N THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Walter Acuna Cruz, Petitioner. v. 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.	)	WALTER A CLOSING ARGUMENT CASE No: 26-cv-01393

WALTER A'S CLOSING ARGUMENT

JURISDICTION

I. Section 1252(g)

Section 1252(g) provides, in pertinent part, that "no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter." 8 U.S.C. § 1252(g).

The Supreme Court has explained, however, that Section 1252(g) is not "a shorthand way of referring to all claims arising from deportation proceedings." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). Instead, Section 1252(g) "applies only to three discrete actions that the [Secretary of Homeland Security] may take: her 'decision or action' to 'commence proceedings, adjudicate cases, or execute removal orders,'" and bars review of these three discretionary decisions in the deportation process. *See id.* at 482–84 (emphasis in original).

Moreover, once the executive branch has already exercised its discretion and granted an individual an affirmative immigration benefit, the Court also can address detention resulting from "the government's failure to honor benefits it has already granted." *See Sepulveda Ayala*, 794 F. Supp. 3d 901, 909 (W.D. Wash. 2025). In fact, that is precisely what a growing number of district courts around the country have recently concluded in analogous cases. *See, e.g., Aguilar Gama v. Bondi*, 2025 WL 3559942, at *3 (W.D. Wash. Dec. 12, 2025); *Espinoza Cruz v. English*, 2025 WL 3469811, at *2 (N.D. Ind. Dec. 3, 2025); *Patel v. Hyde*, 2025 WL 3169875, at *1 (D. Mass. Nov. 12, 2025); *Espinoza-Sorto v. Agudelo*, 2025 WL 3012786, at *5 (S.D. Fla. Oct. 28, 2025); *Santiago v. Noem*, 2025 WL 2792588, at *3-4 (W.D. Tex. Oct. 2, 2025).

The most pertinent factor here indicating that the claim does not arise from the three (3) discrete actions of the Attorney General that are unreviewable is that Walter A would not have a claim if his Special Immigrant Juvenile Status (SIJS) or Deferred Action (DA) didn't exist. In other words: with or without the commencement of removal proceedings, the adjudication of the case, or the execution of a removal order, Walter A's claim both exists or would not exist dependent on his SIJS and DA. Because of that status, Walter A's detention is implicated and it is rendered unlawful. His SIJS, DA and detention do not relate to the three (3) limited bars to jurisdiction.

In *Silva v. United States,* 866 F.3d 938 (8th Cir. 2017), the Court found that in *Jama v. Immigration & Naturalization Service,* 329 F.3d 630 (8th Cir. 2003),

> "The court essentially carved out an exception to § 1252(g) for a habeas claim raising a pure question of law, in part due to concerns that a contrary rule would give rise to substantial constitutional questions. *Id* . at 633. Lopez Silva's case may not involve a discretionary decision by the agency, but neither does it present a habeas claim that raises a purely legal question of statutory construction. The alien's claims here arise from a decision to execute a removal order, and Jama 's rationale does not warrant excepting these claims from the limitation on the district court's jurisdiction."

In *Jama*, the court held that jurisdiction existed where the petitioner challenged the Attorney General's legal authority to remove him to a country that had not accepted him, explaining that such a claim raised a legal question of statutory construction rather than an attempt to interfere with the discretionary execution of a removal order. *Id.* The Eighth Circuit later reiterated in *Silva* that Jama reflects a narrow but important principle: habeas jurisdiction remains available where a petitioner raises a legal or constitutional challenge that does not arise from the government's discretionary act of executing a removal order. *Silva v. United States*, 866 F.3d 938, 940–41 (8th Cir. 2017). That principle applies squarely here. Walter A does not challenge the discretionary choice to execute a removal order. Instead, he raises the antecedent legal question whether the government may lawfully detain and remove an individual who holds approved Special Immigrant

Juvenile Status and deferred action protections and who cannot be lawfully removed. Because that claim presents a legal challenge to the lawfulness of detention and removability, not a challenge to a discretionary enforcement decision, § 1252(g) does not strip this Court of jurisdiction.

Perhaps at the forefront of the legal question here is whether this matter implicates a decision on the execution of a removal order. The plain language of the statute will assist the Court in drawing the correct conclusion on that matter. § 1252(g) implicates a "decision" or an "action". The plain meaning of the word "decision" is "to select as a course of action." *See decision,* Mirriam-Webster Dictionary, 2026, https://www.merriam-webster.com/dictionary/decide (accessed: March 6, 2026). The plain meaning of the word "action" is "the accomplishment of a thing usually over a period of time, in stages, or with the possibility of repetition" *See action*, Mirriam-Webster Dictionary, 2026, https://www.merriam-webster.com/dictionary/action (accessed: March 7, 2026).

Here, the Respondents have neither selected as a course of action or accomplished the execution of the removal order (*see* Tr. 117-122 (testifying only to general removal practices while identifying no travel document request, coordination with Guatemala, scheduled removal, removal packet completed, or other execution activity in Petitioner's case – "he's not ready for removal at this time", *see* Tr. 117;13))., meaning that this action cannot necessarily arise from the decision or action to execute a removal order because no such decision or action exists, and therefore, cannot be jurisdictionally barred.

In addition, in *Xol-Maas v Francis,* No. 26-CV-00025 at *15 (S.D.N.Y. Feb. 18, 2026) the Court found that,

> "A challenge to a "decision or action by the Attorney General to . . . execute removal orders" does not necessarily encompass a challenge to the *authority* of the Government to act, or to the manner in which a removal is carried out. *See, e.g.*, *Enriquez-Perdomo*, 54 F.4th at 862-63 (construing the term "removal orders" in Section 1252(g) to mean "*executable* removal orders—that is, existing and enforceable removal orders subject to execution")."

There, the Court makes an important distinction between jurisdiction on removal orders that are executable and executed, and ones where the authority of the government to act is implicated, as it is here. The government plainly does not have authority to carry out the removal of Walter A, and therefore, removal is not foreseeable and the Court maintains jurisdiction.

Accordingly, the Court has jurisdiction to consider the pending Petition [Doc. No. 1]. *See Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) (holding that despite jurisdiction stripping provisions, "§ 2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post removal-period detention.").

II. Section 1252(b)(9)

Section 1252(b)(9) likewise makes no bars to the present claims. The provision states, again in pertinent part, "Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section.".

A majority of the Supreme Court characterized *Jennings v. Rodriguez,* 583 U.S. 281, 292–96 (2018) as holding that § 1252(b)(9) "'does not present a jurisdictional bar' where those bringing suit 'are not asking for review of an order of removal,' 'the decision ... to seek removal,' or 'the process by which ... removability will be determined.'" *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020). And many other courts have specifically found that § 1252(b)(9) does not present a jurisdictional bar to habeas challenges to immigration detention. *See, e.g.*, *Ozturk v. Hyde*, 136 F.4th 382, 399 (2d Cir. 2025); *Escalante v. Noem*, No. 25-cv-182, 2025 WL 2206113, at *2–3 (E.D. Tex. Aug. 2, 2025); *Ayobi v. Castro*, No. 5:19-cv-1311-OLG, 2020 WL 13411861, at *3 (W.D. Tex. Feb. 25, 2020); ; *cf. Kong*, 62 F.4th at 614–16 (finding plaintiff's Federal Tort Claims Act lawsuit challenging unlawful detention not barred by § 1252(b)(9) for the same reasons a habeas petition is not barred).

Here again, the claims arise from different provisions of the statutes and Code of Federal Regulations, as well as from the unlawful continuing detention of Walter A, not from actions taken or proceedings bought to remove Walter A, because again, no action has been taken to remove Walter A, the action or claim wouldn't exist but for protections under other parts of the law, and the claim does not challenge Walter A's removal proceedings.

And even if this Court were to order Walter A's release from custody, it would remain for the BIA to decide on any appeal and for the immigration courts to proceed with any prospective removal proceedings thereafter or for the Eighth Circuit to decide on any appeal from that decision. In other words, nothing prevents any proceedings from continuing while Walter A is at liberty, instead of in custody. Because Walter A's detention claims are independent of any removal claims § 1252(b)(9) does not pose a jurisdictional bar. *See Medina v. U.S. Dep't Homeland Security,* No. 17-cv-218, 2017 WL 2954719, at *15 (W.D. Wash. Mar. 14, 2017).

In sum, this Court maintains jurisdiction over the matter.

ARGUMENT

A. Custody is Unlawful Under 1231(a)(6)

i. Threshold Issue

Turning to the detention statute itself, Respondents have not established that detention is lawful under 8 U.S.C. § 1231(a)(6) in the first instance. That provision authorizes discretionary detention only for limited categories of individuals after the mandatory removal period. The government does not contend that Walter A falls within any of those categories. In fact, the custody determination required by 8 C.F.R. § 241.4(k)(1)(i) has not been conducted. This review was required before the removal period even ended, but some 26 days (at the time of writing) post removal period, the review is still incomplete and Respondents are still unreachable. Respondents simply assert, without proving, that continued detention may persist.

Perhaps most concerning is the Respondents' own inability to articulate the basis upon which they hold Walter A. In his declaration, Mr. Robinson states that Walter A is held pursuant to "8 U.S.C. § 1226(a)." *See* ECF. 12, at 8. The Court pointed out the obvious error here and Respondents still did not correct the record. In addition, when asked if Mr. Robinson could even articulate what that meant, Mr. Robinson stated, "No.". *See* Tr. 121: 22. When asked why he then recorded that information in a sworn statement to the Court, he stated, "usually I confer with OPLA anything legal and when writing this conferred with OPLA to confirm that that's what it is." *Id.* at 122; 3-4.

The evidentiary record underscores the absence of lawful detention authority. Respondents' own witness was unable to articulate the statutory basis for Petitioner's detention and acknowledged that the legal authority cited in his declaration was provided by counsel rather than based on his own understanding of the detention statute. Detention under §1231(a)(6) cannot be sustained where the agency itself cannot identify the legal basis for custody.

This is a clear indication that neither the Respondents Deportation Officers, nor it's attorneys (OPLA) (*See* Tr. 105; 14-18 "it's essentially the in-house attorney, for lack of a better term, for the agency") can articulate the proper basis for detaining Walter A.

ii. Removal is Not Reasonably Foreseeable

For several reasons, removal is not significantly likely in the reasonably foreseeable future.

Zadvydas

Walter A's detention is unlawful because Respondents are imprisoning him under § 1231(a)(6) even though lawful removal is not reasonably foreseeable, meaning detention is no longer authorized under *See Zadvydas v Davis,* 533 U.S. 678 (2001) at 699–701. Walter A holds approved SIJS and a (presumably, pending this litigation) unrescinded grant of deferred action through October 2028, and his forced removal would operate as an unlawful *de facto* revocation of congressionally conferred protections without the notice and procedures mandated by statute and regulation. *See* 8 U.S.C. §§ 1101(a)(27)(J), 1155; 8 C.F.R. § 205.2; *Guerra Leon v. Noem*, No. 25-01495 (W.D. La. Oct. 30, 2025). Because detention no longer serves its only permissible civil purpose, securing removal, continued confinement violates both the INA and the Due Process Clause. *Zadvydas*, 533 U.S. at 690, 699–701.

Zadvydas recognized a rebuttable presumptive period of detention, being six (6) months. The Supreme Court did not create a six-month detention entitlement for the Government. It articulated a rebuttable evidentiary presumption designed to limit indefinite detention and limit the times in which a Court would be required to distinguish what is reasonable, not to authorize detention where removal is legally constrained from the outset. *Id.* at 701; ECF 13 at 7 citing *Cruz-Medina v. Noem et al,* No. 1:2025cv01768 (D. Md. 2025). The relevant inquiry remains whether removal is "significantly likely in the reasonably foreseeable future." *Id.*

The six-month benchmark does not insulate the Government from judicial review where a petitioner demonstrates that removal is legally foreclosed, and therefore, that it is not reasonably foreseeable.

In *Zadvydas*, there was nothing preventing or blocking the removal of the individuals in question, and thus the Court's reasoning in giving "leeway" (*Id.* at 700) to the government in a presumptively lawful period of detention of six (6) months was also in concert with the fact that the government could continue to make such efforts without affecting some other lawful statute.

Other Courts have considered this issue, finding that,

> "By delaying the burden shift until after the six-month period expires, the Supreme Court "limit[ed] the occasions"—but, crucially, did not *eliminate* the occasions—when courts will need to make the ultimate determination of whether a Petitioner is reasonably likely to be removed in the foreseeable future. The question of whether "continued" detention is authorized is a question that can be asked, and must be resolved, for detention under § 1231(a)(6) to be constitutional, regardless of whether the six-month period has ended."

See Cruz-Medina v. Noem et al, No. 1:2025cv01768 (D. Md. 2025) (emphasis in original).

As discussed below, Walter A is not removable because (1) he has process rights vested in his SIJ status; (2) removing him would be a *de facto* revocation of his SIJ status; and (3) valid Deferred Action prevents removability. Walter A has shown he cannot be removed from the United States until, at a minimum, he is able to proceed through his adjustment of status application, in approximately three (3) years. That showing is sufficient to demonstrate that removal is not reasonably foreseeable. Nothing will change at the time of this writing in comparison to the six (6) month mark as to foreseeability, and therefore, the presumption of reasonability is rebutted.

Once the petitioner provides "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," the burden shifts to the Government to respond with evidence sufficient to rebut that showing. *Zadvydas*, 533 U.S. at 701.

Special Immigrant Juvenile Status

Turning to Special Immigrant Juvenile Status, the evidentiary record confirms that SIJS exists to protect vulnerable children from removal while providing them a pathway to lawful permanent residence. *See* Tr. 43: 11–12. As the expert testimony explained, Congress created SIJS to protect children who have suffered abuse, neglect, or abandonment and whose return to their home country would not be in their best interests. Tr. 43: 14–18. The statutory scheme therefore serves two functions simultaneously: it protects these children from removal and provides a pathway to lawful permanent residence within the United States. *See* Tr. 43.

The structure of the statutory framework reflects that congressional design. As Ms. Scholtz explained in her testimony, Congress took multiple steps within the Immigration and Nationality Act to ensure that SIJS beneficiaries could remain in the United States long enough to pursue adjustment of status. Those protections include pairing SIJ classification with eligibility to adjust status to lawful permanent residence and deeming SIJ beneficiaries "paroled" for purposes of adjustment eligibility. *See* Tr. 46: 1–5. The statute further removes immigration barriers that would otherwise prevent adjustment, including exemptions from inadmissibility provisions that would ordinarily apply to individuals who entered the United States without inspection. *See* Tr. 46–47. As the expert explained, these statutory exemptions were enacted specifically so that SIJS beneficiaries would not be barred from pursuing lawful permanent residence because of the very circumstances that brought them to the United States as vulnerable children. *Id.*

The testimony further established that SIJS operates as an adjustment-only classification. *See* Tr. 61: 18–21. As Ms. Scholtz explained, SIJ status is structured so that the beneficiary must remain physically present in the United States to pursue adjustment of status to lawful permanent residence. *Id.* Because immigrant visa numbers for SIJS beneficiaries are subject to numerical limitations, beneficiaries frequently must wait years before a visa number becomes available. *See* Tr. 71: 19–24. The statutory framework anticipates that delay and is designed to ensure that SIJS beneficiaries remain in the United States during that waiting period rather than being removed before they are able to pursue the permanent status Congress created. *Id.*

Additional statutory protections reinforce that intent. As the expert explained, Congress enacted specific safeguards recognizing the vulnerability of SIJS beneficiaries, including provisions ensuring that a child who has been abused, neglected, or abandoned cannot be compelled to contact the alleged abuser during the immigration process. *See* Tr. 50–51. That protection only functions within a framework where the child remains in the

United States while pursuing immigration relief, because the purpose of the provision is to prevent retraumatization during the process of obtaining permanent status. *See* Tr. 60.

Even USCIS recognizes this intent, stating in their SIJS policy on Deferred Action that there is a "congressional intent in creating the SIJ program to protect vulnerable children by providing them with a pathway to LPR status, without having to wait years before a visa is available." *See* Tr. 71: 21-24.

Taken together, the testimony demonstrates that Congress designed the SIJS statutory framework to allow beneficiaries to remain in the United States while pursuing lawful permanent residence. The statutory protections identified in the record, including the adjustment pathway, parole for adjustment purposes, exemptions from inadmissibility barriers, visa backlog protections, and safeguards protecting children from being forced to contact their abusers, operate collectively to ensure that SIJS beneficiaries are not removed before they are able to complete the pathway to permanent status Congress created.

If Congress intended for applicants to be required to leave the U.S., they would not have designed an adjustment only framework at 8 C.F.R. § 42.11 because removal thereby renders the benefit useless and revoked. Congress also would not have clearly carved out those who they intended to stay and adjust status verse those they don't (*see* Tr. 60: 19-23 explaining that the only grounds of inadmissibility unwaivable or not exempted by Congress are grounds of serious crimes and terrorism grounds, inapplicable to Walter A (Tr. 65: 1-2)).

Courts interpreting SIJS have repeatedly recognized that Congress designed SIJS to allow vulnerable youth to remain in the United States while they pursue lawful permanent residence. In *Joshua M. v. Barr,* the court explained that the statutory amendments creating SIJS "generally reflect Congressional intent to grant vulnerable young immigrants legal protections." 439 F. Supp. 3d 632, 649 (E.D. Va. 2020). The court further noted that once SIJ status is granted, it confers "significant benefits for young immigrants and certain protections against removal," including eligibility to obtain lawful permanent resident status and eventually apply for citizenship. *Id.*

Similarly, the Third Circuit has recognized that SIJ beneficiaries occupy a unique legal posture because the status reflects the approval of both state and federal authorities and effectively places the beneficiary under the protection of the United States. *See Osorio-Martinez v. Att'y Gen.*, 893 F.3d 153, 168 (3d Cir. 2018) (recognizing that an approved SIJ applicant is effectively treated as a "ward of the United States" under the statutory scheme). Additionally, the Court found that these applicants held a due process right in staying in the United States until they were able to receive the full process due to them in adjusting their status. *Id.*

Courts applying that framework have emphasized that SIJ status is designed to permit beneficiaries to remain in the United States while they pursue adjustment of status to lawful permanent residence. *See Xol-Maás v. Francis*, No. 26-CV-00025 at *3 (S.D.N.Y. Feb. 18, 2026) (explaining that SIJ status provides a "pathway to lawful permanent resident ('LPR') status" and deems beneficiaries "paroled into the United States" for purposes of adjustment).

Courts addressing detention of SIJ beneficiaries have therefore recognized that the statutory framework protects their ability to remain in the United States while pursuing permanent status. In *Sarmiento v. Perry*, the court ordered release of an SIJ beneficiary and held that the government could not re-detain him absent "changed circumstances," recognizing that SIJ status confers deferred action, parole-like protection, and eligibility to pursue adjustment of status in the United States. *Sarmiento v. Perry*, No. 1:25-cv-01644, 2026 WL 131917, at *1 (E.D. Va. Jan. 19, 2026).

Most recently, in *Garcia Lanza v. Noem*, the court emphasized that SIJ status is a "Congressionally-enacted program that provides a path to residency and U.S. citizenship," and that the beneficiary had earned "the right to live and work in the United States pending further processes." *Garcia Lanza v. Noem*, No. 26-0029, slip op. at 1–2 (E.D.N.Y. Mar. 3, 2026).

Taken together, these decisions confirm what the statutory structure already makes clear: SIJ status is not a temporary humanitarian gesture. It is a congressionally created legal protection designed to allow abused, neglected, and abandoned children to remain in the United States while they pursue lawful permanent residence.

The Court itself recognized this structure during the hearing, noting that SIJS beneficiaries are deemed paroled for purposes of adjustment and that the statutory framework contemplates their presence in the United States while they pursue permanent status. Tr. 24. The Court further recognized that revocation of SIJS status requires a separate statutory process and that no such revocation has occurred here. *Id.*

Therefore, because the Congressional intent is clear and evinces that vulnerable individuals like Walter A are able to stay in the United States to receive adjudication and process of their permanent residency application, Walter A has a due process right to stay in the United States until that process is complete, making removal not reasonably foreseeable.

There is also a secondary structural issue with the SIJS, and that is that revocation can only be undertaken by USCIS. *See* 8 C.F.R. § 204.11. As the expert explained,

> "There are statutory and regulatory procedures which are grounded in due process rights that basically say that a child's Special Immigrant Juvenile Status cannot be revoked, absent certain, you know, specified grounds and process.
>
> And then for that reason, for ICE to remove a child whose SIJS has not been revoked essentially nullifies the whole scheme. First of all, ICE does not have power under the law to revoke an SIJS petition. That's only USCIS that has that power. Secondly, before a petition can be revoked, there needs to be, you know, notice, a response. There's an appellate process. None of that would have happened in this situation.
>
> And, third, you can't revoke for no reason."
>
> *See* Tr. 49; 11-25.

If ICE removes Walter A, they undertake an unlawful *de facto* revocation of his SIJS because that benefit is rendered moot and could never reach its statutory purpose of adjustment of status. Walter A's status would, therefore, be rendered meaningless as well as void.

Because Walter A remains an approved SIJS beneficiary and the statutory revocation process has not been invoked, removal cannot be considered significantly likely in the reasonably foreseeable future.

Deferred Action

This section assumes that Deferred Action remains valid (more on its unlawful termination later).

As the Supreme Court has explained, once deferred action is granted, "no action will thereafter be taken to proceed against an apparently deportable alien" while that status remains in place. *Reno v. Am.–Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999). In practical terms, deferred action represents a decision by the Executive Branch to pause removal enforcement against an individual who would otherwise be subject to deportation.

The testimony confirms that Walter A was granted Deferred Action pursuant to his approved Special Immigrant Juvenile Status on February 11, 2025. *See* Tr. 32:8–15; Tr. 79:3–10. That grant was issued after the agency reviewed Walter A's immigration history, criminal history, and humanitarian circumstances, all of which were known to the government at the time the protection was conferred. *See* Tr. 83:14–25; 84:1–6. The record therefore reflects that DHS exercised its discretion with full knowledge of Walter A's circumstances and affirmatively chose to confer protection from removal. *Id.* There is no evidence to evince that the grant of that status was not in the purview of, what the

Respondents describe, the broad discretion of Deferred Action. Yet, they allegedly use those same considerations to revoke the Deferred Action.

The existence of that grant is significant because deferred action operates as an exercise of prosecutorial discretion through which the Executive elects not to pursue removal while the protection remains in place. *Reno v. Am.–Arab Anti-Discrimination Comm.*, 525 U.S., 484.

Courts considering the interaction between deferred action and post-order detention have repeatedly recognized that an active grant of deferred action undermines the government's ability to demonstrate that removal is reasonably foreseeable. In *Sepulveda Ayala v. Bondi*, for example, the court granted habeas relief where the petitioner held deferred action and the government sought to continue detention based on removal that could not occur while that protection remained in place. The court explained that "[t]he Government's sole basis for detaining [the petitioner] is that it may do so in order to remove him," but because deferred action prevented removal, "the Government has no legal basis to detain." 2025 WL 2209708, at *4 (W.D. Wash. Aug. 4, 2025).

Similarly, in *Primero v. Mattivelo*, the court held that removal was not reasonably foreseeable where USCIS had granted deferred action and there was no evidence that the agency had terminated that protection. 2025 WL 1899115, at *5 (D. Mass. July 9, 2025). Courts across the country have reached the same conclusion where deferred action remained valid and removal could not lawfully proceed. See also *Forsah R-Z- v. Noem*, 2026 WL 310069 (E.D. Cal. Feb. 5, 2026).

In *Garcia Lanza v. Noem*, the court explained that the petitioner had been granted SIJ status together with "a four-year period of deferred action and work authorization, permitting him to live and work in the United States." *Garcia Lanza v. Noem*, No. 26-0029, slip op. at 10–11 (E.D.N.Y. Mar. 3, 2026). The court further held that where such deferred action remains valid, the individual "was not subject to removal" and therefore "was not subject to arrest." *Id.* at 11–13. In other words, the existence of a valid grant of deferred action means that removal enforcement cannot lawfully proceed while that protection remains in place. *Id.* at 11–12.

The structural function of deferred action reinforces that conclusion. Deferred action exists precisely to pause removal enforcement while individuals pursue humanitarian immigration protections or other lawful processes within the immigration system. As the Supreme Court recognized in *Reno*, the grant of deferred action reflects the Executive Branch's decision that removal enforcement should not proceed against that individual. 525 U.S. at 484. Because the entire purpose of deferred action is to halt removal activity, detention premised on the expectation of removal becomes difficult to justify while that protection remains in place.

The record here further demonstrates that the agency itself has treated deferred action as independent of the removal process. The testimony established that ICE's removal officers do not independently determine the existence or legal effect of deferred action when considering removal logistics. See Tr. 118:12–13. Instead, removal decisions depend on coordination with legal counsel and other components of DHS. Id. The record therefore reflects that the officers responsible for removal operations do not themselves determine whether deferred action bars enforcement activity.

Taken together, the testimony and case law confirm that deferred action operates as a barrier to removal enforcement. Where such protection remains valid, detention premised on the expectation of removal is unjustifiable under the *Zadvydas* framework.

Here, Walter's Deferred Action was granted pursuant to his SIJ approval and was set to remain valid for several years. The government reviewed Walter's circumstances before granting that protection and nonetheless chose to exercise its discretion in his favor. *See* ECF 1-3. Even where the government's unlawful termination remains, such did not exist when this action was bought and custody was unlawful at that time. Under these circumstances, the existence of deferred action creates a substantial legal barrier to removal.

For that reason, Walter A's Deferred Action independently reinforces the conclusion that removal is not significantly likely in the reasonably foreseeable future. When the government itself has exercised its discretion to halt removal enforcement, continued detention premised on imminent removal cannot be sustained under the standards articulated in *Zadvydas*. The burden, therefore, shifts to Respondents to prove that removal is reasonably foreseeable.

iii. Even if Physical Removal Was the Legal Test, Respondents Fail to Meet Their Burden to Demonstrate that Removal is Reasonably Foreseeable

Respondents have steadfastly maintained that removal is reasonably foreseeable because they assert it is physically possible. This is not the test in *Zadvydas*. The evidentiary record confirms that assertion is unsupported. Respondents repeatedly assert that removal will occur once litigation concludes or procedural barriers lift, but they never address how they are barred (or how they can conclude that they are not barred) from removal in light of Walter A's approved SIJS and DA.

Respondents' witness did not identify any concrete step taken to effectuate removal. Deportation Officer Robinson testified only that ICE possesses "a copy of [Petitioner's] passport." Tr. 107:69–70. When asked for the date of deportation set, he said "There is no specific date at this time…" Tr. 116:19. When asked what date the deportation documentation or packet was prepared, Mr. Robinson stated, "The only time we prepare something is when they are ready for removal to get a travel document." *Id.* 25; 117: 1.

When asked what date verification of Walter A's Guatemalan citizenship had occurred, Mr. Robinson testified that, "There is no date. We would normally do that when they're ready for removal. And then we submit the stuff to the Government of Guatemala, and then they accept him or deny him. *So he's not ready for removal at this time*." (emphasis added) *Tr.* 117: 10-13.

Further, Mr. Robinson was asked what date Guatemala confirmed they would accept him. He stated, "Again, we don't do that until they're ready for removal." *Id.* 16.

When asked what additional documentation would be required to effectuate removal, Robinson testified that, beyond the removal order itself, he "cannot recall" any other requirement. Tr. 107:21–23. The remainder of his testimony described only general agency practices for removals to Guatemala, such as the use of charter flights and staging locations, rather than any action taken in this case. Tr. 107:51–56.

Finally, Mr. Robinson testified that he does not even look for Deferred Action as a barrier to removal (Tr. 118: 12-13) and that he is not even sure of Walter A's Deportation Officer's plans for removal (Tr. 119: 10) and finally, that he is not even sure as to what OPLA (Office of Principal Legal Advisor) would say about whether SIJS is a barrier to removal. (Tr. 124: 14-21).

Under *Zadvydas v. Davis,* detention under § 1231(a)(6) is permissible only so long as removal remains "significantly likely in the reasonably foreseeable future." 533 U.S. 678, 699–701 (2001). Once a petitioner provides good reason to believe removal is not reasonably foreseeable, the burden shifts to the government to rebut that showing with evidence. *Id.* at 701. Respondents have not met that burden, but also as a threshold matter don't have plans to remove Walter A in the first place. They do not know if Guatemala will accept Walter A, have not notified them that he claimed asylum, have not arranged travel documents, have not performed verification of his citizenship, have not scheduled a date, and at the lowest bar possible, have not even completed any paperwork for his removal. Such speculation cannot satisfy the government's burden under *Zadvydas*, nor can it justify continued detention under § 1231(a)(6).

Significant likelihood is a high bar for the Respondents. Respondents could not meet even a remote likelihood standard and would struggle to meet a "possibility" standard.

Recent decisions in this District confirm that speculative assertions of removability are insufficient to meet that burden. In *Aleixi A.-H. v. Easterwood*, the court held that the government failed to demonstrate foreseeable removal where it merely asserted that ICE was seeking travel documents without providing evidence regarding the likelihood that the receiving country would accept the individual or the practical likelihood of removal. The court explained that the "bare fact that ICE officials" are seeking travel documents "tells the Court nothing about the history of [ICE's] efforts to remove …, the ongoing nature of those efforts, or the reasonably foreseeable results of ICE's removal efforts."

Because that showing fell "woefully short" of the government's burden, the court ordered the petitioner's release. *Id.*

The same principle appears in *Nicolasa S.M. v. Easterwood, No. 26-cv-756* (ADM/LIB), 2026 WL ____ (D. Minn. Feb. 27, 2026) (Report and Recommendation), where the court has emphasized that detention cannot continue where the government has not demonstrated any concrete progress toward removal or compliance with the regulatory framework governing post-removal detention and release. The court concluded that when the government fails to establish lawful detention procedures or a realistic removal pathway, continued detention violates due process and habeas relief is required.

The evidentiary record here is even weaker than in those cases. Unlike the government in *Aleixi*, Respondents have not even asserted that they are attempting to obtain travel documents. If Respondents truly had plans to removal Walter A, they could have taken any of these measures in preparation for their unearned confidence that Walter A's deportation would eventually become possible. *See* ECF. 24 at 9.

For that reason alone, continued detention cannot be sustained.

B. Walter A's Detention Violates the Fifth Amendment and the Code of Federal Regulations

Even if Respondents possessed some baseline statutory authority to detain Walter A under 8 U.S.C. § 1231(a)(6) (they do not), the Fifth Amendment requires that continued civil detention be accompanied by constitutionally adequate procedures that protect against erroneous deprivation of liberty. *See Zadvydas v. Davis*, 533 U.S. Once detention becomes prolonged or the justification for continued custody is no longer self-evident, due process requires meaningful procedural safeguards and an individualized determination sufficient to justify continued confinement. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

This was also recognized in the regulations, requiring the Respondents to conduct a post-order custody review where removal has not been possible (the detainee does not need to request this) (8 C.F.R. § 241.4(k)(1)(i)), and requiring the Respondents to respond within 10 days of a detainee expressing that their removal is not reasonably foreseeable (8 C.F.R. § 241.13(e)(1)). Here, no custody review or determination of reasonable foreseeability has occurred despite the required process listed in the C.F.R. (Tr. 118:25). Notwithstanding the requirement for the custody review pre expiration of the removal period, Walter A requested the foreseeability review on January 19, 2026, much longer than 10 days ago. Detention has simply continued by default, without the constitutionally required process.

This failure is constitutionally significant because ICE's own detention framework contemplates that, once the record contains information indicating that removal is not significantly likely in the reasonably foreseeable future, continued detention cannot proceed on autopilot and must instead be supported by heightened review procedures. *See* 8 C.F.R. § 241.4(i)(7). Those procedures exist for a reason: to prevent arbitrary continued confinement once the government's detention rationale becomes uncertain. Yet Respondents have not invoked or complied with those safeguards. Nor have Respondents sought detention under the narrow "special circumstances" regime in 8 C.F.R. § 241.14, which requires heightened procedural protections and individualized determinations before detention may continue under extraordinary authority.

Under *Mathews*, the constitutional deficiency is clear. Walter A's private interest is his physical liberty, the most fundamental interest protected by due process. The risk of erroneous deprivation is substantial because, absent meaningful continued-deprivation review, detention is effectively indefinite and untested. And the probable value of additional safeguards is obvious given that the Federal Regulations require it. Finally, the Government's interest in administrative convenience cannot outweigh the requirement of constitutionally adequate process where an individual remains confined for civil purposes.

The Respondents have refused to undertake this assessment despite several requests, and without undertaking the required assessments, advised that Walter A will remain detained "pending the outcome of his appeal" (which does not affect the custody statute which he is detained under) and indicates that the Respondents have preemptively decides his custody without regard to the factors to be considered under 8 C.F.R. §§ 241.4, 241.13, 241.14. This indicates the Respondents will not undertake the appropriate review in any manner, and immediate release is the only appropriate remedy.

Accordingly, continued detention violates the Fifth Amendment's procedural due process protections, and habeas relief is warranted.

C. Walter A's Continued Detention is In Violation of The Administrative Procedure Act

In 2021, an enforcement directive was issued continuing ICE's longstanding policy to "refrain from taking civil enforcement action against" individuals "known to have a pending application" for "victim-based immigration benefits" unless there are "exceptional circumstances" such as national security concerns or a "risk of death, violence, or physical harm to any person." ICE Directive 11005.3, *Using a Victim-*

Centered Approach with Noncitizen Crime Victims (Dec. 2, 2021) at 1-2. (Exhibit A). If an application is pending, ICE will "defer decisions" on enforcement until final determinations are made on pending petitions or a negative determination is made on an interim adjudication like a BFD or wait-list determination. *Id.* at 2.

The 2021 Directive also reinstated a policy of requesting expedited adjudications for people in ICE custody. *Id.* at 9. "The fact that someone is a victim of crime and… may be eligible for victim-based benefits" it to be considered a "positive discretionary factor." *Id.*

ICE has deviated from ICE Directive 11005.3 in continuing to detain Walter A after he was granted immigration relief, without determining whether exceptional circumstances warrant his continued detention. This is arbitrary, capricious, and contrary to law in violation of the APA. The Court's determination of an APA violation is standalone from the CFR custody review procedures and dispositive independently with regard to his release. The Court can order release outside of the custody review procedures on the matter of APA violations.

ICE has also demonstrated, through its continued pursuance of enforcement and removal activities against Walter A, that it is unwilling and unable to follow its own policy or the law in regards to enforcement measures against individuals who are victims of crime, trafficking or SIJs.

Secondly, by refusing to facilitate the expedited adjudication of the T and U visa applications pending for Walter A, Respondents have refused to follow their own agency policy which is arbitrary and capricious agency action. Both of these issues have prolonged the detention and custody of Walter A, where the adjudication of the benefits or the cessation of pursuing enforcement in line with agency policy would have nullified all of the issues listed in the Petition.

Therefore, the only appropriate remedy is for the Court to order Walter's immediate release.

D. The Biometrics Policy Violates Walter's Due Process Rights and Is Arbitrary and Capricious

Respondents' continued detention is also premised on a biometrics policy that prevented Walter A from completing a mandatory procedural step required for adjudication of his pending immigration benefit requests. That policy violates both the Administrative Procedure Act and the Due Process Clause. As previously docketed, Walter A will again be victim to this policy on March 10, 2026, in relation to his I-765 biometrics appointment. *See* ECF 42-1.

Under the Administrative Procedure Act, 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). Where detention is sustained through unconstitutional or unlawful agency action, habeas courts may grant relief independently of the statutory detention authority asserted by the government. *See* 28 U.S.C. § 2241(c)(3); *Ferreira v. Lyons*, No. 25-cv-13809-MJJ, slip op. at 4 (D. Mass. Jan. 26,

2026) ("This case is not about Respondents' authority to detain under Section 1231… Rather, Mr. Ferreira's claim is constitutional in nature.").

The testimony establishes that USCIS maintains a categorical rule preventing detained applicants from completing biometrics. The Application Support Center (ASC) supervisor testified that under the governing Standard Operating Procedure, ASC staff "aren't allowed to process anybody that is detained or in custody." Tr. 137:22–24. She further confirmed that even if restraints were removed, biometrics still could not be taken because the individual remained detained. Tr. 139:12–18. When asked whether staff must refuse biometrics collection for detained applicants, she answered unequivocally that under the policy USCIS will not collect their biometrics. Tr. 145:8–13.

This policy creates an impossible procedural trap. USCIS requires biometrics as a prerequisite to adjudicating immigration benefit requests, yet simultaneously refuses to collect biometrics from individuals who are detained and ICE refuses to transport detained individuals to their appointments. The result is that detained applicants cannot comply with the requirement necessary to pursue relief. Agency action that imposes a mandatory requirement while foreclosing any possibility of compliance is arbitrary and capricious within the meaning of the APA. 5 U.S.C. § 706(2)(A).

The policy is also contrary to law because Congress expressly authorized noncitizens, including SIJ beneficiaries and victims eligible for humanitarian protections, to pursue immigration benefits through statutory procedures. *See* 8 U.S.C. §§

1101(a)(27)(J), 1255(h). USCIS cannot transform detention status into a bar to pursuing those benefits by refusing to allow detained applicants to complete the procedural requirements necessary for adjudication.

The policy independently violates procedural due process under *Mathews v. Eldridge,* 424 U.S. 319 (1976). Walter A's liberty interest is substantial because the inability to complete biometrics directly affects his ability to pursue relief that could terminate his removal proceedings and end his detention. The risk of erroneous deprivation is extreme because the government has created a system in which applications may be denied not on the merits but because detained individuals are prevented from completing the required process which then maintains the individual in custody with no path to relief. The requirements to collect biometrics are housed in the Code of Federal Regulations and it is the Respondents' decision to detain individuals so any burden that may be applicable to them is their own doing.

In short, Respondents are detaining Walter A and individuals similarly situated while simultaneously enforcing a policy that prevents him from completing the procedural steps necessary to pursue relief that could resolve that detention. The Constitution does not permit the government to create such a procedural dead end. Because the policy is arbitrary, contrary to law, and violative of due process, habeas relief is warranted.

E. Respondents 2025 Biometrics Policy Violates the Notice and Rulemaking Provisions of the APA.

The testimony confirms that the 2025 Biometrics Policy of the Respondents is categorical. The Application Support Center (ASC) supervisor testified that staff are not permitted to collect biometrics from any individual who is detained and that this rule applies even where the individual appears for the appointment and even if restraints are removed. Tr. 137:22–24; 139:12–18; 145:8–13. The consequence is that detained applicants cannot comply with a mandatory requirement that USCIS itself requires before adjudicating immigration benefit requests. That is not merely a procedural inconvenience, it is an impossibility.

Here, USCIS has effectively created a new category of ineligible applicants: those who are detained. But Congress never authorized detention status to operate as a disqualification from seeking immigration benefits, and nothing in the Immigration and Nationality Act permits the government to detain individuals while preventing them from satisfying the prerequisites necessary to pursue relief. Because the policy operates as a categorical bar to adjudication for detained applicants, it functions as a legislative rule that was adopted without the notice-and-comment procedures required by 5 U.S.C. § 553.

The government cannot rely on a policy that blocks access to the adjudicatory process itself in order to prolong detention. Doing so violates the Administrative Procedure Act, exceeds the agency's statutory authority, and deprives Walter A of a meaningful opportunity to pursue relief that could terminate his removal proceedings and end his incarceration.

For those reasons, the Court must find that the 2025 Biometrics Policy is void and unenforceable and must strike down the policy.

F. Motion for Contempt

As previously noted, Walter A will allay the matter of contempt to the Court, noting that there is no convincing evidence that Walter A will not later be impacted by the issue, or that, despite the claims of the ASC supervisor, that she was not shown a court order or did not willfully violate the Court's order.

G. Motion for TRO Reinstating DA

The evidentiary record establishes that the termination of Walter A's Deferred Action was not the result of reasoned agency decision-making, but instead occurred only after ICE requested that USCIS reconsider the protection during the pendency of this litigation. USCIS Assistant Center Director Jerome Johnson declared that USCIS received an email from ICE's Office of the Principal Legal Advisor on February 19, 2026, requesting that USCIS review Petitioner's Deferred Action. Johnson Decl. ¶ 2 (Mar. 5, 2026). The record further reflects that Walter A's Deferred Action was terminated that same day. *Id.* The immediacy of this sequence demonstrates that the agency could not have conducted a meaningful review of the equities and humanitarian considerations that led to the original grant.

The timing is particularly significant when viewed in context. Walter A was granted Deferred Action on February 11, 2025, pursuant to his approved SIJS. *See* ECF 1-3. The agency necessarily reviewed his immigration history, criminal history, and humanitarian circumstances before granting that protection. *See* Tr 186: 17-19. Deferred Action therefore remained in place for over one year with full knowledge of those circumstances.

The government was also aware of Walter A's final order of removal for months before seeking revocation. The record reflects that the removal order had existed for approximately 128 days before ICE requested "reconsideration" of Deferred Action. Yet no action was taken during that period. Instead, the request for review occurred only seven (7) days after this habeas action was filed, and the protection was terminated the very same day the request was made. Johnson Decl. ¶ 2. The Respondents had no other purpose to be reviewing Walter A's Deferred Action, but for this litigation.

The testimony also shows that the government's explanation for the termination has shifted. Respondents initially suggested that the revocation was tied to the existence of Walter A's removal order. ECF 26 at 5. That explanation cannot withstand scrutiny because the removal order had existed for months while Deferred Action remained undisturbed. In addition, the intent of the DA in the Respondents' own words is to "stop… the deportation or removal of an alien who has been ordered deported or removed from the United States…" *See* ECF No. 24 at 11; ECF No. 11 at 15.

When pressed on that point, the government's position shifted to the assertion that Deferred Action should never have been granted in the first place. Tr. 171: 1-5. Yet no document, memorandum, or record of decision has been produced identifying any analysis supporting that claim. Tr. 175: 21-22.

Indeed, Mr. Johnson acknowledged that he could not identify any written record reflecting the factors considered in terminating Deferred Action or any document demonstrating reasoned decision-making. *Id.* The absence of such documentation is significant because agency action must be supported by reasoned decision-making grounded in the administrative record. Tr. 167: 22-25. Here, however, the record contains only a same-day request from ICE and the immediate termination of the protection that had been in place for more than a year. Johnson Decl. ¶ 2. Despite the Respondents insistence that a re-review was conducted in this case, a same-day determination within just a few hours of the request, especially considering Respondents' volume of processing, does not support any conclusion that any proper re-review was done.

The Respondents then *tripped over themselves* to dedicate two (2) pages of their 13 page brief to commemorating the termination of Walter A's deferred action, just one (1) day later. *See* ECF 24 at 11-12. It is starkly obvious that the only purpose of the

Deferred Action termination was to advance the Respondents' litigation position. Their changing story does not assist them.

When challenged on the true reason absent changed circumstances that deferred action would be terminated, Mr. Johnson admitted that it would be based on a third-party agency request. Tr. 186: 24-25.

To further compound the Respondents' shifting explanations, Mr. Johnson testified that, under the agency's policy, Walter A should never have received Deferred Action in the first place. Tr. 171–172. That assertion is difficult to reconcile with the documentary record. Evidence introduced at the hearing shows that on April 7, 2025, two months before the June 2025 SIJ Deferred Action policy change, USCIS leadership directed adjudicators to halt the case-by-case exercise of discretion for SIJ-based Deferred Action grants. Tr. 177:19–23; Ex. B. In other words, while Respondents now contend that Walter A's Deferred Action was inconsistent with policy, the agency itself had already instructed adjudicators not to apply the governing policy framework at all.

That directive directly undermines Respondents' claim that Walter A's Deferred Action resulted from the faithful application of agency policy or that the agency now seeks to correct a policy error. If the agency had already suspended individualized determinations before the policy change took effect, then the assertion that Walter A "should never have been granted Deferred Action" cannot be viewed with any level of credibility. Rather, the record reflects that the agency itself departed from its own procedures before the new policy was even implemented.

This further confirms that the termination was not the result of a reasoned policy analysis but instead a *post-hoc* justification offered after the fact. When an agency's explanation conflicts with its own contemporaneous records, courts are not required to accept the agency's asserted rationale. See *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30–31 (2020) (agency action must be supported by a reasoned explanation grounded in the administrative record).

When questioned on whether any appeal rights are provided by USCIS for termination of Deferred Action, Mr. Johnson stated, "it's a discretionary benefit, so there's no recourse to protest a decision." Tr. 174: 4-5. Then when asked if notice or opportunity to respond was provided to Walter A, Mr. Johnson stated, "That's not a procedural thing that we do." Tr. 176: 2-3. Courts addressing similar circumstances have rejected this position that Deferred Action may be terminated arbitrarily and without explanation.

In *Garcia Lanza v. Noem*, the court held that revocation of Deferred Action constituted "arbitrary and capricious Government action incompatible with Constitutional norms," explaining that even discretionary authority cannot be exercised in a manner that is pretextual, discriminatory, or arbitrary. *Garcia Lanza v. Noem*, No. 26-0029, slip op. at 9–10 (E.D.N.Y. Mar. 3, 2026).

In *Sarmiento v. Perry*, the court held that the termination of SIJ-based deferred action was reviewable under the Administrative Procedure Act because deferred action constitutes more than a passive non-enforcement choice; rather, it is an affirmative immigration benefit reflecting a determination by the agency to extend protection from removal. *Sarmiento v. Perry*, 2026 WL 131917, at *7 (E.D. Va. Jan. 19, 2026). The court further concluded that rescission of such protection without explanation or articulated reasoning was likely arbitrary and capricious, particularly where the petitioner's SIJ status remained valid and no new facts justified the reversal. *Id.* at *8. Importantly, the court rejected the government's attempt to avoid review by arguing that the termination rendered the dispute moot, instead exercising its authority to restore the prior status quo pending adjudication. *Id.* at *10.

Other courts have expressed similar concern with the government's practice of granting deferred action only to revoke it without explanation. In *Nevarez Jurado v. Freden*, the court questioned how USCIS could undertake a full evaluation of a petitioner's equities, communicate that the petitioner had received favorable discretionary protection, and then revoke that protection without articulated cause. *Nevarez Jurado v. Freden*, No. 25-CV-943-LJV, at 15 (W.D.N.Y. 2025). The court emphasized that such conduct raises serious concerns regarding arbitrariness and reliance, asking why the government would formally notify an individual that removal would be deferred if it intended to retain the ability to rescind that protection "willy nilly." *Id.*

The record here reflects precisely the type of arbitrary action that courts have rejected. Walter A's Deferred Action remained in place for over a year despite the government's full knowledge of his circumstances. The agency took no action after the removal order and identified no change in circumstances that would justify reconsideration. Instead, ICE requested review of the protection on February 19, 2026, and the protection was terminated the same day, within hours of that request, without any documented reasoning or analysis. Johnson Decl. ¶ 2.

This sequence demonstrates that the revocation was not the result of a deliberative agency process but rather a litigation-driven attempt to eliminate the legal significance of a protection the government itself had previously granted. Because the record demonstrates that the termination of Deferred Action was retaliatory in violation of the First Amendment, unsupported by reasoned decision-making in violation of the Fifth Amendment, and initiated only to advance the Respondents' own litigation position, the Court should restore the *status quo ante* and order the reinstatement of Walter A's Deferred Action.

CONCLUSION

The evidentiary record establishes that Respondents cannot lawfully justify Walter A's continued detention. The government has failed to demonstrate that detention is authorized under 8 U.S.C. § 1231(a)(6), failed to show that removal is significantly likely in the reasonably foreseeable future as required by *Zadvydas v. Davis*, and failed to comply with the regulatory procedures governing post-removal detention. The testimony further confirms that Respondents have taken no concrete steps toward executing removal and cannot identify any lawful basis for continuing custody.

At the same time, the record reflects that Walter A holds approved Special Immigrant Juvenile Status and was granted Deferred Action after the agency reviewed his immigration history, criminal history, and humanitarian circumstances. Those protections were in place for over a year and remained undisturbed until ICE requested reconsideration during the pendency of this litigation. The immediate termination of Deferred Action on the same day that request was made, without any documented analysis or reasoned decision-making, demonstrates that the revocation was not the product of a legitimate agency process but rather a litigation-driven attempt to eliminate the legal consequences of the protection the government itself had previously granted.

Respondents' own testimony underscores the absence of lawful authority for detention. Their witness could not identify the statutory basis for custody, could not identify any removal steps taken in this case, and acknowledged that removal preparations have not even begun. Under *Zadvydas*, speculation about possible removal cannot justify continued civil confinement.

Nor have Respondents provided the procedural safeguards required by the Constitution and the governing regulations. The required post-order custody review has not occurred, the foreseeability determination mandated by 8 C.F.R. § 241.13 has not been conducted, and detention has continued by default rather than through a lawful determination supported by evidence.

In short, the record demonstrates that Walter A is being detained without lawful statutory authority, without constitutionally adequate process, and without any realistic prospect of removal. The Constitution does not permit the government to imprison an individual under those circumstances.

For these reasons, Petitioner respectfully requests that the Court grant the Petition for Writ of Habeas Corpus, order Walter A's immediate release from custody, protect Walter A with an extended stay of removal and with requirements of any pre-deprivation hearings in the future, and issue a temporary restraining order restoring the *status quo ante* by reinstating Petitioner's Deferred Action pending further proceedings.

Dated: March 9, 2026,

Respectfully Submitted,

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Certificate of Service

I certify that on March 9, 2026, I electronically filed the foregoing document(s) and that they are available for viewing and downloading from the Court's CM/ECF system, and that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: March 9, 2026.

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