IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Jose Manuel LOPEZ-NUNEZ, (A[redacted] Plaintiff, **vs.** **Jason STREEVAL**, Warden, Stewart Detention Center; **Ladeon FRANCIS**, Field Office Director, Atlanta Field Office, U.S. Immigration and Customs Enforcement; **David VENTURELLA**, Acting Director, U.S. Immigration and Customs Enforcement; **Markwayne MULLIN**, Secretary of the Department of Homeland Security; in their official capacities, Defendants.	CIVIL ACTION NO. **Habeas Corpus** and **Request for Stay of Removal** **28 U.S.C. §2241**

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

COMES NOW, Jose Manuel Lopez-Nunez, Plaintiff in the above-styled and numbered cause, by and through the undersigned counsel of record, to seek enforcement of his rights as a member of the Pending Petition Class certified in *Immigration Center for Women and Children v. Noem* ("*ICWC*"), a class action brought on behalf of immigrant victims of domestic violence, trafficking, and other serious crimes. *Immigr. Ctr. for Women & Child. v. Noem*, No. 2:25-CV-09848-AB-AS, 2026 WL 1455004 (C.D. Cal. May 20, 2026) ("*ICWC* PI Order").

INTRODUCTION

1. Petitioner is a native and citizen of Mexico who was ordered removed from the United States on June 27, 2011. He self-petitioned under the Violence Against Women Act (VAWA), and his petition remains pending.

2. Notwithstanding his pending petition, Petitioner remains unlawfully detained by Respondent U.S. Immigration and Customs Enforcement ("ICE") at the Stewart Detention Center in Lumpkin, Georgia.

3. Petitioner's continued detention contravenes the *ICWC* PI Order, in which the court certified a nationwide class that includes detained VAWA self-petitioners and entered a nationwide injunction staying ICE's policy of detaining individuals with pending VAWA self-petitions. *Id.* at 47. As the court held, "by allowing ICE agents to turn a blind eye to persons with pending petitions, the 2025 Guidance undermines the legislative scheme Congress designed to protect such individuals from removal." *Id.* at 74.

4. Separately, Respondents' failure in honoring the protection against detention and removal for those with pending VAWA self-petitions also violates the U.S. Constitution, the Administrative Procedure Act ("APA"), and the Accardi Doctrine.

5. Petitioner self-petitioned under VAWA, which provides that noncitizens with abusive qualifying family members can "self-petition" for family-based immigrant visas without their abuser's knowledge, consent, or participation. *See* 8 U.S.C. §§1101(a)(51), 1154(a)(1)(A)(iii), (B)(iii). See **Exhibit 1**. He also applied for Adjustment of Status. See **Exhibit 2**.

6. USCIS was still adjudicating Petitioner's VAWA self-petition when ICE detained him. By detaining Petitioner, ICE de facto revoked the possibility of deferred action based on his still-pending VAWA self-petition—a break from longstanding department policy, which disallowed enforcement against such individuals.

7. ICE's shift from non-enforcement to aggressive enforcement against individuals awaiting adjudication of their VAWA self-petitions stems from the issuance of a memorandum dated January 30, 2025. See ICE Policy No. 11005.4, Interim Guidance on Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim-Based Immigration Benefits ("2025 Guidance").

8. The United States District Court for the Central District of California stayed implementation of the 2025 Guidance, finding that plaintiffs were likely to succeed on their claims that it violated the Administrative Procedure Act ("APA"). The court held that, pending the Government's appeal of its decision, ICE must adhere to the previously rescinded 2011 and 2021 ICE guidance emphasizing a victim-centered approach. Under that guidance and the court's order, ICE may not remove individuals with pending VAWA self-petitions without formal action by USCIS, including a determination of prima facie eligibility.

9. Because the Government's appeal remains pending before the United States Circuit Court of Appeals for the Ninth Circuit, the nationwide injunction staying ICE's 2025 Guidance is in effect, and Respondent's continued detention of Petitioner is unlawful while he awaits adjudication of his VAWA self-petition.

JURISDICTION

10. A writ under 28 U.S.C. § 2241 may issue if, among other things, a person "is in custody under or by color of the authority of the United States," or is "in custody in violation of the Constitution or laws or treaties of the United States." *See* 28 U.S.C. § 2241(c).

11. Petitioner is in the physical custody of Respondents under color of the authority of the United States. Petitioner is detained by ICE at the Stewart Detention Center in Lumpkin, Georgia.

12. This Court has jurisdiction under 28 U.S.C. § 2241(c) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

13. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

14. Venue is proper in the Middle District of Georgia because it is the judicial district in which Petitioner currently is detained. *See Braden v. 30th Jud. Cir. Ct. of Ky, 410 U.S. 484, 493-500 (1973).*

15. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and/or agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in this District.

PARTIES

16. Petitioner Jose Manuel Lopez-Nunez self-petitioned under VAWA, and he is awaiting adjudication of his petition by USCIS. On June 27, 2011, an Immigration Judge entered a final order of removal, which ICE now seeks to execute despite Petitioner's potential eligibility for deferred action. Petitioner remains detained at the Stewart Detention Center in Lumpkin, Georgia.

17. Respondent Jason Streeval is the Warden of the Stewart Detention Center, where Petitioner is currently detained. He is Petitioner's immediate custodian and is named in his official capacity. *See Doe*, 108 F.4th at 1194-97.

18. Respondent Ladeon Francis is the Field Office Director of the Atlanta Field Office of ICE with administrative jurisdiction over Petitioner's case. He is Petitioner's legal custodian and is named in his official capacity.

19. Respondent David Venturella is the Acting Director of ICE. He is responsible for ICE's policies, practices, and procedures, including those relating to the detention of immigrants. He is a legal custodian of Petitioner and is named in his official capacity.

20. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security ("DHS"), an agency of the United States, is responsible for the administration of the immigration laws. 8 U.S.C. § 1103(a). He is a legal custodian of Petitioner and is named in his official capacity.

21. Todd Blanche is the Acting Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity.

CLAIMS FOR RELIEF

22. The "historic purpose of the writ" of habeas corpus is "to relieve detention by executive authorities without judicial trial." *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001) (cleaned up). A habeas court's role is at its "most extensive in cases of pretrial and noncriminal detention," especially "where there ha[s] been little or no previous judicial review of the cause for detention," as is the case here. *Boumediene v. Bush*, 553 U.S. 723, 780 (2008). Here, Petitioner sets for the following claims for issuance of the writ:

CLAIM ONE

Violation of APA 5 U.S.C. § 706(2)(A)

Petitioner's Detention Is Not in Accordance with Law because It Violates the ICWC PI ORDER

23. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

24. Under the APA, courts "shall . . . hold unlawful and set aside agency action . . .found to be . . .not in accordance with law." 5 U.S.C. § 706(2)(A).

25. Respondent's detention of Petitioner constitutes final agency action under the APA. *See* 5 U.S.C. § 551(13), 704; *see also Bennett v. Spear*, 520 U.S. 154, 177-78 (1997).

26. In *ICWC,* the court concluded that plaintiffs were likely to succeed on their claim that Blind Removal Policy is arbitrary and capricious and not in accordance with law under the

APA "because ICE executes them in ignorance of the individual's prima facie eligibility for approval of their pending petitions." *ICWC* PI Order at 37.

27. As a result, the court stayed the Blind Removal Policy and reinstated a 2021 directive that barred "immigration enforcement against persons with pending petitions for victim-based benefits" without a preliminary determination by USCIS of the petitioners' eligibility for approval. *Id.*

28. The stay applies in favor to members of the Pending Petition Class, which includes "all individuals with pending principal or derivative U visa petitions, T visa petitions, or VAWA self-petitions who ICE detains or seeks to detain for civil immigration enforcement." *Id.* at 74. Because Petitioner is detained notwithstanding his pending VAWA self-petition, he is a member of the class.

29. Respondents detained Petitioner pursuant to the stayed Blind Removal Policy. There was no apparent attempt by ICE to ascertain, through correspondence with USCIS, the strength of Petitioner's VAWA self-petition.

30. Accordingly, Respondents' detention of Petitioner is not in accordance with law in violation of the APA, as it directly contravenes the § 705 relief issued in the *ICWC* PI Order.

CLAIM TWO

Violation of the Fifth Amendment to the United States Constitution

Procedural Due Process Requires Notice and Consideration for Deferred Action

31. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

32. "Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment." *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). "The essence of due process is the requirement that a person in jeopardy of serious loss" receive "notice" and "opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Id.* at 333, 348-49 (citations omitted).

33. Here, Petitioner has a protected liberty interest in their deferred action. *See ICWC* PI Order at 40.

34. In determining what process is due when ICE revokes deferred action status through its enforcement actions, courts must apply the *Mathews* three-part balancing test, considering

(1) "the private interest that will be affected by the official action," (2) "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 (3) "the Government's interest . . .that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335. Here, the *Mathews* balancing test comes out strongly in favor of Petitioner.

35. The private interests that will be affected are profound. First, Petitioner's liberty is at stake. There is no question that freedom from government imprisonment is a significant private interest that "lies at the heart of the liberty that" Due Process protects. *Zadvydas*, 533 U.S. at 690.

36. In addition, Petitioner's "private interest in avoiding removal or detention pending removal is great." *ICWC* PI Order at 41.

37. Moreover, "the risk of an erroneous deprivation of" these interests "through the procedures used" is extremely high, compared to "the probable value" of a pre-deprivation process where Respondents have provided *no process at all* before engaging in immigration enforcement that effectively denied Petitioner consideration for deferred action. *Mathews*, 424 U.S. at 335.

38. Conversely, "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail," are minimal. *Mathews*, 424 U.S. at 335. USCIS already has a pre-deprivation process; it regularly responds to requests from ICE to make prima facie determinations of applicants' eligibility for approval of their pending petitions. Respondents circumvented the prescribed process and relied instead on the stayed Blind Removal Policy. Respondents can thus claim no legitimate interest in circumventing the existing pre-deprivation process by arbitrarily detaining Petitioner without an inquiry into his pending VAWA self-petition.

39. Accordingly, without any procedural protections, Petitioner has been deprived of due process under the Fifth Amendment.

CLAIM THREE

Violation of Fifth Amendment of United States Constitution

Detaining Individuals with Valid Deferred Action Status Violates Substantive Due Process

40. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

41. Because "[a]rbitrary civil detention is not a feature of our American government," *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018), civil confinement is only

permissible "in certain special and narrow non-punitive circumstances," where a "special justification" asserted by the government "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (cleaned up).

42. Immigration detention only comports with due process when it furthers the government's goals of "ensuring the appearance of [noncitizens] at future immigration proceedings and preventing danger to the community." *Id.* (cleaned up).

43. The only two accepted justifications for keeping someone in civil immigration detention are insufficient as applied to Petitioner. Here, Respondents have not established that Petitioner is either a flight risk or a public safety risk. Accordingly, because Petitioner's detention is not justified by flight risk or danger concerns, it bears no reasonable relation to a legitimate government purpose and thus violates Petitioner's substantive due process rights.

CLAIM FOUR

Accardi Doctrine

Petitioner's Detention Violates the PM, Regulations, and Longstanding Policy and Practice

44. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

45. The Supreme Court has long recognized that government agencies are required to follow their own procedures. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). Courts have regularly applied this principle to the immigration context. *See, e.g., Alcaraz v. I.N.S.*, 384 F.3d 1150, 1162 (9th Cir. 2004). The *Accardi* doctrine extends beyond just "regulations" to include, e.g., "internal operating procedures," "handbook[s]," "policy statements," and other evidence of an agency's "usual practice." *Id.* at 1162.

46. The USCIS Policy Manual ("PM") lays out key provisions for VAWA self-petitions and identifies the statutory authority to consider deferred action for certain self-petitioners. *See* PM vol. 3, pt. D, ch. 1.C. USCIS has the exclusive right to approve, deny, or revoke deferred action for VAWA self-petitioners. *Id.*

47. As the court in *ICWC* held, "by permitting ICE to de facto revoke deferred action instead of following USCIS procedure, and without applying any of the applicable criteria from the USCIS Policy Manual," Respondents "are not complying with their own policies" and are violating the *Accardi* Doctrine. *ICWC* PI Order at 40.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Order Respondents to show cause why the writ should not be granted, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243;

(3) Issue a writ of habeas corpus and order Respondents to immediately release Petitioner;

(4) Issue a stay of removal and forbid Respondents from re-detaining Petitioner while his VAWA self-petition is pending adjudication by USCIS;

(5) Declare that Petitioner's detention is unlawful;

(6) Award reasonable costs and attorneys' fees; and

(7) Grant such further relief as the Court deems just and proper.

This, the 8th day of July 2026.

LUNEL LAW,

by: David Lunel, Esq.
Georgia Bar No. 874002
Counsel for the Plaintiff
1180 W Peachtree Street NW,
Suite 2040
Atlanta, GA 30309
Tel.: (404) 975-4500
Email: david@lunellaw.com