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9 UNITED STATES DISTRICT COURT
10
11 FOR THE DISTRICT OF ARIZONA
12

13 Carlos Ruben BASILIO MOSSO,

14 Petitioner,

15 v.

16 John CANTU, Field Office Director of Phoenix
17 Office of Detention and Removal, U.S. Immigrations
18 and Customs Enforcement; U.S. Department of
19 Homeland Security;

20 Todd M. LYONS, Acting Director, Immigration and
21 Customs Enforcement, U.S. Department of Homeland
22 Security;

23 Kristi NOEM, in her Official Capacity, Secretary,
24 U.S. Department of Homeland Security; and

25 Pam BONDI, in her Official Capacity, Attorney
26 General of the United States;

27 Respondents.
28

Case No.



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

Challenge to Unlawful
Incarceration Under Color of
Immigration Detention Statutes;
Request for Declaratory and
Injunctive Relief

INTRODUCTION

1. Petitioner Carlos Ruben Basilio Mosso (“Mr. Basilio Mosso”) remains in ICE custody in Arizona despite deferral of his removal being ordered on August 15, 2018 based on findings by an Immigration Judge (IJ) that he would more likely than not be tortured if deported to his home country of Mexico. On September 11, 2018, Immigration and Customs Enforcement (ICE) released Mr. Basilio Mosso on an order of supervision, but has now no-notice re-detained Mr. Basilio Mosso and refuses to release him, claiming that it is looking for alternative countries of removal despite knowing that he lacks citizenship in or a connection to any other country. Mr. Basilio Mosso’s continued detention is arbitrary and unlawful, and he requests that this Court order his immediate release from ICE custody.

2. Mr. Basilio Mosso is detained pursuant to 8 U.S.C. § 1231, which governs the detention of non-citizens with a final order of removal that has been withheld or deferred by an IJ due to a substantial risk of persecution or torture in their home country. 8 U.S.C. § 1231(a)(1)(B)(i). Mr. Basilio Mosso’s removal order and accompanying relief grant became final when ICE failed to timely appeal his relief grant. 8 C.F.R. § 1241.1.

3. Mr. Basilio Mosso’s continued detention violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), because his removal is not reasonably foreseeable. He cannot be deported to his home country of Mexico because he was granted protection under the Convention Against Torture (CAT) with respect to that country. 8 C.F.R. § 1208.17. ICE’s half-hearted attempts to remove Mr. Basilio Mosso to a random collection of unspecified alternative countries are speculative and futile.

JURISDICTION & VENUE

4. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of

habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution (“Suspension Clause”); 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 2201, 2202 (Declaratory Judgment Act).

5. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See, e.g., Zadvydas*, 533 U.S. at 687.

6. Federal courts also have federal question jurisdiction, through the APA, to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by “any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus”). The APA affords a right of review to a person who is “adversely affected or aggrieved by agency action.” 5 U.S.C. § 702. Respondents’ continued detention of Petitioner up to and past the 90-day removal period has adversely and severely affected Petitioner’s liberty and freedom.

7. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at Florence Correctional Center (FCC). Furthermore, a substantial part of the events or omissions giving rise to this action occurred and continue to occur at ICE’s Phoenix Field Office in Phoenix, Arizona, within this division.

PARTIES

8. Mr. Basilio Mosso is a native and citizen of Mexico who was granted CAT deferral of removal on August 15, 2018. He is currently detained at the Florence Correctional Center.

9. John Cantu is the Field Office Director of the ICE Enforcement and Removal

Operations (ERO) Phoenix Field Office and is the federal agent charged with overseeing all ICE detention centers in Arizona, including the FCC. Mr. Hott is a legal custodian of Petitioner. He is sued in his official capacity.

10. Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE) and is the federal agent charged with overseeing all ICE operations. He is sued in his official capacity.

11. Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS). DHS oversees ICE, which is responsible for administering and enforcing the immigration laws. Secretary Mayorkas is the ultimate legal custodian of Petitioner. She is sued in her official capacity.

12. Pam Bondi is the Attorney General of the United States. She oversees the immigration court system, which is housed within the Executive Office for Immigration Review (EOIR) and includes all IJs and the Board of Immigration Appeals (BIA). She is sued in her official capacity.

LEGAL FRAMEWORK

I. WITHHOLDING OF REMOVAL AND RELIEF UNDER THE CONVENTION AGAINST TORTURE.

13. Non-citizens in immigration removal proceedings can seek three main forms of relief based on their fear of returning to their home country: asylum, withholding of removal, and CAT relief. Non-citizens may be ineligible for asylum for several reasons, including failure to apply within one year of entering the United States. *See* 8 U.S.C. § 1158(a)(2). There are fewer restrictions on eligibility for withholding of removal, *id.* § 1231(b)(3)(B)(iii), and no restrictions on eligibility for CAT deferral of removal. 8 C.F.R. § 1208.16.

14. To be granted CAT relief, a non-citizen must show 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). An applicant for CAT relief must show a higher likelihood of torture than the likelihood of persecution an asylum applicant must demonstrate. *See id.*

15. When an IJ grants a non-citizen withholding or CAT relief, the IJ issues a removal order and simultaneously withholds or defers that order with respect to the country or countries for which the non-citizen demonstrated a sufficient risk of persecution or torture. *See Johnson v. Guzman Chavez*, 141 S. Ct. 2271, 2283 (2021). Once withholding or CAT relief is granted, either party has the right to appeal that decision to the BIA within 30 days. *See* 8 C.F.R. § 1003.38(b). If both parties waive appeal or neither party appeals within the 30-day period, the withholding or CAT relief grant and the accompanying removal order become administratively final. *See id.* § 1241.1.

16. When a non-citizen has a final withholding or CAT relief grant, they cannot be removed to the country or countries for which they demonstrated a sufficient likelihood of persecution or torture. *See* 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 1208.17(b)(2). While ICE is authorized to remove non-citizens who were granted withholding or CAT relief to alternative countries, *see* 8 U.S.C. § 1231(b); 8 C.F.R. § 1208.16(f), the removal statute specifies restrictive criteria for identifying appropriate countries. Non-citizens can be removed, for instance, to the country “of which the [non-citizen] is a citizen, subject, or national,” the country “in which the [non-citizen] was born,” or the country “in which the [non-citizen] resided” immediately before entering the United States. 8 U.S.C. § 1231(b)(2)(D)-(E).

17. If ICE identifies an appropriate alternative country of removal, ICE must undergo further proceedings in immigration court to effectuate removal to that country. Pursuant to Pursuant to the preliminary injunction in *DVD v. DHS*, 1:25-cv-10676, (D. Mass.) (March 23, 2025), [P]rior to removing any [noncitizen] to a third country, i.e., any country not explicitly provided for on the

[noncitizen]’s order of removal, Defendants (DHS) must: (1) provide written notice to the [noncitizen] —and the [noncitizen]’s immigration counsel, if any—of the third country to which the [noncitizen] may be removed, in a language the [noncitizen] can understand; (2) provide meaningful opportunity for the [noncitizen] to raise a fear of return for eligibility for CAT protections; (3) move to reopen the proceedings if the [noncitizen] 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 that [noncitizen] to seek to move to reopen immigration proceedings to challenge the potential third-country removal. *See also Jama v. ICE*, 543 U.S. 335, 348 (2005) (“If [non-citizens] would face persecution or other mistreatment in the country designated under § 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1); withholding of removal, § 1231(b)(3)(A); [and] relief under an international agreement prohibiting torture, *see* 8 CFR §§ 208.16(c)(4), 208.17(a) (2004) . . .”); *Romero v. Evans*, 280 F. Supp. 3d 835, 848 n.24 (E.D. Va. 2017) (“DHS could not immediately remove petitioners to a third country, as DHS would first need to give petitioners notice and the opportunity to raise any reasonable fear claims.”), *rev’d on other grounds*, *Guzman Chavez*, 141 S. Ct. 2271.

18. As a result of these restrictions and procedures, “only 1.6% of noncitizens granted withholding-only relief were actually removed to an alternative country” in FY 2017. *Johnson v. Guzman Chavez*, 141 S. Ct. at 2295 (Breyer, J., dissenting). An analysis by Amica Center of updated statistics provided by ICE for FY 2019 through FY 2020 reveals that this percentage was at most 3.3% during that period, although it was likely even lower.¹

¹ *See Exhibit B*, Continued Detention of Noncitizens Who Win Immigration Relief, Amica Center, <https://amicacenter.org/app/uploads/2024/07/Continued-Detention-Brief-Amica-Version.pdf#:~:text=But%20the%20noncitizen%20must%20have%20some%20tangible,or%20CAT%20relief—between%201.6%20and%203.3%20percent>.

II. DETENTION OF NON-CITIZENS GRANTED WITHHOLDING OF REMOVAL OR RELIEF UNDER THE CONVENTION AGAINST TORTURE.

a. *Statutory Framework*

19. 8 U.S.C. § 1231 governs the detention of non-citizens “during” and “beyond” the “removal period.” 8 U.S.C. § 1231(a)(2)-(6). The “removal period” begins once a non-citizen’s removal order “becomes administratively final.” 8 U.S.C. § 1231(a)(1)(B). The removal period lasts for 90 days, during which ICE “shall remove the [non-citizen] from the United States” and “shall detain the [non-citizen]” as it carries out the removal. 8 U.S.C. § 1231(a)(1)-(2). If ICE does not remove the non-citizen within the 90-day removal period, the non-citizen “*may* be detained beyond the removal period” if they meet certain criteria, such as being inadmissible or deportable under specified statutory categories. 8 U.S.C. § 1231(a)(6) (emphasis added).

20. To avoid “indefinite detention” that would raise “serious constitutional concerns,” the Supreme Court in *Zadvydas* construed § 1231(a)(6) to contain an implicit time limit. 533 U.S. at 682. *Zadvydas* dealt with two non-citizens who could not be removed to their home country or country of citizenship due to bureaucratic and diplomatic barriers. The Court held that § 1231(a)(6) authorizes detention only for “a period reasonably necessary to bring about the [non-citizen]’s removal from the United States.” *Id.* at 689. Six months of post-removal order detention is considered “presumptively reasonable.” *Id.* at 701.

21. But the “*Zadvydas* Court did not say that the presumption is irrebuttable, and there is nothing inherent in the operation of the presumption itself that requires it to be irrebuttable.” *Cesar v. Achim*, 542 F. Supp. 2d 897, 903 (E.D. Wis. 2008). “Within the six-month window,” the non-citizen bears the burden of “prov[ing] the unreasonableness of detention.” *Id.* After six months of detention, if there is “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,” the burden shifts to the Government to justify continued

detention. *Zadvydas*, 533 U.S. at 701; *see also Cesar*, 542 F. Supp. 2d at 903 (“[T]he presumption scheme merely suggests that the burden the detainee must carry within the first six months of [post-order] detention is a heavier one than after six months has elapsed”).

b. Regulations

22. DHS regulations provide that, before the end of the 90-day removal period that ensues upon a non-citizen’s removal order becoming final, the local ICE field office with jurisdiction over the non-citizen’s detention must conduct a custody review to determine whether the non-citizen should remain detained. *See* 8 C.F.R. § 241.4(c)(1), (h)(1), (k)(1)(i). If the non-citizen is not released following the 90-day custody review, jurisdiction transfers to ICE Headquarters (ICE HQ), *id.* § 241.4(c)(2), which must conduct a custody review before or at 180 days. *Id.* § 241.4(k)(2)(ii). In making these custody determinations, ICE considers several factors, including whether the non-citizen is likely to pose a danger to the community or a flight risk if released. *Id.* § 241.4(e). If the factors in § 241.4 are met, ICE must release the non-citizen under conditions of supervision. *Id.* § 241.4(j)(2).

23. To comply with *Zadvydas*, DHS issued additional regulations in 2001 that established “special review procedures” to determine whether detained non-citizens with final removal orders are likely to be removed in the reasonably foreseeable future. *See Continued Detention of Aliens Subject to Final Orders of Removal*, 66 Fed. Reg. 56,967 (Nov. 14, 2001). While 8 C.F.R. § 241.4’s custody review process remained largely intact, subsection (i)(7) was added to include a supplemental review procedure that ICE HQ must initiate when “the [non-citizen] submits, or the record contains, information providing a substantial reason to believe that removal of a detained [non-citizen] is not significantly likely in the reasonably foreseeable future.” *Id.* § 241.4(i)(7).

24. Under this procedure, ICE HQ evaluates the foreseeability of removal by analyzing factors such as the history of ICE's removal efforts to third countries. *See id.* § 241.13(f). If ICE HQ determines that removal is not reasonably foreseeable but nonetheless seeks to continue detention based on "special circumstances," it must justify the detention based on narrow grounds such as national security or public health concerns, *id.* § 241.14(b)-(d), or by demonstrating by clear and convincing evidence before an IJ that the non-citizen is "specially dangerous." *Id.* § 241.14(f).

STATEMENT OF FACTS

25. Mr. Basilio initially came into immigration custody in 2014 due to various criminal convictions as a result of an amended plea agreement entered into in exchange for providing significant testimony regarding the [REDACTED] [REDACTED] various crimes committed by the group.

26. On August 15, 2018, Mr. Basilio was ordered removed but granted deferral of his removal under the Convention Against Torture (CAT) by the Tacoma Immigration Court. **Exhibit A.** The Court found that it is more likely than not that Mr. Basilio would be tortured in Mexico and his removal was deferred under CAT pursuant to 8 CFR §§ 1208.16(c)(2), 1208.17(a).

27. Pursuant to 8 CFR § 1208.17(b), Mr. Basilio's removal was deferred only as to Mexico and at any time he may be removed to another country where he is not likely to be tortured.

28. ICE subsequently released Mr. Basilio on September 11, 2018 placing him on an order of supervision. Mr. Basilio has continued check ins with ICE since that date without incident.

29. On July 1, 2025, ICE no-notice arrested Mr. Basilio despite his continued check-

ins and no changes in his criminal history or immigration status.

30. The arresting ICE officers did not articulate a reason as to why Mr. Basilio was being re-detained, such as how he is now a flight risk, a danger to his community, or for any purported violations of the conditions associated with his release on an order of supervision from 2018. Further, ICE did not articulate any plan to effectuate Mr. Basilio's removal, nor that a third country had formally accepted him.

31. Indeed, there have been no changes in Mr. Basilio's circumstances. For the past nearly seven (7) years that Mr. Basilio has lived in freedom, he has been a devoted husband and father an exemplary asset to his community.

ARGUMENT

I. PETITIONER'S CONTINUED DETENTION IS UNLAWFUL UNDER *ZADVYDAS* BECAUSE HIS REMOVAL IS NOT REASONABLY FORESEEABLE, AND THIS COURT SHOULD ACCORDINGLY ORDER HIS IMMEDIATE RELEASE.

A. Mr. Basilio Mosso's removal is not reasonably foreseeable under Zadvydas.

32. Mr. Basilio Mosso's detention is governed by 8 U.S.C. § 1231(a)(6) because he has been detained for more than 90 days since he received a final grant of CAT relief. The 90-day removal period began for Mr. Basilio Mosso on September 14, 2018, when the appeal period expired without either party filing a timely appeal. *See* 8 U.S.C. § 1231(a)(1)(B)(i); 8 C.F.R. § 1241.1(c).² Therefore, the *Zadvydas* framework applies to Mr. Basilio Mosso's detention, and he

² Even if ICE had filed a timely appeal, Mr. Basilio Mosso's removal period arguably still would have begun on September 14, 2018, upon the expiration of his appeal period. *See* 8 C.F.R. § 1241.1(c) ("An order of removal . . . shall become final . . . upon expiration of the time allotted for an appeal if the [non-citizen] does not file an appeal within that time . . ."); *Toma v. Adducci*, 535 F. Supp. 3d 651, 656-57 (E.D. Mich. 2021) (finding that non-citizen's removal period began when non-citizen did not appeal removal order, despite DHS' timely appeal of non-citizen's CAT grant).

has been detained for more than 90 days since his removal order became final.

33. Mr. Basilio Mosso will very likely *never* be deported from the United States, let alone in the reasonably foreseeable future. He cannot be deported to his home country of Mexico because he has a final grant of CAT deferral of removal. *See* 8 C.F.R. § 1208.17(b)(2).

34. Furthermore, it is exceedingly unlikely that ICE will identify an alternative country to which it can remove Mr. Basilio Mosso. ICE only managed to remove to third countries approximately three percent of non-citizens granted withholding and CAT relief in FY 2019 and 2020, *see Ex. B*, and a significant increase in ICE's third country removals is highly doubtful without a substantial change in diplomatic relationships between the United States and other countries.³

35. Notably, a consular officer from the Mexican Consulate in Tucson, Arizona conducted an interview with Mr. Basilio Mosso in the Florence Correctional Center. *See Exhibit C*. The Consulate determined that they are unable to obtain his official birth certificate—a crucial identity document in effectuated Mr. Basilio Mosso's removal.

36. Given this fact and the additional fact that ICE has had over seven (7) years to effectuate Mr. Basilio Mosso's removal and determine a third country which would accept him, it remains unclear how one is to believe that ICE will be able to remove Mr. Basilio Mosso. Mr. Basilio Mosso is not a citizen of, has never lived in, and has no connection to *any* country besides his home country, let alone the countries to which ICE has purportedly has attempted to contact to effectuate his removal. *See Exhibit D*.

³ Foreign countries do not accept the deportation of random non-citizens who lack any connection to their territory. According to a 2019 DHS report on ICE deportation procedures, "foreign governments do not issue travel documents without confirming the identity and citizenship of the [non-citizen]" and "with limited exceptions, require a passport or temporary travel permit to accept their nationals back into the country." DHS Office of the Inspector General, *ICE Faces Barriers in Timely Repatriation of Detained Aliens* (March 11, 2019), at 8 <https://www.oig.dhs.gov/sites/default/files/assets/2019-03/OIG-19-28-Mar19.pdf>.

37. Even in the highly unlikely scenario that an alternative country notifies ICE of its willingness to accept the deportation of Mr. Basilio Mosso, ICE would still be required to obtain travel documents and afford him a Reasonable Fear Interview (RFI) at which he would have the opportunity to articulate a fear of return to the country willing to accept him. *See* 8 C.F.R. § 241.8(e). If an Asylum Officer (AO) were to find that Mr. Basilio Mosso demonstrated a reasonable possibility of persecution or torture at the RFI, or an IJ subsequently vacated a negative finding by the AO, he would enter withholding-only proceedings before an IJ in which he would again seek to demonstrate his eligibility for withholding or CAT relief with respect to that country, thereby restarting the process that took several months to complete the first time. *Id.*

38. Therefore, Mr. Basilio Mosso has been detained for more than 90 days since receiving a final removal order, and his removal is not reasonably foreseeable because 1) he cannot be deported to his home country due to his CAT relief grant; 2) ICE has historically managed to remove only a tiny fraction of non-citizens granted withholding or CAT to alternative countries; 3) any countries to which requests may still be pending have no logical reason to accept Mr. Basilio Mosso's deportation and have provided no timeline under which they might decide; and 4) deporting Mr. Basilio Mosso to those alternative countries would require additional, lengthy proceedings. *See Hassoun v. Sessions*, No. 18-cv-586-FPG, 2019 WL 78984, at *5 (W.D.N.Y. Jan. 2, 2019) (finding removal not reasonably foreseeable where several countries had declined to issue travel documents and several others had provided no response or timeline for response); *Kacanic v. Elwood*, No. 02-cv-8019, 2002 WL 31520362, at *5 (E.D. Pa. Nov. 8, 2002) (finding removal not reasonably foreseeable where the country of origin had "been in possession of all the information [ICE] is capable of providing to it" but had "never stated that the Petitioner is likely to be granted travel papers" and was "unable to tell the [ICE] when a decision will be reached").

39. For the reasons stated above, Mr. Basilio Mosso has clearly met any burden of proof

that this Court may place on him. Unlike *Zadvydas* and the vast majority of its progeny, which analyzed whether ICE will foreseeably remove non-citizens to their home country or country of citizenship, *see, e.g., Zadvydas*, 533 U.S. at 684-85, the question here is whether ICE will be able to deport Mr. Basilio Mosso to random third countries to which he has no connection whatsoever. The answer to that question has been no since September 2018 when Mr. Basilio Mosso's relief grant became final, and ICE has continuously failed to effectuate a third-country removal since then.

B. *This Court should order Mr. Basilio Mosso's immediate release.*

40. Because Mr. Basilio Mosso's removal is not reasonably foreseeable, *Zadvydas* requires that he be immediately released. *See* 533 U.S. at 700-01 (describing release as an appropriate remedy); 8 U.S.C. § 1231(a)(6) (authorizing release "subject to . . . terms of supervision"). To order his immediate release, this Court need only determine that Mr. Basilio Mosso's removal is not reasonably foreseeable under *Zadvydas*; it need not analyze whether he poses a danger to the community or a flight risk. *See* 533 U.S. at 699-700 ("[I]f removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.").

41. *Zadvydas* explicitly held that flight risk is already baked into the reasonable foreseeability analysis, *see id.* at 690 (observing that the "justification . . . [of] preventing flight . . . is weak or nonexistent where removal seems a remote possibility at best"), and that dangerousness cannot unilaterally justify indefinite civil detention barring "special circumstances," which may include the non-citizen being a "suspected terrorist[]" but do not include the non-citizen's "removable status itself." *Id.* at 691. *See also Kansas v. Hendricks*, 521 U.S. 346, 358 (1997) ("A finding of dangerousness, standing alone, is ordinarily not a sufficient ground upon which to justify indefinite involuntary [civil detention]."). With respect to Mr. Basilio Mosso's detention, ICE has

not invoked the regulations governing these “special circumstances” determinations. *See* 8 C.F.R. § 241.14.

42. Additionally, this Court or ICE is free to impose conditions on release to mitigate any potential concerns regarding flight risk or danger (as ICE has done in the past when they released Mr. Basilio Mosso on an order of supervision in September 2018). *See Zadvydas*, 533 U.S. at 700 (“[T]he [non- citizen]’s release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances.”).

CLAIMS FOR RELIEF

COUNT I

VIOLATION OF IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1231(a)(6)

43. Petitioner realleges and incorporates by reference the paragraphs above.

44. 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, authorizes detention only for “a period reasonably necessary to bring about the alien’s removal from the United States.” 533 U.S. at 689, 701.

45. Petitioner’s continued detention has become unreasonable because his removal is not reasonably foreseeable. Therefore, his continued detention violates 8 U.S.C. § 1231(a)(6), and he must be immediately released.

COUNT II

ARBITRARY AND CAPRICIOUS AGENCY ACTION UNDER THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A)

46. Petitioner realleges and incorporates by reference the paragraphs above.

47. Courts must “hold unlawful and set aside agency action” that is “arbitrary,

capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

48. ICE has deviated from its own policy in continuing to detain Petitioner after he was granted immigration relief, without determining whether exceptional circumstances warrant his continued detention. This is arbitrary, capricious, and contrary to law in violation of the APA.

49. As a remedy, this Court should conduct its own review of Petitioner’s custody or, at least, order ICE to review Petitioner’s custody under the standard articulated in ICE policy.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully request that this Court:

- a. Assume jurisdiction over this matter;
- b. Declare that Petitioner’s continued detention violates the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6); the Administrative Procedure Act, 5 U.S.C. § 706(2)(A); and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution.
- c. Order Petitioner’s immediate release;
- d. Grant any other further relief this Court deems just and proper.

Dated: November 16, 2025

Respectfully submitted,

/s/ Spencer C. Lee

Spencer C. Lee

Attorney for Carlos Ruben Basilio Mosso

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this November 16, 2025, in Phoenix, AZ.

/s/ Spencer C. Lee

Spencer C. Lee

Attorney for Carlos Ruben Basilio Mosso

CERTIFICATE OF SERVICE

This is to certify that on November 16, 2025, the foregoing PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF was served by certified mail, on:

John Cantu,
Field Office Director of Phoenix Office of Detention and Removal, U.S. Immigrations and Customs Enforcement
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Timothy Courchaine, U.S. Attorney
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/s/ Spencer C. Lee
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Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s): Carlos Ruben Basilio Mosso , ;

Defendant(s): John Cantu , Field Office Director Phoenix; Todd Lyons , Acting Director ICE; Kristi Noem , Secretary of DHS; Pam Bondi , Attorney General;

County of Residence: Pinal

County of Residence: Outside the State of Arizona

County Where Claim For Relief Arose: Pinal

Plaintiff's Atty(s):

Spencer C. Lee ,
Saguaro Legal
2210 N 7th St
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6025952040

Defendant's Atty(s):

Timothy Courchaine , District Attorney

Two Renaissance Square 40 N. Central Avenue, Suite 1800
Phoenix, AZ 85004

IFP REQUESTED

REMOVAL FROM COUNTY, CASE #

II. Basis of Jurisdiction: **1. U.S. Government Plaintiff**

III. Citizenship of Principal Parties(Diversity Cases Only)

Plaintiff:- **N/A**

Defendant:- **N/A**

IV. Origin : **1. Original Proceeding**

V. Nature of Suit: **465 Other Immigration Actions**

VI. Cause of Action: **ARBITRARY AND CAPRICIOUS AGENCY ACTION UNDER THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A)**

VII. Requested in Complaint

Class Action: **No**

Dollar Demand:

Jury Demand: **No**

VIII. This case is not related to another case.

Signature: Spencer C. Lee

Date: 11/14/2025

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save Case 2:25-md-04257-MFL-DME Document 1-3 Filed 11/16/25 Page 2 of 2

Revised: 01/2014