

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Evgenii Ivanov v. David R. Rivas, et al.

No. CV-25-04160-PHX-SHD (ASB) · No. No. CV-25-04160-PHX-SHD (ASB) · Decided March 23, 2026

SUMMARY

The United States District Court for the District of Arizona adopts a magistrate judge's Report and Recommendation concerning Evgenii Ivanov's petition for a writ of habeas corpus under 28 U.S.C. § 2241. The court denies and dismisses the petition without prejudice and grants leave to amend within 30 days. The order also directs the Clerk to mail the petitioner the court-approved § 2241 petition form and includes that form and its filing instructions.

OPINION

1 WO 2 3 4 5 6 IN THE UNITED STATES DISTRICT COURT 7 FOR THE DISTRICT OF
ARIZONA 8 9 Evgenii Ivanov, No. CV-25-04160-PHX-SHD (ASB) 10 Petitioner, ORDER 11 v.
12 David R Rivas, et al., 13 Respondents. 14 15 Pending before the Court is Petitioner's Petition
for Writ of Habeas Corpus filed 16 pursuant to 28 U.S.C. § 2241.

The Magistrate Judge to whom this case was referred 17 issued a Report and Recommendation
("R&R") recommending the Petition be denied and 18 dismissed without prejudice and with leave
to amend within thirty (30) days. (Doc. 19 11.)

The time for filing objections has run, and neither party filed objections. 20 This Court "may
accept, reject, or modify, in whole or in part, the findings or 21 recommendations made by the
magistrate judge." 28 U.S.C. § 636(b)(1). It is "clear that 22 the district judge must review the
magistrate judge's findings and recommendations de 23 novo if objection is made, but not
otherwise." *United States v. Reyna-Tapia*, 328 F.3d 24 1114, 1121 (9th Cir.

2003) (en banc) (emphasis in original); *Schmidt v. Johnstone*, 263 F. 25 Supp. 2d 1219, 1226 (D.
Ariz. 2003) ("Following *Reyna-Tapia*, this Court concludes that 26 de novo review of factual and
legal issues is required if objections are made, 'but not 27 otherwise.'"); see also *Klamath
Siskiyou Wildlands Ctr. v. U.S. Bureau of Land Mgmt.*, 28 589 F.3d 1027, 1032 (9th Cir.

2009) (the district court "must review de novo the portions 1 || of the [Magistrate Judge's]
recommendations to which the parties object"). District 2|| courts are not required to conduct "any
review at all... of any issue that is not the || subject of an objection." *Thomas v. Arn*, 474 U.S. 140,
149 (1985) (emphasis added); see also 28 U.S.C. § 636(b)(1) ("[T]he court shall make a de novo
determination of those || portions of the [report and recommendation] to which objection is
made."").

6 No objection having been filed, 7\ IT IS ORDERED that the Report and Recommendation (Doc. 11) is accepted; the 8 \ Petition is DENIED and DISMISSED, without prejudice, and with leave to amend. 9 IT IS FURTHER ORDERED that Petitioner is granted leave to file an Amended \ Petition within thirty (30) days of this Order.

The Amended Petition must include all 11 \ claims Plaintiff wishes to allege and all of the allegations that the claims are based upon, 12 \ even if previously presented in the original Petition. No part of the original Petition may 13 \ be incorporated by reference. If the Amended Petition fails to cure the defects identified in the Report and Recommendation of the Magistrate Judge (Doc.

11), or if Petitioner fails \} to submit an Amended Petition on the court-approved form within 30 days from the date of this Order, the Court may dismiss without further leave to amend. 17 IT IS FURTHER ORDERED that if Petitioner fails to file an Amended Petition 18 \ within 30 days of the date of this Order, the Clerk of Court shall enter a judgment of dismissal without prejudice, without further notice to the Petitioner.

20 IT IS FURTHER ORDERED directing the Clerk of Court to mail a copy of the current court-approved form for filing a “Petition Under 28 U.S.C. § 2241 for a Writ of 22 \ Habeas Corpus by a Person in Federal Custody” to Petitioner. 23 Dated this 23rd day of March, 2026. 24 \ 25 / 26 27 H le Sharad H. Desai United States District Judge -2- Instructions for Filing a Petition Under 28 U.S.C. § 2241 for Writ of Habeas Corpus by a Person in Federal Custody in the United States District Court for the District of Arizona 1.

Who May Use This Form. If you are detained in Arizona, you may use this form to challenge your detention by federal immigration authorities or to challenge the execution of your federal sentence by the United States Bureau of Prisons. You are asking for release or earlier release on the grounds that your detention or future detention violates the United States Constitution or other federal law.

You should not use this form to challenge a state or federal judgment of conviction or sentence. If you are challenging a conviction or sentence entered against you by a state court, you should file a petition under 28 U.S.C. § 2254 for writ of habeas corpus by a person in state custody. If you are challenging a judgment of conviction or sentence entered by a federal court, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.

Any claim that may be brought or has already been brought in a motion under 28 U.S.C. § 2255 may not be brought using this form unless it appears that the § 2255 motion is inadequate or ineffective to test the legality of your detention. This form should not be used in death penalty cases. If you were sentenced to death, you are entitled to the assistance of counsel and you should request the appointment of counsel.

2. The Form. Local Rule of Civil Procedure (LRCiv) 3.5(a) provides that habeas corpus petitions must be filed on the court-approved form. The form must be typed or neatly handwritten. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages.

The form, however, must be completely filled in to the extent applicable. You do not need to cite law. If you want to file a brief or arguments, you must attach a separate memorandum. 3. Your Signature. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury. 4.

The Filing Fee. The filing fee for this action is \$5.00. If you are unable to pay the filing fee, you may request permission to proceed in forma pauperis by completing and signing the Application to Proceed In Forma Pauperis provided with the petition form. You must have an official at the prison or jail complete the certificate at the bottom of the application form.

If the amount of money in your account exceeds \$25.00, you must pay the \$5.00 filing fee. LRCiv 3.5(b). 5. Original and Judge's Copy. You must send an original plus one copy of your petition and of any other document submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you.

All copies must be identical to the original. Copies may be legibly handwritten. 6. Where to File. You should file your petition in the division where you are detained. See LRCiv 5.1(a). If you are detained in Maricopa, Pinal, Yuma, La Paz, or Gila County, you should file your petition in the Phoenix Division. If you are detained in Apache, Navajo, Coconino, Mohave, or Yavapai County, you should file your petition in the Prescott Division.

If you are detained in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, you should file your petition in the Tucson Division. See LRCiv 5.1(b) and 77.1(a). Mail the original and one copy of your petition with the \$5.00 filing fee or the application to proceed in forma pauperis to: Phoenix & Prescott Divisions: OR Tucson Division: U.S. District Court Clerk U.S. District Court Clerk U.S. Courthouse, Suite 130 U.S. Courthouse, Suite 1500 401 West Washington Street, SPC 10 405 West Congress Street Phoenix, Arizona 85003-2119 Tucson, Arizona 85701-5010 7.

Change of Address. You must immediately notify the Court and respondents in writing of any change in your mailing address. Failure to notify the Court of any change in your mailing address may result in the dismissal of your case. 8. Certificate of Service. You must provide the respondents with a copy of any document you submit to the Court (except the initial petition and application to proceed in forma pauperis).

Each original document (except the initial petition and application to proceed in forma pauperis) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the respondents and the address to which it was mailed. Fed. R. Civ. P.

5(a), (d). Any document received by the Court that does not include a certificate of service may be stricken.

A certificate of service should be in the following form: I hereby certify that a copy of the foregoing document was mailed this (month, day, year) to: Name: Address: Attorney for Respondent(s) (Signature) 9. Amended Petition. If you need to change any of the information in the initial petition, you must file an amended petition.

The amended petition must be written on the court-approved petition for writ of habeas corpus form. You may amend your pleading once without leave (permission) of Court within 21 days after serving it or within 21 days after any respondent has filed an answer, whichever is earlier. See Fed. R. Civ. P. 15(a). Thereafter, you must file a motion for leave to amend and lodge (submit) a proposed amended petition.

LRCiv 15.1. An amended petition may not incorporate by reference any part of your prior petition. LRCiv 15.1(a)(2). Any grounds not included in the amended petition are considered dismissed. 10. Exhibits. If available, you should attach a copy of all federal court and administrative written decisions regarding the detention you are challenging. You should not submit any other exhibits with the petition.

Instead, the relevant information should be paraphrased in the petition. 11. Letters and Motions. It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion. 12. Exhaustion.

In order to proceed with this petition in federal court, you ordinarily must exhaust any administrative remedies available to you. If you did not fairly present each of your grounds to the appropriate administrative agencies, your petition may be dismissed. FINAL NOTE You should follow these instructions carefully. Failure to do so may result in your petition being stricken or dismissed by the Court.

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the petition is being continued and number all pages. Name and Prisoner Number/Alien Registration Number

_____ Place of Confinement
_____ Mailing Address
_____ City, State, Zip Code (Failure to notify the Court of your change of address may result in dismissal of this action.)

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA
_____, (Full Name of Petitioner)) Petitioner, CASE

NO. _____ (To be supplied by the Clerk) v. _____, PETITION UNDER 28 U.S.C. § 2241 (Name of Warden, Jailor or authorized person FOR A WRIT OF HABEAS CORPUS having custody of Petitioner) BY A PERSON IN FEDERAL CUSTODY Respondent.

PETITION 1. What are you challenging in this petition? G Immigration detention G Bureau of Prisons sentence calculation or loss of good-time credits G Probation, parole or supervised release G Other (explain): 2. (a) Name and location of the agency or court that made the decision you are challenging: (b) Case or opinion number: (c) Decision made by the agency or court: (d) Date of the decision: 3.

Did you appeal the decision to a higher agency or court? Yes G No G If yes, answer the following: (a) First appeal: (1) Name of the agency or court: (2) Date you filed: (3) Opinion or case number: (4) Result: (5) Date of result: (6) Issues raised: Attach, if available, a copy of any brief filed on your behalf and a copy of the decision. (b) Second appeal: (1) Name of the agency or court: (2) Date you filed: (3) Opinion or case number: (4) Result: (5) Date of result: (6) Issues raised: Attach, if available, a copy of any brief filed on your behalf and a copy of the decision. (c) Third appeal: (1) Name of the agency or court: (2) Date you filed: (3) Opinion or case number: (4) Result: (5) Date of result: (6) Issues raised: Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

4. If you did not appeal the decision to a higher agency or court, explain why you did not: 5. Other than the appeals listed above, have you filed any other petitions, applications or motions concerning the issues raised in this petition? Yes G No G If yes, answer the following: (a) Name of the agency or court: (b) Date you filed: (c) Opinion or case number: (d) Result: (e) Date of result: (f) Issues raised: Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

6. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available administrative remedies on each ground on which you request action by the federal court. (a) Supporting FACTS (Do not argue or cite law.

Just state the specific facts that support your claim.): (b) Did you exhaust all available administrative remedies relating to Ground One? Yes G No G (c) If yes, did you present the issue to: G The Board of Immigration Appeals G The Office of General Counsel G The Parole Commission G Other: (d) If you did not exhaust all available administrative remedies relating to Ground One, explain why: (a) Supporting FACTS (Do not argue or cite law.

Just state the specific facts that support your claim.): (b) Did you exhaust all available administrative remedies relating to Ground Two? Yes G No G (c) If yes, did you present the issue to: G The Board of Immigration Appeals G The Office of General Counsel G The Parole Commission G Other: (d) If you did not exhaust all available administrative remedies relating to Ground Two, explain why: (a) Supporting FACTS (Do not argue or cite law.

Just state the specific facts that support your claim.): (b) Did you exhaust all available administrative remedies relating to Ground Three? Yes G No G (c) If yes, did you present the issue to: G The Board of Immigration Appeals G The Office of General Counsel G The Parole Commission G Other: (d) If you did not exhaust all available administrative remedies relating to Ground Three, explain why: (a) Supporting FACTS (Do not argue or cite law.

Just state the specific facts that support your claim.): (b) Did you exhaust all available administrative remedies relating to Ground Four? Yes G No G (c) If yes, did you present the issue to: G The Board of Immigration Appeals G The Office of General Counsel G The Parole Commission G Other: (d) If you did not exhaust all available administrative remedies relating to Ground Four, explain why: 7.

Are you challenging your conviction or sentence in any of the grounds raised above? Yes G No G (Claims challenging a federal conviction or sentence may only be raised in a motion under 28 U.S.C. § 2255, unless the § 2255 motion is legally inadequate or ineffective.) If yes, answer the following: (a) Have you filed a motion under 28 U.S.C. § 2255? Yes G No G If yes, answer the following: (1) Name of court: (2) Case number: (3) Opinion or case number: (4) Result: (5) Date of result: (6) Issues raised: Attach, if available, a copy of any brief filed on your behalf and a copy of the decision. (b) Explain why the remedy under § 2255 is inadequate or ineffective: 8.

If this case concerns immigration removal proceedings, answer the following: (a) Date you were taken into immigration custody: (b) Date of removal or reinstatement order: (c) Did you file an appeal with the Board of Immigration Appeals? Yes G No G (1) Date you filed: (2) Case number: (3) Result: (4) Date of result: (5) Issues raised: Attach, if available, a copy of any brief filed on your behalf and a copy of the decision. (d) Did you file an appeal with the federal court of appeals?

Yes G No G (1) Name of the court: (2) Date you filed: (3) Case number: (4) Result: (5) Date of result: (6) Issues raised: Attach, if available, a copy of any brief filed on your behalf and a copy of the decision. 9. Petitioner asks that the Court grant the following relief: or any other relief to which Petitioner may be entitled. (Money damages are not available in habeas corpus cases.)

I declare under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on (month, day, year).

Signature of Petitioner

attorney, if any Date Signature of

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