UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

Cesar VARELA PALLO,

Petitioner,

v.

Stephen KURZDORFER, in his official capacity as Acting Field Office Director, Buffalo Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security; Michael BALL, in his official capacity as Warden, Buffalo Federal Detention Facility; Markwayne MULLIN in his official capacity as Secretary of Homeland Security; Todd BLANCHE, in his official capacity as Attorney General.

Respondents.

Case No.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner Cesar Varela Pallo is a young father and asylum seeker from Ecuador with approved Special Immigrant Juvenile Status. He has sought two forms of immigration relief; diligently attended court; and complied with immigration supervision requirements for years. He has employment authorization and no criminal history. Yet this morning, he was summarily detained in a worksite raid targeting construction workers in Spring Valley, New York and is now subject to ostensibly mandatory detention. Although Mr. Varela is a New Yorker who has resided in the state since coming to the U.S., he is likely to be swiftly transferred out of New York.

Because his detention is unlawful, he asks this Court to grant his petition and order his immediate release.

PARTIES

1. Petitioner Cesar Varela Pallo is resident of Bronx, New York. He was detained by Respondents on July 7, 2026 and remains in their custody.

2. Respondent Stephen Kurzdorfer is the Acting Field Office Director for the Buffalo Field Office of ICE Enforcement and Removal Operations. He is sued in his official capacity only. Acting Field Office Director Kurzdorfer is charged with exercising authority over the removal operations carried out by ICE in the Buffalo geographic region, which includes the BFDF, and for determinations on whether and where Petitioner is to be detained prior to removal. His address is 250 Delaware Avenue, Floor 7, Buffalo, NY 14202.

3. Respondent Michael Ball is sued in his official capacity as Warden of the BFDF, the ICE facility at which Petitioner is currently detained.

4. Respondent Markwarne Mullin is named in his official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. He is sued in his official capacity only. In this capacity, he is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a) (2007); routinely transacts business in this district; is legally responsible for pursuing any effort to remove the Petitioner; and as such is a legal custodian of the Petitioner. His address is U.S. Department of Homeland Security, 2707 Martin Luther King Jr Ave SE, Washington, District of Columbia 20528.

5. Respondent Todd Blanche is named in his official capacity as the Attorney General of the United States. He is sued in his official capacity only. In this capacity, he is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review ("EOIR"), pursuant to 8 U.S.C. § 1103(g). He routinely transacts business in this district and is legally responsible for administering Petitioner's removal and custody proceedings and for

the standards used in those proceedings. As such, he is the custodian of Petitioner. His office is located at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530.

JURISDICTION

6. The federal district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Petitioner was detained by Respondents on June 23, 2025.

7. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of the United States Constitution. This Court has authority to grant declaratory and injunctive relief. 28 U.S.C. §§ 2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

VENUE

8. Venue is appropriate in this district as Petitioner is currently detained at the Buffalo Federal Detention Facility.

FACTS ABOUT PETITIONER

9. Petitioner, Mr. Varela, is a father and asylum seeker from Ecuador. He has resided in the Bronx, New York since 2024. He has a two-year-old U.S.-citizen daughter. He is his family's primary breadwinner.

10. Mr. Varela entered the U.S. without inspection in April 2024 and was charged by Respondents with being present in the U.S. without being admitted or paroled. Respondents

released Mr. Varela from custody and commenced removal proceedings against him the same month.

11. Mr. Varela has no criminal history in any country.

12. Mr. Varela has been assisted by a nonprofit legal service provider in his removal proceedings and has diligently attended immigration court since 2024. He has attended at least three hearings at the New York Immigration Court. He submitted a timely asylum application and also applied for and was granted Special Immigrant Juvenile Status after a predicate finding of abuse, abandonment or neglect was issued by a Family Court in the Bronx. His application for SIJ status was approved in September 2025.

13. In March 2026, Immigration and Customs Enforcement (ICE) moved to pretermit Mr. Varela's application for asylum and order him removed to Honduras under an Asylum Cooperative Agreement (ACA). Mr. Varela opposed this motion via counsel in an opposition with over a hundred pages of evidence showing that removal to Honduras was unsafe and that the ACA should not be applied in his case. The IJ agreed with Mr. Varela and denied the motion to pretermit. At his most recent master calendar hearing, on June 17, an IJ sent a deadline for him to file an amended application and scheduled the case for an individual hearing.

14. However, after its motion was denied, ICE had filed an interlocutory appeal to the Board of Immigration Appeals—ostensibly a rare tool that the Board infrequently entertains. In this case, however, the Board swiftly reversed the denial of pretermission in a decision dated June 24, 2026. On June 30, 2026, another IJ granted the motion to pretermit and ordered Mr. Varela removed—despite his pending deadline to amend his application and merits hearing date later this year.

15. The hastily-issued removal order is not final and Mr. Varela remains in ongoing removal proceedings. He cannot be removed during the 30-day appeal window or once his appeal is docketed with the Board of Immigration Appeals. 8 C.F.R. § 1003.6(a).

16. The nonprofit legal services provider that assisted him before the IJ intends to represent him in an appeal it will file no later than tomorrow, July 8.

17. Mr. Varela is likely to be transferred out of New York and held at a detention center elsewhere in the U.S. where Respondents continue to mis-apply the INA and detain noncitizens who have resided in the U.S. for years pursuant to 8 U.S.C. § 1225(b).

LEGAL FRAMEWORK FOR CIVIL IMMIGRATION DETENTION

18. Congress has authorized civil detention of noncitizens in removal proceedings for specific, non-punitive purposes. *See Jennings v. Rodriguez*, 138 S.Ct. 830, 833 (2018); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). For individuals who are "arriving" in the U.S. or who are subject to expedited removal because they have been present under two years and meet certain other requirements, mandatory detention is authorized by 8 U.S.C. § 1225(b). Section (b)(1) applies to individuals subject to expedited removal. Section (b)(2) applies to noncitizens "seeking admission."

19. For individuals who are in removal proceedings following entry without inspection and who are not subject to mandatory detention based on criminal history, detention is normally authorized by 8 U.S.C. § 1226(a). Individuals with a final order of removal may be subject to mandatory or discretionary detention pursuant to 8 U.S.C. § 1231(a).

20. Detention serves only two legitimate purposes: mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690; *Velasco Lopez v. Decker*, 978 F.3d 842, 854 (2d Cir. 2020).

21. Since mid-2025, Respondents have dramatically expanded the sweep of 8 U.S.C. § 1225(b) to encompass anyone who entered the country without inspection. After that shift, "hundreds of district court decisions have rejected Respondents' expansive interpretation of Section 1225." *Molina v. DelLeon,* No. 25-CV-06526 (JMA), 2025 WL 3718728, at *3 (E.D.N.Y. Dec. 23, 2025) (collecting cases); *see also Alvarez Ortiz v. Freden*, 808 F. Supp. 3d 579, 590-595 (W.D.N.Y. 2025); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *1 (W.D. Wash. Sept. 30, 2025) ("Every district court to address this question has concluded that the government's position belies the statutory text of the INA, canons of statutory interpretation, legislative history, and longstanding agency practice.").

22. The Second Circuit has joined this consensus, holding that it joins "the overwhelming majority of federal judges across the Nation to consider it and conclude that the government's novel interpretation of the immigration statutes defies their plain text." *Barbosa da Cunha v. Freden*, 175 F.4th 61, 69 (2d Cir. 2026).

23. Many courts have also concluded that when a noncitizen who is paroled at the border stays in the U.S. past the expiration of their parole, any new detention is pursuant to 8 U.S.C. § 1226. *See Cabrera Martinez v. Marich*, No. 25-CV-1110-LJV, 2025 WL 3771228, at *7 (W.D.N.Y. Dec. 31, 2025); *Ivonin v. Rhoney*, No. 6:25-CV-06673 EAW, 2026 WL 199283, at *4 (W.D.N.Y. Jan. 26, 2026); *Rodriguez-Acurio v. Almodovar*, 811 F. Supp. 3d 274, 311 (E.D.N.Y. 2025); *Qasemi v. Francis*, No. 25-CV-10029, 2025 WL 3654098, (S.D.N.Y. Dec. 17, 2025); *Pastuna v. Francis*, No. 26-CV-398, 2026 WL 189723 (S.D.N.Y Jan. 23, 2026); *Munoz Materano v. Arteta*, 804 F. Supp. 3d 395, 414 (S.D.N.Y. 2025).

24. The reason is textual: years after a person was paroled into the U.S., they are no longer actively seeking admission. As the Second Circuit explained, "[t]he term "seeking" is in the

present participle form, which expresses present action." *Cunha*, 175 F.4th at 74. The government's interpretation that all inadmissible individuals are "seeking admission" within the meaning of § 1225(b) renders the meaning of the term identical to the statutorily defined term "applicant for admission." Such an interpretation violates the rule of surplusage and negates the plain meaning of text. *Id.* at 75.

SPECIAL IMMIGRANT JUVENILE STATUS

25. In 1990, Congress created SIJS to protect 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 Immigration and Nationality Act ("INA")); Special Immigrant Status, 58 Fed. Reg. 42843, 43844 (Aug. 12, 1993) ("This rule 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."). Since 1990, Congress has amended the INA multiple times to expand the protections of SIJS, most recently in 2008, through the Trafficking Victims Protection Reauthorization Act, Pub. L. 110-457, § 235(d), 122 Stat. 5044 (2008).

26. To be granted SIJS, young people like Petitioner must first "satisfy[] a set of rigorous, congressionally defined eligibility criteria." *Osorio-Martinez v. U.S. Att'y Gen.*, 893 F.3d 153, 163 (3d Cir. 2018). Specifically, the INA provides that those eligible for SIJS designation are noncitizen youth who are "present in the United States"; who have been declared dependent on a state juvenile court; who cannot be reunified with one or more parents because of abuse, neglect, or abandonment; and for whom it has been determined that it is not in their best interest to return to their country of origin. 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11(c).

27. Crucially, a noncitizen youth is eligible for SIJS only if he or she is "*present* in the United States." 8 U.S.C. § 1101(a)(27)(J) (emphasis added). This requirement makes perfect sense in light of the purpose of the SIJS statute. SIJS is predicated on a state court finding that the youth cannot be safely reunited with parent(s), nor safely sent back to their country of origin. The design of this program, then, "show[s] a congressional intent to assist a limited group of abused children to remain safely in the country with a means to apply for LPR status." *Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011) (abrogated on other grounds). More plainly, Section 1101(a)(27)(J) recognizes a SIJS beneficiary as being present within the United States.

28. Youth can apply for SIJS upon receipt of a state court order finding they cannot be safely reunited with parent(s) nor safely sent back to their country of origin. The application process includes submitting a Form I-360 SIJS Petition to USCIS, along with the predicate state court order and other supporting evidence. *See* 8 C.F.R. § 204.11(b). USCIS then considers the application and supporting documentation to determine whether to exercise its statutory "consent function" to approve the petition. *See* 8 U.S.C. § 1101(a)(27)(J)(iii). By exercising its statutory consent function to grant SIJS, the agency recognizes the state court's determinations, including that the child's return to their country of origin would be contrary to their best interests. 8 U.S.C. § 1101(a)(27)(J)(iii).

29. SIJS may be revoked only for what the Secretary of Homeland Security deems "good and sufficient cause." 8 U.S.C. § 1155; 8 C.F.R. § 205.2. According to regulations, such revocation must be made upon notice to the youth in question, who must be permitted the opportunity to submit evidence in opposition to the revocation and to appeal an adverse decision. *See* 8 C.F.R. § 205.2. If status is ultimately revoked, the youth is entitled to notice and the opportunity to appeal

the decision. *See* 8 C.F.R. § 205.2(c) & (d). SIJS may only be revoked by a USCIS officer authorized to approve such petitions in the first instance. *See* 8 C.F.R. § 205.2(a).

30. The main benefit of SIJS—and indeed, its core purpose—is that it confers on vulnerable young people like Petitioner the right to seek lawful permanent residence while remaining in the United States, through a process called adjustment of status. *See* 8 U.S.C. 1255(h).

31. To facilitate this process, Congress removed numerous barriers to adjustment of status for SIJS beneficiaries through amendments to the SIJS provisions in 1991 and again in 2008. For example, SIJS youth are "deemed . . . to have been paroled into the United States" for the purposes of adjustment of status. 8 U.S.C. § 1255(h)(1). Further, Congress exempted SIJS youth from many common inadmissibility grounds and created a generous waiver of many of the non-exempted inadmissibility grounds. 8 U.S.C. § 1255(h)(2). And, Congress explicitly provided that certain grounds for removal "shall not apply to a special immigrant described in section 1101(a)(27)(J) of this title [the SIJS statute] based upon circumstances that existed before the date the [noncitizen] was provided such special immigrant status." 8 U.S.C. § 1227(c). "Of particular note, the INA exempts SIJ designees from inadmissibility based on the lack of 'valid entry document[s],' *id.* § 1182(a)(7)(A)(i)(I)." *Joshua M. v. Barr*, 439 F. Supp. 3d 632, 659 (E.D. Va. 2020).

32. Taken together, the structure of the SIJS program—including the requirement that recipients remain in the United States to move forward in the process, the grant of parole for the purpose of adjustment, and the waiver of grounds of inadmissibility and removability—evinces Congress' intent that SIJS recipients remain safely in the United States until they can adjust to become Lawful Permanent Residents.

FUTILITY OF EXHAUSTION

33. This Court should not impose a prudential exhaustion requirement on Petitioner, by requiring that they first seek bond from an immigration judge, because it would be futile for him to do so. *See Howell v. I.N.S.*, 72 F.3d 288, 291 (2d Cir. 1995) (administrative exhaustion is not required when, inter alia, "available remedies provide no genuine opportunity for adequate relief" and "administrative appeal would be futile").

34. Because Petitioner was initially detained at the U.S. border, Respondents will now contend he is ineligible for bond. *See Matter of Q. Li*, 29 I. & N. Dec. 66, 69 (BIA 2025) ("an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a).")

RELEASE IS THE APPROPRIATE REMEDY

35. In recent months, dozens of courts across the country have ordered release after upon concluding that detention was unlawful. *E.g. Mata Velasquez v. Kurzdorfer,* 794 F. Supp. 3d 128, 154 (W.D.N.Y. 2025) (ordering release and holding that petitioner could not be detained without a pre-deprivation hearing); *Munoz Materano v. Arteta*, 2025 WL 2630826, at *20 (S.D.N.Y. Sept. 12, 2025) (ordering immediate release); *Chipantiza Sisalema v. Francis*, 2025 WL 1927931, at *4 (S.D.N.Y. July 13, 2025) (same); *Rueda Torres*, 2025 WL 3168759, at *6 (same). This has remained the case even after the Second Circuit's decision in *Cunha. See, e.g.*, *Inestroza Carbajal v. Frazier*, No. 26-CV-2778-SJB, 2026 WL 1309265, at *5 (E.D.N.Y. May 12, 2026) (Bulsara, J.) ("Respondents' change in legal position, post-hoc rationalizations, and attempts to remedy do not vitiate an arrest and detention that was illegal from its inception."); *C.A.R. v. Genalo*, No. 26-CV-4275, 2026 WL 1506417, at *1 (S.D.N.Y. May 29, 2026) (Oetken, J.) (ordering immediate release

where the government issued a "post hoc notice of custody determination" after the Second Circuit's decision in *Cunha*); *Pastrana-Beltran v. Mullin*, No. 26-CV-2657, 2026 WL 1398609, at *1 (E.D.N.Y. May 19, 2026) (Reyes, J.) (same); *Curimilma Quille v. Blanche*, No. 26-CV-2818, 2026 WL 1453889, at *4 (E.D.N.Y. May 22, 2026) (Gonzalez, J.) (same); *M.A.V.R. v. Maldonado*, et al., No. 2:26-cv-2907, Dkt. Order (E.D.N.Y. May 28, 2026) (DeArcy Hall, J.) (same); *B.J.G. v. Genalo*, No. 26-cv-02932, Dkt. Order (E.D.N.Y. June 3, 2026) (Gujarati, J.) (same); *S.G.V. v. Genalo*, 1:26-cv-02893-PKC, Dkt. Order (S.D.N.Y. May 28, 2026) (Chen, J.) (same).

36. Post-detention process cannot remedy the initial constitutional and statutory violations that characterized Petitioners' detention. *E.g. Crespo Tacuri v. Genalo*, No. 25-cv-06896, 2026 WL 35569, at *7 (E.D.N.Y. Jan. 6, 2026) (finding that post-deprivation review cannot remedy the due process violation of detaining petitioner with no process or individualized assessment); *see also Chipantiza-Sisalema v. Francis*, No. 25 CIV. 5528 (AT), 2025 WL 1927931, at *3 (S.D.N.Y. July 13, 2025) (a bond "hearing is no substitute for the requirement that ICE engage in a "deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause").

37. The flagrant and repeat nature of ICE's unlawful arrests has also compelled many courts to order release, rather than bond hearings. For instance, in *Cartagena Hueso v. Soto*, Judge Qureishi in the District of New Jersey announced that he was now ordering release in the face of Respondents' continued use of unlawful detentions, despite his earlier practice of ordering bond hearings. No. 26-1455 (ZNQ), 2026 WL 539271, at *3 (D.N.J. Feb. 26, 2026). He explained:

> In previous cases where the Government has improperly asserted § 1225(b) as a basis for arrest and detention, this Court has salvaged the Government's position by *sua sponte* construing its detention as one under § 1226, ordering that the detainee be afforded a bond hearing, and ordering the Government not to move the detainee from this District pending that bond hearing. The Court even attempted to do that here. No more. On the individual merits of this case, the

> undersigned now finds that this relief is insufficient and will instead order that Petitioner be released.
>
> Moreover, a much broader issue must now be addressed because it separately warrants release. The Government's handling of Petitioner's detention is emblematic of its approach to immigration enforcement in this state. On the merits, its detentions are illegal. The Government knows this. Its reliance on § 1225 has been roundly rejected…
>
> Arguably worse, while the procedures for the Government's immigration arrest and detention may have had the initial appearance of negligence, they have since slid downward into manifest recklessness. Immigrants are swept up into custody and shifted repeatedly around the country without warning or explanation.

Id. (internal citations omitted). That decision followed a similar reversal by another District of New Jersey judge days earlier, who noted in two decisions that "The basis for the petitioner's continued 'detention [was] blatantly unlawful from the start, the only commensurate and appropriate equitable remedy to even partially restore [petitioner] is to immediate[ly] release him and enjoin the Government from further similar transgressions.'" *Makhbatshoev v. Soto*, No. 26-CV-01092-ESK, 2026 WL 497023, at *2 (D.N.J. Feb. 23, 2026) (quoting *Martinez v. McAleenan*, 385 F. Supp. 3d 349, 373 (S.D.N.Y. 2019)); *Garcia Canales v. Florentino*, No. 26–CV–01461–ESK, 2026 WL 497134, at *2 (D.N.J. Feb. 23, 2026) (same). He added:

> I decline to allow respondents to transform an unlawful detention into a lawful one through alternative, retrospective, post hoc justification presented mid-litigation, as doing so would give the Government a free pass to violate a person's statutory and constitutional rights first and search for authority later.

Makhbatshoev, 2026 WL 497023, at *2. In reversing course and ordering outright release, instead of ordering bond hearings, these judges joined a growing consensus that release is the appropriate remedy for the magnitude of the violation that has occurred here.

38. Finally, bond hearings are also increasingly characterized by erroneous and unconsidered denials of bond. As a result, a bond hearing by an immigration judge is not the most appropriate or efficient use of this court's equitable authority. "[A]n administrative remedy may be inadequate

where the administrative body is shown to be biased or has otherwise predetermined the issue before it." *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992).

39. Courts across the country have raised concerns that the outcome of bond hearings appears to be "predetermined" against noncitizens, both in individual cases and on a larger scale. *See, e.g.*, *Rodriguez v. Mason*, No. 26-cv-00122, 2026 WL 510426, at *2 n.5 (S.D.W. Va. Feb. 24, 2026) (concluding that "a bond hearing before an immigration judge would not comport with due process" and citing evidence that "immigration judges who provide neutral adjudications have been removed, and bond is systematically denied after a pro forma hearing with a predetermined outcome"); *Chavez Ochoa v. Mason*, No. 26-cv-00130, 2026 WL 541144, at *2 n.4 (S.D.W. Va. Feb. 26, 2026) (same); *Zheng v. Rokosky*, --- F. Supp. 3d ---, 2026 WL 800203 at *5 (D.N.J. Mar. 23, 2026) (describing hearing in which the IJ "by all appearances acted as a mere 'rubber-stamp' for Respondents' predetermined decision to deny bond"); *Lozhkina v. Noem*, 6:26-cv-3001-MDH (W.D. Mo. Feb. 10, 2026) (granting motion to enforce where immigration judge's denial of bond based on flight risk lacked any record support and had "indications of predetermined outcome based on disagreement over [habeas court's] previous order").

CLAIMS FOR RELIEF

COUNT ONE
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

40. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

41. Petitioner's detention violates both the substantive and procedural components of the Due Process Clause. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. *See generally*

Reno v. Flores, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

42. Because "[i]n this country liberty is the norm and detention 'is the carefully limited exception,'" *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (*quoting United States v. Salerno*, 481 U.S. 739, 755 (1987)), a reasoned, individualized determination is essential to ensure that detention is not an unnecessary—and thus erroneous—deprivation. Yet Respondents now contend that Petitioner is ineligible for bond. Petitioner's mandatory detention, following a summary apprehension that failed to consider his individualized circumstances, violates his right to due process.

43. A person's liberty cannot be infringed upon without "adequate procedural protections." *Zadvydas*, 533 U.S. at 690-91. The Second Circuit has held that the *Matthews v. Eldridge* balancing test is applicable to determine the adequacy of process in the context of civil immigration confinement. *Velasco Lopez*, 978 F.3d at 851 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)).

44. Many courts have held that the sudden summary detention of young people with approved Special Immigrant Juvenile Status, in particular, fails this test.

45. Under the first prong of the test in *Mathews*, Petitioner has an immense interest in his personal liberty and freedom.

46. In the face of that, the risk of erroneous deprivation from his present detention is extremely high. Petitioner was previously released from custody and has since complied fully with the immigration process, filing two applications for relief, obtaining counsel, and attending court. He has no criminal history. In *Garcia Lanza v. Noem*, a court in this circuit found that "the risk of erroneous deprivation is considerable given the grant of SIJ status and deferred action and the erroneous assertion by ICE that petitioner should not be considered paroled into the U.S." 822 F.

Supp. 3d 326, 335 (E.D.N.Y. 2026). Petitioner was also not acccorded sufficient process prior to his sudden redetention by ICE. The risk of erroneous deprivation of liberty in this circumstance is constitutionally intolerable.

47. Finally, there is also no public interest in his continued detention, as he poses neither danger nor flight risk. *See id.* He has counsel; he has complied with immigration authorities at every turn; and he has no criminal history. Moreover, in enacting the SIJS statute, Congress evinced an intent to protect certain young people like Petitioner for whom a Family Court has concluded that it is in their best interest to remain in the U.S.

48. Petitioners' detention also violates his right to substantive due process. Because he poses neither a danger nor a flight risk, his detention serves no lawful purpose. It has needlessly separated him from his young daughter.

49. Respondents' actions violate Petitioner's right to due process.

COUNT TWO
VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT AND THE ADMINISTRATIVE PROCEDURE ACT

50. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

51. Upon information and belief, Respondents are currently detaining Petitioner pursuant to 8 U.S.C. § 1225(b)(2), a mandatory detention statute.

52. However, at the time their arrest and detention by Respondents, Petitioner was not seeking admission to the United States. He was already residing in the United States and had been residing here for years. He has been granted Special Imimgrant Juvenile Status. Section 1226 governs the detention of individuals residing within the United States and implements a discretionary detention regime with the opportunity for release.

53. Because his detention should be governed by Section 1226, the application of the mandatory detention statute, 8 U.S.C. §1225(b), to Petitioner is unlawful under the Immigration and Nationality Act.

54. The Administrative Procedure Act prohibits agency action which is arbitrary and capricious; contrary to constitutional right; not authorized by statute; or taken "without observance of procedure required by law." 5 U.S.C. § 706(2).

55. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (*quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

56. Respondents' current construction of its detention authority, including the treatment of Petitioners as subject to mandatory detention, violates the Immigration and Nationality Act and therefore the Administrative Procedure Act. Respondents' decision to detain Petitioners and to maintain them in mandatory detention is arbitrary and capricious.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Enjoin Petitioner's removal from the United States and transfer outside the state of New York;
3. Order Respondents to show cause why the writ should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C.

§ 2243;

4. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment; the Immigration and Nationality Act; and the Administrative Procedure Act;
5. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner without GPS monitoring and to return all funds and/or property taken from him at the time of his arrest;
6. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
7. Grant such further relief as this Court deems just and proper.

Dated: July 7, 2026

/s/ Paige Austin
Paige Austin
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner. The information in this petition was obtained through conversations with Petitioner's family members and counsel and through documents provided by his counsel and maintained in internal records at Make the Road New York. On the basis of those records, on information and belief, I hereby verify that the factual statements made in the attached Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: July 7, 2026

/s/ Paige Austin
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