

U.S. District Court
District of New Jersey [LIVE]

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Case Name: ESPIN VINUEZA v. SOTO et al

Case Number: [2:26-cv-07586-EP](#)

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Document Number: 8(No document attached)

Docket Text:

TEXT ORDER: This matter comes before the Court on Petition [REDACTED] Espin Vinueza's petition for a writ of habeas corpus under 28 U.S.C. § 2241, D.E. [1] ("Petition), Respondents' answer, D.E. [4] ("Answer") and supplemental answer, D.E. [5] ("Suppl. Answer"), and Petitioner's replies, D.Es. [6], [7] ("Replies"). The Court finds the following facts undisputed. Petitioner entered the United States through the Visa Waiver Program on April 16, 2015, and remained beyond his authorized period. Petition 13. United States Citizenship and Immigration Services ("USCIS") approved Petitioner's Special Immigrant Juvenile ("SIJ") petition and granted deferred action in November 2023. Petition 14; D.E. [1-3] ("Form I-797C"). ICE arrested Petitioner and issued a final administrative removal order on June 3, 2026, and he remains detained without an individualized custody hearing. Petition 15-18; Answer at 1-2. USCIS terminated Petitioner's deferred action on July 2, 2026, but his SIJ classification remains approved. D.E. No. [5-1] ("Termination Notice") at 2-3. Petitioner timely petitioned the Third Circuit for review of the removal order; and on July 7, 2026, the Third Circuit stayed his removal pending consideration of his stay motion. D.E. [6-1] ("Filing Fee Receipt"); D.E. [7-1] ("Stay Order") at 3.

No evidence before the Court indicates that the Third Circuit's stay has been dissolved or that Petitioner has received a custody hearing under 8 U.S.C. § 1226(a).

Petitioner remains in custody and seeks relief from that custody. While the Third Circuit's stay of removal remains in effect, Petitioner's statutory removal period has not begun. See 8 U.S.C. § 1231(a)(1)(B)(ii). His present detention therefore is governed by 8 U.S.C. § 1226(a) rather than § 1231. See *Leslie v. Att'y Gen. of U.S.*, 678 F.3d 265, 270 (3d Cir. 2012); *but see Guerrero-Sanchez v. Warden York Cnty. Prison*, 905 F.3d 208, 216 (3d Cir. 2018) ("the plain text of the pre-removal provision, § 1226(a), forecloses its application to reinstated removal orders").

Accordingly, it is ORDERED that Respondents' request to dismiss the petition as moot or as an abuse of the writ are DENIED. The Petition is GRANTED in part. If the Third Circuit's Stay of Removal remains in effect within the next 24 hours, Respondents shall release Petitioner within 24 hours of this Order (a) in the State of New Jersey, if Petitioner was initially arrested in New Jersey, or otherwise as close to the place of initial arrest as reasonably practicable; (b) without additional conditions (such as ankle monitors or other electronic tracking devices); and (c) with all personal property seized at the time of arrest in the same condition as it existed immediately prior to arrest. Respondents shall file a written confirmation of Petitioner's release on the docket within three days. The Court need not reach the remaining claims challenging Petitioner's detention. So Ordered by Judge Evelyn Padin on 8/24/2026. (bt)