

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Artur Astafev v. Warden, Otay Mesa Detention Center, et al.

Astafev · No. 3:26-cv-00313-RBM-AHG · Decided January 30, 2026

OPINION

Astafev

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 ARTUR ASTAFEV, Case No.: 3:26-cv-00313-RBM-AHG 12 Petitioner, ORDER: 13 v.

(1) GRANTING MOTION TO

14 WARDEN, OTAY MESA DETENTION

APPOINT COUNSEL [Doc. 2]; CENTER, et al, 15 Respondents. (2) SETTING BRIEFING 16

SCHEDULE

17 18 19 On January 20, 2026, Petitioner Artur Astafev (“Petitioner”), through his wife 20
Anastasiia Astafev, filed an Emergency Petition for Writ of Habeas Corpus (“Petition”) 21
pursuant to 28 U.S.C. § 2241. (Doc. 1) and a Request for Appointment of Counsel under 22 the
Civil Rights Act of 1964, 42 U.S.C. § 2000e 5(f)(1) (“Motion to Appoint Counsel”) 23 (Doc. 2).

24 I. APPOINTMENT OF COUNSEL

25 “Whenever the United States magistrate judge or the [C]ourt determines that the 26 interests of
justice so require, representation may be provided for any financially eligible 27 person who . . .
(B) is seeking relief under section 2241, 2254, or 2255 of title 28.” 18 28 U.S.C. § 3006A(a)(2).
“In deciding whether to appoint counsel in a habeas proceeding, 1 the district court must evaluate
the likelihood of success on the merits as well as the ability 2 of the petitioner to articulate his
claims pro se in light of the complexity of the legal issues 3 involved.” *Weygandt v. Look*, 718
F.2d 952, 954 (9th Cir. 1983) (citations omitted). The 4 appointment of counsel is left to the sound
discretion of the Court. See *Terrovona v. 5 Kincheloe*, 912 F.2d 1176, 1181–82 (9th Cir. 1990). 6
As a preliminary matter, the Petition and the Motion to Appoint Counsel are both 7 brought by
Petitioner’s wife as his “next friend.” (Doc. 1 at 2; see Doc. 2 at 5–7 (declaring 8 that her
“husband” provides income).) “[N]ext friends’ appear in court on behalf of 9 detained prisoners
who are unable, usually because of mental incompetence or 10 inaccessibility, to seek relief
themselves.” *Whitmore v. Arkansas*, 495 U.S. 149, 162 11 (1990) (citing *United States ex rel. Toth*
v. Quarles, 350 U.S. 11, 13, n.3 (1955)). However, 12 “‘next friend’ standing is by no means
granted automatically to whomever seeks to pursue 13 an action on behalf of another.” *Id.* at 163.

To establish standing, a person seeking next friend status “must show: (1) that the petitioner is unable to litigate his own cause due to mental incapacity, lack of access to court, or other similar disability; and (2) the next friend has some significant relationship with, and is truly dedicated to the best interests of, the petitioner.” *Coal. of Clergy, Laws., & Professors v. Bush*, 310 F.3d 1153, 1159–60 (9th

18 Cir. 2002) (quoting *Massie ex rel. Kroll v. Woodford*, 244 F.3d 1192, 1194 (9th Cir. 2001)).

19 In this case, Petitioner’s wife, Anastasiia Astafev, asserts that Petitioner is unable to litigate his own cause “due to restrictions on access to legal resources.” (Doc. 1 at 2.) 21 Additionally, as Petitioner’s wife, Mrs. Astafev has a significant relationship with 22 Petitioner and states she is acting in the interests of Petitioner and their two minor children. 23 (*Id.*) The Court therefore finds that next friend standing has been sufficiently established. 24 Moreover, Petitioner lacks funds to pay for an attorney because: he is the sole 25 provider for his family, including his minor children ages 8 and 1; his estimated monthly 26 expenses total \$2,350; and he has no money in savings or checking accounts. (Doc. 1 at 4, 27 8; Doc. 2 at 4–7.) Thus, Petitioner has sufficiently alleged he cannot afford to hire counsel. 28 The Court also finds that representation is necessary given the complexity and 1 potential validity of the constitutional, statutory, and procedural issues presented. 2 *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). Accordingly, the Court 3 CONDITIONALLY APPOINTS Federal Defenders of San Diego, Inc. as counsel.¹

4 II. ORDER TO SHOW CAUSE

5 Having reviewed the Petition, the Court finds summary dismissal of the Petition is 6 unwarranted. See *Kourteva v. INS*, 151 F. Supp. 2d 1126, 1128 (N.D. Cal. 2001) 7 (“Summary dismissal is appropriate only where the allegations in the petition are vague or 8 conclusory, palpably incredible, or patently frivolous or false.”) (citation omitted). 9 Accordingly, Respondents are ORDERED TO SHOW CAUSE on or before February 10 5, 2026 at 4:30 p.m. as to why the Petition should not be granted by: (1) filing a written 11 response; (2) filing as exhibits all documents or evidence relevant to the determination of 12 the issues raised in the Petition, including any and all relevant documents reflecting 13 Petitioner’s immigration history; and (3) making a recommendation regarding the need for 14 an evidentiary hearing. Petitioner shall file a reply on or before February 13, 2026 at 15 4:30 p.m. The matter will be deemed under submission at that time and the Parties shall 16 await further order from the Court. 17 To preserve the Court’s jurisdiction, and to maintain the status quo, Petitioner 18 SHALL NOT be transferred outside of the Southern District of California pending a ruling 19 in this matter. See *Doe v. Bondi*, Case No.: 25-cv-805-BJC-JLB, 2025 WL 1870979 at *1 20 (S.D. Cal. June 11, 2025) (“Federal courts retain jurisdiction to preserve the status quo 21 while determining whether [they have] subject matter jurisdiction over a case and while a 22 petition is pending resolution from the court.”) (collecting cases). 23 The Clerk of the Court is DIRECTED TO TRANSMIT a copy of the Petition (Doc. 24 25 1 Although Mrs. Astafev was authorized to file the Petition and Motion to Appoint Counsel 26 as Petitioner’s next friend, all future filings must be made by Petitioner’s counsel. See 27 *United*

States v. Caputo, Case: 1:14-CR-00041-JLT-SKO-1, 2023 WL 5207318, at *5 (E.D. Cal. Aug. 14, 2023) (“[T]he [federal habeas] statute does not authorize the ‘next 28 1 || 1), the Motion to Appoint Counsel (Doc. 2), and this Order to the United States Attorney’s 2 Office and to Federal Defenders. Counsel for Petitioners SHALL FILE a notice of 3 || appearance on or before February 4, 2026. 4 IT IS SO ORDERED. 5 || DATE: January 30, 2026 pA Bormeder Mpitiryy
7 HON. RUTH BERMUDEZ MONTENEGRO
UNITED STATES DISTRICT JUDGE
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