

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

Jose Cruz-Medina,

c/o Murray Osorio PLLC  
8630 Fenton Street, Suite 918,  
Silver Spring, MD 20910

*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, Petitioner Jose Cruz-Medina (A ) won an order from an immigration judge granting him a form of relief called withholding of removal under the Convention Against Torture, which prohibits Defendants from removing him to Honduras. Should Defendants 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

Defendants 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 Defendants have arrested 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**

2. 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).

3. 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.

4. Venue lies in this District because Petitioner is currently detained in ICE's "Baltimore Hold Room" in Baltimore, Maryland; 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 Baker's principal place of business is in Baltimore, Maryland.

### **THE PARTIES**

5. Petitioner Jose Cruz-Medina is a citizen and native of El Salvador who resides in Maryland. He is currently detained by Respondents in Baltimore, Md.

6. 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.

7. 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.

8. Respondent 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.

9. Respondent Baker is the ICE Baltimore Field Office Director. She is the head of the ICE office that unlawfully 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, 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 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.

16. 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).

17. 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.

18. When an individual is ordered removed, 8 U.S.C. §1231(a) permits the government to detain them 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). With two exceptions not relevant here, the removal period begins on “[t]he date the order of removal becomes administratively final.” 8 U.S.C. § 1231(a)(1)(B)(i). The 90-day removal period is tolled and extended only if “the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien’s departure or conspires or acts to prevent the alien’s removal subject to an order of removal.” 8 U.S.C. § 1231(a)(1)(C). The statute contains no provision for re-initiating the removal period or refreshing the 90-day clock to zero after it has expired.

19. After the removal period expires, the government may continue to detain certain noncitizens, including even noncitizens with aggravated felony convictions. 8 U.S.C. § 1231(a)(6). However, this broad authority is subject to an important constitutional limitation, which the Supreme Court has read into the statute: detention beyond the removal period is permissible only where reasonably related to a legitimate government purpose, namely, securing the noncitizen’s physical removal from the United States. *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001). Where there is no possibility of removal, detention presents due process concerns because “the need to detain the noncitizen to ensure the noncitizen’s availability for future removal proceedings is “weak or nonexistent.” *Id.* at 690-92. Detention is lawful only when “necessary to bring about that alien’s removal.” *Id.* at 689. Because the *Zadvydas* Court understood Congress to have recognized

that not all removals can be accomplished in 90 days, the Court established a rebuttable presumption that six months could be deemed a “presumptively reasonable period,” after which the burden shifts to the government to justify continued detention by means of evidence 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.

20. 8 C.F.R. § 241.4(l)(1) allows an Order of Supervision to be revoked only where the noncitizen “violates the conditions of release.” That regulation goes on to provide, “Upon revocation, the alien will be notified of the reasons for revocation of his or her release or parole.” Finally, the regulation provides, “The alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.” Absent a specific violation of the conditions of release, only specific high-level ICE officials are able to revoke an Order of Supervision, and the regulation does not purport to allow delegation of this authority. 8 C.F.R. § 241.4(l)(2).

### **FACTS**

21. Petitioner Jose Cruz-Medina is a citizen of Honduras and no other country. He has no claim to permanent residency or indeed any legal immigration status in any other country.

22. On March 6, 2019, Petitioner was granted withholding of removal pursuant to the Convention Against Torture, 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). The government did not appeal.

23. To date, Respondents have not taken any steps to reopen or rescind the grant of relief. *See* Ex. B (EOIR Automated Case Information).

24. Since March 6, 2019, Petitioner has not been convicted of any crimes, nor has Petitioner violated the terms of his order of supervision with ICE. At no time since March 6, 2019 did ICE request that Petitioner take any specific steps to assist in his removal, such as applying for travel documents to a third country. In any event, to have applied for such travel documents would have been futile, as there are no other countries on earth that would be willing to accept Petitioner, due to his lack of legal immigration status in any other country.

25. On June 3, 2025, Petitioner appeared for a scheduled check-in with ICE. Without prior warning, Petitioner was detained by ICE. Petitioner did not receive any written or verbal explanation for why his Order of Supervision was canceled. Nor was Petitioner given any opportunity or personal interview to explain why his Order of Supervision should not be canceled.

26. 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 Baltimore Hold Room as of the time of filing this habeas corpus petition. *See* Ex. C (ICE Detainee Locator screenshot).

27. 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. For this reason, Petitioner intends to submit a statement of fear of third-country removal, and will request a Reasonable Fear Interview pursuant to the *D.V.D.* preliminary injunction, as to any country so designated.

28. 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.

29. 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)**

30. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-29.

31. 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.

32. 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**

33. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-29.

34. 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.

35. 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.



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

37. 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:  
Violation of 8 C.F.R. § 241.4**

38. Petitioner incorporates the foregoing paragraphs 1-29 by reference.

39. As set forth above, Respondents' actions in cancelling Petitioner's Order of Supervision and re-arresting Petitioner without any advance or contemporaneous explanation of the legal or factual basis for re-detention violated 8 C.F.R. § 241.4, a regulation designed to protect the due process rights of noncitizens like Petitioner.

40. This violation of required procedures also violated Petitioner's due process rights under the Fifth Amendment to the U.S. Constitution.

41. Several federal district courts have held that where ICE revokes an Order of Supervision without following the procedures set forth in these regulations, such revocation violates due process and the post-removal-period statute. *See Ceesay v. Kurzdorfer*, 2025 WL 1284720, at \*20-\*21 (W.D.N.Y. May 2, 2025) (finding violations of statute, regulations, and due process where ICE revoked Order of Supervision and detained noncitizen without advance notice and opportunity to be heard); *Rombot v. Souza*, 296 F. Supp. 3d 383, 388 (D. Mass. 2017) (same).

42. Respondents had no legal basis to re-arrest Petitioner, 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 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) Issuing a writ of habeas corpus, and ordering that Petitioner be released from physical custody forthwith; and
- e) Granting such other relief at law and in equity as justice may require.

Respectfully submitted,

Respectfully submitted,

//s// Simon Sandoval-Moshenberg  
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