

EASTERN DISTRICT ROUNDUP

Bankruptcy, Habeas and Immigration: Recent Court Highlights

By Thomas Kissane and John Moore

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In *Miranda v. TLB 2019 LLC*, 25 CV 533 (EDNY, May 18, 2025), Judge Eric N. Vitaliano affirmed an Order of Chief Bankruptcy Judge Alan S. Trust of the United States Bankruptcy Court for the Eastern District of New York setting aside the defendant-appellant's deed to debtor-plaintiff-appellee Sonia Miranda's property as a fraudulent transfer.

The case concerned Miranda's residence in Mineola, New York (property). TLB acquired title to the property through a tax lien foreclosure sale. After the statutory period for Miranda to redeem the unpaid taxes expired, TLB obtained a treasurer's deed on Feb. 7, 2022 (transfer).

TLB thereafter sought to evict Miranda, but Miranda filed a petition for Chapter 13 bankruptcy relief and commenced the instant adversary proceeding against TLB requesting that the bankruptcy court avoid the transfer pursuant to §522(h) and §548(a)(1)(B) of the Bankruptcy Code.



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On Oct. 17, 2023, Miranda filed her Schedule C, electing New York state exemptions and claiming a homestead exemption in the property pursuant to CPLR 5206.

The bankruptcy court granted Miranda's motion to set aside the transfer, determining that Miranda had standing to bring a fraudulent transfer action and that the transfer was fraudulent due to a lack of judicial oversight and because Miranda received less than reasonable equivalent value for the property.

TLB's sole argument on appeal was that Miranda lacked standing to bring the adversary proceeding.

Section 548(a)(1) of the Bankruptcy Code permits a trustee to avoid any transfer of a debtor's interest in property where the transfer

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was fraudulent or the debtor received less than a reasonably equivalent value in exchange for such transfer.

Section 522(h) provides an exception to Section 548(a)(1)'s requirement that the trustee exercise avoidance powers and grants debtors the authority to exercise Section 548 avoidance powers in limited circumstances if they "could have exempted such property" under Section 522(g)(1).

Section 522(g)(1), in turn, provides that "[t]he debtor may exempt under subsection (b) of

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this section property that the trustee recovers . . . to the extent that the debtor could have exempted such property under subsection (b) of this section if such property had not been transferred," subject to certain conditions.

Vitaliano, in agreeing with the bankruptcy court's interpretation of Section 522(g)(1), took a broader, more exemption-friendly view of the "could have" language of Section 522(g)(1) than that urged by TLB.

This interpretation of the could have language of Section 522(g)(1) "returns the debtor to the position it would have been in 'if such property had not been transferred' and asks, at that point, what exemptions could the debtor have claimed?"

Section 522(g)(1) "contemplates a hypothetical world prior to debtor's bankruptcy filing, at which point [Miranda] faced no statutory impediments to exempting her property pursuant to Section

522(d)(1) (the federal homestead exemption) or Section 522(d)(5) (the federal "wildcard" exemption)."

Since Miranda "could have" exempted her property at the time such property was transferred, even though she elected New York state exemptions, Miranda had standing to bring her fraudulent transfer action under Section 522(g)(1) and (h).

Habeas Petition Denied

In *York v. King*, 24 CV 2449 (EDNY June 30, 2025), Judge Pamela K. Chen denied a federal habeas petition challenging the legality of petitioner's extradition from Florida to New York.

Petitioner was indicted in New York state court on two counts of attempted murder and two counts of assault, among other charges.

The court issued a warrant for his arrest. Petitioner was subsequently arrested in Florida based on the New York warrant. Petitioner was then transported to New York and arraigned.

While he was being held in state custody before trial, petitioner brought a habeas petition in federal court under 28 U.S.C. §2241, challenging his extradition and alleging various constitutional and procedural errors in his arrest.

The court dismissed his petition for failure to exhaust his state remedies. Petitioner then filed a state habeas petition, which was also denied. Petitioner eventually pleaded guilty to one count of assault in the first degree.

Petitioner then filed a new federal habeas petition—this time under 28 U.S.C. §2254—alleging that his Florida arrest lacked probable cause, that he was not provided legal counsel in Florida before signing his extradition waiver, and that he was denied an extradition hearing prior to being extradited.

To obtain relief under Section 2254, petitioner was required to show that he exhausted his potential state remedies, asserted his claims in his state appeal, and satisfied the highly deferential standard set forth in the Anti-Terrorism and Effective Death Penalty Act of 1996.

To start, Chen was “not convinced” that petitioner had exhausted his potential state remedies before filing his petition. Specifically, there was no record of petitioner filing an appeal from his state habeas petition.

And there was no apparent attempt to overturn his conviction at all. But even if some aspects of petitioner’s claim had been exhausted, the petition still failed.

Petitioner’s challenge to his extradition—even if meritorious—was not a ground upon which habeas relief could be granted.

Under the *Ker-Frisbie* doctrine, “the power of a court to try a person for crime is not impaired by the fact that he had been brought within the court’s jurisdiction by reason of a ‘forcible abduction.’” Slip op. 11 (quoting *Frisbie v. Collins*, 342 U.S. 519, 522 (1952)).

The only exception the Second Circuit has recognized to that rule applies when the defendant’s presence is secured through use of cruel and inhuman conduct. No such conduct was alleged here. Thus, even if “petitioner’s extradition was unconstitutional, it would not be a basis to overturn his New York state conviction.”

Petitioner’s challenge to his arrest as lacking probable cause fared no better. No habeas relief is available for a Fourth Amendment violation unless the petitioner is denied the chance to fully and fairly litigate the issue in state court.

The petition failed because petitioner could show neither that New York had no corrective

procedures to redress Fourth Amendment violations nor that he was precluded from making use of those procedures through an unconscionable breakdown in the underlying process.

Suit Based On Delay In Deciding Asylum Application Dismissed For Failure To State A Claim

In *Ci v. USCIS*, 24 CV 1316 (EDNY, June 6, 2025), Judge Hector Gonzalez held that an asylum applicant’s complaint seeking a court order directing defendants to promptly adjudicate his application failed to state a claim.

Plaintiff L. Ci , a Chinese citizen, alleged that the delay of over five years by the U.S. Citizenship and Immigration Services (USCIS) in deciding his asylum application violated the Immigration and Nationality Act, 8 U.S.C. §1158 (INA), and the Administrative Procedure Act, 5 U.S.C. §706(1) (APA).

The government moved to dismiss for lack of subject matter jurisdiction and failure to state a claim. Gonzalez determined that jurisdiction existed but dismissed the complaint under Rule 12(b)(6).

In finding subject matter jurisdiction, the court noted that the INA calls for determination of an asylum application like Ci’s within 180 days from filing, 8 U.S.C. §1158(d)(5)(A)(iii), but also provides that “[n]othing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable...”, §1158(d)(7).

The court nonetheless found jurisdiction: “Although the statute’s ‘[n]o private right of action’ clause may appear at first glance to be a jurisdiction-stripping provision,” that conclusion does not survive review of §1158(a)(3), which

provides that “[n]o court shall have jurisdiction to review’ various asylum-related decisions by the attorney general....

When reading the ‘[n]o private right of action’ provision in 8 U.S.C. §1158(d)(7) in contrast with the express jurisdiction-stripping provision in 8 U.S.C. §1158(a)(3)..., [t]he court joins the myriad courts in the Second Circuit that have... held that 8 U.S.C. §1158(d)(7) does not strip the federal courts’ jurisdiction to decide mandamus or APA claims based on assertions that asylum applications have remained pending long after those statutory deadlines.”

A party seeking mandamus must show that (1) there is a clear right to the relief sought; (2) the government has a plainly defined and peremptory duty to perform the act in question; and (3) there is no other adequate remedy available.

The complaint failed because “[t]he INA provides no ‘substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person’” and because the APA offered an adequate remedy—“even though... plaintiff’s APA claim also fails on the merits.”

The APA claim failed because agency action is not unreasonably delayed as necessary to support relief where, as here, “ordering defendants to adjudicate plaintiff’s application would result in defendants simply prioritizing plaintiff’s application over other applicants, who may have been waiting even longer for a decision and are at least ‘equally deserving of prompt adjudication,’ thereby producing ‘no net gain’ for the asylum system overall.” Slip op. 9 (quoting *Xu v. Cissna*, 434 F. Supp. 3d 43, 54-55 (S.D.N.Y. 2020)).