UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

LUIS FRANCISCO VALDEZ SALDIVAR

Petitioner,

v.

DAVID EASTERWOOD, in his official capacity as the St. Paul Field Office Director for U.S. Immigration and Customs Enforcement; DAVID J. VENTURELLA, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; MARKWAYNE MULLIN, in his official capacity as Secretary of the United States Department of Homeland Security, and TODD BLANCHE, in his official capacity as Attorney General of the United States; and RYAN SHEA, in his official capacity as the Freeborn County Sheriff,

Respondents.

Case No. _____

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS

Expedited Handling Requested

INTRODUCTION

1. Petitioner, Luis Francisco Valdez Saldivar, was a victim of human trafficking and is a T visa applicant. His application for a T visa is pending adjudication with the U.S. Citizenship and Immigration Services ("USCIS").
2. Petitioner did not evade immigration authorities or fail to appear for an immigration appointment. To the contrary, he voluntarily appeared at a USCIS facility to comply with the government's biometrics requirement.
3. The USCIS has not yet made a bona fide determination ("BFD") on his T-visa application.

4. On November 19, 2009, the Immigration Judge granted Petitioner voluntary departure. Upon information and belief, Petitioner did not depart the United States during the period authorized for voluntary departure. Accordingly, the alternate removal order became final upon expiration of the voluntary-departure period. See 8 C.F.R. § 1241.1(f).
5. Petitioner acknowledges that Respondents may therefore invoke 8 U.S.C. § 1231 as the statutory framework governing his present detention. Petitioner does not contend that he is entitled to an ordinary bond hearing under 8 U.S.C. § 1226.
6. Instead, Petitioner challenges the legality of his present detention and the imminent execution of his final removal order while he has a pending T-visa application and while nationwide preliminary relief concerning ICE's treatment of individuals with pending T-visa petitions remains in effect.
7. On May 20, 2026, the United States District Court for the Central District of California issued a class-certification and preliminary-injunction order in *Immigration Center for Women and Children v. Noem*, No. 2:25-cv-09848-AB-AS, 2026 WL 1455004 (C.D. Cal. May 20, 2026) ("ICWC").
8. ICWC preliminarily certified a nationwide Pending Petition Class consisting of individuals with pending principal or derivative U-visa petitions, T-visa petitions, or VAWA self-petitions whom ICE detains or seeks to detain for civil immigration enforcement.
9. Petitioner falls within the plain language of the Pending Petition Class because he

has a pending Form I-914 T-visa petition and ICE has detained him for civil immigration enforcement.

10. ICWC also certified a nationwide Stay of Removal Class consisting of individuals with pending U- or T-visa petitions who have been, are, or will be detained by ICE and who request a stay of a final order of removal before enforcement of that order.

11. Petitioner is contemporaneously preparing and submitting Form I-246, Application for Stay of Deportation or Removal[1], requesting that DHS stay execution of his final removal order.

12. Petitioner is seeking this emergency habeas relief because Respondents have informed him that they intend to execute his removal at approximately 4:00 a.m. on September 15, 2026.

13. There is therefore no realistic opportunity for Petitioner to file and await ordinary administrative adjudication of his stay request before the threatened removal occurs.

14. If Respondents remove Petitioner before this Court can consider the Petition, Petitioner may suffer irreparable harm and this Court's ability to grant meaningful relief may be substantially impaired.

[1] Because Respondents have informed Petitioner that they intend to execute his removal at approximately 4:00 a.m. on September 15, 2026, there is insufficient time for Petitioner to file the Form I-246 stay request before seeking emergency relief from this Court.

15. Accordingly, Petitioner seeks immediate habeas relief preserving the status quo, prohibiting his removal before this Court can adjudicate his claims, and granting such further relief as the Court determines appropriate, including release from custody if Respondents cannot establish lawful authority for his continued detention.

JURISDICTION

16. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Freeborn County Jail in Albert Lea, Minnesota.
17. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.
18. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
19. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651.
20. Detained immigrants petitioning under 28 U.S.C. § 2241 face no statutory exhaustion requirements. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Nor is a judicially imposed prudential exhaustion requirement appropriate where, as here: time is of the essence, facts are largely undisputed, and the parties' disagreement is based on a legal conclusion. *Id.* at 967–968.

VENUE

21. Venue is proper because Petitioner is in Respondents' custody at the Freeborn County Jail in Albert Lea, Minnesota.

22. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondents' custody. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

23. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC 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.*

24. Petitioner is "in custody" for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

25. Petitioner, Luis Francisco Valdez Saldivar, resides in Eagan, Minnesota and is currently detained at the Freeborn County Jail in Albert Lea, Minnesota.

26. Respondent David Easterwood is the Field Office Director of the St. Paul Field Office of Immigration and Customs Enforcement ("ICE"). Respondent Easterwood is a legal custodian of Petitioner and has authority over Petitioner's detention and release.

27. Respondent David J. Venturella is the acting director of the U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent David

Easterwood and ICE in general. Respondent Venturella is a legal custodian of Petitioner.

28. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees ICE, the component agency responsible for Petitioner's arrest and detention. Respondent is a legal custodian of Petitioner.

29. Respondent Todd Blanche is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

30. Respondent Ryan Shea, is the Freeborn County Sheriff and as such has authority over the Freeborn County Jail in Albert Lea, Minnesota where Petitioner is detained. He or she has immediate physical custody of Petitioner. He or she is sued in their official capacity.

31. Respondent ICE is the federal agency responsible for Petitioner's immigration arrest, detention, and removal. Respondent DHS is the federal agency with supervisory authority over ICE. All Respondents are sued in their official capacities.

FACTUAL BACKGROUND

32. Petitioner entered the United States as a child in approximately 2004 after being trafficked by individuals who forced him to carry bags across the border, held him

against his will in Arizona, and compelled him to perform unpaid labor under threats of violence.

33. After escaping, he relocated to Minnesota, where he was again subjected to exploitative labor conditions and, later, severe abuse and coercive sexual exploitation by an adult woman who threatened him with harm and immigration consequences.

34. Petitioner has remained in the United States since that time and has since built his life in Minnesota. He is married, has three U.S.-citizen children and a U.S.-citizen stepson, is deeply involved in his church, and has established a business and other longstanding community ties.

35. He has reported the trafficking crimes to law enforcement and may be needed to assist with any resulting investigation. His Form I-914, Application for T Nonimmigrant Status, remains pending with USCIS.

36. In 2009, Petitioner was placed in removal proceedings.

37. On or about November 19, 2009, an Immigration Judge granted Petitioner voluntary departure and entered an alternate order of removal.

38. Petitioner did not depart the United States during the authorized period of voluntary departure.

39. Accordingly, the alternate order of removal became final upon expiration of the voluntary-departure period. See 8 C.F.R. § 1241.1(f).

40. USCIS scheduled Petitioner for biometrics in connection with his pending T-visa

application.

41. Petitioner complied with USCIS's instruction and appeared for his scheduled biometrics appointment on September 11, 2026 in St. Paul, Minnesota.

42. While Petitioner was appearing for the USCIS biometrics appointment, ICE arrested him.

43. Petitioner's arrest therefore occurred while he was affirmatively complying with the federal immigration-benefits process.

44. Petitioner was subsequently placed in ICE custody at the Freeborn County Jail, in Albert Lea, Minnesota.

45. Petitioner has not received a decision on his Form I-914 and has not received any notice communicating a negative bona fide determination on his T-visa application.

46. On September 14, 2026, Petitioner was informed by Respondents that DHS intends to remove him from the United States at approximately 4:00 a.m. on September 15, 2026.

47. Petitioner is therefore facing imminent removal within hours of the filing of this Petition.

48. Petitioner is contemporaneously submitting Form I-246 requesting a stay of execution of the final removal order.

49. Petitioner therefore seeks immediate habeas relief preserving the status quo until this Court can adjudicate his claims.

50. Removal to Mexico would separate him from his wife and U.S.-citizen children, disrupt the life and support network he has established in Minnesota, and expose him to significant hardship, including potential retaliation from individuals associated with his traffickers.

CLAIMS FOR RELIEF

COUNT ONE

Unlawful Detention Under 28 U.S.C. § 2241 and 8 U.S.C. § 1231

Petitioner is detained pursuant to a final order of removal. He does not challenge that order in this Petition. Rather, he challenges the legality of his present detention and Respondents' imminent execution of his removal while his Form I-914 T-visa application remains pending.

Petitioner requests that Respondents establish the statutory and factual basis for his present detention and comply with all applicable procedural and constitutional requirements governing his custody.

CLAIM TWO

Violation of the Preliminary Injunction in *Immigration Center for Women and Children v. Noem*

Petitioner has a pending Form I-914 T-visa application and was arrested by ICE while appearing for a USCIS biometrics appointment related to that application. He falls within the nationwide Pending Petition Class certified in *Immigration Center for Women and Children v. Noem*, No. 2:25-cv-09848-AB-AS, 2026 WL 1455004 (C.D. Cal. May

20, 2026). Respondents' enforcement actions against Petitioner are therefore subject to the operative protections of the *ICWC* preliminary injunction. Immediate judicial intervention is necessary to ensure compliance with those protections before Petitioner is removed.

CLAIM THREE

Violation of the Stay-of-Removal Protections in *ICWC*

Petitioner has a final order of removal and a pending T-visa petition. He is contemporaneously seeking a stay of removal and has not received any USCIS notice communicating a negative bona fide determination. Respondents have nevertheless informed him that they intend to remove him at approximately 4:00 a.m. on September 15, 2026. Because removal before consideration of his stay request would substantially impair Petitioner's ability to obtain meaningful relief, this Court should immediately preserve the status quo and prohibit his removal.

CLAIM FOUR

Violation of the Fifth Amendment Due Process Clause

Petitioner was arrested while appearing for a USCIS biometrics appointment in connection with his pending T-visa application and now faces removal on only hours' notice. Given the pending humanitarian application, the circumstances of his arrest, the absence of any communicated negative T-visa determination, and the imminent execution of removal. Under these extraordinary circumstances, immediate removal would deprive Petitioner of a meaningful opportunity to obtain consideration of his pending

T-visa-related relief and stay request before Respondents execute his removal. Immediate judicial intervention is therefore necessary to prevent irreparable harm and preserve Petitioner's ability to obtain meaningful judicial review.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;
2. Immediately prohibit Respondents, their agents, employees, and all persons acting in concert with them from removing Petitioner from the United States pending adjudication of this Petition and Petitioner's request for emergency relief;
3. Prohibit Respondents from transferring Petitioner outside this District without prior authorization from the Court during the pendency of this emergency proceeding;
4. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
5. Order Respondents to produce the complete records establishing the statutory and factual basis for Petitioner's present detention;
6. Determine, to the extent appropriate, whether Petitioner's continued detention is authorized by law;
7. Determine that Respondents must comply with the operative protections applicable to Petitioner under the nationwide preliminary relief issued in

ICWC;;

8. Order Petitioner's immediate release from custody if Respondents cannot establish lawful authority for his continued detention;
9. Order Respondents to return all property to Petitioner upon release;
10. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
11. Grant any further relief this Court deems just and proper.

Dated: September 15, 2026

/s/ Magdalena Metelska, Esq.

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VERIFICATION OF PETITION

Pursuant to 28 U.S.C. § 2242 I, Magdalena Metelska, declare as follows:

1. I am an attorney licensed to practice law and am counsel of record for Petitioner in this action.

2. I have drafted the foregoing Petition for Writ of Habeas Corpus on behalf of Petitioner.

3. Petitioner was detained by U.S. Immigration and Customs Enforcement ("ICE") on or about September 11, 2026, and due to the immediacy of her detention, Petitioner has not yet had a meaningful opportunity to review or verify the Petition personally.

4. The factual allegations in the Petition are based upon information provided to me by his partner, immigration attorney, and my review of limited available records and information at the time of drafting of the Petition.

5. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on this 15th day of September, 2026.

/s/ Magdalena Metelska, Esq.
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