



MORIAH IMMIGRATION CENTER

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CLERK OF COURT

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

BY:JJM SCANNED BY: *jm* 1/8

MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

1:26-cv-68

Hala Y. Jarbou- US District Judge

I. INTRODUCTION

This Memorandum of Law is submitted in support of the Petition for Writ of Habeas Corpus filed by Moriah Immigration Center Corp on behalf of **Carlos Henrique Rodrigues (A# [REDACTED])**. Mr. Rodrigues is a victim of severe labor trafficking with a pending **T Nonimmigrant Status (Form I-914)** application before USCIS. He has been detained by ICE for more than **73 days** without a bond hearing, without a Notice to Appear filed with EOIR, and without adjudication of his humanitarian parole request. His continued civil detention violates statutory, constitutional, and precedential safeguards.

II. LEGAL STANDARD

A petition for a writ of habeas corpus may be granted when a noncitizen is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Federal courts retain jurisdiction over habeas challenges to immigration detention. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

Civil immigration detention must be narrowly tailored to serve the government's interest in ensuring appearance at removal proceedings and protecting the community. *Demore v. Kim*, 538 U.S. 510, 523 (2003). Indefinite or arbitrary detention is unconstitutional. *Zadvydas*, 533 U.S. at 690.

III. ARGUMENT

A. The Continued Detention of Mr. Rodrigues Violates the Due Process Clause Under *Zadvydas* and *Clark*



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In *Zadvydas v. Davis*, the Supreme Court held that the Due Process Clause prohibits indefinite detention of noncitizens absent a “special justification.” 533 U.S. at 690. The Court imposed a presumptive six-month limit on post-removal detention, emphasizing that prolonged detention without meaningful process is unconstitutional.

In *Clark v. Martinez*, 543 U.S. 371 (2005), the Court reaffirmed that immigration detention must not be arbitrary or indefinite, even for noncitizens deemed inadmissible. The statutory interpretation in *Zadvydas* applies to all detainees held under the same authority.

Although Mr. Rodrigues is not subject to a final order of removal, the reasoning of *Zadvydas* applies with even greater force here. He has:

- no charges pending before EOIR;
- no NTA filed to vest EOIR jurisdiction;
- no removal pathway available, because a **pending T Visa petition legally bars removal under 8 C.F.R. § 214.11(p)(1)**; and
- no individual assessment of flight risk or danger.

Detention without process, without judicial oversight, and without a removal purpose violates the Fifth Amendment.

B. ICE's Failure to Adjudicate the Humanitarian Parole Request or Provide Custody Review Is Arbitrary and Capricious

ICE policies mandate that officers exercise favorable discretion for victims of trafficking. **ICE Directive 11005.2 (Victims of Crime, 2021)** requires the agency to minimize immigration enforcement actions involving victims with pending humanitarian relief.

Mr. Rodrigues submitted a complete humanitarian parole request based on his T Visa filing. **41**



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days have passed with no action or review, violating:

- due process;
- ICE's own internal directives; and
- the principle articulated in *Judulang v. Holder*, 565 U.S. 42, 53 (2011), that immigration decisions must not be "arbitrary, capricious, or untethered to the purposes of the immigration laws."

C. The Sixth Circuit Has Repeatedly Recognized Limits on Prolonged Immigration Detention

The Sixth Circuit has affirmed that prolonged immigration detention without adequate procedural protections violates due process.

- *Rosales-Garcia v. Holland*, 322 F.3d 386 (6th Cir. 2003) (**en banc**): The court applied *Zadvydas* to inadmissible noncitizens, holding that immigration detention cannot be indefinite or arbitrary.
- *Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003): The Sixth Circuit held that prolonged detention of noncitizens in removal proceedings violated due process where detention exceeded the time reasonably necessary for removal.
- *Hamama v. Adducci*, 912 F.3d 869 (6th Cir. 2018): While addressing classwide detention, the court reaffirmed that habeas corpus remains available for unconstitutional civil detention.

Under *Ly*, detention becomes unlawful when it "no longer serves the purposes for which it was designed." 351 F.3d at 268. Mr. Rodrigues's detention serves **no purpose**: he cannot be removed due to his pending T Visa, and he lacks any scheduled proceedings.

D. Victims of Trafficking Are Entitled to Heightened Protection Under Federal Law

The **Trafficking Victims Protection Act (TVPA)**, 22 U.S.C. § 7101 et seq., mandates that





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trafficking victims receive protection and access to immigration relief without fear of retaliation or removal.

Federal agencies must treat victims humanely and avoid actions that undermine their access to relief. The prolonged detention of Mr. Rodrigues is inconsistent with Congress's intent in enacting the TVPA and violates DHS's statutory responsibilities.

E. Removal Is Legally Barred During the Pendency of the T Visa Application

Under 8 C.F.R. § 214.11(p)(1), USCIS must safeguard trafficking victims from removal while a bona fide T Visa application is pending. The government cannot justify continued detention on grounds of removal when removal is, by regulation, impermissible.

Therefore, the detention is neither permissible nor rationally related to any lawful governmental objective.

IV. CONCLUSION

For the reasons set forth above, Petitioner respectfully requests that this Court:

1. Order the **immediate release** of Carlos Henrique Rodrigues from ICE custody;
2. Alternatively, order ICE to provide a **custody redetermination hearing within 7 days** before a neutral decisionmaker;
3. Grant any other relief that this Court deems just and proper.

Respectfully submitted,

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