

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

Luis Alberto VALDEZ

Petitioner

v.

Case No. 25-cv-01192-MMH

Francis J. Russo, Director of Field Operations for the
U.S. Customs and Border Protection (CBP) New
York Field Office;

Kenneth Genalo, Field Office Director of the New
York Field Office for ICE within the United States
Department of Homeland Security;

Kristi Noem, Secretary of Homeland Security in the
United States Department of Homeland Security;
and
Pam Bondi is named in her official capacity as the
Attorney General of the United States

Respondents.

PETITIONER'S RESPONSE TO COURT'S REQUEST FOR A STATUS UPDATE

Petitioner Luis Alberto Valdez ("Petitioner" or "Mr. Valdez"), through undersigned counsel, hereby submits the instant response to the Court's request for a status update on his petition for a writ of habeas corpus, filed pursuant to 28 U.S.C. § 2241, the All Writs Act, 28 U.S.C. § 1651, and Article I, Section 9, of the Constitution of the United States.

RELEVANT PROCEDURAL HISTORY

Mr. Valdez has been a lawful permanent resident of the United States since March 21, 1975, when he entered the country at the age of eleven. He is sixty-one years old. He is employed as an elevator mechanic and resides in the Bronx, New York with his U.S. citizen wife and near his three adult U.S. citizen children.

Mr. Valdez has been reporting to Deferred Inspection (“DI”) since 2023, after he was taken into U.S. Customs and Border Protection (“CBP”) custody at John F. Kennedy International Airport (“JFK airport”) and then released following a family trip to the Dominican Republic. He has always been compliant with his DI appointments and has made all requested appearances.

On Thursday, February 27, 2025 at 12:30pm, Mr. Valdez appeared for a DI appointment at JFK airport. Prior to his appointment, on February 26, 2025, Mr. Valdez, through undersigned counsel, sought an adjournment due to Mr. Valdez’s upcoming hearing for Post-Conviction Relief (“PCR”); however, CBP Deputy Chief Tajinder Singh and CBP Officer Sung Kim denied this request, requiring Mr. Valdez to appear. On February 27, 2025 at 7:30pm, after waiting for seven hours for the resolution of his DI appointment, Mr. Valdez was transferred to Terminal 4 of JFK airport, where he was taken into custody and handcuffed.

On Sunday, March 1, undersigned counsel received an emergency call from Mr. Valdez’s wife, stating that Mr. Valdez, a sixty-one-year-old man and lawful permanent resident, had been detained at Terminal 4 since Thursday afternoon; he had no bed, no toothbrush, no medication, was being fed detrimental food despite his metabolic syndrome, and was only allowed to use the bathroom on a predetermined schedule. Undersigned counsel thereafter placed a phone call to CBP Officer Serventi, who advised undersigned counsel that he was simply following orders. Undersigned counsel subsequently contacted Immigration and Customs Enforcement (“ICE”) Chief Counsel Wen-Ting Cheng via email detailing Mr. Valdez’s situation and requesting that if ICE was unable to pick Mr. Valdez up, that he be released.

On Monday morning, March 3, 2025 at 2:04PM, undersigned counsel received an email from Mr. Valdez’s wife stating that Mr. Valdez was still handcuffed to the same chair, that he was in pain, that he hadn’t slept four nights in a row, that two officers so far had told him that he was

not in their system, that he had been in an unlawful detention situation for five days and four nights and that he is an elderly man who needs care.¹ Ms. Valdez's wife also notified counsel that CBP Officer Kim informed her that they would have to do something about Mr. Valdez's detention because they passed the 72 hour period required; however, they did not release Mr. Valdez at that time.

Undersigned counsel subsequently filed the underlying Petition for *Habeas Corpus* pursuant to 28 U.S.C. § 2241.

After the filing of the *habeas corpus*, on March 3, 2025 at 4:57PM, undersigned counsel received an email from ICE Chief Counsel Wen-Ting Ching stating that undersigned counsel's message was forwarded to CBP counsel and that "[t]his does not appear to be an ICE matter."

On March 3, 2025 at 5:39PM undersigned counsel responded via email to ICE Chief Counsel Wen-Ting Ching stating that CBP specifically said they are waiting for ICE. Undersigned counsel also informed ICE Chief Counsel Wen-Ting Ching that a *habeas corpus* was filed an hour earlier and that an Order to Show Cause was imminent, as Mr. Valdez was still detained at Terminal 4 and handcuffed to a chair.

On March 3, 2025 at 8:42PM, many hours after the 72-hour detention period had passed, three hours after the *habeas corpus* was filed, and prior to submitting an Order to Show Cause, Mr. Valdez was released from Terminal 4 at JFK.

Subsequent to being released, Mr. Valdez's liberty interest was still at stake, since he was paroled again with the requirement that he return to JFK International Airport for a Deferred Inspection Appointment on April 2, 2025 at 11AM. *See* Release Paper of Mr. Valdez, attached.

¹ Mr. Valdez continues to suffer psychologically and physically from the stress inflicted during his detention. Since his detention he has received chiropractic treatments, osteopathy, physical therapy, and psychotherapy. After the detention he has been suffering from generalized anxiety, sleeplessness, and paranoia which, if these symptoms endure, amount to a diagnosis of PTSD.

However, on March 25, 2025 at 1:17PM, Mr. Valdez's wife received an email from CBP Officer Kim informing her that after much legal discussion and back and forth "management finally decided to admit" Mr. Valdez and to return his green card, at which point the purpose of the *habeas corpus* was satisfied. See Email of CBP Officer Sung Kim, attached.

It should be noted that Petitioner's release from detention, his subsequent notice for a continued Deferred Inspection on April 2, and CBP Officer Kim's March 25th email indicating that management decided to admit Petitioner, were at no point communicated by CBP to undersigned counsel. Notwithstanding undersigned counsel's prior communication with CBP in advance of his detention, undersigned counsel's G-28 on file, and a pending *habeas corpus*, all information to undersigned counsel came through Petitioner and Petitioner's wife. Furthermore, the Assistant U.S. Attorney of the Eastern District of New York did not file a Notice of Appearance or contact undersigned counsel at any time.

Lastly, it must also be noted that Mr. Valdez's release from custody and CBP's subsequent determination to admit him occurred only after the *habeas corpus* was filed and after ICE Chief Counsel was notified of the *habeas corpus*, thereafter interfering in the nearly one-hundred-hour unlawful detention of Mr. Valdez by CBP. While undersigned counsel is of the understanding that this issue may now be moot, the circumstances surrounding Petitioner's unlawful detention required a full accounting.

CONCLUSION

WHEREFORE, Petitioner submits the instant status update and respectfully requests this Court to grant such further relief as the Court deems just and proper.

Respectfully Submitted,

Dated: May 2, 2025

/s KERRY W. BRETZ
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