U.S. DISTRICT COURT

WESTERN DISTRICT OF OKLAHOMA

(1) Kamronbek Nigmatov, Petitioner, -vs.- (1) Kristi Noem, Secretary, U.S. Department of Homeland Security, in her official capacity; (2) Pamela Bondi, U.S. Attorney General, in her official capacity; (3) Todd Lyons, Acting Director, Immigration and Customs Enforcement, in his official capacity; (4) Josh Johnson, Acting Field Office Director of Enforcement and Removal Operations, Dallas Field Office, Immigration and Customs Enforcement, in his official capacity; (5) Daren Margolin, Director of the Executive Office of Immigration Review, in his official capacity; (6) Scarlet Grant, Warden of Cimarron Correctional Facility, in her official capacity Respondents.	)	Case No.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Kamronbek Nigmatov is in the physical custody of Respondents at the Cimarron Correctional Facility. He now faces unlawful detention because the

Department of Homeland Security ("DHS") and the Executive Office of Immigration Review ("EOIR") have concluded Petitioner is subject to mandatory detention.

2. Petitioner was awarded Special Immigrant Juvenile Status ("SIJS") by the Department of Homeland Security. Exhibit 1. 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 authorized presence in the United States for the purpose of adjustment of status to lawful permanent residence. The Petitioner has been approved for SIJS, was granted deferred action from removal by DHS, and was peaceably awaiting eligibility to file his application for lawful permanent residence in the United States.

3. Despite DHS acknowledging that: (a) the Petitioner is a member of a vulnerable population; (b) Petitioner was awarded the benefits of SIJS, including deferred action from removal; and (c) the Petitioner is required to be physically present for adjustment of status to permanent residence, the Respondents detained him without lawful statutory authority. The Respondents intend to remove him from the United States thereby effectively nullifying his SIJ status and the statutory protections Congress attached to it. The Petitioner remains detained by the Respondents at the Cimarron Correctional Facility in Cushing, Oklahoma.

4. The Petitioner has been classified as a "Special Immigrant Juvenile" ("SIJ") by the United States Citizenship and Immigration Service ("USCIS") on the basis of an approved self-petition after an underlying family court proceeding that resulted in the requisite "predicate order." Upon SIJ approval, the Petitioner was granted deferred action from removal. ***See*** **Exhibit 1, I-360 Approval and Grant of Deferred**

Action. Neither benefit has been properly rescinded or lawfully revoked in any way nor has the Petitioner violated his status or any law which might justify the Respondents' harsh treatment.

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

6. Respondents now seek to undercut both the determination of the family court and that of USCIS, which is the agency that adjudicated and approved the Petitioner for SIJS. Respondents seek the detention and removal of the Petitioner despite the benefits that USCIS and Congress have afforded him.

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

8. Congress's goal for the SIJ program was to create protective measures and a pathway to citizenship for children who have been victimized or trafficked. The program was intended to protect 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.

9. As explained by the Third Circuit in *Osorio-Martínez v. Attorney General*, 893 F.3d 153 (3d Cir. 2018), SIJs are afforded a number of statutory and procedural protections that they would otherwise not have under the law as applicants for admission. These protections materially constrain DHS' removal-related authority and are enforceable in federal district court. The protections include generous waivers of many grounds of inadmissibility, assurance of their eligibility to apply for permanent residence, authorized legal presence in the United States while they wait for an immigrant visa to become available, and the ability to not be stripped of that designation without due process of law and a finding of "good and sufficient cause" to do so. *Osorio-Martínez* at 168, 170-72.

10. However, notwithstanding the protections Congress afforded to SIJs, the Petitioner now faces unlawful immigration detention because DHS and the Executive Office of Immigration Review have concluded Petitioner is subject to the newly instituted mandatory detention policy.

11. The Department of Homeland Security issued a new policy on July 8, 2025, instructing all Immigration and Customs Enforcement ("ICE") employees to consider anyone inadmissible under §1182(a)(6)(A)(i)-i.e., those who entered the United States without admission or inspection-to be subject to detention under 8 U.S.C. §1225(b)(2)(A) and therefore ineligible to be released on bond. According to one court, DHS "revisited its legal position on detention and release authorities" and "determined

that [section 1225]..., rather than [section 1226], is the applicable immigration detention authority for all applicants for admission," meaning all non-citizens who were "present in the United States [without having] been admitted," 8 U.S.C. §1225(a)(1). *See Diaz Martinez v. Hyde*, 792 F. Supp. 3d 211, 217–18 & n.10 (D. Mass. 2025) (quoting the same internal ICE memorandum issued by Acting Director Todd M. Lyons).

12. Thereafter, on September 5, 2025, the Board of Immigration Appeals ("BIA") issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado,* 29 I. & N. Dec. 216 (BIA 2025). The BIA determined that such individuals are subject to detention under 8 U.S.C. §1225(b)(2)(A) and are therefore ineligible to be released on bond.

13. Respondents' new legal interpretation is plainly contrary to the statutory framework, contrary to decades of agency practice and violates the Due Process Clause. As well, DHS's detention of a deferred-action SIJ beneficiary directly contradicts its own policy determinations, violates the *Accardi* doctrine, and constitutes an ultra vires action.

14. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released. In the alternative, Petitioner seeks an order requiring Respondents to provide a bond hearing within five days.

JURISDICTION

15. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Cimarron Correctional Facility in Cushing, Oklahoma.

16. This Court has jurisdiction under 28 U.S.C. §2241(c)(1), (3) (habeas corpus), 28 U.S.C. §1331 (federal question), Article I, section 9, clause 2 of the U.S.

Constitution (the Suspension Clause), and U.S. Const. amend. V (the Due Process Clause).

17. This Court may grant relief pursuant to 28 U.S.C. §2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. §2201 et seq., and the All Writs Act, 28 U.S.C. §1651.

VENUE

18. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky,* 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Western District of Oklahoma, the judicial district in which Petitioner currently is detained. Respondent Scarlet Grant, Warden of the Cimarron Correctional Facility, the immediate custodian of Petitioner, is in the Western District of Oklahoma.

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

REQUIREMENTS OF 28 U.S.C. §2243

20. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. §2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

21. 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) (emphasis added).

"The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four comers of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

22. Petitioner Kamronbek Nigmatov is a citizen of Uzbekistan who has been in immigration detention since October 27, 2025. He was taken into custody in Oklahoma. After taking custody of Petitioner, ICE did not set bond. Petitioner states, upon information and belief, that he twice requested a bond hearing, but was denied a hearing or bond pursuant to the BIA's binding decision in *Matter of Yajure Hurtado,* 29 I. & N. Dec. 216 (BIA 2025).

23. 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 Petitioner and is sued in her official capacity.

24. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

25. Respondent Todd Lyons is the Acting Director for Immigration and Customs Enforcement. As such, he is responsible for Petitioner's detention and removal. He is named in his official capacity.

26. Respondent Josh Johnson is the Acting Field Office Director of Enforcement and Removal Operations of the Dallas ICE Field Office. As such, Johnson is responsible for Petitioner's detention and removal. He is named in his official capacity.

27. Respondent Daren Margolin is the Director of EOIR with the Department of Justice. EOIR (the Executive Office for Immigration Review) includes the immigration court system. He is sued in his official capacity.

28. Respondent Scarlet Grant is employed by the Cimarron Correctional Facility as warden where Petitioner is detained. She has immediate physical custody of Petitioner. She is sued in her official capacity.

FACTS

29. Petitioner entered the United States on December 13, 2022, when he was 19 years old.

30. ICE charged Petitioner in Immigration Court as being inadmissible under 8 U.S.C. §1182(a)(6)(A)(i) as someone who entered the United States without inspection.

31. Upon information and belief, Petitioner believes that on December 16, 2022, Petitioner was released on an Order of Release on Recognizance, which stated, "You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act..., you are being released on your own recognizance..."

32. Petitioner has resided in the United States continuously since that time. He has no criminal convictions. In summary, Petitioner is not a flight risk nor a danger to society and DHS has not alleged otherwise.

33. Subsequent to Petitioner's arrival in the United States, his uncle obtained a special findings order from a juvenile court allowing, in part, for Petitioner to file for Special Immigrant Juvenile Status.

34. On December 2, 2024, USCIS approved the I-360 self-petition filed by Petitioner granting him Special Immigrant Juvenile Status with deferred action with a priority date of August 29, 2024.

35. Following Petitioner's arrest and transfer to the Cimarron Correctional Facility, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

36. Petitioner states upon information and belief that he twice applied for bond but such bond hearing or bond was denied due to *Matter of Yajure Hurtado,* 29 I. & N. Dec. 216 (BIA 2025). Petitioner was legally foreclosed from exercising his statutory right under §1226(a) to a bond hearing or to consideration for bond solely because of DHS's novel and unlawful reinterpretation of §1225 and the BIA's adoption of that interpretation in *Matter of Yajure Hurtado*.

37. As a result, Petitioner remains in detention. Without relief from this Court, he faces the prospect of months in immigration custody, separated from his family and community.

LEGAL FRAMEWORK

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

38. 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.[1] 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.[2] SIJ classification is a congressionally created humanitarian status that reflects a federal determination that the beneficiary should remain in the United States until permitted to adjust status. *See* 8 U.S.C. §1101(a)(27)(J); 8 U.S.C. §1255(h). DHS itself recognized this by granting Petitioner *deferred action*, a form of authorized presence.

39. 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.[3] Congress also explicitly excluded SIJ beneficiaries from

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[1] 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)).
[2] *Id.*
[3] 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)).

specific grounds of excludability, or as they are now known, grounds of inadmissibility.[4] This prevented broad disqualification of SIJS beneficiaries from adjustment of status due to numerous admissibility issues common to SIJ beneficiaries.

40. 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 in the United States.* [5]

41. 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."[6] This amendment also increased the potential eligibility pool to include not

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[4] *See* 1990 Act.

[5] 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."

[6] Immigration and Nationality Technical Corrections Act of 1994 ("INTCA"), Pub. L. No. 103-

only those in foster care and other court-dependent children, but also children in juvenile facilities. The Immigration and 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.[7]

42. In 2008, Congress unanimously passed the TVPRA, which expressly codified longstanding regulatory policy where SIJ eligibility 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.[8] 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."[9]

43. At the same time, the TVPRA also explicitly exempted SIJ beneficiaries from inadmissibility based on having entered the United States without admission or parole or at an unauthorized time or place, making SIJ beneficiaries eligible to adjust their status even if they had entered the country without inspection or without the necessary travel documents.[10]

416, §219, 108 Stat. 4305 (1994) (codified at 8 U.S.C. §§101-225).
[7] *See* Special Immigrant Status, 58 Fed. Reg. 42843-01, 42850 (Aug. 12, 1993) (codified at 8 C.F.R. §204.11).
[8] 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)).
[9] *Id.*
[10] *Id.* at 5080 (codified at 8 U.S.C. §1255(h)(2)).

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

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

46. The statutory framework lays out certain circumstances where an approved SIJ petition is revoked automatically before USCIS can decide an SIJ beneficiary's permanent residence petition: (1) reunification with one or both parents by virtue of a court order, where the court had previously determined that reunification was not viable due to abuse, neglect, abandonment, or similar basis under state law; or (2) the juvenile court reverses the determination that it would not be in the child's best interests to be returned to their country of origin or of last habitual residence.[14] Alternatively,

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[11] 8 U.S.C. §1101(a)(27)(J); 8 C.F.R. §204.11.
[12] *See* 8 C.F.R. §204.11(c).
[13] *Id.*
[14] 8 C.F.R. §204.11(j); *see also* USCIS Policy Manual, Vol. 6, Part J, Ch.4.F.3.

should USCIS intend to revoke the grant of SIJS for cause, USCIS issues a notice of revocation. After providing notice and an opportunity to respond, then USCIS can revoke the SIJ classification "for good and sufficient cause," for example, a finding of fraud or a determination that the application was approved in error.[15]

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

48. To manage the limited supply of visas, the United States Department of State ("DOS"), in collaboration with USCIS, issues the Visa Bulletin, a monthly publication that tracks visa availability in each category, based on applicant priority date and country of nationality. The "priority date" is defined as the date when the applicant filed the underlying petition or application, such as the petition for SIJ status. Dates listed in each month's Visa Bulletin are used to determine when a visa is available for issuance to a given applicant, and thus when an applicant may submit an application for

[15] *Id.*

adjustment of status. The Visa Bulletin appears on the DOS website, and USCIS has an additional website indicating which priority dates (Dates for Filing or Final Action Dates) are to be used for purposes of filing the adjustment of status.

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

50. Importantly, the removal of an SIJ beneficiary from the United States before the adjustment of status is complete strips the SIJ beneficiary of the opportunity to become an LPR, because adjustment of status is not available to those not physically present in the United States. There is no process for those outside of the United States to return on an SIJ visa. *See* 22 C.F.R. §44.11 (denoting SIJS as an "adjustment-only" category).[16]

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

51. In 2018, the Third Circuit heard *Osorio-Martínez v. Attorney General*, 893 F.3d 153 (3d Cir. 2018), a case in which a number of children who had approved SIJ petitions. Their mothers brought a case challenging the expedited removal orders that DHS had entered against the children, arguing that their approved SIJ petitions entitled

[16]*See also* 9 FAM 502.5-7(C), Certain Juvenile Court Dependents (CT:VISA-1829; 09-12-2023), "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."

them to some level of procedural and due process protections. However, review was barred under the expedited removal statute. 8 U.S.C. §1252(e)(2).

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

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

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

55. To that end, The Third Circuit explained that:

> Congress also afforded these aliens a host of procedural rights designed to sustain their relationship to the United

> States and to ensure they would not be stripped of SIJ protections without due process. SIJ status may be revoked only for what the Secretary of Homeland Security deems 'good and sufficient cause.' Even then, revocation must be 'on notice,' meaning that the agency must provide the SIJ designee with 'notice of intent' to revoke, an 'opportunity to offer evidence ... in opposition to the grounds alleged for revocation,' a 'written notification of the decision that explains the specific reasons for the revocation,' and the option to file an appeal within the agency.'

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

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

57. Like the petitioners in *Osorio-Martinez,* the Petitioner now faces indefinite detention and potential removal from the United States without cause, notice, or judicial review, leaving him without any method to return to the United States, and would thus render 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 distinct statutory posture involving mandatory detention and sharply limited judicial review. Despite this, the Third Circuit recognized that the benefits granted to a SIJ beneficiary cannot be stripped without review and that the detention of those petitioners was not proper.

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

58. The fundamental requirement of due process is the opportunity to be heard "at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). Procedural due process "imposes constraints on government decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth amendment." *Id.*

59. Once a petitioner has identified protected liberty or property interest, the Court must determine whether constitutionally sufficient process has been provided. *Id.* In making this determination, the Court balances (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural requirement would entail;" and (3) "the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335.

60. Due process cases recognize a broad liberty interest rooted in the fact of deportation, not just the process of removal proceedings. *See Bridges v. Wixon*, 326 U.S. 135, 154 (1945) (holding that deportation "visits a great hardship on the individual and deprives him of the right to stay and live and work in this land of freedom."); *see also Chhoeun v. Marin*, 2018 WL 566821, at *9 (C.D. Cal., Jan. 25, 2018) (finding a "strong liberty interest" where being deported means being separated from home and family). While this liberty interest typically arises in removal proceedings, various courts have found 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 Defendants do not provide sufficient notice of the one-year deadline to satisfy the Due Process clause" to asylum-seeker subclasses both in and out of removal proceedings).

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

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

63. Interpreted in light of the Constitution, pursuant to the INA and its implementing regulations, Petitioner possesses a procedural entitlement not to be detained or removed in a manner that effectively nullifies his SIJ classification and the statutory protections Congress attached to it.

64. Due process protects a noncitizen's liberty interest in the adjudication of applications for relief and benefits made available under the immigration laws. *See*

Arevalo v. Ashcroft, 344 F.3d 1, 15 (1st Cir. 2003) (recognizing protected interests in the "right to seek relief" even when there is no "right to the relief itself").

65. The Petitioner has a protected a due process interest in his ability to retain and benefit from his SIJ classification and grant of deferred action as well as a statutorily protected expectation of continued presence pending adjustment of status to lawful permanent residence when an immigrant visa becomes available.

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

66. 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).

67. When the government has promulgated "[r]egulations with the force and effect of law," those regulations "supplement the bare bones" of federal statutes such that agencies must follow their own "existing valid regulations," even where government officers have broad discretion, such as in the area of immigration. *United States ex rel. Accardi Shaughnessy*, 347 U.S. 260, 266, 268 (1954) (reversing in immigration case after review of warrant for deportation); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("[I]t is incumbent upon agencies to follow their own procedures . . . even where [they] are possibly more rigorous than otherwise would be required"); *Battle v. FAA*, 393

F.3d 1330, 1336 (D.C. Cir. 2005) ("*Accardi* has come to stand for the proposition that agencies may not violate their own rules and regulations to the prejudice of others").

68. Breaches of *Accardi*'s rule constitute violations of both the Fifth Amendment's Due Process Clause and the APA.[17] *See also, Rowe v. United States AG,* 545 Fed.Appx. 888, 890 (11th Cir. 2013) (recognizing the *Accardi* doctrine entails that to ensure due process an agency is required to follow its own regulations when exercising discretion and issuing a decision) and *Mayers v. United States INS,* 175 F.3d 1289, 1300 (11th Cir. 1999) (recognizing that a review of statutory questions implicates due process, that *Accardi* supports using habeas to ensure due process and that the "crucial question" is whether the Attorney General's conduct deprived an individual the rights guaranteed under a statute or regulation) (internal citations omitted).

69. The Respondents, in pursuing detention and removal of SIJ beneficiaries, including those with deferred action from removal like the Petitioner, fail to comply with their own rules and regulations. The Respondents have provided the Petitioner with benefits under the law (SIJ and deferred action) and have not rescinded or revoked those benefits. Governing statutes and regulations provide the mechanism for the revocation of SIJ status, both automatically and for cause, which have not and cannot be followed in this case. Respondents are attempting to unlawfully revoke the SIJ status of the

[17] 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).

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

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

E. Detention of SIJ Beneficiaries Remains Improper without Hearing or Review for those persons with SIJ status and a grant of Deferred Action.

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

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

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

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

75. Following the enactment of the IIRIRA, the Executive Office for Immigration Review 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 and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

76. Thus, in the decades that followed, most people who entered without inspection who were detained were placed in standard removal proceedings and received bond hearings, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. §1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that §1226(a) simply "restates" the detention authority previously found at §1252(a)).

77. On July 8, 2025, ICE, purportedly advised by the U.S. Department of Justice announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice.

78. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. §1225, and therefore are subject to mandatory detention provision under §1225(b)(2)(A). *See id.* The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades. These policy decisions culminated in *Matter of Yajure Hurtado,* which solidified the agency's position on mandatory detention for applicants for admission.

79. ICE and EOIR have adopted this position even though several federal courts have rejected this exact conclusion. For example, after IJs in the Tacoma, Washington immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, the District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that §1226(a), not §1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 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).

80. The Respondents' statutory interpretation violates the plain language of the statute. As the *Rodriguez Vazquez* court explained, the plain text of the statutory provisions demonstrates that §1226(a), not §1225(b), applies to people like the Petitioner.

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

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

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

84. By contrast, §1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. §1225(b)(2)(A).

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

86. Petitioner's detention nevertheless remains unlawful because §1225 applies only to individuals who are "arriving" or "seeking admission" at the border—not to noncitizens like Petitioner who have resided within the United States and were previously released under §1226(a).

87. Further, the INA detention provision is silent about special immigrant categories, for 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 is inconsistent with Congress's expressed statutory purpose and the structure of the INA as enacted, and treats SIJ beneficiaries inconsistently with the humanitarian protections Congress intended. This reading of the INA is not supported by either the literal text of the statute or the spirit of the law enacted by Congress.

88. Respondents' reinterpretation of §1225(b)(2)(A) should receive no deference. *See INS v. Cardoza-Fonseca*, 480 U.S. 421, 447–48 (1987) (no deference where the INA's meaning is clear); *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 220 (2016) (no deference to agency interpretations that are procedurally defective or unreasonable).

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

89. Petitioner repeats, re-alleges, and incorporates by reference every allegation in the preceding paragraphs as if fully set forth herein.

90. The mandatory detention provision at 8 U.S.C. §1225(b)(2) does not apply to Petitioner. Petitioner was apprehended within the interior of the United States after entry, placed in standard removal proceedings under 8 U.S.C. §1229a, and was initially detained and released by DHS pursuant to 8 U.S.C. §1226(a). He was not detained at the border, during inspection, or while seeking admission. DHS therefore classified Petitioner as subject to §1226(a), which governs detention pending a removal decision and entitles him to an individualized custody determination, including consideration for release on bond or other conditions.

91. The application of §1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

92. Petitioner is an approved Special Immigrant Juvenile with a grant of deferred action, whom Congress has deemed paroled solely for purposes of adjustment of status under 8 U.S.C. §1255(h). DHS therefore lacks statutory authority to subject Petitioner to mandatory detention under §1225(b)(2) in a manner that nullifies his SIJ classification and statutorily protected opportunity to adjust status.

93. Respondents' interpretation also cannot supersede the SIJ provisions of §1101(a)(27)(J) and §1255(h), which require presence in the United States for adjustment.

COUNT II

Violation of Due Process

94. Petitioner repeats, re-alleges, and incorporates by reference every allegation in the preceding paragraphs as if fully set forth herein.

95. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001).

96. Petitioner has a fundamental interest in liberty and being free from official restraint.

97. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

COUNT III

Violation of the APA

98. Petitioner repeats, re-alleges, and incorporates by reference every allegation in the preceding paragraphs as if fully set forth herein.

99. Respondent's adoption and application of the July 8, 2025 "Interim Guidance Regarding Detention Authority for Applicants for Admission," and their refusal to apply §1226(a) to Petitioner, constitute final agency action that is arbitrary, capricious, contrary to law, and in excess of statutory authority in violation of 5 U.S.C. §706(2)(A), (C), (D).

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Western District of Oklahoma while this habeas petition is pending;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or,

e. In the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §1226(a) within five days;

f. Declare that Petitioner's detention is unlawful;

g. Enjoin Respondents from removing Petitioner until adjudication of his SIJ-based adjustment;

h. Award Petitioner attorney's fees and costs to the extent permitted under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. §2412, and on any other basis justified under law; and

i. Grant any other and further relief that this Court deems just and proper.

DATED this 15th day of December 2025.

s/Steven F. Langer
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ATTORNEY FOR PETITIONER

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

I represent Petitioner, Kamronbek Nigmatov, 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 15th day of December 2025.

s/Steven F. Langer
STEVEN F. LANGER