

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CARLOS ALBERTO DIONICIO CABRERA

Petitioner

v.

Case No.

**FIELD OFFICE DIRECTOR, Miami Field Office, ICE
Enforcement and Removal Operations; TODD LYONS,
Acting Director, U.S. Immigration and Customs
Enforcement; KRISTI NOEM, Secretary, U.S.
Department of Homeland Security; PAMELA J
BONDI, U.S. Attorney General;**

Respondents

**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF FOR AN ORDER TO SHOW CAUSE**

COMES NOW, Petitioner Carlos Alberto Dionicio Cabrera, by and through undersigned counsel, and petitions for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, and for declaratory and injunctive relief pursuant to 28 U.S.C. § 1331 and the Administrative Procedure Act, challenging his present detention by Immigration and Customs Enforcement (“ICE”). Petitioner is a beneficiary of a valid, unrevoked grant of deferred action issued by the Department of Homeland Security (“DHS”) under the U-visa framework and has complied for years with an ICE Order of Supervision. Nevertheless, ICE detained Petitioner without terminating deferred action, without revoking supervision, and without providing any process, in excess of its statutory authority and contrary to binding DHS determinations. This case does not seek review of a removal order; it challenges unlawful custody imposed in disregard of unrevoked humanitarian protections.

Petitioner therefore seeks immediate release, a stay of removal, and such further relief as justice requires

I. INTRODUCTION

1. Petitioner is a citizen and national of Guatemala and the beneficiary of a valid grant of Deferred Action issued by the U.S. Department of Homeland Security (“DHS”), through U.S. Citizenship and Immigration Services (“USCIS”), following USCIS’s determination that Petitioner established eligibility for U nonimmigrant status. *See* Exhibit A: I-797 Receipt for U-Visa; Exhibit B: I-797 Receipt for Waiver of Inadmissibility; Exhibit C: March 2, 2020, USCIS Notice Granting Deferred Action and placing Petitioner on the U-Visa waitlist; Exhibit D: Employment Authorization Document issued under category (c)(14) on February 2, 2022.

2. Approval of Deferred Action constitutes an affirmative determination by DHS to forbear from removal. As the Supreme Court has recognized, approval of Deferred Action means that “no action will thereafter be taken to proceed against an apparently deportable alien, even on grounds normally regarded as aggravated.” *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999) (citation omitted).

3. In addition to Deferred Action, DHS—through Immigration and Customs Enforcement (“ICE”) Enforcement and Removal Operations (“ERO”)—placed Petitioner on an Order of Supervision (“OSUP”), authorizing Petitioner’s release from custody subject to conditions. Exhibit E: Order of Supervision. Petitioner complied with all conditions of supervision.

4. Despite the continued validity of Petitioner’s Deferred Action and full compliance with the Order of Supervision, ICE detained Petitioner on January 12, 2026, in Miami Gardens, Florida while he was at work. *See* Exhibit E. Petitioner remains detained at the ICE Miramar Sub Office in Miramar, Florida.

5. ICE detained Petitioner without revoking Deferred Action, without providing notice of termination, and without revoking the Order of Supervision or affording any process required to revoke or modify supervision.

6. Petitioner challenges his detention as unlawful under the Immigration and Nationality Act (“INA”), 8 U.S.C. §§ 1101 et seq., applicable regulations, the Administrative Procedure Act (“APA”), and the Due Process Clause of the Fifth Amendment.

7. This case does not challenge the validity of a removal order. Rather, it challenges ICE’s detention and threatened removal of Petitioner in excess of statutory authority and in violation of constitutionally required process, where DHS has never revoked or terminated the determinations deferring Petitioner’s removal and authorizing his release.

8. Although ICE and USCIS are components of the same Department—DHS—ICE now seeks to disregard USCIS’s binding determination granting deferred action, as well as DHS’s own Order of Supervision, by subjecting Petitioner to unlawful custody and threatening removal. ICE may not ignore these determinations or treat detention as an implied revocation. Respondents’ failure to recognize Petitioner’s unrevoked deferred action and instead subject him to detention and threatened removal is contrary to law. Petitioner seeks immediate relief to prevent harm flowing from Respondents’ unlawful conduct.

9. ICE’s actions are arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law. Deferred action may be terminated only through lawful procedures; it has not been terminated here. ICE lacked authority to detain Petitioner in a manner that effectively nullifies deferred action and supervision without first lawfully revoking those grants and providing required process.

10. Petitioner respectfully requests that this Court grant a writ of habeas corpus, order his immediate release from unlawful custody and restraints on his liberty, stay removal, and grant such further relief as justice requires.

II. JURISDICTION

11. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

12. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal custody and challenges the legality of that custody and other significant restraints on his liberty, including detention, supervision, and the threat of removal. This Court also has jurisdiction under 28 U.S.C. § 1331 for claims arising under the Constitution and laws of the United States, including the Administrative Procedure Act.

13. Petitioner seeks relief under the Administrative Procedure Act (“APA”), which provides a cause of action for a person “adversely affected or aggrieved by agency action.” 5 U.S.C. § 702. The APA directs courts to hold unlawful and set aside agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” or taken “without observance of procedure required by law.” *Id.* § 706(2)(A), (D). The APA also authorizes courts to compel agency action unlawfully withheld or unreasonably delayed. *Id.* § 706(1).

14. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the Administrative Procedure Act, 5 U.S.C. § 701, et. seq., and the All Writs Act, 28 U.S.C. § 1651.

15. This Court is not deprived of jurisdiction by 8 U.S.C. § 1252, INA § 242. See e.g., *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) (finding that INA § 242 does not bar a claim challenging agency authority that does not implicate discretion). Generally, a narrower

construction of jurisdiction-stripping provision is favored over the broader one, as reflected by the “familiar principle of statutory construction: the presumption favoring judicial review of administrative action.” *Kucana v. Holder*, 558 U.S. 233, 251, 130 S. Ct. 827, 839 (2010). Absent “clear and convincing evidence” of congressional intent specifically to eliminate review of certain administrative actions, the above-cited principles of statutory construction support a narrow reading of the jurisdiction-stripping language of 8 U.S.C. § 1252(a)(2)(B)(ii). *Id.*, at 251-252. See also, *Geneme v. Holder*, 935 F.Supp.2d 184, 192 (D.D.C. 2013) (discussing *Kucana*’s citation to a presumption favoring judicial review of administrative action when the statute does not specify discretion.)

16. Petitioner does not challenge the decision to execute a removal order as a matter of discretion, but rather ICE’s lack of statutory authority to detain or remove a person whose removal has been affirmatively deferred by DHS and whose supervision has not been lawfully revoked.

17. 8 U.S.C. § 1252(a)(5), INA § 242(a)(5), provides that “a petition for review filed with an appropriate court of appeals in accordance with this section, shall be the sole and exclusive means for judicial review of an order of removal entered or issued under any provision of this Act[.]” As the present action does not seek review of a removal order, but challenges DHS/ICE’s unlawful detention and threatened removal of a person with unrevoked deferred action under the U visa program, this Court retains original jurisdiction under the APA, 28 U.S.C. § 2241, and 28 U.S.C. § 1331, and may provide declaratory relief under 28 U.S.C. § 2201.

III. VENUE

18. Venue is proper because Petitioner is detained at the ICE Miramar Sub Office in Miramar, Florida, which is within the jurisdiction of this District.

19. Venue is also proper in this District because Respondents are officers, employees, or agencies of the United States, and a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District. No real property is involved in this action. 28 U.S.C. § 1391(e).

**IV. REQUIREMENTS OF 28 U.S.C. § 2243 AND
APPLICATION FOR AN ORDER TO SHOW CAUSE**

20. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

21. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful restraints and confinement. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, 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).

22. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that the Court issue an order directing Respondents to show cause why the Petition should not be granted and why Respondents should not be ordered to release Petitioner from unlawful custody and restraints on his liberty.

23. Pending adjudication of these claims, Petitioner requests an order enjoining Respondents from transferring custody of Petitioner, removing him from the jurisdiction of the Miami Field Office of the Immigration and Customs Enforcement ("ICE") Office of Enforcement and Removal Operations ("ERO") and this District.

V. PARTIES

24. Petitioner is a resident of Homestead, Florida, where he resides with his U.S. citizen wife and two U.S. citizen children. Petitioner is currently in the custody of Respondents at the ICE Miramar Sub Office. Petitioner is the beneficiary of a valid grant of deferred action issued by USCIS on March 2, 2020, pursuant to his U-Visa application. Petitioner has also been on an ICE Order of Supervision since June 19, 2014. Notwithstanding Petitioner's grant of deferred action and Petitioner's full compliance with all supervision requirements, Respondents have detained Petitioner.

25. Respondent Field Office Director is the Field Office Director of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations ("ICE ERO"), Miami Field Office, and is the federal official with immediate custody of Petitioner and has the authority to release him.

26. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE") and is responsible for the nationwide administration and enforcement of ICE custody, supervision, detention, and removal policies, including policies governing Orders of Supervision and enforcement actions taken against individuals granted deferred action by DHS. Respondent Lyons is sued in his official capacity.

27. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). In this capacity, Respondent Noem is responsible for the administration and enforcement of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1103(a), and for oversight of DHS component agencies, including ICE and USCIS. Respondent Noem is responsible for ensuring that DHS components act in accordance with governing statutes, regulations, and DHS determinations, including grants of deferred action under the U-Visa

program. Respondent Noem is sued in her official capacity for purposes of declaratory and injunctive relief.

VI. LEGAL BACKGROUND

A. U Nonimmigrant Status and Deferred Action

28. On October 28, 2000, Congress created a new nonimmigrant visa classification, referred to as a U visa, through the passage of the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA). See Pub. L. No. 106-386, § 1513(a)(2)(B), 114 Stat. 1464, 1533 (codified at 8 U.S.C. § 1101(a)(15)(U)). The non-immigrant U-Visa allows undocumented non-citizens who were victims of qualifying crimes and who assisted in the detection, investigation, or prosecution of the qualifying criminal activity to apply for and receive a non-immigrant visa. 8 U.S.C. § 1101(a)(15)(U); *see also* 8 C.F.R. § 214.14(a)(5). Upon issuance, the U-Visa provides non-citizens with up to 4 years of non-immigrant status and work authorization. See 8 U.S.C. § 1184(p)(6). Moreover, upon residing in the United States in U nonimmigrant status continuously for three years, non-citizens may apply for permanent residency. See 8 U.S.C. § 1255(m).

29. In creating the U-Visa program, Congress sought to “strengthen the ability of law enforcement agencies to detect, investigate, and prosecute” certain serious crimes “while offering protection to victims of such offenses and keeping with the humanitarian interests of the United States.” See VTVPA Pub. L. No. 106-386, Title V § 1513(a), 114 Stat. 1464, 1533. By providing victims of crime with an avenue for gaining Lawful Immigration Status, the U-Visa encourages victims to cooperate with law enforcement agencies, thus strengthening relations between law enforcement and immigrant communities.

30. Individuals are eligible for U nonimmigrant status if they: (1) are the victim of qualifying criminal activity that occurred in the United States or its territories or possessions; (2)

have suffered substantial physical or mental abuse as a result; and (3) have been helpful to law enforcement in the detection, investigation, or prosecution of such criminal activity. See 8 U.S.C. § 1101(a)(15)(U).

31. Under 8 U.S.C. § 1182(d)(14), INA § 212(d)(14), U nonimmigrant applicants may apply for a waiver of any inadmissibility ground except those in 8 U.S.C. § 1182(a)(3)(B), INA § 212(a)(3)(E), which specifically include participants in Nazi persecutions, genocide, torture, or extrajudicial killing. This inadmissibility waiver for potential U non-immigrants is very generous and does not apply in most other Immigration petitions and applications. Moreover, the INA authorizes USCIS to grant an inadmissibility waiver for U nonimmigrants when a waiver would be in the “public or national interest.” Put another way, in granting any relief under the U-Visa program, USCIS makes certain findings to ensure that relief under this humanitarian form of relief is merited at all stages.

32. To apply for a U-Visa, a petitioner must file with USCIS (1) Form I-918, Petition for U nonimmigrant status; (2) Form I-918, Supplement B, a certification from a recognized law enforcement official confirming that the non-citizen has cooperated in the investigation or prosecution of criminal activity; and (3) a signed statement by the petitioner describing the facts of the victimization. The principal U visa petitioner may request that a qualifying family member, such as the petitioner, be included as a derivative applicant by filing a Form I-918, Supplement A. In addition to the U-Visa applications, applicants must also submit a request for a waiver of any ground of inadmissibility using Form I-192, Application for Advance Permission to Enter as a Nonimmigrant.

33. By statute, USCIS may not grant more than 10,000 principal U-Visas in any given fiscal year. See 8 U.S.C. § 1184(p)(2)(A). The statutory cap only applies to principal applicants,

not to derivative applicants. See 8 U.S.C. § 1182(p)(2)(B). This cap has been reached every year since at least 2010, resulting in a years-long backlog and waitlist.

34. To address the issue of the backlog, the law provides two interim forms of relief that USCIS will grant to Petitioners and their qualifying family members on the waitlist: (1) *temporary protection from removal while their petitions are pending, in the form of deferred action* or (2) parole, if the individual is outside of the United States. See 8 C.F.R. § 214.14(d)(2) (emphasis added). USCIS may, in its discretion, also grant these individuals an employment authorization document (“EAD”). See 8 C.F.R. § 214.14(d)(2).

35. Congress, on December 23, 2008, amended the Immigration statute to provide these added protections in the context of the Bona Fide Determination (“BFD”) by stating that the “Secretary [of DHS] may grant work authorization to any alien who has a pending, bona fide application for [U] nonimmigrant status.” 8 U.S.C. § 1184(p)(6), as amended by the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (“TVPRA”), P.L. 110-457, 122 Stat. 5044.

36. On June 14, 2021, USCIS announced that, pursuant to 8 U.S.C. § 1184(p)(6) it would begin a more streamlined process for issuing EADs to those victims who have pending U-Visa petitions, known as a “Bona Fide Determination” or BFD. USCIS Policy Alert PA-2021-13. See <https://www.uscis.gov/policy-manual/volume-3-part-c-chapter-5>

37. The BFD was designed to allow USCIS to make determinations on eligibility, including any issues of inadmissibility that could not be waived. Inherent in such a determination, then, is the notion that those with a BFD are presumed to have met their burdens for eligibility and for waivers of inadmissibility. This milestone grants deferred action and provides protection from removal while the application remains pending due to a lack of U visa availability because of the

statutory cap. *Espinoza Sorto v. Agudelo*, 2025 U.S. Dist. LEXIS 212217, 2025 WL 3012786, at *5 (S.D. Fla. Oct. 28, 2025); *Ayala v. Bondi*, No. 2:25-cv-01063, 2025 U.S. Dist. LEXIS 142123, 2025 WL 2084400, at *5 (W.D. Wash. July 24, 2025).

38. USCIS interprets “bona fide” as part of its administrative authority to implement the statute as outlined below. Bona fide generally means “made in good faith; without fraud or deceit.” Accordingly, when interpreting the statutory term within the context of U nonimmigrant status, USCIS determines whether a petition is bona fide based on the petitioner’s compliance with initial evidence requirements and successful completion of background checks. If USCIS determines a petition is bona fide, USCIS then considers any national security and public safety risks, as well as any other relevant considerations, as part of the discretionary adjudication. *See* <https://www.uscis.gov/policy-manual/volume-3-part-c-chapter-5>

39. As a primary goal, USCIS seeks to adequately evaluate and adjudicate petitions as efficiently as possible. The BFD process provides an opportunity for certain petitioners to receive EADs and deferred action while their petitions are pending, consistent with the William Wilberforce Trafficking Victims Reauthorization Act of 2008 (TVPRA 2008). *Id.*

40. USCIS has itself recognized that the BFD process is designed for “[o]nly petitioners living in the United States to receive BFD EADs, since those outside the United States cannot as a practical matter, work in the United States. Likewise, *deferred action can only be accorded to petitioners in the United States since those outside the United States have no potential removal to be deferred.*” *Id.* (emphasis added).

41. Under the regulations, an individual who has been granted certain relief, whether permanent or interim relief, is eligible to seek employment authorization. *See generally* 8 C.F.R. § 274a.12. Employment authorization is a permission that stems from the existence of certain

criteria; it does not create the criteria itself. Indeed, the regulation is plainly captioned to read “Classes of aliens authorized to accept employment”. In particular, with individuals like Petitioner, who have deferred action, their category to apply can be found at 8 C.F.R § 274a.12(c)(14). The regulations plainly indicate to use this category for “an alien granted deferred action,” not one who will be given such a grant at a future date. USCIS’s deferred-action notice authorizes Petitioner to seek employment authorization under 8 C.F.R. § 274a.12(c)(14).

42. While USCIS may terminate deferred action, it must do so through lawful procedures and consistent with applicable DHS policy, including providing notice where required. See USCIS Policy Manual, Vol. 3, Pt. C, Ch. 5.

43. The existence of a prior removal order is not a bar to either a U-Visa or a BFD grant. This is because the U-Visa program allows for the waiver of any ground of inadmissibility, including removals and re-entries. Furthermore, in order to be granted a BFD, USCIS would have to consider all inadmissibility grounds first. Finally, if USCIS has recognized that one benefit of a BFD grant is protection from removal, then the existence of a removal order would be contemplated in their policy. *See generally* USCIS Policy Manual Vol. 3, Part C <https://www.uscis.gov/policymanual/volume-3-part-c>

44. The U-Visa program clearly contemplates that removal orders, of any kind, can be waived as part of the application process and are not a bar to either the grant of the U-Visa or a grant of a BFD because as a form of humanitarian relief, the waivers offer generous safe havens to ensure the intent of Congress is not thwarted especially where it has acted so strongly in protecting vulnerable noncitizens. *See* 8 U.S.C. § 1101(a)(15)(U); *see also* 8 C.F.R. § 214.14, et al.

B. Order of Supervision

45. 8 U.S.C. § 1231 is the statute governing detention following a final order of removal (“post-order detention”). 8 U.S.C. § 1231 authorizes the detention of individuals following a final order of removal only under specifically delineated circumstances. First, 8 U.S.C. § 1231(a)(2) requires the detention of individuals during a 90-day statutory “removal period” during which time the government must secure the individual’s removal. *See* 8 U.S.C. § 1231(a)(1)(A).

46. The removal period begins on the latest of a list of three occurrences: (i) the date the administrative order becomes final, (ii) if the removal order is judicially reviewed and if the court orders a stay of the removal of the noncitizen, the date of the court’s final order or (iii) if the noncitizen is detained or confined (except under an immigration process), the date the noncitizen is released from detention or confinement. *See* 8 U.S.C. § 1231(a)(1)(B).

47. Similarly, the plain language of the statute contemplates three distinct instances when the removal period can be restarted. The Courts have recognized that one of the “triggering events” under 8 U.S.C. § 1231(a)(1)(B), *if it reoccurs*, can restart the removal period. *See Nay v. Napolitano*, 2013 U.S. Dist. Lexis 68607 *10 (“The only sensible reading of [§ 1231(a)(1)(3)] is that [ICE] is required to effectuate the removal within 90 days of certain events, but will have 90 days if another one of the designated events occurs at a later date.” and “removal period begins anew upon the happening of any of the events described in § 1231(a)(1)(B)”).

48. If the government fails to remove the individual during the 90-day removal period, 8 U.S.C. § 1231(a)(6) provides that the government may detain an individual or release her under terms of supervision under paragraph 3 of the subsection. *See* 8 U.S.C. § 1231(a)(6). (“An alien ordered removed who is [1] inadmissible . . . , [2] removable [as a result of violations of status requirements or entry conditions, violations of criminal law, or reasons of security or

foreign policy,] or [3] who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period and, if released, shall be subject to [certain] terms of supervision in paragraph (3).”).

49. Paragraph (3) provides that an individual who is not removed “shall be subject to supervision” under specific terms, including requirements that he or she appear periodically before an Immigration officer, obey any written restrictions, and other conditions. 8 U.S.C. § 1231(a)(3). *See also* 8 C.F.R. § 241.5 (providing specific conditions for release—involving but not limited to reporting requirements and travel document acquisition requirements—should an order of supervision be issued).

50. Furthermore, 8 U.S.C. § 1231(a)(7) provides that work authorization can be issued when the removal of an individual is impossible because of travel document-related issues or “otherwise impracticable or contrary to the public interest.” *See also* 8 C.F.R. § 274a.12(c)(18).

51. Release on an order of supervision is authorized by statute. *See* 8 U.S.C. § 1231(a)(3). An order of supervision may be revoked if an individual violates the terms of the order of supervision, on account of changed circumstances, or if there is now a significant likelihood that the individual may be removed in the reasonable future.” 8 C.F.R. 241.13(h)(4)(i)(2).

52. Notwithstanding the basis for revocation, the regulations also mandate certain procedures upon which revocation may occur. Specifically, the regulations state, “The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.

The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.” 8 C.F.R. 241.13(h)(4)(i)(3).

53. The Supreme Court has specifically determined that release from custody is appropriate whether removal is reasonably foreseeable or not. The Supreme Court has indicated:

“if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute. In that case, of course, the alien’s release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances, and the alien may no doubt be returned to custody upon a violation of those conditions. And if removal is reasonably foreseeable, the habeas court should consider the risk of the alien’s committing further crimes as a factor potentially justifying confinement within that reasonable removal period.

Zadvydas v. Davis, 533 U.S. 678, 699-700, 121 S. Ct. 2491, 2504 (2001).

VII. STATEMENT OF FACTS

54. Petitioner is the father of two United States citizen children and resides in Homestead, Florida, with his United States citizen wife. He has lived continuously in the United States since 2008 and has substantial family and community ties in Florida. Petitioner has no criminal history.

55. Petitioner first entered the United States in the early 1990s. On or about October 25, 1993, he was ordered deported and subsequently departed the United States.

56. Petitioner reentered the United States and was ordered removed on February 29, 2008. He reentered the United States on April 7, 2008, and has remained continuously present since that date.

57. On June 19, 2014, Petitioner was encountered and detained by Immigration and Customs Enforcement ("ICE"). That same day, ICE released Petitioner on an Order of Supervision. Exhibit E. Since his release, Petitioner has fully and successfully complied with all requirements of supervision, including attending all scheduled check-ins with ICE.

58. On August 25, 2017, Petitioner was the victim of extortion. Petitioner reported the crime and cooperated with law enforcement authorities in the investigation.

59. Thereafter, on July 10, 2018, Petitioner filed all required forms, supporting documentation, and fees seeking U non-immigrant status. Exhibit A. He disclosed all relevant information to the government, appeared for all scheduled appointments, and pursued his application in good faith. His filing included all necessary waiver applications to address grounds of inadmissibility arising from his prior unlawful presence and prior removal orders. Exhibit B.

60. On March 2, 2020, U.S. Citizenship and Immigration Services ("USCIS") determined that Petitioner established eligibility for U nonimmigrant status and granted him deferred action, placing him on the U-Visa waitlist. Exhibit C.

61. Following the grant of Deferred Action, Petitioner continued to comply with all requirements imposed by the Department of Homeland Security ("DHS"), including full compliance with his Order of Supervision.

62. Despite Petitioner's valid grant of Deferred Action, his lack of any criminal history, and his full compliance with all supervision requirements, ICE detained Petitioner on January 12, 2026, while he was at work.

63. At no point prior to Petitioner's detention did DHS revoke or terminate Petitioner's Deferred Action or Order of Supervision, nor did ICE provide Petitioner with notice, explanation, or any lawful justification for disregarding those determinations.

64. As a result of Respondents' actions, Petitioner remains detained and under the imminent threat of removal, notwithstanding DHS's prior determination that his removal should be deferred.

65. Respondents' continued detention of Petitioner is unlawful, arbitrary, and capricious, exceeds statutory authority, and violates the Immigration and Nationality Act, applicable regulations, the Administrative Procedure Act, and the Due Process Clause of the Fifth Amendment.

66. Absent intervention by this Court, Petitioner faces irreparable harm, including the unlawful deprivation of his liberty and separation from his United States citizen wife and children, despite DHS's express determination that he merits Deferred Action and protection from removal.

IX. CLAIMS FOR RELIEF

Count I - Violation of Fifth Amendment Rights to Due Process

67. Petitioner realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

68. The Fifth Amendment to the United States Constitution prohibits the federal government from depriving any person of liberty without due process of law. These protections apply to noncitizens present in the United States.

69. Petitioner is the recipient of a grant of deferred action issued by U.S. Citizenship and Immigration Services (“USCIS”) pursuant to the U-Visa statutory and regulatory framework. That determination confers protection from removal while Petitioner’s application remains pending and authorizes eligibility for ancillary benefits under DHS regulations.

70. The grant of deferred action gives rise to a protected liberty interest, including the right to remain in the United States free from removal and custodial restraints inconsistent with that grant, unless and until it is lawfully modified or revoked.

71. Petitioner fully complied with all requirements imposed by DHS and was never provided notice of any deficiency, concern, or intent to revoke or terminate his deferred action.

72. Notwithstanding the valid and unrevoked deferred action, Respondents have acted to disregard and nullify that determination by subjecting Petitioner to unlawful detention.

73. Respondents’ actions constitute a de facto termination of Petitioner’s deferred action without adherence to required procedures. Agencies may not ignore or nullify binding determinations without following their own rules. *United States ex rel. Accardi v. Shaughnessy* (“*Accardi*”), 347 U.S. 260, 74 S. Ct. 499, 98 L. Ed. 681 (1954).

74. Procedural due process requires, at minimum, notice and an opportunity to be heard before the government deprives an individual of a protected liberty interest. *Mathews v. Eldridge*, 424 U.S. 319, 332–35 (1976). Here, Respondents provided no process whatsoever, creating an extreme risk of erroneous deprivation.

75. Petitioner has a substantial liberty interest in remaining free from unlawful Immigration detention and from custodial restraints imposed contrary to DHS's unrevoked deferred action and release determinations.

76. Respondents provided Petitioner no notice, no statement of reasons, and no meaningful opportunity to respond before taking action that effectively deprived him of the benefit of deferred action and supervision through detention and threatened removal.

77. Under *Mathews v. Eldridge*, the private interests at stake are profound, the risk of erroneous deprivation is high where no process is provided, and the government's burden in providing notice and a meaningful opportunity to respond is minimal because DHS maintains established procedures for terminating or modifying benefits and supervision.

78. Respondents' failure to provide constitutionally required process before depriving Petitioner of liberty violated the Due Process Clause of the Fifth Amendment.

Count II -Violation of 8 U.S.C. § 1101(a)(15)(U) and Implementing Regulations

79. Petitioner realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

80. Congress enacted the U nonimmigrant visa statute, 8 U.S.C. § 1101(a)(15)(U), and its implementing regulations to protect victims of qualifying crimes who cooperate with law enforcement and to ensure that such individuals are not removed from the United States while their petitions are pending.

81. Pursuant to statute and regulation, USCIS may grant deferred action to eligible U-Visa petitioners on the waiting list due to the statutory cap, which defers removal while petitions

remain pending and authorizes eligibility for ancillary benefits, including employment authorization, consistent with deferred-action status.

82. Petitioner received a facially valid and unrevoked grant of deferred action from U.S. Citizenship and Immigration Services (“USCIS”). Respondents’ refusal to recognize and honor that determination—while simultaneously subjecting Petitioner to detention and threat of removal—directly contravenes the U-Visa statute and its implementing regulations.

83. Deferred action under the U-Visa framework necessarily applies to individuals present in the United States. The purpose of deferred action is to defer removal, and the statutory and regulatory scheme presupposes the beneficiary’s presence in the United States while the petition is adjudicated. Respondents’ actions treating Petitioner as subject to removal notwithstanding his deferred action are inconsistent with the structure and purpose of the statute.

84. By disregarding USCIS’s binding determination and subjecting Petitioner to detention and threats of removal absent lawful revocation of deferred action, Respondents acted without statutory authority and in violation of 8 U.S.C. § 1101(a)(15)(U) and its implementing regulations.

85. Respondents’ actions unlawfully undermine the protections Congress afforded to U-Visa petitioners and render Petitioner’s custody and threatened removal contrary to law, entitling Petitioner to relief under 28 U.S.C. § 2241.

Count III-Violation of the Administrative Procedure Act

86. Petitioner realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

87. Under the APA, final agency action for which there is no other adequate remedy in court is subject to judicial review. 5 U.S.C. § 704.

88. The reviewing court “shall [...] hold unlawful and set aside agency action, findings, and conclusions found to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” or “unsupported by substantial evidence.” 5 U.S.C. § 706(2)(A).

89. Respondents’ detention of Petitioner constitutes final agency action because it marks the consummation of ICE’s decision-making process and determines Petitioner’s legal rights and obligations.

90. Petitioner’s detention is unlawful.

91. To the extent Respondents claim detention authority under 8 U.S.C. § 1231, Petitioner was previously released under an Order of Supervision and remained compliant with all conditions. Respondents lacked a lawful basis to revoke supervision and re-detain Petitioner without following required procedures.

92. Assuming, *arguendo*, that Respondents revoked Petitioner’s Order of Supervision, any such revocation occurred without the notice and opportunity to respond required by governing DHS regulations and procedures.

93. Moreover, the Respondents have ignored the deferred action grant that prevents the Petitioner’s deportation, and this is arbitrary, capricious, an abuse of discretion, and not in accordance with the law.

X. PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Honorable Court:

1. Assume jurisdiction over the matter;

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

3. Enjoin Respondents from transferring custody of Petitioner, removing him from the Southern District of Florida pending final resolution of this case;

4. Declare that Respondents' refusal to recognize and give effect to Petitioner's valid grant of deferred action issued by USCIS violates the APA, 8 U.S.C. § 1101(a)(15)(U), and its implementing regulations;

5. Declare that Respondents' detention violates the APA, Due Process Clause of the Fifth Amendment, the INA, and its implementing regulations;

6. Declare that the Respondent's deportation of Petitioner would violate the APA, Due Process Clause of the Fifth Amendment, the INA, and its implementing regulations;

7. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;

8. Enjoin Respondents from detaining or removing Petitioner in contravention of his unrevoked deferred action, unless and until such deferred action is lawfully revoked in accordance with governing law;

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

10. Grant any further relief this Court deems just and proper.

Dated: January 14, 2026.

Respectfully submitted,

/s/ Jose L. Flores

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Attorneys for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner, because I am Petitioner's attorney. I have discussed with the Petitioner and his wife the facts described in this petition. Based on those discussions, I hereby verify that the factual statements in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed this 14th day of January 2026.

/s/ Jose L. Flores
Jose L Flores

Attorney for Petitioner