

1 Nina Rabin (Cal. Bar No. 229403)
2 rabin@law.ucla.edu
3 UCLA Immigrant Family Legal Clinic
4 907 Westwood Blvd. Box 1081
Tel: (310) 206-7639

5 *Pro Bono Attorney for Petitioner*

6
7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
9

10 A.R.,

11 Petitioner,

12 v.

13 Kristi NOEM, Secretary, U.S.
14 DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S.
15 Attorney General, EXECUTIVE
OFFICE FOR IMMIGRATION
16 REVIEW; Todd LYONS, Acting
Director, IMMIGRATION AND
17 CUSTOMS ENFORCEMENT; Ernesto
Santacruz Jr., Acting Field Office
18 Director of Enforcement and Removal
Operations, Los Angeles Field Office,
19 IMMIGRATION AND CUSTOMS
ENFORCEMENT; Fereti SEMAIA,
20 Warden of DESERT VIEW ANNEX;
Joseph EDLOW, Director, U.S.
21 CITIZENSHIP AND IMMIGRATION
SERVICES; Rose KENDRICK, Acting
22 Director of National Benefits Center,
U.S. CITIZENSHIP AND
23 IMMIGRATION SERVICES,

24 Respondents.
25
26
27
28

Case No. 5:25-cv-03565

**PETITIONER'S EX PARTE
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION**

Petitioner hereby makes this *Ex Parte* Application for a Temporary Restraining Order and Order to Show Cause Re: Preliminary Injunction pursuant to Federal Rule of Civil Procedure 65 and 5 U.S.C. § 705. Petitioner is a nineteen-year-old young man from Bangladesh with an approved petition for Special Immigrant Juvenile Status. He was arrested and detained by immigration authorities on November 4, 2025. Although the Immigration Court found that there is no lawful basis for his detention and removal, he nonetheless remains in detention to this day.

This application is based on the Petition for Writ of Habeas Corpus and Complaint, the attached Memorandum of Points and Authorities, and the Declaration and Exhibits in support thereof. As these documents explain, Petitioner should be released immediately for the following reasons:

- (1) His detention absent a lawful basis for removal violates his substantive due process rights under the Fifth Amendment; and
- (2) His arrest and detention based on the unlawful revocation of his Deferred Action violates his rights under the Fourth Amendment, Fifth Amendment, and Administrative Procedure Act.

Pursuant to Local Rule 7-19.1, on December 30, 2025, undersigned counsel initially informed Assistant U.S. Attorney Daniel Beck via email that Petitioner intended to file this *ex parte* Motion on January 2. She followed up by email and voicemail on December 31, 2025. *See* Declaration of Nina Rabin, ¶ 23 and Exhibit J. Assistant U.S. Attorney Beck responded and requested that counsel wait until Monday, January 5, 2026, to avoid the need for a response over the weekend. As a matter of professional courtesy, Petitioner agreed to this schedule.

Counsel for Respondents is as follows:

Daniel Beck | Assistant United States Attorney
United States Attorney's Office | Central District of California
300 N. Los Angeles Street, Suite 7516 | Los Angeles, CA 90012
Daniel.Beck@usdoj.gov

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2 **I. INTRODUCTION**

3 Petitioner A.R. (“R”)¹ seeks a Temporary Restraining Order (“TRO”) ordering his immediate release from detention, on the grounds that his detention violates his substantive due process rights under the Fifth Amendment of the U.S. Constitution, and the revocation of his Deferred Action and resulting arrest and detention violate his rights under the Fourth Amendment, Fifth Amendment, the Administrative Procedure Act (“APA”), and the implementing regulations of the Immigration and Nationality Act (“INA”).

10 Petitioner is a 19-year-old college student originally from Bangladesh with no criminal history. R has an approved petition for Special Immigrant Juvenile Status (“SIJS”), based on an extensive history of abuse, neglect, and abandonment by his father, a diplomat who abandoned R and his family in Los Angeles in 2019. As a result of his approved SIJS petition, R also had a grant of Deferred Action – a promise by the government not to subject him to removal – valid until 2027.

16 On November 4, 2025, R was subject to an elaborate surprise “sting” operation by ICE agents at the United States Citizenship and Immigration Services (“USCIS”) Los Angeles Asylum Office based on an alleged national security investigation. Pursuant to USCIS instructions, R had accompanied his mother for an interview on her asylum claim. Suddenly, he was swarmed by ICE agents, handcuffed, told he was the subject of a national security investigation, and taken away in an ICE van to a federal detention facility. Until that day, he had never spent a night away from home. Since November 4, R has not seen his mother and older sister. The entire family is struggling with the increasing toll of their prolonged separation.

26
27 ¹ R has a Motion to Proceed with a Pseudonym pending before this Court. In communicating with opposing counsel regarding this TRO, the government stated its position that it does not oppose this motion without prejudice for changing its position later in the course of the litigation. *See* Exhibit J.

1 Despite having R in custody for over two months, DHS has not followed up
2 with R in any manner, to indicate an active investigation or substantial basis for its
3 alleged national security concerns. On December 9, an Immigration Judge agreed
4 that ICE has failed to establish a valid ground for R's removal. He nonetheless
5 remains detained to this day.

6 R's detention is unlawful for two reasons. First, the government has not
7 provided any lawful basis for his removal. The sole charge DHS has provided to
8 establish his deportability – that he overstayed his visa – is explicitly waived for
9 young people like R who have approved SIJS petitions and are on a clear pathway
10 to lawful permanent residency. His ongoing detention, despite the failure of the
11 government to provide any lawful basis to pursue removal, violates his substantive
12 due process rights under the Fifth Amendment. Second, the sudden and unlawful
13 termination of R's Deferred Action without any notice or opportunity to respond
14 led directly to his arrest and detention, thereby violating his rights under the Fourth
15 and Fifth Amendments, the Administrative Procedure Act, and the applicable
16 immigration regulations.

17 **II. STATEMENT OF FACTS**

18 R was born in 2006, in Dhaka, Bangladesh. Exhibit A, Declaration of A.R.
19 (previously filed in California Family Court on November 21, 2022, with Request
20 for Special Immigrant Juvenile Status findings), ¶ 2. [REDACTED]

21 [REDACTED]
22 [REDACTED] *Id.* at ¶ 15.

23 The entirety of R's childhood was shaped by domestic violence by his father,
24 who subjected R, his mother, and his sister to severe physical and mental abuse. *See*
25 *generally* Exhibit A. In 2022, R's father abandoned the family in the United States,
26 abruptly returning to Bangladesh. *Id.* at ¶ 3. He left the family with no money or
27 resources and thousands of dollars in debt. Upon leaving the family, he threatened
28

1 to harm R, his sister, and his mother if they return to Bangladesh, telling them he
2 would make their lives a “living hell.” *Id.* at ¶ 24.

3 Since settling in Los Angeles at the age of ten, R has been consistently
4 pursuing education, graduating from high school in 2023 and enrolling in
5 community college classes at [REDACTED] and [REDACTED]

6 [REDACTED] See Exhibit E, Table of Contents of Documents filed in Support of Bond
7 Hearings (including numerous letters from teachers and professors).

8 In 2023, R applied for Special Immigrant Juvenile Status (“SIJS”), which
9 USCIS approved on June 8, 2023. Exhibit B, USCIS Approval Notice. At the time
10 of approval, USCIS also granted R Deferred Action. *Id.*

11 On November 4, 2025, R’s mother, Ms. P, had an asylum interview at the
12 Los Angeles Asylum Office. She arrived at the interview with her representatives
13 from the UCLA Immigrant Family Legal Clinic. See Declaration of Nina Rabin
14 (hereinafter “Rabin Dec.”) ¶ 6. As instructed, R also came to the interview, as a
15 dependent included on her asylum application (a “derivative” applicant). Neither
16 Ms. P nor R (nor their counsel) were given any indication that there were questions
17 or concerns regarding R’s Deferred Action. *Id.* After Ms. P completed her portion
18 of the interview, R and his attorney were instructed to come to the asylum officer’s
19 office for his portion of the interview. His mother was instructed to stay in the
20 lobby. *Id.* at ¶ 7. After completing the brief mandatory questions for derivative
21 applicants, the asylum officer told R and his attorney they would be escorted out.
22 Another person in plain clothes who appeared to be another asylum officer led them
23 into a stairwell. Suddenly numerous armed federal agents surrounded and arrested
24 R. *Id.* See also Exhibit C, DHS Form I-213. They handed his attorney a Notice of
25 Termination of Deferred Action. It contains no reason for the termination. See
26 Exhibit 1 of Exhibits Filed in Support of Petition for Writ of Habeas Corpus and
27 Complaint, USCIS Termination Notice. The agents handcuffed R, put him in a van
28 waiting in the back parking lot, and drove him to federal immigration detention.

1 Rabin Dec., ¶ 7.

2 That same day, ICE served R with a Notice to Appear, a charging document
3 used to initiate removal proceedings in immigration court. Exhibit 2 of Exhibits
4 Filed in Support of Petition for Writ of Habeas Corpus and Complaint. The sole
5 charge of removal is § 237(a)(1)(B) of the Immigration and Nationality Act, 8
6 U.S.C. § 1227(a)(1)(B), for remaining in the country after the expiration of his visa.
7 ICE also gave R a copy of the Warrant for his Arrest (Form I-200), which states
8 that the probable cause to justify R's arrest is based on his Notice to Appear. *See*
9 Exhibit D, DHS Warrant.

10 On November 13, 2025, R filed a Motion to Terminate his removal
11 proceedings based on the fact that, as a SIJS beneficiary, he is not subject to the
12 sole charge of removal on his NTA. Rabin Dec., ¶ 10.

13 On November 17, 2025, the Immigration Judge held a bond hearing for R, at
14 which R appeared by video. *Id.* at ¶ 11. Prior to the hearing, R submitted over one
15 hundred pages of documents in support of his release on bond. *See* Exhibit E. Less
16 than an hour before the hearing, R's counsel received new evidence from ICE,
17 consisting of Form I-213 and a Letter Head Memorandum from the Federal Bureau
18 of Investigation (FBI). *Id.*; *see also* Exhibit C.² The I-213 and FBI Letter Head
19 Memorandum both state that R is the subject of a national security investigation.
20 The FBI Memo provides nine quotes that the FBI obtained pursuant to a search
21 warrant of Discord, a messaging app. They come from three dates in March 2024,
22 when R was seventeen years old. Rabin Dec. ¶ 12. The quotes are allegedly tied to
23 R's user ID. The memo accuses R of making "derogatory comments online" based
24 on the quotes, some of which relate to the Israel-Palestine conflict. *Id.* *See also*
25 Exhibit 3 of Exhibits Filed in Support of Petition for Writ of Habeas Corpus and

26
27 ² For the reasons described in the Declaration of Nina Rabin at ¶ 12 n.1, the FBI
28 Memorandum is not attached. If the government chooses not to provide a redacted
copy of it, Petitioner proposes to provide it to the Court for *in camera* review at a
hearing on this motion.

1 Complaint.

2 After hearing arguments and testimony, the Immigration Judge denied bond.
3 *See* Exhibit G.

4 On November 21, the Immigration Judge held a hearing in removal
5 proceedings on the Motion to Terminate. Rabin Dec. ¶ 16. DHS was not prepared
6 to address the arguments raised by R's motion. The Immigration Judge provided
7 the government with two additional weeks to respond in writing to the arguments
8 raised in the Motion to Terminate. He suggested that the government may want to
9 charge R with additional grounds of removal, referring to the evidence filed in the
10 bond hearing. *Id.*

11 On December 5, both parties filed supplemental briefs on the Motion to
12 Terminate. *Id.* at ¶ 17. The government did not charge R with any additional
13 grounds of removal. Nor did it submit any evidence in R's removal proceedings
14 regarding a supposed national security concern. Instead, DHS simply argued,
15 contrary to the INA's unambiguous text, that his SIJS classification did not protect
16 him from being placed in removal proceedings for overstaying his visa. *Id.*

17 On December 9, the Immigration Judge issued an order granting the motion
18 and terminating proceedings. Exhibit H. R immediately requested a new bond
19 hearing, which was set for December 17. Rabin Dec. ¶ 20. At the second bond
20 hearing, in addition to the letters of support that were previously submitted, R
21 submitted several updated letters that specifically addressed the statements made on
22 Discord when he was seventeen, as well as his own declaration, providing
23 additional context for each of the Discord posts. *See* Exhibit 3 of Exhibits Filed in
24 Support of Petition for Writ of Habeas Corpus and Complaint; *see also* Exhibit E
25 (Table of Contents for Second Bond Hearing) and F (Updated Letter of Support
26 from R's Prayer Leader). The government submitted no new evidence. Despite
27 having had four weeks with R in detention, DHS provided no updated information
28 regarding the alleged national security investigation. Rabin Dec. ¶ 21.

At the hearing on December 17, the Immigration Judge again denied bond, finding based solely on the Discord transcript that R was too dangerous to release. As a result, R – a nineteen-year-old youth with no criminal history, a long track record of legal compliance with immigration requirements, and a clear pathway to legal status – remains in custody two months after his unlawful arrest and weeks after his removal proceedings were terminated. R has had to abandon his college coursework. He, his mother, and his sister, all of whom already suffer from the effects of past traumatic violence, are struggling with the increasing toll of their family’s separation on their mental health. *See* Exhibit F, Letters of Support.

III. ARGUMENT

A court may grant an *ex parte* TRO where “immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition.” Fed. R. Civ. P. 65(b)(1)(A). As discussed below, R readily satisfies this requirement because he is suffering ongoing irreparable injury as a result of his unlawful detention.

The standard for a TRO is the same as for a preliminary injunction. *Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832 (9th Cir. 2001); *Vasquez Perdomo v. Noem*, 790 F. Supp. 3d 850, 873 (C.D. Cal. 2025). The party seeking relief “must establish [1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in their favor, and [4] that an injunction is in the public interest.” *City & Cnty. of San Francisco v. USCIS*, 944 F.3d 773, 788-89 (9th Cir. 2019) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). “Likelihood of success on the merits is the most important factor.” *California v. Azar*, 911 F.3d 558, 575 (9th Cir. 2018) (quotations omitted). Where the government is the opposing party, the third and fourth factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

Additionally, in the Ninth Circuit, courts may “employ an alternative ‘serious

1 questions’ standard, also known as the ‘sliding scale’ variant of the *Winter*
2 standard.” *Fraihat v. ICE*, 16 F.4th 613, 635 (9th Cir. 2021) (cleaned up). Under
3 that test, Petitioner must show “serious questions going to the merits and a balance
4 of hardships that tips sharply toward the plaintiff[s]” along with “a likelihood of
5 irreparable injury and that the injunction is in the public interest” *Id.* (internal
6 citations omitted).

7 Finally, the APA provides that “to the extent necessary to prevent
8 irreparable injury,” the Court may issue “all necessary and appropriate process . . .
9 to preserve status or rights pending” these proceedings. 5 U.S.C. § 705. The
10 standard used by courts for a request to stay agency action “is the same legal
11 standard as that used in a motion for preliminary injunction.” *Hill Dermaceuticals,*
12 *Inc. v. U.S. Food & Drug Admin.*, 524 F. Supp. 2d 5, 8 (D.D.C. 2007); *Nken*, 556
13 U.S. at 428 (describing a stay as “halting or postponing” operation of an action or
14 “temporarily divesting an order of enforceability”). Petitioner meets all the
15 requirements for relief.

16 **A. Petitioner is Likely to Succeed on the Merits of his Claims**

17 Petitioner is likely to succeed on his claims under the Due Process Clause of
18 the Fifth Amendment to the Constitution, the Administrative Procedure Act, and
19 the Fourth Amendment. Each of these habeas claims entitles Petitioner to release
20 from detention. Petitioner need not establish that he is likely to succeed on all his
21 claims. A showing that he is likely to succeed on even one is sufficient for
22 injunctive relief as long he meets the other three factors. *See, e.g., Citibank, N.A. v.*
23 *Mitchell*, 2024 WL 4906076, at *3 (N.D. Cal. Nov. 26, 2024).

24 Importantly, these claims involve constitutional challenges to the lawfulness
25 of R’s arrest and detention. R is *not* asking this Court to reconsider the Immigration
26 Judge’s bond determination. His habeas petition does *not* entail a review of the
27 Immigration Judge’s discretionary analysis of dangerousness and flight risk, nor a
28 challenge to the procedural protections available to him in his bond proceedings.

1 Rather, it asks the Court to determine whether the government can detain someone
2 for whom (1) DHS has not provided any lawful basis for removal, and/or (2) DHS
3 has arrested and detained based on an unlawful revocation of Deferred Action.

4 Thus, this case raises constitutional questions that cannot be addressed by the
5 immigration court. The jurisdiction-stripping provisions of the INA do not apply
6 given these legal issues. *B.D.A.A. v. Bostock*, No. 25-CV-02062, 2025 WL
7 3484912, at *4 (D. Or. Dec. 4, 2025) (finding jurisdiction over habeas by detainee
8 with prior grant of Deferred Action because challenges to “the manner in which an
9 individual is first arrested and detained” are “independent of or collateral to the
10 removal process”), *citing Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025
11 WL 2782499, at *9 (W.D. Wash. Sept. 30, 2025) (*quoting J.E.F.M. v. Lynch*, 837
12 F.3d 1026, 1032 (9th Cir. 2016) *and citing Jennings v. Rodriguez*, 583 U.S. 281,
13 293 (2018)) (internal quotation marks omitted). For the same reasons, R does not
14 need to exhaust any administrative remedies. *See Hernandez v. Sessions*, 872 F.3d
15 976, 988 (9th Cir. 2017); *Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d
16 1045, 1058 (9th Cir. 1995) (finding exhaustion to be a “futile exercise because the
17 agency does not have jurisdiction to review” constitutional claims); *In re Indefinite*
18 *Det. Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same); *B.D.A.A.*, 2025
19 WL 3484912, at *4 (to refuse jurisdiction would “leave Petitioner without a remedy
20 to challenge the legality of [his] detention,” and noting and collecting cases of other
21 courts that have confirmed “the availability of habeas relief for ICE detainees.”).

22 **1. Petitioner Is Likely to Succeed on Count One because His Detention**
23 **Absent a Lawful Basis for Removal Violates Substantive Due Process.**

24 There is no lawful basis for R’s removal. R thus is highly likely to succeed
25 on his claim that his detention violates his substantive due process rights.

26 “The touchstone of due process is protection of the individual against
27 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974),
28 including “the exercise of power without any reasonable justification in the service

1 of a legitimate government objective.” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833,
2 846 (1998). “Freedom from imprisonment—from government custody, detention,
3 or other forms of physical restraint—lies at the heart of the liberty that Clause
4 protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

5 The government detains an immigrant in violation of that person’s
6 substantive due process rights if the government “lacks any legitimate reason to
7 detain him” or “acted with a punitive purpose.” *Mahdawi v. Trump*, No. 2:25-CV-
8 389, 2025 WL 1243135, at *11 (D. Vt. Apr. 30, 2025) (ordering petitioner’s release
9 from custody).

10 The government has no legitimate reason to detain R. His approved SIJS
11 Petition means that the sole charge on his Notice to Appear (“NTA”) – deportability
12 under INA § 237(a)(1)(B), 8 U.S.C. § 1227(a)(1)(B) based on overstaying his visa
13 – does not apply to him. *See* NTA, Exhibit 2 of Exhibits Filed in Support of Petition
14 for Writ of Habeas Corpus and Complaint. The INA is clear. It waives this ground
15 of deportability for youth with approved SIJS petitions. *See* 8 U.S.C. § 1227(c)
16 (providing that “grounds for deportation” in “[p]aragraph [a](1)(B)[,]” which the
17 government alleged against R, “*shall not apply* to a special immigrant” with an
18 approved SIJS petition) (emphasis added).

19 Thus, there is no valid charge to justify R’s removal. Termination is
20 mandatory when “[n]o charge of deportability, inadmissibility, or excludability can
21 be sustained.” 8 C.F.R. § 1003.18(d)(1)(i)(A). Indeed, the Immigration Judge
22 concluded as much, granting R’s motion to terminate removal proceedings. Exhibit
23 H (“[C]onsidering the plain text of the statute, the Court finds that the respondent’s
24 removability under section 237(a)(1)(B) is waived pursuant to section 237(c), and
25 thus the respondent is not removable as charged.”).

26 The purpose of SIJS, its legislative history, and its statutory framework
27 provide further support for what INA’s text makes clear: certain grounds of
28 removal are waived for SIJS beneficiaries. These waived grounds include removal

1 on the basis of a visa overstay – again, the sole charge on R’s NTA. *See e.g., J.L. v.*
2 *Cissna*, 374 F. Supp. 3d 855, 868-69 (N.D. Cal. 2019) (“SIJ status confers a large
3 swath of . . . benefits” including being “exempt from a variety of grounds for
4 removal . . .”); *C.J.L.G. v. Barr*, 923 F.3d 622, 627 (9th Cir. 2019) (en banc) (a
5 “successful SIJ[S] application plainly can to lead to relief from removal . . .”);
6 *Juarez Morales v. Noem*, No. 24-12518-JDH, 2025 WL 1923096, at *3 (D. Mass.
7 Jun. 24, 2025) (“The protections afforded to children with [SIJS] include an array
8 of statutory and regulatory rights and safeguards, such as eligibility for application
9 of adjustment of status to that of [LPR], exemption for various grounds of
10 inadmissibility, and robust procedural protections to ensure their status is not
11 revoked without good cause.”) (internal quotation marks and citations omitted).

12 R is highly likely to succeed in his claim that there is no lawful basis for
13 removal proceedings against him. The government cannot justify his detention, and
14 he must be released.

15 **2. Petitioner Is Likely to Succeed on Count Two because His Deferred**
16 **Action Was Unlawfully Terminated, Subjecting Him to Unlawful**
17 **Detention in Violation of His Procedural Due Process Rights.**

18 R is likely to succeed on his claim that his Deferred Action was terminated in
19 violation of his procedural due process rights. This claim provides another reason to
20 find his detention unlawful and to require his immediate release.

21 Although Deferred Action does not confer lawful status, a grant of Deferred
22 Action prevents immigration authorities from removing a noncitizen from the
23 United States unless and until the Deferred Action is lawfully terminated or expires.
24 *See* Exhibit I, USCIS Policy Manual as of April 18, 2005, Vol. 6: Immigrants, Part
25 J: Special Immigration Juveniles, Ch. 4: Adjudication (“Deferred action is an act of
26 prosecutorial discretion that defers proceedings to remove an alien from the United
27 States for a certain period of time.”). “The Ninth Circuit has consistently held that
28 deferred action means the Government agency takes no action to proceed against an

1 apparently deportable [noncitizen] based on a prescribed set of factors generally
2 related to humanitarian grounds,” an interpretation that “finds strong support in
3 Supreme Court precedent, circuit authority, and USCIS policy.” *Sepulveda Ayala v.*
4 *Bondi*, 794 F. Supp. 3d 901, 914 (W.D. Wash. 2025) (collecting cases) (internal
5 quotation marks and citations omitted). *See also Reno v. Am.-Arab Anti-*
6 *Discrimination Comm.*, 525 U.S. 471, 484 (1999) (“AADC”) (“Approval of
7 deferred action status means that... no action will thereafter be taken to proceed
8 against an apparently deportable [non-citizen], even on grounds normally regarded
9 as aggravated.”) (internal quotation marks and citations omitted); *Inland Empire-*
10 *Immigrant Youth Collective v. Nielsen*, No. EDCV172048, 2018 WL 1061408, at
11 *1 (C.D. Cal. Feb. 26, 2018) (“Deferred Action is a longstanding form of
12 administrative action by which the Executive Branch decides, for humanitarian or
13 other reasons, to refrain from seeking a noncitizen’s removal and to authorize his or
14 her continued presence in the United States.”).

15 As numerous courts around the country have determined, once Deferred
16 Action is granted, its recipient enjoys procedural due process protections, including
17 the right to notice when the government seeks its termination and an opportunity to
18 contest the government’s effort. *Maldonado v. Noem*, No. 4:25-CV-2541, 2025 WL
19 1593133, at *2 (S.D. Tex. June 5, 2025) (finding that Petitioner was “likely to
20 succeed on his Due Process claim” because he was denied “notice, a hearing, or any
21 opportunity to contest the revocation of his deferred action.”). Further, federal
22 courts have repeatedly held that recipients of Deferred Action cannot be subject to
23 detention without notice and an opportunity to respond to the termination of their
24 Deferred Action. *See, e.g., B.D.A.A.*, 2025 WL 3484912, at *7 (finding a
25 deprivation of due process when an immigrant who had a prior grant of Deferred
26 Action was arrested and detained without prior notice and hearing); *F.R.P. v.*
27 *Wamsley*, No. 3:25-CV-01917, 2025 WL 3037858, at *5 (D. Or. Oct. 30, 2025)
28 (“[T]he Court is unaware of any [court] that held that ICE could lawfully detain

1 deferred action recipients without notice or an individualized finding.”); *Gamez*
2 *Lira v. Noem*, No. 1:25-CV-00855, [2025 WL 2581710](#), at *3 (D.N.M. Sept. 5,
3 2025) (finding a likelihood of success on a due process claim when a recipient of
4 Deferred Action pursuant to the Deferred Action for Childhood Arrivals program
5 (“DACA”) “justifiably expected that his DACA status would not terminate without
6 notice and the opportunity to respond[,]” and when the recipient “was not provided
7 any process at all in the course of his arrest, processing, and detention in
8 immigration custody”).

9 The required analysis for procedural due process claims confirms that these
10 courts are correct and leads ineluctably to the conclusion that the government had to
11 provide R with procedural protections before terminating his Deferred Action. This
12 analysis proceeds in two steps. First, the court asks whether the person facing a
13 deprivation has a protected liberty interest. If so, the court must determine what
14 procedures must be provided to ensure that the liberty interest’s deprivation accords
15 with the Constitution. *O.A.M.R. v. Wofford*, No. 1:25-CV-01955-TLN-JDP, [2025](#)
16 [WL 3702171](#), at *2 (E.D. Cal. Dec. 21, 2025), citing *Kentucky Dep’t of Corrections*
17 *v. Thompson*, [490 U.S. 454, 460](#) (1989).

18 R has a protected liberty interest in his freedom. Indeed, “many courts across
19 the country” have found a “strong liberty interest in . . . freedom from detention”
20 even for unauthorized immigrants “because [they have] established a life here”
21 *Zafra v. Noem*, No. 25-CV-00541, [2025 WL 3239526](#), at *4 (W.D. Tex. Nov. 20,
22 2025). R’s liberty interest is all the more clear, given his Deferred Action and
23 approved SIJS petition. See *Gamez Lira* at *3 (concluding that a DACA recipient
24 had a protected liberty interest because he “has lived continuously in the United
25 States since infancy. For the last ten years, he lived under the understanding that he
26 was unlikely to be subject to enforcement proceedings.”).

27 R has extensive community ties, established since his arrival in the United
28 States at the age of ten. He has spent his formative years in this country, has been

1 pursuing educational and professional goals based on an expected future here, and
2 has extremely strong family ties to his mother and sister, both of whom live here.
3 Exhibit E, Table of Contents filed in Bond Proceedings; Exhibit F, Letters of
4 Support from R's Mother, Sister, and Prayer Leader. *See also O.A.M.R.* at *2
5 (finding that an immigrant facing removal has a protected liberty interest based on
6 the fact that "he built a life and established a community" here).

7 As to the second step – regarding what process is due before R's Deferred
8 Action can be lawfully terminated – the Court considers three factors: (1) "the
9 private interest that will be affected by the official action;" (2) "the risk of an
10 erroneous deprivation of such interest through the procedures used, and the
11 probable value, if any, of additional or substitute procedural safeguards;" and (3)
12 "the Government's interest, including the function involved and the fiscal and
13 administrative burdens that the additional or substitute procedural requirement
14 would entail." *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

15 Here, the private interest affected is Petitioner's freedom. It "is the most
16 elemental of liberty interests—the interest in being free from physical detention by
17 one's own government." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). R's private
18 interest thus weighs heavily in favor of additional procedural protections before its
19 deprivation. *See O.A.M.R.* at *2; *Martinez v. Noem*, No. 25-CV-430, 2025 WL
20 2965859, at *3 (W.D. Tex. Oct. 21, 2025) ("one's physical freedom is a paramount
21 liberty interest, secured not just by statute but by the Constitution.").

22 Next, the *Mathews* test requires consideration of "the risk of an erroneous
23 deprivation of such interest through the procedures used, and the probable value, if
24 any, of additional or substitute procedural safeguards." R now faces erroneous
25 deprivation of his liberty interests based on USCIS's abrupt and non-transparent
26 termination of his Deferred Action. The USCIS Termination Notice provides no
27 reasons whatsoever for the termination. *See Exhibit 1 of Exhibits Filed in Support*
28 *of Petition for Writ of Habeas Corpus and Complaint.* This lack of transparency

1 makes the risk of erroneous deprivation high.

2 Based on the minimal evidence provided by DHS after the termination of his
3 Deferred Action, there appear to be two possible reasons for the termination of R's
4 Deferred Action: his visa overstay or the alleged national security investigation. If
5 the termination is based on R's visa overstay, this is clear error, given the statutory
6 text and purpose of SIJS. *See supra* Section (1).

7 As to possible national security concerns, R's inability in his bond
8 proceedings to understand, let alone contest, the basis of the government's
9 allegations demonstrates the high risk of error. The Immigration Judge relied on
10 uncited news reports about current events completely unrelated to R to conclude
11 that the government's evidence was sufficient. *See* Exhibit G ("...in consideration
12 of recent, and newsworthy mass shootings in the United States and Australia with
13 allegations of antisemitic overtones . . . the Court finds [R's statements from 2024]
14 still to be extraordinarily serious and reflective of the respondent's danger to the
15 community"). He gave "little weight to the respondent's self-serving statements,"
16 noting the lack of "objective evidence," and drawing on his own ideas about
17 possible links between terrorist organizations and charities to somehow link R to
18 terrorism. *Id.* ("the Court notes again, the lack of evidence corroborating the
19 respondent's claims. This is particularly significant here, where for example, there
20 were widespread reports that one of the terrorists who perpetrated the October 7
21 attack was a UNRWA aid worker."). Depriving a noncitizen of their liberty based
22 on assertions about their dangerousness requires further procedural protections. *Cf.*
23 *Zadvydas*, 533 U.S. at 690–91 ("[W]e have upheld preventive detention based on
24 dangerousness only when limited to specially dangerous individuals and subject to
25 strong procedural protections.").

26 Finally, the government has effectively no countervailing interest in *not*
27 providing notice or a hearing before terminating R's Deferred Action. There is no
28 indication that R would have absconded from any proceeding had he been given

1 notice and an opportunity to be heard. To the contrary, he has a long record of
2 compliance with all legal obligations regarding his immigration status. He entered
3 the United States lawfully, attended all biometrics appointments, and appeared and
4 participated in his mother's asylum interview. *See Valdez v. Joyce*, No. 25 CIV
5 4627, 2025 WL 1707737, at *4 (S.D.N.Y. June 18, 2025) (finding government's
6 countervailing interest minimal when Petitioner had attended all his scheduled
7 immigration court proceedings).

8
9 **3. Petitioner Is Likely to Succeed on Count Three because the Unlawful**
10 **Revocation of His Deferred Action Violated the APA**

11 R is also likely to succeed on his claim that USCIS's termination of his
12 Deferred Action and employment authorization was arbitrary and capricious in
13 violation of the APA. The termination does not reflect reasoned decision-making. 5
14 U.S.C. § 706(2). Indeed, the Notice of Termination of Deferred Action does not
15 provide *any reason whatsoever*. USCIS's unlawful termination of deferred action
16 directly resulted in R's current detention. Thus, he remains in detention in violation
17 of the APA.

18
19 **4. Petitioner Is Likely to Succeed on Count Four that His Deferred Action**
20 **was Unlawfully Revoked, Subjecting him to Unlawful Arrest and**
21 **Detention in Violation of His Rights under the Fourth Amendment and 8**
22 **C.F.R. § 287.8(c)(2)**

23 The Fourth Amendment protects "[t]he right of the people to be secure in
24 their persons . . . against unreasonable searches and seizures." U.S. Const. Amend.
25 IV. Immigration arrests and detentions are "seizures" within the meaning of the
26 Fourth Amendment. *Vasquez Perdomo*, 790 F. Supp. 3d at 888; *Gamez Lira*, 2025
27 WL 2581710, at *4.

28 Two components must be in place for an immigration arrest. First, there must
be probable cause for an arrest under the Fourth Amendment. 8 C.F.R. §

1 287.8(c)(2)(i). This requirement is tantamount to a constitutional “probable cause”
2 requirement. *Tejada–Mata v. I.N.S.*, 626 F.2d 721, 725 (9th Cir.1980). Second,
3 there must be a warrant, unless there is reason to believe that the individual is likely
4 to escape before a warrant can be obtained. 8 U.S.C. § 1357(a)(2); 8 C.F.R. §
5 287.8(c)(2)(ii). Failure to meet these requirements makes an arrest unlawful.

6 At the time of R’s arrest, the DHS administrative warrant authorizing his
7 arrest states that there is probable cause for the arrest based on “the execution of a
8 charging document to initiate removal proceedings against the subject.” Exhibit D.
9 The charging document – the Notice to Appear – contained only the charge of
10 overstaying his visa, INA § 237(a)(1)(B), 8 U.S.C. § 1227(a)(1)(B). As discussed,
11 this is not a valid charge of removal for SIJS beneficiaries like R. Therefore,
12 Respondents arrested R without probable cause.

13 In providing a legally erroneous charge of deportability as the sole basis for
14 his arrest and detention, Respondents violated his Fourth Amendment rights and the
15 regulations at 8 C.F.R. § 287.8(c)(2).

16 **B. Petitioner is Suffering Irreparable Harm**

17 The “deprivation of constitutional rights unquestionably constitutes
18 irreparable injury.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)
19 (internal quotation marks and citation omitted); *Delkash v. Noem*, No. 5:25-CV-
20 01675, 2025 WL 2683988, at *6 (C.D. Cal. Aug. 28, 2025) (same). Here, the
21 failure to provide R with due process as required under the Constitution constitutes
22 irreparable injury.

23 In addition, the Ninth Circuit and courts in this district have recognized that
24 the irreparable harm suffered by anyone in ICE detention may include “collateral
25 harms to children of detainees whose parents are detained.” *Hernandez v. Sessions*,
26 872 F.3d 976, 995 (9th Cir. 2017); Here, the harm is the reverse – with the child
27 detained and parent suffering – but no less compelling. R’s youth should be
28

1 considered in assessing the impact of his immigration detention, and the Court
2 should also consider the collateral harm to his mother and sister. *See, e.g., Sun v.*
3 *Santacruz*, 5:25-cv-02198, [2025 WL 2730235](#), at *7 (C.D. Cal. Aug. 26, 2025)
4 (finding detention would cause irreparable harm in part because it prevents
5 petitioner from providing critical support to her partner and father). R’s family has
6 already experienced significant prior trauma that compounds the impact of their
7 current separation. *See generally* Exhibit A; *see also* Exhibit 3 of Exhibits Filed in
8 Support of Petition for Habeas, ¶ 7 (R testifies that his detention is having serious
9 consequences “not just for me but for my family. My mom is in great emotional
10 distress and my sister is struggling.”); Exhibit F, Letters of Support from R’s
11 Mother (“being separated from R has been devastating for me, it has been hard to
12 sleep, eat, or go on with my daily life.”) and Sister (“We have grown up alongside
13 each other and have survived our challenging family history together, helping each
14 other become better and supporting one another. Whenever something happens, we
15 always come back to each other because we have to – we have no one else.”).

16 In sum, the second *Winter* factor also heavily weighs in R’s favor.

17
18 **C. The Balance of Equities Favors Relief**

19 The final two *Winter* factors merge when the opposing party is a
20 governmental agency. *Nken*, [556 U.S. at 435](#). Moreover, “a plaintiff’s likelihood of
21 success on the merits of a constitutional claim also tips the merged third and fourth
22 factors decisively in his favor.” *Baird v. Bonta*, [81 F. 4th 1036, 1042](#) (9th Cir.
23 [2023](#)); *see also Hernandez*, [872 F.3d at 996](#) (“Generally, public interest concerns
24 are implicated when a constitutional right has been violated, because all citizens
25 have a stake in upholding the Constitution.”) (internal quotation marks and citation
26 omitted). In this case, because R has demonstrated that he satisfies the first factor of
27 *Winter* test regarding his due process claims, the third and fourth elements tip
28 decisively in his favor.

1 In addition, “the public has a strong interest in upholding procedural
2 protections against unlawful detention.” *Rodriguez-Flores v. Semaia et al.*, 2:25-cv-
3 6900-JGB-JC, 2025 WL 2684181, at *5 (C.D. Cal. Aug. 14, 2025) (citation
4 omitted). Although the public has an interest in the execution of immigration laws,
5 that interest only extends insofar as the execution of those laws is constitutional. *Id.*
6 *See also Delkash*, 2025 WL 2683988, at *6 (same); *Sun*, 2025 WL 2730235, at *7
7 (same); *Singh v. Andrews*, 2025 WL 1918679, at *9 (E.D. Cal. July 11, 2025)
8 (same).

9 A final consideration is the “general public’s interest in the efficient
10 allocation of the government’s fiscal resources.” *Hernandez*, 872 F.3d at 996. The
11 Ninth Circuit has recognized the “staggering” costs of immigration detention, and
12 courts have considered these costs in concluding that the public interest weighs in
13 favor of a noncitizen’s release from detention. *Id.*; *see also Sequen v. Kaiser*, 2025
14 WL 2203419, at *3 (N.D. Cal. Aug. 1, 2025).

15 In sum, the third and fourth *Winter* factors weigh strongly in Petitioner’s
16 favor.

17 **D. No Bond is Necessary**

18 Upon issuance of a temporary restraining order, the Court has discretion to
19 set “the amount of security required, if any.” *Johnson v. Couturier*, 572 F.3d 1067,
20 1086 (9th Cir. 2009); *see also Fed. R. Civ. P. 65(c)*. Indeed, “the district court may
21 dispense with the filing of a bond when it concludes there is no realistic likelihood
22 of harm to the defendant from enjoining his or her conduct.” *Id.* (citation omitted).
23 “Courts regularly waive security in cases like this one.” *Singh*, 2025 WL 1918679,
24 at *9 (ordering petitioner’s release from ICE detention); *see also Sun*, 2025 WL
25 2730235, at *8; *Pinchi v. Noem*, No. 25-CV-05632, 2025 WL 1853763, at *4 (N.D.
26 Cal. July 4, 2025); *Garcia v. Bondi*, No. 3:25-CV-05070, 2025 WL 1676855, at *3
27 (N.D. Cal. June 14, 2025).
28

1 Here, it is unlikely any harm will come to Respondents as a result of a grant
2 of temporary relief and Respondents will incur negligible or zero financial costs.
3 Petitioner asks the Court to exercise its discretion to waive the bond requirement.

4 **IV. CONCLUSION**

5
6 For the foregoing reasons, the Court should grant Petitioner's Motion for a
7 TRO and Order to Show Cause; order Petitioner's immediate release from
8 detention; bar Respondents from re-detaining Petitioner unless he receives due
9 process as required under the Due Process Clause of the Fifth Amendment; and bar
10 Respondents from removing Petitioner from this judicial district and United States
11 during the pendency of the underlying habeas corpus petition and complaint.

12
13 DATED: January 5, 2026

Respectfully submitted,

14 By: /s/ Nina Rabin

15 Nina Rabin

16 UCLA Immigrant Family Legal Clinic

17 *Attorney for Petitioner*

18
19 **CERTIFICATION OF COMPLIANCE WITH LOCAL RULE 11-6.2**

20 The undersigned, counsel of record for Petitioner, certifies that this *Ex*
21 *Parte* Motion for TRO and Order to Show Cause Re: Preliminary Injunction
22 contains 6,122 words, which complies with word limit of Local Rule 11-6.1.

23 DATED: January 5, 2026

Respectfully submitted,

24 By: /s/ Nina Rabin

25 Nina Rabin

26 UCLA Immigrant Family Legal Clinic

27 *Attorney for Petitioner*