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**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

RAHUL SHARMA

Petitioner,

v.

JEREMY CASEY, Warden of the Imperial Regional Detention Center; TODD LYONS, Acting Director of Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; PAMELA BONDI, Attorney General of the United States

Respondents.

Civil Action No. '26CV0050 CAB SBC

**VERIFIED PETITION FOR
HABEAS CORPUS AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1. The Petitioner in this case, Rahul Sharma is an unlawfully detained person who has a pending Special Immigrant Juvenile Status (“SIJS”) by the Department of Homeland Security (“DHS”). Subsequent to coming to the United States as a child, the Petitioner, in compliance with applicable law, sought and has pending SIJS protection as a vulnerable minor. Being awarded this benefit, as Congress intended, permits the Petitioner’s presence in the United States for the purpose of adjustment of status to lawful permanent residence. The Petitioner has a pending for SIJS, and was peaceably awaiting eligibility to file his application for lawful permanent residence in the United States.

2. Despite the DHS acknowledging that: (a) the Petitioner is a member of a vulnerable population; (b) Petitioner was awarded the benefits of SIJS; and (c) the Petitioner is required to be

1 physically present for adjustment of status to permanent residence, the Respondents detained him
2 without cause. The Respondents intend to remove him from the United States thereby unlawfully
3 stripping him of his SIJ status in defiance of the intent of Congress to protect vulnerable children who
4 have been victims of abuse, abandonment or neglect. The Petitioner remains detained by the
5 Respondents at the Imperial Regional Detention Center in California.

6 3. The Petitioner has been classified as a “Special Immigrant Juvenile” (“SIJ”) by the
7 United States Citizenship and Immigration Service (“USCIS”) on the basis of a pending self-petition
8 after an underlying family court proceeding that resulted in the requisite “predicate order.”

9 4. The Petitioner has been awaiting an available visa number and has remained physically
10 present as contemplated under the statute because a Juvenile Court has determined it is in the best
11 interest of the Petitioner that he remain in the United States based on a history of abuse, abandonment
12 or neglect.

13 5. Respondents now seek to undercut both the determination of the family court and that
14 of USCIS, which is the agency that adjudicated and approved the Petitioner for SIJS. Respondents seek
15 the detention and removal of the Petitioner despite the benefits that DHS/USCIS and Congress has
16 afforded him.

17 6. Consistent with the American public’s interest in protecting vulnerable children in the
18 United States, regardless of nationality, Congress created the SIJ program by statute in 1990 as a form
19 of humanitarian protection for certain non-citizen children who were eligible for long term foster care.
20 The program was later expanded under the William Wilberforce Trafficking Victims Protection
21 Reauthorization Act (“TVPRA”) to include all unmarried, non-citizen children under the age of 21 who
22 are unable to reunite with one or both of their biological parents due to abuse, neglect, abandonment,
23 or a similar basis under state law, and for whom a state juvenile court determines that it is not in their
24 best interests to be removed from the United States.

25 7. Congress’s goal for the SIJ program was to create protective measures and a pathway to
26 citizenship for children who have been victimized or trafficked. The program was intended to protect
27 eligible children in the United States from further harm, and to allow them to deepen their connections
28 with the United States. Since these children had effectively become wards of the United States,
Congress determined that these children are entitled to the protection of the U.S. government.

8. As explained by the Third Circuit in *Osorio-Martínez v. Attorney General*, 893 F.3d 153
(3d Cir. 2018), SIJs are afforded a number of statutory and procedural protections that they would

1 otherwise not have under the law as applicants for admission. These protections materially constrain
2 DHS' removal-related authority and are enforceable in federal district court. The protections include
3 generous waivers of many grounds of inadmissibility, assurance of their eligibility to apply for
4 permanent residence, authorized legal presence in the United States while they wait for an immigrant
5 visa to become available, and the ability to not be stripped of that designation without due process of
6 law and a finding of "good and sufficient cause" to do so. *Osorio-Martínez* at 168, 170-72.

7 9. However, notwithstanding the protections Congress afforded to SIJs, the Petitioner now
8 faces unlawful immigration detention because DHS and the Executive Office of Immigration Review
9 (EOIR) have concluded Petitioners are subject to the newly-instituted mandatory detention policy under
10 8 U.S.C. § 1225, and removal from the United States. Both actions by the Respondents including
11 subjecting the Petitioner to ongoing detention and execution of his removal from the United States
12 violate the constitutional, procedural, statutory and regulatory rights of the SIJ Petitioner in this case.

13 10. Despite not any having criminal record whatsoever or any pre-existing order of removal,
14 and in violation of his SIJ, Mr. Sharma appeared at his scheduled ICE check in appointment and was
15 detained unexpectedly. Acting in full compliance of ATD terms, he appeared as instructed. However,
16 upon arrival, ICE officers used this pretextual appointment to detain him, despite their full knowledge
17 of his pending SIJ status and lawful eligibility for permanent residency. Mr. Sharma was placed into
18 immigration detention at the Imperial Regional Detention Center, CA.

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

24 12. The Petitioner challenged his removal proceedings, and sought release from detention.
25 However, based on the allegations raised in Petitioners' removal proceedings, that the Petitioner
26 entered the United States without inspection, Respondents denied the Petitioner's release from
27 immigration custody. This determination is consistent with a new DHS policy issued on July 8, 2025,
28 instructing all ICE employees to consider anyone charged with inadmissibility under §
1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be an "applicant for
admission" under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention. [*See Exhibit*
D, July 8, 2025 ICE Guidance]

1 13. The Petitioner has sought a bond redetermination hearing before an Immigration Judge
2 and his bond was denied due to the recent guidance and published decision *Matter of Yajure Hurtado*,
3 29 I&N Dec. 216 (BIA 2025).

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

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

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

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

25 18. As noted above, the Petitioner sought collateral relief within his removal proceedings,
26 requesting termination of removal proceedings or other remedial actions. IJs have a number of docket
27 management tools available to them under the INA and its implementing regulations, such as
28 administrative closure, continuances, or even termination of removal proceedings that would allow IJs
to preserve the rights of SIJ beneficiaries who are waiting for a visa to become available. *See Matter of Cruz Valdez*, 28 I&N Dec. 326 (A.G. 2021); *see also, Arcos Sanchez v. Att'y Gen.*, 997 F.3d 113, 121-24 (3d Cir. 2021). Nevertheless, those requests were similarly denied by the Immigration Court

1 and opposed by DHS, as the position of DHS is that the Petitioner is to remain detained indefinitely
2 and, despite his status, DHS intends to, without process, strip the Petitioner of the legal benefits to
3 which he is entitled to under the INA and remove him from the United States.

4 19. Accordingly, the Petitioner seek a writ of habeas corpus ordering: (a) immediate release
5 or, at minimum, a prompt individualized custody hearing before a neutral decisionmaker under 8 U.S.C.
6 §1226(a), at which the government bears the burden to justify the Petitioner’s continued detention by
7 clear and convincing evidence; and (b) a declaration that § 1225, as applied by current agency practice,
8 does not apply to SIJ beneficiaries consistent with the persuasive holding of *Osorio-Martinez* and the
9 TVPRA as well as constitutional, statutory and agency protections.

10 JURISDICTION

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

15 21. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. §
16 1331 (federal question), the Immigration and Nationality Act (“INA”), 8 U.S.C. §§ 1101–1537,
17 regulations implementing the INA, the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701–706,
18 and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

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

22 23. The federal government has waived its sovereign immunity and permitted judicial
23 review of agency action under 5 U.S.C. § 702. In addition, sovereign immunity does not bar claims
24 against federal officials that seek to prevent violations of federal law (rather than provide monetary
25 relief).

26 VENUE

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

PARTIES

1
2 25. Petitioner has a pending Special Immigrant Juvenile (“SIJ”) pursuant to 8 U.S.C. §
3 1101(a)(27)(J), and a citizen and national of India. Petitioner entered the United States through the
4 southern border on or about January 27, 2023, and was subsequently released on interim parole.
5 Thereafter, he obtained a state court predicate order containing the requisite SIJ findings from a court
6 of competent jurisdiction.

7 26. Following his release, Petitioner applied for guardianship in the State of California, and
8 was placed under the legal custody of Manoj Kumar. He then filed a Form I-360, Petition for
9 Amerasian, Widow(er), or Special Immigrant, which U.S. Citizenship and Immigration Services
10 (“USCIS”) which remains pending. He has no criminal record and no adverse immigration or removal
11 history.

12 27. Acting in full compliance of his parole and ATD requirements, Petitioner appeared as
13 instructed for his ICE check in appointment. However, on 08/01/2025 ICE officers went to Petitioner’s
14 home to detain him due to their new guidance. He was detained without any incident. Petitioner is now
15 being held without bond or bail at the Imperial Regional Detention Center.

16 28. Respondent Jeremy Casey is sued in his official capacity as Warden of the Imperial
17 Regional Detention center, CA. Respondent Casey is the physical custodian of Petitioner.

18 29. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the
19 United States and the senior official of the U.S. Department of Justice. In that capacity, she has the
20 authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review
21 (“EOIR”), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian
22 of Petitioner.

23 30. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs
24 Enforcement, the federal agency responsible for implementing and enforcing the INA, including the
25 detention and removal of noncitizens, and a component agency of the Department of Homeland
26 Security. He is sued in his official capacity.

27 31. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She
28 is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA),
and oversees ICE, which is responsible for Petitioner’s detention. Ms. Noem has ultimate custodial
authority over the Petitioner. She is sued in her official capacity.

LEGAL FRAMEWORK

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

32. Congress created Special Immigrant Juvenile Status in 1990 to provide immigration relief for noncitizen children living in the United States, who have been abused, neglected, or abandoned, or similarly mistreated by one or both parents¹. The statute set forth specific eligibility criteria, which included being the subject of a state juvenile court judicial determination that it would not be in their best interests to return to their country of origin or country of last habitual residence².

33. Given that a number of these immigrant children had various admissibility issues, including unlawful entry or unlawful presence, in 1991, Congress amended the INA to address this issue by providing that SIJ beneficiaries “shall be deemed, for purposes of [adjustment of status], to have been paroled into the United States,” and exempting them from bars to adjustment based on failure to maintain status or unauthorized employment.³ Congress also explicitly excluded SIJ beneficiaries from specific grounds of excludability, or as they are now known, grounds of inadmissibility.⁴ This prevented broad disqualification of SIJS beneficiaries from adjustment of status due to numerous admissibility issues common to SIJ beneficiaries.

34. By creating a pathway for SIJ to adjust status due to being considered paroled, Congress showed that it intended SIJ beneficiaries to receive permanent legal protection, and consequently, that the SIJ process is not complete unless and until an SIJ beneficiary can apply for and be considered for LPR status. This necessarily requires that SIJ beneficiaries be present in the United States, because there is no statutory mechanism that allows SIJ beneficiaries to gain lawful permanent residence other than the filing of a Form I-485 Adjustment of Status Application. SIJ beneficiaries may file that

¹ Immigration Act of 1990 (“1990 Act”), Pub. L. 101–649, § 153, 104 Stat. 4978 5005–06 (1990) (codified at 8 U.S.C. § 1101(a)(27)(J)).

² *Id.*

³ Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (“MTINA”), Pub. L. No. 102–232, § 302(d)(2)(A), (B), 105 Stat. 1733, 1744 (1991) (codified at 8 U.S.C. § 1255(h)(1), (2)).

⁴ *See* 1990 Act.

1 application only when an immigrant visa is immediately available *and they are present*
2 *in the United States.*⁵

3 35. Congress expanded the SIJ program in 1994 to include children whom a court "has
4 legally committed to, or placed under the custody of, a[] [state] agency or department."⁶
5 This amendment also increased the potential eligibility pool to include not only those in
6 foster care and other court-dependent children, but also children in juvenile facilities.
7 The Immigration Naturalization Service ("INS"), the agency then tasked with
8 administration of the INA, similarly passed regulations that increased eligibility to those
9 individuals who were under the age of 21.⁷

10 36. In 2008, Congress unanimously passed the TVPRA, which expressly codified
11 longstanding regulatory policy where SIJ eligibility was could come from dependency
12 on a state juvenile court *or* placement in the custody of an individual or entity appointed
13 by a state of juvenile court.⁸ Consistent with academic research that found that children
14 are best served by living with a non-offending relative when compared with those in
15 foster care, Congress included children living in various custody and guardianship
16 arrangements. Eligibility was also now conditioned on the non-viability of reunification
17 with *a* parent and eliminated language requiring children seeking SIJ status to
18 demonstrate that they were "eligible for long-term foster care."⁹

19 37. At the same time, the TVPRA also explicitly exempted SIJ beneficiaries from

20 ⁵ USCIS Policy Manual, Vol. 7, Part F, Ch.7.C (stating that SIJS beneficiaries must be "physically present in the
21 United States at the time of filing and adjudication of an adjustment application"); *Id.*, vol. 7, pt. A, ch. 1.B.
22 ("Adjustment of status to lawful permanent residence describes the process by which an alien obtains U.S. LPR
23 status while physically present in the United States."); 22 C.F.R. pt. 42.11 (denoting SIJS as an "adjustment-only"
24 category). See also "9 FAM 502.5-7(C) (U) Certain Juvenile Court Dependents (*CT: VISA-1829; 09-12-2023*)
(U) The Department of State and Related Agencies Appropriations Act, 1998 changed the definition of a Special
Immigrant Juvenile (SIJ) and divested consular officers of the authority to issue SIJ visas. Due to this change,
since November 26, 1997, SIJ has been an adjustment-only category as reflected in 22 CFR 42.11. Under no
circumstances should you issue an SIJ visa."

25 ⁶ Immigration and Nationality Technical Corrections Act of 1994 ("INTCA"), Pub. L. No. 103-
26 416, § 219, 108 Stat. 4305 (1994) (codified at 8 U.S.C. §§ 101-225).

27 ⁷ See Special Immigrant Status, 58 Fed. Reg. 42843-01, 42850 (Aug. 12, 1993) (codified at 8 C.F.R. § 204.11).

28 ⁸ William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA").

Pub. L. 110-457, § 235(d)(1)(A), 122 Stat. 5044, 5079-80 (2008) (codified at 8 U.S.C. §
1101(a)(27)(J)).

⁹ *Id.*

1 inadmissibility based on having entered the United States without admission or parole
2 or at an unauthorized time or place, making SIJ beneficiaries eligible to adjust their
3 status even if they had entered the country without inspection or without the necessary
4 travel documents.¹⁰

5 38. To qualify for SIJS, petitioners must be under the age of 21 at the time of filing,
6 unmarried, and physically present in the United States.¹¹ A state court of competent
7 jurisdiction must have issued an order either (1) declaring the petitioner dependent upon
8 the court, or (2) committing the petitioner to the custody of a state agency or department,
9 or placing the petitioner under the custody of an individual or entity appointed by the
10 state or court.¹² Petitioners must also submit to USCIS a predicate state court order
11 making specific findings that (1) it is not viable for the petitioner to reunify with their
12 parent or parents due to abuse, neglect, abandonment, or a similar basis under state law,
13 and (2) it would not be in the petitioner's best interest to be returned to their or their
14 parent's country of nationality or last habitual residence.¹³

15 39. The SIJ statute also authorizes the Secretary of Homeland Security to consent to a grant
16 of SIJ status under 8 U.S.C. § 1101(a)(27)(J)(iii). USCIS exercises this delegated
17 authority to grant cases where the request for SIJ classification is *bona fide*.¹⁴

18 40. The statutory framework lays out certain circumstances where an approved SIJ petition
19 is revoked automatically before USCIS can decide an SIJ beneficiary's permanent
20 residence petition: (1) reunification with one or both parents by virtue of a court order,

21 ¹⁰ *Id.* at 5080 (codified at 8 U.S.C. § 1255(h)(2)).

22 ¹¹ 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11.

23 ¹² *See* 8 C.F.R. § 204.11(c).

24 ¹³ *Id.*

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

1 where the court had previously determined that reunification was not viable due to
2 abuse, neglect, abandonment, or similar basis under state law; or (2) the juvenile court
3 reverses the determination that it would not be in the child's best interests to be returned
4 to their country of origin or of last habitual residence.¹⁵ Alternatively, should USCIS
5 intend to revoke the grant of SIJS for cause, USCIS issues a notice of revocation. After
6 providing notice and an opportunity to respond, then USCIS can revoke the SIJ
7 classification "for good and sufficient cause," for example, a finding of fraud or a
8 determination that the application was approved in error.¹⁶

9 41. After an SIJ beneficiary's I-360 petition is approved, they are then eligible to adjust their
10 status to lawful permanent residence (LPR) by filing a Form I-485, Application to
11 Register Permanent Residence or Adjust Status with USCIS. As stated, this form may
12 only be filed when an immigrant visa is immediately available. The immigrant visa
13 category under which SIJS beneficiaries may seek to adjust status is the employment-
14 based, fourth preference special immigrant category ("EB-4"). Immigrant visa
15 availability for SIJS beneficiaries, as for other applicants in the EB-4 category, is subject
16 to annual numerical limits established by Congress. Congress set the annual allotment
17 of EB-4 visas at 7.1% of the annual worldwide level of available employment-based
18 visas, which amounts to approximately 9,940 available EB-4 visas in a typical federal
19 fiscal year.

20 42. To manage the limited supply of visas, the United States Department of State ("DOS"),
21 in collaboration with USCIS, issues the Visa Bulletin, a monthly publication that tracks
22 visa availability in each category, based on applicant priority date and country of
23 nationality. The "priority date" is defined as the date when the applicant filed the
24 underlying petition or application, such as the petition for SIJ status. Dates listed in each
25 month's Visa Bulletin are used to determine when a visa is available for issuance to a
26 given applicant, and thus when an applicant may submit an application for adjustment
27 of status. The Visa Bulletin appears on the DOS website, and USCIS has an additional
28 website indicating which priority dates (Dates for Filing or Final Action Dates) are to

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

¹⁶ *Id.*

1 be used for purposes of filing the adjustment of status.

2 43. An SIJ beneficiary may adjust status only if the applicant's priority date is earlier than
3 the "final action" date listed in the current month's Visa Bulletin for the EB-4 category
4 for the applicant's country of nationality.

5 44. Importantly, the removal of an SIJ beneficiary from the United States before the
6 adjustment of status is complete strips the SIJ beneficiary of the opportunity to become
7 an LPR, because adjustment of status is not available to those not physically present in
8 the United States. There is no process for those outside of the United States to return on
9 an SIJ visa. *See* 22 C.F.R. § 44.11 (denoting SIJS as an "adjustment-only" category).¹⁷

10 **B. Detention and Removal of SIJ Beneficiaries Violates the Due Process Rights of**
11 **Vulnerable Populations.**

12 45. The fundamental requirement of due process is the opportunity to be heard "at a
13 meaningful time and in a meaningful manner." *Mathews v. Elridge*, 424 U.S. 319, 332
14 (1976). Procedural due process "imposes constraints on government decisions which
15 deprive individuals of 'liberty' or 'property' interests within the meaning of the Due
16 Process Clause of the Fifth or Fourteenth amendment." *Id.*

17 46. Once a petitioner has identified protected liberty or property interest, the Court must
18 determine whether constitutionally sufficient process has been provided. *Id.* In making
19 this determination, the Court balances (1) "the private interest that will be affected by
20 the official action;" (2) "the risk of an erroneous deprivation of such interest through the
21 procedures used, and the probable value, if any, of additional or substitute procedural
22 requirement would entail;" and (3) "the government's interest, including the function
23 involved and the fiscal and administrative burdens that the additional or substitute
24 procedural requirement would entail." *Id.* at 335.

25 47. Due process cases recognize a broad liberty interest rooted in the fact of deportation,

26 ¹⁷*See also* 9 FAM 502.5-7(C), Certain Juvenile Court Dependents (CT:VISA-1829; 09-12-2023), "The
27 Department of State and Related Agencies Appropriations Act, 1998 changed the definition of a Special
28 Immigrant Juvenile (SIJ) and divested consular officers of the authority to issue SIJ visas. Due to this change,
since November 26, 1997, SIJ has been an adjustment-only category as reflected in 22 CFR 42.11. Under no
circumstances should you issue an SIJ visa."

1 not just the process of removal proceedings. *See Bridges v. Wixon*, 326 U.S. 135, 154
2 (1945) (holding that deportation “visits a great hardship on the individual and deprives
3 him of the right to stay and live and work in this land of freedom.”); *see also Chhoeun*
4 *v. Marin*, 2018 WL 566821, at *9 (C.D. Cal., Jan. 25, 2018) (finding a “strong liberty
5 interest” where being deported means being separated from home and family). While
6 this liberty interest typically arises in removal proceedings, various courts have found
7 procedural due process violations for persons not in removal proceedings. *See, e.g.,*
8 *Walters v. Reno*, 145 F.3d 1032 (9th Cir. 1998) (forms issued to noncitizens charged
9 with civil document fraud violated due process clause); *Rojas v. Johnson*, No. C16-1024
10 RSM, 2018 WL 1532715, at *8 (W.D. Wash. Mar. 29, 2018) (concluding that “Agency
11 Defendants do not provide sufficient notice of the one-year deadline to satisfy the Due
12 Process clause” to asylum-seeker subclasses both in and out of removal proceedings).

13 48. The Petitioner has a liberty interest at stake in this matter. USCIS has pending his I-360
14 petition, designating him as an SIJ, a class of young people to whom Congress has
15 granted significant protections. Despite his SIJ Status and the numerous protections
16 Congress created for SIJ beneficiaries, Respondents intend to remove the Petitioner
17 from the United States and have subjected him to detention to effectuate that goal.

18 49. If removed, the Petitioner will lose the benefits of his pending SIJ, and he will not be
19 able to pursue the lawful permanent resident status for which he is entitled to apply as
20 an SIJ beneficiary. If removed, the Petitioner will be barred from reentry to the United
21 States for at least five years. 8 U.S.C. § 1182(a)(9)(A)(i); 22 C.F.R. § 40.91(a). He will
22 not be able to adjust status to that of lawful permanent resident, as adjustment of status
23 is not available through consular processing.

24 50. Interpreted in light of the Constitution, pursuant to the INA and its implementing
25 regulations, deportation is improper while an individual is engaged in the process of
26 attempting to regularize his immigration status subsequent to a grant of Special
27 Immigrant Juvenile Status.

28 51. Due process protects a noncitizen’s liberty interest in the adjudication of applications
for relief and benefits made available under the immigration laws. *See Arevalo v.*
Ashcroft, 344 F.3d 1, 15 (1st Cir. 2003) (recognizing protected interests in the “right to
seek relief” even when there is no “right to the relief itself”).

1 52. The Petitioner has protected a due process interest in his ability to retain and benefit
2 from his SIJ classification, and a right to remain in the United States to apply for lawful
3 permanent residence when an immigrant visa becomes available.

4 **C. Protections under the Administrative Procedures Act and the *Accardi* Doctrine
5 are Applicable to SIJ Beneficiaries.**

6 53. The APA forbids agency action that is “arbitrary, capricious, an abuse of discretion, or
7 otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). A court reviewing agency
8 action “must assess . . . whether the decision was based on a consideration of the relevant
9 factors and whether there has been a clear error of judgment”; it must “examin[e] the
10 reasons for agency decisions—or, as the case may be, the absence of such reasons.”
11 *Judulang v. Holder*, 565 U.S. 42, 53 (2011) (quotations omitted).

12 54. When the government has promulgated “[r]egulations with the force and effect of law,”
13 those regulations “supplement the bare bones” of federal statutes such that agencies
14 must follow their own “existing valid regulations,” even where government officers
15 have broad discretion, such as in the area of immigration. *United States ex rel. Accardi*
16 *Shaughnessy*, 347 U.S. 260, 266, 268 (1954) (reversing in immigration case after review
17 of warrant for deportation); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (“[I]t is
18 incumbent upon agencies to follow their own procedures . . . even where [they] are
19 possibly more rigorous than otherwise would be required”); *Battle v. FAA*, 393 F.3d
20 1330, 1336 (D.C. Cir. 2005) (“*Accardi* has come to stand for the proposition that
21 agencies may not violate their own rules and regulations to the prejudice of others”).

22 55. Breaches of *Accardi*’s rule constitute violations of both the Fifth Amendment’s Due
23 Process Clause and the APA.¹⁸ *See also, Rowe v. United States AG*, 545 Fed.Appx. 888,
24 890 (11th Cir. 2013) (recognizing the *Accardi* doctrine entails that to ensure due process
25 an agency is required to follow its own regulations when exercising discretion and

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¹⁸ The APA forbids agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). A court reviewing agency action “must assess . . . whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment”; it must “examin[e] the reasons for agency decisions—or, as the case may be, the absence of such reasons.” *Judulang v. Holder*, 565 U.S. 42, 53 (2011) (quotations omitted).

1 issuing a decision) and *Mayers v. United States INS*, 175 F.3d 1289, 1300 (11th Cir.
2 1999) (recognizing that a review of statutory questions implicates due process, that
3 *Accardi* supports using habeas to ensure due process and that the “crucial question” is
4 whether the Attorney General’s conduct deprived an individual the rights guaranteed
5 under a statute or regulation) (internal citations omitted).

6 56. The Respondents, in pursuing detention and removal of SIJ beneficiaries, including the
7 removal like the Petitioner, fail to comply with their own rules and regulations. The
8 Respondents have provided the Petitioner with benefits under the law and have not
9 rescinded or revoked those benefits. Governing statutes and regulations provide the
10 mechanism for the revocation of SIJ status, both automatically and for cause, which
11 have not and cannot be followed in this case. Respondents are attempting to unlawfully
12 revoke the SIJ status of the Petitioner via detention and removal, and not through any
13 authorized process found in the statute or regulations.

14 57. The Petitioner remains a member of a vulnerable population and has the right to remain
15 in the United States for the purpose of pursuing adjustment of status to lawful permanent
16 residence.

17 **D. Detention of SIJ Beneficiaries Remains Improper without Hearing or Review
18 for those persons with SIJ status and a grant of Deferred Action.**

19 58. On September 5, 2025, the BIA published *Matter of Yajure Hurtado*, 29 I&N Dec. 216
20 (BIA 2025), which held that IJs do not have the authority to hear custody
21 redetermination requests or grant bond to noncitizens who are present in the United
22 States without having been admitted.

23 59. In that decision, the BIA explained that inspection, detention, and removal of
24 noncitizens who have not been admitted to the United States is governed by INA §235,
25 as codified at 8 U.S.C. § 1225. Under that section, all applicants for admission are
26 effectively subject to indefinite, mandatory detention.

27 60. This is compared to 8 U.S.C. § 1226, which authorizes the detention of noncitizens in
28 standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in §
1226(a) detention are generally entitled to a bond hearing at the outset of their detention,
see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested,

1 charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8
2 U.S.C. § 1226(c).

3 61. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal
4 Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
5 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585.
6 Section 1226(a) was most recently amended earlier this year by the Laken Riley Act,
7 Pub. L. No.119-1, 139 Stat. 3 (2025).

8 62. Following the enactment of the IIRIRA, the Executive Office for Immigration Review
9 drafted new regulations explaining that, in general, people who entered the country
10 without inspection were not considered detained under § 1225 and that they were instead
11 detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention
12 and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed.
13 Reg. 10312, 10323 (Mar. 6, 1997).

14 63. Thus, in the decades that followed, most people who entered without inspection who
15 were detained were placed in standard removal proceedings and received bond hearings,
16 unless their criminal history rendered them ineligible. That practice was consistent with
17 many more decades of prior practice, in which noncitizens who were not deemed
18 “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8
19 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting
20 that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

21 64. On July 8, 2025, ICE, purportedly advised by the U.S. Department of Justice announced
22 a new policy that rejected the well-established understanding of the statutory framework
23 and reversed decades of practice. [**See Exhibit D**]

24 65. The new policy, entitled “Interim Guidance Regarding Detention Authority for
25 Applicants for Admission,” claims that all persons who entered the United States
26 without inspection shall now be deemed “applicants for admission” under 8 U.S.C. §
27 1225, and therefore are subject to mandatory detention provision under § 1225(b)(2)(A).
28 *See id.* The policy applies regardless of when a person is apprehended, and affects those
who have resided in the United States for months, years, and even decades. These policy
decisions culminated in *Matter of Yajure Hurtado*, which solidified the agency’s
petition on mandatory detention for applicants for admission.

- 1 66. ICE and EOIR have adopted this position even though several federal courts have
2 rejected this exact conclusion. For example, after IJs in the Tacoma, Washington
3 immigration court stopped providing bond hearings for persons who entered the United
4 States without inspection and who have since resided here, the District Court in the
5 Western District of Washington found that such a reading of the INA is likely unlawful
6 and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon
7 arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL
8 1193850 (W.D. Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-
9 JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based
10 on same conclusion).
- 11 67. The Respondents' statutory interpretation violate the plain language of the statute. As
12 the *Rodriguez Vazquez* court explained, the plain text of the statutory provisions
13 demonstrates that § 1226(a), not § 1225(b), applies to people like the Petitioner.
- 14 68. Section 1226(a) applies by default to all persons "pending a decision on whether the
15 [noncitizen] is to be removed from the United States." These removal hearings are held
16 under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."
- 17 69. The text of § 1226 also explicitly applies to people charged as being inadmissible,
18 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E).
19 Subparagraph (E)'s reference to such people makes clear that, by default, such people
20 are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court
21 explained, "[w]hen Congress creates "specific exceptions" to a statute's applicability, it
22 "proves" that absent those exceptions, the statute generally applies. *Rodriguez Vazquez*,
23 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins.*
24 *Co.*, 559 U.S. 393, 400 (2010)).
- 25 70. Section 1226 therefore leaves no doubt that it applies to people who face charges of
26 being inadmissible to the United States, including those who are present without
27 admission or parole.
- 28 71. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently
entered the United States. The statute's entire framework is premised on inspections at
the border of people who are "seeking admission" to the United States. 8 U.S.C. §
1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention

1 scheme applies “at the Nation’s borders and ports of entry, where the Government must
2 determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings*
3 *v. Rodriguez*, 583 U.S. 281, 287 (2018).

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

7 73. Further, the INA detention provision is silent about special immigrant categories, for
8 whom Congress intended to have various other forms of special protections and relief.
9 However, there is no indication that Congress intended SIJ beneficiaries, as a default, to
10 be detained for the duration of their petition and adjustment period. Such an outcome
11 flies in the face of Congress’s goals of protecting and nurturing SIJ beneficiaries and
12 instead treats them like common criminals, isolating them from society, rather than
13 encouraging them to deepen their connections with the United States. This reading of
14 the INA is not supported by either the literal text of the statute or the spirit of the law
15 enacted by Congress.

16 **FACTS**

17 74. Petitioner is a 21-year-old native and citizen of India.

18 75. Petitioner entered the United States through the southern border on or about January 27,
19 2023, at the age of 18 years old. He was apprehended upon his entry by immigration
20 authorities.

21 76. He was shortly thereafter released on Interim Parole.

22 77. Following his release, Petitioner applied for guardianship in the State of California, and was
23 placed under the legal custody of Manoj Kumar. On August 15 2025, he then filed a Form I-
24 360, Petition for Amerasian, Widow(er), or Special Immigrant, which U.S. Citizenship and
25 Immigration Services (“USCIS”) which remains pending. Petitioner is currently awaiting an
26 available visa number to submit his application for adjustment of status to lawful permanent
27 residence. He has no criminal record and no adverse immigration or removal history.

28 78. Acting in full compliance, Petitioner was detained at his home after ICE went to his home to
29 detain him. a Petitioner is now being held without bond or bail at the Imperial Regional
30 Detention Center.

79. Petitioner presented proof of his identity in the form of his currently valid Employment

1 Authorization Document (EAD) card and informed officer of his SIJ status as he did not
2 have the receipt notices on his person to provide.

3 80. Nevertheless, Respondents declined to release Petitioner from detention, and he remains
4 detained at the Imperial Regional Detention Center and faces removal. The Petitioner's
5 removal would eliminate his SIJ.

6 81. The Petitioner has significant ties to the United States and is not a flight risk, as
7 established and recognized by both a state court of competent jurisdiction and USCIS
8 through its grant of the I-360 petition. The Petitioner is in no way a danger to his
9 community, and nor does he have any criminal record. Despite these positive equities,
10 the Petitioner remains in detention. Without relief from this court, he faces the prospect
11 of months, or even years, in immigration custody, separated from his community and
12 support system.

13 82. Any appeal to the BIA is futile. The Board's most recent precedential decisions have
14 squarely foreclosed position that the IJ in fact has jurisdiction over requests for custody
15 redetermination in similar situations, holding that persons like the Petitioner are subject
16 to mandatory detention as applicants for admission.

17 83. Finally, in the *Rodriguez Vazquez* litigation, the government has affirmed its position
18 that individuals like the Petitioner are applicants for admission and subject to mandatory
19 detention under 8 U.S.C. § 1225(b)(2)(A). *See* Mot. to Dismiss, *Rodriguez Vazquez v.*
20 *Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27–31.

21 CLAIMS FOR RELIEF

22 COUNT I

23 Violation of the Due Process Clause Of The Fifth Amendment 24 To The U.S. Constitution

25 84. The government may not deprive a person of life, liberty, or property without due
26 process of law. U.S. Const. amend. V. "Freedom from imprisonment—from
27 government custody, detention, or other forms of physical restraint—lies at the heart of
28 the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct.
2491, 150 L.Ed.2d 653 (2001).

- 1 85. Courts have long recognized that removal implicates substantial liberty interests, such
2 that ‘the Due Process Clause protects an alien subject to a final order of deportation.’
3 *Zadvydas v. Davis*, 533 U.S. 678, 693-94 (2001); see also *Wong Wine v. United States*,
4 163 U.S. 228, 238 (1896).
- 5 86. *First*, Petitioner has a fundamental interest in liberty and being free from official
6 restraint.
- 7 87. *Second*, noncitizens who have been adjudicated to be SIJs have significant benefits and
8 procedural protections set forth by Congress, including “for cause” protections against
9 revocation of their classification as SIJs.
- 10 88. The Petitioner has been classified as a Special Immigrant Juvenile. Neither benefit has
11 properly rescinded or revoked. He should be considered paroled into the country for the
12 purpose of adjustment and should be allowed to remain until his visa is current. 8 U.S.C.
13 § 1255(h)(1). However, as physical presence in the United States is a condition of SIJ
14 Status, his SIJ Status is nullified once he is removed. 8 U.S.C. 1101(a)(27)(J)(i).
- 15 89. The Petitioner has a property and liberty interest in remaining in the United States and
16 awaiting adjustment of status. If removed, the Petitioner will lose his SIJ Status and be
17 unable to avail herself of the benefits afforded to SIJS beneficiaries to remain safely in
18 the U.S. for the purpose of adjustment of status to lawful permanent residence. See
19 *Osorio-Martínez v. Attorney General*, 893 F.3d 153 (3d Cir. 2018).
- 20 90. The Respondents’ continued detention of the Petitioner without a bond hearing to
21 determine whether he is individually a flight risk or a danger to others violates his right
22 to due process by effectively stripping his of SIJ status without notice, an opportunity
23 to respond, or review.
- 24 91. Respondents have not, from the Petitioner’s detention to the date of this Petition,
25 provided the Petitioner with either notice or an opportunity to challenge his detention,
26 alleging a lack of jurisdiction.
- 27 92. The Petitioner’s continued detention without an individualized determination as to
28 whether he present a danger to the community or a risk of nonappearance constitutes a
deprivation of his interest in personal liberty.
93. By failing to provide the Petitioner with an opportunity to show that he does not present
a danger to the community or a risk of nonappearance, and by failing to make an

1 individualized determination as to whether the Petitioner satisfied those requirements
2 prior to deciding to detain him, Respondents failed to provide the Petitioner with due
3 process of law.

4 94. The Petitioner has no adequate remedy, as the Respondents have taken the position that
5 the Petitioner is subject to mandatory detention and that they intend to remove him,
6 despite his SIJ approval and grant of deferred action.

7 95. For the foregoing reasons, Respondents' detention of the Petitioner violates the rights
8 guaranteed to him by the Due Process Clause of the Fifth Amendment to the United
9 States Constitution.

10 **COUNT II**

11 **Violation of the INA**

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

14 97. As relevant here, it does not apply to those who previously entered the country and have
15 been residing in the United States prior to being apprehended and placed in removal
16 proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they
17 are subject to § 1225(b)(1), § 1226(c), or § 1231.

18 98. The application of § 1225(b)(2) to the Petitioner unlawfully mandates his continued
19 detention and violates the INA.

20 99. Further, SIJ beneficiaries are a special class of noncitizens present in the United States.
21 Numerous grounds of inadmissibility do not apply to them under the express text of the
22 INA and the TVPRA. Substantial benefits have been afforded to the Petitioner in light
23 of his grant of SIJS, including his right to remain for the purpose of adjustment of status.
24 *See Osorio-Martínez v. Attorney General*, 893 F.3d 153 (3d Cir. 2018).

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

28 **COUNT III**

Violation of the Administrative Procedure Act

- 1 101. Under the Administrative Procedure Act, “final agency action for which there is no other
2 adequate remedy in court [is] subject to judicial review.” 5 U.S.C. §704. The reviewing
3 court “shall ... hold unlawful and set aside agency action, findings, and conclusions
4 found to be (A) arbitrary, capricious, an abuse of discretion, or otherwise not in
5 accordance with law,” or “unsupported by substantial evidence.” 5 U.S.C. §706(2)(A),
6 (E). A court reviewing agency action “must assess ... whether the decision was based
7 on a consideration of the relevant factors and whether there has been a clear error of
8 judgment; it must “examine[e] the reasons for agency decisions- or, as the case may be,
9 the absence of such reasons.” *Encino Motorcars LLC v. Navarro*, 136 S. Ct 2117, 2125
10 (2016) (quoting *Motor Vehicles Mfrs. Assn of U.S. State Farm Mut. Auto. Ins. Co.*, 462
11 U.S. 29, 43 (1983)); *Judulang v. Holder*, 565 U.S. 42, 53 (2011)(quotations omitted).
- 12 102. The APA also sets forth rule-making procedures that agencies must follow before
13 adopting substantive rules. *See* 5 U.S.C. 553. DHS followed these rulemaking
14 procedures to establish relief under the TVPRA and the Violence Against Women Act
15 (“VAWA”). *See* 867 Fed. Reg. 4784.
- 16 103. The Petitioner’s detention and removal under the facts alleged here is a violation of the
17 APA.
- 18 104. The Petitioner’s detention and removal would render him ineligible for adjustment of
19 status as an SIJ beneficiary in violation of the APA, is not in accordance with the law
20 and is an abuse of discretion. 5 U.S.C. §706(2)(A). In order to be statutorily eligible for
21 SIJ Status, the Petitioner must be physically in the U.S. 8 U.S.C. 1101(a)(27)(J)(i).
22 Currently, the Petitioner satisfies this requirement because he is physically within the
23 borders of the United States, though in immigration detention. However, if removed,
24 the Petitioner will no longer satisfy the physical presence requirement; his SIJ status
25 will be nullified and he will not be able to pursue adjustment of status. Therefore, if the
26 Respondents succeed in their efforts against the Petitioner, they alone will have
27 intentionally stripped the Petitioner’s right to engage in an immigration process made
28 available to him, which is an abuse of discretion and not in accordance with the law
under 5 USC §706(2)(A).
105. In detaining the Petitioner and seeking an order of removal to effectuate, the
Respondents have attempted to strip the Petitioner of his SIJS.

1 106. The Respondents’ actions are “arbitrary, capricious, an abuse of discretion, or otherwise
2 not in accordance with law;” 5 U.S.C. 706(2)(C) and “in excess of statutory jurisdiction,
3 authority, or limitations, or short of statutory right,” 5 U.S.C. 706(2)(C).

4 **COUNT IV**

5 **5 U.S.C. § 706(2)(A) – Violation of Accardi Doctrine**

6 107. “Where the rights of individuals are affected, it is incumbent upon agencies to follow
7 their own procedures.” *Morton v. Ruiz*, 415 U.S. 199, 235 (1974). This principle is
8 known as the *Accardi* doctrine. See *United States Ex Rel. Accardi v. Shaughnessy*, 347
9 U.S. 260 (1954); *Alcaraz v. INS*, 384 F.3d 1150, 1162 (9th Cir. 2004).

10 108. The “procedures” that agencies are required to follow include both formal agency
11 regulations and informal operating procedures and guidance. *Church of Scientology of*
12 *Cal. v. United States*, 920 F.2d 1481, 1487 (9th Cir. 1990). The *Accardi* doctrine applies
13 “even where the internal procedures are possibly more rigorous than otherwise would
14 be required.” *Alcaraz*, 384 F.3d at 1162 (quoting *Morton*, 415 U.S. at 235).

15 109. The Respondents’ intention to detain and seek removal of SIJS beneficiaries with
16 deferred action without cause or process represents a sudden and unexplained departure
17 from the agency’s own guidance and regulations in violation of the *Accardi* doctrine.

18 110. In violating the *Accardi* doctrine, Respondents have irreparably injured the Petitioner
19 depriving him of relief from removal, depriving him of his liberty, and depriving him of
20 his ability to remain in the United States for the purpose of adjustment, as well as a host
21 of additional protections. See *Osorio-Martínez v. Attorney General*, 893 F.3d 153 (3d
22 Cir. 2018).

23 **COUNT V**

24 **U.S.C. §§ 2201 and 2202 – Declaratory Judgment**

25 111. The Declaratory Judgment Act, 28 U.S.C. § 2201, allows the court, “[i]n a case of actual
26 controversy within its jurisdiction,” to “declare the rights and other legal relations of
27 any interested party seeking such declaration, whether or not further relief is or could
28 be sought.” 28 U.S.C. § 2201(a).

112. The Petitioner seeks a declaration from this Honorable Court that the process of
detention and removal without review of SIJS beneficiaries, as applied to the Petitioner

1 by the Respondents, violates the Due Process Clause of the Fifth Amendment, the INA,
2 the APA, and federal regulations, is in excess of Respondents' statutory authorization,
3 is an unlawful taking of the Petitioner's statutorily authorized benefits without
4 appropriate process, and is arbitrary and capricious, an abuse of discretion and contrary
5 to law.

6 **COUNT VI**

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

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

11 **PRAYER FOR RELIEF**

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

- 13 1. Assume jurisdiction over this matter;
- 14 2. Issue a writ of habeas corpus requiring that Respondents release the Petitioner
15 immediately or provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) within
16 14 days;
- 17 3. Issue a writ of habeas corpus directing Respondents to pursue a constitutionally
18 adequate process before taking any adverse immigration actions against the Petitioner;
- 19 4. Enjoin Respondents from removing the Petitioner from the United States pending the
20 resolution of this case;
- 21 5. Declare that the process as applied to the Petitioner by Respondents violates the Due
22 Process Clause of the Fifth Amendment and the Suspension Clause, the INA, the APA,
23 and federal regulations;
- 24 6. Stay the Petitioner's removal proceedings until he exhausts the process, successfully or
25 otherwise, of pursuing relief from removal by virtue of his Special Immigrant Juvenile
26 Status;
- 27 7. Award the Petitioner his costs and reasonable attorneys' fees in this action as provided
28 for by the Equal Access to Justice Act, 28 U.S.C. §2412, or other statutes;
8. Grant such further relief as the Court deems just and proper.

1 Respectfully,

2 

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9 Fax: 805-716-6100
10 E-mail: gurpreetkauresq@gmail.com

11
12
13 **VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

14 I represent Petitioner, and I submit this verification on his behalf. Because Petitioner is detained
15 at the Imperial Detention Center and immediate relief is sought, counsel verifies this petition on his behalf
16 pursuant to 28 U.S.C. § 2242. I hereby verify that the factual statements made in the foregoing Petition
17 for Writ of Habeas Corpus are true and correct to the best of my knowledge.
18

19
20 Dated this 5th day of January, 2025.

21
22 

23 _____
24 Gurpreet Kaur, Esq.
25
26
27
28

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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RAHUL SHARMA

Petitioner,

v.

JEREMY CASEY, Warden of the Imperial
Regional Detention Center; TODD LYONS,
Acting Director of Immigration and Customs
Enforcement; KRISTI NOEM, Secretary of the
U.S. Department of Homeland Security; PAMELA
BONDI, Attorney General of the United States

Respondents.

Civil Action No. '26CV0050 CAB SBC

**DECLARATION OF GURPREET
KAUR, ESQ. IN SUPPORT OF
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

**DECLARATION OF GURPREET KAUR, ESQ. IN SUPPORT OF MOTION FOR
INJUNCTIVE RELIEF**

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I, Gurpreet Kaur, Esq., declare under penalty of perjury as follows:

1. I am the attorney for Petitioner in the above-captioned matter. I make this declaration in support of the Motion for Temporary Restraining Order and Preliminary Injunction.
2. Attached hereto as Exhibit A is a true and accurate copy of the Form I-213
3. Attached hereto as Exhibit B is a true and accurate copy of the Bond Order

Dated this 5th day of January, 2026.



Gurpreet Kaur, Esq.

A

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JASON AGUILAR
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JOHN D. HOLLIDAY
Deputy Chief Counsel
RYAN J. KOPCHAK
Assistant Chief Counsel
Office of the Principal Legal Advisor – San Diego (El Centro)
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
2409 La Brucherie Road, Suite 3
Imperial, California 92251

Detained

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
IMPERIAL, CALIFORNIA

In the Matter of:

Rahul Sharma

In bond proceedings

File No. A



The Hon. Jeffrey Munoz
United States Immigration Judge

Next Hearing: Bond Hearing
Date: October 3, 2025

DEPARTMENT OF HOMELAND SECURITY
PREHEARING SUBMISSION

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The Government hereby gives notice to the Court and to respondent, that the Government submits the following exhibits in the above-entitled matter.

EXHIBITS

DHS Form I-213, dated 8-1-2025.

DATED this 2nd day of October, 2025.

Respectfully submitted,



RYAN J. KOPCHAK
Assistant Chief Counsel
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

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CERTIFICATE OF SERVICE

On October 2, 2025, I, **Ryan Kopchak**, served a copy of the foregoing document and all attached pages through the EOIR Courts and Appeals System (ECAS), which will automatically send service notifications to both parties that a new document has been filed.




- Fax
- Hand delivery – Imperial Immigration Court, 2409 La Brucherie Road, Imperial, CA 92251
- Mailing
- Commercial courier

Ryan Kopchak

RYAN J. KOPCHAK
Assistant Chief Counsel
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

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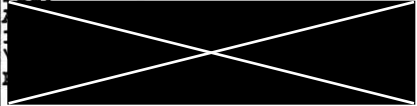

U.S. Department of Homeland Security Subject ID : 399576020 Record of Deportable/Inadmissible Alien

Family Name (CAPS) SHARMA, RAHUL		First	Middle	Sex M	Hair BLK	Eyes BRO	Complexion MCED
Country of Citizenship INDIA		Passport Number and Country of Issue INDIA		Height 68	Weight 121	Occupation LABORER	
U.S. Address [REDACTED]				Scars and Marks			
Date, Place, Time, and Manner of Last Entry Unknown Date Unknown Time,			Passenger Boarded at		F.B.I. Number [REDACTED]		
Number, Street, City, Province (State) and Country of Permanent Residence KNOWN ADDRESS KHERI MARU, HARYANA, INDIA				<input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Married <input type="checkbox"/> Widower <input type="checkbox"/> Separated			
Date of Birth [REDACTED]		Age: 20		Date of Action 08/01/2025		Location Code SFR/SFR	
City, Province (State) and Country of Birth KHERI MARU, INDIA		AR <input checked="" type="checkbox"/>		Form : (Type and No.) Lifted <input type="checkbox"/> Not Lifted <input checked="" type="checkbox"/>			
NIV Issuing Post and NIV Number		Social Security Account Name					
Date Visa Issued		Social Security Number					
Immigration Record NEGATIVE				Criminal Record			
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)						Number and Nationality of Minor Children None	
Father's Name, Nationality, and Address, if Known SHARMA, BALINDER NATIONALITY: INDIA				Mother's Present and Maiden Name, Nationality, and Address, if Known KUMARI, KESHA NATIONALITY: INDIA			
Monies Due/Property in U.S. Not in Immediate Possession None Claimed		Fingerprinted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Systems Checks		Charge Code Word(s) See Narrative	
Name and Address of (Last) Current U.S. Employer		Type of Employment See Narrative		Salary		Employed from/to Hr	
Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)							
FIN: [REDACTED]		Left Index fingerprint			Right Index fingerprint		
							
Subject Health Status ----- The subject claims good health.							
Current Administrative Charges ----- 08/01/2025 - 212a6a1 - ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAs)							
Previous Criminal History ... (CONTINUED ON I-831)							
Alien has been advised of communication privileges <u>8/1/25 AR</u> (Date/Initials)				D9381 DE LA PENA CRUZ Deportation Officer (Signature and Title of Immigration Officer)			
Distribution:				Received: (Subject and Documents) (Report of Interview)			
				Officer: D9381 DE LA PENA CRUZ			
				on: August 1, 2025 (time)			
				Disposition: Other			
				Examining Officer: SAMDOVAL, BENITO			

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U.S. Department of Homeland Security

Continuation Page for Form I-213


Alien's Name SHARMA, RAHUL	File Number 	Date 08/01/2025
<p>----- Subject has no criminal history</p> <p>----- TYPE OF EMPLOYMENT ----- Occupation Not Reported</p> <p>----- Record of Deportable/Excludable Alien: ----- IMMIGRATION HISTORY: Number of VR's: 0 Number of Removals: 0 Last Removal Date and Place: N/A.</p> <p>----- CRIMINAL HISTORY: None known.</p> <p>----- ENCOUNTER: Border Patrol Agent (BPA) Juan C Trevino encountered Rahul SHARMA (DOB: , a citizen of India), on 01/27/2023 at approximately 5:44 PM in the area of Lukeville, AZ. - Davidson Canyon near Lukeville, Arizona. The Border Patrol Agent then determined SHARMA had unlawfully entered the United States of America near Lukeville, AZ from Mexico at a time and place other than as designated by the Secretary of Homeland Security of the United States of America. SHARMA was apprehended within a group of ten individuals.</p> <p>After determining that SHARMA was an alien whom illegally entered the United States of America, SHARMA was arrested and transported to the Tucson Coordination Center (Tucson, Arizona) for further processing using the e3/IDENT and IAFIS Systems.</p> <p>----- IMMIGRATION VIOLATION: At the Tucson Coordination Center (Tucson, Arizona), SHARMA stated that he was a citizen and national of India without the necessary legal documents to enter, pass through, or remain in the United States. SHARMA also admitted to illegally crossing the international boundary on 01/27/2023 at approximately 5:30 PM near Lukeville, AZ without being inspected by an immigration officer at a designated Port of Entry.</p> <p>----- CONSULAR NOTIFICATION: SHARMA was notified of his right to communicate with a Consular Officer from his country as per Article 36(1)(b) of the Vienna convention on Consular Relations. SHARMA indicated that he understood this right but declined to speak with anyone at this time. SHARMA further stated that he fears persecution or torture if returned to India.</p> <p>Rahul SHARMA claims that he has fear of returning to India because He is afraid of the violence and politics in his country.. He has been served form M-444 regarding his credible fear and will be referred to an asylum officer.</p> <p>----- DISPOSITION/ADDITIONAL INFORMATION: SHARMA is being served with a Warrant of Arrest/Notice to Appear and placed in removal proceedings, per Section 212(a)(6)(A)(i) of the INA.</p> <p>----- POC: </p>		
Signature D9381 DE LA PENA 	Title Deportation Officer	

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Continuation Page for Form I-213

Alien's Name SHARMA, RAHUL	File Number 	Date 08/01/2025
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***** ADDENDUM *****

On 08/01/2025 pursuant to the FOW, ICE Enforcement and Removal Operations (ERO) Deportation Officers (DO) De La Pena Cruz, Homeland Security Investigations (HSI) Special Agent (SA) MA. Feracho, and SA MJ. Feracho, Drug Enforcement Administration (DEA) SA Kingman, and Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) SA Balady, were tasked to locate and apprehend SHARMA, Rahul at his last known address of 3460 Andrews Dr. Apt 217, Pleasanton, CA, 94588. All officers were wearing "POLICE" patches and "ICE" "HSI" "DEA" and "ATF" badges clearly visible on their most outer garments. The photo and description of SHARMA was gathered through Field Operations Intelligence.

SHARMA, Rahul () - MTR

All law enforcement personnel were wearing tactical and civilian attire with "POLICE" and "ICE" "HSI" "DEA" "ATF" patches and/or badges clearly visible on the outer most garments. Prior to the operation, this individual was positively identified by ICE ERO as a potential immigration violator.

ARREST & ENCOUNTER:


At approximately 0635 hours, DO De La Pena Cruz, SA MJ Feracho, MA Feracho SA Balady and SA Kingman arrived at SHARMA's last known residence of SHARMA located at  217, Pleasanton, CA, 94588. DO De La Pena Cruz called SHARMA by Phone due to officers unable to locate apartment number SHARMA provided and to verify his Alternative to Detention (ATD) monitor. SHARMA came out from a different unit number walking the apartment complex parking lot. DO De La Pena Cruz instructed SHARMA to remove his hands out of his pockets. SHARMA Complied, once the rest of the officers closed the distance. DO De La Pena Cruz identified herself as an ICE officer. DO De La Pena Cruz asked SHARMA for his complete name. SHARMA responded "Rahul Sharma". DO De La Pena Cruz once again identified herself as an ICE Officer and explained there was a warrant for his arrest. DO De La Pena Cruz and SA MJ, Feracho placed handcuffs on SHARMA. The handcuffs were double checked for tightness and double-locked for safety and per ICE policy without incident. SA MA Feracho and SA MJ Feracho conducted a search on SHARMA. SHARMA was placed on the rear passenger side of MJ Feracho and SA MA Feracho's government vehicle without incident. DO De La Pena Cruz sat in the rear passenger next to SHARMA. SHARMA and SHARMA's property were transported to a nearby location 1300 Stoneridge Mall Rd, Pleasanton, CA, 94588. DO De La Pena Cruz called DO Samra to re-identify the team to SHARMA in both their native language of Punjabi. At the nearby location SA MA Feracho conducted an additional search and transferred to full restraints per ICE policy without incident. SHARMA and his property were transported by SA MJ Feracho and SA MA Feracho, with DO De La Pena Cruz following to the San Francisco Field Office 630 Sansome Street, San Francisco, CA for further processing.

ALIENAGE AND REMOVABILITY:

SHARMA, Rahul (DOB - ) ,  is currently a 20-year-old male, native and citizen of India.

IMMIGRATION HISTORY:

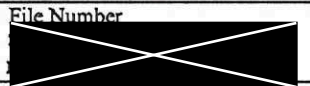


on 01/27/2023 SHARMA was apprehended within a group of ten individuals.
 On 01/27/2023 SHARMA who entered the United States at an undesignated location and was not inspected by a Customs and Border Protection Officer.
 On 01/27/2023 SHARMA claimed fear of returning to India because He is afraid of the violence and politics in his country.
 On 01/27/2023 SHAMA was served with Warrant of Arrest/Notice to Appear.
 On 01/27/2023 SHARMA was served form M-444 regarding his credible fear and was referred to an asylum officer.

Signature D9381 DE LA PENA CRUZ 	Title Deportation Officer
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U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name SHARMA, RAHUL	File Number 	Date 08/01/2025
<p>SHARMA has a hearing scheduled for 07/26/2027 SHARMA has multiple ATD violations.</p> <p>SUBJECT IS IDENTIFIED BY THE FOLLOWING: FBI: </p> <p>CRIMINAL HISTORY: None.</p> <p>HEALTH AND HUMANITARIAN ADDENDUM: SHARMA claims no medical issues. SHARMA claims to have no children. SHARMA stated that he is not a member or associate of any gangs.</p> <p>DISPOSITION: SHARMA is being processed as a Motion to Recalendar pending custody redetermination. SHARMA was served an I-286 Notice of Custody Redetermination, and I-200 Warrant for Arrest of Alien. The subject will remain in ICE custody.</p> <p>Other Identifying Numbers ----- ALIEN-246612065</p>		
Signature D9381 DE LA PENA 	Title Deportation Officer	

EOIR - 7 of 7

B



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMPERIAL IMMIGRATION COURT

Respondent Name:

SHARMA, RAHUL

To:

Kaur, Gurpreet
674 County Square Dr
Suite 305
Ventura, CA 93003

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

10/03/2025

Unable to forward - no address provided.

Attached is a copy of the **decision of the Immigration Judge**. This decision is final unless an appeal is filed with the Board of Immigration Appeals within 30 calendar days of the date of the mailing of this written decision. See the enclosed forms and instructions for properly preparing your appeal. Your notice of appeal, attached documents, and fee or fee waiver request must be mailed to:

Board of Immigration Appeals
Office of the Clerk
P.O. Box 8530
Falls Church, VA 22041

Attached is a copy of the decision of the immigration judge as the result of your Failure to Appear at your scheduled deportation or removal hearing. This decision is final unless a Motion to Reopen is filed in accordance with Section 242B(c)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1252B(c)(3) in deportation proceedings or section 240(b)(5)(c), 8 U.S.C. § 1229a(b)(5)(c) in removal proceedings. If you file a motion to reopen, your motion must be filed with this court:

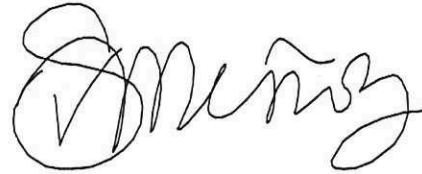
Immigration Court

Attached is a copy of the decision of the immigration judge relating to a Reasonable Fear Review. Pursuant to 8 C.F.R. § 1208.31(g)(1), no administrative appeal is available.

Attached is a copy of the decision of the immigration judge relating to a **Credible Fear Review**. This is a final order. No appeal is available.

Other:

Date:



Immigration Judge: Munoz, Jeffrey V. 10/03/2025

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [P] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : SHARMA, RAHUL | A-Number : 

Riders:

Date: 10/03/2025 By: Villegas Jr., Jose, Court Staff



**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMPERIAL IMMIGRATION COURT**

Respondent Name:

SHARMA, RAHUL

To:

Kaur, Gurpreet
674 County Square Dr
Suite 305
Ventura, CA 93003

A-Number:



Riders:

In Custody Redetermination Proceedings

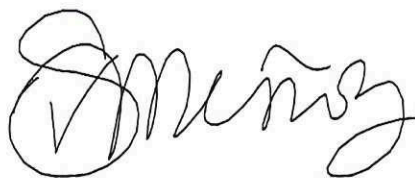
Date:

10/03/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

- Denied, because
Respondent is subject to mandatory detention as he entered the US without inspection and is an applicant for admission. Matter of Jonathan Javier Yajure Hurtado, Respondent, 29 I&N Dec. 216 (BIA 2025) controls.
- Granted. It is ordered that Respondent be:
- released from custody on his own recognizance.
 - released from custody under bond of \$
 - other:
- Other:
Respondent was provided with a BIA appeals packet and informed of the appeal deadline.



Immigration Judge: Munoz, Jeffrey V. 10/03/2025

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved

Appeal Due: 11/03/2025

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [P] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : SHARMA, RAHUL | A-Number :



Riders:

Date: 10/03/2025 By: Villegas Jr., Jose, Court Staff