

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Anthony Javier RIOS MORENO,

Petitioner,

v.

Todd Blanche, Acting Attorney General,

0:26-cv-2283

Markwayne Mullin, Secretary, U.S.
Department of Homeland Security,

**VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS**

Department of Homeland Security,

Todd M. Lyons, Acting Director of
Immigration and Customs Enforcement,

Immigration and Customs Enforcement, and

David Easterwood, Acting Director, St. Paul
Field Office, Immigration and Customs
Enforcement,

and

Joel Brott, Sherburne County Sheriff,

Respondents.

INTRODUCTION

1. Petitioner, Anthony Javier Rios Moreno, through Counsel, respectfully petitions this Court for a Writ of Habeas Corpus under 28 U.S.C. § 2241 to remedy his unlawful detention.
2. Petitioner entered the United States in 2022 as an Unaccompanied Alien Child (“UAC”).
3. Petitioner is a Special Immigrant Juvenile Status “(SIJS)” beneficiary. US Citizenship & Immigration Services has approved his petition. He is awaiting his turn to apply to become a lawfully admitted permanent resident.
4. US Citizenship & Immigration Services has granted Petitioner deferred action.
5. The continued detention of Petitioner, particularly absent a bond hearing, serves no legitimate purpose and violates the United States Constitution.
6. To remedy this unlawful detention, Petitioner seeks declaratory and injunctive relief in the form of immediate release from detention, or in the alternative, an order to hold a bond hearing within three days in which Respondents bear the burden to prove by clear and convincing evidence that Petitioner poses a danger or flight risk.
7. Pending the adjudication of his petition, Petitioner seeks an order restraining the Respondents from transferring him to a location where he cannot

reasonably consult with counsel, such a location to be construed as any location outside of the geographic jurisdiction of the day-to-day operations of U.S. Customs and Immigration's ("ICE") St. Paul Office of Enforcement and Removal Operations in the State of Minnesota.

8. Pending requests the same opportunity to be heard in a meaningful manner, at a meaningful time, and thus requests 72-hour notice prior to any removal or movement of him away from the State of Minnesota.

JURISDICTION AND VENUE

9. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question), § 1651 (All Writs Act), and § 2241 (habeas corpus); Art. I, § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). This action further arises under the Constitution of the United States and the Immigration and Nationality Act ("INA").
10. Because Petitioner seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this court. *Zadvydas v. Davis*, 533 U.S. 678 (2001).
11. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by DHS. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Jennings v.*

Rodriguez, 138 S. Ct. 830, 839–41 (2018); *Nielsen v. Preap*, 139 S. Ct. 954, 961–63 (2019); *Sopo v. U.S. Attorney Gen.*, 825 F.3d 1199, 1209-12 (11th Cir. 2016).

12. Venue is proper in this Court pursuant to 28 USC §§ 1391(b), (e)(1)(B), and 2241(d) because Petitioner is detained within this District. He is currently detained in the Sherburne County Facility in Minnesota. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because Respondents are operating in this district.

PARTIES

13. Petitioner is a citizen of Nicaragua. Prior to his detention, he was residing in Minnesota.
14. Petitioner is currently in Immigration and Customs Enforcement (“ICE”) custody in the Sherburne County Facility in Elk River, Minnesota.
15. Respondent Todd Blanche is being sued in his official capacity as the Acting Attorney General of the United States and the head of the Department of Justice, which encompasses the Board of Immigration Appeals (“BIA”) and the immigration judges through the Executive Office for Immigration Review (“EOIR”). Acting Attorney General Blanche shares responsibility for implementation and enforcement of the immigration detention statutes, along

with Respondent Mullin. Acting Attorney General Blanche is a legal custodian of Petitioner.

16. Respondent Markwayne Mullin is being sued in his official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Mullin is responsible for the administration of the immigration laws pursuant to § 103(a) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the St. Paul ICE Field Office, and is legally responsible for pursuing Petitioner’s detention and removal. As such, Respondent Mullin is a legal custodian of Petitioner.
17. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens. As such, Respondent DHS is a legal custodian of Petitioner.
18. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Respondent Lyons is responsible for Petitioner’s detention. As such, Respondent Lyons is a legal custodian of Petitioner.
19. Respondent Immigration and Customs Enforcement (ICE) is the subagency within the Department of Homeland Security responsible for implementing

and enforcing the Immigration & Nationality Act, including the detention of noncitizens. As such, Respondent ICE is a legal custodian of Petitioner.

20. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the St. Paul Field Office for ICE within DHS. In that capacity, Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Petitioner. The address for the St. Paul Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111. As such, Respondent Easterwood is a legal custodian of Petitioner.

21. Respondent Sheriff Joel Brott is being sued in his official capacity as the Sheriff responsible for the Sherburne County Facility. Because Petitioner is detained in the Sherburne County Facility, Respondent has immediate day-to-day control over Petitioner. As such, Respondent Brott is a legal custodian of Petitioner.

EXHAUSTION

22. ICE asserts authority to detain Petitioner pursuant to the mandatory detention provisions of 8 U.S.C. § 1225(b)(2)(a), the Board of Immigration Appeals' decision in *Matter of Yahure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and the Eighth Circuit's decision in *Avila v. Bondi*, No. 25-3248, 2026 WL 819258 (8th Cir. Mar. 25, 2026).

23. No statutory requirement of exhaustion applies to Petitioner's challenge to the lawfulness of his detention. *See, e.g., Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014) ("There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention."); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *11 (W.D. Wash. Apr. 24, 2025) (citing *Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 962 (N.D. Cal. 2019) ("this Court 'follows the vast majority of other cases which have waived exhaustion based on irreparable injury when an individual has been detained for months without a bond hearing, and where several additional months may pass before the BIA renders a decision on a pending appeal.'"); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *5 (D. Mass. July 7, 2025) ((citing *Portela-Gonzalez v. Sec'y of the Navy*, 109 F.3d 74, 77 (1st Cir. 1997) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 146 (1992))).
24. Prudential exhaustion is not required when to do so would be futile or "the administrative body . . . has . . . predetermined the issue before it." *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992), *superseded by statute on other grounds as stated in Woodford v. Ngo*, 548 U.S. 81 (2006).
25. The Board of Immigration Appeals' published decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) binds the immigration court and

denies all noncitizens situated like Petitioner access to a bond hearing on the basis that they are subject to detention under 8 U.S.C. § 1225(b)(2)(A).

26. The Eighth Circuit's ruling in *Avila*, 2026 WL 819258 reinforces that analysis.
27. The Board of Immigration Appeals "ha[s] no authority to rule on the constitutionality of the laws enacted by Congress." *Matter of Fitzpatrick*, 26 I&N Dec. 559, 561 (BIA 2015).
28. Prudential exhaustion is also not required in cases where "a particular plaintiff may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *McCarthy*, 503 U.S. at 147. Every day that Petitioner is unlawfully detained causes him and his family irreparable harm. *Jarpa v. Mumford*, 211 F. Supp. 3d 706, 711 (D. Md. 2016) ("Here, continued loss of liberty without any individualized bail determination constitutes the kind of irreparable harm which forgives exhaustion."); *Matacua v. Frank*, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018) (explaining that "a loss of liberty" is "perhaps the best example of irreparable harm"); *Hamama v. Adducci*, 349 F. Supp. 3d 665, 701 (E.D. Mich. 2018) (holding that "detention has inflicted grave" and "irreparable harm" and describing the impact of prolonged detention on individuals and their families).
29. As such, exhaustion would be futile here.

FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

30. Petitioner is a native and citizen of Nicaragua.
31. On December 17, 2022, when was 16 years old, he entered the United States without inspection.
32. Petitioner Rios Moreno was apprehended by officials, designated as an Unaccompanied Alien Child, pursuant to 6 U.S.C. § 279(g)(2). This made him subject to 8 U.S.C. §1232(a)(4).
33. Consistent with 8 U.S.C. §1232(a)(4), Respondents immediately transferred Petitioner to the care and custody of the Department of Health and Human Services
34. Department of Health and Human Services released Petitioner to family in the United States after conducting the mandatory screening that 8 U.S.C. §1232(a)(4) requires. *See* Exh. A.
35. Petitioner applied for a special immigrant juvenile status.
36. US Citizenship & Immigration Services approved the petition.
37. The priority date, which is the tracking date assigned to the petition to know when there is a visa available for Petitioner to complete the process of applying to become a lawfully permanent resident, is December 2, 2024. Petitioner is waiting for the priority date to come current before he may apply adjust his status and become a lawfully permanent resident. *See* Exh. B.

38. Pursuant to this SIJS approval, US Citizenship & Immigration Services granted Petitioner deferred action. It granted Petitioner employment authorization through March 26, 2029. *See* Exh. C.
39. Adjudication of Petitioner's SIJS petition deemed him paroled into the United States by operation of law. *See* 8 C.F.R. § 245.1(a) ("A special immigrant described under section 101(a)(27)(J) of the Act shall be deemed, for the purposes of applying the adjustment of status provisions of section 245(a) of the Act, to have been paroled into the United States, regardless of the actual method of entry into the United States.").
40. On September 5, 2025, the Board of Immigration Appeals, issued a precedential decision, binding on lower immigration courts, finding that "Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission." *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
41. Petitioner, however, was detained under 8 U.S.C. §1232(a)(4). He was not detained under 8 U.S.C. §1225(b).
42. Petitioner has no criminal history of the sort that would subject him to mandatory custody under 8 U.S.C. § 1226(c).
43. On April 9, 2026, Petitioner was arrested in St. Cloud, Minnesota for driving without a license.

- 44. On April 10, 2026, Respondents took Petitioner into custody after he was released from local confinement.
- 45. Petitioner is presently detained in the Sherburne County Facility.
- 46. Respondents' detention further violates the Congress' intention protect Special Immigrant Juveniles because their status is predicated on a finding that it is their best interest *not* to return to their country.
- 47. The detention of Petitioner serves no legitimate purpose.

LEGAL FRAMEWORK

- 48. As the Constitution states, “[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the Public Safety may require it.” U.S. Const. art. I, § 9 cl. 2.
- 49. Such a writ is available to a person who “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3).
- 50. The writ of habeas corpus is the “fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action.” *Harris v. Nelson*, 394 U.S. 286, 291 (1969).
- 51. Hence, “the very nature of the writ demands that it be administered with the initiative and flexibility essential to ensure the miscarriages of justice within its reach are surfaced and corrected.” *Id.*

52. “There is no higher duty of a court, under our constitutional system, than the careful processing and adjudication of petitions for writs of habeas corpus, for it is in such proceedings that a person in custody charges that error, neglect, or evil purpose has resulted in his unlawful confinement and that he is deprived of his freedom contrary to law.” *Id.* at 291-22.
53. “The scope and flexibility of the writ – its capacity to reach all manner of illegal detention – its ability to cut through barriers of form and procedural mazes – have always been emphasized and jealously guarded by courts and lawmakers.” *Id.* at 291.

Unaccompanied Alien Children

54. Removal proceedings are governed under 8 U.S.C. § 1229a, which provides that “[a]n immigration judge shall conduct proceedings for deciding the inadmissibility or deportability of an alien,” 8 U.S.C. § 1229a(a)(1) and 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 admitted to the United States.” 8 U.S.C. § 1229a(a)(3).
55. To initiate removal proceedings, “written notice (in this section referred to as a ‘notice to appear’) shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien’s counsel of record, if any).” 8 U.S.C. § 1229(a)(1).

56. “[T]he term ‘unaccompanied alien child’ [“UAC”] means a child who—
 - (A) has no lawful immigration status in the United States;
 - (B) has not attained 18 years of age; and
 - (C) with respect to whom—
 - (i) there is no parent or legal guardian in the United States; or
 - (ii) no parent or legal guardian in the United States is available to provide care and physical custody.
- 6 U.S.C. § 279(g)(2).
57. “The custody of unaccompanied alien children not described in paragraph (2)(A)[, related to Mexican and Candain kids,] who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with subsection (b).” 8 U.S.C. § 1232(a)(3).
58. Under the applicable subsection, “the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be the responsibility of the Secretary of Health and Human Services.” 8 U.S.C. § 1232(b)(1).
59. “All UACs apprehended by DHS ... [are] transferred to ORR for care, custody, and placement in accordance with 6 U.S.C. 279 and 8 U.S.C. 1232.” 8 C.F.R. § 236.3(f)(1). *See also* 8 U.S.C. §1232(a)(4); (b)(3).
60. “[A]n unaccompanied alien child in the custody of the Secretary of Health and Human Services shall be promptly placed in the least restrictive setting that is

in the best interest of the child. ... A child shall not be placed in a secure facility absent a determination that the child poses a danger to self or others or has been charged with having committed a criminal offense. The placement of a child in a secure facility shall be reviewed, at a minimum, on a monthly basis, in accordance with procedures prescribed by the Secretary, to determine if such placement remains warranted.” 8 U.S.C. § 1232(c)(2)(A).

61. There is no reference to 8 U.S.C. § 1225 in section 8 U.S.C. §1232.

Special Immigrant Juvenile Status and Deferred Action

62. Congress created the Special Immigrant Juvenile Status (SIJS) classification in 1990 to provide relief for noncitizen children living in the United States who have been abused, neglected, abandoned, or mistreated by a parent and for whom a state court has found it would not be in their best interest to be returned to their country of origin. *See* 8 U.S.C. § 1101(a)(27)(J); *Yeboah v. U.S. Dep’t of Just.*, 345 F.3d 216, 221 (3d Cir. 2003) (“The SIJ provisions of the [Immigration and Nationality Act] were enacted in 1990 to protect abused, neglected, or abandoned children....[S]uch children may seek special status to remain in the United States.”).
63. To be eligible for SIJS, an applicant must be (1) under 21 years old at the time the I-360 petition is filed; (2) unmarried; and (3) present in the United States. 8 C.F.R. § 204.11(b).

64. In addition, an applicant must obtain an order from a state juvenile court finding that:

- a) The applicant is dependent on the court or placed in the custody of, or legally committed to, a state agency or individual appointed by the court;
- b) The applicant cannot be reunified with one or both parents due to abuse, neglect, abandonment, or a similar basis found under state law; and
- c) It is not in the applicant's best interest to return to his country of nationality or last habitual residence.

8 U.S.C. § 1101(a)(27)(J)(i)–(ii); 8 C.F.R. § 204.11(c)(1)–(2).

65. “After obtaining a state juvenile court’s protection, SIJS applicants then file an application with [USCIS], which exercises delegated authority from the Secretary of [DHS] to grant or deny an SIJS application.” *Walter A. v. Easterwood et al.*, No. 26-CV-1393 (SRN/LIB), 2026 WL 836428, at *3 (D. Minn. Mar. 26, 2026).

66. “USCIS must ensure that ‘the request for SIJ classification [is] bona fide,’ i.e., ‘the petitioner has established that “a primary reason” for his appearance in juvenile court was “to obtain relief from parental abuse, neglect, abandonment,” or something similar.’” *Id.* (citing 8 C.F.R. § 204.11(b)(5)).

67. “Because the statutory scheme requires ‘the approval of both state and federal authorities,’ it effectively ‘establish[es] a successful applicant as a ward of the United States.’” *Id.* (citing *Osorio-Martinez v. Att’y Gen.*, 893 F.3d 153, 168 (3d Cir. 2018)).

68. The INA “explicitly designates SIJ as a ‘status’ that affords its designees a host of legal rights and protections.” *Osorio-Martinez*, 893 F.3d at 161 n.7 (citing 8 U.S.C. § 1101(a)(27)(J)(iii) (describing SIJ as a “status”); 8 C.F.R. § 204.11(b) (same); 8 U.S.C. § 1255(h) (listing rights); *see also Yeboah*, 345 F.3d at 221 (describing SIJS as a “special status to remain in the United States”).
69. Congress extended certain protections against deportation to SIJS beneficiaries, stating that specific grounds for deportation “shall not apply to a special immigrant [juvenile] based upon circumstances that exist before the date the alien was provided such special immigrant status.” IMMACT, Pub. L. No. 101-649, sec. 153(b), 104 Stat. at 5006 (codified at 8 U.S.C. § 1227(c)).
70. “Under this provision, while Special Immigrant Juveniles can be deported on certain grounds such as serious criminal convictions or threats they might pose to national security, they are not subject to deportation on other more typical grounds, such as having entered the country without inspection. Thus, Congress exempted Special Immigrant Juveniles from deportability based on entry without inspection.” *Walter A. v. Easterwood et al.*, No. 26-CV-1393 (SRN/LIB), 2026 WL 836428, at *2 (D. Minn. Mar. 26, 2026) (citing IMMACT, Pub. L. No. 101-649, sec. 153(b), 104 Stat. at 5006 (codified at 8 U.S.C. § 1227(c))) (emphasis added).

71. SIJS beneficiaries may apply for lawful permanent resident status through an adjustment of status application. 8 U.S.C. § 1153(b)(4); . 8 U.S.C. § 1255(h)(1).
72. In the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (“MTINA”), Congress provided that Special Immigrant Juveniles “shall be deemed, for purposes of [adjustment of status] to have been paroled into the United States” at the time of entry into the country. 8 U.S.C. § 1255(h)(1).
73. In the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (“TVPRA”), “Congress exempted SIJS beneficiaries from inadmissibility based on having entered the United States without admission or parole or at an unauthorized time or place, allowing SIJS beneficiaries once again to adjust status despite having entered the country without undergoing inspection.” *Walter A. v. Easterwood et al.*, No. 26-CV-1393 (SRN/LIB), 2026 WL 836428, at *3 (D. Minn. Mar. 26, 2026) (citing TVPRA, Pub. L. No. 110-457, sec. 235(d), 122 Stat. at 5079).
74. “Because of the requirement that SIJS applicants be present in the United States, they cannot seek SIJS through consular processing from outside the country.” *Walter A. v. Easterwood et al.*, No. 26-CV-1393 (SRN/LIB), 2026 WL 836428, at *3 (D. Minn. Mar. 26, 2026). That is, an SIJS beneficiary

cannot apply for an immigrant visa abroad but must adjust status from within the United States.

75. However, an SIJS-based application for adjustment of status may only be granted if a visa is available. *Walter A. v. Easterwood et al.*, No. 26-CV-1393 (SRN/LIB), 2026 WL 836428, at *4 (D. Minn. Mar. 26, 2026). The visa category for SIJS recipients is employment-based fourth preference, or EB-4. *Id.*

76. “In 2022, due to the backlog in EB-4 visas, USCIS announced a deferred action program for persons with SIJS.” *Id.* (citing USCIS, Policy Alert PA-22-10, Special Immigrant Juvenile Classification and Deferred Action (Mar. 7, 2022)).

77. Deferred action is “a form of enforcement discretion not to pursue the removal of certain aliens for a limited period in the interest of ordering enforcement priorities in light of limitations of available resources, taking into account humanitarian considerations and administrative convenience.” 8 C.F.R. § 236.21(c).

78. Explaining the 2022 SIJS Deferred Action policy, USCIS stated,

Due to ongoing visa number unavailability, the protection that Congress intended to afford SIJs through adjustment of status is often delayed for years, leaving this especially vulnerable population in limbo.

...

Deferred action and related employment authorization will help to protect SIJs who cannot apply for adjustment of status solely because they are waiting for a visa number to become available. This process furthers congressional intent to provide humanitarian protection for abused, neglected, or abandoned noncitizen children for whom a juvenile court has determined that it is in their best interest to remain in the United States.

...

[SIJS 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 for a visa.

...

SIJs are unlikely to be enforcement priorities as evidenced by the broad waivers of inadmissibility Congress established [in 8 C.F.R. § 245.1(e)(3)], as well as ICE Directive 11005.3: Using a Victim-Centered Approach with Noncitizen Crime Victims, which states that absent exceptional circumstances, ICE defers enforcement actions against SIJs until they adjust status to that of an LPR.

USCIS, Policy Alert PA-2-22-10, Special Immigrant Juvenile Classification and Deferred Action (Mar. 7, 2022), at 1-3.

79. Overall, SIJS “reflects the determination of Congress to accord ... abused, neglected, and abandoned children a legal relationship with the United States and to ensure they are not stripped of the opportunity to retain and deepen that relationship without due process.” *Osorio-Martinez*, 893 F.3d at 170.
80. “The SIJS statutory scheme protects Special Immigrant Juveniles from removal by exempting them from various grounds of inadmissibility, and provides a pathway to LPR status.” *Walter A. v. Easterwood et al.*, No. 26-

CV-1393 (SRN/LIB), 2026 WL 836428, at *19 (D. Minn. Mar. 26, 2026) (emphasis added).

81. “The SIJS statutory scheme protects Special Immigrant Juveniles from removal by exempting them from various grounds of inadmissibility, and provides a pathway to LPR status.” *Walter A. v. Easterwood et al.*, No. 26-CV-1393 (SRN/LIB), 2026 WL 836428, at *19 (D. Minn. Mar. 26, 2026) (emphasis added).
82. Here, as a Special Immigrant Juvenile, he has been “deemed, for purposes of [adjustment of status] to have been paroled into the United States” at the time of entry into the country. 8 U.S.C. § 1255(h)(1).
83. In order to obtain SIJS, the Hennepin County district court found that it was not in Petitioner’s best interest to return to Nicaragua, and that it was in his best interest to remain in the United States with his guardian.
84. USCIS endorsed this finding by approving Petitioner’s SIJS petition and granting him deferred action.
85. SIJ [S]tatus, once granted, may not be revoked except “on notice,” 8 C.F.R. § 205.2, and upon the Government’s compliance with a series of procedural safeguards: The Secretary of Homeland Security must find “good and sufficient cause” for revocation; the agency must provide notice of intent to

revoke; and the SIJ designee must be given the opportunity to present evidence opposing revocation. 8 U.S.C. § 1155; 8 C.F.R. § 205.2.

86. “Given this endorsement, it is perverse that ‘the very federal Department that here attempts to remove [Petitioner] earlier acknowledged that he had shown a *bona fide* need to avoid re-exposure to parental abuse, neglect, and abandonment, and that it would not be in his best interest to return to [Nicaragua].’ *Walter A. v. Easterwood et al.*, No. 26-CV-1393 (SRN/LIB), 2026 WL 836428, at *20 (D. Minn. Mar. 26, 2026).
87. Petitioner acknowledges that *Cortez-Amador v. Att’y Gen.*, 66 F.4th 429 (3d Cir. 2023) suggests that a person remains removable despite a SIJS designation. *Cortez-Amador*, however, focused on the standard that is applicable to determining whether a person is removable in removable proceedings. Courts have subsequently recognized the limited reach of *Cortez-Amador*, and also identified that *Cortez-Amador* did not reconcile Congress’ intent and the regulations enforcing this intent when ruling. *See Alfaro Herrera v. Baltazar*, No. 1:25-CV-04014-CNS, 2026 WL 91470 (D. Colo. Jan. 13, 2026).
88. *Cortez-Amador* does not suggest that Petitioner is subject to 8 U.S.C. § 1225.
89. Instead, what is clear is that “two legal principles emerge relevant to individuals with SIJ Status. First, the Government must provide them an

opportunity to pursue adjustment of status, and the way in which the Government seeks to remove them must adequately take stock of their SIJ Status. *See Osorio-Martinez*, 893 F.3d 153. Second, the Government may ultimately remove an individual with SIJ Status from the country, so long as it complies with the first principle.” *Del Cid v. Bondi*, No. 3:25-CV-00304, 2025 WL 2985150, at *4 (W.D. Pa. Oct. 23, 2025).

90. The Honorable Susan R. Nelson recently found that “the SIJS statutory protections, including the adjustment pathway to LPR status, parole for adjustment of status purposes, exemptions from inadmissibility, prior visa backlog protections based on deferred action, and safeguards preventing Special Immigrant Juveniles from being forced to contact their abusers demonstrate that **SIJS beneficiaries are to remain in the United States until they are able to obtain adjudication on their adjustment of status applications.**” *Id.* (emphasis added).
91. This Court should join the court in *Walter A.* and numerous sister courts throughout the country and find that Petitioner, as an SIJS beneficiary, is to remain in the United States until his adjustment of status application is adjudicated. *See id.*; *see also Joshua M. v. Barr*, 439 F. Supp. 3d 632, 649 (E.D. Va. 2020) (finding that SIJS confers “significant benefits for young immigrants and certain protections against removal,” including eligibility to

obtain LPR status and eventually apply for citizenship); *Garcia Lanza v. Noem*, --- F. Supp. 3d ---, No. 26-0029, 2026 WL 585130, at *5 (E.D.N.Y. Mar. 3, 2026) (finding that SIJS beneficiaries have the right to live and work in the United States pending further processes); *Xol-Maas v. Francis*, No. 26-CV-00025 (JAV), 2026 WL 457005, at *8 (S.D.N.Y. Feb. 18, 2026) (“Congress clearly contemplated that SIJ designees would remain in the United States while awaiting adjudication of their adjustment of status applications.”); *Sarmiento v. Perry*, --- F. Supp. 3d ---, No. 1:25-cv-01644, 2026 WL 131917, at *1 (E.D. Va. Jan. 19, 2026) (finding SIJS conferred upon petitioner “the status of a parolee with inadmissibility waived as a ground for his detention or removal within the context of his challenges to his detention.”).

92. Therefore, Petitioner’s removal is not significantly likely in the reasonably foreseeable future, and his continued detention is unlawful.

Substantive Due Process

93. Due Process requires, at a minimum, a bond hearing in which the Department has the burden of showing that Petitioner is a flight risk or danger to the community.

94. The Due Process Clause of the Fifth Amendment requires that “[n]o person shall... be deprived of liberty... without due process of law.” U.S. Const. amend. 5.
95. It is well-established that the Fifth Amendment entitled aliens to due process of Law[.]” *Demore v. Kim*, 528 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)).
96. “Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that Clause protects.” *Zadvydas*, 533 U.S. at 690.
97. Other than punishment for a crime, due process permits the government to take away liberty only “in certain special and narrow nonpunitive circumstances . . . where a special justification . . . outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* (quotation marks omitted).
98. Such special justification exists only where a restraint on liberty bears a “reasonable relation” to permissible purposes. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *see also Foucha v. Louisiana*, 504 U.S. 71, 79 (1992); *Zadvydas*, 533 U.S. at 690.

99. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528.
100. Civil detention must remain “nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690.
101. Constitutional limits on detention beyond the removal period are well established. “[W]here detention’s goal is no longer practically attainable, detention no longer ‘bear[s] [a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* (alterations in original) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).
102. Additionally, cursory or pro forma findings of dangerousness do not suffice to justify prolonged or indefinite detention. *Id.* at 690–91 (“But we have upheld preventive detention based on dangerousness only when limited to specially dangerous individuals [like suspected terrorists] and subject to strong procedural protections.”).
103. The purpose of detention during and beyond the removal period is to “secure[] the alien’s removal.” *Id.* at 682. In *Zadvydas*, the Supreme Court “read § 1231 to authorize continued detention of an alien following the 90-day removal period for only such time as is reasonably necessary to secure the alien’s removal.” *Demore v. Kim*, 538 U.S. at 527 (citing *Zadvydas*, 533 U.S. at 699).

104. As the Supreme Court has explained, where there is no possibility of removal, immigration detention presents substantive due process concerns because the need to detain the noncitizen to ensure the noncitizen's availability for future removal proceedings is "weak or nonexistent." *Zadvydas*, 533 U.S. at 690–92. Detention is lawful only when "necessary to bring about that alien's removal." *See id.* at 689.

105. Moreover, here, the crux of the matter is that

[Petitioner]'s unrevoked SIJS presents a constitutional barrier that renders his removal unlikely in the reasonably foreseeable future. His due process rights are vested in his SIJS, regardless of the presence or absence of deferred action. As a Special Immigrant Juvenile, [Petitioner]'s removal would be based on a ground for inadmissibility—being present in the United States without admission or parole, *see* 8 U.S.C. § 1182(a)(6)(A)—from which he is legally exempted by virtue of his SIJS. *See* 8 U.S.C. § 1255(h)(2)(A) (waiving 8 U.S.C. § 1182(a)(6)(A)); *see also Xol-Maas*, 2026 WL at *8 ("The fact that Petitioner's removal is predicated on a ground that the statute explicitly waives for SIJs, his inadmissibility, highlights the tension between Congressional intent and the executive branch's actions.").

Walter A. v. Easterwood et al., No. 26-CV-1393 (SRN/LIB), 2026 WL 836428, at *22 (D. Minn. Mar. 26, 2026).

106. Petitioner's "removal while possessing valid, unrevoked SIJS 'would render SIJ status a nullity.'" *Id.* (citing *Osorio-Martinez*, 893 F.3d at 172).

107. Because Petitioner has SIJS status with deferred action, his removal is not significantly likely in the reasonably foreseeable future, and his detention is unconstitutional.
108. “To be clear, an SIJ designee is not legally entitled to adjust status, as that is a discretionary determination which lies with the executive branch. *See Osorio-Martinez*, 893 F.3d at 175.”
109. “Petitioner does, however, have due process rights in being afforded an opportunity to have his adjustment of status application adjudicated. Accordingly, Petitioner has established that his removal from the United States while he enjoys SIJ status but has yet to have the opportunity to apply for adjustment of status would violate due process. And because the Government cannot, consistent with the Constitution, effectuate Petitioner's removal in the near term, his continued detention ... violates his due process rights.” *Xol-Maas v. Francis*, No. 26-CV-00025 (JAV), 2026 WL 457005, at *9 (S.D.N.Y. Feb. 18, 2026).
110. Numerous courts throughout the country agree. *See, e.g., Forsah R-Z v. Noem*, No. 1:26-CV-00828-DJC-AC, 2026 WL 310069 (E.D. Cal. Feb. 5, 2026) (granting habeas petition of SIJS beneficiary with deferred action and final removal order); *Guerra Leon v. Noem*, No. 3:25-01495 SEC P, 2025 WL

4113562, at *3–4 (W.D. La. Oct. 30, 2025) (same); *Primero v. Mattivelo*, No. 1:25- CV-11442-IT, 2025 WL 1899115, at *5 (D. Mass. July 9, 2025) (same).

Procedural Due Process

111. Due process requires “adequate procedural protections” to ensure that the government’s asserted justification for its conduct infringing on protected interests ‘outweighs the individual’s constitutionally protected interest in avoiding physical restraint.’” *Zadvydas*, 533 U.S. at 690 (citing *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)).
112. “The protections afforded to children with SIJ status include an array of statutory and regulatory rights and safeguards, such as eligibility for application of adjustment of status to that of lawful permanent residents (LPR), exemption from various grounds of inadmissibility, and robust procedural protections to ensure their status is not revoked without good cause.” *Osorio-Martinez*, 893 F.3d at 158.
113. These procedural protections include “at least minimal due process rights.” *Id.* at 173.
114. “In habeas actions involving SIJS beneficiaries, federal district courts have found that SIJS beneficiaries who have not had the opportunity to adjust status cannot be lawfully removed.” *Walter A. v. Easterwood et al.*, No. 26-CV-1393 (SRN/LIB), 2026 WL 836428, at *21 (D. Minn. Mar. 26, 2026) (citing *Xol-*

Maas, 2026 WL 457005, at *9 (“To be clear, an SIJ designee is not legally entitled to adjust status, as that is a discretionary determination which lies with the executive branch,” but “Petitioner does, however, have due process rights in being afforded an opportunity to have his adjustment of status application adjudicated.”); *Sarmiento*, 2026 WL 131917, at *6 (granting preliminary injunctive relief and ordering immediate release of petitioner with approved SIJS based on due process, and noting that “SIJ status operates to confer upon him the status of a parolee with inadmissibility waived as a ground for his detention or removal within the context of his challenges to his detention.”); *Del Cid v. Bondi*, No. 25-00304, 2025 WL 2985150, at *4 (W.D. Pa. Oct. 23, 2025) (“Two legal principles emerge relevant to individuals with SIJ Status. First, the Government must provide them an opportunity to pursue adjustment of status, and the way in which the Government seeks to remove them must adequately take stock of their SIJ Status. Second, the Government may ultimately remove an individual with SIJ Status from the country, so long as it complies with the first principle.”) (citations omitted)).

115. In determining whether due process has been violated, the Court should weigh (1) the private interest affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of the private interest, and the extent to which that risk could be reduced by additional safeguards;

and (3) the government's interest in maintaining the current procedures, including the function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

116. As to the first *Mathews v. Eldridge*, 424 U.S. 319 (1976) factor, the private interest affected by the government action, "Petitioner's liberty interest in remaining free from governmental restraint is of the highest constitutional import." *Zavala*, 310 F. Supp. 2d at 1076; *see also Ashley*, 288 F. Supp. 2d at 670–71 ("[F]reedom from confinement is a liberty interest of the 'highest constitutional import.'") (quoting *St. John v. McElroy*, 917 F. Supp. 243, 250 (S.D.N.Y. 1996)). "[B]eing free from physical detention is 'the most elemental of liberty interests.'" *Günaydin v. Trump*, 784 F.Supp.3d 1175, 1187 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 531 (2004)).
117. In assessing the first factor, "courts consider the conditions under which detainees are currently held, including whether a detainee is held in conditions indistinguishable from criminal incarceration." *Id.* (first citing *Hernandez-Lara v. Lyons*, 10 F.4th 19, 28 (1st Cir. 2021) (involving noncitizen detainee held "alongside criminal inmates" at a county jail); and then citing *Velasco Lopez v. Decker*, 978 F.3d 842, 852 (2d Cir. 2020) (observing noncitizen was "not detained" but, rather, was incarcerated in conditions identical to those

imposed on criminal defendants after being convicted of “violent felonies and other serious crimes”)).

118. Petitioner is being held in ICE custody, which houses civil immigration detainees, pre-trial criminal arrestees, and incarcerated prisoners serving criminal sentences. “He is experiencing all the deprivations of incarceration, including loss of contact with friends and family...lack of privacy, and, most fundamentally, the lack of freedom of movement.” *Id.*
119. As to the second *Mathews v. Eldridge* factor, this Court must look at the risk that current procedures will cause an erroneous deprivation of a private interest, and the extent to which that risk could be reduced by additional safeguards. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).
120. To safeguard against erroneous deprivations of liberty, the statute provides for release on an order of supervision. 8 U.S.C. § 1231(a)(3). Regulations specify who may lawfully revoke the order and the procedures that must be followed when doing so, including giving notice and an opportunity to be heard. 8 C.F.R. § 241.13(i). Respondents violated those laws here, leaving the risk of erroneous deprivation of liberty not just high, but certain.
121. There have been no changes to the facts or any materially changed circumstances that justify Petitioner’s detention now.
122. Petitioner holds SIJS with deferred action.

123. Respondents' detention of Petitioner is arbitrary.
124. There is a high risk that Respondents' current procedures cause an erroneous deprivation of a private interest.
125. The second *Mathews v. Eldridge* factor is met.
126. As to the third *Mathews v. Eldridge* factor, the government is more likely to waste limited financial and administrative resources on unnecessary detention of people who are neither flight risks nor dangerous and for whom there is no significant likelihood of removal in the reasonably foreseeable future. This waste drags down the efficiency of the entire immigration system.
127. To prevail on a claim asserting the deprivation of due process, a petitioner must also show "actual prejudice." *Puc-Ruiz v. Holder*, 629 F.3d 771, 782 (8th Cir. 2010). Actual prejudice occurs if "an alternate result may well have resulted without the violation." *Id.* (citation omitted) (internal quotations omitted); see also *Lazaro v. Mukasey*, 527 F.3d 977, 981 (9th Cir. 2008) (explaining that prejudice is not necessary where agency action was *ultra vires*). Petitioner has certainly shown actual prejudice here, where he is facing continued detention as a result of his deprivation of due process.
128. Respondents detained Petitioner in violation of statute, regulations, and his constitutional rights. His detention is unlawful.

REMEDY

129. Respondents’ arrest and detention of Petitioner without an administrative warrant, purportedly under 8 U.S.C. § 1225(b)(2) violates that statute, section 1226(a), section 1357(a)(2), the Due Process Clause of the United States Constitution, and the Fourth Amendment. Petitioner’s ongoing detention violates the Fifth Amendment’s guarantee that “[n]o person shall be . . . deprived of life, liberty, or property without due process of law.” U.S. Const., Amend. 5.
130. Due Process requires that detention “bear [] a reasonable relation to the purpose for which the individual [was] committed.” *Zadvydas, v. Davis*, 533 U.S. 678, 690 (2001) (citing *Jackson v. Ethiopianians*, 406 U.S. 715, 738 (1972)).
131. Although neither the Constitution nor the federal habeas statutes delineate the necessary content of habeas relief, *I.N.S. v. St. Cyr*, 533 U.S. 289, 337 (2001) (Scalia, J., dissenting) (“A straightforward reading of [the Suspension Clause] discloses that it does not guarantee any content to . . . the writ of habeas corpus”), implicit in habeas jurisdiction is the power to order release. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (“[T]he habeas court must have the power to order the conditional release of an individual unlawfully detained.”).

132. The Supreme Court has noted that the typical remedy for unlawful detention is release from detention. *See, e.g., Munaf v. Geren*, 553 U.S. 674 (2008) (“The typical remedy for [unlawful executive detention] is, of course, release.”); *see also Wajda v. US*, 64 F.3d 385, 389 (8th Cir. 1995) (stating the function of habeas relief under 28 U.S.C. § 2241 “is to obtain release from the duration or fact of present custody.”).
133. That courts with habeas jurisdiction have the power to order outright release is justified by the fact that, “habeas corpus is, at its core, an equitable remedy,” *Schlup v. Delo*, 513 U.S. 298, 319 (1995), and that as an equitable remedy, federal courts “[have] broad discretion in conditioning a judgment granting habeas relief [and are] authorized . . . to dispose of habeas corpus matters ‘as law and justice require.’” *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987), quoting 28 U.S.C. § 2243. An order of release falls under court’s broad discretion to fashion relief. *See, e.g., Jimenez v. Cronen*, 317 F. Supp. 3d 626, 636 (D. Mass. 2018) (“Habeas corpus is an equitable remedy. The court has the discretion to fashion relief that is fair in the circumstances, including to order an alien’s release.”).
134. Alternatively, Petitioner seeks an order to hold a bond hearing within three days in which Respondents bear the burden to prove by clear and convincing evidence that Petitioner poses a danger or flight risk.

CAUSE OF ACTION

**COUNT ONE: VIOLATION OF THE IMMIGRATION & NATIONALITY
ACT – 8 U.S.C. § 1232(c)(2)(A)**

135. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
136. By statute, “an unaccompanied alien child in the custody of the Secretary of Health and Human Services shall be promptly placed in the least restrictive setting that is in the best interest of the child. ... A child shall not be placed in a secure facility absent a determination that the child poses a danger to self or others or has been charged with having committed a criminal offense. The placement of a child in a secure facility shall be reviewed, at a minimum, on a monthly basis, in accordance with procedures prescribed by the Secretary, to determine if such placement remains warranted.” 8 U.S.C. § 1232(c)(2)(A).
137. If a UAC “(A) reaches 18 years of age and is transferred to the custody of the Secretary of Homeland Security, the Secretary shall consider placement in the least restrictive setting available after taking into account the alien’s danger to self, danger to the community, and risk of flight. Such aliens shall be eligible to participate in alternative to detention programs, utilizing a continuum of alternatives based on the alien’s need for supervision, which may include placement of the alien with an individual or an organizational sponsor, or in a supervised group home.” 8 U.S.C. § 1232(c)(2)(B).

138. Physical incarceration is not the least restrictive setting for Petitioner and as such, his detention violates 8 U.S.C. § 1232(c)(2)(B), and he must be released.

**COUNT TWO: VIOLATION OF THE FIFTH AMENDMENT –
SUBSTANTIVE DUE PROCESS**

139. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
140. The Due Process Clause of the Fifth Amendment protects against arbitrary detention by the executive branch. *Zadvydas*, 533 U.S. at 699.
141. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest.
142. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.
143. Civil immigration detention cannot be punitive in nature. *See Zadvydas*, 533 U.S. at 694; *Wong Wing*, 163 U.S. at 238.
144. Petitioner has been granted Special Immigrant Juvenile Status—which means he has been paroled into the United States—and deferred action.
145. Petitioner's SIJS with deferred action renders his removal unlikely in the reasonably foreseeable future.

146. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized.” *Zadvydas*, 533 U.S. at 699.
147. Continued detention violates the Fifth Amendment and Petitioner’s writ of habeas corpus must issue.

**COUNT THREE: VIOLATION OF THE FIFTH AMENDMENT –
PROCEDURAL DUE PROCESS**

148. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.
149. The Constitution establishes due process rights for “all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.
150. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals.
151. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained.
152. Petitioner’s sudden and continuing detention, with no prior notice, no showing of changed circumstances, or an opportunity to respond, violates his due process rights.

PRAYER FOR RELIEF

WHEREFORE, Petitioner, prays that this Court will:

1. Assume jurisdiction over this matter.
2. Issue an order restraining Respondents from attempting to move Petitioner from the District of Minnesota during the pendency of this Petition.
3. Issue an order requiring Respondents to provide 72-hour notice of any intended movement of Petitioner.
4. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under 28 U.S.C. § 153.
5. Order Petitioner's immediate release, or, alternatively, order Respondents to hold a bond hearing pursuant to 8 U.S.C. § 1226(a) within three days in which Respondents must demonstrate by clear and convincing evidence that Petitioner is a flight risk or danger to the community.
6. Declare that Respondents' action is arbitrary and capricious.
7. Declare that Respondents failed to adhere to its regulations.
8. Declare that Petitioner's detention absent a bond hearing violates the Due Process Clause of the Fifth Amendment.
9. Award his attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law.
10. Grant all further relief this Court deems just and proper.

DATED: April 18, 2026

Respectfully submitted,

/s/ David Wilson

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**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 one of Petitioner's attorneys. I have discussed the events described in this Petition with Petitioner and Petitioner's family. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

/s/ Andra Garcia

Date: April 18, 2026