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9
10 **UNITED STATES DISTRICT COURT FOR THE**
11 **EASTERN DISTRICT OF CALIFORNIA**
12

13 Carlos ALVARADO,

14 Plaintiff,

15 v.

16 Kristi NOEM, Secretary, Department of
17 Homeland Security; Todd LYONS, in his
18 official capacity as Acting Director of U.S.
19 Immigration and Customs Enforcement; Pam
20 BONDI, Attorney General of the United
21 States; Nancy GONZALEZ, Acting Director,
22 Bakersfield, ICE Field Office; and Ron
23 MURRAY, Warden, Mesa Verde ICE
24 Processing Center.

25 Respondents.
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27
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No.

**Petition for Writ of Habeas
Corpus**

Immigration Case

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INTRODUCTION

1. Petitioner is a native of Honduras who is in lawful deferred action status and is the subject of a final order of removal.

2. Petitioner was arrested by immigration authorities on December 16, 2025 and is being held at the Mesa Verde immigration detention center.

3. Petitioner seeks an order of immediate release from this court as he is not subject to removal.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the present action based on 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (Federal Question), 28 U.S.C. § 1346(b) (Federal Defendant).

5. Venue is properly with this Court pursuant to 28 U.S.C. § 1391(e)(1) because this is a civil action in which Defendants are employees or officers of the United States, acting in their official capacity; and a substantial part of the events or omissions giving rise to the claim occurred within the Central District of California, and there is no real property involved in this action.

PARTIES

6. Petitioner is a native of Honduras who has deferred action status. He is currently detained at the Mesa Verde immigration detention center.

7. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner. She is sued in her official capacity.

8. Respondent Todd Lyons is the Acting Director of ICE and has authority

1 over the operations of ICE. In that capacity and through his agents, Respondent
2 Lyons has broad authority over the operation and enforcement of the immigration
3 laws. Respondent Lyons is sued in his official capacity.

4 9. Respondent Pam Bondi is the Attorney General of the United States. She
5 is responsible for the Department of Justice and is sued in her official capacity.

6 10. Respondent Nancy Gonzalez is the Acting Director of the Bakersfield
7 Office of ICE's Enforcement and Removal Operations division. As such, she is the
8 custodian of all persons held at the ICE facilities in the Bakersfield Field Office.
9 She is Petitioner's immediate custodian and is responsible for his detention. She is
10 sued in her official capacity.

11 11. Respondent Ron Murray is the Warden of the of the Meas Verde ICE
12 Processing Center in California, where Petitioner is detained. He has immediate
13 physical custody of Petitioner and is sued in his official capacity.

14 **FACTUAL ALLEGATIONS**

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16 12. Petitioner was born in Honduras and resides in Southern California with
17 his family, including his United States citizen wife and three United States citizen
18 children.

19 13. Petitioner is the subject of a final order of removal.

20 14. However, he was granted deferred action status on June 18, 2024, based
21 on a pending application for a U Visa, a benefit for victims of crimes.¹

22 15. On December 16, 2025, Petitioner was detained by immigration
23 authorities.

24 16. Petitioner was taken to the Mesa Verde immigration detention center and
25 is being held there.

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27 ¹ [https://www.uscis.gov/records/electronic-reading-room/national-engagement-u-](https://www.uscis.gov/records/electronic-reading-room/national-engagement-u-visa-and-bona-fide-determination-process-frequently-asked-questions)
28 [visa-and-bona-fide-determination-process-frequently-asked-questions](https://www.uscis.gov/records/electronic-reading-room/national-engagement-u-visa-and-bona-fide-determination-process-frequently-asked-questions)

1 17. Petitioner is not subject to removal, and is detained and separated from his
2 United States citizen family without legal basis.

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4 **CAUSES OF ACTION**

5 **COUNT ONE**

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7 ***Violation of 8 U.S.C. § 1231(a)(6)***

8 18. Petitioner repeats, re-alleges, and incorporates by reference each and
9 every allegation in the preceding paragraphs as if fully set forth herein.

10 19. Petitioner repeats, re-alleges, and incorporates by reference each and
11 every allegation in the preceding paragraphs as if fully set forth herein.

12 20. The government is authorized to detain an individual who is to be removed
13 from the United States. 8 U.S.C. § 1231(a)(6). Detention is only permissible “until it
14 has been determined that there is no significant likelihood of removal in the
15 reasonably foreseeable future.” *Zadvydas v. Davis*, 533 U.S. 678 (2001).

16 21. “Whether a set of particular circumstances amounts to detention within, or
17 beyond, a period reasonably necessary to secure removal is determinative of whether
18 the detention is, or is not, pursuant to statutory authority.” *Zadvydas*, 533 U.S. at 699.

19 22. Petitioner has deferred action status and cannot be removed from the
20 United States.

21 23. It therefore is unlawful to detain Petitioner if he cannot be removed, in
22 violation of 8 U.S.C. § 1231(a)(6). *Patel v. Hyde*, No. CV 25-12518-RGS, 2025
23 WL 3169875, at *2 (D. Mass. Nov. 12, 2025); *F.R.P. v. Wamsley*, 2025 WL
24 3037858, at *5-6 (D. Or. Oct. 30, 2025).

COUNT TWO

Violation of Due Process in Detaining Petitioner Who is in Lawful Status

24. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

25. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment— from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

26. Petitioner has a fundamental interest in liberty and being free from official restraint.

27. Petitioner has deferred action and cannot be removed from the United States.

28. The ongoing detention of Petitioner when he is not subject to removal violates his right to due process. *Nevarez Jurado v. Freden*, No. 25-CV-943-LJV, 2025 WL 3687264, at *12 (W.D.N.Y. Dec. 19, 2025); *Aguilar Gama v. Bondi*, No. 2:25-CV-01925-TL, 2025 WL 3559942, at *4 (W.D. Wash. Dec. 12, 2025); *F.R.P. v. Wamsley*, 2025 WL 3037858, at *5-6 (D. Or. Oct. 30, 2025); *Patel v. Hyde*, No. CV 25-12518-RGS, 2025 WL 3169875, at *2 (D. Mass. Nov. 12, 2025); *Ayala v. Bondi*, No. 2:25-CV-01063-JNW-TLF, 2025 WL 2209708, at *4 (W.D. Wash. Aug. 4, 2025).

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;

- (2) Declare that Petitioner's detention is unlawful;
- (3) Order Petitioner's immediate release from immigration custody;
- (4) Award reasonable costs and attorneys' fees; and
- (5) Grant such further relief as the Court deems just and proper.

Dated: December 21, 2025 Respectfully submitted,

By: /s/ Stacy Tolchin
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