


UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

Orlando VILORIO)
)
 A# )
)
 Petitioner)
)
 v.)
)
 KRISTI NOEM,)
 U.S. Secretary of Homeland Security;)
 TODD M. LYONS,)
 in his official capacity as Acting Director,)
 U.S Immigration and Customs Enforcement;)
 NIKITA BAKER, in her official capacity as)
 Field Office Director of the ICE Baltimore)
 Field Office;)
 VERNON LIGGINS, in his official)
 capacity as Deputy Field Office Director of)
 the ICE Baltimore Field Office)
)
 Respondents.)
 _____)

Case No. _____

PETITION FOR WRIT OF HABEAS CORPUS

(28 U.S.C. § 2241)

INTRODUCTION

1. Petitioner Orlando Vilorio challenges his ongoing civil immigration detention as unlawful and unconstitutional.

2. Respondents are detaining Petitioner without providing any meaningful opportunity for release on bond, based on an expansive and erroneous interpretation of the Immigration and Nationality Act (“INA”), including reliance on recent agency precedent.
3. This detention scheme violates the INA, exceeds agency authority, and deprives Petitioner of liberty without due process of law.

JURISDICTION AND VENUE

4. This Court has jurisdiction under:
 - 28 U.S.C. § 2241
 - 28 U.S.C. § 1331
 - 5 U.S.C. § 706
5. Venue is proper because Petitioner is detained within the District of Maryland.
6. Respondent Nikita Baker is the official with immediate custody over Petitioner.

STATEMENT OF FACTS

7. Petitioner is a native and citizen of El Salvador who entered the United States without inspection on April 20, 2002. He has resided continuously in the United States for over twenty three years.
8. On March 21, 2026, Petitioner was detained by ICE and placed in custody in Baltimore, Maryland.

9. Petitioner is currently pursuing a Violence Against Women Act or VAWA self-petition filed on his behalf. Petitioner will be eligible to file for VAWA Cancellation of Removal in Immigration Court when he is issued a Notice to Appear.
10. Despite his longstanding presence, Respondents are treating Petitioner as subject to detention under 8 U.S.C. § 1225, thereby denying him access to a bond hearing. Petitioner's pursuit of VAWA-based relief further demonstrates that he has a viable pathway to lawful status and is neither a flight risk nor a danger to the community.

CLAIMS FOR RELIEF

COUNT I – STATUTORY VIOLATION

(MISCLASSIFICATION UNDER THE INA)

¹ The Violence Against Women Act ("VAWA") permits certain noncitizens who have been subjected to battery or extreme cruelty by a U.S. citizen or lawful permanent resident spouse or parent to self-petition for immigrant classification without the participation of the abuser pursuant to INA § 204(a)(1)(A)(iii) and (B)(ii), as implemented by 8 C.F.R. § 204.2(c); to qualify, the applicant must demonstrate a qualifying relationship, that the marriage was entered into in good faith, that he or she resided with the abuser, that he or she was subjected to battery or extreme cruelty, and that he or she is a person of good moral character, and under the statute and regulations USCIS must evaluate such petitions under the "any credible evidence" standard, which prohibits the agency from requiring specific forms of corroboration such as police reports and mandates consideration of all relevant evidence; VAWA further provides robust confidentiality protections under 8 U.S.C. § 1367, limits the ability of the government to rely on information provided by the abuser, and affords significant immigration benefits, including exemptions from several adjustment of status bars under INA § 245(a) and related provisions, thereby making VAWA self-petitioners eligible to pursue lawful permanent residence notwithstanding unlawful entry, status violations, or unauthorized employment, and establishing a viable and statutorily recognized pathway to relief that must be considered in evaluating the legality and necessity of continued immigration detention.

12. The INA establishes distinct detention frameworks:

8 U.S.C. § 1225 applies to applicants for admission. 8 U.S.C. § 1226 applies to noncitizens already present in the United States

13. Respondents' classification of Petitioner under § 1225 is inconsistent with the statutory structure and exceeds the scope of that provision.

14. Properly classified, Petitioner is detained under § 1226(a), which provides for discretionary detention and release on bond.

16. By denying Petitioner access to a bond hearing, Respondents are acting contrary to law.

COUNT II – VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

17. The Administrative Procedure Act prohibits agency action that is arbitrary, capricious, or contrary to law; or in excess of statutory jurisdiction, authority, or limitations.

(5 U.S.C. § 706)

18. Respondents' detention of Petitioner is based on an interpretation of the INA that:
expands § 1225 beyond its statutory scope; eliminates eligibility for bond categorically;
and disregards the structure Congress enacted in § 1226.

19. This interpretation constitutes agency action that is:contrary to law;

in excess of statutory authority; and arbitrary and capricious.

20. The agency's application of this interpretation to Petitioner results in unlawful detention without individualized review.

COUNT III – VIOLATION OF THE FIFTH AMENDMENT (DUE PROCESS)

21. Civil detention must be accompanied by adequate procedural protections. Petitioner is being detained without: an individualized custody determination; any opportunity to seek release on bond; any meaningful process to challenge his continued detention.
23. The deprivation of liberty without a meaningful opportunity for release violates the Due Process Clause of the Fifth Amendment.

COUNT IV – FAILURE TO PROVIDE A CONSTITUTIONALLY ADEQUATE BOND PROCESS

24. Even if Respondents were to provide a bond hearing, due process requires that the hearing be meaningful.
25. A constitutionally adequate bond hearing requires that: **the government bears the burden of justifying detention; and detention be based on proof of flight risk or**

danger to the community. The current detention scheme effectively places the burden on the detainee to prove eligibility for release, or eliminates the bond process entirely.

This framework is constitutionally deficient.

26. Where the government seeks to deprive an individual of physical liberty, **the burden must rest with the government** to demonstrate that continued detention is justified.
27. The allocation of the burden to the Government is required because immigration detention is civil in nature and implicates a fundamental liberty interest protected by the Due Process Clause. The Supreme Court has long held that “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” protected by due process. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
28. Where the Government seeks to justify continued civil detention, it must bear the burden of proof, and heightened procedural safeguards are required, particularly where detention becomes prolonged or is not strictly tied to a limited statutory purpose. See *Addington v. Texas*, 441 U.S. 418, 425–33 (1979) (requiring clear and convincing evidence in civil commitment proceedings). “The individual’s interest in the outcome of a civil commitment proceeding is of such weight and gravity that due process requires the state to justify confinement by proof more substantial than a mere preponderance of the evidence.” *Addington v. Texas*, 441 U.S. 418, 427 (1979).
29. Courts addressing immigration detention have increasingly required that the Government bear the burden of demonstrating by clear and convincing evidence that a detainee is dangerous and by at least a preponderance of the evidence that the detainee presents a risk

of flight, recognizing that placing the burden on the detainee is inconsistent with the Constitution's protection against arbitrary deprivation of liberty. Accordingly, due process requires that DHS—not the detained noncitizen—justify continued detention under these standards. At a minimum, due process requires that DHS prove dangerousness by clear and convincing evidence and flight risk by a preponderance of the evidence.

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

- a. Assume jurisdiction over this Petition;
- b. Declare that Respondents' detention of Petitioner is unlawful;
- c. Order Respondents to provide Petitioner with a **constitutionally adequate bond hearing** within a fixed period, at which:
 - **DHS bears the burden of proof;** and
 - **detention must be justified based on flight risk or danger;**
- d. In the alternative, order Petitioner's immediate release;
- e. Grant such other relief as the Court deems just and proper.

Respectfully,

/s/ Jaime Winthuysen Aparisi

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