

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

| | | |
|---|---|------------------------|
| Walter Acuna Cruz, |) | |
| Petitioner |) | |
| |) | REQUEST FOR RECONSIDER |
| |) | OF BRIEFING SCHEDULE |
| v. |) | |
| |) | CASE No: 0:26-cv-01393 |
| David Easterwood, Director of St. Paul |) | |
| Enforcement and Removal Operations, |) | |
| Immigration and Customs Enforcement; |) | |
| Kristi Noem, Secretary of the Department |) | |
| Homeland Security; Mike Stasko, |) | |
| Administrator of the Freeborn County |) | |
| Jail; Todd Lyons, Acting Director, U.S. |) | |
| Immigration and Customs Enforcement; |) | |
| Pamela Bondi, Attorney General of the |) | |
| United States, and Joseph Edlow, Director |) | |
| United States Citizenship and in their |) | |
| official capacities. |) | |
| Respondents. |) | |

**REQUEST FOR RECONSIDERATION OF BRIEFING SCHEDULE AND
REQUEST FOR IMMEDIATE EXPEDITED RELIEF**

Petitioner, Walter Acuna Cruz (“Walter”), through undersigned counsel, respectfully moves this Court for reconsideration of the briefing schedule recently entered on Walter’s emergency motion for temporary restraining order relief. Firstly, Walter appreciates the Court’s prompt attention to the matter, however, the current briefing schedule will substantially prejudice Walter and will effectively permit Respondents to continue unlawful detention without required process during a critical and time-sensitive period. Walter’s biometrics appointment is one (1) of the urgencies in

this matter, however, other competing (and arguably more compelling) issues exist in the TRO which warrant the Court's immediate relief.

This case arises in the context of Respondents' ongoing post-final-order detention of Walter and their continuing refusal to comply with the regulatory custody review requirements governing such detention, as the Court is familiar with. *See Acuna Cruz v. Berg, et al.*, No. 0:25-cv-04720 (D. Minn.); *Acuna Cruz v. Berg, et al.*, No. 0:25-cv-04376 (D. Minn.).

I. RECONSIDERATION IS WARRANTED BECAUSE THE BRIEFING SCHEDULE CREATES ONGOING IRREPARABLE HARM

Walter is currently ninety-two (92) days post-final order, and Respondents continue to detain him without issuing the custody determinations required by DHS's own regulations. *See* 8 C.F.R. §§ 241.4, 241.13. On January 19, 2026, Walter formally requested post-order custody review and release under the *Zadvydas* framework and the regulatory custody review scheme. Respondents were required to issue a response within ten (10) days. *See* 8 C.F.R. § 241.13(e). Instead, more than twenty-six (26) days have elapsed without any legally sufficient custody determination or written decision. Even allowing for the mandatory period to elapse, Respondents are unresponsive (counsel has attempted to prompt response from Respondents more than 30 times in the preceding 48 hours through email and calls to various parties at Respondents' offices) and continue to fail to undertake the required custody review and release given that removal is not reasonably foreseeable.

Respondents' failure to comply with these mandatory regulatory requirements is not a mere technical defect. It is a continuing deprivation of liberty without lawful process. *See Zadvydas v. Davis*, 533 U.S. 678, 699–701 (2001).

II. A BRIEFING SCHEDULE PROVIDES RESPONDENTS ADDITIONAL TIME TO CONTINUE UNLAWFUL DETENTION IN VIOLATION OF THE CFR

The Court's issuance of a briefing schedule, while ordinarily appropriate, has the practical effect here of authorizing continued unlawful detention by delay. Respondents have already demonstrated a consistent pattern of resisting compliance with their custody review obligations and have refused to provide meaningful review despite repeated requests.

Moreover, Respondents have renewed their refusal to facilitate any mechanism by which Walter may comply with USCIS biometrics requirements for his pending U visa and related relief. Walter will submit correspondence reflecting that Respondents have repeatedly taken the position that USCIS should simply "obtain" or "share" biometrics already held by ICE, rather than facilitating any workable process. See Exhibit A (ICE email correspondence from Congress). While Walter recognizes such correspondence is not formal evidence, it is nonetheless probative of Respondents' consistent position and refusal to act, and it demonstrates that further delay will not produce compliance.

Likewise, Walter will submit USCIS correspondence confirming that USCIS will not reschedule Walter's biometrics appointment based on detention, and will not accept detention as "good cause" for failure to appear. See Exhibit B (USCIS email

correspondence). This same correspondence chain reflects that counsel requested USCIS to reschedule due to Walter's detention and further requested that USCIS obtain biometrics information from ICE; USCIS refused. *Id.*

The Court therefore faces no genuine uncertainty that can be resolved through extended briefing. Respondents' position is fixed, and USCIS has already confirmed its own refusal in writing.

III. THE FEBRUARY 17, 2026, BIOMETRICS APPOINTMENT MAKES EXPEDITED RELIEF ESSENTIAL

Walter has a USCIS biometrics appointment scheduled for February 17, 2026. This date imposes a narrow window in which meaningful relief can be granted.

Even if Walter were released shortly before February 17, release on February 16 or February 17 would not provide Walter a meaningful opportunity to attend the appointment. Walter must secure transportation, coordinate housing and supervision logistics, and ensure compliance with appointment requirements. Respondents have demonstrated throughout this litigation that they frequently act at the last possible moment, and any release ordered on the eve of the appointment would predictably be executed in a manner that undermines Walter's ability to appear.

Thus, the Court's relief must occur sufficiently in advance of the appointment date to ensure that Walter has a realistic opportunity to comply. The harm of delay is irreparable: if Walter is unable to appear, he faces denial of victim-based immigration

relief not due to statutory ineligibility, but because the Government has made compliance practically impossible.

IV. REGULATORY CUSTODY REVIEW DOES NOT CURE THE CORE UNLAWFULNESS OF CONTINUED DETENTION

Respondents may argue that they require additional time to conduct custody review under 8 C.F.R. §§ 241.4 and 241.13. But even if Respondents belatedly undertake the required regulatory review, that does not cure the underlying constitutional and statutory problem, which Respondents have been on notice of arguably since November 2025, when Walter filed a different habeas on similar matters. *See Acuna Cruz v. Berg, et al.*, No. 0:25-cv-04720 (D. Minn.).

Walter is a Special Immigrant Juvenile Status (“SIJS”) beneficiary with deferred action, and the record demonstrates substantial legal barriers to removal. Multiple courts have held that detention becomes unlawful where SIJS and deferred action prevent removal in the reasonably foreseeable future. *See, e.g., Primero v. Mattivelo*, No. 1:25-cv-11442-IT, 2025 WL 1899115, at *5 (D. Mass. July 9, 2025); *Sepulveda Ayala v. Bondi*, No. 2:25-cv-01063-JNW-TLF, 2025 WL 2209708, at *4 (W.D. Wash. Aug. 4, 2025); *Forsah R-Z v. Noem*, No. 1:26-cv-00828-DJC-AC, 2026 WL 310069 (E.D. Cal. Feb. 5, 2026). There is no reason that Walter should not be granted the same legal protections as these other Special Immigrant Juveniles who have the same issue with the Respondents, and in fact, these cases are further evidence that Walter will simply continue to remain in delayed, indefinite and unlawful custody until the Court provides relief.

Respondents have never produced evidence of lawful termination of Walter's SIJS-related deferred action, nor have they identified any "good and sufficient cause" to revoke Walter's SIJS petition. See 8 U.S.C. § 1155; 8 C.F.R. § 205.2.

Accordingly, the core legal defect remains unchanged: detention is continuing even though removal is not reasonably foreseeable within the meaning of *Zadvydas*. Under *Zadvydas*, where there is no significant likelihood of removal in the reasonably foreseeable future, continued detention is not authorized. 533 U.S. at 699–701.

Thus, Respondents should not be granted additional time under the guise of briefing to continue detention that is already indefinite and unlawful and which they refuse to produce any sort of response as to when it will end.

V. THE COURT HAS AUTHORITY TO PROVIDE IMMEDIATE RELIEF

This Court has authority under 28 U.S.C. § 2241 to remedy ongoing unlawful detention. Where a Petitioner is being detained in violation of the Constitution, federal statutes, or binding agency regulations, the Court may grant immediate habeas relief, including release. See *Zadvydas*, 533 U.S. at 699–701; see also *Ferreira v. Lyons*, No. 25-cv-13809-MJJ, slip op. at 4 (D. Mass. Jan. 26, 2026).

Given the imminence of the biometrics appointment and Respondents' continuing refusal to comply with the custody review framework, as well as the significant harm that this 599 days of custody has brought to Walter, it is respectfully submitted that the present

briefing schedule will cause concrete harm and will allow Respondents to continue unlawful detention without consequence.

VI. RELIEF REQUESTED

For the foregoing reasons, Walter respectfully requests that the Court reconsider the briefing schedule and grant immediate expedited relief. Specifically, Walter requests:

1. That the Court vacate or shorten the briefing schedule; and
2. That the Court enter immediate interim relief sufficient to prevent irreparable harm to Walter, including release under appropriate conditions of supervision.

Respectfully Submitted,

/s/ Stacey R. Rogers
Stacey R. Rogers (WSBA 61754)
SRR Law Group LLC
600 25th Avenue S, Ste 201
St. Cloud, MN 56301
(507) 271-9405
stacey@srrlawgroup.com
Attorney for the Petitioner