

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 26-cv-01393-SRN-LIB

WALTER A.,

Petitioner,

**FEDERAL RESPONDENTS'
AMENDED RESPONSE TO
HABEAS PETITION AND
RESPONSE TO MOTION
FOR RESTRAINING ORDER
AND PRELIMINARY
INJUNCTION**

v.

NOEM, et al,

Respondents.

Petitioner Walter A. is an alien held in civil immigration detention who brings this Motion for Temporary Restraining Order and Preliminary Injunction to prevent the termination of Petitioner's Deferred Action. First, Deferred Action has already been terminated, and this motion is therefore moot. Second, alternatively, U.S. Citizenship and Immigration Services grants and revokes solely as matter of prosecutorial discretion. The Court should therefore deny the motion.

STATEMENT OF THE RELEVANT FACTS

The material facts are not in dispute. DHS took Petitioner into custody following his second arrest for DWI. Petitioner has a final removal order. Petitioner has Special Immigrant Juvenile Status (SIJS). USCIS granted petitioner deferred action pending SIJS on February 11, 2025. On November 13, 2025, Petitioner became subject to a final removal

order. And Petitioner's deferred action, granted due to his SIJS, was terminated on February 19, 2026.

ARGUMENT

I. PETITIONER'S MOTION IS MOOT.

Petitioner's request for a temporary restraining order or preliminary injunction is moot. Simply put, it is no longer possible for this Court to provide Petitioner with the relief sought because USCIS has already terminated his deferred action. (ECF 23).

A party's pursuit of preliminary injunctive relief becomes moot when "it is no longer possible for the grant or denial of preliminary injunctive relief . . . to have any meaning." *Forbes v. Ark. Educ. Television Commc'n Network Found*, 982 F.2d 289, 290 (8th Cir. 1992) (denial of motion for preliminary injunction related to televising debate became moot after debate occurred); *see also Bierman v. Dayton*, 817 F.3d 1070, 1073 (8th Cir. 2016) (pursuit of preliminary injunction became moot because "[t]he event the homecare providers attempted to stop—the election and subsequent certification of SEIU as the exclusive representative—has already occurred"); *Reichling v. Fikes*, 2022 U.S. Dist. LEXIS 95312, at *3 (D. Minn. May 6, 2022) (recommending denial of inmate's motion for preliminary injunction to block transfer because the transfer had already occurred), *adopted by*, 2022 U.S. Dist. LEXIS 95280, at *1 (D. Minn. May 26, 2022). Petitioner asks the Court to prevent the termination of his deferred action; but because USCIS has already terminated Petitioner's deferred action, there is nothing for the Court to restrain. On this basis alone, the Court should deny Petitioner's motion.

II. USCIS HAS SOLE PROSECUTORIAL DISCRETION FOR TERMINATING DEFERRED ACTION FOR SIJS.

Petitioner derived deferred action from SIJS or Special Immigration Juvenile status, which granted to juveniles¹ who have been abused, abandoned, or neglected by a parent; the granting of SIJS allows an alien to then apply for lawful permanent residency, but does not in and of itself grant permanent status. *See, e.g.*, 8 CFR § 204.11. Deferred action merely allows an alien to obtain work authorization and temporarily protects against deportation. *See* 8 C.F.R. § 214.14(d)(3). As Judge Provinzino recently explained, deferred action is merely an exercise of prosecutorial discretion. *Id.* at 5 n.5. Slip Op., *Domingo M.M. v. Shea, et al.*, No. 25-cv-2830 (LMP/ECW) (D. Minn. August 1, 2025) (ECF 24).

Deferred action for aliens classified as SIJS is the result of a policy update by USCIS, and, unlike other forms of deferred action, like U-visas or DACA recipients, it is not rooted in regulation or law. *See* PA-2022-10, USIS (Mar. 7, 2022) (attached hereto as Ex. A). As this Policy Manual Update makes clear, deferred action for aliens classified as SIJs is merely the result of USCIS “updating its policy guidance to provide that USICS will consider granting deferred action on a case-by-case basis.” *Id.*, pg. 1. The key distinction between SIJ deferred action and deferred action for DACA or U-visa holders, is that SIJ carries less reliance interest and protection because it is not created by regulation or law, but merely a policy preference.

USCIS has since issued further policy guidance rescinding the 2022 Guidance that created deferred action for aliens classified as SIJs. *See* PA-2025-07, USCIS (June 6, 2025)

¹ Federal Respondents note that Petitioner is currently 22 years old.

(attached hereto as Exhibit B). In the 2025 Policy Update USCIS determined that neither “an alien having an approved Petitioner for Amerasian, Widow(er), or Special Immigrant (Form I-360) without an immediately available immigrant visa available nor juvenile court determination relating to the best interest of SIJ are sufficiently compelling reasons, supported by an existing statute or regulation, to continue to provide deferred action process for this immigrant category.” *Id.*, pg. 1. The Update also provides “minor clarification to the current policy on terminating SIJ deferred action and confirms that USCIS, within its discretion, may terminate deferred action and revoke any associated employment authorization prior to the end of the current validity period.” *Id.*, pg. 2.

Federal Respondents note that USCIS’s revocation of its 2022 Policy is currently the subject of litigation, *A.C.R. et al. v. Noem et al.*, No. 1:25-cv-03962 (E.D. N.Y.). On November 19, 2025, the Court in *A.C.R.* stayed rescission of the USCIS 2022 policy, but importantly neither this order, nor the 2022 policy, precludes USCIS from terminating deferred action on a case-by-case basis. *See id.* (ECF 60).

Here, USCIS merely exercised its discretion to terminate deferred action for Petitioner. Indeed, Petitioner can cite to no regulation or law preventing such exercise of discretion, because deferred action here results from nothing more than a policy guidance. Petitioner argues that USCIS terminated Petitioner’s Deferred Action “without any notice, opportunity to respond or any other procedural formalities.” This is not disputed, and importantly it is because there is no regulation or law entitling Petitioner such notice and opportunity. Indeed, it is telling that Petitioner cites to no law or regulation requiring such

notice and opportunity to be heard. *Contrast with* 8 CFR § 205.2, establishing procedures for revoking an approved Form I-360.

III. PETITIONER'S ARGUMENTS ON RETALIATION LACK MERIT.

No evidence exists here that USCIS retaliated against Petitioner, in violation of his First Amendment rights. Petitioner takes an argument on the significant likelihood of removal in the reasonably foreseeable future out of context and obfuscates the record by pointing to such argument as evidence of retaliation. (ECF 22, fn. 1). The only factual evidence Petitioner argues for a violation is the temporal relation between the termination of deferred action and his filing of the underlying habeas, legal arguments therein, and filing of a motion for contempt.² And that this Court should therefore presume bad faith because “no new conduct occurred. No new evidence arose” between the grant and termination of deferred action. But Petitioner ignores the final removal order Petitioner is now subject to, which occurred after the grant of deferred action. Petitioner’s final removal order therefore defeats Petitioner’s argument under *Mt. Healthy City Sch. Dist Bd. of Educ. V. Doyle*, 429 U.S. 274 (1977). The final removal order acts as the intervening change to defeat the only factual evidence cited by Petitioner. *Id.*

Further, the Petitioner cites to no evidence that the government is trying to punish or deter Petitioner or his litigation efforts. Federal Respondents deny such allegations and hold Petitioner to the strictest burden of proof thereof.

² It is wholly disingenuous for Petitioner’s Counsel to raise such argument here where Federal Respondents have now facilitated the collection of Petitioner’s biometrics, with Petitioner’s Counsel full knowledge of the same. *See* ECF 24.

Similarly, there is no evidence that a due process violation occurred. Petitioner fails to show that deferred action for aliens classified as SIJs, which amounts to merely a policy preference regarding USCIS's exercise of prosecutorial discretion, amounts to a protected liberty or property interest. Petitioner relies on a single, unpublished district court opinion from the Western District of New York, *Nevarez Jurado v. Freden et al*, No. 1:2025-cv-00943 (W.D.N.Y. 2025).³ But what Petitioner fails to mention is that *Nevarez* dealt with deferred action for an applicant for a U-Visa; such grant of deferred action is based on clear statutory and regulatory provisions. *Id.*, pg. 6-9 (discussing statutory scheme establishing deferred action for U-Visa applicant). And in *Nevarez*, USCIS did not actually terminate that alien's deferred action, *Id.*, pg. 19, fn. 10, whereas here, USCIS has clearly and unequivocally done so. Such distinctions to the case here are fatal to Petitioner's reliance on *Nevarez*, even if such was precedential.

CONCLUSION

The Petition is moot because deferred action for aliens with SIJS, a wholly discretionary creation of USCIS policy, has already been terminated. Alternatively, Petitioner fails to plead any evidence or applicable legal authority that he is otherwise entitled to a TRO or preliminary injunction. For the foregoing reasons, the Court should deny the Motion.

³ Federal Respondents note that Petitioner also cites to 8 CFR § 205.2, but such is wholly misplaced, as 205.2 deals with the revocation of a Form I-360; such may be relevant if USCIS had sought to revoke Petitioner's SIJS, but it does not apply to revocation of deferred action.

DATED: February 20, 2026

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Respectfully submitted,

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