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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

Federico Reyes Vasquez,

Petitioner

v.

KRISTI NOEM, in her official capacity as
Secretary of the Department of Homeland
Security,

TODD LYONS, in his official capacity as
Acting Director of Immigration and Customs
Enforcement,

Michael Bernacke, in his official capacity as
ICE Field Officer Director and Warden in
current custody of Pettioner,

PAMALA BONDI, in her official capacity as
the United States Attorney General,

The Executive Office for Immigration Review

United States Immigration and Customs
Enforcement.

Respondents

Civil No.: **2:25-cv-01146-JNP**

**MOTION TO CERTIFY PETITIONER AS A
VICTIM OF A QUALIFYING U-VISA
CRIME**

IMMIGRATION HABEAS CASE

1 Petitioner, by and through undersigned counsel, respectfully moves this Court to sign
2 Petitioner’s I-918 Supplement B and designate Petitioner as a victim of witness tampering and
3 obstruction of justice.

4 **I. PROCEDURAL AND FACTUAL BACKGROUND**

5 On December 19, 2025, Petitioner filed a petition for writ of habeas corpus with this Court
6 challenging his detention and imminent removal from the United States. Immediately upon filing the
7 petition, undersigned counsel took affirmative steps to notify the Government of the pendency of these
8 proceedings. Counsel contacted ICE through its designated outreach email address and informed ICE
9 that a habeas petition had been filed in the United States District Court for the District of Utah. Counsel
10 also emailed a courtesy copy of the habeas petition directly to the assigned Assistant United States
11 Attorney (“AUSA”).
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14 On December 22, 2025, after reviewing the petition, this Court issued an Order directing that
15 Petitioner not be removed from the United States until the habeas petition had been decided. The Court
16 also scheduled a hearing on December 31, 2025. The Order was clear, unambiguous, and effective
17 immediately. Notice of the Order was transmitted to the AUSA through the Court’s electronic filing
18 system. In addition, undersigned counsel immediately emailed a copy of the Court’s Order directly to
19 the AUSA to ensure actual notice.
20

21 Notwithstanding the filing of the habeas petition, the Court’s express Order barring removal,
22 and Respondents’ actual notice of that Order, ICE removed Petitioner from the United States on
23 December 23, 2025—one day after the Court issued its non-removal directive.
24

25 ICE’s conduct constitutes witness tampering as it would have prevented Petitioner from
26 appearing at his Habeas hearing, this also constitutes obstruction of justice.
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1 **II. LEGAL STANDARD**

2 Congress created the U nonimmigrant visa to encourage victims of certain crimes to report
3 criminal activity and assist law enforcement and the courts. *See* 8 U.S.C. § 1101(a)(15)(U). A
4 noncitizen may be eligible for U-visa classification where they demonstrate, inter alia, that they
5 suffered substantial physical or mental abuse as a result of having been a victim of a qualifying criminal
6 activity and that they have been helpful, are being helpful, or are likely to be helpful in the investigation
7 or prosecution of that criminal activity. *Id.*; 8 C.F.R. § 214.14(b).

9 A qualifying U-visa application must include a Form I-918, Supplement B, U Nonimmigrant
10 Status Certification, executed by a certifying official. 8 C.F.R. § 214.14(c)(2)(i). Certifying officials
11 include judges and courts with authority over the investigation or prosecution of qualifying criminal
12 activity. 8 C.F.R. § 214.14(a)(2).

14 Importantly, certification does not confer immigration status, determine admissibility, or
15 guarantee approval of a U-visa petition. Rather, the certifying authority’s role is limited to attesting
16 that the petitioner was a victim of qualifying criminal activity and that the petitioner was helpful to law
17 enforcement or the court. Final adjudication of the U-visa petition rests exclusively with U.S.
18 Citizenship and Immigration Services (“USCIS”). 8 C.F.R. § 214.14(c).

20 Witness tampering and obstruction of justice are expressly included as qualifying criminal
21 activities under the U-visa statute and regulations. *See* 8 U.S.C. § 1101(a)(15)(U)(iii); 8 C.F.R. §
22 214.14(a)(9).

24 Federal law defines witness tampering broadly. Under 18 U.S.C. § 1512, it is unlawful to
25 knowingly use intimidation, threats, corrupt persuasion, or conduct intended to prevent or delay the
26 testimony or attendance of a person in an official proceeding, or to hinder, delay, or prevent
27 communication with a court or law enforcement regarding the commission of a federal offense. 18
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1 U.S.C. § 1512(b), (c). An “official proceeding” expressly includes proceedings before a federal court.
2 18 U.S.C. § 1515(a)(1).

3 Obstruction of justice similarly encompasses conduct that corruptly obstructs, influences, or
4 impedes the due administration of justice. *See* 18 U.S.C. § 1503; *see also* 18 U.S.C. § 1512(c). Removal
5 or concealment of a party in pending judicial proceedings, where done with knowledge of the
6 proceedings and the effect on the court’s ability to adjudicate the matter, may constitute obstruction of
7 justice where it interferes with the court’s authority and the litigant’s ability to appear and be heard.
8

9 For U-visa purposes, a certifying authority need not find that a criminal conviction occurred or
10 that criminal charges were filed. 8 C.F.R. § 214.14(c)(2)(i). Rather, certification may be based on
11 credible evidence that the qualifying criminal activity occurred and that the petitioner was a victim of
12 that activity. The standard is practical and remedial, consistent with Congress’s intent to protect victims
13 and preserve the integrity of judicial and law-enforcement processes.
14

15 **III. PETITIONER IS A QUALIFYING VICTIM**

16 Petitioner is a qualifying victim of a U-visa enumerated crime because he suffered direct and
17 proximate harm as a result of witness tampering and obstruction of justice committed by government
18 officials in violation of 18 U.S.C. § 1512.
19

20 Under the U-visa statute and implementing regulations, a “qualifying crime” includes
21 obstruction of justice and witness tampering. 8 U.S.C. § 1101(a)(15)(U)(iii); 8 C.F.R. § 214.14(a)(9).
22 A petitioner qualifies as a victim where he has suffered physical or mental abuse as a result of the
23 criminal activity. 8 U.S.C. § 1101(a)(15)(U)(i). The victim need not show a criminal conviction; rather,
24 the certifying authority must determine that the facts support that qualifying criminal activity occurred
25 and that the petitioner was helpful or is likely to be helpful in the investigation or prosecution of that
26 activity. 8 C.F.R. § 214.14(b)(3).
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1 Here, ICE’s removal of Petitioner on December 23, 2025—after the filing of a habeas petition,
2 after the issuance of this Court’s explicit non-removal Order, and after Respondents had actual notice
3 of that Order—constitutes witness tampering and obstruction of justice within the meaning of 18 U.S.C.
4 § 1512. Section 1512 prohibits knowingly using intimidation, physical removal, or other means to
5 prevent a person from attending or testifying in an official proceeding, or to obstruct, influence, or
6 impede the due administration of justice. 18 U.S.C. § 1512(b), (c).
7

8 By forcibly removing Petitioner from the United States, ICE rendered him unable to appear at
9 the Court-ordered habeas hearing scheduled for December 31, 2025, and materially interfered with his
10 ability to participate in and pursue judicial review of his detention. This conduct directly undermined
11 an ongoing federal court proceeding and obstructed the Court’s ability to adjudicate Petitioner’s habeas
12 claims. Removal under these circumstances was not incidental or administrative in nature; it was an
13 affirmative act that had the foreseeable and intended effect of preventing Petitioner’s participation in a
14 pending judicial proceeding.
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16 Petitioner suffered substantial harm as a result of this criminal conduct. He was deprived of his
17 liberty interests protected by the Fifth Amendment, denied meaningful access to the courts, and
18 subjected to emotional distress, fear, and trauma resulting from his sudden and unlawful removal in
19 defiance of a federal court order. These harms satisfy the statutory requirement that the victim suffer
20 physical or mental abuse as a result of the qualifying criminal activity. *See* 8 U.S.C. §
21 1101(a)(15)(U)(i).
22

23 Petitioner has also been helpful, and continues to be helpful, in the investigation and prosecution
24 of this criminal activity. He initiated habeas proceedings, complied with court processes, and through
25 counsel has provided evidence and factual information regarding ICE’s actions, including notice of the
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1 Court's Order and the circumstances surrounding his removal. His cooperation has been essential to
2 uncovering and documenting conduct that directly obstructed federal judicial proceedings.

3 Accordingly, the facts before this Court establish that Petitioner is a qualifying victim of witness
4 tampering and obstruction of justice, and certification on Form I-918, Supplement B, is warranted.

5
6 **IV. PRAYER FOR RELIEF**

7 For the foregoing reasons, Petitioner respectfully requests that the Court:

- 8 1. Sign the I-918 Supplemental A submitted to the Court and certify Petitioner as a victim of a
9 qualifying crime.
10 2. Grant such other and further relief as the Court deems just and proper.

11 Dated: December 24, 2025

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13 Respectfully submitted,

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