

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

FERNANDO ISAIAS CARRANZA CHUQUI,

Petitioner,

v.

STEPHEN KURZDORFER, in his official capacity as Acting Field Office Director, Buffalo Field Office, Enforcement and Removal Operations, U.S. Immigration & Customs Enforcement; JOSEPH FREDEN, in his official capacity as Deputy Field Office Director of the Buffalo Federal Detention Facility; TODD LYONS, in his official capacity as Acting Director U.S. Immigration and Customs Enforcement; and KRISTI NOEM, in her official capacity as U.S. Secretary of Homeland Security; JOSEPH EDLOW, in his official capacity as Director of U.S. Citizenship and Immigration Services; ROSE KENDRICK, in her official capacity as Acting Director of U.S. Citizenship and Immigration Services National Benefits Center; U.S. Department of Homeland Security; U.S. Immigration and Customs Enforcement; U.S. Citizenship and Immigration Services,

Respondents.

Case No. 6:25-cv-6614-MAV

**AMENDED VERIFIED
PETITION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT**

INTRODUCTION

1. This case is about Petitioner, Fernando Isaias Carranza Chuqui, (“Fernando” or “Petitioner”), a nineteen (19) year-old young man with no criminal history who has lived in the United States since the age of fifteen (15), graduated from high school in New York State, and who, until his sudden and arbitrary arrest on July 12, 2025, was living with his mother and sisters in the Albany, New York area and working pursuant to a valid work authorization.
2. Fernando came to the United States for his safety in 2021 as an unaccompanied child, after suffering [REDACTED] Ecuador. He was initially placed in

the custody and care of the Office of Refugee Resettlement (“ORR”), which later released him to live with his mother, after determining that he did not present a flight risk or a danger to the community. He was also placed in removal proceedings on September 7, 2021, shortly after he entered the United States, and charged with being here unlawfully. On September 20, 2022, the government moved to dismiss the removal case against Fernando in the Buffalo Immigration Court based on Fernando’s pending petition for Special Immigrant Juvenile Status (“SIJS”). SIJS is a humanitarian immigration protection enshrined in federal statute that is designed to afford certain immigrant children, like Fernando, who have suffered parental abuse, neglect, abandonment, or similar mistreatment the opportunity to remain safely and permanently in the United States. The Immigration Judge granted the government’s motion to dismiss, ending Fernando’s removal proceedings.

3. Fernando’s SIJS petition was then approved on April 6, 2023, putting him on a path to lawful permanent resident (“LPR”) status in the United States. However, because of a visa backlog, young people like Fernando with SIJS must wait—often years—before they are able to apply for a green card. Until 2022, this waiting period put these youth at risk of deportation solely because of their unlawful status, notwithstanding the permanency their SIJS was meant to provide. So in 2022, USCIS created a policy designed to protect these vulnerable youth during this wait, considering each SIJS youth for a four-year, renewable grant of deferred action, which would protect them from removal while they waited in the backlog.
4. When USCIS granted Fernando’s SIJS petition, it also found that, based on the relevant positive and negative discretionary factors, Fernando merited a grant of deferred action. This, in turn, allowed him to attend school, work legally, and build a stable life without the threat of deportation while he was waiting to apply for a green card. After Fernando graduated from

high school in New York, he began working lawfully for a construction company, where he gained a reputation for being a dedicated employee who took pride in his work and always put others' needs before his own.

5. But on the morning of July 12, 2025, without any prior notice or warning, Fernando was arrested and detained by Respondents' agents on his way to work. Upon information and belief, these agents were not even seeking to arrest and detain Fernando, but rather another person— Fernando was simply a collateral arrest. Despite the fact that nothing had changed since his prior release from custody or since the dismissal of his removal proceedings, and despite his valid grant of SIJS and deferred action, Fernando was taken to the Buffalo Federal Detention Facility (“BFDF”) in Batavia, New York, where he currently remains in civil immigration custody. Respondents then initiated new removal proceedings against him based only on his lack of lawful immigration status and shortly thereafter, with no prior notice or explanation, terminated his deferred action grant.
6. At the time of his arrest, Fernando was doing everything right. He followed the rules and laws of the United States, he attended all his immigration court hearings as he was told, he applied for and received a work authorization so that he could legally work and pay taxes, and he attended and completed high school in New York.
7. Fernando's arrest and detention are wholly unjustified and unrelated to any individualized consideration of his circumstances. The Government concluded long ago that Fernando should be allowed to live at liberty in the United States, and since then, nothing has changed that could undermine that determination. Fernando plainly is not a flight risk—as evidenced by his time in and deep ties to the United States, his presentation at all immigration court dates that were scheduled prior to his unnoticed arrest and detention, and his ability to become an LPR when

a visa becomes available. Nor is he a danger to the community, as he has never been arrested or accused of a crime.

8. Moreover, deporting Fernando would completely undermine the purpose of the SIJS statute. Through his grant of SIJS, Fernando is on a path to LPR status, which he must remain in the United States to access. Respondents' efforts to block Fernando from accessing the protections Congress specifically enacted for the benefit of children like him improperly subverts Congress' intent that he be permitted to adjust status and establish a stable life in the United States.
9. The only reason Fernando appears to remain in detention at all is Respondents' erroneous interpretation of the immigration detention statutes. After being detained without any notice, warning or opportunity to respond, Fernando requested a bond hearing before an Immigration Judge. However, the Immigration Judge, who sits within the Executive Office of Immigration Review ("EOIR"), which is part of the Department of Justice ("DOJ"), denied him release. The denial of release was not based upon an individualized review of Fernando's case, but rather based solely on an incorrect application of 8 U.S.C. § 1225 that has been overwhelmingly rejected by Article III courts throughout the United States in cases where people—like Fernando—were previously released by Respondents and then re-detained without any semblance of a lawful process. *See Gomes v. Hyde*, No. 25-CV-11571, 2025 WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, --- F. Supp. 3d ---, 2025 WL 2084238 (D. Mass. July 24, 2025); Order, *Bautista v. Santacruz Jr.*, No. 25-CV-1873 (C.D. Cal. July 28, 2025), Dkt. 14; *Rosado v. Figueroa*, No. 25-CV-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, --- F. Supp. 3d ---, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); Order, *Gonzalez v. Noem*, No. 25-CV-2054 (C.D. Cal. Aug. 13, 2025), Dkt. 12; *Dos Santos v. Noem*,

No. 25-CV-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Maldonado v. Olson*, --- F. Supp. 3d ---, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 25-CV-01789, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); Order, *Aguilar Vazquez v. Bondi*, No. 25-CV-3162 (D. Minn. Aug. 19, 2025), Dkt. 17; *Romero v. Hyde*, --- F. Supp. 3d ---, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 Civ. 6373, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 25-CV-02428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); Order, *Ruben Benitez v. Noem*, No. 25-CV-2190 (C.D. Cal. Aug. 26, 2025), Dkt. 11; *Kostak v. Trump*, No. 25-CV-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, --- F. Supp. 3d ---, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Diaz Diaz v. Mattivelo*, No. 25-CV-12226, 2025 WL 2457610 (D. Mass. Aug. 27, 2025); *Francisco T. v. Bondi*, --- F. Supp. 3d 2025 WL 2629839 (D. Minn. Aug. 29, 2025); *Lopez-Campos v. Raycraft*, --- F. Supp. 3d ---, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); Order, *Jimenez Garcia v. Kaiser*, No. 25-CV-06916 (N.D. Cal. Aug. 29, 2025), Dkt. 22; *Garcia v. Noem*, No. 25-CV-02180, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Hernandez Nieves v. Kaiser*, No. 25-CV-06921, 2025 WL 2533110 (N.D. Cal., Sept. 3, 2025); *Doe v. Moniz*, --- F. Supp. 3d ---, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); Order, *Encarnacion v. Moniz*, No. 25-CV-12237 (D. Mass. Sept. 5, 2025), Dkt. 16; *Jimenez v. FCI Berlin, Warden*, --- F. Supp. 3d ---, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Mosqueda v. Noem*, No. 25-CV-02304, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Hinestroza v. Kaiser*, No. 25-CV-07559, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); *Sampiao v. Hyde*, --- F. Supp. 3d ---, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Guzman v. Andrews*, No. 25-CV-01015, 2025 WL 2617256 (E.D. Cal. Sept.9, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.

Mich. Sept. 9, 2025); *Lopez Santos v. Noem*, No. 25-CV-01193, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Salcedo Aceros v. Kaiser*, No. 25-CV-5624, 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025); Order, *Lamidi v. FCI Berlin, Warden*, No. 25-CV-297 (D.N.H. Sept. 15, 2025), Dkt. 14; *Garcia Cortes, v. Noem*, No. 25-CV- 02677, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Pablo Sequen v. Kaiser*, --- F. Supp. 3d ---, 2025 WL 2650637 (N.D. Cal. Sept. 16, 2025); *Maldonado Vazquez v. Feeley*, No. 25-CV-01542, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Velasquez Salazar v. Dedos*, No. 25-CV-00835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Hasan v. Crawford*, --- F. Supp. 3d ---, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Yumbillo v. Stamper*, No. 25-CV-00479, 2025 WL 2688160 (D. Me. Sept. 19, 2025); *Beltran Barrera v. Tindall*, No. 25-CV-541, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Chogllo Chafla v. Scott*, No. 25-CV-00437, 2025 WL 2688541 (D. Me. Sept. 21, 2025); *Singh v. Lewis*, No. 25-CV-96, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Giron Reyes v. Lyons*, --- F. Supp. 3d ---, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Brito Barrajas v. Noem*, No. 25-CV-00322, 2025 WL 2717650 (S.D. Iowa Sept. 23, 2025); *Lepe v. Andrews*, --- F. Supp. 3d ---, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Lopez v. Hardin*, No. 25-CV-830, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025); *Roa v. Albarran*, No. 25-CV-07802, 2025 WL 2732923 (N.D. Cal. Sept. 25, 2025); *Rivera Zumba v. Bondi*, No. 25-CV-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Valencia Zapata v. Kaiser*, --- F. Supp. 3d ---, 2025 WL 2741654 (N.D. Cal. Sept. 26, 2025); *Alves da Silva v. U.S. Immigr. & Customs Enf 't*, No. 25-CV-284, 2025 WL 2778083 (D.N.H. Sept. 29, 2025); *Chang Barrios v. Shepley*, No. 25-CV-00406, 2025 WL 2772579 (D. Me. Sept. 29, 2025); *Inlago Tocagon v. Moniz*, --- F. Supp. 3d ---, 2025 WL 2778023 (D. Mass. Sept. 29, 2025); *J.U. v. Maldonado*, No. 25-CV-04836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Romero-Nolasco v. McDonald*, --- F. Supp. 3d ---, 2025

WL 2778036 (D. Mass. Sept. 29, 2025); *Quispe v. Crawford*, No. 25-CV-1471, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025); *Chiliquinga Yumbillo v. Stamper*, No. 25-CV-00479, 2025 WL 2783642 (D. Me. Sept. 30, 2025); Order, *Morales v. Plymouth Cnty. Corr. Facility*, No. 25-CV-12602 (D. Mass. Sept. 30, 2025), Dkt. 15; *Quispe-Ardiles v. Noem*, No. 25-CV-01382, 2025 WL 2783800 (E.D. Va. Sept. 30, 2025); *Rodriguez v. Bostock*, --- F. Supp. 3d ---, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025); *D.S. v. Bondi*, No. 25-CV-3682, 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Ayala Casun v. Hyde*, No. 25-CV-427, 2025 WL 2806769 (D.R.I. Oct. 2, 2025); *Chanaguano Caiza v. Scott*, No. 25-CV-00500, 2025 WL 2806416 (D. Me. Oct. 2, 2025); *Guzman Alfaro v. Wamsley*, No. 25-CV-01706, 2025 WL 2822113 (W.D. Wash. Oct. 2, 2025); *Rocha v. Hyde*, No. 25-CV-12584, 2025 WL 2807692 (D. Mass. Oct. 2, 2025); *Alvarenga Matute v. Wofford*, No. 25-CV-01206, 2025 WL 2817795 (E.D. Cal. Oct. 3, 2025); *Escobar v. Hyde*, No. 25-CV-12620, 2025 WL 2823324 (D. Mass. Oct. 3, 2025); *Cordero Pelico v. Kaiser*, No. 25-CV-07286, 2025 WL 2822876 (N.D. Cal. Oct. 3, 2025); *Echevarria v. Bondi*, No. 25-CV-03252, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025); *Guerrero Orellana v. Moniz*, --- F. Supp. 3d ---, 2025 WL 2809996 (D. Mass. Oct. 3, 2025); *Artiga v. Genalo*, No. 25-CV-5208, 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025); *Hyppolite v. Noem*, No. 25-CV-4304, 2025 WL 2829511 (E.D.N.Y. Oct. 6, 2025); *Guerrero Orellana v. Moniz*, No. 25-CV-12664-PBS, 2025 WL 2809996, at *5 (D. Mass. Oct. 3, 2025) (collecting cases)(collecting cases).

10. Fernando respectfully asks this Court to hold that his arrest was unlawful, to hold that his continued detention is unlawful, to hold that the unilateral termination of his deferred action was unlawful, and to order his release from custody without restraints on his liberty beyond those that existed prior to his unlawful re-detention. Fernando also respectfully asks that this

Court order Respondents not to transfer him outside of the district for the duration of this proceeding.

PARTIES

11. Petitioner Fernando Isaias Carranza Chuqui is a 19-year-old Ecuadorian national who entered the United States as an unaccompanied child and has been residing here since the age of 15. Prior to his unnoticed arrest and detention, Fernando was living with his mother and sister in the Albany, New York area and working with a valid work authorization issued by the United States government. Fernando has an approved SIJS Petition.
12. Respondent Stephen Kurzdorfer is sued in his official capacity as Acting Field Office Director, Buffalo Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement (“ICE”). Respondent Kurzdorfer is a legal custodian of Fernando.
13. Respondent Joseph Freden is sued in his official capacity as Deputy Field Office Director of the Buffalo Federal Detention Facility. Respondent Freden is a legal custodian of Fernando.
14. Respondent Todd Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Respondent.
15. Respondent Kristi Noem is sued in her official capacity as Secretary of Homeland Security. As the head of the Department of Homeland Security (“DHS”), the agency tasked with enforcing immigration laws, Secretary Noem is Fernando’s ultimate legal custodian.
16. Respondent Joseph Edlow is sued in his official capacity as Director of U.S. Citizenship and Immigration Services (“USCIS”), the component of DHS that administers the adjudication of SIJS petitions, deferred action, and related employment authorization.
17. Respondent Rose Kendrick is sued in her official capacity as Acting Director of USCIS’s National Benefits Center, which previously conducted SIJS deferred action adjudications and

issues notices of termination of individual SIJS deferred action grants and related employment authorization.

18. Respondent DHS is a cabinet-level department of the Executive Branch of the federal government and is an “agency” within the meaning of 5 U.S.C. § 551(f)(1). Its components include ICE and USCIS.
19. Respondent ICE is a component of DHS that enforces immigration laws and oversees the arrest, detention, and removal of noncitizens.
20. Respondent USCIS is a component of DHS that administers the adjudication of SIJS petitions, deferred action, and related EADs.

JURISDICTION AND VENUE

21. This Court has jurisdiction under the U.S. Constitution. U.S. Const. art. I § 9, cl. 2 (“The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require.”).
22. The Court also has jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (the All-Writs Act); 28 U.S.C. § 2241 (habeas corpus); and 5 U.S.C. § 701 (the Administrative Procedure Act).
23. This Court has additional remedial authority under 28 U.S.C. §§ 2201-02 (the Declaratory Judgment Act), to grant injunctive and declaratory relief.
24. Venue is proper in the Western District of New York under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to these claims occurred in this district. Venue is also proper under 28 U.S.C. § 2241(d) because Fernando is detained at a facility within this district.
25. Administrative exhaustion is unnecessary because it would be futile.

RELEVANT FACTS AND PROCEDURAL HISTORY

26. Fernando came to the United States for safety when he was 15 years old, on July 18, 2021, [REDACTED]. DHS officials determined that he was an “unaccompanied alien child” (“UC”) pursuant to 6 U.S.C. § 279(g)(2) and immediately transferred him to the custody of ORR, within the Department of Health and Human Services (“HHS”), pursuant to the Trafficking Victims Protection Reauthorization Act (“TVPRA”). *See generally*, 8 U.S.C. § 1232.
27. As a UC, Fernando’s initial care and custody were entrusted to ORR and the TVPRA governed his detention and release. Among other things, the TVPRA requires that all UCs be placed in the least restrictive setting and favors their release from ORR custody to a “sponsor” if they present no risk of flight or danger to the community. 8 U.S.C. § 1232(c)(2)(A), (c)(3)(A). Pursuant to that statutory framework, ORR determined that Fernando should be released to a sponsor, his mother, under a sponsor care agreement.¹ Exh. 1, ORR Release Records.
28. The TVPRA also requires that, if DHS wishes to pursue the removal of UCs, they be placed in full removal proceedings under Section 240 of the Immigration and Nationality Act (“INA”). 8 U.S.C. § 1232(a)(5)(D)(i). Accordingly, Fernando was issued a Notice to Appear (“NTA”), charging him as removable under 8 U.S.C. § 1182(a)(6)(A)(i) for being present in the United States without admission or parole and ordering him to appear in Buffalo Immigration Court for Section 240 proceedings. *See* Exh. 2, 2021 NTA.
29. After obtaining *pro bono* legal services, Fernando, by and through his attorneys, applied for SIJS. First, on August 19, 2022, a New York State Family Court issued a Special Findings Order determining that Fernando had been [REDACTED];

¹ *See also* ORR Unaccompanied Alien Children Bureau Policy Guide, Section 2.1, <https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>.

and that it was in his best interests to remain in the United States. The court therefore granted sole physical and legal custody to Fernando's mother.

30. Fernando then was able to and did submit a SIJS petition to U.S. Citizenship and Immigration Services ("USCIS") on September 6, 2022. While Fernando's SIJS petition was pending before USCIS, he was still required to appear in immigration court before an Immigration Judge. Fernando did so and *never* missed an immigration court date. Based on his pending SIJS petition, however, DHS itself moved to dismiss his removal proceedings. On September 20, 2022, the Immigration Judge granted the motion to dismiss, ending Fernando's removal proceedings. *See* Exh. 3, Dismissal Order.
31. USCIS approved Fernando's SIJS petition on April 6, 2023, and concurrently granted him deferred action for a four-year period, until April 6, 2027. *See* Exh. 4, Approved SIJS Petition with Grant of Deferred Action.
32. Fernando's deferred action protected him from removal while he waited for a visa to become available allowing him to apply to adjust to LPR status. *See id.* It also allowed him to apply for employment authorization, which he obtained so that he could legally work and also attend high school. On June 25, 2023, Fernando graduated from high school. Exh. 5, High School Diploma. He began working in construction, where he became known as an exemplary employee who took pride in his work and demonstrated humility and integrity. Exh. 6, Letter from Christopher Orellana, CEO.
33. Fernando was—at the time of his unnoticed arrested and detention by Respondents—working at the same construction company for over two years. He earned money to support himself and his family and to build a permanent life in the United States. Fernando is extremely well regarded by his employer, who wrote a letter of support on his behalf. *Id.*

34. All of that was shattered on July 12, 2025, when Fernando was arrested and detained without any notice or warning on his way to work in the early morning hours. The government has claimed that ICE officers went to Fernando's house because they were searching for a person who allegedly lived at Fernando's address that had a prior order of removal. Exh. 7, I-213. But they have never mentioned the name or even a description of the person who was allegedly the target of this investigation.
35. Instead of approaching Fernando and questioning him while he was loading his work van by himself at 6:30am on a Saturday morning, the ICE officers allowed Fernando to drive away and followed him for approximately twelve minutes. During that period of time, Fernando stopped at two different residences to pick up three co-workers. After he drove a few blocks after retrieving his last co-worker, his van was suddenly stopped and he was ordered to exit the vehicle. He had a valid New York driver's license and was not accused of violating any vehicle and traffic law. The stop was made exclusively by ICE agents. Fernando did not run or try to evade the officers. Nonetheless, the officers arrested him without a warrant and transferred him to custody at BFDf.
36. Shortly thereafter, DHS served Fernando with a new NTA, again charging him as removable solely because of his lack of lawful immigration status, Exh. 8, 2025 NTA—even though the government previously and correctly moved to dismiss the removal proceedings against Fernando because he had a pending SIJS petition that has now been approved.
37. According to the USCIS October 2025 Visa Bulletin, USCIS is currently allowing individuals with SIJS and a priority date of February 2021 to apply to adjust status to become LPRs.² Fernando's priority date is September 6, 2022. Exh. 4. Therefore, it is anticipated that

² USCIS, Visa Bulletin for October 2025, <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2026/visa-bulletin-for-october-2025.html> (SIJS is included under the employment-based visa category, 4th).

Fernando will be eligible to adjust his status in the foreseeable future. Now, however, the government seeks to do an end run around the lawful process that Fernando has followed by unlawfully arresting him, detaining him at BFDF, and pursuing his removal.

38. On August 5, 2025, Fernando applied for a bond before the Immigration Judge but was denied.

The Court found that it “lack[ed] jurisdiction over Respondent’s custody redetermination request pursuant to *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025),” a recent decision issued by the Board of Immigration Appeals (“BIA”) suggesting (contrary to decades of agency precedent) that noncitizens who are apprehended while crossing the border, released on parole, and later redetained when that parole is terminated are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) as “applicants for admission” who are “seeking admission” into the United States. *See* Exh. 9, Bond Decision. The Immigration Judge’s order did not explain why this decision would apply to Fernando, whose initial apprehension and release as a UC were governed by the TVPRA and who has resided in the United States for four years.

39. Although Fernando, through counsel, appealed the Immigration Judge’s decision, while the appeal was pending the BIA issued another new and even more extreme precedential decision, which holds that all noncitizens who entered the country unlawfully are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025). This renders Fernando’s appeal to the BIA entirely futile, despite the fact that Article III courts across the country have overwhelmingly rejected the *Yajure Hurtado*’s faulty statutory interpretation. *See, e.g., Rodriguez Vasquez*, 2025 WL 2782499, at *1, n.3 (collecting cases).

40. In the meantime, on August 12, 2025, without any prior notice or warning, USCIS unilaterally terminated Fernando’s grant of deferred action. Exh. 10, Termination Notice. The Notice

provided no meaningful explanation for the termination whatsoever, merely stating that USCIS had “exercised discretion to terminate [Fernando’s] period of deferred action.” *Id.* at 1. The Termination Notice also expressly indicated that Fernando “may not appeal or move to reopen/reconsider this decision.” *Id.* It further provided notice of USCIS’s intent to revoke Fernando’s deferred action-based employment authorization, indicating that the employment authorization would automatically be revoked in 15 days unless Fernando could “submit countervailing evidence that [he] continue[d] to have deferred action....” *Id.* at 1-2. As providing such evidence was impossible—given USCIS’s unilateral termination of Fernando’s deferred action without any opportunity to contest the termination—Fernando’s employment authorization was automatically revoked 15 days later, on August 27, 2025.

41. Upon information and belief, the only basis for USCIS’s termination of Fernando’s deferred action and employment authorization was the fact that ICE had detained him to pursue his removal for lacking lawful immigration status—as no negative discretionary factors had arisen since his original deferred action grant. Indeed, USCIS now has a policy and practice of terminating SIJS beneficiaries’ deferred action under precisely these circumstances. Since the spring of 2025, USCIS has, without prior notice, terminated the deferred action of at least 15 SIJS beneficiaries across the country shortly following ICE’s decision to detain them in order to pursue removal solely for lack of lawful immigration status—even though, just like Fernando, no negative discretionary factors had arisen since their original SIJS deferred action grants (and none even had any criminal history). *Exh.*, 11, Davidson Decl. ¶¶ 21-38. These examples are based on a survey of a limited number of immigration practitioners, and “[t]he total number of SIJS youth subject to this termination practice is likely much higher.” *Id.*, ¶ 38.

42. This termination policy is part of an unprecedented effort by the current administration to target vulnerable young people Congress has promised to protect. *See, e.g.*, Gwynne Hogan, *16-Year-Old Bronx High Schooler Arrested by ICE at Check-In*, THE CITY (Oct. 24, 2025), <https://www.thecity.nyc/2025/10/24/joel-camas-ice-dhs-public-school-deporation-special-immigrant-juvenile-status/>; Ana Ley, *These Students Are Scared. Friends and Teachers Are Their Protectors*, NEW YORK TIMES (Oct. 11, 2025), <https://www.nytimes.com/2025/10/11/nyregion/schools-immigrant-children-deportation.html>. Contrary to DHS’s explicit assurances that SIJS youth with deferred action and employment authorization will “generally retain” these benefits until they expire, unless relevant discretionary factors have changed,³ the agency is now arresting and detaining these youth based solely on their lack of lawful immigration status, then unilaterally terminating their deferred action and employment authorization without any process. *See* Exh. 11, Davidson Decl. These terminations are occurring even though USCIS was fully aware of these youths’ lack of lawful immigration status when it granted them deferred action—and indeed this is why USCIS created the SIJS deferred action policy in the first place. But by terminating these young people’s deferred action, USCIS is ensuring that ICE can keep them detained—as courts are holding that the detention of individuals with valid deferred action is unlawful⁴—and, eventually, can remove them. This practice not only extinguishes the deferred action protection these young people reasonably expected to retain, but also eviscerates the promise of permanency Congress intended for these youth when creating SIJS.

³ *See* USCIS Policy Manual, vol. 6, part J, ch. 4, <https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4>.

⁴ *See, e.g.*, Order, *Guerra Leon v. Noem*, No. 3:25-CV-01495-TD, ECF No. 21 (W.D. La. Oct. 30, 2025); *Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588, at *12 (W.D. Tex. Oct. 2, 2025); *Sepulveda Ayala v. Bondi*, No. 2:25-CV-01063, 2025 WL 2084400, at *8 (W.D. Wash. July 24, 2025), *Primero v. Mattivelo*, No. 1:25-CV-11442-IT, 2025 WL 1899115, at *2 (D. Mass. July 9, 2025).

43. On October 28, 2025, after USCIS had terminated his deferred action, an immigration judge ordered Fernando removed from the United States. Exh. 12, IJ Removal Order. Fernando's lawyers promptly appealed this decision, and the appeal is currently pending at the BIA, staying Fernando's removal for the time being. Exh. 13, BIA Appeal; 8 C.F.R. § 1003.6.
44. Fernando has now been deprived of his liberty and separated from his family for nearly three and a half months, without the government ever justifying his inexplicable detention. And he has similarly been stripped of the deferred action that protected him from removal, without any opportunity to challenge its completely arbitrary and processless revocation.

LEGAL FRAMEWORK

A. The TVPRA Governs the Detention and Release of UCs

45. Congress has recognized that noncitizen youth who come to the United States without a parent are especially vulnerable and must receive additional protections. Therefore, through the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), Congress set forth special protections for UCs. 8 U.S.C. § 1232. A UC is defined as a child who (A) lacks lawful immigration status in the United States; (B) is under the age of 18; and (C) has no parent or legal guardian in the United States, or no such parent or legal guardian is available to provide care and physical custody. 6 U.S.C. § 279(g)(2).
46. Through the TVPRA, Congress amended the INA to provide that UCs can only be removed through Section 240 removal proceedings. 8 U.S.C. § 1232(a)(5)(D). Therefore, 8 U.S.C. § 1229a exclusively governs removal proceedings of UCs and is the only process for determining whether they can stay in the United States or can be removed. 8 U.S.C. § 1229a(3).
47. The TVPRA requires that the HHS, through ORR, manage the care and custody of UCs. 8 U.S.C. § 1232(c)(2). The statute requires ORR to place the UC "in the least restrictive setting

that is in the best interest of the child.” 8 U.S.C. § 1232(c)(2)(A). In considering this, the statute directs the government to “consider danger to self, danger to the community, and risk of flight.” *Id.*; *see also* 6 U.S.C. § 279(b)(2)(A). ORR may release the UC to a “sponsor” who already lives in the country but was not with the UC when DHS apprehended them—often a parent or relative—so long as these and other criteria are satisfied. *Id.*; *see also* 45 C.F.R. § 410.1201.

B. SIJS Provides a Pathway to Permanent Status for Certain Vulnerable Young People

48. Separate and apart from UCs, in 1990, Congress created SIJS to protect another category of vulnerable immigrant children and provide them a pathway to citizenship. Immigration Act of 1990, Pub. L. No. 101-649, § 153, 104 Stat. 4978 (1990) (amending various sections of the INA); Special Immigrant Status, 58 Fed. Reg. 42843, 43844 (Aug. 12, 1993) (“This rule alleviates hardships experienced by some dependents of United States juvenile courts by providing qualified [noncitizens] with the opportunity to apply for special immigrant classification and lawful permanent resident status, with [the] possibility of becoming citizens of the United States in the future.”). Since 1990, Congress has amended the INA multiple times to expand the protections of SIJS, most recently in 2008, through the TVPRA, Pub. L. 110-457, § 235(d), 122 Stat. 5044 (2008).

49. To be granted SIJS, youths must first “satisfy[] a set of rigorous, congressionally defined eligibility criteria.” *Osorio-Martinez v. U.S. Att’y Gen.*, 893 F.3d 153, 163 (3d Cir. 2018). Specifically, the INA provides that those eligible for SIJS designation, as relevant here, are noncitizen youth who are present in the United States; who have been declared dependent on a state juvenile court; who cannot be reunified with one or more parents because of abuse, neglect, or abandonment; and for whom it has been determined that it is not in their best interest to return to their country of origin. 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11(c).

50. Crucially, a noncitizen youth is eligible for SIJS only if he or she is “present in the United States.” 8 U.S.C. § 1101(a)(27)(J) (emphasis added). This requirement makes perfect sense in light of the purpose of the SIJS statute. SIJS is predicated on a state court finding that the youth cannot be safely reunited with one or both parents, nor safely sent back to their country of origin. The design of this program, then, “show[s] 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.” *Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011) (abrogated on other grounds).
51. Youth can apply for SIJS upon receipt of a state court order finding they cannot be safely reunited with parent(s) nor safely sent back to their country of origin. The application process includes submitting a Form I-360 SIJS Petition to USCIS, along with the predicate state court order and other supporting evidence. *See* 8 C.F.R. § 204.11(b). USCIS then considers the application and supporting documentation to determine whether to exercise its statutory “consent function” to approve the petition. *See* 8 U.S.C. § 1101(a)(27)(J)(iii). By exercising its statutory consent function to grant SIJS, the agency recognizes the state court’s determinations, including that the child’s return to their country of origin would be contrary to their best interests. 8 U.S.C. § 1101(a)(27)(J)(iii).
52. The main benefit of SIJS—and indeed, its core purpose—is that it confers on vulnerable young people like Fernando the right to seek LPR status while remaining in the United States, through a process called adjustment of status. *See* 8 U.S.C. 1255(h).
53. To facilitate this process, Congress removed numerous barriers to adjustment of status for SIJS beneficiaries through amendments to the SIJS provisions in 1991 and again in 2008. For example, SIJS youth are “deemed . . . to have been paroled into the United States” for the purposes of adjustment of status. 8 U.S.C. § 1255(h)(1). Further, Congress exempted SIJS

youth from many common inadmissibility grounds and created a generous waiver of many of the non-exempted inadmissibility grounds. 8 U.S.C. § 1255(h)(2). And Congress explicitly provided that certain grounds for removal “shall not apply to a special immigrant described in section 1101(a)(27)(J) of this title [the SIJS statute] based upon circumstances that existed before the date the [noncitizen] was provided such special immigrant status.” 8 U.S.C. § 1227(c).

C. SIJS Deferred Action Protects SIJS Youth from Removal While They Wait for a Visa

54. Although SIJS renders youth eligible to apply for adjustment, they can only do so when a visa is immediately available to them. 8 U.S.C. § 1255(h). However, there is an annual limit on visas available to SIJS beneficiaries. 8 U.S.C. § 1153(b)(4). And since 2016, the number of SIJS beneficiaries has surpassed the supply of available visas for most countries, leaving what has been estimated to be more than 100,000 young people in a backlog, waiting to apply for a green card.⁵
55. Despite the immediate unavailability of visas, waitlisted SIJS beneficiaries are the same vulnerable young people that the SIJS statute was designed to protect. The fact that no visa is currently available because a numerical limit has been reached changes nothing about their eligibility determination by USCIS, or Congress’s intent that they be afforded a pathway to LPR status and, eventually, citizenship. These are the same individuals whom state courts have determined cannot safely be reunited with their parent(s) or returned to their home country.
56. Taken together, the structure of the SIJS program—including the requirement that recipients remain in the United States to move forward in the process, the grant of parole for the purpose

⁵ See R. Davidson et. al, *False Hopes: Over 100,000 Immigrant Youth Trapped in the SIJS Backlog* (2023), <https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/656a48a3f02597441a4cbf95/1701464285675/2023-false-hopes-report.pdf>; see also Exh. 11, Davidson Decl., ¶ 10 (estimating that there are now likely more than 150,000 SIJS youth in the backlog).

of adjustment, and the waiver of grounds of inadmissibility and removability—evinces Congress’ intent that SIJS recipients remain safely in the United States until they can adjust to become LPRs. And given that they are only “a hair’s breadth from being able to adjust their status” and have a “substantial legal relationship” with the United States, these individuals have been recognized as enjoying meaningful constitutional due process rights. *Osorio*, 893 F.3d at 173-75.

57. Nonetheless, DHS has taken the position that SIJS youth in the visa backlog remain subject to removal, including simply for their lack of lawful immigration status in the United States, while they wait for the ability to apply for a green card. So in March 2022, to address the harms being caused by the SIJS visa backlog, USCIS announced that all young people granted SIJS would also be considered for a discretionary grant of deferred action, meaning that they would be protected from deportation while waiting for a visa to become available. In enacting this policy, USCIS acknowledged that “Congress likely did not envision that SIJ petitioners would have to wait years before a visa became available. . . .” USCIS Policy Alert, PA-2022-10, “Special Immigrant Juvenile Classification and Deferred Action” (March 7, 2022), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20220307-SIJAndDeferredAction.pdf> (hereinafter “2022 USCIS Policy Alert”).
58. When determining whether a SIJS youth was eligible for deferred action, USCIS assessed, “based on the totality of the evidence, whether [he] warrants a favorable exercise of discretion.” 2022 USCIS Policy Alert at n.6; *see also* USCIS Policy Manual as of April 18, 2025, vol. 6, pt. J, ch. 4, <https://web.archive.org/web/20250418205752/https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4> (“USCIS weighs all relevant positive and negative factors that apply to the person’s case. USCIS may generally grant deferred action if, based on the

totality of the facts and circumstances of the case, the positive factors outweigh the negative factors.”).⁶

59. Specifically, “[o]ne particularly strong positive factor that weighs heavily in favor of granting deferred action is that the person has an approved [SIJS petition] and will be eligible to apply for adjustment of status as soon as an immigrant visa number becomes available,” *id.*, while “[i]f background and security checks indicate that an SIJ-classified individual may be subject to an inadmissibility ground ... that cannot be waived and that would make them ineligible for SIJ-based adjustment of status, this would generally be a strong negative factor weighing against the favorable exercise of discretion,” as would “serious unresolved criminal charge(s),” Exh. 14, USCIS-ICE Memo at 2.
60. Deferred action is an act of prosecutorial discretion that defers efforts to deport a noncitizen from the United States for a certain period of time. USCIS Policy Manual as of April 18, 2025, vol. 6, pt. J, ch. 4, <https://web.archive.org/web/20250418205752/https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4>. In the case of SIJS recipients awaiting visas, USCIS granted deferred action for a period of four years. 2022 USCIS Policy Alert at 2. Individuals granted deferred action are also eligible to apply for employment authorization under 8 C.F.R. § 274a.12(c)(14). *Id.*
61. In June 2025, USCIS rescinded the SIJS deferred action policy, deciding to no longer consider granting deferred action to SIJS youth waiting to apply for a green card.⁷ However, this policy change had no impact on SIJS beneficiaries, like Fernando, who had already received deferred

⁶ As explained *infra*, USCIS later rescinded the SIJS deferred action policy and amended its Policy Manual to remove this section. This is therefore an archived version of the Policy Manual.

⁷ A proposed class action challenging this rescission as arbitrary and capricious, among other claims, is currently pending before the U.S. District Court for the Eastern District of New York. *A.C.R. et al. v. Noem et al.*, No. 1:25-cv-3962.

action. *See* USCIS Policy Alert, PA-2025-07, “Special Immigrant Juvenile Classification and Deferred Action” 2 (June 6, 2025), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250606-SIJDeferredAction.pdf> (hereinafter “2025 USCIS Policy Alert”). Indeed, USCIS explicitly provided that noncitizens “with current deferred action based on their SIJ classification will generally retain this deferred action . . . until the current validity periods expire.” *Id.*

62. Pursuant to USCIS’s internal policies, only USCIS may terminate a SIJS beneficiary’s deferred action before it expires, and only if the agency engages in an individualized review and determines, for example, that a favorable exercise of discretion is no longer warranted; the individual’s SIJS petition was approved in error and is revoked; or the prior deferred action was granted in error. USCIS Policy Manual, vol. 6, part J, ch. 4, <https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4>; *see also* Exh. 14, USCIS-ICE Memo at 2 (confirming that “USCIS has the sole authority to grant and terminate deferred action for noncitizens with SIJ classification” and that “USCIS may terminate deferred action if the SIJ-classified individual was not eligible at the time of the initial grant of deferred action, the SIJ Form I-360 is revoked, or if they are no longer eligible based on new information, including new information about criminal activity that impacts the discretionary determination to grant SIJ deferred action”).

D. Fernando’s Detention Violates His Right to Substantive Due Process Because He Is Neither a Flight Risk Nor a Danger to His Community

63. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Noncitizens unquestionably have a substantive liberty interest to be free from detention. Because “liberty is the norm, and detention prior to trial or without trial is the carefully limited exception,” the government may imprison people as a preventive measure

only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)).

64. Immigration detention is civil and must “bear[] a reasonable relation to the purpose for which the individual [is] [detained]” so that it remains “nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690 (cleaned up); *see also Schall v. Martin*, 467 U.S. 253, 264-69 (1984) (finding detention must be a proportional—not excessive—response to a legitimate state objective).
65. Courts have identified only two legitimate purposes for immigration detention: mitigating flight risk pending removal and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690-91; *Velasco Lopez v. Decker*, 978 F.3d 842, 854 (2d Cir. 2020); *Faure v. Decker*, No. 15-CV-5128, 2015 WL 6143801, at *3 (S.D.N.Y. Oct. 19, 2015) (ordering release or a bond hearing where there was “no evidence” that the habeas petitioner “poses a danger to the public or would flee during the pendency of the removal proceedings”).
66. Neither purpose is served by Fernando’s detention. Respondents have not made any claim that Fernando presents a flight risk or a danger to the community, nor could they. When Fernando was previously released from ORR custody in 2021, Exh. 1, the government came to precisely the opposite conclusion. *See* 8 U.S.C. § 1232(c)(2); 6 U.S.C. § 279(b)(2)(A); *see also Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1177 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (confirming that release to a sponsor “reflects a determination by the federal government that the minor is neither dangerous nor a flight risk”). Then, it decided that Fernando did not even need to be in removal proceedings at all, moving to dismiss those proceedings because of his pending SIJS application—yet another indication that it did not believe him to present any risk of flight or danger. *See* Exh. 3. Since then, Fernando’s ties to this country have only grown stronger. He has not only built his entire life

here, but he has been granted SIJS, Exh. 4, which gives him a path to citizenship and safe and meaningful future. *See Osorio*, 893 F. 3d at 173-75. And he remains without any criminal record.

67. Accordingly, the government is not detaining Fernando to serve its legitimate interests in protecting against danger or flight risk. Because detention on that basis bears no “reasonable relation” to the government’s interests in preventing flight and danger, *Jackson v. Indiana*, 406 U.S. 715, 738 (1972), this Court should order his release.

E. Fernando’s Re-Arrest and Detention Without an Opportunity to Seek Release from a Neutral Decisionmaker Violates his Right to Procedural Due Process and Necessitates His Release from Civil Immigration Detention.

68. Even “[w]hen government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner.” *Salerno*, 481 U.S. at 746. *See also, Ceesay v. Kurzdorfer*, No. 25-CV-267-LJV, 2025 WL 1284720 at *10 (W.D.N.Y. May 2, 2025); *Martinez v. McAleenan*, 385 F. Supp. 3d 349, 362-64, 373 (S.D.N.Y. 2019) (finding the detention of a noncitizen without written notice of the reinstatement of a removal order violated procedural due process and therefore ordering his release and enjoining the government “from attempting to detain Petitioner, while the outcome of his immigration proceedings are pending, so long as he is ably cooperating and participating in his proceeding”) and *Lopez v. Sessions*, No. 18-CV-4189, 2018 WL 2932726 at *11 (S.D.N.Y. June 12, 2018).

69. “The Supreme Court long ago held that the Fifth Amendment entitles noncitizens to due process in removal proceedings.” *Black v. Decker*, 103 F.4th 133, 143 (2d Cir. 2024). The three-factor test articulated by the Supreme Court in *Mathews v. Eldridge*, 424 U.S. 319 (1976) provides the relevant framework “to determine what process is due to noncitizens in removal proceedings,” *Black*, 103 F.4th at 147 (collecting cases), and confirms his entitlement to a

hearing. The *Mathews* factors are: (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 safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335.

70. The first *Mathews* factor weighs heavily in Fernando’s favor. The Second Circuit has repeatedly held in challenges to immigration detention that “the private interest affected by the official action is the most significant liberty interest there is—the interest in being free from imprisonment.” *Black*, 103 F.4th at 151 (quoting *Velasco Lopez*, 978 F.3d at 851). Fernando’s ongoing detention directly and substantially implicates this “most significant liberty interest . . . ‘[C]ase after case instructs us that in this country liberty is the norm and detention ‘is the carefully limited exception.’” *Id.* (quoting *Velasco Lopez*, 978 F.3d at 851 and *United States v. Salerno*, 481 U.S. 739, 755 (1987) (cleaned up)). Like the petitioner in *Velasco Lopez*, the deprivation Fernando is experiencing “was not the result of a criminal adjudication.” 978 F.3d at 851. Nor is it the result of any flight risk or danger. *See supra*.

71. Fernando also has a particularly strong liberty interest in light of (1) his prior release as a UC and (2) his valid grant of SIJS. Because he was previously released from custody and not even subject to government monitoring, he possessed a weighty liberty interest in avoiding re-detention. *See Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-483 (1972). In *Morrissey*, the Supreme Court examined the “nature of the interest” that a parolee has in “his continued liberty.” 408 U.S. at 481-82. The Court noted that, “subject to the conditions of his parole, [a

parolee] can be gainfully employed and is free to be with family and friends and to form the other enduring attachments of normal life.” *Id.* at 482. The Court further highlighted that “the parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions.” *Id.* The Court explained that “the liberty of a parolee, although indeterminate, includes many of the core values of unqualified liberty and its termination inflicts a grievous loss on the parolee and often others.” *Id.*; *see also Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) (“[A] person who is in fact free of physical confinement—even if that freedom is lawfully revocable—has a liberty interest that entitles him to constitutional due process before he is re-incarcerated.”).

72. Numerous courts have since found a similar liberty interest to be held by noncitizens released from detention on bond, and have noted that this interest only “grows over time.” *Guillermo M. R. v. Kaiser*, No. 25-CV-05436-RFL, 2025 WL 1983677, at *5 (N.D. Cal. July 17, 2025); *see also Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *2 (N.D. Cal. June 14, 2025); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Doe v. Becerra*, No. 25-cv-00647-DJC-DMC, 2025 WL 691664, at *5 (E.D. Cal. March 5, 2025); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).
73. Of course, the interest in remaining free is even stronger in a case, like Fernando’s, where the government released him from custody without even the need for a bond. *See Garcia Domingo v. Castro*, No. 1:25-CV-00979-DHU-GJF, 2025 WL 2941217, at *2 (D.N.M. Oct. 15, 2025) (finding that UC’s release created protected liberty interest); *R.D.T.M. v. Wofford*, No. 1:25-CV-01141-KES-SKO (HC), 2025 WL 2686866, at *4 (E.D. Cal. Sept. 18, 2025) (same).
74. Fernando’s grant of SIJS only further strengthens his liberty interest. To be approved for SIJS and deferred action, Fernando had to meet “rigorous eligibility criteria” and show that he

merited a favorable exercise of discretion. *See Osorio*, 893 F.3d at 168; 2022 USCIS Policy Alert. He was promised that, if he met those requirements, he would be given a meaningful path to LPR status, and eventually citizenship, in this country. *Osorio*, 893 F.3d at 168. That came with the expectation that he could build a life here without risking arbitrary arrest, detention, and removal that would strip him of the very permanency Congress created SIJS to provide vulnerable youth like him. As a result, he has “developed the ‘substantial connections with this country’ that ‘go with permanent residence.’” *Id.* (cleaned up). And he has an interest in maintaining the life he has built, including his liberty. *See Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588, at *12 (W.D. Tex. Oct. 2, 2025) (finding that Deferred Action for Childhood Arrivals (“DACA”) recipients, who like SIJS recipients are permitted “to live, study, and work in the United States without fear of arrest or deportation,” necessarily acquire a liberty interest); *Gamez Lira v. Noem*, No. 25-cv-00855-WJ-KK, 2025 WL 2581710, at *3 (D. N.M. Sept. 5, 2025) (finding petitioner “likely possessed a protectable liberty interest after living in the United States for ten years with DACA”).

75. As for the second *Mathews* factor, the erroneous deprivation of Fernando’s liberty is the direct result of the insufficient safeguards and procedures used to initiate and continue his detention. The government purports to detain Fernando without review under the authority of 8 U.S.C. § 1225(b). Section 1225(b), like the mandatory detention at issue in *Black*, “include[s] no mechanism for a detainee’s release, nor for individualized review of the need for detention.” 103 F.4th at 152. Such a lack of “procedural protections . . . markedly increase[d] the risk of an erroneous deprivation of Petitioners’ private liberty interests.” *Id.* When evaluating the second *Mathews* prong, “[t]he only interest to be considered . . . is that of the detained individuals—not the government.” *Black*, 103 F.4th at 152.

76. The fact that the government has already decided Fernando did not present a flight risk or danger, and even moved to dismiss his removal proceedings, is “irreconcilable with the decision to re-arrest him, absent changed circumstances.” *Lopez*, 2018 WL 2932726, at *11. In *Lopez*, the court held that due to the lack of process prior to the petitioner’s re-arrest, “the risk of erroneous deprivation of Mr. Lopez’s liberty interest is manifest.” *Id.* As such, “Petitioner’s re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment.” *Id.* at 12. Indeed, courts across the country have held that individuals in Fernando’s position must be given meaningful pre-deprivation process before they can be re-detained. *See supra* (collecting general re-detention cases); *Garcia Domingo*, 2025 WL 2941217, at *4 (UC re-detention); *R.D.T.M.*, 2025 WL 2686866, at *5 (same); *see also Guillermo M.R.*, 2025 WL 1983677, at *7 (noting that the court could not “identify any other context in which government agents could permissibly take someone who has been released by a judge, lock up that person, and have no hearing either beforehand or promptly thereafter”); *Zinerman v. Burch*, 494 U.S. 113, 127 (1990) (noting that the Supreme Court “usually has held that the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property”) (emphasis in original); *Mata Velasquez*, 2025 WL 1953796 at **11-16.
77. The third *Mathews* prong—the public interest—also weighs in Fernando’s favor. As explained *supra*, the government has no legitimate interest in detaining anyone who is not a flight risk or a danger to the community. *Zadvydas*, 533 U.S. at 690. The government already determined that Fernando was not either, and it has not indicated that there are any changed circumstances that could justify his detention. Moreover, “there is no public interest in the perpetuation of unlawful agency action,” *R.J. Reynolds Vapor Co. v. Food & Drug Admin.*, 65 F.4th 182, 195

(5th Cir. 2023), but a “substantial public interest ‘in having governmental agencies abide by the federal laws that govern their existence and operations,’” *Texas v. United States*, 40 F.4th 205, 229 (5th Cir. 2022) (quoting *Washington v. Reno*, 35 F.3d 1093, 1103 (6th Cir. 1994)). It also bears noting that the “fiscal and administrative burdens” that would be imposed by Fernando’s release from custody, unless and until a pre-deprivation hearing is provided, are nonexistent in this case. *See Mathews*, 424 U.S. at 334-35.

78. Ultimately, then, because “[t]he release of [Fernando] to his mother was pursuant to a process that involved a determination that he was neither a danger to himself or others and that it was appropriate for him to reside with her. Petitioner’s re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment.” *Lopez*, 2018 WL 2932726, at *12.

F. Respondents Violated Fernando’s Fourth Amendment Rights

79. It is unreasonable under the Fourth Amendment to rearrest a person who has been released from custody based on the same charge that supported the earlier arrest (particularly when the proceedings were dismissed and the basis for the dismissal remains unchanged). The Fourth Amendment protects the right of the people to be secure in their persons against unreasonable seizures. U.S. Const. Amend. IV. “It is axiomatic that seizures have purposes.” *Williams v. Dart*, 967 F.3d 625, 634 (7th Cir. 2020). “When those purposes are spent, further seizure is unreasonable.” *Id.* Any seizure must be supported by probable cause, which is “strictly tied to and justified by the circumstances which rendered [the initiation of the seizure] permissible.” *Terry v. Ohio*, 392 U.S. 1, 18 (1968) (quoting *Warden v. Hayden*, 387 U.S. 294, 310 (1967) (Fortas, J., concurring)); *Arizona v. Johnson*, 555 U.S. 323, 333 (2009). When the purpose of

a seizure is accomplished, “[f]urther seizure requires a court order or new cause” as “the original probable cause determination is no justification.” *Williams*, 967 F.3d at 634.

80. This requirement “guards against precipitate rearrest.” *Carlson v. Landon*, 342 U.S. 524, 546-47 (1952). “Arrest ensures that a suspect appears to answer charges and does not continue a crime, and it safeguards evidence and enables officers to conduct an in-custody investigation.” *Virginia v. Moore*, 553 U.S. 164, 173 (2008); *Albright v. Oliver*, 510 U.S. 266, 278 (1994) (same) (Ginsburg, J., concurring); *Gerstein v. Pugh*, 420 U.S. 103, 114 (1975) (same). When an individual is released on bond, bail, parole, or their own recognizance pending the result of their proceedings, the purpose of their prior arrest has been accomplished. *Williams*, 967 F.3d at 634. As a result, any probable cause justifying the prior arrest is extinguished, and they cannot be rearrested absent changed circumstances. *See Carlson*, 342 U.S. at 546-47; *United States ex rel. Heikkinen v. Gordon*, 190 F.2d 16, 19 (8th Cir. 1951); *United States v. Holmes*, 452 F.2d 249, 260-61 (7th Cir. 1971); *United States v. Swims Under*, 990 F.2d 1265 (table), 1993 WL 103768, at *2 (9th Cir. 1993); cf. *Saravia*, 280 F. Supp. 3d at 1176 (“Once a noncitizen has been released, the law prohibits federal agents from re-arresting him merely because he is subject to removal proceedings.”).

81. The fact that Fernando was arrested without a warrant also independently violated his Fourth Amendment and statutory rights. As a general matter, the Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein*, 420 U.S. at 114. That neutral, judicial determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See id.* Arrest and detention of a person, including of a noncitizen, absent a neutral, judicial determination of probable cause violates the Fourth Amendment of the Constitution. *Id.*; *see*

also Cnty. of Riverside v. McLaughlin, 500 U.S. 44, 57 (1991). This determination must occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstance. *See Riverside*, 500 U.S. at 57.

82. Congress enacted a strong preference that immigration arrests be based on warrants. *See Arizona v. U.S.*, 567 U.S. 387, 407–08 (2012). The INA thus provides immigration agents with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). Specifically, an officer must have “reason to believe” the person is violating the immigration laws and that the person “is likely to escape before a warrant can be obtained.” *Id.* Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).
83. These regulations also provide that, if a noncitizen is arrested without a warrant, the arresting immigration officer must make a custody determination within 48 hours of the arrest, unless there is “an emergency or other extraordinary circumstance” that requires “an additional reasonable period of time” to make the custody determination. 8 C.F.R. § 287.3(d). During that custody determination, for individuals detained pursuant to 8 U.S.C. § 1226(a), the immigration officer must make findings as to whether “release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.” 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8). *Cf. Zadvydas*, 533 U.S. at 690-92 (stating that preventing danger to the community or preventing flight prior to removal are only two legitimate objectives of immigration detention).
84. Here, at the moment of seizure, Fernando (a) had been granted SIJS and deferred action, both of which were in valid status, and (b) was traveling from his stable home address (of which the government was fully aware) to his stable job. Moreover, Fernando fully complied with the ICE officers and in no way tried to disobey or flee. Therefore, no officer could have held a

reasonable belief that Fernando was both present in violation of the immigration laws and that he was likely to escape before a warrant could be obtained. *See* 8 U.S.C. § 1357(a)(2).

85. Without a statutory basis to arrest, the Government is required under the Fourth Amendment to secure a prompt judicial probable cause determination to continue holding Fernando. *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56–57. He received no such judicial determination, yet his detention continued well beyond 48 hours, rendering it presumptively unconstitutional. The Government cannot salvage this seizure by invoking generalized immigration enforcement interests. The Fourth Amendment’s reasonableness inquiry is fact-specific and demands individualized justification for both the arrest and the extended detention. *See United States v. Brignoni-Ponce*, 422 U.S. 873, 882–84 (1975); *Gerstein*, 420 U.S. at 114. Moreover, Respondents themselves did not even comply with their own regulations and make a custody determination that Fernando is dangerous or a flight risk within 48 hours of arrest, and no emergency or extraordinary circumstances justifies this delay. 8 C.F.R. § 287.3(d).
86. Ultimately, Fernando was a 19-year-old with valid SIJS and deferred action, who had previously been found not to present a danger or a flight risk, whose removal proceedings had been dismissed, and who was on his way to his stable and lawful job in construction. In light of his unlawful warrantless arrest and lack of any probable cause determination or even custody review justifying his detention, Fernando should be released. *See, e.g., Rosado v. Figueroa*, No. CV 25-02157, 2025 WL 2337099, at *18 (D. Ariz. Aug. 11, 2025), *report and rec. adopted sub nom. Rocha Rosado v. Figueroa*, No. CV-25-02157, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025) (finding Fourth Amendment violation under similar circumstances and

ordering release); *Gamez Lira v. Noem*, No. 1:25-CV-00855-WJ-KK, 2025 WL 2581710, at *4 (D.N.M. Sept. 5, 2025) (similar, granting temporary restraining order).

G. Fernando's Detention Is Not Governed by 8 U.S.C. § 1225(b)(2)(A)

87. “[P]reoccupation with technical concerns over 1225 processing versus 1226 processing for detention only exalts form over substance insofar as the Due Process Clause, writ large, is concerned,” especially where, as here, the case involves “a prolonged period of [presence in the United States].” *Rodrigues De Oliveira v. Joyce*, No. 2:25-cv-00291, 2025 WL 1826118, at *5 (D. Me. July 2, 2025). Nonetheless, the government’s position that Fernando is mandatorily detained under 8 U.S.C. § 1225(b)(2)(A) is wholly erroneous.
88. The INA prescribes three basic forms of detention for most noncitizens in removal proceedings. First, 8 U.S.C. § 1226 “authorizes the Government to detain certain [noncitizens’ already in the country pending the outcome of [Section 240] removal proceedings.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Individuals detained under Section 1226(a) are generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). However, noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention under Section 1226(c). *See* 8 U.S.C. § 1226(c).
89. Second, the INA provides for mandatory detention of two groups of noncitizens encountered “at the Nation’s borders and ports of entry.” *Jennings*, 583 U.S. at 288. The first group consists, generally, of those who are subject to expedited removal for being apprehended upon arrival near the border or for being unable to show that they have been physically present in the United States for more than two years until a determination has been made as to whether they have a credible fear of persecution. 8 U.S.C. § 1225(b)(1). Notably, UCs are not subject to expedited removal. 8 U.S.C. § 1232(a)(5). The second group subject to mandatory detention consists of

anyone alleged to be an “applicant for admission” who is “seeking admission” and whom an “examining immigration officer determines . . . is not clearly and beyond a doubt entitled to be admitted.” *See* 8 U.S.C. § 1225(b)(2)(A).

90. Last, the INA provides for detention of noncitizens who final orders of removal. *See* 8 U.S.C. § 1231.

91. While the government has contended that Fernando’s detention is governed by § 1225(b)(2)(A), that is wrong. First, Fernando’s initial detention, as a UC, could not have been under this provision. Instead, it was governed by the TVPRA, which requires UCs—even those who turn 18 and age out of ORR custody—to be placed in the “least restrictive setting available.” 8 U.S.C. § 1232(c)(2)(B). This is entirely inconsistent with mandatory detention. Moreover, 8 C.F.R. § 236.3, “Processing, detention, and release of alien minors,” notes that the custody of minors who are *not* UCs may be governed by either § 1225 or § 1226, *see* 8 C.F.R. § 236.3(j)(3), (4), but makes no indication that the custody of UCs can be governed by § 1225. Accordingly, numerous courts have found that noncitizens previously processed as UCs are not detained under § 1225(b)(2)(A). *See Lopez*, 2018 WL 2932726, at *6; R.D.T.M., 2025 WL 2686866, at *4; *Torres v. Wamsley*, No. C25-5772 TSZ, 2025 WL 2855379, at *3–5 (W.D. Wash. Oct. 8, 2025).

92. Second, since Fernando’s release from ORR custody as a minor, the fact he was granted SIJS only confirms that his detention cannot be governed by § 1225(b)(2)(A). An award of SIJS confirms that a noncitizen is an “alien present in the United States,” not one “seeking admission.” *See Rodriguez v. Perry*, 747 F. Supp. 3d 911, 916 (E.D. Va. 2024); *see also* Exh. 6, 2025 NTA (charging Fernando as a noncitizen “present in the United States who has not been admitted or paroled”). Addressing whether SIJS beneficiaries are properly detained under

8 U.S.C. §§ 1225 or 1226, the *Rodriguez* court ruled that, because “the INA defines a ‘special immigrant’ as ‘an immigrant who is present in the United States,’” a noncitizen’s “SIJ status weighs in favor of finding that . . . he was an ‘alien present’ in the United States and was entitled to a bond hearing” under 8 U.S.C. § 1226. *Id.*; *see also* § 1101(a)(27)(J).

93. Moreover, as another court recently stressed, SIJS status “‘bespeak[s] a substantial legal relationship between [SIJS beneficiaries] and the United States—a relationship far more significant than’ the relationship possessed between an initial entrant into this country.” *Del Cid Del Cid v. Bondi*, No. 3:25-CV-00304, 2025 WL 2985150, at *16 (W.D. Pa. Oct. 23, 2025). For these reasons, numerous other courts have agreed that SIJS beneficiaries—regardless of how they entered the United States—are detained under § 1226(a). *See Diaz-Calderon v. Barr*, No. 2:20-cv-11235-TGB, 2020 WL 5645191 at *11 (E.D. Mich. Sept. 22, 2020); *Duchi-Naula v. Tatum*, No. 1:25-cv-00247-LM-AJ, Doc. 17 (D.N.H. July 7, 2025); *Tocagon v. Moniz*, Case 1:25-cv0-12453-MJJ (D. Mass. Sept. 29, 2025); *Casun v. Hyde*, No. 25-CV-427-JJM-AEM, 2025 WL 2806769, at *2 (D.R.I. Oct. 2, 2025).
94. Finally, contrary to the Immigration Judge’s determination, the BIA’s decision in *Matter of Q. Li* does not apply to Fernando (nor does the erroneous *Matter of Yajure Hurtado*), both for these reasons and others. *Matter of Q. Li* involved a noncitizen who was apprehended yards from the border, paroled into the country under 8 U.S.C. § 1182(d)(5)(A), then later detained when her parole was terminated. 29 I&N Dec. at 69-70. Here, Fernando was initially detained as a UC and was released pursuant to the TVPRA; he has since lived in the United States for four years and been granted SIJS; he was detained in July while present in the United States; and he has been charged as being present in the United States. It would be absurd to consider him to be “seeking admission” under these circumstances. *See Torres*, 2025 WL 2855379, at

*3-5; *R.D.T.M.*, 2025 WL 2686866, at *4; *accord Contreras Maldonado v. Cabezas*, No. 25–13004, 2025 WL 2985256 (D.N.J. Oct. 23, 2025) (finding the “invocation of 1225(b) as applied to Petitioner,” a former UC who had resided in the United States for years, to be “inconsistent with the statutory framework distinguishing between entry-based and interior detention authority”). In any event, Court owes no deference to *Matter of Q. Li* or *Matter of Yajure Hurtado* under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394 (2024). *Cf. Rodriguez Vasquez*, 2025 WL 2782499, at *1, n.3 (rejecting and noting many other cases rejecting the BIA’s statutory interpretation in *Matter of Yajure Hurtado*)).

H. USCIS’s Unilateral Termination of Fernando’s Deferred Action and Employment Authorization Was Arbitrary and Capricious and Violated the Accardi Doctrine

95. The Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701-706, provides that courts “shall . . . 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).
96. The Supreme Court has made clear that under § 706(2)(A), agency decisions—even discretionary ones—“must be based on non-arbitrary, ‘relevant factors.’” *Judulang v. Holder*, 565 U.S. 42, 55 (2011). *Judulang* emphasized that “courts retain a role, and an important one, in ensuring that agencies have engaged in reasoned decisionmaking.” *Id.* at 53. “When reviewing an agency action, [courts] must assess, among other matters, ‘whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment.’” *Id.* (citation and internal punctuation omitted).
97. In *Judulang*, the Supreme Court made clear that the BIA’s method for evaluating noncitizens’ eligibility for a discretionary form of relief (suspension of deportation) must still reflect reasoned decisionmaking. The Court emphasized that any decisionmaking “that neither focuses on nor relates to an alien’s fitness to remain in the country—is arbitrary and

capricious.” *Id.* at 55. And it ultimately invalidated the BIA’s approach because it was based on “a matter irrelevant to the alien’s fitness to reside in this country,” and concluded that the BIA therefore had “failed to exercise its discretion in a reasoned manner.” *Id.* at 53.

98. The Supreme Court further emphasized that an additional reason why the BIA’s approach was impermissibly arbitrary was that under that approach, whether a noncitizen would be granted discretionary relief may “rest on the happenstance of an immigration official’s charging decision.” 565 U.S. at 57. *See also id.* at 58 (recognizing “the high stakes for a [noncitizen] who has long resided in this country,” and noting that the Supreme Court has “reversed an agency decision that would make his right to remain here dependent on circumstances so fortuitous and capricious”) (citing *Delgado v. Carmichael*, 332 U.S. 388, 391 (1947)) (internal quotation marks omitted).

99. In 2017, in *Inland Empire-Immigrant Youth Collective v. Duke*, the U.S. District Court for the Central District of California applied *Judulang* to assess whether USCIS had acted arbitrarily and capriciously by unilaterally terminating the DACA grants of noncitizens issued NTAs for lack of lawful immigration status. No. EDCV172048PSGSHKX, 2017 WL 5900061, at *6 (C.D. Cal. Nov. 20, 2017). The court stressed that this discretionary benefit could not be terminated based on irrelevant factors, and concluded that termination based on an NTA alone—when DACA was “specifically designed for persons without lawful immigration status”—was “arbitrary and irrational.” *Id.* (emphasis in original) (granting preliminary injunction to individual plaintiff). The court further confirmed that, as in *Judulang*, allowing termination under such circumstances would improperly leave the decision to the whims of an individual charging officer. *Id.* at *7. Finally, the court concluded that USCIS’s failure to provide any good reasons for the abrupt change in its position regarding discretionary grants

of DACA was also arbitrary and capricious. *Id.* See also *Inland Empire-Immigrant Youth Collective v. Nielsen*, No. EDCV172048PSGSHKX, 2018 WL 1061408, at *17-18 (C.D. Cal. Feb. 26, 2018) (granting class-wide preliminary injunction); *Inland Empire - Immigrant Youth Collective v. Nielsen*, No. EDCV172048PSGSHKX, 2018 WL 4998230, at *17-18 (C.D. Cal. Apr. 19, 2018) (denying government’s motion to dismiss).

100. Here, USCIS’s August 12, 2025 decision to terminate Fernando’s deferred action and employment authorization is arbitrary and capricious for similar reasons. *First*, the fact of Fernando’s detention based on an NTA charging him as removable for lacking lawful immigration status is not a rational basis for terminating his deferred action grant. SIJS beneficiaries’ lack of lawful immigration status is in fact the very reason that USCIS created the SIJS deferred action policy in the first place. 2022 USCIS Policy Alert at 3 (“Noncitizens without lawful status who have an approved SIJ petition remain subject to removal . . . until they can apply to adjust status. . . .”); see also Exh. 14, USCIS-ICE Memo at 1 (confirming that “many individuals who receive a grant of SIJ [deferred action] from USCIS are also in removal proceedings”).⁸ Because lack of lawful immigration status is the core *justification* for every grant of deferred action, it cannot provide a reasoned basis for *terminating* that deferred action grant. See *Inland Empire-Immigrant Youth Collective*, 2017 WL 5900061, at *6-7.

101. *Second*, USCIS’s decision to terminate Fernando’s deferred action and employment authorization was arbitrary and capricious because it left the question of whether Fernando continued to warrant deferred action and employment authorization solely up to the individual

⁸ Petitioner does not concede that he lacks status or is generally removable while he waits for a chance to become LPRs, given that his SIJS renders him “a successful applicant as a ward of the United States with the approval of both state and federal authorities,” and that there is “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.” *Osorio-Martinez*, 893 F.3d at 168 (quoting *Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011)). But this Court need not decide this question in order to decide the issues presented here.

ICE officers who chose to unlawfully arrest, detain, and charge him. As the Supreme Court emphasized in *Judulang*, a determination with such “high stakes”—one that could here mean the difference between Fernando’s deportation and his ability to remain in this country until he can adjust his status as Congress intended—cannot “rest on the happenstance of an immigration official’s charging decision,” 565 U.S. at 57-58, much less an unlawful detention decision. See *Inland Empire-Immigrant Youth Collective*, 2017 WL 5900061, at *7 (reaching same conclusion regarding DACA termination based on issuance of an NTA, where “everything hung on the fortuity of one [immigration] officer’s decision”).

102. Moreover, USCIS’s Policy Manual makes clear that only USCIS can terminate an individual’s grant of deferred action, and only on a case-by-case basis, as a matter of discretion. USCIS Policy Manual, vol. 6, part J, ch. 4, <https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4>. So too does an internal memorandum from USCIS to ICE, which confirms that “USCIS has the sole authority to grant and terminate deferred action for noncitizens with SIJ classification” and may terminate “if the SIJ-classified individual was not eligible at the time of the initial grant of deferred action, the SIJ Form I-360 is revoked, or if they are no longer eligible based on new information, including new information about criminal activity that impacts the discretionary determination to grant SIJ deferred action.” Exh. 14, USCIS-ICE Memo at 2. Terminating deferred action based purely on the chance enforcement actions of an individual ICE officer improperly cedes this authority and renders the decision arbitrary.
103. *Third*, in terminating Fernando’s deferred action and employment authorization, USCIS departed from its prior position without providing any “reasoned analysis for the change,” which also violates the APA. *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42 (1983). See also 5 U.S.C. § 706(2). An agency may depart from its prior position,

but it is black letter law that if it does so, it “is obligated to supply a reasoned analysis for the change.” *State Farm*, 463 U.S. at 42. *See also FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (“[T]he agency must show that there are good reasons for the new policy.”); *Food & Drug Admin. v. Wages & White Lion Invs., L.L.C.*, 604 U.S. 542, 569-70 (2025) (confirming that “when an agency ‘acts inconsistent[ly] with an ‘earlier position,’” it must “offer ‘good reasons for the new policy’”) (citations omitted). Here, DHS’s settled position for nearly three years was that Fernando warranted a grant of deferred action and employment authorization. Exh. 4.

104. The agency reached this determination after considering, “based on the totality of the evidence, whether [he] warrants a favorable exercise of discretion,” 2022 USCIS Policy Alert at n.6, with his approved SIJS petition constituting a strong positive factor and his lack of any criminal history eliminating any strong negative factor. Exh. 14, USCIS-ICE Memo at 2. According to USCIS, this grant was to remain in place for four years unless relevant discretionary factors changed—for example, if a favorable exercise of discretion was no longer warranted; Fernando’s SIJS petition was revoked; or his original deferred action was granted in error—none of which occurred here. *See* USCIS Policy Manual, vol. 6, part J, ch. 4, <https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4>; *see also* Exh. 14, USCIS-ICE Memo at 2.

105. But on August 12, 2025, the agency abruptly reversed course, terminating Fernando’s deferred action without any explanation whatsoever as to how any relevant factors had changed—much less providing “good reasons” for the agency’s change in position. *Fox Television*, 556 U.S. at 515; *see also Inland Empire-Immigrant Youth Collective*, 2017 WL 5900061, at *7 (finding that “‘USCIS’s one-sentence explanation’ regarding the termination

of plaintiff's DACA after previously determining that he was eligible for this benefit, "fails to provide 'good reasons' for the agency's change in position, as required by the APA").

106. Moreover, USCIS failed to acknowledge, let alone take into account, Fernando's serious reliance interests in his deferred action and employment authorization. *See Fox Television*, 556 U.S. at 515 (explaining that an agency must give a "more detailed justification" for a policy change if its "prior policy has engendered serious reliance interests that must be taken into account"); *see also White Lion*, 604 U.S. at 570; *DHS v. Regents*, 591 U.S. 1, 31 (2020). Here, Fernando relied on his deferred action and employment authorization to build an entire life in the United States—he was working lawfully, supporting his family, and planning for a future consistent with the government's promise of protection and permanency for vulnerable youth just like him. Indeed, as USCIS itself recognized in implementing the SIJS deferred action policy, "approved SIJ petitioners have a reliance interest in being provided employment authorization consistent with the congressional intent in creating the SIJ program to protect vulnerable children by providing them with a pathway to LPR status, without having to wait years before a visa is available." 2022 USCIS Policy Alert at 3. The agency's subsequent failure to even acknowledge this reliance interest when it terminated Fernando's deferred action, much less take it into account or provide any reasoned explanation for the termination, violates the APA. *Fox Television*, 556 U.S. at 516; *Inland Empire-Immigrant Youth Collective*, 2017 WL 5900061, at *7 (noting that USCIS's "arbitrary and unexplained decision" to terminate individual plaintiff's DACA "fails to address Plaintiff's substantial reliance interests, which also runs counter to the Supreme Court's mandate").

107. Finally, in terminating Fernando's deferred action and employment authorization based solely on his detention on removal charges for lack of lawful immigration status, USCIS

departed from its own policy of allowing SIJS deferred action recipients to retain that deferred action unless USCIS's individualized review of the relevant positive and negative discretionary factors indicated that deferred action was no longer appropriate. *See* USCIS Policy Manual, vol. 6, part J, ch. 4, <https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4>; USCIS Policy Manual as of April 18, 2025, vol. 6, pt. J, ch. 4, <https://web.archive.org/web/20250418205752/https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4>; Exh. 14, USCIS-ICE Memo at 2.

108. “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); *Montilla v. I.N.S.*, 926 F.2d 162, 167 (2d Cir. 1991); *Abdi v. Duke*, 280 F. Supp. 3d 373, 386-87 (W.D.N.Y. 2017), *vacated in part on other grounds sub nom. Abdi v. McAleenan*, 405 F. Supp. 3d 467 (W.D.N.Y. 2019). The “procedures” that agencies are required to follow include both formal agency regulations and informal operating procedures and guidance—like USCIS’s Policy Manual and internal agency memoranda. *See Montilla*, 926 F.3d at 167. The *Accardi* doctrine applies “even where the internal procedures are possibly more rigorous than otherwise would be required.” *Id.* (quoting *Morton*, 415 U.S. at 235). So long as those procedures affect individuals’ rights, they “cannot be ignored by the agencies themselves even where discretionary decisions are involved.” *Abdi*, 20 F.3d at 386-87 (quoting *Smith v. Resor*, 406 F.2d 141 (2d Cir. 1969)).

109. Here, USCIS’s policies clearly affect the rights of individuals like Fernando, ensuring that they are entitled to an individualized review by USCIS of relevant discretionary factors before their deferred action can be prematurely terminated. But Fernando was deprived of this

individualized review, and his deferred action was instead terminated based only on ICE's arbitrary arrest, detention, and pursuit of his removal on the very basis he was granted deferred action in the first place. This violated USCIS's own procedures, thereby running afoul of the *Accardi* doctrine. *Cf. Accardi*, 347 U.S. at 266-67 (holding that the BIA violated its own regulations by failing to engage in an individualized, discretionary determination of whether the plaintiff was entitled to relief, instead making a decision based solely on the Attorney General putting the plaintiff's name on a list of noncitizens he wanted deported); *Damus v. Nielsen*, 313 F. Supp. 3d 317, 339 (D.D.C. 2018) (finding that ICE's denial of parole to noncitizen detainees in "virtually all cases" indicated a failure to provide the individualized review required by a binding internal directive, likely violating the *Accardi* doctrine).

I. USCIS's Unexplained Termination of Fernando's Deferred Action and Employment Authorization with No Prior Notice or Opportunity to Be Heard Violated His Procedural Due Process Rights

110. Separate and apart from the arbitrary and capricious nature of USCIS's actions, the agency's termination of Fernando's deferred action and employment authorization violates his right to procedural due process under the Fifth Amendment. Fernando has gained a protected property interest in his deferred action and corresponding employment authorization, which authorized him to live and work in the United States for more than two years, and therefore has a right to a fair procedure before it can be revoked. Yet USCIS stripped Fernando of this interest without providing him any prior notice, a reasoned explanation for its decision, or an opportunity to present arguments and evidence to demonstrate that he remains eligible for deferred action. It has also failed to provide for any reinstatement procedure in cases where the termination decision was in error.

111. Evaluating the *Mathews* factors in this context, it is clear that Fernando warranted additional process before being stripped of his deferred action and employment authorization. *First*, regardless of whether an individual has a claim of entitlement to a benefit before it is granted, once an important benefit is conferred, the recipient has a protected property interest sufficient to require a fair process before the government may take that benefit away. *See Bell v. Burson*, 402 U.S. 535, 539 (1971) (holding that, “[o]nce [driver’s] licenses are issued, . . . their continued possession may become essential in the pursuit of a livelihood,” such that they cannot “be taken away without” due process); *Nnebe v. Daus*, 644 F.3d 147, 158 (2d Cir. 2011) (recognizing that taxi drivers have a protected property interest in the continued possession of their operating licenses, such that suspending licenses without a hearing violated due process); *Singh v. Bardini*, No. 09-cv-3382, 2010 WL 308807, at *7 (N.D. Cal. Jan. 19, 2010) (“Even if there is no constitutional right to be granted asylum, that does not mean that, once granted, asylum status can be taken away without any due process protections.”) (internal citation omitted); *Ramirez Medina v. U.S. Dep’t of Homeland Sec.*, No. C17–0218RSM, 2017 WL 5176720, at *8 (W.D. Wash. Nov. 8, 2017) (rejecting argument that no process is due to DACA recipients prior to termination, as “benefits have already been conferred”).
112. Here, Fernando’s grant of deferred action—governed by a “standard review process” with a “formal [approval] notice”—was “effectively [an] adjudication[.]” *Regents*, 591 U.S. at 18. “DHS’s decision to grant deferred action” is thus “an affirmative act of approval” that “confer[s] affirmative immigration relief,” *id.*, including the ability to seek lawful employment. Accordingly, the “grant of [deferred action] constitutes a conferred benefit that requires procedural safeguards before it can be terminated.” *Inland Empire - Immigrant Youth Collective*, 2018 WL 4998230 at *19-20.

113. Moreover, the importance of this benefit, as the Second Circuit found in the context of taxi licenses, makes the stakes for Fernando “enormous.” *Nnebe*, 644 F.3d at 159. Deferred action and is essential to his ability to remain in the United States to pursue LPR status as Congress intended, while employment authorization is the only way he can earn a livelihood to support himself and his family. “The Supreme Court has repeatedly ‘recognized the severity of depriving someone of the means of his livelihood.’” *Id.* (quoting *Gilbert v. Homar*, 520 U.S. 924, 932 (1997)). Consequently, USCIS’s reversal of its previous decision that Fernando was eligible for deferred action inflicts precisely the kind of “serious loss” that requires due process protections. *Mathews*, 424 U.S. at 328 (internal quotation marks omitted).
114. *Second*, there can be no doubt that the termination notice USCIS provided Fernando—an unreasoned, unappealable post-hoc notice that his deferred action had been terminated, and a notice of the automatic revocation of his accompanying employment authorization absent unattainable evidence showing he still retained deferred action—creates an unacceptably high risk of the erroneous deprivation of his property interest. Indeed, “[t]he essence of due process is the requirement that a person in jeopardy of serious loss be given notice of the case against him” and “the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Mathews*, 424 U.S. at 332, 333 (citations omitted); *see also id.* (“The ‘right to be heard before being condemned to suffer grievous loss of any kind ... is a principle basic to our society.’”) (citation omitted); *Zinermon*, 494 U.S. at 127 (1990) (confirming that the Supreme Court “usually has held that the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property”); *Hilfiger v. Alger*, 582 F. Supp. 2d 418, 425-26 (W.D.N.Y. 2008), *aff’d*, 387 F. App’x 111 (2d Cir. 2010) (confirming that “due process typically requires predeprivation notice and an opportunity to be heard”).

115. Here, Fernando was not afforded any advance notice or any explanation of the deprivation of his deferred action and employment authorization—much less the right to be heard. This all but ensures the erroneous deprivation of these critical benefits. *See Black*, 103 F.4th at 152 (noting that “the almost nonexistent procedural protections in place . . . markedly increased the risk of erroneous deprivation”); *Singh v. Vasquez*, No. 08-cv-1901, 2009 WL 3219266, at *5 (D. Ariz. Sept. 30, 2009), *aff’d*, 448 F. App’x 776 (9th Cir. 2011) (“[T]here is a substantial risk of erroneous deprivation through the procedures utilized by INS in rescinding asylum via a mailed letter. This manner of termination does not account for anything other than post hoc notice that . . . he or she is no longer entitled to protection.”). Providing Fernando with a reasoned explanation for the government’s actions and an opportunity to present arguments and evidence could make all the difference in his case, as it would allow him to demonstrate that he continues to remain eligible for deferred action under the relevant discretionary factors. Fernando’s circumstances thus highlight the value of “the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Mathews*, 424 U.S. at 333 (citation omitted).
116. *Third*, the fact that USCIS already provides for advance notice and the opportunity to be heard with respect to the termination of other forms of deferred action reinforces both that the value of such safeguards is high, and that providing such limited process would not place undue fiscal or administrative burdens on the government. *See* 8 C.F.R. § 236.23(d)(1) (indicating that “USCIS will provide a Notice of Intent to Terminate [“NOIT”] and an opportunity to respond prior to terminating a grant of [DACA],” unless the individual is convicted of certain “national security-related” or “egregious public safety” offenses); *see also* Final Rule, Deferred Action for Childhood Arrivals, 87 Fed. Reg. 51352, 53245-46 (Aug. 30, 2022) (“DHS agrees with commenters that in most cases, there are good reasons to give DACA recipients

adequate notice and an opportunity to respond prior to termination of their DACA. This approach will promote fairness and accuracy in the decision-making process for terminating a DACA grant by allowing DACA recipients the opportunity to correct any incorrect information and provide supplementary information to rebut the intended basis for termination. ... Eliminating automatic termination based on NTA issuance and generally providing NOITs except in circumstances involving certain convictions also mitigates commenters' concerns that automatic termination fails to take into consideration DACA recipients' reliance interests."). In any event, although it may impose "some costs in time, effort, and expense" to provide pre-deprivation notice and an opportunity to be heard, "these rather ordinary costs cannot outweigh the constitutional right" to due process. *Fuentes v. Shevin*, 407 U.S. 67, 92 n.22 (1972).

117. For these reasons, USCIS's termination of Fernando's deferred action and employment authorization without any meaningful process runs afoul of his Fifth Amendment procedural due process rights.

CAUSES OF ACTION

FIRST CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Substantive Due Process) – Unlawful Detention

118. Fernando repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.
119. In order to satisfy the substantive due process requirements of the Fifth Amendment, a noncitizen's detention must be tied to some lawful purpose, which does not exist when the individual is not a flight risk or a danger to the community. *Zadvydas*, 533 U.S. at 690. Here, Fernando is not a flight risk nor is he a danger to the community. Respondents' detention of

Fernando is therefore unjustified and unlawful. Accordingly, Fernando is being detained in violation of his Constitutional right to Due Process under the Fifth Amendment. This necessitates his release at habeas.

SECOND CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Procedural Due Process) – Unlawful Detention

120. Fernando repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

121. The procedural due process guarantees of the Fifth Amendment ensure that noncitizens cannot be deprived of liberty or property interests without due process of law. *Barrows v. Burwell*, 777 F.3d 106, 113 (2d Cir. 2015) (quoting *Mathews*, 424 U.S. at 332). Here, the government made the reasoned decision to release Fernando on August 7, 2021. It then dismissed his removal proceedings, granted him SIJS, and allowed him to live at liberty for the next four years. Respondents violated Fernando's right to procedural due process by re-arresting and detaining him on July 12, 2025, without providing adequate procedural protections before (or after) the resultant deprivation of his liberty. This independently requires his release at habeas to restore him to the status quo ante.

THIRD CLAIM

Violation of the Fourth Amendment to the U.S. Constitution, 8 U.S.C. § 1357(a)(2), and 8 C.F.R. § 287.3(d) – Unlawful Detention

122. Fernando repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

123. At the time of Fernando's arrest and detention on July 12, 2025, he had been living at liberty pursuant to a release by federal immigration authorities on August 7, 2021.

124. The government lacked reliable information of changed or exigent circumstances that would justify his arrest and detention after federal immigration authorities had already decided he could pursue his claims for immigration relief at liberty. His re-arrest based solely on the fact that he is subject to removal proceedings is unreasonable and violates the Fourth Amendment.
125. As Fernando was also arrested without a warrant despite the fact that no officer could have a reasonable belief that he was present in violation of the immigration laws and presented a risk of escape before a warrant could be obtained, there has been no probable cause hearing or custody review that could justify his detention since, and no emergency or extraordinary circumstances could excuse this, his arrest also violated the Fourth Amendment, 8 U.S.C. § 1357(a), and 8 C.F.R. § 287.3(d). As his arrest lacked a legal basis and there continues to be no legal basis for his detention, this requires his release at habeas.

FOURTH CLAIM

Violation of the INA, 8 U.S.C. § 1226(a) – Unlawful Detention

126. Fernando repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.
127. Fernando's detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2)(A), given his prior UC processing, valid SIJS grant, four years of presence in the United States, and interior apprehension. The application of 8 U.S.C. § 1225(b)(2)(A) to Fernando thus violates the INA.

FIFTH CLAIM

**Violation of the INA and Implementing Regulations, 8 U.S.C. § 1357(a)(2);
8 C.F.R. § 287.3(d) – Unlawful Detention**

128. Fernando repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.
129. Respondents arrested Fernando without an administrative warrant or the reasonable belief that he would flee before a warrant could be obtained.
130. Nor did Respondents make findings within 48 hours of arrest that Fernando is dangerous or a flight risk. No emergency or extraordinary circumstances justify this delay.
131. As Fernando's arrest violated the INA and implementing regulations, his current detention is unlawful and he should be released at habeas.

SIXTH CLAIM

**Violation of the APA, 5 U.S.C. §§ 702, 706 –
Unlawful Detention**

132. Fernando repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.
133. Under the APA, "final agency action for which there is no other adequate remedy in a 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).
134. Respondents' unilateral decision to arrest and detain Fernando on July 12, 2025, even though no circumstances had changed since its prior determination that he presented no risk of flight or danger, and even though he had an approved SIJS petition and an approved grant of

deferred action, was not in accordance with the Constitution, the INA, and its implementing regulations, as explained above. It should therefore be set aside under the APA as “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;” 5 U.S.C. §706(2)(A) and “in excess of statutory jurisdiction, authority or limitations, or short of statutory right,” 5 U.S.C. §706(2)(C).

SEVENTH CLAIM

Violation of the APA, 5 U.S.C. §§ 702, 706 – Unlawful Termination of Deferred Action

135. Fernando repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.
136. USCIS’s unexplained termination of Fernando’s deferred action and employment authorization based solely on his detention on removal charges for lack of lawful immigration status is arbitrary and capricious in violation of the APA for multiple reasons, including that it does not reflect reasoned decisionmaking; it improperly rests the termination decision on the arbitrary enforcement decisions of ICE officers; and it does not provide any good reason for the change in the agency’s position as to granting deferred action.

EIGHTH CLAIM

Violation of the *Accardi* Doctrine – Unlawful Termination of Deferred Action

137. Fernando repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.
138. USCIS’s termination of Fernando’s deferred action and employment authorization based solely on the fact of his detention on removal charges for lack of lawful immigration status violates the agency’s own binding policies, which affect individual rights, and which require

USCIS to make an individualized assessment of relevant discretionary factors before terminating a youth's SIJS deferred action.

NINTH CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Procedural Due Process) – Unlawful Termination of Deferred Action

139. Fernando repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

140. USCIS's termination of Fernando's deferred action and employment authorization violates his right to procedural due process under the Fifth Amendment. Once deferred action and corresponding employment authorization have been granted, they cannot be taken away without adequate process. Here, Respondents failed to provide Fernando any meaningful process upon termination of his deferred action and employment authorization. That termination was without prior notice, a reasoned explanation, or any opportunity to respond and present arguments and evidence to demonstrate that he continues to be eligible for and warrants deferred action. It also fails to provide for any reinstatement procedure in cases where the termination decision was in error. This does not constitute adequate process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- a. Assume jurisdiction over this matter;
- b. Enjoin the Respondents from transferring Petitioner away from the jurisdiction of this District pending these proceedings;
- c. Declare that Petitioner's arrest and detention violates the Due Process Clause of the Fifth Amendment; the Fourth Amendment; and the INA and implementing regulations;
- d. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner

from custody without restraints on his liberty beyond those that existed prior to his unlawful re-detention;

- e. Order Respondents to show cause why the writ should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243;
- f. Order that Respondents cannot re-detain Petitioner without a pre-deprivation hearing before this Court where the government bears the burden of justifying re-detention by clear and convincing evidence;
- g. Vacate the unlawful termination of Fernando's deferred action and employment authorization;
- h. Order that Respondents cannot terminate Fernando's deferred action based on his detention to pursue removal for lack of lawful immigration status;
- i. Order that Respondents cannot terminate Fernando's deferred action without first providing reasonable notice of intent to terminate, a reasoned explanation, and an opportunity to submit arguments and evidence in response;
- j. In the alternative, order temporary reinstatement of Fernando's deferred action pending a fair procedure—including reasonable notice of intent to terminate, a reasoned explanation, and an opportunity to submit arguments and evidence in response;
- k. 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
- l. Grant such further relief as this Court deems just and proper.

DATED: November 4, 2025
New York, New York

Respectfully Submitted,

/s/ Sarah T. Gillman

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am one of the Petitioner's attorneys. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

DATED: November 4, 2025
New York, NY

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