

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

DARYNEL GERARDO MEDINA LOPEZ,

Petitioner,

v.

KEVIN RAYCRAFT, in his official capacity  
as Field Office Director of Enforcement and  
Removal Operations, et al.

Respondents.

Case No. 1:26-cv-10784

Judge: Honorable F. Kay Behm

Mag. Judge Anthony P. Patti

**VERIFIED EMERGENCY MOTION FOR TEMPORARY RESTRAINING  
ORDER; MOTION TO FACILITATE RETURN AND MOTION TO  
ENFORCE JURISDICTION**

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## **INTRODUCTION**

Pursuant to Rule 65 of the Rules of Civil Procedures and Petitioner's pending Habeas Corpus, Petitioner Darynel Gerardo Medina Lopez, a 22-year-old citizen of Honduras, with an approved SIJS visa petition and a visa immediately available, respectfully moves this Court to enter and order enforcing jurisdiction over this matter, order Respondents to facilitate Petitioner's prompt return to Michigan; and issue a temporary restraining order that would prevent Respondents from taking any further actions that would frustrate this Court's jurisdiction.

Respondents transported Petitioner outside of Michigan on the early hours of March 12, 2026, for more than 24 hours neither Petitioner's family nor his counsel had any information of his whereabouts. On or about 5.30PM on Friday March 13, 2026, Petitioner's counsel learn that Petitioner was moved to the Port Isabel Service Detention Center, in Los Fresnos Texas where his removal is imminent.

Petitioner faces imminent removal from the United States, his Removal would cause him immediate and irreparable injury; as he would be unable to adjust status after waiting for almost seven years for a visa to become available.

Because Respondent's actions have effectively undermined this Court's jurisdiction, Petitioner respectfully requests that this Court:

1. Issue a temporary restraining order enjoining Respondents from removing Petitioner from the United States
2. Enforce its jurisdiction over the habeas proceedings; and
3. Order Respondents to facilitate Petitioner's return to the State of Michigan.

As described in his Habeas Petition, Petitioner is the beneficiary of an approved SIJS visa, and a visa is immediately available for him to adjust status. Petitioner's immigration attorney mailed the completed application to USCIS on the afternoon of March 13, 2026, if Petitioner is removed before this application is adjudicated, Petitioner's possibility of adjusting status to LPR will be forever thwarted and he will have to remain outside the United States, in a country he is afraid to return to, for at least 10 years.

On the early hours of March 12, 2026, and without notice to family or counsel, ICE transported Petitioner out of the St. Clair County Jail. A petition for Habeas Corpus was filed with this Court on March 09, 2026. The Petitioner could not communicate with his family or counsel since shortly before 5:00AM on March 12, 2026 and until after 5:00PM on Friday March 13, 2026, during that time the ICE detainee locator showed no results when searching by his Alien number and country of citizenship, therefore Petitioner, his family and counsel believed he had already been removed. Counsel learned at approximately 5:30PM on the evening of Friday March 13, 2026 that Petitioner is in Texas, and his removal to Honduras is imminent.

### **LEGAL STANDARD**

To obtain a TRO, the plaintiff “must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that injunction is in the public interest. *E. Bay Sanctuary Covenant v. Trump*, 349 F. Supp. 3d 838, 855 (N.D. Cal. 2018), aff’d, 950 F.3d 1242 (9th Cir. 2020), and *aff’d sub nom. E. Bay Sanctuary Covenant v. Biden*, 993 F.3d 640 (9th Cir. 2021), and *aff’d*, 950 F.3d 1242 (9th Cir. 2020), and *aff’d sub nom. E. Bay Sanctuary Covenant v. Biden*, 993 F.3d 640 (9th Cir. 2021) (*quoting Am. Trucking Associations, Inc. v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009)). Provided that the Court fully considers this familiar four-factor test, the Court may supplement its inquiry by considering whether “the likelihood of success is such that ‘serious questions going to the merits were raised and the balance of hardships tips sharply in [the requesting party’s] favor.’” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1132 (9th Cir. 2011) (*quoting Clear Channel Outdoor Inc., a Delaware Corp. v. City of Los Angeles*, 340 F.3d 810, 813 (9th Cir. 2003)). The 6<sup>th</sup> Circuit applies this traditional four-factor test. *Beckerich v. St. Elizabeth Med. Ctr.*, 563 F. Supp. 3d 633 (E.D. Ky. 2021). Under Federal Rule 65(b), courts may issue TROs without notice only when specific facts in an affidavit clearly show immediate and irreparable injury will result before the adverse party can be heard, and the movant's attorney certifies efforts made to give notice Fed. R.

Civ. P. 65. TROs expire within 14 days unless extended for good cause, and expedited hearings on preliminary injunctions must be scheduled immediately. *Id.*

The 6th Circuit has consistently held that federal district courts lack jurisdiction to issue writs of habeas corpus if the person detained is not within the territorial jurisdiction of the court when the petition is filed *Hart v. Ohio Bureau of Prob. & Parole*, 290 F.2d 550 (6th Cir. 1961). However, courts may exercise jurisdiction over defendants who have previously submitted to the court's authority. Federal courts possess authority under the All Writs Act, 28 U.S.C.A. § 1651 (West), to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law" 28 U.S.C.A. § 1651. This authority has been used in immigration detention contexts, though with mixed results. In *Arostegui-Maldonado v. Baltazar*, 794 F. Supp. 3d 926 (D. Colo. 2025), the District Court for Colorado issued injunctive relief pursuant to the All Writs Act, ordering that "Respondents, as well as their officers, directors, agents, employees, successors and assigns, and all other persons in active concert or participation with them, are hereby enjoined from removing Maldonado from the United States or transferring him outside of the District of Colorado while his Petition for Writ of Habeas Corpus remains pending before this Court," finding that forcing the detainee to litigate many states away from his lawyers would cause irreparable harm *Arostegui-Maldonado*, 794 F. Supp. 3d 926.

## **ARGUMENT**

### **I. The Court Should Issue A TRO Enjoining Respondents From Removing Petitioner**

#### **1. Petitioner Is Likely to Succeed on the Merits**

Respondents are unlawfully detaining Petitioner. Courts have increasingly recognized enhanced constitutional protections for SIJS beneficiaries. Applying the Third Circuit's reasoning from *Osorio-Martinez v. Attorney Gen. United States of Am.*, the Eastern District of Virginia in *Rodriguez v. Perry*, 747 F. Supp. 3d 911 (E.D. Va. 2024) found that SIJS designees have constitutional due process rights that distinguish them from typical immigration detainees and require individualized bond hearings. 747 F. Supp. 3d 911. Under 8 U.S.C.A. § 1255 (West), adjustment requires that "an immigrant visa is immediately available to the alien at the time the application is filed" 8 U.S.C.A. § 1255. When visa numbers are current and adjustment applications are pending, the combination strengthens arguments for stays of removal. Petitioner has held SIJS status for almost seven years, when USCIS approved his petition. See Exh. A. During that time, Petitioner patiently waited for a visa to become available, a visa is immediately available now. See Exh. B. Petitioner applied for Adjustment of Status to USCIS on March 13, 2026. Immigration regulations require that to reopen proceedings before the BIA, in cases such as Petitioners, the motion to reopen is accompanied by the underlying petition which creates the changed circumstances which warrant reopening proceedings.

Therefore, any attempts by Petitioner to reopen proceedings before a visa became available would have been unsuccessful, and resulted in a denial of the motion. Even with approved SIJS petitions, aliens face additional hurdles in filing adjustment of status applications. Under 8 U.S.C.A. § 1255(a), adjustment of status requires that "an immigrant visa is immediately available to him at the time his application is filed" 8 U.S.C.A. § 1255. SIJS beneficiaries utilize the employment-based fourth preference (EB-4) category, which is subject to per-country limitations that can create significant delays.

The BIA has consistently held that visa availability is a prerequisite for valid adjustment applications. In *Matter of Erazo-Garcia*, the Board noted that the respondent was "ineligible for adjustment of status because there is no indication that 'an immigrant visa is immediately available to him.'" and vacated an Immigration Judge's decision to terminate proceedings where no visa was available *In Re: Melvin Javier Erazo-Garcia*, No. : AXXX XX7 109 - SAN, 2017 WL 4736624 (DCBABR Aug. 10, 2017).

As previously stated, Petitioner has waited almost seven years to be legally allowed to reopen proceedings, and file an application for status, the time that it took for a visa to be available to him.

**2. Petitioner will suffer imminent and irreparable harm if removed from the United States**

SIJS is a humanitarian immigration classification specifically created by Congress to protect noncitizen children who have been abused, neglected, or abandoned, and for whom it has been determined by a state juvenile court that it is not in their best interest to return to their country of nationality.

Congress substantially strengthened this protection through the Trafficking Victims Protection Reauthorization Act (“TVPRA”), which significantly expanded eligibility for SIJS and clarified that the statute is intended to provide a meaningful pathway to lawful permanent residence for vulnerable children

Specifically, adjustment of status under INA § 245(a) requires that the applicant be physically present in the United States at the time of adjudication. Once removed, Petitioner would be unable to pursue that relief. Moreover, because SIJS beneficiaries are exempt from several inadmissibility grounds only in the context of adjustment of status, removal would expose Petitioner to additional barriers that Congress specifically intended to waive for SIJS beneficiaries.

Thus, removal would not simply delay Petitioner’s immigration case—it would irreversibly strip him of the humanitarian protection Congress designed for children like him.

Courts consistently recognize that loss of the opportunity to pursue immigration relief constitutes irreparable harm, particularly where removal would foreclose statutory eligibility for that relief. *See Nken v. Holder*, 556 U.S. 418, 435, 129 S. Ct. 1749, 173 L. Ed. 2d 550 (2009).

Additionally, removal before the Court has an opportunity to review the merits of this case would frustrate meaningful judicial review, further compounding the irreparable harm. For these reasons, a temporary restraining order preserving the enjoining Respondents from removing Petitioner is necessary to ensure that his statutory rights and this Court's jurisdiction are not irreparably undermined.

### **3. The Balance of Hardships and Public Interest Weighs in Favor of Issuing a TRO**

When the federal government is a party, the balance of the equities and public interest factors merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073 (9th Cir. 2014) (citing *Nken*, 556 U.S. at 435). The government cannot identify any real harm that would result from the requested TRO. See *E. Bay Sanctuary Covenant v. Trump*, 909 F.3d 1219, 1254 (9th Cir.), superseded, 932 F.3d 742 (9th Cir. 2018) (rejecting the government's argument that the order enjoining prior asylum ban would inflict institutional injury).

The government seeks to remove a young man, whom Congress has already determined is eligible for humanitarian protection designed for abused and

abandoned children. One who, after making factual findings, a juvenile judge found that would not be in the best interest of said young men to return to Honduras.

The equities strongly favor Petitioner, because he was already granted SIJS status, and he is eligible for an immediately available visa. Removing Petitioner at this stage would directly undermine the statutory scheme created by Congress and the TVPRA to protect the children, like Petitioner, who have been abused, neglected, or abandoned.

By contrast, the government would suffer no cognizable harm from a temporary restraining order that simply preserves the status quo while this Court reviews the legality of Respondents' actions. Courts have repeatedly recognized that the government does not suffer harm when it is merely required to comply with the law and await judicial review before executing removal. See Nken, 556 U.S. at 436.

The public interest likewise favors granting relief. Congress enacted the SIJS provisions and strengthened them through the TVPRA precisely to protect vulnerable immigrant children and to ensure that those who qualify for SIJS have access to lawful immigration status in the United States. Allowing the government to remove Petitioner after it has already granted him SIJS would directly undermine the congressional framework designed to protect abused and abandoned children. Petitioner waited nearly seven years for a visa to become available so that he could

file his adjustment of status application—the only available mechanism through which he could reopen proceedings and eliminate his removal order. Removing him now would extinguish that congressionally authorized pathway to lawful permanent residence and effectively nullify the humanitarian protections Congress deliberately created through the SIJS statutory scheme.

Accordingly, both the balance of hardships and the public interest strongly favor issuance of a Temporary Restraining Order to preserve the status quo until the Court can fully consider the merits of Petitioner’s claims.

## **II. The Court Should Enforce Its Jurisdiction Over These Habeas Proceedings**

This Court retains jurisdiction over this habeas action notwithstanding the government’s decision to remove Petitioner from the United States while this case was pending. The writ of habeas corpus exists precisely to ensure that executive detention and removal decisions remain subject to meaningful judicial review. Allowing the government to defeat that review through the unilateral act of deporting the petitioner would undermine the fundamental purpose of habeas jurisdiction.

Federal courts possess inherent authority to protect and enforce their jurisdiction. Under the All Writs Act, courts may issue orders necessary or appropriate in aid of their jurisdiction and to prevent actions that would impair the Court’s ability to adjudicate the case before it. This authority is particularly

important in habeas proceedings, where the court must ensure that the government does not render the case effectively unreviewable through its own actions.

The Supreme Court has recognized that removal during pending litigation can impose severe and often irreversible consequences. See *Nken*, 556 U.S. at 435. If the government were permitted to avoid judicial scrutiny simply by removing a habeas petitioner while litigation remains pending, the executive branch could effectively nullify federal habeas jurisdiction at will.

Such a result would be incompatible with the constitutional role of the judiciary and the longstanding principle that the government may not take actions that frustrate or defeat the court's ability to grant meaningful relief. Accordingly, the Court should exercise its authority to enforce its jurisdiction over these habeas proceedings and ensure that the government's removal of Petitioner does not render this case meaningless.

### **III. The Court Should Order Respondents to Facilitate Petitioner's Return**

Where the government removes a petitioner while federal habeas proceedings remain pending, federal courts possess authority to order the government to facilitate the petitioner's return in order to restore the status quo and ensure that the court can provide meaningful relief.

The Supreme Court has recognized that courts may require the government to facilitate the return of a removed noncitizen where necessary to effectuate judicial review. See *Nken*, 556 U.S. at 435. Numerous federal courts have relied on this principle to order the government to take affirmative steps to allow removed petitioners to return to the United States so that their claims can be properly adjudicated.

Here, Petitioner's removal from this Court's jurisdiction to Texas and his imminent removal from the United States, threatens to render the Court's review of the habeas petition ineffective. The relief sought in this case—including Petitioner's release from unlawful detention and the ability to pursue immigration relief—cannot be meaningfully provided if Petitioner remains outside of the State of Michigan, and even less if he is removed outside of the United States.

Facilitating Petitioner's return would simply restore the status quo that existed when this Court obtained jurisdiction over the habeas petition. Courts routinely order such relief where government action threatens to defeat judicial review.

Moreover, facilitating return is particularly appropriate here because Petitioner possesses approved SIJS, a humanitarian protection Congress created for children who have been abused, neglected, or abandoned, and a judge has found it is not in their best interest to return to their country of origin. Removal prevents

Petitioner from pursuing adjustment of status under Immigration and Nationality Act §245(a), which requires physical presence in the United States.

If Petitioner remains outside the country, he will be permanently deprived of the congressionally created pathway to lawful permanent residence that follows from his SIJS classification.

Ordering Respondents to facilitate Petitioner's return is therefore necessary both to preserve the Court's ability to grant meaningful habeas relief and to prevent the government from effectively nullifying the statutory protections Congress created for vulnerable children.

### **CONCLUSION**

For the foregoing reasons, Petitioner respectfully requests that this Court:

1. Issue an immediate Temporary Restraining Order prohibiting Respondents from taking any further action to remove, transfer, or otherwise interfere with Petitioner's ability to return to the United States while this Court considers the pending habeas petition;
2. Enforce its jurisdiction over these habeas proceedings and hold that Respondents' removal of Petitioner outside of Michigan does not divest this Court of authority to adjudicate the pending petition;

3. Order Respondents to immediately take all reasonable steps to facilitate Petitioner's return to the United States if necessary, and specifically to the State of Michigan, so that this Court may provide meaningful habeas relief;
4. Grant such other and further relief as this Court deems just and proper.

Dated: March 13, 2026

Respectfully submitted,

/s/ Maria E. Daniel

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**28 U.S.C.A. § 2242 (West) VERIFICATION STATEMENT**

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have either independently confirmed the events described in this Petition or discussed the events with Petitioner's immigration attorney. On the basis of those discussions and my own investigation, I hereby verify that the statements made in this Petition are true and correct to the best of my knowledge.

/s/ Maria Eugenia Daniel

*Attorney for Petitioner*

### **CERTIFICATE OF SERVICE**

I hereby certify that on March 13, 2026, I electronically filed the foregoing paper with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the parties of record.

/s/ Maria Eugenia Daniel

Maria Eugenia Daniel

Attorney for Petitioner