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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JEFFREY F. ROJAS ROSA

Plaintiff,

v.

JOHN TSOUKARIS in his official capacity as ICE Field Director of the UNITED STATES IMMIGRATION CUSTOMS AND ENFORCEMENT (NEWARK, NEW JERSEY)

KENNETH C. SMITH in his official capacity as ICE Field Assistant Director of the UNITED STATES IMMIGRATION CUSTOMS AND ENFORCEMENT (SAN DIEGO, CALIFORNIA)

JOHN GIORDANO in his official capacity as UNITED STATES ATTORNEY

Defendants.

Case No.: 2:25-cv-13869

PETITION FOR HABEAS CORPUS

and

COMPLAINT IN THE NATURE OF MANDAMUS, DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

Plaintiff, Jeffrey Francisco Rojas Rosa, is a resident of the State of New Jersey and a lawful permanent resident of the United States. Plaintiff Rojas Rosa is currently detained by Immigration Customs and Enforcement (ICE) at a detention facility in Imperial, California. This detention facility is approximately 2,742 miles from the State of New Jersey, where Rojas Rosa resides and where his removal proceedings are currently pending.

Plaintiff Rojas Rosa is currently facing removal (deportation) from the United States. Plaintiff Rojas Rosa is eligible for relief before the Immigration Court and is likely to succeed on the merits of his applications(s) for relief.

Plaintiff's continued detention in Imperial, California deprives him of his fundamental right to due process. His removal proceedings are currently pending in Elizabeth, New Jersey, however, he remains detained in Imperial, California.

Plaintiff's detention in Imperial, California makes it virtually impossible for Plaintiff's Immigration Counsel to effectively represent him. The Defendants have engaged in a strategy that is inherently unfair and intentionally designed to make Plaintiff's legal process inconvenient.

As an example, Counsel for the Office of the Principal Legal Advisor (OPLA) filed a motion for a change of venue from Elizabeth to Imperial. While the motion was granted initially, the decision was appealed to the Board of Immigration Appeals (BIA). The BIA ruled in an interlocutory decision that the change of venue was improper, and ordered Plaintiff's proceedings to be were remanded to Elizabeth.

Unconscionably, Counsel for OPLA indicated at Plaintiff's last hearing they again wish to change venue from Elizabeth to Imperial.

Plaintiff thus seeks relief in the form of habeas corpus, mandamus, and a declaratory judgment. Plaintiff seeks this Court order Defendants' transfer to the State of New Jersey or to a State which gives Plaintiff reasonable access to his Counsel. Plaintiff further seeks this Court order Defendnats to vest Plaintiff's proceedings with the Immigration Court in Elizabeth, New Jersey, where his case has been ongoing since 2017. Lastly, Plaintiff further seeks this Court order Defendants to act upon Plaintiff's request to ICE that he be transferred.

II. JURISDICTION AND VENUE

1. Jurisdiction of the Court is predicated upon 28 U.S.C. §2241 (habeas corpus jurisdiction).

2. Jurisdiction of the Court is further predicated upon 28 U.S.C. §1331 and §1346(a)(2) in that the matter in controversy arises under the Constitution and laws of the United States and the United States is a Defendant.

3. The Court also has jurisdiction over the present action pursuant to 28 U.S.C. §2201, the Declaratory Judgment Act; 5 U.S.C. § 702, the Administrative Procedures Act; and 28 U.S.C. §361, regarding an action to compel an officer of the United States to perform his or her duty.

4. Venue is proper in this District under 28 U.S.C. §1319(e) because a substantial part of the events and omissions giving rise to the claim occurred in this district, and because Defendants operate within this district.

5. Relief is requested pursuant to 28 U.S.C. §2201 and §2202.

III. PARTIES

Plaintiff

6. Plaintiff Jeffrey Francisco Rojas Rosa is a resident of the State of New Jersey. Prior to his detention, plaintiff was residing at [redacted] Plaintiffs' claim to relief arises under 8 U.S.C. 1255.

Defendants

7. Defendant John Tsoukaris is the Field Office Director of the United States Immigration Customs and Enforcement (ICE) operating out of Newark, New Jersey and having jurisdiction over aliens detained in the State of New Jersey. Defendant Tsoukaris is sued in his official capacity only. ICE is a federal law enforcement agency operating under the United States Department of Homeland Security (DHS) responsible for enforcing immigration laws. Defendant is charged with enforcing federal immigration law, including orders of the Immigration Court (EOIR), specifically within the jurisdiction of New Jersey.

8. Defendant Kenneth C. Smith is the Assistant Field Office Director of the United States Immigration Customs and Enforcement (ICE) operating out of San Diego, California and having jurisdiction over aliens detained in Imperial, California. Defendant Smith is sued in his official capacity only. ICE is a federal law enforcement agency operating under the United States Department of Homeland Security (DHS) responsible for enforcing immigration laws. Defendant is charged

with enforcing federal immigration law, including orders of the Immigration Court (EOIR), specifically within the jurisdiction of California.

9. Defendant John Giordano is the United States Attorney for the State of New Jersey. Defendant Sellinger is sued in his official capacity only.

IV. STATEMENT OF THE CASE

10. On November 15, 2017, the DHS filed a Notice to Appear (NTA) with the Executive Office for Immigration Review (EOIR) in Newark, New Jersey. Service of the NTA initiated removal proceedings against the Plaintiff. Plaintiff is charged with removability under INA § 237(a)(1)(D) for failing to appear at his I-751 hearing[1].

11. On or about March 19, 2025, plaintiff was returning to the United States after travelling abroad. Plaintiff was detained by agents of the United States Customs and Border Protection (CBP). He was then transferred to the custody of Immigration Customs and Enforcement (ICE)

12. On March 21, 2025, as a result of his apprehension and detention, the venue of Plaintiff's removal proceedings was administratively changed from the EOIR in Newark, New Jersey to the EOIR in Elizabeth, New Jersey. The EOIR in Elizabeth, New Jersey possesses jurisdiction over *detained* aliens.

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[1] As far is relief is concerned, the EOIR has jurisdiction to review whether plaintiff had good cause for his failure to appear. Plaintiff is able to establish good cause. The EOIR also has jurisdiction over plaintiff's second I-751 waiver application, which has been pending since December 20, 2018. The USCIS has failed to adjudicate said petition and plaintiff has filed a *writ of mandamus* with the U.S. District Court to compel adjudication of same. *see* Rojas Rosa v. Rubio, *et al.* Civil Case No.: 3:25-cv-13551. Plaintiff is further eligible for relief under INA § 240A(a) — Cancellation of Removal for Lawful Permanent Residents.

13. Defendants, in bad faith, then abruptly transferred Plaintiff from a detention facility in Elizabeth, New Jersey to a facility in Imperial, California.

14. On April 16, 2025, Counsel for OPLA filed a motion for change of venue, requesting Plaintiff's removal proceedings be transferred from Elizabeth, New Jersey to Imperial, California.

15. On April 21, 2025, an Immigration Judge granted OPLA's motion for change of venue.

16. On May 5, 2025, Plaintiff, by and through Counsel, filed an Interlocutory Appeal with the Board of Immigration Appeals (BIA) challenging the IJ's grant for change of venue.

17. On May 15, 2025, the BIA ruled in favor of the Plaintiff, finding the IJ did not properly rule on the change of venue motion. The BIA ordered a remand to the EOIR in Elizabeth, New Jersey.

18. The EOIR in Imperial, California failed to remand the case after repeated requests. The EOIR in Imperial, California was advised of Plaintiff's Counsel's intent to file a complaint for *mandamus*.

19. On June 18, 2025, the IJ in Imperial, California ordered that Plaintiff's venue be changed from Imperial, California to Elizabeth, New Jersey.

20. On June 19, 2025, this Counsel send an email to the ICE Duty Attorney in Imperial, California requesting that Plaintiff be transferred to a detention center in Elizabeth New Jersey. No response was provided.

21. On June 21, 2025, this Counsel appeared before the EOIR in Elizabeth, New Jersey. Unbelievably at said hearing, Counsel for OPLA indicated they would be seeking to change venue to the EOIR in Imperial, California.

V. LEGAL ARGUMENT

22. The plaintiff's detention in Imperial, California deprives him of due process, as it is virtually impossible for his Immigration Counsel to effectively represent him considering the geographic distance. Defendants have "shipped" Plaintiff to a facility that is approximately 2,742 miles from Plaintiff's home State of New Jersey. This is where the Plaintiff resides and this is where his removal proceedings are pending. This is where the plaintiff has reasonable access to his family and Counsel.

23. We believe the Defendants' strategy to detain the Plaintiff in Imperial, California is intentionally designed to make the entire legal process inconvenient. See *Wilson v. Gonzales*, 471 F.3d 111, 1197 (2nd Cir. 2006). The Plaintiff is facing removal (deportation) from the United States — what is at stake is the Plaintiff's status in the United States as a lawful permanent resident.

24. Plaintiff has a clear path to relief. Notwithstanding same, Plaintiff's ongoing detention — in a facility that is seven hours away by plane — gravely deprives plaintiff of his fundamental right to due process under the Fifth Amendment.

25. In this regard, Plaintiff seeks relief in the form of habeas corpus, mandamus, and a declaratory judgment.

26. Plaintiff seeks this Court order that Defendants *transfer* Plaintiff to an ICE detention facility to the State of New Jersey or to a State where Plaintiff has reasonable access to his Immigration Counsel. To this end, we seek habeas relief.

27. Plaintiff further seeks this Court order Defendnats to vest Plaintiff's proceedings with the Immigration Court in Elizabeth, New Jersey, where his case has been ongoing since 2017. To this end, we seek declaratory and injunctive relief.

28. Lastly, Plaintiff further seeks this Court order Defendnats to act upon Plaintiff's request to ICE that he be transferred. To this end, we seek mandamus relief.

VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES

29. Plaintiff has exercised reasonable means to ascertain the status of their case and have exhausted their administrative remedies. Plaintiff sought government action and the government has failed to respond.

30. There is no administrative alternative to filing this complaint, and Plaintiff could otherwise be forced to wait indefinitely.

VII. CAUSES OF ACTION

Count One
HABEAS CORPUS
28 U.S.C. §2241

31. Plaintiff re-alleges and incorporates by reference, as if fully set forth herein, the allegations above.

32. This Court has jurisdiction to order Defendants to transfer Plaintiff to an ICE facility in the State of New Jersey, or to a State that provides Plaintiff reasonable access to Counsel.

Count Two
FIFTH AMENDMENT

33. Plaintiff re-alleges and incorporates by reference, as if fully set forth herein, the allegations above.

34. Defendants' policies, practices, or customs violate plaintiff's Fifth Amendment substantive and procedural due process rights

Count Three
MANDAMUS ACTION
28 U.S.C. § 1361

35. Plaintiff re-alleges and incorporates by reference, as if fully set forth herein, the allegations above.

36. Defendants are charged with the responsibility of administering and implementing Immigration Laws. Defendants' failure to act is injuring plaintiff. Defendants should be compelled to perform a duty owed to plaintiff.

Count Four
ADMINISTRATIVE PROCEDURES ACT
5 U.S.C. § 701 et seq.

37. Plaintiff re-alleges and incorporates by reference, as if fully set forth herein, the allegations above.

38. Defendants' practices and procedures violate the Administrative Procedures Act and constitute agency action that is arbitrary and capricious, and not in accordance with the law. 5 U.S.C. § 701 et seq.

Count Five
DECLARATORY JUDGMENT ACT

39. Plaintiff re-allege and incorporates by reference, as if fully set forth herein, the allegations above.

40. Plaintiff contends that defendants' actions are unconstitutional, violate the INA, and are arbitrary and capricious and seek a declaration to such effect. 28 U.S.C. § 2201.

PRAYER FOR RELIEF

Plaintiff requests the Court to grant the following relief:

A. Order that Defendants *transfer* the detention of Plaintiff to the State of New Jersey or to a State where Plaintiff has reasonable access to Counsel on or before fifteen (15) days from the filing of this complaint, or within a reasonable period of time determined by this Court;

B. Order Defendants to vest Plaintiff's removal proceedings with the Immigration Court in Elizabeth, New Jersey on or before fifteen (15) days from the filing of this complaint, or within a reasonable period of time determined by this Court;

C. Order Defendants to render a decision on Plaintiff's request to ICE for a transfer to the State of New Jersey or to a State where Plaintiff has reasonable access to Counsel on or before fifteen (15) days from the filing of this complaint, or within a reasonable period of time determined by this Court;

D. Declare that Defendants' practice violates legal duties owed to Plaintiff;

E. Award Plaintiff's counsel and reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, 28 U.S.C. § 2412; and

F. Grant such other relief as the court may deemed just and proper.

Respectfully Submitted,

VOSBIKIAN & VOSBIKIAN

By: _____
STEVEN S. VOSBIKIAN
Attorney for Plaintiff

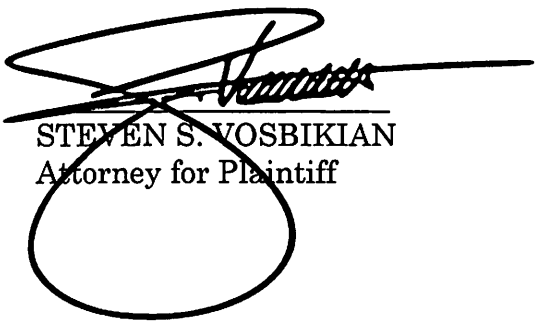
Dated: July 29, 2025

VERIFICATION

I, Steven S. Vosbikian, Esq., being duly sworn upon oath, hereby state: I am the attorney representative of the plaintiff, Jeffrey Francisco Rojas Rosa, in this case and I verify that the information contained in the foregoing Petition is true and correct to the best of my knowledge and belief.

Respectfully Submitted,

VOSBIKIAN & VOSBIKIAN

By: 

STEVEN S. VOSBIKIAN
Attorney for Plaintiff

Dated: July 29, 2025