

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

DANIEL VENTURA LUNA,)
)
 Petitioner,)
)
 v.)
)
 JASON STREEVAL, Warden, Stewart Detention)
 Center; **KRISTEN SULLIVAN** Acting ERO)
 Director of Atlanta Field Office, U.S. Immigration)
 and Customs Enforcement (“ICE”);)
 TODD LYONS, Acting Director of ICE)
 KRISTI NOEM, Secretary of the U.S)
 Department of Homeland Security; **PAM BONDI**,)
 Attorney General of the United States; and)
 WILLIAM KEYES, U.S. Attorney for the Middle)
 District of Georgia, in their official capacities,)
)
 Respondents.)
)

Case No. 4:25-cv-00500

**PETITION FOR HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF UNDER THE ADMINISTRATIVE PROCEDURE ACT**

INTRODUCTION

1. Petitioner, Daniel Ventura Luna, is a noncitizen and longtime resident of the United States who are harmed by Respondents’ attempts to remove him despite his positive Reasonable Fear Screening.
2. The Petitioner has lived in the United States for years and is now detained at the Stewart Detention Center in Lumpkin, GA.

3. Petitioner has been awaiting a hearing date for his Withholding of Removal application since his positive Reasonable Fear Screening in September 9, 2019. The Defendants have failed to refer Petitioner to the Immigration Court and schedule a hearing for his claim to be heard.
4. Petitioner's removal on the basis of the prior removal order violates the plain language of the INA and its implementing regulations. Petitioner passed a reasonable fear screening and
5. Petitioner is seeking declaratory relief that establishes that Petitioner is not removable as he has been found to have a reasonable fear of persecution or torture and therefore is entitled to seek withholding of removal or deferral of removal before an immigration judge.
6. A Petition for Writ of Mandamus has been filed with the U.S. District Court for the Middle District of Georgia on December 21, 2025, based on the Defendants' duty to refer the Petitioner to Immigration Court for a hearing to be held on his asylum claim pursuant to 28 U.S.C. § 1361. Additional time is needed for that petition to be adjudicated, but the Petitioner is currently facing imminent physical removal from the United States.

JURISDICTION

7. Petitioner is in the physical custody of Respondents and is detained at Stewart Detention Center in Lumpkin, GA.
8. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.* and the APA, 5 U.S.C. §§ 500–596, 701–706.
9. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal question); the APA, 5 U.S.C. §§ 500–596, 701–706; and the United States Constitution.
10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, the All Writs Act, 28 U.S.C. § 1651, and

the Court's inherent equitable powers.

VENUE

11. Venue is proper because Petitioner is detained at Stewart Detention Center in Lumpkin, Georgia, which is within the jurisdiction of this District.
12. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to his claims occurred in this District. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

13. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

PARTIES

14. Petitioner, Daniel Ventura Luna, was detained by the Department of Homeland Security ("DHS") on or around August 29, 2025. Petitioner is currently detained at Stewart Detention Center. He is in the custody of, and under the direct control of, Respondents and their agents. After detaining him, ICE did not set bond.
15. Respondent Streeval is the Warden of Stewart Detention Center and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Streeval is a legal custodian of Petitioner.

16. Respondent Kristen Sullivan is the Acting ERO director for the Atlanta Field Office of the Immigration and Customs Enforcement Agency (“ICE”), a brand of the Department of Homeland Security (“DHS”) and is sued in his official capacity. Respondent Sullivan is responsible for local custody decisions relating to aliens charged with being removable from the United States, including the custody status of Petitioner. Respondent Sullivan is a legal custodian of Petitioner and has authority to release her/him/them
17. Respondent Todd M Lyons is the acting director of ICE and is sued in his official capacity. Respondent has authority over the actions of Kristen Sullivan and ICE in general. ICE’s mission includes the enforcement of criminal and civil laws related to immigration. Among other things, ICE is responsible for the stops, arrests, and custody of individuals believed to be in violation of civil immigration law.
18. Respondent Kristi Noem is the Secretary of the Department of Homeland Security and is being sued in her official capacity. Respondent has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS which is responsible for implementing and enforcing the nation’s immigration laws pursuant to 8 U.S.C. § 1103(a). Respondent Noem is a legal custodian of the Petitioner.
19. Respondent Pam Bondi is the Attorney General of the United States. In this capacity, she has responsibility for the administration and enforcement of the immigration laws pursuant to 8 U.S.C. § 1103 and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals (“BIA”). Respondent Bondi is a legal custodian of Petitioner.

20. Respondent William Keyes is the U.S. Attorney for the Middle District of Georgia. Respondent Keyes is being sued in his capacity as a legal representative of the federal government.

STATEMENT OF FACTS

21. Petitioner is a forty-five-year-old citizen of El Salvador. He has lived in the United States for approximately 8 years. Plaintiff last entered the United States near Hidalgo, Texas on or about February 6, 2017. He was released under an Order to Supervision on February 8, 2017, and was reporting each year to ICE without fail until his sudden detention this past year on INSERT DATE. *See Exhibit A*, Order of Supervision.
22. On September 9, 2019, Plaintiff had a Reasonable Fear interview with Asylum Officer W. Shwayri from the Arlington Asylum Office¹. *See Exhibit B*, Copy of Reasonable Fear Interview, Reasonable Fear Determination Checklist, and Record of Determination/Reasonable Fear Worksheet.
23. Plaintiff was issued a decision stating he was found to have a Credible Fear of Persecution or torture in his home country on September 9, 2019. *See Exhibit B* and *Exhibit C*, Positive Credible Fear Finding.
24. Plaintiff was given a Referral to the Immigration Judge dated September 18, 2019. The referral notice does not list a time or date for the hearing. *See Exhibit D*, Notice of Referral to Immigration Judge.
25. Since then, Plaintiff has never received any other communication or decision on his immigration proceedings. Plaintiff has been awaiting a hearing date or other documentation regarding his referral to the court since his credible fear screening.

¹ Plaintiff was previously removed in 2015 following a decision issued by an Immigration Judge issued a decision on July, 2, 2015 and Plaintiff was removed shortly thereafter. *See Exhibit B*, Printout of EOIR Automatic Case Information.

26. On or around August 29, 2025, Petitioner was detained by immigration authorities at a check in.
27. On December 21, 2025, DHS informed Petitioner that he will be removed shortly.
28. Without relief from this Court, he faces the prospect of removal despite his positive reasonable fear screening and his guaranteed right to seek withholding of removal or deferral of removal before an Immigration Judge.

LEGAL FRAMEWORK

Credible and Reasonable Fear Interviews

29. If an alien is detained and expresses a fear of return to their home country, they are granted an interview with USCIS. Depending on several factors, a credible fear or reasonable fear screening may be conducted.
30. Sections 238(b) and 241(a)(5) of the Immigration and Nationality Act provide for streamlined removal procedures that prohibit certain individuals from contesting removability before an Immigration Judge and from seeking any relief from removal. Generally, however, such aliens may not be removed to a country where they are more likely than not to be persecuted or tortured.
31. Aliens who are not eligible for asylum or other forms of relief from removal may be subjected to a reasonable fear interview. The reasonable fear process is initiated when an alien subject to a final administrative removal or reinstatement of removal expresses to an Immigration and Customs Enforcement (ICE) or Customs and Border Protection (CBP) officer a fear of returning (to the country to which they have been ordered removed).

32. If an individual who has previously been removed under either Section 238(b) or Section 241(a)(5) of the INA expresses a fear of return to the country to which he or she has been ordered removed, the case must be referred to an asylum officer, who will determine whether the individual has a reasonable fear of persecution or torture.
33. Aliens who are found to have a reasonable fear of persecution or torture are then given an opportunity to seek withholding of removal or deferral of removal before an Immigration Judge. Under 8 CFR § 208.31(e), if an asylum officer determines that an alien described in this section has a reasonable fear of persecution or torture, the officer shall so inform the alien and issue a Form I-863, Notice of Referral to the Immigration Judge, for full consideration of the request for withholding of removal only. Such cases shall be adjudicated by the immigration judge in accordance with the provisions of § 208.16.
34. Those found not to have a reasonable fear of persecution or torture may request that an Immigration Judge review the negative reasonable fear determination. If an individual does not request review by the Immigration Judge or the Immigration Judge upholds the negative determination, the individual may be removed from the United States. If the Immigration Judge reverses the negative reasonable fear finding, the individual will be placed in proceedings before an Immigration Judge for a determination on eligibility for withholding or deferral of removal only.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

35. The allegations in the above paragraphs are realleged and incorporated herein.
36. The Fifth Amendment provides that “[n]o person” shall be “be deprived of life, liberty, or property, without due process of law.”

37. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

38. Moreover, “[t]he Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Id.* at 693.

39. Respondents’ mandatory detention of Petitioner without consideration for his asylum claim via a hearing in Immigration Court violates his due process rights.

COUNT TWO
Violation of the Administrative Procedure Act
Contrary to Law and Arbitrary and Capricious Agency Policy

40. The allegations in the above paragraphs are realleged and incorporated herein.

41. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

COUNT THREE
Violation of the Administrative Procedure Act
Failure to Observe Required Procedures

42. The allegations in the above paragraphs are realleged and incorporated herein.

43. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law.” 5 U.S.C. § 706(2)(D). Specifically, the APA requires agencies to follow public notice-and-comment rulemaking procedures before promulgating new regulations or amending existing regulations. *See* 5 U.S.C. § 553(b), (c).

44. Respondents failed to comply with the APA by detaining and attempting to deport Petitioner despite his positive reasonable fear screening. Respondents had the obligation to refer Petitioner to the immigration court for full consideration of the request for withholding of removal only. Such cases can only be adjudicated by the immigration judge in accordance with the provisions of § 208.16.
45. Respondents' attempts to remove Peititoner therefore violates the public notice-and-comment rulemaking procedures required under the APA.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare that Petitioner's removal violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1226(a), 8 C.F.R. §§ 236.1, 1236.1 and 1003.19, and the Administrative Procedure Act.
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner; and
- (5) Grant any further relief this Court deems just and proper.

Respectfully submitted,

This 21st day of December, 2025.

COCHRAN IMMIGRATION

/s/ Johanna Cochran
by: Johanna Cochran
Georgia Bar No. 611902
Attorney for the Petitioner

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Daniel Ventura Luna, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 21st day of December, 2025.

COCHRAN IMMIGRATION

/s/ Johanna Cochran
by: Johanna Cochran
Georgia Bar No. 611902
Attorney for the Petitioner

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