UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

Luis ADAMES ZAMBRANO

Petitioner,

v.

PAMELA BONDI,
United States Attorney General;

KRISTI NOEM,
Secretary of the United States Department of Homeland Security;

TODD M. LYONS,
Director of United States Immigration and Customs Enforcement;

JOSH JOHNSON,
Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement, Dallas;

ANGELICA ALFONSO-ROYALS,
Acting Director of United States Citizenship and Immigration Services;

TRACY RENAUD, Director, Northeast, Region, USCIS; and

MARCELLO VILLEGAS,
Warden, Bluebonnet Detention Center

Respondents.

§ Civ. No. 1:25-cv-00260

§ DHS File Number: [redacted]

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

I. INTRODUCTION AND BACKGROUND

1. This petition challenges the unlawful detention of Petitioner Luis Adames Zambrano ("Mr. Adames Zambrano"), a 34 year old Colombian man who is currently an immigrant detainee at the Bluebonnet Detention Center in Anson, Texas.

2. He files this habeas petition under 28 U.S.C. § 2241, for violations of the Immigration and Nationality Act (INA), the Administrative Procedure Act (APA), and the Due Process Clause of the Fifth Amendment.

3. He alleges that his detention is unlawful under the Due Process Clause of the Fifth Amendment to the United States Constitution because USCIS granted him deferred action and has revoked neither the grant of deferred action nor his Bona Fide Determination (BFD) work authorization. He seeks, among other relief from this Court, a declaration that his continued detention is unlawful and a writ of habeas corpus ordering his immediate release from detention.

4. This suit arises directly from the Respondents' unconstitutional decision and action to detain him on or about October 31, 2025, in Chicago, Illinois, despite his deferred action status, as part of ICE's "Operation Midway Blitz." See, Julie Bosman, *Tensions Mount as Agents, Including Gregory Bovino, Clash With Chicagoans*, New York Times, available at https://www.nytimes.com/2025/10/23/us/politics/gregory-bovino-chicago-immigration.html (last checked November 21, 2025).

5. Petitioner has been residing in the United States since arriving on his B-2 visa on July 5, 2019. He and his spouse, Silvia Perez (who is Ecuadorian) married in Chicago on March 1, 2021. The couple are raising their minor children, including their son, T[redacted], age 3, and her two children ages 13 and 9 (both of these latter two children suffer from autism). All

the children are U.S citizens. Petitioner also has a lawful permanent resident daughter, L[redacted]who is age 17 and who received permanent residence because her mother is a U.S. citizen. His wife Silvia Perez was the victim of domestic battery in Illinois from a period of 2014 through 2019 in different incidents by the same perpetrator, her ex. [redacted] This lead to the Cook County State's Attorney office certifying her law enforcement U visa Form I-918 Supplement B, and she then filed her U visa application with her husband (Petitioner) as the derivative, with USCIS, on April 13, 2023. It is still pending.

6. The USCIS on March 17, 2025 issued them each a Bona Fide Determination (BFD) Notice on the U visa application. The BFD grants Silvia and the Petitioner each "deferred action" and an Employment Authorization Document ("EAD"), authorizing each to work in the United States. Exh A. The BFD notice states that deferred action is "an act of administrative convenience to the government which gives some cases lower priority for removal." *Id.*[1]

7. Petitioner's claims arise from the Government's grant of deferred action—not its initiation of removal proceedings against him. 8 U.S.C. § 1252(g). *Enriquez-Perdomo v. Newman*, 54 F.4th 855 (6th Cir. 2022). It is because USCIS granted him deferred action—an affirmative immigration benefit—that his continued detention becomes legally questionable. *See Arce v. United States*, 899 F.3d 796, 799–800 (9th Cir. 2018).

8. The instant writ of habeas corpus is the only way Petitioner may challenge the legality of his detention. There is no alternative remedy available to him. This situation is not unique, as other district courts have recently raised similar concerns. It is no impairment to his habeas argument that the agency has held a bond hearing, namely on November 5, 2025,

[1]Giving cases "lower priority" naturally flows from the Government's decision not to proceed with removal, the core meaning of deferred action. *Sepulveda Ayala v. Bondi*, 2025 WL 2084400, at *8 (W.D.Wash., 2025).

where it determined him to be a flight risk. There, he could not present to the immigration judge the legality of his detention, he could only petition to ameliorate the "no bond" decision made by ICE, see 8 U.S.C. § 1226(a)(2). He argues that ICE was incorrect to detain him on October 31, 2025 in the first place in view of DHS already having granted him deferred action, and having never revoked it.

9. The Government's decision to detain him turns on a pure question of law: the meaning of "deferred action." In fact, his detention violates federal law because the Government has deferred his deportation through the grant of deferred action, eliminating any legal basis for his continued confinement.

10. Petitioner is now confined at the Bluebonnet Detention Center in Anson, Texas, without bond. He filed for a bond hearing through his immigration counsel on November 5, 2025. On November 13, 2025, an immigration judge (IJ), Nicolas B. Lucic, denied his bond amelioration request, in a written decision that recites solely that he is a "flight risk." Exh. B.

11. The Petitioner is not asserting that the bond process he was given was illegal. The relief he is seeking before this Court is not a bond hearing, but rather release, because his detention is unconstitutional and a violation of the Due Process Clause and of the Administrative Procedures Act. The DHS has granted him deferred action on March 17, 2025, and has not revoked such decision.

12. Mr. Adames Zambrano has no criminal record in the U.S or anywhere else. He has one citation from Lake County IL in 2023 for driving without a license.

13. He works in Chicago to support his wife, and the children, two of whom suffer from autism. His immediate family is in the United States, including his wife, Silvia (who also has a U-visa BFD), his three U.S. citizen children, and his lawful permanent resident daughter.

14. Petitioner was arrested by ICE on or about October 31, 2025, in Cook County, Illinois while at his place of work, as part of ICE's Operation Midway Blitz.

15. Petitioner is currently scheduled for a master calendar removal hearing on December 8, 2025 in the El Paso immigration court before IJ Abdias Tida. Exh. C (EOIR Automated Case Information System Results).

16. Petitioner seeks his immediate release from detention in where ICE unlawfully detained and continues to imprison him, notwithstanding its sister agency (USCIS) having granted him deferred action.

17. The human consequences are immediate and severe. Detention has upended the family's finances and caregiving. It has deprived the household of Petitioner's income, transportation, and daily support. This remains true despite USCIS's grant of a bona fide determination and deferred action, and his valid employment authorization and Illinois driver's license. The Constitution, the INA, and basic principles of fairness do not permit detention under these circumstances.

18. Indeed, the decision to detain and remove him is arbitrary and capricious, lacking notice or opportunity to respond.

19. Because of bureaucratic delays, there is little likelihood that Defendant USCIS will adjudicate his application before Petitioner is removed from the United States. ICE does not pause removal efforts while bona fide visa applications are pending with USCIS, frustrating the purpose of the Victims of Trafficking and Violence Protection Act of 2000

("VTVPA"), which Congress enacted to protect immigrant victims of crime who come forward.

20. Petitioner respectfully requests this Court grant the instant petition for a writ of habeas corpus under 28 U.S.C. § 2241, order release. In the alternative, he respectfully requests the Court order Respondents to show cause why this Petition should not be granted within three days. *See* 28 U.S.C. § 2243.

II. JURISDICTION AND VENUE

21. Petitioner is detained in civil immigration custody in Jones County at the Bluebonnet Detention Center in Anson, Texas. He has been detained since or about, October 31, 2025.

22. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq.

23. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and where applicable Article I § 9, cl. 2 of the United States Constitution (Suspension Clause), and the Fifth Amendment. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

24. Venue is proper in the Northern District of Texas under 28 U.S.C. § 1391, because at least one Respondent is in this District, Petitioner is detained in this District, and a substantial part of the events giving rise to the claims in this action took place in this District. Venue is also proper under 28 U.S.C. § 2243 because the immediate custodians of Petitioner reside in this District.

25. This Petition presents serious and complex questions of law, and this Court "always has jurisdiction to determine its own jurisdiction." *Brownback v. King*, 592 U.S. 209, 218-19

(2021). Moreover, other district courts have exercised jurisdiction over similar claims as those presented here. *See Espinoza-Sorto v. Agudelo*, No. 1:25-CV-23201-GAYLES, 2025 WL 3012786, at *5 (S.D. Fla. Oct. 28, 2025) (finding the court "does have jurisdiction to review whether [r]espondents can legally detain and remove an alien with deferred action status"); *Sepulveda Ayala v. Bondi*, No. 2:25-CV-01063-JNW-TLF, 2025 WL 2084400, at *5 (W.D. Wash. July 24, 2025) ("Because [the petitioner's] claims arise from the Government's grant of deferred action rather than from execution of his removal order, Section 1252(g) does not strip this [c]ourt of jurisdiction."); *F.R.P. v. WAMSLEY*, No. 3:25-CV-01917-AN, 2025 WL 3037858, at *5-6 (D. Or. Oct. 30, 2025) (summarizing similar cases); *Shahla v. Rhoden*, 3:25-cv-1404-MMH-SJH, 2025 WL 3227544, at *2 (M.D.Fla., 2025). *But see Velasco Gomez v. Scott*, No. C25-0522JLR-BAT, 2025 WL 1726465, at *4 (W.D. Wash. June 20, 2025) (initially granting a stay of removal and relocation but ultimately denying petition on jurisdictional grounds).

III. REQUIREMENTS OF 28 U.S.C. § 2243, WRIT OF HABEAS CORPUS ISSUANCE, RETURN, HEARING, AND DECISION

26. The Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response "within three days" unless this Court permits additional time for good cause, which is not to exceed twenty days. 28 U.S.C. § 2243.

27. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963). The writ of habeas corpus, challenging illegality of detention, is reduced to a sham if the trial courts do not act within

a reasonable time. *Rhueark v. Wade*, 540 F.2d 1282, 1283 (5th Cir. 1976); *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978). Due to the nature of this proceeding, Petitioner asks this Court to expedite proceedings in this case as necessary and practicable for justice.

IV. PARTIES

28. Petitioner Luis Adames Zambrano is a 34-year-old citizen of Colombia. He last entered the United States in or about 2019 with a B-2 tourist visa and has resided here continuously for over 7 years.

29. Respondent Pamela Bondi is named in her official capacity as Attorney General of the United States. She is responsible for the administration of the Executive Office for Immigration Review ("EOIR"), including policies that bear on immigration judges' jurisdiction over custody.

30. Respondent Kristi Noem is named in her official capacity as Secretary of the U.S. Department of Homeland Security ("DHS"). DHS is the department charged with administering and enforcing federal immigration laws, including the administration of USCIS. Secretary Noem is ultimately responsible for the actions of U.S. Immigration and Customs Enforcement ("ICE") and is a legal custodian of Petitioner.

31. Respondent Todd M. Lyons is named in his official capacity as Acting Director of ICE. He oversees ICE operations, including detention and removal, and is a legal custodian of Petitioner.

32. Respondent Josh Johnson is named in his official capacity as Field Office Director of the Dallas ICE Field Office. He is responsible for ICE enforcement in this District and is a legal custodian of Petitioner.

33. Respondent, Angelica Alfonso Royals, is named in her official capacity as the Acting Director of USCIS.

34. Respondent, Tracy Renaud, is named in her official capacity as the Director of the USCIS's Northeast Region, which includes the Vermont Service Center (VSC), which is actively processing Petitioner's U visa application.

35. Respondent Marcello Villegas is named in his official capacity as Warden of the Bluebonnet Detention Center in Anson, Texas. He has immediate physical custody of Petitioner pursuant to an agreement with ICE to detain noncitizens.

36. Each Respondent is sued in his or her official capacity as a custodian and/or policymaker responsible for Petitioner's continued detention.

V. FACTS

37. Petitioner was detained by ICE at his workplace during Operation Midway Blitz, on October 31, 2025. Despite having a valid driver's license and deferred action through his U-visa application, ICE arrested him and transported to the Bluebonnet Detention Center in Anson, Texas, where he remains without bond.

38. ICE has held Petitioner without bond. ICE asserted that he is a flight risk at his bond hearing held November 11, 2025 before IJ Lucic at the Bluebonnet detention center, and the IJ agreed and upheld DHS's decision to hold him at no bond.

39. Petitioner's next removal hearing is set for December 8, 2025. Exh. C.

40. On May 8, 2023, Petitioner filed a U-visa petition as a beneficiary and the spouse of his wife who was a previous victim of domestic battery in Cook County, IL. Exh .A. USCIS has since issued a bona fide determination on his petition. USCIS found the filing bona fide and concluded he warranted a favorable exercise of discretion. USCIS issued him

employment authorization and deferred action for a period of four years. Exh A. Deferred action is a prosecutorial-discretion decision that, as a matter of administrative convenience, places the case at a lower priority for removal during the grant. Exh. A. A visa number is not yet available because Congress caps principal U visas at 10,000 per year. 8 U.S.C. § 1184(p)(2)(A)–(B). At the time of the warrantless ICE arrest on October 31, Petitioner held a valid state driver's license and valid employment authorization based on this grant.

41. Petitioner has no criminal convictions, he has one Lake County, IL citation for driving without a license.

42. He is employed in Chicago where he works to support his family. His family is here in the United States, his wife, also with U-visa BFD, his three U.S. citizen children, and his 17 year old lawful permanent resident (LPR) daughter from a prior relationship.

43. Petitioner's ongoing detention impedes his ability to defend against removal. It limits his ability to gather evidence, to coordinate with counsel and witnesses, and to maintain the documentation that supports his U-visa case.

44. Petitioner remains detained because DHS decided to detain him on October 31, 2025 without bond, notwithstanding its having granted him deferred action in March 2025. It has not revoked its deferred action decision. It argued at his bond hearing in Bluebonnet that, notwithstanding its having granted him deferred action to him and his wife, he represents a "flight risk." The IJ agreed with their argument, and denied bond.

VI. LEGAL FRAMEWORK

A. Due Process

45. The Fifth Amendment's Due Process Clause applies to "all persons" within the United States, including noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "Freedom from

imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Id.* at 690. In the immigration context, detention is constitutionally justified only to prevent flight or protect the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

46. The Fifth Amendment's Due Process Clause protects individuals in removal proceedings. *Manzano-Garcia v. Gonzales*, 413 F.3d 462, 470 (5th Cir. 2005). Noncitizens facing removal must receive "notice of the charges against [them], a hearing before an executive or administrative tribunal, and a meaningful opportunity to be heard." *Okpala v. Whitaker*, 908 F.3d 965, 971 (5th Cir. 2018). To establish a due process violation, Petitioner must show *substantial prejudice*—i.e., that the alleged error likely affected the outcome. *Anwar v. INS*, 116 F.3d 140, 144 (5th Cir. 1997). This requires a prima facie showing that the violation had a material impact on the proceedings. *Ogunfuye v. Holder*, 610 F.3d 303, 306–07 (5th Cir. 2010); *Anwar*, 116 F.3d at 144–45.

47. The Fifth Amendment provides that the Government shall not deprive a person of "life, liberty, or property, without due process of law." U.S. Const. amend. V. *Town of Castle Rock v. Gonzales*, 545 U.S. 748, 125 S.Ct. 2796, 162 L.Ed.2d 658 (2005). *Castle Rock* established that "a benefit is not a protected entitlement if government officials may grant or deny it in their discretion." 545 U.S. at 756, 125 S.Ct. 2796. Yet once in possession of a particular benefit, it may not to be taken away without procedural due process. *Bell v. Burson*, 402 U.S. 535, 539, 91 S.Ct. 1586, 29 L.Ed.2d 90 (1971); *see Medina v. U.S. Dep't of Homeland Sec.*, No. C17-0218RSM, 2017 WL 5176720, at *9 (W.D. Wash. Nov. 8, 2017) ("[T]he Court also finds that the representations made to applicants for DACA

cannot and do not suggest that no process is due to them, particularly in Plaintiff's case where benefits have already been conferred.").[2]

B. Statutory Scheme

48. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

49. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Noncitizens arrested, charged with, or convicted of certain crimes are subject to mandatory detention. *See* 8 U.S.C. § 1226(c).

50. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred under § 1225(b)(2).

51. Last, the INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

52. It is undisputed that DHS is holding him under 8 U.S.C. § 1226(a). That provision provides that "[O]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." To date,

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[2] Deferred action is a direct benefit personally conferred on Petitioner with concrete entitlements including lawful presence and work authorization. Even more to the point, *Castle Rock* involved a prospective claim to future services, while this case involves benefits already granted. As one court observed, "even absent a claim of entitlement to an important benefit, once it is *conferred*, recipients have a protected property interest that requires a fair process before the government may take that benefit away." *Inland Empire—Immigrant Youth Collective v. Nielsen*, Case No. EDCV 17-2048, 2018 WL 4998230, at *19 (C.D. Cal. 2018) (internal quotation marks omitted) (emphasis in original) (collecting cases). The Government's position that it can grant deferred action while simultaneously ignoring it entirely in order to detain people would also create the kind of "arbitrary imprisonment without law or the appearance of law" that violates due process. *Boumediene*, 553 U.S. at 785, 128 S.Ct. 2229. Thus, *Castle Rock's* reasoning simply does not apply when the Government seeks to revoke without explanation or process a concrete entitlement it has already bestowed.

there is no evidence that DHS obtained a warrant of arrest for him. The facts show that under Operation Midway Blitz, he was simply encountered and despite showing his valid U visa BFD deferred action work card, was nevertheless subject to arrest and detention without bond.

C. Deferred Action and the U-Visa Bona Fide Determination

53. Deferred action is the Executive's decision to forbear removal during the grant period. *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 140 S. Ct. 1891, 1905–07 (2020). *See also Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483–84 (1999).

54. DHS administers the immigration laws and sets enforcement policies. *See* 8 U.S.C. § 1103(a)(3). Regulations authorize employment for those granted deferred action. *See* 8 C.F.R. § 274a.12(c)(14). For U-visa petitioners, USCIS "will grant deferred action or parole" while on the waitlist and may authorize employment. 8 C.F.R. § 214.14(d)(2). Congress caps principal U visas at 10,000 per fiscal year. 8 U.S.C. § 1184(p)(2)(A)–(B).

55. Petitioner filed a U-visa petition on May 8, 2023, after his wife showed she was a victim of domestic battery/assault in Illinois by her prior partner, [redacted] USCIS has since issued him Bona Fide Determination. USCIS exercised favorable discretion and granted four years of deferred action and work authorization. Exh A. DHS has not revoked that grant.

VII. ARGUMENT

A. 2241 Is Appropriate to Address Unlawful Detention and Removal

56. Under Section 2241, the Supreme Court has explained that challenges to removal "fall within the 'core' of the writ of habeas corpus and thus must be brought in habeas." *Trump v. JGG*, 604 U.S. 670, 672 (2025). "And 'immediate physical release [is not] the only

remedy under the federal writ of habeas corpus.'" *Id.*, quoting *Peyton v. Rowe*, 391 U.S. 54, 67 (1968).

57. Pursuant to the All Writs Act, 28 U.S.C. § 1651(a), this Court may "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." *See F.T.C. v. Dean Foods Co.*, 384 U.S. 597, 603 (1966). District Courts in this Circuit and elsewhere routinely enjoin removal while considering the merits of a habeas corpus petition. *See also Vitkus v. Blinken*, 79 F.4th 352, 355–56 (4th Cir. 2023).

58. Habeas corpus remains an appropriate vehicle to challenge unlawful agency action, as long as the petitioner satisfies the "in custody" requirement of 28 U.S.C. § 2241(c). Indeed, the seminal case of *Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954), was itself a habeas petition challenging the immigration agency's failure to comply with its own regulations around removal.

59. Petitioner's interpretation of deferred action finds strong support in established precedent. The Supreme Court described deferred action in *AADC* as meaning "no action will thereafter be taken to proceed against an apparently deportable alien, even on grounds normally regarded as aggravated." *Reno v. Am.-Arab Anti–Discrimination Comm.*, 525 U.S. 471, 482, 484, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999) ("*AADC*") (quoting 6 C. Gordon, S. Mailman, & S. Yale–Loehr, Immigration Law and Procedure § 72.03 [2][h] (1998)). *AADC* cited Fifth Circuit precedent to support this definition. *Id.* (citing *Johns v. Dep't of Justice*, 653 F.2d 884, 890–92 (5th Cir. 1981)). In *Johns*, the Fifth Circuit distinguished deferred action from a stay of removal, explaining that deferred action means

the Government chooses to "refrain from (or, in administrative parlance, to defer in) executing an outstanding order of deportation." 653 F.2d at 890.

60. The term "deferred action" has carried consistent meaning "for decades" as the Government's "formal determination not to remove a particular individual." *Alvarez Leal*, 673 F. App'x at 632 (Pregerson, J., dissenting); *see AADC*, 525 U.S. at 484, 119 S.Ct. 936; *cf. Barrios Garcia*, 25 F.4th at 449 (explaining that DACA mirrors BFD process—both establish a process for giving people deferred action benefits).

61. He faces deportation, family separation, and additional hurdles in the U-visa process if removed. He will also be unable to use the benefits the Government has affirmatively granted him, including his authorization to work legally in the United States, if ICE removes him.

62. Here, ICE detained Petitioner and initiated removal proceedings without notice or a hearing on the effect his lawful grant of deferred action has on his potential removal.

63. Here, Petitioner similarly holds a BFD, and Respondents have not offered any evidence to demonstrate that his case has been adequately reviewed by the Secretary of Homeland Security. Doc. No. 5 at 12; *Raghav v. Jaddou*, No. 2:25-cv-00408-DJC-JDP, No. 2:25-cv-00408-DJC-JDP, 2025 WL 373638, at *1 (E.D. Cal. Feb. 3, 2025)("[t]he decision to grant or deny a stay after the prima facie determination [requirement is satisfied by a BFD] . . . is solely in the discretion of the Secretary of Homeland [S]ecurity").

64. Had he received due process, he could have challenged his detention and removal, as his BFD and deferred action status arguably rendered him presumptively ineligible for removal under 8 U.S.C. § 1184(p)(6). His deferred action status remains unrevoked under governing regulations.

65. Respondents' decision to detain and remove Petitioner without an opportunity to respond and without a hearing appears to be a procedural due process violation that is likely to succeed on the merits. To date, Respondent has not shown evidence to the contrary.

66. Other U.S. district courts have repeatedly ordered relief. *See* e.g., *Sepulveda Ayala v. Bondi*, No. 2:25-CV-01063-JNW-TLF, 2025 WL 2084400, at *5 (W.D. Wash. July 24, 2025).

67. His petition raises a substantial statutory claim. He asserts that his BFD operates as an administrative stay of removal and that Respondents cannot lawfully detain him without first revoking his deferred action under applicable regulations. Exh. A.

68. The constitutional backdrop points the same direction. Civil immigration detention is constrained by the Fifth Amendment. Persons facing significant restraints on liberty retain a protected interest and are entitled to meaningful process.

B. Petitioner's U-visa posture: Deferred Action though BFD independently defeats continued civil detention.

i. *Statutory and regulatory framework*

69. Congress created the U-visa at 8 U.S.C. § 1101(a)(15)(U); petitioning and adjudication are addressed in 8 U.S.C. § 1184(p); adjustment in 8 U.S.C. § 1255(m). Regulations provide that waitlisted U-petitioners "will be granted deferred action or parole" and may receive employment authorization. 8 C.F.R. § 214.14(d)(2); *see also* 8 C.F.R. § 274a.12(c)(14) (EAD for those granted deferred action). The Supreme Court recognizes deferred action as the Executive's forbearance from removal during the grant period. *See Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 140 S. Ct. 1891, 1905–07 (2020).

ii. *Substantial statutory claim: a BFD functions as an administrative stay; DHS may not detain or remove without first revoking deferred action under governing regulations.*

70. Petitioner asserts that his U-visa BFD operates as an administrative stay of removal such that Respondents cannot lawfully detain or remove him without first revoking deferred action in accordance with the U-visa regulations. *See* 8 C.F.R. § 214.14(d)(2); cf. 8 C.F.R. § 274a.12(c)(14). His deferred action remains unrevoked under governing regulations.

71. A recent Southern District of Texas court granted a TRO which squarely supports this position. Order Granting Temporary Restraining Order, *Maldonado v. Noem*, No. 4:25-cv-02541, Doc. 8 (S.D. Tex. June 5, 2025) (Ellison, J.). There, the court found a likelihood of success on due process where ICE detained a BFD recipient and sought removal "without notice, a hearing, or any opportunity to contest the revocation of his deferred action," and recognized a "substantial statutory claim" that a BFD functions as an administrative stay unless and until deferred action is revoked under applicable regulations. *Id.* at 2–3, 5–6. The court also noted that Respondents offered "no pertinent authority" in the Fifth Circuit or otherwise to the contrary. *Id.* at 6.

72. *Maldonado* cited *Raghav v. Jaddou*, No. 2:25-cv-00408-DJC-JDP, 2025 WL 373638, at *2, (E.D. Cal. Feb. 3, 2025) (after a prima facie showing satisfied by a BFD, "the decision to grant or deny a stay ... is solely in the discretion of the Secretary of Homeland Security").

73. These authorities confirm the core proposition here: with a BFD and unrevoked deferred action on the books, DHS must follow the governing regulatory process before detention or removal that would effectively nullify that forbearance. See 8 C.F.R. § 214.14(d)(2); *cf. DHS v. Regents of the University of California*, 591 U.S. 1 (2020).

iii. *DHS's Deferred-Action Grant Undermines Its Mandatory-Detention Theory and Triggers Estoppel and APA Limits*

74. USCIS has granted Petitioner a U-visa bona fide determination, deferred action, and employment authorization under 8 C.F.R. § 214.14(d)(2) and 8 C.F.R. § 274a.12(c)(14). In doing so, DHS has already exercised enforcement discretion to forgo removal and to permit Petitioner to live and work in the community. *See Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 17–18 (2020) (describing deferred action as forbearance from removal).

75. Principles of collateral estoppel and issue preclusion reinforce this conclusion. The United States, acting through USCIS, has already determined that Petitioner may reside at liberty under deferred action and a (c)(14) category employment authorization document. Exh. A. The same sovereign, acting through ICE and DOJ, should not be permitted to take the opposite position—that he must be confined under "mandatory" detention with no bond process—absent a material, evidence-based change in circumstances. *See United States v. Stauffer Chem. Co.*, 464 U.S. 165, 169–74 (1984); *Montana v. United States*, 440 U.S. 147, 153–55 (1979); *Astoria Fed. Sav. & Loan Ass'n v. Solimino*, 501 U.S. 104, 108–10 (1991). At a minimum, DHS's earlier forbearance decision is powerful evidence that is arrest of Petitioner is inconsistent with its own prior factual and enforcement determinations.

76. Administrative preclusion and basic APA principles point the same way. Administrative determinations can preclude re-litigation where an agency resolves issues in a quasi-adjudicative posture. *See United States v. Utah Constr. & Mining Co.*, 384 U.S. 394, 421–22 (1966); *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138, 148–58 (2015). Even if the Court declines formal preclusion, agencies must follow their own regulations and provide a reasoned explanation when they take action that is inconsistent with existing regulatory commitments and prior exercises of discretion. See *Motor Vehicle Mfrs. Ass'n*

v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 42–44 (1983); *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–16 (2009); *Judulang v. Holder*, 565 U.S. 42, 53–64 (2011). Detaining Petitioner without bond while leaving his U-visa deferred action and work authorization intact—without revocation, notice, or a reasoned explanation reconciling these positions—is arbitrary and capricious.

C. Remedy

77. The Court should (1) declare that the DHS's decision to detain him without bond and without revocation of his deferred action is unlawful; and (2) order immediate release in light of USCIS-conferred BFD and unrevoked deferred action, consistent with *Maldonado*, No. 4:25-cv-02541, Doc. 8 (S.D. Tex. June 5, 2025).

VIII. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION
Violation of the Due Process Clause (Fifth Amendment)

78. Petitioner incorporates all allegations above.

79. Civil immigration detention is not punitive and must accord with due process.

80. The Fifth Amendment protects "all persons" in the United States, including long-resident noncitizens. *Zadvydas*, 533 U.S. at 693. Continued detention since October 31, 2025 with no justification, where a noncitizen has been granted deferred action status already, violates that protection.

SECOND CAUSE OF ACTION
Violation of the Immigration and Nationality Act (INA)

81. Petitioner incorporates all allegations above.

82. DHS's arrest of Petitioner contradicts the INA's text, where in 8 U.S.C. § 1184(p)(6) Congress has provided that "[T]he Secretary may grant work authorization to any alien

who has a pending bona fide application for nonimmigrant status under section 101(a)(15)(U)." For those bona fide U visa applicants, where they have shown that the alien or their derivatives have "suffered substantial physical or mental abuse as a result of having been the victim of criminal activity [listed]", Congress intended to permit them to receive deferred action from detention and removal.

THIRD CAUSE OF ACTION
Procedural Due Process — Denial of Opportunity to Contest Whether Deferred Action Grant Permits ICE to Arrest and Remove

83. Petitioner incorporates all allegations above.

84. By arresting, without warrant, Petitioner even in view of his having deferred action, the Respondents have foreclosed a hearing to challenge their decision. *See Mathews*, 424 U.S. at 333–35; *Jennings*, 583 U.S. at 303 (constitutional challenges preserved).

85. Here, Petitioner's interest is substantial—freedom from physical restraint is an interest that "lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

86. The government's interest in detaining noncitizens during deportation proceedings is to effectuate removal. As to noncitizens with viable legal defenses, this interest is diminished. In Petitioner's case, for example, where the USCIS has granted deferred action, the likelihood that the government will be legally permitted to remove him is reduced.

87. This denial of meaningful process violates the Fifth Amendment.

FOURTH CAUSE OF ACTION
U-Visa/Deferred-Action Forbearance (Statutory and Due Process)

88. Petitioner incorporates all allegations above.

89. USCIS granted Petitioner a U-visa bona fide determination (BFD) with four years of deferred action and employment authorization. *See* 8 C.F.R. § 214.14(d)(2) (waitlisted U-

petitioners "will be granted deferred action or parole" and may receive employment authorization); 8 C.F.R. § 274a.12(c)(14).

90. Deferred action is executive forbearance from removal during the grant period. Proceeding to detain or remove a BFD recipient without first revoking deferred action, or affording notice and an opportunity to be heard, violates due process and the governing U-visa regulatory framework. *See Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 140 S. Ct. 1891, 1905–07 (2020); *cf. Maldonado v. Noem*, No. 4:25-cv-02541, Order Granting TRO at 2–3, 5–6 (S.D. Tex. June 5, 2025); *Velasco Gomez v. Scott*, No. 2:25-cv-00522-JLR-BAT, 2025 WL 1382855, at *1–2 (W.D. Wash. Apr. 29, 2025); *Raghav v. J*addou, No. 2:25-cv-00408-DJC-JDP, 2025 WL 373638, at *2 (E.D. Cal. Feb. 3, 2025).

FIFTH CAUSE OF ACTION
Administrative Procedure Act (5 U.S.C. § 706)

91. Petitioner incorporates all allegations above.

92. Petitioner challenges the following action: (1) ICE's arrest of him on October 31, 2025 notwithstanding the DHS's grant of deferred action to him on March 17, 2025. The DHS has not revoked his deferred action. The agency's action is arbitrary and capricious.

93. Petitioner's U visa petition has been pending for more than two years.

USCIS has not adjudicated Petitioner's application in a reasonable time. *See* 5 U.S.C. § 555(b).

Adverse factors exist that make this delay unreasonable as applied to Petitioner under *Telecommunications Research & Action Center ("TRAC") v. FCC*, 750 F.2d 70, 77-78 (D.C. Cir. 1984):

(a) **Rule of Reason.** USCIS adjudicates U visa petitions in the order received, a rule that is unjustifiable as it pertains to individuals like Petitioner who are in

detention and facing imminent deportation. Petitioner asks USCIS to prioritize his case over those U visa applicants who are not detained and not in removal proceedings.

(b) **Whether human health and welfare interests are at stake.** This case is not about economic interests. It is about whether ICE will in short time likely deport Petitioner back to Colombia, away from his U.S. citizen children, two of whom suffer autism, and to whom Petitioner has provided emotional and financial support. His detention and the restriction of liberty raises serious concerns for his health and welfare.

(c) **The effect of expediting delayed action on agency activities of a higher or competing priority.** Petitioner recognizes that there are others seeking a u visa adjudication. But Petitioner's interests are different because, unlike most U visa applicants, he is sitting in immigration. So while there may be others awaiting a U visa, most applicants are not detained and most applicants are not in removal proceedings. Therefore, they do not have the same need for urgent adjudication of their U visa applications.

(d) **The nature and extent of the interests at stake.** For Petitioner, the nature of the interests at stake could not be more compelling—his ability to stay in the United States with his children and wife. Irreparable harm will result from his removal—if ICE forces Petitioner to leave the country, he will necessarily need to await adjudication of his U visa in Colombia. This will take another nine to ten years. And once his U visa is adjudicated, there is no certainty he will be able to reenter, as he will need to seek a waiver from USCIS. This will harm

both Petitioner and his children who rely on him.

A. As-Applied APA Challenge (5 U.S.C. § 706(2)(A), (C))

94. Given Petitioner's BFD with deferred action and EAD, detaining him without first revoking deferred action or affording required process is arbitrary, capricious, and contrary to law. *See* 8 C.F.R. § 214.14(d)(2); 8 C.F.R. § 274a.12(c)(14); *Regents*, 140 S. Ct. at 1905–07; *Maldonado*, Order Granting TRO at 2–3, 5–6; *Velasco Gomez*, 2025 WL 1382855, at *1–2; *Raghav*, 2025 WL 373638, at *2.

95. DHS failed to consider important aspects of the problem—including USCIS's forbearance decision, the victim-protection purpose of the U-visa statute, Petitioner's reliance and equities, and the mismatch between continued civil detention and the INA's nonpunitive aims—rendering the detention unlawful. *See* 8 U.S.C. §§ 1101(a)(15)(U), 1184(p); *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528.

96. Under 5 U.S.C. § 706, the Court should order immediate release.

SIXTH CAUSE OF ACTION
Suspension Clause

97. Petitioner incorporates all allegations above.

98. If 8 U.S.C. § 1252 were construed to bar review of these detention claims, it would be unconstitutional as applied because it would eliminate a meaningful opportunity to challenge unlawful executive detention. *See Boumediene v. Bush*, 553 U.S. 723, 771 (2008).

99. Petitioner satisfies Boumediene's factors: status and long-standing ties, domestic detention, and the lack of practical obstacles all support habeas review. Id. at 766.

SEVENTH CAUSE OF ACTION
Stay of Removal

100. Petitioner incorporates all allegations above.

101. Absent a stay, Petitioner faces irreparable harm from removal while the Court adjudicates his statutory and constitutional claims, including misclassification under the INA and disregard of his deferred-action posture. *See Nken v. Holder*, 556 U.S. 418, 434–35 (2009).

102. The balance of equities and public interest favor preserving the status quo and the Court's jurisdiction.

VIII. RELIEF SOUGHT

WHEREFORE, Petitioner respectfully requests that this Court:

(1) Assume jurisdiction and take the Petition under consideration;

(2) Declare that in light of Petitioner's USCIS-issued U-visa bona fide determination with unrevoked deferred action and employment authorization, DHS may not detain or remove him absent lawful revocation of deferred action consistent with 8 C.F.R. § 214.14(d)(2) and 8 C.F.R. § 274a.12(c)(14).

(3) Order Respondents to show cause within three days why the writ should not be granted, *see* 28 U.S.C. § 2243;

(4) Order Respondents to file the complete administrative record for Petitioner, including the A-File, EOIR Record of Proceedings, and all ICE/ERO custody records and guidance relied upon for detention and classification;

(5) Retain jurisdiction over this Petition notwithstanding any change in Petitioner's place of detention or immediate custodian and, pending final resolution of this case, direct Respondents to refrain from transferring Petitioner outside the Norther District of Texas

without prior leave of Court and to ensure that the Court can effectuate any relief ultimately granted, including by returning Petitioner to this District if necessary.

(6) Grant the writ and order Petitioner's immediate release on recognizance, parole, or reasonable supervision;

(7) Award costs and, if permissible, attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412, preserving Petitioner's position that EAJA may apply in habeas notwithstanding *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023), and noting contrary authority, including *Vacchio v. Ashcroft*, 404 F.3d 663, 670–72 (2d Cir. 2005); *In re Petition of Hill*, 775 F.2d 1037, 1040–41 (9th Cir. 1985); *Daley v. Ceja*, No. 24-1191, — F.4th —, 2025 WL 3058588 (10th Cir. Nov. 3, 2025) (holding that habeas actions challenging immigration detention are unambiguously "civil actions" within EAJA's "any civil action" language and affirming an EAJA award where the habeas petition materially altered the parties' legal relationship by securing a bond hearing and release); *Abioye v. Oddo*, 2024 U.S. Dist. LEXIS 174205 (W.D. Pa. 2024); and *Arias v. Choate*, 2023 U.S. Dist. LEXIS 119907 (D. Colo. 2023).

(8) Grant such other and further relief as the Court deems just and proper.

PRAYER FOR EXPEDITED CONSIDERATION

Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests expedited consideration. Each day of unlawful detention inflicts irreparable harm on Petitioner and his U.S. citizen children, depriving them of their father's care, stability, and support. Prompt judicial intervention is necessary to protect Petitioner's constitutional rights and his family's well-being.

Respectfully submitted.

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Luis Adames Zambrano, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 21st day of November 2025.

/s/ Stephen O'Connor
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