

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MINNESOTA**

Walter Acuna Cruz,
Petitioner.

v.

David Easterwood, Director of St. Paul
Enforcement and Removal Operations,
Immigration and Customs Enforcement;
Kristi Noem, Secretary of the Department
Homeland Security; Mike Stasko,
Administrator of the Freeborn County
Jail; Todd Lyons, Acting Director, U.S.
Immigration and Customs Enforcement;
Pamela Bondi, Attorney General of the
United States, and Joseph Edlow, Director
United States Citizenship and in their
official capacities.

Respondents.

**EMERGENCY MOTION TO HOLD
IN CONTEMPT AND ORDER
IMMEDIATE RELEASE**

CASE No: 26-cv-01393

MOTION

1. Petitioner, Walter Acuna Cruz ("Walter") remains unlawfully detained and Respondents continue to fail to comply with the law surrounding his custody review, they continue to violate the Due Process Clause of the Constitution and now, subject of this emergency motion, egregiously violate the Administrative Procedure Act and this Courts' order granting in part the Temporary Restraining Order filed by Walter. *See* ECF No. 1; ECF. No 14; Exhibit A.
2. This Court generously provided Respondents with the opportunity to cease ignoring Walter's claims by granting an additional briefing opportunity (*See* ECF. 14), and ordered them to facilitate the biometrics appointment. *See Id* at 9.

3. However, upon attending the biometrics appointment, USCIS staff turned ICE staff and Walter away, informing them that they do not take detained persons' biometrics. *See* Exh. A. USCIS staff were informed of the Court's order, and the supervisory officer simply advised they were the supervisor at the center and that was their policy and requested that Walter leave. *Id.*
4. When Counsel was put on notice of this, immediate attempts were made to try to reschedule the biometrics appointment to minimize harm to Walter, but Counsel received an error that rescheduling could only occur before the appointment. *See* Exh. B. Detrimentially relying on Respondents to comply with this Court's order precludes any ability to reschedule the appointment and USCIS has already made it clear this appointment will not and cannot be rescheduled as previously filed.
5. The Respondents used the Court's generosity in allowing them additional opportunities to brief despite their multiple failures to do so to prevent Walter from pursuing the benefits he is lawfully entitled to, and to ensure that Walter was stuck in the exact catch-22 that he asked the Court to relieve him from.
6. There is no further guess work in this matter, and it is extremely clear that Respondents have created a category of ineligible applicants for U visas without following lawmaking or rulemaking processes, per the Petition. *See* ECF. 1.
7. Walter is again in a position where his detention is being prolonged because of the Respondents' unlawful actions. If Walter's T Visa or U Visa is approved (which is contingent on his biometrics appointment), his removal proceedings will be mandatorily reopened and terminated (*See* 8 C.F.R. 1003.18(d)(1)(D)(4)), and his

release would also be mandatory. By preventing the biometrics appointment, refusing to share data and refusing to facilitate such an appointment, the Respondents therefore ensure Walter's detention continues, which is consistent with failing to appropriately respond to Walter's allegations to draw out litigation, and consistently ignoring the Court's orders.

8. In addition, it is now unequivocally clear that Respondents have created a class of aliens ineligible for certain visas and other immigration benefits (including U visas, as here), namely "detainees" without having passed the notice and comment rulemaking requirements of the APA or any congressional lawmaking procedures, as alleged in the Petition. *See* ECF 1.
9. The only remedy is to allow Walter's release, so he escapes the Respondents' unlawful attempts to keep him detained and to refuse to adjudicate the benefits he is lawfully eligible for, entitled to and has a property interest in, and so that he is no longer a member of the unlawfully created ineligible class of "detainees". His ongoing detention is a violation of the INA, APA and Fifth Amendment as a result of Respondents' conduct.
10. The Respondents cannot be afforded any more generosity to ignore this Court's orders and to purposely extend his already unlawful detention. This isn't new, and as expressed before, the "Court's patience is at an end." *See Juan T.R. v Noem, et al*, 26-CV-0107, at 2 (D. Minn., Jan 8, 2026).
11. Walter requests that the Court issue immediate release, meaning no later than two (2) hours after the Court issues the order, allowing for transport to Fort Snelling for

Walter to collect his belongings, including his passport and any other effects in property. Walter should only be placed under such conditions of supervision as the Court deems necessary, and Respondents should not be permitted to impose additional release restrictions, considering his significant rehabilitation (*See* ECF. 1, Exh C).

12. Walter also requests that the Respondents provide an update to the Court of his release within four (4) hours of the Court's order.
13. Walter further requests that the Court hold Respondents in contempt of court, or at least issue an Order to Show Cause as to why they should not be held in contempt of court and then hold an evidentiary hearing at which the relevant USCIS officers and supervisors are required to answer questions relating to their conduct in this case under oath. *See* 18 U.S.C. § 401.
14. Walter alleges that Respondents' actions have obstructed the administration of justice, constitute misbehavior in official transactions, and further constitute disobedience or resistance to this Court's lawful writ, process, order, rule, decree, or command. *See id.*
15. If the Court grants this motion and holds Respondents in contempt, Walter further suggests that the Court impose upon USCIS (paid by the agency directly) and the actors implicated in this matter, imprisonment or a fine payable to the Court.
16. Petitioner incorporates by reference and realleges here as if fully set forth herein all of the factual allegations and claims made in his verified habeas corpus petition. *See* ECF No. 1.

DATED: February 18, 2026

Respectfully submitted,

/s/ Stacey R. Rogers

Stacey R. Rogers (WSBA 61754)

Pro hac vice

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