UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

YENSI DEL CARMEN MELARA GUTIERREZ *Petitioner*, v. KRISTI NOEM, in her official capacity as U.S. Secretary of Homeland Security; and PAMELA BONDI, in her official capacity as Attorney General of the United States; DAVID EASTERWOOD, in his official capacity as Field Office Director of the Minneapolis-St. Paul Field Office, Enforcement and Removal Operations, U.S. Immigration & Customs Enforcement; TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; HECTOR RIOS, in his official capacity as Warden, Otero County Processing Center, *Respondents*.	Case No. 0:26-cv-1044 **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. This case challenges the unlawful arrest and mandatory immigration detention of 20-year-old Yensi del Carmen Melara Gutierrez ("Yensi"), who has no criminal history, who came to the United States as an unaccompanied child at the age of 16, in 2022, and who has a valid grant of deferred action protecting her from removal from the United States.

2. After Yensi presented herself to an immigration official at the border, the government placed her in removal proceedings and briefly detained her in a government-run humanitarian shelter for children. It then released her to the care of her sister in Minnesota, after finding that she was not dangerous or a flight risk.

3. Now, Yensi has Special Immigrant Juvenile Status ("SIJS"), a humanitarian immigration protection for young people who have suffered parental abuse, neglect, or abandonment, created by Congress to give these children the opportunity to remain safely and permanently in the United States.

4. Based on Yensi's SIJS petition, the government granted her deferred action, a four-year, renewable protection from removal and permission to work lawfully while she waits in a visa backlog until she can apply for lawful permanent residence.

5. Despite Yensi's prior release from immigration custody and her approved SIJS petition and deferred action, Respondents arrested Yensi without a warrant on January 6, 2026, in a vehicle while on her way to work. Since then, she has been in the custody of the Respondents, first in Minnesota, then locked in an immigration detention center in Texas, and now in an immigration detention center in New Mexico, deprived of her liberty and separated from her family.

6. Yensi's detention is unlawful for at least [four] reasons.

7. First, due process requires that the government show, in a pre-deprivation hearing, materially changed circumstances before re-detaining Yensi. When the government released Yensi from its custody at a humanitarian shelter years ago, it determined that she was neither a flight risk nor a danger to the community. Since then, nothing has changed to undermine that determination. On the contrary, support for that determination has only strengthened: Yensi has built deep ties to the United States, attended all immigration court dates, and now has a path to lawful permanent residence. And she has never been arrested or convicted of a crime. Yensi's detention without any pre-deprivation process violates her procedural due process rights and this alone warrants her immediate release. Similarly, in addition to Yensi's prior processing as an unaccompanied child,

her grant of SIJS and deferred action created a protectable interest in her continued liberty requiring pre-deprivation process before any detention.

8. Second, the government has no legitimate interest in detaining Yensi when she cannot be removed because of her valid deferred action grant (eliminating any flight risk concerns) and is not a danger—the only two constitutionally permissible reasons for immigration detention. Accordingly, her detention also violates her substantive due process rights, equally requiring her immediate release.

9. Third, Yensi was arrested without changed circumstances, without a warrant, and without probable cause that she was a flight risk, under unlawful enforcement procedures that multiple courts around the country have declared illegal. Since then, there has been no determination that any probable cause exists to justify her detention. This violates her Fourth Amendment rights, as well as statute and regulation, similarly mandating her release.

10. Fourth, the government's claim that Yensi is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) is untenable in light of the fact that she entered the United States without inspection, was previously detained and released from detention as an unaccompanied child—under an entirely separate statutory scheme—and has since lived in the United States for over three years and been granted SIJS with deferred action. Courts throughout the United States have overwhelmingly rejected Respondents' expansive interpretation of 8 U.S.C. § 1225(b)(2)(A). *See, e.g.*, *Barco Mercado v. Francis*, No. 25-cv-6582 (LAK), 2025 WL 3295903, at *13–14 (S.D.N.Y. Nov. 26, 2025) (tallying more than 350 cases reaching the same conclusion, and only 12 going the other way); *Guerrero Orellana v. Moniz*, No. 25-cv-12664, 2025 WL 3687757 (D. Mass. Dec. 19, 2025) (granting summary judgment and extending declaratory relief to Massachusetts-based class of noncitizens wrongly subject to mandatory detention under the government's recent

interpretation of § 1225(b)(2)(A)); *Maldonado Bautista v. Santacruz*, No. 25-cv-0187, 2025 WL 3678485 (C.D. Cal. Dec. 19, 2025) (similar, extending declaratory relief to nationwide class); *Jose Andres R.E. v. Bondi*, No. 25-CV-3946 (NEB/DLM), 2025 WL 3146312, at *1 n.2 (D. Minn. Nov. 4, 2025) (collecting cases); *Belsai D.S. v. Bondi*, No. 25-CV-3682 (KMM/EMB), 2025 WL 2802947, at *5–6 (D. Minn. Oct. 1, 2025) (collecting cases)]. This renders Yensi's current detention unlawful from its inception, in violation of the Immigration and Nationality Act ("INA") and her due process rights.

11. For these reasons, Yensi respectfully asks this Court to hold her arrest and detention unlawful, order restoration of the status quo prior to her detention, *i.e.* release without restraints on her liberty, and enjoin Respondents from re-detaining her without meaningful pre-detention process.

12. Yensi also respectfully asks that this Court enjoin Respondents from transferring her outside of this District for the duration of this proceeding.

PARTIES

13. Petitioner Yensi del Carmen Melara Gutierrez is a 20-year-old Honduran national who entered the United States as an unaccompanied child and has been residing here since the age of 16. Prior to her arrest and detention, Yensi was living with her sister in Saint Paul, Minnesota and working with valid authorization from the U.S. government. Yensi has an approved SIJS petition and a grant of deferred action valid through November 3, 2027.

14. Respondent Kristi Noem is sued in her official capacity as Secretary of Homeland Security. As the head of the Department of Homeland Security ("DHS"), the agency tasked with enforcing immigration laws, Secretary Noem is Yensi del Carmen Melara Gutierrez ultimate legal custodian.

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

16. Respondent David Easterwood is sued in his official capacity as Field Office Director, Minneapolis-St. Paul Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement ("ICE"), which oversees ICE's operations Minnesota. Respondent David Easterwood is a legal custodian of Yensi del Carmen Melara Gutierrez.

17. Respondent Todd Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Yensi del Carmen Melara Gutierrez.

18. Respondent Hector Rios is sued in his official capacity as Warden, Otero County Processing Center. Respondent Hector Rios is the immediate custodian of Yensi del Carmen Melara Gutierrez.

JURISDICTION AND VENUE

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

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

21. The right to challenge the legality of a person's confinement through a petition for a writ of habeas corpus "extends to . . . immigration-related detention." *Deng Chol A. v. Barr*, 455 F. Supp. 3d 896, 900–01 (D. Minn. 2020) (citation omitted).

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

23. Venue is proper in the District of Minnesota under 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events giving rise to these claims occurred in this District. Yensi was unlawfully detained and arrested in Minnesota.

24. Venue is also proper under 28 U.S.C. § 2241(d). While the district of a person's place of physical confinement is the most traditional location for filing a habeas petition (*see e.g. Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004)), "the United States Supreme Court has made clear that the location of the individual at the time a habeas petition is filed is not some dowsing rod pointing to the only correct district." *See Duron Valladares v. Noem, et. al.,* No. 0:26-cv-00521 (JWB-LIB), (D. Minn. Jan. 29, 2026) (*citing to Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 494-495 (1973)). The court in *Braden* allowed a habeas petition to be filed in Kentucky when the petitioner was being held in Alabama, stating that it was in Kentucky "where all of the material events took place" and that it was a more "convenient" forum. *Braden* at 493, 499-500. *Braden* also held that "[s]o long as the custodian can be reached by service of process" courts can issue writs under Section 2241(a) "even if the prisoner himself is confined outside the court's territorial jurisdiction." *Id.* at 495. In reaching that conclusion, the court said that "the naming of a more remote custodian—[such as] the Secretary of Homeland Security [in immigration related habeas proceedings]—satisfies the statutory requirements." Ozturk, 136 F.4th

at 392 (quoting *Demjanjuk v. Meese*, 784 F.2d 1114, 1116 (D.C. Cir. 1986)). As noted in *Duron Valladares v. Noem*: "This exception exists to forestall forum shopping by the Government and "[t]o help prevent the Kafkaesque specter of supplicants wandering endlessly from one jurisdiction to another in search of a proper forum, only to find that it lies elsewhere[.]" *Duron Valladares, supra* (citing to *Eisel v. Sec'y of the Ar*my, 477 F.2d 1251, 1258 (D.C. Cir. 1973); *Abdiselan A.A. v. Bondi,* No. 26-cv-358 (JRT/ECW), 2026 WL 161526, at *1 (D. Minn. Jan. 21, 2026) (quoting *Eisel*); *Anariba v. Dir. Hudson Cnty. Corr. Ctr.*, 17 F.4th 434, 447–48 (3d Cir. 2021) (discussing how "[t]hese forum-shopping concerns intensify when the [habeas] petitioner is an ICE detainee").

25. In this case, ICE transferred Yensi out of the state of Minnesota within hours with no legitimate basis for doing so. Yensi was sent to Texas only days later to be transferred, without prior notice, to New Mexico. Yensi is in legal custody of ICE, subject to the custodial whims of ICE who has demonstrated, in this and other cases, that it can and will move immigration detainees to different facilities in different jurisdictions without notice. Requiring jurisdiction to lay solely where Yensi is physically located now would place her at risk of what the court described above, "wandering endlessly from one jurisdiction to another in search of a proper forum". *Duron Valladres, supra.* Further, Yensi's underlying removal proceedings are venued in Minnesota and the evidence and act of her arrest were in Minnesota.

26. Administrative exhaustion is unnecessary because it would be futile: it is Respondents' position that noncitizens in Yensi's situation are subject to mandatory detention, so she has no meaningful administrative remedies to exhaust. Further, her arrest without a warrant necessitates immediate release.

27. Additionally, the immigration court does not have jurisdiction to review Petitioner's claim of unlawful custody in violation of her due process rights, and it would therefore

be futile for her to pursue administrative remedies related to that claim. *Cf. Am.-Arab Anti-Discrimination Comm. V. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) ("[E]xhaustion would be a futile exercise because the agency does not have jurisdiction to review a selective enforcement claim.").

LEGAL FRAMEWORK

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

28. Because noncitizen youth who come to the United States without a parent are especially vulnerable, Congress granted them special protections through the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"). *See* 8 U.S.C. § 1232. An unaccompanied child is a child who (A) lacks lawful immigration status in the United States; (B) is under the age of 18; and (C) has no parent or legal guardian in the United States, or no such parent or legal guardian is available to provide care and physical custody. 6 U.S.C. § 279(g)(2).

29. Through the TVPRA, Congress amended the INA to guarantee unaccompanied children access to removal proceedings before an immigration judge, protecting them from expedited removal by an immigration officer without a hearing. 8 U.S.C. § 1232(a)(5)(D). Therefore, 8 U.S.C. § 1229a is the only process for determining whether an unaccompanied child can stay in the United States or be removed. 8 U.S.C. § 1229a(a)(3).

30. The TVPRA requires the Department of Health and Human Services, through the Office of Refugee Resettlement ("ORR"), to manage the care and custody of unaccompanied children. 8 U.S.C. § 1232(c)(2). The statute requires ORR to place unaccompanied children "in the least restrictive setting that is in the best interest of the child." 8 U.S.C. § 1232(c)(2)(A). Before releasing an unaccompanied child from its custody, the government must "consider danger to self, danger to the community, and risk of flight." *Id.*; *see also* 6 U.S.C. § 279(b)(2)(A). ORR may

release the unaccompanied child to a "sponsor" who already lives in the United States, so long as these and other criteria are satisfied. *Id.*; *see also* 45 C.F.R. § 410.1201.

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

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

32. To be granted SIJS, youths must first "satisf[y] 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, to be eligible for SIJS, a noncitizen youth must be present in the United States and obtain judicial determinations in a state juvenile court order that they are dependent on the juvenile court or placed by the court under the custody of a state agency or an individual; cannot be reunified with one or both parents because of abuse, neglect, abandonment, or other similar basis; and 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).

33. The application process for SIJS includes submitting a Form I-360 SIJS Petition to USCIS, along with the state juvenile court order and other evidence. *See* 8 C.F.R. § 204.11(b).

USCIS then considers whether to exercise its statutory "consent function" to approve the petition. *See* 8 U.S.C. § 1101(a)(27)(J)(iii). By doing so, the agency recognizes the state juvenile 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).

34. The main benefit of SIJS—and indeed, its core purpose—is that it confers on vulnerable young people the right to seek lawful permanent resident ("LPR") status, while remaining in the United States, through a process called adjustment of status. *See* 8 U.S.C. § 1255(h). To facilitate this process, Congress has removed numerous barriers to adjustment of status for SIJS beneficiaries. Typically, a noncitizen seeking to adjust to LPR status in the United States must show they are admissible under immigration law or have entered the country with inspection or parole by an immigration officer. But Congress exempted SIJS youth from many inadmissibility grounds, made them eligible for adjustment regardless of their actual manner of entry into the United States, and created a generous waiver of other non-exempted inadmissibility grounds. 8 U.S.C. § 1255(h). Congress also explicitly provided that certain grounds for removal "shall not apply" to SIJS beneficiaries. 8 U.S.C. § 1227(c). Accordingly, the SIJS statute "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).

35. Although SIJS renders youth eligible to apply for adjustment to LPR status, they can only do so when a visa is immediately available to them. 8 U.S.C. § 1255(h). However, there is an annual limit on visas available to SIJS beneficiaries. 8 U.S.C. § 1153(b)(4). And since 2016, the number of SIJS beneficiaries has surpassed the supply of available visas for most countries,

leaving what has been estimated to be more than 100,000 young people in a SIJS backlog, waiting to apply for a green card.[1]

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

C. Deferred Action Furthers Congress' Intent That SIJS Beneficiaries Be Protected

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

38. In June 2025, USCIS rescinded the SIJS deferred action policy, deciding to no longer consider granting deferred action to SIJS youth waiting to apply for a green card. In November 2025, a federal court stayed the government's decision to rescind the SIJS deferred action policy, thus restoring the 2022 policy during the litigation's pendency. *A.C.R. v. Noem*, No. 25-CV-3962, 2025 WL 3228840 (E.D.N.Y. Nov. 19, 2025). The government's unlawful attempt to rescind the program had no impact on SIJS beneficiaries, like Yensi, who had already received deferred action. *See* USCIS Policy Alert, PA-2025-07, "Special Immigrant Juvenile Classification and Deferred Action" (June 6, 2025), available at: 20250606-SIJDeferredAction.pdf (stating that

[1] *See* R. Davidson et al., *False Hopes: Over 100,000 Immigrant Youth Trapped in the SIJS Backlog* (2023), https://perma.cc/J75S-4DRR.

[2] USCIS Policy Alert, PA-2022-10, "Special Immigrant Juvenile Classification and Deferred Action" (March 7, 2022), https://perma.cc/8CTL-QAQY ("2022 USCIS Policy Alert").

noncitizen "with current deferred action based on their SIJ classification will generally retain this deferred action . . . until the current validity periods expire.").

39. Deferred action does not confer lawful status and does not prevent an immigration judge from issuing a removal order. However, unless and until terminated, a grant of deferred action prevents immigration authorities from physically removing a noncitizen from the United States. *See* USCIS Policy Manual, Vol. 1, Pt. H, Ch. 2.A.4, https://www.uscis.gov/policy-manual/volume-1-part-h-chapter-2; *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999) ("*AADC*"). Individuals with deferred action are also eligible to apply for employment authorization under 8 C.F.R. § 274a.12(c)(14). In the case of SIJS beneficiaries awaiting visas, USCIS granted deferred action for a renewable period of four years.

RELEVANT FACTS AND PROCEDURAL HISTORY

Yensi is detained and released because she is not dangerous or a flight risk

40. Yensi is a Honduran youth who came to the United States for safety when she was 16 years old, on or about June 30, 2022. In Honduras, she was forced to quit school after sixth grade to work full time in agriculture and in the home. She also witnessed significant violence against women in Honduras and feared she would suffer a similar fate.

41. At the United States border, Yensi was taken into DHS custody. DHS determined that Yensi was an unaccompanied child under 6 U.S.C. § 279(g)(2). It then transferred her to ORR custody, as mandated by the TVPRA. ORR subsequently determined that Yensi should be released to her sister under a sponsor care agreement, finding that she did not present a flight risk or a danger to the community. Ex. A, ORR Release Records.

Yensi obtains SIJS and deferred action and her removal proceedings are administratively closed

42. DHS also issued Yensi a Notice to Appear ("NTA"), the charging document that initiates removal proceedings, which charged her as removable under 8 U.S.C. § 1182(a)(6)(A)(i) for being present without being admitted or paroled. Yensi's proceedings were venued in the Fort Snelling, Minnesota Immigration Court and she diligently attended and participated in those proceedings, never missing a court date.

43. After obtaining legal representation, Yensi applied for SIJS. First, on June 22, 2023, the Second Judicial District Court, Family Division, in Ramsey County, Minnesota issued an Order for Custody with special findings, finding that Yensi had been abandoned by her parents and that it was in her best interests to remain in the United States. The court also appointed Yensi's sister as her legal guardian. Yensi then submitted a SIJS petition to USCIS on July 21, 2023 supported by her Order with special findings by the Second Judicial District Family Court.

44. On August 2, 2023, Yensi moved to administratively close her removal proceedings based on her pending SIJS petition. On August 30, 2023, the Immigration Judge overseeing Yensi's removal proceedings granted her motion for administrative closure.

45. USCIS approved Yensi's SIJS petition on November 3, 2023. Ex. B, SIJS Approval Notice. USCIS also granted Yensi deferred action for a four-year period, until November 3, 2027. *Id.* This protected her from removal while she waited in the backlog to apply to adjust her status, and it allowed her to apply for employment authorization, which she obtained to help support her and her family.

46. According to the USCIS February 2026 Visa Bulletin, there are currently sufficient visas available for people who filed for SIJS on or before January 1, 2021, to immediately apply

for LPR status.[3] Yensi's filing date (also called a priority date) is July 21, 2023. Ex. B. Therefore, Yensi will be eligible to apply to adjust to LPR status in the foreseeable future.

Yensi is arrested without changed circumstances and purportedly held in mandatory detention

47. After obtaining deferred action and her work permit, Yensi, found a stable life and began to adjust to life in the United States. She started learning English. She has several family members and friends in the United States with whom she spent time. She regularly attended church. She is known to her friends and co-workers as a compassionate, motivated, mature and considerate person.

48. On January 6, 2026, Respondents arrested Yensi without any notice or warning while in her car on her way to work early in the morning. Upon information and belief, the immigration officers had no warrant for Yensi's arrest. Yensi was not accused of violating any vehicle and traffic law. She had no prior arrests. She had a stable address, a stable job, a work permit, and path to permanent status. She did not run or try to evade the officers. Nonetheless, they arrested her without a warrant and transferred her to Fort Snelling, Minnesota, then to a facility in Texas, and then to the Otero County Processing Center in Chaparral, New Mexico.

49. On January 10, 2026, DHS erroneously initiated a new NTA with venue in the Otero, New Mexico immigration court. DHS filed a motion on January 26, 2026 to dismiss that NTA, noting that the initial NTA with venue in Fort Snelling, Minnesota, was still active. On February 2, 2026, DHS filed a motion to recalendar Yensis' administratively closed removal proceedings in Fort Snelling, Minnesota Immigration Court. That motion remains pending. Yensi has now been detained for one month and is being held thousands of miles from her family.

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[3] Department of State, Visa Bulletin for February 2026, https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2026/visa-bulletin-for-february-2026.html (SIJS is included under the employment-based visa category, 4th).

50. Yensi's detention has been very difficult for both her and her family. Yensi has described poor conditions and treatment at the facility in Texas. She has severe limitations now, only allowed to go outside for a brief period each day. She suffered emotional trauma due to the manner in which she was arrested, aggressively taken from her car without notice and opportunity to demonstrate her deferred action. She is confused and saddened that despite doing everything asked by the government to obtain SIJS and be eligible for permanent residence, she was still detained. Her family and friends are equally saddened and confused.

CAUSES OF ACTION

FIRST CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution Substantive Due Process

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

52. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). And "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

53. Because "liberty is the norm, and detention prior to trial or without trial is the carefully limited exception," the government may imprison people as a preventive measure only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)).

54. Immigration detention is civil detention and must "bear a reasonable relation to the purpose for which the individual was committed" so that it remains "nonpunitive in purpose and effect." *Zadvydas*, 533 U.S. at 690 (citation modified); *see also Schall v. Martin*, 467 U.S. 253, 264-69 (1984) (finding detention must be a proportional—not excessive—response to a legitimate state objective). And "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

55. Courts have identified only two legitimate purposes for immigration detention: mitigating flight risk pending removal and preventing danger to the community. *See Zadvydas,* 533 U.S. at 690-91. But if a person cannot actually be removed, "preventing flight" is a "weak or nonexistent" justification. *Id.* at 690; *cf. Phan v. Reno*, 56 F. Supp. 2d 1149, 1156 (W.D. Wash. 1999) ("Detention by the INS can be lawful only in aid of deportation."). Detention for community safety, in turn, is only permissible "when limited to specially dangerous individuals and subject to strong procedural safeguards." *Zadvydas*, 533 U.S. at 691.

56. Here, the government's inability to lawfully remove Yensi given her deferred action eliminates any justification of flight risk, which the government could not show in any event, given Yensi's residence in the United States of over three years, her deep ties to her family and community in Minnesota, and her ability as an SIJS beneficiary to adjust to lawful permanent resident status and then gain citizenship. *See Osorio*, 893 F. 3d at 173-75. Yensi's lack of any criminal record eliminates any possible justification of danger.

57. Because the government is not detaining Yensi to serve legitimate interests in protecting against danger or flight risk, her detention violates substantive due process under the Fifth Amendment, and this Court should order her immediate release.

SECOND CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution Procedural Due Process

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

59. Even "[w]hen government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner." *Salerno*, 481 U.S. at 746.

60. Courts use the three-factor *Mathews v. Eldrige* test to determine what process is due to noncitizens challenging detention. *See Mathews v. Eldridge*, 424 U.S. 319 (1976). The *Mathews* factors assess: (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, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335.

61. The first *Mathews* factor weighs heavily in Yensi's favor. Yensi has a strong liberty interest in light of (1) her prior release as an unaccompanied child and (2) her valid grant of SIJS. First, because she was previously released from custody as an unaccompanied child and not even subject to government monitoring, Yensi possessed a weighty interest in her continued liberty. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (finding DHS violated due process, particularly a deprivation of liberty, when they re-arrested a UC without changed circumstances and that to re-arrest a UC, DHS must have probable cause to believe the individual will be a danger to himself or the community, or a flight risk). The court in *Saravia* wrote:

> Given the nature of the liberty deprivation involved, a minor previously placed with a sponsor by ORR cannot be rearrested solely on the ground that he is subject to removal proceedings. That the minor was subject to removal proceedings formed the basis of his first arrest; after DHS transferred the minor to ORR custody, as the TVPRA requires DHS to do on every occasion in which an unaccompanied minor is arrested, ORR determined that the appropriate place for the minor was *not* in federal custody. If DHS could, the day after a minor was released to a parent or other sponsor, arrest the minor on the same basis and restart the process, the TVPRA's instruction to place the minor in the least restrictive appropriate setting would mean little…to be lawful, the arrest must be based on evidence that the circumstances relevant to that original release decision have changed. In other words, DHS must have probable cause to believe that, notwithstanding ORR's prior determination, the minor is now a danger to himself or the community, or a flight risk. *See* 8 U.S.C. § 1232(c)(2)(A).

Saravia v. Sessions, 280 F. Supp. 3d 1168, 1195–96 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). *See also Quinteros Cornejo v. Andrews,* No. 1:25-CV-02062 JLT HBK, 2026 WL 237748, at *9 (E.D. Cal. Jan. 29, 2026) ("the Court finds that Petitioner has a protected liberty interest, which required a pre-deprivation hearing prior to his detention on November 9, 2025. Respondents' failure to provide such hearing constitutes a due process violation . . . .Similarly, Petitioner has a protected liberty interest, which arose from his prior release from physical restraint.").

62. Second, to be approved for SIJS and deferred action, Yensi had to meet stringent eligibility criteria and she was promised that, in return, she would be given a meaningful path to LPR status in this country. That came with the expectation that she could build a life here without risking arbitrary arrest, detention, and removal that would strip her of the very permanency Congress created SIJS to provide vulnerable youth like her. *See Rodriguez v. Perry*, 747 F. Supp. 3d 911 (E.D. Va. 2024); *Sarmiento v. Perry*, No. 25-CV-01644, 2025 WL 3091140, at *3 (E.D. Va. Nov. 5, 2025); *Campos-Flores v. Bondi*, No. 25-cv-797, 2025 WL 3461551, at *6 (E.D. Va.

Dec. 2, 2025); *see also Santiago v. Noem*, No. 25-cv-361, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025) (finding Deferred Action for Childhood Arrivals recipient had protected interest in continued liberty); *Victor G. v. Lyons*, No. 26-CV-119 (ECT/SGE), 2026 WL 127733 (D. Minn. Jan. 17, 2026) (finding no basis for the detention of an individual with U visa deferred action when there was no evidence the deferred action had been revoked or that there were changed circumstances from when the individual had been granted deferred action). And this is precisely what Yensi did, building a home with her sister, with whom a juvenile court found it to be in her best interests to remain; attending church; working and contributing to his community; and making plans for the future.

63. The second *Mathews* factor also weighs in Yensi's favor. Yensi was previously released from detention after being found that she is neither a danger nor a flight risk, she was subsequently granted deferred action by DHS, and her re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, make the risk of erroneous deprivation of liberty not just high, but certain. Her detention is the direct result of insufficient safeguards and lack of procedure. Under these circumstances, the risk of erroneous deprivation of his liberty is high and the second factor weighs heavily in Yensi's favor.

64. The third factor favors Yensi, as well. Yensi's erroneous detention imposes high fiscal and administrative burdens on Respondents. Releasing Yensi and requiring the government to provide a pre-deprivation hearing before re-detaining her stands to save the government money and effort wasted on erroneous detention. And unlawful detention and violation of noncitizens' constitutional rights disserve the public interest.

65. Respondents violated procedural due process by re-detaining Yensi without adequate procedural protections before or after deprivation of her liberty. Therefore, this Court

should order Yensi's release without any restraints on her liberty and prohibit any re-detention absent pre-deprivation process.

THIRD CLAIM

Violation of the Fourth Amendment to the U.S. Constitution, 8 U.S.C. § 1357(a)(2), and 8 C.F.R. § 287.3(d) Unlawful Arrest

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

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

68. As a general matter, the Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). "Probable cause requires a 'substantial probability; based on facts related to the individual." *Ramirez Ovando v. Noem*, No. 1:25-CV-03183-RBJ, 2025 WL 3293467, at *15 (D. Colo. Nov. 25, 2025) (quoting *Storey v. Taylor,* 696 F.3d 987, 992 (10th Cir. 2012) (finding probable cause for immigration arrests lacking); *see also U.S. v. Quintana,* 623 F.3d 1237, 1239 (8th Cir. 2010) (holding that "the Fourth Amendment applies to arrests of illegal aliens" and requiring "reason to believe" and "probable cause", though on the case specific facts ultimately finding there was probable cause).That determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See id.* It must, however, occur within 48 hours of detention, which includes weekends, unless there is a bona fide

emergency or other extraordinary circumstance. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

69. There is a strong preference that immigration arrests be based on warrants. *See Arizona v. U.S.*, 567 U.S. 387, 407–08 (2012). The INA thus provides immigration agents with only limited authority to conduct warrantless arrests. 8 U.S.C.§ 1357(a)(2). Specifically, an officer must have probable cause to believe the person is violating the immigration laws *and* that the person "is likely to escape before a warrant can be obtained," *i.e.*, is a flight risk *Id.*; *see also Ramirez Ovando*, 2025 WL 3293467, at *2. Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

70. Yensi's warrantless arrest occurred without probable cause that she was a flight risk. "Courts have … made the self-evident finding that the likelihood of escape is lower when the individual has resided in the country for a lengthy period of time and has strong community ties." *Escobar Molina v. U.S. Dep't of Homeland Sec.,* No. CV 25-3417 (BAH), 2025 WL 3465518, at *13 (D.D.C. Dec. 2, 2025) (collecting cases). At the moment of her seizure, Yensi (a) had valid SIJS and deferred action, which provided her a path to LPR status, (b) was living at a stable home address, of which the government was fully aware, and (c) had been in the United States for over three years and built strong ties to his community. Moreover, Yensi fully complied with the ICE officers and in no way tried to disobey or flee. Therefore, no officer could have probable cause that Yensi was likely to escape before a warrant could be obtained.

71. Without a statutory basis to arrest, Respondents were required under the Fourth Amendment to secure a prompt judicial probable cause determination to continue holding Yensi . *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56–57. She received no such judicial

determination, yet her detention continued well beyond 48 hours, rendering it presumptively unconstitutional.

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

73. Yensi's re-detention after a prior release, without any new showing of probable cause, was also unconstitutional. When the government releases a person from detention, the purpose of their detention has been accomplished. *See Williams v. Dart*, 967 F.3d 625, 634 (7th Cir. 2020) ("It is axiomatic that seizures have purposes. When those purposes are spent, further seizure is unreasonable."). As a result, any probable cause justifying the prior arrest, if any, is extinguished.

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

75. Respondents' warrantless re-arrest of Yensi without changed circumstances, and their refusal to provide a prompt (or any) probable cause determination, violated the Fourth

Amendment, the INA, and implementing regulations. Thus, this Court should order Yensi's release.

FOURTH CLAIM

Violation of the Immigration and Nationality Act and Procedural Due Process

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

77. The INA prescribes three basic forms of detention for most noncitizens in removal proceedings. First, 8 U.S.C. § 1226 "authorizes the Government to detain certain [noncitizens' already in the country pending the outcome of removal proceedings." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Individuals detained under Section 1226(a) are generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). However, noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention under Section 1226(c). *See* 8 U.S.C. § 1226(c).

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

79. Third, the INA also provides for mandatory detention of two groups of noncitizens encountered "at the Nation's borders and ports of entry." *Jennings*, 583 U.S. at 288. The first group consists, generally, of those who are subject to expedited removal for being apprehended upon arrival near the border or for being unable to show that they have been physically present in the United States for more than two years until a determination has been made as to whether they have a credible fear of persecution. 8 U.S.C. § 1225(b)(1). Notably, unaccompanied children are not subject to expedited removal. 8 U.S.C. § 1232(a)(5).

80. The second group subject to mandatory detention consists of anyone alleged to be an "applicant for admission" who is "seeking admission" and whom an "examining immigration officer determines . . . is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A).

81. Respondents claim that Yensi is mandatorily detained under 8 U.S.C. § 1225(b)(2)(A). But this statute does not apply to Yensi, who was previously released from custody as an unaccompanied child, has resided in this country for years, and has been granted SIJS.

82. First, a person with SIJS cannot be detained under § 1225(b)(2)(A). Because "the INA defines a 'special immigrant' as 'an immigrant who is present in the United States,'" an award of SIJS confirms that a noncitizen is not "arriving" or "seeking admission." *Rodriguez*, 747 F. Supp. 3d at 916 (concluding that a noncitizen who had entered the United States years earlier as an "arriving alien" but had then been granted SIJS was not detained under § 1225(b)(2)(A) (citing 8 U.S.C. § 1101(a)(27)(J)); *see also Sarmiento*, 2025 WL 3091140, at *3 (similar). Moreover, SIJS status "'bespeak[s] a substantial legal relationship between [SIJS beneficiaries] and the United States—a relationship far more significant than' the relationship possessed between an initial entrant into this country." *Del Cid Del Cid v. Bondi*, No. 3:25-CV-00304, 2025 WL 2985150, at *16 (W.D. Pa. Oct. 23, 2025).

83. Second, an unaccompanied child who entered the United States and was released from government custody to a guardian years ago also cannot not be detained under § 1225(b)(2)(A). An unaccompanied child's initial detention is governed by the TVPRA, which requires unaccompanied children—even those who turn 18 and age out of ORR custody—to be placed in the "least restrictive setting available." 8 U.S.C. § 1232(c)(2)(B). This is entirely

inconsistent with mandatory detention under 8 U.S.C. § 1225(b)(2)(A). So is the fact of a release unaccompanied child spending years building a life in the United States before being re-detained in the interior. *See, e.g.*, *Maldonado v. Olson supra* (finding a noncitizen previously released as a UC and subsequently detained again by ICE was detained under 1226); *Alexis D.A.M. v. Bondi,* No. 26-447 (JRT/ECW), 2026 WL 194513 (D. Minn. Jan. 26, 2026) (granting habeas and ordering immediate release for noncitizen arrested by ICE years after entry as a UC, concluding that 1226 governed detention and "the appropriate remedy is release from custody" where the government has not produced a warrant); *Portillo Martinez v. Hyde*, No. 25-11909, 2025 WL 3152847 at *8 (D. Mass. Nov. 12, 2025).

84. Third and more broadly, courts across the United States have overwhelmingly concluded that noncitizens like Yensi who entered the United States without inspection and are detained by ICE for removal proceedings while they are residing in the United States are detained under 8 U.S.C. § 1226, not § 1225(b)(2)(A). *See, e.g.*, *Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 WL 3295903, at *13–14 (S.D.N.Y. Nov. 26, 2025) (tallying more than 350 cases reaching the same conclusion, and only 12 going the other way); *Velasco Hurtado v. Bondi,* No. 0:26-CV-546, 2026 WL 184884 (D. Minn. Jan. 24, 2026).

85. Accordingly, Yensi's current detention under 8 U.S.C. § 1225(b)(2)(A) violates both the INA and Yensi's procedural due process rights. As this renders her detention unlawful from its inception, she should be released.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Enjoin the Respondents from transferring Petitioner away from the jurisdiction of this

District pending these proceedings;

c. Declare that Petitioner's arrest and detention violates the Due Process Clause of the Fifth Amendment; the Fourth Amendment; and the INA and implementing regulations;

d. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody without restraints on her liberty beyond those that existed prior to her unlawful re-detention;

e. Order that Respondents cannot re-detain Petitioner without notice and a pre-deprivation hearing before this Court where the government bears the burden of justifying re-detention by clear and convincing evidence;

f. Order that Petitioner be released with all of the personal belongings taken from her during her arrest;

g. Grant bail pending the conclusion of the habeas review; *see, e.g.*, *Mapp v. Reno*, 241 F.3d 221 (2d Cir. 2001);

h. 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

i. Grant such further relief as this Court deems just and proper.

DATED: February 4, 2026

Respectfully Submitted,

/s/ Kelly Clark

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am one of the Petitioner's attorneys. I have discussed with the Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in this Petition are true and correct to the best of my knowledge.

DATED: February 4, 2026

/s/ Kelly Clark

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