

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOSE ELIEZER MARTINEZ-ANDINO,

Plaintiff-Petitioner,

v.

U.S. DEPARTMENT OF
HOMELAND SECURITY,

MARKWAYNE MULLIN, Secretary of
Homeland Security, *in his official capacity;*

TODD M. LYONS, Senior Official
Performing the Duties of the Director of
U.S. Immigration and Customs Enforcement
in his official capacity;

MARCOS CHARLES, Acting Executive
Associate Director, Enforcement and
Removal Operations, *in his official capacity;*

RODNEY S. SCOTT, Commissioner, U.S.
Customs and Border Protection, *in his
official capacity;*

MICHAEL BANKS, Chief, U.S. Border
Patrol, *in his official capacity*

TODD BLANCHE, Acting Attorney
General, *in his official capacity;*

Defendants-Respondents.

Civil Action No. 26-1208

COMPLAINT-PETITION FOR WRITS OF
MANDAMUS AND HABEAS CORPUS,
AND DECLARATORY AND
INJUNCTIVE RELIEF

INTRODUCTION

1. This is an emergency action in the nature of a Civil Complaint and Petition for Writs seeking to locate a noncitizen who has effectively “disappeared” within the custody of the United States Department of Homeland Security (“DHS”).
2. Plaintiff-Petitioner (hereinafter “Plaintiff”), Jose Eliezer Martinez-Andino, a native and citizen of Honduras, was detained by U.S. Immigration and Customs Enforcement (“ICE”). As of April 9, 2026, the ICE Online Detainee Locator System indicates that he is “in CBP custody.” *See* Exhibit 1, ICE Online Detainee Locator.
3. For over eight days, Plaintiff’s counsel (“Counsel”) has been unable to locate or communicate with him despite repeated efforts to contact ICE and U.S. Customs and Border Protection (“CBP”). Both agencies are denying that Plaintiff is in their custody and refusing to provide his whereabouts or how Counsel can communicate with him.
4. Defendants’ failure to disclose Plaintiff’s whereabouts and facilitate attorney-client communication constitutes agency action unlawfully withheld or unreasonably delayed, in violation of the Administrative Procedure Act (“APA”), 5 U.S.C. § 706(1), and warrants mandamus relief. *See Norton v. S. Utah Wilderness All.*, 542 U.S. 551, 64 (2004) (“Thus, a claim under § 706(1) can proceed only where a plaintiff asserts that an agency failed to take a *discrete* agency action that it is *required to take*.”).
5. Defendants’ actions also violate Plaintiff’s Fifth Amendment right to due process, including meaningful access to counsel. *See Mathews v. Diaz*, 426 U.S. 67, 77 (1976) (“There are literally millions of aliens within the jurisdiction of the United States. The Fifth Amendment, as well as the Fourteenth Amendment, protects every one of these persons...”); *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 554, 565 (9th Cir. 1990)

(confirming that the “right to obtain and communicate with counsel” is a due process requirement that the government may not “unjustifiably obstruct” and specifically addressing practices like transferring detainees to remote locations and limiting telephone access as violations of this right).

6. Plaintiff seeks immediate relief requiring Defendants to disclose his location and provide access to counsel in line with internal ICE standards (specifically, Performance-Based National Detention Standards (PBNDS) versions 2011 and 2016) and federal regulations. *See* 8 C.F.R. §§ 292.5(b) (stating that whenever a person is required to give a statement or be examined, they “shall be entitled to be represented by an attorney or representative”), 1003.17 (requiring that once a Form G-28 Notice of Entry of Appearance is filed, the attorney must be served with all notices); PBNDS Standard 5.5 (mandating that legal visitation be permitted for a minimum of 8 hours a day on business days and 4 hours on weekends/holidays, without auditory supervision to protect attorney-client privilege), 5.6 (requiring facilities to provide “reasonable and equitable” access to telephones, specifically for the purpose of contacting legal counsel), 5.7 (“At the time of transfer, ICE will provide the detainee, in writing, with the name, address, and telephone number of the facility to which he or she is being transferred and **contact the attorney of record.**”) (emphasis added).
7. Courts have historically ruled that interfering with the attorney-client relationship by disappearing a detainee or blocking communication violates Due Process. *See, e.g.,* *Louis v. Meissner*, 530 F. Supp. 924 (S.D. Fla. 1981) (enjoining the government from transferring detainees to remote areas like West Texas and thereby effectively stripping them of their right to counsel in Miami while holding such transfers interfered with the existing attorney-

client relationship); *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549 (9th Cir. 1990) (issuing a permanent injunction requiring the government to provide detainees with access to telephones and to notify counsel before transferring detainees who were already represented); *Committee for Central American Refugees v. INS*, 795 F.2d 1434 (9th Cir. 1986) (affirming that “an established attorney-client relationship” is protected and that the government cannot act to intentionally frustrate that access”).

JURISDICTION AND VENUE

8. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1361, and 2241, and 5 U.S.C. § 702.
9. This Court may grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201–2202.
10. Habeas jurisdiction is proper because Plaintiff is in federal custody, even if the precise custodian is unclear. *See Boumediene v. Bush*, 553 U.S. 723, 771 (2008); *Rumsfeld v. Padilla*, 542 U.S. 426, 435 n.8 (2004).
11. Venue is proper in this District under 28 U.S.C. § 1391(e).

PARTIES

12. Plaintiff JOSE ELIEZER MARTINEZ ANDINO is a native and citizen of Honduras. He is the beneficiary of an approved I-360 Petition for Special Immigrant Juvenile Status.
13. Defendant MARKWAYNE MULLIN is the Secretary of Homeland Security.
14. Defendant TODD M. LYONS is the Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement.

15. Defendant MARCOS CHARLES is the Acting Executive Associate Director, U.S. Enforcement and Removal Operations.
16. Defendant RODNEY S. SCOTT is the Commissioner of the U.S. Customs and Border Protection.
17. Defendant TODD BLANCHE is the Acting Attorney General, U.S. Department of Justice
18. Defendant MICHAEL BANKS is the Chief of the U.S. Border Patrol, U.S. Customs and Border Protection.
19. All Defendants are being sued in their official capacities

FACTUAL ALLEGATIONS

20. Plaintiff is a native and citizen of Honduras. He was born on  in San Pedro Sula, Honduras.
21. Plaintiff entered the United States on or about September 12, 2020 through the U.S./Mexico border in Texas when he was 14 years old. He was determined to be an unaccompanied minor child. *See* Ex. J, U.S. Dept of Health and Human Service, Verification of Release of Unaccompanied Minor Child.
22. Plaintiff was placed in immigration removal proceedings by service of a Notice to Appear, which charges him as subject to removability pursuant to INA § 212(a)(6)(A)(i), as present in the United States without being admitted or paroled. *See* Ex. D, Notice to Appear.
23. On July 7, 2023, the Immigration Court granted dismissal of removal proceedings upon joint motion by Respondent's prior Counsel and the U.S. Department of Homeland Security. The Immigration Judge noted Plaintiff has an approved I-360 application and intends to file for adjustment of status with U.S. Citizenship and Immigration Services to

become a lawful permanent resident when his priority date becomes current. *See* Ex. D, Court Order. Accordingly, Plaintiff is not subject to any final administrative removal order and will be eligible to seek adjustment of status.

24. Plaintiff was apprehended by immigration officials while driving through the state of Minnesota on or about Wednesday, March 18, 2026.
25. On Monday, March 23, 2026, Plaintiff called Counsel from the Cascade County Jail in Cascade County, Montana. He indicated his belief that he would be transferred to ICE for processing after signing documents he did not fully understand. He explained he felt he had no other option but to sign the paperwork. He was unable to articulate to Counsel what documents he signed. However, he expressed a fear of returning to Honduras. *See* Ex. A, Affidavit. While on the phone with Plaintiff, Counsel checked the ICE Online Detainee Locator System, which reflected that Plaintiff was “in CBP custody.” *See* Ex. B, ICE Detainee Locator, March 23, 2026.
26. On Monday, March 30, 2026, Plaintiff’s relative advised Counsel that he called over the weekend to say that he would be moved with a group of individuals from Montana to Arizona and then to Washington state.
27. On Tuesday, March 31, 2026, Counsel’s law firm was hired to represent Plaintiff and assist with his release from ICE or CBP Custody. CBP has informed Counsel that the Plaintiff has been transferred to ICE custody on or about March 31, 2026.
28. In reliance on CBP’s assertion that Plaintiff had been transferred to ICE, Counsel filed a Form G-28 Notice of Entry of Appearance as Attorney or Representative with ICE on March 31, 2026.

29. Since March 31, Counsel has contacted multiple ICE and CBP offices, as well as detention facilities, to determine Plaintiff's location. Counsel provides an affidavit from her Partner, Allison T. Chan, Esq., who worked on the matter. *See* Ex. A, Affidavit of A. Chan ¶ 10; Ex. E, Call Logs on April 1; Ex. F-H, Correspondences with ICE-ERO and Northwest ICE Processing Center. Counsel has called ICE-ERO in Pheonix, AZ and Seattle, WA. Counsel called ICE holding facilities and detention centers in Arizona and Washington state. She also spoke with CBP officers at Havre Station and Plentywood Station. She has also spoken to ICE Headquarters in D.C. *Id.*
30. ICE has continued to deny taking custody of the Plaintiff at the time of the mysterious transfer and since that day. In turn, CBP has continued to assert that Plaintiff was transported to ICE on March 30 or March 31.
31. The ICE Detainee locator showed Plaintiff to be "in CBP Custody" since March 23, 2026. The ICE Detainee locator initially did not reflect Plaintiff's A number, but it was updated at some point between March 23 and March 31 to show his A Number. *See* Ex. B, I, ICE Detainee Locator Search Results.
32. The last status update on Plaintiff's location was on April 6, 2026 from CBP at Plentywood Station. CBP advised Plaintiff's Counsel on a phone call that their system showed "removed via ICE error." CBP was unable to provide Counsel the meaning of this status.
33. On April 6, 2026, ICE-ERO Pheonix surmised that CBP may have "returned him to his country of citizenship, without transferring him to ICE custody." *See* Ex. F, Correspondence with ICE-ERO Pheonix, AZ.
34. Defendants have failed to provide any information regarding Plaintiff's whereabouts or facilitate communication.

35. Plaintiff's relatives had been speaking with Plaintiff regularly since he was detained on March 18. However, they have not had any communication with Plaintiff since the weekend of March 28. *See* Ex. A, Affidavit ¶ 10.
36. Plaintiff is the beneficiary of an approved I-360 Petition for Special Immigration Juvenile Status ("SIJS"), which was filed on January 23, 2023. SIJS classification is reserved for minors in the United States in need of protection of the juvenile court because reunification with one or both parents is not viable due to abuse, neglect or abandonment. *See* INA § 101(a)(27)(J). SIJS classification is effectually a determination that it is not in the best interest of the noncitizen to be returned to his or her home country. *Id.* A SIJS grant is a clear path to lawful permanent residency; however numerical limitation to the number of visas available for SIJS noncitizens and a waiting period to apply for adjustment of status to a lawful permanent resident (i.e. green card). Noncitizens granted SIJS classification are granted "deferred action" which provides protection from deportation and eligibility to apply for work permits while they await eligibility for adjustment of status. The priority date currently eligible for seeking adjustment of status is January 1, 2023. As such, Mr. Martinez Andino is likely months away from applying for his green card.
37. Plaintiff has been granted deferred action from June 22, 2023 for four (4) years. He is eligible for employment authorization and to remain in the United States until a visa is available to file his application for adjustment of status. *See* Ex. C.
38. Plaintiff has a U.S. citizen child who is 3 years old and several relatives in the United States. They have not received any calls from Plaintiff outside of the country.
39. Defendants' actions have rendered Plaintiff effectively disappeared.

CAUSES OF ACTION

COUNT I – WRIT OF MANDAMUS (28 U.S.C. § 1361)

40. Plaintiff incorporates the foregoing paragraphs.
41. Mandamus relief is appropriate where a plaintiff demonstrates a clear right to relief, a clear duty to act, and no adequate alternative remedy. *Heckler v. Ringer*, 466 U.S. 602, 616 (1984); *see Allied Chemical Corp. v. Daiiflon, Inc.*, 449 U.S. 33, 35 (1980) (Per Curiam).
42. Defendants have a nondiscretionary duty to maintain accurate custody information and permit attorney access.
43. Plaintiff has a clear right to such information and access.
44. Defendants have failed to perform these duties.
45. No adequate alternative remedy exists.

COUNT II – APA COMPLAINT (5 U.S.C. § 706(1))

46. Defendants have unlawfully withheld agency action by failing to disclose Plaintiff's location and permit access to counsel. *See* 5 U.S.C. § 706(1).
47. Courts may compel agency action unlawfully withheld. *Norton*, 542 U.S. at 64.
48. The delay has been unreasonable under the factors set forth in *Telecomms. Research & Action Ctr. v. FCC*, 750 F.2d 70, 80 (D.C. Cir. 1984). That decision sets forth the following contours of a standard to consider whether an agency's delay is so egregious as to warrant mandamus:

Although the standard is hardly ironclad, and sometimes suffers from vagueness, it nevertheless provides useful guidance in assessing claims of agency delay: (1) the time agencies take to make decisions must be governed by a "rule of reason," *PEPCO*, 702 F.2d at 1034, *MCI*, 627 F.2d at 340; (2) where Congress has provided a timetable or other indication of the speed with which it expects the agency to proceed in the enabling statute, that statutory scheme may supply content for this rule of reason, *PCHRG v. FDA*, 740 F.2d at 34–35; *PCHRG v. Auchter*, 702 F.2d

at 1158, n. 30; *PEPCO*, 702 F.2d at 1034; (3) delays that might be reasonable in the sphere of economic regulation are less tolerable when human health and welfare are at stake; *PCHRG v. FDA*, 720 F.2d at 34; *PCHRG v. Auchter*, 702 F.2d at 1157; *see also Blankenship v. Secretary of Health, Education, and Welfare*, 587 F.2d 329, 334 (6th Cir. 1978); (4) the court should consider the effect of expediting delayed action on agency activities of a higher or competing priority, *see, e.g., PCHRG v. FDA*, 740 F.2d at 34; *PCHRG v. Auchter*, 702 F.2d at 1158; (5) the court should also take into account the nature and extent of the interests prejudiced by delay, *PCHRG v. FDA*, 740 F.2d at 35; and (6) the court need not “find any impropriety lurking behind agency lassitude in order to hold that agency action is ‘unreasonably delayed.’” *PCHRG v. FDA*, 740 F.2d at 34.

Id. (emphasis added). All factors support granting mandamus.

COUNT III – FIFTH AMENDMENT

49. Plaintiff incorporates the foregoing paragraphs.

50. Noncitizens in immigration detention are entitled to due process protections. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

51. Due process includes meaningful access to counsel for noncitizens. *See Mathews*, 426 U.S. at 77.

52. Defendants’ conduct interferes with that right.

COUNT IV – WRIT OF HABEAS CORPUS (28 U.S.C. § 2241)

53. Plaintiff is in CBP custody according to the DHS’s own information.

54. His detention without access to Counsel and without any way for Counsel to locate him is unlawful.

55. Habeas relief is warranted. *See Boumediene*, 553 U.S. at 771.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- (1) Issue a **Writ of Mandamus** compelling Defendants to disclose Plaintiff's current location, Identify the agency and facility exercising custody, and Order Defendants to provide Plaintiff with access to immediate attorney-client communication;
- (2) **Enjoin** Defendants from removing Plaintiff pending access to counsel;
- (3) Under this Court's Habeas Corpus authority, **Order** the Defendants-Respondents to **Show Cause** why the detention of Plaintiff is justified, and to release him if no just cause exists to justify his detention;
- (4) Grant temporary, preliminary, and permanent injunctive relief; and
- (5) Grant such other relief as the Court deems just and proper.

Dated: 04/10/2026

Respectfully submitted,

/s/Derrick J. Hensley

Derrick J. Hensley, Esq.

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(on behalf of below attorneys, with permission)

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****Pending Motion for Pro Hac Vice Admission***

EXHIBIT LIST

- EXHIBIT A Affidavit of Allison T. Chan, Esq.
- EXHIBIT B ICE Detainee Locator Search Results, March 23, 2026
- EXHIBIT C I-360 Approval Notice
- EXHIBIT D Notice to Appear and Immigration Judge Order
- EXHIBIT E Outgoing Call Logs April 1, 2026 from Counsel's Line
- EXHIBIT F Correspondence with ICE-ERO Pheonix
- EXHIBIT G Correspondence with ICE-ERO Seattle
- EXHIBIT H Correspondence with Northwest ICE Processing Center
- EXHIBIT I ICE Detainee Locator Search Results, April 9, 2026
- EXHIBIT J U.S. Department of Health and Human Service, Verification of Release of
Unaccompanied Minor Child

Please note the Accompanying Motions:

- Motion for TRO
- Motion for Admission *Pro Hac Vice*

Accompanying Summonses: US Attorney for District of D.C. (service/notice party only) and all six Defendants-Respondents.