

2. Petitioner is currently detained at the El Paso Service Processing Center at 8915 Montana Avenue, El Paso, Texas 79925. Petitioner has valid Deferred Action for Childhood Arrivals (“DACA”) protection from September 23, 2025 through September 22, 2027. *See* Exhibit B, Approval Notice of Form I-821D. Petitioner is also a bona fide U visa applicant who has been granted deferred action (“DA”) under a Bona Fide Determination (“BFD”). *See* Exhibit C, Approval Notice of Form I-765.
3. Under the DACA program, individuals brought to the United States children who met specific requirements and who do not pose a threat to national security or public safety are protected from deportation via a two-year grant of deferred action, subject to renewal. DACA was designed to protect these individuals from arbitrary arrest or deportation.
4. Under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, Div. A, 114 Stat. 1464 (2000), codified at inter alia, 8 U.S.C. § 1101(a)(15)(U) (“Crime Victims Act”), was signed into law. This Act permits immigrants who are victims of serious crimes and who assist law enforcement to apply for and receive “U” nonimmigrant visas. After possessing U status for three years, such immigrants may apply for lawful permanent resident status.
5. Petitioner has both protections. He has resided in the United States for more than twenty (20) years. He is engaged to a United States citizen and currently holds valid DACA protection through September 22, 2027. Petitioner also benefits from deferred action pursuant to his bona fide U nonimmigrant visa application filed with U.S. Citizenship and Immigration Services (“USCIS”).
6. Despite these protections, Petitioner was recently arrested at his residence in Albuquerque, New Mexico by ICE officers. ICE targeted Petitioner following his arrest by the Bernalillo

County Sheriff's Office ("BCSO") for an alleged Public Affray. At the time of ICE's arrest, the charge was pending; however, the charge has since been dismissed. Pursuant to both forms of protection, Petitioner is not subject to removal from the United States.

7. Petitioner's arrest and continued detention, notwithstanding his valid DACA and deferred action protections, contravenes the fundamental due process guarantees of the Fifth Amendment and violates the government's own regulations governing the administration, protection, and termination of DACA and deferred action. Accordingly, Petitioner respectfully requests that this Court issue a writ of habeas corpus ordering his immediate release from ICE custody.

CUSTODY

8. Petitioner is currently in the custody of Immigration and Customs Enforcement ("ICE") at El Paso Service Processing Center in El Paso, Texas. He is therefore in "'custody' of [the DHS] within the meaning of the habeas corpus statute." *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION

9. This court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et. seq.*
10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et. seq.*, the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).
11. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging both the lawfulness and the constitutionality of their detention. *See Demore v. Kim*, 538

U.S. 510, 516-17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (same); *Tran v. Mukasey*, 515 F.3d 478, 482 (5th Cir. 2008) (same).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (“OSC”) to Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
13. Petitioner is “in custody” for the purpose of § 2241 because Petitioner was arrested and detained by Respondents.

VENUE

14. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees or officers of the United States acting in their official capacity and because Petitioner is currently detained within the Western District of Texas, his immediate physical custodian is located within this District, and a substantial part of the events giving rise to this petitioner occurred and continue to occur within this District.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

15. There is no statutory requirement of administrative exhaustion before immigration detention may be challenged in federal court by a writ of habeas corpus. *See* 8 U.S.C. § 1252(d)(1); *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007) (“Under the INA exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal.”).

16. The Supreme Court has recognized that exhaustion is not required where a plaintiff “may suffer irreparable harm if unable to secure immediate judicial consideration of his claim.” *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). This is the case here, where Petitioner raises constitutional and statutory claims that the agency cannot redress, and where each day that passes is one in which she is being unconstitutionally deprived of his liberty.
17. Additionally, the agency does not have jurisdiction to review Petitioner’s claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies. *Reno v Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999) (finding exhaustion to be a “futile exercise because the agency does not have jurisdiction to review” constitutional claims).
18. Even if the Court were to consider requiring exhaustion as a prudential matter, further action with the agency is unnecessary when pursuing administrative remedies would be futile or the agency has predetermined a dispositive issue. *McCarthy v. Madigan*, 503 U.S. 144, 147-48 (1992) (holding that an administrative remedy is inadequate when it “lacks institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute” or where the “challenge is to the adequacy of the agency procedure itself”).

PARTIES

19. Petitioner is from Mexico and has resided in the U.S. since June 30, 2005, since he was five years old. Petitioner has been detained at the El Paso Service Processing Center, El Paso, Texas since September 16, 2025.
20. Respondent Joel Garcia sued in his official capacity as Field Office Director, El Paso Field Office, Enforcement and Removal Operations, ICE. In his official capacity, Respondent

Garcia is the legal custodian of Petitioner.

21. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.
22. Respondent Kristi Noem is sued in her official capacity as Secretary of Homeland Security. As the head of the U.S. Department of Homeland Security, the agency tasked with enforcing immigration laws, Secretary Noem is Petitioner's ultimate legal custodian. Respondent Pamela Jo Bondi is sued in her official capacity as the Attorney General of the United States. As Attorney General, she has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

STATEMENT OF FACTS

1. Petitioner last entered the United States on or about June 30, 2005, with a B-2 visitor visa at the age of five (5). He has resided continuously in the United States since that date. Respondent is engaged to a U.S. citizen and maintains extensive family ties in the United States, including his parents, siblings, and numerous relatives.
2. Petitioner currently holds valid Deferred Action for Childhood Arrivals (DACA) protection from September 23, 2025, through September 22, 2027. He is also a bona fide U visa applicant who has been granted deferred action status under a Bona Fide Determination (BFD). As part of Petitioner's U visa deferred action, Petitioner was granted a work authorization document that is valid from February 25, 2025 to February 23, 2029. *See* Exhibit E, Approval notice of Form I-765(bearing employment eligibility category "C14" and initial validity date of February 24, 2025); *see also* 8 C.F.R. 274A.12(c)(14) (codifying employment eligibility category (c)(14), which authorizes

aliens who have “been granted deferred action” to apply for employment authorization if the alien establishes an economic necessity for employment)

3. In 2018, in Albuquerque, New Mexico, Petitioner was the victim of a violent crime, during which he fully cooperated with law enforcement. The perpetrator was charged with robbery, aggravated assault, stalking, and battery, and ultimately convicted—pursuant to a plea agreement—of Attempt to Commit a Felony, to wit: Armed Robbery. Petitioner’s cooperation was instrumental in securing that conviction. Because of his age at the time, Petitioner’s parents were listed as derivative beneficiaries on his U visa application and likewise hold deferred action and valid work authorization.
4. Petitioner has never engaged in unauthorized employment. He has consistently maintained lawful employment, filed taxes, and contributed positively to his community. His only arrest occurred on September 9, 2025, for public affray. Petitioner does not have any criminal convictions, or history of violence. After his counsel, Mr. David Chacon, discussed the circumstances of the case with the arresting officer, the charge was dismissed in its entirety on October 27, 2025. The Notice of Dismissal, signed by Officer Anija Pearson (APD Man. No. 8620), confirms that no charges remain pending. Petitioner also received a citation for being in possession of marijuana and possession of drug paraphernalia in April 17, 2020. Petitioner’s guilt was never adjudicated and the citation was dismissed without prejudice on August 31, 2020. Over two decades of residence in the United States, Petitioner does not have any other criminal history; Petitioner’s DACA application has continued to be granted.
5. On October 14, 2025, Petitioner, through prior Counsel, filed a request to be released on bond during the pendency of his removal proceedings. On that day, the Immigration

Judge denied the request and found the Petitioner to be a danger because of the pending charge for public affray. At the time of Petitioner's first bond hearing, Petitioner's charge for public affray remained pending. Petitioner was not able to testify regarding the circumstances of events that led to his arrest because of the pending charge.

6. The circumstances surrounding the arrest demonstrate that Petitioner's actions were defensive in nature and arose from his attempt to protect his younger brother, German, from harm. Specifically, while at a local establishment, German's former partner approached him and, without provocation, punched him inside the venue. German and Petitioner left the premises to avoid further confrontation, but the ex-partner followed them outside, continuing to shout and behave aggressively. Petitioner attempted to de-escalate the situation; however, when the aggressor advanced toward German again, Petitioner struck the individual once in defense of his brother.
7. Petitioner did not initiate the altercation and acted out of concern for his sibling's safety in the face of escalating aggression. It is also relevant that German's ex-partner has a documented history of abusive behavior toward him, and Petitioner himself has experienced prior trauma. In that moment, Petitioner reacted instinctively to protect his family member. While Petitioner acknowledges that it was wrong to respond physically, this isolated lapse in judgment does not define his character. This incident stands as a singular, uncharacteristic event.
8. The incident in which Petitioner acted to defend his brother represents the only adverse factor in this matter. In light of his twenty (20) years of continuous residence in the United States without any prior arrests or criminal history, the dismissal of the sole charge by the arresting officer, and substantial evidence of Petitioner's good moral

character, there is no basis to conclude that he presents any future danger to the community.

9. Petitioner's ties to the United States are extensive and well-documented. He has lived here since childhood, is engaged to a U.S. citizen, and has close family members. These significant equities—combined with his community involvement and lack of any criminal convictions—strongly support the finding that Petitioner's release would not endanger the community.
10. On October 29, 2025, Petitioner filed an appeal of the Immigration Judge's bond decision with the Board of Immigration Appeals ("BIA"), which remains pending. On November 5, 2025, Petitioner subsequently filed a motion for a new bond determination based on materially changed circumstances (dismissal of the charge for public affray.) To date, the Immigration Judge has failed to rule on that motion. As a result, Petitioner continues to be subjected to unlawful and prolonged detention, notwithstanding his valid DACA status and deferred action pursuant to his pending U nonimmigrant visa petition. This continued detention violates Petitioner's statutory and constitutional rights and warrants habeas relief.

LEGAL BACKGROUND AND ARGUMENT

Deferred Action for Childhood Arrivals

11. On June 15, 2012, the Secretary of DHS announced the DACA policy, authorizing case-by-case deferred action for certain individuals who were brought to the United States as children, met specified educational and public-safety criteria, and passed background checks. Mem. from Janet Napolitano, Sec'y of DHS, *Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children* (June 15, 2012)

(hereinafter “Napolitano Memorandum”).

12. DACA recipients are “talented young people, who, for all intents and purposes, are Americans—they’ve been raised as Americans, understand themselves to be part of this country.” The DACA program was intended “to lift the shadow of deportation from these young people” and “to mend our Nation’s immigration policy to make it more fair, more efficient, and more just.” President Barack Obama, Remarks on Immigration Reform, 2012 Daily Comp. Pres. Doc. 1 (June 15, 2012).
13. Under DACA, “to prevent [these] low priority individuals from being removed from the United States,’ ICE ‘exercise[s] prosecutorial discretion[] on an individual basis ... by deferring action for a period of two years, subject to renewal.’” *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 10 (2020). Those who meet DACA’s rigorous criteria are thus “granted ‘affirmative ... relief’ from removal.” *Enriquez-Perdomo v. Newman*, 54 F.4th 855, 863 (6th Cir. 2022) (citing *Regents*, 591 U.S. at 10).
14. In 2022, DHS promulgated a final rule codifying DACA’s structure, adjudicative standards, collateral consequences, and termination procedure. *Deferred Action for Childhood Arrivals*, 87 Fed. Reg. 53,152 (Aug. 30, 2022) (codified at 8 C.F.R. §§ 236.21–236.23). The rule defines deferred action as “a form of enforcement discretion not to pursue the removal of certain [noncitizens],” or a “temporary forbearance from removal.” 8 C.F.R. § 236.21(c)(1). Per DHS’s regulations, DACA recipients are also treated by DHS as lawfully present for the period deferred action is in effect, and are thereby entitled to certain associated benefits, such as a work authorization if they demonstrate economic need. 8 C.F.R. § 236.23(d) (2024); 87 Fed. Reg. at 53,177–80; *see also Texas v. United States*, 809 F.3d 134, 166 (5th Cir. 2015), *aff’d by an equally*

divided Court, 579 U.S. 547 (2016) (“Deferred action ... is much more than nonenforcement: It ... affirmatively confer[s] ‘lawful presence’ and associated benefits”).

15. From the program’s inception to the present, DACA applicants have been required to disclose sensitive biographical and biometric information, to submit to comprehensive background and security checks, and to pay substantial filing fees. *See* Napolitano Memorandum, *supra*; 87 Fed. Reg. at 53,158–61; 8 C.F.R. §§ 236.21–236.23. They can be granted DACA only upon satisfaction of uniform criteria tied to education, residence, age at entry, and public-safety screening. *Id.*
16. A grant of DACA is valid for two years and is then indefinitely renewable. 8 C.F.R. § 236.23(a)(4). Consequently, DACA recipients must apply to renew their DACA grant every other year, going through the same rigorous application process each time.

U Visa: Deferred Action under a Bona Fide Determination (“BFD”)

17. On October 28, 2000, the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, Div. A, 114 Stat. 1464 (2000), codified at inter alia, 8 U.S.C. § 1101(a)(15)(U) (“Crime Victims Act”), was signed into law. This Act permits immigrants who are victims of serious crimes and who assist law enforcement to apply for and receive “U” nonimmigrant visas. After possessing U status for three years, such immigrants may apply for lawful permanent resident status.
18. According to 8 U.S.C. section 1101(a)(15)(U)(i)(I)-(IV), an applicant qualifies for a “U” nonimmigrant visa, if they have (1) suffered substantial physical or mental abuse as a result of having been a victim of criminal activity, (2) possess information concerning the criminal activity, (3) has been helpful, is being helpful, or is likely to be helpful to a

Federal, State, or local law enforcement official, to a Federal, State, or local prosecutor, to a Federal or State judge, to the Service, or to other Federal, State, or local authorities investigating or prosecuting criminal activity; and (4) the criminal activity violated the laws of the United States or occurred in the United States.

19. Under INA § 212(d)(14), U nonimmigrant applicants may apply for a waiver of any inadmissibility ground except those in INA § 212(a)(3)(E), which include specifically participants in Nazi persecutions, genocide, torture, or extrajudicial killing. This inadmissibility waiver for potential U nonimmigrants is very generous and does not apply in most other immigration petitions and applications. Moreover, The INA authorizes USCIS to grant an inadmissibility waiver for U nonimmigrants when a waiver would be in the “public or national interest.” Put another way, in granting any relief under the U visa program, USCIS makes certain findings to ensure that relief under this humanitarian form of relief is merited at all stages.
20. To apply for a U visa, a petitioner must file with USCIS a Form I-918, Petition for U nonimmigrant status; Form I-918, Supplement B, a certification from a recognized law enforcement official confirming that the non-citizen has cooperated in the investigation or prosecution of criminal activity; and a sign statement by the petitioner describing the facts of the victimization. The principal U visa petitioner may request that a qualifying family member, such as the petitioner's spouse and parents, be included as a derivative applicant by filing a form I-918, Supplement A. In addition to the U visa applications, applicants must also submit a request for a waiver of any ground of inadmissibility using Form I-192, Application for Advance Permission to Enter as a Nonimmigrant.
21. Further, the petition submitted to USCIS must contain “certification from a Federal,

State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating criminal activity...” See 8 U.S.C. § 1184(p)(1).

22. According to 8 U.S.C. § 1184(p)(2) and section 214(p)(2) of the Immigration and Nationality Act, the total number of aliens who may be issued U-1 nonimmigrant visas or granted U-1 nonimmigrant status may not exceed 10,000 in any fiscal year.
23. Both the regulations and the INA provide numerous examples of duties owed by USCIS in the petition for U nonimmigrant status process. 8 U.S.C. section 1184 states that “[t]he Attorney General shall consider any credible evidence relevant to the petition.” (emphasis added). The Code of Federal Regulations further provides that USCIS “shall conduct a de novo review of all evidence submitted,” and, most importantly, after that review “USCIS will issue a written decision....and notify the petitioner of the decision.” 8 C.F.R. § 214.14(c)(4) & (5).
24. Due to this fiscal year limit of 10,000 U visas, the Code of Federal Regulations creates a duty for USCIS to place all eligible petitioners, who due solely to the cap are not granted U-1 nonimmigrant, on a waiting list and receive written notice of such placement. See 8 C.F.R. § 214.14(d)(2).
25. To address the issue of the backlogs, even the law provided two interim forms of relief: the Bona Fide Determinations, and the waitlist Petitioners and their qualifying members whom USCIS places in the either of these categories, who are granted temporary protection from removal while their petitions are pending, in the form of either deferred action if they are in the United States or parole if they are outside of the United States. See 8 C.F.R. § 214.14(d)(2). Individuals placed on BFD or the wait list also may be granted employment authorization (“EAD”). See 8 C.F.R. § 214.14(d)(2).

26. Pursuant to the regulations, “USCIS will grant deferred action or parole to U-1 petitioners and qualifying family members while the U-1 petitioners are on the waiting list.” 8 C.F.R. § 214.14(d)(2) . This deferred action status allows petitioners and their qualifying family members to apply for work authorization and remain in the United States while they remain on the waiting list.
27. On June 14, 2021, USCIS announced that pursuant to 8 U.S.C. § 1184(p)(6) it would begin a more stream-lined process for issuing EADs to those victims who have pending U visa petitions, known as a “bona fide determination” or BFD. USCIS Policy Alert PA-2021-13. See <https://www.uscis.gov/policymanual/volume-3-part-cchapter-5>
28. The BFD was designed to allow USCIS to make determinations on eligibility, including any issues of inadmissibility that could not be waived. Inherent in such a determination, then, is the notion that those with a BFD are presumed to have met their burdens for eligibility, and for waivers of inadmissibility. This milestone grants deferred action and provides protection from removal while the application remains pending due to a lack of U visa availability because of the statutory cap.
29. USCIS interprets “bona fide” as part of its administrative authority to implement the statute as outlined below. Bona fide generally means “made in good faith; without fraud or deceit.” Accordingly, when interpreting the statutory term within the context of U nonimmigrant status, USCIS determines whether a petition is bona fide based on the petitioner’s compliance with initial evidence requirements and successful completion of background checks. If USCIS determines a petition is bona fide, USCIS then considers any national security and public safety risks, as well as any other relevant considerations, as part of the discretionary adjudication. See <https://www.uscis.gov/policy->

manual/volume-3-part-c-chapter-5.

30. As a primary goal, USCIS seeks to adequately evaluate and adjudicate petitions as efficiently as possible. The BFD process provides an opportunity for certain petitioners to receive BFD EADs and deferred action while their petitions are pending, consistent with the William Wilberforce Trafficking Victims Reauthorization Act of 2008 (TVPRA 2008). *Id.*
31. Under the regulations, an individual who has been granted certain relief, whether permanent or interim relief is eligible to seek employment authorization. See generally 8 CFR § 274a.12. Employment authorization is a permission that stems from the existence of certain criteria; it does not create the criteria itself. Indeed, the regulation is plainly captioned to read “Classes of aliens authorized to accept employment”. The INA creates further duties owed by USCIS in the processing of petitions for U nonimmigrant status and to those individuals described in subsection (a)(15)(U) of section 101 of the Act. These duties are outlined in 8 U.S.C. section 1184(p) which states that “the Attorney General shall...provide the aliens with employment authorization.”
32. In particular, with individuals like Petitioner, who have deferred action, their category to apply can be found at 8 CFR § 274.1.12(c)(14). The regulations plainly indicate to use this category for “an alien granted deferred action,” not one who will be given such a grant at a future date. The BFD Notice of Action that is provided by USCIS specifically instructs individuals who are holding the grant to tender their employment authorization under the very section of the regulation which specifically relies on a grant of deferred action.
33. While USCIS could revoke or terminate a BFD grant, they cannot do so without proper

notice and opportunity to be heard. Similarly, while USCIS may have the right to terminate deferred action, it must do so conforming with due process by providing proper notice and an opportunity to be heard—something that USCIS has not done in this case. *Cf.* <https://www.uscis.gov/policy-manual/volume-3-part-c-chapter-5>. The language of the statute and these regulations are mandatory, not discretionary, and requires the Respondent's to provide the Petitioner protections memorialized in the relevant statutes and regulations.

34. Petitioner first applied for and was granted DACA in 2018. Upon information and belief, Petitioner has timely renewed his DACA status every two years. Most recently, USCIS approved Petitioner's DACA for the period of September 23, 2025 through September 22, 2027.
35. Petitioner has resided in Albuquerque, New Mexico since the age of five, where he has lived continuously with his family. He attended school in the United States, has maintained stable employment, and has consistently paid taxes as required by law. Petitioner has fully complied with all requirements imposed by USCIS to maintain his DACA status and has exercised diligence in filing each renewal in a timely manner. Despite of the dismissed charges, Petitioner's DACA application has been granted by USCIS.
36. After being a victim of a crime in 2018, Petitioner filed Form I-918, Petition for U Nonimmigrant Status with USCIS on June 30, 2020. On February 24, 2025, Petitioner was granted deferred action status based on his pending U-visa application. Despite of Petitioner's lawful deferred action status (through DACA and his pending U-visa application), he was detained by ICE on September 16, 2025. At the time of his arrest,

Petitioner had not been convicted of any criminal offense and had not received any Notice of Intent to Terminate or revoke his deferred action protections.

37. Following Petitioner's arrest, the Department of Homeland Security ("DHS") issued a Notice to Appear ("NTA") on that same date, charging Petitioner as removable under Immigration and Nationality Act ("INA") § 237(a)(1)(D) for allegedly remaining in the United States for a period longer than permitted, in violation of the Act or other law of the United States. Petitioner's removal proceedings are currently pending before the Immigration Court in El Paso, Texas, and he remains detained by Respondents at the El Paso Service Processing Center. Prior to his arrest by ICE, Petitioner filed his timely DACA renewal application on September 10, 2025. USCIS approved that application on September 23, 2025, confirming the continued validity of Petitioner's DACA protection.
38. Petitioner remains in ICE detention despite holding valid protection through DACA and deferred action through his pending U-visa application, in direct contravention of the DHS's regulations, which confirm that a DACA recipient and person with deferred action through a pending U-visa may not be removed from the United States while a grant of deferred action remains valid. Petitioner has not received any Notice of Intent to Terminate his DACA or U-visa deferred action. Upon information and belief, USCIS has neither initiated nor completed termination proceedings in accordance with 8 C.F.R. § 236.23(d), as required by law. The recent charge for public affray was dismissed and does not provide any basis for the revocation of Petitioner's DACA status.
39. Petitioner has lived the majority of his life in the United States and has reasonably relied on his DACA protection and deferred action as assurance that he would not be targeted for arrest, detention, or removal absent conduct warranting termination of that status.

40. Petitioner’s deferred action statuses, which both remain in valid, bar his removal and therefore makes his continued detention unlawful. *See, e.g., Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484, 119 2 3 4 5 6 S.Ct. 936, 944 (1999) (defining deferred action to mean that “no action will thereafter be taken to proceed against an apparently deportable alien, even on grounds normally regarded as aggravated”); *Lee v. Holder*, 599 F.3d 973, 974-75 (9th Cir. 2010) (explaining that deferred action constitutes a form of interim relief that temporarily prevents removal from the United States); *De Sousa v. Dir. of U.S. Citizenship and Immigr. Servs.*, 755 F.Supp.3d 1266, 1268 (N.D. Cal. 2024) (noting that deferred action is an interim benefit that “protects [recipients] against removal from the United States”); *Sepulveda Ayala v. Bondi*, 2025 WL 2084400, *1, 7-9 (W.D. Wash. 2025) (granting preliminary injunction after finding that where petitioner had been issued a bona fide determination notice in connection with his U-visa application and granted deferred action and an employment authorization document, he had demonstrated a likelihood of success on his habeas petition claim that his deferred action status made his continued detention unlawful).
41. Petitioner remains detained while the Respondents seek to remove him. But such removal is inexecutable and therefore, the government lacks any basis to continue detaining Petitioner, making any continued detention a violation of Petitioner’s due process rights under the Fifth Amendment.

CLAIMS FOR RELIEF

CLAIM I

VIOLATION OF THE SUBSTANTIVE AND PROCEDURAL DUE PROCESS PROTECTIONS OF THE FIFTH AMENDMENT OF THE CONSTITUTION

42. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.
43. The Fifth Amendment's Due Process Clause prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V.
44. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas*, 533 U.S. at 693; *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Freedom from physical restraint "lies at the heart of the liberty that the Due Process Clause protects." *Zadvydas*, 533 U.S. at 690.
45. Under the *Mathews v. Eldridge* framework, the balance of interests strongly favors Petitioner's release.
46. Petitioner's private interest in freedom from detention is profound. The interest in being free from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.").
47. The risk of erroneous deprivation is exceptionally high because he is separated from his family and community. Petitioner has been in the United States since he was five years old, has strong family and community ties, and has both DACA protection and deferred action through his U-visa application. Protections that bar his removal from the United States.

48. The government's interest in detaining Petitioner without due process is minimal. Immigration detention is civil, not punitive, and may only be used to prevent danger to the community or ensure appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690. In this case, Petitioner argues that the government lacks any basis to continue detaining the Petitioner, any detention violates petitioner's due process rights under the Fifth Amendment. *See Hernandez v. Sessions*, 872 F.3d 976, 990(9th Cir. 2017.) Furthermore, the "fiscal and administrative burdens" of releasing the Petitioner because of his DACA status and deferred action status are minimal, particularly when weighed against the significant liberty interests at stake. *See Mathews*, 424 U.S. at 334–35. Considering these factors, Petitioner respectfully requests that this Court order his immediate release.
49. When a noncitizen is not deportable, insofar as their DACA grant and deferred action through a pending U-visa, bars removal, the Due Process Clause requires that any deprivation of liberty be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301–02 (1993) (holding that due process "forbids the government to infringe certain 'fundamental' liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest"); *Demore*, 538 U.S. at 528 (applying a less rigorous standard for "deportable [noncitizens]"). Here, the Petitioner has significant ties to the United States, and has been granted both DACA and deferred action through his U-visa, both benefits that require a background checks. Petitioner's recent arrest for Public Affray was dismissed. Petitioner is not flight risk nor a threat to public safety based on his circumstances.
50. Respondents are bound to its own regulatory standards regarding notice of the

revocations of DACA and deferred action through U-Visa. 8 C.F.R. § 236.23(d); 8 C.F.R. § 214.14(h)(2)(ii). As of today, Petitioner has not received a notice indicating that USCIS intends to revoke his DACA or U-visa deferred action. Petitioner's protections remain valid.

PRAYER FOR RELIEF

Petitioner respectfully requests that the Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Pursuant to 28 U.S.C. § 2243, issue an order to show cause directly Respondents to file a return within fifteen (15) days and set the matter for a hearing;
3. Prohibit Petitioner's removal from the United States and transfer outside the Western District of Texas during the pending of this petition;
4. Find that Petitioner's arrest and continued detention violate the Fifth Amendment of the U.S. Constitution; and
5. Grant the writ of habeas corpus and order Petitioner's immediate release from ICE custody.
6. Grant such other and further relief as law and justice require,

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court will:

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner not be transferred outside of this District;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why his
Petition should not be granted within three days;
- (4) Declare that Petitioner's detention is unlawful;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release him from
custody or provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) or
the Due Process Clause within seven days;
- (6) Grant him any further relief this Court deems just and proper.

Date: December 22, 2025

Respectfully Submitted,

/s/Brenda M. Villalpando
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