

1. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that this Court “forthwith” issue an order directing Respondents to show cause why the petition for a writ of habeas corpus filed by Petitioner pursuant to 28 U.S.C. § 2241 should not be granted.

2. Petitioner challenges his unlawful re-detention while holding deferred action in connection with an approved Special Immigrant Juvenile visa and his unlawful re-detention now without bond on the basis that it violates his Fourth Amendment rights against unreasonable seizures, his Fifth Amendment right to Due Process; is arbitrary and capricious, and violates U.S.C. § 1225(b)(2)(A) and *Zadvydas v. Davis*, 533 U.S. 678 (2001). See Petition for Writ of Habeas Corpus, Dkt. No. 1.

3. The federal habeas corpus statute provides that “[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

4. Section 2243 further provides that the writ or order to show cause “shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.”

5. Section 2243 further provides that the court shall hold a hearing on the writ or order to show cause “not more than five days after the return unless for good cause additional time is allowed.”

6. In addition, Section 2243 states that the court “shall summarily hear and determine the facts, and dispose of the matter as law and justice require.”

7. Pursuant to Section 2243, Petitioner requests that the Court immediately issue an Order to Show Cause directing Respondents to file a return within three days of the Court’s order, showing cause, if any, why the writ of habeas corpus should not be granted, and to provide Petitioner an opportunity to file a reply within a reasonable amount of days after Respondents

file the return.

8. Giving Respondents additional time to respond is inappropriate in this case because Petitioner faces irreparable harm due to his continued ICE unlawful re-detention. The Petitioner is a young college student who has been abandoned by both parents, has an approved SIJ visa, has deferred action, and already spent close to two months detained in 2019 before being released on a \$5,000 bond, as detailed in the petition for Writ of Habeas Corpus and its attached exhibits.

Respectfully Submitted,

/s/Veronica Cardenas

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Byron Manuel De Leon-Godinez,

Petitioner,

v.

LUIS SOTO, In His Official Capacity as
Warden of Delaney Hall Detention Center;

JONATHAN FLORENTINO, Acting Newark
Field Office Director, Enforcement and
Removal Operations, U.S. Immigration and
Customs Enforcement (ICE)

TODD LYONS, Acting Director, U.S.
Immigration and Customs Enforcement
(ICE);

KRISTI NOEM, in her Official Capacity,
Secretary of the U.S. Department of
Homeland Security;

Respondents.

Case No.

PROPOSED ORDER TO SHOW CAUSE

Upon consideration of Petitioner's Application for Issuance of Order to Show Cause pursuant to 28 U.S.C. § 2243 and Petitioner's Petition for Writ of Habeas Corpus (Dkt. No. 1.),

IT IS HEREBY ORDERED that:

1. Respondent shall file a return on the Order to Show Cause why the Petition for Writ of Habeas Corpus should not be granted by _____;
2. Petitioner shall have an opportunity to file a reply by _____.
3. This matter shall be heard by this Court on _____ at _____.
4. Service of this Order shall be made by Petitioner on the United States Attorney for the District of New Jersey shall constitute good and sufficient service.

IT IS SO ORDERED.

UNITED STATES DISTRICT JUDGE