IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

ANTONIO BARRENO-CUX,

Plaintiff,

v. **Civil Action No. 26-2671**

CHRISTOPHER BULLOCK, in his official capacity as Field Office Director, U.S. Immigration and Customs Enforcement, New Orleans Field Office; and any other appropriate officials,

Respondants.

PLAINTIFF'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER, STAY OF REMOVAL, AND REQUEST FOR RELEASE

Plaintiff Antonio Barreno-Cux ("Plaintiff" or "Mr. Barreno"), by and through undersigned counsel, respectfully moves for an emergency temporary restraining order, stay of removal, and, to the extent necessary to afford complete relief, release from immigration detention under reasonable conditions of supervision.

Mr. Barreno seeks only to preserve the status quo long enough to permit meaningful presentation of the statutory and constitutional issues implicated by his imminent removal—most importantly, his approved Special Immigrant Juvenile Status ("SIJS") petition, his pending Form I-485 application for adjustment of status, and his substantial basis to reopen and rescind his *in absentia* removal order for lack of notice. See *Nken v. Holder*, 556 U.S. 418, 426, 434 (2009); *Matter of M-R-A-*, 24 I. & N. Dec. 665, 673–76 (BIA 2008).

Immediate removal would inflict irreparable harm by severing Mr. Barreno from his partner, child, employment, church, and United States citizen siblings for whom he provides care,

while also nullifying in practical terms the very protections Congress created for vulnerable noncitizen youth who obtain SIJS. A short stay and temporary release under supervision are therefore necessary to preserve meaningful review and prevent unlawful execution of the removal order. See *Nken*, 556 U.S. at 434–35.

MEMORANDUM OF LAW

I. INTRODUCTION, JURISDICTION, AND VENUE

1. Plaintiff Antonio Barreno-Cux is a noncitizen presently subject to a final order of removal entered in absentia on or about June 30, 2025.
2. Plaintiff seeks emergency relief to preserve the status quo and prevent his imminent removal while he pursues reopening of his immigration proceedings and adjudication of his pending adjustment application based on his approved SIJS petition.
3. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States, including the Immigration and Nationality Act ("INA"), the Administrative Procedure Act ("APA"), and the Due Process Clause of the Fifth Amendment.
4. This Court has authority to issue a temporary restraining order and other provisional relief under Federal Rule of Civil Procedure 65.
5. To the extent necessary, this Court also possesses habeas jurisdiction under 28 U.S.C. § 2241 to review the legality of Plaintiff's detention and to prevent execution of a removal order in a manner that deprives him of meaningful access to statutory protections and judicial review.
6. Plaintiff does not ask this Court to review the merits of the underlying removal order itself. Rather, he challenges the timing and manner of its execution, which would effectively

extinguish his ability to pursue reopening and SIJS-based relief.

7. Venue is proper under 28 U.S.C. § 1391(e) because Defendants are officers or agencies of the United States acting in their official capacities, and Plaintiff has been detained or subjected to removal-related custody within this District and surrounding enforcement jurisdiction.

II. FACTUAL BACKGROUND

8. Mr. Barreno entered the United States in or about June 2016, when he was approximately fifteen years old.
9. He was raised by his single mother, an indigenous Quiché woman who cannot read or write.
10. As a child, Mr. Barreno was incapable of independently navigating the immigration system, and his mother likewise lacked the literacy and legal sophistication to understand hearing notices, address obligations, or the consequences of nonappearance.
11. Mr. Barreno and his mother were not meaningfully informed of his court date, and after they moved, they did not receive effective notice of subsequent hearing information.
12. Mr. Barreno therefore did not know that he had been ordered removed in absentia on or about June 30, 2025.
13. He now has an approved Form I-360 petition classifying him as a Special Immigrant Juvenile.
14. Congress created SIJS for noncitizen children whom a state court has found cannot reunify with one or both parents because of abuse, neglect, abandonment, or a similar basis under state law, and for whom return to the country of nationality is not in the child's best interest. See 8 U.S.C. § 1101(a)(27)(J).

15. Mr. Barreno also has a pending Form I-485 application for adjustment of status based on that approved SIJS classification.. SIJS beneficiaries may seek adjustment of status when otherwise eligible and when a visa is available.
16. Mr. Barreno has lived in the United States for approximately a decade.
17. He has a Mississippi identification card and employment authorization based on his pending adjustment application.
18. He has worked for more than six years at [redacted] repairing trailers.
19. He resides at [redacted] Mississippi, in a home leased in his name.
20. He lives with his partner, Laura Cox, and their young son, L[redacted]
21. He also helps care for two United States citizen siblings, a boy age four and a girl age two.
22. He and his family maintain insured vehicles and have longstanding community ties.
23. Mr. Barreno attends Pentecostal church services, and Pastor Rosa Mesh, church elders, his supervisor, and coworkers are prepared to provide letters of support.
24. Although Mr. Barreno was once charged with DUI and assault, those charges were dropped.
25. On Friday morning, June 5, 2026, at approximately 7:10 a.m., Tina Cox, the mother of Mr. Barreno's partner, forcibly entered his home by damaging the back door.
26. Ms. Cox then attacked Mr. Barreno while he was lying on the couch.
27. He suffered blood on his face and body and significant swelling to his wrist.
28. Another adult, Brittney Langley-Perez, was present, and young children had stayed overnight in the home.
29. Laura Cox reports that Tina Cox has engaged in prior violent conduct and has been arrested before.

30. This recent assault underscores both Mr. Barreno's vulnerability and the severe disruption that his sudden removal would inflict on the household that depends upon him.

III. LEGAL STANDARD

31. A temporary restraining order and stay of removal are governed by the traditional stay factors: "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Nken*, 556 U.S. at 426 (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)).

32. The Supreme Court held in Nken that these traditional stay factors—not the more demanding standard in 8 U.S.C. § 1252(f)(2)—govern a request to stay removal pending judicial review. *Id.* at 426, 433–34.

33. The first two factors—likelihood of success and irreparable harm—are "the most critical." *Id.* at 434.

34. When the Government is the opposing party, the third and fourth factors merge. Id. at 435.

IV. ARGUMENT

A. Plaintiff Will Suffer Irreparable Harm Absent Immediate Relief.

35. Removal would cause immediate and irreparable harm because it would separate Mr. Barreno from his partner, his young child, and his two United States citizen siblings for whom he provides substantial care and support.

36. Removal would also strip him, as a practical matter, of the meaningful opportunity to pursue reopening and adjustment based on approved SIJS classification.

37. Although Nken explains that removal is not categorically irreparable in every case, it also

makes clear that irreparable harm must be assessed in context, and here the context includes the likely frustration of congressionally created relief, family separation, and the dismantling of a stable household. See *Nken*, 556 U.S. at 434–35.

38. Courts evaluating emergency immigration relief routinely recognize that loss of a meaningful opportunity to pursue statutory relief, combined with family separation and practical litigation barriers after removal, constitutes classic irreparable harm.

39. The equities are especially acute here because SIJS exists to protect vulnerable youth from precisely the kinds of abandonment, neglect, and instability that Congress determined warrant humanitarian protection.

40. Immediate removal would invert that statutory design by expelling a person whom the Government has already determined qualifies for SIJS and who is actively pursuing the very adjustment process Congress provided.

B. Plaintiff Is Likely To Succeed on the Merits, or at Minimum Raises Serious Questions Going to the Merits.

41. Plaintiff has a substantial basis to reopen and rescind the in absentia order for lack of notice.

42. A removal order entered in absentia may be rescinded "at any time" upon a motion to reopen if the noncitizen demonstrates that he "did not receive notice" in accordance with 8 U.S.C. § 1229(a)(1) or (2). See 8 U.S.C. § 1229a(b)(5)(C)(ii).

43. The BIA has squarely held that where a hearing notice was sent by regular mail, there is only a weaker presumption of delivery, and "all relevant evidence" must be considered in deciding whether the presumption has been rebutted. *Matter of M-R-A-*, 24 I. & N. Dec. at 673–75.

44. The BIA further explained that relevant evidence includes the respondent's affidavit, affidavits from knowledgeable family members or others, diligence after learning of the

order, prior applications for relief, prior appearances, and any other circumstances indicating nonreceipt. *Id.* at 674.

45. The Board granted reopening in *Matter of M-R-A-* because the respondent had previously appeared, had sought affirmative relief, had no reason to miss the hearing, and acted diligently after learning of the in absentia order. *Id.* at 675–76.

46. Those same considerations strongly favor reopening here. Mr. Barreno entered proceedings as a child, lacked the capacity to navigate them on his own, depended on an illiterate indigenous mother who likewise could not understand the process, moved residences, and never received effective notice of the hearing that led to the in absentia order.

47. In addition, Mr. Barreno's approved SIJS petition and pending adjustment application establish powerful incentive to appear and pursue relief, not to abscond.

48. The Supreme Court has repeatedly emphasized the centrality of proper notice in removal proceedings. In *Pereira v. Sessions*, the Court held that a notice to appear lacking the statutorily required time-and-place information is not a valid "notice to appear" for purposes of the stop-time rule. 5 *Pereira v. Sessions,* 85 U.S. 210, 218–21 (2018).

49. While Pereira arose in a different statutory setting, its reasoning reinforces that statutorily compliant notice is not a technicality; it is foundational to the fairness and legality of removal proceedings.

50. Plaintiff's approved SIJS petition and pending adjustment application materially strengthen his reopening case and the need for equitable relief.

51. SIJS is not a speculative or collateral possibility. It is an approved humanitarian classification that reflects prior findings of abuse, neglect, abandonment, or a similar basis under state law, together with a finding that return to the noncitizen's country is not in the

child's best interest. See 8 U.S.C. § 1101(a)(27)(J).

52. Once SIJS is approved, adjustment of status is the statutory vehicle Congress provided for obtaining lawful permanent residence. See 8 U.S.C. § 1255(h).

53. Thus, unlike cases involving merely contemplated future relief, Mr. Barreno has already crossed the threshold eligibility determination for SIJS and is presently pursuing the congressionally prescribed next step.

54. That posture strongly supports reopening and temporary judicial intervention because removal now would nullify in practical effect a form of humanitarian protection the Executive has already recognized he qualifies to pursue.

55. Practice guidance addressing SIJS clients in removal proceedings specifically recommends seeking administrative closure, continuances, termination where appropriate, and motions to reopen to preserve access to adjustment for SIJS youth.

56. Likewise, practitioner guidance on SIJS adjustment has specifically advised that counsel may ask ICE Office of the Principal Legal Advisor ("OPLA") to join a motion to reopen so that SIJS-based relief can proceed.

57. These authorities are not binding precedent, but they are highly persuasive evidence of settled agency-facing practice in SIJS cases and confirm that reopening to pursue SIJS-based relief is neither extraordinary nor improper.

58. OPLA guidance supports joint or non-opposed reopening where newly available relief and compelling equities are present.

59. ICE OPLA's prosecutorial-discretion guidance explains that OPLA attorneys may join motions to reopen where respondents seek to pursue newly available relief and where the facts and discretion warrant such action.

60. That same guidance directs OPLA attorneys to consider dismissal, stipulations, and other forms of discretion in nonpriority cases and emphasizes early, efficient resolution in the interest of fairness and agency resource management.

61. Mr. Barreno presents the type of case that warrants such discretion: he entered as a child, has an approved SIJS petition, has a pending adjustment application, has strong family and community ties, has no disqualifying criminal record, and raises a substantial lack-of-notice claim under *Matter of M-R-A-*.

62. The Court need not decide whether OPLA must join reopening. It is enough that OPLA's own publicly described framework recognizes reopening to pursue newly available relief as an appropriate exercise of discretion in the right case.

63. Removal now would offend due process by depriving Plaintiff of a meaningful opportunity to pursue the relief Congress made available.

64. Due process in removal proceedings requires notice and a meaningful opportunity to be heard.

65. Executing the removal order now—before Mr. Barreno can effectively seek reopening on lack-of-notice grounds and pursue his SIJS-based adjustment—would deprive him of meaningful access to the process Congress created.

66. That is particularly true because his SIJS posture is inseparable from his history as a child who depended on adults who were unable to understand or protect his rights in the first place.

67. At minimum, these circumstances raise serious questions going to the merits sufficient to justify emergency relief under *Nken*. See 556 U.S. at 434.

C. Detention Is Unnecessary and Unreasonable in Light of Plaintiff's Strong Ties and Lack of Dangerousness.

68. Plaintiff's continued detention is unnecessary because he is neither a danger to the community nor a meaningful flight risk.

69. He has deep family ties, long-term employment, stable residence, a church community, and multiple individuals prepared to attest to his reliability and character.

70. His prior criminal charges were dismissed.

71. Reasonable conditions of supervision—including reporting obligations, residence restrictions, and any other appropriate terms—would adequately protect any legitimate government interest while avoiding needless detention and family separation.

D. The Balance of Equities and Public Interest Decisively Favor Relief.

72. The balance of equities weighs overwhelmingly in Plaintiff's favor.

73. On Plaintiff's side are likely frustration of SIJS-based relief, loss of reopening rights in practical effect, separation from his family, interruption of long-term employment, and the destruction of the stability he provides to a household that includes a young child and two United States citizen siblings.

74. On the Government's side is only the generalized interest in immediate enforcement of a removal order.

75. That interest is substantially diminished where the Plaintiff has an approved SIJS petition, a pending adjustment application, a substantial lack-of-notice claim, and no meaningful evidence of danger or flight risk.

76. The public interest favors faithful compliance with due process and with the statutory protections Congress created for vulnerable noncitizen youth. See Nken, 556 U.S. at 435.

77. The public interest also favors orderly adjudication rather than precipitous removal that would render reopening and SIJS-based adjustment effectively illusory.

V. REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

78. Issue an immediate Temporary Restraining Order enjoining Defendants, their officers, agents, employees, and all persons acting in concert with them from removing Plaintiff from the United States pending further order of this Court;

79. Stay execution of Plaintiff's removal order during the pendency of this action and long enough to permit meaningful presentation of his motion to reopen and related SIJS-based relief;

80. Order Plaintiff's release from immigration detention under reasonable conditions of supervision;

81. Set this matter for an expedited hearing on a preliminary injunction; and

82. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted this 11th day of June, 2026.

/s/ Jamie B. Naini

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