

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Baltimore Division**

Nelson Ariel Umanzor Chavez,

c/o Murray Osorio PLLC
4103 Chain Bridge Road, Suite 300
Fairfax, Virginia 22030

Petitioner,

v.

Kristi Noem, *Secretary of Homeland Security,*

Secretary of Homeland Security
Washington, DC 20508

Todd Lyons, *Acting Director, U.S. Immigration
and Customs Enforcement,*

Nikita Baker, *ICE Baltimore Field Office
Director,*

500 12th St., SW
Washington, D.C. 20536

Pamela Bondi, *Attorney General,*

950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Respondents.

Civil Action No. _____

PETITION FOR WRIT OF HABEAS CORPUS

1. In 2019, an immigration judge found that Petitioner Nelson Ariel Umanzor Chavez would more likely than not be tortured if he were returned to his native El Salvador, either by or at the acquiescence of the government of that country. The immigration judge therefore granted Petitioner withholding of removal under the Convention Against Torture (CAT), thus prohibiting the U.S. government from removing him to El Salvador.

2. Now, several years later, the government has re-detained Petitioner, ostensibly in order to file a motion before the immigration judge asking the judge to strip Petitioner's order of withholding of removal—which can only be done on a showing by the government that Petitioner is no longer likely to be tortured in El Salvador. Unless and until that motion is granted, however, Petitioner is not subject to detention, and there is presently no lawful basis to detain Petitioner.

JURISDICTION AND VENUE

3. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241; 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

4. The Court has authority to enter a declaratory judgment and to provide temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. §§ 2201-2202, the All Writs Act, and the Court's inherent equitable powers, as well as issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

5. Venue lies in this District because Petitioner is detained in the custody of U.S. Immigration and Customs Enforcement (ICE) in the Baltimore Field Office Hold Room, located within this division of this judicial district. Each Respondent is an officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1). In addition, Respondent Nikita Baker, ICE Baltimore Field Office Director, maintains her principal place of business in Baltimore, Maryland.

THE PARTIES

6. Petitioner Nelson Ariel Umanzor Chavez is a citizen and native of El Salvador who resides in Prince George's County, Maryland. Respondents are detaining him without any legal basis whatsoever, as he currently has a valid grant of withholding of removal as to El Salvador.

7. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

8. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (“ICE”). He is the head of the federal agency responsible for all immigration enforcement in the United States.

9. Respondent Nikita Baker is the ICE Baltimore Field Office Director. She is the head of the ICE office that arrested Plaintiff, and such arrest took place under her direction and supervision. She is the immediate legal and physical custodian of Petitioner.

10. Respondent Pamela Bondi is the Attorney General of the United States. The Immigration Judges who decide removal cases and application for relief from removal do so as her designees.

11. All government Respondents are sued in their official capacities.

LEGAL BACKGROUND

12. The Convention Against Torture (“CAT”) prohibits the government from removing a noncitizen to a country where he is more likely than not to face torture. 8 C.F.R. § 1208.16(c). This protection is usually referred to as “CAT withholding of removal.”

13. For an immigration judge (serving as the designee of Respondent Bondi) to grant CAT withholding of removal to a noncitizen in the first instance, the noncitizen must prove that he is more likely than not to suffer torture. “The burden of proof is on the applicant for withholding of removal under [the CAT] to establish that it is more likely than not that he or she would be tortured if removed to the proposed country of removal.” 8 C.F.R. § 1208.16(c)(2).

14. If a noncitizen is granted withholding of removal, “DHS may not remove the alien

to the country designated in the removal order unless the order of withholding is terminated.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 531 (2021). No exceptions lie.

15. Federal regulations provide a procedure by which a grant of CAT withholding of removal issued by an immigration judge may be terminated: DHS must move to reopen the removal proceedings before the immigration judge, and then DHS will bear the burden of proof, by a preponderance of the evidence, that grounds for termination exist. 8 C.F.R. § 1208.24(f). After a grant of withholding of removal is terminated, there would be no impediment to removal.

16. However, withholding of removal is a country-specific form of relief. Should the government wish to remove an individual with a grant of withholding of removal to some *other* country, it must first provide that individual with notice and an opportunity to apply for withholding of removal as to *that* country as well, if appropriate. *D.V.D. v. U.S. Dep’t of Homeland Sec’y*, 2025 WL 1142968 (D. Mass., Apr. 18, 2025). Pursuant to the *D.V.D.* preliminary injunction, Respondents may not remove a noncitizen to any third country without first: (1) providing written notice to the noncitizen and his counsel of the third country to which he may be removed, in a language he can understand; (2) providing meaningful opportunity for the noncitizen to raise a fear of return for eligibility for CAT protections; (3) move to reopen the noncitizen’s prior immigration proceedings if he demonstrates “reasonable fear”; and (4) if the noncitizen is not found to have demonstrated “reasonable fear,” provide meaningful opportunity, and a minimum of 15 days, for him to seek to move to reopen his prior immigration proceedings to challenge the potential third-country removal. *D.V.D.*, 2025 WL 1142968, at *24.

17. Finally, for individuals with a removal order but who cannot be removed (because there is no country designated to which they can lawfully be removed, or because logistical or practical considerations prevent execution of an otherwise lawfully executable order), 8 U.S.C.

§ 1231(a) permits the government to detain noncitizens during the “removal period,” which is defined as the 90-day period during which “the Attorney General shall remove the alien from the United States.” 8 U.S.C. § 1231(a)(1)(A). In this case, pursuant to 8 U.S.C. § 1231(a)(2)(B)(i), the removal period began when Petitioner’s removal order became administratively final, May 16, 2019. The “removal period” therefore expired on August 14, 2019.

18. After the expiration of the removal period, 8 U.S.C. § 1231(a)(3) provides that the government shall release unremovable noncitizens on an order of supervision (the immigration equivalent of supervised release, with strict reporting and other requirements). Pursuant to 8 U.S.C. § 1231(a)(6), even noncitizens with aggravated felony convictions may be “released” if “subject to the terms of supervision” set forth in 8 U.S.C. § 1231(a)(3).

19. Constitutional limits on detention beyond the removal period are well established. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas*, 533 U.S. at 701. “[W]here detention’s goal is no longer practically attainable, detention no longer ‘bear[s][a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Additionally, cursory or pro forma findings of dangerousness do not suffice to justify prolonged or indefinite detention. *Zadvydas v. Davis*, 533 U.S. 678, 691 (2001) (“But we have upheld preventative detention based on dangerousness only when limited to especially dangerous individuals [like suspected terrorists] and subject to strong procedural protections.”)

20. The purpose of detention during and beyond the removal period is to “secure[] the alien’s removal.” *Zadvydas*, 533 U.S. at 682. In *Zadvydas*, the Supreme Court “read § 1231 to authorize continued detention of an alien following the 90-day removal period for only such time as is reasonably necessary to secure the alien’s removal.” *Demore v. Kim*, 538 U.S. 510, 527 (2003)

(citing *Zadvydas*, 533 U.S. at 699).

21. As the Supreme Court explained, where there is no possibility of removal, immigration detention presents substantive due process concerns because “the need to detain the noncitizen to ensure the noncitizen’s availability for future removal proceedings is “weak or nonexistent.” *Zadvydas*, 533 U.S. at 690-92. Detention is lawful only when “necessary to bring about that alien’s removal.” *See id.* at 689.

22. To balance these competing interests, the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a “reasonable period of detention” for noncitizens after a removal order. *Id.* at 700-01. The Court determined that six months detention could be deemed a “presumptively reasonable period of detention,” after which the burden shifts to the government to justify continued detention if the noncitizen provides a “good reason to believe that there is not significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

23. Where a petitioner has provided “good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future,” the burden shifts to the government to rebut that showing. *Zadvydas*, 533 U.S. at 701.

FACTS

24. Petitioner Nelson Ariel Umanzor Chavez is a citizen of El Salvador and no other country. No other country has ever expressed interest in receiving Petitioner for removal, nor have Respondents ever designated any other country for removal.

25. On May 16, 2019, Petitioner was granted CAT withholding of removal pursuant to 8 C.F.R. § 1208.16(b), after the immigration judge agreed that he had established it was more likely than not that he would be tortured in El Salvador. *See* Ex. A (Immigration Judge order). The government waived appeal of this order. *Id.*

26. To date, the Department of Homeland Security has not filed a motion to reopen or rescind the grant of relief, and Petitioner has remained fully compliant with his Order of Supervision since his release from ICE custody in June 2019. See Ex. B (EOIR Automated Case Information).

27. On the morning of May 21, 2025, Petitioner dutifully appeared at his scheduled ICE check-in appointment at the Baltimore Field Office pursuant to the conditions of his Order of Supervision. Instead of allowing him to return home, ICE officers detained him at the Baltimore Hold Room without warning.

28. Prior to his detention, Petitioner had been in full compliance with all requirements imposed by ICE, including timely appearances at scheduled check-ins. Petitioner has not been arrested or charged with any crimes subsequent to June 2019.

29. Despite this consistent compliance over the course of several years, Petitioner was nonetheless taken into custody and now remains detained at the Baltimore Hold Room as of the filing of this habeas corpus petition. The stated reason for Petitioner's detention is that the government intends to bring a motion to reopen Petitioner's removal case and strip him of his order of withholding of removal; to date, no such motion has been filed, and it is far from certain that any such motion would be granted. See Ex. C (declaration of Amelia Wester).

30. ICE Offices have recently begun deporting individuals from El Salvador with valid grants of withholding of removal to El Salvador, in gross violation of the law. See *Abrego Garcia v. Noem*, Civ. No. 8:25-cv-951-PX, Dkt. No. 1 (D. Md., filed March 24, 2025). Petitioner is terrified that the same thing will happen to him, notwithstanding the ICE officer's assurances to the contrary.

31. Petitioner has exhausted all administrative remedies. No further administrative remedies are available to Petitioner.

**FIRST CLAIM FOR RELIEF:
Violation of 8 U.S.C. § 1231(a)(6)**

32. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-31.

33. Petitioner's continued detention by the Respondent violates 8 U.S.C. § 1231(a)(6), as interpreted by *Zadvydas*. Petitioner's 90-day statutory removal period and six-month presumptively reasonable period for continued removal efforts have long since passed.

34. Under *Zadvydas*, the continued detention of someone like Petitioner is unreasonable and not authorized by 8 U.S.C. § 1231.

**SECOND CLAIM FOR RELIEF:
Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution**

35. Mr. Huynh re-alleges and incorporates by reference the preceding paragraphs 1-31.

36. Petitioner's detention during the removal period is only constitutionally permissible when there is a significant likelihood of removal in the reasonably foreseeable future. Respondent has rearrested and re-detained Petitioner on the assumption that Petitioner's removal proceedings will be reopened, but has taken no steps to file such a motion, nor has any such motion been granted by an immigration judge.

37. Respondent continues to detain Petitioner without evidence that they will be able to remove him imminently, to El Salvador or any other country.

38. Respondents' detention of Petitioner no longer bears any reasonable relation to a legitimate government purpose, and thus violates the Due Process Clause.

**THIRD CAUSE OF ACTION:
HABEAS CORPUS, 28 U.S.C. § 2241**

39. Petitioner incorporates the foregoing paragraphs 1-31 by reference.

40. The writ of habeas corpus is available to any individual who is held in custody of the federal government in violation of the Constitution or laws or treaties of the United States.

41. Respondents presently have no legal basis to detain Petitioner in immigration custody, and the writ of habeas corpus should issue.

REQUEST FOR RELIEF

Petitioner prays for judgment against Respondents and respectfully requests that the Court enters an order:

- a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;
- b) Preliminarily and permanently enjoining Respondents from removing Petitioner to El Salvador, unless and until his order of CAT Withholding of Removal is terminated, including all appeals;
- c) Preliminarily and permanently enjoining Respondents from removing Petitioner to any other country without first providing him notice and offering him adequate opportunity to apply for withholding of removal as to that country;
- d) Preliminarily enjoining Respondents from removing Petitioner from the State of Maryland pending the outcome of this litigation;
- e) Issuing a writ of habeas corpus, and ordering that Petitioner be released from physical custody; and
- f) Granting such other relief at law and in equity as justice may require.

Respectfully submitted,

/s/ Simon Sandoval-Moshenberg

Date: May 21, 2025

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