

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

NATHANIEL STERLING,	:	No.: 3:25cv2122 (KAD)
Petitioner,	:	
	:	
v.	:	
	:	
PAMELA J. BONDI et al.,	:	
Respondents.	:	June 8, 2026

RESPONSE TO COURT ORDER (ECF 45)

Pursuant to the court's May 28, 2026 order (ECF 45), the respondents respectfully submit this supplemental briefing "regarding the impact, if any, of the stay of the 2025 Guidance and the decision out of the Central District of California on the pending SAP [Second Amended Petition]." In sum, as the court may already have recognized, the ICWC v. Noem litigation has no relevance to the SAP because neither that petition nor the prior petitions raise a claim arising out of the petitioner's filing of a U-Visa petition, which filing predated the commencement of this action. Regardless, however, and in light of the stay order in ICWC v. Noem, the respondents have confirmed that the petitioner is a member of the "pending petition class" in that case and are acting in accordance with the court's order as it pertains to that class. The ICWC v. Noem litigation therefore compels no additional action by this court, which respectfully should decide the SAP as briefed and argued.

I. Factual Background and Procedural Posture

By way of background, on December 19, 2025, the petitioner was arrested by ICE, and on the same day, he commenced this action by filing a petition for writ of habeas corpus. (See ECF 1.) On December 24, 2025, the petitioner filed an amended

petition. (See ECF 12.) The amended petition raised four claims: first, the petitioner claimed that his arrest and detention violate his Fifth Amendment due process rights because he claims to be constitutionally entitled to a pre-detention hearing; second, the petitioner claimed that his arrest and detention violate the INA itself because he claims that at common law, Connecticut privileged him from arrest by ICE, and the INA incorporated that common-law privilege; third, the petitioner claimed that his arrest by ICE outside a state courthouse violates the Tenth Amendment to the United States Constitution; and fourth, the petitioner sought bail pending the outcome of his habeas petition.

On January 8, 2026, the petitioner was denied release on bond following a bond hearing in Immigration Court, and on February 10, 2026, on leave of the court, the petitioner filed the operative Second Amended Petition (the “SAP”). (See ECF 25.) The SAP in relevant part added a claim that the bond hearing was constitutionally inadequate. On March 18, 2026, the court held argument on the SAP, and the petition remains pending decision.

On May 26, 2026, the petitioner filed a notice of supplemental authority alerting the court to a May 20, 2026 decision from the United States District Court for the Central District of California in the case ICWC v. Noem, which decision preliminarily certified three classes and stayed certain ICE policies. (See ECF 44.) The petitioner advised that he appears to be a member of the “pending petition class” because of his pending U-visa application and further stated that the order “stayed January 30, 2025 ICE guidance . . .

and two ICE policies implemented pursuant to that guidance,” and thereby “reinstated prior ICE victim-centered enforcement directives.” (Id. at 2.)

On May 28, 2026, the court issued an order requiring supplemental briefing from the parties “regarding the impact, if any, of the stay of the 2025 Guidance and the decision out of the Central District of California on the pending SAP.”

II. The Stay Order Does Not Impact the SAP, but ICE is Acting in Accordance With the Order Regardless

At the outset, the respondents note that the ICWC stay order does not impact the SAP, or the court’s consideration of it, because the SAP simply makes no argument concerning the legality of the petitioner’s detention despite his pending U-visa application. Indeed, as the court correctly has observed, the SAP “did not raise any claim under the APA or involve the 2025 Guidance at all” and “does not cite to Petitioner’s pending U visa application as a basis for habeas corpus relief.” (ECF 45.) Moreover, the pendency of the petitioner’s U-visa application is not something that occurred following the filing of the original petition in this case (though even if it had, the court again properly observed that the petitioner’s notice “is not the appropriate mechanism” to seek further amendment of the petition); rather, the petitioner alleges that “on September 23, 2025, [the petitioner], through counsel, submitted a complete U visa application to USCIS.” (ECF 25, at 7.) And as noted above, the petition in this case was filed on December 19, 2025, amended on December 24, 2025, and was subject to further proposed amendment on January 15, 2026. In none of those amendments did the petitioner seek to make the substantive argument he makes now.

Because the pleadings in this case do not implicate the legality of the petitioner's detention during the pendency of his U-Visa application, the order in ICWC is irrelevant to this proceeding. Nevertheless, the respondents note that following the issuance of the stay order in ICWC, they confirmed that the petitioner is a member of the "pending petition class," and the petitioner therefore is entitled to a stay as set forth in ICWC. Consequently, on or about May 28, 2026, ICE Enforcement and Removal Operations ("ERO") Boston conducted a review under the victim-centered approach (as required under the policy reinstated in the ICWC stay order). That review falls under the issued December 2, 2021, ICE Directive 11005.3: Using a Victim Centered Approach with Noncitizen Crime Victims; as defined in Section 3.4 (b) Exceptional Circumstances, ERO Boston found that the petitioner poses an articulable risk of death, violence, or physical harm to any person. On or about June 5, 2026, the Assistant Director for Field Operations concurred with this decision. As a result of this review, ICE has determined that the petitioner will remain in ICE custody.

In addition, ICE indicates that it will submit a request to USCIS to expedite consideration of the petitioner's U-visa application, again consistent with prior policy. At the time of filing, ICE has advised the undersigned that there has not yet been a bona fide determination by USCIS as to the petitioner's U-visa application.

In any case, the petitioner's release from custody is not mandated by the 2021 Directive,¹ and the petitioner admits as such. Instead, the petitioner contends that "[t]he

¹To be clear, the 2021 Directive did not apply to the petitioner at all until the decision in ICWC. As a result, pre-arrest actions that may have been compelled by the

restored policies now require ICE to consider whether continued detention remains appropriate,” among other things. (ECF 44, at 3.) ICE did just that, ultimately concluding that the petitioner should remain in custody.

III. Conclusion

For the foregoing reasons, the decision in ICWC does not impact the merits of this proceeding.

Respectfully submitted,

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/s/

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2021 Directive also are not relevant to the legality of his arrest and detention under a different policy that was in place at the relevant time.