

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

Walter Acuna Cruz,)	
Petitioner)	EMERGENCY TRO
)	AND PRELIMINARY INJUNCTION
v.)	
)	CASE No: 0:25-cv-04720-SRN-LIB
Peter B. Berg, Director of St. Paul)	
Enforcement and Removal Operations,)	
Immigration and Customs Enforcement;)	
Kristi Noem, Secretary of the Department)	
Homeland Security; Warden,)	
Port Isabel Detention Center;)	
Todd Lyons, Acting Director, U.S.)	
Immigration and Customs Enforcement;)	
and Pamela Bondi,)	
Attorney General of the United States,)	
in their official capacities.)	
Respondents.)	

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION

INTRODUCTION

Petitioner, Walter Acuna Cruz, is a citizen and national of Guatemala. He is a twenty-one-year-old, who, after a lifetime of trauma and abuse, was residing in South Dakota until his detainment in May 2024. Although he has a final order of removal, he cannot be removed because the government has granted him deferred action pursuant to his grant of Special Immigrant Juvenile Status (SIJS). That deferred action status prevents his removal until October 2028; nonetheless, the Respondents have transferred Walter and had an imminently pending removal before this Court provided temporary relief in the form of a short Stay of Removal. Petitioner challenges the legality of his removal and requests a Temporary Restraining Order for

his transfer back to Minnesota, and to prohibit his transfer outside of Minnesota after that transfer, to prohibit removal pending the outcome of his *habeas corpus* petition and to require post-order assessments be completed by February 11, 2026 with a report to be submitted to the Court on the same, in preparation for post-order release.

FACTS OF THE CASE

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

[REDACTED] His father, an alcoholic, [REDACTED]

[REDACTED]



His mother was unable or unwilling to protect him and was frequently absent or emotionally unavailable. After a dispute about food access, Walter was expelled from the home. With no support system in Guatemala and nowhere safe to turn, he sold a parcel of land gifted by his grandmother and fled toward the United States at age fifteen in January 2020.

Walter's grandmother, the only person who had ever offered him meaningful emotional support, passed away in 2023. Grieving, still processing his trafficking experience, and under the negative influence of older peers, Walter began using alcohol to cope. At age nineteen, he was arrested twice for DWI and was convicted of one count. He accepted responsibility for the offense and enrolled in multiple alcohol-treatment programs.

In May 2024, after a local arrest, ICE took Walter into custody and initiated removal proceedings. Despite his youth, his lack of violent criminal history, his ongoing

treatment efforts, and his status as a trafficking survivor and crime victim, ICE opposed his release. The Immigration Judge denied bond and Walter remained detained at the Kandiyohi County Jail.

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

In addition to SIJS, Walter filed an application for T-nonimmigrant status on October 7, 2024, an application for U-nonimmigrant status on April 14, 2025, 
 and an application for asylum and related relief. His T- and U-visa applications remain pending.

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

Despite the final order, ICE cannot lawfully remove Walter because (1) his Deferred Action under SIJS is valid until October 2028; (2) SIJS cannot be revoked without formal notice and process; and (3) SIJS requires continuous presence in the United States for the very purpose of adjusting to lawful permanent resident status. ICE is

nonetheless ignoring the deferred action and Walter's statutorily afforded SIJ status and will deport him once he is unprotected by Court order.

In an attempt to effectuate removal, ICE transferred Walter to the Port Isabel, Texas, Detention Center where he is suffering in extremely poor conditions. He is forced to sleep without a bed in a room with approximately 25 other individuals, where he has been sleeping next to a lavatory. He has become seriously ill two (2) times since arriving just a few weeks ago, and as a result on December 17, 2025, Walter fainted and hit his head, causing memory loss and subsequent confusion and suffering. Walter also has limited access to counsel, where the only facilities available for accessible phone calls and video calls with legal counsel are through paid services that are monitored.

Walter's mental health, which he has worked extensively on maintaining through exercise, learning English and other positive activities including religious activities during his time in Kandiyohi County Jail has been impacted significantly while he has been in Port Isabel.

LEGAL ARGUMENT

I. Legal Standard

To obtain a temporary restraining order, a petitioner-plaintiff "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Piedmont Heights Civic Club, Inc. v. Moreland*, 637 F.2d 430 (5th Cir. 1981)).

Under similar circumstances, courts within have granted petitions for a writ of habeas corpus pursuant 28 U.S.C. § 2241 where, as here, the Department of Homeland Security was found to have been attempting a *de facto* revocation of the SIJ status. *See, e.g., Primero v. Mattivelo*, No. 1:25-CV-11442-IT, 2025 WL 1899115, at *5 (D. Mass. July 9, 2025); *Guerra Leon v. Noem*, No. 25-01495 (W.D. La. Oct. 30, 2025).

In a similar case where the Petitioner was granted SIJ status, the court found that the Petitioner had the right to invoke the Suspension Clause and that there were meritorious Due Process, APA and jurisdiction claims. *See Joshua M. v. Barr*, 439 F.Supp.3d 632 (2020).

Walter is likely to succeed on the merits, especially given the significant litigation and findings of courts across the country on the matter today. If the Court disagrees with that, Walter at least has a nonfrivolous claim worth developing.

II. Walter will likely succeed on the merits.

Walter is likely to succeed on the merits of his claims because Respondents lack present legal authority to detain or remove him while an unrescinded grant of Deferred Action based on his Special Immigrant Juvenile Status (“SIJS”) remains in force.

Congress created SIJS to afford abused, neglected, and abandoned children a protected legal relationship with the United States and a pathway to permanent residence. *See Osorio-Martinez v. Att’y Gen.*, 893 F.3d 153, 168–70 (3d Cir. 2018). SIJS confers statutory and constitutional protections and constitutes a protected liberty or property interest that may be revoked only for “good and sufficient cause.” 8 U.S.C. § 1155; 8 C.F.R. § 205.2.

Here, USCIS affirmatively granted Petitioner SIJS and Deferred Action.

Respondents have not rescinded Deferred Action, provided notice of intent to revoke, or made any finding of “good and sufficient cause.” Nevertheless, Respondents are attempting to effectuate Petitioner’s removal as if those legal protections did not exist. Removal under these circumstances would operate as a *de facto* revocation of SIJS and Deferred Action, stripping Petitioner of congressionally conferred protections without lawful process and in violation of the Fifth Amendment.

Courts have repeatedly recognized that habeas relief is available where the government detains or seeks to remove a Special Immigrant Juvenile or Deferred Action recipient in a manner that unlawfully extinguishes protected status. See, e.g., *Joshua M. v. Barr*, *Sepulveda Ayala v. Bondi*, 2025 WL 2209708, at *4 (W.D. Wash. Aug. 4, 2025); *Santiago v. Noem*, 2025 WL 2792588, at *11 (W.D. Tex. Oct. 2, 2025). These cases make clear that 8 U.S.C. §§ 1252(b)(9) and (g) do not bar review where a petitioner challenges *ultra vires* or unconstitutional conduct collateral to the discretionary execution of a removal order.

Moreover, removal would irreversibly extinguish Petitioner’s SIJS and foreclose any meaningful opportunity for judicial review, as SIJS and adjustment eligibility require physical presence in the United States. 8 U.S.C. §§ 1101(a)(27)(J), 1255(a). Where habeas is the only mechanism capable of preventing such irreversible harm, the Suspension Clause requires that the writ remain available. *INS v. St. Cyr*, 533 U.S. 289, 314 (2001); *Boumediene v. Bush*, 553 U.S. 723, 771 (2008).

Because Respondents are acting without lawful authority and in contravention of

federal law and the Constitution, Petitioner has at least a substantial likelihood of success on the merits, warranting temporary injunctive relief.

III. Walter will suffer irreparable harm.

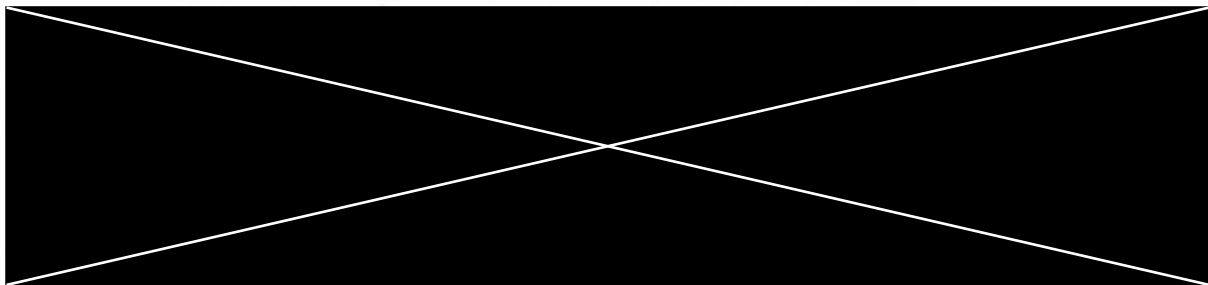
Walter will suffer immediate and irreparable harm absent temporary injunctive relief. If Respondents are permitted to remove him, Petitioner will lose his Special Immigrant Juvenile Status (“SIJS”) and Deferred Action permanently, and no subsequent court order could restore those protections.

SIJS and eligibility for adjustment of status require physical presence in the United States. 8 U.S.C. §§ 1101(a)(27)(J), 1255(a). Removal would therefore operate as a *de facto* and irreversible revocation of Petitioner’s SIJS, foreclosing his ability to pursue lawful permanent residence and extinguishing the statutory protections Congress afforded to vulnerable immigrant youth. Courts have consistently held that the permanent loss of a legal status or pathway to relief constitutes irreparable harm. *See, e.g., Joshua M. v. Barr; Osorio-Martinez.*, 893 F.3d.

In addition, removal would moot Petitioner’s habeas claims and deprive him of any meaningful opportunity for judicial review. Once removed, Petitioner would be unable to litigate his claims from abroad in any effective manner, and no administrative or judicial remedy could undo the consequences of his deportation. The loss of constitutional rights, including the right to due process and access to the writ of habeas corpus, independently constitutes irreparable harm. *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

Petitioner also faces irreparable harm from unlawful detention and the imminent threat of removal in violation of an unrescinded grant of Deferred Action. Where the government acts without lawful authority, continued detention and the looming deprivation of protected status inflict harm that cannot be remedied after the fact. *See Sepulveda Ayala v. Bondi*, 2025 WL 2209708, at *5 (W.D. Wash. Aug. 4, 2025).

Because removal would permanently alter Petitioner's legal status, sever his protected relationship with the United States, and extinguish rights that cannot be restored through post-deprivation remedies, Petitioner has satisfied the irreparable harm requirement for temporary injunctive relief.



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

Finally, because the government lacks lawful authority to remove Walter during the pendency of his SIJS deferred action and victim-based applications, any continued attempts to remove Walter is unconstitutional. Constitutional injuries, including

violations of substantive due process, are themselves irreparable. The loss of liberty, the worsening of trauma, the obstruction of critical immigration relief, and the risk of long-term psychological injury all independently and collectively demonstrate irreparable harm. Without immediate relief from this Court, Walter will continue to endure harm that no later decision can remedy.

IV. Balance of the Equities and Public Interest

The “public interest is best served by ensuring the constitutional rights of persons within the United States are upheld.” *See Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). The balance of equities strongly favors Walter’s release because the harm to him from continued unlawful removal far outweighs any speculative burden on the government.

Absent temporary injunctive relief, Petitioner faces immediate and irreparable harm in the form of removal, which would permanently extinguish his Special Immigrant Juvenile Status and Deferred Action, foreclose his statutory eligibility for lawful permanent residence, and moot his pending habeas claims. These harms are severe, irreversible, and cannot be remedied through later judicial or administrative action.

By contrast, Respondents will suffer no cognizable harm from a temporary stay of removal or maintenance of the *status quo*. The requested relief does not require the Court to invalidate Petitioner’s removal order, confer any new immigration benefit, or permanently restrain enforcement authority. It merely preserves existing legal protections, SIJS and Deferred Action, that the government has already granted and has not rescinded. Courts have repeatedly recognized that a brief delay in removal,

particularly where necessary to ensure compliance with federal law and the Constitution, does not constitute substantial prejudice to the government.

The public interest likewise favors injunctive relief. “It is always in the public interest to prevent the violation of a party’s constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). The public also has a strong interest in ensuring that executive agencies act within the bounds of their lawful authority and honor congressionally enacted protections for vulnerable populations, including Special Immigrant Juveniles. See *Osorio-Martinez v. Att’y Gen.*, 893 F.3d 153, 171 (3d Cir. 2018).

Moreover, maintaining the status quo promotes judicial economy and orderly adjudication. Allowing removal before the Court can resolve Petitioner’s claims would prematurely and irrevocably deprive the Court of jurisdiction, frustrate meaningful review, and risk constitutional error. Temporary relief ensures that this Court, not unilateral executive action, determines whether Respondents may lawfully proceed.

“There is generally no public interest in the perpetuation of unlawful agency action,” and “there is a substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations.” *League of Women Voters of United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016) (cleaned up).

Because the equities overwhelmingly favor Petitioner and the public interest is served by preventing unlawful removal and preserving access to judicial review, this factor weighs decisively in favor of granting temporary injunctive relief.

V. The Court Has Authority to Grant Interim Habeas Relief Preserving the Status Quo Pending Adjudication of the Petition.

As a general matter, the writ of *habeas corpus* is a flexible and adaptable remedy designed to address unlawful restraints on liberty. *Wilkinson v. Dotson*, 544 U.S. 74, 78 (2005). While habeas relief often takes the form of release from custody, release need not be the exclusive remedy and is not the appropriate one in every case in which the writ is granted. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008). Rather, *habeas* courts possess broad equitable authority to fashion relief necessary to remedy unlawful executive action and to prevent irreparable constitutional injury.

Here, interim habeas relief is warranted to preserve the status quo while this Court adjudicates the legality of Respondents' conduct. Walter does not presently seek adjudication of the validity of his removal order, nor does he ask the Court to confer any new immigration benefit. Instead, he seeks narrowly tailored relief preventing Respondents from effectuating his removal or otherwise taking actions that would operate as a *de facto* revocation of his Special Immigrant Juvenile Status ("SIJS") and Deferred Action during the pendency of this habeas proceeding.

Courts have repeatedly recognized that *habeas* relief may include orders restraining removal, preventing transfer, or otherwise maintaining existing legal protections where necessary to preserve the Court's jurisdiction and prevent irreversible harm. *See, e.g., Boumediene*, 553 U.S. at 779; *Sepulveda Ayala v. Bondi*, No. 2:25-CV-01063-JNW-TLF, 2025 WL 2209708, at *4 (W.D. Wash. Aug. 4, 2025); *Primero v. Mattivelo*, No. 1:25-CV-11442-IT, 2025 WL 1899115, at *5 (D. Mass. July 9, 2025).

Where removal would permanently extinguish a congressionally conferred status and foreclose meaningful judicial review, courts routinely exercise their authority to enjoin such action pending resolution of the habeas petition.

Absent interim relief, Walter faces imminent and irreparable harm. Removal would automatically terminate his SIJS and Deferred Action, defeat his statutory eligibility for adjustment of status, and moot his claims before this Court can resolve them. No post-deprivation remedy could restore those protections once lost. By contrast, a temporary prohibition on removal or transfer imposes no cognizable prejudice on Respondents and merely requires the government to honor legal protections it has already granted.

Accordingly, this Court has ample authority to grant interim relief preserving the *status quo*. Such relief is necessary to protect the Court's jurisdiction, prevent irreparable constitutional injury, and ensure that Respondents act within the bounds of their lawful authority.

VI. The 90-day post-order custody assessment is mandatory and central to the lawfulness of continued restraint on liberty.

Under the Immigration and Nationality Act, once a removal order becomes final, DHS is authorized to detain a noncitizen during a 90-day "removal period." 8 U.S.C. § 1231(a)(1)–(2). At the conclusion of that period, DHS must conduct a post-order custody determination to assess whether continued detention is lawful. See 8 U.S.C. § 1231(a)(6); 8 C.F.R. §§ 241.4, 241.13.

That assessment is not discretionary. It requires ICE to evaluate whether removal

is legally permissible and reasonably foreseeable, and whether continued detention is justified in light of barriers to removal and the individual's circumstances. Where removal is not authorized or cannot lawfully be executed, continued detention violates the INA and the Constitution.

Requiring Respondents to carry out this assessment is an important step in ensuring that Walter is not removed unlawfully and that Respondents will follow this Court's orders to refrain from removing him.

CONCLUSION

For the foregoing reasons, the Court should:

1. Order that Walter be transferred back to Minnesota for access to his attorney and to participate in this proceeding and that he is to not to be transferred out of Minnesota until the conclusion of these proceedings.
2. Order that the Respondents do not remove Walter to any country while this proceeding is pending to allow for briefing.
3. Order that Respondents undertake the required post-order custody determination by no later than February 11, 2026, provide a report to the Court, and, if they allege Walter should remain lawfully detained, show cause as to why.
4. Order that Walter is provided adequate mental health assistance in custody.

[signature block to follow]

Dated: December 19, 2025

Respectfully Submitted,

/s/ Hannah Brown

Hannah Brown (MN SBN 0400017)

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