

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Walter Acuna Cruz,
Petitioner

v.

Peter B. Berg, Director of St. Paul
Enforcement and Removal Operations,
Immigration and Customs Enforcement;
Kristi Noem, Secretary of the Department of
Homeland Security; and Pamela Bondi,
Attorney General of the United States,
in their official capacities; Matthew Akerson,
Captain of the Kandiyohi County Jail; Todd
Lyons, Acting Director, U.S. Immigration and
Customs Enforcement,
Defendants.

PETITION FOR WRIT
OF HABEAS CORPUS

CASE No: 0:25-cv-1915

Agency Case No: 

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR
ADMINISTRATIVE PROCEDURE ACT RELIEF

INTRODUCTION

1. Petitioner Mr. Walter Acuna Cruz (“Mr. Acuna Cruz”) remains in ICE custody in Minnesota, despite winning his immigration case two (2) months ago based on findings by an Immigration Judge (IJ) that he was eligible for termination of his removal proceedings pursuant to 8 C.F.R. § 1003.18(d)(ii)(C) because he was granted deferred action by the United States Citizenship and Immigration Service (USCIS) on the basis of his approved designation as a Special Immigrant Juvenile. Immigration and Customs Enforcement (ICE) refuses to release Mr. Acuna Cruz as they have appealed, without proper basis, the determination of the IJ. Mr. Acuna Cruz’s continued detention is

arbitrary and unlawful, and he requests that this Court order his immediate release from ICE custody.

2. Mr. Acuna Cruz is detained pursuant to 8 U.S.C. § 1226(a), which governs the detention of non-citizens that are detained *pending a decision on whether the alien is to be removed from the United States* (emphasis added). A decision is not currently pending as to whether Mr. Acuna Cruz will be removed from the United States. Such decision was rendered by the IJ on February 21, 2025. After a decision has been rendered, no ongoing detention is authorized.
3. Mr. Acuna Cruz cannot be deported to his home country of Guatemala because he was granted protection under deferred action. He is additionally currently authorized by the Department of Homeland Security, as an “individual who has received deferred action is authorized by DHS to be in the United States for the duration of the deferred action period.” *See* USCIS, ‘Frequently Asked Questions’, available at: <https://www.uscis.gov/humanitarian/consideration-of-deferred-action-for-childhood-arrivals-daca/frequently-asked-questions>.

JURISDICTION AND VENUE

4. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution (“Suspension Clause”); 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 2201, 2202 (Declaratory Judgment Act).
5. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See, e.g., Zadvydas*, 533 U.S. at 687.

6. Federal courts also have federal question jurisdiction, through the APA, to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by “any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus”). The APA affords a right of review to a person who is “adversely affected or aggrieved by agency action.” 5 U.S.C. § 702. Respondents’ continued detention of Petitioner despite the termination of his removal proceedings has adversely and severely affected Petitioner’s liberty and freedom.
7. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at Kandiyohi County Detention Facility. Furthermore, a substantial part of the events or omissions giving rise to this action occurred and continue to occur at ICE’s Minnesota Field Office in St. Paul, Minnesota, within this division.

PARTIES

8. Mr. Acuna Cruz is a native and citizen of Guatemala who was granted deferred action pursuant to his approved SIJ status on February 11, 2025. He is currently detained in Minnesota.
9. Peter B. Berg is the Field Office Director of the ICE Enforcement and Removal Operations (ERO) Minneapolis Field Office (MFO) and is the federal agent charged with overseeing all ICE detention centers in Minnesota. He is sued in his official capacity.

10. Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS). DHS oversees ICE, which is responsible for administering and enforcing the immigration laws. Secretary Noem is the ultimate legal custodian of Petitioner. She is sued in his official capacity.
11. Pamela Bondi is the Attorney General of the United States. She oversees the immigration court system, which is housed within the Executive Office for Immigration Review (EOIR) and includes all IJs and the Board of Immigration Appeals (BIA). She is sued in his official capacity.
12. Matthew Akerson is named in his official capacity as the Captain of Kandiyohi County. As the Captain of Kadiyohi County, he is responsible for and has authority over detainees in the Kandiyohi County Jail.
13. Todd Lyons is named in his official capacity as the Acting Director for U.S. Immigration and Customs Enforcement. As the Senior Official performing the duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States and is legally responsible for pursuing any effort to remove the Petitioner; and as such is a custodian of the Petitioner.

FACTUAL ALLEGATIONS

14. Petitioner Walter Acuna Cruz is a 21-year-old national of Guatemala who entered the United States as a child and has lived in the United States for over six years. He was abused, neglected, and abandoned in his country of origin and subsequently granted Special Immigrant Juvenile Status (SIJS) by United States Citizenship and Immigration Services (USCIS) based on predicate orders issued by state courts in Minnesota and South Dakota.

15. Mr. Acuna Cruz's last bond hearing was October 2024, more than six (6) months ago, where the Immigration Judge denied bond.
16. On February 11, 2025, USCIS approved Mr. Acuna Cruz's Form I-360 petition and granted him deferred action based on his SIJS classification. USCIS notified Mr. Acuna Cruz in writing that he would not be removed from the United States during the four-year deferred action period, which will remain in effect through October 2028.
17. At the time of his SIJS approval, Mr. Acuna Cruz was in removal proceedings. On February 21, 2025, Immigration Judge Sarah Mazzie issued a written decision terminating those proceedings under 8 C.F.R. § 1003.18(d)(ii)(C), which expressly authorizes termination when a respondent has been granted deferred action. The IJ determined that DHS's continued prosecution of removal proceedings was inconsistent with the protective status already conferred by USCIS and a waste of judicial resources.
18. Despite the IJ's lawful termination of proceedings and Mr. Acuna Cruz's deferred action status, DHS continues to detain him at Kandiyohi County Jail in Willmar, Minnesota, where he has remained in civil immigration custody for several months. DHS's continued detention of Mr. Acuna Cruz serves no legitimate purpose, as he is not subject to removal during the deferred action period.
19. On March 7, 2025, DHS filed an appeal of the IJ's termination order to the Board of Immigration Appeals (BIA). That appeal remains pending. However, DHS has never sought a stay of the IJ's order, and no reviewing authority has reversed or vacated the IJ's decision. Accordingly, proceedings remain terminated, and no final removal order exists against Mr. Acuna Cruz.

20. Mr. Acuna Cruz is not subject to mandatory detention under INA § 236(c) and has not been convicted of any aggravated felony. He is *prima facie* eligible for adjustment of status under INA § 245 based on his SIJS classification, once a visa becomes available. The current priority date for EB-4 visas places him approximately three to four years away from eligibility for adjustment — a timeframe consistent with the duration of his deferred action.
21. Mr. Acuna Cruz is also *prima facie* eligible for a U visa (application filed) and a T visa (application filed), as well as asylum. There is an insurmountable volume of removal relief available for Mr. Acuna Cruz, and DHS' crusade to keep a victim of such horrific and traumatic events is an *ultra vires* application of their authority.
22. While detained, Mr. Acuna Cruz has suffered significant hardships. On November 1, 2024, he was taken by DHS to an off-site location under the false pretense of attending a dental appointment. Instead, he was subjected to an interview by Homeland Security Investigations (HSI) without prior notice, without legal counsel, and under coercive conditions. The interview related to trafficking experiences he endured as a minor. The event was the subject of a complaint filed with the Office of Immigration Detention Ombudsman (OIDO), which was not resolved before the office's closure in early 2025.
23. In addition, DHS has repeatedly refused to facilitate the biometrics appointment required for Mr. Acuna Cruz to pursue collateral immigration relief. On December 19, 2024, DHS wrote to the Immigration Court stating it would not transport Mr. Acuna Cruz for fingerprinting, in direct contravention of the IJ's request that DHS assist him in pursuing lawful remedies.

24. DHS's conduct in Mr. Acuna Cruz's case has been marked by disregard for humanitarian protections and internal agency policy. Even though USCIS granted protection, DHS's litigation posture has obstructed that protection from taking full effect. The agency has failed to act in accordance with longstanding ICE policy favoring the release of individuals granted SIJS-based deferred action or other forms of humanitarian relief.
25. As of the filing of this Petition, no immigration judge or appellate authority has reinstated proceedings or issued a removal order. Mr. Acuna Cruz remains detained in violation of the INA, the Constitution, and applicable regulations. There is no lawful authority for his continued detention.

LEGAL FRAMEWORK

I. DETENTION OF NON-CITIZENS AFTER THE IMMIGRATION JUDGE HAS MADE A DECISION

13. Mr. Acuna Cruz's continued detention violates the Immigration and Nationality Act (INA) and is therefore unlawful. The government asserts authority to detain him under INA § 236(a), which states:

“[A]n alien may be arrested and detained *pending a decision* on whether the alien is to be removed from the United States.” INA § 236(a) (emphasis added).

By its plain text, the statute authorizes detention only up until the moment a decision is made. Once a decision is rendered, detention authority ends. The adjacent statutory provision governing removal proceedings confirms what qualifies as a “decision”:

“At the *conclusion* of the proceeding the immigration judge shall *decide* whether an alien is removable from the United States.” INA § 240(c)(1) (emphasis added).

Furthermore, neighboring provisions, including INA § 240(c)(3) mandates that “[n]o decision on deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.” And under 8 C.F.R. § 1240.12(a), “the decision shall be concluded with the order of the immigration judge.” Taken together, these provisions leave no doubt: once an Immigration Judge concludes proceedings and issues a ruling that a respondent is not to be removed, DHS’s detention authority under § 236(a) is extinguished.

14. That is exactly what happened here. On February 21, 2025, the Immigration Judge issued a written decision terminating Mr. Acuna Cruz’s proceedings under 8 C.F.R. § 1003.18(d)(ii)(C) based on his grant of deferred action through February 2029. The IJ expressly noted that removal was not feasible or authorized in light of USCIS’s deferred action determination and exercised her discretion to terminate proceedings accordingly. That decision was lawful, final, and dispositive. No statutory basis exists for DHS to continue holding Mr. Acuna Cruz in civil immigration detention.
15. The statutory language is clear, and where “a statute’s language is plain, the sole function of the courts is to enforce it according to its terms.” *Owner–Operator Indep. Drivers v. United Van Lines*, 556 F.3d 690, 693 (8th Cir. 2009). Moreover, courts do not defer to agency interpretation when the text is unambiguous. As the Supreme Court recently confirmed, “[c]ourts, not agencies, will decide ‘all relevant questions of law’ arising on review of agency action.” *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244, 2247 (2024). Here, the statutory command is straightforward: once an IJ has decided the respondent is not to be removed, detention under § 236(a) is no longer authorized.

16. While 8 C.F.R. § 1236.1(b) suggests that the government may detain a respondent “up to the time removal proceedings are completed,” that regulation is inconsistent with the statute. It attempts to define the end of proceedings by reference to the entry of a final order of deportation under INA § 101(a)(47)(B)(i), rather than the issuance of a “decision” under INA § 240(c). But that is not how Congress drafted § 236(a). The statute references a “decision,” not a final order. When Congress includes particular language in one section of a statute and omits it in another, it is presumed to have done so intentionally. *Kucana v. Holder*, 558 U.S. 233, 249 (2010).
17. By contrast, INA § 101(a)(47)(B)(i) defines when an “order of deportation” becomes final — namely, “upon... a determination by the Board of Immigration Appeals affirming such order.” But § 236(a) does not incorporate that standard. Instead, Congress used a different, earlier marker: the decision of the immigration judge. Thus, even if the BIA were to later reverse the IJ’s termination order, that possibility does not revive DHS’s detention authority under § 236(a). Statutory authority cannot be preserved through mere speculation about a future administrative reversal. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
18. The facts of this case confirm the absence of lawful detention authority. USCIS granted Mr. Acuna Cruz deferred action for a four-year period after approving his Special Immigrant Juvenile Status (SIJS) petition. DHS’s Office of the Principal Legal Advisor (OPLA), however, continues to prosecute this case — even though DHS itself has already declared, through USCIS, that Mr. Acuna Cruz is not subject to removal during the pendency of his deferred action. This intra-agency contradiction further illustrates that

no removal decision remains pending. The “decision” has been made: proceedings were terminated, and removal is not authorized.

19. That removal is not merely paused, but legally barred, is critical. Even if the government were to prevail on appeal, it could not remove Mr. Acuna Cruz during the deferred action period without first overcoming a series of legal and regulatory hurdles. This eliminates any rational tether between detention and removal. INA § 236(a) allows detention only to facilitate the removal process; it does not allow DHS to hold individuals in prolonged civil custody based solely on disagreement with a decision already rendered.
20. The IJ’s decision is valid, supported by applicable regulations, and rooted in DHS’s own grant of protection. It terminates proceedings conclusively and fulfills the statutory “decision” requirement under § 236(a). With no pending removal decision, and no immediate removal authority, DHS’s continued detention of Mr. Acuna Cruz is *ultra vires* and must be ended.
21. Accordingly, under the plain language of the INA and applicable regulations, this Court should hold that DHS’s continued detention of Mr. Acuna Cruz is unlawful and order his immediate release.

II. UNCONSTITUTIONAL DETENTION IN VIOLATION OF THE FIFTH AMENDMENT

21. Even assuming *arguendo* that DHS retained some colorable statutory authority to detain Mr. Acuna Cruz following the IJ’s termination of proceedings, that detention is nonetheless unconstitutional under the Due Process Clause of the Fifth Amendment. “Freedom from imprisonment—from government custody, detention, or other forms of

physical restraint—lies at the heart of the liberty that [the] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

22. Civil immigration detention is only permissible where it bears a “reasonable relation to the purpose for which the individual was committed.” *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S. at 690. Those purposes are limited: preventing flight and protecting the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).
23. Neither purpose applies here. Mr. Acuna Cruz has prevailed in proceedings. There is no removal order. His removal is not imminent. To the contrary, USCIS has granted him deferred action based on his SIJS approval, protecting him from removal for at least four years. See Order of the Immigration Judge, Feb. 21, 2025.
24. Further, DHS’s own conduct undermines any argument that it is acting to protect public safety or prevent flight. DHS’s appeal offers no evidence of risk or dangerousness. Indeed, the Immigration Judge considered Respondent’s juvenile record, rehabilitation, and documented trauma—including being trafficked as a minor—and still found termination appropriate. See Order at 2–3.
25. Yet despite prevailing before the IJ and despite DHS’s inability to carry out removal, Mr. Acuna Cruz remains in detention. Such prolonged confinement, without any valid statutory or rational justification, is arbitrary and violates due process. See *Doe v. Beth*, No. 18-C-1672, 2019 WL 1923867 (E.D. Wis. Apr. 30, 2019) (granting habeas where continued detention following grant of relief was unjustified); *Singh v. Choate*, No. 19-CV-00909-KLM, 2019 WL 3943960 (D. Colo. Aug. 21, 2019) (holding 20-month detention without bond unconstitutional).

26. This is not hypothetical: DHS has refused to assist Mr. Acuna Cruz with biometrics processing needed for collateral relief, has subjected him to improper interrogations without counsel, and has leveraged its detention authority to frustrate USCIS-based remedies. See BIA Appeal, Statement of Facts at 2–3. These cumulative actions render his detention even more constitutionally suspect, as they reflect punitive conduct rather than civil processing.

27. Accordingly, Mr. Acuna Cruz’s continued detention, in the absence of removal authority and contrary to DHS’s own findings, constitutes a deprivation of liberty without due process of law. The Court should order his release.

III. VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT (APA):

DETENTION NOT IN ACCORDANCE WITH LAW OR POLICY

28. The Administrative Procedure Act requires courts to “hold unlawful and set aside agency action” that is “not in accordance with law” or is “arbitrary, capricious, [or] an abuse of discretion.” 5 U.S.C. § 706(2)(A).

29. DHS’s continued detention of Mr. Acuna Cruz violates the APA on multiple grounds. First, it contradicts governing regulations. 8 C.F.R. § 1003.18(d)(ii)(C) expressly allows IJs to terminate proceedings where deferred action has been granted. USCIS granted deferred action to Mr. Acuna Cruz on February 11, 2025, and the IJ terminated proceedings accordingly. See IJ Order at 1. No regulation permits detention to continue in such circumstances.

30. Second, DHS’s conduct departs from longstanding internal policy favoring release of noncitizens granted deferred action or humanitarian protections. See ICE Guidance

Memo (2021) (“absent exceptional circumstances, noncitizens granted asylum, withholding, or CAT protection... should be released”). DHS has offered no exceptional circumstances here. Instead, it is detaining Mr. Acuna Cruz based on opposition to a decision its sister agency made.

31. DHS’s actions also violate the *Accardi* doctrine. See *Accardi v. Shaughnessy*, 347 U.S. 260 (1954). DHS is bound by its own regulations and internal guidance. In Mr. Acuna Cruz’s case, DHS has ignored binding authority by refusing to facilitate biometrics, detaining him despite his grant of deferred action, and misrepresenting the law to the Immigration Court. See BIA Appeal Brief, Statement of Facts at 2–4.
32. These actions are not isolated. The agency subjected Mr. Acuna Cruz to a deceptive HSI interview in November 2024, representing the purpose of the transport as a dental visit, and later refusing to allow counsel access during a custodial interrogation. These acts resulted in an OIDO complaint, further evidencing DHS’s disregard for fair procedure.
33. Finally, DHS’s continued litigation posture contradicts its own regulatory obligations. Under the Final Rule at 8 C.F.R. § 1003.18(d), the agency must recognize the futility of removal where deferred action is in place and proceedings serve no meaningful purpose. See *Efficient Case and Docket Management in Immigration Proceedings*, 89 Fed. Reg. 45667, 45673 (May 29, 2024) (“continuing to expend court resources on such a case is neither just nor efficient”).
34. DHS’s refusal to effectuate release, while simultaneously appealing a lawful termination and obstructing relief processing, is arbitrary, unlawful, and subject to judicial correction under the APA.

IV. PROLONGED DETENTION WITHOUT A CUSTODY HEARING VIOLATES DUE PROCESS

35. Alternatively, even if this Court finds statutory authority for detention pending appeal, the Due Process Clause requires that Mr. Acuna Cruz receive a bond hearing after a period of prolonged detention. See *Zadvydas*, 533 U.S. at 690; *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018).
36. Courts throughout the country have recognized that prolonged civil detention without a bond hearing violates due process, particularly where there is no removal order or where an individual has viable defenses. See *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199 (11th Cir. 2016); *Reid v. Donelan*, 819 F.3d 486 (1st Cir. 2016); *Diop v. ICE*, 656 F.3d 221 (3d Cir. 2011); *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. 2015).
37. Mr. Acuna Cruz has now been detained for several months without a merits hearing and in the absence of any final removal order. His last bond hearing was more than six (6) months ago. The IJ has found him deserving of termination, deferred action is in effect, and DHS has admitted removal is not possible during the four-year protection period.
38. Without judicial intervention, DHS will likely continue this detention throughout the pendency of an appeal and possible remand, despite having no lawful basis to remove or detain him in the first place.
39. The Court should therefore either order Mr. Acuna Cruz's immediate release or, in the alternative, require the government to provide him with a constitutionally adequate bond hearing within 14 days.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Walter Acuna Cruz respectfully requests that this Court grant the following relief:

1. Issue a writ of habeas corpus directing Respondents to immediately release Mr. Acuna Cruz from custody on the grounds that his continued detention violates the Immigration and Nationality Act, the Due Process Clause of the Fifth Amendment, and the Administrative Procedure Act;
2. Declare that Respondents lack statutory authority under 8 U.S.C. § 1226(a) to detain Mr. Acuna Cruz following the Immigration Judge's termination of proceedings pursuant to 8 C.F.R. § 1003.18(d)(ii)(C);
3. Declare that Mr. Acuna Cruz's continued detention is unconstitutional and unlawful, as it is not reasonably related to any valid purpose of immigration detention and violates the Fifth Amendment guarantee of due process;
4. Declare that Respondents' conduct violates the Administrative Procedure Act, 5 U.S.C. §§ 702 and 706, as arbitrary, capricious, and not in accordance with law;
5. In the alternative, should the Court determine that immediate release is not warranted, order Respondents to provide Mr. Acuna Cruz with an individualized bond hearing before an impartial immigration judge within 14 days, at which the government bears the burden to justify continued detention by clear and convincing evidence;
6. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and

7. Grant such other and further relief as the Court deems just and proper.

DATED: April 30, 2025.

Respectfully Submitted,

/s/ Hannah Brown
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