

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

D.N.N. v. Jeremy Bacon, et al.

D.N.N. · No. 1:25-cv-01613-JRR · Decided December 9, 2025

SUMMARY

The opinion addresses the Government’s partial motion to dismiss claims challenging conditions in ICE holding rooms operated by the Baltimore Field Office. The court rejects the mootness challenge, addresses whether an ICE waiver of a 12-hour holding limit constitutes final agency action under the Administrative Procedure Act, and considers due process and access-to-counsel claims. The motion is granted in part and denied in part.

CASE DETAILS

COURT	United States District Court for the District of Maryland
WRITING FOR THE COURT	Julie R. Rubin
JURISDICTION	United States District Court for the District of Maryland
DECIDED	December 9, 2025
DOCKET	1:25-cv-01613-JRR
DISPOSITION	other
PROCEDURAL POSTURE	The court considered the Government's partial motion to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). Plaintiffs challenged conditions of confinement in ICE Baltimore Hold Rooms under the Administrative Procedure Act, the Fifth Amendment, and the Immigration and Nationality Act.
STANDARD OF REVIEW	For the Rule 12(b)(1) facial jurisdictional challenge, the court accepted the complaint's factual allegations as true and denied dismissal if the allegations sufficiently invoked subject-matter jurisdiction. For the Rule 12(b)(6) challenge, the court separated legal conclusions from factual allegations, assumed the truth of well-pleaded factual allegations, and determined whether they plausibly stated a claim. The court generally did not consider matters outside the pleadings except documents integral to or incorporated into the complaint and matters subject to judicial notice.
PRECEDENTIAL VALUE	unpublished district court opinion

PARTIES

D.N.N., V.R.G., putative class members v. Jeremy Bacon, other Respondents-Defendants

TOPICS

immigration detention

administrative procedure act

procedural due process

removal proceedings

motions to dismiss

PRACTICE AREAS

immigration law

administrative law

constitutional law

civil procedure

civil rights

QUESTIONS PRESENTED

1. Whether the named plaintiffs' transfer out of the Baltimore Hold Rooms rendered the putative class claims moot.
2. Whether ICE's waiver of the 12-hour holding-facility limit was a discrete and final agency action reviewable under the APA.
3. Whether plaintiffs stated a Fifth Amendment substantive due process claim based solely on the Accardi doctrine.
4. Whether plaintiffs could rely on the Accardi doctrine in support of their APA claim despite the directive's characterization as an internal policy.
5. Whether plaintiffs plausibly alleged that restrictions on mail, attorney visits, and private telephone calls violated their statutory and Fifth Amendment rights to retain counsel during removal proceedings.

HOLDINGS

1. The transfer of the named plaintiffs out of the Baltimore Hold Rooms did not moot the putative class claims because the claims fell within the class-action relation-back exception for inherently transitory claims.
2. The Baltimore and nationwide waivers of ICE's 12-hour hold-room utilization limit constituted final agency action reviewable under the APA.
3. Plaintiffs did not state a Fifth Amendment substantive due process claim based solely on the Accardi doctrine, and Count II was dismissed.
4. Although the Accardi-based Fifth Amendment claim was dismissed, plaintiffs could rely on the Accardi doctrine in support of their APA claim.
5. Plaintiffs plausibly alleged that restrictions on communication with counsel, attorney visits, and private telephone calls violated their statutory and Fifth Amendment rights to retain counsel, so the access-to-counsel claim survived dismissal.

KEY QUOTATIONS

“The Waiver does not bear hallmarks of tentative or intermediate decision making.”

“Accordingly, the court will grant the Motion to the extent it seeks dismissal of Plaintiffs’ Count II based on violation of the Due Process Clause of the Fifth Amendment; however, Plaintiffs remain free to rely on Accardi in support of their APA claim.”

“Based on the foregoing, Plaintiffs adequately plead that, by “denying them the ability to communicate with their counsel through the mail, unreasonably restricting their ability to meet with attorneys, and by denying them the ability to make private telephone calls,” the Government has violated Plaintiffs’ right to retain counsel at their own expense under the INA and Due Process Clause of the Fifth Amendment.”

FACTUAL BACKGROUND

D.N.N. and V.R.G. were detained at ICE's Baltimore Hold Rooms following routine check-ins on May 7 and 8, 2025, respectively, but were no longer detained there when the motion was decided. ICE Directive 11087.2 generally limited confinement in holding facilities to 12 hours absent exceptional circumstances and required conditions including meals, supervision, sanitation, drinking water, restroom access, and medication access. ICE officials issued a Baltimore-specific waiver and later a nationwide waiver permitting detention in holding facilities for up to 72 hours, absent exceptional circumstances. Plaintiffs alleged that the waiver contributed to overcrowding and inadequate sleeping, hygienic, medical, food, water, and counsel-access conditions.

PROCEDURAL HISTORY

Plaintiffs filed the action on May 9, 2025, later adding V.R.G. and filing a Second Amended Complaint. The court previously denied without prejudice class certification and denied as moot a motion for preliminary injunction as to the class, then ordered expedited discovery. The Government moved for partial dismissal, arguing mootness, lack of final agency action as to the APA claim, failure of the Accardi-based due process claim, and failure of the access-to-counsel claim. The court granted the motion in part and denied it in part.

DISPOSITION

other

CASES CITED

- Wikimedia Foundation v. National Security Agency, 857 F.3d 193, 208 (4th Cir. 2017)
- Jonathan R. by Dixon v. Justice, 41 F.4th 316, 325 (4th Cir. 2022)
- Genesis Healthcare Corp. v. Symczyk, 569 U.S. 66, 76 (2013)
- Lovo v. Miller, 107 F.4th 199, 205 (4th Cir. 2024)
- Weyerhaeuser Co. v. U.S. Fish & Wildlife Service, 586 U.S. 9, 22-23 (2018)
- City of New York v. United States Department of Defense, 913 F.3d 423, 430-32 (4th Cir. 2019)
- Norton v. Southern Utah Wilderness Alliance, 542 U.S. 55, 64-65 (2004)
- Bennett v. Spear, 520 U.S. 154, 177-78 (1997)
- U.S. Army Corps of Engineers v. Hawkes Co., 578 U.S. 590, 591, 598 (2016)
- United States ex rel. Accardi v. Shaughnessy, 347 U.S. 260 (1954)

- Orellana v. Bondi, 141 F.4th 560, 566 (4th Cir. 2025)
- American Farm Lines v. Black Ball Freight Service, 397 U.S. 532, 538-39 (1970)
- Morton v. Ruiz, 415 U.S. 199, 235 (1974)
- United States v. Morgan, 193 F.3d 252, 266 (4th Cir. 1999)
- United States v. Heffner, 420 F.2d 809, 812 (4th Cir. 1970)
- Board of Curators of University of Missouri v. Horowitz, 435 U.S. 78, 92 n.8 (1978)
- C.G.B. v. Wolf, 464 F. Supp. 3d 174, 212, 226 (D.D.C. 2020)
- Washington v. Glucksberg, 521 U.S. 702, 720 (1997)
- D.B. v. Cardall, 826 F.3d 721, 740 (4th Cir. 2016)
- Zadvydas v. Davis, 533 U.S. 678, 693 (2001)
- United States v. Guzman, 998 F.3d 562, 567, 569 (4th Cir. 2021)
- Romero v. Bondi, 150 F.4th 332, 340 (4th Cir. 2025)
- Iavorski v. U.S. Immigration & Naturalization Service, 232 F.3d 124, 128 (2d Cir. 2000)
- Leslie v. Attorney General of the United States, 611 F.3d 171, 180-81 (3d Cir. 2010)
- Batanic v. Immigration & Naturalization Service, 12 F.3d 662, 667 (7th Cir. 1993)