

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Martinez-Andino v. Mullin

Martinez-Andino · No. Civil Action No. 26-1208 (BAH) · Decided June 23, 2026

SUMMARY

The United States District Court for the District of Columbia addresses an immigration detainee's claims arising from his removal to Honduras, including alleged denial of access to counsel and due process. The court grants the defendants' motion to dismiss in part and denies it in part, allowing Fifth Amendment and detention-standards claims to proceed. The court also grants in part the plaintiff's motion for a temporary restraining order and orders the government to facilitate his return to the United States.

CASE DETAILS

COURT	United States District Court for the District of Columbia
WRITING FOR THE COURT	Beryl A. Howell
JURISDICTION	United States District Court for the District of Columbia
DECIDED	June 23, 2026
DOCKET	Civil Action No. 26-1208 (BAH)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought claims under the Mandamus Act, Administrative Procedure Act, Fifth Amendment, Accardi doctrine, and All Writs Act after his removal to Honduras. Defendants moved to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). Plaintiff also sought a temporary restraining order directing his return to the United States and parole. The court partially granted and partially denied the motion to dismiss and partially granted and partially denied the TRO motion.
STANDARD OF REVIEW	On a Rule 12(b)(1) motion, plaintiff bears the burden of establishing subject-matter jurisdiction; the court accepts uncontroverted factual allegations as true and may consider materials outside the pleadings. On a Rule 12(b)(6) motion, the complaint must contain sufficient factual matter to state a plausible claim for relief, with factual allegations accepted as true but legal conclusions and unsupported inferences disregarded. A TRO requires a clear showing of likelihood

	of success on the merits, irreparable harm, favorable equities, and consistency with the public interest.
PRECEDENTIAL VALUE	Published district-court memorandum opinion; persuasive within the District of Columbia but not binding precedent outside the court's limited precedential authority.
PARTIES	Jose Eliezer Martinez-Andino v. U.S. Department of Homeland Security, Secretary of the Department of Homeland Security, Acting Director of ICE, Acting Executive Associate Director of ICE's Enforcement and Removal Operations, Commissioner of CBP, Chief of CBP, Acting Attorney General Todd Blanche

TOPICS

removal proceedings procedural due process immigration administrative law injunctions

PRACTICE AREAS

immigration administrative law constitutional law civil procedure remedies

QUESTIONS PRESENTED

1. Whether Acting Attorney General Todd Blanche was properly named as a defendant.
2. Whether plaintiff's Mandamus Act, Fifth Amendment, and Accardi claims were moot after plaintiff was removed and later obtained access to counsel and information about his location.
3. Whether plaintiff's APA claim under 5 U.S.C. § 706(1) was moot after the government disclosed his location and provided access to counsel.
4. Whether plaintiff had standing because his alleged injuries were redressable through an order facilitating his return to the United States.
5. Whether 8 C.F.R. § 292.5(b) applied to plaintiff's signing of voluntary-departure documents.
6. Whether ICE's Performance-Based National Detention Standards could support an Accardi claim and whether plaintiff adequately alleged final agency action.
7. Whether plaintiff was likely to succeed on his Fifth Amendment due-process claim and was entitled to a TRO directing defendants to facilitate his return.
8. Whether the court could order defendants to parole plaintiff into the United States under 8 U.S.C. § 1182(d)(5) and 8 C.F.R. § 212.5.

HOLDINGS

1. The APA claim was moot because § 706(1) authorizes an order compelling agency action unlawfully withheld or unreasonably delayed, and the only challenged actions—disclosing plaintiff's location and permitting access to counsel—had already occurred.

2. Those claims were not moot because plaintiff sought forward-looking relief, including facilitation of his return to the United States and restoration of the procedural position he would have occupied absent the alleged violations.
3. Plaintiff had standing because his alleged injury was likely to be redressed by a favorable decision granting at least some of the requested relief, including facilitation of his return.
4. Plaintiff failed to state an Accardi claim based on 8 C.F.R. § 292.5(b) because that provision concerns specified examinations, including inspections at ports of entry and naturalization examinations, and plaintiff identified no applicable examination involving his voluntary-departure forms.
5. Plaintiff adequately stated an Accardi claim based on the PBNDS by alleging that the standards were binding, were promulgated to protect detainees' procedural rights, and were violated when officials denied him access to counsel and failed to notify counsel during transfers and removal.
6. Plaintiff was likely to succeed on his claim that defendants violated his Fifth Amendment due-process rights by denying him access to counsel before removal and relying on a purported voluntary-departure waiver that plaintiff plausibly alleged was not knowing, intelligent, or voluntary.
7. A court may order the government to facilitate a removed noncitizen's return to the United States when the plaintiff shows a likelihood that the removal was unlawful and return is necessary to restore the process that should have occurred.
8. Plaintiff was not entitled to a TRO ordering DHS to parole him into the United States because parole under 8 U.S.C. § 1182(d)(5)(A) and 8 C.F.R. § 212.5 is discretionary and plaintiff had not shown that detention itself was unlawful.

KEY QUOTATIONS

“Since defendants have now taken both actions plaintiff claims they unreasonably delayed, no more relief is available for plaintiff to seek under § 706(1).” (17)

“Plaintiff’s injury is still live because he seeks for defendants to be compelled to redo his removal in compliance with their own internal regulations, and this is exactly the sort of relief available when an agency violates its own procedural rules.” (20)

“Plaintiff’s allegations are sufficient to show that the denial of counsel was final agency action subject to review as to whether the agency complied with its own internal procedures.” (28-29)

“Defendants do not explain how a waiver of process prior to removal can be voluntary, knowing, and intelligent, if the person waiving his rights (1) is made to believe waiver of such rights is required, (2) does not understand the rights being waived, and (3) is told at the time of waiver that the waiver may be rescinded, but then repeatedly denied the opportunity to execute such rescission.” (35)

“Thus, “return is the appropriate remedy when a removal is found to be unlawful.”” (38)

“Every component of this statute and regulation emphasizes that parole is never required, is entirely subject to the DHS officials’ discretion, and may be granted only on “case-by-case” judgment of the Secretary or the delegates.” (40)

FACTUAL BACKGROUND

Martinez-Andino, a Honduran citizen who entered the United States as an unaccompanied minor, had Special Immigrant Juvenile status, deferred action, employment authorization, and a three-year-old U.S. citizen daughter. After his arrest and detention in Montana, he was transferred among detention facilities, and his counsel allegedly could not determine his location or speak with him for approximately ten days. Plaintiff signed DHS forms purporting to waive immigration proceedings and agree to voluntary departure, but alleged that the documents were not explained, that he was coerced into signing, that he repeatedly requested counsel, and that he repeatedly attempted to revoke his agreement before being removed to Honduras.

PROCEDURAL HISTORY

Plaintiff was detained by immigration authorities in Montana and allegedly denied access to counsel and information about his location for approximately ten days. He was removed to Honduras on April 10, 2026, shortly after filing suit and an initial TRO motion seeking information about his custody and location. After the government disclosed the removal, plaintiff filed an amended complaint and a second TRO motion seeking, among other relief, facilitation of his return. The court dismissed the APA claim as moot, dismissed Acting Attorney General Blanche, dismissed the Accardi claim insofar as it relied on 8 C.F.R. § 292.5(b), allowed the Fifth Amendment and PBNDS-based Accardi claims to proceed, and ordered defendants to facilitate plaintiff's return to the United States.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. Defendants were ordered to facilitate plaintiff's return to the United States, including paying for and facilitating transportation, and to ensure that his immigration case is handled as it would have been had he not been improperly sent to Honduras. Defendants were also directed to ensure plaintiff's access to counsel and notification of counsel if he is moved. The TRO did not order parole into the United States.

CASES CITED

- *Bronner ex rel. American Stud. Ass'n v. Duggan*, 962 F.3d 596, 602 (D.C. Cir. 2020)
- *Al-Zahrani v. Rodriguez*, 669 F.3d 315, 317 (D.C. Cir. 2012)
- *Gunn v. Minton*, 568 U.S. 251, 256 (2013)
- *Kokkonen v. Guardian Life Insurance Co. of America*, 511 U.S. 375, 377 (1994)
- *Henderson ex rel. Henderson v. Shinseki*, 562 U.S. 428, 434 (2011)
- *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 506-07 (2006)
- *Kontrick v. Ryan*, 540 U.S. 443, 455 (2004)
- *Arpaio v. Obama*, 797 F.3d 11, 19 (D.C. Cir. 2015)
- *Hemp Industries Association v. DEA*, 36 F.4th 278, 281, 288 (D.C. Cir. 2022)
- *American National Insurance Co. v. FDIC*, 642 F.3d 1137, 1139 (D.C. Cir. 2011)

- Jerome Stevens Pharmaceuticals, Inc. v. FDA, 402 F.3d 1249, 1253 (D.C. Cir. 2005)
- VoteVets Action Fund v. U.S. Department of Veterans Affairs, 992 F.3d 1097, 1104 (D.C. Cir. 2021)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 557 (2007)
- Tellabs, Inc. v. Makor Issues & Rights, Ltd., 551 U.S. 308, 322 (2007)
- Barnes v. District of Columbia, 42 F. Supp. 3d 111, 117 (D.D.C. 2014)
- Church of Scientology of California v. United States, 506 U.S. 9, 12 (1992)
- County of Los Angeles v. Davis, 440 U.S. 625, 631 (1979)
- Powell v. McCormack, 395 U.S. 486, 496 (1969)
- Mehneh v. Rubio, 164 F.4th 928, 931 (D.C. Cir. 2026)
- United States v. Gonzalez-Lopez, 548 U.S. 140, 150 (2006)
- Powell v. Alabama, 287 U.S. 45, 68-69 (1932)
- Nken v. Holder, 556 U.S. 418, 434-35 (2009)
- Federal Deposit Insurance Corp. v. Bender, 127 F.3d 58, 68 (D.C. Cir. 1997)
- Twelve John Does v. District of Columbia, 117 F.3d 571, 577 (D.C. Cir. 1997)
- Uranga v. U.S. Citizenship & Immigration Services, 490 F. Supp. 3d 86 (D.D.C. 2020)
- CD International Enterprises, Inc. v. Rockwell Capital Partners, Inc., 251 F. Supp. 3d 39, 46 (D.D.C. 2017)
- United States ex rel. Accardi v. Shaughnessy, 347 U.S. 260, 265, 268 (1954)
- Morton v. Ruiz, 415 U.S. 199, 220, 232, 235 (1974)
- Castaneira v. Noem, 138 F.4th 540, 551 (D.C. Cir. 2025)
- American Farm Lines v. Black Ball Freight Service, 397 U.S. 532, 538-39 (1970)
- Padula v. Webster, 822 F.2d 97, 100 (D.C. Cir. 1987)
- Lopez v. FAA, 318 F.3d 242, 247 (D.C. Cir. 2003)
- Nahardani v. Blinken, No. 22-cv-1926 (CJN), 2022 WL 4474054 (D.D.C. Sept. 26, 2022)
- Bailey v. Federal Bureau of Prisons, 780 F. Supp. 3d 96, 131 (D.D.C. 2025)
- WildEarth Guardians v. Salazar, 783 F. Supp. 2d 61, 72 (D.D.C. 2011)
- Seeger v. Department of Defense, 306 F. Supp. 3d 265, 283 (D.D.C. 2018)
- Vanover v. Hantman, 77 F. Supp. 2d 91, 103 (D.D.C. 1999)
- C.G.B. v. Wolf, 464 F. Supp. 3d 174, 225 (D.D.C. 2020)
- Americans for Immigrant Justice v. U.S. Department of Homeland Security, No. 22-cv-3118 (CKK), 2023 WL 1438376, at *3 (D.D.C. Feb. 1, 2023)
- Corner Post, Inc. v. Board of Governors of the Federal Reserve System, 603 U.S. 799, 808 (2024)
- Ramirez v. ICE, 338 F. Supp. 3d 1, 40 (D.D.C. 2018)
- Barrick Goldstrike Mines Inc. v. Browner, 215 F.3d 45, 48 (D.C. Cir. 2000)
- Planned Parenthood of Greater New York v. Department of Health & Human Services, No. 25-cv-2453 (BAH), 2025 WL 2840318, at *17 (D.D.C. Oct. 7, 2025)
- Soundboard Association v. FTC, 888 F.3d 1261, 1267 (D.C. Cir. 2018)

- *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016)
- *City of Los Angeles v. Lyons*, 461 U.S. 95, 103 (1983)
- *O'Shea v. Littleton*, 414 U.S. 488, 495-96, 502 (1974)
- *Murthy v. Missouri*, 603 U.S. 43, 73-74 (2024)
- *United States v. Texas*, 599 U.S. 670, 677 (2023)
- *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992)
- *Zivotofsky ex rel. Zivotofsky v. Clinton*, 566 U.S. 189, 195 (2012)
- *Nixon v. United States*, 506 U.S. 224, 228 (1993)
- *Baker v. Carr*, 369 U.S. 186, 217 (1962)
- *Chaplaincy of Full Gospel Churches v. England*, 454 F.3d 290, 297 (D.C. Cir. 2006)
- *Cobell v. Norton*, 391 F.3d 251, 258 (D.C. Cir. 2004)
- *Dellinger v. Bessent*, No. 25-5028, 2025 WL 559669, at *3, *7 (D.C. Cir. Feb. 15, 2025)
- *Gordon v. Holder*, 632 F.3d 722, 723-24 (D.C. Cir. 2011)
- *Hanson v. District of Columbia*, 120 F.4th 223, 231 (D.C. Cir. 2024) (per curiam)
- *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008)
- *Pursuing America's Greatness v. FEC*, 831 F.3d 500, 511 (D.C. Cir. 2016)
- *United States v. Mendoza-Lopez*, 481 U.S. 828, 840 (1987)
- *Moran v. Burbine*, 475 U.S. 412, 421 (1986)
- *Montejo v. Louisiana*, 556 U.S. 778, 786 (2009)
- *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 554 (9th Cir. 1990)
- *Huicochea-Gomez v. INS*, 237 F.3d 696, 699 (6th Cir. 2001)
- *Lozada v. INS*, 857 F.2d 10, 13-14 (1st Cir. 1988)
- *Castaneda-Delgado v. INS*, 525 F.2d 1295 (7th Cir. 1975)
- *Advocates for Human Rights v. Department of Homeland Security*, 820 F. Supp. 3d 789, 803 (D. Minn. 2026)
- *Abrego Garcia v. Noem*, No. 25-1404, 2025 WL 1135112, at *1 (4th Cir. Apr. 17, 2025)
- *Gordon v. Barr*, 965 F.3d 252, 261 (4th Cir. 2020)
- *Nunez-Vasquez v. Barr*, 965 F.3d 272, 286 (4th Cir. 2020)
- *Orabi v. Attorney General*, 738 F.3d 535, 543 (3d Cir. 2014)
- *Zapata v. Mullin*, No. 26-cv-1560 (RJL), 2026 WL 1352420, at *1-2 (D.D.C. May 13, 2026)
- *Cruz v. Oddo*, No. 3:26-cv-284 (SLH), 2026 WL 1650733, at *5 (W.D. Pa. June 8, 2026)
- *J.O.P. v. Department of Homeland Security*, 779 F. Supp. 3d 570, 583 (D. Md. 2025)
- *D.A. v. Noem*, 800 F. Supp. 3d 43, 53 (D.D.C. 2025)
- *Roberts v. Anda-Ybarra*, No. 26-cv-377 (DCG), 2026 WL 1459725, at *8 (W.D. Tex. May 22, 2026)
- *A.B.-B. v. Morgan*, 548 F. Supp. 3d 209, 221 (D.D.C. 2020)
- *Osorio-Martinez v. Attorney General*, 893 F.3d 153, 163 (3d Cir. 2018)
- *M.G.U. v. Nielsen*, 325 F. Supp. 3d 111, 121-22 (D.D.C. 2018)
- *Huisha-Huisha v. Mayorkas*, 27 F.4th 718, 733 (D.C. Cir. 2022)

- District 50, *United Mine Workers of America v. International Union, United Mine Workers of America*, 412 F.2d 165, 168 (D.C. Cir. 1969)
- *Devose v. Herrington*, 42 F.3d 470, 471 (8th Cir. 1994) (per curiam)
- *Stewart v. INS*, 762 F.2d 193, 199 (2d Cir. 1985)

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