UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-00891-MJD-DTS

JAIME ALBERTO DURAN BELTRAN,

Petitioner,

v.

DAVID EASTERWOOD, *et al.*,

Respondents.

PETITIONER'S REPLY TO RESPONDENT'S RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Jaime Alberto Duran Beltran seeks release from detention by the U.S. Immigration and Customs Enforcement ("ICE"). Respondents Kristi Noem, Todd M. Lyons, and David Easterwood (collectively, the "Federal Respondents") request denial of Petitioner's habeas relief due to claims that Beltran's removal to El Salvador is likely to occur in the foreseeable future. Petitioner respectfully submits this rebuttal of Federal Respondent's claim that ICE may unilaterally exercise authority over a valid grant of deferred action issued by its sister agency, United States Citizenship and Immigration Services ("USCIS").

Beltran meets his burden to prove that he is in custody in violation of the Constitution or the laws of the United States. He maintains that there is no significant likelihood of his removal in the foreseeable future, given his grant of deferred action. USCIS is entrusted with the discretion to concede deferred action upon applicants deemed to be eligible for T or U visa status, and in doing so, is granted authority to shield certain applicants from removal in the interest of public policy. While ICE is granted enforcement authority over removable noncitizens, the agency's authority does not extend to act as a veto power over this Congressionally delegated discretion.

The Federal Respondents' allegation that Petitioner's U Visa deferred action serves as a red herring argument is alarming. The government here describes its own regulations, which require specific procedures to be followed when it decides to terminate certain benefits, to be "something that misleads or distracts from a relevant or important question." The protections offered by Congress, the entirety of the INA and its implementing regulations, should not be regarded by this Court as a distraction from ICE's quest for mass deportation. Instead, it is precisely because Petitioner is within valid deferred action status and has been given no proper process indicating otherwise that his detention is unlawful.

ARGUMENT

I. Deferred Action as granted under U Visa Bona Fide Determination acts to prevent removal.

USCIS implemented the Bona Fide Determination process to support efficiency in the provision of deferred action to applicants awaiting final adjudication of their nonimmigrant petition. USCIS Policy Manual Vol. 3, Part C, Ch 5. As Respondents indicate, Bona Fide Determinations (BFD) are an exercise of discretion to grant an applicant deferred action for the period of the BFD and the concurrent employment authorization document (EAD) which may be issued pursuant to the BFD.

An individual within a valid grant of deferred action is within "a period of stay authorized under USCIS policy for the period deferred action is in effect." USCIS Policy Manual, Vol. 1, Part H, Ch. 2(A)(4). The governing regulations for T Visas, the only regulations which address the USCIS' authority to grant a bona fide determination in this context, state that

USCIS "automatically stays the execution of any final order of removal, deportation, or exclusion." 8 CFR 214.205(g).[1]

The role of deferred action is to defer deportation, or to ensure that "no action will... be taken to proceed against an apparently deportable alien." 525 U.S. at 484. This understanding has been broadly applied to different deferred action contexts, including that of U Visa Bona Fide Determination, to affirm that a deferred action holder cannot be removed from the United States. *Ayala v. Bondi*, 2025 U.S. Dist. LEXIS 149589 *8 (2025). Reliance on an incomplete description of deferred action as simply a designation for "lower priority for removal" is insufficiently persuasive against the Supreme Court's definitive language. *Id.* at *9. More accurately, *Ayala* finds that deferred action serves as an alternative *following* the denial of an administrative stay, thus the premise that a grant of deferred action could be superseded by a removal order would render the statutory alternative superfluous. *Id.* at *10.

Petitioner Beltran is stayed from removal for the duration during which his deferred action is in effect. Respondents' characterization of deferred action is unsupportedly narrow and does not account for the clear language of the USCIS Policy Manual, 8 CFR 214.205(g), or the Supreme Court. Respondents further seek to distinguish stays of removal from deferred action. The bare fact that deferred action does not confer an immigrant status upon an individual, while

[1] CFR 214.14, the subsection which establishes the regulations of the U Visa, notably has not been updated to include the "bona fide determination" language. As the establishment of U Visa bona fide determination (est. June 2021) predates that of T Visa bona fide determination (August 2024), the details specified in CFR 214.205 are read to clarify and elaborate upon the bona fide determination as a whole. USCIS Electronic Reading Room, *National Engagement – U Visa and Bona Fide Determination Process – Frequently Asked Questions*, A22, https://www.uscis.gov/records/electronic-reading-room/national-engagement-u-visa-and-bona-fide-determination-process-frequently-asked-questions (last visited February 4, 2026); CFR 214.205(a).

true, fails to take the words at their essence: that they defer removal action against the person to whom they refer.

II. ICE cannot unilaterally revoke authorization granted by USCIS.

Federal Respondents accurately identify that deferred action may be terminated at the discretion of USCIS. Importantly, ICE is not granted the same discretion. To allow ICE to overrule the clear determination of USCIS would rewrite the DHS hierarchy and grant unchecked power to its enforcement arm.

Employment authorization is revocable by USCIS only when certain conditions have been met, including the provision of notice and an opportunity to respond. The district director may revoke such authorization when a condition of its approval is not met or when the information contained in the application is shown not to be true or correct, but only after serving written notice of intent to revoke the authorization. USCIS Policy Manual Vol. 3, Chapter 6. This notice must include an indication of the basis for revocation, and its recipient must be given fifteen days from the date of service to contest this basis. *Id.*

While a final removal order may control in the case of a pending application for U nonimmigrant status, the same is not true when the applicant has been granted this bona fide determination. "[A]n ever-growing number of district courts across the country have concluded[] that an unrevoked grant of deferred action prevents removal." *Jurado v. Freden*, No. 25-CV-943-LJV, 2025 U.S. Dist. LEXIS 262846 (W.D.N.Y. Dec. 19, 2025) at *8. "Approval of deferred action status means that, for . . . humanitarian reasons[,] . . .no action will thereafter be taken to proceed against an apparently deportable alien." *Reno v. Am.-Arab Anti-Discrimination Comm.*,

525 U.S. 471, 484 (1999) (Scalia J.) (quoting 6 C. Gordon, S. Mailman, & S. Yale-Loehr, *Immigration Law & Procedure* § 72.03[2][h] (1998)).

Petitioner Beltran was placed in deferred action by way of the bona fide determination on his U visa application. USCIS has taken no steps to terminate Beltran's deferred action. Respondents give no indication that USCIS has determined any fault in the issuance of Beltran's authorization and have not provided facts to support any changed circumstance impacting Beltran's eligibility for deferred action.

Here, Respondents confuse the discretion of USCIS to terminate deferred action with a unilateral authority of ICE to do the same. USCIS is a critical arm of the Department of Homeland Security and should not have its Congressionally delegated authority controlled, overshadowed, or interfered with by its coequal branch. Further, Respondents deny Petitioner of his procedural due process by seeking to bypass the notice of intent to revoke authorization. Petitioner has not been given proper notice of or reasoning for the revocation of the employment authorization conferred by his grant of deferred action. He has neither been given the requisite opportunity to respond.

III. Beltran's Bona Fide Determination renders his detention by ICE unlawful.

The Government's only authority to detain Petitioner lies within the false premise that there is a substantial likelihood of his removal to El Salvador in the reasonably foreseeable future. Given that Beltran is within a lawfully granted period of deferred action through his Bona Fide Determination, which remains valid until November 2027, this is not the case. Without meaningful steps by USCIS to terminate Beltran's grant of deferred action, there is no indication

that Beltran is at any risk of becoming removable. Thus, Beltran is not removable in the foreseeable future and cannot be lawfully held in custody by ICE.

CONCLUSION

Petitioner respectfully requests that the Court reject Federal Respondents' dangerous claims that a USCIS grant of deferred action may be rendered meaningless by ICE. USCIS should be afforded the authority to adjudicate this U Visa petition, and Petitioner should be released from custody to await decision in his properly filed application for nonimmigrant status.

DATED: February 4, 2026

Respectfully submitted,

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