *5 (S.D.N.Y. Aug. 20, 2018) (finding detention of
22 over nine months weighed in petitioner’s favor); *Brissett v. Decker*, 324 F. Supp. 3d
23 444, 452 (S.D.N.Y. 2018) (finding detention of over nine months weighed in
24 petitioner’s favor).

25 *Factor two.* Petitioner appealed her order of removal to the Board of
26 Immigration Appeals (“BIA”) on February 7, 2026. BIA has not yet set a briefing
27 schedule for the appeal. Considering these circumstances Petitioner’s future detention
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1 can last several more months or even years during the adjudication of her appeal to
2 the BIA and if unfavorable, Petitioner's appeal to the Ninth Circuit. Consequently,
3 this factor weighs heavily in favor of finding that Petitioner's continued confinement
4 violates her due process rights.

5 *Factor three.* Petitioner's detention at the Otay Mesa Detention Center is not
6 meaningfully distinguishable from penal confinement. Courts in this district have
7 frequently found that conditions at the Otay Mesa Detention Center are
8 "indistinguishable from penal confinement," concluding that this factor weighs in
9 favor of petitioners' due process arguments regarding prolonged detention. *Kydyrali*
10 *v. Biden*, 499 F. Supp. 3d 761, 773 (S.D. Cal. 2020); see also *Hoyos Amado*, 2025
11 WL 3079052, at *6. This factor weighs in petitioner's favor.

12 *Factors four and five.* Here, there is no evidence that either the Petitioner or
13 the government has intentionally delayed adjudication of her claims. However, any
14 "delay in this case is a product of the BIA's and Ninth Circuit's 'crowded dockets,'
15 which courts typically attribute to the Government—not the Petitioner." *Djelassi v.*
16 *Ice Field Off. Dir.*, 434 F. Supp. 3d 917, 923 (W.D. Wash. 2020) (citing *Martinez v.*
17 *Clark*, No. 18-1669, 2019 U.S. Dist. LEXIS 197895, 2019 WL 5968089, at *10
18 (W.D. Wash. May 23, 2019), R & R adopted, 2019 U.S. Dist. LEXIS 196836, 2019
19 WL 5962685 (W.D. Wash. Nov. 13, 2019) ("Most of the delay. . . appears to have
20 stemmed from the immigration court's crowded docket. Although not the result of
21 intentional action on behalf of government officials, this delay is attributable to the
22 Government.")). Accordingly, the fourth factor is neutral, and the fifth factor weighs
23 slightly in Petitioner's favor.

24 *Factor six.* It involves consideration of "the likelihood that the final
25 proceedings will culminate in a final order of removal." *Banda*, 385 F. Supp. 3d at
26 1120 (quoting *Jamal A.*, 358 F. Supp. 3d at 860). Petitioner was ordered removed and
27 timely appealed the removal order. Accordingly, there is an approximately equal
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1 likelihood that her proceedings will result in removal or that she will be granted
2 relief. Accordingly, the sixth factor is neutral.

3 The relevant considerations here weigh heavily in favor of Petitioner's claim.
4 She has established that her ongoing prolonged detention is unlawful,
5 unconstitutional, and causing irreparable harm. Petitioner is not a flight risk, poses no
6 danger to the community, and has family in the United States prepared to provide
7 financial and emotional support. Continued confinement threatens her health, while
8 the government would suffer no hardship from her release under supervision.
9 Petitioner's release would promote family unity and reduce detention costs, and
10 Respondents would suffer no prejudice, as ICE retains full authority to supervise,
11 monitor, and summon Petitioner for future hearings.

12 13 **C. The Balance of Equities and Public Interest Favor Petitioner**

14 Maintaining jurisdiction in the Southern District of California preserves the
15 status quo and imposes no meaningful burden on the Government. By contrast,
16 permitting jurisdiction-stripping transfers would invite abuse of administrative
17 authority and erode judicial oversight.

18 The public interest is served by ensuring that habeas review remains effective
19 and that constitutional claims are not evaded through post-filing custodial
20 manipulation.

21 22 **IV. RULE 65(b)(1)(B) CERTIFICATION**

23 Pursuant to Fed. R. Civ. P. 65(b)(1) the Court may only issue a temporary
24 restraining order without notice to the adverse party or its attorney if: (A) specific
25 facts in an affidavit or a verified complaint clearly show that immediate and
26 irreparable injury, loss, or damage will result to the movant before the adverse party
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1 can be heard in opposition; and (B) the movant's attorney certifies in writing any
2 efforts made to give notice and the reasons why it should not be required.

3 Counsel certifies that no prior notice was given because providing advance
4 notice to Respondents would risk immediate transfer of Petitioner outside this
5 Court's jurisdiction before the Court could act. ICE transfers are frequently executed
6 without notice and on short timelines, and advance notice would likely precipitate the
7 very harm the requested TRO seeks to prevent. Under these circumstances, notice is
8 impracticable and would render the requested relief moot.

9
10 **IV. PRAYER FOR RELIEF**

11 WHEREFORE, Petitioner respectfully requests that this Court:

- 12 a. Order that Petitioner shall not be removed from the United States without an
13 order by this Court allowing such removal and transferred, except to a
14 detention facility within the Southern District of California, absent further
15 order of this Court;
16 b. Set a hearing on a Preliminary Injunction; and
17 c. Grant such other relief as the Court deems just and proper.
18

19 Respectfully submitted,

20 Date: March 12, 2026

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Applicant for Pro Hac Vice Admission

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I, Layla Khamoushian, Esq., represent the Petitioner, Svetlana Grigorovich, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Motion for Writ of Habeas Corpus under 28 U.S.C. § 2242 or under the U.S. Constitution are true and correct to the best of my knowledge.

Date: March 12, 2026

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