UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Victor Martinez Sandoval,

Petitioner,

v.

Kristi NOEM, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; Todd LYONS, Acting Director of U.S. Immigration and Customs Enforcement; IMMIGRATION AND CUSTOMS ENFORCEMENT, David EASTERWOOD, Field Office Acting Director of Enforcement and Removal Operations, St. Paul Field Office, Immigration and Customs Enforcement; UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES,

Respondents.

Case No. 0:26-cv-264

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Expedited Handling Requested

INTRODUCTION

1. Petitioner, Victor Martinez Sandoval, brings this petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 for immediate release from DHS custody as USCIS granted him deferred action after issuing a Bona Fide Determination (BFD) on Petitioner's Form I-918, Supplement A, Petition for Qualifying Family Member of U-1 Recipient. Petitioner's deferred action status remains valid until September 26, 2026, at which point it is renewable. USCIS PM. vol. 3, pt. C, ch. 5. On January 13, 2026, DHS agents arrested Petitioner in the parking lot of a business he owns without presenting either an administrative or judicial warrant. DHS agents claimed Petitioner would be taken to Fort Snelling and they would be issuing a summons for Petitioner to appear before an immigration judge. Respondents have yet filed a Notice to Appear with the Immigration Court, nor have they input Petitioner's location into the online detainee locator. Petitioner's family last received a call from Petitioner around 4:30pm on January 13, 2026, stating he was at the Bishop Henry Whipple Federal Building in Fort Snelling, MN. Petitioner's last known location upon filing this Writ, therefore, is Fort Snelling, MN.

2. Over the last thirty years, Congress has created a carefully balanced framework for the application of immigration laws to noncitizen survivors of serious crimes in an effort to address an endemic public safety issue: undocumented people are often reluctant to report violent crime to police or cooperate with investigations, out of fear of the consequences they might face from their abusers and from the specter of deportation. Congress's express goal in addressing this problem was to improve public safety for all by

creating protections against deportation and exploitation that might encourage noncitizen crime victims to come forward.

3. Central to this public safety goal is the "U visa," which affords a path to lawful status for noncitizens harmed by certain serious crimes and who help law enforcement investigate or prosecute those crimes. Furthermore, because the adjudication process for this form of lawful status can take years, Congress also took steps to protect eligible applicants from removal while their petitions are pending, including by authorizing deferred action and employment authorization for those whose petitions are deemed bona fide after an initial review.

4. Until recently, USCIS and ICE followed Congress's lead. For decades, ICE's policy and practice was generally not to pursue civil immigration enforcement against individuals with pending petitions for U visa benefits, absent serious adverse factors such as public safety concerns. Additionally, USCIS created a formal process to provide deferred action and employment authorization for those deemed to have bona fide petitions until such petitions could be adjudicated.

5. The 2025 Guidance issued by ICE Acting Director Caleb Vitello reverses these decades of agency practice and capsizes the careful balance that Congress created. *See* ICE, *Interim Guidance on Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries or Victim-Based Immigration Benefits*, Policy Number: 11005.4 available at https://www.ice.gov/doclib/foia/policy/11005.4.pdf (last accessed January 14, 2026) (2025 Guidance). The 2025 Guidance abruptly rescinded prior ICE directives that, consistent with Congressional intent, generally protected noncitizens with pending U visa

benefit petitions from immigration enforcement, replacing them with a directive that unjustly greenlights their detention and removal as a routine matter.

6. The only stated justification for this abrupt reversal is a single sentence from one of President Trump's first-day executive orders calling for "total" enforcement of immigration laws against "all" nominally removal individuals to address a fictional "invasion." *Id.* at 2. This scant explanation is insufficient under the APA to upend decades of prior policy and ignore voluminous Congressional and agency findings regarding the benefits of protecting noncitizen crime survivors.

7. The 2025 Guidance and challenged policies flout the legislative scheme, replacing the long-standing and judiciously crafted "victim-centered" approach with an unforgiving, arbitrary, and unlawful "deportation-centered" system that ignores crime victims' eligibility for relief and railroads them into detention and removal without due process. As a result, Respondents have cause public safety to take a back seat to an arbitrary, xenophobic, and militarized mass deportation campaign that has terrorized immigrant communities and further victimized survivors of serious crimes who Congress sought to protect.

8. Petitioner relied on DHS's prior victim-centered policy when submitting his Form I-918, Supplement A, Petition for Qualifying Family Member of U-1 Recipient on January 23, 2018. As a result of the 2025 Guidance, however, Respondents attempt to de facto revoke Petitioner's grant of deferred action by detaining him without first providing Petitioner notice or an opportunity to respond, contrary to the Fifth Amendment of the Constitution. Thus, Petitioner, asks this Court to find Respondents' 2025 Guidance and

their detention of Petitioner as arbitrary and capricious under the APA and as violation of Petitioner's due process rights under the Fifth Amendment. As a remedy, Petitioner asks this Court to order his immediate release from DHS detention. Or, in the alternative, a bond hearing within 7 days.

9. Furthermore, Petitioner files this Writ to seek enforcement of his rights as a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). Petitioner is in the physical custody of Respondents. His last known location as of January 13, 2026, is Bishop Henry Whipple Federal Building located at 1 Federal Drive, Fort Snelling, MN 55111. Petitioner does not yet appear in the ICE detainee locator available online. Further, DHS has not yet filed a Notice to Appear placing Petitioner in Removal Proceedings according to the online EOIR automated case information system. However, DHS agents told Petitioner's daughter they would be issuing a summons for Petitioner to appear before an immigration judge. Petitioner, a Mexican national who last entered the country without inspection more than 18 years ago, is a class member of *Maldonado* Bautista.

10. On November 20, 2025, the district court for the Central District of California granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista*, No. 5:25-CV-01873-SSS-

BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

11. The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a) and thus, may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

12. Nonetheless, the Executive Office for Immigration Review and its subagency, the Immigration Court, and the Department of Homeland Security (DHS) have blatantly refused to abide by the declaratory relief and have unlawfully ordered noncitizens similarly situated to Petitioner be denied the opportunity to be released on bond, stating they are mandatorily detained under 8 U.S.C. § 1225(b)(2).

13. Petitioner is a member of the Bond Eligible *Maldonado Bautista* Class, as he:

a. does not have lawful status in the United States and is currently detained by Respondents after immigration authorities apprehended him on January 13, 2026;

b. last entered the United States without inspection 18 years ago and was not apprehended upon arrival, *cf. id.*; and

c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

14. After apprehending Petitioner on January 13, 2026, DHS has not yet placed Petitioner in removal proceedings, nor have they issued a Notice to Appear alleging charges against Petitioner.

15. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject noncitizens similarly situated to Petitioner to unlawful detention, despite their clear entitlement to consideration for release on bond as a Bond Eligible Class member.

16. Immigration judges have informed class members in bond hearings that they have been instructed by "leadership" in EOIR that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that instead IJs remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Thus, exhaustion by Petitioner in filing a bond request is not required as it would be futile.

17. On December 18, 2025, the Court in *Maldonado Bautista* issued a clarifying order and final judgment under Federal Rule of Civil Procedure 54(b), making clear that all class members are entitled to benefit from the declaratory judgment confirming that they are subject to detention under 8 U.S.C. § 1226(a) and therefore, entitled to a bond hearing. No. 5:25-CV-01873-SSS-BFM --- F. Supp. 3d ----, Document 92 (C.D. Cal. December 18, 2025); No. 5:25-CV-01873-SSS-BFM --- F. Supp. 3d ----, Document 94 (C.D. Cal. December 18, 2025. These orders also vacated a July 8, 2025, ICE Memo declaring those who enter without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2). No. 5:25-CV-01873-SSS-BFM --- F. Supp. 3d ----, Document 92 (C.D. Cal. December 18, 2025) at *6. While the Court declined to vacate *Yajure Hurtado* in this order because the decision was not specifically named in the amended complaint, the Court did clarify that

"*Yajure Hurtado* is no longer controlling" and "the legal conclusion underlying the decision is no longer tenable." *Id.*

18. Because Respondents are detaining Petitioner in violation of the final judgment issued in *Maldonado Bautista,* the Court should accordingly order that within one day, Respondent DHS must release Petitioner from their custody.

19. Alternatively, the Court should order Petitioner's release, unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a), within seven days.

20. The Court should expeditiously grant this petition, as Petitioner remains unjustly separated from his two US citizen children, his U visa applicant wife, and other family members.

JURISDICTION

21. Petitioner is in the physical custody of Respondents. Petitioner's last known location as of January 13, 2026, is Bishop Henry Whipple Federal Building located at 1 Federal Drive, Fort Snelling, MN 55111.

22. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

23. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

24. This action arises under the Constitution and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

VENUE

25. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the District of Minnesota, the judicial district in which Petitioner is currently detained.

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

REQUIREMENTS OF 28 U.S.C. § 2243

27. The Court should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already been resolved for class members in *Maldonado Bautista.*

28. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

29. Petitioner Victor Martinez Sandoval is a citizen of Mexico who has been in immigration detention since January 13, 2026. After Petitioner was arrested while working at the restaurant he owns, [redacted] located at [redacted] Petitioner has resided in the United States since February 2007.

30. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She 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 Petitioner and is sued in her official capacity. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to § 103(a) of the INA, 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, and supervises the Fort Snelling ICE Field Office.

31. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

32. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is also a legal custodian of Petitioner.

33. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

34. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Acting Director Lyons is responsible for Petitioner's detention.

35. Respondent Immigration and Customs Enforcement (ICE) is the sub agency within the Department of Homeland Security responsible for implementing and enforcing the INA, including the detention of noncitizens.

36. Respondent David Easterwood is the Acting Director of the St. Paul Field Office of ICE's Enforcement and Removal Operations division located at 1 Federal Drive, Fort Snelling, Minnesota 55111. As such, David Easterwood is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

37. Respondent United States Citizenship and Immigration Service (USCIS) is component agency of HDS. USCIS is headquartered in Washington, D.C. and has offices and services throughout the country, including Minneapolis, MN. USCIS adjudicates petitions for Survivor-based benefits such as U visa petitions. USCIS also administers immigration benefits, including those related to petitions for Survivor-based benefits such as deferred action and employment authorization. USCIS is an agency within the meaning of 5 U.S.C. § 551(f)(1).

LEGAL FRAMEWORK

U Visa History and Purpose

38. Congress in reauthorizing the Violence Against Women Act (VAWA) in 2000, created U Nonimmigrant Status, commonly referred to as the U visa, which provides a path to citizenship for non-citizen survivors of qualifying crimes who assist law enforcement in

investigating or prosecuting those crimes. *See* VAWA 2000, §1513(a)(2)(B), 8 U.S.C. §1101(a)(15)(U).

39. Among Congress's stated purposes in creating the U visa were (1) "to strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes…committed against [noncitizens], while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States," and (2) to "facilitate the reporting of crimes to law enforcement officials by trafficked, exploited, victimized, and abused [noncitizens] who are not in lawful immigration status." *Id.* § 1513(a)(2).

40. As DHS has acknowledged, Congress—

> created the U [visa] program out of recognition that victims without legal status may otherwise be reluctant to help in the investigation or prosecution of criminal activity. Immigrants, especially women and children, can be particularly vulnerable to criminal activity like human trafficking, domestic violence, sexual assault, stalking, and other crimes, due to a variety of factors, including but not limited to: language barriers, separation from family and friends, lack of understanding of U.S. laws, fear of deportation, and cultural differences.

DHS, *U and T Visa Law Enforcement Resource Guide for Federal, State, Local Tribal and Territorial Law Enforcement, Prosecutors, Judges and Other Government Agencies*, at 4, available at https://niwaplibrary.wcl.american.edu/wp-content/uploads/DHS-U-and-T-Visa-Law-Enforcement-Resource-Guide-11.30.15.pdf (last accessed January 14, 2026).

41. Underscoring the importance of encouraging noncitizen victims of crime to feel comfortable reporting crime and working with law enforcement authorities, Congress authorized DHS to waive virtually any ground of inadmissibility to U visa petitioners in

the public interest. VAWA 2000 § 1513(e); 8 U.S.C § 1182(d)(14). Even a noncitizen "who is subject of a final order of removal, deportation, or exclusion is not precluded" from eligibility. 8 C.F.R. § 214.14(c)(1)(ii).

42. In the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5044, 5053 (TVPRA), Congress expanded protections for noncitizens who had come forward to report crime. Most relevant to this action, the TVPRA added § 237(d) to the INA, which authorizes DHS to issue a stay of any removal order against a U visa petitioner if the petition "sets forth a prima facie case for approval." 8 U.S.C. § 1227(d)(1). Any such stay remains in effect until the U visa is approved or denied, during which time the applicant "shall not be removed." 8 U.S.C. §§ 1227(d)(1)-(3).

43. The TVPRA also authorized employment for U visa petitioners who had "a pending, bona fide application" awaiting full adjudication. TVPRA § 201(c) (codified at 8 U.S.C. § 1184(p)(6)). As stated by USCIS, the Bona Fide Determination (BFD) process "provides an opportunity for certain petitioners to receive BFD [work permits] and deferred action while their petitions are pending, consistent with the [TVPRA]." USCIS PM vol. 3, pt. C, ch. 5.

44. Congress created BFD protections in recognition that the full adjudication of a U visa necessary for placement on the waiting list involves a lengthy process, and Congress intended that petitioners with valid petitions promptly receive protection. Indeed, the bipartisan bill's co-sponsors envisioned that USCIS would determine whether a petition was "bona fide" through a streamlined process lasting no longer than two months, stating—

> [i]mmigrant victims of domestic violence, sexual assault and other violent crimes should not have to wait for up to a year before they can support themselves and their families. The [USCIS] Vermont Service Center should therefore strive to issue work authorization and deferred action in most instances within 60 days of filing, consistent with the need for safe and competent adjudication.

154 Cong. Rec. H10888-01, H10905, 2008 WL 5169865 (Dec. 10, 2008) (statement of Reps. Berman and Conyers).

45. Another co-sponsor added, "By protecting the victims and not sending them back to their home country where they are often exploited in a vicious cycle of exploitation, we say to victims we will make every effort to make you safe and secure." 154 Cong. Rec. H10888-01, H10902, 2008 WL 5169865 (Statement of Rep. Smith).

<u>U-Visa Eligibility, Adjudication, and Benefits</u>

46. A noncitizen is eligible for a U visa if (1) the applicant "suffered substantial physical or mental abuse as a result of having been a victim of" certain explicitly identified types of crimes; (2) the applicant "possesses information concerning [the] criminal activity"; (3) the applicant "has been helpful, is being helpful or is likely to be helpful" to government officials regarding the criminal activity; and (4) the criminal activity "occurred in the United States" or violated the United States law. 8 U.S.C. §§ 1101(a)(16)(U)(i)(I-IV). Children and spouses and, for petitioners under the age of 21, siblings and parents, may also receive U visas as derivative beneficiaries. 8 C.F.R. § 214.14(a)(10).

47. Congress capped the number of principal U visas that may be granted annually at 10,000. 8 U.S.C. § 1184(p)(2). In 207, DHS created implementing regulations setting forth the process for adjudicating U visa petitions. *See* Interim Rule, 72 Fed. Reg. 53014 (Sept.

17, 2007). To address backlogs caused by the annual cap, these regulations required that crime victims who are not granted U visas "due solely to the cap…must be placed on a waiting list." 8 C.F.R. § 214.14(d)(2). USCIS must also "grant deferred action" to individuals placed on the waiting list until a U visa becomes available. *Id.* Wait-listed individuals are eligible for work authorization. *Id.*

48. After the TVPRA authorized employment for U visa petitioners with "bona fide" petitions, 8 U.S.C. § 1184(p)(6), USCIS created a formal and streamlined BFD process in 2021 for making such bona fide determinations.

49. Thus, as it exists today, the U visa adjudication process "involves three distinct adjudicative processes:" (1) the streamlined BFD process, (2) for petitions in which the BFD process did not result in deferred action and work authorization, full adjudication for potential placement on the U visa waiting list, and then (3) granting of a U visa once available. USCIS PM. vol. 3, pt. C, ch. 4.

50. A U visa BFD work authorization and deferred action are valid for four years and are renewable. USCIS PM. vol. 3, pt. C, ch. 5.

51. USCIS identifies four circumstances when early revocation of deferred action is appropriate: (1) "if USCIS determines a national security or public safety concern is present," (2) "if USCIS determines the BFD and deferred action is no longer warranted," (3) if "the Form I-918 Supplement B law enforcement certification is withdrawn" by certifying agency, or (4) USCIS determines the prior BFD EAD was issued in error." *Id.* If changed circumstances appear to warrant such revocation, USCIS "initiates a waiting list adjudication to gather additional information and evidence. *Id.* ch. 5.C.1.

52. Persons granted deferred action are shielded from deportation and are eligible to apply for employment authorization under 8 C.F.R. § 274a.12(c)(14). Deferred action is an act of prosecutorial discretion that defers efforts to deport a noncitizen from the United State for a certain period of time. Deferred action does not confer lawful status and does not prevent an immigration judge from issuing a removal order. However, unless and until terminated, a grant of deferred action prevents immigration authorities form physically removing a noncitizen from the United States. *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999) (*AADC*).

53. Once deferred action is granted, fundamental procedural due process protections attach to the recipient, such as the right to notice and an opportunity to contest the revocation of deferred action. *See Maldonado v. Noem*, No. 4:25-cv-2541, 2025 WL 153133, at *2 (S.D. Tex. June 5, 2025) (finding Petition was "likely to succeed on his Due Process claim" because he was denied "notice, a hearing, or any opportunity to contest the revocation of his deferred action.").

54. The Due Process Clause of the Fifth Amendment provides Petitioner with important protections regarding his detention. As the Supreme Court has explained, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

<u>Detention Authorities</u>

55. Removal proceedings are governed under 8 U.S.C. §1229a, which provides that "[a]n immigration judge shall conduct proceedings for deciding the inadmissibility or deportability of an alien, 8 U.S.C. §1229a(a)(1) and that "[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be admitted to the United States." 8 U.S.C. §1229a(a)(3).

56. To initiate removal proceedings, "written notice (in this section referred to as a 'notice to appear') shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any)." 8 U.S.C. §1229(a)(a).

57. The "[a]pprehension and detention of aliens" is governed under 8 U.S.C. § 1226, which provides that:

> On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is removed from the United States. Except as provided in subsection (c) and pending such decision, **<u>the Attorney General...may release the alien on bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General.</u>**

8 U.S.C. § 1226(a)(2)(A) (emphasis added).

58. The regulations provide that, to detain a person under 8 U.S.C. § 1226(a), the Department must issue an I-200 to take a person into custody; and that such a person is subject to release on bond. The regulation states:

(b) Warrant of arrest—

(1) In general. At the time of issuance of the notice to appear, or at any time thereafter and up to the time removal proceedings are completed, the respondent may be arrested and taken into custody under the authority of Form I–200, Warrant of Arrest. A warrant of arrest may be issued only by those immigration officers listed in § 287.5(e)(2) of this chapter and may be served only by those immigration officers listed in § 287.5(e)(3) of this chapter.

(2) If, after the issuance of a warrant of arrest, a determination is made not to serve it, any officer authorized to issue such warrant may authorize its cancellation.

(c) Custody issues and release procedures—

(1) In general.

(i) After the expiration of the Transition Period Custody Rules (TPCR) set forth in section 303(b)(3) of Div. C of Pub.L. 104–208, no alien described in section 236(c)(1) of the Act may be released from custody during removal proceedings except pursuant to section 236(c)(2) of the Act.

8 C.F.R. § 236.1(b)

59. 8 U.S.C. § 1226(a) is the default detention authority, and it applies to anyone who is detained "pending a decision on whether the [noncitizen] is to be removed from the United States." 8 U.S.C. § 1226(a).

60. 8 U.S.C. § 1226(a) applies to those who are "already in the country" and are detained "pending the outcome of removal proceedings." *Jennings v. Rodriguez*, 5683 U.S. 281, 289 (2018).

61. 8 U.S.C. § 1225(b)(2)(A) mandates detention during proceedings under § 1229a if a noncitizen is "an applicant for admission" and the immigration officers determines the noncitizen **<u>seeking</u>** admission is not clearly and beyond a doubt entitle to be admitted. (emphasis added).

62. Based on a plain reading of the statute, 8 U.S.C. § 1225(b)'s mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must

determine whether an alien seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Therefore, those who are apprehended many years after entry into the United States should not be subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) because they are not actively seeking admission at a border or port of entry.

63. Federal courts across the country have rejected the application of 8 U.S.C. § 1225(b)(2)(A) to noncitizens apprehended in the interior of the United States. *See Demirel v. Fed. Detention Ctr. Phila.*, Civ. No. 25-5488, 2025 WL 32182543, at *4 (E.D. P.A. Nov. 18, 2025) (citing an appendix identifying 282 district court decisions rejecting the Government's interpretation of the relevant statutory provisions as of November 18). Judges in the District Court of Minnesota have likewise rejected this reading of the statute. *See Santos M.C.*, 2025 WL 3281787, at *3 (Schiltz, C.J.); *Andres R.E.*, 2025 WL 3146312, at *2–3 (Brasel, J.); *Belsari D.S.*, 2025 WL 2802947, at *5–6 (Menendez, J.); *Eliseo A.A.*, 2025 WL 2886729, at *3–4 (Blackwell, J.); *Francsisco T. v. Bondi*, No. 25-cv-3219 (JMB/DTS), 2025 WL 3236513, at *2–3 (D. Minn. Nov. 19, 2025) (Bryan, J.); *Avila*, 2025 WL 2976539, at *5–6 (Tunheim, J.); *E.M.*, 2025 WL 3157839, at *3–8 (Nelson, J.).

64. The Court in *Maldonado Bautista* certified a class of bond eligible individuals and issued a final judgment declaring Bond Eligible Class members are detained under 8 U.S.C. § 1226(a), are not subject to mandatory detention under § 1225(b)(2), and are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge. *Maldonado Bautista*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025);

No. 5:25-CV-01873-SSS-BFM --- F. Supp. 3d ----, Document 94 (C.D. Cal. December 18, 2025.

STATEMENT OF FACTS

65. Petitioner, Victor Martinez Sandoval, is a 46-year old native and citizen of Mexico. Petitioner first entered the United States in June or July of 2001 and returned to Mexico in December 2006 because his wife's primary caregiver (her grandmother) was gravely ill and had been hospitalized on and off for a year. Petitioner returned to Mexico at that time with his wife and their US citizen child. However, his US citizen child, born in 2001, returned to the US in January of 2007 in the care of her godmother to attend school after winter break ended. In February of 2007, the godmother began to restrict contact between Petitioner's child and Petitioner and his wife and would not allow Petitioner or his wife speak to their child. [redacted] Fearing for his child's safety, Petitioner's second and last entry to the United States occurred in February 2007 without inspection and he has primarily lived in Minnesota since that entry. Petitioner has two US citizen daughters, ages 17 and 24, a U visa applicant wife, and other family members in Minnesota. Petitioner is also the owner and co-owner of three separate businesses in Minnesota.

66. On January 23, 2018, Petitioner submitted a Form I-918, Supplement A, Petition for Qualifying Family Member of U-1 Recipient, as a derivative to his wife's Form I-918

Petition for Nonimmigrant Status, supported by a law enforcement certification confirming his wife's cooperation as a crime victim. On September 26, 2022, U.S. Citizenship and Immigration Services (USCIS) determined Petitioner's Form I-918, Supplement A petition for U nonimmigrant status is bona fide and that he warrants a favorable exercise of discretion to receive employment authorization and deferred action. USCIS issued Petitioner employment authorization and deferred action valid through September 26, 2026. To date, DHS has not formally issued a notice revoking Petitioner's deferred action status or employment authorization.

67. DHS deprived Petitioner of liberty through their warrantless seizure of Petitioner on January 13, 2026, despite Petitioner's active deferred action status and absence any criminal or immigration violation that would justify detention or removal.

68. On January 13, 2026, ICE detained Petitioner while he was working at his restaurant, [redacted], located at [redacted]. ICE detained Petitioner despite Petitioner presenting the agents with his work permit which indicates he is employment authorized pursuant to Deferred Action. DHS agents told Petitioner's daughter they would be issuing a summons for Petitioner to appear before an immigration judge and Petitioner would be taken to the Bishop Henry Whipple Federal Building in Fort Snelling, MN.

69. Petitioner's family members last received a call from Petitioner around 4:30pm on January 13, 2026, stating he was at the Bishop Henry Whipple Federal Building. This is Petitioner's last known location as he does not yet appear in the online detainee locator system.

70. As stated above, Petitioner has extensive family ties to Minnesota. Petitioner has been married to Isela Perez for 8 years and they have been together for 27 year, beginning in 1998. From the start, they have been each other's biggest supporter and other half. Together they have opened 5 successful businesses over the course of 11 years while in the US.

71. Petitioner's oldest daughter, Stefany, is a 24-year old graduate of the University of Minnesota. With his unwavering daily support, she has managed to achieve what she had previously thought was impossible including an internship with Senator Amy Klobuchar's office and an internship at the White House with the Office of the Vice President. As a father, Petitioner has always encouraged his daughters to do whatever makes them happy. His daily presence serves as a role model for what they can achieve. As a child, Stefany always naturally gravitated towards her father. He has always been the one to understand her and the one she turns to if she ever needs anything. Through it all, Petitioner has been a constant rock and pillar of support for Stefany. Even through the roughest points in Stefany's life, in which she has more frequently found herself in.

72. His youngest daughter, S.M.M.P, is 17 years old. She is an excelling junior at [redacted]. Her daily routine is to wake up, have breakfast with her father (the only other member of the family who is awake at that time), and her father makes her a homemade lunch every day to take to school. S.M.M.P. also gets dropped off and picked up every day from school by her father, and then goes home and enjoys family time with her father. Within Petitioner's family, he is the main parental figure at home. Appointments and after school activities are all organized and scheduled by him. Whenever anyone has

any questions, Petitioner is the first person his family turns to. The need for Petitioner's presence in his minor's life and in all of his family's lives is steadfast.

73. Petitioner also has a US citizen brother and legal resident brother in the United States.

74. Furthermore, Petitioner has minimal criminal history, including a petty misdemeanor shoplifting conviction from almost 20 years ago on October 6, 2006, and minor traffic violations.

75. Petitioner is a business owner and co-owner of a three restaurants in Minnesota, providing employment to over 50 individuals. Petitioner has owned [redacted] restaurant in Columbia Heights, MN since 2024. He has been a co-owner of [redacted] in Minneapolis, MN since August 2012 and a co-owner of [redacted] in Maplewood, MN since 2015. In addition to managing his employees, Petitioner solely manages all inventory including food, supplies, and other items for all three businesses and handles all internal and external communication with vendors. He is an integral part of the businesses, and without him, the businesses inventory and ability to operate would greatly suffer. Tuesday's, Thursdays, and Friday's are his primary days for restocking, and due to his detention yesterday, his business will be unable to open one of the restaurants today due to low inventory.

CLAIM FOR RELIEF

Count I – Violation of 5 U.S.C. § 706(2)(A) – The 2025 Guidance is Arbitrary and Capricious

76. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

77. Courts must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

78. The 2025 Guidance is reviewable under the APA because it constitutes "final agency action for which there is no other adequate remedy in a court." 5 U.S.C. § 704. This is because it marks the consummation of Respondents' decision-making process and is an action "from which 'legal consequences will flow." *Bennett v. Spear*, 520 U.S. 154, 156 (1997) (citation omitted).

79. Section 706(2)(A) of the APA "requires agencies to engage in reasoned decisionmaking." *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 16 (2020) (*Regents*) (citations and quotations omitted). "[A]gency action must be based on non-arbitrary, relevant factors, which," in the immigration context, "means that the [agency's] approach must be tied, even if loosely, to the purposes of the immigration laws or the appropriate operation of the immigration system. A method for disfavoring deportable [noncitizens] that bear no relation to these matters—that neither focuses on nor relates to an [noncitizen's] fitness to remain in the country—is arbitrary and capricious." *Judulang v. Holder*, 565 U.S. 42, 55 (2011) (internal quotations and citations omitted).

80. The 2025 Guidance reversed decades of consistent DHS policy that created a presumption against detention and removal of noncitizen survivors of serious crimes, in favor of a policy of detention and deportation whenever possible, so long as it does not disrupt a criminal prosecution. The only explanation provided for this change is the statement in the Presidential Executive Order regarding "'total and efficient enforcement

of the immigration laws' against all inadmissible and removable" individuals. 2025 Guidance at 2.

81. This scant reasoning fails the APA's "requirement that [the agency] provide a reasoned explanation for its action" and is therefore arbitrary and capricious. *Regents*, 591 U.S. at 35.

82. Further, the 2025 Guidance fails to address the reliance interests of noncitizens, such as Petitioner, who applied for protection prior to the reversal of decades long victim-centered policy. "When an agency change course, as DHS did here, it must be cognizant that longstanding policies may have 'endangered serious reliance interests that must be taken into account.'" *Regents*, 591 U.S. at 30 (citation omitted). Here, the 2025 Guidance fails "to assess whether there were reliance interests, determine whether they were significant, and weigh any such interests against competing policy concerns." *Id.* at 33.

83. The public safety risks imposed by the 2025 Guidance's removal of protections from enforcement are also weighty, especially because maintaining those protections could be achieved consistently with the supposedly competing policy concerns of President Trump's Executive Order cited in the 2025 Guidance. For instance, if the agency's true goal was to "enforc[e]" immigration laws "against all inadmissible and removable" noncitizens, it could do so by having USCIS adjudicate U petitions more quickly and initiating removal proceedings only against individuals denied a visa. Such an alternative would prevent re-traumatization of vulnerable individuals through arrest and detention and ensure their unique vulnerabilities are considered, while still enforcing immigration laws against all removable noncitizens. *See Regents*, 591 U.S. at 30 ("[W]hen an agency rescinds a prior policy[,] its reasoned analysis must consider the alternatives that within the ambit of the [current] policy.").

84. The 2025 Guidance alone relies on an Executive Order issued by President Trump which is not a sufficiently "reasoned explanation" for ICE's "disregarding facts and circumstances that underlay or were engendered by the prior policy" of protecting applicants for survivor-based benefits. *F.C.C. v. Fox Television Studios, Inc.*, 556 U.S. 502, 516 (2009). When "new policy rests upon factual findings that contradict those which underlay its prior policy," then "a more detailed justification" is needed. *Id.* at 515.

85. Here, the rescinded 2021 Policy expressly found that: ICE's "duty to protect and assist noncitizen crime victims" was "enshrined in" VAWA and the TVPRA; "[w]hen victims have access to humanitarian protections, regardless of their immigration status, and can feel safe in coming forward, it strengthens the ability of local, state, and federal law enforcement agencies, including ICE, to detect, investigate, and prosecute crimes'"; there is a "chilling effect that civil immigration enforcement actions may have on the willingness and ability of noncitizen crime victims to contact law enforcement, participate in investigations and prosecutions, pursue justice, and seek benefits"; and "[a] victim-centered approach encourages victim cooperation with law enforcement, engenders trust in ICE agents and officers, and bolsters faith in the entire criminal justice and civil immigration systems." 2021 Policy at 1.

86. By Contrast, the 2025 Guidance only relies on President Trump's Executive Order and fails to offer any contrary factual findings or explain why Congress and the immigration agencies' prior findings were incorrect. "An agency cannot simply disregard contrary or inconvenient factual determinations that it made in the past[.]" *F.C.C.*, 556 U.S. at 537. In fact, neither the 2025 Guidance nor President Trump's Executive Order cited in the Guidance offer *any* factual findings: no statistics, no studies—no actual evidence at all. "[C]onclusory statements do not suffice to explain" a change in policy "that is inconsistent with the Department's longstanding earlier position" and any such unsupported policy

"cannot carry the force of law." *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 224 (2016).

87. Further, there is no "invasion." The entire foundation on which the 2025 Guidance rests is a fiction of political convenience, designed to justify a harsh and unprecedented immigration crackdown, even against longtime residents, such as Petitioner.

88. Reversing longstanding policy based on claims that are unsupported by any actual facts is necessarily arbitrary and capricious.

<u>Count II – Violation of 5 U.S.C. § 706(2)(A) – The De Facto Revocation Policy is Arbitrary and Capricious</u>

89. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

90. The APA requires courts to "set aside" agency action that is "arbitrary, capricious" or "an abuse of discretion." 5 U.S.C. §706(2)(A).

91. Respondents maintain a policy and practice of treating its enforcement decisions against U visa petitioners to whom USCIS has conferred deferred action status, such as Petitioner, as a de facto revocation of that status. This "De Facto Revocation" policy constitutes "final agency action for which there is no other adequate remedy in a court." 5 U.S.C. § 704. The 2025 Guidance expressly asserts that ICE has discretion to cause "the termination of the victim-based benefit," including deferred action. 2025 Guidance at 1 n.1. Under the De Facto Revocation policy, ICE asserts this purported authority to detain and remove people without first formally revoking deferred action, thereby ignoring and de facto terminating deferred action status. These positions mark the consummation of the Defendants' decision-making process on the issue and is one "from which 'legal consequences will flow.'" *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997) (citation omitted).

92. If an agency "announces and follows—by rule or by settled course of adjudication—a general policy by which its exercise of discretion will be governed, an irrational departure from that policy…could constitute action that must be overturned as 'arbitrary, capricious, [or] an abuse of discretion' within the meaning of" § 706(2)(A). *INS v. Yang*, 519 U.S. 26, 32 (1996).

93. "As long as there is a 'meaningful standard against which to judge the agency's exercise of discretion,' judicial review is available under the APA because there is "law to apply." *Perez Perez v. Wolf*, 943 F.3d 853, 862 (9th Cir. 2019). This can be so where a statute, regulation, or agency policy "establishes the goal of the program" or "agency duties…including the duty to consider certain criteria." *Jajati v. U.S. Customs & Border Prot.*, 102 F.4th 1011, 1018 (9th Cir. 2024).

94. An immigration policy is arbitrary and capricious when it has "no connection to the goals of the deportation process or the rational operation of the immigration laws." *Judulang*, 565 U.S. at 53, 58.

95. Here, USCIS regulations and policies provide meaningful standards by which a noncitizen's fitness for deferred action will be determined. *See* 8 C.F.R. § 214.14(d)(2); *see also* USCIS PM vol. 3, pt. C, ch. 5.C.6; PM vol. 3, pt. B, ch. 6.

96. A grant of deferred action necessarily means USCIS determined that the recipient "merit[s] a favorable exercise of discretion, considering any risk to national security or public safety, as well as other relevant discretionary facts." USCIS PM vol. 3, pt. C, ch. 5.B.

97. Nevertheless, Respondents engage in a practice of terminating such deferred action by fiat, as they did here by detaining Petitioner on January 13, 2026, ignoring deferred action status and detaining deferred action recipients without regard for whether, as in the case of Petitioner, the individual has done anything to change USCIS' prior determination

that they were fit to remain in the United States for the duration of their deferred action grant.

98. Agency action that gives controlling weight to the "immigration official's charging decision" is necessarily arbitrary and capricious. *Judulang*, 565 U.S. at 57. That is precisely what the De Facto Revocation policy does. Immigration courts have no authority over the granting or revocation of deferred action or eligibility for a U visa. *Lee v. Holder* 599 F.3d 973, 975-76 (9th Cir. 2010). Thus, ICE's determination to unilaterally revoke deferred action for Petitioner by detaining Petitioner and purportedly placing him in removal proceedings is controlling. Therefore, the De Facto Revocation policy is unlawful under the APA.

Count III – Violation of Due Process Clause of the Fifth Amendment

99. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

100. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its goals. "Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment. *Matthews v. Eldridge*, 424 U.S. 318, 332 (1976). "The essence of due process is the requirement that a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it." *Id.* at 348 (internal quotation marks omitted). Thus, some form of "hearing is required at some time before a person is finally deprived of his property interests." *Wolff v. McDonnell*, 418 U.S. 539, 557-558 (1974).

101. First, Petitioner has a valid grant of deferred action which is valid until September 26, 2026. Petitioner possesses a protected property interest in his deferred action status and

the numerous benefits that come with it. These benefits include, among other tings, the ability to remain and legally work in the United States and eligibility for important state and federal benefits. If the government issues benefits whose "continued possession [has] become essential in the pursuit of a livelihood," revocation of those benefits "involves state action that adjudicates important interests" such that they "are not to be taken away without [] procedural due process." *Bell v. Burson*, 402 U.S. 535, 539 (1971).

102. Here, in granted deferred action pursuant to Petitioner's U visa petition, "USCIS solicited [an] application from [an] eligible [noncitizen], instituted a standardized review process, and sent formal notices indicating whether the [petitioner] would receive the [four]-year forbearance." *Regents*, 592 U.S. at 18. "These [deferred action] proceedings are effectively adjudications." *Id.* (cleaned up). "[T]he result of these adjudications—DHS's decision to grant deferred action ...—is an affirmative act of approval" that "confer[s] affirmative immigration relief." *Id.* "[D]eferred action recipients are considered 'lawfully present' for purposes of, and therefore eligible to receive, [federal] benefits. *Id.* at 1902 (citations omitted). Thus, a "grant of [deferred action] constitutes a conferred benefit that requires procedural safeguards before it can be terminated." *Inland Empire – Immigrant Youth Collective v. Nielsen*, No. EDCV 17-2048 PSGSHKX, 2018 WL 4998230, at *19-20 (C.D. Cal. Apr. 19, 2018) (*Inland Empire*).

103. In determining whether process is sufficient, courts apply the familiar *Mathews* test, considering (1) "the private interest that will be affected by the official action," (2) "the risk of an erroneous deprivation of such interest though the procedures used, and the probable value, if any of additional or substitute safeguards," and (3) the Government's interest...that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335. Here, *Mathews* balancing comes out strongly in favor of Petitioner.

104. First, Petitioner has a profound interest in maintaining his deferred action status and attendant benefits. Because a person cannot be detained for removal if he cannot be

removed, maintaining deferred action should be tantamount to maintaining one's freedom. *See Primero v. Mattivelo*, No. 1:25-CV-11442-IT, 2025 WL 1899115, at *4 (D. Mass. July 9, 2025) ("Respondents do not suggest that ICE routinely removes individuals with active grants of deferred action from the United States, or that the Petitioner will be removed before his deferred action is terminated."). The Supreme Court described deferred action in *AADC* as meaning "no action will thereafter be taken to proceed against an apparently deportable alien, even on grounds normally regarded as aggravated." 525 U.S. at 484 (quoting 6 C. Gordon, S. Mailman, & S. Yale-Loehr, Immigration Law and Procedure § 72.03[2][h] (1998)). *AADC* cited Fifth Circuit precedent to support this definition. *Id.* (citing *Johns v. Dep't of Justice*, 653 F.2d 884, 890-92 (5th Cir. 1981)). In *Johns*, the Fifth Circuit distinguished deferred action from a stay of removal explaining that deferred action means the Government chooses to "refrain from (or in administrative parlance, to defer in) executing an outstanding order of deportation." 653 F.2d at 890. "[A]n individual's private interest in freedom from prolonged detention is unquestionably substantial." *Rodriguez Diaz v. Garland*, 53 F. 4th 1189, 1207 (9th Cir. 2022) (cleaned up). Deferred action status also confers on Petitioner the ability to obtain employment authorization and public benefits, which can lead to financial stability and less vulnerability to exploitation and abuse, which are also substantial interests.

105. Yet, despite deferral of removal against those with deferred action, under the De Facto Revocation policy, ICE imprisoned Petitioner with unrevoked deferred action status valid through September 26, 2026, in jail-like conditions pending removal proceedings. Because Defendants have not engaged in any effort to formally revoke Petitioner's deferred action status, he maintains authorized presence in the United States that prohibits his removal. Because civil immigration detention is only lawful if it is reasonably related to effecting a removal order, a policy of detaining people with deferred action for anything longer than the cursory period it takes to confirm such status violates their due process

rights. Here, Petitioner presented, to the ICE agents who arrested him, his valid employment authorization with a validity date through September 26, 2026, which indicates he is authorized to work based on Deferred Action.

106. Second, "the practice of automatic termination [of deferred action]" without any opportunity to be heard "creates an unacceptably high risk of erroneous deprivation." *Inland Empire*, 2018 WL 4998230, at * 19. Respondents provided Petitioner no process at all, and certainly no-predeprivation process before detaining him on January 13, 2026. Immigration judges do not have authority to grant or take away deferred action, and immigration courts have now taken the position that those who entered without inspection without immigration contact, like Petitioner, are ineligible for release from custody. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The risk of error is compounded because Respondents' stated goal is to accomplish "total" enforcement of immigration laws against "all" inadmissible and removable noncitizens, and their efforts to do so demonstrate little regard for an individualized determination regarding Petitioner's fitness to remain in the United States.

107. Civil confinement is only permissible "in certain special and narrow non-punitive circumstances," where a "special justification" asserted by the government "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (cleaned up).

108. The two traditionally accepted justifications for keeping someone in civil immigration custody do not warrant the imprisonment of Petitioner. "The first justification –preventing flight—is weak or nonexistent where removal seems a remote possibility." *Id.* at 679. By definition, the removal of someone with deferred action is necessarily "a remote possibility" until it is formally revoked. *Id.*

109. "Preventive detention based on the second justification—protecting the community—has been upheld only when limited to specially dangerous individuals subject to strong procedural protections. *Id.* Here, any such justification would be specious. By definition, as a deferred action grantee, Petitioner has passed background checks and has been vetted for national security and public safety risks as a necessary prerequisite to receiving deferred action. *See e.g.*, USCIS PM, vol. 3, pt. C, ch. 5. Furthermore, prior to being detained by Respondents, Petitioner was living free in the United States with Respondents' knowledge and approval. When DHS seeks to detain a noncitizen it has previously subjected to robust vetting and determined presents no security or flight risks by granting deferred action, it must provide the person first with a pre-detention hearing to prove changed circumstances that warrant civil incarceration.

110. Third, the government's interests in providing no process at all when revoking deferred action are insubstantial. "The fact that DHS' rules already provide for [] basic pre-deprivation protections in most circumstances" regarding revocation of deferred action for childhoold arrivals "reinforces both that the value of such safeguards is high, and that providing such limited process would not place undue fiscal or administrative burdens on the government." *Inland* Empire, 2018 WL 3998230, at * 19 n.8. Although it may impose "some costs in time, effort, and expense" to provide a notice and an opportunity to be heard regarding the revocation of deferred action, "these rather ordinary costs cannot outweigh the constitutional right" to due process." *Fuentes v. Shevin*, 407 U.S. 67, 92 n.22 (1972).

111. Respondents' decision to grant deferred action while simultaneously ignoring it entirely in order to detain people would also create the kind of "arbitrary imprisonment without law or the appearance of law" that violates due process. *Boumediene v. Bush*, 553 U.S. 723, 785 (1008).

112. Thus, Respondents cannot seek to revoke deferred action without explanation or process as it is a concrete entitlement Respondents have already bestowed upon Petitioner,

nor can they detain Petitioner without a pre-deprivation hearing at which Respondents provide notice and an opportunity to be heard regarding the revocation of deferred action status, and if revoked, at which Respondents then prove that Petitioner is sufficiently dangerous or a flight risk that detention is required.

Count IV – Violation of the INA and DHS Regulations: Request for Relief Pursuant to *Maldonado Bautista*

113. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

114. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

115. The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

116. The order granting class certification in *Maldonado Bautista* further orders that "[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole."

117. Respondents are parties to *Maldonado Bautista* and bound by the Court's final judgment declaring Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under § 1225(b)(2).

118. The final judgment in *Maldonado Bautista* also declares that, pursuant to DHS regulations, *see* 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a), are not subject to mandatory detention under § 1225(b)(2), and are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge.

119. The *Maldonado Bautista* Court further vacated the DHS policy described in the July 8, 2025, "Interim Guidance Regarding Detention Authority for Applicants for Admission" under the Administrative Procedure Act as not in accordance with law. 5 U.S.C. § 706(2)(A).

120. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA, federal regulations, and the Court's judgment in *Maldonado Bautista*.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three (3) days.

c. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;

d. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days, at which the government bears the burden to justify continued detention by clear and convincing evidence;

e. Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;

f. Declare that Respondents' conduct violates the Administrative Procedure Act, 5 U.S.C. §§ 702 and 706, as arbitrary, capricious, and not in accordance with law;

121. Issue an order enjoining Respondents from revoking Petitioner's Deferred Action status until pre-deprivation hearing at which Respondents provide notice and an opportunity to be heard regarding the revocation of deferred action status;

g. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

h. Grant any other and further relief that this Court deems just and proper.

DATED: January 14, 2026.

Respectfully submitted,

s/Mrynna Rutan
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Verification by Petitioner Pursuant to 28 U.SC. §2242

I am submitting this verification on behalf of Petitioner because I am his attorney. I have represented him since January 13, 2026. Since that date, I have discussed the events described in this Petition extensively with Petitioner's family, and have reviewed documents directly corroborating, the facts and statements in this Petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the dates and nature of the administrative proceedings, are true and correct to the best of my knowledge.

s/Mrynna Rutan
Mrynna Rutan

01/13/2026
Date