**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF MINNESOTA**

**Steven Fernando VITE ZUNIGA,**

*Petitioner,*

v.

**Todd BLANCHE**, in his official capacity as Acting Attorney General of the United States;

**Markwayne MULLIN**, in his official capacity as Secretary of the Department of Homeland Security;

**David J. VENTURELLA**, in his official capacity as Acting Director of United States Immigration and Customs Enforcement;

**David EASTERWOOD**, in his official capacity as Acting Director, St. Paul Field Office, U.S. Immigration and Customs Enforcement;

**Joel BROTT**, in his official capacity as Sheriff of Sherburne County;

*Respondents.*

Case No.

**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**

## INTRODUCTION

1. This case seeks the immediate release of 18-year-old Steven Fernando Vite Zuniga ("Petitioner" or "Steven") from unlawful immigration re-detention and enforcement of his rights as a member of the Pending Petition and Deferred Action Classes certified in *Immigration Center for Women and Children v. Noem* ("*ICWC v. NOEM*"), a nationwide class action. *Immigr. Ctr. for Women & Child. v. Noem*, No. 2:25-CV-09848-AB-AS, 2026 WL 1455004 (C.D. Cal. May 20, 2026).

2. Steven is 18 years old and a student at [redacted] His high school graduation is scheduled for [redacted]. He came to the U.S. from Ecuador as an unaccompanied child at the age of 14 in 2023, and was arrested shortly after his arrival. He was detained by the Office of Refugee Resettlement (ORR) until he was released to his mother just over two weeks later.

3. On September 10, 2024, Steven applied for a derivative U-Visa through his father, and for an employment authorization. He was issued an Employment Authorization Document (EAD) valid until April 29, 2029. Based on his EAD and his bona fide application for a U-visa, he was granted deferred action, protecting him from removal from the United States.

4. Notwithstanding his previous detention by ORR and his grant of deferred action, Steven was taken into ICE custody and re-detained on May 14, 2026 after appearing in state court for a pending misdemeanor assault charge. Since then, he has been locked up in the Sherburne County Jail, deprived of his liberty, and separated from his family.

5. Petitioner's detention is unlawful for at least four reasons.

6. First, Steven is a member of the Deferred Action Class certified in *ICWC v. Noem*. The court in *ICWC v. Noem* certified a national class and issued a preliminary injunction ("*ICWC* PI Order") staying ICE's policy of refusing to "honor grants of deferred action conferred by USCIS to individuals with pending petitions for U or T visas." *Id.* at *57. As the court held, "a person with deferred action should neither be removed nor detained for immigration enforcement (removal) purposes." *ICWC* PI Order at *40. Steven's re-detention during his period of deferred action violation of the *ICWC* PI Order

violates the Administrative Procedure Act ("APA") because it constitutes agency action "not in accordance with law." 5 U.S.C. § 706(2)(A).

7. Second, due process requires that the government show, in a pre-deprivation hearing, materially changed circumstances before re-detaining Steven. When ORR released Steven from its custody in 2023, it necessarily determined that he was neither a flight risk nor a danger to the community. Since then, nothing has changed to undermine that determination. On the contrary, support for that determination has only strengthened. Steven's re-detention without any pre-deprivation process violates his procedural due process rights and this alone warrants his immediate release. Moreover, his grant of deferred action 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 Steven when he is neither a flight risk nor a danger—the only two constitutionally permissible reasons for immigration detention. Accordingly, his detention violates his substantive due process rights, requiring his immediate release. The lack of legitimate detention interests is particularly accurate here, where Steven cannot be removed because of his valid deferred action grant, eliminating any flight risk concerns.

9. Fourth, Steven's warrantless arrest violates his Fourth Amendment rights, as well as statute and regulation, similarly mandating his release.

10. For these reasons, Petitioner respectfully asks this Court to declare that his detention is unlawful, order his immediate release, and enjoin Defendant from re-detaining

him without meaningful pre-detention process, and otherwise violating his rights in the future.

11. In light of the information and belief that ICE has rapidly moved individuals in its custody out of the District of Minnesota, this petition also requests that the Court's Order to Show Cause ("OSC") immediately enjoin Respondents from moving Steven outside of the District of Minnesota. Ordering that relief in the OSC is now a nearly universal practice in this District. In addition, this Court's entry of injunctive relief in the OSC would avoid the repetitive briefing and strain on the Court's resources presented by the motion for a temporary restraining order that would otherwise become necessary.

## FACTUAL ALLEGATIONS

12. Steven is a resident of Columbia Heights, Minnesota and a citizen of Ecuador. He has resided in the United States since January of 2023.

13. Steven entered the country on or about January 18, 2023 as an unaccompanied minor and was arrested by the Border Patrol the following day. *See* Exhibit 1 (Warrant for Arrest of Alien).[1]

14. Upon encountering Steven, DHS determined that he was an unaccompanied child under 6 U.S.C. § 279(g)(2). 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

[1] Exhibits referenced in this Petition are attached to the Affidavit of Michael R. Docherty, filed herewith.

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).

15. Because unaccompanied children 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. 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).

16. The TVPRA also 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). Accordingly, DHS immediately transferred Steven to ORR custody, as mandated by the TVPRA.

17. ORR must 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 agency 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.

18. Finding that Steven did not present a flight risk or a danger to the community, ORR released Steven to his mother, under a sponsor care agreement, on February 5, 2023. *See* Exh. 2 (ORR Verification of Release).

19. Steven was detained by the Office of Refugee Resettlement (ORR) and then released to his mother on February 5, 2023. *See* Exh. 2. ORR's decision to release Steven necessarily involved a determination that he was neither a flight risk of a danger to the community. Steven applied for asylum on December 1, 2023. *See* Exh. 3, I-797C Notice of Action: Application for Asylum.

20. On September 10, 2024, Steven applied for a derivative U-Visa through his father, and for an employment authorization. *See* Exh 4, I-797C Notice of Action: Pet. for Qualifying Family Member of U-1 Recipient; Exh. 5, I-797C Notice of Action: Application for Employment Authorization. He was issued an Employment Authorization Document (EAD) valid until April 29, 2029. Exh. 6, I-797 Approval Notice for employment authorization; Exh. 7, EAD. Based on his EAD and his bona fide application for a U-visa, he was granted deferred action, protecting him from removal from the United States.

21. Steven has strong educational, family, and community ties in Minnesota. He has been enrolled at [redacted] since 2023 and is currently a 12th grade student for the 2025–2026 school year. *See* Exh. 5 ([redacted]). He is a good student who has worked hard toward graduation. (He was scheduled to graduate on June 10, 2026, but missed the ceremony due to his detention by ICE.) He lives with both of his parents and family in Columbia Heights, Minnesota. In addition, on May 14, 2026, Steven appeared at Minnesota National Guard Headquarters to

begin enlistment processing for the Minnesota National Guard, demonstrating his commitment to education, community involvement, and future service.

22. On May 14, 2026, Steven made his first court appearance, via video link from the Anoka County Jail, on a charge of misdemeanor assault. (The charge had been reduced from malicious punishment of a child before this first court appearance.) At the hearing, the state court judge conditionally released him without bail on the conditions that he not use or consume alcohol or non-prescribed illegal drugs, agree to random testing, not have any assaultive conduct, and remain law abiding. The Judge also issued a no contact order preventing him from having contact with the alleged victim. Exh. 9 (Order for Conditional Release (Anoka County, Minn. Dist. Ct. May 14, 2026)). Following the hearing, Steven was released from the jail.

23. As Steven was leaving the jail, two men in civilian clothes confronted him. They both flashed guns at Steven and told him to come with them. They told Steven everything would be ok if he cooperated. The two men did not identify themselves or state what government agency they were from.

24. The men who arrested Steven did not serve him with a warrant, or show him a warrant. They put him in a black SUV with no license plates. There was one other detainee in the vehicle, a friend of Steven who has since been deported.

25. The men took Steven to a building in St. Paul, where they asked him to sign some papers agreeing to self-deportation. Steven declined to sign, whereupon he was taken to the Sherburne County Jail, where he remains today.

**JURISDICTION & VENUE**

26. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 2241 (habeas corpus), and art. I, § 9, cl. 2 of the U.S. Constitution ("Suspension Clause").

27. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the All Writs Act, 28 U.S.C. § 1651, the Suspension Clause, and the Court's inherent equitable powers.

28. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) ("[T]he primary federal habeas corpus statute, 28 U.S.C. § 2241, confers jurisdiction upon the federal courts to hear these cases."). Because Steven seeks to challenge his custody as a violation of the U.S. Constitution, laws, or treaties of the United States, jurisdiction is proper in this Court.

29. Venue lies in this District because it is the judicial district in which Petitioner is currently detained. Venue is also proper in this Court under 28 U.S.C. § 1391(b)(2), (e)(1)(A)-(B) because Respondents are employees, officers, and agencies of the United States, because a defendant resides in this District, and because a substantial part of the events or omissions giving rise to the claims occurred in this District.

**PARTIES**

30. Petitioner Steven Fernando Vite Zuniga has lived in the United States for over three years, since January 18, 2023. Prior to his detention on or about May 14, 2026,

he was residing in Columbia Heights, Minnesota. Steven is currently detained at the Sherburne County Jail. Steven is in the direct control of Respondents.

31. Respondent Todd Blanche is sued in his official capacity as the Acting U.S. Attorney General. As Acting Attorney General, he has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

32. Respondent Markwayne Mullin is sued in his official capacity as Secretary of Homeland Security. As head of the U.S. Department of Homeland Security, the federal agency tasked with enforcing immigration laws, Secretary Mullin is Petitioner's ultimate legal custodian.

33. Respondent David J. Venturella is sued in his official capacity as Acting Director of ICE. As ICE's Acting Director, Respondent Venturella is a legal custodian of Petitioner.

34. Respondent David Easterwood is sued in his official capacity as Field Office Director of the St. Paul Field Office, Enforcement and Removal Operations, ICE. In that capacity, Field Office Director Easterwood has supervisory authority over the ICE agents responsible for detaining Petitioner. In his official capacity, Respondent Easterwood is a legal custodian of Petitioner.

35. Respondent Joel Brott is sued in his official capacity as Sheriff of Sherburne County. As Sheriff of Sherburne County, Mr. Brott oversees the Sherburne County Jail, where Steven is presently detained, and is therefore one of his legal custodians.

## REQUIREMENTS OF 28 U.S.C. § 2243

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

37. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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) (citation omitted). "The writ of habeas corpus, challenging illegality of detention, is reduced to a sham if the trial courts do not act within a reasonable time." *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978).

38. Due to the nature of this proceeding, Petitioner asks this Court to expedite proceedings in this case as necessary and practicable for justice.

## EXHAUSTION OF LEGAL REMEDIES

39. Detained immigrants petitioning under 28 U.S.C. § 2241 *et seq.* face no statutory exhaustion requirements. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Nor is a judicially imposed prudential exhaustion requirement appropriate where, as here, time is of the essence, facts are largely undisputed, and the parties' disagreement is based on a legal conclusion. *Id.* at 967-68; *see also Giron Reyes v. Lyons*, 801 F. Supp. 3d 797, 803 (N.D. Iowa 2025). Further administrative exhaustion is unnecessary in this case as it would be futile. *See, e.g.*, *Eliseo A.A. v. Olson*, No. 25-3381 (JWB/DJF), 2025 WL 2886729, at *7 (D. Minn. Oct. 8, 2025).

40. It would be futile for Steven to seek a custody redetermination hearing before an Immigration Judge ("IJ") because of the Board of Immigration Appeals ("BIA")'s decision holding that anyone who has entered the United States without inspection is now considered an "application for admission" who is "seeking admission" and therefore subject to the INA's mandatory detention provision under 8 U.S.C. § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025); *see also Eliseo A.A.*, 2025 WL 2886729, at *7 ("[F]urther administrative review would be futile in light of the BIA's recent decision in *Matter of Yajure Hurtado* . . . . Where the agency has already adopted a definitive position, exhaustion serves no purpose." (citation omitted)). More recently, the BIA issued a second precedent decision confirming the agency's view that *Yajure-Hurtado* applies to individuals like Steven who were previously determined to be "unaccompanied children." *Matter of N-A-G-C-*, 29 I&N Dec. 662 (BIA 2026).

41. Additionally, the IJ does not have jurisdiction to review Steven's claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies related to that claim. *See, e.g., Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (BIA 2020); *Matter of C-*, 20 I. & N. Dec. 529, 532 (BIA 1992). *Cf. Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) ("[E]xhaustion would be a futile exercise because the agency does not have jurisdiction to review [the] claim.").

## LEGAL FRAMEWORK

### A. VIOLATION OF THE PRELIMINARY INJUNCTION ORDER IN *ICWC v. NOEM*

#### i. Creation of the U visa

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

43. In 2000, with overwhelming bipartisan support, Congress passed the Victims of Trafficking and Violence Protection Act of 2000 ("VTVPA"), which reauthorized VAWA through the Violence Against Women Act of 2000 ("VAWA 2000"). The VTVPA dramatically expanded protections for immigrant survivors.

44. In 2000, through the Battered Immigrant Women Protection Act of 2000 ("BIWPA") Congress created the U visa, providing a pathway to U.S. citizenship to noncitizen survivors of qualifying crimes who assist law enforcement in investigating or prosecuting those crimes. *See* BIWPA § 1513(a)(2)(B), (b); 8 U.S.C. § 1101(a)(15)(U).

45. A noncitizen is eligible for a U visa if (1) the petitioner "suffered substantial physical or mental abuse as a result of having been a victim of" certain explicitly identified types of crime; (2) the petitioner "possesses information concerning [the] criminal

activity"; (3) the petitioner "has been helpful, is being helpful or is likely to be helpful" to government officials regarding the criminal activity: and (4) the crime occurred in the United States or violated U.S. law. 8 U.S.C. § 1101(a)(15)(U)(i)(I-IV). Children, spouses, and, for petitioners younger than 21, siblings and parents, may also receive U visas as derivative beneficiaries of the primary petitioner. 8 C.F.R. § 214.14(a)(10).

46. Among Congress's stated purposes in creating the U visa were (1) "to strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes. . . committed against [noncitizens], while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States," and (2) to "facilitate the reporting of crimes to law enforcement officials by trafficked, exploited, victimized, and abused [noncitizens] who are not in lawful immigration status." BIWPA § 1513(a)(2).

47. As DHS has acknowledged, Congress—

> created the U [visa] program out of recognition that victims without legal status may otherwise be reluctant to help in the investigation or prosecution of criminal activity. Immigrants, especially women and children, can be particularly vulnerable to criminal activity like human trafficking, domestic violence, sexual assault, stalking, and other crimes due to a variety of factors, including but not limited to: language barriers, separation from family and friends, lack of understanding U.S. laws, fear of deportation, and cultural differences.[2]

[2] DHS, *U and T Visa Law Enforcement Resource Guide for Federal, State, Local, Tribal and Territorial Law Enforcement, Prosecutors, Judges, and Other Government Agencies*, at 4, available at https://niwaplibrary.wcl.american.edu/wp-content/uploads/DHS-U-and-T-Visa-Law-Enforcement-Resource-Guide-11.30.15.pdf (last checked June 8, 2026).

48. Congress went further than simply creating the U visa. Congress additionally authorized DHS to waive virtually any ground of inadmissibility to U visa petitioners. Id. § 1513(e); 8 U.S.C. § 1182(d)(14).

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

50. Moreover, the TVPRA authorized employment for U visa petitioners who had "a pending, bona fide application" awaiting full adjudication. TVPRA § 201(c) (codified at 8 U.S.C. § 1184(p)(6)).

**ii. U visa interim benefits: deferred action and work authorization pursuant to the bona fide determination and waiting list processes**

51. In 2007, DHS promulgated regulations setting forth the process for adjudicating U visa petitions. See Interim Rule, 72 Fed. Reg. 53014 (Sept. 17, 2007). Because there is a statutory limit of 10,000 visas that may be conferred annually, 8 U.S.C. § 1184(p)(2), a significant, years-long backlog for U visa petitions exists. To address the backlogs, these DHS regulations created interim benefits for petitioners while they wait. The regulations require that crime victims who are not granted U visas "due solely to the cap . . . must be placed on a waiting list." 8 C.F.R. § 214.14(d)(2). USCIS must "grant

deferred action" to individuals placed on the waiting list until a U visa becomes available. Id. Wait-listed individuals are also eligible for work authorization. Id.

52. In 2021, as a means to implement the provision of 8 U.S.C. § 1184(p)(6) authorizing employment for bona fide U visa petitioners, USCIS created a formal Bona Fide Determination ("BFD") process, which is reflected in the USCIS Policy Manual ("PM").[3]

53. In the BFD process, rather than the full adjudication required for the waiting-list process, USCIS conducts a streamlined initial review of the petition to determine whether it is "bona fide." PM, vol. 3, pt. C, ch. 4. The determination is "based on the petitioner's compliance with initial evidence requirements and successful completion of background checks," after which USCIS "considers any national security and public safety risks, as well as any other relevant considerations," in deciding whether to issue an EAD and deferred action. PM, vol. 3, pt. C, ch. 5. "If USCIS determines a principal petitioner and any other qualifying family members have a bona fide petition and warrant a favorable exercise of discretion, USCIS issues them BFD EADs and grants deferred action." PM, vol. 3, pt. C, ch. 5.C.

54. Petitioners granted a BFD EAD and deferred action are placed in the queue to wait for a U visa to become available as if they were on the U visa waiting list.

[3] "The USCIS Policy Manual is the agency's centralized online repository for USCIS' immigration policies." PM, available at https://www.uscis.gov/policy-manual (last checked (last checked June 8, 2026).

55. A BFD EAD and deferred action are valid for four years and renewable. PM vol. 3, pt. C, ch. 5.

56. USCIS identifies four circumstances when early revocation of deferred action is appropriate: (1) "if USCIS determines a national security or public safety concern is present," (2) "if USCIS determines the BFD EAD and deferred action is no longer warranted," (3) if "the Form I-918 Supplement B law enforcement certification is withdrawn" by the certifying agency, or (4) "USCIS determines the prior BFD EAD was issued in error." Id.

57. For those deemed ineligible for a BFD EAD and deferred action, USCIS proceeds to a full adjudication of the petition and determines whether any applicable inadmissibility grounds are waivable. If the petition is approvable and a U visa is not available due solely to the annual cap, USCIS then places petitioners on the U visa waiting list and must confer deferred action until a U visa becomes available or a change in circumstances causes USCIS to remove the petitioner from the waiting list. PM, vol. 3, pt. C, ch. 4.

58. Because deferred action for those on the waiting list is mandatory by regulation, it can only be revoked due to a material change in eligibility for the U visa. See 8 C.F.R. § 214.14(d)(2)-(3).

59. Pursuant to USCIS policy, only USCIS may revoke deferred action conferred in connection with a U visa petition. PM vol. 3, pt. C, ch. 5.; 8 C.F.R. § 214.14(d)(2)-(3).

60. Once a U visa finally becomes available to someone with a BFD EAD or someone on the waiting list, USCIS will conduct another background check to screen for

any new material facts affecting eligibility, and if none, approve the visa. PM, vol. 3, pt. C, ch. 7.A-B. The visa recipient is authorized to work incident to status and may apply for lawful permanent residence three years later. 8 C.F.R. § 274a.12(19)-(20); 8 C.F.R. § 245.24(b).

### iii. Until 2025, decades of agency policy guidance presumptively protected U Visa petitioners from immigration enforcement

61. Consistent with Congress's intent to encourage noncitizen victims to report crime, for nearly two decades, DHS policies have generally required ICE to refrain from pursuing removal efforts against people with pending U visa petitions, like petitioner, absent serious public safety concerns.[4] These include written policies issued in 2011 and

[4] *See* Memorandum from William J. Howard, Principal Legal Advisor, to All OPLA Chief Counsel, *Prosecutorial Discretion* (Oct. 24, 2005), available at https://www.aila.org/library/ice-prosecutorial-discretion-memo (last checked June 8, 2026); Memorandum from William Howard, Principal Legal Advisor, to All OPLA Chief Counsel, *VAWA 2005 Amendments to the Immigration and Nationality Act and 8 U.S.C. § 1367* (Feb. 1, 2007), available at https://www.ice.gov/doclib/foia/policy/memoVAWA_2005_INA_Amendments_02.01.2007.pdf (last checked June 8, 2026); Memorandum of David J. Venturella, Acting Director, Detention and Removal Operations, to Field Office Directors, *Guidance: Adjudicating Stay Requests Filed by U Nonimmigrant Status (U-visa) Applicants*, (Sept. 24, 2009), available at https://www.ice.gov/doclib/foia/dro_policy_memos/11005_1-hd-stay_requests_filed_by_u_visa_applicants.pdf (last checked June 8, 2026); Memorandum from Peter S. Vincent, Principal Legal Advisor, to OPLA Attorneys, *Guidance Regarding U Nonimmigrant Status (U visa) Applicants in Removal Proceedings or with Final Orders of Deportation or Removal* (Sept. 25, 2009), available at https://www.ice.gov/doclib/foia/dro_policy_memos/vincent_memo.pdf (last checked June 8, 2026); ICE Directive 11005.2, *Stay of Removal Requests and Removal Proceedings Involving U Nonimmigrant Status (U Visa) Petitioners*, (Aug. 2. 2019), available at https://www.ice.gov/doclib/foia/policy/11005.2_StayRemovalReqRemProcUVisaPetitioners.pdf; (last checked June 8, 2026).

2021. See John Morton, ICE Policy Statement 10076.1, Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs (Jun. 17, 2011) ("2011 Policy"), available at https://www.ice.gov/doclib/foia/prosecutorial-discretion/certain-victims-witnesses-plaintiffs.pdf (last checked June 8, 2026), and ICE Directive 11005.3, Using a Victim-Centered Approach with Noncitizen Crime Victims (Dec. 2, 2021) ( "2021 Directive"), available at https://www.ice.gov/doclib/foia/policy/11005.3_UsingVictimCenteredApproachNoncitizenVictims.pdf (last checked June 8, 2026).

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

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

64. On January 30, 2025, ICE issued a policy directive that, for the first time in the agency's history, authorized the routine detention and removal of noncitizen victims of crime who had petitioned for victim-based immigration benefits, such as the U visa. See ICE Policy Number 11005.4, Interim Guidance on Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim-Based Immigration Benefits (Jan. 30, 2025) ("2025 Guidance"), available at https://www.ice.gov/doclib/foia/policy/11005.4.pdf (last checked June 8, 2026).

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

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

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

68. As a result of the 2025 Guidance, ICE now engages in an unlawful policy and practice under which it routinely detains and deports people who have valid grants of deferred action from USCIS in connection with pending U or T visa petitions.[5] Neither Respondent ICE nor USCIS provides any notice or opportunity to be heard regarding whether such deferred action should be revoked prior to doing so. This policy, referred to herein and in ICWC as the De Facto Revocation Policy, unlawfully renders deferred action status meaningless.

**iv. Petitioner is a deferred action class member in *ICWC v. Noem.***

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

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

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[5] A T visa petition is a separate survivor-based immigration benefit program, for survivors of severe forms of human trafficking.

71. As part of its ruling, the court provisionally certified three classes, including, as relevant here, the Deferred Action Class,[6] and stayed the De Facto Revocation Policy pursuant to 5 U.S.C. § 705 as to Deferred Action Class members. Id. at 95-96 ("Pursuant to 5 U.S.C. § 705, the Court hereby STAYS the De Facto Revocation Policy, under which ICE does not honor grants of deferred action conferred by USCIS to individuals with pending petitions for U or T visas.").

72. Specifically, the court concluded that plaintiffs were likely to prevail on the merits of their claims that the De Facto Revocation Policy is arbitrary and capricious under the APA, violates the *Accardi* doctrine requiring agencies to follow their own procedures, and violates class members' due process rights under the Fifth Amendment. *Id.* at 75-84 ("Because ICE lacks authority to revoke USCIS grants of deferred action status, ICE cannot de facto revoke that status."); id. at 84 (holding ICE violated class members' "right to due process because pursuant to the Policy, Defendants have pursued immigration enforcement actions against them despite their deferred action status."). As a result, ICE may not detain Deferred Action Class members.

73. Here, Petitioner is a member of the Deferred Action Class in *ICWC* because he:

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

[6] The Deferred Action Class is defined as: "All individuals to whom USCIS has granted deferred action based on a pending U or T visa petition and who, during the authorized period of deferred action, ICE detains, seeks to detain, or removed without providing notice and an opportunity to be heard regarding potential revocation of their deferred action status." *ICWC* PI Order at *95.

> b. during the authorized period of deferred action, was detained by ICE without being provided notice and an opportunity to be heard regarding the potential revocation of that deferred action status.

*ICWC v. Noem*, 2026 WL 1455004, at *46–47; *see also* n.7 *supra*.

74. Accordingly, the De Facto Revocation Policy, "under which ICE does not honor grants of deferred action conferred by USCIS to individuals with pending petitions for U or T visas," may not be applied to Petitioner. *Id.* at 96. Therefore, immediate release is warranted.

## B. DUE PROCESS CLAUSE: PROCEDURAL DUE PROCESS

75. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)); *accord Trump v. J.G.G.*, 605 U.S. 670, 673 (2025). "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 protects. *Zadvydas*, 533 U.S. at 690. This fundamental due process protection applies to all noncitizens within the United States, including both deportable and inadmissible noncitizens. *See id.* at 693 (explaining procedural due process applies to all "persons" within the United States, including noncitizens, "whether their presence here is lawful, unlawful, temporary, or permanent"); *Plyler v. Doe*, 457 U.S. 202, 212 (1982); *see also, e.g.*, *Abdirashid H. M. v. Noem*, No. 25-4779 (JRT/EMB), 2026 WL 127698, at *4 (D. Minn. Jan. 9, 2026) (finding constitutionally protected liberty interest when petitioner had previously been "liv[ing] a productive life in the community"); *Maldonado v. Olson*, 795

F. Supp. 3d 1134, 1148 (D. Minn. 2025) (finding a noncitizen had a significant constitutionally protected private interest in part based on separation from her children). [7]

76. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risk of danger to the community and prevent flight. *Zadvydas v. Davis*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. Thus, to withstand constitutional scrutiny, the nature and duration of immigration detention must be reasonably related to these purposes. Absent adequate procedural protections, substantive due process requires a "special justification" that "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690; *accord, e.g.*, *Fernandez v. Lyons*, 2025 WL 2531539, at *4 (D. Neb. Sept. 3, 2025) (describing the standard for substantive due process violation).

77. Additionally, procedural due process protects noncitizens against deprivation of liberty without adequate notice and the opportunity to be heard. *A.A.R.P. v. Trump*, 605 U.S. 91, 95-96 (2025); *J.G.G.*, 604 U.S. at 673. To evaluate whether civil immigration detention violates procedural due process, courts apply the three-part balancing test in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), weighing (1) "the private interest that will

[7] The recent decisions in *Avila v. Bondi,* 170 F.4th 1128 (8th Cir. 2026), *petition for reh'g en banc filed,* No. 25-3248 (8th Cir. May 26, 2026) and *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026) address only statutory habeas claims. Accordingly, other claims for habeas relief are not foreclosed. *See, e.g., See, e.g., Manuel G. v. Blanche*, No. 26-CV-2385 (SRN/ECW), 2026 WL 1256358, at *3 (D. Minn. May 7, 2026) ("While Avila addressed a noncitizen's statutory rights, it did not address his due process rights."); *Hassen v. Noem*, 3:26-cv-00048-DB, 2026 WL 446506, at *2 n.1 (W.D. Tex. Feb. 9, 2026) (explaining that *Buenrostro-Mendez* did not change the outcome of a habeas grant on due process grounds).

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." *See, e.g.*, *Selvin Adonay E.M. v. Noem*, No. 25-cv-3975, 2026 WL 3157839, at *8 (D. Minn. Nov. 12, 2025) (applying *Mathews*); *Abdirashid*, 2026 WL 127698, at *4 (same).

78. The Eighth Circuit recently rejected a claim that prolonged mandatory detention under 8 U.S.C. § 1226(c)—which applies to people with certain types of criminal records while their removal proceedings are pending—violated procedural due process. *Banyee v. Garland*, 115 F.4th 928 (8th Cir. 2024). There, the Circuit concluded that the Supreme Court's holding in *Demore v. Kim* controlled. *Banyee*, 115 F.4th at 933 (stating that the majority in *Demore* "opted for a bright-line rule" that "the government can detain an alien for as long as deportation proceedings are still 'pending'" (quoting *Demore*, 538 U.S. at 527)). *Demore*, in turn, expressly dealt only with mandatory detention for people with certain criminal records pursuant to the version of 8 U.S.C. § 1226(c) in effect at that time. The *Demore* Court concluded that this mandatory detention statute was reasonable only after reviewing in detail the information Congress had before it when enacting the provision, which showed that writ large, noncitizens with certain criminal records were failing to appear for removal proceedings (flight risk) *and* posed a serious risk of criminal recidivism (danger to the community). *Demore*, 538 U.S. at 518-21. Detention under § 1225(b) was not at issue in *Banyee* or *Demore*, and as-applied due process challenges to §

1225(b) detention remain available. *See Maldonado*, 795 F. Supp. 3d at 1154 (rejecting application of *Banyee* where, unlike Mr. Banyee, the petitioner did not have a "lengthy criminal history that placed [them] in custody under § 1226(c)"); *Selvin Adonay E.M.*, 2025 WL 3157839, at *8 (similar); *see also Jenkins C. v. Barr*, No. 20-cv-320, 2020 WL 2559562, at *5 (D. Minn. May 4, 2020) (noting that *Jennings* left open as-applied constitutional challenge to § 1225(b) detention), *report and recommendation adopted*, 2020 WL 2557947 (May 20, 2020).

79. Accordingly, a number of courts in the Eighth Circuit have granted habeas petitions filed by unadmitted noncitizens challenging various forms of mandatory detention on procedural due process grounds. *See, e.g.*, *Javier R.M. v. Blanche*, No. 26-CV-2283 (LMP/DLM), 2026 WL 1506306 (D. Minn. May 29, 2026) (granting habeas and ordering bond hearing for SIJS beneficiary detained by ICE years after release to sponsor as a UC, on procedural due process grounds); *Axel J.M.C. v. Stanski*, No. CV 26-2281 (JRT/EMB), 2026 WL 1171344, at *3 (D. Minn. Apr. 29, 2026) (Granting habeas on procedural due process grounds and ordering a bond hearing within 24 hours or release to SIJS beneficiary detained by ICE years after being processed and released as a UC); *see also Selvin Adonay E.M.*, 2025 WL 3157839, at *8-10; *Abdirashid H.M.*, 2026 WL 127698, at *4-5; *Feisal O. v. Noem*, No. 26-CV-81 (JMB/EMB), 2026 WL 92857, at *3 (D. Minn. Jan. 13, 2026); *Mahad S. v. Noem*, No. 26-CV-476 (JMB/JFD), 2026 WL 177860, at *3 (D. Minn. Jan. 22, 2026); *Rodriguez Vega v. Arnott*, No. 6:26-cv-3097, 2026 WL 482906, at *6 (W.D. Mo. Feb. 20, 2026); *Eliseo A.A. v. Olson*, No. CV 25-3381 (JWB/DJF), 2025 WL 2886729, at *7 (D. Minn. Oct. 8, 2025); *Yrysbaev v. Arnott*, No. 6:26-cv-3047, 2026 WL 395897, at

*3-4 (W.D. Mo. Feb. 12, 2026); *Garcia Picazo v. Sheehan*, No. C25-4057-LTS-MAR, 2025 WL 3006188, at *3-4 (N.D. Iowa Oct. 27, 2025); *Jacinto v. Trump*, 796 F. Supp. 3d 584, 590-91 (D. Neb. 2025).

80. Where an individual has been re-detained with no pre-deprivation process following a previous determination by the government that they were not a danger to the community or a flight risk, many courts have found outright release to be the appropriate remedy. *See, e.g., Feisal O. v. Noem*, No. 26-CV-81 (JMB/EMB), 2026 WL 92857, at *3 (D. Minn. Jan. 13, 2026) (granting release because Petitioner's re-detention "without Respondents first formally revoking [his Order of Supervision] … violates due process"); *Garcia Picazo v. Sheehan*, No. C25-4057-LTS-MAR, 2025 WL 3006188, at *5 (N.D. Iowa Oct. 27, 2025) (ordering immediate release on due process grounds where DHS continued detaining Petitioner after IJ determined he could be released on bond); *Aleksei v. Warden*, No. 5:26-CV-05030-RAL, 2026 WL 1133615, at *1 (D.S.D. Apr. 27, 2026) (ordering outright release on due process grounds—*Mathews* framework—for individual previously granted humanitarian parole); *Rodriguez-Acurio v. Almodovar*, No. 2:25CV6065 (NJC), 2025 WL 3314420, at *31 (E.D.N.Y. Nov. 28, 2025) (explaining that, in cases of re-detention of a noncitizen in violation of the Fifth Amendment, "a post-deprivation bond hearing before a DHS officer or even an immigration judge would provide no genuine opportunity to relief because the detention without adequate pre-deprivation procedures has already been carried out").

## C. THE TVPRA GOVERNS THE DETENTION AND RELEASE OF UNACCOMPANIED CHILDREN

81. 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).

82. 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).

83. 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.

**D. DEFERRED ACTION**

84. Separately, this case also involves a grant of deferred action. "Deferred action" is an "affirmative immigration benefit" that operates to "prevent[] recipients' removal from the United States," for a specified period of time, even if they are otherwise potentially removable. *Sepulveda Ayala v. Bondi*, 794 F. Supp. 3d 901, 909, 912 (W.D. Wash. 2025); *see generally* USCIS Policy Manual [hereinafter "USCIS PM"], Vol. 1, Pt. H, Ch. 2.A.4, https://www.uscis.gov/policy-manual; *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999) (noting deferred action means "no action will thereafter be taken to proceed against an apparently deportable alien even on grounds normally regarded as aggravated"); *Victor G. v. Lyons* No. 26-cv-119, 2026 WL 127733, at *2-3 (D. Minn. Jan 17, 2026) (explaining deferred action). Deferred action is a "formal determination" by DHS "not to remove a particular individual," and noncitizens with deferred action are "considered to be in a period of stay authorized under USCIS policy for the period deferred action is in effect." *Sepulveda Ayala*, 794 F. Supp. 3d at 912-13 (citation omitted); *see* 8 C.F.R. § 1.3(A)(4)(vi). Deferred action is "not simply a non-enforcement policy." *DHS v. Regents of University of Cal.*, 591 U.S. 1, 18 (2020). Rather, it is an "affirmative determination that certain individuals meet enumerated criteria and are entitled to forbearance from removal and work authorization." *Sarmiento v. Perry*, No. 25-cv-01644-AJT-WBP, 2026 WL 131917, at *7 (E.D. Va. Jan. 19, 2026) (citing *Regents*, 591 U.S. at 18); *see also* 8 C.F.R. § 247a.12(c)(14) (eligibility for work authorization).

85. Deferred action is granted "based on a prescribed set of factors generally related to humanitarian grounds," *Sepulveda Ayala*, 794 F. Supp. 3d at 912 (citations omitted), often in connection with an application for lawful immigration status for survivors of violence or abuse. For example, deferred action is available for: crime survivors with approved U-visa applications or pending applications USCIS has determined are bona fide; trafficking survivors with pending T-visa applications that USCIS has determined are bona fide; domestic abuse survivors with approved self-petitions under the Violence Against Women Act ("VAWA"), and youth who have been abused, neglected, or abandoned by a parent who have approved petitions for Special Immigrant Juvenile Status ("SIJS"). 8 C.F.R. §§ 214.14(d)(2), 214.205(c), (e); USCIS PM, Vol. 3, Pt. C, Ch. 5 & Pt. D, Ch. 5.D.2; *see also A.C.R. v. Noem*, No. 25-cv-3962, 2025 WL 102611 (E.D.N.Y. Jan. 14, 2026) (explaining SIJS deferred action program). Deferred Action for Childhood Arrivals ("DACA") is also a form of deferred action. *Regents*, 591 U.S. at 10.

86. In deciding deferred action requests, USCIS considers whether the noncitizen warrants a favorable exercise of discretion based on the totality of the evidence. Generally, this evaluation includes consideration of whether the noncitizen poses a danger to the public or a national security risk. *See, e.g.*, *Victor G.*, 2026 WL 127733, at *3 (noting USCIS "already determined [the petitioner] is not a 'risk to national security or public safety' by virtue of its bona fide determination and grant of employment authorization and deferred action"); *F.R.P. v. Wamsley*, No. 3:25-CV-1917, 2025 WL 3037858, at * 4 (D. Or. Oct. 30, 2025) (explaining that the "mere fact" of the petitioner's VAWA approval,

giving rise to deferred action, suggests he is neither a flight risk or a danger to the community, since it required a criminal background check and showing of "good moral character"); *Gamez Lira v. Noem*, No. 1:25-cv-855, 2025 WL 2581710, at *3 (D.N.M. Sept. 5, 2025) (explaining that a DACA grant was evidence that DHS already determined the recipient poses no danger or flight risk).

## CLAIMS FOR RELIEF

### COUNT I
### Violation of APA 5 U.S.C. § 706(2)(A)
### Petitioner's Detention Is Not in Accordance with Law because It Violates the *ICWC v. Noem* Preliminary Injunction Order

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

88. Steven has a pending derivative U visa petition through his father, and he was granted deferred action based on that pending petition. He is therefore a member of *ICWC v. Noem* Deferred Action Class. *See ICWC v. Noem,* 2026 WL 1455004, at *47.

89. The court in *ICWC v. Noem* issued a preliminary injunction which reinstated ICE Directive 11005.3, *Using a Victim-Centered Approach with Noncitizen Crime Victims* (Dec. 2, 2021) (the "2021 Directive"). *ICWC v. Noem,* 2026 WL 1455004, at *47.

90. The 2021 Directive provided that, for persons with pending U visa petitions, "absent exceptional circumstances," ICE was to "defer" enforcement until USCIS adjudicates the petition or issues a negative interim adjudication. *ICWC,* 2026 WL 1455004, at *6.

91. The *ICWC* court also ordered DHS to stay its De Facto Revocation Policy, under which ICE arrests, detains, and/or removes individuals who have been granted deferred action in connection with their pending petitions for U visas. The court described the policy as one "under which ICE does not honor grants of deferred action conferred by USCIS to individuals with pending petitions for U or T visas." *ICWC* at *47.

92. Under the APA, courts "shall . . . hold unlawful and set aside agency action . . .found to be . . .not in accordance with law." 5 U.S.C. § 706(2)(A).

93. Respondent's detention of Steven constitutes final agency action under the APA. 5 U.S.C. §§ 551(c)(10) & (13), 704; *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997).

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

95. Respondents detained Steven pursuant to the stayed De Facto Revocation policy.

96. Accordingly, Respondents' detention of Steven is not in accordance with law because it violates the APA, as it directly contravenes the relief issued in the *ICWC* Preliminary Injunction Order.

## COUNT II
## Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution: Procedural Due Process

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

98. 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.

99. The government's infringement on Steven's liberty interest triggers a right to contest that infringement, for example, through a hearing before the right is deprived. *See Bd. of Regents of State Colleges v. Roth*, 408 U.S. 564, 569-70 (1972). The essence of procedural due process is that a person risking a serious loss must have "an opportunity to be heard . . . at a meaningful time and in a meaningful manner." *Yrysbaev v. Arnott*, 2026 WL 395897, at *3 (citation omitted).

100. 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.

101. The first *Mathews* factor weighs heavily in Steven's favor. Because he was previously released from custody as an unaccompanied child and not even subject to government monitoring, he possessed a weighty interest in his continued liberty. *See A.B.J.C. v. Hermosillo,* No. 2:26-CV-00185-JNW, 2026 WL 497097, at *3 (W.D. Wash. Feb. 23, 2026) (Granting habeas and ordering immediate release for noncitizen detained

by ICE years after being processed and released as an unaccompanied child); *Singh v. Stevens*, No. 3:26-CV-133, 2026 WL 456489 (N.D. Ohio Feb. 18, 2026) (Petitioner created a strong interest in his continued liberty after entered as an unaccompanied child, was released to a sponsor and built community connections for seven years in reliance on the Government's initial decision to release him under the TVPRA provisions; granting habeas and ordering immediate release); *Ventura Ramirez v. Warden,* No. 1:25-CV-1775-DC-CKD P, 2026 WL 743353 (E.D. Cal. Mar. 17, 2026) ("The government's actions in releasing petitioner into the United States and allowing him to reside at liberty for years and also to re-integrate into his community after release from jail supports finding a strong private interest for petitioner).

102. Steven is a "person" within the meaning of the Due Process Clause, and all such persons have a strong, constitutionally protected interest in their liberty. Steven entered the United States three years ago and has been residing here since then. During that time, he has established community ties by working toward his high school diploma and taking steps to join the U.S. Army. Steven's protected liberty interest "deserves great weight and gravity." *Acosta Dominguez v. Noem*, No. EP-25-CV-00741-DB, 2026 WL 67200, at *4 (W.D. Tex. Jan. 8, 2026). Yet Steven, who is an 18-year-old high school student, is being held "far from his] family," in "the same conditions as criminal inmates." *Jacinto*, 796 F. Supp. 3d at 590; *see also Selvin Adonay E.M.*, 2025 WL 3157839, at *9 (finding the first *Mathews* factor weighed in petitioner's favor when the conditions of confinement were "indistinguishable from criminal incarceration").

103. Steven furthermore has a strong liberty interest in light of his grant of deferred action. *See, e.g.*, *Gamez Lira*, 2025 WL 2581710, at *3 (finding DACA recipient had "a protectable liberty or property interest" in case challenging his detention where "he lived under the understanding" that enforcement, including attendant detention, was unlikely); *Oscar C.M. v. Lyons*, No. 1:25-cv-1915, 2025 WL 3712285, at *3 (E.D. Cal. Dec. 22, 2025) (finding a grant of deferred action "increased Petitioner's reliance on his liberty interest").

104. The second *Mathews* factor also weighs heavily in Steven'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. Steven appeared before a state district court judge in connection with his misdemeanor 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 Steven's favor.

105. The third factor favors Steven as well. Steven's erroneous detention imposes high fiscal and administrative burdens on Respondents, and unlawful detention and violation of noncitizens' constitutional rights disserve the public interest. The third *Mathews* factor generally favors saving the government from expending "substantial resources on needless detention." *Idle H. v. Bondi*, No. 26-cv-315, 2026 WL 266462, at *7 (D. Minn. Feb. 2, 2026) (noting the "staggering" costs of immigration detention); *see also*

*Rodriguez Vega*, 2026 WL 482906, at *6 ("[L]imiting the use of detention to only those noncitizens who are dangerous or a flight risk may save the government, and therefore the public, from [unnecessarily] expending substantial resources." (citation omitted)). Unnecessary detention also "imposes substantial societal costs," such as "reduced economic contributions and tax payments by detained immigrants," as well as the separation of individuals from their families and communities. *Rodriguez Vega*, 2026 WL 482906, at *6 (citation omitted). In any event, detention with *no* process is wholly unnecessary to allow Respondents to detain those who truly pose a legitimate risk of flight or danger. *Ochoa v. Vergara*, No. 1:26-cv-266, 2026 WL 482211, at *3 (W.D. Tex. Feb. 20, 2026). Releasing Steven and requiring the government to provide a pre-deprivation hearing before detaining him stands to save the government money and effort wasted on erroneous detention.

106. For these reasons, regardless of the statutory authority, mandatory detention as applied to Steven violates his procedural due process rights, rendering his ongoing detention unconstitutional. *See, e.g.*, *Selvin Adonay E.M.*, 2025 WL 3157839, at *8-10 (finding procedural due process violation was an independent basis for granting habeas petition challenging application of § 1225(b)(2) to person who had been residing in the United States); *Abdirashid H.M.*, 2026 WL 127698, at *4-5 (similar); *Ochoa v. Vergara*, 2026 WL 482211, at *3 (finding mandatory detention of inadmissible noncitizen who had been living in the United States for over a year violated procedural due process under *Mathews*, collecting cases reaching the same conclusion, and ordering release as the appropriate remedy); *see also*, *e.g.*, *Juan M.*, 2026 WL 129059, at *1-2; *Luis S.I.*, 2026 WL

253630, at *1-2; *Santiago*, 2025 WL 2792588, at *13 (detention of DACA-holder violated procedural due process); *B.D.A.A. v. Bostock*, No. 6:25-cv-2062, 2025 WL 3484912, at 5-7 (D. Or. Dec. 4, 2025) (detention of recipient of U-visa-based deferred action violated procedural due process).

107. Respondents violated procedural due process by re-detaining Steven, after his 2023 release by ORR, without adequate procedural protections before deprivation of his liberty. *See, e.g.*, *Feisal O. v. Noem*, 2026 WL 92857, at *3 (concluding that the re-detention of a person previously ordered released without any pre-re-detention process violated the Due Process Clause); *Selvin Adonay E.M.*, 2025 WL 3157839, at *8-10 (similar); *Abdirashid H.M.*, 2026 WL 127698, at *4-5 (similar). Therefore, this Court should order Steven's release without any restraints on his liberty and prohibit any re-detention absent pre-deprivation process. *Feisal O.*, 2026 WL 92857, at *3 (ordering release on that basis); *see also Mahad S. v. Noem*, 2026 WL 177860, at *3; *Ochoa v. Vergara*, 2026 WL 482211, at *3 (collecting cases finding mandatory detention violated procedural due process and ordering release as the appropriate remedy).

108. Here, the ORR necessarily determined Steven posed no danger or flight risk when it released him to his mother in 2023. The Anoka County District Court would necessarily have made the same determination when it conditionally released Steven. *See* Exh. 9 (Order for Conditional Release).

**COUNT III**
**Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution: Substantive Due Process**

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

110. 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; *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.

111. 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)).

112. 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) (stating that detention must be a proportional—not excessive—response to a legitimate state objective).

113. 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). 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.

114. But if a person cannot actually be removed, "preventing flight" is a "weak or nonexistent" justification. *Zadvydas*, 533 U.S. at 690; *Santiago v. Noem*, No. EP-25-cv-361, 2025 WL 2702588, at *12 (W.D. Tex. Oct. 2, 2025) ("Where an individual is protected from removal through deferred action, their detention serves no valid purpose."). Here, the government's inability to lawfully remove Steven given his deferred action and his protected status as an *ICWC v. Noem* Deferred Action Class member eliminates any justification of flight risk, which the government could not show in any event, given Steven's lengthy residence in the United States, his deep ties to his community in Minnesota, his approved employment authorization, and his pending derivative U-1 visa application. With respect to the pending misdemeanor charge in state court, a state district court judge evaluated the factors of flight and public safety in determining that Steven could be released on conditions while his case proceeds. Respondents have made no findings or determinations to undermine that decision..

115. Because the government is not detaining Steven 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. *See Victor*

*G.*, 2026 WL 127733, at *2; *Juan M. v. Bondi*, No. 26-cv-266, 2026 WL 129059, at *1-2 (D. Minn. Jan. 17, 2026) (ordering immediate release where noncitizen argued detention despite a grant of deferred action violated substantive and procedural due process); *Luis S.I. v. Easterwood*, No. 26-cv-533, 2026 WL 253630, at *1-2 (D. Minn. Jan. 28, 2026), *report and recommendation adopted*, 2026 WL 257119 (Jan. 31, 2026) (similar).

**COUNT IV**
**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**

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

117. 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).

118. As a general matter, the Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). "Probable cause requires a 'substantial probability; based on facts related to the individual." *Ramirez Ovando v. Noem*, No. 1:25-CV-03183-RBJ, 2025 WL 3293467, at *15 (D. Colo. Nov. 25, 2025) (quoting *Storey v. Taylor*, 696 F.3d 987, 992 (10th Cir. 2012) (finding probable cause for immigration arrests lacking). That determination can occur

either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See id.* It must, however, occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstance. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

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

120. Steven's warrantless arrest occurred without probable cause that he 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 his seizure, Steven had been in the United States for three years and built strong ties to his community. He was the recipient of an employment authorization from DHS. Moreover, he fully complied with the ICE officers and in no way tried to disobey or flee. Therefore, no officer could have probable cause that Steven was likely to escape before a

warrant could be obtained. Thus, Respondents' warrantless arrest of Steven violated 8 U.S.C.§ 1357(a)(2).

121. Without a statutory basis to arrest, Respondents were required under the Fourth Amendment to secure a prompt judicial probable cause determination to continue holding Steven. *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56–57. He received no such judicial determination, yet his detention has continued well beyond 48 hours, rendering it presumptively unconstitutional.

122. Regulations also provide that noncitizens arrested without a warrant *pursuant to 8 U.S.C.§ 1357(a)(2)* must receive a custody determination within 48 hours of the arrest, unless there is "an emergency or other extraordinary circumstance" that requires "an additional reasonable period of time" to make the custody determination. 8 C.F.R. § 287.3(d). During that custody determination, the immigration officer must make findings as to whether "release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8). Similarly, upon information and belief, Steven has received no such custody determination. Even so, because , Respondents did not arrest Steven "under the authority contained [in that section][,]" the regulations outlined in 8 C.F.R § 287.3 are inapplicable—following these regulatory steps after an unlawful arrest cannot cure the statutory violation. *Wilson L.L. v. Blanche*, No. CV 26-2475 (JRT/EMB), 2026 WL 1283186, at *2 (D. Minn. May 11, 2026) (ordering immediate release where the I-200 administrative warrant "was not served on Petitioner until after his arrest and detention") (citing *Francisco M.A.*, 2026 WL 1229701 at *1–2.

123. Steven's re-detention after a prior release by ORR, 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.

124. 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).

125. Respondents' warrantless re-arrest of Steven 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, on this count alone, his immediate release is warranted. See *Hector J.A.S.*, 2026 WL 1243500 at *3; *Martha C.G.P.*, 2026 WL 1329577, at *3. When there is a warrantless arrest, no post-detention process can cure that violation. *See, e.g., Wilson L.L.*, 2026 WL 1283186, at *2 (ordering immediate release where the I-200 "was not served on Petitioner until after his arrest and detention") (*citing Francisco M.A.*, 2026 WL 1229701 at *1–2.

## COUNT V
## Violation of the Immigration and Nationality Act and Procedural Due Process (Argument presented in order to preserve it for further review)

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

127. As discussed above, the INA provides for mandatory detention 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). Before the Eighth Circuit's decision in *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026), *petition for reh'g en banc filed*, No. 25-3248 (8th Cir. May 26, 2026), courts across the United States overwhelmingly concluded that noncitizens like Steven who entered the United States without inspection and are detained by ICE for removal proceedings while they are residing in the United States are not detained under § 1225(b)(2)(A). *See, e.g.*, *Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 WL 3295903, at *13-14 (S.D.N.Y. Nov. 26, 2025) (tallying more than 350 cases reaching the same conclusion, and only 12 going the other way). Courts in this district have concluded the same time and time again. *See, e.g.*, *Ahmed M.*, 2026 WL 25627, at *1 (D. Minn. Jan. 5, 2026) ("Every judge in this District to have addressed this question . . . has decided that § 1226(a)'s discretionary regime applies in cases like this, where the Petitioner has been in the country for some time and where his detention did not occur in connection with an attempt or request to enter the United States."), *abrogated by Avila*, 170 F.4th 1128 (8th Cir. 2026), *petition for reh'g en banc filed*, No. 25-3248 (8th Cir. May 26, 2026).

128. Petitioner asserts these arguments here for purposes of preservation for appeal or in the event that *Avila* is vacated or abrogated by the en banc Eighth Circuit or the Supreme Court—especially now that multiple circuits have reached a contrary conclusion. *See Barbosa da Cunha v. Freden*, __ F. 4th __, No. 25-3141, 2026 WL

1146044 (2d Cir. Apr. 28, 2026); *Hernandez Alvarez v. Warden*, __ F.4th __, Nos. 25-14065, 25-14075, 2026 WL 1243395 (11th Cir. May 6, 2026); *Lopez-Campos v. Raycraft*, Nos. 25-cv-12486, 25-cv-13073, 25-cv-12546, 25-cv-01090 (6th Cir. May 11, 2026). Petitioner preserves for further review the argument that *Avila* was wrongly decided and that his current detention under 8 U.S.C. § 1225(b)(2)(A) violates both the INA and Steven's procedural due process rights. As this renders his detention unlawful from its inception, he should be released.

## REMEDY

129. The appropriate remedy for Respondents' unlawful conduct is Steven's immediate release.

130. 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 687, 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

131. When a habeas petitioner's detention is unlawful, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention"); *Feisal O. v. Noem*, No. 26-CV-81 (JMB/EMB), 2026 WL 92857, at *3 (D. Minn. Jan. 13, 2026) (granting release because Petitioner's re-detention "without Respondents first formally revoking [his Order of Supervision] … violates due process"); *Garcia Picazo v. Sheehan*, No. C25-4057-LTS-MAR, 2025 WL 3006188, at *5 (N.D. Iowa Oct. 27, 2025) (ordering immediate release on due process grounds where DHS continued detaining Petitioner after IJ determined he

could be released on bond); *Aleksei v. Warden*, No. 5:26-CV-05030-RAL, 2026 WL 1133615, at *1 (D.S.D. Apr. 27, 2026) (ordering outright release on due process grounds—*Mathews* framework—for individual previously granted humanitarian parole); *Rodriguez-Acurio v. Almodovar*, No. 2:25CV6065 (NJC), 2025 WL 3314420, at *31 (E.D.N.Y. Nov. 28, 2025) (explaining that, in cases of re-detention of a noncitizen in violation of the Fifth Amendment, "a post-deprivation bond hearing before a DHS officer or even an immigration judge would provide no genuine opportunity to relief because the detention without adequate pre-deprivation procedures has already been carried out")..

132. In the alternative, if the Court believes further process is required before ordering Steven released, this Court should hold its own custody hearing and determine whether the government can prove by clear and convincing evidence that Steven must remain in custody, or whether he may be released on recognizance, an appropriate bond in light of his ability to pay, or supervised release. This is a more efficient and effective remedy than ordering an immigration judge to conduct a hearing, which may lead to additional enforcement proceedings and delays before the unlawful detention in this case is remedied. *See L.G.M. v. LaRocco*, 788 F.Supp.3d 401, 405-07 (E.D.N.Y. 2025) (ordering a bond hearing held by the habeas court, as this would be more efficient than delegating the task to the agency and ensure proper constitutional oversight); *Flores-Powell v. Chadbourne*, 677 F.Supp.2d 474-78 (D. Mass 2010) (granting petition and discussing at length habeas court's equitable power, which includes power to hold its own bail hearing); *see also Santos v. Lowe*, No. 1:18-CV-1553, 2020 WL 4530728, at *4 (M.D. Pa. Aug. 6, 2020) (finding that habeas court-ordered bond hearing was not individualized and did not

comport with due process, and granting motion to enforce to hold the court's own bond determination); *Ramirez v. Watkins*, No. 10-cv-126, 2010 WL 6269226, at *19-20 (S.D. Tex. Nov. 3, 2010), rep. and rec not reached, (S.D. Tex. Dec. 8, 2010) (dismissing case as moot) (recommending the habeas court conduct its own bail inquiry, as it would be more efficient, ensure supervision over any compliance issues, and avoid further proceedings).

## PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court:

1. Assume jurisdiction over this matter;
2. Immediately issue an Order to Show Cause:
    a. Enjoining Petitioner's removal or transfer outside of this District pending adjudication of this petition;
    b. Requiring Respondents to show cause within **three days** as to why this petition should not be granted;
3. Issue a Writ of Habeas Corpus declaring that Petitioner's detention is unlawful and ordering Respondents to immediately release Petitioner from custody without restraints on his liberty beyond those that existed prior to his unlawful re-detention;
4. Pursuant to the May 20, 2026 Preliminary Injunction Order in *ICWC v. Noem*, order that Respondents cannot re-detain Petitioner while he is in valid deferred action status;
5. Order that, if at any time in the future Petitioner is no longer in valid deferred action status, 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;

6. Order that upon Petitioner's release, Respondents must return to Petitioner any personal property, including personal identification documents and employment authorization documents;
7. Retain jurisdiction over this matter to decide any future motion for an award of reasonable attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, Local Rule 54.3(a), and on any other basis justified under law; and
8. Grant Petitioner any further relief that this Court deems to be just and proper.

Respectfully submitted,

Dated: June 10, 2026

/s/ *Michael R. Docherty*
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**VERIFICATION**

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I have discussed the factual assertions in this petition with Petitioner. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

Executed this 10th day of June, 2026.

*/s/ Michael R. Docherty*
Michael R. Docherty
Attorney at Law