

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOSE ELIEZER MARTINEZ-ANDINO,)

Plaintiff,)

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. _____)

Civil Action No. 1:26-cv-01208-BAH

AMENDED
COMPLAINT FOR WRIT OF
MANDAMUS AND
DECLARATORY AND
INJUNCTIVE RELIEF

INTRODUCTION

1. This is an emergency action for a Writ of Mandamus, mandatory injunctive relief, and declaratory judgment. It arises from an unprecedented series of events in which the Department of Homeland Security (“DHS”) and U.S. Immigration and Customs Enforcement (“ICE”) effectively “disappeared” a noncitizen in their custody, denied him access to his counsel for nine days, denied counsel access to his location, and then—while an emergency hearing was pending before this Honorable Court—removed him to Honduras and transferred him out of ICE custody.
2. Plaintiff, a native and citizen of Honduras, is the beneficiary of an approved I-360 Petition for Special Immigrant Juvenile Status (“SIJS”) and was under a valid grant of Deferred Action. He is not subject to a final administrative order of removal. Despite this, Defendants claim to have obtained Plaintiff’s signature on a “voluntary departure” document. This signature was obtained, and then Plaintiff was isolated from his attorney for nine days. Respondent was then held in coercive and inhumane conditions, and denied access to counsel and requests to speak with an Asylum Officer while in DHS custody from March 31, 2026 to April 10, 2026.
3. This Amended Complaint is necessitated by the government’s conduct on April 10, 2026. On that day, after nine days of no access to communication with Plaintiff and no understanding of his location while he was in DHS custody, Counsel for Plaintiff and this Court were engaged in emergency proceedings to prevent Plaintiff’s removal. During these proceedings, Defendants provided a series of conflicting, shifting, and ultimately unreliable timelines regarding Plaintiff’s location and custody status. While the parties

argued the merits of a Temporary Restraining Order, Defendants were in the process of completing an unlawful removal that they now claim is “final.”

4. Defendants’ actions constitute a profound violation of the Fifth Amendment’s Due Process Clause and a breach of the *Accardi* doctrine, as Defendants ignored their own binding Performance-Based National Detention Standards (PBNDS) regarding attorney access and notification.
5. Furthermore, by removing Plaintiff and transferring him out of U.S. government custody while a scheduled hearing was pending and by providing the Court with inconsistent factual representations, Defendants have actively frustrated this Court’s jurisdiction. Under the All Writs Act, 28 U.S.C. § 1651, and the Administrative Procedure Act, 5 U.S.C. § 706, this Court has the inherent and statutory authority to undo this subversion of justice.
6. Consequently, Plaintiff seeks a Mandatory Injunction and Writ of Mandamus compelling Defendants to facilitate his immediate return to the United States via humanitarian parole under 8 C.F.R. § 212.5. This is the only remedy capable of restoring the *status quo ante* and rectifying the government’s intentional interference with the attorney-client relationship and the judicial process.

JURISDICTION AND VENUE

7. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1361, and 2241, and 5 U.S.C. § 702.
8. This Court may grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201–2202.
9. Venue is proper in this District under 28 U.S.C. § 1391(e).

PARTIES

10. 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.
11. Defendant MARK WAYNE MULLIN is the Secretary of Homeland Security.
12. Defendant TODD M. LYONS is the Senior Official Performing the Duties of the Director
13. of U.S. Immigration and Customs Enforcement.
14. Defendant MARCOS CHARLES is the Acting Executive Associate Director, U.S. Enforcement and Removal Operations.
15. Defendant RODNEY S. SCOTT is the Commissioner of the U.S. Customs and Border Protection.
16. Defendant TODD BLANCHE is the Acting Attorney General, U.S. Department of Justice.
17. Defendant MICHAEL BANKS is the Chief of the U.S. Border Patrol, U.S. Customs and Border Protection.
18. All Defendants are being sued in their official capacities

FACTUAL ALLEGATIONS

A. BACKGROUND

19. Plaintiff is a native and citizen of Honduras. He was born on  in San Pedro Sula, Honduras. 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* ECF No. 1-2 at Ex. J, U.S. Dept of Health and Human Service, Verification of Release of Unaccompanied Minor Child.

20. 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* ECF No. 1-2 at Ex. D, Notice to Appear.
21. 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 for Special Immigrant Juvenile Status 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* ECF No. 1-2 at Ex. D, Court Order. Accordingly, Plaintiff is not subject to any final administrative removal order and will be eligible to seek adjustment of status.¹ The priority date currently eligible for seeking adjustment of status is January 1, 2023. As such, Plaintiff was likely only months away from applying for his green card when Defendants unlawfully removed him from the United States.
22. Resulting from the I-360 SIJS grant, Plaintiff had 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* ECF No. 1-2 at Ex. C.

¹ 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.

23. Plaintiff has a U.S. citizen child who is 3 years old and several relatives in the United States. At the time of the hearing before this Honorable Court on April 10, 2026, they had not received any calls from Plaintiff outside of the country. Nor had Counsel received any communication from Plaintiff.

B. EVENTS LEADING UP TO APRIL 10, 2026

24. Plaintiff was apprehended by immigration officials on or about Wednesday, March 18, 2026 and detained at the Cascade County Jail in Montana. *See* ECF No. 13, Plaintiff's Affidavit in Support of Second Motion for TRO.

25. On Monday, March 23, 2026, Plaintiff called Counsel Allison Chan 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 removal paperwork. He was unable to articulate to Counsel what documents he signed. However, he expressed a fear of returning to Honduras. *See* ECF No. 1-2 at 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* ECF No. 1-2 at 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. From March 31 to April 10, the day Plaintiff was deported, 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* ECF No. 1-2 at Ex. A, Affidavit of A. Chan ¶ 10; ECF No. 1-2 at Ex. E, Call Logs on April 1; ECF No. 1-2 at Ex. F-H, Correspondences with ICE-ERO and Northwest ICE Processing Center. Counsel has called ICE-ERO in Phoenix, 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. Leading up to Plaintiff's filing of the Complaint on April 10, 2026, ICE continued to deny taking custody of the Plaintiff at the time of the mysterious transfer. Meanwhile, CBP also denied custody of the Plaintiff, continuing to assert that Plaintiff was transported to ICE on March 30 or March 31. ECF No. 1-2 at Ex. F-H.
31. Between March 31 to April 10, Plaintiff was denied access to communicate with his counsel, as well as denied access and the ability to claim with the Asylum Office a fear of returning to Honduras. *See* ECF No. 13, Plaintiff's Affidavit in Support of Second Motion for TRO.
32. As of April 10, 2026, and since March 23, 2026, the ICE Detainee locator showed Plaintiff to be "in CBP Custody."

33. 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* ECF No. 1-2 at Ex. B, I, ICE Detainee Locator Search Results.
34. Prior to the filing of the initial Complaint on April 10, 2026, 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.
35. 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* ECF No. 1-2 at Ex. F, Correspondence with ICE-ERO Pheonix, AZ.
36. Despite Counsel's many efforts to learn her client's whereabouts and to communicate with her client, Defendants failed to provide any information regarding Plaintiff's whereabouts or facilitate communication. This remained the case until the April 10, 2026 hearing before this Honorable Court at which time additional complications arose.
37. As of the time of filing of the Complaint on April 10, 2026, Plaintiff's relatives had been speaking with Plaintiff regularly since he was detained on March 18. However, they had not had any communication with Plaintiff since the weekend of March 28. *See* ECF No. 1-2 at Ex. A, Affidavit ¶ 10.
38. Defendants' actions rendered Plaintiff effectively disappeared.

C. EVENTS SURROUNDING THE APRIL 10, 2026, HEARING

39. On April 10, 2026, at 3:29 p.m., Assistant United States Attorney Brian J. Levy sent an email to local counsel, Derrick J. Hensley, stating the following: "We know that Mr. Martinez-Andino flew to Honduras. His plane departed at 5AM local time and landed in

Honduras at 10:50AM local time. We are working on putting together more information.” *See* Exhibit 1, attached hereto, Email from AUSA on 04/10/2026 at 3:29 p.m. EST.

40. Presumably, Assistant United States Attorney Levy (“AUSA Levy”) referred to the time at the location of the plane’s departure when stating “local time” for the plane departing and referred to the time in Honduras when stating the “local time” of landing in Honduras. This would put the departure time he provided in the time zone for Mesa, Arizona (Mountain Standard Time), and the landing time he provided in the time zone for San Pedro Sula, Honduras (Central Standard Time).² Per AUSA Levy’s email, the plane took off at 5:00 a.m. MST and landed at 10:50 a.m. CST. Adjusting each to the Honorable Court’s time zone (Eastern Standard Time) for the purposes of comparison, that means the plane departed on April 10, 2026, at 7:00 a.m. EST and landed that same day at 12:50 p.m. EST.

41. At the April 10, 2026 hearing scheduled for 4:00 p.m. EST, AUSA Levy shared with the Court that Plaintiff was flown to Honduras that morning. When asked how confident he felt on veracity, validity and accuracy of the information that Plaintiff is in Honduras, he replied “very confident.” *See* ECF No. 17, Transcript of Proceedings Motion Hearing via Teleconference at 5: 14-18, Apr. 10, 2026. AUSA Levy stated his belief that Plaintiff is in Honduras and not in government custody at the time of the hearing. *Id.* at 5: 21-22. AUSA stated his understanding that Plaintiff “voluntarily deported” and he was not sure which agency removed him; he was also not sure in whose custody Plaintiff was when he

² San Pedro Sula, Honduras falls year-round in the Central Time Zone (“CST”). It does not observe the Daylight Savings Time (“DST”). As such, it is always two hours behind EST.

was put on the airplane that sent him to Honduras, though he surmised it might have been CBP. *Id.* at 8: 2-14.

42. On April 10, 2026, at 4:41 p.m.—shortly following conclusion of the hearing before this Honorable Court, at which AUSA Levy represented that Plaintiff had last been in the custody of U.S. CBP and was not in the custody of any United States agency at the time of the hearing—AUSA Levy sent another email to Plaintiff’s attorneys stating, “After the hearing, I learned that he was in ICE custody last—not CBP. I am sorry for my misunderstanding. We are trying to get confirmation as to whether he is in custody and the agency has been informed that his communication with counsel should be facilitated if he is.” *See* Exhibit 2, attached hereto, Email from AUSA on 04/10/2026 at 4:41 p.m. EST.

D. FACTS LEARNED AFTER THE HEARING ON APRIL 10, 2026 ABOUT EVENTS LEADING UP TO AND DURING THAT HEARING

43. Plaintiff’s counsel was able to speak with Plaintiff on the phone around 9:00AM EST on Monday, April 13, 2026. Plaintiff confirmed several details about his apprehension, detention, and circumstances of his removal. According to Plaintiff’s sworn declaration, signed on April 13 from Honduras, during the period from approximately March 31 through April 9, 2026, he repeatedly requested access to counsel. *See* ECF No. 13-1, Plaintiff’s Declaration. Those requests were ignored or denied. Plaintiff further states that he was presented with immigration paperwork that was not explained to him and was told that he had no option but to sign it. He subsequently attempted to rescind his signature.

44. Plaintiff also repeatedly informed immigration officials that he feared returning to Honduras and requested an opportunity to speak with a judge or receive an interview. According to his declaration, those requests were not acted upon. *See id.*

45. Notably, in Plaintiff's stated to counsel that he landed in Honduras on April 10, 2026 around 2:00 p.m. (Honduras time) and spent about two hours on the plane. *See* ECF No. 13, Affidavit in Support of Second Motion for TRO. He states it was "about 4:00 p.m. (Honduras time) when [they] started to go through immigration in Honduras" *Id.* According to Plaintiff's affidavit, the timing of his arrival in Honduras is at 4:00 p.m. EST, and transfer of custody from U.S. ICE to Honduras authorities at about 6:00 p.m. EST.
46. While Plaintiff's Counsel was working with Plaintiff in Honduras to draft and sign an affidavit, a Declaration of Deputy Assistant Director George filed by AUSA Levy on April 13, 2026. The Declaration places these times at a departure from Mesa, Arizona, at 8:00 a.m. EST; landing in San Pedro Sula, Honduras at 12:50 p.m. EST; and transfer of custody from U.S. ICE to Honduras authorities no later than 2:00 p.m. EST. ECF No. 12. These times are already inconsistent with AUSA Levy's representations to the Court on April 10.
47. Plaintiff, through Counsel, filed his affidavit shortly after the filing of the Declaration of Deputy Assistant Director George.
48. On or about April 20, 2026 Plaintiff hired an attorney, Oscar Fernandez, in Honduras to obtain his migration records from Honduras Immigration Institute. Attorney Gonzalez. He has indicated the process could take about two weeks to obtain the records.
49. In efforts to understand the basis of Plaintiff's removal, Counsel has filed a Freedom of Information Act ("FOIA") request to understand what documentation Plaintiff "voluntarily" signed. The FOIA requests remains pending. As of the date of this filing,

the Case Auto Information System for EOIR³ shows that his removal proceedings were dismissed in 2023. Accordingly, Plaintiff is not subject to a removal order by the Immigration Court. Any “voluntary removal” paperwork signed by the Plaintiff has not been produced and is not reflected in the system.

E. SUMMARY OF KEY CONFLICTING FACTS RELEVANT TO CAUSES OF ACTION

50. On April 9, 2026, Plaintiff’s counsel executed a sworn declaration documenting the loss of contact with Plaintiff and raising concerns regarding his custody status, including a government record indicating that Plaintiff had been “removed via ICE error.”
51. On April 10, 2026, Plaintiff initiated this action by filing the Complaint at ECF No. 1, and an emergency motion for a temporary restraining order at ECF No. 2.
52. Later that day, at approximately 3:15 p.m. EST, this Honorable Court scheduled a hearing on Plaintiff’s emergency motion.
53. According to AUSA Levy at the time of the hearing, the plane departed on April 10, 2026, at 7:00 a.m. EST and landed that same day at 12:50 p.m. EST, and Plaintiff was last in CBP custody.
54. According to AUSA Levy immediately after the hearing, Plaintiff was last in ICE custody.
55. According to Deputy Assistant Director George, Plaintiff had departed the United States earlier that day at 8:00 a.m. EST on a removal flight and arrived in Honduras at approximately 12:50 p.m. EST. See ECF No. 12, Declaration of Deputy Assistant

³ The Executive Office of Immigration Review (“EOIR”) Automated Case Information system is a public website that allows any person to check the status of individuals before an immigration court of Board of Immigration Appeals. The website can be found here at <https://acis.eoir.justice.gov/en/>

Director Christopher George at ¶¶ 5–6. “At this time, Martinez-Andino was in ICE custody.” *Id.* at ¶ 5. Deputy Assistant Director George asserts that Plaintiff was transferred out of U.S. ICE custody “[s]hortly thereafter, and no later than 2:00 p.m. EST”. *Id.* at ¶ 6.

56. However, the Declaration of Christopher George, Deputy Assistant Director for the International Operations Division (IOD) within the Removal Division, Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS) at ECF No. 12 provides little confidence in this convenient sequence and does not explain how he verified the important detail of the time of Plaintiff’s transfer from ICE custody to the custody of the Government of Honduras’s Instituto Nacional de Migración.

57. At paragraph 3 of his Declaration, he states, “I provide this declaration based on my personal knowledge, reasonable inquiry, and information obtained from various records, systems, databases, other DHS employees, and information portals maintained and relied upon by DHS in the regular course of business.” ECF No. 12, Declaration of Christopher George. However, those records and information portals have proven to be internally inconsistent and unreliable in this case where DHS records have reflected various contradictory facts. Thirty minutes before the 4:00 p.m. EST hearing on Friday April 10, Counsel for Defendants represented that Plaintiff was removed from the United States at 5:00 a.m. EST that morning. Then, at the 4:00 p.m. emergency hearing, Defendants represented that Plaintiff had last been in the custody of Customs and Border Protection.

58. Just minutes after the hearing, Counsel for Defendants reversed his representation to state Plaintiff had, in fact, been in ICE—not CBP—custody.

59. Then, Counsel for Defendants filed the Declaration at ECF No. 12 asserting the flight took off at 8:00 a.m. EST and landed at 12:50 p.m. EST on Friday April 10. The Declaration does not mention the time discrepancy or make any effort to explain it.

60. Critically, Plaintiff's own Declaration at ECF No. 13 (which is based on his own personal observations, rather than unreliable and visibly inconsistent representations of various officials) directly contradicts the timeline in the Declaration of Christopher George. Specifically, according to Plaintiff's Declaration, he was still in ICE custody at 4:00 p.m. EST on April 10, 2026. According to Plaintiff's Declaration,

On Friday April 10, I landed in Honduras around 2:00 p.m (Honduras time). We spent about 2 hours on the plane because there was another plane that landed just before us and needed to be processed first. It was really hot on the plane during that wait. It was about 4:00 p.m. (Honduras time) when we started to go through immigration in Honduras. I remember the time because we asked what time it was when we landed, and then we asked what time it was when we got off the plane. I think it took about 1.5 hours to go be processed by Honduran officials.

ECF No. 13-1 at 1.

61. Per Plaintiff's Declaration, the plane landed in Honduras at 4:00 p.m. EST and the handover of custody to Honduran immigration officials occurred at 6:00 p.m. EST. He remained in ICE custody at the time of the hearing on April 10.

62. Therefore, Defendants committed multiple concerning acts. First, they failed to admit Plaintiff remained in their custody at 4:00 p.m. EST through either of two hearings that day or the Declaration of Christopher George. Second, Defendants continued their refusal to accommodate communication between Counsel and Plaintiff despite this Court's oral direction at the hearing that, if Plaintiff was still in Defendants' custody at the time of the hearing, Defendants should accommodate such communication immediately.

63. Also of critical importance, Defendants contend that Plaintiff “took Voluntary Departure” while Plaintiff disputes that characterization and maintains that any purported waiver of rights was not knowing or voluntary. The repeated denial of due process and meaningful access to counsel prove that any signature was not knowing or voluntary.

CAUSES OF ACTION

COUNT I – MANDAMUS (28 U.S.C. § 1361)

64. Plaintiff incorporates the foregoing paragraphs.
65. 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).
66. Defendants have a nondiscretionary duty to maintain accurate custody information and permit attorney access.
67. Plaintiff has a clear right to such information and access.
68. Defendants have failed to perform these duties.
69. No adequate alternative remedy exists.

COUNT II – APA (5 U.S.C. § 706(1))

70. Defendants have unlawfully withheld agency action by failing to disclose Plaintiff’s location and permit access to counsel while he was under the custody of the agency. *See* 5 U.S.C. § 706(1).
71. Courts may compel agency action unlawfully withheld. *Norton*, 542 U.S. at 64.

72. 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

73. Plaintiff incorporates the foregoing paragraphs.

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

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

76. Defendants' conduct interferes with that right.

COUNT IV – THE ACCARDI DOCTRINE (Failure to Follow Agency Regulations and Standards)

77. Plaintiff incorporates the foregoing paragraphs by reference.
78. Under the *Accardi* doctrine, a federal agency must comply with its own internal regulations, procedures, and binding standards. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). *See* Thomas W. Merrill, *The Accardi Principle*, 74 GEO. WASH. L. REV. 569, 569 (2006).
79. Defendants are bound by the Performance-Based National Detention Standards (PBNDS) and 8 C.F.R. § 292.5(b), which mandate access to counsel and notification of counsel prior to transfer or removal.
80. By “disappearing” Plaintiff, failing to update his location in the Online Detainee Locator System, and deporting him while Counsel was actively attempting to facilitate a legal visit and file for relief, Defendants violated their own binding protocols.
81. These procedural violations were not harmless but directly resulted in the unlawful removal of a noncitizen who holds a valid grant of Deferred Action and an approved SIJS petition.

COUNT V – THE ALL WRITS ACT (28 U.S.C. § 1651) (In Aid of the Court’s Jurisdiction)

82. Plaintiff incorporates the foregoing paragraphs by reference.
83. The All Writs Act, 28 U.S.C. § 1651, authorizes this Court to “issue all writs necessary or appropriate in aid of [its] jurisdiction.”

84. On April 10, 2026, while this Honorable Court was attempting to exercise its jurisdiction via a scheduled emergency hearing on Plaintiff's Motion for a Temporary Restraining Order, Defendants removed Plaintiff from their custody.
85. Defendants provided the Court with conflicting and inaccurate timelines regarding Plaintiff's custody status and physical location during the pendency of the emergency proceedings.
86. The removal of the Plaintiff was an affirmative act by Defendants that frustrated the Court's ability to adjudicate the emergency motion and provide the requested relief.
87. An order compelling the facilitation of Plaintiff's return is necessary to restore the Court's jurisdiction and ensure the underlying litigation is not rendered moot by the government's own procedural misconduct.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

1. **A DECLARATORY JUDGMENT** that Defendants' actions in denying Plaintiff access to counsel for 9 days, obtaining a "Voluntary Departure" signature through coercive tactics, and removing Plaintiff from the United States while emergency proceedings were pending, violated the Fifth Amendment, the APA, and the *Accardi* doctrine;
2. **A WRIT OF MANDAMUS** and/or a **MANDATORY INJUNCTION** compelling Defendants to immediately take all steps necessary to facilitate Plaintiff's return to the United States to restore the *status quo ante*, including but not limited to:
 - Approving and issuing humanitarian parole travel documents under 8 C.F.R. § 212.5 to allow for admission into the United States;

- Coordinating with the U.S. Department of State to facilitate return, if appropriate;
and
 - Providing for the cost of Plaintiff's return flight to the United States;
3. **AN ORDER** vacating the execution of the removal and reinstating Plaintiff's grant of Deferred Action and his prior immigration status;
 4. **A PERMANENT INJUNCTION** prohibiting Defendants from further interfering with Plaintiff's access to counsel or his right to seek adjustment of status once he is returned to the United States;
 5. **ATTORNEYS' FEES AND COSTS** pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412; and
 6. **SUCH OTHER RELIEF** as this Court deems just and proper to rectify the government's interference with the Court's jurisdiction and Plaintiff's constitutional rights.

Dated: 04/29/2026

Respectfully submitted,

/s/ Margaret W. Wong
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Counsel for Plaintiff

TABLE OF EXHIBITS

1. Exhibit 1, Email from AUSA on 04/10/2026 at 3:29 p.m. EST.
2. Exhibit 2, Email from AUSA on 04/10/2026 at 4:41 p.m. EST.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that concurrently with the filing hereof, I caused a true and correct copy of the foregoing Amended Complaint and all supporting documents, exhibits, and proposed orders, upon:

Attn: Civil Chief
U.S. Attorney's Office for the District of Columbia
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