

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

O [REDACTED] I [REDACTED] G [REDACTED]
A [REDACTED]
A minor, by his legal guardian and next
friend, I [REDACTED]

Petitioner,

v.

PATRICIA HYDE, Acting Field Office
Director for Enforcement and Removal
Operations, U.S. Immigration and Customs
Enforcement, TODD LYONS, Acting
Director, U.S. Immigration and Customs
Enforcement, KRISTI NOEM, Secretary,
U.S. Department of Homeland Security,
ROBERT F. KENNEDY, JR., Secretary,
U.S. Department of Health and Human
Services,

Respondent.

Civil Action No.

PETITION FOR WRIT OF HABEAS CORPUS

This is a petition for a writ of habeas corpus filed on behalf of O [REDACTED]
Alien Number A [REDACTED], a 17-year old child, by and through his legal guardian and next
friend, I [REDACTED], his sister, seeking relief to remedy his unlawful detention.
Respondents are detaining Mr. I [REDACTED] unlawfully after a brief detention by the Chelsea,
Massachusetts police department which led to no charges against him. Mr. I [REDACTED] is not a
flight risk or a danger to the community, and has a pending application for adjustment of status to
lawful permanent residence (USCIS Receipt No. MSC [REDACTED]) based on an approved
petition for Special Immigrant Juvenile Status (USCIS Receipt No. MSC [REDACTED]).

Prior to his detention by U.S. Immigration and Customs Enforcement ("ICE"), Mr. I [REDACTED]
G [REDACTED] was being processed by U.S. Citizenship and Immigration Services for his lawful
permanent residence, and was in the status of deferred action pending an available immigrant visa
number. Mr. I [REDACTED] has committed no crimes. His detention is unjustified under the

Constitution and the Immigration and Nationality Act (“INA”).


On or about May 14, 2025, Mr. I [REDACTED] was leaving high school with a group of friends, who were detained by the Chelsea Police purportedly because one of the group had a BB gun. Mr. I [REDACTED] was released without charges (on information and belief, none of the detained minors were charged with any violation). Respondent Patricia Hyde arrested Mr. I [REDACTED] immediately upon his exit from the police station and taken to 1000 District Avenue, Burlington, Massachusetts 01803 in transit to an unknown destination. Adult detention is inappropriate for the Petitioner, who is a minor under the age of 18 who has committed no crime.

On information and belief, Respondents have targeted the city of Chelsea, Massachusetts as a “sanctuary city.” However, this does not support the detention of the Petitioner, a minor who has committed no crime. Mr. I [REDACTED] is in possession of an I-766, Employment Authorization Document valid through May 9, 2026, based upon his pending application for lawful permanent residence, and is currently in a “period of stay authorized by the Secretary of the Department of Homeland Security.”

Mr. I [REDACTED] detention is unjustified under the Constitution and the Immigration and Nationality Act (“INA”). Petitioner seeks an order from this Court declaring his continued detention unlawful and ordering Respondents to release Mr. I [REDACTED] from their custody and return him to the custody of his legal guardian and next friend, his sister, I [REDACTED]

CUSTODY

1. Mr. I [REDACTED] is in the physical custody of Respondent Patricia Hyde, Acting Field Office Director for ICE Enforcement and Removal Operations Burlington, Massachusetts Office. At the time of the filing of this petition, Petitioner is being temporarily detained at the Burlington, Massachusetts office. We have no further information about where the Petitioner may

be in transit to at this time, as he should not be placed in an adult facility. Mr. I  is under the direct control of Respondents and their agents.


JURISDICTION

2. This action arises under the Constitution of the United States, the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et. seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 1570. This Court has jurisdiction under 28 U.S.C. 2241, art. I, § 9, cl. 2 of the United States Constitution (“Suspension Clause”) and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

3. Venue lies in the United States District Court for the District of Massachusetts, the judicial district in which Respondent, Patricia Hyde resides and where the Petitioner is detained. 28 U.S.C. § 1391(e).

PARTIES

4. Petitioner I  is a national and citizen of Honduras who is detained by Respondents pursuant to 8 U.S.C. § 1231, which permits the DHS to detain aliens, such as Petitioner, pending the execution of the alien’s removal order.


5. Respondent Patricia Hyde is the Acting Field Office Director for ICE ERO, DHS. Respondent Hyde is the custodial official acting within the boundaries of the judicial district of the United States Court for the District of Massachusetts. She is sued in her official capacity. Pursuant to Respondent Hyde’s orders, Petitioner remains detained.

6. Respondent Todd Lyons is the Acting Director of the Immigration and Customs Enforcement (“ICE”), a component of DHS. He is sued in his official capacity.

7. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”). She is sued in her official capacity.

8. Respondent Robert F. Kennedy, Jr., is the Secretary of the Department of Health and Human Services (“DHHS”). DHHS’s Office of Refugee Resettlement (“ORR”) is responsible for placing unaccompanied immigrant minors in shelters. He is sued in his official capacity.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

9. Mr.  has exhausted his administrative remedies to the extent required by law, he has been unlawfully detained despite the fact that he is not an unaccompanied minor and he has committed no crime, and his only remedy is by way of this judicial action.

BACKGROUND

Legal Framework of the Flores Settlement Agreement

10. On January 28, 1997, a class-wide settlement agreement was reached in a case that is presently captioned *Flores v. Sessions*, CV-85-4544 (C.D. Cal.). According to the stipulation of the parties in that settlement agreement, the terms of the Settlement are in effect and remain in effect until the 45th day “following defendants’ publication of final regulations implementing” the Settlement itself. Final regulations have never been published.

11. On September 7, 2018, the Departments of Homeland Security and Health and Human Services proposed regulations in the Federal Register on the “Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children.” Those regulations are

currently in the notice and comment period, which closes on November 7, 2018. As a result, the Settlement remains in effect.

12. The Settlement applies to “[a]ll minors who are detained in the legal custody of the INS.” A “minor” is “any person under the age of eighteen (18) years who is detained in the legal custody of the INS.”

13. The Settlement “sets out nationwide policy for the detention, release, and treatment of minors in the custody of the INS[.]” The immigration authorities must treat “all minors in its custody with dignity, respect and special concern for their particular vulnerability as minors.”

14. Each federal government Respondent is subject to compliance under the Settlement.

15. In the two decades since the Settlement was approved, there have been dramatic changes to the bureaucratic landscape of immigration law. Twice, Congress has passed laws directly addressing the care and custody of unaccompanied minors. In 2002, Congress passed the Homeland Security Act which abolished the former INS, and established the Department of Homeland Security (DHS). 6 U.S.C. §§ 111, 251, 291. Most relevant to this case, the Act also transferred a number of the functions relating to the care of unaccompanied minors from the former INS to the Director of the Office of Refugee Resettlement (“ORR”) of the Department of Health and Human Services (“HHS”). 6 U.S.C. § 279(a), (b)(1)(A), (g)(2).

16. The Homeland Security Act charges ORR with “ensuring that the interests of the child are considered in decisions and actions relating to the care and custody of an unaccompanied alien child.” Id. § 279(b)(1)(B). To that end, the Homeland Security Act gives ORR responsibility for “coordinating and implementing the care and placement of unaccompanied alien children,” “ensuring that the best interests of the child are considered in decisions and actions relating to the

care and custody of an unaccompanied alien child,” “implementing policies with respect to the care and placement of unaccompanied alien children,” and identifying “a sufficient number of qualified individuals, entities, and facilities to house” such children. Id. § 279(b)(1).

17. The Homeland Security Act includes a savings clause, which preserves those administrative actions to which the INS was a party. The savings clause provides that: “Completed administrative actions of an agency ... shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.” 6 U.S.C. § 552(a)(1) (incorporated by reference into 6 U.S.C. § 279(f)(2)).

18. The statute goes on to define such “completed administrative actions” as including “orders ... agreements, grants, contracts, certificates, licenses, registrations, and privileges.” Id. § 552(a)(2) (emphasis added). The Settlement thus remains in effect as an “agreement” preceding the passage of the Homeland Security Act.

19. In 2008, Congress again addressed the treatment of unaccompanied minors when it passed the Trafficking Victims Protection Reauthorization Act (“TVPRA”), principally codified in relevant part at 8 U.S.C. § 1232. Like the Homeland Security Act, the TVPRA gives ORR responsibility for certain aspects of the care and custody of unaccompanied minors. In doing so, the TVPRA “partially codified the [Flores] Settlement by creating statutory standards for the treatment of unaccompanied minors.” *Flores v. Lynch*, 828 F.3d at 904. Under the TVPRA, the “care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be the responsibility of the Secretary of Health and Human Services.” 8 U.S.C. § 1232(b)(1). The Act provides that this authority is to be exercised in a manner consistent

with the Homeland Security Act, and incorporates by reference the savings clause included in the HSA. *Id.* (citing 6 U.S.C. § 279). Thus, the TVPRA also preserves the Flores Settlement.

20. The TVPRA directs that “any department or agency of the Federal Government that has an unaccompanied alien child in custody shall transfer the custody of such child to [HHS] not later than 72 hours after determining that such child is an unaccompanied alien child.” *Id.* § 1232(b)(3). Once a child is placed in ORR custody, the TVPRA states that the agency shall promptly place him in the “least restrictive setting that is in the best interest of the child.” *Id.* § 1232(c)(2)(A). In making this placement determination, ORR must consider the child’s “danger to self, danger to the community, and risk of flight.” *Id.*

21. The TVPRA, like the Flores Settlement, provides that if a “suitable family member” or other guardian is not available to take custody of a minor, he may be placed in a specialized juvenile program or facility. *Id.* However, the Act requires that children not be placed in secure facilities “absent a determination that the child poses a danger to self or others or has been charged with having committed a criminal offense.” *Id.*

22. The FSA applies to all minors in immigration custody, regardless of whether the child is apprehended unaccompanied (and thus in the custody of ORR) or accompanying his parent or family. *See Flores v. Lynch*, 828 F.3d 898, 905-6 (9th Cir. 2016)

23. Mr. L [REDACTED] has already been released to the custody of his sister from ORR, and there is no basis for his transfer back to ORR custody.

STATEMENT OF FACTS

24. Mr. L [REDACTED] who is a 17-year-old child, is not a danger to the community or a flight risk. He has no pending criminal cases and has never committed a crime.

25. Mr. I [REDACTED] has deep roots in this community. He has lived in this community for the past seven years since the age of 10, and his sister and legal guardian, L [REDACTED] [REDACTED] is a lawful permanent resident.

26. Prior to his unlawful detention, Mr. I [REDACTED] was attending high school.

27. Respondents' decision to detain Mr. I [REDACTED] is not legally justifiable and is capricious and arbitrary, and an abuse of discretion, as well as a violation of his constitutional rights.

CLAIMS FOR RELIEF

COUNT ONE CONSTITUTIONAL CLAIM

28. Petitioner alleges and incorporates by reference paragraphs 1 through 27 above.

29. Petitioner's detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

COUNT TWO STATUTORY CLAIM

30. Petitioner alleges and incorporates by reference paragraphs 1 through 29 above. Petitioner's continued detention violates the Immigration and Nationality Act and the Trafficking Victims Protection Reauthorization Act.

COUNT THREE

31. If he prevails, Petitioner requests attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;

- b. Prohibit Respondents from transferring the Petitioner out of this Court's jurisdiction or ordering the transfer of Petitioner outside of this Court's jurisdiction, without first providing adequate notice to both this Court and Petitioner's counsel as well as time to contest any such action;
- c. Issue an order directing Respondents to show cause why the writ should not be granted;
- d. Issue a writ of habeas corpus ordering Respondents to release Mr. I [REDACTED] a child, to his legal guardian and sister, Ms. I [REDACTED];
- e. Award Petitioner reasonable costs and attorney's fees; and,
- f. Grant any other relief which this Court deems just and proper.

C [REDACTED]
By his attorney,

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CERTIFICATE OF COMPLIANCE

Under Federal Rule of Civil Procedure 11, by signing below I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

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