

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

Orbin Omar URREA-CALDERON *
A  *
11440 Amherst Ave *
Silver Spring, MD 20902 *

Petitioner *
v. *

Kristi Noem, Secretary of DHS *
2707 Martin Luther King Jr Ave, SE, *
Washington, DC 20528-0525 *

Case Number:

Todd Lyons, Acting Director, *
Immigrations and Customs Enforcement *
500 12th Street SW *
Washington, DC 20536 *

PETITION FOR WRIT OF
HABEAS CORPUS

Nikita Baker , Acting Director, *
ICE Baltimore Field Office *
31 Hopkins Plaza #630. *
Baltimore, MD 21201 *

Respondents *

PETITION FOR A WRIT OF HABEAS CORPUS

INTRODUCTION

1. Mr. Orbin Omar URREA CALDERON is a 31 years old native and citizen of Honduras. Petitioner URREA CALDERON entered the United States on March 27, 2024, and timely filed his asylum application with the Hyattsville Immigration Court on September 17, 2024. Moreover, Petitioner has an upcoming asylum Individual Hearing before the Hyattsville Immigration Court on April 3, 2026. (A copy of the EOIR Automated Case Information System showing Petitioner's upcoming asylum hearing date is attached hereto and made a part hereof as Exhibit 1).
2. Petitioner URREA CALDERON was regularly reporting to ICE/ISAP by telephone monthly. Last Friday, October 24, 2025, he received a phone call from ICE/ISAP. He answered the call, but for unknown reasons, the call dropped. Petitioner URREA CALDERON immediately called back, but no answer.
3. After failing to receive an answer, Petitioner URREA CALDERON sent a text to the ISAP App, explaining what happened. Thereafter, he received a text to report on Saturday, October 25, 2025, at 9:00 A.M to ICE in Baltimore, which he did. ICE arrested and detained him upon his arrival.
4. Petitioner URREA CALDERON has an upcoming asylum individual hearing in just six months, where he will present testimony, present evidence, and receive a decision on his timely filed and meritorious asylum application. Moreover, Mr. URREA CALDERON has many family and community ties in the United States, including his wife and child, who are derivatives on his asylum application.

CUSTODY

5. Petitioner is in the physical custody of Respondents, the Department of Homeland Security (DHS) and United States Immigration and Customs Enforcement (ICE). Petitioner is detained at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION AND VENUE

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (APA), 5 U.S.C. § 701, et seq. 4. 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 alleged color of authority of the United States, and such custody is in violation of the Constitution, laws, and/or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651.
7. Venue is proper in the District of Maryland because that is where Petitioner is detained and that is where Petitioner resides. *See* 28 U.S.C. § 1391(b); *Kholyavskiy v. Achim*, 443 F.3d 946 (7th Cir. 2006).

THE PARTIES

8. Petitioner URREA CALDERON is a citizen and national of Honduras who timely filed his asylum application with the Hyattsville Immigration Court and has an upcoming asylum Individual Hearing on April 3, 2026.
9. Defendant Krisiti Noem is the Secretary of the Department of Homeland Security, in Washington, D.C. Ms. Noem is responsible for the enforcement of the U.S. immigration

laws, including those governing the admissibility of foreign nationals in the U.S. Ms. Noem and agents acting under her direction are at present detaining the Petitioner. Ms. Noem is being sued in her official capacity only.

10. Defendant Todd Lyons is the Acting Director of Immigration and Customs Enforcement in Washington D.C. Mr. Lyons is responsible for the enforcement of the U.S. immigration laws, and the agents holding Mr. URREA CALDERON are under his direction. Mr. Lyons is being sued in his official capacity only.

11. Defendant Nikita Baker is the current Acting Deputy Director of the ICE Baltimore Field Office, the facility where Petitioner is currently detained. Ms. Baker is responsible for ICE operations in the Maryland area. Mr. URREA CALDERON is held by ICE agents under Ms. Baker's direction. Ms. Baker is being sued in her official capacity only.

FACTUAL ALLEGATIONS

12. Petitioner is a national and citizen of Honduras who entered the United States on or about March 27, 2024.

13. Petitioner timely filed his asylum application on or about September 17, 2024, with the Hyattsville Immigration Court. Petitioner's asylum application will be adjudicated on April 3, 2026, at his scheduled asylum Individual Hearing.

14. Petitioner URREA CALDERON was regularly reporting to ICE/ISAP by telephone monthly. Last Friday, October 24, 2025, he received a phone call from ICE/ISAP. He answered the call, but for unknown reasons, the call dropped. Petitioner URREA CALDERON immediately called back, but no answer.

15. After failing to receive an answer, Petitioner URREA CALDERON sent a text to the ISAP App, explaining what happened. Thereafter, he received a text to report on Saturday,

October 25, 2025, at 9:00 A.M to ICE in Baltimore, which he did. ICE arrested and detained him upon his arrival.

16. Petitioner has no criminal record and has many family and community ties in the United States.

LEGAL BACKGROUND

A. Statutory and Constitutional Limits for Immigration Detention

17. The Fifth Amendment to the U.S. Constitution provides limits on detention. As the Supreme Court has noted, "[i]t is well-established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Hyung Joon Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of liberty," that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678,690 (2001). This fundamental due process protection applies to all noncitizens, even if they are removable or inadmissible. *See id.* at 721 (Kennedy, J., dissenting) ("[B]oth removable and inadmissible aliens are entitled to be free from detention that is arbitrary or capricious."). Under these due process principles, detention must "bear [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)).
18. Due process, therefore requires "adequate procedural protections" to ensure that the government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* at 690 (internal quotations omitted). In the immigration context, the Supreme Court has recognized only

two valid purposes for civil detention to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 538.

19. Following *Zadvydas*, *supra* and *Demore*, *supra*, most circuit courts to confronted the issue have protected the due process rights of people detained in civil immigration detention by requiring a custody hearing for noncitizens subject to unreasonably prolonged detention pending removal proceedings. *See Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199 (11th Cir. 2016); *Reid v. Donelan*, 819 F.3d 486 (1st Cir. 2016); *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. 2015); *Rodriguez v. Robbins (Rodriguez III)*, 804 F.3d 1060 (9th Cir. 2015); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. 2011); *Ly v. Hansen*, 351 F.3d 263 (6th Cir.2003).

20. In addition to the amount of time in detention, courts weigh the following factors when assessing reasonableness: (1) how long the detention will likely continue in the absence of judicial relief; (2) the nature and extent of removal proceedings, including whether any delays are attributable to the government or the immigrant; (3) the conditions of detention; and (4) the likelihood that the proceedings and judicial review will end with a removal order. *See Jamal*, 358 F. Supp. 3d at 859-60.

FIRST CLAIM FOR RELIEF

VIOLATION OF THE DUE PROCESS CLAUSE OF THE U.S. CONSTITUTION

21. Petitioner re-alleges and incorporates by reference the paragraphs above.
22. Petitioner's detention violates substantive and procedural due process guarantees of the U.S. Constitution, as there is no legal basis for detaining someone who has timely filed their asylum application, has no criminal record, and has an upcoming individual hearing for adjudication of their meritorious asylum claim.

23. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty without due process of law.” U.S. Const. Amend. V.
24. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [non-U.S. citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas, supra* at 693 (2001). For this reason, even “removable and inadmissible [non-U.S. citizens] are entitled to be free from detention that is arbitrary and capricious,” *Id.* at 721 (Kennedy, J., dissenting). That Constitutional protection is unaffected by the government’s authority to make rules for “admission” that regulate the immigration status of noncitizens. *See* 8 U.S.C. § 1101(a)(13)(A) (defining admission as “the lawful entry of the alien”).
25. “A statute permitting indefinite detention of a [non-U.S. citizen] would raise a serious constitutional problem” under the Fifth Amendment’s Due Process Clause. *Id.* at 690.
26. A person like Petitioner, with a meritorious claim for asylum, withholding of removal, and protection under CAT, with an individual hearing scheduled for adjudication of said application, is entitled to be free from arbitrary and capricious detention under the Due Process Clause.
27. Petitioner’s detention is unreasonable based on the facts and circumstances of Petitioner’s case, including his current pending asylum application, ongoing proceedings, and lack of criminal record. *Sopo*, 825 F.3d at 1217-19 (outlining factors that govern when mandatory detention becomes prolonged).
28. Finally, this Court “cannot ignore the conditions of confinement.” *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015). Where “the facility for the civil immigration detention is [not] meaningfully different from a penal institution for

criminal detention[,]” prolonged immigration detention is more likely to be unreasonable. *Sopo*, 825 F.3d at 1218 (citing *Chavez-Alvarez*, 783 F.3d at 478; *Ly v. Hansen*, 351 F.3d 263, 272 (6th Cir. 2003)).

29. Under either a bright-line rule or the facts and circumstances of this case, Petitioner’s detention is unreasonable. This Court should therefore order Immigration and Customs Enforcement to release Habeas Petitioner.
30. Further, preventive detention is only constitutional when “subject to strong procedural protections.” *Zadvydas*, *supra*, at 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71 (1992) (striking down civil commitment statute for placing the burden on the detainee)).

SECOND CLAIM FOR RELIEF

VIOLATION OF 28 U.S.C. § 1361 (Writ of Mandamus)

31. Petitioner re-alleges and incorporates by reference the paragraphs above.
32. Petitioner’s detention despite having a pending meritorious asylum claim before the immigration court and an upcoming hearing for adjudication of said claim is an abuse of discretion and unlawful.
33. For these reasons, this Court should order Immigration and Customs Enforcement to immediately release Petitioner Orbin Omar URREA-CALDERON from detention based on his pending asylum application, upcoming individual hearing, lack of criminal record, and strong family and community ties within the United States. He is not a danger to the community, nor is he likely to abscond due to his ties here in the community. Petitioner is the breadwinner for his family. His wife and minor child depend upon him to survive.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

- 1) Assume jurisdiction over this matter;
- 2) Grant a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, on reasonable conditions of supervision if necessary;
- 3) Order Respondents to show cause, returnable within three days pursuant to 28 U.S.C. §2243, as to why the relief requested in this petition should not be granted;
- 4) Declare the Petitioner's detention is unlawful and violates, inter alia, Due Process;
- 5) Award Petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, other statutes; and
- 6) Grant such further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Ronald D. Richey

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