UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO
ALMA ROSA ACOSTA MANCIA

AGENCY NUMBER [redacted]

PETITIONER

V.

MARKWAYNE MULLIN

SECRETARY, US DEPARTMENT OF HOMELAND SECURITY ET AL

RESPONDENTS

PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO, DIVISION

Alma Rosa Acosta Mancia

Petitioner,

v.

Markwayne Mullins, in his official capacity as Secretary of Homeland Security, Gregory Archambealt, in his official capacity as San Diego Field Office Director, ICE Enforcement Removal Operations; Todd LYONS, in his official capacity as Acting Director of ICE; and Todd Blanche, acting U.S. Attorney General; IMMIGRATION AND CUSTOMS ENFORCEMENT; DEPARTMENT OF HOMELAND SECURITY,

Respondents.

Case No. **'26CV4465 CAB DEB**
Agency Number [redacted]

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Alma Rosa Acosta Mancia brings this petition for a writ of habeas corpus to seek enforcement of her rights as a member of the Deferred Action Class certified in *Immigr. Ctr. for Women & Child. v. Noem*, No. 2:25-CV-09848-AB-AS, 2026 WL 1455004 (C.D. Cal. May 20, 2026) ("*ICWC* PI Order"). Despite a pending T visa petition, Petitioner remains unlawfully detained by Respondent U.S. Immigration and Customs Enforcement ("ICE") at the 880 Front Street San Diego CA. This contravenes the district court order in *ICWC*, in which the court certified a nationwide class and issued a ruling staying ICE's policy of refusing to "honor grants of deferred action conferred by USCIS to individuals with pending petitions for U or T visas." *Id.* at *47. As the court held, "a person with deferred action should neither be removed nor detained for immigration enforcement (removal) purposes." *ICWC* PI Order at *40.

2. Separately, Respondents' failure in honoring the protections of deferred action also violates the U.S. Constitution, the Administrative Procedure Act ("APA"), and the *Accardi* Doctrine.

3. Petitioner is a survivor of human trafficking. On December 8, 2025, Petitioner applied for a T visa, which Congress made available to noncitizens who have survived a "severe form of trafficking in persons" and who have "complied

with any reasonable request for assistance" by law enforcement. 8 U.S.C. § 1101(a)(15)(T); 8 C.F.R. § 214.202.

4. Petitioner expects a grant to deferred action will follow a short while after the T Visa petition is pending,

5. "Approval of deferred action status means that. . . no action will thereafter be taken to proceed against an apparently deportable [non-citizen], even on grounds normally regarded as aggravated." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999) ("*AAADC*").

6. Petitioner has suffered separation from her spouse and US Citizen children. One of her children has special needs and is in desperate need of his mother. The separation from her is causing him irreparable harm. He is only seven years old with severe developmental delays and requires his mother,

7. Accordingly, Petitioner respectfully requests the court issue a writ of habeas corpus and order her release.

JURISDICTION

8. A writ under 28 U.S.C. § 2241 may issue if, among other things, a person "is in custody under or by color of the authority of the United States," or is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c).

9. Petitioner is in the physical custody of Respondents under color of the authority of the United States. Petitioner is detained by ICE at 880 Front Street San Diego CA.

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

11. 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

12. Venue is proper in the Southern District of California because it is the judicial district in which Petitioner currently is detained. *See Braden v. 30th Jud. Cir. Ct. of Ky*, 410 U.S. 484, 493- 500 (1973).

13. Venue is also proper 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 Southern District of California.

PARTIES

14. Petitioner Alma Rosa Acosta Mancia is a national and citizen of El Salvador who has resided in the United States for over 20 years. Petitioner applied for T nonimmigrant status on December 8, 2025.

15. Respondent Gregory Archambealt is the Director of the San Diego Field Office of ICE's Enforcement and Removal Operations Division. As such, Gregory Archambealt is Petitioner's immediate custodian and is responsible for Petitioner's detention. Gregory Archambealt is sued in his official capacity.

16. Respondent ICE is a component agency of the Department of Homeland Security ("DHS") and is responsible for the enforcement of immigration

laws, including the detention and removal of noncitizens, as well as creating and implementing immigration policies for such enforcement.

17. Respondent Markwayne Mullin is the DHS Secretary. He is responsible for the implementation and enforcement of immigration laws, and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custody over Petitioner and is sued in his official capacity.

18. 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 – which includes the immigration court system – is a component agency. Immigration courts have the authority to review certain custody decisions by ICE and to order release in the cases reviewed. Therefore, Respondent Blanche is a custodian of Petitioner. He is sued in his official capacity.

FACTUAL ALLEGATIONS

19. Petitioner was born in El Salvador and resides in CA. Her husband also has a pending T visa application. Further and more importantly she is the mother of a son year old US Citizen son who has severe developmental delays. She and he are desperate to be together and the separation is causing extreme emotional distress on this young child. Petitioner has lived in the United States for over 20 years.

20. Peitioner and her spouse both worked at a Carl's Jr. Restaurant. They suffered extreme discrimination and abuse there.

21. On December 8, 2025 Petitioner filed an I-914 Petition for T Nonimmigrant Status which remains pending with USCIS.

22. Petitioner's criminal history is limited to immigration violations.

23. On August 4, 2026, Petitioner was taken into ICE custody. She altered the officers that she had a pending T visa application with USCIS.

24. Courts have "consistently held that deferred action means the Government agency 'takes no action to proceed against an apparently deportable [noncitizen] based on a prescribed set of factors generally related to humanitarian grounds,'" an interpretation that "finds strong support in Supreme Court precedent, circuit authority, and USCIS policy." *Sepulveda Ayala v. Bondi*, No. 2:25-CV-01063-JNW-TLF, 2025 WL 2084400, at *7-8 (W.D. Wash. July 24, 2025) (collecting cases) (citations omitted); *AAADC* at 484 ("Approval of deferred action status means that . . . no action will thereafter be taken to proceed against an apparently deportable [non-citizen], even on grounds normally regarded as aggravated.").

25. Because ICE has detained Petitioner and is actively proceeding to seek Petitioner's removal, which are clearly actions to proceed against Petitioner, it is ignoring the pending T Visa. Accordingly, ICE's efforts to detain and deport Petitioner amounts to a de facto prevention of issuance such status.

LEGAL FRAMEWORK

A. CREATION OF THE T VISA

26. In 1994, Congress passed the Violence against Women Act ("VAWA") to break the cycle of noncitizens remaining in relationships with abusers who held the keys to their eligibility for lawful immigration status in the United States. *See* Violent Crime Control and Law Enforcement Act of 1994, Title IV, Pub. L. 103-322, 108 Stat. 1796 (September 13, 1994). "[T]he goal of the bill is to 'permit[ ] battered immigrant women to leave their batterers without fearing deportation.'" *Hernandez v. Ashcroft*, 345 F.3d 824, 841 (9th Cir. 2003) (quoting H.R. Rep. No. 103–395, at 25).

27. In 2000, with overwhelming bipartisan support, Congress passed the Victims of Trafficking and Violence Protection Act of 2000 ("VTVPA"), which

reauthorized VAWA and also included the Trafficking Victims Protection Act of 2000. ("TVPA")

28. Through the TVPA, Congress created the T visa, which provides an avenue to lawful permanent residence and U.S. citizenship for survivors of a "severe form of trafficking in persons," as well as their family members. Pub L. No. 106-386, 114 Stat. 1464, 1475; 8 U.S.C. §§ 1101(a)(15)(T), 1255(1). "Severe form of trafficking in persons" means either sex trafficking or labor trafficking involving the use of "force, fraud, or coercion." 8 C.F.R. § 214.201.

29. In passing the TVPA, Congress made several express findings. It found that "trafficking in persons. . .is the largest manifestation of slavery today" and that "[a]pproximately 50,000 women and children are trafficked into the United States each year." 22 U.S.C. § 7101(b)(1). "Victims are often forced through physical violence to engage in sex acts or perform slavery-like labor." 22 U.S.C. § 7101(b)(6). Because "[e]xisting laws often fail to protect victims of trafficking, and because victims are often illegal immigrants in the destination country, they are repeatedly punished more harshly than the traffickers themselves." 22 U.S.C. § 7101(b)(17). "Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked." 22 U.S.C. § 7101(b)(19). The TVPA was passed to remedy these ills.

30. As the Immigration and Naturalization Service ("INS") acknowledged,[1] "Congress's intentions in passing the TVPA were to further the humanitarian interests of the United States and to strengthen the ability of government officials to investigate and prosecute trafficking in persons crimes by providing temporary immigration benefits to victims." *New Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for "T" Nonimmigrant*

Status, 67 Fed. Reg. 4784-01 (Jan. 31, 2002). As highlighted in the USCIS Policy Manual ("PM"),[2] USCIS maintains this interpretation, stating the TVPA "was enacted to strengthen the ability of law enforcement agencies to investigate and prosecute trafficking in persons, while offering protections to victims of such trafficking, including temporary protections from removal, access to certain federal and state public benefits and services, and the ability to apply for T nonimmigrant status." PM vol. 3, pt B, ch. 1.A.

31. Congress capped the number of T visas for principal applicants that can be granted each year to 5,000. 8 U.S.C. § 1184(o)(2)-(3). The number of applicants has grown over the years. As a result, USCIS created processes for bona fide determinations and placement on a waiting list to protect T visa petitioners from removal if the annual cap is reached. 89 Fed. Reg. 34864 (Apr. 30, 2024); 8 C.F.R. §§ 214.205, 214.210.

32. Additionally, Congress authorized broad waivers of inadmissibility to protect eligible petitioners from removal. TVPA § 107(e)(3).

33. In 2008, Congress passed the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"). Pub. L. No. 110-457, 122 Stat. 5044. The TVPRA added § 237(d) to the Immigration and Nationality Act ("INA"), which authorizes DHS to issue a stay of any removal order against a U or T visa petitioner if the petition "sets forth a prima facie case for approval." 8 U.S.C. § 1227(d)(1). Any such stay remains in effect until the T visa is approved or denied, during which time the applicant "shall not be removed." 8 U.S.C. §§ 1227(d)(1)-(3).

B. T VISA INTERIM BENEFITS: DEFERRED ACTION AND WORK AUTHORIZATION

34. To be eligible for a T visa, a petitioner must (1) be a survivor of a "severe form of trafficking in persons," (2) be "physically present in the United

States" or territories, (3) have "complied with any reasonable request for assistance" by law enforcement, with some exceptions for age and the impact of trauma, (4) be someone who would "suffer extreme hardship" if removed, and (5) be admissible or qualify for a waiver of the relevant grounds of inadmissibility. 8 U.S.C. § 1101(a)(15)(T); 8 C.F.R. § 214.202.

35. The physical presence requirement means that if Petitioner is deported, they will lose the opportunity to apply for a T visa because they will no longer be present in the United States on account of their trafficking.

36. Upon receipt of a T visa petition, USCIS will conduct an initial review to determine whether it is bona fide and render a BFD if so. USCIS will deem the petition bona fide if (1) "[t]he applicant has submitted a properly filed and complete [a]pplication," (2) "[t]he applicant has submitted a signed personal statement, and (3), "initial background checks are complete, have been reviewed, and do not present national security concerns." 8 C.F.R. § 214.205.

37. T visa petitioners deemed to have bona fide petitions are eligible for deferred action and work authorization. 8 C.F.R. § 214.205(c), (e).

38. Additionally, a determination that a T visa petition is bona fide "automatically stays the execution of any final order of removal, deportation, or exclusion . . . until any adverse decision" on the T visa "becomes final." 8 C.F.R. § 214.205(g); *see also* 8 C.F.R. § 214.204(b)(2)(iii). In other words, unless and until Petitioner's T visa BFD is revoked or they are denied a T visa after full adjudication of their petition, DHS *cannot* remove them.

39. T visa petitioners with bona fide petitions are also eligible for federal and state public benefits and support services to the same extent as refugees. 22 U.S.C. § 7105(b)(1).

40. If, before final adjudication, USCIS "receives information that an applicant is no longer eligible for T nonimmigrant status, the applicant may be removed from the waiting list." 8 C.F.R. § 214.210(d). "USCIS will provide notice to the applicant of that decision." *Id.*

41. However, "USCIS generally will not refer" a T visa applicant "for removal proceedings while the application is pending or following denial of the application, absent serious aggravating circumstances, such as the existence of an egregious criminal history, a threat to national security, or where the applicant is complicit in committing an act of trafficking." 8 C.F.R. § 214.204(b)(3). Pursuant to USCIS policy, only USCIS may revoke deferred action conferred in connection with a T visa petition. PM vol. 3, pt. B, chap. 6.E.3; PM vol. 3, pt. B, ch. 6.D.3. n.18 ("[D]eferred action is by its nature an exercise of prosecutorial discretion," and "[t]he decision not to exercise [such] favorable prosecutorial discretion is appropriately an action *within USCIS' sole and unreviewable discretion*.") (emphasis added).

C. UNTIL 2025, DECADES OF AGENCY POLICY GUIDANCE PRESUMPTIVELY PROTECTED T VISA PETITIONERS FROM IMMIGRATION ENFORCEMENT

42. Consistent with Congress's intent to encourage noncitizen victims to report trafficking, for nearly two decades, DHS policies have generally required ICE to refrain from pursuing removal efforts against people with pending T visa petitions, like petitioner, absent serious public safety concerns.[3] These include the written policies issued in 2011 and 2021 policies. *See* John Morton, ICE Policy Statement 10076.1, *Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs* (Jun. 17, 2011) ("2011 Policy"), available at https://www.ice.gov/doclib/foia/prosecutorial-discretion/certain-victims-witnesses-plaintiffs.pdf (last checked August 5, 2026) and ICE

Directive 11005.3, *Using a Victim-Centered Approach with Noncitizen Crime Victims* (Dec. 2, 2021) ("2021 Policy" or "2021 Directive"), available at https://www.ice.gov/doclib/foia/policy/11005.3_UsingVictimCenteredApproachNoncitizenVictims.pdf (last checked August 5, 2026).

43. As with prior DHS policy, the 2011 Policy reiterated that "[a]bsent special circumstances or aggravating factors," it is generally "against ICE policy to initiate removal proceedings against" known victims of crime. 2011 Policy at 1. Notably, the 2011 Policy also explains "that a flag now exists in" DHS systems "to identify those victims of domestic violence, trafficking, or other crimes who already have filed for . . .victim-based immigration relief." 2011 Policy at 3.

44. The 2021 Directive continued ICE's longstanding policy to "refrain from taking civil enforcement action against" individuals "known to have a pending application" for "victim-based immigration benefits," "absent exceptional circumstances" such as national security or public safety concerns. 2021 Directive at 1-2, 9. If such an application was pending, ICE was to "defer" enforcement until USCIS adjudicates the petition or issues a negative interim adjudication. *Id.* at 2. Agents were to request expedited prima facie adjudications from USCIS for people in ICE custody, and eligibility "for victim-based immigration benefits . . . must be considered" a "positive discretionary factor." *Id.* at 2, 9.

45. In January 2025, Respondent ICE issued a policy that, for the first time in the agency's history, authorized the routine detention and removal of noncitizen victims of crime, like Petitioner. *See* ICE Policy Number 11005.4, *Interim Guidance on Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim-Based Immigration Benefits* (Jan. 30, 2025) ("2025 Guidance"), available at https://www.ice.gov/doclib/foia/policy/11005.4.pdf (last visited August 5, 2026).

46. The 2025 Guidance became "effective immediately and remains in effect until superseded." 2025 Guidance at 1. It explicitly "rescinded and superseded" the 2021 Directive and 2011 Policy, thereby reneging the Government's promise to protect noncitizen crime victims and greenlighting a mass deportation campaign that ignores their potential eligibility for relief. *Id.*

47. Specifically, the 2025 Guidance requires, when ICE officers seek to detain or remove individuals with pending T visa petitions, that they (1) merely "coordinate and deconflict internally" and with law enforcement agencies "to ensure criminal investigative and other enforcement actions will not be compromised," (2) "consult with" local ICE attorneys only "to ensure any such action is consistent with applicable legal limitations," (3) need not consider a noncitizen being "a victim of a crime" as "a positive discretionary factor," and (4) will not "routinely request expedited adjudications from USCIS," but may do so only when "it is in ICE's best interests." 2025 Guidance at 2-3.

48. The 2025 Guidance marked an abrupt about-face from longstanding DHS practices, under which immigration agencies generally refrained from enforcement against noncitizen crime victims absent serious adverse factors.

49. As a result of the 2025 Guidance, ICE now engages in an unlawful policy and practice under which it routinely detains and deports people who have valid grants of deferred action from USCIS in connection with pending U or T visa petitions. Neither Respondent ICE nor USCIS provides any notice or opportunity to be heard regarding whether such deferred action should be revoked prior to doing so. This policy, referred to herein and in *ICWC* as the De Facto Revocation Policy, unlawfully renders deferred action status meaningless.

D. PETITIONER IS A DEFERRED ACTION CLASS MEMBER IN

ICWC V. NOEM.

50. On October 14, 2025, several individual plaintiffs and non-profit legal organizations serving immigrant survivors filed a class action complaint in *ICWC*, challenging the lawfulness of the 2025 Guidance and, as relevant here, the De Facto Revocation Policy. *See* Compl. ¶¶ 200-233 *Immigr. Ctr. for Women & Child. v. Noem, et al.*, No. 2:25-cv-09848-AB-AS (C.D. Cal. Oct. 14, 2025) [Dkt. 1].

51. On October 14, 2025, several individual plaintiffs and non-profit legal organizations serving immigrant survivors filed a class action complaint in *ICWC*, challenging the lawfulness of the 2025 Guidance and, as relevant here, the De Facto Revocation Policy. *See* Compl. ¶¶ 200-233 *Immigr. Ctr. for Women & Child. v. Noem, et al.*, No. 2:25-cv-09848-AB-AS (C.D. Cal. Oct. 14, 2025) [Dkt. 1].

52. On May 20, 2026, the U.S. District Court for the Central District of California granted *ICWC* Plaintiffs' Motion for Class Certification and granted in part *ICWC* Plaintiffs' Motion for APA § 705 Relief and Individual and Classwide Preliminary Injunction. *ICWC* PI Order.

53. As part of its ruling, the court provisionally certified three classes, including, as relevant here, the Deferred Action Class,[4] and stayed the De Facto Revocation Policy pursuant to 5 U.S.C. § 705 as to Deferred Action Class members. *Id.* at *47 ("Pursuant to 5 U.S.C. § 705, the Court hereby **STAYS** the De Facto Revocation Policy, under which ICE does not honor grants of deferred action conferred by USCIS to individuals with pending petitions for U or T visas.").

54. Specifically, the court concluded that plaintiffs were likely to prevail on the merits of their claims that the De Facto Revocation Policy is arbitrary and capricious under the APA, violates the *Accardi* doctrine requiring agencies to follow their own procedures, and violates class members' due process rights under the Fifth Amendment. ("Because ICE lacks authority to revoke USCIS grants of deferred

action status, ICE cannot de facto revoke that status."); (holding ICE violated class members' "right to due process because pursuant to the Policy, Defendants have pursued immigration enforcement actions against them despite their deferred action status"). As a result, ICE may not detain Deferred Action Class members.

55. Here, Petitioner is a member of the Deferred Action Class in *ICWC v. Noem*, because she:

a. is an individual to whom USCIS has granted deferred action based on a pending T visa petition; and

b. as detained by ICE without being provided notice and an opportunity to be heard.

56. Accordingly, the De Facto Revocation Policy, "under which ICE does not honor grants of deferred action conferred by USCIS to individuals with pending petitions for U or T visas," may not be applied to Petitioner. As the court held, "a person with deferred action should neither be removed nor detained for immigration enforcement (removal) purposes."

57. Therefore, immediate release is warranted.

58. Absent release, Petitioner will continue to experience separation from her son who desperately needs her in the United States.

CLAIMS FOR RELIEF

59. The "historic purpose of the writ" of habeas corpus is "to relieve detention by executive authorities without judicial trial." *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001) (cleaned up). A habeas court's role is at its "most extensive in cases of pretrial and noncriminal detention," especially "where there ha[s] been little or no previous judicial review of the cause for detention," as is the case here. *Boumediene v. Bush*, 553 U.S. 723, 780 (2008). Here, Petitioner sets for the following claims for issuance of the writ.

CLAIM ONE

Violation of APA 5 U.S.C. § 706(2)(A)

Petitioner's Detention is Not in Accordance with Law because It Violates the ICWC PI Order

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

61. Under the APA, courts "shall . . . hold unlawful and set aside agency action . . .found to be . . .not in accordance with law." 5 U.S.C. § 706(2)(A). Respondent's detention of Petitioner constitutes final agency action under the APA. 5 U.S.C. § 551(13), 704; *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997).

62. In *ICWC,* the court concluded that plaintiffs were likely to succeed on their claim that the De Facto Revocation Policy is arbitrary and capricious and not in accordance with law under the APA. *ICWC* PI Order at *47.

63. As a result, the court stayed the De Facto Revocation Policy, "under which ICE does not honor grants of deferred action conferred by USCIS to individuals with pending petitions for U or T visas." *Id.* at *47.

64. The stay applies in favor to members of the Deferred Action Class, which includes Petitioner. *Id.*

65. Respondents detained Petitioner pursuant to the stayed De Facto Revocation policy.

66. Accordingly, Respondents' detention of Petitioner is not in accordance with law in violation of the APA, as it directly contravenes the § 705 relief issued in the *ICWC* PI Order.

CLAIM TWO

Violation of the Fifth Amendment of the United States Constitution Procedural Due Process Requires Notice and Opportunity to Be Heard Before Deferred Action May Be Revoked

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

68. "Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment." *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). "The essence of due process is the requirement that a person in jeopardy of serious loss" receive "notice" and "opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Id.* at 333, 348-49 (citations omitted).

69. Here, Petitioner has a protected liberty interest in their deferred action. *See ICWC* PI Order at *40.

70. To determine what process is due when ICE revokes deferred action status through its enforcement actions, courts must apply the *Mathews* three-part balancing test, considering (1) "the private interest that will be affected by the official action," (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards," and (3) "the Government's interest . . .that the additional or substitute procedural requirement would entail." *Mathews,* 424 U.S. at 335. Here, the *Mathews* balancing test comes out strongly in favor of Petitioner.

71. First, the private interests that will be affected are profound. First, Petitioner's liberty is at stake. There is no question that freedom from government imprisonment is a significant private interest that "lies at the heart of the liberty that" Due Process protects. *Zadvydas v. Davis*, 533 U.S. at 690. Moreover, Petitioner's employment authorization, together with other benefits, is not only *essential* to Petitioner's livelihood, but is now at risk due to ICE's de facto revocation of deferred

action. 8 C.F.R. § 274a.12(c)(14). Where "continued possession" of benefits has "become essential in the pursuit of a livelihood," and revocation of those benefits "involves state action that adjudicates important interests," they "are not to be taken away without [] procedural due process." *Bell v. Burson*, 402 U.S. 535, 539 (1971).

72. In addition, Petitioner's "private interest in avoiding removal or detention pending removal is great." *ICWC* PI Order at *41.

73. Second, "the risk of an erroneous deprivation of" these interests "through the procedures used" is extremely high, compared to "the probable value" of a pre-deprivation process where Respondents have provided *no process at all* before engaging in immigration enforcement that effectively revoked Petitioner's deferred action. *Mathews*, 424 U.S. at 335. "[T]he practice of automatic termination" of deferred action "creates an unacceptably high risk of erroneous deprivation." *Inland Empire-Immigrant Youth Collective v. Nielsen,* No. EDCV 17-2048 PSG (SHKx), 2018 WL 4998230, at *19 (C.D. Cal. Apr. 19, 2018) (emphasis added); *see also Inland Empire-Immigrant Youth Collective v. Nielsen*, No. EDCV 17-2048 PSG (SHKx), 2018 WL 1061408, at *1 (C.D. Cal. Feb. 26, 2018) (granting classwide injunction for nationwide class in same case).

74. Third, "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail," are minimal. *Mathews*, 424 U.S. at 335. USCIS already has a pre-deprivation process; the agency has delineated the circumstances on which it may revoke deferred action it conferred based on a T visa petition, and thus subject people like Petitioner to immigration detention. PM vol. 3, pt. B, ch. 6.E.3 ("Termination and Revocation" of T visa deferred action). Respondents thus can claim no legitimate interest in circumventing that process by revoking deferred action through enforcement and arbitrarily detaining Petitioner.

75. Accordingly, without any procedural protections, Petitioner has been deprived of due process under the Fifth Amendment.

CLAIM THREE

Violation of the Fifth Amendment of the United States Constitution

Detaining Individuals with Valid T VISA Status Applications Violates Substantive Due Process

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

77. Because "[a]rbitrary civil detention is not a feature of our American government," *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018), civil confinement is only permissible "in certain special and narrow non-punitive circumstances," where a "special justification" asserted by the government "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (cleaned up).

78. Immigration detention only comports with due process when it furthers the government's goals of "ensuring the appearance of [noncitizens] at future immigration proceedings and preventing danger to the community." *Id.* (cleaned up). The only two accepted justifications for keeping someone in civil immigration detention are insufficient as applied to Petitioner.

79. "The first justification—preventing flight—is weak or nonexistent where removal seems a remote possibility." *Id.* at 679. Here, deportation is a "remote possibility" as Petitioner's deferred action status protects them from removal and the status has not been properly revoked. *Id.* "Where an individual is protected from removal through deferred action, their detention serves no valid purpose." *Santiago v. Noem*, Case No. EP-25-CV-361-KC, 2025 WL 2792588 at *12-13 (W.D. Tex.

Oct. 2, 2025). *See Ayala v. Bondi*, No. 2:25-CV-01063-JNW-TLF, 2025 WL 2209708, at *3 (W.D. Wash. Aug. 4, 2025) ("deferred action prevents recipients' removal from the United States").

80. In addition, Petitioner is not removable because she has an automatic stay of removal until and unless the T visa is fully adjudicated and denied. 8 C.F.R. § 214.205(g)(1).

81. Petitioner has not engaged in any acts that would endanger the community. "[T]he government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future immigration proceedings can be reasonably ensured by . . . alternative conditions." *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017).

82. Accordingly, because Petitioner's detention is not justified by flight risk or danger concerns and there is no possibility of removal in the foreseeable future, it bears no reasonable relation to a legitimate government purpose, and thus violates Petitioner's substantive due process rights.[5]

CLAIM FOUR

Accardi Doctrine

Petitioner's Detention Violates the PM, Regulations, and Longstanding Policy and Practice

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

84. The Supreme Court has long recognized that government agencies are required to follow their own procedures. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). Courts have regularly applied this principle to the immigration agencies. *See, e.g., Alcaraz v. INS*, 384 F.3d 1150, 1162 (9th Cir. 2004). The *Accardi* doctrine extends beyond formal "regulations" to include, e.g.,

"internal operating procedures," "handbook[s]," "policy statements," and other materials that document an agency's "usual practice." *Id.* at 1162.

85. The USCIS Policy Manual lays out specific grounds on which deferred action—and its protection against detention—may be revoked, contemplating that such revocation may only be done by USCIS.

86. Here, USCIS identifies specific circumstances under which deferred action based on a T visa petition may be revoked. PM vol. 3, pt. B, chap. 6.E.3. (If USCIS "determines the favorable exercise of discretion or BFD EAD are no longer warranted; or the prior deferred action and BFD EAD were granted in error," based on "adverse information, such as new information pertaining to the risks the applicant poses to national security or public safety.")

87. Furthermore, Respondents' longstanding policy is that only USCIS—not ICE—has the exclusive authority to revoke deferred action conferred by USCIS in connection with a T visa petition, and that such revocation must be based on specific criteria. PM vol. 3, pt. B, ch. 6.D.3. n.18 ("[D]eferred action is by its nature an exercise of prosecutorial discretion," and "[t]he decision not to exercise [such] favorable prosecutorial discretion is appropriately an action *within USCIS' sole and unreviewable discretion*.") (emphasis added).

88. Here, Petitioner received their deferred action through their T visa petition. Thus, any revocation of this deferred action must take place in accordance with the USCIS Policy Manual. Rather than follow the manual, Respondent ICE took matters into its own hands by stripping deferred action through their efforts in detaining and deporting Petitioner.

89. As the court in *ICWC* held, "by permitting ICE to de facto revoke deferred action instead of following USCIS procedure, and without applying any of the applicable criteria from the USCIS Policy Manual," Respondents "are not

complying with their own policies for revoking deferred action" and are violating the *Accardi* Doctrine. *ICWC* PI Order at *40.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Order Respondents to show cause why the writ should not be granted, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243;

(3) Issue a writ of habeas corpus and order Respondents to immediately release Petitioner and forbid them from redetaining Petitioner while in valid deferred action status;

(4) Declare that Petitioner's detention is unlawful;

(5) Award reasonable costs and attorneys' fees; and

(6) Grant such further relief as the Court deems just and proper.

DATED AUGUST 5, 2026 Respectfully Submitted

/s/ Stephanie M Alcala
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