UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA

ANDRES PEREZ-CARMELO, Petitioner, v. SHAD RICE, in his official capacity as the Facility Administrator, The GEO Group, Inc., Central Louisiana ICE Processing Center ; MELLISSA HARPER, in her official capacity as New Orleans Field Office Director for U.S. Immigration and Customs Enforcement; TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; and KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security; Respondents.	Case No. **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** **ORAL ARGUMENT REQUESTED**

INTRODUCTION

1. The Petitioner in this case, Andres Perez-Carmelo ("A.PC.") is an unlawfully detained person who was awarded Special Immigrant Juvenile Status ("SIJS") by the Department of Homeland Security ("DHS"). Subsequent to coming to the United States as a minor, the Petitioner, in compliance with applicable law, sought and received protection as a vulnerable minor. Being awarded this benefit, as Congress intended, permits the Petitioner's presence in the United States for the purpose of adjustment of status to lawful permanent residency. The Petitioner has been approved for SIJS, was granted deferred action from removal by the DHS, and

was peaceably awaiting eligibility to file his application for lawful permanent residence in the United States.

2. Despite the DHS acknowledging that the Petitioner was part of a vulnerable population, and that Petitioner was awarded the benefits of SIJS, deferred action, and of being physically present for adjustment of status to permanent residence, the Respondents detained him on the basis of a traffic stop (which was, itself, without cause and for which all charges have now been dismissed), and intend to remove him from the United States thereby unlawfully stripping him of his SIJ status in defiance of the intent of Congress to protect vulnerable children who have been victims of abuse, abandonment or neglect. The Petitioner remains detained by the Respondents at the Central Louisiana ICE Processing Center ("CLIPC") in Jena, Louisiana.

3. The Petitioner has been classified as a "Special Immigrant Juvenile," by the United States Citizenship and Immigration Service ("USCIS") on the basis of an approved self-petition after an underlying family court proceeding that resulted in the requisite "predicate order." Upon approval, the Petitioner was granted deferred action from removal. **[*See* Exhibit 1, I-360 Approval and Grant of Deferred Action]** Respondents purported to revoke the Petitioner's grant of deferred action after his detention. **[*See* Exhibit 2, USCIS Letter of Termination]** However, neither benefit has been properly rescinded or lawfully revoked nor has the Petitioner

violated his status, or any law, which might justify the Respondents' harsh treatment. The Petitioner has been awaiting an available visa number for a substantial time, and has remained physically present as contemplated under the statute as a Juvenile Court has determined it is in the best interest of the Petitioner that he remains in the United States based on a history of childhood abuse, abandonment or neglect.

4. Respondents now seek to undercut both the determination of the family court, as well as the determination of USCIS, which is the agency that adjudicated and approved the Petitioner for SIJS. Respondents seek the detention and removal of this youth (now an adult) despite the benefit that DHS/USCIS and Congress has afforded him.

5. Consistent with the American public's interest in protecting vulnerable children in the United States, regardless of nationality, Congress created the SIJ program by statute in 1990 as a form of humanitarian protection for certain non-citizen children who were eligible for long term foster care. The program was later expanded under the William Wilberforce Trafficking Victims Protection Reauthorization Act ("TVPRA") to include all unmarried, non-citizen children under the age of 21 who are unable to reunite with one or both of their biological parents due to abuse, neglect, abandonment, or a similar basis under state law, and for whom a state juvenile court determines that it is not in their best interests to be removed from the United States.

6. Congress's goal for the SIJ program was to create protective measures and a pathway to citizenship for children who have been victimized. The program was intended to protect eligible children in the United States from further harm, and to allow them to deepen their connections with the United States. Since these children had effectively become wards of the United States, Congress determined that these children are entitled to protection by the U.S. government.

7. As explained by the Third Circuit in *Osorio-Martínez v. Attorney General*, 893 F.3d 153 (3d Cir. 2018), SIJs are afforded a number of statutory and procedural protections that they would otherwise not have under the law as applicants for admission. These protections materially constrain DHS' removal-related authority and are enforceable in federal district court. The protections include generous waivers of many grounds of inadmissibility, assurance of their eligibility to apply for permanent residence, authorized legal presence in the United States while they wait for the visa to become available, and the ability to not be stripped of that designation without due process of law and a finding of "good and sufficient cause" to do so. *Osorio-Martínez* at 168, 170-72.

8. However, notwithstanding the protections Congress afforded to SIJs the Petitioner now faces unlawful immigration detention because DHS and the Executive Office of Immigration Review (EOIR) have concluded Petitioners are subject to the newly-instituted mandatory detention policy under 8 U.S.C. § 1225,

and removal from the United States. Both actions by the Respondents including subjecting the Petitioner to ongoing detention and execution of his removal from the United States violate the constitutional, procedural, statutory and regulatory rights of the SIJ Petitioner in this case.

9. Despite not any having criminal record whatsoever or any pre-existing order of removal, and in violation of his SIJ and improperly revoked deferred action status, the Petitioner was stopped by local law enforcement on bogus grounds, arrested, detained and placed into immigration detention at the Central Louisiana ICE Processing Center.

10. All criminal charges have been dropped against the Petitioner, and he has thus been exonerated. **[*See* Exhibit 3, Court File with dispositions]** Despite notifying Immigration and Customs Enforcement (ICE) of the Petitioner's status, demonstrating proper identification, and not being accused or charged with any violation of his approved SIJ status, the Petitioner was detained and charged with, *inter alia*, having entered the United States without inspection or parole. 8 U.S.C. § 1182(a)(6)(A)(i). Respondents are aware that the Petitioner has been afforded SIJ status and deferred action (which they purportedly revoked) and continues to seek his detention and removal.

11. The Petitioner challenged his removal proceedings, seeking termination of proceedings and sought release from detention. The IJ declined to terminate

proceedings and denied bond. Respondents denied the Petitioner's request for release from immigration custody. This determination is consistent with a new DHS policy issued on July 8, 2025, instructing all ICE employees to consider anyone charged with inadmissibility under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention. **[*See* Exhibit 4, July 8, 2025 ICE Guidance]**

12. On September 5, 2025, the Board of Immigration Appeals (BIA) published the decision *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held that IJs do not have the authority to hear bond requests or grant bond to noncitizens who are present in the United States without authorization, continuing to pursue this novel agency interpretation of 8 U.S.C. § 1225 imposed for the first time in 2025.

13. Notwithstanding the holding in *Yajure Hurtado*, the Petitioner's detention violates the plain language of the Immigration and Nationality Act and Congress' intentions for the SIJ program, and are therefore outside of the statutory authority granted to Respondents by Congress. The Petitioner's detention and potential removal run counter to the protections afforded to SIJs, and as such are actions outside of the agency's authority that have effectively stripped the Petitioner of his SIJ status without due process of law.

14. As it stands, Respondents' new legal interpretation is plainly contrary to the statutory framework of the SIJ program and contrary to decades of agency practice applying § 1226(a) to people like the Petitioner rather than §1225.

15. Historically, §1225(b)(2)(A) did not apply to individuals like the Petitioner who previously entered and are now residing in the United States. Under numerous previous executive administrations of both major political parties, such individuals were determined to be subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. This is consistent with the fact that § 1226(a) expressly applies to people who, like the Petitioner, are charged as inadmissible for having entered the United States without inspection and who have resided in the United States for more than two years.

16. As noted above, the Petitioner sought collateral relief within his removal proceedings, requesting termination of removal proceedings or other remedial actions. IJs have a number of docket management tools available to them under the INA and its implementing regulations, such administrative closure, continuances, or even termination of removal proceedings that would allow IJs to preserve the rights of SIJ beneficiaries who are waiting for a visa to become available. *See Matter of Cruz Valdez*, 28 I&N Dec. 326 (A.G. 2021); *see also, Arcos Sanchez v. Att'y Gen.*, 997 F.3d 113, 121-24 (3d Cir. 2021). Nevertheless, those requests were similarly denied by the Immigration Court and opposed by DHS, as

the position of DHS is that the Petitioner is to remain detained indefinitely and, despite his status and prior grant of deterred action, DHS intends to, without process, strip the Petitioner of the legal benefits to which he is entitled to under the INA.

17. Accordingly, the Petitioner seek a writ of habeas corpus ordering (a) immediate release or, at minimum, (b) a prompt individualized custody hearing before a neutral decisionmaker under 8 U.S.C. §1226(a), at which the government bears the burden to justify the Petitioner's continued detention by clear and convincing evidence, and (c) a declaration that § 1225, as applied by current agency practice, does not apply to SIJ beneficiaries consistent with the persuasive holding of *Osorio-Martinez* and the TVPRA.

JURISDICTION

18. The Petitioner is in the physical and legal custody of Respondents. He is detained at the Central Louisiana ICE Processing Center in Jena, Louisiana. The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their detention by ICE. See, e.g., *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001);

19. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), the Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1101–1537, regulations implementing the INA, the

Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706, and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

20. This Court has additional remedial authority under 28 U.S.C. §§ 2201–2202 (declaratory relief), Federal Rules of Civil Procedure Rule 65 (injunctive relief), 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

21. The federal government has waived its sovereign immunity and permitted judicial review of agency action under 5 U.S.C. § 702. In addition, sovereign immunity does not bar claims against federal officials that seek to prevent violations of federal law (rather than provide monetary relief).

VENUE

22. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Western District of Louisiana, the judicial district in which the Petitioner is currently detained.

23. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and/or agents of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Louisiana.

PARTIES

24. Petitioner A.P.C. is an approved Special Immigrant Juvenile (although he is now a young adult) pursuant to 8 U.S.C. § 1101(a)(27)(J), and a citizen and national of Guatemala. A.P.C. entered the United States as a minor child, unaccompanied by family members through the southern border on or about September 29, 2016. After being designated as an unaccompanied alien child (UAC), he was placed into the government's custody as administered by the Office of Refugee Resettlement (ORR). He was eventually placed in foster care, and obtained a predicate order with the requisite SIJ findings from a state court of competent jurisdiction. He subsequently petitioned the USCIS for SIJ status, which granted his petition and simultaneously granted the Petitioner deferred action from removal on or about February 10, 2023. The Petitioner is currently awaiting an available visa number to submit his adjustment of status application to lawful permanent residency. The Petitioner does not have a criminal record or any adverse criminal or removal history. On May 22, 2025, the Petitioner was stopped by local police without lawful basis. He was issued multiple traffic tickets, and wrongfully accused of resisting arrest in violation of MS Code of 1972, Annotated, Section 97-9-73. All charges have been dismissed. The Petitioner was turned over by local law enforcement to ICE for immigration detention, and is currently being held without bail or bond at the Central Louisiana ICE Processing Center in Jena, Louisiana.

25. Respondent Shad Rice is employed by The GEO Group, Inc., as the Facility Administrator of the Central Louisiana ICE Processing Center, where the Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

26. Respondent Mellissa Harper is the Director of the New Orleans Field Office of ICE's Enforcement and Removal Operations division, a component of the Department of Homeland Security. As such, she is Petitioner's immediate legal custodian and is responsible for the Petitioner's detention and removal. She is sued in her official capacity.

27. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens, and a component agency of the Department of Homeland Security. He is sued in his official capacity.

28. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over the Petitioner. She is sued in her official capacity.

LEGAL FRAMEWORK

A. The History of SIJ Status supports protecting vulnerable children and permitting presence through adjustment of status.

29. Congress created Special Immigrant Juvenile Status in 1990 to provide immigration relief for noncitizen children living in the United States, who have been abused, neglected, or abandoned, or similarly mistreated by one or both parents [1]. The statute set forth specific eligibility criteria, which included being the subject of a state juvenile court judicial determination that it would not be in their best interests to return to their country of origin or country of last habitual residence[2].

30. Given that a number of these immigrant children had various admissibility issues, including unlawful entry or unlawful presence, in 1991, Congress amended the INA to address this issue by providing that SIJ beneficiaries "shall be deemed, for purposes of [adjustment of status], to have been paroled into the United States," and exempting them from bars to adjustment based on failure to maintain status or unauthorized employment.[3] Congress also explicitly excluded SIJ beneficiaries from specific grounds of excludability, or as they are now known, grounds of inadmissibility.[4] This prevented broad disqualification of SIJS

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[1] Immigration Act of 1990 ("1990 Act"), Pub. L. 101–649, § 153, 104 Stat. 4978 5005–06 (1990) (codified at 8 U.S.C. § 1101(a)(27)(J)).
[2] *Id.*
[3] Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 ("MTINA"), Pub. L. No. 102–232, § 302(d)(2)(A), (B), 105 Stat. 1733, 1744 (1991) (codified at 8 U.S.C. § 1255(h)(1), (2)).
[4] *See* 1990 Act.

beneficiaries from adjustment of status due to numerous admissibility issues common to SIJ beneficiaries.

31. By creating a pathway for SIJ to adjust status due to being considered paroled, Congress showed that it intended SIJ beneficiaries to receive permanent legal protection, and consequently, that the SIJ process is not complete unless and until an SIJ beneficiary can apply for and be considered for LPR status. This necessarily requires that SIJ beneficiaries be present in the United States, because there is no statutory mechanism that allows SIJ beneficiaries to gain lawful permanent residence other than the filing of a Form I-485 Adjustment of Status Application. SIJ beneficiaries may file that application only when an immigrant visa is immediately available *and they are present in the United States*. [5]

32. Congress expanded the SIJ program in 1994 to include children whom a court "has legally committed to, or placed under the custody of, a[] [state] agency or department."[6] This amendment also increased the potential eligibility pool to

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[5] USCIS Policy Manual, Vol. 7, Part F, Ch.7.C (stating that SIJS beneficiaries must be "physically present in the United States at the time of filing and adjudication of an adjustment application"); *Id.*, vol. 7, pt. A, ch. 1.B. ("Adjustment of status to lawful permanent residence describes the process by which an alien obtains U.S. LPR status while physically present in the United States."); 22 C.F.R. pt. 42.11 (denoting SIJS as an "adjustment-only" category). See also "9 FAM 502.5-7(C) (U) Certain Juvenile Court Dependents *(CT:VISA-1829; 09-12-2023)* (U) The Department of State and Related Agencies Appropriations Act, 1998 changed the definition of a Special Immigrant Juvenile (SIJ) and divested consular officers of the authority to issue SIJ visas. Due to this change, since November 26, 1997, SIJ has been an adjustment-only category as reflected in 22 CFR 42.11. Under no circumstances should you issue an SIJ visa."

[6] Immigration and Nationality Technical Corrections Act of 1994 ("INTCA"), Pub. L. No. 103-416, § 219, 108 Stat. 4305 (1994) (codified at 8 U.S.C. §§ 101-225).

include not only those in foster care and other court-dependent children, but also children in juvenile facilities. The Immigration Naturalization Service ("INS"), the agency then tasked with administration of the INA, similarly passed regulations that increased eligibility to those individuals who were under the age of 21.[7]

33. In 2008, Congress unanimously passed the TVPRA, which expressly codified longstanding regulatory policy where SIJ eligibility was could come from dependency on a state juvenile court *or* placement in the custody of an individual or entity appointed by a state of juvenile court.[8] Consistent with academic research that found that children are best served by living with a non-offending relative when compared with those in foster care, Congress included children living in various custody and guardianship arrangements. Eligibility was also now conditioned on the non-viability of reunification with *a* parent and eliminated language requiring children seeking SIJ status to demonstrate that they were "eligible for long-term foster care."[9]

34. At the same time, the TVPRA also explicitly exempted SIJ beneficiaries from inadmissibility based on having entered the United States without admission or parole or at an unauthorized time or place, making SIJ beneficiaries

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[7] *See* Special Immigrant Status, 58 Fed. Reg. 42843-01, 42850 (Aug. 12, 1993) (codified at 8 C.F.R. § 204.11).
[8] William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"). Pub. L. 110-457, § 235(d)(1)(A), 122 Stat. 5044, 5079-80 (2008) (codified at 8 U.S.C. § 1101(a)(27)(J)).
[9] *Id.*

eligible to adjust their status even if they had entered the country without inspection or without the necessary travel documents.[10]

35. To qualify for SIJS, petitioners must be under the age of 21 at the time of filing, unmarried, and physically present in the United States.[11] A state court of competent jurisdiction must have issued an order either (1) declaring the petitioner dependent upon the court, or (2) committing the petitioner to the custody of a state agency or department, or placing the petitioner under the custody of an individual or entity appointed by the state or court.[12] Petitioners must also submit to USCIS a predicate state court order making specific findings that (1) it is not viable for the petitioner to reunify with their parent or parents due to abuse, neglect, abandonment, or a similar basis under state law, and (2) it would not be in the petitioner's best interest to be returned to their or their parent's country of nationality or last habitual residence.[13]

36. The SIJ statute also authorizes the Secretary of Homeland Security to consent to a grant of SIJ status under 8 U.S.C. §1101(a)(27)(J)(iii). USCIS exercises this delegated authority to grant cases where the request for SIJ classification is *bona fide*. In practice, a case is determined to be *bona fide* if the evidence of record establishes that the state court order was sought primarily to obtain relief from abuse,

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[10] *Id.* at 5080 (codified at 8 U.S.C. § 1255(h)(2)).
[11] 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11.
[12] *See* 8 C.F.R. § 204.11(c).
[13] *Id.*

neglect or abandonment, or a similar basis under state law, and not primarily for the purpose of obtaining lawful immigration status.[14]

37. The statutory framework lays out certain circumstances where an approved SIJ petition is revoked automatically before USCIS can decide an SIJ beneficiary's permanent residence petition: (1) reunification with one or both parents by virtue of a court order, where the court had previously determined that reunification was not viable due to abuse, neglect, abandonment, or similar basis under state law; or (2) the juvenile court reverses the determination that it would not be in the child's best interests to be returned to their country of origin or of last habitual residence.[15] Where USCIS intends to revoke the grant of SIJ classification, USCIS issues a notice of automatic revocation. After providing notice and an opportunity to respond, then USCIS can revoke the SIJ classification "for good and

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[14] Petitioners do not agree that the consent function was intended to be a discretionary decision, or that a *bona fide* case is one interpreted to be "not sought primarily for immigration purposes." In reality, nearly *every* state juvenile court order requires *some* immigration motive to be present, as the SIJ statute requires petitioners to obtain state court orders that often do not ordinarily contain language or findings that are sufficient for immigration purposes. Thus, a petitioner can ordinarily only receive these findings in the required format if specifically sought or requested from the court, which presupposes some level of immigration motive. Petitioners instead suggest that consent was intended to be given where a request is *bona fide*, meaning where a state juvenile court has found *actual* facts suggesting abuse, neglect, or abandonment, or a similar basis under state law, where these facts predate any intent to seek immigration benefits. Withholding consent in cases where these facts exist because the petitioner showed "too much" intent to seek immigration benefits would frustrate Congress' purposes in attempting to protect children who have been mistreated who would otherwise be eligible for relief. This suggested interpretation is consistent with USCIS' rulemaking. *See* 87 FR 13066, 13070 (2022).

[15] 8 C.F.R. § 204.11(j); *see also* USCIS Policy Manual, Vol. 6, Part J, Ch.4.F.3.

sufficient cause," for example, a finding of fraud or a determination that the application was approved in error.[16]

38. After an SIJ beneficiary's I-360 petition is approved, they are then eligible to adjust their status to lawful permanent residence (LPR) by filing a Form I-485 Adjustment of Status Application. As stated, this form may only be filed when a visa is immediately available. The immigrant visa category under which SIJS beneficiaries may seek to adjust status is the employment-based fourth preference special immigrant category ("EB-4"). Immigrant visa availability for SIJS beneficiaries, as for other applicants in the EB-4 category, is subject to annual numerical limits established by Congress. Congress set the annual allotment of EB-4 visas at 7.1% of the annual worldwide level of available employment-based visas, which amounts to about 9,940 available EB-4 visas in a typical federal fiscal year.

39. To manage the limited supply of visas, the United States Department of State (the "State Department") issues the Visa Bulletin, a monthly publication that tracks visa availability in each category, based on applicant priority date and country of nationality. The "priority date" is defined as the date when the applicant filed the underlying petition or application-such as the petition for SIJ status. Dates listed in each month's Visa Bulletin are used to determine when a visa is available for

[16] *Id.*

issuance to a given applicant, and thus when an applicant may submit an application for adjustment of status.

40. An SIJ beneficiary may adjust status only if the applicant's priority date is earlier than the "final action" date listed in the current month's Visa Bulletin for the EB-4 category for the applicant's country of nationality.

41. Importantly, the removal of an SIJ beneficiary from the United States before the adjustment of status is complete strips the SIJ beneficiary of the opportunity to become a lawful permanent resident of the United States, because adjustment of status is not available to those not physically present in the United States. There is no process for those outside of the United States to return on an SIJ visa.

B. The Third Circuit has Issued a Persuasive Opinion in *Osorio-Martinez* with regard to SIJS and Habeas Corpus.

42. In 2018, the Third Circuit heard *Osorio-Martínez v. Attorney General*, 893 F.3d 153 (3d Cir. 2018), a case where a number of children who had approved SIJ petitions and their mothers brought a case challenging the expedited removal orders that DHS had entered against them, arguing that their approved SIJ-petitions entitled them to some level of procedural and due process protections. However, review was barred under the expedited removal statute. 8 U.S.C. § 1252(e)(2).

43. The Third Circuit held that denying habeas corpus review of expedited removal orders for SIJ-beneficiaries constitutes an unconstitutional suspension of

the writ of habeas corpus, as protected by Article I, Section 9, Clause 2 of the United States Constitution ("the Suspension Clause").

44. The Third Circuit distinguished petitioner's circumstances from the general class of noncitizens in expedited removal, recognizing that SIJS confers statutory protection and strong ties to the United States not present in most immigration cases. In doing so, the Third Circuit relied on the extensive statutory protections granted to SIJ beneficiaries and Congress's express intentions for the SIJ program.

45. The Third Circuit noted that "the requirements for SIJ status that 'show a congressional intent to assist a limited group of abused children to remain safely in the country with a means to apply for LPR status,' and that, in effect, establish a successful applicant as a ward of the United States with the approval of both state and federal authorities." *Id.* at 168 *(citing Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011) and *Yeboah v. U.S. Dep't of Justice*, 345 F.3d 216, 221 (3d Cir. 2003)). The court also noted that, "SIJ status also reflects the determination of Congress to accord those abused, neglected, and abandoned children a legal relationship with the United States and to ensure they are not stripped of the opportunity to retain and deepen that relationship without due process." *Id.* at 170.

46. To that end, The Third Circuit explained that:

> Congress also afforded these aliens a host of procedural rights designed to sustain their relationship to the United

> States and to ensure they would not be stripped of SIJ protections without due process. SIJ status may be revoked only for what the Secretary of Homeland Security deems 'good and sufficient cause.' Even then, revocation must be 'on notice,' meaning that the agency must provide the SIJ designee with 'notice of intent' to revoke, an 'opportunity to offer evidence ... in opposition to the grounds alleged for revocation,' a 'written notification of the decision that explains the specific reasons for the revocation,' and the option to file an appeal within the agency.'

Id. at 171 (*citing* 8 U.S.C. § 1155 ; 8 C.F.R. § 205.2 ; see also 7 USCIS Policy Manual, pt. F, ch. 7 (Mar. 21, 2018).)

47. The Third Circuit further explained that expedited removal would revoke SIJ statutory rights "without cause, notice, or judicial review," leaving the SIJ-beneficaries without any method to return to the United States, and would thereby render SIJ status "a nullity" *Id.* at 172.

48. Like the children in *Osorio-Martinez,* the Petitioner now faces indefinite detention and potential removal, without cause, notice, or judicial review contrary to law, which would render his approved SIJ status "a nullity." He is similarly entitled to broad constitutional protections, as intended by Congress's intentions for SIJ beneficiaries to deepen their ties with the United States. These protections must include, at a minimum, the ability to have potential nullification of their SIJ status reviewed by a higher authority.

C. Detention and Removal of SIJ Beneficiaries violates the Due Process of Vulnerable Populations.

49. The fundamental requirement of due process is the opportunity to be heard "at a meaningful time and in a meaningful manner." *Mathews v. Elridge*, 424 U.S. 319, 332 (1976). Procedural due process "imposes constraints on government decisions which deprive individuals of "liberty" or "property" interests within the meaning of the Due Process Clause of the Fifth or Fourteenth amendment." *Id.*

50. Once a petitioner has identified protected liberty or property interest, the Court must determine whether constitutionally sufficient process has been provided. *Id.* In making this determination, the Court balances (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural requirement would entail;" (3) "the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335.

51. Due process cases recognize a broad liberty interest rooted in the fact of deportation, not just the process of removal proceedings. *See Bridges v. Wixon*, 326 U.S. 135, 154 (1945) (deportation "visits a great hardship on the individual and deprives him of the right to stay and live and work in this land of freedom."); *see also Chhoeun v. Marin*, 2018 WL 566821, at *9 (C.D. Cal., Jan. 25, 2018) (finding

a "strong liberty interest" where being deported means being separated from home and family). While this liberty interest typically arises in removal proceedings, various courts have found procedural due process violations for persons not in removal proceedings. *See, e.g., Walters v. Reno*, 145 F.3d 1032 (9th Cir. 1998) (forms issued to noncitizens charged with civil document fraud violated due process clause); *Rojas v. Johnson*, No. C16-1024 RSM, 2018 WL 1532715, at *8 (W.D. Wash. Mar. 29, 2018) (concluding that "Agency Defendants do not provide sufficient notice of the one-year deadline to satisfy the Due Process clause" to asylum-seeker subclasses both in and out of removal proceedings).

52. The Petitioner has a liberty interest at stake in this matter. USCIS has approved his I-360 petitions, designating them as SIJs, a class of young people to whom Congress has granted significant protections. Despite his SIJ Status and the numerous protections Congress created for SIJ beneficiaries, Respondents intend to remove the Petitioner from the United States and have subjected him to detention to effectuate that goal.

53. If removed, the Petitioner will lose the benefits of his SIJ approval, and he will not be able to pursue the lawful permanent resident status for which he is entitled to apply as an SIJ-beneficiary. If removed, the Petitioner will be barred from reentry to the United States for at least five years. 8 U.S.C. § 1182(a)(9)(A)(i); 22

C.F.R. § 40.91(a). He will not be able to adjust status to that of lawful permanent resident, as adjustment of status is not available through consular processing.

54. Interpreted in light of the Constitution, the INA and its applicable regulations do not permit potential deportation while an individual is engaged in the process of attempting to regularize his immigration status through Special Immigrant Juvenile Status.

55. Due process protects a noncitizen's liberty interest in the adjudication of applications for relief and benefits made available under the immigration laws. *See Arevalo v. Ashcroft,* 344 F.3d 1, 15 (1st Cir. 2003) (recognizing protected interests in the "right to seek relief" even when there is no "right to the relief itself").

56. The Petitioner has protected due process interests in his ability to retain and benefit from his SIJ classification, and to remain in the United States and ultimately to receive lawful permanent residence status when a visa becomes available.

D. Protections under the Administrative Procedures Act and the *Accardi* Doctrine are Applicable to SIJ Beneficiaries.

57. The APA forbids agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). A court reviewing agency action "must assess . . . whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment"; it must "examin[e] the reasons for agency decisions—or, as the case may

be, the absence of such reasons." *Judulang v. Holder*, 565 U.S. 42, 53 (2011) (quotations omitted).

58. When the government has promulgated "[r]egulations with the force and effect of law," those regulations "supplement the bare bones" of federal statutes and in areas of the law, such that agencies must follow their own "existing valid regulations," even where government officers have broad discretion, such as in the area of immigration. *United States ex rel. Accardi Shaughnessy*, 347 U.S. 260, 266, 268 (1954) (reversing in immigration case after review of warrant for deportation); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("[I]t is incumbent upon agencies to follow their own procedures . . . even where [they] are possibly more rigorous than otherwise would be required."); *Battle v. FAA*, 393 F.3d 1330, 1336 (D.C. Cir. 2005) ("*Accardi* has come to stand for the proposition that agencies may not violate their own rules and regulations to the prejudice of others.").

59. Breaches of *Accardi*'s rule constitute violations of both the Fifth Amendment's Due Process Clause and the APA.[17] *See also, Rowe v. United States AG,* 545 Fed.Appx. 888, 890 (11th Cir. 2013) (Recognizing the *Accardi* doctrine holds that to ensure due process an agency is required to follow its own regulations

[17] The APA forbids agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). A court reviewing agency action "must assess . . . whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment"; it must "examin[e] the reasons for agency decisions—or, as the case may be, the absence of such reasons." *Judulang v. Holder*, 565 U.S. 42, 53 (2011) (quotations omitted).

when exercising discretion and issuing a decision) and *Mayers v. United States INS,* 175 F.3d 1289, 1300 (11th Cir. 1999) (recognizing that a review of statutory questions implicates due process and that *Accardi* found using habeas to ensure that due process and that the "crucial question" is whether the Attorney General's conducted deprived an individual the rights guaranteed under a statute or regulation.) (internal citations omitted).

E. Detention of SIJ Beneficiaries Remains Improper without Hearing or Review for those persons with SIJ status and a grant of Deferred Action.

60. On September 5, 2025, the BIA published *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held that IJs do not have the authority to hear custody redetermination requests or grant bond to noncitizens who are present in the United States without having been admitted.

61. In that decision, the BIA explained that inspection, detention, and removal of noncitizens who have not been admitted to the United States is governed by INA §235, as codified at 8 U.S.C. § 1225. Under that section, all applicants for admission are effectively subject to indefinite, mandatory detention.

62. This is compared to 8 U.S.C. § 1226, which authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens

who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

63. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

64. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

65. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229

(1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

66. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice. **[*See* Exhibit 4]**

67. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore are subject to mandatory detention provision under § 1225(b)(2)(A). *See id.* The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades. These policy decisions culminated in *Matter of Yajure Hurtado,* which solidified the agency's petition on mandatory detention for applicants for admission.

68. ICE and EOIR have adopted this position even though several federal courts have rejected this exact conclusion. For example, after IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens

who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion).

69. DHS's statutory interpretation runs contrary to the plain language of the statute. As the *Rodriguez Vazquez* court explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

70. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

71. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions, the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

72. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

73. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

74. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

75. Further, the INA detention provision is silent about special immigrant categories, whom Congress intended to have various other forms of special protections and relief. However, there is no indication that Congress intended SIJ beneficiaries, as a default, to be detained for the duration of their petition and adjustment period. Such an outcome flies in the face of Congress's goals of protecting and nurturing SIJ beneficiaries and instead treats them like common criminals, isolating them from society, rather than encouraging them to deepen their

connections with the United States. This reading of the INA is not supported by either the literal text of the statute or the spirit of the law enacted by Congress.

FACTS

76. Petitioner A.P.C. is a 22-year-old native and citizen of Guatemala.

77. Petitioner A.P.C. entered the United States through the southern border on or about September 29, 2016, at the age of 13. He was apprehended upon his entry by immigration authorities near El Paso, Texas.

78. As he was not accompanied by a parent or legal guardian, he was shortly thereafter designated as a UAC and placed in the custody of the ORR.

79. Petitioner A.P.C. was eventually placed in the custody of the state in foster care. His attorney's obtained a predicate order from a state court of competent jurisdiction giving rise to his eligibility for SIJS.

80. On July 1, 2022, A.P.C. filed a petition for Special Immigrant Juvenile Status (SIJS) with USCIS.

81. USCIS approved A.P.C.'s SIJS petition on February 10, 2023 and granted him Deferred Action for a period of four years.

82. On May 22, 2025, A.P.C. was stopped at approximately 7:30 a.m. by local law enforcement while driving through Richland, Mississippi. He was ticketed for multiple reasons, including purportedly having a tint of 15% on his windows,

having his tag covered, not having proof of liability insurance, and a failure to yield (blue lights).

83. A.P.C. presented proof of his identity in the form of his currently valid Employment Authorization Document (EAD) card.

84. In addition, despite the officer acknowledging that he directed A.P.C. to "turn around and place his hands behind his back," the police officer signed an affidavit in support of a misdemeanor charge of resisting arrest stating that A.P.C. "pulled away and spin around me while attempting to place him in cuffs." In other words, A.P.C. was charged with resisting arrest for following the officer's instructions.

85. On June 25, 2025, USCIS, a sub-agency within DHS and under the direction of Respondent Noem, sent the Petitioner a letter terminating only his deferred action (not his underlying SIJ status). **[*See* Exhibit 2]** Respondents allowed the Petitioner no opportunity to respond or to present any evidence with regard to the termination of his deferred action. Respondents did allow the Petitioner to present countervailing evidence only that he continued to have deferred action, and required that such evidence be uploaded to the Petitioner's USCIS online account to which he had no access from detention.

86. All of the frankly meritless charges filed against A.P.C. have been dismissed on or about July 9, 2025. **[*See* Exhibit 3]**

87. Nevertheless, Respondents declined to release A.P.C. from detention, and he remains detained at the Central Louisiana ICE Processing Center and faces removal. The Petitioner's removal would eliminate his SIJ and deferred action benefits.

88. The Petitioner has significant ties to the United States and is not a flight risks, as established and recognized by both a state court of competent jurisdiction and USCIS through its grant of the I-360 petition. The Petitioner is in no way a danger to his community, and nor does he have any criminal record.

89. Despite these positive equities, the Petitioner remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his community and support system.

90. Any appeal to the BIA is futile. The Board's most recent precedential decisions have squarely foreclosed position that the IJ in fact has jurisdiction over requests for custody redetermination in similar situations, holding that persons like the Petitioner are subject to mandatory detention as applicants for admission.

91. Finally, in the *Rodriguez Vazquez* litigation, where EOIR and the Attorney General are defendants, DOJ has affirmed its position that individuals like Petitioner are applicants for admission and subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *See* Mot. to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27–31.

CLAIMS FOR RELIEF

COUNT I

Violation of the Due Process Clause Of The Fifth Amendment To The U.S. Constitution

92. The Petitioner realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 90 above.

93. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "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, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

94. Courts have long recognized that removal implicates substantial liberty interests, such that 'the Due Process Clause protects an alien subject to a final order of deportation." *Zadvydas v. Davis*, 533 U.S. 678, 693-94 (2001); see also *Wong Wine v. United States*, 163 U.S. 228, 238 (1896).

95. *First*, Petitioner has a fundamental interest in liberty and being free from official restraint.

96. *Second*, noncitizens who have been adjudicated to be SIJs have significant benefits and procedural protections set forth by Congress, including "for cause" protections against revocation of their classification as SIJs.

97. The Petitioner has been classified as a Special Immigrant Juveniles and has been granted that benefit by the Respondents and issued deferred action from removal. During the revocation of the Petitioner's deferred action based on meritless charges that were subsequently dismissed, he was given no opportunity to respond or present his case.

98. The Petitioner should be considered paroled into the country for the purposes of adjustment and should be allowed to remain until his visa is current. 8 U.S.C. § 1255(h)(1). However, as physical presence in the United States is a condition of SIJ Status, his SIJ Status is nullified once he is removed. 8 U.S.C. 1101(a)(27)(J)(i).

99. The Petitioner has a liberty interest in remaining in the United States and awaiting adjustment of status. If removed, the Petitioner will lose his SIJ Status and be unable to avail himself of the benefits afforded to SIJ beneficiaries to be safe and to remain in the US for the purposes of adjustment of status to a lawful permanent resident. See *Osorio-Martínez v. Attorney General*, 893 F.3d 153 (3d Cir. 2018).

100. The Respondents' continued detention of the Petitioner without bond violates his right to due process.

101. Respondents have not, from Petitioner's detention to the date of this Petition, provided Petitioner with either notice or an opportunity to challenge their detention alleging a lack of jurisdiction.

102. The Petitioner's continued detention on these facts constitutes a deprivation of their interest in personal liberty.

103. On the basis of the foregoing, Respondents failed to provide the Petitioner with due process of law.

104. The Petitioner has no adequate remedy, as the Respondents have taken the position that the Petitioner is subject to mandatory detention and that they intend to remove him, despite his SIJ approval and wrongfully revoked grant of deferred action.

105. For the foregoing reasons, Respondents' detention of the Petitioner violates the rights guaranteed to him by the Due Process Clause of the Fifth Amendment to the United States Constitution.

COUNT II

Violation of the INA

106. The Petitioner realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 90 above.

107. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility.

108. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

109. The application of § 1225(b)(2) to Petitioner unlawfully mandates their continued detention and violates the INA.

110. Further, SIJ beneficiaries are a special class of noncitizens present in the United States. Numerous grounds of inadmissibility do not apply to them under the express text of the INA and the TVPRA. Holding the Petitioner without bail violates the INA and Congressional intent behind the SIJ program, and such detention cannot be squared with the waiver of inadmissibility, let alone mandatory, indefinite detention.

COUNT III

Violation of the Administrative Procedure Act

111. The Petitioner realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 90 above.

112. Under the Administrative Procedure Act, "final agency action for which there is no other adequate remedy in court [is] subject to judicial review." 5 U.S.C. §704. The reviewing court "shall … hold unlawful and set aside agency action, findings, and conclusions found to be (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," or "unsupported by substantial evidence." 5 U.S.C. §706(2)(A), (E). A court reviewing agency action "must assess … whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment; it must "examine[e] the reasons for agency decisions- or, as the case may be, the absence of such reasons." *Encino Motorcars LLC v. Navarro*, 136 S. Ct 2117, 2125 (2016)(*quoting Motor Vehicles Mfrs. Assn of U.S. State Farm Mut. Auto. Ins. Co.*, 462 U.S. 29, 43 (1983)); *Judulang v. Holder*, 565 U.S. 42, 53 (2011)(quotations omitted).

113. The APA also sets forth rule-making procedures that agencies must follow before adopting substantive rules. *See* 5 U.S.C. 553. DHS followed these rulemaking procedures to establish TVPRA and VAWA, see 867 Fed. Reg. 4784.

114. The Petitioner's detention and removal under the facts alleged here is a violation of the APA.

115. The Petitioner's detention and removal would render him ineligible for adjustment of status as an SIJ beneficiary in violation of the APA, is not in accordance with the law and is an abuse of discretion. 5 U.S.C. §706(2)(A). In order

to be statutorily eligible for SIJ Status, the Petitioner must be physically in the U.S. 8 U.S.C. 1101(a)(27)(J)(i). Currently, the Petitioner satisfies this requirement because he is physically within the borders of the United States, though in immigration detention. However, if removed, the Petitioner will no longer satisfy the physical presence requirement; his SIJ Status will be nullified and he will not be able to pursue adjustment of status. Therefore, if the Government succeeds in its efforts against the Petitioner, they alone will have intentionally stripped the Petitioner's right to engage in an immigration process made available to him, which is an abuse of discretion and not in accordance with the law under 5 USC §706(2)(A).

116. In detaining the Petitioner and seeking an order of removal to effectuate, the Government has attempted to strip the Petitioner of his SIJ and improperly revoked deferred action status.

117. The Respondents' actions are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;" 5 U.S.C. 706(2)(C) and "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right," 5 U.S.C. 706(2)(C).

COUNT IV

5 U.S.C. § 706(2)(A) – Violation of Accardi Doctrine

118. The Petitioner realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 90 above.

119. "Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures." *Morton v. Ruiz*, 415 U.S. 199, 235 (1974). This principle is known as the Accardi doctrine. *See United States Ex Rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954); *Alcaraz v. INS*, 384 F.3d 1150, 1162 (9th Cir. 2004).

120. The "procedures" that agencies are required to follow include both formal agency regulations and informal operating procedures and guidance. *Church of Scientology of Cal. v. United States*, 920 F.2d 1481, 1487 (9th Cir. 1990). The Accardi doctrine applies "even where the internal procedures are possibly more rigorous than otherwise would be required." *Alcaraz*, 384 F.3d at 1162 (quoting *Morton*, 415 U.S. at 235).

121. Respondents' intention to detain and seek removal of an SIJ beneficiary with improperly revoked deferred action status - without cause or process - represents a sudden and unexplained departure from the agency's own guidance and regulations in violation of the *Accardi* doctrine.

122. In violating the *Accardi* doctrine, Respondents have irreparably injured the Petitioner depriving him of relief from removal, depriving him of his liberty, and depriving him of his ability to remain in the United States for the purpose of

adjustment, as well as a host of additional protections. *See Osorio-Martínez v. Attorney General*, 893 F.3d 153 (3d Cir. 2018).

COUNT V

28 .S.C. §§ 2201 and 2202 – Declaratory Judgment

123. The Petitioner realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 90 above.

124. The Declaratory Judgment Act, 28 U.S.C. § 2201, allows the court, "[i]n a case of actual controversy within its jurisdiction," to "declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought." 28 U.S.C. § 2201(a).

125. Declare that the process, detention and removal without review, as applied to Petitioners by Respondents violates the Due Process Clause of the Fifth Amendment, the INA, the APA, and federal regulations and is an unlawful taking of his statutorily authorized benefits without appropriate process, is arbitrary and capricious, an abuse of discretion, and contrary to law.

COUNT VI

Violation of the Suspension Clause of the U.S. Constitution

126. The Petitioner realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 90 above.

127. The Respondents' detention and removal of the Petitioner without any opportunity for meaningful judicial review of the unlawfulness of that removal would violate the Suspension Clause. *See Osorio-Martínez v. Attorney General*, 893 F.3d 153 (3d Cir. 2018).

PRAYER FOR RELIEF

WHEREFORE, the Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue a writ of habeas corpus requiring that Respondents release the Petitioner;
3. Issue a writ of habeas corpus directing Respondents to pursue a constitutionally adequate process to justify adverse immigration actions against the Petitioner;
4. Enjoin Respondents from removing the Petitioner from the United States pending the resolution of this case;
5. Declare that the process as applied to the Petitioner by Respondents violates the Due Process Clause of the Fifth Amendment, the INA, the APA, and federal regulations;
6. Declare that the Petitioner may remain in the United States to pursue adjustment of status;

7. Stay Petitioner's removal proceedings until he exhausts the process, successfully or otherwise, of pursuing relief from removal by virtue of his Special Immigrant Juvenile Status and parole into the country for the purposes of adjustment;
8. Award the Petitioner his costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. §2412, or other statutes;
9. Grant such further relief as the Court deems just and proper.

Respectfully submitted,

Dated: September 17, 2025

s/ Allyson Page
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**Motion for pro hac vice admission forthcoming*

VERIFICATION

On this 17th day of September, 2025, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. I make this verification in lieu of Petitioner, ANDRES PEREZ-CARMELO because the Petitioner is currently detained and due to the urgent nature of the relief requested. I am authorized to make this verification as a member of the legal team representing Petitioner, Andres Perez-Carmelo.

Dated: 09/17/2025

East Lansing, Michigan

s/ Amy Maldonado

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