

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Nabijon Niyozov

Petitioner,

v.

Markwayne Mullin, Secretary, U.S.
Department of Homeland Security;
Todd Lyons, in his capacity as Acting Director,
Immigration and Customs Enforcement;
Todd Blanche, Acting U.S. Attorney General;
Executive Office for Immigration Review;
David Easterwood, Acting Director for ICE
Field Office, St. Paul, MN,
Warden, Sherburne County Facility, Elk River,
Minnesota,

In their official capacities,

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Nabijon Niyozov has an approved SIJS petition. Despite USCIS' finding that Mr. Niyozov should remain in the United States due to abuse, abandonment, or neglect by one or both parents, ICE decided to target him for detention and removal. As a result of Respondents' unlawful actions, he is in their physical custody at the Sherburne County Facility in Elk River, Minnesota. He faces unlawful detention in violation of the Fourth and Fifth Amendments of the Constitution as well as the TVPRA, INA, and the Regulations.

2. Petitioner's claim is not foreclosed by the Eighth Circuit's decision in *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026). In *Avila*, the Eighth Circuit held that non-citizens who entered without inspection are subject to mandatory detention under Section 1225, and thus, they may not request a bond hearing under Section 1226. However, the Eighth Circuit did not review the associated Constitutional claims. Since the Eighth Circuit only reviewed the statutory claims, this Court may review Mr. Niyozov's constitutional claims in this Petition.

3. This judicial district has previously determined that non-citizens have constitutional claims to their liberty that exist outside of the INA. *Heriberto R.E. v. Blanche*, 0:26-cv-02227-JWB-LIB (D. Minn. May 1, 2026).

4. Accordingly, Petitioner seeks a writ of habeas corpus requiring his immediate release from custody.

JURISDICTION

5. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Sherburne County Facility in Elk River, Minnesota.

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

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

VENUE

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

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

REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

11. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of

the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

12. Petitioner, Nabijon Niyozov, is a citizen of Tajikistan who is detained at the Sherburne County Facility in Elk River, Minnesota.

13. Prior to being re-detained, Mr. Niyozov was living in Minnesota. He last entered the United States without inspection in the summer of 2023, and he was briefly detained by CBP before being released. For the last several years, Mr. Niyozov had been living freely in the U.S.

14. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

15. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. As such, Acting Director Todd Lyons is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

16. Respondent Todd Blanche is the Acting Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity.

17. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

18. Respondent David Easterwood is the Acting Director for ICE Field Office, St. Paul, Minnesota. He has direct control over Petitioner's detention. He is sued in his official capacity.

19. Respondent Warden is employed as the Jail Administrator of the Sherburne County Facility in Elk River, Minnesota, where Petitioner is detained. He or she has immediate physical custody of Petitioner. He or she is sued in their official capacity.

LEGAL FRAMEWORK

Due Process

20. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. A petitioner may seek a writ of habeas corpus when their custody violates the U.S. Constitution or federal law. 28 U.S.C. § 2241.
21. "[T]he Due Process Clause applies to all 'persons' within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation omitted).
22. Immigration detention is civil and must "bear[] a reasonable relation to the purpose for which the individual [is detained]" so that it is "nonpunitive in purpose and effect." *Zadvydas*, 533 U.S. at 690 (cleaned up). There are only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See id.* at 683; *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017). "Retribution

and deterrence are not legitimate nonpunitive governmental objectives.” *Bell v. Wolfish*, 441 U.S. 520, 539 n.20 (1979).

Petitioner’s Claim is Distinguishable from *Avila v. Bondi*

23. Petitioner’s claim is not foreclosed by the Eighth Circuit’s decision in *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026).

24. **First, *Avila* had entered the U.S. without inspection and had never had contact with immigration.** Unlike *Avila*, Mr. Niyozov had previously been detained by immigration and released. Mr. Niyozov therefore has a liberty interest in his release from custody, and he presents constitutional claims.

25. **Mr. Niyozov should have been provided with a pre-deprivation bond hearing prior to being detained.** Because Mr. Niyozov had already been released by immigration in 2023, he should have been provided with a pre-deprivation bond hearing prior to being re-detained. Since *Avila* had never been detained by immigration previously, he did not have the same rights to a pre-deprivation bond hearing, and therefore, Mr. Niyozov’s case is distinguishable.

26. The Eighth Circuit only reviewed the statutory claims in *Avila*, but it did not review the separate constitutional claims that a non-citizen may have. Because the Eighth Circuit did not rule on the constitutional claims, this Court may review his Petition for Habeas Corpus.

27. **The Minnesota District Court has previously held that non-citizens have a liberty interest that is above and apart from the INA.** *Heriberto R.E. v. Blanche*,

0:26-cv-02227-JWB-LIB (D. Minn. May 1, 2026).

Special Immigrant Juvenile Status

28. Congress created the SIJS classification in 1990 to provide relief for foreign-born children living in the United States who have been abused, neglected, or abandoned by one or both parents 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).
29. From the outset, Congress extended certain protections against deportation to SIJS beneficiaries, stating that specified grounds for deportation “shall not apply to a special immigrant [juvenile] based upon circumstances that exist before the date the [non-citizen] 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)).
30. 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. *Id.* Thus, Congress exempted Special Immigrant Juveniles from deportability based on entry without inspection. *Id.*
31. Additionally, because adjustment of status is generally only available to a person “who was inspected and admitted or paroled into the United States,” 8 U.S.C. § 1255(a), 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.** *Id.* § 1255(h)(1) (emphasis added).
32. SIJS also confers affirmative benefits on beneficiaries, such as access to federally funded education and preferential status for employment-based green cards. 8 U.S.C. §

1232(d)(4)(A), 1153(b). To be eligible for SIJS, an applicant must be (1) under 21 years old; (2) unmarried; and (3) present in the United States. 8 C.F.R. § 204.11(b). Because of the requirement that SIJS applicants be present in the United States, they cannot seek SIJS through consular processing from outside the country. *Id.*

33. 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). The state juvenile court findings must be “in accordance with state law governing such declarations of dependency.” 8 C.F.R. § 204.11(c)(3).
34. Only USCIS may revoke an approved SIJS Form I-360. 8 U.S.C. § 1155; 8 C.F.R. § 205.2(a).

FACTS

35. Petitioner, Nabijon Niyozov, is a citizen of Tajikistan who is detained at Sherburne County Facility in Elk River, Minnesota.
36. Mr. Niyozov last entered the United States in the summer of 2023 when he was 18 years old. The EOIR court information page shows that his immigration court case was docketed in August 2023. Mr. Niyozov was briefly detained by CBP before being released into the United States. Based on information and belief, Mr. Niyozov was released on his own recognizance.

37. Mr. Niyozov relocated to Minnesota. He timely applied for asylum, and on December 27, 2024, he also applied for Special Immigration Juvenile Status (SIJS) by submitting Form I-360 to USCIS. On April 18, 2025, USCIS approved Mr. Niyozov's SIJS I-360, and he was waiting for a visa to become available so that he could adjust status to that of permanent resident. Mr. Niyozov also applied for and received work authorization.
38. Since arriving in the United States, Mr. Niyozov has complied with Respondents' expectations when they released him into the U.S. in the summer of 2023.
39. In around April 2026, Respondents conducted what appeared to be a targeted arrest of Mr. Niyozov outside of his home. Petitioner's arrest falls within Respondents' recent pattern of detaining non-citizens with approved SIJS applications in hopes of removing them before they can adjust status.¹ In a recent order, this judicial district found it was "perverse" that ICE would detain an individual with approved SIJS because USCIS had already determined that the petitioner needed to remain in the United States due to abuse, abandonment, or neglect by one or both parents. *Walter A. v. Easterwood*, 0:26-cv-01393-SRN-LIB, at 47 (D. Minn. March 26, 2026).

CLAIMS FOR RELIEF

COUNT I

Violation of Fifth Amendment Right to Due Process

40. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

¹ Federal Government Escalates Plans to Deport Documented Youth, The Young Center, 23 April 2026, found at <https://www.theyoungcenter.org/story/federal-government-escalates-plans-to-deport-documented-youth/>

41. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

42. Petitioner has a fundamental interest in liberty and being free from official restraint. The government’s re-detention of Petitioner without a pre-deprivation bond hearing to determine whether he is a flight risk or danger to others violates his right to due process.

COUNT II

Violation of Fifth Amendment Due Process Embedded in his SIJS Approval

43. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

44. Petitioner’s SIJS has a priority date of December 27, 2024, which means that he cannot currently adjust status due to the lack of visa availability. The May 2026 Visa Bulletin only allows for individuals with priority dates of February 2022 or earlier to adjust status based on an approved SIJS application under EB-4.² Detaining Mr. Niyozov when his priority date is not current violates his Fifth Amendment right to due process. *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.”)

COUNT III

² May 2026 Visa Bulletin, Dep’t of State, found at <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2026/visa-bulletin-for-may-2026.html>

Violation of the Fourth Amendment

45. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
46. “The Fourth Amendment requires that immigration stops must be based on reasonable suspicion of illegal presence, stops must be brief, arrests must be based on probable cause, and officers must not employ excessive force.” *Trump v. Illinois*, 607 U.S. ---, No. 25A443, 2025 WL 3715211, at *9 n. 4 (Dec. 23, 2025) (Kavanaugh, J., concurring in the judgment).
47. Mr. Niyozov has an approved SIJS Form I-360, which means that he is deemed to be in valid parole status. 8 USC § 1255(h)(1); *Walter A. v. Easterwood*, 0:26-cv-01393-SRN-LIB, at 5 (D. Minn. March 26, 2026); *Osorio-Martinez v. Att’y Gen.*, 893 F.3d 153, 161 n. 7 (3d Cir. 2018) (it is “belied by the text of the INA, which explicitly designates SIJ as a ‘status’ that affords its designees a host of legal rights and protections.”).
48. Despite being fully aware of Petitioner’s valid parole status as an SIJS beneficiary, the Respondents detained him in violation of his Fourth Amendment rights.
49. Petitioner’s detention violates his Fourth Amendment rights because the officers arresting him had no reasonable suspicion of illegal presence or probable cause for his arrest at the time. The appropriate remedy for a violation of the Fourth Amendment is the Petitioner’s immediate release from custody. *See Garrison G.*, 2026 WL 157677, at *4 (citations omitted).

COUNT IV

Violation of the *Accardi* Doctrine, TVPRA, INA, and Regulations

50. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
51. Under the *Accardi* doctrine, a foundational principle of administrative law, agencies must follow their own procedures, rules, and instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where the Board of Immigration Appeals failed to follow procedures governing deportation proceedings).
52. The title of the TVPRA section addressing SIJS protections, “Permanent Protection for Certain At-Risk Children,” Pub. L. No. 110-457, sec. 235(d), 122 Stat. at 5079, underscores Congress’s intent to confer permanent protection from removal on SIJ beneficiaries. USCIS’ approval of Petitioner’s SIJS application indicates that USCIS intended for Petitioner to remain in the United States because it found that he should not be deported due to abuse, abandonment, or neglect. *See Walter A. v. Easterwood*, 0:26-cv-01393-SRN-LIB, at 5 (D. Minn. March 26, 2026); *Osorio-Martinez v. Att’y Gen.*, 893 F.3d 153, 161 n. 7 (3d Cir. 2018).
53. The INA indicates that Mr. Niyozov is in valid parole status, and he should be allowed to remain in the United States while he awaits the adjudication of his adjustment application. 8 USC § 1255(h)(1); *Xol-Maas v. Francis*, No. 26-CV-00025 (JAV), 2026 WL 457005, at *8 (S.D.N.Y. Feb. 18, 2026).
54. Furthermore, only USCIS may revoke an approved SIJS Form I-360. 8 U.S.C. § 1155; 8 C.F.R. § 205.2(a). Allowing ICE to detain Petitioner when a visa is not yet available would allow ICE to issue a *de facto*, and unlawful, revocation of his SIJS.

55. Because Respondents have failed to follow the TVPRA, INA, and the regulations, Petitioner must be ordered immediately released as the *Accardi* doctrine dictates.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Declare that the actions of Respondents as set forth in Petitioner's Petition violate the U.S. Constitution, the TVPRA, the INA, the Regulations, and/or 28 U.S.C. § 2241;
- c. Order Petitioner to be immediately released on conditions no more restrictive than he was on previously;
- d. Order Respondents to return all property to Petitioner upon release;
- e. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- f. Grant any other and further relief that this Court deems just and proper.

DATED: 05/04/2026

/s/ Magdalena Metelska, Esq.

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Motion for Pro Hac Vice Pending

Verification Pursuant to 28 U.S.C. § 2242

The undersigned counsel submits this verification on behalf of the Petitioner. Undersigned Counsel has discussed with Petitioner the events described in this Petition and, on the basis of those discussions, verify that the statements in the Petition are true and correct to the best of her knowledge and belief.

Date: 05/04/2026

/s/ Jennifer Scarborough
Jennifer Scarborough
Attorney for Petitioner