

happiness in the United States.

2. The U.S. Department of Homeland Security (“DHS”) created DACA in 2012 to protect young people brought to the United States as children who passed rigorous background checks and who were deemed to pose no threat to public safety. DHS has repeatedly confirmed that recipients are “considered lawfully present during the period deferred action is in effect.” USCIS DACA FAQs¹; *see also Texas v. United States*, 809 F.3d 134, 166 (5th Cir. 2015), *aff’d by an equally divided court*, 136 S. Ct. 2271 (2016). The program has since been codified in regulation. 8 C.F.R. § 236.21 *et seq.*

3. On August 13, 2025, Mr. ██████████ was unjustifiably taken into federal immigration custody absent reasonable suspicion or probable cause and contrary to incontrovertible evidence that he was lawfully present in the United States. The government’s actions were arbitrary, unlawful, and dangerous, depriving him of liberty and due process.

4. That Wednesday morning, Mr. ██████████ pulled into his driveway on the outskirts of El Paso, Texas, around 08:40 AM. Two of his four children were passengers in the vehicle, and the family was preparing to travel to a child’s medical appointment. Just then, three unmarked vehicles pulled up quickly and blocked his vehicle. Seven (7) men in plainclothes, some masked and at least one armed with a handgun, approached the vehicle and roughly pulled Mr. ██████████ from the driver’s seat. Although Mr. Gamez Lira did not resist, the men injured Mr. ██████████’s shoulder during the arrest.² As the men handcuffed and detained him, Mr. ██████████’s wife asked for information from the men and was rebuffed; none of the men identified themselves as law

¹ U.S. Citizenship & Immigration Services, “Consideration of Deferred Action for Childhood Arrivals (DACA): Frequently Asked Questions,” <https://www.uscis.gov/humanitarian/consideration-of-deferred-action-for-childhood-arrivals-daca/frequently-asked-questions> (last visited Sept. 2, 2025).

² Mr. ██████████ believes his shoulder was dislocated, and that the arm was later popped back into its socket. He has not received an adequate medical assessment for the shoulder injury.

enforcement officers to Mr. [REDACTED] or to his wife. In a video of the arrest, Mr. [REDACTED]'s children are heard yelling in fear with concern for their father. Mr. [REDACTED] has been detained since August 13, 2025 in the custody of U.S. Immigration and Customs Enforcement (“ICE”) in the Otero County Processing Center in Chaparral, New Mexico.

5. Mr. [REDACTED] exemplifies the promise of DACA. He was born in Mexico and was brought to the United States as an infant. He grew up speaking English, studying in a public school, and eventually holding various jobs pursuant to the employment authorization that he obtained as a DACA recipient. He has most recently worked as a forklift driver. Mr. [REDACTED] has lived with his now-wife for approximately three years, and they have one child together—an infant born only three months ago. His wife and baby are both U.S. citizens. His baby was born with serious health conditions including gastroschisis, which required corrective surgery, and the baby requires daily care including thyroid medication. That infant is now without her father to care for and love her. Mr. [REDACTED] also has three other U.S. citizen children from a prior relationship. They are nine, seven, and three years old. Mr. [REDACTED] has had shared custody of and provided for his three older children, but has not been able to contact them since his detention.

6. The arbitrary arrest and detention of a lawfully present DACA recipient, husband, father, and gainful employee is unlawful and unconscionable. Because Mr. [REDACTED] is a DACA recipient, he has been granted the concomitant right to move about, lawfully work, and raise a family in the community. Accordingly, his arbitrary detention deprives him of the rights and liberties that the United States previously guaranteed he could rely upon. For the reasons outlined below, Mr. [REDACTED]'s arrest and inability to contest his arbitrary detention violate his statutory and Fourth Amendment rights, Due Process protections under the U.S. Constitution, and run afoul of the government's own regulations governing DACA. As such, Mr. [REDACTED] respectfully

petitions this Court for a Writ of Habeas Corpus to remedy his unlawful detention by Respondents, and for declaratory and injunctive relief to prevent such harms from recurring.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction under Art. I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause), 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. § 2201 (Declaratory Judgment Act).

8. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (same); *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) (“Challenges to immigration detention are properly brought directly through habeas.”).

9. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (e)(1) because Petitioner is detained within the District of New Mexico and his immediate physical custodian is located within this District. *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *see also United States v. Scott*, 803 F.2d 1095, 1096 (10th Cir. 1986) (“A § 2241 petition for a writ of habeas corpus must be addressed to the federal district court in the district where the prisoner is confined.”).

10. No petition for a writ of habeas corpus has previously been filed in any court regarding Petitioner.

PARTIES

11. [REDACTED], named Petitioner, is a 28-year-old citizen of Mexico who has lived continuously in the United States since he was an infant. He has had DACA since about 2014 and his current DACA grant is valid until August 15, 2026. Since being unlawfully arrested

on August 13, 2025, Mr. [REDACTED] has been detained in ICE custody at the Otero County Processing Center in Chaparral, New Mexico.

12. Respondent **Kristi Noem** is named in her official capacity as the Secretary of the U.S. Department of Homeland Security (“DHS”). In this capacity, she is responsible for overseeing ICE’s day-to-day operations, leading approximately 20,000 ICE employees, including Respondents Lyons and De Anda-Ybarra. Secretary Noem is the ultimate legal custodian of Mr. [REDACTED].

13. Respondent **Pamela Bondi** is named in her official capacity as the Attorney General of the United States. As Attorney General, Respondent Bondi oversees the immigration court system, including the immigration judges who conduct removal proceedings and bond hearings as her designees, and is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(g). She is legally responsible for administering Mr. [REDACTED]’s removal proceedings, and as such, she is a legal custodian of Mr. [REDACTED].

14. Respondent **Todd Lyons** is named in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement and as such is a legal custodian of Mr. [REDACTED].

15. Respondent **Mary De Anda-Ybarra** is named in her official capacity as the Field Office Director for the ICE El Paso Field Office. As Field Office Director, Respondent De Anda-Ybarra oversees ICE’s enforcement and removal operations in West Texas and New Mexico. As such, she is a legal custodian of Mr. [REDACTED].

16. Respondent **Dora Castro** is the Warden of the Otero County Processing Center, where Mr. [REDACTED] is currently detained. She is a legal custodian of Mr. [REDACTED] and is named in her official capacity.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

17. Mr. ██████████ has no administrative remedies to exhaust.

18. The charging document for Mr. ██████████’s removal proceedings—known as a Notice to Appear—names Mr. ██████████ an “arriving alien.” By regulation, immigration judges lack jurisdiction to redetermine the custody of “arriving aliens” via a bond hearing. 8 C.F.R. § 1003.19(h)(2)(i)(B). As such, Mr. ██████████’s continued detention in ICE custody cannot be challenged by way of bond proceedings before the Immigration Judge.

19. Therefore, a writ of habeas corpus is the sole avenue to vindicate his constitutional, statutory, and regulatory rights and restore his liberty.

LEGAL BACKGROUND AND STATEMENT OF FACTS

A. DEFERRED ACTION FOR CHILDHOOD ARRIVALS

20. On June 15, 2012, the Secretary of DHS announced the DACA policy, authorizing case-by-case deferred action for certain individuals who were brought to the United States as children, met specified educational and public-safety criteria, and passed rigorous background checks.³

21. DACA recipients have garnered bipartisan support—they are “talented young people, who, for all intents and purposes, are Americans—they’ve been raised as Americans, understand themselves to be part of this country.” President Barack Obama, Remarks on Immigration Reform, 2012 Daily Comp. Pres. Doc. 1 (June 15, 2012).⁴ The DACA program was intended “to lift the shadow of deportation from these young people” and “to mend our Nation’s immigration policy

³ U.S. Dep’t of Homeland Security, Mem. from Janet Napolitano, “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children” (June 15, 2012), <https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf> [hereinafter “Napolitano Memorandum”].

⁴ Available at <https://obamawhitehouse.archives.gov/the-press-office/2012/06/15/remarks-president-immigration>.

to make it more fair, more efficient, and more just.” *Id.*

22. Under DACA, “to prevent [these] low priority individuals from being removed from the United States,’ ICE ‘exercise[s] prosecutorial discretion[] on an individual basis ... by deferring action for a period of two years, subject to renewal.’” *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 10 (2020). DACA has been recognized as both a “benefits rule” and a “forbearance policy.” *Texas v. United States*, 126 F.4th 392, 419–20 (5th Cir. 2025).

23. In 2022, DHS promulgated a final rule codifying DACA’s structure, adjudicative standards, and termination procedure. *Deferred Action for Childhood Arrivals*, 87 Fed. Reg. 53,152 (Aug. 30, 2022) (codified at 8 C.F.R. § 236.21 *et seq.*). The rule defines deferred action as “a form of enforcement discretion not to pursue the removal of certain [noncitizens],” or a “temporary forbearance from removal.” 8 C.F.R. § 236.21(c)(1).

24. Per DHS’s regulations, DACA recipients are also treated by DHS as lawfully present for the period deferred action is in effect, and are thereby entitled to certain associated benefits, such as a work authorization if they demonstrate economic need. 8 C.F.R. § 236.21(c); 87 Fed. Reg. at 53,177–80; *see also Texas v. United States*, 809 F.3d 134, 166 (5th Cir. 2015), *aff’d by an equally divided Court*, 579 U.S. 547 (2016) (“Deferred action ... is much more than nonenforcement: It ... affirmatively confer[s] ‘lawful presence’ and associated benefits”).

25. From the inception of DACA to the present, DACA applicants have been required to disclose sensitive biographical and biometric information, to submit to comprehensive background and security checks, and to pay substantial filing fees. *See Napolitano Memorandum, supra*; 87 Fed. Reg. at 53,158–61; 8 C.F.R. § 236.21 *et seq.* Applicants can be granted DACA only upon satisfaction of uniform eligibility criteria tied to education, residence, age at entry, and public-safety screening. *Id.*

26. A grant of DACA is valid for two years and is then indefinitely renewable. 8 C.F.R. § 236.23(a)(4). Consequently, DACA recipients must regularly apply to renew their DACA grant, going through the same rigorous application process and security and background checks each time. Notably, however, U.S. Citizenship and Immigration Services (“USCIS”) cannot approve these applications if a person is in federal immigration detention. 8 C.F.R. § 236.23(a)(2).

27. The regulations also lay out specific procedures by which a grant of DACA may be terminated. 8 C.F.R. § 236.23(d). First, DHS sub-agency USCIS has exclusive jurisdiction to consider applications for DACA, and USCIS alone may terminate a grant of DACA. 8 C.F.R. § 236.23(a)(2), (d). With very few exceptions, none of which apply here, USCIS may only terminate an individual’s grant of DACA after providing them with a Notice of Intent to Terminate and an opportunity to respond prior to termination. 8 C.F.R. § 236.23(d)(1).

28. The structured, uniform, and repeated vetting of DACA applicants creates predictable, government-induced expectations that recipients reasonably rely upon in ordering their lives, employment, education, and family responsibilities. This is the design of the program: in exchange for disclosure and compliance, recipients reasonably expect not to be targeted for arrest or detention based solely on immigration status while deferred action remains in effect. *See, e.g., Letter from Secretary Jeh Johnson to Rep. Judy Chu* (Dec. 30, 2016)⁵; *Transcript of CNN Town Hall with Speaker Paul Ryan*, CNN (Jan. 12, 2017)⁶ (then-Speaker of the House Paul Ryan stating that the government must ensure that “the rug doesn’t get pulled out from under” Dreamers, who have “organize[d] [their] li[ves] around” the DACA program”); Ted Hesson & Seung Min Kim, *Wary Democrats Look to Kelly for Answers on Immigration*, Politico (Mar. 29, 2017)⁷ (then-

⁵ Available at <https://chu.house.gov/sites/evo-subsites/chu-evo.house.gov/files/documents/DHS.Signed%20Response%20to%20Chu%2012.30.16.pdf>.

⁶ Available at <http://cnn.it/2oyJXJJ>.

⁷ Available at <http://politi.co/2mR3gSN>.

DHS Secretary Kelly reaffirming that “DACA status” is a “commitment . . . by the government towards the DACA person, or the so-called Dreamer”); Transcript of President-Elect Donald J. Trump in Meet the Press, NBC News (Dec. 8, 2024)⁸ (then-President Elect Trump stating “Republicans are very open to the Dreamers. The Dreamers, we’re talking many years ago they were brought into this country. Many years ago. Some of them are no longer young people. And in many cases, they’ve become successful. They have great jobs. In some cases they have small businesses. Some cases they might have large businesses.” When asked “You want them to be able to stay, that’s what you’re saying?” President-Elect Trump answered with an unequivocal “I do.”).

B. [REDACTED]

29. [REDACTED] was born in Mexico and was brought to the United States as an infant. He has lived here ever since, and he has never left the United States. It is the only home he has ever known.

30. Mr. [REDACTED] applied for and received DACA for the first time in approximately 2014, near the program’s outset. Since then, he has repeatedly renewed his DACA grant. Most recently, USCIS approved his DACA from August 16, 2024, through August 15, 2026.

31. DACA and the employment authorization it provides have enabled him to become a contributing member of his community. He has been employed as a forklift driver in the El Paso area for about the past five years and has supported his children and family with those wages.

32. Mr. [REDACTED] is married to his U.S. citizen spouse. They have been in a committed relationship for about three years.

33. On information and belief, Mr. [REDACTED]’s only criminal conviction was in 2016, when he pled guilty following a reduction in charges from possession of marijuana to disorderly

⁸ Available at <https://www.nbcnews.com/politics/donald-trump/trump-interview-meet-press-kristen-welker-Election-president-rcna182857>.

conduct. Counsel have not located records of that conviction as of this filing. Such a conviction, if it exists, is nearly ten years old. Together with four dismissed traffic citations on Mr. ██████████'s record, this history presented no barrier to his DACA eligibility and repeated renewals.

34. On August 13, 2025, while seated in a vehicle in his driveway preparing to take his family to a child's medical appointment, Mr. ██████████ was arrested by approximately seven men. Upon information and belief, the men had no arrest warrant. The men inexplicably transported Mr. ██████████ to the U.S. Customs and Border Protection ("CBP") facilities at the Ysleta-Zaragoza Port of Entry in El Paso, Texas.⁹ Mr. ██████████ told the men and others at the Port of Entry that he had been granted DACA. Nevertheless, Mr. ██████████ was detained, processed, and transferred to ICE custody.

35. Following Mr. ██████████'s apprehension, DHS issued a Notice to Appear alleging that Mr. ██████████ is an "arriving alien" who is subject to removal from the United States pursuant to 8 U.S.C. § 1182(a)(7)(A)(i)(I). Mr. ██████████'s removal proceedings are ongoing before Immigration Judge Brock E. Taylor at the Otero Immigration Court.

36. Mr. ██████████ has remained detained by Respondents in the Otero County Processing Center since August 13, 2025.

37. At the time of his apprehension and at all times since, Mr. ██████████'s DACA grant has been valid. USCIS has not given him any Notice of Intent to Terminate and, upon information and belief, has not initiated or completed any termination under 8 C.F.R. § 236.23(d), as required by law to revoke his DACA grant.

38. Mr. ██████████ has relied on DACA in structuring his life: he has lived in the United

⁹ Persons detained by ICE or CBP in the El Paso area who are not apprehended at the border are not typically transported to a Port of Entry. Instead, they are typically taken to one of several DHS facilities within the El Paso area for processing. Thus, the rationale for Mr. ██████████'s transport to the Ysleta-Zaragoza Port of Entry is unknown at this time.

States since childhood, worked lawfully with employment authorization, raised a family, and ordered his affairs around the government's promise that, for the duration of his DACA grant, he would not be targeted for arrest or removal.

39. Nevertheless, Mr. ██████████ remains deprived of his liberty, despite his valid grant of DACA. He is separated from his spouse, children, and community; his employment is interrupted; and he endures the anxiety and uncertainty of confinement even as DHS's own regulations confirm that he will not be removed from the United States while his DACA grant remains valid. Additionally, Mr. ██████████ is not able to renew his DACA from detention; because his detention is not for a fixed duration, he also faces the prospect of the *de facto* termination of his DACA grant without any process whatsoever. *See* 8 C.F.R. § 236.23(a)(2).

40. The government's decision to detain Mr. ██████████, despite being unable to remove him, inflicts concrete, ongoing harm upon him and undermines the rule-of-law commitments upon which he—and all other DACA recipients—reasonably relied.

CLAIMS FOR RELIEF

COUNT I

VIOLATION OF THE SUBSTANTIVE DUE PROCESS PROTECTIONS OF THE FIFTH AMENDMENT OF THE CONSTITUTION

41. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

42. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas*, 533 U.S. at 693; *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Freedom from physical

restraint “lies at the heart of the liberty that the Due Process Clause protects.” *Zadvydas*, 533 U.S. at 690.

43. Detention of a person with a valid, unrevoked grant of DACA violates the Fifth Amendment’s protection of liberty for at least three reasons.

44. First, immigration detention must always “bear[] a reasonable relation to the purpose for which the individual was committed.” *Demore*, 538 U.S. at 527. (citing *Zadvydas*, 533 U.S. at 690). The Supreme Court has stated that the purpose of civil detention in this context is to “ensur[e] the appearance of aliens at future proceedings,” *Zadvydas*, 533 U.S. at 690, and to prevent flight, thereby “increasing the chances that, if ordered removed, the [noncitizens] will be successfully removed.” *Demore*, 538 U.S. at 528. In the context of immigration detention, where, as here, the government has granted forbearance from removal pursuant to the DACA program, and the granting and renewal of DACA itself constitutes a robust showing regarding lack of flight risk or danger to the community, detention is not reasonably related to its purpose.

45. Second, when a noncitizen is not removable, insofar as their DACA grant bars removal, the Due Process Clause requires that any deprivation of liberty be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301 (1993) (holding that due process “forbids the government to infringe certain ‘fundamental’ liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest”); *Demore*, 538 U.S. at 528 (applying a less rigorous standard for “deportable [noncitizens]”). Here, Mr. ██████████ has significant and concrete ties to the United States, and he has repeatedly passed rigorous background and security checks for over a decade to maintain his DACA grant. Accordingly, he is neither a flight risk nor poses any public safety concern so the high standard applicable to his case cannot be met.

46. Third, basic due process doctrine provides that an individual must be afforded notice, appropriate hearings, bond review, opportunity to contest his detention, etc. *Mathews*, 424 U.S. at 333. Mr. [REDACTED] was deprived of each of these basic rights until this petition.

47. Mr. [REDACTED]'s continued detention is unrelated to the purposes justifying federal civil immigration detention as a constitutional matter, contravenes the fundamental Due Process protections in the Fifth Amendment of the Constitution, and is causing Mr. [REDACTED] ongoing, substantial, and irreparable harm.

COUNT II
VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

48. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

49. The Administrative Procedure Act provides that courts “shall . . . hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

50. At the time of his apprehension and at all times since, Mr. [REDACTED] has had a valid DACA grant, rendering him lawfully present under 8 C.F.R. § 236.21(c)(3). Indeed, it is through DACA that he received his employment authorization.

51. Detaining Mr. [REDACTED] despite his valid grant of DACA, which prohibits his removal from the United States; despite his long-standing ties to the United States; and despite no changed circumstances suggesting he presents any risk of flight or public safety concern is arbitrary, capricious, and an abuse of discretion.

52. The arbitrary and capricious detention of Mr. [REDACTED], despite his valid DACA grant, causes him irreparable harm with each day he remains detained. For the reasons articulated above, this Court should find that any decision to detain Mr. [REDACTED] is arbitrary, capricious,

and unsupported by substantial evidence. *See* 5 U.S.C. §§ 706(2)(A), (E) (The reviewing court “shall ... hold unlawful and set aside agency action, findings, and conclusions found to be ... arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” or “unsupported by substantial evidence.”).

COUNT III

VIOLATION OF THE *ACCARDI* DOCTRINE WITH RESPECT TO 8 C.F.R. § 236.23(d)

53. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

54. The United States has violated its own DACA-specific processes in this case, as to Mr. [REDACTED]. Under the *Accardi* doctrine, the government and its agencies are required to follow their own binding rules. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). Where a regulation governing agency behavior has been promulgated, citizens and noncitizens alike are entitled to “that due process required by the regulations.” *Id.* at 268.

55. DHS’s own regulations recognize that DACA recipients are granted temporary forbearance from removal and are “lawfully present” for all relevant purposes. 8 C.F.R. § 236.21(c). And relevant regulations enumerate a specific process by which a grant of DACA may be terminated. *See* 8 C.F.R. § 236.23(d). That process requires, as relevant here, that USCIS issue a Notice of Intent to Terminate and that the DACA recipient be allowed an opportunity to respond prior to termination. 8 C.F.R. § 236.23(d)(1).

56. Because a grant of DACA cannot be renewed while the recipient is in immigration detention, *see* 8 C.F.R. § 236.23(a)(2), detaining a DACA recipient is tantamount to depriving them of the opportunity to renew their DACA pursuant to the regulations and *de facto* terminating their DACA grant outside of DHS’s established termination procedures.

57. Here, Mr. ██████████ has not received a Notice of Intent to Terminate from USCIS. Nevertheless, per the Notice to Appear, it is the government’s position that he is an “arriving alien” and that the Immigration Judge does not have jurisdiction to consider a bond request. 8 C.F.R. § 1003.19(h)(2)(i)(B). But while detained, Mr. ██████████ is precluded from renewing his grant of DACA. Therefore, his continued detention and the prospect of *de facto* termination of his DACA grant—without first following the codified termination procedures—contravene DHS’s own regulations and thus run afoul of the *Accardi* doctrine.

COUNT IV
**VIOLATION OF PROCEDURAL DUE PROCESS PROTECTIONS OF THE FIFTH
AMENDMENT OF THE CONSTITUTION**

58. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

59. Procedural due process requires notice and an opportunity to be heard before being deprived of a liberty or property interest. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). One of the first inquiries in any case of violation of procedural due process is whether the plaintiff has a protected property or liberty interest and, if so, the extent or scope of that interest. *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 569–70 (1972).

60. The Supreme Court has recognized that property interests arise where “rules or understandings” create “a legitimate claim of entitlement.” *Bd. of Regents*, 408 U.S. at 577. Similarly, reliance on government policies and assurances may give rise to protected expectations under the Due Process Clause. *Perry v. Sindermann*, 408 U.S. 593, 601–03 (1972).

61. Here, Mr. ██████████ reasonably relied on government assurances—made explicit through innumerable public statements—that DACA provides some protection from arrest, detention, and removal for those who follow the rules, and that the DACA program allows its

recipients to establish stable lives in the United States. This reliance has created a legally protectable liberty interest. Moreover, society itself relies on the stability that flows from the normalization of DACA recipients' participation in daily life.

62. Under the familiar *Mathews v. Eldridge* due process test, then, the government's decision to apprehend Mr. [REDACTED] and continue to detain him clearly violates his procedural due process rights. First, Mr. [REDACTED] has substantial legally protectable interests, created by his reliance on the government's DACA policies and associated assurances, at stake. Second, the risk of erroneously depriving Mr. [REDACTED] of such interests is severe, as he is separated from his spouse, children, and work, and thrown into sudden instability. He has been afforded absolutely no process, let alone constitutionally sufficient process, prior to this deprivation. *See Mathews*, 424 U.S. at 343. Third, the government's interest in detaining Mr. [REDACTED] is minimal. Mr. [REDACTED] has been continuously present in the United States since infancy, has obvious and concrete ties to the United States, and has gone through repeated rigorous vetting processes for over a decade to renew his DACA. His detention is thus not rationally related to any purpose civil immigration detention may serve. *See Wong Wing v. United States*, 163 U.S. 228, 235–36 (1896); *Demore*, 538 U.S. at 523, 527–28. And additional process would entail little to no burden on the government, especially in light of the information Mr. [REDACTED] has already provided to the government regarding his DACA eligibility showing he poses no flight risk or danger to the community, per 8 C.F.R. § 236.22. *See Mathews*, 424 U.S. at 347.

63. Accordingly, Mr. [REDACTED] [REDACTED]'s continued detention without notice and an opportunity to be heard violates his procedural due process rights under the Fifth Amendment of the Constitution.

COUNT V
VIOLATION OF THE FOURTH AMENDMENT OF THE CONSTITUTION
AND 8 U.S.C. § 1357(a)(2)

64. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

65. The Fourth Amendment protects “[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures.” U.S. Const. amend. IV. The Supreme Court has consistently recognized that immigration arrests and detentions are “seizures” within the meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the “seizure” of the person).

66. As a general matter, the Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). That neutral, judicial determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See id.* Arrest and detention of a person, including of a noncitizen, absent a neutral judicial determination of probable cause violates the Fourth Amendment of the Constitution. *Id.*; *see also Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991). This determination must occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstances. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

67. Congress enacted a strong preference that immigration arrests be based on warrants. *See Arizona v. United States*, 567 U.S. 387, 407–08 (2012). The Immigration and Nationality Act thus provides immigration officers with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). Specifically, an officer must have “reason to believe” the person is violating

the immigration laws and that the person “is likely to escape before a warrant can be obtained.” *Id.* Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

68. Here, at the moment of seizure, Mr. ██████████ held a current DACA grant, making him lawfully present under 8 C.F.R. § 236.21(c)(3). He had lived at his address of record for years, is married to a U.S. citizen, and is the father of four U.S. citizen children. There is no evidence, and no reason to believe, that he posed a flight risk at the time of his apprehension.

69. Therefore, no officer could hold a reasonable belief that Mr. ██████████ was likely to escape before a warrant could be obtained. *See* 8 U.S.C. § 1357(a)(2).

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

71. The Government cannot salvage this seizure by invoking generalized immigration enforcement interests. The Fourth Amendment’s reasonableness inquiry is fact-specific and demands individualized justification for both the arrest and the extended detention. *See United States v. Brignoni-Ponce*, 422 U.S. 873, 882–84 (1975); *Gerstein*, 420 U.S. at 114. Here, Mr. ██████████ is lawfully present under DACA. He has been granted forbearance from removal. He committed no crime justifying his apprehension on August 13, 2025. He fled no authority. He posed no danger to any person or to the community at large.

72. Mr. ██████████'s warrantless arrest occurred in violation of the clear, narrow circumstances permitted by statute. Therefore, his arrest and ensuing detention constitutes an unreasonable and unlawful seizure in violation of the Fourth Amendment.

COUNT VI
VIOLATION OF THE *ACCARDI* DOCTRINE
WITH RESPECT TO 8 C.F.R. § 287.8(c)(2)(i) and (ii)

73. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

74. The United States has also failed to follow immigration-specific arrest and processing regulations. Regulations governing immigration enforcement require that warrantless arrests conform to the standards in 8 C.F.R. § 287.8(c). Specifically, for any arrest, immigration officers must have reason to believe that an individual committed an offense against the United States or was present illegally. 8 C.F.R. § 287.8(c)(2)(i). And, for a warrantless arrest, officers must also have reason to believe that an individual is “likely to escape before a warrant can be obtained.” 8 C.F.R. § 287.8(c)(2)(ii).

75. At the time of the arrest and at all times since, Mr. ██████████ has had a valid grant of DACA; he fled no authority; and he posed no danger to any person or to the community at large. Therefore, Mr. ██████████'s arrest and continued detention contravene regulations governing immigration arrests in violation of the *Accardi* doctrine.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that the Court grant the following relief:

- A. Assume jurisdiction over this matter;

- B. Pursuant to 28 U.S.C. § 2243, issue an order to show cause directing Respondents to file a return within three (3) days absent good cause for a short extension not exceeding twenty days, and set the matter for a prompt hearing;
- C. Prohibit Petitioner's removal from the United States and transfer outside the District of New Mexico during the pendency of this action;
- D. Declare that Petitioner's arrest and continued detention are unlawful;
- E. Grant the writ of habeas corpus and order Petitioner's immediate release from ICE custody;
- F. In the alternative, conduct an immediate, constitutionally adequate individualized custody determination at which the government bears the burden to justify continued detention and the Court considers release on bond or other reasonable conditions of supervision;
- G. Award Petitioner his costs and reasonable attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
- H. Grant such other and further relief as law and justice require.

Dated: September 3, 2025

Respectfully Submitted,

/s/ Rebecca Sheff _____

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Counsel for Petitioner

Verification by Someone Acting on Petitioner's Behalf Pursuant to 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I have discussed with Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

/s/ Rebecca Sheff
Rebecca Sheff

Date: September 3, 2025

CERTIFICATE OF SERVICE

I hereby certify that on September 3, 2025, I filed the foregoing pleading electronically through the CM/ECF system which caused all parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

/s/ Rebecca Sheff
Rebecca Sheff