

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

Vasquez-Salazar, Deyvis Gamaliel

A 

Petitioner,

v.

Pamela BONDI, in her official capacity as
U.S. Attorney General;

Marcos CHARLES, in his official capacity as
Acting Executive Associate Director,
Enforcement and Removal Operations;

Todd M. LYONS, in his official capacity as
Acting Director, Immigration and Customs
Enforcement;

Kristi NOEM, in her official capacity as
Secretary of the U.S. Department of
Homeland Security

John TSOUKARIS, in his official capacity as
Colonel of the Corrections Division at the
Delaney Hall Detention Facility;

Respondents.

Docket No:

**PETITION FOR
WRIT OF HABEAS
CORPUS AND
EMERGENCY
MOTION FOR
IMMEDIATE
RELEASE**

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I. INTRODUCTION

1. Petitioner Deyvis Gamaliel Vasquez-Salazar ("Deyvis" or "Petitioner"), a nineteen-year-old native and citizen of Guatemala, hereby petitions this Court under 28 U.S.C. § 2241 to issue a Writ of Habeas Corpus ordering his immediate release from the unlawful custody of the Department of Homeland Security, United States Immigration and Customs Enforcement ("ICE").
2. This case involves the arbitrary detention of a teenager who entered the United States as an unaccompanied alien child, was properly released by the Office of Refugee Resettlement ("ORR") to a sponsor, has been lawfully pursuing relief before the immigration courts with a master calendar hearing scheduled for 2026, and is actively eligible for Special Immigrant Juvenile ("SIJ") status—a form of humanitarian relief specifically created by Congress to protect abused, neglected, and abandoned children.
3. On or about October 20, 2025, ICE detained Deyvis without warning outside of his home address at [REDACTED] He has now been detained at the Delaney Hall Detention Facility located at 451 Doremus Ave, Newark, NJ 07105, for approximately sixteen (16) days. His detention violates federal law, regulations governing the treatment of former unaccompanied minors, and his constitutional rights to due process.
4. Deyvis poses no flight risk and no danger to the community. He has stable family ties, has complied with all immigration requirements, and has never absconded. Most critically, he is eligible for and actively pursuing SIJ status—relief that would allow him

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to obtain lawful permanent residence in the United States. His detention serves no legitimate government interest and must end immediately.

II. JURISDICTION

5. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.*, and Article I, Section 9, Clause 2 of the U.S. Constitution. *See Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001).

III. VENUE

6. Venue is proper in this District because Petitioner is currently detained at Delaney Hall Detention Facility located at 451 Doremus Ave, Newark, NJ 07105.

IV. PARTIES


7. **Petitioner Deyvis Gamaliel Vasquez-Salazar** is a nineteen-year-old native and citizen of Guatemala. He is currently in ICE custody at Elizabeth Contract Detention Facility.
8. **Respondent Pamela Bondi** is the duly appointed, qualified, and confirmed Attorney General of the United States, and as such is the official charged with the enforcement of immigration laws.
9. **Respondent Marcos Charles**, in his official capacity as Acting Executive Associate Director, Enforcement and Removal Operations, is responsible for the enforcement and removal of aliens, including Petitioner.

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10. **Respondent Todd M. Lyons**, in his official capacity as Acting Director, Immigration and Customs Enforcement, is responsible for the administration of ICE functions relating to detention and removal of aliens.
11. **Respondent Kristi Noem** is the Secretary of the Department of Homeland Security ("DHS"). Her responsibilities include administering and enforcing the Immigration and Nationality Act and overseeing all immigration enforcement operations.
12. **Respondent John Tsoukaris**, in his official capacity as Warden of Delaney Hall Detention Facility, is responsible for maintaining custody of Petitioner.

V. BACKGROUND

A. Deyvis's Entry and Status as an Unaccompanied Alien Child

13. Deyvis is a native and citizen of Guatemala who was born on  He is currently nineteen years old. (See Exhibit A, Petitioner's Birth Certificate with certified English translation).
14. Deyvis entered the United States without inspection near El Paso, Texas on or about March 30, 2023, when he was sixteen years old. (See Exhibit B, Notice to Appear "NTA").
15. Upon his apprehension by immigration authorities, Deyvis was properly classified as an "unaccompanied alien child" ("UAC") under 6 U.S.C. § 279(g)(2), which defines a UAC as a child who has no lawful immigration status, is under eighteen years of age, and has no parent or legal guardian in the United States available to provide care and physical custody. (See Exhibit C, U.S. Department of Health and Human Services ("HHS") Office

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of Refugee Resettlement (“ORR”) Division of Unaccompanied Children Operations (“DUCO”) Verification of Release).

16. As a UAC, Deyvis was transferred to the custody of the Office of Refugee Resettlement (“ORR”) within the Department of Health and Human Services, as required by the Trafficking Victims Protection Reauthorization Act (“TVPRA”) and the Flores Settlement Agreement.

17. ORR placed Deyvis in the SWK Trail House Residential Program at 4561 O’Leary Road, El Paso, Texas 79938, where he resided while ORR conducted a home study and background investigation of his proposed sponsor.

B. Release to Sponsor and Compliance with Immigration Requirements

18. Following a thorough vetting process, ORR determined that it was in Deyvis’s best interest to be released to his uncle, Daniel Vasquez Asmen, who resides at 49 Maple Avenue Apt 3, Keansburg, NJ 07734. (See Exhibit D, ORR Notification to ICE Chief Counsel Release of Unaccompanied Alien child to Sponsor and Request to Change Address).

19. On or about April 16, 2023, ORR released Deyvis to his uncle’s care, as documented in the ORR Release Notification. ORR certified that the sponsor was notified of his obligation to ensure Deyvis’s appearance at all immigration proceedings and to inform the immigration court of any change of address.

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20. Since his release, Deyvis has resided continuously with his uncle in Keansburg, New Jersey. He has established strong ties to the community and has complied with all immigration requirements.
21. Deyvis has never failed to appear for any required immigration check-in or court hearing.
22. Following his release to his uncle, Deyvis promptly enrolled in Keansburg High School on or about May 11, 2023. He was placed in the bilingual ESL/ELS program as documented in the school's notification of continuing placement dated May 22, 2023, demonstrating his commitment to education and integration into the community. (See Exhibit E, Keansburg High School Notification of Continuing Placement in Bilingual ESL/ELS Program dated May 22, 2023, and Report Card reflecting entry date of May 11, 2023).

C. Pending Immigration Proceedings

23. On or about March 31, 2023, the Department of Homeland Security issued Deyvis a Notice to Appear (Exhibit B), charging him as removable under Section 212(a)(6)(A)(i) of the Immigration and Nationality Act as an alien present in the United States without being admitted or paroled.
24. Deyvis's case has been pending before the Newark Immigration Court. His master calendar hearing was initially scheduled for July 9, 2026, at 8:30 A.M. before the Newark Immigration Court before Honorable Judge David Cheng, providing him adequate time to pursue relief from removal, including Special Immigrant Juvenile status. However, as of

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October 28, 2025, the hearing was reset to take place on November 10, 2025, at 9:00

A.M. (See Exhibit F, Notice of Hearing).

25. On August 28, 2025, the petitioner filed Written Pleadings before the Newark Immigration Court indicating his intention to pursue the following forms of relief:

Asylum/Withholding of Removal (Restriction on Removal)

CAT

Special Immigrant Juvenile

Voluntary Departure

Termination of Proceedings

(See Exhibit G, Copy of Filed Written Pleadings).

26. On October 23, 2025, ICE filed a Notice to EOIR (Form I-830E) confirming that Deyvis was detained by ICE on October 20, 2025, at Delaney Hall Detention Facility and that he was provided with an EOIR-33 form. (See Exhibit H, Form I-830E, Notice of Alien Address).

D. Eligibility for Special Immigrant Juvenile Status


27. Deyvis is eligible for Special Immigrant Juvenile status under Section 101(a)(27)(J) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(27)(J).

28. SIJ status is a form of humanitarian relief created by Congress specifically to protect immigrant children who have been abused, neglected, or abandoned. It provides a pathway to lawful permanent residence.

29. To qualify for SIJ status, a minor must obtain findings from a juvenile court that:

1. The minor is dependent upon the court or has been legally committed to or placed under the custody of a state agency or individual appointed by the court;

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2. Reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; and
 3. It is not in the minor's best interest to be returned to their country of origin.
30. Upon information and belief, Deyvis meets all eligibility criteria for SIJ status based on abandonment by his parents and the lack of parental care available to him in Guatemala.
31. Upon information and belief, Deyvis intends to file for SIJ status and has retained undersigned counsel to initiate the necessary state court proceedings.
32. On November 4, 2025, undersigned counsel filed a Verified Complaint in the Superior Court of New Jersey, Chancery Division-Family Part, Monmouth County, seeking sole legal custody of Deyvis and the predicate findings necessary for Special Immigrant Juvenile status under 8 U.S.C. § 1255(h). The filing was successfully submitted with Transaction ID  demonstrating Deyvis's prima facie eligibility for SIJ relief and his active pursuit of this form of humanitarian protection. (See Exhibit I, Filing Confirmation Receipt from New Jersey Courts showing Transaction ID EF-3740180).

E. ICE's Arbitrary Detention

31. On or about October 20, 2025, when Deyvis was detained by ICE agents outside of his home without prior notice or explanation.
32. Deyvis was subsequently transferred to the Delaney Hall Detention Facility, located at 451 Doremus Avenue, Newark, NJ 07105, where he remains detained.
33. Upon information and belief, ICE has not provided Deyvis or his counsel with a bond hearing or any meaningful opportunity to challenge his detention.

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34. As of October 20, 2025, Deyvis has been detained for approximately sixteen (16) days.

35. Deyvis's detention has caused him severe emotional distress, separation from his family, and disruption of his efforts to pursue SIJ relief and build a stable life in the United States.

VII. LEGAL ARGUMENT

**COUNT I: VIOLATION OF THE TRAFFICKING VICTIMS PROTECTION
REAUTHORIZATION ACT AND FLORES SETTLEMENT**

36. Congress enacted the William Wilberforce Trafficking Victims Protection Reauthorization Act ("TVPRA") in 2008 to establish special protections for unaccompanied alien children. 8 U.S.C. § 1232.

37. The TVPRA reflects Congress's recognition that children who arrive in the United States alone are uniquely vulnerable and require heightened procedural safeguards and access to counsel and child welfare services.

38. Under the TVPRA, an unaccompanied alien child must be transferred to ORR custody within 72 hours of apprehension and cannot be housed in immigration detention facilities designed for adults. 8 U.S.C. § 1232(b)(1).

39. The *Flores* Settlement Agreement similarly mandates that minors in immigration custody be held in the least restrictive setting appropriate to their age and special needs, be released to qualified sponsors without unnecessary delay, and receive adequate care and services while in custody.

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40. Once ORR releases a UAC to a sponsor following a thorough vetting process, that release reflects ORR's determination that: (a) the child is not a flight risk or danger to the community; (b) the sponsor is suitable and capable of providing for the child's physical and mental well-being; and (c) release is in the child's best interest.
41. The purpose of the TVPRA's custody provisions is to ensure that children are placed in safe, stable environments where they can pursue their immigration cases while receiving appropriate care—not to facilitate their re-detention by ICE for immigration enforcement purposes.

ICE's Detention of Deyvis Violates the TVPRA Framework

42. Deyvis entered the United States as a UAC when he was sixteen (16) years old. He was properly processed under the TVPRA framework and released by ORR to a vetted sponsor after a comprehensive home study and background investigation.
43. Deyvis's release to his uncle represented ORR's expert determination that he posed no flight risk or danger and that release was in his best interest.
44. Since his release, Deyvis has vindicated ORR's determination by complying with all immigration requirements, maintaining stable residence with his sponsor, and appearing for all required check-ins and proceedings.
45. ICE's decision to detain Deyvis nearly two (2) years after his ORR release on April 16, 2023—without any showing of changed circumstances, new criminal conduct, or flight risk—subverts the TVPRA framework and ORR's expert child welfare determinations.

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46. By detaining a former UAC who was properly released by ORR and who is actively pursuing humanitarian relief specifically designed by Congress to protect vulnerable children, ICE has acted contrary to the protective purposes of the TVPRA.

47. The Third Circuit has recognized that immigration detention of minors raises special concerns and must be narrowly tailored to legitimate government interests. *Flores v. Lynch*, 828 F.3d 898 (9th Cir. 2016). ICE's detention of Deyvis serves no such interest.

VIII. COUNT II: VIOLATION OF 8 U.S.C. § 1226—UNLAWFUL DETENTION

WITHOUT STATUTORY AUTHORITY

48. The Immigration and Nationality Act establishes specific standards for the detention of aliens in removal proceedings. Under 8 U.S.C. § 1226(a), the Attorney General may arrest and detain an alien pending a decision on removal but must make an individualized determination regarding custody.

49. Section 1226(a) provides that the Attorney General "may release" the alien on bond or conditional parole. The statute creates a presumption in favor of release, subject to the government demonstrating that detention is necessary to ensure appearance or protect public safety.

50. ICE's regulations implementing Section 1226 require that custody determinations be made on a case-by-case basis, considering factors such as:

- a. Whether the alien poses a flight risk;
- b. Whether the alien poses a danger to the community;
- c. The alien's ties to the community;

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- d. The alien's criminal history;
 - e. The alien's immigration history and compliance with prior release conditions. See 8 C.F.R. § 236.1(c).
52. For aliens who were previously released and are complying with conditions of supervision, ICE must provide particularized justification for re-detention based on changed circumstances or new information.

ICE Has Failed to Justify the Petitioner's Detention

53. Deyvis poses no flight risk. He has:
- a. Resided continuously at the same address with his uncle since his ORR release;
 - b. Maintained stable family ties in New Jersey;
 - c. Appeared for all required immigration check-ins and proceedings;
 - d. Never attempted to abscond or evade immigration authorities;
 - e. Actively pursued his immigration case, with a master hearing scheduled for 2026;
 - f. Enrolled in Keansburg High School immediately after his release, demonstrating his commitment to establishing roots and building a future in the United States.
54. Deyvis poses no danger to the community. He has:
- a. No criminal convictions;
 - b. No history of violence or threats;
 - c. Been living peacefully in his community since his release from ORR custody.
55. Deyvis has strong equities supporting his release:
- a. He was released by ORR following a comprehensive vetting process;

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- b. He is eligible for SIJ status, a form of humanitarian relief that could lead to lawful permanent residence;
 - c. He is nineteen years old with his entire future ahead of him;
 - d. He has a stable sponsor willing to provide care and supervision;
 - e. He has been actively pursuing his education at Keansburg High School since May 2023, enrolled in the bilingual ESL/ELS program, showing his dedication to integration and self-improvement.
56. Upon information and belief, ICE has not identified any changed circumstances, new criminal conduct, or evidence of flight risk that would justify detaining Deyvis after his successful compliance with supervision conditions.
57. ICE's detention of Deyvis violates Section 1226(a) because it is not supported by any legitimate government interest and disregards the individualized factors that govern custody determinations.

IX. COUNT III: VIOLATION OF DUE PROCESS—ARBITRARY DETENTION
WITHOUT BOND HEARING

58. The Fifth Amendment prohibits deprivation of liberty without due process of law. This protection extends to all persons within the United States, including aliens in removal proceedings. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
59. In *Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir. 2013), *aff'd sub nom. Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court recognized that prolonged immigration detention without a bond hearing raises serious constitutional concerns.

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60. While the Supreme Court in *Jennings* did not reach the constitutional question, it emphasized that aliens detained under Section 1226(a) are entitled to bond hearings where the government bears the burden of proving that detention is justified.
61. The Third Circuit has held that aliens detained under Section 1226(a) for more than six months are entitled to bond hearings at which the government must demonstrate by clear and convincing evidence that continued detention is necessary. *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. 2011).
62. Due process requires that detention be reasonable in length and bear a rational relationship to a legitimate government purpose. Indefinite detention without individualized review violates substantive due process. *Zadvydas*, 533 U.S. at 690.

The *Yajure Hurtado* Decision Does Not Apply to Petitioner's Case

63. In *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals held that Immigration Judges lack authority to conduct bond hearings for aliens who are "applicants for admission" under INA § 235(a)(1)—specifically, aliens present in the United States without having been admitted or inspected—because such aliens are subject to mandatory detention under INA § 235(b)(2)(A).
64. The *Yajure Hurtado* decision creates a categorical bar to bond hearings for certain aliens who entered without inspection, holding that they remain "applicants for admission" indefinitely until formally admitted by an immigration officer.
65. However, Deyvis's case is factually and legally distinguishable from *Yajure Hurtado* for several critical reasons:

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- a. Unlike the respondent in *Yajure Hurtado*, who was continuously detained after apprehension, Deyvis was previously released from ORR custody following an individualized determination that he posed neither a flight risk nor a danger to the community. This prior release demonstrates that the government itself previously concluded that detention was not necessary in his case.
 - b. Deyvis entered the United States as an unaccompanied minor and was processed through ORR's specialized custody system for children, which provides heightened procedural protections. He was released to his uncle's care under ORR supervision, not subjected to the expedited removal process contemplated in INA § 235(b).
 - c. Deyvis's case involves re-detention after a period of supervised release and compliance, not initial detention upon apprehension. ICE's decision to re-detain him represents a new deprivation of liberty that requires independent justification.
 - d. Deyvis has established prima facie eligibility for SIJ status and has strong prospects for lawful status, distinguishing him from aliens with no viable path to relief.
66. Even if *Yajure Hurtado* were deemed applicable, it presents serious constitutional concerns that warrant distinction or limitation in cases involving minors who have been released and complied with supervision requirements.

ICE Has Denied Petitioner Due Process

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67. Upon information and belief, ICE has not provided Deyvis with a bond hearing or any meaningful opportunity to challenge his detention.
68. Furthermore, the *Yajure Hurtado* decision has severely limited immigration judges' jurisdiction to hear bond matters for certain individuals, effectively leaving the decision whether to detain or release entirely to the Department of Homeland Security without neutral judicial oversight. This wholesale delegation of detention authority to the executive branch, without meaningful judicial review, raises grave due process concerns—particularly in cases like Deyvis's, where the individual was previously released and has complied with all supervision requirements.
69. Deyvis has been detained for sixteen (16) days without any determination by a neutral arbiter that his detention is justified.
70. ICE's failure to provide a bond hearing is particularly egregious given that:
- a. Deyvis was previously released by ORR based on a finding that he posed no flight risk or danger;
 - b. Deyvis has complied with all immigration requirements since his release;
 - c. Deyvis is eligible for SIJ status and has strong prospects for relief;
 - d. Deyvis is only nineteen years old;
 - e. ICE has identified no changed circumstances justifying detention.
71. The government cannot satisfy its burden of proving that Deyvis's detention is necessary when the undisputed facts demonstrate that he poses no flight risk or danger.

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72. Continued detention without a bond hearing violates Deyvis's right to due process and must be immediately remedied.

X. COUNT IV: VIOLATION OF DUE PROCESS—INTERFERENCE WITH ACCESS

TO COUNSEL AND SIJ RELIEF

73. The right to pursue relief from removal is a fundamental component of due process in immigration proceedings. *I.N.S. v. Cardoza-Fonseca*, 480 U.S. 421, 449 (1987).

74. Detention that interferes with an alien's ability to pursue available relief violates due process, particularly when that relief is humanitarian in nature and specifically designed by Congress to protect vulnerable populations.

75. Special Immigrant Juvenile status requires coordination between immigration proceedings and state juvenile court proceedings. Obtaining SIJ status typically involves:

- a. Filing a petition in state family or juvenile court for findings regarding dependency, parental reunification, and best interest;
- b. Obtaining the necessary state court order;
- c. Filing an SIJ petition with U.S. Citizenship and Immigration Services;
- d. Pursuing adjustment of status.

76. This process requires regular communication with attorneys, family members, and social services providers. It often requires the applicant to appear for state court proceedings, meet with evaluators, and gather supporting documentation.

77. Detention severely hampers a minor's ability to pursue SIJ relief by:

- a. Limiting access to counsel and ability to prepare the case;

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- b. Preventing attendance at state court proceedings;
- c. Interfering with relationships with sponsors and family members who provide crucial support;
- d. Creating psychological trauma that interferes with the applicant's ability to participate meaningfully in proceedings;
- e. Preventing the gathering of necessary documentation and evidence.

The Petitioner's Detention Interferes with His Ability to Pursue SIJ Relief

78. Deyvis is detained at Elizabeth Contract Detention Facility in New Jersey, separated from his uncle and support network in Keansburg.

79. Upon information and belief, Deyvis's detention has made it difficult or impossible for him to:

- a. Consult regularly with immigration and family law counsel regarding SIJ proceedings;
- b. Participate in state juvenile court proceedings that are necessary for SIJ relief;
- c. Gather supporting documentation and evidence for his SIJ application;
- d. Maintain relationships with his sponsor and family members who can support his case.

80. SIJ relief is time-sensitive. Applicants must generally file before turning twenty-one (21) years old. Deyvis is currently nineteen (19) years old, meaning he has a limited window to pursue this relief.

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81. Every day of detention reduces Deyvis's ability to effectively pursue SIJ status and decreases the likelihood that he will be able to complete the process before aging out of eligibility.

82. ICE's detention of Deyvis—without any legitimate justification and at a critical juncture in his pursuit of humanitarian relief—violates his due process right to meaningful access to available relief from removal.

**XI. COUNT V: ARBITRARY AND CAPRICIOUS AGENCY ACTION UNDER THE
ADMINISTRATIVE PROCEDURE ACT**

83. Petitioner realleges and incorporates paragraphs 1-82 as if fully set forth herein.

84. ICE's decision to detain the Petitioner constitutes arbitrary and capricious agency action in violation of the Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2)(A).

85. Under the APA, agency action must be set aside if it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

86. Agency action is arbitrary and capricious when the agency:

- a. Relies on factors Congress did not intend it to consider;
- b. Entirely fails to consider an important aspect of the problem;
- c. Offers an explanation that runs counter to the evidence;
- d. Makes a decision that is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.

ICE's Detention Decision Is Arbitrary and Capricious

87. ICE's decision to detain Deyvis is arbitrary and capricious because:

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- a. It contradicts ORR's prior expert determination that Deyvis posed no flight risk or danger and that release was in his best interest;
 - b. It ignores Deyvis's perfect compliance record since his ORR release;
 - c. It fails to consider Deyvis's eligibility for SIJ status and the importance of allowing him to pursue humanitarian relief;
 - d. It provides no explanation for why detention is suddenly necessary after Deyvis successfully lived in the community under supervision;
 - e. It disregards the special protections afforded to former UACs under the TVPRA and *Flores*;
 - f. It serves no legitimate government interest in ensuring appearance or protecting public safety.
88. ICE's detention decision also violates the APA because it is "not in accordance with law"—specifically, it contravenes the TVPRA, Section 1226(a), and the due process requirements discussed above.
89. ICE's arbitrary detention of Deyvis must be set aside under the APA.

XII. IRREPARABLE HARM AND NEED FOR EMERGENCY RELIEF

90. Every day of unlawful detention constitutes irreparable injury to Deyvis's fundamental liberty interests that cannot be adequately compensated through monetary damages. *Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.").

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91. The harm to Deyvis is particularly acute given:

- a. His age—at nineteen, he is at a critical stage of development and education, having been enrolled at Keansburg High School since May 2023;
- b. His trauma history as an abandoned child who fled Guatemala;
- c. The psychological damage of separation from his uncle and support network;
- d. The interference with his time-sensitive pursuit of SIJ relief;
- e. The abrupt termination of his high school education, where he has been continuously enrolled in the bilingual ESL/ELS program for over two years, disrupting his academic progress and future educational opportunities;
- f. The disruption of his education and stability.

92. Deyvis faces:

- a. Ongoing deprivation of liberty in an adult detention facility;
- b. Deterioration of his physical and mental health;
- c. Loss of access to his support network and family;
- d. Potential inability to pursue SIJ relief before aging out;
- e. Psychological trauma from indefinite detention;
- f. Inability to complete his high school education, potentially preventing him from graduating and pursuing higher education or vocational opportunities.

93. The balance of hardships overwhelmingly favors Deyvis. Respondents suffer no cognizable harm from complying with federal law and releasing a teenager who:

- a. Poses no flight risk or danger;

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- b. Has complied perfectly with supervision since his ORR release;
 - c. Has a stable sponsor;
 - d. Is pursuing humanitarian relief created by Congress specifically for vulnerable children.
94. The public interest strongly favors enforcing statutory protections for unaccompanied minors and ensuring that ICE does not arbitrarily detain vulnerable children who are pursuing lawful relief from removal.
95. Immediate relief is necessary to prevent irreparable harm to Deyvis and to vindicate the protective purposes of the TVPRA and SIJ statutes.

XIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Deyvis from custody to his sponsor under appropriate conditions of supervision;
- B. Declare that Deyvis's detention violates:
 - The Trafficking Victims Protection Reauthorization Act, 8 U.S.C. § 1232;
 - The standards and protections established by the *Flores* Settlement Agreement;
 - The detention standards of 8 U.S.C. § 1226(a) and 8 C.F.R. § 236.1;
 - The Due Process Clause of the Fifth Amendment;
 - The Administrative Procedure Act, 5 U.S.C. § 706(2)(A);
- C. Enter a permanent injunction prohibiting Respondents from re-detaining Deyvis absent:
 - (1) clear and convincing evidence of changed circumstances demonstrating flight risk or danger

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to the community; and (2) a bond hearing before an immigration judge at which the government bears the burden of proof;

D. In the alternative, order an immediate bond hearing before an immigration judge at which the government bears the burden of proving by clear and convincing evidence that Deyvis poses a flight risk or danger that cannot be mitigated by conditions of release; and at which an immigration judge considers Deyvis's status as a former UAC, his eligibility for SIJ relief, and his perfect compliance record;

E. Order that Deyvis be provided with adequate time and resources to pursue Special Immigrant Juvenile status, including: (1) Access to counsel and necessary legal services; (2) the ability to attend state court proceedings; and (3) continuances in his immigration proceedings as necessary to complete the SIJ process;

F. Award Petitioner his costs and reasonable attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412;

G. Retain jurisdiction to ensure compliance with this Court's orders;

H. Grant such other and further relief as this Court deems just and proper.

Dated: November 4, 2025

Respectfully submitted,

s/ Franklin S. Montero
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CERTIFICATION

I, Franklin S. Montero, Esq., counsel for the Petitioner, hereby verify under penalty of perjury pursuant to 28 U.S.C. § 1746 that the factual allegations in this petition are true and correct to the best of my knowledge, information, and belief, based upon the records available and information provided by Petitioner.

Respectfully submitted,

s/ Franklin S. Montero
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Dated: November 4, 2025

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FOR THE DISTRICT OF NEW JERSEY**

CERTIFICATE OF SERVICE

I, Franklin S. Montero, Esq., hereby certify that on this 4th day of November, 2025, I electronically filed the foregoing **PETITION FOR WRIT OF HABEAS CORPUS AND EMERGENCY MOTION FOR IMMEDIATE RELEASE** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all registered counsel of record.

Respectfully submitted,

s/ Franklin S. Montero
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Dated: November 4, 2025