

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

Mayankkumar Ratilal Patel (A )	)	C/A No.: 1:26-cv-079
	)	
Petitioner,	)	
	)	
v.	)	
	)	
Warden, Ste. Genevieve County Detention	)	
Center,	)	
	)	
Respondent.	)	
_____	)	

PETITION FOR A WRIT OF HABEAS CORPUS

Petitioner Mayankkumar Patel (“Mr. Patel”) was the victim of a serious crime in the United States. He reported the crime and assisted law enforcement’s investigation, and the police sponsored a U visa for him. *See* 8 U.S.C. § 1101(a)(15)(U). He filed the U visa application on September 18, 2024. United States Citizenship and Immigration Services (“USCIS”) deemed his application *bona fide* on December 11, 2024, and accordingly, it issued him work authorization and *deferred action*. Despite USCIS granting him deferred action, Respondent arrested Mr. Patel and detained him. ICE cannot remove Mr. Patel while he has a grant of deferred action; as such, his detention serves no purpose and, accordingly, is unlawful.

In light of Mr. Patel’s unlawful detention, under 28 U.S.C. § 2243, this Court should: (1) enter an order to show cause requiring Respondent to file a return within 3 days, unless the government can show good cause, explaining why the writ should not be issued; (2) set a hearing—telephonic or in-person—within five days of Respondent’s filing, unless good cause can be shown for additional time; and (3) grant a writ of habeas corpus ordering the Respondent to release the Petitioner immediately.

PARTIES

1. Plaintiff Mayankkumar Ratilal Patel (A ) is a citizen and national of India who is currently detained in Ste. Genevieve, Missouri.
2. Respondent is the Warden of Ste. Genevieve County Detention Center at 5 Basler Drive, Ste. Genevieve, MO 63670. The warden of this facility is Petitioner's immediate custodian.

VENUE AND JURISDICTION

3. This Court has jurisdiction to hear Petitioner's habeas claim under 28 U.S.C. § 2241 because his current detention is unlawful.
4. This Court also has jurisdiction under 28 U.S.C. § 1331 to enter any other necessary relief against Respondent.
5. Under § 2241 and/or § 1331, this Court has authority to enter declaratory relief under 28 U.S.C. § 2201.
6. Venue is proper because, at the time of filing, Petitioner is currently detained in this District and Division.

FACTS

7. Mr. Patel is a citizen and national of India.
8. He entered the United States without inspection approximately six years ago.
9. He was then a victim of a serious crime.
10. At great risk, Mr. Patel reported the crime to law enforcement, and he assisted them with the investigation.
11. Mr. Patel provided so much assistance the law enforcement agency sponsored a U visa for Mr. Patel.

12. Based on the law enforcement certification, Mr. Patel filed a Form I-918 with USCIS on September 18, 2024. USCIS assigned it receipt number [REDACTED]

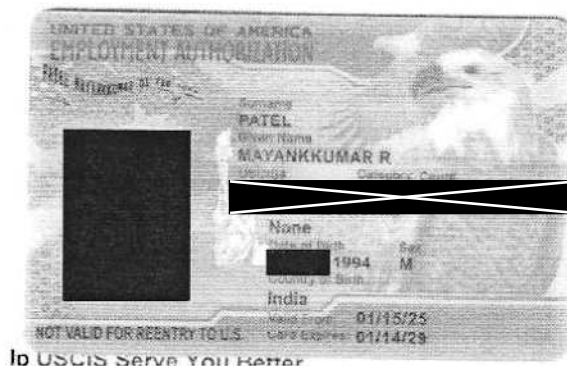
13. Mr. Patel provided biometrics to USCIS.

14. On December 11, 2024, USCIS issued Mr. Patel a “*bona fide* determination,” confirming Mr. Patel’s U visa application is *bona fide* and Mr. Patel warrants favorable discretion.

15. USCIS also granted Mr. Patel deferred action, which stated:

At this time, the evidence demonstrates your petition for U nonimmigrant status is bona fide, and you warrant a favorable exercise of discretion to receive employment authorization and deferred action. Because USCIS has determined your petition is bona fide and you warrant a favorable exercise of discretion, you may be issued an employment authorization document and may be placed in deferred action. Deferred action is an act of administrative convenience to the government which gives some cases lower priority for removal.

16. USCIS provided Mr. Patel an employment authorization document with category (c)(14), which indicates the holder of the employment authorization document has deferred action:



17. With deferred action and work authorization, Mr. Patel could work lawfully, pay taxes, and remain in the United States until a U visa becomes available to him in approximately 2043—that is not a typo.

18. USCIS has chosen to use *bona fide* determinations (“BFD”) and its interim benefits—work authorization and deferred action—to fulfill the promises of the U visa despite the lengthy backlog.

19. ICE lacks authority to detain BFD holders unless or until USCIS revokes their BFD and deferred action. *Sepulveda Ayala v. Bondi*, 794 F. Supp. 3d 901, 906 (W.D. Wash. 2025); *Patel v. Hardin*, No. 2:25-cv-870, 2025 WL 3442706 (M.D. Fl. Dec. 1, 2025) (ordering bond hearing for detainee with U visa deferred action); *Maldonado v. Noem*, No. 4:25-cv-2541, 2025 WL 1593133 (S.D. Tex. Jun. 5, 2025) (granting TRO for detainee with U visa deferred action); *Velasco Gomez v. Scott*, No. 2:25-cv-522, 2025 WL 1382855 (W.D. Wash. Apr. 29, 2025) (granting TRO for detainee with U visa deferred action); *Cf. Velasco Santiago v. Noem*, No. 25-cv-361, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025) (ordering immediate release for parolee with DACA deferred action); *Inlago Tocagon v. Moniz*, —F. Supp. 3d—, 2025 WL 2778023 (D. Mass. Sep. 29, 2025) (ordering bond hearing for detainee with SIJ deferred action); *Sarmiento v. Perry*, No. 1:25-cv-1644, 2025 WL 3091140 (E.D. Va. Nov. 5, 2025) (ordering bond hearing for detainee with SIJ deferred action); *See F.R.P. v. Wamsley*, No. 3:25-CV-01917-AN, 2025 WL 3037858, at *5 (D. Or. Oct. 30, 2025) (collecting cases); *Sepulveda Ayala v. Bondi*, No. 2:25-CV-01063-JNW-TLF, 2025 WL 2084400 (W.D. Wash. July 24, 2025) (holding ICE lacked authority to detain noncitizen with USCIS approved deferred action); *Espinoza-Sorto v. Agudelo*, No. 1:25-CV-23201-GAYLES, 2025 WL 3012786, at *6 (S.D. Fla. Oct. 28, 2025).

20. Nevertheless, on or about March 12, 2026, U.S. Immigration and Customs Enforcement (“ICE”) detained Mr. Patel.

21. It placed him in removal proceedings.

22. And it is housing him at Ste. Genevieve County Detention.

23. Under its own policies, ICE is required not to detain or remove someone with BFD deferred action.

24. Despite being aware of his BFD with deferred action, ICE intends to detain Mr. Patel for the duration of his removal proceedings and removal efforts.

25. This Court should grant this habeas because Mr. Patel's detention is unlawful and his continued detention is unlawful as an applicant with BFD deferred action.

**FIRST CAUSE OF ACTION
(Unlawful Detention of Noncitizen with Deferred Action)**

26. ICE lacks authority to detain Mr. Patel because Mr. Patel is a USCIS-approved member of the U visa waiting list with deferred action. *F.R.P. v. Wamsley*, No. 3:25-CV-01917-AN, 2025 WL 3037858, at *5 (D. Or. Oct. 30, 2025) (collecting cases); *Sepulveda Ayala v. Bondi*, 794 F. Supp. 3d 901, 906 (W.D. Wash. 2025) (holding ICE lacked authority to detain noncitizen with USCIS approved deferred action); *Espinoza-Sorto v. Agudelo*, No. 1:25-CV-23201-GAYLES, 2025 WL 3012786, at *6 (S.D. Fla. Oct. 28, 2025) (restraining ICE from removing someone with USCIS approved deferred action); *Patel v. Hardin*, No. 2:25-cv-870, 2025 WL 3442706 (M.D. Fl. Dec. 1, 2025) (ordering bond hearing for detainee with U visa deferred action); *Maldonado v. Noem*, No. 4:25-cv-2541, 2025 WL 1593133 (S.D. Tex. Jun. 5, 2025) (granting TRO for detainee with U visa deferred action); *Velasco Gomez v. Scott*, No. 2:25-cv-522, 2025 WL 1382855 (W.D. Wash. Apr. 29, 2025) (granting TRO for detainee with U visa deferred action); *Cf. Velasco Santiago v. Noem*, No. 25-cv-361, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025) (ordering immediate release for parolee with DACA deferred action); *Inlago Tocagon v. Moniz*, —F. Supp. 3d—, 2025 WL 2778023 (D. Mass. Sep. 29, 2025) (ordering bond hearing for detainee with SIJ deferred action); *Sarmiento v. Perry*, No. 1:25-cv-1644, 2025 WL 3091140 (E.D. Va. Nov. 5, 2025) (ordering bond hearing for detainee with SIJ deferred action).

27. Deferred action is an enforceable promise that no federal agency will take any action to proceed against an apparently deportable noncitizen. *Sepulveda*, 2025 WL 2084400.

28. The United States Supreme Court described “deferred action” as meaning that “no action will thereafter be taken to proceed against an apparently deportable alien, even on grounds normally regarded as aggravated.” *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482, 484 (1999).

29. ICE is detaining Mr. Patel to ensure he can be removed but he cannot be removed. And if he cannot be removed, his detention serves no legitimate purpose.

30. Various courts have looked at this argument and granted habeas.

31. In *Primero v. Mattivelo*, the District of Massachusetts granted habeas relief to a deferred action recipient, finding no “significant likelihood of his removal in the reasonably foreseeable future” and holding that the government could not rely on the *Zadvydas* presumptive detention period. No. 1:25-CV-11442-IT, 2025 WL 1899115, at *4–5 (D. Mass. July 9, 2025).

32. Likewise, in *Sepulveda Ayala v. Bondi*, the Western District of Washington enjoined ICE from detaining or removing a deferred action recipient, holding that “established precedent defines deferred action as the Government’s decision not to proceed with removal.” No. 2:25-CV-01063-JNW-TLF, 2025 WL 2084400, at *1, *6, *8 (W.D. Wash. July 24, 2025).

33. In *Maldonado v. Noem*, the Southern District of Texas granted a temporary restraining order, finding that ICE’s attempt to remove a deferred action recipient “effectively nullif[ied] his deferred action” and likely violated due process. No. 4:25-CV-2541, 2025 WL 1593133, at *1 (S.D. Tex. June 5, 2025).

34. Similarly, in *Santiago v. Noem*, the Western District of Texas held that “[w]here an individual is protected from removal through deferred action, their detention serves no valid

purpose,” and partially granted habeas relief to a DACA recipient. No. EP-25-CV-361-KC, 2025 WL 2792588, at *6, *12 (W.D. Tex. Oct. 2, 2025).

35. Finally, in *Gamez Lira v. Noem*, the District of New Mexico granted a TRO to a DACA recipient, finding a likelihood of success on both substantive and procedural due process grounds. No. 1:25-CV-00855-WJ-KK, 2025 WL 2581710, at *2–3 (D.N.M. Sept. 5, 2025). The court held that petitioner reasonably relied on his DACA status and that his detention bore no relation to any legitimate government purpose. *Id.*

36. Mr. Patel has deferred action and a valid BFD.

37. ICE cannot simply ignore its sister agency’s decisions and detain Mr. Patel who it cannot remove because USCIS deemed their presence necessary and important.

38. Until or unless USCIS revokes his deferred action, ICE cannot use it as a basis for detention when Mr. Patel cannot be removed.

39. This Court should join the chorus of courts and stop the detention of noncitizens with valid, unexpired grants of deferred action.

SECOND CAUSE OF ACTION
(Unlawful Detention of Victim Of Crime in Violation of Policy)

40. ICE lacks authority to detain Mr. Patel because it knew Mr. Patel was a U visa applicant but it failed to follow its own policies for U visa applicants before detaining him. *See Sepulveda Ayala v. Bondi*, 794 F. Supp. 3d 901, 906 (W.D. Wash. 2025); *F.R.P. v. Wamsley*, No. 3:25-CV-01917-AN, 2025 WL 3037858, at *5 (D. Or. Oct. 30, 2025) (collecting cases); *Palencia v. Hermosillo*, No. 2:25-CV-02669-BAT, 2026 WL 125141, at *1 (W.D. Wash. Jan. 16, 2026); *Gama v. Bondi*, No. 2:25-CV-01925-TL, 2025 WL 3559942, at *3 (W.D. Wash. Dec. 12, 2025); *Velasco Gomez v. Scott*, No. 2:25-cv-522, 2025 WL 1382855 (W.D. Wash. Apr. 29, 2025); *but*

see Aleman v. Bondi, No. 2:25-CV-02346-JNW, 2026 WL 102457, at *5 (W.D. Wash. Jan. 14, 2026).

41. As a BFD holder, Mr. Patel is entitled to the interim benefits for BFD holders, such as deferred action. USCIS Policy Manual, Chapter 5 – *Bona fide* Determination Process, Vol. 3, Part C (last updated Jan. 10, 2025); 8 C.F.R. § 214.14(d)(2).

42. Deferred action is an enforceable promise that no federal agency will take any action to proceed against an apparently deportable noncitizen. *Sepulveda*, 2025 WL 2084400.

43. The United States Supreme Court described “deferred action” as meaning that “no action will thereafter be taken to proceed against an apparently deportable alien, even on grounds normally regarded as aggravated.” *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482, 484 (1999).

44. Under ICE’s own policy, it is required to consult with its Office of Principal Legal Advisor before detaining and deporting a U visa applicant:

When encountering an alien who is the beneficiary of a victim-based immigration benefit, ICE officers and agents should consult with the Office of the Principal Legal Advisor (OPLA) through their Field Office Directors or Special Agents in Charge *prior to conducting a civil enforcement* action against such known beneficiaries, or against primary and derivative applicants or petitioners for such benefits, to ensure any such action is consistent with applicable legal limitations.

ICE Policy 11005.4 at 2 (emphasis added).¹

45. ICE is required to follow its own policies. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

¹ Available at <https://www.icc.gov/doclib/foia/policy/11005.4.pdf> (last visited April 17, 2026).

46. Here, ICE did not check with OPLA. If it had, it would have learned that Mr. Patel had a BFD and deferred action, and it would have learned his detention would serve no purpose until those applications had been revoked.

47. Mr. Patel's current detention serves no purpose because he cannot be removed unless or until USCIS revokes his BFD and deferred action and it has no, non-retaliatory reason to do so.

48. ICE can then take no steps to remove him. This is why even ICE's most restrictive policy in its history related to victim-based beneficiaries or applicants *still* requires ICE to get approval from OPLA before detaining U visa applicants. Mr. Patel is why this policy exists.

49. ICE must adhere to its own practices and policies.

50. Because ICE failed to follow its own policies for detaining victim based benefits and it knew he had a pending U visa, his detention is unlawful and he should be immediately released.

THIRD CAUSE OF ACTION
(Unlawful Detention in Violation of Due Process)

51. Mr. Patel has a cognizable due process interest in his liberty under the Fifth Amendment as it protects "liberty" and applies to *all persons*, regardless of citizenship or immigration status. *Palencia*, 2026 WL 125141 at *6.

52. This Court applies the familiar balancing test found in *Matthews v. Eldridge*, 533 U.S. 678 (1976) to determine what process is due to deprive someone of a cognizable due process interest:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Id.

53. The private interest here is Mr. Patel's liberty in the United States.

54. Since 2020, he has lived in the United States and built a life. He assisted police in an investigation and the police sponsored a U visa for him. *See* 8 C.F.R. § 214.14(c)(2)(i). And he has a BFD and deferred action.

55. Mr. Patel has a very clear path to lawful presence in the United States, though it is a long one.

56. Mr. Patel has a very cognizable liberty interest under the Due Process Clause and it is significant.

57. Second, the risk of erroneously depriving Mr. Patel of his liberty is significant without the additional process of either (1) pre-detention consult - ICE checking with OPLA before detaining him; and (2) pre-revocation consult - ICE asking USCIS whether it intends to revoke the BFD or deferred action before detaining him.

58. The first process is already required by ICE's own policy. This step significantly mitigates the risk of detaining and deporting someone on the cusp of getting deferred action. OPLA has counterparts at USCIS that could confirm Mr. Patel had a BFD and deferred action. If ICE had followed this step, Mr. Patel would not be subjected to unlawful detention.

59. The second step would ensure that ICE does not detain someone who USCIS intends to continue on deferred action and BFD. If USCIS intended to seek to revoke the BFD, ICE would know that. But if USCIS has no intention to revoke the BFD or deferred action, ICE would know it could not take any actions to remove Mr. Patel, including detention.

60. These two proposed steps would not cost ICE anything additional because one is already policy and the other is simply inter-agency consultation.

61. Even “in circumstances where the Government might believe it has a valid reason to detain a petitioner, this does not eliminate its obligation to effectuate the detention in a manner that comports with due process.” *Palencia*, 2026 WL 125141, at *8

62. Finally, the government’s interest in arresting and detaining petitioner *before* consulting with OPLA or waiting for a decision from USCIS is “low.” *Id.*

63. “Even if the process may present some administrative burden, given the high risk of erroneous deprivation, the fundamental liberty and property interests at stake, and the fact that ICE previously found it appropriate to release Petitioners, the Court should find that providing effectively no pre-detention process—as was done here—is constitutionally deficient.” *Id.*

64. Neither of these proposed steps require additional resources because ICE already requires consultation with OPLA and ICE expends no additional resources.

65. Respondent did not give Mr. Patel sufficient process to deprive him of his liberty given his valid BFD and deferred action.

66. For these reasons, this Court should grant this habeas immediately.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF PRAY THAT THIS COURT WILL:

67. Take jurisdiction over this case;

68. Declare Mr. Patel’s current detention unlawful;

69. Grant this habeas petition and order Mr. Patel’s immediate release;

70. Restrain and enjoin ICE from moving Mr. Patel to another jurisdiction or third country during the pendency of this habeas case;

71. Order USCIS to pay reasonable attorney's fees and costs under the Equal Access to Judgement Act or any other provision of law; and

72. Issue any other orders that justice requires.

April 17, 2026

Respectfully submitted,

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