

Elisabeth M. W. Trefonas
CASBN 242533/ WY SBN 6-4168
TREFONAS LAW, P.C.
P.O. Box 2527, Jackson WY 83001
175 S. King St., Suite 100, Jackson WY 83001
EMWT@TrefonasLaw.com

Attorney for Petitioner, JASSIEL TZOMPA GARCIA

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

Jassiel Tzompa Garcia,
Petitioner,

V.

Juan Baltasar, Warden - Aurora Ice
Processing Center;

Todd Lyons, Acting Field Office Director -
U.S. Immigration and Customs Enforcement;

Markwayne Mullin, Secretary - U.S.
Department of Homeland Security; and

Todd Blanche, U.S. Attorney General,
Respondents.

Civil Action No.

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

ORAL ARGUMENT REQUESTED

INTRODUCTION

1. Petitioner Jassiel Tzompa Garcia is a Mexican citizen who was brought to the United States as a young child and has resided in this country for the vast majority of his life.
2. Petitioner was previously granted Deferred Action for Childhood Arrivals and, for years, maintained lawful presence and employment authorization under that program.
3. On March 24, 2026, Petitioner was stopped by local law enforcement during a routine traffic stop and was detained after being unable to present a driver's license. Following this

encounter, Petitioner was arrested and subsequently transferred into federal immigration custody when Immigration and Customs Enforcement assumed custody. Petitioner was then transferred to immigration detention on April 6, 2026, and is currently detained at the GEO Detention Facility in Aurora, Colorado.

4. At the time ICE took Petitioner into custody, he had a properly filed and pending Form I-918, Petition for U Nonimmigrant Status, before United States Citizenship and Immigration Services. USCIS retains exclusive jurisdiction over the adjudication of U Visa petitions pursuant to 8 C.F.R. § 214.14(c)(1).
5. Petitioner's U Visa petition is grounded in his status as a victim of qualifying criminal activity and his substantial cooperation with law enforcement authorities, as required by federal statute. In support of his petition, Petitioner submitted extensive documentary evidence, including evidence of victimization, cooperation with law enforcement, and the requisite law enforcement certification.
6. Petitioner's mother, Maria Pilar Garcia, was previously granted U Nonimmigrant Status based on the same underlying criminal conduct and factual circumstances forming the basis of Petitioner's pending application, further reinforcing the derivative and substantiated nature of his claim.
7. During the course of proceedings, Petitioner timely notified ICE, the Department of Homeland Security, and the Executive Office of Immigration Review of his pending U Visa petition and submitted documentary evidence establishing prima facie eligibility for relief.
8. Petitioner also moved for termination of removal proceedings, or, in the alternative, for administrative closure, on the ground that USCIS retains exclusive jurisdiction over the

adjudication of the U Visa petition and that continued removal proceedings and detention are incompatible with the statutory framework governing victim-based immigration relief.

9. On May 20, 2026, a federal district court in *Immigration Center for Women and Children v. Noem*, No. 2:25-cv-09848-AB-AS, issued a nationwide preliminary injunction certifying classes of U Visa, T Visa, and VAWA petitioners and enjoining enforcement practices that undermine Congress's statutory scheme for victim-based immigration relief. The injunction reflects a judicial determination that immigration enforcement actions may not operate in a manner that frustrates or renders ineffective pending humanitarian protections established by Congress.
10. Although Petitioner meets the criteria that would place him within the scope of individuals protected by the injunction, namely, having a properly filed and pending Form I-918, he is not required to rely solely on class membership for relief. Rather, his entitlement to protection arises independently from the statutory structure governing U Visa petitions and USCIS's exclusive jurisdiction over their adjudication.
11. Notwithstanding these legal protections, the Immigration Judge denied Petitioner's Motion to Terminate or Administratively Close proceedings *sua sponte*, without a reply from the Office of Principal Legal Advisor ("OPLA"). In doing so, the Immigration Judge acknowledged the federal injunction but concluded it imposed no binding obligation on the Immigration Court, reasoning that it was directed at ICE enforcement practices rather than EOIR proceedings.
12. The Immigration Judge further denied relief on the basis that Petitioner's U Visa petition remains pending and that USCIS has not yet issued a final adjudication, effectively

conditioning relief on agency delay rather than on statutory eligibility or jurisdictional limitations.

13. As a result of that ruling, Petitioner remains in ICE custody despite a properly filed and pending U Visa petition over which USCIS retains exclusive jurisdiction, despite substantial prima facie eligibility for relief, and despite the federal court's determination that enforcement practices must not undermine pending victim-based immigration protections.
14. The Immigration Judge's refusal to give effect to the federal injunction, coupled with reliance on the absence of a final USCIS adjudication as a basis for continued detention, has effectively nullified Petitioner's statutory protections and prolonged detention without a meaningful legal basis.
15. Petitioner has exhausted all available administrative remedies. The Immigration Court has denied termination and administrative closure, and no further meaningful relief is available within the administrative framework.
16. Accordingly, Petitioner remains detained under circumstances that conflict with the statutory scheme governing U Visa adjudication, disregard the legal effect of a federal injunction designed to prevent such enforcement outcomes, and result in continued deprivation of liberty while USCIS retains exclusive authority over the underlying relief.
17. Absent intervention by this Court, Petitioner will continue to suffer unlawful detention while his eligibility for victim-based immigration relief is adjudicated exclusively by USCIS, rendering the ongoing detention arbitrary, legally unsupported, and inconsistent with the governing statutory and constitutional framework.

18. Because Petitioner's continued detention violates federal law, exceeds the government's lawful detention authority, and persists notwithstanding the exhaustion of available administrative remedies, this Court's intervention is necessary to protect Petitioner's constitutional and statutory rights. Accordingly, Petitioner seeks immediate habeas relief pursuant to 28 U.S.C. § 2241.

JURISDICTION

19. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA) § 212(a)(6)(A)(i).
20. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
21. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

22. Venue is proper because Mr. Tzompa Garcia is detained at the GEO Group's ICE Processing Center in Aurora, Colorado, which is within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

23. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return

"within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

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

25. This principle carries particular weight in the context of civil immigration detention. Unlike criminal punishment, immigration detention is civil in nature and may not be used as a form of punishment or prolonged restraint without adequate procedural safeguards and constitutional justification. Where a detainee is held under conditions that raise serious constitutional concerns, particularly when a visa application is pending, and there is no lawful basis justifying continued detention. Habeas corpus serves as the primary and immediate judicial mechanism to prevent ongoing unlawful confinement.

26. Accordingly, where a petitioner demonstrates colorable claims of unlawful detention and ongoing irreparable harm, § 2243 requires the Court to act without delay by issuing an OSC and setting an expedited return schedule. Any unnecessary delay in adjudicating such claims would undermine the core purpose of habeas corpus: to provide a swift and imperative remedy against unlawful restraint.

PARTIES

27. Mr. Tzompa Garcia is a native and citizen of Mexico. He is pursuing the U-Visa in the U.S. He is being detained at the GEO Group's ICE Processing Center in Aurora, Colorado. He is in the custody and under the direct control of Respondents and their agents.
28. Respondent Juan Baltasar is sued in his official capacity as the Warden of the GEO Group's ICE Processing Center in Aurora. He has immediate physical custody of Mr. Tzompa Garcia pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens. Respondent Juan Baltasar is a custodian of Mr. Tzompa Garcia and has the authority to release him.
29. Respondent Todd Lyons is sued in his official capacity as the Acting Field Office Director of the Denver Office of U.S. Immigration and Customs Enforcement (ICE). Respondent Todd Lyons is a custodian of Mr. Tzompa Garcia and has the authority to release him.
30. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Markwayne Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Mr. Tzompa Garcia's detention. Respondent Markwayne Mullin is a custodian of Mr. Tzompa Garcia and has the authority to release him.
31. Respondent Todd Blanche is sued in his official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the

Board of Immigration Appeals. Respondent Blanche is a custodian of Mr. Tzompa Garcia and has the authority to release him.

LEGAL FRAMEWORK

32. Noncitizens placed in removal proceedings have the right to apply for various forms of protection and relief from removal before an Immigration Judge. 8 U.S.C. § 1229a(c)(4). Relevant here, individuals may apply for asylum under 8 U.S.C. § 1158, withholding of removal under 8 U.S.C. § 1231(b)(3), and protection under the Convention Against Torture, as implemented by 8 C.F.R. §§ 1208.16–1208.18. An applicant seeking asylum or withholding of removal bears the burden of establishing eligibility for such relief. 8 U.S.C. §§ 1158(b)(1)(B), 1231(b)(3)(C); 8 C.F.R. § 1208.16(b), (c). Protection under CAT prohibits the removal of a person to a country where it is more likely than not that the person would be tortured. 8 C.F.R. §§ 1208.16(c), 1208.17(a).
33. Noncitizens who receive an adverse decision from an Immigration Judge in removal proceedings may appeal that decision to the Board of Immigration Appeals. 8 U.S.C. § 1229a(c)(5); 8 C.F.R. § 1003.1(b)(3). A decision of the Immigration Judge does not become administratively final while a timely appeal to the BIA is pending. See 8 C.F.R. § 1241.1(a). Accordingly, the filing of a notice of appeal generally stays execution of the Immigration Judge's decision during the pendency of the appeal. 8 C.F.R. § 1003.6(a). Once the BIA dismisses the appeal, however, the removal order becomes administratively final. 8 C.F.R. § 1241.1(a).
34. If a noncitizen departs the United States while an appeal before the BIA is pending, that departure is deemed a withdrawal of the appeal. 8 C.F.R. § 1003.4. In that circumstance,

"the initial decision in the case shall be final to the same extent as though no appeal had been taken." Id. Thus, departure during the pendency of the appeal causes the Immigration Judge's underlying order to become administratively final immediately upon departure.

35. If a person reenters the United States unlawfully after having been removed or having departed voluntarily under an order of removal, the prior removal order may be reinstated from its original date, and the individual may be removed pursuant to that prior order. 8 U.S.C. § 1231(a)(5).

36. In reinstatement proceedings under 8 U.S.C. § 1231(a)(5), a DHS officer must determine whether the individual is subject to reinstatement by confirming: (1) the existence of a prior removal order; (2) the identity of the person as the same individual previously removed; and (3) unlawful reentry into the United States. 8 C.F.R. § 241.8(a). In making this determination, the officer "must obtain the prior order." 8 C.F.R. § 241.8(a)(1).

37. DHS must inform the individual that he or she has the right to make a written or oral statement contesting the determination that he or she is subject to reinstatement. 8 C.F.R. § 241.8(b).

38. Only after the individual has been advised of the right to contest reinstatement, and after any such challenge has been considered, may a different immigration officer sign and date the bottom portion of Form I-871, labeled "Decision, Order and Officer's Certification," thereby reinstating the prior removal order. 8 C.F.R. § 241.8(b).

STATEMENT OF FACTS

PETITIONER'S LONG-TERM RESIDENCE AND DEEP TIES TO THE UNITED STATES:

39. Petitioner has lived in the United States for the majority of his life and was previously granted Deferred Action for Childhood Arrivals (DACA), under which he maintained lawful presence and employment authorization for an extended period. Petitioner's immediate family, social network, and community ties are all located in the United States, which constitutes his only meaningful home. He has no established residence, support system, or durable ties outside this country.

INITIATION OF IMMIGRATION CUSTODY

40. On March 24, 2026, Petitioner was stopped during a routine traffic stop and detained after being unable to present a driver's license. Following this encounter, Petitioner was arrested and transferred into ICE custody.

41. Petitioner was placed in immigration detention and, on April 6, 2026, transferred to the GEO Detention Facility in Aurora, Colorado, where he remains in civil immigration custody.

LACK OF LAWFUL BASIS FOR PETITIONER'S CONTINUED DETENTION

42. Petitioner filed a Form I-918 Petition for U Nonimmigrant Status (U Visa) with United States Citizenship and Immigration Services based on his status as a victim of qualifying criminal activity, including severe domestic violence and child abuse perpetrated by his father. The petition is supported by evidence of victimization, law enforcement cooperation, and the required certification, and remains pending within USCIS's exclusive jurisdiction pursuant to 8 C.F.R. § 214.14(c)(1).

43. Petitioner's mother, Maria Pilar Garcia, was previously granted U Nonimmigrant Status based on the same underlying criminal conduct and factual circumstances forming the

basis of Petitioner's pending application, further reinforcing the derivative and substantiated nature of his claim.

44. Petitioner was taken into immigration custody by ICE following a routine traffic stop that led to his arrest for inability to present a driver's license. Subsequently placed into removal proceedings before the Immigration Court and transferred into ICE detention, despite the existence of a properly filed and pending humanitarian petition before USCIS.
45. While in removal proceedings, Petitioner also submitted applications for asylum and withholding of removal based on severe past persecution and a well-founded fear of future persecution. Petitioner was subjected to prolonged domestic violence and child abuse by his father, who was later imprisoned and deported. Following deportation, Petitioner's father has continued to issue credible and repeated threats to kill Petitioner and his family in retaliation for their cooperation with law enforcement authorities.
46. Petitioner further asserts that Mexican authorities are unable or unwilling to provide effective protection from this ongoing violence and credible threat of lethal harm, creating a clear and individualized risk to his life if removed.
47. Petitioner moved before the Immigration Court to terminate proceedings or, in the alternative, for administrative closure, on the grounds that USCIS retains exclusive jurisdiction over the pending U Visa petition and that continued detention and removal proceedings undermine the statutory framework governing victim-based relief.
48. The Immigration Judge denied Petitioner's motion to terminate and request for administrative closure, notwithstanding the pending U Visa petition and the governing regulatory scheme. The decision relied on the absence of a final USCIS adjudication and rejected the existence of pending humanitarian relief as a basis to halt proceedings.

49. As a result of these successive actions, U Visa filing, detention, initiation of removal proceedings, asylum filing, denial of termination, and continued custody, Petitioner remains in ICE detention without any individualized finding of dangerousness or flight risk, and solely due to procedural posture and pending adjudication of relief before USCIS. Petitioner continues to be detained despite strong humanitarian claims and the pendency of statutory protections designed to prevent removal while such relief is being adjudicated.
50. Petitioner's pending claims do not constitute a lawful basis for continued detention. The existence of pending humanitarian relief reflects unresolved statutory eligibility, not a necessity for confinement. Detention based solely on the pendency of adjudication is arbitrary and unsupported by individualized justification.

LACK OF DANGEROUSNESS OR FLIGHT RISK

51. Petitioner's continued detention is not based on any individualized finding of dangerousness or flight risk. No evidence has been presented to suggest that Petitioner poses a threat to public safety or would abscond from proceedings. Any assertion to the contrary is speculative and unsupported by the record.
52. Petitioner has spent most of his life in the United States and has no meaningful ties to any other country. He has no residence, family support, or community infrastructure abroad. His life, relationships, and stability are entirely rooted in the United States, making any allegation of flight risk unfounded.
53. Immigration detention is constitutionally and statutorily justified only where it is supported by an individualized finding of either flight risk or danger to the community, or where it is reasonably necessary to effectuate removal, and only when less restrictive alternatives are insufficient to mitigate identified risks. In this case, Petitioner's continued detention is not

based on any such individualized determination. There is no documented dangerousness, and no credible indication of flight risk, particularly given Petitioner's long-term residence and deep ties to the United States.

54. Instead, detention is being maintained solely on the basis of procedural posture and the pendency of his U Visa and asylum applications. This stands in direct contrast to the governing legal framework, which requires detention to be narrowly tied to necessity, not administrative delay or unresolved adjudications. Continued detention becomes unlawful once it is no longer reasonably connected to its regulatory purpose. Petitioner's confinement has become disconnected from any legitimate immigration objective.

55. Accordingly, because detention is unsupported by individualized justification and is based solely on pending relief, it is arbitrary, excessive, and unreasonable under the Fifth Amendment and controlling Supreme Court precedent.

FEDERAL INJUNCTION PROTECTING U VISA PETITIONERS AND RELATED CLASS MEMBERS

56. On May 20, 2026, the United States District Court for the Central District of California issued a nationwide preliminary injunction in *Immigration Center for Women and Children v. Noem*, No. 2:25-cv-09848-AB-AS, certifying classes of U Visa, T Visa, and VAWA petitioners and enjoining enforcement practices that undermine Congress's statutory scheme for victim-based immigration relief. The Court recognized that immigration enforcement actions may not operate in a manner that frustrates or renders ineffective pending humanitarian protections established by Congress.

57. Although Petitioner falls within the class of individuals protected by the injunction and independently meets the criteria for U Visa eligibility, the Immigration Judge denied

Petitioner's motion to terminate or administratively close proceedings. In doing so, the Immigration Judge acknowledged the federal injunction but concluded it had no binding effect on the Immigration Court, reasoning that it was directed at enforcement agencies rather than adjudicatory proceedings.

58. The Immigration Judge further denied relief based on the pendency of Petitioner's U Visa petition and the absence of a final adjudication by USCIS, effectively conditioning relief on agency processing timelines rather than statutory eligibility or jurisdictional limitations.
59. As a result of these rulings, Petitioner remains detained by Immigration and Customs Enforcement despite having no individualized finding of dangerousness and no established flight risk. Petitioner's continued detention is based solely on procedural posture and the pendency of humanitarian relief over which USCIS retains exclusive jurisdiction.

RISKS AND HARM RESULTING FROM PETITIONER'S CONTINUED DETENTION

60. Petitioner's continued immigration detention poses serious and escalating risks to his physical, psychological, and emotional well-being, particularly given that he is not detained as punishment. Prolonged confinement under civil immigration custody conditions, without individualized justification, creates significant harm that extends beyond mere loss of liberty:

a. Psychological Harm:

Extended detention in a correctional setting commonly results in severe psychological distress, including anxiety, depression, insomnia, hopelessness, and emotional exhaustion. The uncertainty surrounding immigration proceedings, combined with the absence of a defined release timeline, creates chronic stress that can significantly impair mental stability and long-term functioning. This harm is further intensified in Petitioner's case because he

is being held in the only country he meaningfully knows as home while facing potential removal to a country where he has no meaningful lived connection or stable support system, and where he faces a credible risk of harm from his own father, his identified aggressor. The prospect of removal under these circumstances compounds psychological trauma by creating persistent fear for personal safety and reinforcing a sense of instability and helplessness throughout the duration of detention.

b. Emotional and Social Harm:

Detention causes profound separation from family, community, and support systems, which are essential protective factors for emotional stability and basic human rights. This isolation increases feelings of helplessness and despair, particularly when the individual has deep, long-term ties in the United States and no meaningful support structure outside the country.

c. Development of Indefinite Uncertainty and Trauma:

Where detention is tied solely to pending immigration relief and lacks a clear resolution date, it creates an indefinite state of uncertainty. This condition is widely recognized as a significant source of psychological trauma, as individuals are unable to plan for the future or achieve emotional closure regarding their legal status.

61. Subjecting an individual to prison-like confinement imposes a punitive effect that is fundamentally incompatible with the civil nature of immigration proceedings and raises serious concerns under basic human rights principles, including the right to liberty, family unity, and protection from arbitrary detention as recognized in instruments such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

62. Petitioner was brought to the United States as a child by his parents and had no agency or legal capacity to choose his country of residence. Any migration decision was made entirely by others, yet he is now the one bearing the full weight of its consequences. To subject him to prolonged detention and potential removal is to punish circumstances over which he had no control, effectively converting a parental decision into a lifelong liability imposed on the child.

63. Moreover, continued detention exposes him to the profound fear of being deported to a country that is not meaningfully his home, where he lacks lived connection, stability, and support systems, specially considering that this is the country where his aggressor is now living, while the United States has functioned as his de facto home throughout his formative and adult life. This dislocation is not merely inconvenient; it is a rupture of identity, belonging, and established social ties, with foreseeable and lasting harm.

64. Immigration control measures must be proportionate, non-arbitrary, and sensitive to individual circumstances, particularly where long-term residence and childhood arrival are involved. In this context, continued confinement of the Petitioner, brought to this country as a minor, and deeply rooted in U.S. society, cannot be justified as a reasonable or proportionate measure, but instead results in severe and unnecessary human consequences inconsistent with the principles of dignity, fairness, and proportionality.

65. These are not temporary or incidental harms, but life-altering consequences imposed while he remains in a country where he has long sought protection and has always understood as his home. Taken together, these conditions underscore that continued confinement is not only unduly burdensome but also inconsistent with the humanitarian and civil character of immigration detention.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

66. The allegations in the above paragraphs are realleged and incorporated herein.
67. The Respondents have violated Mr. Tzompa Garcia's rights to constitutional due process by detaining him without statutory authority.
68. There are only two possible sources of Respondents' asserted authority for Petitioner's continued detention.
69. The first is 8 U.S.C. § 1226, which governs the detention of noncitizens during the pendency of removal proceedings under 8 U.S.C. § 1229a. Petitioner, Jassiel Tzompa Garcia, is currently in removal proceedings, and Respondents therefore seek to justify his detention under § 1226 as pre-final-order custody.
70. However, § 1226 does not confer unfettered authority to detain. Any detention under this provision is constitutionally constrained and must be supported by a valid custody determination and individualized findings of necessity. Petitioner's continued detention, absent meaningful and constitutionally adequate review and without sufficient justification that lesser restrictive alternatives are inadequate, constitutes unlawful and excessive restraint in violation of the Fifth Amendment and exceeds the statutory limits of § 1226.
71. Immigration detention is civil, not punitive.
72. The Fifth Amendment prohibits the government from subjecting civil detainees to punitive or excessive confinement conditions.
73. Continued detention is unreasonable and unlawful given:

- a. Petitioner does not pose a risk of flight, as he has a clear incentive to comply with all immigration proceedings and pursue available relief before this Court;
 - b. The prolonged and ongoing nature of his detention, despite the absence of any individualized determination justifying continued confinement;
 - c. The unsafe and inadequate conditions of confinement for prolonged civil immigration detention; and,
 - d. The availability of clear, viable alternatives to detention that would reasonably ensure appearance at proceedings without the need for custody.
74. Respondents' continued detention violates the Due Process Clause of the Fifth Amendment because Petitioner's detention has become excessive, unreasonable, and punitive in nature.

COUNT TWO

Unconstitutional Conditions of Confinement – ICCPR part III art. 7

75. Petitioner realleges and incorporates all preceding paragraphs.
76. Civil detainees may not be subjected to conditions amounting to punishment. Conditions of confinement become unconstitutional when they are not reasonably related to a legitimate governmental objective or are excessive in relation to that purpose. Petitioner's continued detention under
77. Article 7 of the International Covenant on Civil and Political Rights prohibits subjecting any individual to treatment or conditions that cause physical or psychological suffering or that are incompatible with human dignity. This protection applies to all persons deprived of liberty, including civil immigration detainees, and requires that detention conditions remain strictly humane, non-punitive, and proportionate to a legitimate governmental purpose.

78. Immigration detention is civil, not criminal, in nature. As such, it cannot be punitive in purpose or effect. Under international human rights standards, including ICCPR Article 7, the State bears an affirmative duty to ensure that detention conditions do not resemble penal incarceration or impose unnecessary hardship beyond what is strictly required for administrative purposes.
79. Petitioner's continued detention, despite a pending and properly filed U Visa petition within USCIS's exclusive jurisdiction, results in confinement that is disconnected from a final legal determination. Where detention is prolonged without a definitive resolution of underlying immigration relief, it risks becoming arbitrary and disproportionate in violation of Article 7 protections.
80. Extended detention in a correctional facility without clear time limits or certainty of release creates severe psychological stress, anxiety, and deterioration of mental well-being. International human rights standards recognize that indefinite or prolonged civil detention, particularly in immigration contexts, can amount to degrading treatment when not justified by individualized necessity.
81. Petitioner's detention is not based on any individualized finding of dangerousness or flight risk supported by evidence, but rather on procedural posture and the pendency of adjudication of immigration relief. Petitioner has grown up in the United States and has developed his entire social, familial, and community ties within this country, which constitutes his primary and only meaningful home. He has no established residence, support system, or practical ties in any other country to which he could reasonably be expected to flee. Under these circumstances, the assumption of flight risk is speculative and unsupported, and continued detention is therefore disproportionate. Detaining an

individual in the absence of a necessity-based justification undermines the proportionality requirement inherent in Article 7 protections under the ICCPR and renders continued confinement arbitrary in nature.

82. Continued confinement while USCIS retains exclusive jurisdiction over the U Visa petition disrupts the statutory and humanitarian framework designed to protect victims of qualifying crimes. Detention under these circumstances exacerbates vulnerability and undermines access to meaningful relief.
83. The combination of prolonged detention, lack of final adjudication, and exposure to restrictive custodial conditions results in cumulative harm that may rise to the level of degrading treatment under ICCPR Article 7, particularly where less restrictive alternatives to detention exist.
84. Immigration enforcement interests, such as border protection, cannot override non-derogable human rights protections, particularly where the individual poses no danger and seeks only adequate and basic humane treatment. Continued custody under these circumstances constitutes a clear violation of fundamental due process and human dignity principles protected under U.S. and international law.
85. The United States, as a State Party to the ICCPR, is obligated to ensure that all persons within its jurisdiction are treated humanely and with dignity, and continued detention under these circumstances constitutes arbitrary, disproportionate, and inhumane treatment in violation of Article 7 and fundamental due process guarantees.

COUNT THREE

Failure to Respect Statutory Framework Governing U Visa Petitions (USCIS Exclusive Jurisdiction)

86. Petitioner's continued detention and the Immigration Judge's refusal to terminate or meaningfully defer proceedings unlawfully disregard the statutory and regulatory framework governing U Visa adjudications, which vests exclusive jurisdiction over the determination of U nonimmigrant status in United States Citizenship and Immigration Services pursuant to 8 C.F.R. § 214.14(c)(1). Congress, through INA § 101(a)(15)(U), 8 U.S.C. § 1101(a)(15)(U), created a comprehensive humanitarian protection scheme for victims of qualifying criminal activity, and nationwide preliminary injunction - *federal district court in Immigration Center for Women and Children v. Noem, No. 2:25-cv-09848-AB-AS* intended to ensure that individuals assisting law enforcement are not subjected to removal or enforcement actions that undermine their eligibility for relief while their petitions are pending before the agency designated to adjudicate them.

87. By sustaining detention and permitting removal-related consequences to proceed notwithstanding a properly filed and pending U Visa petition, the Government, through the Immigration Judge's ruling, effectively intrudes upon USCIS's exclusive adjudicatory authority and disrupts the uniform statutory process established by Congress and *nationwide preliminary injunction*, issued by a federal judge. The Immigration Judge's reliance on his own interpretation that relief is unavailable despite a nationwide injunction is unlawful, as it impermissibly substitutes individual adjudicative judgment for the governing statutory and regulatory framework. This reasoning improperly shifts the burden of administrative delay onto the Petitioner and, in practice, renders Congress's statutory protections illusory.

88. This approach is directly contrary to the humanitarian purpose of the U Visa program, which is designed to stabilize victims of serious crimes and ensure their cooperation with

law enforcement without fear of removal or punitive enforcement measures. Allowing immigration detention to continue while USCIS retains exclusive jurisdiction over the underlying relief frustrates Congress's intent and creates an impermissible conflict between agency enforcement action and statutory protection.

89. Federal courts have recognized that enforcement practices may not operate in a manner that undermines the integrity of victim-based immigration relief systems. See *Immigration Center for Women and Children v. Noem*, No. 2:25-cv-09848 (C.D. Cal. 2026) (enjoining enforcement actions that interfere with statutory protections for U, T, and VAWA petitioners). Accordingly, Petitioner's continued detention in the face of a pending, properly filed U Visa petition represents an unlawful encroachment on USCIS's exclusive jurisdiction and a failure to adhere to the statutory framework enacted by Congress.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter.
2. Issue a Writ of Habeas Corpus ordering Petitioner's immediate release from ICE custody;
3. Enjoin Respondents from continuing Petitioner's detention under conditions that violate the Fifth Amendment Due Process Clause, including unconstitutional conditions of confinement, and require Respondents to provide constitutionally compliant custody conditions or release Petitioner under appropriate supervision or alternative to detention.
4. Award attorneys' fees and costs as permitted by law; and
5. Grant any further relief the Court deems just and proper.

Dated: June 17, 2026

Respectfully submitted,

S:/Elisabeth M. W. Trefonas

Elisabeth M. W. Trefonas, Counsel for Petitioner

CA SBN 242533/ WY SBN 6-4168

TREFONAS LAW, P.C.

P.O. Box 2527, Jackson WY 83001

175 S. King St., Suite 100, Jackson WY 83001

EMWT@TrefonasLaw.com

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

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

Dated this 17th day of June 2026.

S:/Elisabeth M. W. Trefonas

Elisabeth M. W. Trefonas, Counsel for Petitioner

CA SBN 242533/ WY SBN 6-4168

TREFONAS LAW, P.C.

P.O. Box 2527, Jackson WY 83001

175 S. King St., Suite 100, Jackson WY 83001

EMWT@TrefonasLaw.com

Dated: June 17, 2026