

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

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