



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

_____)
 Carlos Antonio Solis Nolasco )
 c/o Murray Osorio PLLC)
 8630 Fenton Street, Suite 918,)
 Silver Spring, MD 20910)
)
 Petitioner,)
)
 v.)
)
 Kristi Noem, *Secretary of Homeland Security,*)
)
 Department of Homeland Security)
 Washington, DC 20508)
)
 Todd Lyons, *Acting Director, U.S. Immigration)
 and Customs Enforcement,*)
 Jeremy Bacon, *ICE Baltimore Field Office Director,*)
)
 500 12th St., SW)
 Washington, D.C. 20536)
)
 Pamela Bondi, *Attorney General,*)
)
 950 Pennsylvania Avenue, NW)
 Washington, DC 20530-0001)
)
 Respondents.)
 _____)

Civil Action No. _____

PETITION FOR WRIT OF HABEAS CORPUS

1. In March 2024, Petitioner Carlos Antonio Solis Nolasco  won an order from an immigration judge granting him a form of relief called withholding of removal, which prohibits Defendants from removing him to El Salvador. Should Defendants wish to remove Petitioner to El Salvador, the law sets forth specific procedures by which they can reopen the case and seek to set aside the grant of withholding of removal. Should Defendants wish to remove Petitioner to any other country, they would first need to provide him with notice and the

opportunity to apply for protection as to *that* country as well. Until they do either of these things, they cannot remove Petitioner from the United States. But Defendants have arrested Petitioner without observance of any legal procedures whatsoever, ripping him away from his family. Such conduct cries out for immediate judicial relief.

JURISDICTION AND VENUE

2. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241; 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

3. The Court has authority to enter a declaratory judgment and to provide temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. §§ 2201-2202, the All Writs Act, and the Court's inherent equitable powers, as well as issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

4. Venue lies in this District because Petitioner is currently detained in ICE's Baltimore Hold Room in Baltimore, Maryland; and each Respondent is an agency or officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1). In addition, Respondent Bacon's principal place of business is in Baltimore, Maryland.

THE PARTIES

5. Petitioner Carlos Antonio Solis Nolasco is a citizen and native of El Salvador who resides in Maryland. He is currently detained by Respondents in Baltimore, Md.

6. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

7. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (“ICE”). He is the head of the federal agency responsible for all immigration enforcement in the United States.

8. Respondent Jeremy Bacon is the ICE Baltimore Field Office Director. He is the head of the ICE office that unlawfully arrested Plaintiff, and such arrest took place under his direction and supervision. He is the immediate legal and physical custodian of Petitioner.

9. Respondent Pamela Bondi is the Attorney General of the United States. The Immigration Judges who decide removal cases and application for relief from removal do so as her designees.

10. All government Respondents are sued in their official capacities.

LEGAL BACKGROUND

11. Withholding of removal under 8 U.S.C. § 1231(b)(3) prohibits the government from removing a noncitizen to a country where it is more likely than not that the individual would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion. *See* 8 C.F.R. § 1208.16(b). This form of relief is mandatory if the applicant meets the standard and is distinct from asylum in that it does not lead to permanent residency.

12. To qualify for withholding of removal, the noncitizen bears the burden of proving that it is more likely than not that they would face persecution if returned to their country of origin. The government may not remove an individual with a valid withholding order to that country unless the order is formally terminated following the procedures set forth in the regulations. *See* 8 C.F.R. § 1208.24(f).

13. If a noncitizen is granted withholding of removal, “DHS may not remove the alien to the country designated in the removal order unless the order of withholding is terminated.”

Johnson v. Guzman Chavez, 594 U.S. 523, 531 (2021). No exceptions lie.

14. Federal regulations provide a procedure by which a grant of withholding of removal issued by an immigration judge may be terminated: DHS must move to reopen the removal proceedings before the immigration judge and must prove, by a preponderance of the evidence, that the individual would no longer face persecution. 8 C.F.R. § 1208.24(f). Only after termination may removal proceed.

15. However, withholding of removal is a country-specific form of relief. Should the government wish to remove an individual with a grant of withholding of removal to some *other* country, it must first provide that individual with notice and an opportunity to apply for withholding of removal as to *that* country as well, if appropriate. 8 U.S.C. § 1231(b)(3)(A). *See also Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Kossov v. INS*, 132 F.3d 405, 408-09 (7th Cir. 1998); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004); *cf. Protsenko v. U.S. Att’y Gen.*, 149 F. App’x 947, 953 (11th Cir. 2005) (per curiam) (permitting removal to third country only where individuals received “ample notice and an opportunity to be heard”).

16. Finally, for individuals with a removal order but who cannot be removed (because there is no country designated to which they can lawfully be removed, or because logistical or practical considerations prevent execution of an otherwise lawfully executable order), 8 U.S.C. §1231(a) permits the government to detain noncitizens during the “removal period,” which is defined as the 90-day period during which “the Attorney General shall remove the alien from the United States.” 8 U.S.C. §1231(a)(1)(A).

17. After the expiration of the removal period, 8 U.S.C. § 1231(a)(3) provides that the government shall release unremovable noncitizens on an order of supervision (the immigration equivalent of supervised release, with strict reporting and other requirements). Pursuant to 8 U.S.C.

§ 1231(a)(6), even noncitizens with aggravated felony convictions may be “released” if “subject to the terms of supervision” set forth in 8 U.S.C. § 1231(a)(3).

18. Constitutional limits on detention beyond the removal period are well established. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). “[W]here detention’s goal is no longer practically attainable, detention no longer ‘bear[s][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)). Additionally, cursory or pro forma findings of dangerousness do not suffice to justify prolonged or indefinite detention. *Zadvydas*, 533 U.S. at 691 (“But we have upheld preventative detention based on dangerousness only when limited to especially dangerous individuals [like suspected terrorists] and subject to strong procedural protections.”)

19. The purpose of detention during and beyond the removal period is to “secure[] the alien’s removal.” *Zadvydas*, 533 U.S. at 682. In *Zadvydas*, the Supreme Court “read § 1231 to authorize continued detention of an alien following the 90-day removal period for only such time as is reasonably necessary to secure the alien’s removal.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 699).

20. As the Supreme Court explained, where there is no possibility of removal, immigration detention presents substantive due process concerns because “the need to detain the noncitizen to ensure the noncitizen’s availability for future removal proceedings is “weak or nonexistent.” *Zadvydas*, 533 U.S. at 690-92. Detention is lawful only when “necessary to bring about that alien’s removal.” *See id.* at 689.

21. To balance these competing interests, the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a “reasonable period of detention” for noncitizens after a

removal order. *Id.* at 700-01. The Court determined that six months detention could be deemed a “presumptively reasonable period of detention,” after which the burden shifts to the government to justify continued detention if the noncitizen provides a “good reason to believe that there is not significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

22. Where a petitioner has provided “good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future,” the burden shifts to the government to rebut that showing. *Zadvydas*, 533 U.S. at 701.

FACTS

23. Petitioner Carlos Antonio Solis Nolasco is a citizen of El Salvador and no other country. He has no claim to permanent residency or indeed any legal immigration status in any other country.

24. On March 29, 2024, Petitioner was granted withholding of removal pursuant to 8 U.S.C. § 1231(b)(3), after the immigration judge agreed that he had established it was more likely than not that he would be tortured in El Salvador. *See* Ex. A (Immigration Judge order). The government did not appeal.

25. Petitioner was released from detention a few days thereafter, and on April 22, 2024, was placed on an Order of Supervision.

26. To date, Respondents have not taken any steps to reopen or rescind the grant of relief. On July 22, 2024, Petitioner was granted an Employment Authorization Document pursuant to 8 U.S.C. § 1231(a)(7). *See* Ex. B (Employment Authorization Document).

27. Since April 22, 2024, Petitioner has not been convicted of any crimes, nor has Petitioner violated the terms of his order of supervision with ICE. At no time since April 22, 2024, did ICE request that Petitioner take any specific steps to assist in his removal, such as applying for

travel documents to a third country. In any event, to have applied for such travel documents would have been futile, as there are no other countries on earth that would be willing to accept Petitioner, due to his lack of legal immigration status in any other country.

28. On November 22, 2025, Petitioner appeared for a scheduled check-in with ICE. Without prior warning, Petitioner was detained by ICE. Petitioner did not receive any explanation for why his Order of Supervision was canceled. Nor was Petitioner given any opportunity or personal interview to explain why his Order of Supervision should not be canceled.

29. Prior to his unlawful detention, Petitioner was dutifully attending scheduled check-ins with ICE pursuant to his Order of Supervision. He now remains in detention in the Baltimore Hold Room as of the time of filing this habeas corpus petition.

30. To Petitioner's knowledge, ICE has not designated any third country for removal. Indeed, since there is no third country in which Petitioner has a claim to legal immigration status, there is no third country to which Respondents can remove Petitioner without that third country sooner or later removing him to El Salvador, where it has already been determined that he will face persecution. This chain refolement would violate the withholding of removal statute just as surely as if Respondents carried out the removal directly to El Salvador. Should Respondents designate Mexico or any other third country as a country of removal, Petitioner intends to submit a statement of fear of third-country removal, as to any country so designated.

31. Respondents currently lack any factual or legal basis to detain Petitioner, since Respondents cannot establish that that Petitioner will likely be removed from the United States in the reasonably foreseeable future.

32. Petitioner has exhausted all administrative remedies. No further administrative remedies are available to Petitioner.

**FIRST CLAIM FOR RELIEF:
Violation of 8 U.S.C. § 1231(a)(6)**

33. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-32.

34. Petitioner's continued detention by the Respondents violates 8 U.S.C. § 1231(a)(6), as interpreted by *Zadvydas*. Petitioner's 90-day statutory removal period and six-month presumptively reasonable period for continued removal efforts have long since passed.

35. Under *Zadvydas*, the continued detention of someone like Petitioner is unreasonable and not authorized by 8 U.S.C. § 1231.

**SECOND CLAIM FOR RELIEF:
Due Process/Detention**

36. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-32.

37. Petitioner's detention during the removal period is only constitutionally permissible under the Due Process Clause when there is a significant likelihood of removal in the reasonably foreseeable future. Respondents have rearrested and re-detained Petitioner on the assumption that Petitioner will be removable to a third country but have no factual basis to believe that such third-country removal will ever become practicable and legally permissible.

38. Respondent continues to detain Petitioner without evidence that they will be able to remove him imminently, to Honduras or to any other country.

39. Respondents' detention of Petitioner no longer bears any reasonable relation to a legitimate government purpose, and thus violates the Due Process Clause.

**THIRD CLAIM FOR RELIEF:
Procedural Due Process/Removal**

40. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-32.

41. Respondents' policy on third-country deportations allows a noncitizen to be deported to a third country based on generalized assurances from that country's government that

the noncitizen will not be tortured in that country. Petitioner has a procedural due process right to an individualized determination as to whether he will be persecuted or tortured in any country of removal to which he claims a fear of removal.

42. Even where Respondents carry out an individualized determination of persecution or torture in a third country of removal, Respondents' policy on third-country deportations provides only for an interview by a single immigration officer, with no further right of review by an immigration judge. Petitioner has a procedural due process right not to be removed to any country in which he fears persecution or torture, or to any country which he fears will re-deport him to Honduras where it has already been judicially determined that he is more likely than not to face persecution or torture, without an immigration judge first reviewing his claim of fear of removal. Due process requires that the immigration judge conduct this initial screening review at the "reasonable possibility" standard, not the more-likely-than-not standard; and that the immigration judge take into account the likelihood of refoulement to persecution or torture, not just persecution or torture in the country of direct removal.

REQUEST FOR RELIEF

Petitioner prays for judgment against Respondents and respectfully requests that the Court enters an order:

- a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;
- b) Preliminarily and permanently enjoining Respondents from removing Petitioner to El Salvador, unless and until his order of Withholding of Removal is terminated, including all appeals;

- c) Preliminarily and permanently enjoining Respondents from removing Petitioner to any other country without first providing him notice and offering him adequate opportunity to apply for withholding of removal as to that country, including an Immigration Judge review of any denied third-country fear interview;
- d) Issuing a writ of habeas corpus, and ordering that Petitioner be released from physical custody forthwith; and
- e) Granting such other relief at law and in equity as justice may require.

Respectfully submitted,

//s// Simon Sandoval-Moshenberg
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