

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ANGEL LENIN SERVELLON GIRON,

c/o Murray Osorio PLLC

50 Park Pl

Newark, NJ 07102

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,*

JOHN TSOUKARIS, *ICE Newark 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

In 2014, Petitioner Angel Lenin Servellon Giron won an order from an immigration judge granting him a form of relief called withholding of removal under the Immigration and Nationality Act, which prohibits Respondents from removing him to Honduras. Should Respondents wish to remove Petitioner to Honduras, the law sets forth specific procedures by which they can reopen the case and seek to set aside the grant of withholding of removal. Should Respondents wish to

remove Petitioner to any other country, they would first need to provide him with notice and the opportunity to apply for protection as to *that* country as well. Until they do either of these things, they cannot remove Petitioner from the United States. But Respondents have arrested and now appear to be seeking to deport Petitioner without observance of any legal procedures whatsoever, ripping him away from his family. Such conduct cries out for immediate judicial relief.

JURISDICTION AND VENUE

1. 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).

2. 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.

3. Venue lies in this District because Petitioner is currently detained in ICE's Delaney Hall Detention Facility in Newark, New Jersey; and each Respondent is an agency or 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 Tsoukaris's principal place of business is in Newark, New Jersey.

THE PARTIES

4. Petitioner Angel Lenin Servellon Giron is a citizen and native of Honduras. Respondents seek to deport him without any legal process whatsoever, and in violation of an immigration judge order and a federal regulation prohibiting them from doing so.

5. 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.

6. 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.

7. Respondent Tsoukaris is the ICE Newark Field Office Director. He is the head of the ICE office that unlawfully arrested Plaintiff, and such arrest took place under his direction and supervision. He is the immediate legal and physical custodian of Petitioner.

8. 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.

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

LEGAL BACKGROUND

10. Withholding of removal under 8 U.S.C. § 1231(b)(3) prohibits the government from removing a noncitizen to a country where it is more likely than not that the individual would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion. See 8 C.F.R. § 1208.16(b). This form of relief is mandatory if the applicant meets the standard and is distinct from asylum in that it does not lead to permanent residency.

11. To qualify for withholding of removal, the noncitizen bears the burden of proving that it is more likely than not that they would face persecution if returned to their country of origin. The government may not remove an individual with a valid withholding order to that country unless the order is formally terminated following the procedures set forth in the regulations. *See* 8 C.F.R. § 1208.24(f).

12. 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.

13. Federal regulations provide a procedure by which a grant of withholding of removal issued by an immigration judge may be terminated: DHS must move to reopen the removal proceedings before the immigration judge and must prove, by a preponderance of the evidence, that the individual would no longer face persecution. 8 C.F.R. § 1208.24(f). Only after termination may removal proceed.

14. Withholding of removal under 8 U.S.C. § 1231(b)(3) is a country-specific protection. As such, the government may not remove a noncitizen with a valid grant of withholding to any country other than the one designated in the original removal order—Honduras, in this case—unless it complies with specific procedural requirements. Should the government wish to remove an individual with a grant of withholding of removal to some other country, a nationwide preliminary injunction from the District of Massachusetts requires that the government must first provide that individual with notice and an opportunity to apply for protection 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).

15. 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.

16. Subsequent to a grant of withholding of removal, the government may detain a noncitizen for 90 days while it attempts to make arrangements for third-country removal. 8 U.S.C. § 1231(a)(1)(A). This 90-day period is referred to as the removal period. *Id.* After the removal period, the noncitizen must be released from detention on an order of supervision, 8 U.S.C. § 1231(a)(3). 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). Detention beyond the removal period is only permissible where there is a significant likelihood of removal in the reasonably foreseeable future. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

FACTS

17. Petitioner Angel Lenin Servellon Giron is a citizen of Honduras and no other country.

18. On June 4, 2014, Petitioner was granted withholding of removal pursuant to 8 U.S.C. § 1231(b)(3), after the immigration judge agreed that he had established it was more likely than not that he would be tortured in Honduras. *See* Ex. A (Immigration Judge order). To date, Respondents have not taken any steps to reopen or rescind the grant of relief. *See* Ex. B (EOIR Automated Case Information).

19. Since 2014, Petitioner has not been convicted of any crimes, nor has Petitioner violated the terms of his order of supervision with ICE.

20. Petitioner’s Form I-130, filed by his U.S. citizen son, was approved in June 2023, thereby confirming the existence of a qualifying family relationship that may support eligibility

for future immigration relief. This approved petition, while significant for long-term relief planning, does not alter the fact that Petitioner continues to be lawfully protected from removal pursuant to the Immigration Judge's 2014 grant of withholding. *See* Ex. C (USCIS I-130 Approval Notice).

21. On May 21, 2025, Petitioner appeared for a scheduled check-in with ICE. Without warning, and without any explanation for the legal or factual basis of his detention, Petitioner was detained by ICE. Later that day, a family member was informed by an ICE officer that Petitioner had been taken into ICE custody and was provided with his A-Number and personal belongings.

22. Prior to his unlawful detention, Petitioner was dutifully attending scheduled check-ins with ICE pursuant to his Order of Supervision. He now remains in detention in the Delaney Hall Detention Facility as of the time of filing this habeas corpus petition. *See* Ex. D (ICE Detainee Locator screenshot).

23. ICE has a recent track record of deporting individuals to countries notwithstanding valid orders of protection as to those countries, in gross violation of the law. *See, e.g., Abrego Garcia v. Noem*, Civ. No. 8:25-cv-951-PX, 2025 WL 1014261 (D. Md., Apr. 6, 2025), *aff'd*, *Noem v. Abrego Garcia*, 145 S. Ct. 1017 (U.S., Apr. 10, 2025). Petitioner is terrified that the same thing will happen to him.

24. To Petitioner's knowledge, ICE has not designated any third country for removal. Indeed, since there is no third country in which Petitioner has a claim to legal immigration status, there is no third country to which Respondents can remove Petitioner without that third country sooner or later removing him to Honduras, where it has already been determined that he will face persecution. This chain refolement would violate the withholding of removal statute just as surely as if Respondents carried out the removal directly to Honduras.

25. Nonetheless, Petitioner submitted a statement of fear of third-country removal, and has requested a Reasonable Fear Interview pursuant to the *D.V.D.* preliminary injunction. *See* Ex. E (Reasonable Fear Interview request).

26. Respondents currently lack any factual or legal basis to detain Petitioner, since Respondents cannot establish that that Petitioner will likely be removed from the United States in the reasonably foreseeable future.

27. 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)**

28. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-27.

29. Petitioner's continued detention by the Respondents 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.

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

**SECOND CLAIM FOR RELIEF:
Due Process/Detention**

31. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-27.

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

33. In the alternative, Respondents have rearrested and re-detained Petitioner on the

assumption that Petitioner will be removable to a third country but have designated no such third country, nor do they have any factual basis to believe that such third-country removal will ever become practicable and legally permissible.

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

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

**THIRD CLAIM FOR RELIEF:
Habeas Corpus, 28 U.S.C. § 2241**

36. Petitioner incorporates the foregoing paragraphs 1-27 by reference.

37. 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.

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

39. In the alternative, as set forth above, Respondents intend to remove Petitioner to a third country which will in turn remove Petitioner back to Honduras, without adequate notice and opportunity to be heard, thus violating this law.

**FOURTH CLAIM FOR RELIEF:
Procedural Due Process/Removal**

40. Petitioner incorporates the foregoing paragraphs 1-27 by reference.

41. Petitioner has a procedural due process right not to be removed to Honduras, the country from which he had been granted withholding of removal, without an immigration judge first carrying out the procedures set forth in federal regulations.

42. As set forth above, Respondents intend to remove Petitioner to Honduras, the country from which he had been granted withholding of removal, without formally terminating his grant of withholding of removal, thus violating his procedural due process rights under the Fifth Amendment to the U.S. Constitution.

43. In the alternative, as set forth above, Respondents intend to remove Petitioner to a third country which will in turn remove Petitioner back to Honduras, without adequate notice and opportunity to be heard, thus violating his procedural due process rights under the Fifth Amendment to the U.S. Constitution.

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 Honduras, unless and until his order of 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 New Jersey 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/ Marisol Gonzalez

Date: May 30, 2025

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VERIFICATION

I, Angel Lenin Servellon Mejia, Jr., hereby state under penalty of perjury that the following facts are true:

1. I am the son of Angel Lenin Servellon, the Petitioner in this action. I was born in Alexandria, Va., on August 9, 2000.
2. I have reviewed the foregoing Petition for Writ of Habeas Corpus. All of the facts stated therein are true and correct, to the best of my knowledge, based on facts told me by my father and documents that I have reviewed.



Angel Lenin Servellon Mejia, Jr.

Date: 5/30/2025