

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

JAIME IVAN DUCHI-NAULA

Petitioner,

v.

Case No. 1:25-cv-247-LM-AJ

E.L. TATUM, JR., Warden of the
Federal Correctional Institute, Berlin;
PATRICIA H. HYDE, Acting Field Office
Director of the Immigration and Customs
Enforcement, Enforcement and Removal
Operations, Boston Field Office; **TODD
LYONS**, Acting Director, U.S. Immigration
and Customs Enforcement; **KRISTI NOEM**,
Secretary of U.S. Department of Homeland
Security; **PAMELA BONDI**, U.S. Attorney
General,

Respondents.

**PETITIONER'S OPPOSITION TO RESPONDENTS' MOTION FOR SUMMARY
JUDGMENT AND REQUEST FOR HABEAS CORPUS RELIEF**

INTRODUCTION

Petitioner Jaime Ivan Duchi-Naula is a noncitizen from Ecuador who was paroled into this country on or around December 27, 2022, at the age of 18. Since entering the U.S., Petitioner has made a life for himself in Massachusetts. He has developed a career in construction and landscaping and formed deep ties to his community, including relationships with his cousin, extended family, friends, and coworkers. He has complied with the law and initiated the process to become a lawful permanent resident here in the United States. In fact, Petitioner has already been granted Special Immigrant Juvenile (SIJ) status by the U.S. Citizenship and Immigration Services (USCIS), which rendered him immediately eligible to apply to become a lawful permanent resident. However, through no fault of his own, he has been unable to do so. Petitioner, along with thousands of other young people, remains stuck in the visa backlog waiting for a visa to become available.

After living freely for nearly two and a half years, Petitioner was inexplicably arrested by the U.S. Immigration and Customs Enforcement (ICE) during a seemingly random worksite raid on or around May 13, 2025. This was done despite Respondent's acknowledgement that Petitioner has no criminal record and was, at the time, protected from ICE enforcement activity through deferred action granted by USCIS when his SIJ petition was approved. Since his arrest, Petitioner has twice sought a bond hearing pursuant to 8 U.S.C. § 1226(a) before an Immigration Judge (IJ) at the Chelmsford Immigration Court in Massachusetts. Both times the IJ found that Petitioner was ineligible for a bond hearing under 8 U.S.C. § 1225(b) – and Respondents agree.

Respondents advance two arguments in seeking summary judgment: (1) that the statutory authority for detention is driven by the circumstances surrounding the noncitizen's initial encounter with immigration authorities, and so Petitioner's detention is governed by § 1225(b);

and (2) that Petitioner's detention comports with the Due Process Clause.¹ However, Respondents are wrong and Petitioner is entitled to a bond hearing for the following reasons.

First, Petitioner is detained under 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b). Although Petitioner was initially classified as an arriving alien at the time of his entry to the United States, the grant of SIJ status altered his classification for detention purposes to "an immigrant who is present in the United States." *Rodriguez v. Perry*, 747 F. Supp. 3d 911, 916 (E.D. Va. 2024) (quoting 8 U.S.C. § 1101(a)(27)(J)). Petitioner no longer falls under the scope of § 1225(b) and, thus, is entitled to a bond hearing under § 1226(a).

Second, Petitioner's detention without a bond hearing violates the Due Process Clause as a noncitizen who was paroled into this country and who has accrued a substantial liberty interest. *See Destino v. FCI Berlin, Warden*, No. 1:25-cv-374-SE-AJ, 2025 U.S. Dist. LEXIS 269322, at *16 (D.N.H. Dec. 24, 2025) ("While noncitizens paroled into the country for years may not be 'admitted' within the meaning of the INA, they have lived at liberty here, and so may acquire the protection of the Constitution, at least insofar as it protects against detention without bond hearings."). Particularly in light of his SIJ status, Petitioner "is entitled to procedural due process under the Fifth Amendment. Procedural due process mandates that [Petitioner] receives a prompt, individualized bond hearing." *Rodriguez*, 747 F. Supp. 3d at 919. Therefore, regardless of whether

¹ Respondents also argue that Petitioner has not exhausted his administrative remedies and that, therefore, this Court should decline to hear his unexhausted claims. DN 19-1 at 8. As Respondents acknowledge, however, there is no exhaustion requirement for Petitioner's claims. Although Petitioner has appeal the IJ's bond decisions to the Board of Immigration Appeals, those appeals remain pending and may do so for a significant period of time. Moreover, the BIA may ultimately affirm the IJ's decisions, in which case Petitioner would be required to return to this Court to seek relief. Thus, this Court is in the best position to provide Petitioner with the relief he needs now and should not decline to hear Petitioner's claims on exhaustion grounds. In any event, this Court already held that no exhaustion is required. *See Lamidi v. FCI Berlin, Warden et al*, No. 25-cv-297-LM, DN 14, at *8-9 (D.N.H. Sept. 15, 2025) (holding that "any failure to exhaust Lamidi's claim is excused").

Petitioner's detention is governed by § 1225(b) or § 1226(a), Petitioner's detention without a constitutionally adequate bond hearing before a neutral decisionmaker violates the Due Process Clause.

Because this Court already released Petitioner through a bail hearing during the pendency of this habeas proceedings, this Court should hold that Petitioner remain out of Respondents' custody without any additional bond hearing before an IJ. Indeed, at least for the due process grounds, this Court has inherent authority to conduct a bond or bail hearing. *See Flores-Powell v. Chadbourne*, 677 F. Supp. 2d 455, 474-78 (D. Mass. 2010) (Wolf, J.) (“[B]ased upon the unique facts of this particular case, the court, in the exercise of its equitable discretion, has concluded that a bail hearing before this court is the proper remedy.”). This Court already conducted a bail hearing and determined that Petitioner should be released.

FACTUAL BACKGROUND

Petitioner is 21 years old and from Ecuador. DN 1-2 (Respondent's Motion Requesting Bond Hearing) at 19.² Petitioner entered the United States on or about December 26, 2022 without lawful entry near the Texas-Mexico border. *Id.* at 127-128. Petitioner was then paroled into the United States on December 27, 2022 pursuant to DHS' authority under 8 U.S.C. 1182(d)(5), which permits the government to parole noncitizens into the United States for urgent humanitarian reasons or significant public benefit. *Id.* at 128. Petitioner's parole status was valid through February 25, 2023 and Respondents did not then detain Petitioner upon the expiration of his parole. DN 15-1.

² Petitioner incorporates Exhibits 1 to 4, which were attached to his habeas corpus petition and docketed at DN 1-1 – 1-4; Exhibit 5, which was filed as an addendum to the habeas corpus petition and was docketed at DN 3; and Exhibits 6 to 8, which were filed as an addendum to the habeas corpus petition and was docketed at DN 15-1 – 15-3. In addition, Petitioner submits additional Exhibits as part of this brief. *See Exhibit 9* (IJ Dec. dated June 30, 2025).

After entering the United States, Petitioner applied for asylum, withholding of removal, and protection under the Convention Against Torture (CAT). DN 1-2 at 87-98. Petitioner also applied for SIJ status, and on June 11, 2024, USCIS approved Petitioner's SIJ petition and granted him deferred action. *Id.* at 25. On or about July 2, 2025, and after ICE re-detained Petitioner and Petitioner filed the instant petition for habeas corpus, USCIS terminated Petitioner's deferred action. DN 19-2 (Chan Decl.) at ¶ 16.

On May 13, 2025, Respondents encountered and arrested Petitioner during a worksite operation with "a Warrant of Arrest (Form I-200) at the location." DN 1-2 at 124. On or about May 22, 2025, Respondents transferred Petitioner to FCI Berlin in Berlin, New Hampshire. Subsequently, Respondents filed a notice to appear (charging document) against Petitioner in the Chelmsford Immigration Court in Massachusetts.³ DN 15-3. On May 30, 2025, Petitioner filed a motion for a bond hearing. DN 1-2. On June 9, 2025, the IJ denied the motion because the IJ found that Petitioner was "statutorily ineligible for IJ custody redetermination" pursuant to *Matter of Q.LI*, 29 I. & N. Dec. 66 (B.I.A. 2025). DN 1-3.

On June 16, 2025, the IJ terminated Petitioner's removal proceedings without prejudice because the charging document "contain[ed] the wrong name and A number." DN 1-4. On June 17, 2025, Respondents refiled the notice to appear. DN 1-1. According to this new charging document, Respondents charged Petitioner under the Immigration and Nationality Act (INA) §

³ It appears that Respondents issued the notice to appear on March 7, 2023. DN 15-3. While there is a discrepancy on the date of the issuance of the notice to appear between the date included in the notice to appear and Respondents' understanding of the issuance date, this dispute is not pertinent for the purpose of this habeas corpus petition. *Compare* DN 15-3 ("March 7, 2023) *with* DN 19-2 at ¶ 8 ("February 28, 2023"). Petitioner also notes that removal proceedings commence only after the notice to appear is filed with an Immigration Court. *See* 8 C.F.R. § 1239.1(a) ("Every removal proceeding conducted under section 240 of the Act (8 U.S.C. § 1229a) to determine the deportability or inadmissibility of an alien is commenced by the filing of a notice to appear with the immigration court.").

212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), and classified him as a noncitizen “present in the United States who has not been admitted or paroled” instead of “an arriving alien.” *Id.* Petitioner again requested a custody redetermination and on June 30, 2025 the IJ again found that Petitioner was statutorily ineligible for a bond hearing. Ex. 9 (IJ Order dated June 30, 2025). Petitioner has appealed both of the IJ’s bond decisions to the Board of Immigration Appeals (BIA), which appeals remain pending. DN 19-2 at ¶ 21-22.

On June 29, 2025, Petitioner filed this habeas corpus petition to challenge his detention. DN 1. On July 7, 2025, this Court conducted a bail hearing under the Court’s inherent power and released him with conditions. DN 17. Petitioner has complied with all conditions this Court imposed.

Since his arrival in the United States, Petitioner has resided in Massachusetts. DN 1-2 at 7. In the United States, Petitioner has developed a career in construction and landscaping, most recently as a subcontractor in roofing. *Id.* Petitioner has substantial ties to the United States, particularly in Massachusetts, including his cousin, extended family, friends, and coworkers. *Id.* Petitioner has no crime in the United States or elsewhere. *See, e.g.*, DN1-2 at 124 (“Subject has no criminal history in the United States.”).

ARGUMENT

I. PETITIONER’S DETENTION IS GOVERNED BY 8 U.S.C. § 1226(a) AND HE IS THEREFORE ENTITLED TO A BOND HEARING

This Court should find that he is entitled to a bond hearing, as 8 U.S.C. § 1226(a) governs his detention. For detention purposes, Petitioner is no longer an applicant for admission, and so is no longer subject to mandatory detention under 8 U.S.C. § 1225(b). Petitioner entered this country as an “arriving alien,” and DHS exercised its authority under 8 U.S.C. § 1182(d)(5) to parole him into the U.S. for urgent humanitarian reasons or for significant public benefit. DN

15-1. In typical cases, once that parole status expires or is revoked, Petitioner would return to the classification of an arriving alien and would be mandatorily detained under § 1225(b). *See* 8 U.S.C. § 1182(d)(5) (“but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall...have been served the alien shall forthwith return or be returned to the custody from which he was paroled...”). But this is not a typical case, and that is because Petitioner’s classification changed when he was granted SIJ status.

Under 8 U.S.C. § 1255(h)(1), a SIJ designee “shall be deemed . . . to have been paroled into the United States” for the purpose of adjusting his immigration status to lawful permanent resident. 8 U.S.C. § 1255(h)(1). Thus, Petitioner’s prior parole status as an arriving alien “expired once his SIJ application was approved[.]” *Diaz-Calderon v. Barr*, No. 2:20-CV-11235-TGB, 2020 U.S. Dist. LEXIS 173509, at *33 (E.D. Mich. Sep. 22, 2020). And once it expired, his status became that of “an immigrant who is present in the United States.” *Rodriguez*, 747 F. Supp. 3d at 916 (quoting 8 U.S.C. § 1101(a)(27)(J)). *See also Martinez Cruz v. Hyde*, No. 25-12854-IT (D. Mass. Oct. 10, 2025) (holding that SIJS grantee in removal proceedings who had been designated a UC as well as an “arriving alien” on her Notice to Appear, when detained by ICE years later, was detained under 8 U.S.C. § 1226, not 8 U.S.C. § 1225); *Casun v. Hyde*, No. 25-CV-427-JJM-AEM, 2025 U.S. Dist. LEXIS 195429, at *2 (D.R.I. Oct. 2, 2025) (“He is also not seeking admission into the United States as he is already here and has had SIJS for nearly 2 years . . . Clearly, Section 1225 does not apply to him.”); *Inlago Tocagon v. Moniz*, No. 25-CV-12453-MJJ, 2025 U.S. Dist. LEXIS 191829, at *4 (D. Mass. Sept. 29, 2025) (“Mr. Inlago Tocagon’s I-360 [SIJS] petition was granted on October 31, 2024 . . . At that time, Mr. Inlago Tocagon was deemed to have been paroled into the United States . . . These facts further affirm

that Mr. Inlago Tocagon is subject to Section 1226(a)'s discretionary detention framework and is thus eligible for bond.").

A close reading of 8 U.S.C. § 1225(b)(2) confirms that Petitioner's classification as an arriving alien, as far as it relates to detention, changed once he was granted SIJ status. Generally, § 1225(b)(2) applies to noncitizens who are seeking entry at the border or who were apprehended at or near the border. However, Congress made clear that SIJ grantees should be classified as "an immigrant present in the United States." 8 U.S.C. § 1101(a)(27)(J) (defining SIJ as "an immigrant present in the United States"). Petitioner's new classification as a SIJ grantee does not mean that Petitioner has been lawfully admitted, but it does mean that he is no longer someone seeking entry at the border. Thus, under a plain reading of § 1225(b), Petitioner – an "immigrant present in the United States" – does not fall within its scope. *See Martinez v. Hyde*, No. 25-11909-BEM, 2025 U.S. Dist. LEXIS 222450, at *15 n. 33 (D. Mass. Nov. 12, 2025) ("Thus, Petitioner's SIJ status appears to be incompatible, whether by direct operation of statute or simply as indicative of presence, with finding that he was an 'arriving alien,' as would be required to sustain mandatory detention under section 1225.").

This interpretation comports with Congressional intent, and the broader protections Congress has specifically provided to SIJ grantees. The "SIJ classification conveys a host of important benefits." *Osorio-Martinez v. AG United States*, 893 F.3d 153, 163 (3d Cir. 2018). These benefits include "various forms of support within the United States, such as access to federally funded educational programming and preferential status when seeking employment-based visas." *Id.* Once granted, SIJ designation "reflects the determination of Congress to accord those abused, neglected, and abandoned children a legal relationship with the United States and to ensure they are not stripped of the opportunity to retain and deepen that relationship without

due process.” *Id.* at 170. It defies logic to suggest that Congress required SIJ designees to be mandatorily detained under §1225(b) while at the same time affording them exceptional benefits that could only be enjoyed outside of detention.

Finally, the fact that Petitioner was arrested pursuant to an administrative warrant together with close reading of Petitioner’s most recent charging document further confirms that Petitioner’s detention is governed by § 1226(a). Petitioner was re-arrested by ICE pursuant to an administrative warrant, which necessarily means that his detention is governed by § 1226(a). *See* 8 U.S.C. § 1226(a) (“On a warrant issued by the Attorney General, an alien may be arrested and detained...”). *See also Inlago Tocagon*, 2025 U.S. Dist. LEXIS 191829, at *5-6 (finding that “the plain text of Sections 1225 and 1226, together with the structure of the larger statutory scheme, indicates that Section 1225(b)(2) does not apply to noncitizens who are arrested on a warrant issued by the Attorney General while residing in the United States.”) (internal quotations omitted); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 U.S. Dist. LEXIS 128085, at *7-8 (D. Mass. July 7, 2025) (same). Moreover, Petitioner’s NTA clearly states that Petitioner “is subject to removal as an alien present under INA 212(a)(6)(A)(i),” and not as an arriving alien under 212(a)(7)(A)(i)(I). DN 1-1. And DHS marked the box indicating that Loja is classified as “an alien present in the United States who has not been admitted or paroled,” not the box indicating that he was an arriving alien. If Petitioner’s detention were to be governed by § 1225(b), then the NTA should allege that Petitioner is an arriving alien and is removable under 212(a)(7)(A)(i)(I).

For all of these reasons, Petitioner is no longer the type of noncitizen seeking entry at the border and thus is detained under § 1226(a).

II. PETITIONER’S CONTINUED DETENTION WITHOUT A BOND HEARING VIOLATES HIS DUE PROCESS RIGHTS AND SO HE IS ENTITLED TO A BOND HEARING

A. A Noncitizen’s Accrued Liberty Interests May Demand an Individualized Bond Hearing Under the Due Process Clause to Ensure That Continue Detention Does Not Offend Due Process

Petitioner is entitled to an individualized bond hearing under the Due Process Clause.

The Constitution establishes due process rights for “all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). “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.” *Hernandez-Lara v. Lyons*, 10 F.4th 19, 28 (1st Cir. 2021) (citing *Zadvydas*, 533 U.S. at 695 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992))) (alteration in *Hernandez-Lara*). “The Supreme Court has repeatedly affirmed that ‘[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.’” *Id.* (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)) (alteration in *Hernandez-Lara*). “For this reason, ‘civil commitment *for any purpose* constitutes a significant deprivation of liberty that requires due process protections.’” *Id.* (quoting *Addington v. Texas*, 441 U.S. 418, 425 (1979)) (emphasis added in *Hernandez-Lara*).

“Thus, civil detention, even in the immigration context, is permissible ‘only in certain special and narrow nonpunitive circumstances, where a special justification . . . outweighs the individual’s constitutionally protected interest in avoiding physical restraint.’” *Destino*, 2025 U.S. Dist. LEXIS 269322, at *22 (quoting *Kong v. United States*, 62 F.4th 608, 616 (1st Cir. 2023)) (internal quotations omitted). Noncitizens, particularly those who have lived freely in the United States and have otherwise accrued liberty interests, have due process protections against detention without a bond hearing even outside of the prolonged detention context. *See id.* at *16

(“While noncitizens paroled into the country for years may not be ‘admitted’ within the meaning of the INA, they have lived at liberty here, and so may acquire the protection of the Constitution, at least insofar as it protects against detention without bond hearings.”). Constitutional protections under the Due Process Clause may be conferred to an individual through accrued liberty interests. *See id.* at 15 (“In non-admission contexts...the Due Process Clause protects liberty interests that may accrue[.]”).

Indeed, a noncitizen’s liberty interests may become so substantial that they require a bond hearing under the Due Process Clause. *See id.* at 16 (reasoning that paroled noncitizens “have lived at liberty [in the U.S.], and so may acquire the protection of the Constitution, at least insofar as it protects against detention without bond hearings.”). This is particularly true where the noncitizen is a SIJ grantee, as “SIJ designees stand much closer to lawful permanent residents than to aliens present in the United States for a few hours before their apprehension.” *Rodriguez*, 747 F. Supp. 3d at 918 (quoting *Osorio-Martinez*, 893 F.3d at 174). Therefore, even if mandatory detention without a bond hearing is statutorily authorized, mandatory detention may become constitutionally impermissible when the individual’s accrued liberty interests are substantial and that individual has not received an individualized hearing at which the government must justify the continued detention. *Destino*, 2025 U.S. Dist. LEXIS 269322, at *15 (“In non-admission contexts, which do not directly implicate the executive’s sovereign prerogative, the Due Process Clause protects liberty interests that may accrue regardless of statutory allowances.”).

To determine if detention without a bond hearing has resulted in a violation of the Due Process Clause outside of the prolonged detention context, this Court should apply the three-part balancing test established in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976) and consider: (a) the

noncitizen's private interest in securing his personal liberty; (b) the risk of the continued erroneous deprivation of the noncitizen's personal liberty; and (c) the government's interest in detaining the noncitizen to ensure the execution of a potential final removal order. *See id.* at 22-23. Upon finding a Due Process violation, this Court should order a bond hearing before an IJ where DHS bears the burden of showing that continued detention is necessary under the *Hernandez-Lara* standard. *See, e.g., K-S- v. FCI-Berlin*, 2025 DNH 126 P, 2025 U.S. Dist. LEXIS 260379, at *10 (D.N.H. Dec. 17, 2025).

B. Petitioner's Detention Has Resulted In A Violation of His Due Process Rights And This Court Should Hold that Petitioner is Entitled to an Individualized and Constitutionally Adequate Bond Hearing Before a Neutral Decisionmaker

This Court should hold that Petitioner is entitled to an individualized and constitutionally adequate bond hearing before a neutral decisionmaker.

First, Petitioner has accrued substantial liberty interests here in the U.S. "Liberty interests may spring from lives lived, connections fostered, and promises made or implied." *Destino*, 2025 U.S. Dist. LEXIS 269322, at *15. These liberty interests overwhelmingly weigh in favor of relief.

Petitioner has a stable job and has developed a career in construction and landscaping. DN 1-2 at 7. He has weighty ties to the United States, particularly in Massachusetts, including to his cousin, extended family, friends, and coworkers. *Id.* Moreover, Petitioner has no crime in the United States or elsewhere and is being "incarcerated alongside criminal inmates." *Destino*, 2025 U.S. Dist. LEXIS 269322, at *26. *See, e.g.,* DN1-2 at 124 ("Subject has no criminal history in the United States."). These interests alone are sufficient to require due process protections. *See id.* at 27 ("Destino's liberty interests in working in the United States, living alongside his fiancée and infant child, and avoiding conditions of confinement meant for criminals are

themselves sufficiently weighty to require due process protection.”). *See also Tenemasa-Lema v. Hyde*, No. 25-13029-BEM, 2025 U.S. Dist. LEXIS 231459, *16 (D. Mass. Nov. 25, 2025) (“That disruption of established family ties further compounds Petitioner’s deprivation of liberty.”).

Perhaps most critically, Petitioner has lived here freely for over two and a half years, after being paroled into the U.S. back in December of 2022 for urgent humanitarian reasons or significant public benefit. *See* DN 1-2 at 128. *See also Destino*, 2025 U.S. Dist. LEXIS 269322, at *27 (“Courts have repeatedly recognized that ‘an individual already enjoying certain forms of conditional release has a protected liberty interest in retaining them.’”) (quoting *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 886 (1st Cir. 2010)). This Court has made clear that parolees have heightened liberty interests, even if that parole had expired well before he or she was re-detained. *See Destino*, 2025 U.S. Dist. LEXIS 269322, at *28. Simply because Petitioner spent two and a half years “at liberty in the United States, [he] has a cognizable interest in his freedom from detention. *Id.* at 28-29.

Moreover, during his time of living freely in the U.S., Petitioner did what he was supposed to do by pursuing numerous routes to gain legal status, including by applying for asylum, withholding of removal, protection under the CAT, and SIJ status. DN 1-2 at 87-98. Indeed, Petitioner already has been granted SIJ status, meaning that he is eligible to apply for lawful permanent resident status but cannot do so right now because there is a visa backlog. *Id.* at 25. If not for this visa backlog, Petitioner likely would not be in this position to begin with.

“SIJ status [] reflects the determination of Congress to accord those abused, neglected, and abandoned children a legal relationship with the United States and to ensure they are not stripped of the opportunity to retain and deepen that relationship without due process.” *Osorio-*

Martinez, 893 F.3d at 170. “Given that [Petitioner] is an SIJ designee who is accorded significant benefits and procedural protections that put him in a hair’s breadth from being able to adjust [his] status,” this Court should find that “he is entitled to procedural due process under the Fifth Amendment. Procedural Due Process mandates that [Petitioner] receive a prompt, individualized bond hearing.” *Rodriguez*, 747 F. Supp. 3d at 918 at 919.

Second, the risk of erroneous deprivation is high and weighs in favor of relief. Petitioner has never received a bond hearing and Respondents have denied any process whatsoever relative to his custody status. *See Destino*, 2025 U.S. Dist. LEXIS 269322, at *30 (reasoning that the second factor weighs in favor of the Petitioner where the Petitioner “has been denied any opportunity to be heard regarding his confinement.”). “In the absence of relief, the only mechanism Petitioner has to test the propriety of his detention is DHS’s discretionary authority to grant parole. Of course, that is no real test at all.” *Tenemasa-Lema*, 2025 U.S. Dist. LEXIS 231459, *17 (internal quotation and citation omitted). Finally, the risk of erroneous deprivation of Petitioner’s liberty interest “is further heightened by the reality that it could be many months or even years until [Petitioner’s] removal proceedings become final.” *Destino*, 2025 U.S. Dist. LEXIS 269322, at *30.

Third, the cost of providing a bond hearing is not unduly burdensome and weighs strongly in favor of relief. Courts “generally have found that the cost of providing a bond hearing is relatively minimal.” *Rincon v. Hyde*, No. 25-12633-BEM, 2025 U.S. Dist. LEXIS 220058, at *20 (D. Mass. Nov. 7, 2025) (quotation omitted); *Destino*, 2025 U.S. Dist. LEXIS 269322, at *34 (same). Petitioner has done what he was supposed to do and is now in the position of continued detention because of Respondent’s own actions. Respondents should be made to justify their continued detention of Petitioner, especially where Petitioner has such a

fundamental interest at stake. If the government has concerns regarding Petitioner being a danger to the community or flight risk, the government will have the opportunity to carry its burden of proving that Petitioner is dangerous or a flight risk. *See Destino*, 2025 U.S. Dist. LEXIS 269322, at *33 (finding in favor of relief on the third *Mathews* factor where “the government will have the opportunity to carry its burden of proving that Destino is dangerous or a flight risk at a bond hearing in Immigration Court, if such concerns exist.”).

Ultimately, regardless of whether Petitioner’s current detention is governed by 1225(b), Petitioner is still entitled to a bond hearing under the Due Process Clause of the Constitution. Each of the *Mathews* factors favor Petitioner and his detention without a bond hearing violates his rights under the Due Process Clause.

Because this Court already released Petitioner through a bail hearing during the pendency of this habeas proceedings, this Court should hold that Petitioner remain out of Respondents’ custody without any additional bond hearing before an IJ. Indeed, at least for the due process grounds, this Court has inherent authority to conduct a bond or bail hearing. *See Flores-Powell v. Chadbourne*, 677 F. Supp. 2d at 474-78 (“[B]ased upon the unique facts of this particular case, the court, in the exercise of its equitable discretion, has concluded that a bail hearing before this court is the proper remedy.”). This Court already conducted a bail hearing and determined that Petitioner should be released.

CONCLUSION

For the reasons stated above, this Court should grant Petitioner’s habeas corpus petition and deny Respondents’ motion for summary judgment.

Date: January 27, 2026

Jaime Ivan Duchi-Naula,

By and through his Counsel,

/s/ SangYeob Kim

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