

**IN 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'S REPLY CLOSING
ARGUMENT**

CASE No: 26-cv-01393

WALTER A'S REPLY CLOSING ARGUMENT

Comes now, Walter A, making his final submission as permitted by the Court in response to the Respondents' closing argument. Walter A would like to request the Court make an expeditious decision on this matter as his ongoing custody is increasingly difficult on him.

First with regards to the factual matters described by Respondents and to the extent that they are incorrect, such was previously addressed on the record with evidence. *See* ECF 19; 20. Respondents never rebut the legal issues. They don't explain how his SIJ

status is not a barrier to his removal.¹ They don't make any argument that they are able to revoke the SIJ petition through removal despite the regulations. They don't address how their lack of custody determinations required by regulations meets the standard for maintaining custody or how it would surpass Fifth Amendment problems. They don't answer as to how their biometrics policies don't violate the Administrative Procedure Act or the Constitution. In sum: they do not answer Walter A's Petition, cannot justify custody and have waived all rights to respond to those unaddressed arguments.

Second, Respondents repeatedly assert that removal could occur within a matter of days if the stay were lifted. The Respondents, however, only confirm Walter A's position that their argument of physical likelihood of removal fails (Respondents stating "ICE *would likely* be able to remove Petitioner to Guatemala within two weeks" (emphasis added) *See* ECF 50 at 3; and "only 2-3 days needed to receive a response from the Guatemalan Consulate" indicating Respondents have not even confirmed Guatemala would take Walter A (*see* ECF 50 at 4)).

ICE has already said all that is required to fail to meet the standards of *Zadvydas*: Walter A is "not ready for removal at this time." Tr. 117:10–13. Any contrary assertions are purely speculative and cannot satisfy the Government's burden under *Zadvydas* to demonstrate that removal is significantly likely in the reasonably foreseeable future.

¹ For example, they could have explained how they suppose that Congress didn't intend for SIJ grantees to stay in the U.S. while they wait to adjust their status, or how all the other Courts that have confirmed Walter A's legal argument are incorrect and why, but they simply do not.

Respondents state that to the thrust of Walter A's claim is that the SIJ renders him unremovable, and the only support for this conclusion is "testimony of a bias witness." *See* ECF 50, at 5. But the basis is in the law, which Respondents do nothing to rebut. Congress created Special Immigrant Juvenile Status to protect abused, neglected, or abandoned children and to provide them a pathway to lawful permanent residence in the United States. 8 U.S.C. § 1101(a)(27)(J). The statutory scheme facilitates that adjustment process by deeming SIJ beneficiaries "paroled" for purposes of adjustment and exempting them from otherwise applicable inadmissibility grounds. 8 U.S.C. § 1255(h). The regulations further confirm that SIJ classification is an adjustment-only immigrant category, meaning the beneficiary must remain in the United States to pursue permanent residence. 22 C.F.R. § 42.11.

Congress also enacted safeguards recognizing the vulnerability of SIJ beneficiaries, including the directive that a child who has been abused, neglected, or abandoned may not be compelled to contact the alleged abuser during the immigration process. 8 U.S.C. § 1357(h). Courts have therefore recognized that SIJ status is designed to allow beneficiaries to remain in the United States while pursuing adjustment of status and that a due process right exists in such. *See e.g. Osorio-Martinez v. Att'y Gen.*, 893 F.3d 153, 168–73 (3d Cir. 2018); *Joshua M. v. Barr*, 439 F. Supp. 3d 632, 649 (E.D. Va. 2020). Congress House Reports and SIJ policy also make it clear that SIJ was created with the purpose of an individual remaining in the United States pending the ability to adjust status. Because SIJ petitions may be revoked only by USCIS through a separate

statutory process, removal before that process occurs nullifies the status and operate as a *de facto* revocation of SIJS. 8 C.F.R. § 204.11.

Deferred action tied to SIJ is an affirmative benefit in which DHS determines that a noncitizen should not be removed for a specified period of time. See *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999). Because deferred action reflects an affirmative decision to defer removal, its existence (assuming the Court rights the retaliatory termination and because it existed at the time this lawsuit was filed) further undermines any claim that Walter's removal is significantly likely in the reasonably foreseeable future.

Third, Respondents devote attention to visa petitions and applications that are not at issue in this habeas proceeding. See ECF 50 at 4. Walter A has never argued that the mere filing of immigration benefit applications prevents removal. Nor is the Court being asked to adjudicate those applications.

Fourth, Respondents' criticism of the expert testimony likewise fails to undermine the evidentiary record. The expert witness testified regarding the statutory framework governing Special Immigrant Juvenile Status and the congressional intent underlying that framework. That testimony was grounded in statutory text, legislative history, and case law, all of which were provided to the Court (*See generally* Tr. 43-75). The expert's testimony was grounded in parts of the INA, the Congressional House Reports, the Code of Federal Regulations and the case law supporting the research and conclusions she has come to, which she had been doing since 2017 or 2018 when she was working at the

Catholic Legal Immigration Network. *See* Tr. 35: 13-23.² The purpose of that testimony was not to advocate a legal position but to explain the structure of the SIJS statutory scheme and the practical consequences of removal for SIJS beneficiaries. Ms. Scholtz's supposed bias or otherwise does not change the law, the regulations, congressionally published materials or the case law surrounding this issue.

Ms. Scholtz also recited her opinion with excerpts from policy, law or other grounded facts. For example, she was asked "In your experience, does deferred action create reliance interest for recipients?" *See* Tr. 70: 21-22, and she replied, "I'd like to refer again to the USCIS Policy Alert from 2022 -- again, that's I think Exhibit C of my report - - and note what the USCIS said at that time, which is, "USCIS believes" -- the very last paragraph of that report -- "that approved SIJ petitioners have a reliance interest in being provided with employment authorization consistent with the 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: 15-24.

Even if Respondents disagree with the conclusions drawn from those authorities, the Court remains fully capable of independently reviewing the statutory and legislative materials cited in the record. Respondents state "Ms. Scholz testimony amounted to

² Respondents' concerns seem to be based largely on Ms. Scholtz's current organization of employment, the National Immigration Project. But Ms. Scholtz was working for CLINIC (the Catholic Legal Network) at the time when this research and her understanding of the law. "CLINIC was founded by the U.S. Catholic Conference of Bishops and is governed by a board comprised of a majority of bishops, along with women and men whose professional backgrounds provide helpful context for our work." *See* CLINIC, 'Catholic Identity and Social Teaching', 2024 <https://www.cliniclegal.org/about-us/catholic-identity> (accessed March 11, 2026). Naturally, such is a conservative organization with conservative leaders and, therefore, Ms. Scholtz's views have been formed whilst working for both more and less conservative organizations, as well as organizations funded, in part, by state and local government. *See* Exhibit A.

nothing more than legal argument, which remains the job of Petitioner's Counsel, not a testifying expert." *See* ECF 50 at 5, ft note 5. Even assuming that this argument was relevant, if Respondents opine that counsel is capable of making these arguments, they also concede that the Court is even more capable of reviewing and vetting the information provided by Ms. Scholz. The source of the provision of the law, policy, Congress House Reports and regulations (namely counsel vs a witness who has spent 15 years gaining experience on these matters) does not change the law, policy, Congress House Reports and regulations.

Moreover, Respondents' assertion that the expert was "biased" because she works with organizations that assist SIJS beneficiaries misunderstands the role of expert testimony. Experts are routinely permitted to testify based on their professional experience and specialized knowledge within a field, and courts have found expert testimony increasingly helpful in the immigration context. *David v. Signal Int'l, LLC*, No. CV 13-6219, 2015 WL 14018914, at *1 fn8 (E.D. La. Jan. 11, 2015) (concluding that "Because immigration law is a large and complex body of law with which an ordinary juror is not familiar,⁸ the Court finds expert testimony on these areas will be helpful to the jury."). Here, the expert's testimony simply identified the statutory provisions enacted by Congress and explained how those provisions function within the immigration system. Whether the Court ultimately agrees with those interpretations is a determination for the Court itself, not a reason to disregard the testimony.

Fifth, notably, Respondents do not meaningfully respond to several of the legal violations identified in the Petition, including the failure to conduct and respond to the required custody review under 8 C.F.R. §§ 241.4(k)(1)(i) or 241.13(e)(1), the failure to articulate at a threshold level the justification for ongoing detention, and the failure to respond to the request for a reasonable foreseeability determination under 8 C.F.R. § 241.13.

These regulatory safeguards exist precisely to prevent indefinite detention where removal is uncertain. Respondents' silence on these issues further underscores the absence of lawful authority for continued custody in violation of both the CFR and the Fifth Amendment. The Respondents similarly fail to address all other claims in the Petition, including issues of the Fifth Amendment violations of detention, and the APA claims. Even if the Court were to set aside the SIJS and Deferred Action issues entirely, these independent violations remain unresolved and independently render Walter A's continued detention unlawful.

Finally, Respondents argue that challenges relating to Deferred Action fall outside the scope of habeas review and would more appropriately arise under the Administrative Procedure Act. That argument ignores the structure of the present action. The Petition expressly raises claims under both the Constitution and the Administrative Procedure Act in addition to the habeas claim itself. APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by "any applicable form of legal action, including actions for declaratory judgments or writs of

prohibitory or mandatory injunction or habeas corpus”). The Court, therefore, has authority to consider whether the termination of Deferred Action and the agency conduct surrounding that termination were in violation of the First and Fifth Amendments, or arbitrary, capricious, or contrary to law and to restore the *status quo ante*.

Of greatest concern is Respondents’ statement, “USCIS would have likely reviewed Petitioner’s DA during its adjudication of Petitioner’s EAD renewal, which Petitioner’s filing regarding a biometrics request acknowledges is underway.” *See* ECF 50 at 6, *ft* note 6. Respondents expect the Court to simply disregard the importance of their retaliatory action because USCIS *may* have done something in response to a tangentially related application. There is no evidence that this may have occurred, much less that it is *likely* to have occurred.

All other matters addressed by Respondents have meaningfully been addressed by Walter A in past filings and Walter A wishes the Court to defer to those submissions in response.

In short, Respondents’ closing argument does not meaningfully rebut the central issue before the Court: whether continued detention is lawful where removal is not reasonably foreseeable and where multiple independent legal violations have been demonstrated in the record. Because Respondents have failed to establish lawful authority for continued detention, habeas relief remains warranted.

Dated: March 9, 2026,

Respectfully Submitted,

/s/ Stacey R. Rogers

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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.

Respectfully Submitted,

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