

1 Gurpreet Kaur, Esq.  
2 Law Office of Gurpreet Kaur  
3 674 County Square Dr, Suite 305  
4 P.O. Box 2022  
5 Ventura, CA 93003  
6 Ph. 805-300-9003; Cell 909-997-4570  
7 Fax: 805-716-6100  
8 E-mail: gurpreetkauresq@gmail.com  
9 *Attorney for Petitioner*

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**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS**

HARDEEP SINGH

Petitioner,

v.

Warden of the Port Isabel Service Detention Center;  
TODD LYONS, Acting Director of Immigration  
and Customs Enforcement; KRISTI NOEM,  
Secretary of the U.S. Department of Homeland  
Security; PAMELA BONDI, Attorney General of  
the United States

Respondents.

Civil Action No.

**VERIFIED PETITION FOR  
HABEAS CORPUS AND  
COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

**INTRODUCTION**

1. The Petitioner in this case, Hardeep Singh is an unlawfully detained person who was awarded Special Immigrant Juvenile Status (“SIJS”) by the Department of Homeland Security (“DHS”). Subsequent to coming to the United States as a child, the Petitioner, in compliance with applicable law, sought and received SIJS protection as a vulnerable minor. Being awarded this benefit, as Congress intended, permits the Petitioner’s presence in the United States for the purpose of adjustment of status to lawful permanent residence. The Petitioner has been approved for SIJS by the DHS, and was peaceably awaiting eligibility to file his application for lawful permanent residence in the United States.

2. Despite the DHS acknowledging that: (a) the Petitioner is a member of a vulnerable

1 population; (b) Petitioner was awarded the benefits of SIJS; and (c) the Petitioner is required to be  
2 physically present for adjustment of status to permanent residence, the Respondents detained him  
3 without cause. The Respondents intend to remove him from the United States thereby unlawfully  
4 stripping him of his SIJ status in defiance of the intent of Congress to protect vulnerable children who  
5 have been victims of abuse, abandonment or neglect. The Petitioner remains detained by the  
6 Respondents at the Central Louisiana ICE Processing Center (“CLIPC”) in Jena, Louisiana.

7 3. The Petitioner has been classified as a “Special Immigrant Juvenile” (“SIJ”) by the  
8 United States Citizenship and Immigration Service (“USCIS”) on the basis of an approved self-petition  
9 after an underlying family court proceeding that resulted in the requisite “predicate order.”

10 4. The Petitioner has been awaiting an available visa number and has remained physically  
11 present as contemplated under the statute because a Juvenile Court has determined it is in the best  
12 interest of the Petitioner that he remain in the United States based on a history of abuse, abandonment  
13 or neglect.

14 5. Respondents now seek to undercut both the determination of the family court and that  
15 of USCIS, which is the agency that adjudicated and approved the Petitioner for SIJS. Respondents seek  
16 the detention and removal of the Petitioner despite the benefits that DHS/USCIS and Congress has  
17 afforded him.

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

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

8. As explained by the Third Circuit in *Osorio-Martínez v. Attorney General*, 893 F.3d 153

1 (3d Cir. 2018), SIJs are afforded a number of statutory and procedural protections that they would  
2 otherwise not have under the law as applicants for admission. These protections materially constrain  
3 DHS' removal-related authority and are enforceable in federal district court. The protections include  
4 generous waivers of many grounds of inadmissibility, assurance of their eligibility to apply for  
5 permanent residence, authorized legal presence in the United States while they wait for an immigrant  
6 visa to become available, and the ability to not be stripped of that designation without due process of  
7 law and a finding of "good and sufficient cause" to do so. *Osorio-Martínez* at 168, 170-72.

8 9. However, notwithstanding the protections Congress afforded to SIJs, the Petitioner now  
9 faces unlawful immigration detention because DHS and the Executive Office of Immigration Review  
10 (EOIR) have concluded Petitioners are subject to the newly-instituted mandatory detention policy under  
11 8 U.S.C. § 1225, and removal from the United States. Both actions by the Respondents including  
12 subjecting the Petitioner to ongoing detention and execution of his removal from the United States  
13 violate the constitutional, procedural, statutory and regulatory rights of the SIJ Petitioner in this case.

14 10. Despite not any having criminal record whatsoever or any pre-existing order of removal,  
15 and in violation of his SIJ, the Petitioner was stopped, arrested, detained during the course of his  
16 employment and placed into immigration detention at the Port Isabel Service Detention Center in Los  
17 Fresnos, TX.

18 11. Despite notifying Immigration and Customs Enforcement (ICE) of the Petitioner's  
19 status, demonstrating proper identification, and not being accused or charged with any violation of any  
20 other law, the Petitioner was detained and charged with, *inter alia*, having entered the United States  
21 without inspection or parole. 8 U.S.C. § 1182(a)(6)(A)(i). Respondents are aware that the Petitioner  
22 has been afforded SIJ status and continues to seek his detention and removal.

23 12. The Petitioner challenged his removal proceedings, and sought release from detention.  
24 However, based on the allegations raised in Petitioners' removal proceedings, that the Petitioner  
25 entered the United States without inspection, Respondents denied the Petitioner's release from  
26 immigration custody. This determination is consistent with a new DHS policy issued on July 8, 2025,  
27 instructing all ICE employees to consider anyone charged with inadmissibility under §  
28 1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be an "applicant for  
admission" under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention. **[See Exhibit  
2, July 8, 2025 ICE Guidance]**

13. The Petitioner has not sought a bond redetermination hearing before an Immigration

1 Judge due to the recent guidance and published decision *Matter of Yajure Hurtado*, 29 I&N Dec. 216  
2 (BIA 2025).

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

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

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

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

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

1 and, despite his status, DHS intends to, without process, strip the Petitioner of the legal benefits to  
2 which he is entitled to under the INA and remove him from the United States.

3 19. Accordingly, the Petitioner seek a writ of habeas corpus ordering: (a) immediate release  
4 or, at minimum, a prompt individualized custody hearing before a neutral decisionmaker under 8 U.S.C.  
5 §1226(a), at which the government bears the burden to justify the Petitioner's continued detention by  
6 clear and convincing evidence; and (b) a declaration that § 1225, as applied by current agency practice,  
7 does not apply to SIJ beneficiaries consistent with the persuasive holding of *Osorio-Martinez* and the  
8 TVPRA as well as constitutional, statutory and agency protections.

9 **JURISDICTION**

10 20. The Petitioner is in the physical and legal custody of Respondents. He is detained at the  
11 Port Isabel Service Detention Center in Los Fresnos, TX. The federal district courts have jurisdiction  
12 to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their  
13 detention by ICE. See, e.g., *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S.  
14 678, 687 (2001);

15 21. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. §  
16 1331 (federal question), the Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1101–1537,  
17 regulations implementing the INA, the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706,  
18 and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

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

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

26 **VENUE**

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

**PARTIES**

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25. Petitioner Hardeep Singh is an approved Special Immigrant Juvenile pursuant to 8 U.S.C. § 1101(a)(27)(J), and a citizen and national of India. Hardeep Singh entered the United States through the southern border on or about August 25, 2023. He was eventually released on Order of Release on Recognizance and obtained a predicate order with the requisite SIJ findings from a state court of competent jurisdiction. After his release, Petitioner applied for Guardianship with the State of New York, and he was placed into the custody of Prabhsharan Singh. He subsequently petitioned the USCIS for SIJ status, which granted petition and simultaneously granted the Petitioner on or about November 4, 2025. The Petitioner is currently awaiting an available visa number to submit his adjustment of status application to lawful permanent residency, and has no criminal record or other adverse criminal or removal history. On or about September 18, 2025, Petitioner was traveling as a passenger in a truck when the vehicle was stopped for a routine inspection during the driver's course of employment. Petitioner cooperated fully and provided his identification documents to the investigating ICE officer. Despite being aware of Petitioner's Special Immigrant Juvenile (SIJ) status, ICE officers proceeded to detain him. Petitioner is now being held without bail or bond at the Port Isabel Detention Center.

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26. Respondent is the warden of Port Isabel Detention Center, where the Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

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27. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice. In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

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

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

## LEGAL FRAMEWORK

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

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

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

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

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<sup>1</sup> Immigration Act of 1990 (“1990 Act”), Pub. L. 101–649, § 153, 104 Stat. 4978 5005–06 (1990) (codified at 8 U.S.C. § 1101(a)(27)(J)).

<sup>2</sup> *Id.*

<sup>3</sup> Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (“MTINA”), Pub. L. No. 102–232, § 302(d)(2)(A), (B), 105 Stat. 1733, 1744 (1991) (codified at 8 U.S.C. § 1255(h)(1), (2)).

<sup>4</sup> *See* 1990 Act.

*in the United States.*<sup>5</sup>

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33. Congress expanded the SIJ program in 1994 to include children whom a court "has legally committed to, or placed under the custody of, a[] [state] agency or department."<sup>6</sup> This amendment also increased the potential eligibility pool to include not only those in foster care and other court-dependent children, but also children in juvenile facilities. The Immigration Naturalization Service ("INS"), the agency then tasked with administration of the INA, similarly passed regulations that increased eligibility to those individuals who were under the age of 21.<sup>7</sup>
34. In 2008, Congress unanimously passed the TVPRA, which expressly codified longstanding regulatory policy where SIJ eligibility was could come from dependency on a state juvenile court *or* placement in the custody of an individual or entity appointed by a state of juvenile court.<sup>8</sup> Consistent with academic research that found that children are best served by living with a non-offending relative when compared with those in foster care, Congress included children living in various custody and guardianship arrangements. Eligibility was also now conditioned on the non-viability of reunification with *a* parent and eliminated language requiring children seeking SIJ status to demonstrate that they were "eligible for long-term foster care."<sup>9</sup>
35. At the same time, the TVPRA also explicitly exempted SIJ beneficiaries from inadmissibility based on having entered the United States without admission or parole

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

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

<sup>7</sup> See Special Immigrant Status, 58 Fed. Reg. 42843-01, 42850 (Aug. 12, 1993) (codified at 8 C.F.R. § 204.11).

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<sup>8</sup> William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA").

Pub. L. 110-457, § 235(d)(1)(A), 122 Stat. 5044, 5079-80 (2008) (codified at 8 U.S.C. § 1101(a)(27)(J)).

<sup>9</sup> *Id.*

1 or at an unauthorized time or place, making SIJ beneficiaries eligible to adjust their  
2 status even if they had entered the country without inspection or without the necessary  
3 travel documents.<sup>10</sup>

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

14 37. The SIJ statute also authorizes the Secretary of Homeland Security to consent to a grant  
15 of SIJ status under 8 U.S.C. §1101(a)(27)(J)(iii). USCIS exercises this delegated  
16 authority to grant cases where the request for SIJ classification is *bona fide*.<sup>14</sup>

17 38. The statutory framework lays out certain circumstances where an approved SIJ petition  
18 is revoked automatically before USCIS can decide an SIJ beneficiary's permanent  
19 residence petition: (1) reunification with one or both parents by virtue of a court order,  
20 where the court had previously determined that reunification was not viable due to

21 <sup>10</sup> *Id.* at 5080 (codified at 8 U.S.C. § 1255(h)(2)).

22 <sup>11</sup> 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11.

23 <sup>12</sup> *See* 8 C.F.R. § 204.11(c).

24 <sup>13</sup> *Id.*

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

1 abuse, neglect, abandonment, or similar basis under state law; or (2) the juvenile court  
2 reverses the determination that it would not be in the child's best interests to be returned  
3 to their country of origin or of last habitual residence.<sup>15</sup> Alternatively, should USCIS  
4 intend to revoke the grant of SIJS for cause, USCIS issues a notice of revocation. After  
5 providing notice and an opportunity to respond, then USCIS can revoke the SIJ  
6 classification "for good and sufficient cause," for example, a finding of fraud or a  
7 determination that the application was approved in error.<sup>16</sup>

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

19 40. To manage the limited supply of visas, the United States Department of State ("DOS"),  
20 in collaboration with USCIS, issues the Visa Bulletin, a monthly publication that tracks  
21 visa availability in each category, based on applicant priority date and country of  
22 nationality. The "priority date" is defined as the date when the applicant filed the  
23 underlying petition or application, such as the petition for SIJ status. Dates listed in each  
24 month's Visa Bulletin are used to determine when a visa is available for issuance to a  
25 given applicant, and thus when an applicant may submit an application for adjustment  
26 of status. The Visa Bulletin appears on the DOS website, and USCIS has an additional  
27 website indicating which priority dates (Dates for Filing or Final Action Dates) are to  
28 be used for purposes of filing the adjustment of status.

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

<sup>16</sup> *Id.*

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

4 42. Importantly, the removal of an SIJ beneficiary from the United States before the  
5 adjustment of status is complete strips the SIJ beneficiary of the opportunity to become  
6 an LPR, because adjustment of status is not available to those not physically present in  
7 the United States. There is no process for those outside of the United States to return on  
8 an SIJ visa. *See* 22 C.F.R. § 44.11 (denoting SIJS as an "adjustment-only" category).<sup>17</sup>

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

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

17 44. The Third Circuit held that denying habeas corpus review of expedited removal orders  
18 for SIJ beneficiaries constitutes an unconstitutional suspension of the writ of habeas  
19 corpus, as protected by Article I, Section 9, Clause 2 of the United States Constitution  
20 ("the Suspension Clause").

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

26 <sup>17</sup>*See also* 9 FAM 502.5-7(C), Certain Juvenile Court Dependents (CT:VISA-1829; 09-12-2023), "The  
27 Department of State and Related Agencies Appropriations Act, 1998 changed the definition of a Special  
28 Immigrant Juvenile (SIJ) and divested consular officers of the authority to issue SIJ visas. Due to this change,  
since November 26, 1997, SIJ has been an adjustment-only category as reflected in 22 CFR 42.11. Under no  
circumstances should you issue an SIJ visa."

1 46. The Third Circuit noted that “the requirements for SIJ status that ‘show a congressional  
2 intent to assist a limited group of abused children to remain safely in the country with a  
3 means to apply for LPR status,’ and that, in effect, establish a successful applicant as a  
4 ward of the United States with the approval of both state and federal authorities.” *Id.* at  
5 168 (citing *Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011) and *Yeboah v. U.S.*  
6 *Dep’t of Justice*, 345 F.3d 216, 221 (3d Cir. 2003)). The court also noted that, “SIJ status  
7 also reflects the determination of Congress to accord those abused, neglected, and  
8 abandoned children a legal relationship with the United States and to ensure they are not  
9 stripped of the opportunity to retain and deepen that relationship without due process.”  
*Id.* at 170.

10 47. To that end, The Third Circuit explained that:

11 Congress also afforded these aliens a host of procedural rights designed to sustain their  
12 relationship to the United States and to ensure they would not be stripped of SIJ  
13 protections without due process. SIJ status may be revoked only for what the Secretary  
14 of Homeland Security deems ‘good and sufficient cause.’ Even then, revocation must  
15 be ‘on notice,’ meaning that the agency must provide the SIJ designee with ‘notice of  
16 intent’ to revoke, an ‘opportunity to offer evidence ... in opposition to the grounds  
17 alleged for revocation,’ a ‘written notification of the decision that explains the specific  
18 reasons for the revocation,’ and the option to file an appeal within the agency.’

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

21 48. The Third Circuit further explained that expedited removal would revoke SIJ statutory  
22 rights “without cause, notice, or judicial review,” leaving the SIJ beneficiaries without  
23 any method to return to the United States, and would thereby render SIJ status “a nullity”  
24 *Id.* at 172.

25 49. Like the petitioners in *Osorio-Martinez*, the Petitioner now faces indefinite detention  
26 and potential removal from the United States without cause, notice, or judicial review,  
27 leaving him without any method to return to the United States, and would thus render  
28 his SIJ status “a nullity.” The Petitioner in this matter is similarly entitled to  
constitutional protections as expressly intended by Congress. These protections must  
include, at a minimum, the ability to have the potential nullification of his SIJ status  
reviewed by a higher authority. Importantly, the petitioners in *Osorio-Martinez* were in  
a far more legally precarious than the Petitioner here, as they were subject to statutorily

1 prescribed mandatory detention as well as specific rules severely restricting federal  
2 court review. Despite this, the Third Circuit recognized that the benefits granted to a SIJ  
3 beneficiary cannot be stripped without review and that the detention of those petitioners  
4 was not proper.

5 **C. Detention and Removal of SIJ Beneficiaries Violates the Due Process Rights of**  
6 **Vulnerable Populations.**

- 7  
8 50. The fundamental requirement of due process is the opportunity to be heard “at a  
9 meaningful time and in a meaningful manner.” *Mathews v. Elridge*, 424 U.S. 319, 332  
10 (1976). Procedural due process “imposes constraints on government decisions which  
11 deprive individuals of ‘liberty’ or ‘property’ interests within the meaning of the Due  
12 Process Clause of the Fifth or Fourteenth amendment.” *Id.*
- 13 51. Once a petitioner has identified protected liberty or property interest, the Court must  
14 determine whether constitutionally sufficient process has been provided. *Id.* In making  
15 this determination, the Court balances (1) “the private interest that will be affected by  
16 the official action;” (2) “the risk of an erroneous deprivation of such interest through the  
17 procedures used, and the probable value, if any, of additional or substitute procedural  
18 requirement would entail;” and (3) “the government’s interest, including the function  
19 involved and the fiscal and administrative burdens that the additional or substitute  
20 procedural requirement would entail.” *Id.* at 335.
- 21 52. Due process cases recognize a broad liberty interest rooted in the fact of deportation,  
22 not just the process of removal proceedings. *See Bridges v. Wixon*, 326 U.S. 135, 154  
23 (1945) (holding that deportation “visits a great hardship on the individual and deprives  
24 him of the right to stay and live and work in this land of freedom.”); *see also Chhoeun*  
25 *v. Marin*, 2018 WL 566821, at \*9 (C.D. Cal., Jan. 25, 2018) (finding a “strong liberty  
26 interest” where being deported means being separated from home and family). While  
27 this liberty interest typically arises in removal proceedings, various courts have found  
28 procedural due process violations for persons not in removal proceedings. *See, e.g.,*  
*Walters v. Reno*, 145 F.3d 1032 (9th Cir. 1998) (forms issued to noncitizens charged  
with civil document fraud violated due process clause); *Rojas v. Johnson*, No. C16-1024  
RSM, 2018 WL 1532715, at \*8 (W.D. Wash. Mar. 29, 2018) (concluding that “Agency

1 Defendants do not provide sufficient notice of the one-year deadline to satisfy the Due  
2 Process clause” to asylum-seeker subclasses both in and out of removal proceedings).

3 53. The Petitioner has a liberty interest at stake in this matter. USCIS has approved his I-  
4 360 petition, designating him as an SIJ, a class of young people to whom Congress has  
5 granted significant protections. Despite his SIJ Status and the numerous protections  
6 Congress created for SIJ beneficiaries, Respondents intend to remove the Petitioner  
7 from the United States and have subjected him to detention to effectuate that goal.

8 54. If removed, the Petitioner will lose the benefits of his SIJ approval, and he will not be  
9 able to pursue the lawful permanent resident status for which he is entitled to apply as  
10 an SIJ beneficiary. If removed, the Petitioner will be barred from reentry to the United  
11 States for at least five years. 8 U.S.C. § 1182(a)(9)(A)(i); 22 C.F.R. § 40.91(a). He will  
12 not be able to adjust status to that of lawful permanent resident, as adjustment of status  
13 is not available through consular processing.

14 55. Interpreted in light of the Constitution, pursuant to the INA and its implementing  
15 regulations, deportation is improper while an individual is engaged in the process of  
16 attempting to regularize his immigration status subsequent to a grant of Special  
17 Immigrant Juvenile Status.

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

22 57. The Petitioner has protected a due process interest in his ability to retain and benefit  
23 from his SIJ classification, and a right to remain in the United States to apply for lawful  
24 permanent residence when an immigrant visa becomes available.

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

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

1 reasons for agency decisions—or, as the case may be, the absence of such reasons.”  
2 *Judulang v. Holder*, 565 U.S. 42, 53 (2011) (quotations omitted).

- 3 59. When the government has promulgated “[r]egulations with the force and effect of law,”  
4 those regulations “supplement the bare bones” of federal statutes such that agencies  
5 must follow their own “existing valid regulations,” even where government officers  
6 have broad discretion, such as in the area of immigration. *United States ex rel. Accardi*  
7 *Shaughnessy*, 347 U.S. 260, 266, 268 (1954) (reversing in immigration case after review  
8 of warrant for deportation); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (“[I]t is  
9 incumbent upon agencies to follow their own procedures . . . even where [they] are  
10 possibly more rigorous than otherwise would be required”); *Battle v. FAA*, 393 F.3d  
11 1330, 1336 (D.C. Cir. 2005) (“*Accardi* has come to stand for the proposition that  
12 agencies may not violate their own rules and regulations to the prejudice of others”).
- 13 60. Breaches of *Accardi*’s rule constitute violations of both the Fifth Amendment’s Due  
14 Process Clause and the APA.<sup>18</sup> *See also, Rowe v. United States AG*, 545 Fed.Appx. 888,  
15 890 (11<sup>th</sup> Cir. 2013) (recognizing the *Accardi* doctrine entails that to ensure due process  
16 an agency is required to follow its own regulations when exercising discretion and  
17 issuing a decision) and *Mayers v. United States INS*, 175 F.3d 1289, 1300 (11<sup>th</sup> Cir.  
18 1999) (recognizing that a review of statutory questions implicates due process, that  
19 *Accardi* supports using habeas to ensure due process and that the “crucial question” is  
20 whether the Attorney General’s conduct deprived an individual the rights guaranteed  
21 under a statute or regulation) (internal citations omitted).
- 22 61. The Respondents, in pursuing detention and removal of SIJ beneficiaries fails to comply  
23 with their own rules and regulations. The Respondents have provided the Petitioner with  
24 benefits under the law (SIJ) and have not rescinded or revoked those benefits. Governing  
25 statutes and regulations provide the mechanism for the revocation of SIJ status, both  
26 automatically and for cause, which have not and cannot be followed in this case.  
27 Respondents are attempting to unlawfully revoke the SIJ status of the Petitioner via

28 <sup>18</sup> The APA forbids agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in  
accordance with law.” 5 U.S.C. § 706(2)(A). A court reviewing agency action “must assess . . . whether the  
decision was based on a consideration of the relevant factors and whether there has been a clear error of  
judgment”; it must “examin[e] the reasons for agency decisions—or, as the case may be, the absence of such  
reasons.” *Judulang v. Holder*, 565 U.S. 42, 53 (2011) (quotations omitted).

1 detention and removal, and not through any authorized process found in the statute or  
2 regulations.

- 3 62. The Petitioner remains a member of a vulnerable population and has the right to remain  
4 in the United States for the purpose of pursuing adjustment of status to lawful permanent  
5 residence.

6 **E. Detention of SIJ Beneficiaries Remains Improper without Hearing or Review for**  
7 **those persons with SIJ status.**

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

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

- 16 65. This is compared to 8 U.S.C. § 1226, which authorizes the detention of noncitizens in  
17 standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in §  
18 1226(a) detention are generally entitled to a bond hearing at the outset of their detention,  
19 *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested,  
20 charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8  
21 U.S.C. § 1226(c).

- 22 66. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal  
23 Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.  
24 104--208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585.  
25 Section 1226(a) was most recently amended earlier this year by the Laken Riley Act,  
26 Pub. L. No.119-1, 139 Stat. 3 (2025).

- 27 67. Following the enactment of the IIRIRA, the Executive Office for Immigration Review  
28 drafted new regulations explaining that, in general, people who entered the country  
without inspection were not considered detained under § 1225 and that they were instead  
detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention

1 and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed.  
2 Reg. 10312, 10323 (Mar. 6, 1997).

- 3 68. Thus, in the decades that followed, most people who entered without inspection who  
4 were detained were placed in standard removal proceedings and received bond hearings,  
5 unless their criminal history rendered them ineligible. That practice was consistent with  
6 many more decades of prior practice, in which noncitizens who were not deemed  
7 “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8  
8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting  
9 that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).
- 10 69. On July 8, 2025, ICE, purportedly advised by the U.S. Department of Justice announced  
11 a new policy that rejected the well-established understanding of the statutory framework  
12 and reversed decades of practice. [**See Exhibit 2**]
- 13 70. The new policy, entitled “Interim Guidance Regarding Detention Authority for  
14 Applicants for Admission,” claims that all persons who entered the United States  
15 without inspection shall now be deemed “applicants for admission” under 8 U.S.C. §  
16 1225, and therefore are subject to mandatory detention provision under § 1225(b)(2)(A).  
17 *See id.* The policy applies regardless of when a person is apprehended, and affects those  
18 who have resided in the United States for months, years, and even decades. These policy  
19 decisions culminated in *Matter of Yajure Hurtado*, which solidified the agency’s  
20 petition on mandatory detention for applicants for admission.
- 21 71. ICE and EOIR have adopted this position even though several federal courts have  
22 rejected this exact conclusion. For example, after IJs in the Tacoma, Washington  
23 immigration court stopped providing bond hearings for persons who entered the United  
24 States without inspection and who have since resided here, the District Court in the  
25 Western District of Washington found that such a reading of the INA is likely unlawful  
26 and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon  
27 arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL  
28 1193850 (W.D. Wash. Apr. 24, 2025); *see also* *Gomes v. Hyde*, No. 1:25-CV-11571-  
JEK, 2025 WL 1869299, at \*8 (D. Mass. July 7, 2025) (granting habeas petition based  
on same conclusion).
72. The Respondents’ statutory interpretation violate the plain language of the statute. As

1 the *Rodriguez Vazquez* court explained, the plain text of the statutory provisions  
2 demonstrates that § 1226(a), not § 1225(b), applies to people like the Petitioner.

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

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

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

17 76. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently  
18 entered the United States. The statute’s entire framework is premised on inspections at  
19 the border of people who are “seeking admission” to the United States. 8 U.S.C. §  
20 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention  
21 scheme applies “at the Nation’s borders and ports of entry, where the Government must  
22 determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings*  
23 *v. Rodriguez*, 583 U.S. 281, 287 (2018).

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

27 78. Further, the INA detention provision is silent about special immigrant categories, for  
28 whom Congress intended to have various other forms of special protections and relief.  
However, there is no indication that Congress intended SIJ beneficiaries, as a default, to  
be detained for the duration of their petition and adjustment period. Such an outcome  
flies in the face of Congress’s goals of protecting and nurturing SIJ beneficiaries and

1 instead treats them like common criminals, isolating them from society, rather than  
2 encouraging them to deepen their connections with the United States. This reading of  
3 the INA is not supported by either the literal text of the statute or the spirit of the law  
4 enacted by Congress.

5 **FACTS**

- 6 79. Petitioner Hardeep Singh is a 21-year-old native and citizen of India.
- 7 80. Petitioner Hardeep Singh entered the United States through the southern border on or  
8 about August 25, 2023, at the age of 19 years old. He was apprehended upon his entry  
9 by immigration authorities near San Luis, AZ.
- 10 81. He was shortly thereafter released on Order of Release on Recognizance (ORR).
- 11 82. Petitioner Hardeep Singh was eventually placed in the custody of his legal guardian.  
12 His attorney obtained a predicate order from a state court of competent jurisdiction  
13 giving rise to his eligibility for SIJS.
- 14 83. On May 8, 2025, Hardeep Singh filed a petition for Special Immigrant Juvenile Status  
15 (SIJS) with USCIS.
- 16 84. USCIS approved Hardeep Singh's SIJS petition on November 4, 2025.
- 17 85. On September 18, 2025, Petitioner was a passenger in a truck and training to be  
18 commercial truck driver and the driver was stopped at the McCallen Border Patrol  
19 checkpoint. At this time, ICE reviewed Petitioner's identity documents along with  
20 proper work Authorization and detained him without cause.
- 21 86. Hardeep Singh presented proof of his identity in the form of his currently valid  
22 Employment Authorization Document (EAD) card and informed officer of his SIJ status  
23 as he did not have the receipt notices on his person to provide.
- 24 87. Nevertheless, Respondents declined to release Hardeep Singh from detention, and he  
25 remains detained at the Port Isabel Service Detention Center and faces removal. The  
26 Petitioner's removal would eliminate his SIJ benefits.
- 27 88. The Petitioner has significant ties to the United States and is not a flight risk, as  
28 established and recognized by both a state court of competent jurisdiction and USCIS  
through its grant of the I-360 petition. The Petitioner is in no way a danger to his  
community, and nor does he have any criminal record. Despite these positive equities,

1 the Petitioner remains in detention. Without relief from this court, he faces the prospect  
2 of months, or even years, in immigration custody, separated from his community and  
3 support system.

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

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

## 12 CLAIMS FOR RELIEF

### 13 COUNT I

#### 14 Violation of the Due Process Clause Of The Fifth Amendment 15 To The U.S. Constitution

16 91. The government may not deprive a person of life, liberty, or property without due  
17 process of law. U.S. Const. amend. V. “Freedom from imprisonment—from  
18 government custody, detention, or other forms of physical restraint—lies at the heart of  
19 the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct.  
20 2491, 150 L.Ed.2d 653 (2001).

21 92. Courts have long recognized that removal implicates substantial liberty interests, such  
22 that “the Due Process Clause protects an alien subject to a final order of deportation.”  
23 *Zadvydas v. Davis*, 533 U.S. 678, 693-94 (2001); see also *Wong Wine v. United States*,  
24 163 U.S. 228, 238 (1896).

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

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

- 1 95. The Petitioner has been classified as a Special Immigrant Juvenile and was granted that  
2 benefit by the Respondents. Neither benefit has properly rescinded or revoked. He  
3 should be considered paroled into the country for the purpose of adjustment and should  
4 be allowed to remain until his visa is current. 8 U.S.C. § 1255(h)(1). However, as  
5 physical presence in the United States is a condition of SIJ Status, his SIJ Status is  
6 nullified once he is removed. 8 U.S.C. 1101(a)(27)(J)(i).
- 7 96. The Petitioner has a property and liberty interest in remaining in the United States and  
8 awaiting adjustment of status. If removed, the Petitioner will lose his SIJ Status and be  
9 unable to avail himself of the benefits afforded to SIJS beneficiaries to remain safely in  
10 the U.S. for the purpose of adjustment of status to lawful permanent residence. See  
11 *Osorio-Martínez v. Attorney General*, 893 F.3d 153 (3d Cir. 2018).
- 12 97. The Respondents' continued detention of the Petitioner without a bond hearing to  
13 determine whether he is individually a flight risk or a danger to others violates his right  
14 to due process by effectively stripping him of SIJ status without notice, an opportunity  
15 to respond, or review.
- 16 98. Respondents have not, from the Petitioner's detention to the date of this Petition,  
17 provided the Petitioner with either notice or an opportunity to challenge his detention,  
18 alleging a lack of jurisdiction.
- 19 99. The Petitioner's continued detention without an individualized determination as to  
20 whether he present a danger to the community or a risk of nonappearance constitutes a  
21 deprivation of his interest in personal liberty.
- 22 100. By failing to provide the Petitioner with an opportunity to show that he do not present a  
23 danger to the community or a risk of nonappearance, and by failing to make an  
24 individualized determination as to whether the Petitioner satisfied those requirements  
25 prior to deciding to detain him, Respondents failed to provide the Petitioner with due  
26 process of law.
- 27 101. The Petitioner has no adequate remedy, as the Respondents have taken the position that  
28 the Petitioner is subject to mandatory detention and that they intend to remove him,  
despite his SIJ approval.
102. For the foregoing reasons, Respondents' detention of the Petitioner violates the rights  
guaranteed to him by the Due Process Clause of the Fifth Amendment to the United

States Constitution.

**COUNT II**

**Violation of the INA**

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103. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are applicants for admission.
104. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.
105. The application of § 1225(b)(2) to the Petitioner unlawfully mandates his continued detention and violates the INA.
106. Further, SIJ beneficiaries are a special class of noncitizens present in the United States. Numerous grounds of inadmissibility do not apply to them under the express text of the INA and the TVPRA. Substantial benefits have been afforded to the Petitioner in light of his grant of SIJS, including his right to remain for the purpose of adjustment of status. *See Osorio-Martínez v. Attorney General*, 893 F.3d 153 (3d Cir. 2018).
107. Holding the Petitioner indefinitely without bail violates the INA and Congressional intent behind the SIJ program, and such detention cannot be squared with the waiver of inadmissibility for approved SIJ beneficiaries in the statute.

**COUNT III**

**Violation of the Administrative Procedure Act**

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108. Under the Administrative Procedure Act, “final agency action for which there is no other adequate remedy in court [is] subject to judicial review.” 5 U.S.C. §704. The reviewing court “shall ... hold unlawful and set aside agency action, findings, and conclusions found to be (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” or “unsupported by substantial evidence.” 5 U.S.C. §706(2)(A), (E). A court reviewing agency action “must assess ... whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment; it must “examine[e] the reasons for agency decisions- or, as the case may be,

1 the absence of such reasons.” *Encino Motorcars LLC v. Navarro*, 136 S. Ct 2117, 2125  
2 (2016) (quoting *Motor Vehicles Mfrs. Assn of U.S. State Farm Mut. Auto. Ins. Co.*, 462  
3 U.S. 29, 43 (1983)); *Judulang v. Holder*, 565 U.S. 42, 53 (2011)(quotations omitted).

4 109. The APA also sets forth rule-making procedures that agencies must follow before  
5 adopting substantive rules. See 5 U.S.C. 553. DHS followed these rulemaking  
6 procedures to establish relief under the TVPRA and the Violence Against Women Act  
7 (“VAWA”). See 867 Fed. Reg. 4784.

8 110. The Petitioner’s detention and removal under the facts alleged here is a violation of the  
9 APA.

10 111. The Petitioner’s detention and removal would render him ineligible for adjustment of  
11 status as an SIJ beneficiary in violation of the APA, is not in accordance with the law  
12 and is an abuse of discretion. 5 U.S.C. §706(2)(A). In order to be statutorily eligible for  
13 SIJ Status, the Petitioner must be physically in the U.S. 8 U.S.C. 1101(a)(27)(J)(i).  
14 Currently, the Petitioner satisfies this requirement because he is physically within the  
15 borders of the United States, though in immigration detention. However, if removed,  
16 the Petitioner will no longer satisfy the physical presence requirement; his SIJ status  
17 will be nullified and he will not be able to pursue adjustment of status. Therefore, if the  
18 Respondents succeed in their efforts against the Petitioner, they alone will have  
19 intentionally stripped the Petitioner’s right to engage in an immigration process made  
20 available to him, which is an abuse of discretion and not in accordance with the law  
21 under 5 USC §706(2)(A).

22 112. In detaining the Petitioner and seeking an order of removal to effectuate, the  
23 Respondents have attempted to strip the Petitioner of his SIJS.

24 113. The Respondents’ actions are “arbitrary, capricious, an abuse of discretion, or otherwise  
25 not in accordance with law;” 5 U.S.C. 706(2)(C) and “in excess of statutory jurisdiction,  
26 authority, or limitations, or short of statutory right,” 5 U.S.C. 706(2)(C).

#### 27 COUNT IV

##### 28 **5 U.S.C. § 706(2)(A) – Violation of Accardi Doctrine**

114. “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

1 known as the *Accardi* doctrine. See *United States Ex Rel. Accardi v. Shaughnessy*, 347  
2 U.S. 260 (1954); *Alcaraz v. INS*, 384 F.3d 1150, 1162 (9th Cir. 2004).

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

8 116. The Respondents’ intention to detain and seek removal of SIJS beneficiaries without  
9 cause or process represents a sudden and unexplained departure from the agency’s own  
10 guidance and regulations in violation of the *Accardi* doctrine.

11 117. In violating the *Accardi* doctrine, Respondents have irreparably injured the Petitioner  
12 depriving him of relief from removal, depriving him of his liberty, and depriving him of  
13 his ability to remain in the United States for the purpose of adjustment, as well as a host  
14 of additional protections. See *Osorio-Martínez v. Attorney General*, 893 F.3d 153 (3d  
15 Cir. 2018).

#### 16 **COUNT V**

#### 17 **U.S.C. §§ 2201 and 2202 – Declaratory Judgment**

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

22 119. The Petitioner seeks a declaration from this Honorable Court that the process of  
23 detention and removal without review of SIJS beneficiaries, as applied to the Petitioner  
24 by the Respondents, violates the Due Process Clause of the Fifth Amendment, the INA,  
25 the APA, and federal regulations, is in excess of Respondents’ statutory authorization,  
26 is an unlawful taking of the Petitioner’s statutorily authorized benefits without  
27 appropriate process, and is arbitrary and capricious, an abuse of discretion and contrary  
28 to law.

#### **COUNT VI**

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


1 120. The Respondents' detention and intended removal of the Petitioner without any  
2 opportunity for meaningful judicial review violates the Suspension Clause. *See*  
3 *Osorio-Martínez v. Attorney General*, 893 F.3d 153 (3d Cir. 2018).

4 **PRAYER FOR RELIEF**

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

- 6 1. Assume jurisdiction over this matter;
- 7 2. Issue a writ of habeas corpus requiring that Respondents release the Petitioner  
8 immediately or provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) within  
9 14 days;
- 10 3. Issue a writ of habeas corpus directing Respondents to pursue a constitutionally  
11 adequate process before taking any adverse immigration actions against the Petitioner;
- 12 4. Enjoin Respondents from removing the Petitioner from the United States pending the  
13 resolution of this case;
- 14 5. Declare that the process as applied to the Petitioner by Respondents violates the Due  
15 Process Clause of the Fifth Amendment and the Suspension Clause, the INA, the APA,  
16 and federal regulations;
- 17 6. Declare that the Petitioner may remain in the United States to pursue adjustment of  
18 status;
- 19 7. Stay the Petitioner's removal proceedings until he exhausts the process, successfully or  
20 otherwise, of pursuing relief from removal by virtue of his Special Immigrant Juvenile  
21 Status;
- 22 8. Award the Petitioner his costs and reasonable attorneys' fees in this action as provided  
23 for by the Equal Access to Justice Act, 28 U.S.C. §2412, or other statutes;
- 24 9. Grant such further relief as the Court deems just and proper.

25 Respectfully,

26   
27 Gurpreet Kaur, Esq.  
28 **Law Office of Gurpreet Kaur**  
674 County Square Dr, Suite 305

1 P.O. Box 2022  
2 Ventura, CA 93003  
3 Ph. 805-300-9003; Cell 909-997-4570  
4 Fax: 805-716-6100  
5 E-mail: [gurpreetkauresq@gmail.com](mailto:gurpreetkauresq@gmail.com)  
6  
7  
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10 **VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

11 I represent Petitioner, and I submit this verification on his behalf. Because Petitioner is detained  
12 at the California City Correctional Facility and immediate relief is sought, counsel verifies this petition on  
13 his behalf pursuant to 28 U.S.C. § 2242. I hereby verify that the factual statements made in the foregoing  
14 Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.  
15  
16

17 Dated this 13<sup>th</sup> November, 2025.

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21 Gurpreet Kaur, Esq.  
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