


IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

ISRAEL CHAVEZ CACERES,)
)
 Petitioner,)
 v.)
 NIKITA BAKER, in her official capacity as)
 Director of Baltimore Field Office, U.S.)
 Immigration and Customs Enforcement;)
 TODD LYONS, in his official capacity as)
 Acting Director of U.S. Immigration and)
 Customs Enforcement; KRISTI NOEM, in her)
 official capacity as Secretary of the)
 U.S. Department of Homeland Security;)
 U.S. DEPARTMENT OF HOMELAND)
 SECURITY; and U.S. IMMIGRATION AND)
 CUSTOMS ENFORCEMENT; and PAMELA)
 JO BONDI, in her official capacity as Attorney)
 General of the United States,)
 Respondents.)

Case No. 1:26-cv-498

**PETITION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT**

INTRODUCTION

1. Petitioner, Israel Chavez Caceres, is a citizen and national of El Salvador, who has resided in the United States for over 25 years. Petitioner has significant mental health issues.
2. On October 15, 2024, Petitioner was arrested by Respondents and placed in removal proceedings, and then released on his own recognizance pursuant to 8 U.S.C. § 1226. (Exhibit A.) In addition, Petitioner was placed on the Intensive Supervision Appearance Program (“ISAP”) and fitted with an ankle monitoring bracelet. Furthermore, Petitioner was required to download an app on his smart phone so Respondents could monitor and communicate with Petitioner. Since that time, Petitioner has complied with the conditions of his release on his own recognizance and complied with all ISAP requirements.

3. Soon after being placed in removal proceedings, Petitioner retained undersigned counsel to represent him in those proceedings. Currently, Petitioner is scheduled for a merits hearing on his application for asylum for October 19, 2027, in the Baltimore, Maryland Immigration Court.
4. On February 5, 2026, during a routine check-in, Respondents, at the Baltimore Field Office of the Enforcement and Removal Operations (“ERO”), which is a component of the U.S. Immigration and Customs Enforcement (“ICE”), which is a bureau within the Department of Homeland Security (“DHS”), abruptly arrested and detained Petitioner with no warning or prior notice.
5. Petitioner is currently in the custody of Respondents in a holding room at their headquarters at 31 Hopkins Plaza, Baltimore, MD 21201.
6. This arrest and detention was unlawful for multiple reasons. The Respondents failed to give Petitioner any notice whatsoever of its intent to revoke his order of release on his own recognizance and/or ISAP and then re-detain him, but even if it had, it simply could not justify the sudden reversal of its prior decision to release him. Indeed, Petitioner’s detention bears no reasonable relationship to any government purpose: he has fully complied with the conditions of his release and the ISAP, there have been no changes since he was released on his own recognizance, and there is no new indication that he presents a risk of flight or a danger to the community.
7. On the contrary, given Petitioner’s 18-month compliance with the conditions of his release and ISAP, the reasons supporting his release have only been reinforced.
8. ICE’s arbitrary and unfounded actions violate its own regulations, the Immigration and Nationality Act, the Administrative Procedure Act, and the Fourth and Fifth Amendment of

the U.S. Constitution.

9. Petitioner seeks injunctive, habeas, and declaratory relief and asks the Court to order his immediate release from ICE custody and, in any interim, enjoin his transfer from this district pending the adjudication of this petition/complaint to avoid irreparable harm.

PARTIES

10. Petitioner is currently in the custody, and under the direct control, of Respondents and their agents, at 31 Hopkins Plaza, Baltimore, MD 21201, within this judicial district, in fact, it is directly across the street from this Court.
11. Respondent Nikita Baker is sued in her official capacity as the Field Office Director for the ICE Baltimore Field Office. In this capacity, she has jurisdiction over the detention holding room at ICE headquarters where Petitioner is being held. As such, she is a legal custodian of Petitioner and is authorized to release him.
12. Respondent Todd Lyons is sued in his official capacity as the Acting Director of ICE. In this capacity, he is responsible for the enforcement of U.S. immigration laws, including detention decisions, and oversees Respondent Baker. As such, he is a legal custodian of Petitioner and has the authority to release him.
13. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. of the DHS. In this capacity, she is responsible for the enforcement of U.S. immigration laws and oversees ICE, the component agency responsible for Petitioner's detention, including Respondents Lyons and Baker. As such, Respondent Noem is a legal custodian of Petitioner and is authorized to release him.
14. Respondent DHS is a federal agency charged with the enforcement of U.S. immigration laws. It is the parent agency of ICE, which is responsible for the revocation of Petitioner's

OSUP and his subsequent re-detention.

15. Respondent ICE is the component agency of DHS responsible for the revocation of Petitioner's OSUP and his subsequent re-detention.
16. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.
17. This action is commenced against all Respondents in their official capacities.

JURISDICTION

18. This action arises under the U.S. Constitution; the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*; the Administrative Procedure Act ("APA"), 5 U.S.C. § 551 *et seq.*; and the Rehabilitation Act, 29 U.S.C. § 794.
19. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question). The Court may grant relief pursuant to the U.S. Constitution, art. I, § 9, cl. 2 (Suspension Clause); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. §§ 2201-02 (Declaratory Judgment Act); 28 U.S.C. § 2241 (habeas corpus); and 5 U.S.C. §§ 702, 706 (judicial review of agency actions).

VENUE

20. Venue is proper because Petitioner was detained within the jurisdiction of this District at the ICE Baltimore Field Office at 31 Hopkins Plaza, Baltimore, MD 21201. Venue is also proper because Respondents are officers, employees, or agencies of the United States and Respondent Baker resides and conducts operations in this District, a substantial part of the events giving rise to Petitioner's claims occurred in this District, and Petitioner resides in this district and no real property is involved in this action. 28 U.S.C. § 1391(e).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

21. As an initial matter, Petitioner has no administrative remedies to exhaust as, upon information and belief, he has been provided no process to challenge the revocation of his release on his own recognizance and/or ISAP or his re-detention. In any event, exhaustion of administrative remedies is not required in this context. Exhaustion is only required where Congress specifically mandates it. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). The statute under which Petitioner is detained, 8 U.S.C. § 1231(a), includes no express exhaustion requirement.

STATEMENT OF FACTS

22. Petitioner is a 44-year-old citizen of El Salvador who has resided in the United States for over 25 years.
23. Petitioner has significant mental health issues and has been found by a Maryland state court judge in at least one criminal proceeding that he did not understand the nature and object of the proceedings against him and was unable to assist in his own defense.
24. On October 15, 2024, Petitioner was arrested by Respondents and placed in removal proceedings, and then released on his own recognizance pursuant to 8 U.S.C. § 1226. (Exhibit A.) In addition, Petitioner was placed on the Intensive Supervision Appearance Program (“ISAP”) and fitted with an ankle monitoring bracelet. Furthermore, Petitioner was required to download an app on his smart phone so Respondents could monitor and communicate with Petitioner. Since that time, Petitioner has complied with the conditions of his release on his own recognizance and complied with all ISAP requirements.
25. Soon after being placed in removal proceedings, Petitioner retained undersigned counsel to represent him in those proceedings. Currently, Petitioner is scheduled for a merits hearing

on his application for asylum for October 19, 2027, in the Baltimore, Maryland Immigration Court.

26. On February 5, 2026, during a routine check-in, Respondents, at the Baltimore Field Office of the Enforcement and Removal Operations (“ERO”), which is a component of the U.S. Immigration and Customs Enforcement (“ICE”), which is a bureau within the Department of Homeland Security (“DHS”), abruptly arrested and detained Petitioner with no warning or prior notice.
27. Petitioner is currently in the custody of Respondents in a holding room at their headquarters at 31 Hopkins Plaza, Baltimore, MD 21201.

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT – 5 U.S.C. § 706(2)(A)

ABUSE OF DISCRETION

VIOLATION OF 8 U.S.C. § 1226(B), 8 C.F.R. § 1236.1(C)(9)

28. Petitioner restates and realleges all paragraphs as if fully set forth here.
29. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).
30. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).
31. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.”

Dep't of Com. v. New York, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

32. By categorically revoking Petitioner's release and seeking to transfer him away from the district without consideration of his individualized facts and circumstances, Respondents have violated the APA.
33. By detaining and seeking to transfer the Petitioner categorically, Respondents have further abused their discretion because there have been no changes to his facts or circumstances since the agency made its initial custody determination that support the revocation of his release from custody.
34. On October 15, 2024, Respondents have already considered Petitioner's facts and circumstances and determined that he was not a flight risk or danger to the community and released him on his own recognizance. There have been no changes to the facts that justify this revocation of his release on his own recognizance. The fact that Petitioner has already been granted release by Respondents under the same facts and circumstances shows that Respondents do not consider him, on an individualized basis, to be a danger to the community or a flight risk.
35. Moreover, Respondents have kept a tight leash on Petitioner on the ISAP by requiring him to wear an ankle monitoring bracelet and monitoring his smart phone with a government monitoring app. These monitoring devices should have been sufficient to monitor Petitioner without the need to arrest and detain him.

COUNT TWO

**VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT – 5 U.S.C. § 706(2)(A)
NOT IN ACCORDANCE WITH LAW AND IN EXCESS OF STATUTORY AUTHORITY
VIOLATION OF 8 U.S.C. § 1226(B), 8 C.F.R. § 1236.1(C)(9)**

36. Petitioner restates and realleges all paragraphs as if fully set forth here.
37. The fundamental aim of the APA is to ensure that federal agencies engage in "reasoned

decisionmaking” bounded by the law. *Baltimore Gas & Elec. Co. v. Nat. Res. Def. Council, Inc.*, 462 U.S. 87, 104 (1983). Under the APA, “final agency action for which there is no other adequate remedy in a court [is] subject to judicial review.” 5 U.S.C. § 704. In turn, reviewing courts must “hold unlawful and set aside agency action” that is, *inter alia*, “without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

38. At minimum, the APA requires that agencies comply with the procedures that they themselves establish for decisionmaking, including their own internal policies. 5 U.S.C. § 706(2)(D); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (remanding where agency failed to follow its own regulations and internal manual, stressing that “[w]here the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures....”).
39. The statute at 8 U.S.C. § 1226(b) authorizes “[t]he Attorney General at any time may revoke a bond or parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen under the initial warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that such revocations of release from custody may only be carried out in the “discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign).”
40. It is a well-established administrative principle that “agency action taken without lawful authority is at least voidable, if not void ab initio.” *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); *see also Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating agency action because it was taken by unauthorized official).
41. On information and belief, Respondents have revoked or are revoking Petitioner’s prior

custody determination as a result of a categorical policy prepared by and implemented by unidentified government officials in Washington, not through the individual exercise of discretion required by law or by the individuals enumerated by regulation to do so.

42. Because Petitioner's revocation of release from custody has been made or will be categorically directed by government officials not authorized by law to make this determination, Respondents' detention of Petitioner is not in accordance with law and in excess of statutory authority.

COUNT THREE
VIOLATION OF FIFTH AMENDMENT RIGHT TO DUE PROCESS
PROCEDURAL DUE PROCESS

43. Petitioner restates and realleges all paragraphs as if fully set forth here.
44. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); accord *Reno v. Flores*, 507 U.S. 292, 306 (1993).
45. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).
46. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not "unlimited" and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.
47. Here, Respondents have chosen to revoke Petitioner's release in an arbitrary manner and not based on a rational and individualized determination of whether he is a safety or flight

risk, in violation of due process. Because no individualized custody revocation has been made and no circumstances have changed to make Petitioner a flight risk or a danger to the community, Respondents' revocation of Petitioner's release violates his right to procedural due process.

COUNT FOUR

VIOLATION OF THE *ACCARDI* DOCTRINE WITH RESPECT TO 8 C.F.R. § 287.8(c)(2)(i), (ii)

48. Petitioner restates and realleges all paragraphs as if fully set forth here.
49. Under the *Accardi* doctrine, the government and its agencies are required to follow their own binding rules. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954).
Where a regulation governing agency behavior has been promulgated, citizens and noncitizens alike are entitled to "that due process required by the regulations." *Id.* at 268.
50. Regulations governing immigration enforcement require that warrantless arrests conform to the standards in 8 C.F.R. § 287.8(c). Specifically, for any arrest, immigration officers must have reason to believe that an individual committed an offense against the United States or was present illegally. 8 C.F.R. § 287.9(c)(2)(i). And, for a warrantless arrest, officers must also have reason to believe that an individual is "likely to escape before a warrant can be obtained." 8 C.F.R. § 287.8(c)(2)(ii).
51. On information and belief, Respondents did not arrest Petitioner pursuant to new (and valid) warrant.
52. At the time of the arrest, Petitioner had complied with the conditions of his release on his own recognizance and complied with all ISAP requirements. Moreover, Respondents had placed an ankle monitoring bracelet on Petitioner's leg and required him to install a government monitoring app on his smart phone. Petitioner's compliance with his conditions of release and ISAP, and the Petitioner's compliance with the monitoring

devices indicate that he is highly unlikely to “escape before a warrant can be obtained.”

53. Therefore, Petitioner’s arrest and continued detention contravene regulations governing immigration arrests in violation of the *Accardi* doctrine.

COUNT FIVE

VIOLATION OF THE FOURTH AMENDMENT OF THE CONSTITUTION AND 8 U.S.C. § 1357(a)(2)

54. Petitioner restates and realleges all paragraphs as if fully set forth here.
55. The Fourth Amendment protects “[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures.” U.S. Const. amend. IV. The Supreme Court has consistently recognized that immigration arrests and detentions are “seizures” within the meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the “seizure” of the person).
56. As a general matter, the Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). That neutral, judicial determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See id.* Arrest and detention of a person, including of a noncitizen, absent a neutral, judicial determination of probable cause violates the Fourth Amendment of the Constitution. *Id.*; *see also Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991). This determination must occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstance. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. at 57.
57. Congress enacted a strong preference that immigration arrests be based on warrants. *See Arizona v. U.S.*, 567 U.S. 387, 407–08 (2012). The Immigration and Nationality Act thus

provides immigration agents with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). Specifically, an officer must have “reason to believe” the person is violating the immigration laws and that the person “is likely to escape before a warrant can be obtained.” *Id.* Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

58. On information and belief, Respondents did not arrest Petitioner pursuant to new (and valid) warrant.
59. At the time of the arrest on February 5, 2026, Petitioner had complied with the conditions of his release on his own recognizance and complied with all ISAP requirements. Moreover, Respondents had placed an ankle monitoring bracelet on Petitioner’s leg and required him to install a government monitoring app on his smart phone. Petitioner’s compliance with his conditions of release and ISAP, and the Petitioner’s compliance with the monitoring devices indicate that he is highly unlikely to “escape before a warrant can be obtained.”
60. Therefore, no officer could hold a reasonable belief that Petitioner was likely to escape before a warrant could be obtained. *See* 8 U.S.C. § 1357(a)(2).
61. Without a statutory basis to arrest, Respondents required under the Fourth Amendment to secure a prompt judicial probable cause determination to continue holding Petitioner. *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56–57. Petitioner received no such judicial determination yet and if his detention continues beyond 48 hours with a judicial determination, such detention would be presumptively unconstitutional.
62. Respondents cannot salvage this seizure by invoking generalized immigration enforcement interests. The Fourth Amendment’s reasonableness inquiry is fact-specific and demands

individualized justification for both the arrest and the extended detention. *See United States v. Brignoni-Ponce*, 422 U.S. 873, 882–84 (1975); *Gerstein*, 420 U.S. at 114.

63. Petitioner’s warrantless arrest occurred in violation of the clear, narrow circumstances permitted by statute. There has been no finding of probable cause or other determination by a neutral magistrate that would cure this infirmity; Petitioner’s arrest lacked any legal basis and there continues to be no legal basis for his detention. Therefore, his arrest and ensuing detention constitutes an unreasonable and unlawful seizure in violation of the Fourth Amendment

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Petitioner’s transfer outside the District of Maryland and his removal from the United States pending the Court’s adjudication of this Petition;
- (3) Retain jurisdiction over this matter even if Petitioner is transferred out of the District of Maryland;
- (4) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (5) Declare that Respondents’ revocation of Petitioner’s conditions of release on his own recognizance and/or ISAP and his re-detention violate the Due Process Clause of the Fifth Amendment, the Administrative Procedures Act, 8 U.S.C. § 1231(a), and 8 C.F.R. § 241.4 or § 241.13;
- (6) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (7) Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act, and

on any other basis justified under law; and

- (8) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/Timothy W. Davis

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

I represent Petitioner 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 6th day of February, 2026.

/s/Timothy W. Davis

Timothy W. Davis

CERTIFICATION PURSUANT TO LOCAL STANDING ORDER 2025-01

I, the undersigned, hereby certify pursuant to Fed. R. Civ. P. 11, as follows: (1) I understand the Petitioner to be presently detained in Maryland, based on the fact that Petitioner was arrested by ICE in Maryland yesterday and I personally talked to Petitioner by phone yesterday late in the afternoon and he confirmed that he was at ICE Baltimore Hold Room at 31 Hopkins Plaza, Baltimore, Maryland 21201; (2) emergency relief is necessary, because Petitioner is at risk of unlawful removal from the United States; and (3) this Court has subject-matter jurisdiction over the Petitioner pursuant to 28 U.S.C. § 2241, and no jurisdiction-stripping statute applies to prevent habeas corpus review of detention and unlawful removal.

Dated this 6th day of February, 2026.

/s/Timothy W. Davis

Timothy W. Davis