

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Mohamed El Moctar Taleb Maazouz,

Petitioner,

v.

**Judith Almodovar, *Acting ICE Field Office
Director;***

**Kristi Noem, *in her official capacity as
Secretary of the United States Department of
Homeland Security;***

**Pamela Bondi, *in her official capacity as
Attorney General of the United States.***

Respondents.

Civil Action No.:1:25-cv-09388

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS AND COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

ORAL ARGUMENT REQUESTED

Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241

Introduction

1. Petitioner Mohamed El Moctar Taleb Maazouz is a 19-year-old asylum seeker who was apprehended as an unaccompanied minor and is now unlawfully detained by U.S. Immigration and Customs Enforcement (ICE) at 26 Federal Plaza in New York, NY. This petition challenges his continued detention as violating federal law and the Constitution, and seeks relief under 28 U.S.C. § 2241. ICE has failed to follow a clear statutory mandate to consider the “least restrictive setting” when an unaccompanied child turns 18, and has denied Petitioner due process through arbitrary, procedurally deficient detention and inhumane conditions of confinement.
2. Petitioner respectfully requests that this Court declare his detention unlawful and order his immediate release, or at minimum require a lawful custody re-determination or prompt bond hearing where the government must justify any further detention.

Jurisdiction and Venue

3. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is “in custody in violation of the Constitution or laws of the United States.”
4. The central question in a § 2241 habeas action is whether the detention violates U.S. law, and here Petitioner’s detention squarely violates federal statute and the Fifth Amendment.
5. Petitioner is detained at 26 Federal Plaza, which lies within the Southern District of New York, making venue proper in this District.
6. This Court also has federal question jurisdiction under 28 U.S.C. § 1331 because Petitioner’s claims arise under federal statutes (the Immigration and Nationality Act and Trafficking Victims Protection Reauthorization Act) and the U.S. Constitution.
7. No immigration removal proceedings are pending, and no administrative process exists to redress Petitioner’s unlawful detention, so he has no other avenue to obtain relief. Habeas corpus is therefore an appropriate and necessary remedy.

Petitioner

8. Petitioner Mohamed El Moctar Taleb Maazouz is a citizen of Mauritania born 
 He entered the United States without inspection on April 4, 2024, at age 17, and was classified as an Unaccompanied Alien Child (UAC) in the custody of the Office of Refugee Resettlement.

Respondent

9. Petitioner’s immediate custodian is the Acting Director of the New York Field Office of ICE Judith Almodovar. Respondent Almodovar oversees the 26 Federal Plaza facility.
10. Respondent Kristi Noem, in her official capacity as Secretary of the United States

Department of Homeland Security (DHS), is responsible for the enforcement of the immigration laws of the United States, including the detention of noncitizens.

11. Respondent Pamela Bond, in her official capacity as Attorney General of the United States Department of Justice (DOJ), is the chief law enforcement officer of the federal government and oversees matters related to immigration courts and legal interpretations of immigration law.

Factual and Procedural Background

1. ***Petitioner's Arrival and UAC Status:*** Petitioner entered the U.S. on April 4, 2024, at age 17, without lawful status.
2. As an unaccompanied alien child, he was transferred to the custody of the Department of Health and Human Services' Office of Refugee Resettlement (ORR) shortly after entry.
3. ORR cared for Petitioner as a minor and developed a post-18 plan in anticipation of his 18th birthday (as required for minors nearing adulthood in custody).
4. Petitioner expressed a fear of return to his home country and on July 10, 2024 filed an affirmative asylum application with USCIS, consistent with his right as a UAC to have his asylum claim initially adjudicated by USCIS.
5. Upon turning 18 on , Petitioner was transferred to ICE custody, and he was released.
6. He filed an affirmative application for asylum for unaccompanied children on July 10, 2024, which remains pending with U.S. Citizenship and Immigration Services (USCIS).
7. ICE has never filed any Notice to Appear (NTA) to commence removal proceedings in Immigration Court, meaning Petitioner has no case before the Executive Office for

Immigration Review (EOIR) and no opportunity for a bond hearing before an Immigration Judge.

8. ***Transfer to ICE Custody at Age 18:*** On , Petitioner turned 18 years old. Pursuant to law, at 18 he aged out of ORR's juvenile custody.
9. That same day, custody was transferred to DHS/ICE. Federal law mandates that when a former unaccompanied child in ORR care "reaches 18 years of age" and is transferred to ICE, "the Secretary shall consider placement in the least restrictive setting available" after assessing the individual's danger to self, danger to the community, and flight risk.
10. Petitioner was eligible for alternatives to detention, such as release to a suitable sponsor or placement in a supervised group home, as explicitly contemplated by 8 U.S.C. § 1232(c)(2)(B).
11. Indeed, ICE policy directives recognize that "[f]ederal law requires that ICE consider the least restrictive setting available" for such age-outs, and ICE's Field Office Juvenile Coordinators (FOJCs) are instructed to document that ICE considered alternatives to detention in making any custody decision.
12. ***ICE's Failure to Conduct Individualized Custody Assessment:*** In Petitioner's case, ICE did not conduct or document any individualized reassessment of alternatives to detention as required. Despite ORR having prepared a post-18 plan for Petitioner, ICE placed him in adult detention at 26 Federal Plaza without recording any analysis of his risk factors or consideration of lesser restraints. Petitioner has never been convicted of a crime, and no indication has been given that he poses a danger or flight risk; nevertheless, ICE treated him as a detention default rather than considering release options.

13. This appears to be part of a broader pattern: a federal court has found that ICE was “systematically failing to comply” with § 1232(c)(2)(B) by “automatically, or nearly automatically, placing [UACs turning 18] in adult detention” instead of considering less restrictive options
14. ICE does not comply with its statutory obligations under § 1232(c)(2)(B) – many field offices were detaining virtually on a nearly automatic basis and even refused release to sponsors.
15. On information and belief, ICE’s handling of Petitioner’s custody ignored these binding requirements and violated both the statute and ICE’s own policies.
16. No Age-Out Review Worksheet or similar documentation was ever provided to Petitioner or his counsel, and no explanation or rationale has been given for choosing jail-like detention over less restrictive alternatives in his case.
17. No Removal Proceedings or Bond Hearing: To date, ICE has not filed an NTA with the Immigration Court to initiate removal proceedings against Petitioner.
18. His asylum application remains pending with USCIS, and he has not had the opportunity to appear before any Immigration Judge.
19. Consequently, Petitioner cannot seek bond from an Immigration Judge under INA § 236(a), since the immigration court has no jurisdiction until proceedings commence. Petitioner’s only “custody review” has been the initial decision by ICE to detain him as an adult.
20. ICE has not revisited or meaningfully reviewed his custody since that time (now approximately 18 months of detention).

21. Petitioner, through counsel, has made inquiries and requests for release or placement in a less restrictive setting, pointing out his lack of danger and the availability of community support; those requests have been ignored or summarily denied without any individualized explanation.
22. Petitioner has therefore exhausted any available administrative remedies (to the extent they exist) and remains detained indefinitely, despite having a pending asylum claim and strong ties and support in the community willing to care for him.
23. ***Conditions of Confinement at 26 Federal Plaza:*** Petitioner's detention at 26 Federal Plaza is marked by extremely harsh and punitive conditions.
24. The facility is not a normal housing center but rather an office building with makeshift holding cells, ill-equipped for prolonged detention.
25. Petitioner has been subjected to overcrowded, unsanitary conditions that shock the conscience.
26. Detainees (including Petitioner) are held in cramped, cage-like rooms with no beds or proper bedding.
27. One report described roughly 140 individuals confined on the 10th floor, held for days in a cramped, cage-like room with no beds, limited food and water, and only one bathroom partially shielded by a sheet.
28. Petitioner himself has slept on a concrete floor with only a thin blanket. Food and water have been provided inadequately – often only twice a day – and are nutritionally deficient. Drinking water is limited, and detainees go hungry for long stretches.
29. Hygiene and sanitation are grossly deficient. Detainees are denied the ability to shower or change clothes for days or weeks.

30. They have no access to soap, toothbrushes, or clean toilet facilities.
31. Dozens of people share a single open toilet in full view of others, lacking basic privacy; many resort to draping foil blankets around themselves for minimal privacy while using the toilet.
32. The stench in the holding areas is overwhelming due to unclean conditions and lack of ventilation
33. No showers are available at all, and detainees (including Petitioner) have been forced to wear the same clothing for over a week without cleaning.
34. ***Medical care is essentially non-existent:*** Petitioner observed detainees who fell ill receiving no meaningful medical attention. For example, one visibly ill detainee was seen vomiting without receiving any medical care whatsoever
35. Perhaps most alarming, access to legal counsel and communication with the outside world is severely restricted at 26 Federal Plaza.
36. There is no regular system for detainees to confidentially call or meet with attorneys. Several immigration attorneys in New York have attested that they could not locate or communicate with clients detained on the 10th floor of 26 Federal Plaza
37. ICE provided no notice to Petitioner of any right to contact a lawyer, and for much of his detention he was effectively held incommunicado, unaware that he could seek judicial relief.
38. In sum, Petitioner's continued detention is marked by statutory violations, lack of due process, and deplorable conditions. Petitioner now brings the following grounds for relief:

Grounds for Relief

CLAIM I

Violation of 8 U.S.C. § 1232(c)(2)(B) – Failure to Consider Least Restrictive Setting

39. Congress has mandated that when DHS/ICE takes custody of a former unaccompanied child who has turned 18, “the Secretary shall consider placement in the least restrictive setting available” after accounting for danger and flight risk.
40. Such individuals “shall be eligible to participate in alternative to detention programs,” including release to individual or organizational sponsors or supervised group homes.
41. This requirement, enacted as part of the Trafficking Victims Protection Reauthorization Act (TVPRA) (8 U.S.C. § 1232(c)(2)(B)), is binding on ICE and was intended to protect vulnerable youth from unnecessary incarceration. It creates a legal obligation for ICE to conduct an individualized assessment of the youth’s circumstances and consider less restrictive alternatives to jail.
42. Petitioner’s detention violates § 1232(c)(2)(B) because ICE failed to conduct or document any such “least restrictive setting” analysis. Petitioner was automatically placed in adult detention without evidence that ICE officials weighed his danger to the community (which is minimal or none), his risk of flight (also low, as he has an asylum case pending and community support), or any self-harm concerns.
43. There is no indication that alternatives – such as release to a family friend or sponsor, placement in a group home, or enrollment in an ICE Alternatives to Detention (ATD) program – were ever considered.
44. ICE’s own internal guidance underscores that “[f]ederal law requires that ICE consider the least restrictive setting available after taking into account flight risk, danger to self, and danger to community.”

45. Moreover, the statutory violation here is not harmless or technical – it directly prejudiced Petitioner’s rights. Had ICE complied with § 1232(c)(2)(B), Petitioner’s strong equities and lack of dangerousness would have made him an excellent candidate for release to a sponsor or a community-based program.
46. Indeed, Congress’s intent in enacting this provision was to “prioritize placing children in the ‘least restrictive setting’” and avoid the trauma of adult detention for those who posed no threat.

CLAIM II

Violation of Due Process – Accardi Doctrine (Agency’s Failure to Follow Its Own Rules)

47. Under the Accardi doctrine, derived from *U.S. ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954), government agencies are bound to follow their own regulations and procedures, especially those intended to protect individuals’ rights
48. . An agency’s failure to adhere to the rules it itself has established can amount to a violation of due process
49. In Petitioner’s case, ICE violated binding rules and policies governing the custody of aging-out UACs, thereby depriving Petitioner of due process.
50. As noted, ICE was subject to both statutory requirements and its own implementing procedures regarding age-out custody decisions. Beyond the bare text of § 1232(c)(2)(B), ICE had in place (or was required by court injunction to implement) specific procedures: for example, the use of the Age-Out Review Worksheet and involvement of the Field Office Juvenile Coordinator (FOJC) to ensure an individualized decision
51. . ICE policy requires that officers evaluate each 18-year-old former UAC’s case, consider alternatives to detention, and document the decision with reasons.

52. These internal rules are “intended primarily to confer important procedural benefits upon individuals” and therefore bind the agency
53. By ignoring these procedures – e.g. by not consulting the FOJC or not completing the required worksheet – ICE violated its own rules. Indeed, in Petitioner’s case, ICE appears to have departed from standard protocol entirely, opting for detention without the mandated case-by-case process.
54. Courts have held that “by failing to follow its own regulations, [the government] is violating due process under the *Accardi* doctrine.”
55. Here, ICE’s failure to follow the procedures that implement § 1232(c)(2)(B) – procedures that carry the force of law and were reinforced by a federal injunction – is a textbook *Accardi* violation. The *Accardi* doctrine exists to prevent exactly this sort of agency lawlessness. ICE cannot promulgate rules (or be subject to court orders) for the humane and lawful treatment of former child detainees, and then blithely ignore those rules when inconvenient.
56. The consequence of such a failure is that the agency action (Petitioner’s continued detention) is rendered unlawful. “Government agencies are bound to follow their own rules, even self-imposed procedural rules that limit otherwise discretionary decisions.”
57. ICE’s disregard of its rules here has prejudiced Petitioner by depriving him of the procedural safeguards those rules were meant to provide (an individualized release assessment and explanation). This Court should find a due process violation under *Accardi* and grant relief accordingly.

Prayer for Relief

WHEREFORE, Petitioner Mohamed El Moctar Taleb Maazouz respectfully requests that this Court grant the following relief:

- A. **Declaratory Relief:** Declare that Petitioner's ongoing detention by ICE violates 8 U.S.C. § 1232(c)(2)(B) and APA.
- B. **Injunctive Relief – Release or Re-Determination:** Order Respondents to immediately release Petitioner from custody. In the alternative, issue an injunction requiring Respondents to provide Petitioner with a lawful individualized custody re-determination that fully complies with 8 U.S.C. § 1232(c)(2)(B) (consideration of least restrictive setting with documentation of reasons) and the Fifth Amendment's due process requirements. Any such re-determination should be completed within a fixed short timeframe (e.g. within 10 days of the Court's order), and if Respondents fail to properly justify continued detention, Petitioner should be released forthwith.
- C. **Alternative Relief – Bond Hearing:** If the Court does not order outright release, then in the alternative direct Respondents to provide Petitioner with an immediate bond hearing before a neutral adjudicator (such as an immigration judge or a magistrate judge), to occur within 7 days. At that hearing, the burden of proof must be on ICE to demonstrate by clear and convincing evidence that Petitioner's continued detention is necessary because he poses a flight risk or danger to the community.
- D. **Any Further Relief:** Award any further relief that the Court deems just and proper, including costs and reasonable attorneys' fees if applicable (e.g., under the Equal Access to Justice Act), and any other declaratory or equitable relief needed to ensure Petitioner's rights are fully protected.

Respectfully submitted,

/s/ Rafael Urena

Rafael Urena, Esq

Ureña & Associates, PLLC

42 West St., Floor R

Brooklyn, NY 11222

ru@urenesq.com

(703) 989-4424

Counsel for the Petitioner

VERIFICATION

Counsel for Petitioner (Counsels for Petitioner certify that, pursuant to 28 U.S.C. § 2242, this Petition is verified by the undersigned counsel upon information and belief, as Petitioner is in custody and unable to personally sign. The facts stated herein have been either directly witnessed by counsel or reliably reported by Petitioner and documentary evidence.)

/s/Rafael Urena