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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 Petitioner,

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**

**AMENDED VERIFIED PETITION FOR
HABEAS CORPUS**

IMMIGRATION HABEAS CASE

INTRODUCTION

1
2 1. Federico Reyes Vasquez (Petitioner), by and through his undersigned counsel, hereby files
3 this petition for a writ of habeas corpus. Petitioner entered the United States in 2005 and entered the
4 United States without inspection. Petitioner is a native and citizen of Mexico. Petitioner was arrested
5 by ICE on December 19, 2025. Based on information and belief, Petitioner is currently detained at the
6 ICE field office in West Valley City, Utah.
7

8 2. On December 19, 2025, Petitioner filed a petition for writ of habeas corpus with this Court
9 challenging his detention and imminent removal from the United States. Immediately upon filing the
10 petition, undersigned counsel took affirmative steps to notify the Government of the pendency of these
11 proceedings. Counsel contacted ICE through its designated outreach email address and informed ICE
12 that a habeas petition had been filed in the United States District Court for the District of Utah. Counsel
13 also emailed a courtesy copy of the habeas petition directly to the assigned Assistant United States
14 Attorney (“AUSA”).
15

16 3. On December 22, 2025, after reviewing the petition, this Court issued an Order directing that
17 Petitioner not be removed from the United States until the habeas petition had been decided. The Order
18 was clear, unambiguous, and effective immediately. Notice of the Order was transmitted to the AUSA
19 through the Court’s electronic filing system. In addition, undersigned counsel immediately emailed a
20 copy of the Court’s Order directly to the AUSA to ensure actual notice.
21

22 4. Counsel and Petitioner’s family made every effort to discover the status of Petitioner with
23 ICE, however, ICE’s public inquiry line was not working, and Counsel was unable to get any
24 information from Respondents. *See* Utah District Court Case Number 2:25-cv-01159-TC. Counsel had
25 a suspicion that Petitioner may be subject to a reinstatement of a final removal order, however, he was
26 not certain because he was unable to communicate with Petitioner or the Respondents. Notwithstanding
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1 the filing of the habeas petition, the Court's express Order barring removal, and Respondents' actual
2 notice of that Order, ICE removed Petitioner from the United States on December 23, 2025—one day
3 after the Court issued its non-removal directive. On December 29, 2025, Counsel for Respondents
4 informed

5
6 5. On December 24, 2025, a motion was filed with this Court to certify Petitioner as a victim
7 of the crimes of witness tampering and obstruction of justice. *See* CM/ECF 9. Congress created the U
8 nonimmigrant visa to encourage victims of certain crimes to report criminal activity and assist law
9 enforcement and the courts. *See* 8 U.S.C. § 1101(a)(15)(U). A noncitizen may be eligible for U-visa
10 classification where they demonstrate, inter alia, that they suffered substantial physical or mental abuse
11 as a result of having been a victim of a qualifying criminal activity and that they have been helpful, are
12 being helpful, or are likely to be helpful in the investigation or prosecution of that criminal activity.
13 *Id.*; 8 C.F.R. § 214.14(b). Witness tampering and obstruction of justice are expressly included as
14 qualifying criminal activities under the U-visa statute and regulations. *See* 8 U.S.C. §
15 1101(a)(15)(U)(iii); 8 C.F.R. § 214.14(a)(9).

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17
18 6. A bona fide determination is a preliminary determination made by USCIS upon receipt of a
19 Form I-918, Petition for U Nonimmigrant Status, to assess whether the petition is facially complete
20 and presents a legitimate claim for U-visa eligibility. In making a bona fide determination, USCIS
21 evaluates whether the petitioner has submitted a properly filed Form I-918 with a valid, signed Form
22 I-918 Supplement B certification, credible evidence of victimization, and no apparent statutory
23 ineligibility. *See* 8 U.S.C. § 1101(a)(15)(U); 8 C.F.R. § 214.14. A bona fide determination does not
24 constitute final adjudication of the U-visa petition; rather, it is designed to ensure that victims of
25 qualifying crimes who have cooperated with law enforcement are not subjected to removal or
26 prolonged instability while USCIS completes full merits review. Congress and DHS authorized bona
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1 fide determinations in the U-visa context to protect victims, promote continued cooperation with
2 investigations and judicial proceedings, and prevent immigration enforcement actions from
3 undermining the humanitarian purpose of the U-visa statute.

4
5 7. When USCIS issues a bona fide determination on a Form I-918 petition, that determination
6 is accompanied by a grant of deferred action. Deferred action is an exercise of the Secretary of
7 Homeland Security's prosecutorial discretion to defer removal action against an individual for a
8 designated period of time. Although deferred action does not confer lawful status, it places the
9 individual in a period of authorized stay and affirmatively protects the individual from removal while
10 the U-visa petition remains pending. In the U-visa context, deferred action serves the statute's
11 humanitarian and law-enforcement purposes by ensuring that victims of qualifying crimes who have
12 cooperated with authorities are not removed before USCIS completes adjudication of their petitions.
13 By shielding qualifying victims from enforcement action, deferred action prevents immigration
14 removal from undermining judicial proceedings and law-enforcement interests, and preserves the
15 petitioner's ability to continue assisting investigations and court processes without fear of deportation.
16

17
18 8. A bona fide determination, and an eventual grant of U nonimmigrant status, is barred only
19 by a narrow and limited set of statutory inadmissibility grounds. Congress expressly provided broad
20 waiver authority for U-visa applicants, authorizing the Secretary of Homeland Security to waive *nearly*
21 *all* grounds of inadmissibility "in the public or national interest." *See* 8 U.S.C. § 1182(d)(14). As a
22 result, grounds that would otherwise preclude immigration benefits—including prior removal orders,
23 reinstatement of removal, unlawful entry or presence, misrepresentation, and other civil immigration
24 violations—do not bar a bona fide determination or approval of a U-visa petition and may be waived
25 through the U-visa process. Only a small subset of inadmissibility grounds, such as participation in
26 Nazi persecution or genocide, are categorically non-waivable. This expansive waiver scheme reflects
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1 Congress's intent that immigration consequences not defeat the humanitarian and law-enforcement
2 purposes of the U-visa statute, particularly where the applicant is a victim of serious criminal conduct
3 and has been helpful to authorities.

4 9. Petitioner has demonstrated prima facie eligibility for U nonimmigrant status, and the Court
5 should grant habeas relief to prevent removal and allow Petitioner to file a Form I-918 petition.
6 Congress created the U-visa to protect victims of qualifying crimes and to ensure their continued
7 participation in judicial and law-enforcement processes. *See* 8 U.S.C. § 1101(a)(15)(U). The record
8 before this Court establishes that Petitioner was the victim of qualifying criminal activity—specifically
9 witness tampering and obstruction of justice—arising directly from Respondents' removal of Petitioner
10 in violation of this Court's express non-removal order. These crimes are expressly enumerated
11 qualifying offenses under the U-visa statute and regulations. *See* 8 U.S.C. § 1101(a)(15)(U)(iii); 8
12 C.F.R. § 214.14(a)(9).

13 10. Petitioner has further demonstrated that he has been helpful, is being helpful, and is likely
14 to be helpful to the investigation and prosecution of this criminal conduct. Petitioner sought judicial
15 protection by filing a habeas petition, complied with this Court's processes, and remains available to
16 assist in the investigation of Respondents' unlawful conduct. These facts satisfy the statutory
17 "helpfulness" requirement and support issuance of a law-enforcement certification. *See* 8 U.S.C. §
18 1101(a)(15)(U)(i); 8 C.F.R. § 214.14(b)(3). At minimum, Petitioner has made a sufficient showing of
19 eligibility to warrant preservation of jurisdiction and protection from removal while the U-visa process
20 is initiated.

21 11. Granting habeas relief is necessary because removal would categorically frustrate the U-
22 visa framework and undermine Congress's intent. USCIS's bona fide determination process exists
23 precisely to prevent victims of qualifying crimes from being removed before their claims can be
24

1 evaluated. Where a petitioner is prima facie eligible for a U-visa, removal prior to filing—or during
2 adjudication—irreparably harms both the petitioner and the judicial process by eliminating access to
3 the courts and foreclosing meaningful participation in ongoing proceedings. Habeas relief is therefore
4 appropriate to restore the status quo and ensure that Petitioner may pursue the statutory protections
5 Congress made available to him.
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7 12. Importantly, Petitioner’s immigration history does not bar U-visa eligibility or a bona fide
8 determination. Congress granted DHS broad authority to waive nearly all grounds of inadmissibility
9 for U-visa applicants, including prior removal orders, reinstatement of removal, unlawful entry, and
10 other civil immigration violations. *See* 8 U.S.C. § 1182(d)(14). As a result, Petitioner’s prior removal
11 history cannot serve as a lawful basis to deny him the opportunity to seek U-visa relief or to justify his
12 continued exclusion from the United States while his claim is pending.
13

14 13. Because a bona fide determination is accompanied by deferred action, allowing Petitioner
15 to file a Form I-918 would provide immediate and lawful protection from removal while USCIS
16 conducts full adjudication. Deferred action is an established mechanism by which DHS ensures that
17 victims who are cooperating with courts and law enforcement are not removed in a manner that
18 undermines justice. Absent habeas relief, Petitioner is deprived of this statutory protection and the very
19 relief Congress intended him to seek.
20

21 14. Accordingly, the Court should grant the writ of habeas corpus and order Respondents to
22 return Petitioner to the United States, or in the alternative, to parole Petitioner or otherwise facilitate
23 his presence for the limited purpose of filing a Form I-918 and obtaining a bona fide determination.
24 Such relief is necessary to remedy Respondents’ constitutional violations, vindicate the Court’s
25 authority, and ensure that Petitioner is not unlawfully denied access to a congressionally mandated
26 form of humanitarian relief.
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JURISDICTION AND VENUE

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2 15. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general
3 federal question jurisdiction; 5 U.S.C. §§ 701 et seq., the Due Process Clause of the United States
4 Constitution and the INA. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241
5 et. seq. and the All Writs Act, 28 U.S.C. § 1651.
6

7 16. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging
8 the lawfulness or constitutionality of DHS conduct. Federal courts are not stripped of jurisdiction under
9 8 U.S.C. § 1252. *See e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).
10

11 17. Venue is proper pursuant to 28 U.S.C. § 1391(e) because Respondents are agencies of the
12 United States or officers or employees thereof acting in their official capacity or under color of legal
13 authority; Petitioner is in the custody of the Salt Lake City ICE field office in West Valley City, Utah,
14 which is in the jurisdiction of the Utah District Court and there is no real property involved in this
15 action.
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17 18. There is no requirement for exhaustion of administrative remedies in the present case as
18 neither the habeas statute, 8 U.S.C. § 2241, nor the relevant sections of the INA require petitioners to
19 exhaust administrative remedies before filing petitions for habeas corpus
20

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

21 19. The Court must grant the petition for writ of habeas corpus or issue an order to show cause
22 (OSC) to the Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.
23 If an OSC is issued, the Court must require Respondents to file a return “within three days unless for
24 good cause additional time, not exceeding twenty days, is allowed.” *Id.*
25

26 20. Courts have long recognized the significance of the habeas statute in protecting individuals
27 from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ
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1 known to the constitutional law of England, affording as it does a swift and imperative remedy in all
2 cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

3 21. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and
4 detained by Respondents.

5
6 **PARTIES**

7 **PETITIONER**

8 22. Petitioner is a Mexico citizen, who is currently in the custody of the Department of
9 Homeland Security in West Valley City, Utah.

10 **RESPONDENTS**

11 23. Respondent Kristi Noem (Secretary Noem) is the Secretary of the Department of Homeland
12 Security, the parent agency of Immigration and Customs Enforcement which is currently detaining the
13 Petitioner. Respondent Kristi Noem is sued in her official capacity as an agent of the United States
14 Government.

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16 24. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs
17 Enforcement, and he has authority over the actions of respondent Drew Bostock and ICE in general.
18 Respondent Lyons is a legal custodian of Petitioner.

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20 25. Respondent Michael Bernacke is the Field Office Director of Immigration and Customs
21 Enforcement. He is in charge of the custody of all Immigration and Customs Enforcement Detainees
22 in the Federal District of Utah. Based on information and belief, he is also the current warden of the
23 Petitioner. Respondent Michael Bernacke is sued in his official capacity as an agent of the United States
24 Government.
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1 26. Respondent Pamela Bondi is the Attorney General of the United States, and as such has
2 authority over the Department of Justice and is charged with faithfully administering the immigration
3 laws of the United States. Pamela Bondi is sued in her official capacity as an agent of the United States.

4 27. Respondent the Executive Office for Immigration Review is the federal agency responsible
5 for custody redeterminations relating to non-citizens charged with being removed from the United
6 States.

7 28. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for
8 custody decisions relating to non-citizens charged with being removable from the United States,
9 including the arrest, detention, and custody status of non-citizens.
10

11 **LEGAL FRAMEWORK**
12

13 29. Congress created the U nonimmigrant visa to encourage victims of certain crimes to report
14 criminal activity and assist law enforcement and the courts. *See* 8 U.S.C. § 1101(a)(15)(U). A
15 noncitizen may be eligible for U-visa classification where they demonstrate, inter alia, that they
16 suffered substantial physical or mental abuse as a result of having been a victim of a qualifying criminal
17 activity and that they have been helpful, are being helpful, or are likely to be helpful in the investigation
18 or prosecution of that criminal activity. *Id.*; 8 C.F.R. § 214.14(b). Witness tampering and obstruction of
19 justice are expressly included as qualifying criminal activities under the U-visa statute and regulations.
20 *See* 8 U.S.C. § 1101(a)(15)(U)(iii); 8 C.F.R. § 214.14(a)(9).
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22 30. A bona fide determination is a preliminary determination made by USCIS upon receipt of
23 a Form I-918, Petition for U Nonimmigrant Status, to assess whether the petition is facially complete
24 and presents a legitimate claim for U-visa eligibility. In making a bona fide determination, USCIS
25 evaluates whether the petitioner has submitted a properly filed Form I-918 with a valid, signed Form
26 I-918 Supplement B certification, credible evidence of victimization, and no apparent statutory
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1 ineligible. *See* 8 U.S.C. § 1101(a)(15)(U); 8 C.F.R. § 214.14. A bona fide determination does not
2 constitute final adjudication of the U-visa petition; rather, it is designed to ensure that victims of
3 qualifying crimes who have cooperated with law enforcement are not subjected to removal or
4 prolonged instability while USCIS completes full merits review. Congress and DHS authorized bona
5 fide determinations in the U-visa context to protect victims, promote continued cooperation with
6 investigations and judicial proceedings, and prevent immigration enforcement actions from
7 undermining the humanitarian purpose of the U-visa statute.
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9 31. When USCIS issues a bona fide determination on a Form I-918 petition, that determination
10 is accompanied by a grant of deferred action. Deferred action is an exercise of the Secretary of
11 Homeland Security’s prosecutorial discretion to defer removal action against an individual for a
12 designated period of time. Although deferred action does not confer lawful status, it places the
13 individual in a period of authorized stay and affirmatively protects the individual from removal while
14 the U-visa petition remains pending. In the U-visa context, deferred action serves the statute’s
15 humanitarian and law-enforcement purposes by ensuring that victims of qualifying crimes who have
16 cooperated with authorities are not removed before USCIS completes adjudication of their petitions.
17 By shielding qualifying victims from enforcement action, deferred action prevents immigration
18 removal from undermining judicial proceedings and law-enforcement interests, and preserves the
19 petitioner’s ability to continue assisting investigations and court processes without fear of deportation.
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22 32. A bona fide determination, and an eventual grant of U nonimmigrant status, is barred only
23 by a narrow and limited set of statutory inadmissibility grounds. Congress expressly provided broad
24 waiver authority for U-visa applicants, authorizing the Secretary of Homeland Security to waive *nearly*
25 *all* grounds of inadmissibility “in the public or national interest.” *See* 8 U.S.C. § 1182(d)(14). As a
26 result, grounds that would otherwise preclude immigration benefits—including prior removal orders,
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1 reinstatement of removal, unlawful entry or presence, misrepresentation, and other civil immigration
2 violations—do not bar a bona fide determination or approval of a U-visa petition and may be waived
3 through the U-visa process. Only a small subset of inadmissibility grounds, such as participation in
4 Nazi persecution or genocide, are categorically non-waivable. This expansive waiver scheme reflects
5 Congress’s intent that immigration consequences not defeat the humanitarian and law-enforcement
6 purposes of the U-visa statute, particularly where the applicant is a victim of serious criminal conduct
7 and has been helpful to authorities.
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9 33. Petitioner has demonstrated prima facie eligibility for U nonimmigrant status, and the Court
10 should grant habeas relief to prevent removal and allow Petitioner to file a Form I-918 petition.
11 Congress created the U-visa to protect victims of qualifying crimes and to ensure their continued
12 participation in judicial and law-enforcement processes. *See* 8 U.S.C. § 1101(a)(15)(U). The record
13 before this Court establishes that Petitioner was the victim of qualifying criminal activity—specifically
14 witness tampering and obstruction of justice—arising directly from Respondents’ removal of Petitioner
15 in violation of this Court’s express non-removal order. These crimes are expressly enumerated
16 qualifying offenses under the U-visa statute and regulations. *See* 8 U.S.C. § 1101(a)(15)(U)(iii); 8
17 C.F.R. § 214.14(a)(9).
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20 34. Petitioner has further demonstrated that he has been helpful, is being helpful, and is likely
21 to be helpful to the investigation and prosecution of this criminal conduct. Petitioner sought judicial
22 protection by filing a habeas petition, complied with this Court’s processes, and remains available to
23 assist in the investigation of Respondents’ unlawful conduct. These facts satisfy the statutory
24 “helpfulness” requirement and support issuance of a law-enforcement certification. *See* 8 U.S.C. §
25 1101(a)(15)(U)(i); 8 C.F.R. § 214.14(b)(3). At minimum, Petitioner has made a sufficient showing of
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1 eligibility to warrant preservation of jurisdiction and protection from removal while the U-visa process
2 is initiated.

3 35. Granting habeas relief is necessary because removal would categorically frustrate the U-
4 visa framework and undermine Congress's intent. USCIS's bona fide determination process exists
5 precisely to prevent victims of qualifying crimes from being removed before their claims can be
6 evaluated. Where a petitioner is prima facie eligible for a U-visa, removal prior to filing—or during
7 adjudication—irreparably harms both the petitioner and the judicial process by eliminating access to
8 the courts and foreclosing meaningful participation in ongoing proceedings. Habeas relief is therefore
9 appropriate to restore the status quo and ensure that Petitioner may pursue the statutory protections
10 Congress made available to him.
11

12 36. Importantly, Petitioner's immigration history does not bar U-visa eligibility or a bona fide
13 determination. Congress granted DHS broad authority to waive nearly all grounds of inadmissibility
14 for U-visa applicants, including prior removal orders, reinstatement of removal, unlawful entry, and
15 other civil immigration violations. *See* 8 U.S.C. § 1182(d)(14). As a result, Petitioner's prior removal
16 history cannot serve as a lawful basis to deny him the opportunity to seek U-visa relief or to justify his
17 continued exclusion from the United States while his claim is pending.
18

19 37. Because a bona fide determination is accompanied by deferred action, allowing Petitioner
20 to file a Form I-918 would provide immediate and lawful protection from removal while USCIS
21 conducts full adjudication. Deferred action is an established mechanism by which DHS ensures that
22 victims who are cooperating with courts and law enforcement are not removed in a manner that
23 undermines justice. Absent habeas relief, Petitioner is deprived of this statutory protection and the very
24 relief Congress intended him to seek.
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PROCEDURAL AND FACTUAL BACKGROUND

1
2 38. Petitioner entered the United States in 2005 and entered the United States without
3 inspection. Petitioner is a native and citizen of Mexico. Petitioner was arrested by ICE on December
4 19, 2025. Based on information and belief, Petitioner is currently detained at the ICE field office in
5 West Valley City, Utah.
6

7 39. On December 19, 2025, Petitioner filed a petition for writ of habeas corpus with this Court
8 challenging his detention and imminent removal from the United States. Immediately upon filing the
9 petition, undersigned counsel took affirmative steps to notify the Government of the pendency of these
10 proceedings. Counsel contacted ICE through its designated outreach email address and informed ICE
11 that a habeas petition had been filed in the United States District Court for the District of Utah. Counsel
12 also emailed a courtesy copy of the habeas petition directly to the assigned Assistant United States
13 Attorney (“AUSA”).
14

15 40. On December 22, 2025, after reviewing the petition, this Court issued an Order directing
16 that Petitioner not be removed from the United States until the habeas petition had been decided. The
17 Order was clear, unambiguous, and effective immediately. Notice of the Order was transmitted to the
18 AUSA through the Court’s electronic filing system. In addition, undersigned counsel immediately
19 emailed a copy of the Court’s Order directly to the AUSA to ensure actual notice.
20

21 41. Counsel and Petitioner’s family made every effort to discover the status of Petitioner with
22 ICE, however, ICE’s public inquiry line was not working, and Counsel was unable to get any
23 information from Respondents. *See* Utah District Court Case Number 2:25-cv-01159-TC. Counsel had
24 a suspicion that Petitioner may be subject to a reinstatement of a final removal order, however, he was
25 not certain because he was unable to communicate with Petitioner or the Respondents. Notwithstanding
26 the filing of the habeas petition, the Court’s express Order barring removal, and Respondents’ actual
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1 notice of that Order, ICE removed Petitioner from the United States on December 23, 2025—one day
2 after the Court issued its non-removal directive. On December 29, 2025, Counsel for Respondents
3 informed

4
5 42. On December 24, 2025, a motion was filed with this Court to certify Petitioner as a victim
6 of the crimes of witness tampering and obstruction of justice. *See* CM/ECF 9.

7 **CAUSES OF ACTION**

8 **1. FIRST CAUSE OF ACTION:**
9 **VIOLATION OF THE FIFTH AMENDMENT RIGHT OF ACCESS TO THE**
10 **COURTS**

11 43. Petitioner incorporates and realleges the allegations above.

12 44. The Fifth Amendment to the United States Constitution guarantees detained individuals a
13 meaningful right of access to the courts. This right is an essential component of due process and
14 prohibits the government from taking action that “actively interferes with inmates’ attempts to prepare
15 or file legal documents” or otherwise obstructs their ability to seek judicial review. *Lewis v. Casey*, 518
16 U.S. 343, 350 (1996); *see also Bounds v. Smith*, 430 U.S. 817, 821–22 (1977). The right of access to
17 the courts applies to all persons in civil detention, including noncitizens in immigration custody, and
18 encompasses the ability to communicate with counsel, file habeas petitions, comply with court orders,
19 and appear before a court in ongoing proceedings.
20

21 45. Here, Petitioner’s right of access to the courts was violated when DHS and ICE removed
22 him from the United States despite the pendency of a properly filed habeas petition and in direct
23 contravention of this Court’s express order barring removal. Removal under these circumstances
24 extinguished Petitioner’s ability to appear at a scheduled hearing, communicate meaningfully with
25 counsel, or continue litigating his claims before this Court. Compounding this violation, ICE’s failure
26 to maintain functioning communication channels prevented counsel and family members from locating
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1 Petitioner or notifying Respondents of the Court’s order through ordinary means, thereby obstructing
2 compliance with judicial process. By removing Petitioner in a manner that foreclosed his ability to
3 prosecute his habeas action and nullified this Court’s jurisdiction, DHS and ICE imposed a complete
4 and unjustified barrier to court access. Such conduct goes beyond mere procedural error and constitutes
5 a direct and unconstitutional interference with the right to seek judicial redress, in violation of the Fifth
6 Amendment.
7

8 46. The injustice Petitioner suffered as a result of Respondents’ conduct has itself created a
9 congressionally recognized avenue for immigration relief. Congress expressly designed the U-visa
10 framework to protect individuals who are victimized by serious criminal conduct—including
11 obstruction of justice and witness tampering—and to ensure that such victims are not further harmed
12 by immigration enforcement while their claims are pending. By virtue of the violations at issue in this
13 case, Petitioner is now eligible to seek U nonimmigrant status, a process that includes statutory
14 protections intended to stabilize a victim’s situation and preserve access to the courts. Continued
15 detention or exclusion of Petitioner while this avenue of relief remains pending would not merely
16 maintain the status quo; it would compound the original constitutional injury by preventing Petitioner
17 from pursuing the very protections Congress provided in response to such misconduct. Granting habeas
18 relief to allow Petitioner to pursue U-visa relief is therefore necessary to halt the ongoing harm and to
19 prevent further injustice flowing from Respondents’ unlawful actions.
20
21

22 **SECOND CAUSE OF ACTION:**

23 **VIOLATION OF THE FIRST AMENDMENT RIGHT TO PETITION THE GOVERNMENT**
24

25 47. Petitioner incorporates and realleges the allegations above.

26 48. The First Amendment to the United States Constitution guarantees the right “to petition the
27 Government for a redress of grievances.” U.S. Const. amend. I. This protection extends to all persons
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1 within the United States, including noncitizens, and encompasses the right to seek relief from the courts
2 and to communicate with executive agencies regarding one's custody, legal status, and claims for
3 statutory relief. The right to petition includes not only the formal filing of pleadings, but also the
4 practical ability to pursue legal remedies, communicate with counsel, and meaningfully participate in
5 judicial and administrative processes without government interference.
6

7 49. Here, Respondents have violated Petitioner's First Amendment right to petition by detaining
8 and removing him in a manner that foreclosed his ability to seek redress from the courts and from
9 federal agencies. Petitioner filed a habeas petition challenging his detention and sought judicial
10 protection from removal. Despite actual notice of these proceedings and a clear court order barring
11 removal, ICE removed Petitioner from the United States, effectively nullifying his pending petition
12 and preventing him from appearing before this Court. This conduct constituted direct interference with
13 Petitioner's exercise of his right to petition the judiciary for relief.
14

15 50. Respondents' actions further burden Petitioner's First Amendment rights by preventing him
16 from pursuing congressionally authorized relief through the U-visa process. The right to petition
17 includes the ability to apply for statutory immigration benefits and to seek agency action in response
18 to unlawful conduct. Petitioner's continued detention and exclusion from the United States impede his
19 ability to communicate with counsel, assist in ongoing judicial proceedings, and file a Form I-918
20 seeking protection as a victim of qualifying criminal activity. By maintaining custody or removal in
21 circumstances that make meaningful petitioning impossible, Respondents impose a substantial and
22 unjustified burden on core First Amendment activity.
23
24

25 51. Government action that effectively silences a petitioner by cutting off access to courts and
26 agencies is constitutionally impermissible absent a compelling justification narrowly tailored to serve
27 a legitimate governmental interest. No such justification exists here. Instead, Respondents' continued
28

1 detention and removal of Petitioner operate as a punitive response to his invocation of judicial process
2 and undermine the constitutional guarantee that individuals may seek redress from the government
3 without obstruction or retaliation. As a result, Respondents' conduct violates the First Amendment and
4 warrants declaratory and injunctive relief to restore Petitioner's ability to petition the government
5 meaningfully.
6

7 **THIRD CAUSE OF ACTION**

8 **UNLAWFUL INTERFERENCE WITH STATUTORY RIGHT TO SEEK U-VISA** 9 **RELIEF**

10 52. Petitioner incorporates and realleges the allegations above.

11 53. Congress created the U-visa program to encourage victims of serious crimes to report
12 criminal activity, cooperate with law enforcement, and assist in the investigation and prosecution of
13 offenses, including obstruction of justice and witness tampering. *See* 8 U.S.C. § 1101(a)(15)(U). To
14 effectuate this purpose, Congress established a statutory framework that allows qualifying victims to
15 seek U-visa relief, request a law-enforcement certification on Form I-918 Supplement B, and remain
16 available to assist in ongoing judicial and administrative proceedings while their applications are
17 adjudicated.
18

19 54. Although the decision to grant a U-visa is discretionary, the statutory right to seek U-visa
20 relief is not illusory. Federal agencies may not take actions that arbitrarily or unlawfully prevent an
21 individual from pursuing congressionally authorized relief or that frustrate the statute's remedial
22 purpose. Government conduct that forecloses access to the U-visa process—particularly where the
23 individual is a direct victim of qualifying criminal activity—constitutes unlawful interference with the
24 statutory scheme established by Congress.
25

26 55. Respondents' actions unlawfully interfered with Petitioner's statutory right to seek U-visa
27 relief. After Petitioner initiated habeas proceedings and became a victim of witness tampering and
28

1 obstruction of justice arising from ICE’s removal in defiance of a federal court order, Respondents
2 removed and continued to detain Petitioner in a manner that made it impossible for him to meaningfully
3 pursue U-visa protection. This interference deprived Petitioner of the ability to remain available to the
4 Court, assist counsel, and seek certification and adjudication of his U-visa petition as Congress
5 intended.
6

7 56. Respondents’ conduct is particularly egregious because the harm inflicted on Petitioner—
8 the obstruction of his access to the courts—created an independent statutory avenue for humanitarian
9 relief. Rather than allowing Petitioner to pursue that relief, Respondents compounded the injury by
10 maintaining detention and removal conditions that frustrate the very process Congress designed to
11 protect victims of such misconduct. Continued detention under these circumstances does not advance
12 any legitimate immigration purpose and instead undermines the statutory goals of accountability,
13 cooperation, and protection for crime victims.
14

15 57. By obstructing Petitioner’s ability to seek U-visa relief through removal and continued
16 detention, Respondents acted ultra vires and in contravention of the INA’s remedial framework.
17 Declaratory and injunctive relief are therefore warranted to prevent further interference with
18 Petitioner’s statutory right to pursue U-visa protection and to ensure that he is not punished for invoking
19 the legal remedies Congress expressly provided.
20

21 **RESERVATION OF RIGHTS**

22 Petitioner reserves the right to add additional allegations of agency error and related causes
23 of action upon receiving the certified administrative record.
24

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Petitioner requests that this Court grant the following relief:

27 A. Assume jurisdiction over the matter.
28

- 1 B. Declare Respondents' actions in violating the protective order unlawful;
- 2 C. Order DHS to release Petitioner immediately while he pursues a U-visa based on the unlawful
3 acts;
- 4 D. Order DHS to not act on the reinstated removal order until the Bona Fide Determination can be
5 adjudicated;
- 6
- 7 D. Award Petitioner costs of suit and attorney's fees under the Equal Access to Justice Act, 42
8 U.S.C. § 1988 and any other applicable law;
- 9 E. Enter all necessary relief, injunctions, and orders as justice and equity as appropriate to
10 remedy the harms to Petitioner;
- 11
- 12 F. Grant such further relief as this Court deems just and proper.

13 DATED: December 29, 2025

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18 Respectfully submitted,

19 S/ ALEC S. BRACKEN
20 Alec S. Bracken (UT SBN 17178)
21 Contigo Law
22 P.O. Box 249
23 Midvale, UT 84047
24 Tel. (801) 676-6548
25 Email: alec@contigo.law

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1 **Verification by Someone Acting on Petitioner’s Behalf Pursuant to 28 U.S.C. 2242**

2 I am submitting this verification on behalf of Petitioner because I am one of Petitioner’s
3 Attorneys. I have discussed with Petitioner’s family the events described in this Petition. I hereby verify
4 that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the
5 best of my knowledge.
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8 DATED: December 29, 2025
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Respectfully submitted,

/S/ ALEC S. BRACKEN
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Certificate of Service

I, Alec S. Bracken, certify that a true and complete copy of this Amended Petition was served on Respondents via email to the United States Attorney's Office for the District of Utah at:

Joel Ferre - joel.ferre@usdoj.gov

Andrew Choate - Andrew.Choate@usdoj.gov

Dated: December 29, 2025

Respectfully submitted,

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