

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

Thomas Taysson Batista Ramos,	)	
	)	
Petitioner,	)	Case No. 1:25-cv-175
	)	
v.	)	PETITION FOR WRIT OF
	)	HABEAS CORPUS
	)	
Francisco Venegas, <i>in his official capacity as,</i>	)	
Facility Administrator, El Valle Detention	)	
Facility,	)	
	)	
Kristi Noem, <i>in her official capacity,</i> as Secretary	)	
of Homeland Security,	)	
	)	
Respondents.	)	
	)	

INTRODUCTION

1. Petitioner, Thomas Taysson Batista Ramos (“Mr. Batista Ramos”), is a national of Brazil and a citizen of both Brazil and Italy.
2. Mr. Batista Ramos received deferred action on August 17, 2023, upon the approval of his immigrant petition as a Special Immigrant Juvenile (“SIJ”), Form I-360.
3. DHS has not sought to revoke or terminate the deferred action and Mr. Batista Ramos received work authorization on December 15, 2023.
4. Mr. Batista Ramos has no criminal history, and the period of deferred action remains valid through August 2027 unless terminated earlier by USCIS.
5. Moreover, under USCIS's most recent policy, despite other changes, “aliens with current deferred action based on their SIJ classification will generally retain this deferred action, as well as retain their current employment authorization provided based on this deferred action, until the current validity periods expire.” USCIS, Policy Alert PA-2025-07 (June 6,

2025), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250606-SIJDeferredAction.pdf>.

6. Through his approved SIJ petition, Mr. Batista Ramos will have the opportunity to become a lawful permanent resident once a visa is available, and his removal is not reasonably foreseeable due to the grant of deferred action.

7. On May 26, 2025, United States Immigration and Customs Enforcement (“ICE”) unlawfully stopped, detained, and arrested Mr. Batista Ramos in Milford, Massachusetts,

8. ICE then moved him to the El Valle Detention Facility away from his family and counsel where he remains in custody.

9. Through this petition, Mr. Batista Ramos asks this Court to find that Respondents have unlawfully detained him and must immediately release him from custody. *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001).

JURISDICTION

10. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question).

11. Venue is proper because Petitioner was detained in Milford, Massachusetts, but now remains detained in Raymondville, Texas. *See generally Rumsfeld v. Padilla*, 542 U.S. 426, 447 (2004) (generally, “[w]hen a § 2241 habeas petitioner seeks to challenge his present physical custody within the United States,” he must file the petition in the district of confinement and name his immediate custodian as the respondent).

PARTIES

12. Petitioner Mr. Thomas Taysson Batista Ramos is a national of Brazil and a citizen of Brazil and Italy.

13. Respondent Francisco Venegas is the Facility Administrator at the El Valle Detention Facility. He is sued in his official capacity. Administrator Venegas is the immediate custodian of Mr. Batista Ramos.

14. Respondent Kristi Noem is the Secretary of Homeland Security. Secretary Noem has the responsibility to faithfully preserve and protect the constitutional rights of all those present in the United States. Secretary Noem is sued in her official capacity.

LEGAL BACKGROUND

15. Section 2241 of 28 United States Code provides in relevant part that “[w]rits of habeas corpus may be granted by . . . the district courts within their respective jurisdictions” when a petitioner “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(a), (c)(3); *see also I.N.S. v. St. Cyr*, 533 U.S. 289, 305, 121 S. Ct. 2271 (2001).

16. District courts grant writs of habeas corpus to those who demonstrate their custody violates the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3).

17. Habeas corpus “entitles [a] prisoner to a meaningful opportunity to demonstrate that he is being held pursuant to ‘the erroneous application or interpretation’ of relevant law.” *Boumediene v. Bush*, 553 U.S. 723, 779, 128 S. Ct. 2229 (2008) (*quoting St. Cyr*, 533 U.S. at 302).

18. The Fifth Amendment’s Due Process Clause protects the right of all persons to be free from “depriv[ation] of life, liberty, or property, without due process of law.” U.S. Const. amend. V.

19. “It is well established that the Fifth Amendment entitles aliens to due process of law[.]” *Trump v. J. G. G.*, 604 U.S. ---, 145 S. Ct. 1003, 1006 (2025) (*quoting Reno v. Flores*,

507 U.S. 292, 306, 113 S. Ct. 1439 (1993)).

20. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

21. A Special Immigrant Juvenile is

an immigrant who is present in the United States--

(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;

(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

(iii) in whose case the Secretary of Homeland Security consents to the grant of special immigrant juvenile status

8 U.S.C. § 1101(a)(27)(J).

22. Under the applicable regulations, to be eligible for classification as an SIJ, an applicant must meet all of the following requirements:

- (1) Is under 21 years of age at the time of filing the petition;
- (2) Is unmarried at the time of filing and adjudication;
- (3) Is physically present in the United States;
- (4) Is the subject of a juvenile court order(s) that meets [specific requirements]; and
- (5) Obtains consent from the Secretary of Homeland Security to classification as a special immigrant juvenile. For USCIS to consent, the request for SIJ classification must be bona fide, which requires the petitioner to establish that a primary reason the required juvenile court determinations were sought was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under State law. USCIS may withhold consent if evidence materially conflicts with the eligibility requirements in paragraph (b) of this section such that the record reflects that the request for SIJ classification was not bona fide. USCIS approval of the petition constitutes the granting of

consent.

8 C.F.R. § 204.11(b).

23. An SIJ classification may be revoked if the beneficiary is reunified with one or both parents by juvenile court order, or administrative or judicial proceedings determine that it is in the beneficiary's "best interest to be returned to the country of nationality or last habitual residence of the [individual] or of their parent(s)." *Id.* § 204.11(j).

24. "USCIS may also revoke an approved petition for classification as a special immigrant juvenile for good and sufficient cause" following written notice to the individual explaining the reasons for the revocation. 8 C.F.R. § 204.11(j)(2); *see* 8 C.F.R. § 205.2.

25. SIJs may seek an adjustment of status to "an alien lawfully admitted for permanent residence." *See* 8 U.S.C. § 1255(a), (h).

26. One of the requirements for an SIJ to obtain an adjustment of status is that an immigrant visa be immediately available at the time of filing the adjustment application. *Id.* § 1255(a).

27. However, "[d]ue to ongoing visa number unavailability, the protection that Congress intended to afford SIJs through adjustment of status is often delayed for years[.]" USCIS, Policy Alert PA-2022-10 (Mar. 7, 2022), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20220307-SIJAndDeferredAction.pdf>.

28. In light of this delay, USCIS's policy had been to consider granting deferred action on a case-by-case basis to SIJs who are ineligible to obtain adjustment of status solely due to unavailable immigrant visa numbers. *Id.*

29. Recently, that policy changed, and currently "USCIS will no longer consider

granting deferred action on a case-by-case basis to aliens classified as SIJs who are ineligible to apply for adjustment of status solely due to unavailable immigrant visas.” USCIS, Policy Alert PA-2025-07 (June 6, 2025), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250606-SIJDeferredAction.pdf>.

30. But despite the policy change, “aliens with current deferred action based on their SIJ classification will generally retain this deferred action, as well as retain their current employment authorization provided based on this deferred action, until the current validity periods expire.” *Id.*

31. The Supreme Court described deferred action as meaning “no action will thereafter be taken to proceed against an apparently deportable alien, even on grounds normally regarded as aggravated.” 525 U.S. at 484 (*quoting* 6 C. Gordon, S. Mailman, & S. Yale-Loehr, Immigration Law and Procedure § 72.03 [2][h] (1998)). *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484, 119 S. Ct. 936 (1999) (“AADC”).

32. AADC cited Fifth Circuit precedent to support this definition. *Id.* (*citing Johns v. Dep't of Justice*, 653 F.2d 884, 890-92 (5th Cir. 1981)).

33. In *Johns*, the Fifth Circuit distinguished deferred action from a stay of removal, explaining that deferred action means the Government chooses to “refrain from (or, in administrative parlance, to defer in) executing an outstanding order of deportation.” 653 F.2d at 890.

34. The USCIS Policy Manual defines deferred action as “a form of prosecutorial discretion to defer removal action (deportation) against an alien for a certain period of time. Aliens granted deferred action are considered to be in a period of stay authorized under USCIS policy for the period deferred action is in effect.” USCIS Policy Manual, Vol. 1, Part H, Ch.

2(A)(4), <https://www.uscis.gov/policy-manual/volume-1-part-h-chapter-2> (last visited August 6, 2025).

STATEMENT OF THE FACTS

35. Mr. Batista Ramos is a twenty-three-year-old male with no criminal history.
36. On December 16, 2021, Mr. Batista Ramos entered the United States under the Visa Waiver Program using his Italian Passport.
37. Mr. Batista Ramos was authorized to remain in the United States for ninety days, March 15, 2022, but failed to depart and overstayed the period of authorized stay.
38. On August 18, 2023, USCIS approved Mr. Batista Ramos' SIJ petition.
39. Upon the approval of the SIJ petition, USCIS granted Mr. Batista Ramos deferred action for a period of four years unless terminated by USCIS.
40. On December 15, 2023, USCIS approved Mr. Batista Ramos' application for work authorization.
41. On May 26, 2025, ICE apprehended Mr. Batista Ramos while making a sweep of Milford, Massachusetts, looking to meet their daily arrest quota.
42. ICE stopped Mr. Batista Ramos without a warrant and without reasonable suspicion of a crime or civil immigration violation.
43. Although aware Mr. Batista Ramos had deferred action, the officers arrested him and transported him to an immigration detention facility in Plymouth, Massachusetts.
44. The officers conducted an unreasonable search and seizure of Mr. Batista Ramos' person and personal belongings.
45. The officers did not disclose the basis for stopping, arresting, or detaining Mr. Batista Ramos.

46. ICE commenced removal proceedings against Mr. Batista Ramos, but an immigration judge terminated proceedings because Mr. Batista Ramos was a VWP overstay.

47. ICE moved Mr. Batista Ramos from a detention facility in Plymouth, Massachusetts, to the El Valle Detention Facility, where he remains in custody.

48. He continues to have the support of his employer in Massachusetts, and maintains a residence in Massachusetts.

49. Mr. Batista Ramos will seek permanent residency once a visa is available.

CLAIM FOR RELIEF
CONTINUED DETENTION CONSTITUTES A VIOLATION OF DUE PROCESS

50. Petitioner incorporates all factual allegations as though restated here.

51. ICE detained Mr. Batista Ramos without reasonable suspicion and continues to do so in violation of his constitutional rights protected under the Fifth Amendment.

52. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V.

53. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects.” *Zadvydas*, 533 U.S. at 690.

54. Mr. Batista Ramos’s detention violates his Fifth Amendment rights for at least three related reasons.

55. First, immigration detention must always “bear[] a reasonable relation to the purpose for which the individual was committed.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690).

56. Whereas here, the government has granted deferred action to the detainee, detention is not reasonably related to its purpose.

57. Second, the Due Process Clause requires that any deprivation of Mr. Batista Ramos's liberty be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301-02 (1993) (holding that due process "forbids the government to infringe certain 'fundamental' liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest"); *Demore*, 538 U.S. at 528 (applying less rigorous standard for "deportable aliens").

58. Petitioner's on-going imprisonment does not satisfy that rigorous standard as he did not commit any crime and was granted deferred action.

59. Third, "the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention." *Zadvydas*, 533 U.S. at 718 (2001) (Kennedy, J., dissenting).

60. Detaining Mr. Batista Ramos was arbitrary because he had been granted deferred action and authorization to work in the United States.

61. Moreover, "an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701.

62. This is true for Mr. Batista Ramos.

63. Moreover, the procedural posture of the petitioners' claims in *Zadvydas* differed from the instant petition in two critical ways that benefit Mr. Batista Ramos.

64. First, the *Zadvydas* Court was considering the question of indefinite detention, not an initial detention decision.

65. Relatedly, the petitioners in *Zadvydas* had previously been afforded discretionary review of their detention. *See Zadvydas v. Underdown*, 185 F.3d 279, 283 (5th Cir. 1999) (immigration judge ordered that *Zadvydas* should be detained without bond during deportation process based on history of flight from authorities).

66. Petitioner here, in contrast, has been provided no review of his detention.

67. To the contrary, Respondents have made no suggestion that there has been any review of Petitioner's record to determine that his detention was warranted to ensure his removal.

68. Respondents had no legitimate basis to stop and detain Mr. Batista Ramos.

69. Respondents detained Mr. Batista Ramos notwithstanding he had deferred action.

70. Respondents did not offer Mr. Batista Ramos a meaningful opportunity to be heard, nor did they provide a legitimate basis for depriving him of his liberty.

71. Second, the petitioners in *Zadvydas* had final orders of removal without any subsequent grant of deferred action or other relief from enforcement of the order.

72. Here, USCIS has granted Petitioner deferred action that remains valid through August 2027 or until it is otherwise terminated by USCIS.

73. Moreover, under USCIS's most recent policy, despite other changes, "aliens with current deferred action based on their SIJ classification will generally retain this deferred action, as well as retain their current employment authorization provided based on this deferred action, until the current validity periods expire." USCIS, Policy Alert PA-2025-07 (June 6, 2025), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250606-SIJDeferredAction.pdf>

74. Under the circumstances presented, Petitioner has shown that there is no significant likelihood of his removal in the reasonably foreseeable future as he has not engaged in conduct that would warrant early termination of his deferred action.

75. Respondents' actions to deprive Mr. Batista Ramos of his liberty violate his rights to due process.

76. Accordingly, this Court should grant the petition and order Mr. Batista Ramos' immediate release.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- A. Assume jurisdiction over this matter;
- B. Order Respondents to Show Cause why this Petition should not be granted within seventy-two hours;
- C. Issue an Order preventing Respondents from removing Petitioner from the United States without notice and an opportunity to be heard;
- D. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
- E. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- F. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
- G. Grant any further relief this Court deems just and proper.

August 7, 2025

Respectfully submitted,

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