

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

**Jesus Eliseo FLORES DURAN,**

*Petitioner,*

v.

**Markwayne MULLIN**, Secretary, U.S.  
Department of Homeland Security,

**Todd BLANCHE**, Acting Attorney General,  
United States Department of Justice,

**Todd M. LYONS**, Acting Director of  
Immigration and Customs Enforcement, and

**David EASTERWOOD**, Acting Director, St.  
Paul Field Office Immigration and Customs  
Enforcement,

**Ryan SHEA**, Sheriff of Freeborn County,  
Minnesota,

*Respondents.*

Case No.

**VERIFIED PETITION  
FOR WRIT OF HABEAS  
CORPUS**

*Expedited Handling  
Requested*

**INTRODUCTION**

1. This case challenges the unlawful arrest and detention of 22-year-old Jesus Eliseo FLORES DURAN (“Petitioner” or “Jesus”), who came to the United States in 2018 at the age of 14 as an unaccompanied minor. He has a valid grant of Special Immigrant Juvenile Status (“SIJS”), deferred action protecting him from removal from the United States and eligibility for Lawful Permanent Resident (LPR) status. He is also a member of a class in *J.O.P. v. DHS*, No. 8:19-CV-01944-SAG (D. Md.) that may not be removed from the United States while he awaiting a decision on a pending asylum

application. Petitioner, by and through counsel, files this petition for Writ of Habeas Corpus and complaint for declaratory and injunctive relief to require U.S. Immigration and Customs Enforcement (“ICE”) to release him from ICE detention.

2. Jesus entered the United States at Hidalgo, Texas, as an unaccompanied alien child (“UAC”) in September 2018. Soon after entry, he came into contact with immigration authorities, who placed him in removal proceedings, detained him in a government-run humanitarian shelter for children, and then released him to the care of an extended family member residing in Minnesota. After a Minnesota district court determined that Jesus had been neglected and abandoned by his mother and father and that it was not in Jesus’s best interests to return to El Salvador, U.S. Citizenship and Immigration Services (“USCIS”) approved him for SIJS. SIJS is 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. However, because of a visa backlog, young people with SIJS must wait years before they are able to adjust to lawful permanent resident status.

3. Under a USCIS policy designed to protect these vulnerable youth during this wait, on May 12, 2022, Jesus received a four-year, renewable grant of deferred action and employment authorization. This allowed him to work legally and build a stable life here in the United States without the threat of deportation while he waits to apply for a green card.

4. In April 2026, Jesus was arrested and charged with DWI. Despite Jesus's prior release from immigration custody and his approved SIJS petition and deferred action, upon Jesus's release from the Dakota County jail, officers with U.S. Immigration and Customs Enforcement ("ICE") detained him and initiated removal proceedings. He remains in immigration custody.

5. Jesus's detention is unlawful for at least three reasons.

6. First, deporting Jesus would undermine the purpose of the SIJS statute. Through his grant of SIJS, Jesus is on a path to permanent legal status, a benefit he can only access if he remains continuously in the United States. Respondents' efforts to block Jesus from accessing the protections that Congress specifically enacted for the benefit of young people like him improperly subverts Congress's intent that he be permitted to establish a stable life in the United States and adjust status when a visa becomes available.

7. Second, due process requires that the government show, in a pre-deprivation hearing, materially changed circumstances before re-detaining Jesus. But the government terminated removal proceedings against Jesus after his grant of SIJS, and no new agency findings or determinations have been made up to the present; indeed, Jesus has not even seen a judge during the time he has been detained by DHS. As courts in this District have held in multiple similar cases, Jesus's detention without any pre-deprivation process violates his procedural due process rights and this alone warrants his immediate release. Similarly, in addition to Jesus's prior processing as an unaccompanied child, his grant of SIJS and deferred action and his membership in the *J.O.P. v. DHS* class all

created a protectable interest in his continued liberty requiring pre-deprivation process before any detention.

8. Third, the government has no legitimate interest in detaining Jesus when he cannot be removed because of his valid deferred action grant and *J.O.P* class membership (eliminating any flight risk concerns) and without a determination that he is a danger—the only two constitutionally permissible reasons for immigration detention. Accordingly, his detention also violates his substantive due process rights, equally requiring his immediate release.

9. Finally, Petitioner maintains this his detention is in violation of the Immigration and Nationality Act (“INA”) because he is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Petitioner recognizes that his position on this issue is foreclosed for now by the recent decision of the Eight Circuit in *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026). In *Avila*, the Eighth Circuit agreed with the position of DHS and the BIA to determine that all noncitizens who are present in the United States without lawful admission are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) during removal proceedings, rather than discretionary detention under § 1226(a). Petitioner raises this claim solely to preserve it as the issue is subject to further review.

10. For these reasons, Petitioner respectfully asks this Court to hold his detention unlawful, order restoration of the status quo prior to his detention, *i.e.* release without restraints on his liberty, and enjoin Respondents from re-detaining him without meaningful pre-detention process, among other requested relief.

11. Petitioner also respectfully asks that this Court enjoin Respondents from transferring him outside of this District for the duration of this proceeding.

**PARTIES**

12. Petitioner Jesus Eliseo Flores Duran is a 22-year-old Salvadoran national who entered the United States as an unaccompanied child and has been residing here since the age of 14. Prior to his arrest and detention, Jesus was living in Lakeville, Minnesota, and working with valid authorization from the U.S. government. Jesus has an approved SIJS petition and a valid grant of deferred action.

13. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Petitioner and is named in his official capacity.

14. Respondent Markwayne Mullin is the Secretary of the United States Department of Homeland Security (DHS). He is a legal custodian of Petitioner and is named in his official capacity.

15. Respondent Todd Blanche is the Acting Attorney General of the United States Department of Justice. He is a legal custodian of Petitioner and is named in his official capacity.

16. Respondent David Easterwood is the Acting Field Office Director for the Fort Snelling Field Office for ICE within DHS. In that capacity, Easterwood has supervisory authority over the ICE agents responsible for detaining Petitioner. The address for the St. Paul Field Office at Fort Snelling is 1 Federal Drive, Fort Snelling, Minnesota 55111.

17. Respondent Ryan Shea is the Sheriff of Freeborn County, Minnesota, and custodian of detainees at the Freeborn County Adult Detention Center where Petitioner is currently detained. He is named in his official capacity.

### **JURISDICTION AND VENUE**

18. 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 it.”).

19. 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).

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

21. Venue is proper under 28 U.S.C. § 2241(d) because Petitioner is a Minnesota resident who is detained at a facility within this District.

22. Administrative exhaustion is unnecessary because it would be futile: it is Respondents’ position that noncitizens in Petitioner’s situation are subject to mandatory detention without access to a bond hearing, so he has no meaningful administrative remedies to exhaust.

### **LEGAL FRAMEWORK**

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

23. 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).

24. 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).

25. 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**

26. 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).

27. 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. United States of Am.*, 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).

28. 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).

29. 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 by Murillo-Chavez v. Bondi*, 128 F.4th 1076, 1085 (9th Cir. 2025).

30. 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.<sup>1</sup>

31. 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**

32. 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. . .”<sup>2</sup>

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

<sup>2</sup> 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”).

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

34. 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). 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**

35. Jesus Eliseo Flores Duran is a Salvadoran youth who came to the United States for safety when he was 14 years old, in September 2018, after experiencing neglect and abandonment by his parents.

36. DHS determined that Jesus was an unaccompanied child under 6 U.S.C. §279(g)(2). It then transferred him to ORR custody, as mandated by the TVPRA. ORR subsequently determined that Jesus should be released to an aunt in Minnesota under a sponsor care agreement.

37. DHS also issued Jesus a Notice to Appear (“NTA”), the charging document that initiates removal proceedings, which charged him as removable under 8 U.S.C. § 1182(a)(6)(A)(i) for being present without being admitted or paroled and 8 U.S.C. § 1182(a)(7)(A)(i)(I), for not being in possession of valid entry documents. Jesus’s proceedings were venued in Minnesota Immigration Court and he attended and participated in those proceedings.

38. While in the custody of his aunt, an application was filed in Jesus’s name for asylum and withholding of removal, which was received by USCIS on April 20, 2020. This timely filed asylum application is currently pending and is an independent form of relief that allows Jesus to live and work in the United States until his claim is adjudicated.

39. Based on his status and the date of filing of his asylum application, Jesus is also a class member in *J.O.P. v. DHS*, No. 8:19-CV-01944-SAG (D. Md.). As a class member, USCIS—not the immigration court—has initial jurisdiction over Jesus’s claims,

and he enjoys other protections, including that Respondents are prohibited from removing him from the United States while he awaits an adjudication by USCIS on the merits of his pending asylum application. Order, *J.O.P. v. DHS*, No. 8:19-CV-01944-SAG (ECF No. 254) (D. Md. April 23, 2025).

40. Jesus also has approved SIJS status. On October 27, 2020, the Hennepin County District Court in Minnesota issued Findings of Fact, Conclusions of Law, Order for Judgment and a Judgment and Decree (“Judgment and Decree”) finding that Jesus had been neglected and abandoned by his parents and that it was in his best interests to remain in the United States. The court also appointed Jesus’s aunt as his legal guardian. Jesus then submitted a SIJS petition to USCIS on November 12, 2020, supported by the Judgment and Decree.

41. USCIS approved Jesus’s SIJS petition on March 1, 2021. USCIS also later granted Jesus deferred action for a four-year period. *Id.* This grant of deferred action protects him from removal while he waits to adjust his status. It also allowed Jesus to apply for employment authorization, which he obtained to help support himself.

42. DHS did not oppose Jesus’s counsel’s motion to dismiss Jesus’s removal proceedings based upon his granted SIJS petition. On December 4, 2024, the Immigration Judge overseeing Jesus’s removal proceedings granted his motion to dismiss.

43. According to the May 2026 USCIS Visa Bulletin, individuals with SIJS with priority dates earlier than July 15, 2022, may immediately apply for LPR status

under the EB-4 category.<sup>3</sup> Jesus's priority date is November 16, 2020. Therefore, Jesus is currently eligible to apply to adjust to LPR status, and he has a current I-485 application pending.

44. Following his arrival in Minnesota in 2018, Jesus enrolled in Burnsville High School as a ninth-grader and attended school through the twelfth grade, later attending an alternative high school. He is just two credits short of graduating and plans to complete that work and obtain a GED.

45. At the time of his detention, Jesus was employed by [REDACTED] [REDACTED] where he was working in the shipping department. His previous work experience included positions at [REDACTED]'s, from 2000 to 2023, and [REDACTED] from 2023 to 2025.

46. On April 11, 2026, Petitioner was arrested on suspicion of driving while intoxicated and other driving infractions. He was ordered released into the community on conditions following review by a district court judge, but before that could happen Dakota County authorities turned Jesus over to ICE. He has not been convicted of the charges, and his ongoing detention is depriving him of the ability to participate in his defense.

47. Following Jesus's detention by ICE he was transported to the Freeborn County Adult Detention Center, where he is currently being held.

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<sup>3</sup> U.S. Dept. of State, *Visa Bulletin for March 2026*, <https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/adjustment-of-status-filing-charts-from-the-visa-bulletin> (SIJS is included under the employment-based visa category, 4th).

**CAUSES OF ACTION**

**FIRST CLAIM**

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

**Substantive Due Process**

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

49. 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*, 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.

50. 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)).

51. 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); *Adriana M.Y.M.*

*v. Easterwood*, No. 26-213 (JWB/JFD), 2026 WL 184721, at \*2 (D. Minn. Jan. 24, 2026) (“Immigration detention . . . must rest on an express congressional grant of authority and must bear a reasonable relation to its statutory purpose.”).

52. 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; *Jama v. Immigr. and Customs Enf’t*, No. Civ. 01-1172 (JRT/AJ), 2005 WL 1432280, at \*2 (D. Minn. Apr. 7, 2005) (“Neither ensuring an alien’s availability for deportation at some unidentified, remote time in the future, nor an ordinary concern that an alien may . . . present a danger to the community provides the requisite special justification” for detention). But if a person cannot actually be removed, “preventing flight” is a “weak or nonexistent” justification. *Zadvydas*, 533 U.S. 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.

53. Here, the government’s inability to lawfully remove Jesus given his deferred action and his protected status as a *J.O.P.* class member eliminates any justification of flight risk, which the government could not show in any event, given Jesus’s lengthy residence in the United States, his deep ties to his community in Minnesota, and his ability as an SIJS beneficiary to adjust to lawful permanent resident status and then gain citizenship. *See Osorio-Martinez*, 893 F. 3d at 173-75. With respect to the pending criminal charge, a district court judge evaluated the factors of flight and

public safety in determining that Jesus could be released on conditions while his case proceeds. Respondents have made no findings or determinations to undermine that decision.

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

## **SECOND CLAIM**

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

#### **Procedural Due Process**

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

56. 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.

57. Courts use the three-factor *Mathews v. Eldridge* 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.

58. The first *Mathews* factor, the private interest at issue, weighs heavily in Jesus’s favor. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects.” *Zadvydas*, 533 U.S. 678, 690 (2001). Minnesota courts have thus found that individuals in Jesus’s position “have either already experienced or faced substantial risk of experiencing all the deprivations of incarceration,” warranting a finding that the first *Mathews* factor weighs in favor of Petitioner. *U.H.A. v. Bondi, et al.*, No. 26-417 (JRT/DLM), 2026 WL 558824, at \*14 (D. Minn. Feb. 27, 2026) (internal quotations omitted).

59. Jesus’s liberty interest is especially strong given (1) his prior release as an unaccompanied child, (2) his valid grant of SIJS and deferred action (3) his membership in the *J.O.P.* class, and (4) his eligibility and pending application for lawful permanent resident status.

60. First, because Jesus was previously released from custody as an unaccompanied child, he possessed a weighty interest in his continued liberty. *R.D.T.M. v. Wofford*, No. 1:25-CV-01141-KES-SKO (HC), 2025 WL 2686866, at \*5 (E.D. Cal. Sept. 18, 2025). *See also Feisal O. v. Noem*, No. 26-CV-81 (JMB/EMB), 2026 WL 92857, at \*3 (D. Minn. Jan. 13, 2026) (finding re-detention of petitioner previously released violated petitioner’s due process rights and was independent grounds for habeas

relief); *Mahad v. Noem*, No. 26-CV-476 (JMB/JFD), 2026 WL 177860, at \*3 (D. Minn. Jan. 22, 2026) (same).

61. Second, to be approved for SIJS and deferred action, Jesus had to meet stringent eligibility criteria and he was promised that, in return, he would be given a meaningful path to LPR status in this country. That came with the expectation that he could build a life here without risking arbitrary arrest, detention, and removal that would strip him of the very permanency Congress created SIJS to provide vulnerable youth like him. *See Rodriguez v. Perry*, 747 F. Supp. 3d 911, 917-19 (E.D. Va. 2024); *Sarmiento v. Perry*, No. 1:25-CV-01644, 2025 WL 3091140, at \*3 (E.D. Va. Nov. 5, 2025); *Campos-Flores v. Bondi*, No. 3:25-CV-797, 2025 WL 3461551, at \*6-7 (E.D. Va. Dec. 2, 2025); *see also Santiago v. Noem*, No. 25-cv-361, 2025 WL 2792588 at \*10-11 (W.D. Tex. Oct. 2, 2025) (finding Deferred Action for Childhood Arrivals recipient had protected interest in continued liberty). And this is precisely what Jesus did, building a home with his aunt, pursuing an education, working and contributing to his community, and making plans for the future. Jesus's liberty interest based on his SIJS status is all the stronger given his pending application to adjust to lawful permanent residence.

62. Third, as a member of the *J.O.P.* class, Jesus enjoys broad protections from removal until his asylum application is decided. "*J.O.P.* class membership takes an individual entirely out of the Section 1225 process and places them in a separate process in which ICE cannot execute a removal order of a class member and is obligated to not oppose a stay of removal proceedings until USCIS issues a final determination on the

member's asylum application." *A.C.J. v. Hermosillo*, No. 2:25-CV-02486-DGE, 2026 WL 73857, at \*5 (W.D. Wash. Jan. 9, 2026).

63. The second *Mathews* factor also weighs in Jesus's favor. No determination has been made that he is a danger or a flight risk, and his detention, without prior notice and a meaningful opportunity to respond, make the risk of erroneous deprivation of liberty not just high, but certain. Jesus appeared before a district court judge in connection with his criminal charge and was released on conditions designed to ensure public safety. No similar process—indeed, no process at all—has been followed with his detention by ICE. That 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 Jesus's favor.

64. The third factor favors Jesus as well. As stated, there is no legitimate basis to detain him, and "[t]he Government has no interest in carrying out 'unlawful agency action.'" *U.H.A.*, 2026 WL 558824, at \*15 (quoting *Missouri v. Trump*, 128 D.4th 979, 997 (8th Cir. 2025)). Further, Jesus's erroneous detention imposes high fiscal and administrative burdens on Respondents. Releasing him and requiring the government to provide a pre-deprivation hearing before re-detaining him stands to save the government money and effort wasted on erroneous detention. And unlawful detention and violation of noncitizens' constitutional rights disserves the public interest. This Court and many others have indicated that threatened removal while deferred action status remains in effect may violate procedural due process. *See Luis S.I. v. Easterwood*, No. 26-CV-533 (MJD/DTS), 2026 WL 253630, at \*1-2 (D. Minn. Jan. 28, 2026) (recommending that

habeas petition be granted and petitioner released on procedural due process grounds based on deferred action status); *Victor G. v. Lyons*, No. 26-CV-119 (ECT/SGE), 2026 WL 127733, at \*3 (D. Minn. Jan. 17, 2026) (“There are simply no factual allegations to support that [the Government] revoked [the petitioner’s] deferred action, and as such, no basis for his detention.”); *Contreras Flores v. Noem*, No. CV 26-0463, 2026 WL 475129, at \*1 (W.D. La. Feb. 19, 2026) (granting a TRO prohibiting removal of someone with deferred action and finding petitioner likely to succeed on due process claim due to deferred action status of petitioner); *Leon v. Noem*, No. 25-1495, 2025 WL 4113562, at \*3 (W.D. La. Oct. 30, 2025) (applying deferred action under SIJS and holding “Respondents, however, have not terminated or sought to terminate Petitioner’s deferred action status. This makes Petitioner non-removable while ... in effect.”).

65. Threatened removal of a J.O.P. class member raises similar constitutional concerns. See *J.R.R. v. Genalo*, No. 26-CV-1245 (PKC), 2026 WL 691803, at \*3 (E.D.N.Y. Mar. 11, 2026) (“To say that [detention of J.O.P. class member with no notice or opportunity to be heard] would raise a serious constitutional problem would be an understatement.”); *Martinez v. Hyde*, 810 F. Supp. 3d 135, 139 (D. Mass. 2025) (“[T]he J.O.P. Settlement Agreement is striking evidence that Petitioner’s removal is apparently neither imminent nor inevitable ... making the reasonableness of related detention constitutionally suspect.”).

66. Respondents violated procedural due process by detaining Jesus without adequate procedural protections before or after deprivation of his liberty. This violation

includes detaining Jesus without a warrant and holding him in detention despite his status as a recipient of deferred action and his membership in the *J.O.P.* class.

67. Therefore, this Court should order Jesus's release without any restraints on his liberty and prohibit any re-detention absent pre-deprivation process.

### **THIRD CLAIM**

#### **Violation of the Immigration and Nationality Act**

##### **PRESERVATION OF CLAIM**

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

69. Petitioner acknowledges the Eight Circuit Court's recent decision in *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026), forecloses this statutory claim for now, and Petitioner asserts this claim solely to preserve it for possible further review.

70. 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 § 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 § 1226(c). See 8 U.S.C. § 1226(c).

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

72. 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).

73. 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).

74. Mandatory detention under 8 U.S.C. § 1225(b)(2)(A) does not apply to Petitioner, who was previously released from custody as an unaccompanied child, has resided in this country for years, and has been granted SIJS.

75. 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)); Order, *Ali C. v. Noem*, No. 25-CV-04615-JMB-LIB at \*4-6 (D. Minn. Dec. 22, 2025) (ECF No. 11) (granting habeas and ordering bonding for SIJS beneficiary, concluding § 1226

governed detention) (citing *Rodriguez*, 747 F. Supp. 3d at 916); *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 v. Bondi*, No. 3:25-CV-00304, 2025 WL 2985150, at \*16 (W.D. Pa. Oct. 23, 2025) (quoting *Osorio-Martinez*, 893 F.3d at 174).

76. Second, an unaccompanied child who entered the United States and was released from government custody to a guardian years ago also cannot 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 released unaccompanied child spending years building a life in the United States before being re-detained in the interior. *See, e.g., Portillo Martinez v. Hyde*, No. 25-11909, 2025 WL 3152847 at \*8 (D. Mass. Nov. 12, 2025).

77. Third and more broadly, courts across the United States have overwhelmingly concluded that noncitizens like Jesus 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*, 811 F. Supp. 3d at 494 n.22 (S.D.N.Y. 2025) (tallying more than 350 cases reaching the same conclusion, and only 12 going the other way); *Alex H.*,

No. 26-CV-1255 (JMB/DTS), 2026 WL 381688, at \*3 (“Courts have overwhelmingly rejected Respondents’ interpretation that section 1225(b)(2) requires the mandatory detention of all noncitizens living in the country who are “inadmissible” because they entered the United States without inspection.”) (citing *Barco Mercado*, 2025 WL 3295903 at \*4 & n.22; *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)); *Carlos D. v. Bondi*, No. 26-CV-1666 (ECT/LIB), 2026 WL 636685, at \*2 (D. Minn. Mar. 6, 2026) (finding petitioner, who lived in the U.S. for over three years, “is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2), and is instead subject to detention, if at all, pursuant to the discretionary provisions of 8 U.S.C. § 1226.”) (collecting D. Minn. cases holding § 1225(b)(2) “applies to applicants ‘seeking admission’” while § 1226 applies to “aliens already in the country”).

78. Accordingly, Petitioner’s current detention under 8 U.S.C. § 1225(b)(2)(A)—without access to a bond hearing as required by § 1226(a)—violates both the INA and Petitioner’s procedural due process rights. As this renders his detention unlawful from its inception, he should be released.

### **REMEDY**

79. The appropriate remedy for Respondents’ unlawful conduct is Petitioner’s immediate release.

80. Immigration detention is civil in nature, and as a result Congress must have expressly authorized it by statute, and the detention must be reasonably related to its

statutory purpose. *Zadvydas*, 533 U.S. at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

81. When a habeas petitioner's detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention").

82. To the extent that Respondents may argue, as they have in similar cases before this Court, that the appropriate remedy here is a bond hearing as opposed to outright release, this Court has squarely rejected that argument. *See, e.g., Order, Vedat C. v. Bondi*, No. 25-CV-4642 (JWB/DTS) at \*6 (D. Minn. Dec. 19, 2025) (ECF No. 9) ("[A] bond hearing presupposes lawful detention authority under § 1226. Where that authority has not been invoked or established, ordering a bond hearing would treat the absence of statutory power as a mere procedural irregularity rather than a substantive defect.").

### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

- (a) Assume jurisdiction over this matter;
- (b) Expedite consideration of this matter;
- (c) Declare that Petitioner's arrest and detention violate 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 his liberty beyond those that existed prior to his unlawful re-detention;
- (e) Enjoin Respondents from removing Petitioner from this District or taking any action affecting his immigration status while he remains in detention;

- (f) Order the immediate return of all Petitioner's property, including his wallet, identification, clothing and any other retained property;
- (g) 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;
- (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 on any other basis justified under law; and
- (i) Grant such further relief as this Court deems just and proper.

Respectfully submitted,

Dated: May 5, 2026.

**SIEGEL BRILL, P.A.**

/s/ Mark Thieroff

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**ATTORNEYS FOR PETITIONER  
JESUS ELISEO FLORES DURAN**

**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because his current detention makes him unable to submit one on his own behalf. On information and belief, I hereby verify that the factual statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed this 5th day of March 2026.

/s/ Mark Thieroff  
Mark Thieroff  
Attorney at Law