UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

JEFFERSON R. COTUC VASQUEZ, A# [redacted] Petitioner, v. **JASON STREEVAL**, Warden of Stewart Detention Center, **LADEON FRANCIS**, Field Office Director of Enforcement and Removal Operations, Atlanta Field Office; **TODD LYONS**, in his official capacity as Acting director of Immigration and Customs Enforcement; **KRISTI NOEM**, Secretary, U.S. Department of Homeland Security; and **PAMELA BONDI**, U.S. Attorney General. Respondents.	Civile Action No.:

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Jeffferson R. Cotuc Vasquez, A# [redacted] is an unlawfully detained 18-year-old-person who was awarded Special Immigrant Juvenile Status ("SIJS") by the Department of Homeland Security ("DHS"). **See Exhibit A, I-360 Approval Notice.** Petitioner arrived to the United States on or about February 14, 2024 as an unaccompanied minor child. Although he was apprehended by Immigration and Customs Enforcement ("ICE") upon arrival,

Petitioner's February 14, 2024 Notice to Appear ("NTA") was not filed with the immigration court and removal proceedings were not commenced.

2. After coming to the United States as a child, the Petitioner, in compliance with applicable law, sought and received SIJS protection as a vulnerable minor. Being awarded this benefit, as Congress intended, permits the Petitioner's presence in the United States for the purpose of adjustment of status to lawful permanent residence. The Petitioner has been approved for SIJS, and was peaceably awaiting eligibility to file his application for lawful permanent residence in the United States.

3. The Petitioner has been classified as an 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." This benefit has not been properly rescinded or lawfully revoked in any way nor has the Petitioner violated Petitioner's status or any law which might justify the Respondents' harsh treatment. In fact, Petitioner was apprehended by ICE on or about November 28, 2025 solely for walking in his own neighborhood. Following Petitioner's apprehension, ICE filed an NTA with the immigration court and commenced removal proceedings. **See Exhibit B, NTA filed 12/1/2025.**

4. The Petitioner has been awaiting an available visa number 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 Petitioner remain in the United States based on a history of abuse, abandonment or neglect.

5. 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 DHS/USCIS and Congress has afforded the Petitioner.

6. 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.

7. 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.

8. 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.

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

10. Despite not any having criminal record whatsoever or any pre-existing order of removal, the Petitioner was stopped, arrested, detained while walking on the street, and placed into immigration detention at the Stewart Detention Center in Lumpkin, GA.

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

12. Respondents are now holding Petitioner detained and have classified Petitioner's detention as detention under 8 U.S.C. § 1225(b)(2). This determination is consistent with a new DHS policy issued on July 8, 2025, instructing all ICE employees to consider anyone charged with inadmissibility under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without

inspection—to be an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention. **See Exhibit C, July 8, 2025 ICE Guidance.**

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

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

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

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

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

JURISDICTION

18. The Petitioner is in the physical and legal custody of Respondents. He is detained at the Stewart Detention Center in Lumpkin, GA. The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their detention by ICE. See, e.g., *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001);

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

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

21. The federal government has waived its sovereign immunity and permitted judicial review of agency action under 5 U.S.C. § 702. In addition, sovereign immunity does not bar claims

against federal officials that seek to prevent violations of federal law (rather than provide monetary relief).

VENUE

22. 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 Middle District of Georgia, the judicial district in which the Petitioner is currently detained.

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

PARTIES

24. Petitioner is an approved Special Immigrant Juvenile pursuant to 8 U.S.C. § 1101(a)(27)(J), and a citizen and national of Guatemala. Petitioner entered the United States as a minor child, unaccompanied by family members through the southern border on or about February 14, 2024. After being designated as an unaccompanied alien child (UAC), he was placed into the government's custody as administered by the Office of Refugee Resettlement (ORR). Petitioner was eventually released from ORR into his half-brother's care. Petitioner then obtained a predicate order with the requisite SIJ findings from the Dekalb County Superior Court, a state court of competent jurisdiction. The predicate order placed Petitioner into his half-brother's custody and decreed that it was not in Petitioner's best interest to be reunited with both parents due to abandonment. Petitioner subsequently petitioned the USCIS for SIJ status, which granted Petitioner's petition. The Petitioner is currently awaiting an available visa number to submit Petitioner's adjustment of status application to lawful permanent residency, and has no criminal

record or other adverse criminal or removal history. On or about November 28 2025, the Petitioner was stopped by ICE while walking to his car.Despite being aware of the Petitioner's SIJ, ICE officers detained Petitioner. Petitioenr is currently being held without bail or bond .

25. Respondent Jason Streeval is employed by The GEO Group, Inc. as Warden of the Stewart Detention Center, where Petitioner is detained. This Respondent is responsible for the operation of the Detention Center where Petitioner is detained and is the immediate custodian who is currently holding Petitioner in physical custody. Because ICE contracts with private and county-operated detention facilities to house immigration detainees, Respondent Warden of the Stewart Detention Center has immediate physical custody of the Petitioner and is sued in his or her official capacity.

26. Respondent LaDeon Francis is the Atlanta Field Office Director (FOD) for ICE. As such, Respondent Francis is responsible for the oversight of ICE operations at the Stewart Detention Center. Respondent Francis is being sued in his official capacity. He is the head of the ICE office that unlawfully arrested Petitioner, and such arrest took place under his direction and supervision. He is the immediate legal custodian of Petitioner.

27. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (ICE). As such, Respondent Lyons is responsible for the oversight of ICE operations and the head of the federal agency responsible for all immigration enforcement in the United States. Respondent Lyons is being sued in his official capacity.

28. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS). As Secretary of DHS, Secretary Noem is the cabinet-level official responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Noem is being sued in her official capacity.

LEGAL FRAMEWORK

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

29. 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].

30. 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 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.

31. 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

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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)).
[4] *See* 1990 Act.

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]

32. 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 only those in foster care and other court-dependent children, but also children in juvenile facilities. The Immigration Naturalization Service ("INS"), the agency then tasked with administration of the INA, similarly passed regulations that increased eligibility to those individuals who were under the age of 21.[7]

33. In 2008, Congress unanimously passed the TVPRA, which expressly codified longstanding regulatory policy where SIJ eligibility was could come from dependency on a state juvenile court *or* placement in the custody of an individual or entity appointed by a state of juvenile court.[8] Consistent with academic research that found that children are best served by living with a

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[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. 103-416, § 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. §

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]

34. 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]

35. 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]

1101(a)(27)(J)).
[9] *Id.*
[10] *Id.* at 5080 (codified at 8 U.S.C. § 1255(h)(2)).
[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.*

36. 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*.[14]

37. 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.[15] Alternatively, 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.[16]

38. 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

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

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

[16] *Id.*

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.

39. 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 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.

40. 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.

41. 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).[17]

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

42. In 2018, the Third Circuit heard *Osorio-Martinez 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 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).

43. 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").

44. 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.

45. 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

[17] *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."

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.

46. 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* 7 USCIS Policy Manual, Part F, Ch. 7 (Mar. 21, 2018)).

47. 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.

48. 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 Petitioner without any method to return to the United States, and would thus render

Petitioner's 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 Petitioner's SIJ status reviewed by a higher authority. Importantly, the petitioners in *Osorio-Martinez* were in a far more legally precarious than the Petitioner here, as they were subject to statutorily prescribed mandatory detention as well as specific rules severely restricting federal court 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. Civil Detention Statutes at Issue

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

50. First, 8 U.S.C. § 1226 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).

51. 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 to under § 1225(b)(2).

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

53. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

54. 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).

55. Following the enactment of the IIRIRA, EOIR 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).

56. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). 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)).

57. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

58. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[18] claims that all persons who entered the United States without

[18] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). 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.

59. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

60. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

61. Even before ICE or the BIA introduced these nationwide policies, 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. There, the U.S. 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*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

D. Federal District Courts' Interpretations of Applicable Detention Statutes

62. Court after court, including the Middle District of Georgia, has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, Arizmendi Mora v. Streeval et al.*, Civ. No. 4:25-cv-00342-CDL-AGH, (M.D.G.A. Nov. 3, 2025); *See also, Antonio Aguirre Villa v. Normand*, No. 5:25-cv-89, 2025 LX 442534 (S.D. Ga. Nov. 4, 2025). *See also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass.

July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g.*, *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that "[t]he Court tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v.*

Kramer, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

63. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

64. 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]."

65. 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*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

66. 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.

E. This Court's Holding in J.A.M.

67. In a similar case litigated in this Court, the court found that while Petitioner was not subject to detention under § 1225(b)(2)(A) but that § 1226(a) applies to aliens arrested in the

interior, entitling them to a bond hearing. *See, Arizmendi Mora v. Streeval et al.*, Civ. No. 4:25-cv-00342-CDL-AGH, (M.D.G.A. Nov. 3, 2025).

68. The court rejected the government's argument that all noncitizens present without admission are subject to mandatory detention under § 1225(b), finding that this interpretation would render § 1226(a) superfluous and contradict the statutory structure and legislative history. The court found jurisdiction to review the legality of Petitioner's detention under 28 U.S.C. § 2241, rejecting Respondents' argument that 8 U.S.C. § 1252(g) barred review, as the challenge was to the legal basis of detention, not removal proceedings.

69. The court held that § 1226(a) governs detention of noncitizens arrested in the interior who are not actively seeking admission, entitling them to discretionary bond hearings. The Court found BIA's interpretation in *Yajure Hurtado* unpersuasive and inconsistent with the plain language of the INA, implementing regulations, and fundamental canons of statutory interpretation.

70. 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). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

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

72. Petitioner's circumstances are the same or similar to the landmark *J.A.M.* case, therefore the Writ of Habeas should be granted for Petitioner and the Court should order similar relief.

FACTS

73. Petitioner Jefferson R. Cotuc Vasquez is an 18-year-old native and citizen of Guatemala who arrived to the United States as an unaccompanied minor child on February 14, 2024.

74. Upon arrival, Petitioner was apprehended at the U.S.-Mexico border and an NTA was issued. However, the February 14, 2024 NTA was never filed with the immigration court and removal proceedings were not commenced.

75. Upon Petitioner's apprehension, he was placed into ORR custody before eventually being released into his half-brother's care. Petitioner went on to receive a custody order from the Dekalb County Superior Court showing that Petitioner's half brother has custody over Petitioner, that reunification with Petitioner's parents is not viable due to abandonment, and that it is in Petitioner's best interest to remain in the United States. Based on this predicate state court order, Petitioner applied for and was granted Special Immigrant Juvenile Status. **See Exhibit A, I-360 Approval Notice**

76. On or about November 28, 2025, while awaiting his chance to apply for adjustment of status, Petitioner was apprehended by ICE near his home. He was not criminally charged but was simply apprehended in the interior of the United States. DHS issued a new NTA to Petitioner and on December 1, 2025, Respondents filed this NTA with the immigration court, commencing removal proceedings. **See Exhibit B, NTA filed 12/1/2025**. To date, Respondents hold Petitioner without a bond.

CLAIMS FOR RELIEF

COUNT I

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

77. 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, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

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

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

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

81. The Petitioner has been classified as a Special Immigrant Juvenile and was granted that benefit by the Respondents. This benefit has not been properly rescinded or revoked. Petitioner should be considered paroled into the country for the purpose of adjustment and should be allowed to remain until Petitioner's is current. 8 U.S.C. § 1255(h)(1). However, as physical presence in the United States is a condition of SIJ Status, Petitioner's SIJ Status is nullified once Petitioner is removed. 8 U.S.C. 1101(a)(27)(J)(i).

82. The Petitioner has a property and liberty interest in remaining in the United States and awaiting adjustment of status. If removed, the Petitioner will lose Petitioner's SIJ Status and be unable to avail himself of the benefits afforded to SIJS beneficiaries to remain safely in the U.S. for the purpose of adjustment of status to lawful permanent residence. See *Osorio-Martínez v. Attorney General*, 893 F.3d 153 (3d Cir. 2018).

83. The Respondents' continued detention of the Petitioner without a bond hearing to determine whether Petitioer is individually a flight risk or a danger to others violates Petitioner's right to due process by effectively stripping Petitioner of SIJ status without notice, an opportunity to respond, or review.

84. The Petitioner's continued detention without an individualized bond determination constitutes a deprivation of Petitioner's interest in personal liberty.

COUNT II

Violation of the INA

85. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are applicants for admission.

86. As relevant here, it does not apply to those who previously entered the country, have been residing in the United States, and were apprehended in the interior and placed in removal proceedings. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

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

88. Further, SIJ beneficiaries are a special class of noncitizens present in the United States. Numerous grounds of inadmissibility do not apply to them under the express text of the

INA and the TVPRA. Substantial benefits have been afforded to the Petitioner in light of Petitioner's grant of SIJS. *See Osorio-Martínez v. Attorney General*, 893 F.3d 153 (3d Cir. 2018).

89. Holding the Petitioner indefinitely without bail violates the INA and Congressional intent behind the SIJ program, and such detention cannot be squared with the waiver of inadmissibility for approved SIJ beneficiaries in the statute.

COUNT III

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

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

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;

c. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;

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

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

DATED this 18h of December, 2025.

//Eszter Bardi//

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

Respectfully submitted this 18th day of December, 2025.

//Eszter Bardi//

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