5:26-CV-4303

ALFONSO CABAÑAS
alfonso@cabanaslaw.com
magaly@cabanaslaw.com
Cabañas Law Firm
122 Lewis Street
San Antonio, TX 78212
Telephone: 210-446-4090

Attorney for Petitioner

UNITED STATE DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

RONNY
SAMUEL VELASQUEZ LOPEZ

Petitioner,

-against-

DAVID VENTURELLA, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement (ICE); MARCOS CHARLES, in his official capacity as Acting Executive Associate Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; MARKWAYNE MULLIN, in his official capacity as Secretary of the U.S. Department of Homeland Security; and TODD BLANCHE, in his official capacity as Acting Attorney General of the United States; MIGUEL VERGARA, in his official capacity as Field Office Director, San Antonio Field Office, U.S. Immigration and Customs Enforcement; the WARDEN of SOUTH TEXAS ICE

PETITION FOR A WRIT OF HABEAS CORPUS

Case No.:

PROCESSING CENTER, in his or her official capacity as custodian of Petitioner; and the WARDEN OF THE FACILITY WHERE PETITIONER IS CURRENTLY DETAINED, in his or her official capacity as custodian of Petitioner,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

---

1. Petitioner, Ronny Samuel Velasquez Lopez, files this Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 challenging his continued immigration detention at the South Texas ICE Processing Center in Pearsall, Texas. Petitioner is a noncitizen with a pending Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant as an applicant under the Victim Against Violence Act ("VAWA"), with a bona fide determination. His detention is inconsistent with a nationwide preliminary injunction entered in *Immigration Center for Women & Children v. Noem*, No. 2:25-cv-09848-AB-AS (C.D. Cal. May 20, 2026), which certified a nationwide Pending Petition Class of individuals with pending VAWA, U, and T petitions and enjoined ICE from implementing the January 30, 2025, enforcement guidance in ways that conflict with those protections. Continued detention serves no legitimate enforcement purpose, undermines Congress's intent to protect victims, and rests on an enforcement framework a federal district

court has already found likely unlawful.

2. Separately, Respondents' detention of Petitioner violates the U.S. Constitution, the Administrative Procedure Act ("APA"), and the *Accardi* Doctrine.

3. For those reasons, Petitioner seeks immediate release from detention, or alternatively an order directing Respondents promptly to provide a lawful custody redetermination consistent with the Immigration and Nationality Act, the Administrative Procedure Act, and the Due Process Clause.

PARTIES

4. Petitioner Ronny Samuel Velasquez Lopez ("Petitioner") is a citizen of Honduras currently detained by ICE at the South Texas ICE Processing Center.

1. Respondent David Venturella is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"), an agency of the U.S. Department of Homeland Security ("DHS"). In that capacity, he is responsible for overseeing ICE's operations, including the detention and removal of noncitizens within the United States. He exercises authority over the policies and actions giving rise to Petitioner's detention and is sued in his official capacity.

2. Respondent Marcos Charles is the Acting Executive Associate Director of Enforcement and Removal Operations ("ERO"), the division of ICE responsible for the arrest, detention, and removal of noncitizens. He is charged with implementing ICE detention policies nationwide and is sued in his official capacity.

3. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security ("DHS"), the federal department with ultimate authority over immigration enforcement and the administration of ICE. As the head of DHS, Secretary Mullin has ultimate responsibility for the custody and detention of individuals such as the Petitioner and is sued in his official capacity.

4. Respondent Todd Blanche is the Acting Attorney General of the United States and head of the U.S. Department of Justice, which includes the Executive Office for Immigration Review ("EOIR") and the nation's immigration courts. The Attorney General is responsible for the overall administration of immigration proceedings and the enforcement of federal immigration law and is sued in his official capacity.

5. Respondent Miguel Vergara is Field Office Director, San Antonio Field Office, U.S. Immigration and Customs Enforcement, the division of ICE responsible for the arrest, detention, and removal of noncitizens. He is charged with implementing ICE detention policies and is sued in his official capacity.

6. Respondent Warden (the "Warden") of South Texas ICE Processing Center (the "Detention Facility"), in their official capacity as custodian of the Petitioner. The Warden is named herein in their official capacity as the Petitioner's custodian.

7. Respondent "the Warden of the Facility Where Petitioner Is Currently Detained" is named in his or her official capacity as Petitioner's immediate physical custodian. Because Petitioner's place of detention may change during the

pendency of this action, this designation is intended to encompass any warden or equivalent official who exercises day-to-day custody over Petitioner at the time the Court issues its decision, thereby ensuring that the Court's order may be promptly enforced.

JURISDICTION & VENUE

8. Petitioner is in the custody of Respondents and currently detained at the South Texas ICE Processing Center.

9. This action arises under the Constitution of the United States, the Immigration and Nationality Act (INA), 8 U.S.C. § 1101, *et seq.*, and the Administrative Procedures Act ("APA"), 5 U.S.C. §§ 500-596, 701-706. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 2201, 2202 (Declaratory Judgment Act). Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001).

10. Venue is proper in this district pursuant to 28 U.S.C. § 2241(d) because Petitioner is currently detained in the Detention Facility, within this district, and remains in ICE continuous custody. Additionally, venue is proper in this District pursuant to 28 U.S.C. § 1391(e) because Respondents are employees or officers of the United States, acting in their official capacities; a substantial part

of the events or omissions giving rise to the claim occurred in this District; Petitioner is currently detained in this District; and there is no real property involved in this action.

REQUIREMENTS OF 28 U.S.C. § 2243

11. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

FACTUAL BACKGROUND

12. Petitioner was born in Honduras. *See* Exhibit A, Declaration of Ronny Samuel Velasquez Lopez at ¶ 1.

13. Petitioner entered the United States through the river in 2012. *Id* at ¶ 2. He was apprehended then returned to Honduras. *Id.*

14. Petitioner re-entered the United States through the river in 2017. *Id* at ¶ 3.

15. Following his entry, he met his wife Monica Rangel, a United States citizen, and they married on February 11, 2021. *Id* at ¶ 4-5.

16. During the marriage, his wife subjected Petitioner to physical violence. *Id* at ¶ 6.

17. On January 6, 2025, with the help of counsel, Petitioner filed a

VAWA-based Form I-360, as a victim of physical violence at the hands of a United States citizen spouse. *Id.* at ¶ 7; Exh. B, Receipt Notice for I-360 – Petition for Amerasian, Widower, or Special Immigrant.

18. On February 19, 2025, Petitioner received a prima facie determination for VAWA relief. Exh. A at ¶ 8; Exh. C, Prima Facie Determination Notice. The determination was later extended. Exh. A at ¶ 9; Exh. D, Prima Facie Determination Extension Notice.

19. In May of 2026, after following the Petitioner for some time, police stopped Petitioner's vehicle upon seeing the Petitioner through his driver's side window. Exh. A at ¶ 10. Following his stop, Petitioner questioned the reason for the detainment, but he received conflicting reasons. *Id.* at ¶ 11. Police did not charge Petitioner with a crime, but rather, they drove him directly to immigration officers after making him wait over 30 minutes on the side of the road. *Id.*

20. Once transferred to immigration officers, Petitioner explained he had a pending VAWA petition with a prima facie determination, but officers ignored him and transferred him to the South Texas ICE Processing Center. *Id.* at ¶ 12-13.

21. Immigration counsel submitted a parole and stay of removal request to ICE. No response has been received despite counsel's request for updates. *Id.* at ¶ 14.

22. Prior to his detainment by immigration officers, Petitioner had not been arrested for, charged with, or convicted of any criminal offense in the United States. *Id.* at ¶ 15.

23. On information and belief, Respondents have continued Petitioner's detention under or consistent with the enforcement framework created by the January 30, 2025, guidance, rather than through the victim-centered analysis required by statute and the preliminary injunction.

LEGAL FRAMEWORK

24. In 1994, Congress passed VAWA to address the widespread problem of noncitizens remaining in relationships with abusers who held the key to their eligibility for lawful immigration status in the United States. *See* Violent Crime Control and Law Enforcement Act of 1994, Title IV, Pub. L. 103-322, 108 Stat. 1796 (September 13, 1994). VAWA allowed noncitizens with abusive qualifying family members to self-petition for an immigrant visa and avoid the abuser's knowledge, consent, or participation in the process. *See* 8 U.S.C. §§ 1101(a)(51), 1154(a)(1)(A)(iii), (B)(iii). Congress also made it possible for successful VAWA petitioners to obtain inadmissibility waivers, so they become lawful permanent residents and remain in the United States. *See* Battered Immigrant Women's Protection Act ("BIWPA") § 1505.

25. If the self-petitioner establishes "prima facie case" for VAWA relief, they are eligible for federal public benefits, such as welfare, health, disability, or unemployment and other benefits during the pendency of the VAWA petition. *See* 8 U.S.C. §§ 1611(a), 1641(c). A self-petitioner may also be eligible for work authorization and may apply for deferred action status while visas become

available. *See* 8 U.S.C. § 1154(a)(1)(K); USCIS Policy Manual ("USCIS PM") vol. 3, pt. D, ch. 5.D.2.8

26. Before January 30, 2025, ICE policy generally directed officers to refrain from taking immigration enforcement action against and detaining known beneficiaries of pending VAWA petitions, absent exceptional circumstances or aggravating factors, and to coordinate with USCIS for expedited interim adjudications. *See* ICE Policy Statement 10076.1, *Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs* (Jun. 17, 2011) (hereinafter "2011 Policy"), https://www.ice.gov/doclib/foia/prosecutorial-discretion/certain-victims-witnesses-plaintiffs.pdf; *see also* ICE Directive 11005.3, *Using a Victim-Centered Approach with Noncitizen Crime Victims* (Dec. 2, 2021) (hereinafter "2021 Policy"), https://www.ice.gov/doclib/foia/policy/11005.3_UsingVictimCenteredApproachNoncitizenVictims.pdf. In fact, ICE was instructed to exercise favorable discretion, such as *release from detention* and grant of deferral or a stay of removal, generally, for those beneficiaries when appropriate. *See* 2011 Policy at 2. ICE was also instructed to "defer" enforcement until USCIS adjudicates the petition and to request expedited prima facie adjudications from USCIS. *See* 2021 Policy at 2, 9. If the self-petitioner received a prima facie determination, it was to be considered a positive factor in favor of exercising discretion of release the individual and granting a stay of removal. *Id* at 2, 8.

27. On January 30, 2025, ICE issued Policy No. 11005.4, which rescinded

prior victim-centered guidance and adopted a new framework that no longer treated victim status as a positive discretionary factor and no longer called for routinely requesting expedited USCIS adjudications. *See* ICE Policy No. 11005.4, *Interim Guidance on Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim-Based Immigration Benefits* (Jan. 30, 2025) (hereinafter "2025 Policy"), https://www.ice.gov/doclib/foia/policy/11005.4.pdf. As a result of this policy, ICE now engages in an unlawful policy and practice of routinely detaining and deporting people who have pending VAWA petitions.

28. On May 20, 2026, the U.S. District Court for the Central District of California, in *Immigration Center for Women & Children v. Noem* ("*ICWC*"), certified a nationwide Pending Petition Class of all persons with pending VAWA, U, and T petitions and granted preliminary injunctive relief against implementation of the 2025 guidance in ways that conflict with the INA and related protections. *Immigration Center for Women & Children v. Noem*, No. 2:25-cv-09848-AB-AS, at *95 (C.D. Cal. May 20, 2026) (hereinafter "Prelim. Inj. Order") (order granting class certification and granting in part and denying in part motion for preliminary injunction). The district court found that the 2025 Policy marked a change from a prior policy of refraining from enforcement against such persons to a policy of enforcement despite pending applications. *Id.* The district court also found that ICE practices resulting from the 2025 Policy, including enforcement practices that disregard interim victim-protection mechanisms and pending victim-based petitions, were likely unlawful because they conflict with

that statutory framework and violate the APA and *Accardi* doctrine, and violate class members' due process rights under the Fifth Amendment. *Id.* at *75-*84.

29. Here, Petitioner is a member of the Pending Petition Class in *ICWC* because he is an individual with a pending principal VAWA self-petition who ICE has detained. *Id.* at *95. Petitioner's continued detention despite his pending VAWA petition, prima facie determination, favorable equities, and lack of criminal history is arbitrary, contrary to law, and inconsistent with that injunction.

CLAIMS FOR RELIEF

30. Federal habeas relief is available where immigration detention violates the Constitution or laws of the United States. 28 U.S.C. § 2241. The Supreme Court has repeatedly recognized that habeas remains available to challenge the legality of immigration detention. *Zadvydas v. Davis*, 533 U.S. at 687. 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 in this case. *Boumediene v. Bush*, 553 U.S. 723, 780 (2008). Petitioner sets for the following claims for issuance of the writ.

CLAIM ONE

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

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

32. Under the APA, a reviewing court shall "hold unlawful and set aside

agency action, findings, and conclusions" that are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," or taken "without observance of procedure required by law." 5 U.S.C. § 706(2)(A), (D).

33. In *ICWC,* the court concluded that plaintiffs were likely to succeed on their claim that the 2025 Policy is arbitrary and capricious and not in accordance with law under the APA. Prelim. Inj. Order at *69, *73.

34. As a result, the court stayed the 2025 Policy, "including its rescission of prior [2011 and 2021] policies." *Id.* at *96.

35. The stay applies in favor to members of all three Classes, which Petitioner is a member of as well. *Id.*

36. Respondents detained Petitioner pursuant to the stayed 2025 Policy.

37. Respondents' continued detention of Petitioner is final agency action or, alternatively, unlawful agency action reviewable under the APA. 5 U.S.C. §§ 551(c)(10) & (13), 704; *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997).

38. Detention is arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law because Respondents failed to consider Petitioner's class membership under the preliminary injunction and Petitioner's favorable equities.

39. 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* Prelim. Inj. Order.

40. Respondents' action should therefore be held unlawful and set aside.

Claim Two

Petitioner's Detention is in Violation of the Fifth Amendment to the United States Constitution

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

42. The Fifth Amendment Due Process Clause protects against unjustified physical restraint, including in the immigration context. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976).

43. Petitioner's liberty interests are substantial because immigration detention imposes severe physical, emotional, familial, and economic burdens.

44. The Supreme Court in *Zadvydas* explained that 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. Additionally, the Court highlighted that immigration detention raises grave constitutional concerns when it becomes prolonged and is not reasonably tied to a valid government purpose. *Id.*

45. 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.* The only two accepted justifications for keeping someone in civil immigration detention are insufficient as applied to Petitioner.

46. Here, Petitioner is VAWA self-petitioner, has no criminal history, has

family ties, and long residence in this country. Petitioner does not present a danger to the community and has all incentive to cooperate with immigration officials as he has a petition pending before the government itself.

47. Despite this, Respondents have continued to detain Petitioner without meaningful consideration of the statutory protections attached to his pending VAWA petition and without a lawful individualized determination that justifies detention in light of those protections and his favorable equities.

48. Additionally, Respondents' unresponsiveness to Petitioner's parole and stay of removal requests and multiple attempts to call attention to his prima facie determination for VAWA relief show that they do not have any lawful justification for the detainment.

49. Under these circumstances, Petitioner's continued detention violates procedural and substantive due process.

Claim Three

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

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

51. 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.*

52. The 2011 Policy directed ICE officers to exercise prosecutorial discretion favorably for certain victims, witnesses, and plaintiffs and recognized that victims pursuing humanitarian protection should not be treated the same as ordinary enforcement targets. The 2021 Policy further created a specific framework for handling these victims in removal proceedings or with final orders, including coordination around stays of removal and favorable exercises of prosecutorial discretion to prevent removal while USCIS adjudicates the petition. Those memoranda established a structured, agency-wide framework for how ICE should treat people like Petitioner.

53. Petitioner falls squarely within that framework. He is a victim of physical abuse at the hand of his United States citizen spouse, he has a pending VAWA I-360 petition, and he has received a prima facie determination. Yet Respondents detained him and have continued his detention without any indication that they applied the victim-centered standards set out in the 2011 and 2021 memoranda. That failure to apply the relevant policy framework, or to explain any departure from it, renders the detention decision arbitrary and capricious. *See* 5 U.S.C. § 706(2)(A); *Accardi*, 347 U.S. at 266–68.

54. Respondents' refusal to follow the 2011 and 2021 victim-centered framework and the statutory protections it implements are unlawful and should be

set aside.

PRAYER FOR RELIEF

WHEREFORE, the Petitioner respectfully requests that this Court:

(1) Assume jurisdiction over this matter;

(2) Issues a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and orders Respondents to immediately release Petitioner from ICE's/DHS's custody, and/or release under reasonable conditions of supervision or any less restrictive alternative the Court deems appropriate, or in the alternative,

(3) Order Respondents to provide Petitioner with a bond hearing before an immigration judge no later than a date set shortly after this Court grants the petition, at which the government shall bear the burden of justifying, by clear and convincing evidence, the dangerousness or flight risk posed by Petitioner's continued detention;

(4) Declare that Respondents' detention of Petitioner without notice, opportunity to be heard, or individualized determination of flight risk or dangerousness is unlawful;

(5) Enjoin Respondents from re-detaining Petitioner upon his release from ICE's/DHS's custody without: (a) providing Petitioner with prior written notice of the grounds for detention; (b) affording

Petitioner an opportunity to be heard and to present evidence demonstrating that his release would not pose a danger to property or persons and that he is likely to appear for any future proceeding; and (c) making an individualized determination, supported by specific facts and evidence, that Petitioner poses a flight risk or danger to the community;

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

(7) Grant such other and further relief as this Court deems just, proper, and equitable.

Dated: 07/07/2026

Respectfully submitted,

/s/ Alfonso Cabañas
Alfonso Cabañas
Texas Bar No. 24056718
alfonso@cabanaslaw.com
Cabañas Law Firm
122 Lewis Street
San Antonio, TX 78212
Telephone: 210-446-4090

Counsel for Petitioner
Ronny Samuel Velasquez Lopez