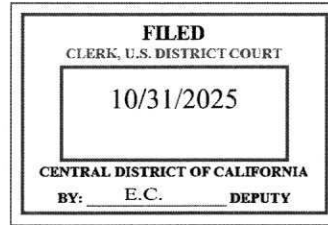


Victor Manuel De Jesus Alas



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DETAINED

NO IFP
CV-93P Issued

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES, CALIFORNIA**

IN THE MATTER OF:

Alas, Victor Manuel De Jesus,

Petitioner,)

v.)

F. SEMAIA, in his official capacity as
Warden, Adelanto Detention Facility;
ERNESTO M. SANTACRUZ JR., in his
official capacity as Acting ICE Field Office
Director U.S. Immigration and Customs
Enforcement;
TODD M. LYONS, Acting Director, U.S.
Immigration and Customs Enforcement;
KRISTI NOEM, Secretary of United
States Department of Homeland
Security; and
PAM BONDI, Attorney General of the
United States,

Case No.: 5:25-cv-02909-SPG-JC

Agency case NO. A
**PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS;
COMPLAINT FOR DECLARATORY
AND INJUNCTION RELIEF**

Challenge to Unlawful Incarceration Under
Color of Immigration Detention Statutes;
Request for Declaratory and Injunctive
Relief

Respondents.

1 Petitioner Victor Manuel De Jesus Alas ("Petitioner" or "Mr. Alas"), petitions this
2 Honorable Court for a *writ of habeas corpus* under 28 U.S.C. § 2241 to remedy Respondents'
3 detaining him unlawfully, and states as follows:

4
5 **INTRODUCTION**

6
7 1. Petitioner, Victor Manuel De Jesus Alas ("Petitioner" or "Mr. Alas"), by and through
8 his undersigned counsel, hereby files this petition for *writ of habeas corpus* and complaint for
9 declaratory and injunctive relief to compel his immediate release from the immigration jail where
10 he has been held by the U.S. Department of Homeland Security (DHS) since being unlawfully
11 detained on October 28, 2025, without first being provided due process.

12 2. Petitioner must be released from custody unless and until DHS proves to a neutral
13 adjudicator, by clear and convincing evidence, changed circumstances that would justify his unjust
14 detention, and that Petitioner is a flight risk or a danger to the community. DHS will not be able to
15 do so. Due process requires the government to provide noncitizens with notice and a hearing prior
16 to re-detention, and that re-detention, without prior notice, a showing of changed circumstances, or
17 a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth
18 Amendment.

19 **JURISDICTION**

20 3. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331,
21 general federal question jurisdiction; 5 U.S.C. § 701 *et seq.*, All Writs Act; 28 U.S.C. § 2241 *et seq.*,
22 *habeas corpus*; 28 U.S.C. § 2201, the Declaratory Judgment Act; Art. 1, § 9, Cl. 2 of the United
23 States Constitution (Suspension Clause); Art. 3 of the United States Constitution, and the common
24 law.

25 **STATEMENT OF FACTS**

26 4. Petitioner is a citizen and national of El Salvador. He was born on  in
27 San Salvador, El Salvador. He is fifty-nine (59) years old. Mr. Alas has lived in the United States
28 for over thirty-six (36) years. Petitioner is married. Mr. Alas is the parent to a United States Citizen
child, Victor Benjamin Alas ("Victor"), age twenty-four (24). Victor suffers from learning

1 disabilities. At the age of twelve (12), Victor was diagnosed with suffering learning disabilities. He
2 was diagnosed with Attention Deficit Disorder ("ADD").

3 5. Petitioner is unable or unwilling to return to, or avail himself of the protection of, his
4 country of nationality, El Salvador. Petitioner left his home country because he was forced into
5 military service at a very young age.

6 6. Petitioner has a Violence Against Women Act ("VAWA") I-360 application pending
7 with the U.S. Citizenship and Immigration Services ("USCIS") as of September 20, 2023.
8 Petitioner received *prima facie* determination on his pending VAWA on April 23, 2024, April 11,
9 2025, and again on September 29, 2025. Mr. Alas experienced physical, emotional, psychological
10 abuse by his son, Victor. The physical abuse commenced in Victor's adolescence and increasingly
11 escalated into adulthood. Mr. Alas is devastated once Victor began exhibiting violent and
12 destructive behavior. Victor would become enraged due to any stressful stimulus and grew to resent
13 Mr. Alas. He routinely verbally insults Mr. Alas and threatens to physically harm Mr. Alas. Victor
14 routinely uses drugs to medicate himself.

15 7. Petitioner is fifty-nine (59) years old and suffers with severe medical conditions. Mr.
16 Alas is currently under the care of medical doctors. He is currently under observation for heart
17 palpitations, snoring, and memory problems. In addition, he is taking the medication Metoprolol.
18 Metoprolol is used to treat high blood pressure and to treat severe chest pain and lowers the risk of
19 repeated heart attacks. He also takes acetaminophen for back pain.

20 8. Petitioner has been under an Order of Supervision with ICE since September 26,
21 2014. Mr. Alas has never absconded and has reported as directed.

22 CUSTODY

23 9. Petitioner is currently detained by DHS at the Adelanto ICE Processing Center in
24 Adelanto, California. On October 28, 2025, Petitioner was transferred to ICE's Adenlato detention
25 center after he was detained upon presenting himself to his check-in appointment at U.S.
26 Immigration and Customs Enforcement Facility at 300 North Los Angeles Street, Room 7631 Los
27 Angeles, CA 90012. Petitioner is being illegally held in custody in contradiction to DHS' policy
28 regarding victims of crime.

REQUIREMENTS OF 28 U.S.C. § 2243

1 requirement if “administrative remedies are inadequate or not efficacious, pursuit of administrative
 2 remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings
 3 would be void.” *Id.* (quoting *Lain v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and
 4 quotation marks omitted)). Petitioner asserts the exhaustion should be waived because
 5 administrative remedies are (1) futile and (2) his continued detention results in irreparable harm.

6 16. No statutory exhaustion requirements apply to Petitioner’s claim of unlawful custody
 7 in violation of his due process rights, and there are no administrative remedies that he needs to
 8 exhaust. See *Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995)
 9 (finding exhaustion to be a “futile exercise because the agency does not have jurisdiction to review”
 10 constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000)
 11 (same).

12 17. More importantly, every day that Petitioner remains detained causes him harm that
 13 cannot be repaired. His continued detention puts his physical and mental health at greater risk,
 14 further warranting a finding of irreparable harm and the waiver of the prudential exhaustion
 15 requirement. Petitioner is fifty-nine (59) years old and suffers with severe medical conditions.
 16 Petitioner is currently under observation for heart palpitations, snoring, and memory problems. In
 17 addition, he is taking the medication Metoprolol.

18 18. Due to being a victim of abuse by his U.S. citizen son, Victor, who is twenty-four (24)
 19 years old. Petitioner has filed a self petition for VAWA (which will provide him an additional relief
 20 against removal). The Court must consider this in its irreparable harm analysis of the effects on
 21 Petitioner as his detention continues. See *De Paz Sales v. Barr*, No. 19-CV-07221-KAW, 2020 WL
 22 353465, at *4 (N.D. Cal. Jan. 21, 2020).

23 PARTIES

24 16. Petitioner is the father of a U.S. citizen, Victor Benjamin Alas, who is twenty-four
 25 (24) years old. Petitioner was born in El Salvador and is fifty-nine (59) years old. Petitioner fled El
 26 Salvador out of fear of persecution. Petitioner has a VAWA application pending. On September 29,
 27 2023, Mr. Alas filed a Violence Against Women Act (“VAWA”) application with the U.S.
 28 Citizenship and Immigration Services (“USCIS”). He is the father of an abusive U.S. citizen son
 who is twenty-four (24) years old. On April 23, 2024, Mr. Alas was issued a *Prima Facie*
 Determination letter by USCIS. His case is currently pending. It is respectfully submitted that Mr.

1 Alas has an approvable case and will receive Deferred Action as soon as his VAWA application is
2 approved.

3
4 17. Respondent Fereti SEMAIA is the Warden, Adelanto Detention Facility where
5 Petitioner is being held. Respondent Semaia oversees the day-to-day operations of Adelanto
6 Detention Facility and acts at the Direction of Respondents LYONS, NOEM, and BONDI. He is a
7 custodian of Petitioner and is named in his official capacity.

8 18. Respondent ERNESTO SANTACRUZ, JR. is the Acting Field Office Director of
9 ICE, in Los Angeles, California and is named in his official capacity. ICE is the component of
10 the DHS that is responsible for detaining and removing noncitizens according to immigration law
11 and oversees custody determinations. In his official capacity, he is the legal custodian of Petitioner.

12 19. Respondent TODD M. LYONS is the Acting Director of ICE and is named in his
13 official capacity. Among other things, ICE is responsible for the administration and enforcement of
14 the immigration laws, including the removal of noncitizens. In his official capacity as head of ICE,
15 he is the legal custodian of Petitioner.

16 20. Respondent KRISTI NOEM is the Secretary of the DHS and is named in her official
17 capacity. DHS is the federal agency encompassing ICE, which is responsible for the administration
18 and enforcement of the INA and all other laws relating to the immigration of noncitizens. In her
19 capacity as Secretary, Respondent Noem has responsibility for the administration and enforcement
20 of the immigration and naturalization laws pursuant to section 402 of the Homeland Security Act of
21 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); see also 8 U.S.C. § 1103(a).
22 Respondent Noem is the ultimate legal custodian of Petitioner.

23 21. Respondent PAM BONDI is the Attorney General of the United States and the most
24 senior official in the U.S. Department of Justice (DOJ) and is named in her official capacity. She
25 has the authority to interpret the immigration laws and adjudicate removal cases. The Attorney
26 General delegates this responsibility to the Executive Office for Immigration Review (EOIR),
27 which administers the immigration courts and the BIA.
28

LEGAL BACKGROUND

Legal Requirements for Immigration Stops and Arrests

22. 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.

23. Immigration detention is a form of civil confinement that “constitutes a significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).

24. “Except at the border and its functional equivalents,” immigration agents may stop individuals in public only after identifying “specific articulable facts, together with rational inferences from those facts, that reasonably warrant suspicion” of a violation of immigration law. *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975); *Benitez-Mendez v. I.N.S.*, 752 F.2d 1309, 1311 (9th Cir. 1983), *amended*, 760 F.2d 907 (9th Cir. 1983); *see also* 8 C.F.R. § 287.8(b)(2) (allowing officer to “briefly detain” a noncitizen for questioning if the officer “has a reasonable suspicion, based on specific articulable facts” that the noncitizen is engaged in an offense or is unlawfully in the United States).

25. Reasonable suspicion for an immigration stop cannot be based “on broad profiles which cast suspicion on entire categories of people without any individualized suspicion of the particular person to be stopped.” *United States v. Rodriguez Sanchez*, 23 F.3d 1488, 1492 (9th Cir. 1994). Rather, reasonable suspicion must be “particularized and objective,” *United States v. Arvizu*, 534 U.S. 266, 273 (2002), meaning the officer has reasonable suspicion as to “the particular person being stopped.” *United States v. Montero-Camargo*, 208 F.3d 1122, 1129 (9th Cir. 2000) (en banc); *see also Vasquez Perdomo v. Noem*, No. 25-4312, 2025 WL 2181709, at *17 (9th Cir. Aug. 1, 2025), *stay of preliminary injunctive relief granted by Noem v. Vasquez Perdomo*, 2025 WL 2585637 (S. Ct. Sept. 8, 2025) (concluding that apparent race or ethnicity, speaking Spanish or speaking English with an accent, particular location, and type of work, even when considered together, did not create reasonable suspicion for an immigration stop). Information obtained from an officer’s lawful questioning “may provide the basis for a subsequent arrest.” 8 C.F.R. § 287.8(b)(3).

26. Immigration officers may arrest an individual without a warrant in limited circumstances. *See Arizona v. United States*, 567 U.S. 387, 407–08 (2012) (noting strong

1 Congressional preference, as expressed in INA, for immigration arrests to be based on warrants).
 2 The INA permits warrantless arrest if an immigration officer has reason to believe that a noncitizen
 3 (1) is in the United States in violation of the immigration laws and (2) “is likely to escape before a
 4 warrant can be obtained for his arrest”. 8 U.S.C. § 1357(a)(2); *accord.* 8 C.F.R. § 287.8(c)(2)(i)-(ii).
 5 An officer “has reason to believe” when they have the equivalent of “the constitutional requirement
 6 of probable cause.” *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).

7 27. The Fifth Amendment right to remain silent may be properly invoked during a civil
 8 immigration arrest. See U.S. Const., amend. V. See *Kastigar v. United States*, 406 U.S. 441, 444–
 9 45 (1972) (The privilege against self-incrimination “can be asserted in any proceeding, civil or
 10 criminal, administrative or judicial, investigatory or adjudicatory . . . This Court has been zealous
 11 to safeguard the values which underlie the privilege.”). An immigration officer may not establish
 12 probable cause on the basis of a noncitizen’s silence pursuant to his Fifth Amendment rights. See
 13 *Hurd v. Terhune*, 619 F.3d 1080, 1088 (9th Cir. 2010) (affirming “the fundamental principle that
 14 a suspect’s silence in the face of questioning cannot be used as evidence against him at trial”).

15 28. If an immigration officer makes a warrantless arrest, at the time of an arrest and “as
 16 soon as it is practical and safe to do so,” immigration officers must identify themselves as
 17 immigration officers authorized to make arrests, inform the person arrested that they are under
 18 arrest, and state the reason for the arrest. 8 C.F.R. § 287.8(c)(2)(iii). The noncitizen must then “be
 19 taken without unnecessary delay for examination before an officer of the Service having authority
 20 to examine [noncitizens] as to their right to enter or remain in the United States.” 8 U.S.C. §
 21 1357(a)(2).

22 29. Within 48 hours of an immigration arrest (or within a reasonable time in the case of
 23 emergency or extraordinary circumstances), an immigration official must make an initial custody
 24 determination to decide whether the noncitizen should remain in custody or be released. 8 U.S.C. §
 25 1226(a); 8 C.F.R. § 287.3(d). These procedures are essential to protect the arrested person’s Fourth
 26 and Fifth Amendment rights.

27 30. In making a case-by-case custody determination, ICE agents must consider a number
 28 of individual factors, including a noncitizen’s status as a victim of crime.

31. ICE Directive 11005.3, established that “absent exceptional circumstances, ICE will
 refrain from taking civil immigration enforcement action against known beneficiaries of
 victim-based immigration benefits and those known to have a pending application for such
 benefits.”

32. ICE Directive 11005.4, which purported to replace ICE Directive 11005.3 on January 31, 2025, maintains that beneficiaries of victim-based immigration benefits should not be subject to civil immigration enforcement unless, in consultation with the Office of the Principal Legal Advisor (OPLA), “the totality of circumstances warrant enforcement.”

The Violence Against Women Act of 1994 (“VAWA”)

33. Pursuant to the Violence Against Women Act (“VAWA”), an individual may file self-petition, Form I-360, if the following requirements are met: (1) the self-petitioner was the parent of an adult United States citizen or lawful permanent resident son or daughter; (2) the self-petitioner was subjected to battery or extreme cruelty by the United States citizen or lawful permanent resident abuser; (3) the self-petitioner lived with the abuser at some time; (4) the self-petitioner is currently living in the United States; (5) and the self-petitioner is a person of good moral character. INA § 204(a)(1)(A) (vii).

34. The term “extreme cruelty” provides an inquiry into an individual’s experience of mental or psychological cruelty, an alternative measure of domestic violence that can also be assessed on the basis of objective standards. *Hernandez v. Ashcroft*, 345 F.3d 824,834 (9th Cir. 2003). The abuse does not have to be physical, but can also be emotional or psychological. *Id.* All evidence may be considered, even evidence documenting “non-qualifying abuses,” i.e. acts that may not initially appear violent but are part of an overall pattern of violence, to show a pattern of abuse and violence. 8 C.F.R. §§ 204.2(c)(2)(iv), 204.2(c)(1)(vi), 204.2(e)(2)(iv) and 204.2(e)(1)(vi).

35. To establish a prima facie case, the self-petitioner must submit a completed Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360) and evidence to support each of the eligibility requirements for the self-petition. The self-petitioner must merely address each of the eligibility requirements but need not prove eligibility in order to establish a prima facie case. *See* <https://www.uscis.gov/policy-manual/volume-3-part-d-chapter-5>.

Removal Protections for VAWA Applicants

35. The Immigration and Nationality Act (INA) establishes various procedures through which individuals may be removed from the United States. Among these are removal proceedings, described in section 240 of the INA. *See* 8 U.S.C. § 1229a.

36. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

1 37. On December 2, 2021, ICE issued ICE Directive 11005.3, Using a Victim-Centered
2 Approach with Noncitizen Crime Victims. Consistent with the statutory provisions establishing the
3 U-Visa program, ICE Directive 11005.3 directed that “applying a victim-centered approach
4 minimizes any chilling effect that civil immigration enforcement actions may have on the
5 willingness and ability of noncitizen crime victims to contact law enforcement, participate in
6 investigations and prosecutions, pursue justice, and seek benefits.”

7 38. Under ICE Directive 11005.3, “[e]xcept where exceptional circumstances exist, or if
8 USCIS has administratively closed a case for failure of the applicant to prosecute the application, a
9 noncitizen with a pending victim-based application or petition who is subject to an administratively
10 final removal order should generally be issued a stay of removal.”

11 39. On January 31, 2025, ICE issued ICE Directive 11005.4: Interim Guidance on Civil
12 Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim-Based
13 Immigration Benefits, purporting to rescind and supersede ICE Directive 11005.3.

14 **FACTUAL ALLEGATIONS**

15 **Respondents’ Detention and Deportation Policies**

16 40. On January 20, 2025, President Donald Trump issued several executive actions
17 relating to immigration, including “Protecting the American People Against Invasion,” an executive
18 order (EO) setting out a series of interior immigration enforcement actions. The Trump
19 administration, through this and other actions, has outlined sweeping, executive branch-led changes
20 to immigration enforcement policy, establishing a formal framework for mass deportation. The
21 “Protecting the American People Against Invasion” EO instructs the DHS Secretary “to take all
22 appropriate action to enable” ICE, CBP, and USCIS to prioritize civil immigration enforcement
23 procedures including through the use of mass detention.

24 **FIRST CAUSE OF ACTION**

25 **Due Process**

26 **U.S. Const. amend V**

27 41. Petitioner re-alleges and incorporates herein by reference, as is set forth fully
28 herein, the allegations in all the preceding paragraphs.

42. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

43. Petitioner had a vested liberty interest in his conditional release. Due Process does not permit the government to strip him of that liberty without a hearing before this Court. See *Morrissey*, 408 U.S. at 487-488.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over the matter;
2. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within 3 days.
3. Enjoin Respondents from transferring the Petitioner outside the jurisdiction of the Central District of California pending the resolution of this case;
4. Declare that Defendants' failure to recognize and give full weight to a lawfully issued VAWA *Prima Facie* Determination grant by USCIS is in violation of the APA and the INA;
5. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 8 U.S.C. § 1101(a)(15)(U); see also 8 C.F.R. § 214.14, et al.
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,

Date: 10/31/2025

By: /s/

Victor Manuel De Jesus Alas
Petitioner, Pro Se