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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

MARIA ESMERALDA ROSA LOPEZ, Petitioner, v. **SAM OLSEN,** Chicago Field Office Director U.S. Immigration and Customs Enforcement; **TODD M. LYONS,** Acting Director of Immigration and Customs Enforcement, **IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE);** **MARKWAYNE MULLINS,** Secretary of the U.S. Department of Homeland Security; **DEPARTMENT OF HOMELAND SECURITY; LT. ANDREW JOHNSON,** Jail Administrator of the Saint Genevieve County Detention Center, in their official capacities, Respondents.	Case No. 26-cv- **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241** **ORAL ARGUMENT REQUESTED**

INTRODUCTION

This is a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. §2241, seeking the immediate release of Petitioner, a native and citizen of El Salvador, based on her unlawful detention by Respondents.

Petitioner entered the United States on or about December 14, 2021, at age 17. She was designated an Unaccompanied Minor (UAC) and placed in the custody of the Office of Refugee Resettlement (ORR). On December 29, 2021, Petitioner was released from the custody of the Office of Refugee Resettlement to her sponsor. On July 9, 2025, USCIS granted Petitioner Special Immigrant Juvenile Status (SIJS). On May 18, 2026, Petitioner attended her regularly scheduled ICE check-in at 1222 Spruce Street, Saint Louis, MO 63102 where she was detained. On May 18, 2026, ICE transferred Petitioner to the Saint Genevieve County Detention Center where she is currently detained. Petitioner is not now nor has she ever been in immigration removal proceedings.

CUSTODY

1. At the time of filing this action, Petitioner is in the physical custody of Respondent Samuel Olsen, Director of the Chicago Field Office, U.S. Immigration and Customs Enforcement (ICE), the Department of Homeland Security (DHS) and Lt. Andrew Johnson, Jail Administrator of the Ste Genevieve County Detention Center. Upon information and belief, as of the date of filing these proceedings, Petitioner is detained at the Ste Genevieve County Detention Center at 5 Basler Drive, St Genevieve, MO 63670. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States and the

Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*.

3. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), 5 U.S.C. § 702 (Right of Review), and the Fifth Amendment to the United States Constitution (Due Process Clause).

4. This Court has jurisdiction under 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States.

5. 8 U.S.C. § 1252(f)(1) does not repeal this Court's authority to grant the relief Petitioner requests. If Section 1252(f)(1) did bar the relief Petitioner seeks, it would violate the Suspension Clause. Even if otherwise applicable, Section 1252(f)(1) does not bar declaratory relief.

6. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq*., the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq*., and the All-Writs Act, 28 U.S.C. § 1651.

VENUE

7. Venue is proper because on the date of filing this action on May 19, 2026, Petitioner is detained at the Ste Genevieve County Detention Center at 5 Basler Drive, St Genevieve, MO 63670, which is within the jurisdiction of this District. If venue is proper at the time of filing, the district court retains jurisdiction even if DHS subsequently transfers the Petitioner to another district. *See Ex Parte Endo*, 323 U.S 283, 304-05 (1944) (rejecting mootness after transfer because "there is no suggestion that there is no one within the jurisdiction of the District Court who is responsible for the detention of appellant and who

would be an appropriate respondent"); *Anariba v. Dir. Hudson Cnty. Corr. Ctr.*, 17 F.4th 434, 446 (3d Cir. 2021) ("[T]he District Court retained jurisdiction following Argueta's transfer out of New Jersey because it already had acquired jurisdiction over Argueta's properly filed habeas petition that named his then-immediate custodian.").

8. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District and no real property is involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

9. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

10. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

11. Petitioner, Maria Esmeralda Rosa Lopez, is a native and citizen of El Salvador. Petitioner entered the United States on or about December 14, 2021 as a UAC, and was placed in the custody of ORR, a sub-agency to the Dept. of Health and Human

Services (HHS). ORR subsequently released Petitioner on December 29, 2021. On May 18, 2026, Petitioner attended her regularly scheduled ICE check-in where ICE agents arrested and re-detained Petitioner. Petitioner is currently detained at the Ste Genevieve County Detention Center at 5 Basler Drive, St Genevieve, MO 63670.

12. Respondent **Samuel Olsen** is sued in his official capacity as the Director of the Chicago Field Office of U.S. Immigration and Customs Enforcement that, on information and belief, has a sub-office located in St. Louis, Missouri. Respondent Olsen is a legal custodian of Petitioner at the time of filing this action and has authority to release her.

13. Respondent **Todd Lyons** is the Acting Director of U.S. Immigration and Customs Enforcement (ICE) and is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention and has the authority to release her.

14. Respondent **Immigration and Customs Enforcement (ICE)** is the agency within DHS responsible for implementation and enforcing the INA, including detention and removal of noncitizens.

15. Respondent **Markwayne Mullins** is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Mullins is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent Mullins ultimate custodial authority over Petitioner and has the authority to release her.

16. Respondent **Department of Homeland Security (DHS)** is the federal agency responsible for implementing and enforcing the INA, including detention and removal of

noncitizens.

17. Respondent, **Lt. Andrew Johnson** is sued in his official capacity as the Jail Administrator for the Saint Genevieve County Detention Center where Petitioner is currently detained. Respondent Johnson has immediate physical custody of Petitioner pursuant to the contract between ICE and the Saint Genevieve County Sheriff's Office. Petitioner is in the legal custody of Respondent Johnson.

STATEMENT OF FACTS

18. Petitioner is a native and citizen of El Salvador. She is currently 22 years old.

19. On or about December 14, 2021, Petitioner entered the United States at the age of 17. She was designated an Unaccompanied Minor (UAC) and placed in the custody of the Office of Refugee Resettlement (ORR).

20. On December 29, 2021, Petitioner was released from the custody of the Office of Refugee Resettlement to her sponsor.

21. On July 9, 2025, USCIS granted Petitioner Special Immigrant Juvenile Status (SIJS), a special status for abused, abandoned and neglected children. Her priority date is February 25, 2025.

22. On August 21, 2025 and January 12, 2026, Petitioner attended regularly scheduled ICE check-in appointments. At the January 12, 2026, ICE also issued Petitioner an Order of Release on Recognizance.

23. On May 18, 2026, Petitioner attended her regularly scheduled ICE check-in at 1222 Spruce Street, Saint Louis, MO 63102 where she was detained.

24. Despite having encountered immigration officials when she entered the United States, having been released from detention and despite having attending multiple ICE

check-ins, Respondents have never initiated removal proceedings against Petitioner.

LEGAL FRAMEWORK

Due Process Rights of Unaccompanied Minor Children (UACs)

25. 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. "Unaccompanied child/children means a child who: (1) Has no lawful immigration status in the United States; (2) Has not attained 18 years of age; and (3) With respect to whom: (i) There is no parent or legal guardian in the United States; or (ii) No parent or legal guardian in the United States is available to provide care and physical custody. 6 U.S.C. § 279(g).

26. 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).

27. Pursuant to 6 U.S.C. § 279 and section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), the Office of Refugee Resettlement (ORR) is responsible for the placement and care of only Unaccompanied Minor Children in the United States.

28. ORR may release a UAC upon the determination that they are not a danger to the community and not a flight risk. 8 U.S.C. § 1232(c)(2)(A); *see also,* 6 U.S.C. § 279(b)(2)(A); *see also* 45 C.F.R. § 410.1201.

29. Additionally, even after a UAC turns 18 years old or is placed under the custody of a parent/legal guardian, that person maintains their UAC designation for the purpose of special protections under the Immigration and Nationality Act (INA). *See* USCIS Superseding Memorandum.[1]

30. Accordingly, ICE cannot simply re-arrest a previously released UAC unless there is a material change in circumstances to the individual's danger to the community and flight risk. *Saravia v. Sessions*, 280 F. Supp. 3d 1168 (N.D. Cal. 2017); *see also Vasquez v. Arnott*, No. 6:26-cv-3101-MDH, 2026 LX 16877 (W.D. Mo. Feb. 23, 2026). "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." *Saravia* at 1196 citing 8 U.S.C. § 1232(c)(2)(A).

31. The arbitrary re-detention by ICE of UACs previously released from ORR custody without a pre-deprivation process violates the *Mathew's* three-factor balancing test. *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See, e.g., Garcia Domingo v. Castro*, No. 1:25-cv-00979-DHU-GJF, --- F. Supp. 3d ---, 2025 WL 2941217, at *3-4 (D.N.M. Oct. 15, 2025); *see also Herrera v. Baltazar*, Civil Action No. 1:25-cv-04014-CNS, 2026 U.S. Dist. LEXIS 6571 (D. Colo. Jan. 13, 2026).

<u>Special Immigrant Juvenile Status</u>

32. Separate and apart from unaccompanied children, Congress established Special

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[1] John Lafferty, Chief, USCIS Asylum Division, *Updated Procedures for Determination of Initial Jurisdiction over Asylum Applications Filed by Unaccompanied Alien Children and Implementation of the J.O.P. Settlement Agreement*, (signed January 30, 2025 but issued on February 24, 2025), https://www.uscis.gov/sites/default/files/document/memos/JOP_UAC_Procedures_Memo_1.30.25.pdf [hereinafter "*2025 Superseding Memorandum*"].

Immigrant Juvenile ("SIJ") Status in 1990 as part of the Immigration and Nationality Act ("INA") to provide immigration relief to undocumented children living in the United States who have been abused, abandoned, or neglected. INA § 101(a)(27)(J). Congress wanted to provide these vulnerable children with the opportunity to remain in the United States where their needs would be best met and to avoid deportation.

33. 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).

34. Congress later broadened these protections through the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"). The TVPRA established a mandatory adjudication timeline, which provides that "All applications for special immigrant status under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) shall be adjudicated by the Secretary of Homeland Security not later than 180 days after the date on which the application is filed." *See* 8 § CFR 204.11 (g)(1). *See also Galvez v. Jaddou*, 52 F.4th 821, 841 (9th Cir. 2022) (upholding a permanent injunction against USCIS requiring the agency to adjudicate SIJ petitions within 180 days).

35. 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).

36. Congress also established a clear path to permanent residency for SIJs, authorizing them to adjust status immediately upon being granted SIJ status, assuming a visa was available. INA § 245(a), (h). Congress granted USCIS exclusive authority to review and approve SIJS petitions. *Id.*, 8 C.F.R. §204.11(h).

37. If approved, SIJ status conveys significant and life-changing benefits upon the child including, as noted above, the ability to adjust status to lawful permanent resident. Children with SIJ status are considered paroled into the United States so that they can file to adjust their immigration status while remaining in the United States and without having to go through consular processing. INA 245(a), (g), (H)(1); 8 C.F.R.§245.1(a), (e)(3)(i).

38. 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 and 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). In fact, the only inadmissibility grounds from which SIJ designees are not exempt or from which they cannot seek a waiver are grounds relating to serious criminal conduct; specifically, terrorist activity, national security and foreign policy grounds, conviction of certain crimes, multiple criminal convictions, controlled substance traffickers, and participants in Nazi persecution, genocide, torture, or extrajudicial killings. 8 U.S.C. § 1255(h)(2)(B); 8 C.F.R. §245.1(e)(3)(ii), 8 C.F.R. §245.1(e)(3)(iv). None of the waivable or non-waivable grounds of inadmissibility apply to Petitioner.

39. 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).

40. The only impediment to filing such an application for LPR status is the availability of immigrant visas under the employment-based preference category EB-4. While that visa category has been oversubscribed such that SIJs must now wait for their priority dates to become current before they can adjust status, the fact remains that they *are* eligible to adjust status.

41. SIJs do not age out of their ability to adjust status so long as they were under the age of 21 when USCIS received their SIJS application. *See* USCIS Policy Manual, Vol. 7,Part F, chpt. 7, E., https://www.uscis.gov/policy-manual/volume-7-part-f-chapter-7 (see also Addendum, p.185).

42. SIJ status, once granted, can only be revoked pursuant to certain procedural safeguards. The Secretary of Homeland Security must find "good and sufficient cause" for revocation. 8 U.S.C. §1155. In addition, the SIJ designee must be given notice of the intent

to revoke and an opportunity to present evidence opposing revocation. 8 C.F.R. §205.1.

CLAIMS FOR RELIEF

COUNT ONE
Violation of the Due Process Clause of the Fifth Amendment – Substantive Due Process

43. The allegations in the above paragraphs are realleged and incorporated herein.

44. 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.

45. 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)).

46. 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).

47. 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.

48. To satisfy substantive due process under the Fifth Amendment, a noncitizen's detention must be tied to flight risk or a danger to the community. *Zadvydas*, 533 U.S. at 690.

49. Neither purpose is served by Petitioner's detention. Respondents have not made any claim that Petitioner presents a flight risk or a danger to the community, nor could they. When Petitioner was previously released from ORR custody in 2021, the government came to precisely the opposite conclusion. Respondents decided that Petitioner did not even need to be in removal proceedings at all.

50. Since then, Petitioner's ties to this country have only grown stronger. She has not only built her entire life here, but she has been granted SIJS, which gives her a path to citizenship and a safe and meaningful future. *See Osorio*, 893 F. 3d at 173-75. And she remains without any criminal record.

51. On January 12, 2026, Respondents further confirmed that Petitioner is not a danger or a flight risk when they issued Petitioner an Order of Release on Recognizance during her regularly scheduled check-in.

52. Because the government is not detaining Petitioner 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.

COUNT TWO
Violation of the Due Process Clause of the Fifth Amendment to the US. Constitution
Procedural Due Process

53. The allegations in the above paragraphs are realleged and incorporated herein.

54. 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.

55. 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.

56. The first *Mathews* factor weighs heavily in Petitioner's favor. Petitioner 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, Petitioner possesses a weighty interest in her continued liberty.

57. Second, to be approved for SIJS, Petitioner 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); *Walter A. v. Easterwood*, No. 26-cv-1393 (SRN/LIB), 2026 LX 103238 (D. Minn. Mar. 26, 2026). And this is precisely what Petitioner did, building a

home with her guardian, with whom a juvenile court found it to be in her best interests to remain.

58. The second *Mathews* factor also weighs in Petitioner's favor. Petitioner was previously released from detention after being found that she is neither a danger nor a flight risk, and her re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, makes 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 Petitioner's favor.

59. The third factor favors Petitioner as well. Petitioner's erroneous detention imposes high fiscal and administrative burdens on Respondents. Releasing Petitioner 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.

60. Respondents violated procedural due process by re-detaining Petitioner without adequate procedural protection before or after deprivation of her liberty. Therefore, this Court should order Petitioner's release without any restraints on her liberty and prohibit any re-detention absent pre-deprivation process.

COUNT THREE
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

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

62. 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).

63. 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." *Ovando v. Noem*, 810 F. Supp. 3d 1209, 1231 (D. Colo. 2025) (quoting *Storey v. Taylor*, 696 F.3d 987, 992 (10th Cir. 2012) (finding probable cause for immigration arrests lacking). 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 circumstances. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

64. 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 Ovando v. Noem*, 810 F. Supp. 3d 1209, 1241 (D. Colo. 2025). Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

65. Petitioner'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, Petitioner (a) had valid SIJ status, 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 four years and built strong ties to his community. Moreover, Petitioner fully complied with the ICE officers, attended multiple ICE check-ins and in no way tried to disobey or flee. Therefore, no officer could have probable cause that Petitioner was likely to escape before a warrant could be obtained.

66. Without a statutory basis to arrest, Respondents were required under the Fourth Amendment to secure a prompt judicial probable cause determination to continue holding Petitioner. *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56–57. She received no such judicial determination, and when her detention continues beyond 48 hours, it is rendered presumptively unconstitutional.

67. Petitioner'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.

68. 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).

69. Respondents' warrantless re-arrest of Petitioner 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 her release.

COUNT FOUR
Violation of the INA and Procedural Due Process

70. The allegations in the above paragraphs are realleged and incorporated herein.

71. Petitioner acknowledges that the Eighth Circuit Court of Appeals upheld the government's expansion of mandatory detention under 8 U.S.C. § 1225(b). *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026).

72. However, mandatory detention under 8 U.S.C. § 1225(b)(2)(A) does not apply to Petitioner because Petitioner is an Unaccompanied Child (UAC) with SIJS.

73. 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).

74. 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 released unaccompanied child spending years building a life in the United States before being re-detained in the interior. *See, e.g.*, *Martinez v. Hyde*, 810 F. Supp. 3d 135 (D. Mass. 2025).

75. For these reasons, Petitioner's detention violates 8 U.S.C. § 1229a(b)(1)(B).

COUNT FIVE
Violation of the Administrative Procedures Act – 5 USC § 553

76. The allegations in the above paragraphs are realleged and incorporated herein.

77. The APA provides that a person who is "suffering [a] legal wrong because of agency action," or who is "adversely affected or aggrieved by agency action within the meaning of the relevant statute, is entitled to judicial review thereof." 5 USC § 702.

78. "[A]gency action" is defined to include "the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act." 5 USC § 551(13).

79. Policy changes must not be arbitrary and capricious. 5 USC § 553.

80. Additionally, 5 U.S.C. § 706 provides that an agency action shall be set aside

when it is not in accordance with law, contrary to a constitutional right, power, privilege, or immunity;" or "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right."

81. Upon information and belief, Respondents have issued internal policy directives to remove noncitizens with approved SIJ status who are awaiting their priority date to become current. This policy change violates 5 USC § 553 and 5 U.S.C. § 706.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.

(3) Declare that Petitioner's arrest and detention violates the Due Process Clause of the Fifth Amendment, the Fourth Amendment, the INA and the APA.

(4) 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;

(5) Enjoin Respondents from denying termination, administrative closure or continuances on the basis that Petitioner's priority date is not current on an approved SIJ status.

(6) Enjoin Respondents from re-detaining Petitioner absent a change in circumstances regarding his flight risk or danger to the community.

(7) 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;

(8) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

(9) Grant any further relief this Court deems just and proper.

Dated: May 19, 2026

Respectfully submitted,

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Attorneys for Petitioner

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

I represent Petitioner and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 19th day of May, 2026.

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