

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

**Ana Lesic and Nikica Lesic v. Christopher J. LaRose, Senior Warden,
Otay Mesa Detention Center; Joseph Freden, Acting Field Office
Director, U.S. Immigration & Customs Enforcement; Todd Lyons,
Acting Director, U.S. ICE; Kristi Noem, U.S. Secretary of Homeland
Security; Pamela Bondi, U.S. Attorney General**

Lesic v. LaRose · No. 25cv2746-LL-BJW · Decided October 17, 2025

SUMMARY

The United States District Court for the Southern District of California screened Ana Lesic and Nikica Lesic’s 28 U.S.C. § 2241 petition challenging their immigration detention. The court found the petition sufficiently cognizable to warrant a government response and ordered Respondents to file an answer and show cause by October 23, 2025, with Petitioners’ reply due October 28, 2025.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Linda Lopez
JURISDICTION	United States District Court for the Southern District of California
DECIDED	October 17, 2025
DOCKET	25cv2746-LL-BJW
DISPOSITION	other
PROCEDURAL POSTURE	Petitioners filed a 28 U.S.C. § 2241 habeas petition challenging their immigration detention. The district court screened the petition, found that it stated a sufficiently cognizable claim, ordered Respondents to file a return or answer and show cause, and set a briefing schedule.
STANDARD OF REVIEW	Under Rule 4 of the Rules Governing Section 2254 Cases, applied to this § 2241 petition through Rule 1(b), the court must dismiss if it plainly appears from the petition and attached exhibits that the petitioner is not entitled to relief. At screening, the petition need only state a sufficiently cognizable claim to warrant a government response.

PRECEDENTIAL VALUE	Unpublished preliminary district-court screening order; precedential status is unknown.
PARTIES	Ana Lesic, Nikica Lesic v. Christopher J. LaRose, Senior Warden, Otay Mesa Detention Center, Joseph Freden, Acting Field Office Director, U.S. Immigration & Customs Enforcement, Todd Lyons, Acting Director, U.S. ICE, Kristi Noem, U.S. Secretary of Homeland Security, Pamela Bondi, U.S. Attorney General

TOPICS

immigration detention

federal habeas corpus

removal proceedings

asylum

immigration

PRACTICE AREAS

Immigration

Federal habeas corpus

Immigration detention

QUESTIONS PRESENTED

1. Whether the petition sufficiently alleged a cognizable claim under § 2241 to warrant a return or answer from the government.
2. Whether the allegations that the government could not remove petitioners in the reasonably foreseeable future stated a claim implicating the limits on immigration detention under 8 U.S.C. § 1231 and *Zadvydas v. Davis*.

HOLDINGS

1. The petition sufficiently alleged a cognizable habeas claim to warrant the government's return or answer and therefore was not subject to summary dismissal at the screening stage.
2. Petitioners stated a cognizable claim by alleging that the government would be unable to remove them for the reasonably foreseeable future.

KEY QUOTATIONS

“as long as a petition has any potential merit, it is not so frivolous or incredible as to justify summary dismissal under Rule 4.” (at 1)

“indefinite detention of an alien would raise a serious constitutional problem” (at 2)

FACTUAL BACKGROUND

Ana and Nikica Lesic are Croatian citizens who entered the United States on nonimmigrant visas and later pursued asylum-related relief. An immigration judge denied Ana Lesic's asylum claim, ordered her removed, and granted Nikica Lesic voluntary departure; their appeal to the Board of Immigration Appeals remained pending, staying the relevant removal consequences. Despite prior bonds and alleged compliance with release conditions, ICE detained both petitioners on October 6, 2025, prompting their § 2241 challenge to the detention.

PROCEDURAL HISTORY

An immigration judge denied Mrs. Lesic's asylum application, ordered her removed, and granted Mr. Lesic voluntary departure. Petitioners appealed to the Board of Immigration Appeals, and the removal and voluntary-departure consequences were stayed during the pending appeal. After ICE detained both petitioners despite their prior bonds and alleged compliance, they filed this habeas petition; the district court issued this screening order and directed the government to respond.

DISPOSITION

other

REMAND INSTRUCTIONS

Respondents must file a return or answer to the habeas petition and show cause why it should not be granted by October 23, 2025. Any opposition concerning injunctive relief was due on the same date. Petitioners' replies were due by October 28, 2025. The court would then determine whether to hold a hearing.

CASES CITED

- Neiss v. Bludworth, 114 F.4th 1038, 1045 (9th Cir. 2024)
- Zadvydas v. Davis, 533 U.S. 678, 690 (2001)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 ANA LESIC and NIKICA LESIC, Case No.: 25cv2746-LL-BJW 12
Petitioners, 13 v. ORDER SCREENING HABEAS PETITION AND SETTING 14
CHRISTOPHER J. LAROSE, Senior BRIEFING SCHEDULE Warden, Otay Mesa Detention
Center; 15 JOSEPH FREDEN, Acting Field Office [ECF No. 1] 16 Director, U.S. Immigration &
Customs Enforcement; TODD LYONS, Acting 17 Director, U.S. ICE; KRISTI NOEM, 18 U.S.
Secretary of Homeland Security; PAMELA BONDI, U.S. Attorney 19 General, 20 Respondents.

21 22 Petitioners Ana Lesic and Nikica Lesic seek a writ of habeas corpus under 28 U.S.C. 23 §
2241 challenging their immigration detention. See ECF No. 1. Courts must screen habeas 24
petitions and dismiss them “if it plainly appears from the petition and any attached exhibits 25 that
the petitioner is not entitled to relief.” See Rules Governing Section 2254 Cases in the 26 United
States District Courts, Rule 4; id., Rule 1(b) (permitting use of Rules Governing 27 Section 2254
Cases to any “habeas corpus petition”).

To survive screening, a petitioner 28 need only make out a claim that is sufficiently “cognizable”
to warrant a return or answer 1 from the government. See Neiss v. Bludworth, 114 F.4th 1038,
1045 (9th Cir. 2024). 2 Indeed, “as long as a petition has any potential merit, it is not so frivolous

or incredible as 3 to justify summary dismissal under Rule 4.” Id. 4 According to their petition, Mr. and Mrs. Lesic are citizens of Croatia.

ECF No. 1. 5 Mr. Lesic, “a concert pianist,” arrived in the United States in 2003 on an O-1 visa to teach 6 piano. Id. at 7–8. Mrs. Lesic arrived a few months later on a B-2 visa, later changed to a 7 O-2 visa. Id. Mrs. Lesic then applied for asylum in 2009, with Mr. Lesic as her derivative 8 applicant. Id. at 2. An immigration judge denied the asylum claim on December 8, 2022, 9 and ordered Mrs. Lesic “removed” from the United States while Mr. Lesic was granted 10 “voluntary departure.” Id. Mr. and Mrs. Lesic appealed that decision, which has been 11 pending before the Board of Immigration Appeal since December 19, 2022.

Id. Due to that 12 appeal, the order of removal against Mrs. Lesic has been stayed and will not become final 13 unless the BIA affirms the IJ’s decision. Id. at 2–3. Mr. Lesic’s voluntary departure has 14 been stayed for the same reason. Id. At the discretion of the IJ and DHS, Mr. and Mrs. 15 Lesic paid \$500 and \$10,000 to be released on bond respectively, with Mrs. Lesic wearing 16 a GPS device as well.

Id. Neither petitioner has violated the conditions of their release. Id. 17 at 8. On October 6, 2025, during one of Mrs. Lesic’s regular check-ins with ICE in San 18 Diego, ICE detained them both, as Mr. Lesic accompanied his wife to her check-in. Id. 19 When asked why they were being detained despite the ongoing BIA appeal, previous 20 bonds, and their compliance, an ICE officer responded that the “new administration” had 21 ordered everyone to be detained.

Id. at 10. Petitioners allege that no material change in 22 facts or circumstances has occurred since their bonds were granted and therefore seek an 23 expedited review of their writ to be released from immigration detention until the BIA 24 completes its appellate review. Id. at 3. 25 At this stage, the Court finds that Petitioners have sufficiently alleged that the 26 government will be unable to remove them for the “reasonably foreseeable future.” 27 See 8 C.F.R. § 241.13(i)(2).

They therefore state a claim that is cognizable enough to 28 warrant the government’s answer. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) 1 (holding that any interpretation of the relevant detention statute—8 U.S.C. § 1231—that 2 || would permit “indefinite detention of an alien would raise a serious constitutional 3 || problem”). 4 Accordingly, by October 23, 2025, Respondents must file their return or answer to 5 || the habeas petition and show cause for why it should not be granted.

Any injunction-related 6 || opposition is due then, too. By October 28, 2025, Petitioners must file any reply to the 7 || government’s return or answer to the habeas petition along with any injunction-related 8 || reply.

The Court will then determine whether to hold a hearing. The Clerk shall transmit a 9 || copy of this Order and the Petition to the U.S. Attorney’s Office for the Southern District 10 || of

California. 11 IT IS SO ORDERED. 12 || Dated: October 17, 2025 NO 13 Qe 14 Honorable Linda
Lopez 15 United States District Judge 16 17 18 19 20 21 22 23 24 25 26 27 28

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-southern-district-of-ca/2025/ana-lesic-and-nikica-lesic-v-christopher-j-larose-senior-vpbwxl28>