

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

Walter Acuna Cruz,)	
Petitioner)	Reply brief to Respondent's Opposition
)	
v.)	
)	CASE No: 0:25-cv-04720
Peter B. Berg, Director of St. Paul)	
Enforcement and Removal Operations,)	
Immigration and Customs Enforcement;)	
Kristi Noem, Secretary of the Department)	
Homeland Security;)	
)	
Todd Lyons, Acting Director, U.S.)	
Immigration and Customs Enforcement;)	
and Pamela Bondi,)	
Attorney General of the United States,)	
in their official capacities.)	
Respondents.)	

This habeas petition presents a narrow but consequential question of law: whether federal immigration authorities may remove a Special Immigrant Juvenile whose SIJS classification remains valid and whose grant of deferred action has never been rescinded, thereby extinguishing congressionally conferred protections and foreclosing any meaningful opportunity for judicial review. The answer is no.

Respondents' opposition largely avoids that question. Rather than identifying any lawful mechanism by which SIJS or deferred action was revoked, or explaining how removal may proceed without unlawfully extinguishing those protections, Respondents rely on recitations of administrative history, jurisdictional avoidance, and assumptions of

authority. But *habeas corpus* exists precisely to test the legality of executive restraint where no other forum can provide timely and effective review before irreparable harm occurs.

The Court ordered Respondents to show cause why the writ should not issue. They did not do so. They failed to justify their authority to remove Petitioner notwithstanding unrescinded SIJS and deferred action, failed to certify any lawful basis or duration of restraint, and failed to respond to core constitutional and statutory claims pleaded in the petition. Because Respondents have not shown cause why removal may lawfully proceed, and because removal would irreversibly extinguish protected rights before judicial review, the writ must issue.

I. Response to the “Background”

Respondents devote several pages of their opposition to recounting the procedural history of Walter’s removal proceedings, including the filing and disposition of multiple motions to terminate, the Board of Immigration Appeals’ reversal of an Immigration Judge’s termination order, and the eventual entry of a final order of removal. None of that history is disputed. None of it, however, answers the legal question presented by this *habeas* petition and all that history demonstrates the utter belligerence of the Respondents with regards to the law that protects individuals like Walter.

This petition does not challenge the validity of the Notice to Appear, the conduct of removal proceedings, the Immigration Judge’s merits determinations, or the existence

of a final order of removal. Walter expressly assumes the existence of a final order and does not seek its vacatur. The question before this Court is narrower and distinct: whether Respondents have present legal authority to remove a noncitizen who is a Special Immigrant Juvenile with a valid and unrescinded grant of deferred action where that would lead to a branch of the administration revoking and rescinding immigration benefits that they have no authority to revoke or rescind, and where that deprives Walter of his opportunity to become a lawful permanent resident. *See* Pet. at 8-9 (“Removal under these circumstances would operate as a *de facto* revocation of his SIJS and Deferred Action, stripping him of congressionally conferred protections without process and in contravention of federal law and the Constitution...” and “This challenge arises not from the execution of a removal order, but from Respondents’ unlawful disregard of an existing legal barrier to removal ...”).

Respondents’ extensive discussion of administrative proceedings does not engage any questions raised in the *habeas*. Respondents seem to miss the point of the *habeas* in that the issue is the impact to the lawful benefits derived upon Walter which would ultimately be revoked in the event that he was removed. *See* Pet. at 30 (“Crucially, a noncitizen youth is eligible for SIJS only if he or she is “present in the United States.” 8 U.S.C. § 1101(a)(27)(J) (emphasis added).”). Such impact would occur *with* or *without* a removal order, and so, regardless of the issuance of an order of removal or execution of that order, removal effectuating the violation of INA, the Suspension Clause, the Due

Process Clause of the U.S. Constitution, and the APA, must be held unlawful and such restraint on liberty and property must be barred.

Strikingly, in Respondents' exegesis about their actions to date, there are no attempts to prove that those actions were legally sound – rather, they are stated as though the Respondents would like the Court to assume they were. Instead, Respondents' slew of legal errors only further support Walter's assertions that this Court must intervene and that the Respondents are violating his rights.

A. Concession of Inadmissibility and Prior Litigation Are Legally Irrelevant

Respondents emphasize that Walter conceded inadmissibility and that his removal proceedings were “heavily litigated” at the administrative level. *See* Federal Respondents' Consolidated Opposition to Petitioner's Motion to Amend and Response to Petition for Writ of Habeas Corpus (“Resp. Opp.”) at 3. That emphasis is misplaced. Whether removability was conceded or litigated is immaterial to the claim before this Court. A concession of inadmissibility does not resolve whether Respondents may lawfully remove a noncitizen in contravention of an existing, unrescinded grant of deferred action and an unrevoked grant of Special Immigrant Juvenile Status (“SIJS”), nor does it address the statutory limitations Congress placed on removal as to SIJS recipients which necessitated the erroneously denied, and irrelevant, Motion to Amend Pleadings in Immigration Court. *See* 8 U.S.C. § 1227(c) (certain grounds of removal

“shall not apply” to Special Immigrant Juveniles based on circumstances existing prior to the grant of SIJS).

The Respondents also continue to ensure that these matters are heavily litigated. In fact, Respondents have avoided substantively responding to the four (4) *habeas* claims and have made several motions to dismiss or *quasi* motions to dismiss even after the Court dismissed those motions. The irony is not lost on the Petitioner.

As Walter has consistently made clear, he does not ask this Court to review the conduct, propriety, or merits of his removal proceedings, nor the validity of the resulting removal order. The volume of administrative litigation Respondents recount therefore does not advance their position. Immigration Judges and the Board of Immigration Appeals adjudicate removability and eligibility for relief within removal proceedings; they do not adjudicate, and did not adjudicate here, the legality of post-order executive enforcement conduct that threatens an approved SIJS classification and Deferred Action and the legal benefits that flow from it.

B. USCIS Has Not Revoked SIJs or DA Status

Critically, Respondents do not contend, and nowhere establish, that either (1) Walter’s deferred action was lawfully rescinded through any identified mechanism, *or* (2) his SIJS was revoked through lawful process. To be clear, there is no such rescind or revocation. The SIJS point is independently dispositive. Even if Respondents were to rescind his deferred action in retaliation for his litigation, SIJS remains a congressionally created protected classification that continues to exist unless and until DHS lawfully

revokes it. *See* 8 U.S.C. § 1155; 8 C.F.R. § 205.2. Respondents cite no revocation notice, no revocation proceedings, and no lawful basis by which SIJS would be able to be revoked (none exist). Because SIJS remains in force, Respondents cannot avoid the core question presented here: they must explain how removal can proceed without unlawfully extinguishing the statutory protections Congress conferred on SIJS recipients. They fail to do so and the reason is simple: they clearly neither know, understand or care about the legal effect SIJ status has in the United States, despite the lengthy list of courts who have established such effect. *See* Pet. at 13-14 (listing cases).

Respondents' assertion that they are "ready to remove" Walter fares no better. *See* Resp. Opp. at 5. That statement is not a fact but proof they intend to disregard the lawful status and relationship Walter has with the United States. Respondents identify no statutory or regulatory mechanism by which deferred action was rescinded, and they likewise fail to identify any lawful basis to disregard, or effectively *de facto* revoke, the continuing legal effect of SIJS. *See Guerra Leon v. Noem*, No. 25-01495 (W.D. La. Oct. 30, 2025); *Sepulveda Ayala v. Bondi*, No. 2:25-CV-01063-JNW-TLF, 2025 WL 2209708, at *4 (W.D. Wash. Aug. 4, 2025). Repetition of the government's intent to remove does not establish how they have lawful authority to do so. Respondents have not met their burden in this case where they fail to identify any lawful basis for their attempts to revoke Walter's status and deferred action in furtherance of Walter's removal.

C. The Stay of Removal Issue is Irrelevant

The absence of a stay of removal from the Immigration Judge or the Board does not resolve the issues here either; though Respondents misrepresent themselves in stating the Board did not issue a Stay, and fail to mention that the Stay of Removal request is currently pending before the Board of Immigration Appeals, unadjudicated as this Court's Stay of Removal renders Walter's removal non-imminent in the immediacy. The lack of a stay does not confer affirmative authority to remove in violation of federal law, nor does it insulate *ultra vires* executive conduct from judicial review. Immigration courts do not adjudicate the legality of DHS rescinding SIJS through ICE operations, nor do they supply a mechanism to prevent executive action that would operate as a *de facto* revocation of SIJS through removal.

D. Previous *Habeas* Proceedings

Respondents' reliance on *Acuna Cruz I* omits a critical fact: at the time that petition was filed, Walter was still in ongoing removal proceedings and detained under INA § 236, not under a final order of removal. That procedural posture controlled both the legal framework and the arguments advanced. References to deferred action and SIJS in *Acuna Cruz I* were made to explain why continued pre-final-order detention lacked a rational connection to any legitimate purpose, not to obtain a declaration barring execution of a removal order.

The quotations Respondents extract from *Acuna Cruz I* are therefore taken out of context. They collapse a detention-only challenge arising during pending proceedings

into a purported effort to litigate removability. That is not what was argued, and it is not what was decided.

Respondents' reliance on *Acuna Cruz II* is similarly misplaced. That petition was screened and dismissed at the outset because the Court found Walter was within the 90 day "removal" period mandating custody, without an order to respond and without any merits adjudication of ICE's authority to detain and remove a Special Immigrant Juvenile notwithstanding unrescinded SIJS and deferred action. The Court understood the petition as a detention-only challenge under *Zadvydas*, premised on the foreseeability of removal, and expressly declined to reach any question concerning the legality of post-order executive enforcement conduct, inviting a separate and distinct petition to hear the matters addressed in this *habeas*.

E. Conclusion

In short, Respondents' recitation of administrative history is not a response to the claim they were ordered to answer. None of the proceedings they describe adjudicated ICE's present authority to remove Walter while SIJS remains unrevoked and while deferred action has not been shown to have been lawfully rescinded. Respondents have identified no lawful basis for disregarding those protections, have not justified continued restraint of liberty and property, and have not shown cause why the writ should not issue.

II. The “Wrong District” Claims

Respondents’ venue argument rests on an overreading of *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), and a failure to account for the nature of the claims and relief sought here. *Padilla* addressed a “core habeas” petition seeking immediate release from physical confinement, and it emphasized that the immediate custodian rule applies where “the relief sought is release from custody.” *Id.* at 435–43. This case is materially different.

Walter does not challenge the conditions of confinement or seek release from a particular facility. He challenges Respondents’ legal authority to remove him and consequently invoke the revocation of his SIJS and deferred action, therefore placing an unlawful restraint on his liberty. *See, e.g., Osorio-Martinez v. Att’y Gen.*, 893 F.3d 153, 168–71 (3d Cir. 2018).

The conduct at issue is not day-to-day physical custody but post-order enforcement decisions attempting to remove Walter which would result in the revocation of status and preclusion of the furtherance of his ability to apply for lawful permanent residence, which he is entitled to once the visa bulletin becomes current for him, in approximately three (3) years.¹ Where *habeas* challenges executive action outside of

¹ Despite Respondents’ unsupported claims that it will take 15-18 years for green card status, the visa bulletin continues to advance and is currently processing March 2021 applicants. Walter’s priority date is in 2024. *See U.S. Dep’t of State*, Visa Bulletin for February 2026, <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>.

physical confinement, courts have consistently declined to apply *Padilla*'s immediate-custodian rule mechanistically.

That distinction was recently reaffirmed in *Trump v. J.G.G.*, 604 U.S. ____ (2025), where the Supreme Court recognized that *habeas* jurisdiction turns not solely on the petitioner's physical location, but on who exercises the legal authority being challenged and whether the court can provide meaningful relief. As in *J.G.G.*, the gravamen of Petitioner's claim here concerns executive enforcement authority, not jailhouse custody.

The Court in *J.G.G.* made a very key distinction from this case: the *habeas* was tangentially related to custody and, therefore, the petition was a core *habeas* petition and venue was proper in the district of confinement. This is because the Petitioners in *J.G.G.* were held because the government asserted they were subject to the Alien Enemies Act. Their *habeas* challenged that assertion, and if they were successful, they would have been released. Again, even if the Court finds in Walter's favor in this case, the Court would simply find the *de facto* revocation of his SIJ status and Deferred Action through removal would not be lawful, but he still would remain detained absent some other action. His *habeas*, is therefore, *not* a core *habeas*. Venue lies where the responsible officials act and where the challenged decisions were made: Minnesota. *See* Exh. A.

Respondents' rigid invocation of the time-of-filing rule likewise misses the mark. While jurisdictional facts are generally assessed at filing, that principle does not require courts to ignore the locus of decision-making authority or to dismiss actions where responsible officials are properly before the court and continue to exercise control over

the challenged conduct. *See Padilla*, 542 U.S. at 438 (recognizing exceptions where the immediate custodian rule “does not apply”).

Nor does Respondents’ proposal, dismissal so Petitioner may refile, serve any jurisdictional or equitable purpose. The Court has already exercised jurisdiction, issued a stay, and ordered Respondents to address the merits. *See* ECF 15, 20. Where the alleged defect concerns the identity of the proper respondent rather than the Court’s power to hear the case, amendment, not dismissal, is the appropriate remedy. Here, the Respondent, Warden of Port Isabel Detention Center, was erroneously included as a Respondent, and necessarily must be dropped.

Because venue was always proper on the basis that the acts and omissions materially occurred in Minnesota, and Walter’s *habeas* is not a core *habeas* petition, the venue issue is moot once the incorrectly sued Respondent is removed.

In short, Respondents’ venue argument elevates physical detention over legal authority, misapplies *Padilla*, and ignores intervening precedent recognizing that *habeas* jurisdiction must be assessed in light of the nature of the claim and the source of the challenged power. The Court should reject Respondents’ renewed request for dismissal.

III. Habeas is the Appropriate Vehicle

Respondents’ contention that habeas relief is categorically unavailable because Petitioner does not seek immediate release reflects a fundamental misunderstanding of both the scope of 28 U.S.C. § 2241 and the nature of the claims before the Court. Habeas

has never been limited to challenges seeking immediate physical release, nor has it been confined to disputes over conditions of confinement. Rather, it exists to test the legality of executive restraints on liberty where no other forum can provide timely and effective review. As shown below, Petitioner's claims fall squarely within that traditional scope, and the authorities Respondents invoke do not compel a contrary result.

A. Respondents Misstate the Scope of Habeas Jurisdiction

Respondents argue that because Petitioner “does not challenge the fact or duration of his confinement,” his claims are categorically non-cognizable in habeas. *See* Resp. Opp. at 10. That framing is incorrect as a matter of law and misrepresents both Petitioner's claims and the cases Respondents cite.

Section 2241 extends habeas jurisdiction to persons “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). The Supreme Court has repeatedly recognized that habeas is not limited to challenges seeking immediate release, but extends to challenges to unlawful executive restraints on liberty, including unlawful execution of removal. *See INS v. St. Cyr*, 533 U.S. 289, 301–08 (2001); *Boumediene v. Bush*, 553 U.S. 723, 779 (2008).

Walter's claim squarely falls within § 2241's traditional scope.

B. The Authorities Respondents Cite Do Not Govern This Case

The cases Respondents rely upon to argue that this petition is not cognizable in *habeas* are materially distinguishable. Each involves challenges to conditions, classifications, or discretionary aspects of confinement, not a claim that the government is acting without legal authority to remove a noncitizen in contravention of binding statutory protections.

In *Faleide v. Eischen*, *Martinez v. Eischen*, *Cottman v. Fikes*, and *Johnson v. Birkholz*, the petitioners challenged matters such as place of confinement, custody classification, eligibility for discretionary programs, or risk assessment determinations. Those claims did not implicate statutory or constitutional limits on detention authority, nor did they allege that continued custody or removal was *ultra vires*. The courts therefore correctly concluded that *habeas* was not the proper vehicle because success on those claims would not establish that the petitioners were “in custody in violation of the Constitution or laws of the United States.” 28 U.S.C. § 2241(c)(3).

Sheng-Wen Cheng v. Rardin likewise concerned the calculation of time credits and the collateral effects of a final order of removal, not a claim that removal itself was legally barred by unrescinded statutory protections. And *Mehighlovesky v. U.S. Department of Homeland Security* addressed the manner of an arrest, not the legality of ongoing removal authority. None of these cases involved a grant of Special Immigrant Juvenile Status, an unrescinded grant of deferred action, or a claim that removal would

unlawfully extinguish congressionally conferred protections before judicial review could occur.

By contrast, Petitioner alleges that Respondents lack present legal authority to remove him because his SIJS remains valid and his deferred action has never been rescinded, and that removal under these circumstances would operate as a *de facto* revocation of those protections without statutory authority or due process. That claim goes to the lawfulness of the restraint itself (being, removal). *Habeas* has long been available to test precisely that kind of unlawful executive restraint. See *INS v. St. Cyr*, 533 U.S. 289, 301–08 (2001); *Boumediene v. Bush*, 553 U.S. 723, 779 (2008).

As *Trump v. J.G.G.* itself recognizes, *habeas* may address different kinds of unlawful restraint, and jurisdiction turns on the substance of the claim, not whether the petitioner uses the word “release.” (“immediate physical release [is not] the only remedy under the federal writ of habeas corpus.”) *Trump v. J.G.G.*, 604 U.S. ___, ___ (2025) (quoting *Peyton v. Rowe*, 391 U.S. 54, 67 (1968))).

Accordingly, the cases Respondents cite do not support dismissal. They confirm only that *habeas* is unavailable for challenges to discretionary custodial decisions or conditions of confinement, which are claims fundamentally different from the one presented here. The issue ultimately comes down to this: confinement has been construed in *habeas* context to mean restraint, and here the Respondents restrain Walter from maintaining his lawful SIJ status, deferred action, and from ultimately remaining in the

United States to realize the benefits conferred on him to become a lawful permanent resident. His case, therefore, is appropriate for § 2241 relief.

C. Joshua M. v. Barr Squarely Rejects Respondents' Position

In *Joshua M. v. Barr*, the district court undertook a detailed jurisdictional analysis and held that a petition brought under 28 U.S.C. § 2241 by a Special Immigrant Juvenile challenging imminent removal and ongoing detention fell within the traditional scope of *habeas corpus*. 439 F. Supp. 3d 632, 650–70 (E.D. Va. 2020). The court rejected the government's argument, advanced there as here, that habeas jurisdiction was unavailable because the petitioner did not seek immediate release from custody. Instead, the court emphasized that § 2241 authorizes habeas relief for persons “in custody in violation of the Constitution or laws of the United States” and “implements the constitutional command that the writ of habeas corpus be made available to test the legality of a given restraint on liberty.” *Id.* at 668–69 (quoting *Jones v. Cunningham*, 371 U.S. 236, 238 (1963)).

Applying that framework, the *Joshua M.* court first held that the petitioner's claims fell within the scope of *habeas* because he was in immigration custody and alleged that his detention and removal were unlawful under federal statutes and the Constitution. *Id.* at 669–70. The court expressly found it immaterial that the petitioner sought a stay of removal rather than immediate release, explaining that *habeas* jurisdiction turns on whether the relief sought would alter the fact or execution of detention and address an

ongoing restraint on liberty. *Id.* at 670. Because removal would irreversibly nullify the petitioner's Special Immigrant Juvenile Status that required his physical presence in the United States and carried congressionally conferred protections, the court concluded that *habeas* was the appropriate procedural vehicle to test the legality of the government's conduct. *Id.* at 663–65.

The court further held that APA and constitutional claims were cognizable within *habeas* where, as there, the petitioner alleged *ultra vires* agency action and no alternative forum could provide timely and effective review before irreparable harm occurred. *Id.* at 665–70. Finally, the court concluded that construing jurisdiction-stripping provisions to bar *habeas* review in those circumstances would raise serious Suspension Clause concerns, because removal would moot the petitioner's claims and permanently extinguish statutory rights without any meaningful opportunity for judicial review. *Id.* at 670–73.

That reasoning applies with equal force here. As in *Joshua M.*, Petitioner is in physical custody, challenges Respondents' present authority to remove him in light of unrescinded SIJS and deferred action, and alleges that removal would irrevocably strip congressionally conferred protections before any other court could adjudicate the legality of Respondents' conduct. Under *Joshua M.*, those allegations fall squarely within the traditional scope of *habeas corpus*.

D. Natalino Ferreira Confirms Habeas May Enjoin Unlawful Removal

Likewise, in *Ferreira v. Lyons*, No. 25-13809 (D. Mass. Jan. 26, 2026), the court granted habeas relief enjoining detention and removal notwithstanding the absence of traditional custody challenges, emphasizing that *habeas* extends to unlawful restraints on liberty and unlawful execution of removal authority.

Respondents' suggestion that habeas cannot reach removal authority is flatly contradicted by that decision.

E. Respondents' "You Can't Have It Both Ways" Argument Is a Strawman

Respondents assert Petitioner must choose between challenging custody or challenging agency action. That is a false dichotomy.

Walter challenges removal as unlawful restraint on property and liberty because Respondents are acting to revoke his SIJS and deferred action by removing him while they remain unrescinded. *Habeas* is appropriate precisely because removal would irreparably extinguish protected legal status before judicial or administrative review could occur.

F. Dismissal Would Raise Serious Suspension Clause Concerns

As discussed at length in the Petition, if Respondents are correct, Petitioner would have no forum capable of adjudicating whether ICE may lawfully remove an SIJS

recipient before those protections are extinguished. That result would violate the Suspension Clause. *See St. Cyr*, 533 U.S. at 300–01; *Joshua M.*, 439 F. Supp. 3d at 669–70.

Respondents contend that this Court lacks jurisdiction because Petitioner’s claims are either barred by the immigration jurisdiction-stripping provisions of 8 U.S.C. § 1252(b)(9) and (g) or are not cognizable in *habeas*. Both arguments rest on a mischaracterization of the claims actually before the Court and an overbroad reading of the statutes.

G. Conclusion

In sum, Respondents’ attempt to recast this case as a non-cognizable habeas action fails as a matter of law. Supreme Court precedent, persuasive authority addressing SIJS recipients, and fundamental Suspension Clause principles all confirm that habeas is not only an appropriate vehicle for such claims, but the only one capable of providing meaningful review. Because Respondents’ jurisdictional arguments rest on a mischaracterization of both *habeas* doctrine and Petitioner’s claims, they provide no basis for dismissal.

IV. Respondents' Claims Regarding Jurisdiction Fail

Walter addressed jurisdiction and the possible bars extensively in the Petition, and reasserts those arguments here, however, for ease, a summary of the arguments are below.

A. Section 1252(b)(9) Does Not Bar This Action

Section 1252(b)(9) channels into the petition-for-review process claims “arising from” removal proceedings. It does not bar district-court jurisdiction over claims that are collateral to removal proceedings and that challenge post-order executive conduct independent of the immigration judge’s adjudication. *Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018); *Reno v. AADC*, 525 U.S. 471, 482–83 (1999).

This petition does not seek review of the immigration judge’s findings, the denial of asylum or withholding, or the validity of the final order of removal. Nor does it require the Court to interpret or apply the INA as the immigration judge did. Instead, Petitioner challenges Respondents’ present authority to remove him notwithstanding two undisputed facts: his Special Immigrant Juvenile Status has never been revoked, and his grant of deferred action has never been rescinded. His removal would result in the revocation of that status and preclude his statutory right to lawful permanent resident status. That claim arises from Respondents’ post-order enforcement conduct, not from the removal proceedings themselves.

A petition for review cannot adjudicate that claim. The court of appeals reviews the administrative record developed before the immigration judge; it cannot entertain evidence of post-order action or inaction, cannot compel compliance with deferred action determinations, and cannot prevent removal before the claim is mooted. Construing § 1252(b)(9) to bar this action would therefore eliminate any meaningful forum for judicial review, a result the Supreme Court has repeatedly rejected. *St. Cyr*, 533 U.S. at 300–01.

B. Section 1252(g) Does Not Strip Jurisdiction Over Ultra Vires Executive Action

Respondents' reliance on § 1252(g) is also not cognizable. That provision bars review only of three discrete actions: the decision to commence proceedings, adjudicate cases, or execute removal orders. *Reno*, 525 U.S. at 482. It does not bar review of claims that the government is acting without statutory authority or in violation of the Constitution.

This case does not challenge the decision to execute a removal order. It challenges Respondents' unlawful disregard of existing status that they have no authority to revoke, and the deprivation of Walter's ability to become a permanent resident through that status. Removal under these circumstances would operate as a *de facto* revocation of congressionally conferred protections without statutory authority or process. Courts have consistently held that § 1252(g) does not insulate such *ultra vires* conduct from judicial review. See *Jennings*, 138 S. Ct. at 841; *Reno*, 525 U.S. at 487.

C. Denial of Jurisdiction Would Raise Serious Suspension Clause Concerns

If Respondents' jurisdictional theory were accepted, Petitioner would have no forum capable of adjudicating whether ICE may lawfully remove a Special Immigrant Juvenile before those protections are irreversibly extinguished. Removal would moot the claim, eliminate statutory eligibility that depends on physical presence, and foreclose any meaningful judicial review. That result would raise grave Suspension Clause concerns. *St. Cyr*, 533 U.S. at 300–01; *Boumediene*, 553 U.S. at 779.

D. Conclusion

Sections 1252(b)(9) and 1252(g) are narrow jurisdiction-channeling provisions and do not operate as a blanket bar to review of unlawful executive action. As the Supreme Court has made clear, these provisions apply only to claims arising from lawful discretionary decisions to commence proceedings, adjudicate cases, or execute removal orders. They do not preclude judicial review where a petitioner alleges that the government has acted *ultra vires*, in violation of federal law, or in a manner that independently contravenes the Constitution. To hold otherwise would foreclose any forum for review of unlawful custody and removal, raising serious due process and Suspension Clause concerns.

V. Respondents Failed to Comply with the Court's January 25 Order

The Court's January 25 Order was unequivocal. It did not request further jurisdictional briefing or invite Respondents to revisit arguments previously rejected. It

directed Respondents to show cause why the writ should not issue, thereby shifting the burden to justify Petitioner's continued restraint and Respondents' asserted authority to remove him notwithstanding unrescinded Special Immigrant Juvenile Status and deferred action. Respondents did not comply with that directive. Instead, they declined to engage the merits of the petition and failed to supply the information the Court expressly required.

A. The Court Ordered a Merits Response — Not Another Motion to Dismiss

The Court did not invite Respondents to relitigate jurisdictional arguments already raised and rejected. It ordered Respondents to show cause why the writ should not issue. That order required a substantive response to the claims asserted in the petition, including justification for Petitioner's continued detention and Respondents' asserted authority to remove him notwithstanding his unrescinded Special Immigrant Juvenile Status and deferred action.

Respondents did not comply with that directive. Rather than addressing the merits of Petitioner's claims, Respondents repackaged and expanded arguments previously advanced in support of dismissal, devoting the bulk of their response to jurisdictional challenges instead of explaining the legal basis for their ongoing custody and enforcement actions. A show-cause order is not an invitation to file a renewed motion to dismiss by another name. Because Respondents failed to answer the question the Court posed, they have not met their burden to justify or to demonstrate why the writ should not issue. It should be noted on the record that Respondents have waived their right to

respond to the substantive claims and have, therefore, also waived their right to address any such claims in further litigation.

B. Respondents Failed to Certify the Lawful Basis and Duration of Restraint

In a *habeas* proceeding, the burden rests with the respondent to establish the lawful basis for the restraint. That obligation includes identifying the statutory authority under which they intend to deprive Walter of his status. Respondents have not done so here.

Acknowledging that the Court asked the Respondents to justify custody, Respondents do not identify any statute authorizing continued detention for the purpose of effectuating removal while deferred action remains in effect and while Special Immigrant Juvenile Status remains valid. After February 11, 2026, there will be no lawful statute authorizing that detention as the mandatory 90 day “removal period” envisioned in the INA 241(a)(2) is complete. Nor do they certify whether Walter is detained under § 1231(a)(2), § 1231(a)(6), or any other provision. Even if Respondents didn’t care to address the claims in the Petition, response to the Court’s question on lawful confinement was not a suggestion and should have been provided.

Without such certification, Respondents have failed to carry their burden to justify¹¹ Petitioner’s restriction of his liberty and property interests, and the Court lacks any factual or legal foundation on which to conclude that the Respondents’ actions are authorized by law.

C. Respondents' Declarations Do Not Address the Claims Before the Court

The declarations submitted by Respondents do not respond to the claims presented in the petition. In fact, they are just old declarations previously submitted for unrelated litigation. *See* Resp. Opp. at 2. The Respondents cared so little to address the matters before the Court that they could not even renew their declarations. The old declarations recount procedural history, summarize immigration proceedings, and describe administrative litigation already reflected in the record. *See* ECF 26, 27. They do not address the dispositive issues raised by the Court's show-cause order.

None of the declarations assert that Special Immigrant Juvenile Status has been revoked or that Respondents possess authority to disregard it or deferred action. None explain how Respondents may lawfully remove Petitioner in the absence of such action, effectively revoking that status. And none identify a statutory or regulatory mechanism authorizing removal under these circumstances.

Declarations that merely restate procedural history do not satisfy Respondents' obligation to justify custody or to rebut Petitioner's claims. Because Respondents' evidentiary submissions do not engage the legal barriers to removal identified in the petition, they fail to show cause why the writ should not issue.

D. Conclusion

Taken together, Respondents' failure to address the merits of the petition, failure to certify any lawful basis or duration of detention, and submission of declarations that do not engage the claims before the Court constitute a clear failure to comply with the Court's January 25 Order. In a *habeas* proceeding, where Respondents bear the burden of justifying restraint, such omissions are dispositive. Because Respondents have not shown cause why the writ should not issue, and have instead declined to answer the question the Court posed, the appropriate remedy is issuance of the writ and such relief as is necessary to prevent unlawful restraint.

VI. Respondents' Arguments Fail on Their Own Terms

Even accepting Respondents' framing of the case, their opposition fails on its own terms. Respondents do not engage several of the core constitutional and statutory claims pleaded in the petition. Instead, they proceed as though those claims do not exist. In a *habeas* proceeding, particularly one brought to prevent irreparable loss of statutory status before judicial review, such silence is not a neutral omission. It is a failure of proof.

A. Respondents Ignore the Suspension Clause Entirely

Respondents' arguments fail on their own terms because they do not address the Suspension Clause claim pleaded in the petition. Petitioner specifically alleged that Respondents' interpretation of the statutory framework would eliminate any meaningful

opportunity for judicial review before removal irreversibly extinguishes congressionally conferred protections associated with Special Immigrant Juvenile Status and deferred action. Respondents do not dispute that removal would permanently eliminate those protections, nor do they explain how any other removal remedy could restore them.

They offer no response to the allegation that their position would leave Petitioner without any effective mechanism to test the legality of the removal action which would revoke his status, before irreparable harm occurs. Because Respondents never engage that claim, they fail to rebut it. An un rebutted Suspension Clause allegation cannot be resolved by assumption or omission, and Respondents' silence on this point undermines their opposition in its entirety.

B. Respondents Do Not Address the APA or Due Process Claims at All

Respondents likewise fail to address Petitioner's claim under the Administrative Procedure Act. The petition alleges that Respondents' continued threatened removal constitute agency action that is arbitrary, capricious, and contrary to law because it disregards unrescinded Special Immigrant Juvenile Status and deferred action without any lawful mechanism for doing so. That claim is independent of the validity of the removal order and focuses on Respondents' present enforcement conduct.

Respondents do not argue that the APA claim is barred, do not contend that the challenged conduct is not arbitrary, capricious or contrary to law, and do not identify any statutory or regulatory process by which deferred action or SIJS was rescinded (as it has

not been). Nor do they dispute that removal under these circumstances would function as a *de facto* revocation of those protections. Instead, Respondents ignore the claim entirely. Respondents also do not address the Due Process claim at all. They offer no explanation of what process was afforded, what notice was given, or how removal without rescission of SIJS or deferred action satisfies statutory and constitutional requirements.

Respondents' complete silence as to both claims leaves them un rebutted.

VII. Because Respondents Failed to Respond to the Pleadings, the Writ Should Issue

This Court ordered Respondents to show cause why the writ should not issue. That order required Respondents to engage the claims pleaded and to justify their conduct under existing law. Respondents have not done so. They did not address the Suspension Clause claim. They did not respond to the APA claim. They did not address the due process claim. And they have not addressed any lawful authority that permits removal notwithstanding those protections.

In *habeas* proceedings, where the respondent fails to rebut the petitioner's allegations or to justify custody and enforcement action, issuance of the writ is appropriate. Respondents' failure to engage multiple core claims pleaded in the petition means they have not shown cause why the writ should not issue. The Court should therefore grant appropriate habeas relief.

VIII. CONCLUSION

This case presents a narrow but profound question: whether the Executive Branch may remove a Special Immigrant Juvenile whose SIJS classification remains valid and whose deferred action has never been rescinded, thereby extinguishing congressionally conferred protections and foreclosing any meaningful opportunity for judicial review. Respondents have never answered that question.

Throughout these proceedings, Respondents have relied on recitations of administrative history, jurisdictional avoidance, and assumptions of authority rather than legal justification. They have not identified any statutory or regulatory mechanism by which Special Immigrant Juvenile Status has been revoked. They have not shown that deferred action was lawfully rescinded. They have not explained how removal may proceed without operating as a *de facto* revocation of status Congress has expressly protected. And they have not addressed the Suspension Clause, the Administrative Procedure Act, or the Due Process Clause claims pleaded in the petition.

The Court ordered Respondents to show cause why the writ should not issue. That order shifted the burden to justify restraint and enforcement action under law. Respondents did not meet that burden. Instead, they declined to engage the merits, failed to certify any lawful basis or duration of restraint, and submitted declarations that do not address the dispositive legal barriers to removal identified in the petition.

Habeas corpus exists precisely to prevent executive action that would irreversibly extinguish protected rights before judicial review can occur. Where, as here, Respondents

cannot identify lawful authority for their actions and fail to rebut constitutional and statutory claims, the writ must issue. To hold otherwise would permit the Executive to nullify congressionally conferred protections through removal while insulating that conduct from review, an outcome incompatible with the Suspension Clause, due process, and the rule of law.

For these reasons, the Court should grant the petition for writ of *habeas corpus* and order such relief as is necessary to prevent unlawful removal and restraint.

Dated: January 28, 2026

Respectfully Submitted,

/s/ Stacey R. Rogers

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Certificate of Service

I certify that on January 28, 2026, I electronically filed the foregoing document(s) and that they are available for viewing and downloading from the Court's CM/ECF system, and that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: January 28, 2026

Respectfully Submitted,

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