

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Charnjit SINGH,

Petitioner,

v.

DAVID EASTERWOOD, *et al.*,

Respondents.

Civil Action No. 26-926

**PETITIONER'S BRIEF IN
SUPPORT OF PETITIONER'S
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

I. INTRODUCTION

Charnjit SINGH hereinafter "Charnjit" respectfully moves this Court for a temporary restraining order (TRO) and preliminary injunction pending the adjudication of his Petition for a Writ of Habeas Corpus. More than twenty years ago, Charnjit came to the United States. Now, a husband and father to three U.S. citizen children, Charnjit is a vital part of his family.

Charnjit arrived in the United States at a very young age. Since his arrival, Charnjit has built a beautiful life for himself here. Charnjit married a U.S. citizen and had three U.S. citizen children. In 2015, Charnjit was the victim of felony level assault when he was held at gunpoint and robbed outside his friend's residence. *See Exhibit C – U-Visa Petition.* On April 25, 2018, Charnjit applied for a U-Visa, and after waiting over six years, was issued a Bona Fide determination with a grant of deferred action on July 30, 2024. *See Exhibit A – Bona Fide determination with Deferred Action.*

In granting Petitioner deferred action, Respondents – in full possession of Petitioner’s personal, immigration, and criminal history – have determined that they will not deport him. Despite his grant of deferred action, ICE arrested Charnjit on January 31, 2026. Charnjit was not provided proof of termination of the deferred action or an ICE warrant. According to counsel’s knowledge and belief, Charnjit is currently detained at ERO El Paso Camp East Montana. Charnjit’s grant of deferred action has yet to be terminated by DHS and thus Charnjit’s detention and any actions toward executing his removal are unlawful.

Charnjit moves for a temporary restraining order and preliminary injunction and requests the Court to order that Respondents refrain from taking any additional actions toward effectuating Charnjit’s removal from the United States until a decision has been made on his Petition for a Writ of Habeas Corpus challenging his unlawful detention.

II. LEGAL BACKGROUND

Petition for Writ of Habeas Corpus

Please review the Petition for Writ of Habeas Corpus filed with this court on February 1, 2026, for the relevant legal basis for the petition. Petitioner asserts by reference the legal arguments raised in the petition.

III. STATEMENT OF FACTS

Entering the United States

Petitioner Charnjit Singh is a native and citizen of India. *See* Exh. C. Petitioner has resided in the U.S. since March 1999, entering at the age of 17. *Id.* Petitioner has remained in the U.S. continuously since the initial entry. *Id.*

Removal Proceedings

In May 2003, Petitioner was issued an order of removal in San Francisco, CA. *See* Exh. E – Automated Case Information. To date, that order has not been executed by Respondents.

Family

On August 14, 2005, Petitioner married his now wife, who is a U.S. citizen. *See* Exh. C. Petitioner has four U.S. citizen children, [REDACTED] (15), [REDACTED] (9), and [REDACTED] (7). *Id.*; *see also* Exh. F (Certificate of Birth, [REDACTED] Singh).

U-Visa

In 2015, Charnjit was the victim of felony level assault when he was held at gunpoint and robbed outside his friend's residence. *See* Exhibit C. On April 25, 2018, Charnjit applied for a U-Visa, and after waiting over six years, was issued a Bona Fide determination with a grant of deferred action on July 30, 2024. *See* Exhibit A.

Arrest and Detention

On January 31, 2026, despite his grant of deferred action, Charnjit was detained by ICE. *See* Ex. G (Statement of Lauren Lowry, Attorney for Petitioner). Charnjit was held at

the Bishop Henry Whipple building from January 31, 2026, until February 1, 2026, when he was transferred to the ERO El Paso Camp East Montana. *Id.* Charnjit's location is still not available in the ICE Detainee Locator. *Id.*

IV. STANDARD OF REVIEW

When considering a motion for a Temporary Restraining Order and a preliminary injunction, courts consider the following four factors: “(1) the threat of irreparable harm to the movant; (2) the state of balance between this harm and the injury that granting the injunction will inflict on other parties litigant; (3) the probability that movant will succeed on the merits; and (4) the public interest.” *Dataphase Sys., Inc. v. C L Sys., Inc.*, 640 F.2d 109, 114 (8th Cir. 1981) (en banc). The standard for a TRO is the same standard for motions for preliminary injunction. *See Tumey v. Mycroft AI, Inc.*, 27 F.4th 657, 665 (8th Cir. 2022). No single factor is dispositive; courts “flexibly weigh the case’s particular circumstances to determine whether the balance of equities so favors the movant that justice requires the court to intervene.” *Hubbard Feeds, Inc. v. Animal Feed Supplement, Inc.*, 182 F.3d 598, 601 (8th Cir. 1999) (quoting *United Indus. Corp. v. Clorox Co.*, 140 F.3d 1175, 1179 (8th Cir. 1998)). When the government is the opposing party, the balancing of equities and public interest factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). The moving party bears the burden to establish these factors. *See, e.g., Watkins Inc. v. Lewis*, 346 F.3d 841, 844 (8th Cir. 2003).

V. ARGUMENT

A. Charnjit is likely to succeed on the Petition for a Writ of Habeas Corpus.

As discussed in Charnjit's previously submitted Petition for a Writ of Habeas Corpus, Respondents have unlawfully detained Petitioner. *See* Petition for a Writ of Habeas Corpus. Charnjit has been issued a Bona Fide determination on his U-Visa petition with a grant of deferred action for a period from February 27, 2025, until February 26, 2029. Exh. B. "Deferred action is a form of prosecutorial discretion to defer removal action (deportation) against an alien for a certain period of time. Aliens granted deferred action are considered to be in a period of stay authorized under USCIS policy for the period deferred action is in effect." Petition.

Multiple Courts – including this Court – have determined that absent clear evidence of the termination of deferred action, immediate release is appropriate because Respondents cannot remove non-citizens who are the beneficiaries of deferred action. *See Victor G. v. Lyons*, No. 26-cv-119 (ECT/SGE) (D. Minn Jan. 17, 2026) (2026 LX 86558) *citing M.M. v. Shea*, No. 25-cv-2830 (LMP/ECW) (D. Minn. Aug. 1, 2025), ECF No. 24 at 2-5; *Cruz v. English* No. 3:25-cv-919-CCB-SJF (N.D. Ind. Dec. 18, 2025), 2025 U.S. Dist. LEXIS 261680; *Jurado v. Freden*, No. 25-cv-943-LJV (W. D. NY Dec. 19, 2025), 2025 U.S. Dist. LEXIS 262846.

In granting Petitioner deferred action, Respondents – in full possession of Petitioner's personal, immigration, and criminal history – have determined that they will not deport him. *See Espinoza-Sorto v. Agudeldo*, No. 1:25-cv-23201-GAYLES, 2025 U.S.

Dist. LEXIS 212217 (S.D. Fla. Oct. 28, 2025); *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484, 119 S. Ct. 936 (1999).

Respondents are legally prohibited from removing Petitioner while he remains a beneficiary of deferred action with employment authorization through February 26, 2029. Therefore, 8 U.S.C. § 1231 does not authorize detention of Petitioner as removal is no longer likely to occur in the reasonably foreseeable future, and Petitioner's continued detention is unlawful. Given this, Petitioner will likely succeed on his Petition for a Writ of Habeas Corpus.

B. Charnjit, his wife, and their children will suffer irreparable harm if Respondents are permitted to move forward with removal while a decision has yet to be made on the Petition for a Writ of Habeas Corpus.

Respondent DHS is currently moving forward with removal operations against Charnjit despite Petitioner's grant of deferred action and the Petition pending before this court. Should DHS continue with removal operations, Charnjit would be removed without adjudication of the Petition that would grant him immediate release and the possibility to remain outside custody for the period of his deferred action while awaiting the issuance of his U-Visa. If Charnjit were to be deported while the Petition remains pending, he could be separated from his family for years, even though he has a U-Visa Bona Fide determination and is close to a visa being available and issued to him.¹

¹ On April 25, 2018, Charnjit applied for a U-Visa. *See* Exh. A. As of October 1, 2025, USCIS resumed approving eligible petitions starting with petitions filed on or before April 30, 2017. Exh. D (USCIS I-918 Alert). Thus, Charnjit is closer than ever to a visa being available and his U-Visa petition being approved.

Charnjit is married to a U.S. citizen and is the father of three U.S. citizen children, three of whom are minors. Ex. C; Ex. F. Applicant and his wife, Gretchen, have been married for over twenty years. *See* Ex. C. Charnjit often cares for his children while Gretchen is at work, and the children “would be devastated if they couldn’t be with [Charnjit] everyday.” Ex. C. Separation would cause “sadness, stress, and possibly attachment difficulties with [the] children.” *Id.*

The loss of liberty itself “is a paradigmatic example of potential irreparable harm.” *Lopez de La Cruz v. Noem*, No. C25-150-LTS, 2025 WL 3110876, at *5 (N.D. Iowa Oct. 20, 2025) (quoting *Barrajas v. Noem*, No. 4:25-CV-00322, 2025 WL 2717650, at *6 (S.D. Iowa Sept. 23, 2025)); *see also* *Matacua v. Frank*, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018); *Hernandez Marcelo v. Trump*, No. 3:25-CV-00094-RGE-WPK, 2025 WL 2741230, at *10 (S.D. Iowa Sept. 10, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), 2025 WL 2466670, at *6 (D. Minn. Aug. 27, 2025). Moreover, courts in the Eighth Circuit have found irreparable harm where, as here, challenged conduct will cause a movant’s family to suffer. *See, e.g., Awnuh v. Pub. Hous. Agency of City of Saint Paul*, No. 19-CV-2765 (ECT/TNL), 2019 WL 6492465, at *7 (D. Minn. Dec. 3, 2019) (finding irreparable harm where “being forced to move from the apartment where [Petitioner’s] family has lived for 14 years would be detrimental to his children’s stability. . .”); *see also Brandt v. Rutledge*, 551 F. Supp. 3d 882, 892 (E.D. Ark. 2021), *aff’d sub nom*, 47 F.4th 661 (8th Cir. 2022) (“Parent Petitioners face the irreparable harm of having to watch their children experience physical and emotional pain . . .”).

Charnjit's case is akin to the kind of suffering in *Awnuh* as without Charnjit's contributions to the family, the family would most likely be forced to leave their home. *See* Exh. C. Gretchen states "our children would go from living in our humble home to moving into something smaller and possibly government assisted housing." *Id.* [REDACTED], an already extremely shy child, would be relocated away from his neighborhood friends. *Id.* Additionally, Charnjit's wife, Gretchen, would be left to care for the three children on her own, forcing her to place them in childcare, adding yet another unconscionable expense to her plate. *Id.* Furthermore, Charnjit is a wonderful father and the rock of his family. *See* Exh. C. Applicant's U.S. citizen children, [REDACTED] (15), [REDACTED] (9), and [REDACTED] (7), will suffer greatly without him around. *Id.*

Charnjit has been issued a U-Visa Bona Fide determination with a grant of deferred action. Should he be removed before a decision on his Petition, Charnjit could be robbed of the opportunity to remain with his young family outside of custody for the duration of his grant of deferred action and while awaiting the issuance of his U-Visa. Without immediate intervention, Charnjit, his U.S. citizen wife, and their U.S. citizen children will suffer legally, physically, psychologically, emotionally, and spiritually. As Charnjit's wife states, "basically our whole world would drastically change" if Charnjit were removed from the U.S. Exh. C. She asks, "What good would come from breaking apart family?" *Id.*

C. The balance of harms and the public interest favor a grant of the temporary restraining order and preliminary injunction.

The final two factors for injunctive relief—the balance of hardships and public interest—"merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S.

418, 435 (2009). Here, Petitioner faces weighty hardships, namely the deprivation of his liberty, separation from his family, and removal to India where he may face significant persecution. Respondents, by contrast, face no hardship. A decision on the Petition is likely to be issued within a number of weeks, and staying Petitioner's removal during this time would not cause Respondents great hardship. Further, "[T]he balance of hardships tips decidedly in plaintiffs' favor" when "[f]aced with such a conflict between financial concerns and preventable human suffering." *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017) (quoting *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983)).

The "public interest is best served by ensuring the constitutional rights of persons within the United States are upheld." See *Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). As discussed in the Petition, the abrupt detention without bond of Petitioner likely violated federal law and his due process. "There is generally no public interest in the perpetuation of unlawful agency action," and "there is a substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations." *League of Women Voters of United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016) (cleaned up). Here, Petitioner's continued detention without bond is in violation of his Fifth Amendment rights and far outweighs any burden the Respondents would suffer.

Additionally, Petitioner has never been convicted of any violent crimes, he is not a flight risk, and he poses no security risk to the United States. Petitioner fled India at a very young age and has been living in the United States since he was seventeen years old. Thus, in a balancing of the harms, Petitioner and his U.S. citizen wife and children are clearly

much more at risk of serious harm were Petitioner to be sent back to India without adjudication of the Petition, than the government can show for the very low level of public safety danger Petitioner represents if he is allowed to stay through the adjudication of the petition.

Charnjit is also not a flight risk. Charnjit has significant ties to this country, including a U.S. citizen wife and U.S. citizen children. He has been granted deferred action and is awaiting a final adjudication of his U-Visa, which should be issued precipitously given that USCIS began issuing visas for petitions filed in 2017, just one year prior to Petitioner's in October 2025. *See supra*. The U-Visa will give him a path to permanently remain in the United States with his family. Petitioner is a committed husband and father and is steadfast in his desire to remain reunited with his family in the United States.

Because removal without a final decision on the Petition threatens far more harm to Charnjit than the delay threatens the government, and because there is a strong public interest in a government that abides by the law, the balance of equities weighs heavily in favor of granting of the TRO and preliminary injunctive relief that would prevent removal until the adjudication of the Petition for a Writ of Habeas Corpus.

VI. CONCLUSION

Charnjit has demonstrated a strong likelihood of success on the merits, irreparable harm, and the balance of equities in his favor. *Dataphase Sys.*, 640 F.2d at 114. Accordingly, Charnjit seeks an immediate TRO and preliminary injunction that includes the following conditions:

- (i) DHS is enjoined from removing Petitioner from the United States

until his Petition for a Writ of Habeas Corpus has been fully decided.

Respectfully submitted,

Dated:
February 4, 2026

/s/ Lauren Lowry
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CERTIFICATE OF SERVICE AND COMPLIANCE

I certify that this memorandum complies with the requirements of LR 7.1(f) and LR 7.1(h). It contains 2,610 words, as counted through Microsoft Word Version 2510 and applied to include all text, headings, footnotes, and quotations.. I certify that on February 4, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to counsel for Respondents. I also provided a copy of this pleading to the U.S. Attorney's Office by electronic mail.

/s/ Lauren Lowry
LAUREN LOWRY
Counsel for Petitioner