

despite it being stayed by the filing of a timely notice of appeal with the BIA. On July 10, 2025, Respondent JOHNSON reviewed the custody status of Mr. ALVARADO AGUILAR when Mr. ALVARADO AGUILAR voluntarily attended his scheduled USICE check-in, and determined that Mr. ALVARADO AGUILAR should be detained for an unknown reason. Presumably Respondents expected to remove Mr. ALVARADO AGUILAR to either his or a third country, not his native country of Honduras. Mr. ALVARADO AGUILAR seeks a determination on whether his detention is lawful and whether his removal to a third country would result in him being tortured in the third country to which he may be removed. *Trump v. J.G.G., et al.*, 604 U.S. ____ (2025) (slip opinion dated April 7, 2025). The original order from the Immigration Judge denying Mr. ALVARADO AGUILAR's application for asylum, withholding of removal, and withholding of removal under CAT was denied on September 10, 2024. On October 10, 2024, Mr. ALVARADO AGUILAR timely filed a Notice of Appeal with the BIA and is awaiting the transcript as well as a brief scheduling order from the BIA. When an appeal is filed, there is legally an automatic stay of the order of removal.

Mr. ALVARADO AGUILAR has fully cooperated with Respondents' requests to check-in with Defendants in the past. Respondents, however, chose to detain Mr. ALVARADO AGUILAR at his last scheduled check-in on July 10, 2025. There is not yet a final order of removal on Mr. ALVARADO AGUILAR. Mr. ALVARADO AGUILAR is entitled to due process under the law, which includes his right to have his appeal heard by not only the BIA, but any further appeals to which he may be entitled, such as a petition for review to the Court of Appeals for the Fifth Circuit. Mr. ALVARADO AGUILAR's detention is not justified under the Constitution or the Immigration and Nationality Act (INA). Petitioner seeks an order from this Court declaring his detention is unlawful and ordering Respondents to release Mr. ALVARADO AGUILAR from their custody.

CUSTODY

1. Mr. ALVARADO AGUILAR is in the physical custody of Respondent Joshua Johnson, Acting Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement (USICE), the Department of Homeland Security (DHS), and Respondent Warden of Prairieland Detention Center in Alvarado, Texas. At the time of the filing of this petition, Petitioner is detained at Prairieland Detention Center in Alvarado, Texas. Prairieland Detention Center contracts with the DHS to detain aliens such as Petitioner. Mr. ALVARADO AGUILAR 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 Northern District of Texas, the judicial district in which Respondents, Joshua Johnson, acting in his official capacity as an employee of the federal government, and Warden of Prairieland Detention Center in Alvarado, Texas as a contracting agent of JOHNSON who is detaining Mr. ALVARADO AGUILAR. 28 U.S.C. § 1391(e).

PARTIES

4. Petitioner ALVARADO AGUILAR is a national and citizen of Honduras whose was ordered removed by an Immigration Judge on September 10, 2024. He 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 Joshua Johnson is the Acting Field Office Director for Detention and Removal, USICE, DHS. Respondent Warden of Prairieland Detention Center in Alvarado, Texas is a custodial official acting within the boundaries of the judicial district of the United States Court for the Northern District of Texas, Dallas Division as a contractor under the direction of the U.S. government. Pursuant to Respondent Johnson's orders, Petitioner remains detained.

6. Respondent Warden Prairieland Detention Center in Alvarado, Texas is Petitioner's immediate custodian and resides in the judicial district of the United States Court for the Northern District of Texas, Dallas Division.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

7. Mr. ALVARADO AGUILAR has exhausted his administrative remedies to the extent required by law.

8. He has fully cooperated with Respondents and has not delayed or obstructed his detention.

9. Mr. ALVARADO AGUILAR's only remedy is by way of this judicial action.

STATEMENT OF FACTS

10. Petitioner ALVARADO AGUILAR is a national and citizen of Honduras who was ordered removed on September 10, 2024. Petitioner's order of removal was stayed on October 10, 2024 by filing a Notice of Appeal with the BIA. Petitioner ALVARADO AGUILAR was in removal due to coming to the southern border of the United States, going to a CBP inspection

station, and requesting asylum. He underwent a credible fear interview and was released from custody after he had established a credible fear of returning to Honduras.

11. Petitioner ALVARADO AGUILAR has Type 1 diabetes and is not receiving his medication, as directed by his treating physician. Petitioner ALVARADO AGUILAR has a lawful right to work and possesses a work authorization card (EAD). He works from 6 am to 1 am to help support his family. Once, while in detention, it was determined that Petitioner ALVARADO AGUILAR needed insulin injections on two (2) separate occasions. However, without continued monitoring and proper nutrition, Petitioner ALVARADO AGUILAR is at risk of irreparable harm to his health and possibly death since he is not being provided with his medication.

12. On July 10, 2025, Respondent JOHNSON and his agents arrested Mr. ALVARADO AGUILAR at the time of his ICE check-in. The reason for his arrest was not stated at the time and has still not been stated, but is presumably to execute his removal order even though such order is stayed.

13. Respondents requested that Mr. ALVARADO AGUILAR check-in every two months beginning in March 2025. Mr. ALVARADO AGUILAR has complied and gone to ICE for his scheduled check-ins.

14. Mr. ALVARADO AGUILAR has now been in detention for fifteen (15) days pending his removal. Respondents continue to detain Mr. ALVARADO AGUILAR even though it is clear that Respondents cannot remove Mr. ALVARADO AGUILAR since his removal order is currently stayed automatically by the timely filing of his appeal to the Board of Immigration Appeals.

15. Mr. ALVARADO AGUILAR is not a danger to the community or a flight risk. He has no prior or pending criminal cases. Petitioner has complied with ICE's requirement check-in

requirements since he was released from their custody in 2014.

16. Prior to his arrest, Mr. ALVARADO AGUILAR was working, paying his taxes, and providing for his family. His continued detention deprives his family of his companionship and income. His common law wife, two (2) minor children, two (2) adult children and a grandchild are all emotionally and financially dependent on him.

17. Respondents' decision to detain Mr. ALVARADO AGUILAR is not legally justifiable and is capricious and arbitrary. There is no better time for the Court to consider the merits of Mr. ALVARADO AGUILAR's request for release.

CLAIMS FOR RELIEF

COUNT ONE CONSTITUTIONAL CLAIM

18. Petitioner alleges and incorporates by reference paragraphs 1 through 17 above.

19. Petitioner's detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution. It also violates the automatic stay of Petitioner's removal order pending the result of his BIA appeal.

COUNT TWO STATUTORY CLAIM

20. Petitioner alleges and incorporates by reference paragraphs 1 through 17 above.

21. Petitioner's continued detention violates the Immigration and Nationality Act and the U.S. Constitution.

COUNT THREE

22. 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:

1. Assume jurisdiction over this matter;
2. Issue an order directing Respondents to show cause why the writ should not be granted;
3. Issue a writ of habeas corpus ordering Respondents to release Mr. ALVARADO AGUILAR on his own recognizance or under parole, a low bond, ankle monitor, or other reasonable conditions of supervision show;
4. Award Petitioner reasonable costs and attorney's fees; and,
5. Grant any other relief which this Court deems just and proper.

Respectfully submitted,

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ATTORNEY FOR PETITIONER

By: 

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VERIFICATION OF COUNSEL

I, Kimberly J. Kinser, hereby certify that I am familiar with the case of the named petitioner and that the facts as stated above are true and correct to the best of my knowledge and belief.

A handwritten signature in black ink, appearing to read 'Kim Kinser', is written over a horizontal line.

Kimberly J. Kinser