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10
11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF ARIZONA**

13 J.M.A.
14 Petitioner-Plaintiff,

15 v.

16 Christopher McGregor, Acting Field Office
17 Director of Enforcement and Removal
18 Operations, Phoenix Field Office,
19 Immigration and Customs Enforcement;

20 Markwayne Mullin, Acting Secretary, U.S.
21 Department of Homeland Security;

22 Pamela Bondi, U.S.
23 Attorney General;

24 Todd Lyons, Acting Director, Immigration
25 and Customs Enforcement and Removal
26 Operations;

27 Luis Rosa, Jr., Warden, Central Arizona
28 Florence
Correctional Complex;

Respondents-Defendants

Case No. CV-26-01842-PHX-SHD (DMF)

VERIFIED PETITION
FOR WRIT OF HABEAS CORPUS

INTRODUCTION

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3 1. This case challenges the unlawful arrest and mandatory immigration detention of
4 23-year-old Jonathan M.A. (“Petitioner” or “Jonathan”), who has no criminal history, who
5 came to the United States as an unaccompanied child (“UC”) at the age of 16, in 2020, and
6 who has a valid grant of deferred action protecting him from removal from the United
7 States.

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9 2. After Jonathan presented himself to an immigration official at the border, the
10 government placed him in removal proceedings and detained him for approximately five
11 months in a government-run humanitarian shelter for children. It then released him to the
12 care of his aunt in Lynnwood, California, after finding that he was not dangerous or a flight
13 risk.
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15 3. Now, Jonathan has Special Immigrant Juvenile Status (“SIJS”), a humanitarian
16 immigration protection for young people who have suffered parental abuse, neglect, or
17 abandonment, created by Congress to give these children the opportunity to remain safely
18 and permanently in the United States.
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20 4. Based on Jonathan’s SIJS petition, the government dismissed his removal
21 proceedings in 2022, and granted him deferred action, a four-year, renewable protection
22 from removal and permission to work lawfully while he waits in a visa backlog until he
23 can apply for lawful permanent residence.
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25 5. Despite Jonathan’s prior release from immigration custody and his approved SIJS
26 petition and deferred action, Respondents arrested Jonathan on or about February 24, 2026,
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1 while he was traveling for work. Since then, he has been locked in an immigration detention
2 center in Arizona, deprived of his liberty, unable to work, and separated from his family.

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4 6. Jonathan's detention is unlawful for at least four reasons.

5 7. First, due process requires that the government show, in a pre-deprivation hearing,
6 materially changed circumstances before re-detaining Jonathan. When the government
7 released him from its custody at a humanitarian shelter years ago, it determined that he was
8 neither a flight risk nor a danger to the community. Since then, nothing has changed to
9 undermine that determination. On the contrary, support for that determination has only
10 strengthened: Jonathan has built deep ties to the United States, attended all immigration
11 court dates, and now has a path to lawful permanent residence. And he has never been
12 arrested or convicted of a crime. As courts in this District have held in multiple similar
13 cases, Jonathan's detention without any pre-deprivation process violates his procedural due
14 process rights and this alone warrants his immediate release. *See, e.g., Saravia v. Sessions*,
15 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017) (requiring a showing of changed
16 circumstances both where the prior bond determination was made by an immigration judge
17 and where the previous release decision was made by a DHS officer), *aff'd sub nom.*
18 *Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). Similarly, in addition to
19 Jonathan's prior processing as an unaccompanied child, his grants of SIJS and deferred
20 action created a protectable interest in his continued liberty requiring pre-deprivation
21 process before any detention.
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1 8. Second, the government has no legitimate interest in detaining Jonathan when he
2 cannot be removed because of his valid deferred action grant (eliminating any flight risk
3 concerns) and is not a danger—the only two constitutionally permissible reasons for
4 immigration detention. Accordingly, his detention also violates his substantive due process
5 rights, equally requiring his immediate release.
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7 9. Third, Jonathan was arrested without changed circumstances, without a warrant, and
8 without probable cause that he was a flight risk, under unlawful enforcement procedures
9 that multiple courts around the country have declared illegal. Since then, there has been no
10 determination that any probable cause exists to justify his detention. This violates his
11 Fourth Amendment rights, as well as statute and regulation, similarly mandating his
12 release.
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15 10. Fourth, the detention of UCs is governed by the Trafficking Victims Protection
16 Reauthorization Act (“TVPRA”), which provides that an unaccompanied [noncitizen]
17 child in the custody of the Secretary of Health and Human services shall be promptly placed
18 in the least restrictive setting that is in the best interest of the child. If an unaccompanied
19 child attains 18 years of age and is directly transferred to the custody of the Secretary of
20 Homeland Security, the Secretary shall consider placement in the least restrictive setting
21 available after assessing any risk of danger to the noncitizen’s self, community, and their
22 risk of flight. The TVPRA is inconsistent with any mandatory detention scheme.
23
24 Jonathan’s detention violates the Immigration and Nationality Act and violates his
25 procedural due process rights.
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1 11. For these reasons, Jonathan respectfully asks this Court to hold his arrest and
2 detention unlawful, order restoration of the status quo prior to his detention, *i.e.*, release
3 without restraints on his liberty, and enjoin Respondents from re-detaining him without
4 meaningful pre-detention process.
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6 12. Jonathan also respectfully asks that this Court enjoin Respondents from transferring
7 him outside of this District for the duration of this proceeding.
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9 **PARTIES**

10 13. Petitioner Jonathan is a 23-year-old Guatemalan national who entered the United
11 States as an unaccompanied child and has been residing here since the age of sixteen. Prior
12 to his arrest and detention, Jonathan was living with his aunt in Lynnwood, California and
13 working with valid authorization from the U.S. government. Jonathan has an approved
14 SIJS petition and a grant of deferred action valid through May 27, 2026.
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16 14. Respondent Luis Rosa, Jr., is sued in his official capacity as Warden, Florence
17 Correctional Center. Respondent Luis Rosa Jr. is the immediate legal custodian of
18 Petitioner.

19 15. Respondent Christopher McGregor is sued in his official capacity as Field Office
20 Director, Phoenix Field Office, Enforcement and Removal Operations, U.S. Immigration
21 and Customs Enforcement ("ICE"), which oversees ICE's operations in Arizona.
22 Respondent McGregor is a legal custodian of Petitioner.
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24 16. Respondent Todd Lyons is sued in his official capacity as Acting Director of ICE.
25 As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.
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17. Respondent Markwayne Mullin is sued in his official capacity as Secretary of Homeland Security. As the head of the Department of Homeland Security ("DHS"), the agency tasked with enforcing immigration laws, Acting Secretary Mullin is Petitioner's ultimate legal custodian.

18. Respondent Pamela Bondi is sued in her official capacity as Attorney General of the United States. As Attorney General, Respondent Bondi oversees the immigration court system, including the immigration judges who conduct removal proceedings and bond hearings as her designees, and is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(g). She is legally responsible for administering Petitioner's removal and bond proceedings, and as such, she is a legal custodian of Petitioner's.

JURISDICTION AND VENUE

19. This Court has jurisdiction under the U.S. Constitution. U.S. Const. art. I § 9, cl. 2 ("The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require.").

20. The Court also has jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (the All Writs Act); and 28 U.S.C. § 2241 (habeas corpus).

21. This Court has additional remedial authority under 28 U.S.C. §§ 2201-02 (the Declaratory Judgment Act), to grant injunctive and declaratory relief.

22. Venue is proper in the District of Arizona under 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 giving rise to these claims occurred in this District. Venue is

1 also proper under 28 U.S.C. § 2241(d) because Petitioner is detained at a facility within
2 this District.

3 23. Administrative exhaustion is unnecessary because it would be futile: it is
4 Respondents' position that noncitizens in Petitioner's situation are subject to mandatory
5 detention without access to a bond hearing, so he has no meaningful administrative
6 remedies to exhaust.
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8 LEGAL FRAMEWORK

9 **A. The TVPRA Governs the Detention and Release of Unaccompanied Children**

10 24. Because noncitizen youth who come to the United States without a parent are
11 especially vulnerable, Congress granted them special protections through the William
12 Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"). *See*
13 8 U.S.C. § 1232. An unaccompanied child is a child who (A) lacks lawful immigration
14 status in the United States; (B) is under the age of eighteen; and (C) has no parent or legal
15 guardian in the United States, or no such parent or legal guardian is available to provide
16 care and physical custody. 6 U.S.C. § 279(g)(2).
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18 25. Through the TVPRA, Congress amended the INA to guarantee unaccompanied
19 children access to removal proceedings before an immigration judge, protecting them from
20 expedited removal by an immigration officer without a hearing. 8 U.S.C. § 1232(a)(5)(D).
21 Therefore, 8 U.S.C. § 1229a is the only process for determining whether an unaccompanied
22 child can stay in the United States or be removed. 8 U.S.C. § 1229a(a)(3).
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26. The TVPRA requires the Department of Health and Human Services, through the Office of Refugee Resettlement (“ORR”), to manage the care and custody of unaccompanied children. 8 U.S.C. § 1232(c)(2). The statute requires ORR to place unaccompanied children “in the least restrictive setting that is in the best interest of the child.” 8 U.S.C. § 1232(c)(2)(A). Before releasing an unaccompanied child from its custody, the government must “consider danger to self, danger to the community, and risk of flight.” *Id.*; *see also* 6 U.S.C. § 279(b)(2)(A). ORR may release the unaccompanied child to a “sponsor” who already lives in the United States, so long as these and other criteria are satisfied. *Id.*; *see also* 45 C.F.R. § 410.1201.

B. SIJS Provides a Pathway to Permanent Status for Other Vulnerable Young People

27. Separate and apart from unaccompanied children, in 1990, Congress created SIJS to protect another category of vulnerable immigrant children and provide them a pathway to citizenship. Immigration Act of 1990, Pub. L. No. 101-649, § 153, 104 Stat. 4978 (1990) (amending various sections of the INA). SIJS “alleviates hardships experienced by some dependents of United States juvenile courts by providing qualified [noncitizens] with the opportunity to apply for special immigrant classification and lawful permanent resident status, with [the] possibility of becoming citizens of the United States in the future.” Special Immigrant Status, 58 Fed. Reg. 42843, 43844 (Aug. 12, 1993). Since 1990, Congress has amended the INA multiple times to expand the protections of SIJS, most recently in 2008, through the TVPRA, Pub. L. 110-457, § 235(d), 122 Stat. 5044 (2008).

1 28. To be granted SIJS, youths must first “satisf[y] a set of rigorous, congressionally
2 defined eligibility criteria.” *Osorio-Martinez v. U.S. Att’y Gen.*, 893 F.3d 153, 163 (3d Cir.
3 2018). Specifically, to be eligible for SIJS, a noncitizen youth must be present in the United
4 States and obtain judicial determinations in a state juvenile court order that they are
5 dependent on the juvenile court or placed by the court under the custody of a state agency
6 or an individual; cannot be reunified with one or both parents because of abuse, neglect,
7 abandonment, or other similar basis; and that it is not in their best interest to return to their
8 country of origin. 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11(c).

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11 29. The application process for SIJS includes submitting a Form I-360 SIJS Petition to
12 USCIS, along with the state juvenile court order and other evidence. *See* 8 C.F.R. §
13 204.11(b). USCIS then considers whether to exercise its statutory “consent function” to
14 approve the petition. *See* 8 U.S.C. § 1101(a)(27)(J)(iii). By doing so, the agency recognizes
15 the state juvenile court’s determinations, including that the child’s return to their country
16 of origin would be contrary to their best interests. 8 U.S.C. § 1101(a)(27)(J)(iii).

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18 30. The main benefit of SIJS—and indeed, its core purpose—is that it confers on
19 vulnerable young people the right to seek lawful permanent resident (“LPR”) status, while
20 remaining in the United States, through a process called adjustment of status. *See* 8 U.S.C.
21 § 1255(h). To facilitate this process, Congress has removed numerous barriers to
22 adjustment of status for SIJS beneficiaries. Typically, a noncitizen seeking to adjust to LPR
23 status in the United States must show they are admissible under immigration law or have
24 entered the country with inspection or parole by an immigration officer. But Congress
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1 exempted SIJS youth from many inadmissibility grounds, made them eligible for
2 adjustment regardless of their actual manner of entry into the United States, and created a
3 generous waiver of other non-exempted inadmissibility grounds. 8 U.S.C. § 1255(h).
4 Congress also explicitly provided that certain grounds for removal “shall not apply” to SIJS
5 beneficiaries. 8 U.S.C. § 1227(c). Accordingly, the SIJS statute “show[s] a congressional
6 intent to assist a limited group of abused children to remain safely in the country with a
7 means to apply for LPR status.” *Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011)
8 (abrogated on other grounds).
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11 31. Although SIJS renders youth eligible to apply for adjustment to LPR status, they
12 can only do so when a visa is immediately available to them. 8 U.S.C. § 1255(h). However,
13 there is an annual limit on visas available to SIJS beneficiaries. 8 U.S.C. § 1153(b)(4). And
14 since 2016, the number of SIJS beneficiaries has surpassed the supply of available visas
15 for most countries, leaving what has been estimated to be more than 100,000 young people
16 in a SIJS backlog, waiting to apply for a green card.
17

18 32. Nonetheless, the government takes the position that SIJS youth in the visa backlog
19 remain subject to removal for their purported lack of lawful immigration status in the
20 United States while they wait for the ability to apply for LPR status.
21

22 **C. Deferred Action Furthers Congress’ Intent That SIJS Beneficiaries Be**
23 **Protected**

24 33. In March 2022, to address the harms being caused by the SIJS visa backlog, USCIS
25 announced that all young people granted SIJS would also be considered for a discretionary
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1 grant of deferred action, meaning that they would be protected from deportation and
2 eligible for work authorization while waiting for a visa to become available. In enacting
3 this policy, USCIS acknowledged that “Congress likely did not envision that SIJ petitioners
4 would have to wait years before a visa became available. . . .”
5

6 34. In June 2025, USCIS rescinded the SIJS deferred action policy, deciding to no
7 longer consider granting deferred action to SIJS youth waiting to apply for a green card. In
8 November 2025, a federal court stayed the government’s decision to rescind the SIJS
9 deferred action policy, thus restoring the 2022 policy during the litigation’s pendency.
10 *A.C.R. v. Noem*, No. 25-CV-3962, 2025 WL 3228840 (E.D.N.Y. Nov. 19, 2025). The
11 government’s unlawful attempt to rescind the program had no impact on SIJS beneficiaries,
12 like Jonathan, who had already received deferred action. *See* USCIS Policy Alert, PA-
13 2025-07, “Special Immigrant Juvenile Classification and Deferred Action” (June 6, 2025),
14 available at: [20250606-SIJDeferredAction.pdf](#) (stating that noncitizen “with current
15 deferred action based on their SIJ classification will generally retain this deferred action .
16 . . until the current validity periods expire.”).
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19 35. Deferred action does not confer lawful status and does not prevent an immigration
20 judge from issuing a removal order. However, unless and until terminated, a grant of
21 deferred action prevents immigration authorities from physically removing a noncitizen
22 from the United States. *See* USCIS Policy Manual, Vol. 1, Pt. H, Ch. 2.A.4,
23 <https://www.uscis.gov/policy-manual/volume-1-part-h-chapter-2>; *Reno v. Am.-Arab Anti-*
24 *Discrimination Comm.*, 525 U.S. 471, 484 (1999) (“*AADC*”). Individuals with deferred
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1 action are also eligible to apply for employment authorization under 8 C.F.R. §
2 274a.12(c)(14). In the case of SIJS beneficiaries awaiting visas, USCIS granted deferred
3 action for a renewable period of four years.
4

5 **RELEVANT FACTS AND PROCEDURAL HISTORY**

6 **Jonathan is detained and released because he is not dangerous or a flight risk**

7 36. Jonathan is a Guatemalan youth who came to the United States for safety when he
8 was 16 years old, on or about January 11, 2020.

9 37. DHS determined that Jonathan was an unaccompanied child under 6 U.S.C. §
10 279(g)(2). It then transferred him to ORR custody, as mandated by the TVPRA. ORR
11 subsequently determined that Jonathan should be released to his aunt under a sponsor care
12 agreement, finding that he did not present a flight risk or a danger to the community. Ex.
13 1, ORR Release Records (showing release on March 26, 2020).
14

15 **Jonathan obtains SIJS and deferred action and his removal proceedings are**
16 **terminated**

17 38. DHS also issued Jonathan a Notice to Appear (“NTA”), the charging document that
18 initiates removal proceedings, which charged him as removable under 8 U.S.C. §
19 1182(a)(6)(A)(i) for being present without being admitted or paroled. Jonathan’s
20 proceedings were venued in the Los Angeles, California Immigration Court and he
21 diligently attended and participated in those proceedings, never missing a court date.
22

23 39. After obtaining legal representation, Jonathan applied for SIJS. First, on February
24 9, 2021, the Superior Court of California, County of Los Angeles issued a Special Findings
25 Order finding that Jonathan had been neglected, abandoned, and abused by his parents and
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1 that it was in his best interests to remain in the United States. The court also appointed
2 Jonathan's aunt as his legal guardian. Jonathan then submitted a SIJS petition to USCIS on
3 March 19, 2021, supported by his Special Findings Order from the Los Angeles Superior
4 Court.
5

6 40. Through counsel, Jonathan moved to dismiss removal proceedings based on his
7 pending SIJS petition as well as a grant of deferred action preventing his removal. DHS
8 did not oppose dismissal of proceedings. Ex. 2, IJ Order (terminating proceedings and
9 noting DHS non-opposition). On June 21, 2022, the Immigration Judge overseeing
10 Jonathan's removal proceedings granted the motion to dismiss.
11

12 41. USCIS approved Jonathan's SIJS petition on January 7, 2022. Ex. 3, Approved SIJS
13 Petition. USCIS also granted Jonathan deferred action for a four-year period on May 27,
14 2022. *Id.* The deferred action grant is valid until May 27, 2026. *Id.* This protects him from
15 removal while he waits in the backlog to apply to adjust his status, and it allowed him to
16 apply for employment authorization, which he obtained to help support himself and his
17 family while he pursued his permanent residency.
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19 42. According to the U.S. Department of State's most recent and current March 2026
20 Visa Bulletin, there are currently sufficient visas available for people who filed for SIJS on
21 or before July 21, 2021, to immediately apply for LPR status. Jonathan's filing date (also
22 called a priority date) is March 19, 2021. Ex. 3. The Visa Bulletin for the prior month
23 required a filing date prior to January 1, 2021. Thus, it was this month, just days after he
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1 was detained, that Jonathan became immediately eligible for lawful permanent resident
2 status.¹

3 **Jonathan is arrested without changed circumstances and purportedly held in**
4 **mandatory detention**

5 43. Upon his release from ORR custody and beginning his residence with his aunt,
6 Jonathan attended Firebaugh High School. He began working when he was granted
7 deferred action and employment authorization and was working at the time of his recent
8 detention. During his years in the U.S., he also developed close family ties and community
9 relationships.
10

11 44. On February 24, 2026, Respondents arrested Jonathan without any notice or
12 warning while he was driving as part of his job responsibilities. Upon information and
13 belief, the immigration officers had no warrant for Jonathan's arrest. Jonathan was not
14 accused of violating any vehicle and traffic law. He had no prior arrests. He had a stable
15 address, a stable job, a work permit, and path to permanent status. He did not run or try to
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19 ¹ To complete an adjustment of status application an applicant must complete a medical
20 exam with a designated civil surgeon, as well as a USCIS biometrics appointment.
21 Although adjustment may be theoretically available to some detained individuals,
22 Respondents are not likely to transport applicants to either a civil surgeon or USCIS to
23 complete that process. *See, e.g.* "Settlement Reached with DHS to Allow Mother to
24 Complete Residency Application," Kennedy Human Rights Center, March 9, 2026,
25 [https://kenedyhumanrights.org/press/settlement-reached-with-dhs-to-allow-mother-to-
complete-residency-application/?utm_source=chatgpt.com](https://kenedyhumanrights.org/press/settlement-reached-with-dhs-to-allow-mother-to-complete-residency-application/?utm_source=chatgpt.com) (demonstrating ICE policies
26 "prevent[ing] detained people from completing applications for immigrant status for which
27 they're qualified" by refusing to transport detained people to USCIS appointments and
28 USCIS refusing to send representatives to ICE detention).

1 evade the officers. Nonetheless, they arrested her/him/them without a warrant and
2 transferred her/him/them to Florence Correctional Center in Florence, Arizona.

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4 45. On or about March 1, 2026, DHS initiated new removal proceedings by filing a
5 charging document with the Florence, Arizona Immigration Court. He has now been
6 detained for nearly a month and is being held hundreds of miles from his family.

7
8 **CAUSES OF ACTION**

9 **FIRST CLAIM**

10 **Violation of the Due Process Clause of the Fifth Amendment to the U.S.**

11 **Constitution Substantive Due Process**

12 47. Jonathan repeats and re-alleges the allegations contained in all preceding paragraphs
13 of this Petition as if fully set forth herein.

14 48. The Supreme Court has long recognized that noncitizens physically present in the
15 United States are entitled to due process protections, regardless of their immigration status.

16 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976).

17 And “[f]reedom from imprisonment—from government custody, detention, or other forms
18 of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”

19 *Zadvydas*, 533 U.S. at 690.

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21 49. Because “liberty is the norm, and detention prior to trial or without trial is the
22 carefully limited exception,” the government may imprison people as a preventive measure
23 only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *United*
24 *States v. Salerno*, 481 U.S. 739, 755 (1987)).
25
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1 50. Immigration detention is civil detention and must “bear a reasonable relation to the
2 purpose for which the individual was committed” so that it remains “nonpunitive in
3 purpose and effect.” *Zadvydas*, 533 U.S. at 690 (citation modified); *see also Schall v.*
4 *Martin*, 467 U.S. 253, 264-69 (1984) (finding detention must be a proportional—not
5 excessive—response to a legitimate state objective); *F.S.S.M. v. Wofford*, No. 1:25-cv-
6 01518-TLN-AC, 2025 LX 543081 (E.D. Cal. Dec. 9, 2025) (given an earlier determination
7 that a noncitizen with SIJS and deferred action was neither a flight risk or a danger to the
8 community, redetention in the absence of changed circumstances is not justified).

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11 51. Courts have identified only two legitimate purposes for immigration detention:
12 mitigating flight risk pending removal and preventing danger to the community. *See*
13 *Zadvydas*, 533 U.S. at 690-91; *Oscar C.M. v. Lyons*, No. 1:25-CV-01915-TLN-SCR, 2025
14 WL 3712285 (E.D. Cal. Dec. 22, 2025) (finding the government has no legitimate interest
15 in detaining an individual with SIJS and deferred action who was determined not to be a
16 danger to the community or a flight risk). But if a person cannot actually be removed,
17 “preventing flight” is a “weak or nonexistent” justification. *Id.* at 690; *cf. Phan v. Reno*, 56
18 F. Supp. 2d 1149, 1156 (W.D. Wash. 1999) (“Detention by the INS can be lawful only in
19 aid of deportation.”). Detention for community safety, in turn, is only permissible “when
20 limited to specially dangerous individuals and subject to strong procedural safeguards.”
21 *Zadvydas*, 533 U.S. at 691.

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24 52. Here, the government’s inability to lawfully remove Jonathan given his deferred
25 action eliminates any justification of flight risk, which the government could not show in
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1 any event, given Jonathan's lengthy residence in the United States, his deep ties to his
2 family and community in California, and his ability as an SIJS beneficiary to eventually
3 adjust to lawful permanent resident status and then gain citizenship. *See Osorio*, 893 F. 3d
4 at 173-75. And Jonathan's lack of any criminal record eliminates any possible justification
5 of danger.
6

7 53. Because the government is not detaining Jonathan to serve legitimate interests in
8 protecting against danger or flight risk, her/his/their detention violates substantive due
9 process under the Fifth Amendment, and this Court should order his immediate release.
10

11 **SECOND CLAIM**

12 **Violation of the Due Process Clause of the Fifth Amendment to the U.S.**

13 **Constitution**

14 **Procedural Due Process**

15 54. Jonathan repeats and re-alleges the allegations contained in all preceding paragraphs
16 of this Petition as if fully set forth herein.
17

18 55. Even "[w]hen government action depriving a person of life, liberty, or property
19 survives substantive due process scrutiny, it must still be implemented in a fair manner."
20 *Salerno*, 481 U.S. at 746.
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22 56. Courts use the three-factor *Mathews v. Eldridge* test to determine what process is due
23 to noncitizens challenging detention. *See Mathews v. Eldridge*, 424 U.S. 319 (1976). The
24 *Mathews* factors assess: (1) "the private interest that will be affected by the official action";
25 (2) "the risk of an erroneous deprivation of such interest through the procedures used, and
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1 the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the
2 Government’s interest, including the function involved and the fiscal and administrative
3 burdens that the additional or substitute procedural requirement would entail.” *Id.* at 335.

4
5 57. The first *Mathews* factor weighs heavily in Jonathan’s favor. He has a strong liberty
6 interest in light of (1) his prior release as an unaccompanied child, (2) his valid grant of
7 SIJS, (3) his valid grant of deferred action and attendant work permit. First, because he was
8 previously released from custody as an unaccompanied child and not even subject to
9 government monitoring, Jonathan possessed a weighty interest in his continued liberty. *See*
10 *Saravia*, 280 F. Supp. 3d 1195-96; *A.B.J.C. v. Hermosillo*, No. 2:26-CV-00185-JNW, 2026
11 WL 497097, at *3 (W.D. Wash. Feb. 23, 2026) (previously released UC has a
12 “constitutionally protected liberty interest that cannot be extinguished without due
13 process); *R.D.T.M. v. Wofford*, No. 1:25-CV-01141-KES-SKO (HC), 2025 WL 2686866,
14 at *4 (E.D. Cal. Sept. 18, 2025); *Figueroa Morales v. Bondi*, No. 26CV0679-GPC(BJW),
15 2026 WL 370187 (S.D. Cal. Feb. 10, 2026) (the substantial liberty interest held by
16 previously released UC satisfies the first *Mathews* factor). Second, to be approved for SIJS
17 and deferred action, Jonathan had to meet stringent eligibility criteria, and he was promised
18 that, in return, he would be given a meaningful path to LPR status in this country. That
19 came with the expectation that he could build a life here without risking arbitrary arrest,
20 detention, and removal that would strip him of the very permanency Congress created SIJS
21 to provide vulnerable youth like her/him/them. *See Rodriguez v. Perry*, 747 F. Supp. 3d
22 911 (E.D. Va. 2024); *Sarmiento v. Perry*, No. 25-CV-01644, 2025 WL 3091140, at *3
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1 (E.D. Va. Nov. 5, 2025); *Campos-Flores v. Bondi*, No. 25-cv-797, 2025 WL 3461551, at
2 *6 (E.D. Va. Dec. 2, 2025); *see also Santiago v. Noem*, No. 25-cv-361, 2025 WL 2792588
3 (W.D. Tex. Oct. 2, 2025) (finding Deferred Action for Childhood Arrivals recipient had
4 protected interest in continued liberty); *Sergio S.M. v. Noem*, No. 1:25-CV-01973-KES-
5 HBK (HC), 2025 WL 3768206 (E.D. Cal. Dec. 31, 2025); *Oscar C.M. v. Lyons*, No. 1:25-
6 CV-01915-TLN-SCR, 2025 WL 3712285 (E.D. Cal. Dec. 22, 2025); *A.R. v. Noem*, 5:25-
7 CV-03565-MEMF-PVC, 2026 WL 194850 (C.D. Cal. Jan. 26, 2026). And this is precisely
8 what Jonathan did, building a home with his aunt, with whom a juvenile court found it to
9 be in his best interests to remain; attending school; working and contributing to his
10 community; forging family and community connections, and making plans for the future.

11 58. The second *Mathews* factor also weighs in Jonathan's favor. He was previously
12 released from detention after being found that he is neither a danger nor a flight risk, and
13 his re-detention, without prior notice, a showing of changed circumstances, or a meaningful
14 opportunity to respond, makes the risk of erroneous deprivation of liberty not just high, but
15 certain. His detention is the direct result of insufficient safeguards and lack of procedure.
16 Under these circumstances, the risk of erroneous deprivation of his liberty is high and the
17 second factor weighs heavily in Jonathan's favor.

18 59. The third factor favors Jonathan, as well. His erroneous detention imposes high
19 fiscal and administrative burdens on Respondents. Releasing Jonathan and requiring the
20 government to provide a pre-deprivation hearing before re-detaining him stands to save the
21

1 government money and effort wasted on erroneous detention. And unlawful detention and
2 violation of noncitizens' constitutional rights disserve the public interest.

3 60. Respondents violated procedural due process by re-detaining Jonathan without
4 adequate procedural protections before or after deprivation of his liberty. Therefore, this
5 Court should order Jonathan's release without any restraints on his liberty and prohibit any
6 re-detention absent pre-deprivation process.
7

8 **THIRD CLAIM**

9 **Violation of the Fourth Amendment to the U.S. Constitution,**

10 **8 U.S.C. § 1357(a)(2), and 8 C.F.R. § 287.3(d)**

11 **Unlawful Arrest**

12 61. Jonathan repeats and re-alleges the allegations contained in all preceding paragraphs
13 of this Petition as if fully set forth herein.

14 62. The Fourth Amendment protects "[t]he right of the people to be secure in their
15 persons . . . against unreasonable searches and seizures." U.S. Const. Amend. IV.
16 Immigration arrests and detentions are seizures within the meaning of the Fourth
17 Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that
18 deportation proceedings are civil, but the Fourth Amendment still applies to the "seizure"
19 of the person).
20

21 63. As a general matter, the Fourth Amendment requires that all arrests entail a neutral,
22 judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975).
23 "Probable cause requires a 'substantial probability; based on facts related to the
24 individual.'" *Ramirez Ovando v. Noem*, No. 1:25-CV-03183-RBJ, 2025 WL 3293467, at
25
26

1 *15 (D. Colo. Nov. 25, 2025) (quoting *Storey v. Taylor*, 696 F.3d 987, 992 (10th Cir. 2012))
2 (finding probable cause for immigration arrests lacking). That determination can occur
3 either before the arrest, in the form of a warrant, or promptly afterward, in the form of a
4 prompt judicial probable cause determination. *See id.* It must, however, occur within 48
5 hours of detention, which includes weekends, unless there is a bona fide emergency or
6 other extraordinary circumstance. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57
7 (1991).
8

9
10 64. There is a strong preference that immigration arrests be based on warrants. *See*
11 *Arizona v. U.S.*, 567 U.S. 387, 407–08 (2012). The INA thus provides immigration agents
12 with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2).
13 Specifically, an officer must have probable cause to believe the person is violating the
14 immigration laws *and* that the person “is likely to escape before a warrant can be obtained,”
15 *i.e.*, is a flight risk *Id.*; *see also B.D.A.A. v. Bostock*, No. 6:25-CV-02062-AA, 2025 WL
16 3484912, at *7 (D. Or. Dec. 4, 2025); *Ramirez Ovando*, 2025 WL 3293467, at *2. Federal
17 regulations track strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).
18

19
20 65. Jonathan’s warrantless arrest occurred without probable cause that he was a flight
21 risk. “Courts have ... made the self-evident finding that the likelihood of escape is lower
22 when the individual has resided in the country for a lengthy period of time and has strong
23 community ties.” *Escobar Molina v. U.S. Dep’t of Homeland Sec.*, No. CV 25-3417
24 (BAH), 2025 WL 3465518, at *13 (D.D.C. Dec. 2, 2025) (collecting cases). At the moment
25 of his seizure, Jonathan (a) had valid SIJS and deferred action, which provided him with a
26

1 path to LPR status, (b) was living at a stable home address, of which the government was
2 fully aware, and (c) had been in the United States for nearly six years and built strong ties
3 to his community. Moreover, he fully complied with the ICE officers and in no way tried
4 to disobey or flee. Therefore, no officer could have probable cause that Jonathan was likely
5 to escape before a warrant could be obtained.
6

7 66. Without a statutory basis to arrest, Respondents were required under the Fourth
8 Amendment to secure a prompt judicial probable cause determination to continue holding
9 Jonathan. *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56–57. He received no such
10 judicial determination, yet his detention continued well beyond 48 hours, rendering it
11 presumptively unconstitutional.
12

13 67. Regulations also provide that noncitizen arrested without a warrant must receive a
14 custody determination within 48 hours of the arrest, unless there is “an emergency or other
15 extraordinary circumstance” that requires “an additional reasonable period of time” to
16 make the custody determination. 8 C.F.R. § 287.3(d). During that custody determination,
17 the immigration officer must make findings as to whether “release would not pose a danger
18 to property or persons, and that the alien is likely to appear for any future proceeding.” 8
19 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8). Similarly, upon information and belief, Jonathan has
20 received no such custody determination.
21

22 68. Jonathan’s re-detention after a prior release, without any new showing of probable
23 cause, was also unconstitutional. When the government releases a person from detention,
24 the purpose of their detention has been accomplished. *See Williams v. Dart*, 967 F.3d 625,
25
26

1 634 (7th Cir. 2020) (“It is axiomatic that seizures have purposes. When those purposes are
2 spent, further seizure is unreasonable.”). As a result, any probable cause justifying the prior
3 arrest, if any, is extinguished.
4

5 69. Thus, under the Fourth Amendment, the government cannot re-arrest someone
6 without changed circumstances that amount to new probable cause. *See Carlson v. Landon*,
7 342 U.S. 524, 546-47 (1952) (holding that re-arrest for immigration detention required a
8 new warrant after previous release from immigration detention on bail).
9

10 70. Respondents’ warrantless re-arrest of Jonathan without changed circumstances, and
11 their refusal to provide a prompt (or any) probable cause determination, violated the Fourth
12 Amendment, the INA, and implementing regulations. Thus, this Court should order his
13 release.
14

15 **FOURTH CLAIM**

16 **Violation of the Immigration and Nationality Act and Procedural Due Process**

17 71. Jonathan repeats and re-alleges the allegations contained in all preceding paragraphs
18 of this Petition as if fully set forth herein.

19 72. The INA prescribes three basic forms of detention for most noncitizens in removal
20 proceedings. First, 8 U.S.C. § 1226 “authorizes the Government to detain certain
21 [noncitizens’ already in the country pending the outcome of removal proceedings.”
22 *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Individuals detained under Section
23 1226(a) are generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R.
24 §§ 1003.19(a), 1236.1(d). However, noncitizens who have been arrested, charged with, or
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26

1 convicted of certain crimes are subject to mandatory detention under Section 1226(c). *See*
2 8 U.S.C. § 1226(c).

3 73. Second, the INA provides for brief mandatory detention of noncitizens with final
4 orders of removal. *See* 8 U.S.C. § 1231.

5
6 74. Third, the INA also provides for mandatory detention of two groups of noncitizens
7 encountered “at the Nation’s borders and ports of entry.” *Jennings*, 583 U.S. at 288. The
8 first group consists, generally, of those who are subject to expedited removal for being
9 apprehended upon arrival near the border or for being unable to show that they have been
10 physically present in the United States for more than two years until a determination has
11 been made as to whether they have a credible fear of persecution. 8 U.S.C. § 1225(b)(1).

12
13 Notably, unaccompanied children are not subject to expedited removal. 8 U.S.C. §
14 1232(a)(5).
15

16 75. The detention of an unaccompanied child who entered the United States and was
17 released from government custody to a guardian years ago is governed by the TVPRA,
18 which requires unaccompanied children—even those who turn 18 and age out of ORR
19 custody—to be placed in the “least restrictive setting available.” 8 U.S.C. § 1232(c)(2)(B).
20 This is entirely inconsistent with any of the mandatory detention provisions. So is the fact
21 of a release unaccompanied child spending years building a life in the United States before
22 being re-detained in the interior. *See, e.g., F.S.S.M. v. Wofford*, No. 25-01518, 2025 WL
23 3526671 (E.D. Cal. Dec. 9, 2025) (ordering release on due process grounds to USC with
24 SIJS and deferred action based, finding that the TVPRA created a reasonable expectation
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that he would be entitled to retain his liberty); *R.D.T.M. v. Wofford*, No. 1:25-CV-01141-KES-SKO (HC), 2025 WL 2686866, at *4 (E.D. Cal. Sept. 18, 2025) (the detention of UCs is governed by the TVPRA which does not mandate detention); *Garcia Gabriel v. Hermosillo*, No. 2:25-CV-02594-DGE-GJL, 2026 WL 194233 (W.D. Wash. Jan. 26, 2026).

Accordingly, Jonathan's current detention violates both the INA and his procedural due process rights. As this renders his detention unlawful from its inception, he should be released.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- a. Assume jurisdiction over this matter;
- b. Enjoin the Respondents from transferring Petitioner away from the jurisdiction of this District pending these proceedings;
- c. Declare that Petitioner's arrest and detention violates the Due Process Clause of the Fifth Amendment; the Fourth Amendment; and the INA and implementing regulations;
- d.) Issue an order directing Respondents to show cause why this petition for a writ of habeas corpus should not be granted;
- d. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody without restraints on his liberty beyond those that existed prior to his unlawful re-detention;
- e. Order that Respondents return Petitioner to Lynnwood, California, his place of permanent residence, upon his immediate release;

- 1 f. Order that Respondents cannot re-detain Petitioner without notice and a pre-
2 deprivation hearing before this Court where the government bears the burden of
3 justifying re-detention by clear and convincing evidence;
4
5 g. Order that all of Petitioner's property and personal effects, including any identity
6 documentation and his employment authorization, be returned to him upon his
7 release;
8
9 h. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice
10 Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
11 i. Grant such further relief as this Court deems just and proper.
12

13 Respectfully Submitted,
14 DATED: March 18, 2026

15 /s/Jesse Evans-Schroeder
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VERIFICATION PURSUANT TO 28 USC § 2242

I am submitting this verification on behalf of the Petitioner, because I am the Petitioner's attorney. I have discussed with the Petitioner the events described herein. Based on those discussions, I hereby verify that the factual statements made in the Petition for Writ of Habeas Corpus and Complaint for Declaratory & Injunctive Relief are true and correct to the best of my knowledge and abilities.

Executed on this 18th day of March, 2026 in Tucson, Arizona.

/s/Jesse Evans-Schroeder
Jesse Evans-Schroeder
Attorney for Petitioner