

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

---

Walter Acuna Cruz,	)	
Petitioner	)	EMERGENCY TRO
	)	AND PRELIMINARY INJUNCTION
v.	)	
	)	CASE No: 0:25-cv-04376-PJS-DLM
Peter B. Berg, Director of St. Paul	)	
Enforcement and Removal Operations,	)	
Immigration and Customs Enforcement;	)	
Kristi Noem, Secretary of the Department	)	
Homeland Security; Matthew Akerson,	)	
Captain of the Kandiyohi County Jail;	)	
Todd Lyons, Acting Director, U.S.	)	
Immigration and Customs Enforcement;	)	
and Pamela Bondi,	)	
Attorney General of the United States,	)	
in their official capacities.	)	
	)	
Respondents.	)	


---

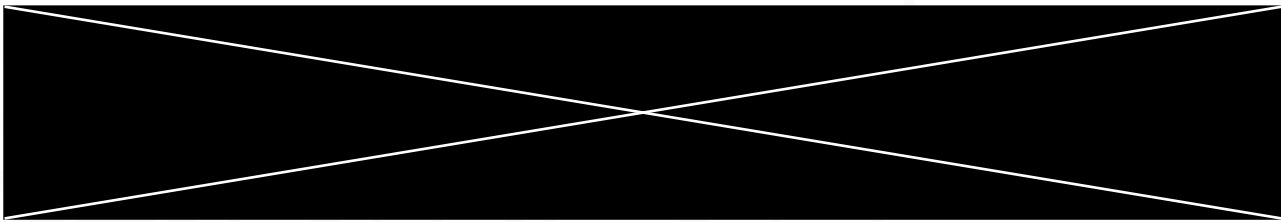
EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND  
PRELIMINARY INJUNCTION

INTRODUCTION



Petitioner, Walter Acuna Cruz, is a citizen and national of Guatemala. He is a twenty-one-year-old, who, after a lifetime of trauma and abuse, was residing in South Dakota until his detainment in May 2024. Although he has a final order of removal, he cannot be removed because the government has granted him deferred action pursuant to his grant of Special Immigrant Juvenile Status. That deferred action status prevents his removal until October 2028; nonetheless, he remained unlawfully detained following the finalization of his order of removal. Petitioner challenges the legality of his detention and requests a Temporary Restraining Order for his release from ICE custody, and to prohibit his transfer outside of Minnesota.

FACTS OF THE CASE

Walter's life has been defined by abuse, exploitation, and trauma beginning in early childhood. He grew up in an unsafe household where he experienced 



After a dispute about food access, Walter was expelled from the home. With no support system in Guatemala and nowhere safe to turn, he sold a parcel of land gifted by his grandmother and fled toward the United States at age fifteen in January 2020.

During his journey through Mexico, Walter was kidnapped  and held captive for more than two months. 

 A

cousin living in the United States ultimately paid the ransom to secure his release, but immediately coerced Walter into forced labor to “repay” the amount. Walter was transported to South Dakota and required to work long hours for his cousin’s drywall business. His cousin confiscated most of his pay, taking approximately \$500 of his wages each week for nearly two years, restricted his movements, denied him schooling, isolated him from other family members, and subjected him to escalating physical, financial, and emotional abuse. Walter was forbidden from contacting anyone outside the cousin’s control and was threatened when he attempted to do so.

By late 2021, the abuse had become severe enough that Walter feared for his safety. He escaped through a window during the night and fled to Minnesota, where his older

brother, Sylvain, later became his legal guardian through a state juvenile court order.

After his escape, Walter attempted to rebuild stability, but shortly thereafter a 'friend' named Alan began threatening him. In April 2024, after weeks of escalating hostility, Alan chased Walter and his brother in a vehicle and pointed a firearm at them. Law enforcement arrested Alan, and he was later deported. Alan blames Walter and his brother for his removal and has threatened them in the past that if they return to Guatemala, he will get pay back.

Around the same time, Walter's grandmother, the only person who had ever offered him meaningful emotional support, passed away. Grieving, still processing his trafficking experience, and under the negative influence of older peers, Walter began using alcohol to cope. At age nineteen, he was arrested twice for DWI and was convicted of one count. He accepted responsibility for the offense and enrolled in multiple alcohol-treatment programs.

In May 2024, after a local arrest, ICE took Walter into custody and initiated removal proceedings. Despite his youth, his lack of violent criminal history, his ongoing treatment efforts, and his status as a trafficking survivor and crime victim, ICE opposed his release. The Immigration Judge denied bond and Walter remained detained at the Kandiyohi County Jail.

On October 2, 2024, a Minnesota state court issued a juvenile order declaring Walter dependent, finding he could not safely return to either parent and that returning to Guatemala was not in his best interest. Based on this order, Walter filed a Special Immigrant Juvenile Status (SIJS) petition on October 4, 2024. On February 11, 2025, USCIS approved the SIJS petition and granted Walter Deferred Action valid through October 2028.

While detained and a minor at the time of his trafficking, Walter was transported on

November 1, 2024, to Fort Snelling under false pretenses, told he was going to a dental appointment, and required to participate in an interview with Homeland Security Investigations about his trafficking experience. He was not allowed to have counsel present, was not given an adequate interpreter, and was informed that he must participate in the interview.

In addition to SIJS, Walter filed an application for T-nonimmigrant status on October 7, 2024, an application for U-nonimmigrant status on April 14, 2025, based on his assistance in the criminal prosecution of Alan, and an application for asylum and related relief. His T- and U-visa applications remain pending.

After SIJS approval and the grant of Deferred Action, the Immigration Judge terminated proceedings pursuant to 8 C.F.R. § 1003.18(d)(ii)(C). DHS appealed, and the BIA reversed based on the mistaken belief that Walter had two DWI convictions. On remand, the IJ denied asylum, withholding, and CAT protection and entered a removal order on October 14, 2025, which became final on November 13, 2025.

Despite the final order, ICE cannot lawfully remove Walter because (1) his Deferred Action under SIJS is valid until October 2028; (2) he is entitled to mandatory deferred action based on his U-visa waitlist eligibility; (3) SIJS cannot be revoked without formal notice and process; and (4) SIJS requires continuous presence in the United States for the very purpose of adjusting to lawful permanent resident status. Walter nonetheless remains detained, without ICE conducting the required custody reviews and with no legal mechanism available to execute removal.

## LEGAL ARGUMENT

### **I. Legal Standard**

To obtain a temporary restraining order, a petitioner-plaintiff “must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Piedmont Heights Civic Club, Inc. v. Moreland*, 637 F.2d 430 (5th Cir. 1981)). Under similar circumstances, courts within have granted petitions for a writ of habeas corpus pursuant 28 U.S.C. § 2241 where, as here, the Department of Homeland Security is unable to execute removal in the reasonably foreseeable future. *See, e.g., Primero v. Mattivelo*, No. 1:25-CV-11442-IT, 2025 WL 1899115, at \*5 (D. Mass. July 9, 2025); *Guerra Leon v. Noem*, No. 25-01495 (W.D. La. Oct. 30, 2025); *Sepulveda Ayala v. Bondi*, No. 2:25-CV-01063-JNW-TLF, 2025 WL 2209708, at \*4 (W.D. Wash. Aug. 4, 2025); *Maldonado v. Noem*, No. 25-CV-2541, 2025 WL 1593133 (S.D.Tex. June 5, 2025); *Gamez Lira v. Noem*, No. 1:25-CV-00855-WJ-KK, 2025 WL 2581710, at \*2–3 (D.N.M. Sept. 5, 2025) ; *Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588, at \*11 (W.D. Tex. Oct. 2, 2025); *F.R.P. v. Wamsley*, No. 25-01917, 2025 WL 3037858 (D. Ore. Oct. 30, 2025).

In a similar case where the Petitioner was granted SIJ status, the court found that allowing the removal of the Petitioner would effectively allow a *de facto* revocation of their SIJ status, *sans* appropriate processes and procedures. *See Guerra Leon v. Noem*, No. 25-01495 (W.D. La. Oct. 30, 2025).

Walter is likely to succeed on the merits, especially given that he is not able to be

removed for at least five (5) reasons and for at least seven (7) years. Walter's detention is unlawful and a textbook violation of his Due Process rights.

**II. *Walter will likely succeed on the merits.***

Walter is likely to succeed on the merits because DHS has no lawful authority to continue detaining him. His continued detention violates the Immigration and Nationality Act, the Administrative Procedure Act, and the Fifth Amendment. Under *Zadvydas v. Davis*, post-order detention is permissible only for the period reasonably necessary to effect removal, and when removal is not reasonably foreseeable, detention is unlawful. Here, Walter's removal is not just unlikely but legally impossible for multiple independent reasons. He holds active deferred action through October 2028 as a result of his approved Special Immigrant Juvenile Status, and courts have recognized that the government does not remove individuals with active deferred action.

He also has mandatory deferred action under federal regulations based on his placement on the U-visa waiting list. Because deferred action is a formal, agency-conferred protection from removal, DHS cannot lawfully remove him unless that deferred action is formally revoked, and no revocation has occurred. In addition, removal would constitute a de facto revocation of his SIJS, which federal law prohibits without formal notice, an opportunity to respond, and an appeal process.

Moreover, SIJS requires the recipient to remain physically present in the United States to adjust status, and removal would defeat the very statutory protection Congress created for abused children. For all of these reasons, Walter's removal cannot occur now or in the reasonably foreseeable future, and his detention therefore violates the INA as

interpreted in *Zadvydas*.

Walter is also likely to prevail on his Administrative Procedure Act claim because ICE is acting in direct contravention of its own policies. Federal directives (ICE Directive 11005.3) require the agency to refrain from enforcement actions, including detention, against individuals who are known victims of trafficking or other serious crimes and who have pending victim-based petitions, absent exceptional circumstances. Walter is a confirmed victim of kidnapping, labor trafficking, and threats involving a firearm; he has pending T-visa and U-visa applications; and he has cooperated with law enforcement. ICE has identified no exceptional circumstances that would justify deviation from its mandatory victim-centered enforcement policies. Its refusal to follow governing procedures and its unexplained departure from established policies constitute arbitrary and capricious agency action under the APA.

Walter is likewise likely to succeed on his Fifth Amendment substantive due process claim because his continued detention bears no reasonable relation to the government's permissible interests. Substantive due process requires that civil detention maintain a reasonable connection to its purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Brown v. Taylor*, 911 F.3d 235, 243 (5th Cir. 2018). Under *Zadvydas*, the government's only legitimate interests in post-order detention are preventing flight and protecting the community. 533 U.S. at 690–91. But where removal is not reasonably foreseeable, as is the case here, given Walter's active and unrevoked grants of deferred action under SIJS and the U-visa waiting list, "preventing flight" is a "weak or nonexistent" justification. *Id.* at 690.

Nor can the government rely on dangerousness, because civil detention for public

safety is permissible only for “specially dangerous individuals” and only with rigorous procedural safeguards. *Id.* at 691; see also *Kansas v. Hendricks*, 521 U.S. 346, 358 (1997).

Walter does not fall within any category remotely approaching “special circumstances” detention under 8 C.F.R. § 241.14: he has no history of violence, no pattern of absconding, strong family ties, and his limited, non-violent DWI conduct occurred at age nineteen during a period of acute trauma and has since been followed by sobriety and stability. The agency has not invoked the “special circumstances” framework, let alone met its heightened burden. Because his detention no longer serves any legitimate governmental purpose and operates instead as an indefinite, punitive confinement foreclosed by *Zadvydas* and its progeny, Walter is overwhelmingly likely to prevail on the merits of his Fifth Amendment claim.

Taken together, these defects demonstrate that DHS lacks statutory authority to continue detaining Walter; that ICE is acting outside the bounds of its own regulations and policies; and that Walter’s continued confinement serves no permissible regulatory purpose. The record overwhelmingly supports the conclusion that he is likely to succeed on the merits of each of his claims.

### ***III. Walter will Suffer Irreparable Harm***

Walter will suffer irreparable harm absent immediate injunctive relief because every day of continued detention imposes harms that cannot be remedied after the fact. Courts have consistently recognized that unlawful deprivation of liberty constitutes quintessential irreparable injury, and Walter’s confinement is causing ongoing psychological, medical, and legal harm that cannot be undone through later monetary or

*post-hoc* relief. Walter is a young survivor of childhood abuse, kidnapping, and labor trafficking whose history of trauma makes him particularly vulnerable to the deteriorating effects of confinement. His current detention environment provides no mental health support, no trauma-informed care, and no access to the alcohol-treatment programming that both the IJ and his psychological evaluation identified as essential to his rehabilitation. The lack of treatment does not simply delay his recovery; it deepens the underlying trauma and increases the risk of long-term mental health deterioration, which courts have repeatedly recognized as irreparable.

The harm is compounded by the fact that detention actively prevents Walter from pursuing the very forms of humanitarian relief Congress created to protect individuals like him. As a Special Immigrant Juvenile and a pending T- and U-visa applicant, Walter must remain in a stable, safe environment and maintain access to family, service providers, and legal counsel to meaningfully prepare his adjustment case, comply with SIJS-related obligations, and continue cooperating with law enforcement. Continued detention obstructs these statutory interests and jeopardizes his ability to preserve and present the evidence necessary for his long-term immigration protections. The loss of these opportunities cannot be cured later because SIJS, T, and U relief are time-sensitive, highly evidence-dependent forms of protection designed for noncitizens who are secure in the community, not confined in a county jail.

Walter also faces immediate, concrete safety risks. The same traffickers and perpetrators who threatened Walter in the past remain present in Guatemala, and at least one of them, Alan, explicitly blames Walter for his deportation. Any government action

that increases the likelihood Walter could be removed, whether intentionally or through procedural shortcuts arising from his detention, exposes him to danger that cannot later be reversed. Even short-term instability can result in denial of humanitarian relief or create factual gaps that cannot be reconstructed. These harms are by definition irreparable.

Finally, because the government lacks lawful authority to remove Walter during the pendency of his SIJS deferred action and victim-based applications, any continued detention is unconstitutional. Constitutional injuries, including violations of substantive due process, are themselves irreparable. The loss of liberty, the worsening of trauma, the obstruction of critical immigration relief, and the risk of long-term psychological injury all independently and collectively demonstrate irreparable harm. Without immediate relief from this Court, Walter will continue to endure harm that no later decision can remedy.

#### ***IV. Balance of the Equities and Public Interest***

The “public interest is best served by ensuring the constitutional rights of persons within the United States are upheld.” *See Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). The balance of equities strongly favors Walter’s release because the harm to him from continued unlawful detention far outweighs any speculative burden on the government. Walter faces ongoing and irreparable injury each day he remains confined, including continued deterioration of his mental health, deprivation of necessary treatment, and interference with his ability to pursue the humanitarian protections Congress specifically created for survivors of abuse, trafficking, and crime.

In contrast, the government suffers no legally cognizable harm from releasing an individual it has no lawful authority to detain. DHS cannot remove Walter during the pendency of his SIJS-based deferred action or his victim-based applications, and it has identified no public safety rationale that could outweigh the severe restrictions placed on a young trafficking survivor's liberty. Where the government's detention authority is legally extinguished, the equities lie overwhelmingly with the Petitioner.

The public has a substantial interest in ensuring that federal agencies act within the bounds of statutory and constitutional limits, particularly where vulnerable noncitizens, such as SIJS youth and trafficking victims, are involved. Congress has expressly declared a national commitment to protect survivors of trafficking and serious crimes, to encourage their cooperation with law enforcement, and to prevent their penalization through immigration enforcement.

Releasing Walter advances these legislatively defined public interests, whereas continued detention actively undermines them. The government cannot remove Walter, so for the public's benefit, he should be released to access mental health treatment and to be able to access education and employment to participate actively in society as a healthy member of the community. Upholding constitutional protections, enforcing compliance with federal law, and ensuring that humanitarian statutes function as Congress intended are all compelling public interests that support immediate injunctive relief.

“There is generally no public interest in the perpetuation of unlawful agency action,” and “there is a substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations.” *League of Women*

*Voters of United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016) (cleaned up).

Here, Walter's continued detention without bond is in violation of his Fifth Amendment rights and far outweighs any burden the Respondents would suffer.

***V. The Court Has Authority to Grant Walter's Immediate Release Pending the Adjudication of His Habeas Petition.***

As a general matter, writs of habeas corpus are used to request release from custody. *Wilkinson v. Dotson*, 544 U.S. 74, 78 (2005). A habeas court has “the power to order the conditional release of an individual unlawfully detained—though release need not be the exclusive remedy and is not the appropriate one in every case in which the writ is granted.” *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (noting that at “common-law habeas corpus was, above all, an adaptable remedy”).

Release in this case is appropriate. Here, the government lacks any statutory authority to continue detaining Walter, his removal is not reasonably foreseeable, and his ongoing confinement violates both the INA and the Constitution. No alternative remedy can redress the daily and compounding harms he suffers, and no legitimate governmental interest is furthered by continued detention. Under these circumstances, habeas courts routinely exercise their authority to order immediate release, and this Court should do the same.

*Munoz-Saucedo v. Pittman*, No. CV 25-2258 (CPO), 2025 WL 1750346, at \*5 (D.N.J. June 24, 2025); *accord Ali v. Dep't of Homeland Sec.*, 451 F. Supp. 3d. 703, 706-07 (S.D. Tex. 2020); *Primero v. Mattivelo*, No. 1:25-CV-11442-IT, 2025 WL 1899115 (D. Mass. July 9, 2025); *see also Sepulveda Ayala v. Bondi*, No. 2:25-CV-01063-JNW-TLF, 2025 WL 2084400, at \*4 (W.D. Wash. July 24, 2025).

The Petitioner has been detained since May 2024. His guardian and brother are ready

and waiting to support Walter in his future. Therefore, Walter argues that release from detention is the appropriate relief in this case. Alternatively, Walter respectfully asks that this Court prevent his transfer while the instant Habeas pends and that the Court orders that Walter has the opportunity to be heard and respond to any revocation attempt of his DA or his SIJ status, given the likelihood that it is retaliatory to this petition, given no circumstances have changed.

### **B. CONCLUSION**

For the foregoing reasons, the Court should grant the instant writ and order his immediate release from ICE custody, order that the Respondents shall not transfer Walter from the jurisdiction, and order that his DA and SIJ status shall not be revoked without an opportunity to respond to any intent to revoke.

Dated: November 19, 2025

Respectfully Submitted,

/s/ Hannah Brown  
Hannah Brown (MN SBN 0400017)  
*Local counsel*  
HB Law & Advocacy PLLC  
1907 E. Wayzata Blvd., Ste. 300  
Wayzata, MN 55391  
(612) 439-1882  
[hannah@hblawadvocacy.com](mailto:hannah@hblawadvocacy.com)

/s/ Stacey R. Rogers  
Stacey R. Rogers (WSBA 61754)  
*Pro hac vice pending*  
SRR Law Group LLC  
600 25<sup>th</sup> Avenue S, Ste 201  
St. Cloud, MN 56301  
(507) 271-9405  
[stacey@srllawgroup.com](mailto:stacey@srllawgroup.com)

*Attorneys for Petitioner*