UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

ERICK CERVANTES MERINO,

Petitioner,

v.

MIKE STASKO, Jail Administrator, Freeborn County Jail; DAVID EASTERWOOD, Field Office Director of Enforcement and Removal Operations, St. Paul Field Office, Immigration and Customs Enforcement; DAVID J. VENTURELLA, Acting Director, United States Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary of Homeland Secretary; TODD BLANCHE, United States Attorney General, *in their official capacities,*

Respondents.

Civil Action No.

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

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

I. INTRODUCTION

1. Petitioner Mr. Erick Cervantes Merino, a 19-year-old student and caregiver to his two younger, U.S. citizen sisters, has been detained by Immigration and Customs Enforcement (ICE) since November 18, 2025.

2. He challenges his detention as a violation of the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

3. ICE's mandatory detention of Mr. Cervantes Merino is unlawful because he has Special Immigrant Juvenile Status ("SIJS"). SIJS protects an individual from removal and provides a pathway to lawful permanent residency for vulnerable youth

who meet certain substantive and procedural requirements. *See* 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11.

4. Therefore, by continuing to detain him, ICE is depriving Mr. Cervantes Merino of his liberty interests in violation of the Due Process Clause of the Fifth Amendment.

5. In addition, Mr. Cervantes Merino was not lawfully arrested, making his current detention unlawful. ICE has provided no evidence that he was served an administrative warrant (Form I-200) at the time of his arrest. *See* 8 C.F.R. § 236.1(b). Even if it had, the I-200 would not have been valid because the agency served him with a charging document, the Notice to Appear ("NTA"), *after* he was arrested and detained, in violation of the regulation at § 236.1(b).

6. This is Mr. Cervantes Merino's third habeas petition. At the time the Court denied his first petition, U.S. Citizenship and Immigration Services ("USCIS") had not yet approved his SIJS application. On April 30, 2026, USCIS granted the application, conferring additional statutory and constitutional rights that form the basis of this petition. To date, Mr. Cervantes Merino has been in detention for 316 days—more than ten months—without an opportunity for bond.

7. Mr. Cervantes Merino respectfully requests the Court grant him a Writ of Habeas Corpus and order his immediate release or a bond hearing. *See Demore v. Kim*, 538 U.S. 510, 531 (2003) (Kennedy, J., concurring) ("[T]he ultimate purpose behind the detention is premised upon the alien's deportability. As a consequence, due process requires individualized procedures to ensure there is at least some merit to the Immigration and Naturalization Service's . . . charge").

8. Considering his young age and the length of his detention, Mr. Cervantes Merino asks that the Court issue an expeditious order requiring Respondents to show cause within three days, as contemplated by 28 U.S.C. § 2243.

II. CUSTODY

9. Mr. Cervantes Merino is in the physical custody of Respondents and is currently detained at Freeborn County Jail in Albert Lea, Minnesota. He is under the direct control of Respondents and their agents.

III. JURISDICTION AND VENUE

10. Habeas corpus jurisdiction is proper under 28 U.S.C. § 2241 and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2. Because it arises out of a question of federal law, jurisdiction is also proper under 28 U.S.C. § 1331.

11. Pursuant to 28 U.S.C. § 2241, district courts have jurisdiction to hear habeas petitions by noncitizens who challenge the lawfulness of their detention under federal law. *Demore*, 538 U.S. at 516–17; *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

12. Venue is proper in the U.S. District Court for the District of Minnesota because at least one Respondent is in this District. Mr. Cervantes Merino is detained in this District, and his immediate physical custodian is in this District.
28 U.S.C. § 1391(b).

IV. REQUIREMENTS OF 28 U.S.C. § 2243

13. Unless Mr. Cervantes Merino is wholly ineligible for relief, the Court must either grant the instant petition for writ of habeas corpus or order the Respondents to show cause as to why it should not be granted. 28 U.S.C. § 2243. If so

ordered, Respondents must file a response within three days but no later than 20 days. *Id.*

14. 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) (emphasis added). "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).

15. Due to the nature and urgency of this proceeding, Mr. Cervantes Merino asks this Court to expedite the case as necessary and practicable for justice.

V. PARTIES

16. Mr. Cervantes Merino is a citizen of Mexico who arrived in the United States in 2014, when he was six years old. *See* Ex. 1 at 3 (Petition for SIJ Classification). He grew up in the United States and attended [redacted] in Cedar Rapids, Iowa, until ICE detained him on November 17, 2025. *See* Ex. 2 at 2 (ICE Record (I-213)). He has remained in ICE custody since—first at Hardin County Jail in Eldora, Iowa, then at Freeborn County Jail in Albert Lea, Minnesota.

17. Respondent Mike Stasko is the Jail Administrator at Freeborn County Jail. He is responsible for the custody of persons detained at Freeborn County Jail, including Mr. Cervantes Merino.

18. Respondent David Easterwood is the Field Office Director for the Saint Paul Field Office for ICE within the U.S. Department of Homeland Security (DHS). Director Easterwood manages ICE operations within Iowa, Minnesota, Nebraska,

North Dakota, and South Dakota and has supervisory authority over the ICE agents responsible for detaining Mr. Cervantes Merino.

19. Respondent David J. Venturella is the Acting Director of ICE. He is a legal custodian of Mr. Cervantes Merino and is named in his official capacity.

20. Respondent Markwayne Mullin is the Secretary of DHS. He is a legal custodian of Mr. Cervantes Merino and is named in his official capacity.

21. Respondent Todd Blanche is the Attorney General of the United States Department of Justice (DOJ). He oversees the immigration courts, which would administer relief if the Court orders a bond hearing. He is named in his official capacity.

VI. STATEMENT OF FACTS

A. Arrival to the United States.

22. Born in Mexico, Mr. Cervantes Merino was brought to the United States in the summer of 2014 as a 6-year-old boy. *See* Ex. 1 at 3 (Petition for SIJ Classification). Mr. Cervantes Merino has spent his childhood in the United States, living with his family. He has very few memories of life in Mexico or of his journey to the United States.

23. Mr. Cervantes Merino's first home in the United States was Oxnard, California. He attended elementary, middle, and high school on the West coast until he moved to Iowa in 2020 to finish high school.

24. In January of 2024, Mr. Cervantes Merino moved to Cedar Rapids, Iowa, where he has lived since. He has many friends from school and aspires to be a car mechanic. Prior to his detention, Mr. Cervantes Merino was a senior at [redacted]

[redacted] enjoying computer science and language courses most. He would have graduated in May 2026 if he had not been in ICE custody.

25. Mr. Cervantes Merino comes from a tight-knit family who regularly contacts him while detained. He is the older brother of two sisters, ages four and seven years old, who are both American citizens. Before detention, he provided daily childcare for his sisters, including transporting them to and from school.

B. Arrest and Detention.

26. On the evening of November 16, 2025, Mr. Cervantes Merino drove his cousin and a friend to the movies in Cedar Rapids, Iowa. They passed a local police vehicle in the oncoming lane which made a U-turn and began following the boys. The police initiated a traffic stop due to Mr. Cervantes Merino's "nervous" appearance and a missed stop sign.

27. When police asked for Mr. Cervantes Merino's identification, he told them he didn't have physical identification. He told police his last name was Sosa, a name he is known by, instead of Cervantes Merino. Ex. 3 at 1–2 (State Complaint).

28. Police arrested him and conducted a search of Mr. Cervantes Merino's person, finding a physical ID. Police charged him with providing false identification information to a police officer, a simple misdemeanor, and three traffic violations punishable only by fine. *Id.*

29. Two charges were eventually dismissed. As a *pro se* defendant, Mr. Cervantes Merino pleaded guilty to providing false information to a police officer and failure to obey a stop sign. Ex. 4 at 1 (Sentencing Order). He was charged $105 and released on an order of recognizance. *Id.*

30. Other than the simple misdemeanor and the traffic violation from this incident, Mr. Cervantes Merino has a clean criminal record.

31. Although he was released from criminal custody on his own recognizance within 24 hours of arrest, he remained in custody under an ICE hold. Ex. 4 at 2 (Sentencing Order); Ex. 2 at 2 (ICE Record (I-213)).

32. Mr. Cervantes Merino was then transferred to ICE custody in Cedar Rapids, Iowa, on November 17, 2025. Ex. 2 at 2 (ICE Record (I-213) ("On 11/17/2025 Cervantes was released after being convicted and issued a fine from Linn County Jail. Cervantes was transported to the ICE/ERO office in Cedar Rapids, Iowa. . ."). ICE served Mr. Cervantes Merino with a Notice to Appear on November 18, 2025, one day he was arrested and detained. Ex. 7 (Notice to Appear).

33. He was next transported to Hardin County Jail in Eldora, Iowa, where he remained for over 8 months. In August 2026, still in ICE custody, he was transferred to Freeborn County Jail in Albert Lea, Minnesota.

34. By continuing to detain him and initiating removal proceedings, ICE has halted Mr. Cervantes Merino's education and prevented him from graduating with his peers in May 2026.

C. Immigration Proceedings.

35. State juvenile courts may grant eligibility for special immigrant juvenile status which prevents the removal of vulnerable youth and provides a pathway to citizenship. *See* USICS, Special Immigrant Juveniles, USCIS, https://www.uscis.gov/working-in-US/eb4/SIJ.

36. On August 22, 2025, the Iowa District Court for Johnson County granted an order establishing guardianship of Mr. Cervantes Merino under the care of his relative, Karen Lopez Lopez. Ex. 5, at 3 (Guardianship Order).

37. On August 22, 2025, in a separate order, the Iowa District Court for Johnson County issued an order granting Mr. Cervantes Merino's eligibility for SIJS. Further, the Court found that it was not in his best interest to return to his parents' country of origin; rather, it was in his best interest to remain in the United States. Ex. 6, at 2 (SIJS Eligibility Order).

38. On October 20, 2025, USCIS received Mr. Cervantes Merino's I-360 special immigrant juvenile petition to adjust Mr. Cervantes Merino's status.

39. On November 18, 2025, one day after he was arrested by ICE and despite his pending I-360 petition, DHS issued Mr. Cervantes Merino a Notice to Appear (NTA), concluding that he is removable under 8 U.S.C § 1182(a)(6)(A)(i) and 8 U.S.C. § 1182(a)(7)(A)(i)(I). *See* Ex. 7 at 4 (Notice to Appear).

40. On April 30, 2026, USCIS approved Mr. Cervantes Merino's SIJS petition. Ex. 8 (SIJS Approval Notice). As an SIJS beneficiary, he is automatically considered for a grant of deferred action and is awaiting that decision.

41. Mr. Cervantes Merino moved to terminate his removal and applied for asylum and withholding of removal in front of U.S. DOJ Executive Office for Immigration Review ("EOIR"); however, his motion and asylum and withholding application were denied. He was granted post-conclusion voluntary departure. He has appealed the Court's decisions as they relate to his removability and asylum, and a briefing schedule is pending.

D. Habeas Petitions.

42. On February 20, 2026, Mr. Cervantes Merino submitted a petition for a writ of habeas corpus, which was denied on April 16, 2026, by the U.S. District Court for the Northern District of Iowa.

43. Mr. Cervantes Merino submitted a new petition on May 22, 2026, which was denied on July 2, 2026, by the same court.

44. Mr. Cervantes now submits this petition to adjudicate his substantive and procedural due process claims due to his now-prolonged detention of approximately ten months.

VII. LEGAL FRAMEWORK

A. ICE was required to serve a valid administrative warrant at the time of Mr. Cervantes Merino's arrest.

45. Section 1226(a) provides that the Government may arrest and detain a noncitizen pending a decision on removal "[o]n a warrant issued by the Attorney General." 8 U.S.C. § 1226(a). The implementing regulation identifies Form I-200 as the administrative warrant that may be used to effectuate such an arrest. *See* 8 C.F.R. § 236.1(b)(1). Here, the record contains no evidence establishing that an I-200 warrant was issued before Mr. Cervantes Merino's arrest.

46. But even if an I-200 existed, the record establishes that the Notice to Appear ("NTA") was not issued until November 18, 2026—a day *after* ICE arrested and detained Mr. Cervantes Merino. Under 8 C.F.R. § 236.1(b)(1), a noncitizen may be arrested under a Form I-200 "[a]t the time of issuance of the notice to appear, or at any time thereafter." The regulation therefore requires the NTA to have been issued either before or at the same time as the I-200. Thus, even if ICE issued I-200 on the day Mr.

Cervantes Merino was detained (November 17, 2025), it would be invalid because ICE didn't issue an NTA until a day later (November 18).

47. The District of Minnesota has repeatedly treated the validity and timing of the I-200 as a prerequisite to a lawful arrest. In *Alex N. v. Blanche*, the court held that the validity of the I-200 depended upon whether it was issued at or after the issuance of the NTA. No. 26-CV-3088 (LMP/DTS), 2026 WL 2427834, at *1–2 (D. Minn. Aug. 12, 2026), *report and recommendation adopted*, 2026 WL 2434741 (D. Minn. Aug. 19, 2026). The court explained that what mattered was "whether the official who issued the Form I-200 warrant had authority to do so." *Id.* at *1.

48. Likewise, in *Hegeh K. v. Blanche*, the court examined whether the petitioner was subject to an NTA and valid I-200 at the time of arrest. No. 26-CV-3087 (JRT/ECW), 2026 WL 2240542, at *1–2 (D. Minn. Aug. 4, 2026). The court concluded that the arrest was unlawful where the NTA was issued only after officials had already executed the arrest based on an I-200. *Id.*

49. Similarly, in *Oluwadamilola B. v. U.S. Department of Homeland Security*, the court declined to assume that an NTA preceded an I-200 where the government failed to provide evidence establishing that sequence. No. 26-CV-3321 (JWB/JFD), 2026 WL 2475347, at *1 (D. Minn. Aug. 24, 2026). The court concluded that, absent evidence that the NTA came first, the petitioner must be released because he had not been arrested pursuant to a valid I-200. *Id.*

50. Accordingly, the government faces two related deficiencies regarding Mr. Cervantes Merino's arrest: First, it has yet to establish that a Form I-200 existed at the time of his arrest. Second, even if a Form I-200 existed, ICE cannot show that an NTA

was issued before or at the same time as the Form I-200. *See* § 236.1(b)(1). Either deficiency means Mr. Cervantes Merino's arrest was unlawful, and he should be released.

B. SIJS provides a pathway to citizenship, protection from removal, and authorization to work for vulnerable youth.

51. Congress amended the INA with the Immigration Act of 1990 to establish SIJS, giving children and young adults a pathway to citizenship, protection from removal, and potential legal authorization to work. Immigration Act of 1990, Pub. L. No. 101-649, § 153, 104 Stat. 4978 (1990).

52. USCIS requires that petitions for SIJS include a predicate state court order finding that the applicant is eligible for SIJS. 8 C.F.R. § 204.11(b). To be eligible, an applicant must be (1) under 21 years of age at the time the petition is filed; (2) unmarried; (3) declared a dependent of a state court, or placed in the custody of a state agency or an individual, such as a guardian, appointed by the court; (4) the subject of a state court's findings that the applicant cannot be reunified with one or both parents due to abuse, abandonment, neglect, or similar basis under state law; and (5) that it is not in the applicant's best interest to return to their home country. 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11(c)(2). Approval of an applicant's SIJS petition is an official recognition of a state court's findings. 8 U.S.C. § 1101(a)(27)(J)(iii).

53. If USCIS approves the SIJS petition, the applicant becomes eligible to apply for legal permanent residency ("LPR") status which will only be granted if an EB-4 visa is available. 8 U.S.C. § 1255(h).

54. In April 2026, USCIS rescinded their 2022 policy that automatically considered SIJS beneficiaries for discretionary grants of deferred action for those

waiting for an EB-4 visa. *See* USCIS Policy Memo, PM-602-0198, "Special Immigrant Juvenile Classification and Deferred Action" (April 10, 2026), https://www.uscis.gov/sites/default/files/document/memos/PM-602-0198-SIJDeferredAction-20260410.pdf. Deferred action grants do not confer lawful status nor prohibit immigrations judges from entering removal orders against grantees, but they do prohibit ICE from executing said removal orders. USCIS Policy Manual, Vol. 1, Pt. H, Ch. 2.A.4, https://www.uscis.gov/policy-manual/volume-1-part-h-chapter-2.

55. However, USCIS expressly stated that, "[SIJS] Petitions submitted before the effective date of this policy change will be subject to the current 2022 policy that this memorandum terminates." USCIS Policy Memo, PM-602-0198 at 6.

56. Because Mr. Cervantes Merino submitted his SIJS petition and was granted SIJS before May 10, 2026, he is automatically considered for deferred action under 2022 policy criteria. He is currently waiting for USCIS to make a decision regarding his deferred action.

57. Courts before and after the policy recission have repeatedly found that Congress intended SIJS and its beneficiaries to "remain safely in the country with a means to apply for LPR status." *Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011), *abrogated on other grounds by Murillo-Chavez v. Bondi*, 128 F.4th 1076, 1085 (9th Cir. 2025); *see also Yeboah v. U.S. Dep't of Just.*, 345 F.3d 216, 221 (3d Cir. 2003) (describing SIJS as a "special status to remain in the United States"); *Xol-Maas v. Francis*, No. 26-CV-00025 (JAV), 2026 WL 457005, at *8 (S.D.N.Y. Feb. 18, 2026) ("Congress clearly contemplated that SIJ designees would remain in the United States while awaiting adjudication of their adjustment of status applications.").

58. Congress's intent to protect SIJS beneficiaries from removal is also clear in 8 U.S.C § 1227(c). The statute declares that certain grounds for removal, even those pertaining to the individual's unlawful entry, "*shall not apply*" to SIJS beneficiaries. 8 U.S.C. § 1227(c) (emphasis added). The sections made inapplicable include § 1227(a)(1)(A), § 1227(a)(1)(B), § 1227(a)(1(C), § 1227(a)(1)(D), and § 1227(a)(3)(A). *Id.*

59. Of note, 8 U.S.C. § 1227(a)(1)(A) directs,

> [a]ny alien . . . in and admitted to the United States shall . . . be removed if the alien is within one or more of the following classes of deportable aliens: any alien who at the time of entry or adjustment of status was *within one or more of the classes of aliens inadmissible by the law* existing at such a time is deportable.

§ 1227(a)(1)(A) (emphasis added).

60. Effectively, this means that an SIJS beneficiary cannot be removed under most of 8 U.S.C § 1182 since they cannot be removed due to any "inadmissible" qualification. While § 1182(a)(2) and (a)(3) are explicit exceptions under § 1227(c), there are no others. The statute is clear: SIJS beneficiaries cannot be removed simply because they are "inadmissible."

C. Prolonged detainees with SIJS are entitled to a bond hearing when their detention lacks a definite end point.

61. Lengthy detention, particularly where deportation is only "a remote possibility" could pose due process issues. *Banyee v. Garland*, 115 F.4th 928, 933 (8th Cir. 2024) (quoting *Zadvydas*, 533 U.S. at 690). Individuals with SIJS are protected from removal and statutorily shielded from certain grounds of removal, meaning their deportation on said grounds is "no longer practically obtainable." *Zadvydas*, 533 U.S. at 690.

62. Mr. Cervantes Merino was initially deemed removable because his 2014 entry qualified him as "inadmissible" under § 1182(a)(6)(i) and § 1182(a)(7)(A)(i)(I). However, as stated above, his current SIJS precludes these grounds of removal per § 1227(c). Therefore, deportation has become a "remote possibility," and his prolonged detention lacks a definite end point, depriving him of his liberty in violation of the Due Process Clause.

63. In deciding what procedures are required to justify the deprivation of life, liberty, or property, courts generally apply the three-part test from *Mathews v. Eldridge*. *See* 424 U.S. 318, 335 (1976).[1] Evaluating *Mathews*, courts consider (1) the private interest that will be affected by the official action, (2) the risk that the procedures used will lead to an erroneous result, and (3) the government's interest at stake. 424 U.S. at 335; *Lassiter v. Dep't of Soc. Servs.*, 452 U.S. 18, 27 (1981). The Eighth Circuit has applied this test within the immigration context. *See Bremer v. Johnson*, 834 F.3d 925, 933 (8th Cir. 2016).

64. Minnesota courts have found *Mathews* applicable in cases like Mr. Cervantes Merino's. *See R. M.*, 2026 WL 1506306, at *7 (applying *Mathews* to a §

[1] Mr. Cervantes Merino acknowledges that the District of Minnesota often applies *Mathews* to Habeas claims by detainees under 8 U.S.C. § 1225(b)(2)(A). However, Minnesota courts have previously applied the more tailored and specific balancing test set forth in *Muse v. Sessions* to evaluate prolonged detention claims. 409 F. Supp. 3d 707, 715 (D. Minn. 2018), *abrogated by Banyee*, 115 F.4th at 933. *Muse* identified six factors that the Court should consider in evaluating when detention of a noncitizen becomes unconstitutional: (1) total length of detention to date; (2) likely duration of future detention; (3) conditions of detention; (4) delays in removal proceedings caused by the detainee; (5) delays caused by the government; and (6) likelihood that proceedings will result in a final order of removal. *Id.* at 715. Although *Muse* was later abrogated by *Banyee*, because Mr. Cervantes Merino's prolonged detention under § 1225(b)(2) is distinct from the § 1226(c) detention at issue in *Banyee*, the *Muse* factors should be applied to determine the constitutionality of his detention. *Banyee*, 115 F.4th at 933. Mr. Cervantes Merino preserves the argument that the *Muse* factors are applicable to his prolonged detention claim under § 1225(b).

1225(b)(2) habeas case, finding a high risk of erroneous deprivation of liberty without a bond hearing, and noting that the petitioner's SIJS made his liberty interest "especially" strong); *Ovidio D. v. Blanche*, No. 26-CV-3374 (KMM/SGE), 2026 WL 2333992, at *5 (D. Minn. Aug. 12, 2026) (finding the same for a detainee without SIJS); *Felipe S.P. v. Blanche*, No. 26-CV-2212 (NEB/DJF), 2026 WL 1911656, at *7 (D. Minn. July 2, 2026) (same).

65. Importantly, SIJS confers specific rights and protections. *See Osorio-Martinez v. Att'y Gen. United States*, 893 F.3d 153, 161 n.7 (3d Cir. 2018) ("[T]he text of the INA . . . explicitly designates SIJ as a 'status' that affords its designees a host of legal rights and protections."); 8 U.S.C. § 1101(a)(27)(J)(iii) (describing SIJ as a "status"); 8 C.F.R. § 204.11(b) (same); 8 U.S.C. § 1255(h) (listing rights); *Joshua M. v. Barr*, 439 F. Supp. 3d 632, 649 (E.D. Va. 2020) (finding that SIJS confers "significant benefits for young immigrants and certain protections against removal," including eligibility to obtain LPR status and eventually apply for citizenship); *Garcia Lanza v. Noem*, 822 F. Supp. 3d 326, 334–35 (E.D.N.Y. Mar. 3, 2026) (noting that SIJS confers benefits); *Sarmiento v. Perry*, 824 F. Supp. 3d 514, 528 (E.D. Va. Jan. 19, 2026) (finding SIJS conferred upon petitioner "the status of a parolee with inadmissibility waived as a ground for his detention or removal within the context of his challenges to his detention.").

66. In light of these rights and protections—as an SIJS beneficiary—Mr. Cervantes Merino should be afforded more procedural due process rights and application of the *Mathews* balancing test is appropriate. *See Walter A. v. Easterwood*, No. 26-CV-1393 (SRN/LIB), 2026 WL 836428, at *21 (D. Minn. Mar. 26, 2026)

("Because of the demanding standards to obtain SIJS and the substantial protections accorded to SIJS beneficiaries under the law, Special Immigrant Juveniles are entitled to due process").

67. Applying *Mathews* factors to § 1225(b) habeas petitions, courts have held that: (1) a noncitizen has a liberty interest to be free from prolonged detention; (2) the "breadth" of § 1225(b)(2)(A) poses a "great risk of erroneous deprivation of liberty,"; and (3) the government's interest in detention does not justifiably outweigh the liberty interests at stake. *Oporta v. Mullin*, No. 8:26-CV-363, 2026 WL 2224753, at *4–5 (D. Neb. Aug. 3, 2026).

68. Here, all three factors indicate that Mr. Cervantes Merino is owed a bond hearing.

D. Due process claims are still available to noncitizens detained under 8 U.S.C. § 1225(b)(2) after *Avila* and *Banyee*.

69. According to the Eighth Circuit's decision in *Avila v. Bondi*, Mr. Cervantes Merino has been detained pursuant to 8 U.S.C § 1225(b)(2)(A).[2] *Avila* held that noncitizens here without admission are "seeking admission" and thus fall under

[2] Mr. Cervantes Merino acknowledges that the argument that his detention is governed by 8 U.S.C. § 1226(a), rather than mandatory detention under 8 U.S.C. § 1225(b)(2)(A), is foreclosed by the Eighth Circuit's decision in *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026), *petition for certiorari filed*, No. 26-354. Mr. Cervantes Merino respectfully maintains that *Avila* was wrongly decided for the reasons set forth in the dissent, 170 F.4th at 1138–41 (Erickson, J., dissenting), and the nine circuit courts reaching the conclusion opposite of the Eighth Circuit. *See Guerrero Orellana v. Moniz*, No. 25-2152, 2026 WL 2352042 (1st Cir. Aug. 13, 2026); *Barbosa da Cunha v. Freden*, 175 F.4th 61 (2d Cir. 2026); *Buele Morocho v. Warden Phila. FDC*, No. 26-1150, 2026 WL 2546223 (3d Cir. Aug. 28, 2026); *Lopez Garcia v. Guadian*, No. 25-7044, 2026 WL 2661092 (4th Cir. Sep. 10, 2026); *Lopez-Campos v. Raycraft*, 175 F.4th 713 (6th Cir. 2026); *Castañon-Nava v. U.S. Dep't of Homeland Sec.*, 175 F.4th 828 (7th Cir 2026); *Cirrus Rojas v. Olson*, 183 F.4th 909 (7th Cir. 2026); *Rodriguez Vazquez v. Bostock*, 183 F.4th 1160 (9th Cir. 2026); *Santillan Quiroz v. Mullin*, 180 F.4th 1226 (10th Cir. 2026); *Hernandez Alvarez v. Warden, Federal Det. Ctr. Mia.*, 175 F.4th 1258 (11th Cir. 2026). Mr. Cervantes Merino raises and preserves the argument that the statutory authority for his detention is § 1226(a).

the ambit of 8 U.S.C. § 1225(b)(2), mandating their detention. 170 F.4th 1128, 1138 (8th Cir. 2026), *petition for certiorari filed*, No. 26-354. *Avila* expanded the number of individuals the government may hold in detention until removal proceedings conclude.

70. Though *Avila* interpreted 8 U.S.C. § 1225(b)(2), it did not address a noncitizen's due process rights under the Fifth Amendment. *Julio Victor R.R. v. Blanche*, No. 26-CV-2853 (KMM/DJF), 2026 WL 2517137, at *2 (D. Minn. Aug. 26, 2026). Due process claims for those held under § 1225(b)(2) are permissible because they are outside the scope of *Avila* and *Banyee*. *See Banyee*, 115 F.4th at 932–934.

71. Both *Banyee* and *Demore* rejected due process claims by noncitizens convicted of aggravated felonies detained pending deportation under 8 U.S.C. § 1226(c). *Banyee*, 115 F.4th at 931; *Demore*, 538 U.S. at 531. Courts have distinguished detainees under § 1226(c), noting that criminal noncitizens detained under § 1226(c) already receive the benefit of procedural protections in the criminal justice system, lessening due process concerns. *Ovidio D.*, 2026 WL 2333992, at *3.

72. In contrast, detainees under § 1225(b)(2) have not been afforded those same protections. *Id.* Thus, "the rationale underlying the conclusions in [*Demore* and *Banyee*] that the Due Process Clause requires no individualized determination for [§ 1226(c)] detainees does not map onto the entire class of noncriminal applicants for admission who are now subject to mandatory detention under § 1225(b)(2) in the Eighth Circuit." *Id.*

73. Many Minnesota courts have held that *Banyee* is inapplicable to noncitizens detained under § 1225(b)(2) and, therefore, detainees can raise due process claims. For example, *Julio Victor R.R.* distinguished noncitizens detained under §

1225(b)(2) from those under § 1226(c), rendering *Banyee* inapt and holding that *Avila* does not preclude due process claims for detainees under § 1225(b)(2). 2026 WL 2517137, at *8; *see also R. M. v. Blanche*, No. 26-CV-2283 (LMP/DLM), 2026 WL 1506306, at *4–5 (D. Minn. May 29, 2026) (holding "that *Banyee* and *Demore* found the detention framework in Section 1226(c) constitutionally permissible does not mean that the detention framework in Section 1225(b) is constitutionally permissible . . . especially considering the different classes of noncitizens to which they are directed"); *Felipe S.P. v. Blanche*, No. 26-CV-2212 (NEB/DJF), 2026 WL 1911656, at *5 (D. Minn. July 2, 2026); *Manuel G. v. Blanche*, No. 26-CV-2385 (SRN/ECW), 2026 WL 1256358, at *3 (D. Minn. May 7, 2026). *But see Moriba W. v. Brott*, No. 26-CV-2806 (ECT/LIB), 2026 WL 2606629, at *2 (D. Minn. Sep. 3, 2026) (holding *Banyee* applies to § 1225(b)(2) "while deportation proceedings are pending" and rejecting due process claims for that reason).

74. Mr. Cervantes Merino was not detained under § 1226(c) so *Banyee*'s conclusion that mandatory detention is constitutional is inapplicable.

75. For these reasons, Mr. Cervantes Merino urges this Court to follow *Julio Victor R. R. v. Blanche, R. M. v. Blanche, Felipe S.P. v. Blanche,* and *Manuel G. v. Blanche* to determine that he has due process rights post-*Avila.*

E. Substantive due process as interpreted by *Walter A.* precludes SIJS beneficiaries from being removed.

76. In *Walter A.*, the United States District Court of Minnesota examined substantive due process as applied to SIJS beneficiaries. This case involved a noncitizen under final removal orders and detained under 8 U.S.C. § 1231(a)(2) following a DUI offense. *Walter A.*, 2026 WL 836428, at *1, 6. While in detention,

Walter A. was granted SIJS. *Id.* at *2. The court in *Walter A.* analyzed his habeas petition under substantive due process. *See id.* (explaining their analysis under substantive due process throughout the decision).

77. The *Walter A.* court stated that SIJS classification was created to protect foreign-born juveniles living in the United States "who have been abused, neglected, abandoned, or similarly mistreated by a parent and for whom a state court has found it would not be in their best interest to be returned to their country of origin." *Id.*

78. To protect these juveniles, Congress enacted several protections for SIJS beneficiaries. *Id.* These include treating SIJS beneficiaries as paroled into the United States at the time they entered the country for adjustment of status and pathway to LPR status purposes, automatic consideration for deferred action due to visa backlogs, and exemption from certain grounds for removal—such as inadmissibility based on having entered the United States without admission or parole. *Id.* at *2–5.

79. In *Walter A.*, the court also noted that because the rigorous statutory scheme requires the approval of both federal and state agencies to obtain SIJS, successful applicants are essentially "a ward of the United States" who have been found to have "substantial connections with a U.S. community and guardian" in previous state court proceedings. *Id.* at *20.

80. Consequently, the Court found that SIJS changes the beneficiary's legal status, as it explicitly confers several legal rights and protections on the SIJS beneficiary. *Id.* at *19–20. That is, the statutory protections and "safeguards preventing [SIJs] from being forced to contact their abusers" indicate that Congress clearly intended for SIJS beneficiaries "to remain in the United States pending their

application for adjustment of status." *Id.* at *20. No exceptions were made based on the statute under which the beneficiary is detained. *See id.*

81. The *Walter A.* court further asserted that it is a violation of an SIJS beneficiary's constitutional due process rights to remove one who has not had the opportunity to adjust their status. *Id.* at *21 (stating "[i]n habeas actions involving SIJS beneficiaries, federal district courts have found that SIJS beneficiaries who have not had the opportunity to adjust status cannot be lawfully removed"). This is not to say that every SIJS beneficiary has the right to have their status adjusted, but they do have the right to be afforded an *opportunity* to have their status adjustment adjudicated. *Id.* Therefore, it is a violation of due process to remove someone without first affording them the opportunity to have their status adjudicated.

82. In its analysis, the *Walter A.* court meticulously parsed through each benefit afforded to SIJS beneficiaries and the rigorous process SIJS applicants must satisfy to be granted SIJS. *See Walter A.*, 2026 WL 836428. Due to these benefits and the statutory scheme outlining the process in obtaining SIJS (discussed in depth above), *Walter A.* held that SIJS beneficiaries cannot be removed without good and sufficient cause and an opportunity to have their status adjudicated. *Id.* at *19–22.

83. Some courts have distinguished *Walter A.* from cases where an SIJS beneficiary is detained under 8 U.S.C. § 1225(b)(2). These courts have said that because SIJS beneficiaries detained under this statute do not have final removal orders, the petitioners are in different standings. *See Cervantes Merino v. Whitmore*, No. C26-120-LTS-MAR, 2026 WL 1906670 (N.D. Iowa July 2, 2026); *see also Nabijon N. v. Mullin*, No. 26-CV-2469 (LMP/LIB), 2026 WL 1759442 (D. Minn. June 18, 2026), *opinion*

vacated and superseded, No. 26-CV-2469 (LMP/LIB), 2026 WL 2056310 (D. Minn. July 16, 2026). However, the specific statute an SIJS beneficiary is detained under has no bearing on the *Walter A.* analysis. Therefore, *Walter A.* should be applied to Mr. Cervantes Merino's claim.

CLAIMS FOR RELIEF

COUNT 1

Violation of Mr. Cervantes Merino's Fifth Amendment Right to Procedural Due Process

84. Mr. Cervantes Merino repeats and realleges each allegation of the preceding paragraphs here.

85. Mr. Cervantes Merino has been detained for a prolonged period of time without *any* process to determine the legitimacy of his detention. Such prolonged detention violates his Fifth Amendment right to procedural due process.

86. The appropriate test to determine a procedural due process violation is *Mathews v. Eldridge.*

87. While the Northern District of Iowa did not agree that *Mathews* applied in Mr. Cervantes Merino's case previously, his continued prolonged detention makes *Mathews* now applicable, especially where USCIS granted Mr. Cervantes Merino SIJ status which conferred upon him additional rights and privileges. See *Osorio-Martinez,* 893 F.3d at 161 n.7; 8 U.S.C. § 1101(a)(27)(J)(iii) (describing SIJ as a "status"); 8 C.F.R. § 204.11(b) (same); 8 U.S.C. § 1255(h) (listing rights).

88. The Supreme Court and the Eighth Circuit have left open the question of whether prolonged detention under § 1225(b)(2) violates due process. *Oporta,* 2026 WL 2224753, at *3 (citing *Jennings* v. *Rodriguez,* 583 U.S. 281, 312 (2018); *Avila,* 170 F.4th

at 1140 (Erickson, J., dissenting)). Thus, "district courts exercising habeas jurisdiction 'must ask whether the detention in question exceeds a period reasonably necessary to secure removal.'" *Oporta*, 2026 WL 2224753, at *3 (citing *Zadvydas*, 533 U.S. at 699). When evaluating a prolonged detention claim, courts consider the length and conditions of detention, potential duration of future detention, and likelihood of removal. *Muse*, 409 F. Supp. 3d at 715; *Axel J.M.C. v. Stanski*, No. CV 26-2281 (JRT/EMB), 2026 WL 1171344, at *4 (D. Minn. Apr. 29, 2026); *Oporta*, 2026 WL 2224753, at *4.

The First *Mathews* Factor: Mr. Cervantes Merino's Liberty Interest

89. Mr. Cervantes Merino's liberty interest weighs heavily in favor of his immediate release or a bond hearing. "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.

90. Mr. Cervantes Merino has been seriously and adversely affected by his continuous unlawful detention. ICE's forcible separation has caused him and his family significant stress, anxiety, and uncertainty. His younger sisters, who rely on him for care, are without the support of their older brother. His detention has prevented him from attending high school, imperiling and delaying his graduation, causing irreparable harm to his academic and professional future. His interest in liberty is strong, and the urgency of his claim increases by the day.

91. Furthermore, his liberty interest has been heightened by the grant of SIJS. Mr. Cervantes Merino now has SIJS parole: "Noncitizens maintain a strong liberty interest even if their parole status has expired or been terminated." *Aleksei M. v.*

Warden, Lawrence Cnty. Jail, No. 5:26-CV-05030-RAL, 2026 WL 1133615, at *5 (D.S.D. Apr. 27, 2026), *appeal filed*, No. 26-2113 (8th Cir. Jun. 4, 2026).

92. Mr. Cervantes Merino has been detained for more than 10 months (316 days) awaiting the outcome of his removal proceedings. This is as long or longer than other detentions of noncitizens that have been found unreasonable under the Due Process Clause. *Muse*, 409 F. Supp. 3d at 716 (collecting cases noting unreasonable detentions found at 8 months and 10 months).

93. The conditions of detention also favor Mr. Cervantes Merino's release: "The more that the conditions under which the alien is being held resemble penal confinement, the stronger his argument that he is entitled to a bond hearing." *Id.* at 717. Mr. Cervantes Merino is detained in conditions indistinguishable from penal confinement: a high school senior with only non-violent traffic-related convictions, he has spent his entire detention in county jails, held among grown men charged or convicted of crimes, subject to the rules and restrictions of incarceration. The conditions and length of his detention are especially egregious considering he only spent *one day* in state criminal custody.

94. Finally, it is unlikely that Mr. Cervantes Merino's proceedings will result in a final order of removal. Mr. Cervantes Merino's removal order is based on his entering the country without inspection. Ex. 7 at 1, 4 (Notice to Appear). However, since he has been granted SIJS, Mr. Cervantes Merino is no longer removable on this basis. *See* 8 U.S.C. § 1227(c); *see also Walter A.*, 2026 WL 836428, at *2 (holding SIJS beneficiaries "are not subject to deportation on other more typical grounds, such as having entered the country without inspection").

95. Because Mr. Cervantes Merino's continued and prolonged detention is in violation of the Due Process Clause, a bond hearing or immediate release are the required remedies.

The Second and Third *Mathews* Factors: Risk of Error and Governmental Interest

96. The second *Mathews* factor, the risk that the procedures used will lead to an erroneous decision, also weighs strongly in favor of Mr. Cervantes Merino's immediate release or a bond hearing. Courts have held that "there is a high risk of erroneous deprivation of liberty in this context without an individualized bond hearing to assess whether . . . detention is necessary to ensure his appearance for immigration proceedings and prevent danger to the community." *Ovidio D.*, 2026 WL 2333992, at *7 (collecting cases).

97. Mr. Cervantes Merino was deprived of due process, resulting in his unlawful detention. Evidently, the risk that the procedures used will lead to an improper result is high. Because bond hearings are expressly designed to mitigate this risk, the second factor indicates that Mr. Cervantes Merino should be granted one.

98. Further, the likely duration of future detention is long. Courts consider the anticipated duration of the entire judicial and administrative process. *Bolus A. D. v. Sec'y of Homeland Sec.*, 376 F. Supp. 3d 959, 962 (D. Minn. 2019). Because Mr. Cervantes Merino has been granted SIJS, he is no longer removable without a showing of good and sufficient cause. If he is detained pending receipt of an EB-4 visa pursuant to his new status, he could be in custody for several years.

99. In addition, Mr. Cervantes Merino is appealing his most recent removal order, which will further extend his detention. The appeal was filed before the Board of

Immigration Appeals on June 25, 2026. Ex. 9 (EOIR - Automated Case Information for Erick Cervantes Merino). A briefing schedule has not yet been ordered. *Id.* Even if he is granted deferred action while awaiting adjudication of his appeal, Mr. Cervantes Merino could still be detained indefinitely without habeas relief. *See Bolus A.D.*, 376 F.Supp.3d at 962 (holding this factor weighs in favor of the petitioner when the petitioner is likely to appeal an adverse ruling which could extend detention for several months); *see also Deng Chol A. v. Barr*, 455 F. Supp. 3d 896, 902 (D. Minn. 2020) (appeals prolonging detention weigh in favor of the petitioner).

100. Finally, there is no countervailing governmental interest that could justify Mr. Cervantes Merino's continued detention without a bond hearing. Bond hearings do not meaningfully impair the government's ability to enforce immigration laws; if an immigrant presents a flight risk or is a danger to the community, the government has the burden to establish those concerns at a bond hearing. *See* 8 U.S.C. § 1231(a)(6); *In re Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006).

101. Because Mr. Cervantes Merino's detention violates his procedural due process rights, and all three *Mathews* factors weigh in favor of a bond hearing, Mr. Cervantes Merino must either be granted a bond hearing or released immediately.

COUNT 2

Violation of Mr. Cervantes Merino's Fifth Amendment Right to Substantive Due Process

102. Mr. Cervantes Merino repeats and realleges each allegation of the preceding paragraphs here.

103. The Fifth Amendment's Due Process Clause extends to noncitizens physically present in the United States. *Zadvydas*, 533 U.S. at 693 ("[T]he Due Process

Clause applies to all 'persons' within the United States, including [noncitizens], *whether their presence here is lawful, unlawful, temporary, or permanent.*") (emphasis added). Mr. Cervantes Merino has been afforded *no* due process since being detained more than ten months ago.

104. The Supreme Court "repeatedly has recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 425 (1979) (collecting cases).

105. To detain a non-citizen, the government must have a "sufficiently strong" justification that bears a relationship to the purpose of detention, which, in the immigration context, is to prevent flight and danger to the community. *Zadvydas*, 533 U.S. at 690. "But by definition the first justification—preventing flight—is weak or nonexistent where removal seems a remote possibility at best." *Id.*

106. SIJS beneficiaries, like Mr. Cervantes Merino, cannot be removed based on the statutory scheme and benefits conferred on them. *See Walter A.*, 2026 WL 836428, at *3, 19–21. The *Walter A.* court specifically held that because SIJS beneficiaries are provided an "adjustment pathway to LPR status, parole for adjustment of status purposes, exemptions from inadmissibility, prior visa backlog protections based on deferred action, and safeguards preventing [SIJs] from being forced to contact their abusers," SIJS beneficiaries must remain in the United States until they are able to obtain adjudication on their adjustment of status applications. *Id.* at *20.

107. Each of these benefits is granted to SIJS beneficiaries when their SIJS applications are approved, and there is no language in the statute that revokes any of the benefits upon detention. *See* 8 U.S.C. § 1101(a)(27)(J).

108. The only difference in Mr. Cervantes Merino's and Walter A.'s standing is that Walter A. has a final order of removal. Therefore, they are on equal footing for the purposes of the court's substantive due process analysis, holding that SIJS beneficiaries are not removable without a showing of good and sufficient cause. *Walter A.*, 2026 WL 836428, at *22 (defining good and sufficient cause as fraud or the erroneous grant of SIJS). No good and sufficient cause has been shown here.

109. Accordingly, ICE cannot remove someone with active SIJS because it would be an "unlawful de facto revocation of [their] SIJS," usurping USCIS's power to grant SIJS and to revoke it. *Id.* Similarly, the court stated that "it is perverse that 'the very federal Department that here attempts to remove Walter earlier acknowledged that he had shown a bona fide need to avoid re-exposure to parental abuse, neglect, and abandonment, and that it would not be in his best interest to return to [his home country].'" *Id.* at *20.

110. The rationale that SIJS beneficiaries with a final order of removal cannot be detained because they are unremovable applies with equal force to SIJS beneficiaries who are still in removal proceedings, like Mr. Cervantes Merino. The court's reasoning is based on the benefits conferred on SIJS beneficiaries, and these benefits are uniform for all SIJS beneficiaries, the due process analysis in *Walter A.* applies to all SIJS beneficiaries. *See* 8 U.S.C. § 1101(a)(27)(J). The *Walter A.* court never indicated that the holding should be narrowly applied, or that the analysis would

be different for SIJS beneficiaries detained under different statutes. *See Walter A.*, 2026 WL 836428. It would be inconsistent to find that some SIJS beneficiaries can be detained while others cannot.

111. Mr. Cervantes Merino is not removable until he is afforded an opportunity to have a request for adjustment of status adjudicated and, therefore, should not be detained. Because Mr. Cervantes Merino, as an SIJS beneficiary, cannot be removed, the government lacks a "sufficiently strong" justification for his detention. *Zadvydas*, 533 U.S. at 690. The justification for detention is particularly "weak or nonexistent" here because "removal seems a remote possibility at best." *Id.*

112. In addition, Mr. Cervantes Merino is charged as removable for two grounds specifically exempted by 8 U.S.C. § 1227(c). The NTA charges Mr. Cervantes Merino as being removable because he is inadmissible. *See* Ex. 7 at 4. But § 1227(c) waives inadmissibility for SIJS beneficiaries, prohibiting them from being deported on that basis.

113. Finally, the language of § 1225(b)(2) states if an examining immigration office determines that a noncitizen seeking admission is "not clearly and beyond a doubt entitled to be admitted" then they should be detained. *See* 8 U.S.C. § 1225(b)(2)(A). Due process requires that those with SIJS are clearly and beyond a doubt entitled to be admitted. *See Walter A.*, 2026 WL 836428, at *20; *see also Zadvydas*, 533 U.S. at 701 (holding when there is no significant likelihood of removal, detention is unconstitutional). Therefore, SIJS beneficiaries, including Mr. Cervantes Merino, cannot be detained pending removal proceedings without due process in the form of a bond hearing.

114. Because Mr. Cervantes Merino cannot be removed, on account of his SIJS grant and the charges of removability in his Notice to Appear, there is no justification for his detention. The Due Process Clause prohibits his continued detention without a bond hearing. *See Walter A.*, 2026 WL 836428, at *19.

COUNT 3

Unlawful Arrest: Violation of the Immigration and Nationality Act and Implementing Regulations

115. Mr. Cervantes Merino repeats and realleges each allegation of the preceding paragraphs here.

116. The Immigration and Nationality Act authorizes the discretionary arrest and detention of a noncitizen "[o]n a warrant issued by the Attorney General." 8 U.S.C. § 1226(a). The corresponding regulation provides that a noncitizen must be arrested upon issuance of a Form I-200, Warrant of Arrest. 8 C.F.R. § 236.1(b)(1).

117. An I-200 may be issued "[a]t the time of issuance of the notice to appear, or at any time thereafter." § 236.1(b)(1). Accordingly, ICE must serve a Notice to Appear either before or contemporaneously with an I-200 warrant. *Id.*

118. Here, ICE has failed to establish that Mr. Cervantes Merino was served with the Form I-200 before or at the time of his arrest. Even if ICE had issued an I-200 on the date of his arrest, ICE's documents demonstrate that an NTA was not issued until after Mr. Cervantes Merino's arrest. Mr. Cervantes Merino was arrested on November 17, 2025, and an NTA was issued on November 18, 2025. *See* Ex. 2 (Form I-213); Ex. 7 (Notice to Appear).

119. Thus, ICE cannot establish that Mr. Cervantes Merino was legally arrested under to a valid Form I-200, as required by 8 C.F.R. § 236.1(b)(1).

120. Accordingly, because Mr. Cervantes Merino's arrest was unlawful and in violation of the INA, the Court should order his release.

PRAYER FOR RELIEF

WHEREFORE, Mr. Cervantes Merino prays the Court grant the following relief:

A. Assume jurisdiction over this matter;

B. Issue an order to show cause to be returned within three days;

C. Declare Mr. Cervantes Merino's arrest on November 17, 2025, to be unlawful;

D. Declare Mr. Cervantes Merino's prolonged detention to be unlawful and unconstitutional;

E. Declare that there is no statutory basis for Mr. Cervantes Merino's detention now that he has been granted SIJS;

F. Order Mr. Cervantes Merino's immediate release;

G. In the alternative, order an individualized bond hearing within five days, including all required procedural protections, with the burden on the government to establish flight risk and danger by clear and convincing evidence;

H. Order Mr. Cervantes Merino's release if a bond hearing is not given within five days;

I. Enjoin Respondents from transferring Mr. Cervantes Merino outside of this judicial district pending litigation of this matter or his removal proceedings;

J. Enjoin Respondents from redetaining Mr. Cervantes Merino unless there has been a revocation of SIJS and a material change in circumstances;

K. Award Mr. Cervantes Merino reasonable costs and attorneys' fees under the Equal Access to Justice Act; and

L. Grant any other relief that this Court deems just and proper.

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Dated: September 28, 2026

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* University of Iowa clinical law students Shea Corwin, Samantha Plante, and Caroline Scott participated in the drafting of this habeas petition.

Verification Pursuant to 28 U.S.C. § 2242

The undersigned counsel submits this verification on behalf of the Petitioner. Undersigned counsel has discussed with Petitioner the events described in this Petition for Writ of Habeas Corpus and Complaint and, on the basis of those discussions, verify that the statements in the Petition and Complaint are true and correct to the best of our knowledge.

Dated: September 28, 2026

/s/ Katherine Melloy Goettel
KATHERINE MELLOY GOETTEL
Attorney for Petitioner

CERTIFICATE OF SERVICE

I certify that on September 28, 2026, I served the forgoing document via CM/ECF and will effectuate service by certified mail. I have also served this document on the U.S. Attorney's Office by electronic mail.

/s/ David L. Wilson
DAVID L. WILSON
Attorney for Petitioner