

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Alfredo Benito Maldonado,

Petitioner,

v.

Cause No. _____

Kristi Noem
Secretary, U.S. Department of
Homeland Security

Tod Lyons, Acting Director, U.S.
Immigration and Customs
Enforcement (ICE)

Kenneth Genalo, Acting Executive
Associate Director, ICE and Removal
Operations

Bret A. Bradford, ICE Houston Field
Office Director

Pamela Bondi, U.S. Attorney General

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT
TO 28 U.S.C. § 2241 AND
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Petitioner Alfredo Benito Maldonado, through counsel, seeks a writ of habeas corpus under 28 U.S.C. § 2241, challenging the legality of his continued detention by Immigration and Customs Enforcement (“ICE”), despite having a prima facie U visa determination from USCIS, which entitles him to deferred action and protection from removal. ICE has indicated they wish to remove the Petitioner as soon as possible. Accordingly, the Petitioner is left with no recourse but to file this a writ of habeas corpus and seek a restraining order preventing his removal.

PARTIES

1. Petitioner, Alfredo Benito Maldonado, is a citizen of Mexico who is currently detained by ICE at the Montgomery Processing Center in Conroe, Texas. He currently has a pending derivative U-visa application with a prima facia determination and deferred action granted.
2. Defendant 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. She is sued in her official capacity only.

3. Defendant 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. He is sued in his official capacity only.
4. Defendant Kenneth Genalo is the Acting Executive Associate Director of ICE Enforcement and Removal Operations. He is the head of the ICE office that carries out arrests of noncitizens and removals from the United States. He is sued in his official capacity only.
5. Defendant Bret A. Bradford is the ICE Houston Field Office Director. He is the head of the ICE office that unlawfully facilitated the removal of Petitioner, and such arrest and removal took place under the direction and supervision of his predecessor in office.
6. Defendant, 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. She is sued in her official capacity only.

JURISDICTION

7. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241 and 28 U.S.C. § 1331, Federal Question Jurisdiction 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.

CUSTODY

8. Petitioner is under the Physical custody of the Respondents and is currently detained at the Montgomery Process Center Detention facility in Conroe, Texas.

VENUE

9. Venue is proper in this court, pursuant to *28 USC §1391(e)*, in that this is an action against officers and agencies of the United States in their official capacities, brought in the District where the Petitioner is detained.

REQUIREMENTS SET FOR IN 28 U.S.C 2243

10. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. *28 U.S.C. § 2243*. If an order to show cause is issued, the Court must require respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).
11. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been

referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

LEGAL FRAMEWORK

i. U visa Process

12. Congress has authorized the Department of Homeland Security (“DHS”) to grant U-visas to noncitizen victims of serious crimes who cooperate with law enforcement and to the noncitizens’ qualifying family members. *See* 8 U.S.C. §§ 1103(a)(1), 1101(a)(15)(U); 8 C.F.R. § 214.14(a)(10). Management of the U-visa application process is delegated to the United States Citizenship and Immigration Service (“USCIS”), an agency within DHS. *See* 6 U.S.C. § 112(b)(1); 8 C.F.R. § 214.14. Noncitizens can petition for U-nonimmigrant status by filing an I-918 form and for work authorization by filing an I-765 form; they can seek U-nonimmigrant status for their qualifying family members by filing a supplement to the I-918 form. *See* 8 C.F.R. § 214.14(c)(1), (c)(7), (f)(2), (f)(7).

13. Congress capped the number of U-visas that can be granted to principal applicants at 10,000. *See* 8 U.S.C. § 1184(p)(2)(A). The cap does not apply to qualifying family members. *See id.* § 1184(p)(2)(B); 8 C.F.R.

214.14(f)(6)(i). But far more than a myriad of people are eligible for and have sought U-visas. For instance, in 2020, USCIS received 22,358 U-visa applications from victims of crime and 14,090 derivative petitions from the victims' family members.

14. To accommodate this deluge of applications, DHS promulgated a three-step waitlist framework for U-visa applicants: (1) a U-visa application is submitted; (2) an application is approved, and the petitioner is put on the U-visa waitlist; and (3) a U-visa is granted. *See 8 C.F.R. § 214.14.*

15. First, a person petitions USCIS for U-nonimmigrant status for themselves and derivative U-nonimmigrant status for their qualifying family members by filing an I-918 form and appropriate supplements. *See 8 U.S.C. § 1101(a)(15)(U)(i); 8 C.F.R. § 214.14(c)(1), (f)(1), (f)(2).* USCIS considers whether the principal applicant is eligible for a U-visa. *See 8 U.S.C. § 1101(a)(15)(U)(i), (iii).* Under 8 U.S.C. § 1184(p)(6), “[t]he [DHS] Secretary may grant work authorization to any [noncitizen] who has a pending, bona fide application for nonimmigrant status under section 1101(a)(15)(U) of this title.” But, until June 14, 2021, DHS had never implemented a regime to grant work authorization to persons with “pending, bona fide” U-visa applications.

16. Second, if USCIS decides that the principal petitioner qualifies for a U-visa but cannot be granted the visa solely because of the 10,000-person

cap, USCIS approves the application and the applicant “must be placed on [the] waiting list” per DHS regulations. *8 C.F.R. § 214.14(d)(2)*. When a principal petitioner is placed on the waitlist, they and their qualifying family members “will” be accorded deferred-action status, and USCIS maintains “discretion” to grant them work authorization. *Id.*

17. Third, USCIS grants the principal applicant’s U-visa and accords U-nonimmigrant status to the petitioner and their qualifying family members. *Id. § 214.14(c)(5), (f)(6)*. USCIS automatically issues employment authorization to the noncitizens per *8 U.S.C. § 1184(p)(3)(B)*—which stipulates that “the Attorney General shall . . . provide the [noncitizen] with employment authorization”—and DHS regulations, *see 8 C.F.R. 214.14(c)(7), (f)(7)*.

ii. Bona fide Determination Process

18. USCIS updated its Policy Manual on June 14, 2021, to implement a new “Bona Fide Determination Process” (BFD process). *USCIS, POLICY ALERT at 2 (June 14, 2021)* [www.uscis.gov/sites/default/files/document/policymanualupdates/2021-0614- VictimsOfCrimes.pdf](https://www.uscis.gov/sites/default/files/document/policymanualupdates/2021-0614-VictimsOfCrimes.pdf) [hereinafter *POLICY ALERT*]. The BFD process is now found in Volume 3, Part C, Chapter 5 of the Policy Manual. *See USCIS, POLICY MANUAL, Vol. 3, Part C, Ch. 5, https://www.uscis.gov/policy-manual/volume-3-part-c-chapter-5*

[hereinafter BFD PROCESS]. (Ex 4 Flowchart USCIS Policy) USCIS immediately implemented the BFD process, which applies to all I-918 petitions that are pending or filed on or after June 14, 2021.

19. The BFD process outlines the following procedure. When USCIS receives an I-918 form, USCIS “first determines whether [the] pending petition is bona fide.” *BFD PROCESS, supra, Introduction; see also POLICY MANUAL, supra, Vol. 3, Part C, Ch. 5, APPENDIX: BONA FIDE DETERMINATION PROCESS FLOWCHART, <https://www.uscis.gov/sites/default/files/document/policy-manual-resources/AppendixBonaFideDeterminationProcessFlowchart.pdf>* *[hereinafter FLOWCHART]*. The manual defines “bona fide” as “made in good faith; without fraud or deceit” and explains what a bona fide determination entails. *BFD PROCESS*.

20. If USCIS decides that the U-visa application is not bona fide, the agency puts the application on the waitlist track. USCIS assesses whether the principal petitioner is eligible for the U-visa waitlist. If the applicant is deemed eligible, USCIS places them on the waitlist and decides whether to grant them work authorization. The principal petitioner is then placed in a pool of persons waiting for USCIS to grant them a U-visa. *See FLOWCHART, supra*. If the petitioner is considered ineligible for the waitlist, their U-visa petition is denied.

21.If USCIS decides that the U-visa application is bona fide, the agency puts the principal petitioner on the BFD Employment Authorization Document (EAD) track. USCIS “in its discretion[] determines whether the petitioner poses a risk to national security or public safety” and whether “other adverse factors weigh against a favorable exercise of discretion” “on a case-by-case basis.” *BFD PROCESS, Introduction & § B*. “If USCIS determines [that] a principal petitioner and any other qualifying family members have a bona fide petition and warrant a favorable exercise of discretion, USCIS issues them BFD EADs and grants deferred action.” *Id.* Only if the principal petitioner receives a BFD EAD does USCIS adjudicate whether the qualifying family members’ I-918 supplement is bona fide and whether the family members are entitled to BFD EADs. The principal petitioner is then placed in a pool of persons awaiting the grant of a U-visa. *See FLOWCHART, supra*. But if USCIS decides not to issue a BFD EAD to a principal petitioner, the agency considers whether the principal petitioner is eligible for the waitlist. *Id.*

iii. Waiver of Inadmissibility

22.Congress granted DHS the discretionary authority to waive most inadmissibility grounds for an alien seeking U-nonimmigrant status if it is in the public or national interest to do so. *See INA 212(d)(3)(A)(ii)*.

See INA 212(d)(14) (authorizing the waiver of any inadmissibility ground except for participation in Nazi persecution, genocide, or the commission of any act of torture or extrajudicial killing)

FACTS

23. Petitioner Alfredo Benito Maldonado is a Mexican national who last entered the United States in 2011.
24. Petitioner resides in the United States with his wife and four children, two of which are minor U.S. citizens.
25. On November 2, 2021, the Petitioner's minor child was the victim of a violent qualifying U-visa crime in which a police report was filed.
26. On September 23, 2022, the San Antonio Police Department certified the Petitioner's child's request on form I-918b. (*Ex 1 U Cert - redacted*).
27. Pursuant to the certified I-918b, the Petitioner and his family filed for a U visa on March 13, 2023. Concurrently with his derivative U-visa, the Petitioner filed for a waiver of inadmissibility on form I-192 and a work authorization. (*Ex 2 U visa and I-192 Receipt Notices*)
28. On June 13, 2024, USCIS issued a Bonafide determination notice ("BFD") to the Petitioner and his family. The BFD states that the U-visa filed in 2023 was a bona fide application and that the Petitioner and his family were placed in deferred action for a period of four years.

The notice specifically notes that the Petitioner's period of deferred action was granted and warranted out of a favorable exercise of discretion.

29. Pursuant to the BFD, the Petitioner was also granted a four-year work authorization. (*Ex 3 BFD and Deferred Action Grant*)
30. On May 22, 2025, the Petitioner was apprehended by agents of ICE enforcement and placed in immigration custody at the Montgomery Processing Center in Conroe, Texas. This was in spite of the deferred action grant.
31. On May 23, 2025 a stay or removal was filed with the Respondents however it was denied on May 27, 2025. (*Ex 4 Stay of Removal Denial*)

CAUSE OF ACTION I
Violation of the Immigration and Nationality Act (INA) and
Implementing Regulations

32. Petitioner incorporates by reference paragraphs 1 - 31
33. ICE's continued detention of the Petitioner violates 8 U.S.C. § 1101(a)(15)(U), implementing regulations 8 C.F.R. § 214.14(d)(2) and the policies of the U-visa program, which provide for deferred action upon prima facie eligibility.
34. Petitioner has received a grant of deferred action from the Respondents and has a waiver of inadmissibility currently pending. However, despite the Respondents granting deferred action to the Defendant, they have

taken him into custody and are processing him for imminent deportation from the United States.

35. Respondents' failure to recognize Petitioner's facially valid, and legally obtained BFD document and all the benefits it conveys is arbitrary, capricious, and contrary to law.

36. Only individuals living in the United States may receive BFD EADs, since those outside the United States cannot as a practical matter work in the United States. Likewise, deferred action can only be accorded to applicants in the United States, since those outside the United States have no potential removal to be deferred. Respondents' position to the contrary fails to comport with law and is therefore unlawful.

37. Defendant's detention of Petitioner in spite of his being afforded BFD protections is contrary to the law.

**CAUSE OF ACTION II
DUE PROCESS
U.S. CONSTITUTION, 5th AMENDMENT**

38. Petitioners incorporate by reference paragraphs 1 – 31.

39. The Fifth Amendment guarantees liberty and requires that immigration detention be reasonably related to a legitimate governmental purpose. Petitioner's detention, in light of the prima facie U-visa determination, is arbitrary and capricious.

40. Under the Fifth Amendment to the United States Constitution, those threatened with the loss of liberty or property due to actions by the federal government are entitled to due process of law.

41. The Petitioner, as a BFD recipient who has tendered and paid for his employment authorization document in conformance with USCIS procedures and received assurances that he was eligible to secure that document, has a liberty interest in being able to obtain the benefits he was granted. This protected liberty interest flowed from the statute and regulations which permitted Petitioner's BFD grant, and the actual grant of BFD to the Petitioner.

42. Petitioner has followed the legal requirements to obtain benefits under the U-visa program and indeed has been granted them under the regulations. Respondents' efforts to now unilaterally and without due process strip him of those benefits is unlawful under the Fifth Amendment of the Constitution.

43. Petitioner has complied with each and every requirement USCIS and Respondents have imposed upon him. He has applied for U-visa benefits and provided all requested information, including biometrics and fees. Despite each of these things, Respondents never alerted Petitioner to any issues or concerns at any point prior to their unlawful detention and threats to remove him and dissolve his BFD benefits unilaterally, without

notice and without justification.

44. Respondents cannot effectuate de facto termination of his BFD, without proper procedures consistent with the Due Process clause. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 n.8 (1954).

45. Procedural due process requires, in most cases, a hearing of some kind. *Mathews v. Eldridge*, 424 U.S. 319, 332-333, 96 S.Ct. 893, 901-902 (1976). The process depends on three factors:

[f]irst, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Id.* 424 U.S. at 335, 96 S.Ct. at 903.

46. Petitioner has a fundamental liberty interest in the benefits he has obtained under his BFD grant.

47. The procedures employed by Respondents offered Petitioner no hearing, no notice, and no opportunity to be heard.

48. Respondents had multiple other means available to achieve its objective without denying the Petitioner procedural fairness.

49. The cost and administrative burden of adopting these alternate procedures would be minimal, as the Respondents already possesses an entire agency dedicated to processing removal cases.

50. Instead, Respondents have acted with complete disregard to due process by unlawfully acting in a way to terminate his BFD and unlawfully detain him under a threat of removal. Such unlawful actions threaten Petitioner's constitutionally protected interest in his interim benefits in the short term and his U-visa filings in the long term

51. Given the Petitioner's rights and interests, the Government's interests, and the cost and availability of alternate means of protecting the Government's objectives, the procedures employed by Respondents are wholly unlawful and contrary to their own policy and law.

REQUEST FOR RELIEF

Petitioners pray for judgment against Respondents and respectfully request that the Court enters an order:

1. Issue a writ of habeas corpus directing Respondent to immediately release Petitioner from detention.
2. Issue a temporary restraining order prohibiting Petitioner's removal or continued detention while this petition is pending.
3. Declare that Petitioner's detention is unlawful in light of the prima facie U visa determination.
4. Award reasonable attorney's fees and costs under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412.
5. Grant any other relief the Court deems just and proper.

Respectfully submitted,

/s/Javier Rivera

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Alfredo Benito Maldonado, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 2nd day of June, 2025.

/s/ Javier Rivera

Javier Rivera

CERTIFICATE OF SERVICE

I, Javier Rivera, hereby certify that a true and correct copy of the foregoing “PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF”, including all attachments, will be served on Respondents via US Postal Service Certified mail addressed as follows:

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On this the 2nd day of June 2025.

Respectfully submitted,

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