IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JOSE ANTONIO VASQUEZ MEJIA, Petitioner, v. MATTHEW PUTRA.[1], Field Office Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, Department of Homeland Security, et al., Respondents.	)	Case No.: 1:26-cv-00711-JPH-PBS District Judge Jeffery P. Hopkins Magistrate Judge Peter B. Silvain, Jr.

PETITIONER'S REPLY TO RESPONDENTS' RETURN OF WRIT

Petitioner Jose Antonio Vasquez Mejia, through counsel, respectfully submits this reply to the Respondents' Return of Writ (ECF No. 11) (hereinafter the "Return"). The Return should not result in denial and dismissal.

Although the Return supplies a Form I-871 that Respondents had not previously disclosed, it does not eliminate this Court's habeas jurisdiction over the lawfulness of Petitioner's present civil detention or establish that Respondents have complied with the controlling, nationwide preliminary injunction applicable to noncitizens with pending U-visa petitions.

Petitioner does not ask this Court to reopen, vacate, or review the merits of the underlying 2017 removal order. Nor does he seek review of an adverse reasonable-fear decision. Instead, he challenges present custody and requests individual relief appropriate to the established statutory and constitutional limits on executive detention: a reasoned, individualized custody determination that accounts for his pending U-visa petition, the relevant federal

[1] Matthew Putra is the current Field Office Director

injunction, and the facts bearing on detention or supervised release. Petitioner further requests such other individual habeas relief as is necessary to remedy continued unlawful custody.

I. RETURN MOOTS NEITHER THE PETITION NOR THE REQUEST FOR INDIVIDUAL HABEAS RELIEF

The Petition alleged that Respondents had not identified or produced the statutory and factual basis for custody. The Return now attaches a Form I-871 dated May 13, 2026, purporting to reinstate the prior removal order, along with related arrest and removal records. (ECF No. 11) Petitioner acknowledges that this production bears on the Petition's earlier disclosure allegations. It does not, however, resolve whether Respondents' continuing detention decision is lawful after Petitioner filed his U-visa petition, and invoked the protections of *Immigration Center for Women and Children v. Noem, No. 2:25-cv-09848-AB-AS, ECF No. 57 (C.D. Cal. May 20, 2026)* ("*ICWC*") and requested release.

The Return also contains inaccuracies that reinforce why the Court should require a current, accurate account of the basis for continued custody, rather than the account as presently submitted. The reasonable-fear affirmance, for example, is mistakenly dated. *See*, ECF No. 11 at 4. The Return further characterizes Petitioner's response to questioning as a "refusal" to make a sworn statement, when the attached record instead reflects a declination to answer questions. *Id.*, Ex. H.

Under *ICWC*, Respondents are required to follow guidelines in ICE Directive 11005.3 ("Directive"), using a Victim-Centered approach. (*See*, Ex. A at 1). Under this directive, Respondents are to exercise discretion to defer decisions on civil immigration enforcement action against applicants for U nonimmigrant visas until the USCIS makes a negative bona fide determination or waiting list determination. (Ex. A at 2, ¶2.1). Further, the Directive orders

Respondents to refrain from taking civil immigration enforcement action against known beneficiaries of victim-based immigration benefits and those with pending applications for such benefits absent exceptional circumstances. (See, Ex. A at 2, ¶2). Exceptional circumstances here are determined to exist where the noncitizen poses national security concerns or the noncitizen poses an articulable risk of death, violence, or physical harm to any person. (See, Ex. A, at 3, ¶3.4).[2] Respondent does not fall within any of the parameters establishing exceptional circumstances such that, Respondents must continue his detention.

Petitioner concedes that he may have been detained prior to the *ICWC* order and subsequent reversion to the current Directive. However, he contends that once the Directive was reinstated, Respondents had a duty to reconsider his detention pursuant to the Directive. Under the Directive, Respondents have a duty to consider if noncitizens may be eligible for victim-based immigration petitions. (See, Ex. A, ¶2 at 2).

Petitioner does not seek adjudication of the reasonable-fear merits here; these inconsistencies instead underscore why the Court should require a current, accurate account of the asserted basis for continuing custody.

II. SECTION 1252 DOES NOT ELIMINATE HABEAS REVIEW OF PRESENT DETENTION

The Return conflates a barred challenge to execution or validity of a removal order with a permissible challenge to the legal authority for present custody. Section 1252 channels judicial review of a removal order to a petition for review, and § 1252(g) bars claims arising from the Executive's discrete decision to execute a removal order. *See*, 8 U.S.C. § 1252(a)(5), (b)(9), (g).

[2] Petitioner concedes that he has made mistakes in the past. However, his last run-in with the law was in 2017, almost a decade ago and those mistakes do not validate the current detention.

Petitioner does not invite the Court to review the underlying order or direct the outcome of removal proceedings.

The Supreme Court has held that § 2241 remains available for statutory and constitutional challenges to post-removal-period detention, including a claim that custody exceeds the Government's statutory authority. *Zadvydas v. Davis*, 533 U.S. 678 (2001). The Sixth Circuit likewise recognizes that jurisdiction over an individual detention claim is independent of jurisdiction over a removal-based claim, even though § 1252 may bar an injunction directed at execution of the removal order. *Hamama v. Homan*, 912 F.3d 869, 877 (6th Cir. 2018).

Petitioner's requested relief should therefore be understood and evaluated as an individual custody relief. The question then, is whether continued detention complies with the applicable detention framework and the procedural protections governing Petitioner's present circumstances, not whether the Court should adjudicate the validity of the removal order or displace the court-of-appeals review process.

III. THE RETURN ESTABLISHES THE APPLICABLE DETENTION FRAMEWORK, BUT NOT THE LAWFULNESS OF THE CONTINUING CUSTODY DECISION

The Form I-871 attached to the Return materially changes the threshold statutory-basis issue. Under the record as now presented, Petitioner is subject to a reinstated removal order, and detention is governed by 8 U.S.C. § 1231 rather than § 1226. *See*, 8 U.S.C. § 1231(a)(1)–(6); *Johnson v. Guzman Chavez*, 594 U.S. 523(2021). Petitioner accordingly does not press, on the present record, a claim to an immigration-judge bond hearing premised on § 1226. That conclusion does not end the inquiry. Section 1231 authorizes mandatory detention during the removal period and permits continued detention in defined circumstances thereafter. It does not insulate present custody from habeas review. The constitutional and statutory question remains

whether custody is reasonably related to the purpose of effectuating removal and is administered through the procedures and individualized consideration the governing framework requires. *Zadvydas*, 533 U.S. 678.

Even with the presented I-871, the finality of the reinstated removal order remains in question because reinstated removal orders still remain subject to judicial review. 8 U.S.C § 1252(a)(2)(D). Under § 1252, the August 28, 2026 decision affirming the denial of Petitioner's reasonable fear combined with the reinstated removal order, remains subject to judicial review by the filing of a Petition for Review within thirty (30) days of the decision. *See*, *Kolov v. Garland*, 78 F.4th 911, 917-919 (6th Cir. 2023)..[3] This brings to question, Respondents' alleged framework for Petitioner's continued detention.

The Return principally relies on the six-month presumption discussed in *Zadvydas*. That presumption is relevant but not dispositive of every claim pleaded here. It does not answer whether Respondents considered the pending U-visa petition and the federal classwide injunction that governs the enforcement policies relied upon by Respondents. Nor does it excuse Respondents from providing a current, individualized, reasoned custody decision based on accurate facts and the applicable legal framework.

IV. THE PENDING U-VISA PETITION AND THE *ICWC* INJUNCTION REQUIRE A FACT-SPECIFIC CUSTODY ANALYSIS

Petitioner concedes that filing a U-visa petition does not in itself, automatically stay a final removal order or independently compel immediate release. However, Petitioner has never relied on the filing alone as an automatic entitlement to either remedy. The Petition instead relies on the pending petition together with the nationwide preliminary injunction entered in *ICWC* and

[3] Petitioner is filing a Petition for Review, seeking judicial review of the reinstated order.

Respondents' obligation to apply the governing victim-centered enforcement framework to a member of the certified Pending Petition Class.

The Return confirms the central point. It acknowledges the *ICWC* preliminary injunction and the prior victim-centered directives it identifies. ECF No. 11 at 4–5, 16–17. Yet it offers no declaration or contemporaneous custody decision showing that Respondents considered Petitioner's pending U-visa petition, his requests for release, the relevant enforcement guidance, or the individualized factors bearing on continued custody. Its assertion that ICE initiated enforcement before Petitioner filed the U-visa petition is not dispositive of the matter because it does not answer whether continued detention, after the petition was filed and Respondents were placed on notice, complies with the legal framework then in effect.

The Return's merits critique of the U-visa petition likewise does not support dismissal. The United States Citizenship and Immigration Services ("USCIS"), not this Court and not ICE in the first instance, adjudicates U-nonimmigrant petitions and determines whether the filing establishes prima facie eligibility. *See*, 8 CFR § 214.14(c)(1). Congress has provided that, if the Secretary determines a filed U-visa application sets forth a prima facie case, the Secretary may grant an administrative stay and a noncitizen may not be removed while that stay is in effect. 8 U.S.C. § 1227(d)(1)–(3). The Respondents' position that the supporting evidence is insufficient cannot substitute for the agency process or establish that Respondents properly considered Petitioner's pending application in deciding whether continued detention is warranted.

Petitioner further does not request that this Court adjudicate U-visa eligibility. He requests that the Court deny dismissal and require Respondents to make and disclose an individualized custody determination that accounts for the pending petition, the federal injunction, and the relevant custody factors. If Respondents contend that a particular exception,

public-safety concern, flight-risk finding, or other ground warrants continued detention notwithstanding the victim-centered framework, they should identify the ground and the evidence supporting it in a current, reasoned decision.

V. RESPONDENTS' CHARACTERIZATION OF THE RECORD DOES NOT JUSTIFY DISMISSAL

The Return emphasizes prior removals, prior convictions, and the timing of Petitioner's U-visa filing. However, the finality of the reinstated removal order remains in question because reinstated removal orders still remain subject to judicial review. 8 U.S.C § 1252(a)(2)(D). Under § 1252, the August 28, 2026 decision affirming the denial of Petitioner's reasonable fear combined with the reinstated removal order, remains subject to judicial review by the filing of a Petition for Review within thirty (30) days of the decision. *See, Kolov, supra.* Thus, there exists a genuine controversy about the legality of Petitioner's continued detention because the reinstated order is not final. *Id.*

The pertinent question therefore, is not whether these facts exist, but whether they establish a lawful, current basis for continued civil detention after individualized consideration of the full record. Petitioner's pending U-visa petition, cooperation with law enforcement, family and community ties, and the medical needs of his U.S.-citizen child remain material to that determination. The Return does not demonstrate that these factors were weighed in a current custody assessment. Further, it does not appear Respondents considered the finality of the reinstated removal orders.

Respondents may not convert disputed assertions about the credibility or ultimate merits of Petitioner's victimization claim into grounds for denying habeas review. The Court need not decide those merits to deny dismissal. At this stage, it is sufficient that Petitioner's pending

petition and the *ICWC* order present a concrete basis for requiring Respondents to demonstrate that continuing custody rests on a lawful, individualized decision rather than an unexamined or superseded enforcement posture.

VI. CONCLUSION

For these reasons, Petitioner respectfully requests that the Court deny the Respondents' request to dismiss the Petition; hold that the Return's production of the Form I-871 does not moot Petitioner's independent challenge to the lawfulness of his present detention; direct Respondents to promptly provide a current, individualized, written custody determination addressing Petitioner's pending U-visa petition, the applicability of the *ICWC* preliminary injunction and relevant victim-centered enforcement guidance, Petitioner's requests for release, and the facts asserted to support continued detention; order such further individual habeas relief as the Court finds necessary and proper after review of that determination, including release subject to appropriate conditions of supervision if Respondents do not establish a lawful basis for continued custody; and grant such other and further relief as justice requires.

Dated: September 16, 2026

Respectfully submitted,

/s/ Margaret W. Wong
Margaret W. Wong (OH 0009068)
Margaret Wong & Associates LLC
3150 Chester Ave.
Cleveland, Ohio 44114
(216) 566-9908
(216) 566-1125 (fax)

Attorney for Petitioner

CERTIFICATE OF SERVICE

I certify that on September 16, 2026, a true and correct copy of the foregoing Petitioner's Reply to Respondents' Return of Writ was served on all counsel of record through the Court's CM/ECF system.

/s/ Margaret W. Wong
Margaret W. Wong (OH 0009068)
Margaret Wong & Associates LLC
3150 Chester Ave.
Cleveland, Ohio 44114
(216) 566-9908
(216) 566-1125 (fax)
Attorney for Petitioner