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

**CHRISTIAN FERNANDO BARRERA GARCIA**
31 Hopkins Plaza, [redacted]
Baltimore, MD 21201

*Petitioner*,

v.

**NIKITA BAKER**, *in her official capacity as Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations Baltimore Field Office*;

c/o DHS Office of the General Counsel
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485

**TODD LYONS**, *in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement*;

500 12th St. SW
Washington, DC 20536

**KRISTI NOEM**, *in her official capacity as Secretary of Homeland Security*;

c/o DHS Office of the General Counsel
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485

**PAMELA BONDI**, *in her official capacity as Attorney General of the United States*,

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

**PETITION FOR A WRIT OF HABEAS CORPUS**

Case No. 1:26-cv-761

*Respondents.*

## INTRODUCTION

1. Petitioner, Christian Fernando Barrera Garcia, through undersigned Counsel, petitions this Court for a Writ of Habeas Corpus ordering his immediate release from immigration custody. Mr. Barrera Garcia is a Special Immigrant Juvenile Status ("SIJS") recipient with Deferred Action and has been in detention since Saturday, February 21, 2026, at the Immigration and Customs Enforcement ("ICE") Enforcement and Removal Operations ("ERO") Baltimore Field Office. Despite having a grant of SIJS, which provides Mr. Barrera Garcia with a pathway to lawful permanent residence, with Deferred Action and no criminal record, he remains unlawfully detained away from his family. As a recipient of Deferred Action, Mr. Barrera Garcia cannot be removed from the United States.
2. In the course of his arrest, Mr. Barrera Garcia sustained a serious injury to his arm which he feared may have been fractured. Despite the apparent severity of this injury, his ongoing and significant pain, and undersigned counsel's attempts to raise the issue with ICE, Mr. Barrera Garcia has not received any medical evaluation or treatment.
3. The failure to provide medical treatment to a detained individual with an obvious and serious injury raises grave constitutional concerns. Under the Eighth Amendment to the United States Constitution, and as applied to pretrial detainees through the Fourteenth Amendment, detention authorities are required to provide adequate medical care and may not exhibit deliberate indifference to serious medical needs.

4. The U.S. Supreme Court held in *Estelle v. Gamble*, 429 U.S. 97 (1976) that deliberate indifference to a prisoner's serious medical needs constitutes cruel and unusual punishment. Courts have consistently recognized untreated fractures and severe injuries as qualifying serious medical needs requiring prompt treatment. Accordingly, Mr. Barrera Garcia's continued detention without access to medical care constitutes a violation of his constitutional rights and places him at risk of permanent injury and unnecessary suffering.
5. Mr. Barrera Garcia's detention, despite his current grant of SIJS and Deferred Action, violates his constitutional rights under the Fifth Amendment of the Constitution, the Immigration and Nationality Act, and statutory protections for special immigrant juveniles.
6. Even if Mr. Barrera Garcia's detention were allowable under the law, he would be eligible to pursue discretionary release on bond from an Immigration Judge ("IJ"). Mr. Barrera Garcia has been charged with having entered the United States "without being admitted or paroled." *See* 8 U.S.C. § 1182(a)(6)(A)(i). This alleged manner of entry, along with his lack of criminal history, places him within the default detention authority of 8 U.S.C. § 1226(a).
7. Lastly, Petitioner is a national of El Salvador and is therefore protected by the nationwide injunction entered in *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549 (9th Cir. 1990). The Orantes injunction prohibits government practices that interfere with Salvadoran detainees' access to counsel and their ability to pursue available legal remedies, including challenges to detention. *Orantes-Hernandez v. Meese*, 685 F. Supp. 1488, 1506–07 (C.D. Cal. 1988), aff'd, 919 F.2d 549 (9th Cir. 1990).
8. Accordingly, Mr. Barrera Garcia seeks a writ of habeas corpus requiring that he be immediately released from custody, with all of his personal property, or, in the alternative, that he be released pending a bond hearing before an IJ pursuant to 8 U.S.C. § 1226(a), at

which the government bears the burden of justifying his detention by clear and convincing evidence.

9. This remedy is necessary to efficiently vindicate Mr. Barrera Garcia's rights and to ensure that he receives a fair bond hearing for which he can adequately prepare.

## JURISDICTION & VENUE

10. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*

11. This Court has subject matter jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

13. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the District of Maryland, the judicial district in which Petitioner is currently detained.

14. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the District of Maryland.

15. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

## PARTIES

16. Petitioner Christian Fernando Barrera Garcia is a native and citizen of El Salvador, SIJS and Deferred Action recipient, who has been in ICE custody since February 21, 2026 and is currently detained at the ICE ERO Baltimore Field Office.

17. Respondent Nikita Baker is the Field Office Director of the ICE ERO Baltimore Field Office. In that capacity, she has the authority to make custody determinations regarding individuals detained in Maryland and is a legal custodian of Petitioner. She is sued in her official capacity.

18. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and as such is the legal custodian of Mr. Barrera Garcia. He is sued in his official capacity.

19. Respondent Kristi Noem is the Secretary of Homeland Security. She supervises ICE, an agency within the Department of Homeland Security ("DHS") which is responsible for the administration and enforcement of immigration laws and has supervisory responsibility for and authority over the detention and removal of noncitizens throughout the United States. Secretary Noem is the ultimate legal custodian of Petitioner. She is sued in her official capacity.

20. Respondent Pamela Bondi is the Attorney General of the United States. As the Attorney General, she oversees EOIR, including all IJs and the Board of Immigration Appeals ("BIA"), and has authority over immigration detention. She is sued in her official capacity.

## STATEMENT OF FACTS

21. Petitioner, Christian Fernando Barrera Garcia, is a native and citizen of El Salvador who entered the United States in 2022 as an unaccompanied minor after [redacted]

and unsafe living conditions in his home country. Prior to his arrival, Mr. Barrera Garcia lived in El Salvador with his elderly and ill grandparents because his biological father was absent and his mother had separated from him following instances of domestic abuse. Mr. Barrera Garcia had limited contact with his father and received no meaningful financial or emotional support. Mr. Barrera Garcia filed for Special Immigrant Juvenile Status on September 30, 2024 and received an Approval from United States Citizenship and Immigration Services ("USCIS") on January 23, 2025, along with a grant of Deferred Action for a period of four years from the date of the Approval Notice. Exh. 1. Mr. Barrera Garcia is therefore a recipient of currently valid Deferred Action. *Id.*

22. On or about September 21, 2026, Mr. Barrera Garcia was detained by immigration officials. Although Mr. Barrera Garcia did not resist arrest, an agent twisted his arm, he was pushed to the ground, and multiple agents got on top of him.

23. Mr. Barrera Garcia was then brought to the ICE ERO Baltimore Field Office, where he remains detained. Mr. Barrera Garcia was in a substantial amount of pain due to the injury to his arm, and feared that his arm may have been broken. Mr. Barrera Garcia was not given any medical care at the ICE ERO Baltimore Field Office on that day.

24. On February 21, 2026, undersigned counsel contacted the ICE ERO Baltimore Field Office by email to inform ICE that Mr. Barrera Garcia had entered the United States in 2022 as an unaccompanied minor and was a recipient of an approved SIJS Petition and currently valid Deferred Action. Exh. 2. Undersigned counsel included a copy of the SIJS Approval Notice with grant of Deferred Action and requested an opportunity to visit Mr. Barrera Garcia on February 21, 2026, or February 22, 2026. *Id.*

25. Later on February 21, 2026, after learning through Mr. Barrera Garcia's mother about the injury to Mr. Barrera Garcia's arm and his lack of access to medical care, undersigned counsel sent a follow-up email to the ICE ERO Baltimore Field Office requesting urgent medical assistance for Mr. Barrera Garcia, and reiterating her request for a meeting with Mr. Barrera Garcia. Exh. 2. As of February 24, 2026, both emails remain unanswered.

26. On February 22, 2026, undersigned counsel attempted to escalate the above requests to Respondent Nikita Baker, ICE ERO Baltimore Field Office Director. Exh. 2. Undersigned counsel included in her request that Mr. Barrera Garcia had informed his mother that day that he was still in pain from his arm as well as a migraine he had since the previous day and had not been given any medicine or medical attention. *Id.* As of February 24, 2026, this email remains unanswered.

27. On February 23, 2026, undersigned counsel went in person to the ICE ERO Baltimore Field Office. In the lobby of the building, building security guards informed undersigned counsel that ICE was closed so it was not possible to visit detained clients. Undersigned counsel communicated to ICE, through a building supervising security guard, that she wished to see Mr. Barrera Garcia and that he may have a broken arm and required urgent medical assistance. Undersigned counsel also requested that she be allowed to bring over-the-counter pain medication to Mr. Barrera Garcia. ICE did not allow undersigned counsel to see or speak to Mr. Barrera Garcia or any ICE official.

28. On February 23, 2026 at 7:36 PM, undersigned counsel received a call from Mr. Barrera Garcia, through his mother. Mr. Barrera Garcia informed undersigned counsel that he had been told that the following day, February 24, 2026, around 8 or 8:30 AM, he would be

transferred to a facility in Georgia. At the time of the call, Mr. Barrera Garcia was still detained at the ICE ERO Baltimore Field Office.

29. After entering her appearance as Mr. Barrera Garcia's attorney in the EOIR Courts & Appeals System, undersigned counsel gained access to a document entitled "Notice to EOIR: Alien Address," ICE Form I-830E, signed by Deportation Officer Ian Valines on February 23, 2026, notifying EOIR of Mr. Barrera Garcia's transfer to the Stewart Detention Center in Lumpkin, Georgia on February 23, 2026. Exh. 3.

## LEGAL FRAMEWORK

### I. Special Immigrant Juvenile Status

30. SIJS is a form of immigration relief that provides vulnerable children with a path to legal permanent residency in the United States. Congress established SIJS in 1990 "to protect abused, neglected or abandoned children who . . . illegally entered the United States . . ." *Osorio-Martinez v. Attorney General*, 893 F.3d 153, 163 (3d Cir. 2018) (internal quotation marks and citations omitted). In doing so, Congress exempted SIJS recipients from several grounds of removability from the United States. *See* 8 U.S.C. § 1227(c). Congress expressly provided that SIJ beneficiaries are "deemed, for purposes of subsection (a), to have been paroled into the United States," thereby allowing adjustment of status notwithstanding unlawful entry. 8 U.S.C. § 1255(h)(1). Congress further authorized broad waivers of inadmissibility for SIJ beneficiaries, including provisions that otherwise penalize entry without inspection. 8 U.S.C. §§ 1255(h)(2)(B), 1182(a)(6)(A).

31. While SIJ classification does not eliminate all grounds of removability, it significantly limits the immigration consequences flowing from unlawful entry and preserves eligibility for lawful status. See *United States v. Granados-Alvarado*, 350 F. Supp. 3d 355, 361–62

(D. Md. 2018) (recognizing that SIJ designation confers statutory immigration protections while not eliminating all removal authority). Accordingly, where a juvenile with approved SIJ classification is detained and faces removal predicated primarily on unlawful entry, continued custody lacks a meaningful statutory basis and conflicts with the protective framework Congress enacted for Special Immigrant Juveniles. *See* 8 U.S.C. §§ 1255(h)(1)–(2); *Granados-Alvarado*, 350 F. Supp. 3d at 361–62.

32. To be eligible for SIJS, a noncitizen minor must: (1) be physically present in the United States; (2) be under 21 on the date of filing the SIJS petition; (3) remain unmarried throughout the adjudication of the SIJS petition; (4) receive a qualifying juvenile court order; and (5) obtain USCIS's consent to the grant of SIJS. 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11(c).

33. SIJS affords a recipient the ability to obtain Deferred Action and work authorization to live and work in the United States.[1] *See* 8 U.S.C. § 1101(a)(27)(J)(iii) (describing SIJ as "status"); 8 C.F.R. § 204.11(b) (same); 8 U.S.C. § 1255(h) (listing rights); *Perez v. Cuccinelli*, 949 F.3d 865, 865 (4th Cir. 2020) (describing SIJS as a status); *Rodriguez*, 747 F. Supp. 3d at 919 (recognizing SIJS as "accord[ing] significant benefits and procedural protections that put [petitioner] a hair's breadth from being able to adjust [his] status") (internal quotation marks omitted).

[1] On June 6, 2025, DHS rescinded its longstanding policy of categorially considering deferred action for SIJS recipients with an approved I-360. USCIS Policy Alert, https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250606-SIJDeferredAction.pdf. However, noncitizens like Mr. Barrera Garcia "with current deferred action based on their SIJ classification will generally retain this deferred action, as well as retain their current employment authorization provided based on this deferred action, until the current validity periods expire." *Id.* at 2. Furthermore, following the Court's stay issued on November 19, 2025 in A.C.R. v. Noem, No. 25-CV-3962 (E.D.N.Y.), USCIS must continue to conduct deferred-action and work permit adjudications pursuant to the 2022 SIJS Deferred Action Policy Alert.

34. SIJS recipients can adjust their status to that of lawful permanent resident even if they previously entered without inspection or admission. *See* 8 U.S.C. §§ 1255(a); 1255(h)(1); 8 C.F.R. § 245.1(e)(i). Individuals granted SIJS are treated, for purposes of adjustment of status, as if they had been paroled into the United States, even where the initial entry occurred without admission or inspection. *See* 8 U.S.C. § 1255(h)(1) (stating that a noncitizen with SIJS classification "shall be deemed, for purposes of subsection (a), to have been paroled into the United States.") For a noncitizen with SIJS to adjust status, a visa number must be available. *See* 8 U.S.C. § 1153(b)(4). Because the number of noncitizens with SIJS who can adjust their status each year is limited, together with the loss of visa numbers and USCIS processing delays, it can take years for a noncitizen with SIJS to complete the adjustment of status process.

**II. Detention During Removal Proceedings**

35. 8 U.S.C. § 1229a (Section 240 of the INA) describes the primary process through which the government seek to remove noncitizens from the United States. It specifies that "[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be . . . removed from the United States." 8 U.S.C. § 1229a(a)(3).

36. To initiate removal proceedings against a noncitizen under Section 1229a, the Government must issue the noncitizen an NTA. 8 U.S.C. § 1229(a)(1). Most noncitizens go through removal proceedings from outside detention. But ICE is increasingly detaining noncitizens during their removal proceedings.

37. Section 1226 of Title 8 of the U.S. Code (Section 236 of the INA) is the default provision that governs the arrest and detention of noncitizens pending removal

proceedings. It states that "on a warrant issued by the Attorney General, a[] [noncitizen] may be arrested and detained pending a decision on whether the [noncitizen] is to be removed from the United States." 8 U.S.C. § 1226(a). Noncitizens arrested upon a warrant and in ongoing removal proceedings are eligible to seek bond from an IJ. *Id.* § 1226(a)(2).

38. A separate provision governs the detention of people who seek admission to the United States at the border. It states that "in the case of a [noncitizen] who is an applicant for admission, if the examining immigration officer determines that a [noncitizen] seeking admission is not clearly and beyond a doubt entitled to be admitted, the noncitizen shall be detained for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A). IJs lack jurisdiction to grant bond for such "applicant[s] for admission," though DHS retains the discretion to release such noncitizens on a specific type of parole "for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A).

**III. The Government's New and Unprecedented Expansion of Detention Without Bond**

39. For decades, the Government's practice was to afford § 1226(a) discretionary bond hearings to individuals who entered without inspection and were encountered neither at a port of entry nor while seeking admission into the United States, unless their criminal history rendered them bond-ineligible under 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

40. On July 8, 2025, DHS radically upended this longstanding interpretation and practice when it issued a notice to all ICE employees that "DHS, in coordination with the Department of

Justice (DOJ), has revisited its legal position on detention and release authorities." *See* AILA Doc. No. 25071607, ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission at 1, American Immigration Lawyers Association (July 8, 2025), https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission. In the memo, DHS announced that it considered "applicants for admission" to now encompass any noncitizen "present in the United States who has not been admitted or who arrives in the United States," in conjunction with its novel stance "that [Section 1225] of the Immigration and Nationality Act (INA), rather than [Section 1226], is the applicable immigration detention authority for all applicants for admission." *Id.* As a result, DHS concluded that these noncitizens "are also ineligible for a custody redetermination hearing ('bond hearing') before an IJ and may not be released for the duration of their removal proceedings absent a parole by DHS." *Id.*

41. On September 5, 2025, the government further doubled down on this position when the BIA issued a precedential decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In that decision, the BIA concluded that the "plain text" of the INA mandates that noncitizens who are "present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings." *Id.* at 220. The BIA conceded that even though "section 236(c) of the INA, 8 U.S.C.A. § 1226(c), mandates detention of a subset of the category of [noncitizens] that are also subject to mandatory detention under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A)"—effectively rendering Section 1225(b)(2) superfluous and redundant under this novel interpretation—

this concern is irrelevant because "redundancies are common in statutory drafting." *Id.* at 222.

42. The BIA's decision in *Matter of Yajure Hurtado*, which IJs across the nation believe they are required to follow as binding precedent, effectively mandates that noncitizens "who surreptitiously cross into the United States remain applicants for admission until and unless they are lawfully inspected and admitted by an immigration officer," even if they "[r]emain[] in the United States for a lengthy period of time following entry without inspection." *Id.* at 228. Consequently, IJs "have no authority to redetermine the custody conditions of a[] [noncitizen] who crossed the border unlawfully without inspection." *Id.* "This sweeping new policy subjects millions of undocumented residents to prolonged detention without the opportunity for release on bond, in contravention of decades of agency practice and robust due process protections hitherto afforded to such residents to enable them to challenge the government's basis for detaining them." *Rodriguez Cabrera, v. Mattos*, No. 2:25-CV-01551-RFB-EJY, 2025 WL 3072687, at *3 (D. Nev. Nov. 3, 2025).

43. This Court has rejected Respondents' novel and unlawful interpretation of the law and held that noncitizens who entered without admission or inspection are not categorically subject to detention under § 1225(b) and may instead be detained pursuant to 8 U.S.C. § 1226(a), which provides for bond determinations by an IJ. See *Hernandez-Lugo v. Bondi*, No. 1:25-cv-03434, slip op. at 10–15 (D. Md. Nov. 25, 2025).

44. This Court joins the vast majority of courts "around the country [that] have rejected [the government's] new interpretation of the INA." *See, e.g., Vasquez Carcamo v. Noem*, No. 2:25-CV-00922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 2025); *Aguirre Villa*, 2025 WL 3091833; *Menjivar Sanchez v. Wofford*, No. 1:25-CV-01187-SKO (HC), 2025

WL 3089712 (E.D. Cal. Nov. 5, 2025); *Salgado Mendoza v. Noem*, No. 1:25-CV-1252, 2025 WL 3077589 (W.D. Mich. Nov. 4, 2025); *Hernandez Alonso v. Tindall*, No. 3:25-CV-652-DJH, 2025 WL 3083920 (W.D. Ky. Nov. 4, 2025); *Rojano Gonzalez v. Sterling*, No. 1:25-CV-6080-MHC, 2025 WL 3145764 (N.D. Ga. Nov. 3, 2025); *J.A.M. v. Streeval*, No. 4:25-CV-342 (CDL), 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025); *Godinez-Lopez v. Ladwig*, No. 2:25-CV-02962-SHL-ATC, 2025 WL 3047889 (W.D. Tenn. Oct. 31, 2025), *Singh v. Bondi*, No. 1:25-CV-02101-SEB-TAB, 2025 WL 3029524 (S.D. Ind. Oct. 30, 2025); *Ramirez Valverde v. Olson*, No. 25-CV-1502, 2025 WL 3022700 (E.D. Wis. Oct. 29, 2025); *Aguilar Guerra v. Joyce*, 2:25-CV-534-SDN, 2025 WL 2986316 (D. Maine Oct. 23, 2025); *Contreras Maldonado v. Cabezas*, No. 25-CV-13004, 2025 WL 2985256 (D. N.J. Oct. 23, 2025); *Caballero v. Baltazar*, No. 25-CV-03120-NYW, 2025 WL 2977650 (D. Colo. Oct. 22, 2025); *Ochoa Ochoa v. Noem*, No. 25-CV-10865, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025); *Merino v. Ripa*, No. 25-23845-CIV, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025); *G.S. v. Bostock*, No. 2:25-CV-01255-JNW-TLF, 2025 WL 3014274 (W.D. Wash. Oct. 8, 2025), report and recommendation adopted sub nom. *G.S. v. Bostock*, No. 2:25-CV-01255-JNW-TLF, 2025 WL 3014035 (W.D. Wash. Oct. 28, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Garcia v. Noem*, No. 25-CV-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Kostak v. Trump*, No. 3:25-CV-01093-JE-KDM, 2025 WL 2472136 (W.D.

La. Aug. 27, 2025); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Samb v. Joyce*, No. 25 Civ. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Maldonado v. Olson*, No. 25-CV-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Rosado v. Figueroa*, No. 25-CV-02157-PHX-DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted, No. 25-CV-02157- PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025).

45. On December 18, 2025, the United States District Court for the Central District of California entered a final judgment in *Maldonado Bautista* which: (1) certified a nationwide Bond Eligible Class; (2) declared that class members are detained under § 1226(a) and not subject to mandatory detention under § 1225(b)(2); (3) vacated the July 8, 2025 DHS "Interim Guidance" policy that underpins *Yajure Hurtado*; and (4) clarified that *Yajure Hurtado* is "no longer controlling." *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713987 at *3 (C.D. Cal. Dec. 18, 2025).

46. For a brief period between mid-December and mid-January, some IJs around the country recognized the *Maldonado Bautista* final judgement and their jurisdiction to grant bond for people previously impacted by *Matter of Yajure Hurtado*. However, on January 13, 2026, EOIR Chief Immigration Judge Theresa Riley issued nationwide guidance by email to IJs around the nation, stating that "*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*." Chief IJ Riley further erroneously instructed IJs that "*Yajure Hurtado* remains binding precedent on agency adjudicators." AILA Doc. No. 26011404, Practice Alert: EOIR Issues Nationwide Guidance on

*Maldonado Bautista*, American Immigration Lawyers Association (Jan. 16, 2026), https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista.

47. Subsequently, IJs refused to recognize *Maldonado Baustista* and again denied bond based on lack of jurisdiction, occasionally also making alternative, unsupported findings of flight risk without adjudicating the merits of the bond requests.

48. Additionally, on February 18, 2026, the *Maldonado Bautista* court granted a Motion to Enforce Judgment. *See Maldonado Bautista*, No. 5:25-CV-01873-SSS-BFM, 2026 WL 468284, at *10 (C.D. Cal. Feb. 18, 2026). In its order, the court discussed the "ample evidence demonstrat[ing] Respondents' noncompliance with the Final Judgment" that it had issued on December 18, 2025, based on the fact that "IJs continue to rely on *Yajure Hurtado* despite the fact its underlying legal interpretation was found irreconcilable with this Court's declaration of law." *Id.* at *6. Noting that "Respondents have far crossed the boundaries of constitutional conduct" by "still insist[ing] they can continue their campaign of illegal action," and disregard the court's "final decision on the merits . . . and entry of final judgment," the court concluded that "this Motion has become necessary to do exactly that: execute the judgment." *Id.* at *6–7. Consequently, the court "**vacate[d]** *Matter of Yajure Hurtado* as contrary to law under the APA." *Id.* at *7 (emphasis in original).

49. Respondents, as parties to that litigation, are bound by this declaratory judgment, which has the "force and effect of a final judgment." 28 U.S.C. § 2201(a). Their refusal to abide by that judgment compounds the unlawfulness of Mr. Barrera Garcia's detention and necessitates urgent and specifically crafted relief.

50. Moreover, independent of the nationwide judgment and as this Court has repeatedly held in individual habeas petitions, the mandatory detention provision of § 1225(b)(2)(A) does not apply to individuals like Mr. Barrera Garcia, who have already entered and were residing in the United States at the time they were apprehended by ICE. If any provision authorizes his detention, it is § 1226(a).

## CLAIMS FOR RELIEF

### COUNT I

### Violation of the Substantive Due Process Protections of the Fifth Amendment of the Constitution

51. Petitioner realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

52. Under longstanding Supreme Court precedent, noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas*, 533 U.S. at 693; *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Freedom from physical restraint "lies at the heart of the liberty that the Due Process Clause protects." *Zadvydas*, 533 U.S. at 690.

53. Detention of a person with a valid, unrevoked grant of Deferred Action violates the Fifth Amendment's protection of liberty.

54. First, under the Due Process Clause, detention must always bear "some reasonable relation to the purpose for which the individual was committed." *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The only legitimate purpose for federal civil immigration detention is to prevent flight risk and ensure the detained person's attendance for a legal hearings

adjudicating their status or potential removal, or to otherwise ensure the safety of the community. *Zadvydas*, 533 U.S. at 690–91.

55. Here, Mr. Barrera Garcia's detention is not reasonably related to its purpose. First, there is no reason to believe that Mr. Barrera Garcia would not attend any immigration proceedings. Mr. Barrera Garcia has lived in the United States since he was a minor. Even though he was not in removal proceedings, Mr. Barrera Garcia chose to file a Petition for SIJS with USCIS, indicating that he wished to pursue lawful status for which he was eligible. Mr. Barrera Garcia's Petition for SIJS was approved by USCIS, so he will be eligible to apply for Adjustment of Status, commonly known as a "green card," once a visa becomes available. Finally, the government has no authority to deport him because of his valid grant of Deferred Action. Second, Mr. Barrera Garcia has no criminal record and therefore does not pose a threat to public safety. There is therefore no lawful purpose to justify Mr. Barrera Garcia's detention. Mr. Barrera Garcia's detention is unconstitutional under the Fifth Amendment.

56. Second, when a noncitizen is not deportable, the Due Process Clause requires that any deprivation of liberty be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301–02 (1993) (holding that due process "forbids the government to infringe certain 'fundamental' liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest"); *Demore*, 538 U.S. at 528 (applying a less rigorous standard for "deportable [noncitizens]").

57. Here, Mr. Barrera Garcia has a currently valid grant of Deferred Action, he has lived in the United States since he was a minor, he is the recipient of an approved Petition for SIJS

which will allow him to apply for a green card, and he has no criminal history. Accordingly, he is not a flight risk nor a threat to public safety, so the high standard for detention applicable to his case cannot be met.

58. Mr. Barrera Garcia's continued detention is unrelated to the purposes justifying it as a constitutional matter and therefore contravenes the fundamental Due Process protections in the Fifth Amendment of the Constitution and is causing Mr. Barrera Garcia substantial and irreparable harm.

## COUNT II

### Violation of the *Accardi* Doctrine and Agency Regulations Governing Custody Determinations

59. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

60. Under the *Accardi* doctrine, federal agencies are required to follow their own binding regulations and procedures. Where an agency fails to follow its own governing regulations, the resulting action violates due process and is unlawful. Respondents are required to follow their own regulations governing immigration detention and custody determinations, including regulations requiring individualized custody determinations and compliance with governing detention authority.

61. Mr. Barrera Garcia, a recipient of SIJS and Deferred Action with no criminal history, has been detained since February 21, 2026.

62. Respondents have failed to follow their own governing regulations by detaining Mr. Barrera Garcia without having followed agency procedures for terminating his Deferred Action.

63. Because Respondents have failed to comply with their own binding regulations governing Deferred Action determinations, Mr. Barrera Garcia's continued detention is unlawful under the *Accardi* doctrine.

64. Petitioner is therefore entitled to habeas relief, including immediate release from custody or, in the alternative, a prompt and lawful custody determination.

## COUNT III

### Violation of Procedural Due Process Protections of the Fifth Amendment of the Constitution

65. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

66. The procedural due process guarantee of the Fifth Amendment requires that individuals be provided notice and an opportunity to be heard before being deprived of liberty or property interests. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976).

67. In a case of violation of procedural due process, the plaintiff must have a protected property or liberty interest. *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 569–70 (1972). Reliance on government policies and assurances may give rise to protected expectations under the Due Process Clause. *Perry v. Sindermann*, 408 U.S. 593, 601–03 (1972).

68. Mr. Barrera Garcia reasonably relied on government assurances that an approved SIJS Petition with Deferred Action provides some protection from arrest, detention, and removal for those who follow the rules, and allows recipients to remain in the United States while they await eligibility for Adjustment of Status to lawful permanent residence. This reliance has created a legally protectable liberty interest.

69. Under the *Eldridge* Due Process test, the government's decision to arrest Mr. Barrera Garcia without any notice or an opportunity to respond, and continue to detain him without any opportunity to meaningfully communicate with his attorney or challenge that detention before he is moved to a different jurisdiction, violates his procedural due process rights. First, Mr. Barrera Garcia has a substantial, legally protectable liberty interest, created by his reliance on government SIJS and Deferred Action policies and associated assurances. Second, the risk of erroneously depriving Mr. Barrera Garcia of that interest is severe, as he is separated from his family and community indefinitely, and he is unable to access medical care for a serious injury to his arm. He has been afforded no due process prior to or since this deprivation, so the value of additional process is high. *See Eldridge*, 424 U.S. at 343. Third, the government does not have a significant interest in detaining Mr. Barrera Garcia. Mr. Barrera Garcia cannot be deported because of his valid grant of Deferred Action and he does not present any flight risk or danger: he has been a continuous resident in the United States since he was a minor, has strong ties to the United States, is a recipient of an approved SIJS Petition which will allow him to apply for a green card, and has no criminal history. His detention is therefore not rationally related to any purpose. Additional process would entail little to no burden on the government. *See Eldridge*, 424 U.S. at 347.

66. Accordingly, Mr. Barrera Garcia's continued detention without an opportunity to be heard violates his procedural due process rights under the Fifth Amendment of the Constitution.

## COUNT IV

**Violation of the Immigration and Nationality Act and Administrative Procedure Act**

70. Petitioner realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

71. Mr. Barrera Garcia is a native and citizen of El Salvador who entered the United States in 2022 as an unaccompanied minor and has since resided in the United States. Mr. Barrera Garcia was granted SIJS and Deferred Action in January 2025 and has no criminal history.

72. Mr. Barrera Garcia was taken into ICE custody on February 21, 2026, in the interior of the United States and is currently detained at the ICE ERO Baltimore Field Office. Mr. Barrera Garcia has already entered and resided within the United States for several years and was not apprehended at or near a port of entry. He is therefore not an arriving applicant for admission subject to mandatory detention.

73. If Mr. Barrera Garcia may be subject to detention under the INA, it would be under the default detention authority of 8 U.S.C. § 1226(a), as he has been charged with having entered the United States "without being admitted or paroled." *See* 8 U.S.C. § 1182(a)(6)(A)(i).

74. Since Mr. Barrera Garcia is not an applicant for admission "seeking admission," nor is he an "arriving alien" subject to § 1225(b), and nor does he have disqualifying criminal arrests or convictions subjecting him to § 1226(c), he is entitled to a bond hearing by an IJ pursuant to § 1226(a). The application of § 1225(b)(2) to Mr. Barrera Garcia would unlawfully mandate his continued detention and violate the INA by depriving him of his rights under § 1226(a).

75. Mr. Barrera Garcia's grant of SIJS further undermines any claim that he must be detained under 8 U.S.C. § 1225(b). Individuals granted SIJS are treated, for purposes of adjustment of status, as if they had been paroled into the United States, even where the initial entry occurred without admission or inspection. See 8 U.S.C. § 1255(h)(1), which provides that a noncitizen with SIJS classification "shall be deemed, for purposes of subsection (a), to have been paroled into the United States." This statutory provision reflects Congress's intent that SIJS beneficiaries be treated differently from recent entrants seeking admission at the border.

76. Respondents' reliance on mandatory detention authority to deny Mr. Barrera Garcia a bond hearing would be contrary to federal law and longstanding detention practices. As a result of Respondents' unlawful interpretation of the detention statutes, Mr. Barrera Garcia is at risk of being denied any meaningful opportunity to seek release on bond before an IJ despite having no criminal history and possessing valid Deferred Action. Respondents' continued detention of Mr. Barrera Garcia without access to a bond hearing violates federal law.

77. Respondents' denial of Mr. Barrera Garcia's bond eligibility would also violate the Administrative Procedure Act ("APA"), as it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary to constitutional right, power, privilege, or immunity; and in excess of statutory jurisdiction, authority, or limitations, or short of statutory right. 5 U.S.C. § 706(2)(A)-(C).

78. Mr. Barrera Garcia is therefore entitled to immediate release from custody or, in the alternative, a prompt individualized bond hearing before an IJ at which the Government bears the burden of justifying continued detention by clear and convincing evidence.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

a. Assume Jurisdiction over this matter;

b. Order, under the All Writs Act, 28 U.S.C. § 1651, that Petitioner shall not be transferred outside of this jurisdiction while this habeas petition is pending;

c. Issue an Order requiring Respondents to show cause within three days why this Petition should not be granted;

d. Declare that Petitioner's detention is unlawful, that he is not an applicant for admission "seeking admission" or "an arriving alien" subject to 8 U.S.C. § 1225(b);

e. Declare that Petitioner's arrest and continued detention violate the Fifth Amendment of the U.S. Constitution, the INA, APA, and the *Accardi* doctrine;

f. Issue a Writ of Habeas Corpus ordering Petitioner's immediate release from custody, on the grounds that his continued detention is unlawful and unconstitutional;

g. Order that Respondents are enjoined from denying the Petitioner bond in the future on the basis that he is statutorily ineligible under 8 U.S.C. § 1225(b);

h. Order that any bond hearing be conducted within seven (7) days, at which:

    i. The Government bears the burden of proof;

    ii. The Government must establish by clear and convincing evidence that Petitioner poses a danger to the community or a risk of flight; and

    iii. The Immigration Judge must consider Petitioner's Special Immigrant Juvenile Status, Deferred Action, lack of criminal history, and family ties in the United States;

i. Order Respondents to immediately provide Petitioner with an in-person medical evaluation by a qualified medical professional and any necessary diagnostic testing and treatment for the arm injury sustained during his arrest;

j. Order that Petitioner be released with all personal property and identity documents in his possession;

k. Grant such other and further relief as the Court deems just and proper.

Dated: February 24, 2026

Respectfully submitted,

*/s/ Julia Rigal*
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*Pro Bono Counsel for Petitioner*

List of Exhibits

Exh. 1) Form I-797C Notice of Action, Special Immigrant Juvenile Status Approval Notice with Grant of Deferred Action for a period of four years, dated January 23, 2025.

Exh. 2) Emails from Mr. Barrera Garcia's counsel to ICE on February 21, 2026 and February 22, 2026.

Exh. 3) ICE Form I-830E, "Notice to EOIR: Alien Address" information EOIR of Mr. Barrera Garcia's transfer to Stewart Detention Facility in Georgia.

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I or my colleagues have discussed with Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

**Dated:** February 24, 2026

Respectfully submitted,

*/s/ Julia Rigal*
Julia Rigal
*Pro Bono Counsel for Petitioner*

**CERTIFICATE OF SERVICE**

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system, which will send a notice of electronic filing (NEM) to all counsel of record. I will furthermore send true copies by USPS Certified Priority Mail with Return Receipts to the following individuals:

Nikita Baker, Field Office Director
U.S. Immigration and Customs Enforcement, Baltimore Field Office
c/o DHS Office of the General Counsel
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485

Todd Lyons, Acting Director
U.S. Immigration and Customs Enforcement
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Washington, DC 20536

Kristi Noem, Secretary
U.S. Department of Homeland Security
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Pamela Bondi, Attorney General
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U.S. Attorney's Office
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District of Maryland
36 S. Charles Street, 4th Floor
Baltimore, MD 21201

**Dated:** February 24, 2026

Respectfully submitted,

*/s/ Julia Rigal*
Julia Rigal
*Pro Bono Counsel for Petitioner*