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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

Portland Division

L-J-P-L-, an adult,

Petitioner,

v.

CAMMILLA WAMSLEY, Seattle Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"); TODD LYONS, Acting Director of Immigration Customs Enforcement ("ICE"); U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; KRISTI NOEM, Secretary of the Department of Homeland Security ("DHS"); U.S. DEPARTMENT OF HOMELAND SECURITY; and PAMELA BONDI, Attorney General of the United States,

Respondents.

Case No. 25-cv-01390-IM
Agency No. A[redacted]

PETITIONER'S REPLY BRIEF ISO PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

The Court should order the Respondents to release Petitioner forthwith. The rule of law requires the stakeholders in the legal system to act in good faith. This foundational principle is particularly important when one of the stakeholders is the Executive Branch of the United States Government, because the Executive Branch has the single solemn duty to faithfully execute the laws. *See* U.S. Const. art. II, § 1, clause 8.

Petitioner has followed the law and the orders and conditions placed upon him by ICE. Notwithstanding his compliance, Respondents—the Executive Branch of the United States—have unlawfully circumvented the relevant regulations, the governing statute, and the U.S. Constitution, at every step of the way by seizing Petitioner, transporting him out of the district, and unlawfully detaining him in their bid to achieve a detention and deportation quota. "It is procedure that spells much of the difference between rule by law and rule by whim or caprice." *Joint Anti-Fascist Refugee Comm. V. McGrath*, 341 U.S. 123, 179 (1951) (Douglas, J., concurring); *Malinski v. New York*, 324 U.S. 401, 414 (1945) (Frankfurter, J., concurring) ("The history of American freedom is, in no small measure, the history of procedure.").

First, Respondents unlawfully seized L-J-P-L-. ICE officers performed a "traffic stop" and arrested Petitioner after any reasonable suspicion had been dispelled that he was in the country unlawfully. ECF 15-3; Petitioner's Declaration ("Pet. Decl.") at ¶ 13; M-L-M-C-'s Declaration ("MLMC Decl.") at ¶ 15. In doing so, Respondents ignored their own prior custody determination and procedures in order to detain and attempt to remove Petitioner without due process.

Second, Respondents unlawfully denied L-J-P-L- access to counsel. After Respondents arrested him, they took L-J-P-L- to be processed at the Portland ICE/ERO Facility. ECF 16 ¶ 9. While there, attorney Kathleen Pritchard, attempted to meet with him and have a prerepresentational interview, but ICE officers denied access without any actual basis to do so, despite the attorney's efforts and recitation of Respondents' own regulations that set the legal basis to grant access to counsel, even if no formal notice has been entered. Declaration of Kathleen Pritchard ("Pritchard Decl.") at ¶¶ 2-9.

Third, Respondents have unlawfully manipulated the procedure in an attempt to justify Petitioner's unlawful detention. L-J-P-L- was initially processed at the border where his biometrics were taken and his full background was reviewed by immigration officers, who used their lawful discretion to place him in removal proceedings under 8 U.S.C. § 1229a and to release him on his own recognizance pursuant to their custody authority under 8 U.S.C. § 1226. Pritchard Decl. Ex. B at 1-2.; Pet. Decl. at ¶¶ 6-7; ECF 24-1; ECF 24, Ex. A. After Petitioner's detention, to justify detaining him, Respondents tried to reinstate a prior removal order – a reinstatement they had already declined to elect when he was processed at the border – instead of making a § 1226(b) revocation based on individualized facts that he was out of compliance with his release order. ECF 15-2. However, Petitioner's removal order cannot be reinstated while there is still a pending process before an immigration judge, and it was not until after the initiation of the present suit that Respondents filed to terminate the removal proceedings of Petitioner in immigration court, and their motion is still pending. ECF 16 at ¶ 12; ECF 23 at 2-3. Because Petitioner's reinstated order is legally premature and, accordingly cannot yet be given any legal weight or implemented, Respondents have no lawful basis to retroactively claim any custody authority under 8 U.S.C. § 1231.

II. BACKGROUND

Petitioner, L-J-P-L- came to the United States from Guatemala to seek asylum because his brother was murdered in Guatemala and he feared that those who murdered his brother would murder him or harm his family. Pritchard Decl. Ex. A. He is an indigenous speaker of Mam, not

Spanish, though he has limited and rudimentary Spanish-speaking skills. Pet. Decl. at ¶ 2. On or around February 14, 2024, Petitioner approached a U.S. immigration agent near Nogales, Arizona to seek asylum. Pritchard Decl. Ex. A; Pet. Decl. at ¶ 6. He was accompanied by his six-year old daughter, E-D-. Pet. Decl. at ¶ 5.

Around that same time and *after* he presented to the immigration agent to seek asylum, Petitioner responded to numerous questions from Respondents' agents about his history, provided his personal information and the information of his family. *Id.* at ¶ 6. Petitioner also explained his intended end destination. *Id.* This interview was conducted in the Spanish language. Pritchard Decl. Ex. B at 1. Respondents' agents completed a biometric screening of Petitioner, assigned a family tracking indicator to Petitioner, and assigned a fingerprint identification number to Petitioner. Pritchard Decl. Ex. B at 2. Respondents' criminal history check of Petitioner revealed no prior criminal history. *Id.*, ECF 15-3 at 2. Moreover, in addition to the criminal history check and the biometrics screening, Respondents' agents completed a comprehensive records check or additional records check. Pritchard Decl. Ex. B at 2.

While the prosecutorial pathways available on February 14, 2024 included reinstatement of removal, Respondents agents chose to release L-J-P-L- on an order of recognizance with a notice to appear for a removal hearing under 8 U.S.C. § 1229a, in lieu of reinstatement under 8 U.S.C. § 1231(a)(5). Pritchard Decl. Ex. B at 2 (hand-notation by DHS agent, among other possible disposition options). The next day, on or about February 15, 2024, Petitioner was released on his own recognizance under 8 U.S.C. § 1226(a) by Acting Patrol Agent in Charge Hector Sanchez, and the conditions of his release were then explained to him in Spanish by a different agent, Andrew L. Liposky. Pritchard Decl. Ex. B at 1. These conditions were provided to him in writing. *Id.* at 1; ECF 24-1. To date, there has been no revocation of his release under 8 U.S.C. § 1226(b).

Respondents commenced § 1229a removal proceedings and scheduled Petitioner for his first court appearance on November 18, 2026, before the Seattle Immigration Court. Petitioner Decl. Ex. D; ECF 23 at 4; ECF 24-3. In the meantime, Petitioner, in compliance with the terms of his release, reported to the Eugene Field Office of ICE on June 4, 2024; August 6, 2024; August 27, 2024; January 7, 2025; and April 1, 2025; and was scheduled to report to the Eugene office on October 7, 2025. Pritchard Decl. Ex. C; ECF 23 at 2; ECF 26 at 2-3.

However, on August 7, 2025, Respondents' agents, who by their own admission were looking for *someone else*, nevertheless arrested Petitioner. ECF 15-3 at 3; ECF 16 ¶ 9. ICE agents seized Petitioner and other farmworkers in a so-called "traffic stop," in which the agents shattered the window of the vehicle they were riding in, and, *after* arresting them, interrogated them to determine if they were Mexican and if they were illegally in the United States. MLMC Decl. ¶¶ 10,15. Out of the seven people in the vehicle, ICE officers took four into custody, including L-J-P-L-. Pet. Decl. at ¶ 16-19; MLMC Decl. ¶ 20. Respondents were not targeting L-J-P-L- or any of the other people in the car; instead, they seized the vehicle first and then figured out if they could detain any of its occupants later. ECF 15-3 at 3-4; MLMC Decl. ¶¶ 15. L-J-P-L- filed a habeas petition that same day to challenge his unlawful detention. ECF 1.

The sole justification that Respondents assert for Petitioner's detention is that he is subject to reinstatement of a prior order of removal under 8 U.S.C. § 1231. ECF 14 at 6. But Petitioner remains in removal proceedings under 8 U.S.C. § 1229a, not reinstatement proceedings, unless and until there is a final administrative order in his § 1229a proceedings. 8 U.S.C. § 1229a(a)(3).

On August 12, 2025, several days after Petitioner's re-detention, Respondents filed in immigration court a motion to dismiss Petitioner's § 1229a removal proceedings. ECF 23 at 2-3. The motion remains pending. *Id.* Even if granted, any decision by the immigration judge would not be final for at least thirty days, until either the appeal period has lapsed or, if pursued, the Board of Immigration Appeals renders a decision. 8 U.S.C. § 1101(a)(47); 8 C.F.R. § 1240.15; 8 C.F.R. § 1003.39.

III. RESPONDENTS' POSITION

The law requires that Respondents certify the "true cause" of detention. 28 U.S.C. § 2243 ("The person to whom the writ or order is directed shall make a return certifying the true cause of the detention."). On August 14, 2025, Respondents certified that the true cause of Petitioner's executive detention is 8 U.S.C. § 1231(a)(2)(A) as he is subject to a reinstated removal order. ECF 14 at 6. Respondents assert that on August 7, 2025, they notified L-J-P-L- that he was subject to a reinstatement order, and he could contest such determination, but he "declined" to contest the determination and thus the order of removal was reinstated. ECF 14 at 7.

IV. ARGUMENT

L-J-P-L-'s petition should be granted and Respondents should be ordered to release Petitioner forthwith. Petitioner's detention cannot be authorized by 8 U.S.C. § 1231(a)(2)(A) and there is no other lawful basis for the executive detention. Petitioner's continued detention violates his due process rights.

A. Petitioner's detention is not authorized by 8 U.S.C. § 1231(a)(2)(A)

Petitioner's detention is not authorized by 8 U.S.C. § 1231(a)(2)(A) because he is in § 1229a removal proceedings, which are the "sole and exclusive" means for determining whether he can be removed from the United States. 8 U.S.C. § 1229a(a)(3). Respondents have no current custody authority to detain under 8 U.S.C. § 1231, nor did they when they made the decision to detain Petitioner on August 7. Instead, Respondents' only custody authority to detain Petitioner remains 8 U.S.C. § 1226 – the authority under which Petitioner was last released from custody in February 2024. Respondents do not dispute that they have made *no* custody revocation decision under 8

U.S.C. § 1226(b). Indeed, there are no facts in the record that would support an appropriate basis for revocation, nor have Respondents suggested that there are. *See, e.g.*, *Morales Jimenez v. Bostock*, 3:25-cv-00570-MTK, (May 13, 2025) Transcript at 57-59 (requiring individualized determination for revocation of release under 8 U.S.C. § 1226 custody authority, based on facts that support a noncitizen's flight risk or danger to the community).

Petitioner remains in removal proceedings under 8 U.S.C. § 1229a, *not* reinstatement proceedings, unless and until there is a final administrative order in his § 1229a proceedings. 8 U.S.C. § 1229a(a)(3) (describing § 1229a proceedings as the "sole and exclusive" proceeding when determining removal). Petitioner does not contest that when an individual with a prior order of removal is amenable to reinstatement; ICE may in its prosecutorial discretion use § 1231 reinstatement proceedings in lieu of § 1229a removal proceedings. *See* 8 U.S.C. § 1231(a)(5); 8 C.F.R. § 241.8. And the flip side is also true: ICE may exercise its discretion to adjudicate a previously removed noncitizen's asylum status through § 1229a proceedings instead of § 1231 reinstatement proceedings. Reinstatement is neither "automatic" nor "obligatory", as ICE retains the discretion to "*not* pursue streamlined reinstatement procedures" and, instead, place the noncitizen in regular removal proceedings under 8 U.S.C. § 1229a. *Villa-Anguiano v. Holder*, 727 F.3d 873, 878-79 (9th Cir. 2013) (emphasis added).

Indeed, that is *precisely* what happened in this case. On February 15, 2024, Respondents chose—in their discretion—to afford Petitioner the full benefit of his due process rights when seeking asylum by opting for § 1229a proceedings instead of § 1231. ECF. 14 at 4; Pritchard Decl. Ex. B at 2. The record shows that ICE had several pre-defined processing dispositions. *Id.* On February 14, 2024, according to their own forms, those processing dispositions included expedited removal, reinstatement of removal, voluntary return, the issuance of a warrant of arrest alongside a Notice to Appear for § 1229a proceedings or a fill-in the blank option. *Id.* (under "Processing Dispositions" listing checkboxes alongside "ER", "Reinstate", "VR", "WA/NTA", and a blank line). After conducting their interview with Petitioner, Respondents did *not* opt for reinstatement; instead, the agent wrote in by hand "NTA/OR" which Petitioner understands to mean "Notice to Appear, Order of Release On Recognizance" – which the record shows is exactly what happened.

But that was not the only pathway choice Respondents made. Not only did Respondents decide to afford Petitioner the full range of rights in § 1229a proceedings, but they also afforded him the right to seek asylum in addition to withholding of removal, a right of which he timely availed himself. [1] Most importantly for the purposes of this litigation, Respondents also chose to exercise their discretion to detain (and release) L-J-P-L- under their § 1226(a) authority, which is the only detention authority applicable to § 1229a proceedings.

To put it another way, in February 2024, Respondents could have reinstated Petitioner's removal order; but they did not.

It is plain from Respondents' papers and the actions of their agents that right now, Respondents have second-guessed their February 2024 processing disposition and that they want to undo it so that they can reinstate his removal order. But to undo it, Respondents first have to achieve administrative finality in his § 1229a removal proceedings. And they have not done that. "[A]fter

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[1] Respondents assert that L-J-P-L- is ineligible for asylum because he has a prior removal order. ECF 23 at 3. But that is wrong. Petitioner *is* eligible for asylum regardless of the prior removal order while he is in § 1229a proceedings. *See* 8 U.S.C. § 1158(b) (setting forth the grounds making an individual ineligible for asylum). The case they cite, *Perez-Guzman v. Lynch*, 835 F.3d 1066 (9th Cir. 2016) holds that an individual in *reinstatement of removal* proceedings is ineligible for asylum, *id.* at 1082 , but here, Respondents chose to forego reinstatement in lieu of conventional § 1229a proceedings. Therefore, their statement is incorrect as a matter of law. It is also premature because, as described *supra*, the reinstatement process cannot take place until there is a final administrative order in the § 1229a proceedings which Respondents chose to commence against Petitioner.

commencement of proceedings in the Immigration Court, [DHS] 'may move for dismissal of the matter on the grounds set out' in 8 C.F.R. § 239.2(c).'" *Matter of G-N-C-*, 22 I&N Dec. 281, 284 (BIA 1998). "This language marks a clear boundary between the time prior to commencement of proceedings, where a [DHS] officer has decisive power to cancel proceedings, and the time following commencement of proceedings, where a [DHS] officer merely has the privilege to move for dismissal of proceedings." *Id.* If such a motion is filed, the immigration judge must "make an informed adjudication . . . based on an evaluation of the factors" upon which DHS may move to terminate pursuant to the regulation. *Id.*; *accord Matter of W-C-B-*, 24 I&N Dec. 118, 122 (BIA 2007).

Respondent's declarant, ICE officer Parker Bell, seems to acknowledge this legal reality in part, and on August 12, 2025, the day after this Court confirmed its jurisdiction and set the briefing schedule (and five days after L-J-P-L's arrest), Respondent DHS had only merely *begun* the process to seek to undo its February 2024 decision by filing a motion to dismiss Petitioner's Notice to Appear with the Seattle Immigration Court. ECF 14; ECF 16 at ¶ 12 ("DHS filed a motion to dismiss . . . because it will reinstate the Petitioner's prior removal order."). There is no certainty that Petitioner's § 1229a proceedings will be dismissed and DHS will be given a prosecutorial do-over.[2] Indeed, unlike the case of *Matter of W-C-B-*, the Notice to Appear in Petitioner's matter was

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[2] Given the particular facts in this case, it is not clear that there is any lawful basis for Respondents to upend their own prior election to have proceeded against L-J-P-L- in § 1229a proceedings. There certainly are no *facts* that warrant it. All the facts remain the same as when Respondents made their first choice to forego § 1231 proceedings and, in fact, L-J-P-L's compliance has only highlighted the correctness of that decision. And given the reliance interests that would be disrupted, Respondents' mere whim of wanting to detain L-J-P-L- for their arrest quota purposes would raise serious due process concerns. *See, e.g.*, *Vazquez Perdomo v. Noem*, — F.4th —, 2025 WL 2181709 *2, n2 (9th Cir. Aug. 1, 2025) (describing the White House quotas and saying that "[w]e note that, on May 28, 2025, White House Deputy Chief of Staff Stephen Miller stated during an interview with Fox News: "Under President Trump's leadership, we are

a conscientious pathway choice by ICE, not an error or done improvidently, and Petitioner has already taken significant steps in reliance on the rights that were conveyed to him to asylum through § 1229a proceedings. For these reasons, the Respondents' assertion of a mandatory detention authority under 8 U.S.C. § 1231(a)(5) as a basis for Petitioner's arrest and continued detention is not only wrong – it is a legal impossibility.

B. Respondent's August 7 re-detention of L-J-P-L- was unlawful.

Respondents' August 7 re-detention of Petitioner was unlawful because there was no individualized determination as a basis for revocation under 8 U.S.C. § 1226(b), and nothing in the record shows that Respondents assessed whether L-J-P-L- was a flight risk or a danger to the community. On the contrary, Respondents state that L-J-P-L- complied with all the terms of his release and has no criminal history. ECF 15-3 at 2; ECF 26 2-3. As explained *supra*, Petitioner cannot be in reinstatement proceedings and therefore 8 U.S.C. § 1231(a)(5) is not an available detention authority. Rather, the applicable detention authority is 8 U.S.C. § 1226: because Petitioner was already released under Respondents' § 1226(a) authority, the question is whether his release was revoked under 8 U.S.C. § 1226(b). Here, Respondent ICE/ERO's decision to revoke Petitioner's release and re-detain him categorically, without regard to the facts and circumstances of his case, violates the APA, the INA, and federal regulations. The INA provides that Respondents may, as they did over eighteen months ago in this case, release an individual from custody based on an individualized determination of their danger and flight risk. *See* 8 U.S.C. § 1226(a); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). After such a release decision is made, a revocation of the custody determination may be

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looking to set a goal of a minimum of 3,000 arrests for ICE every day, and President Trump is going to keep pushing to get that number up higher each and every single day.").

made only when warranted by an individual's specific facts and circumstances. 8 U.S.C. § 1226(b); 8 C.F.R. § 1236.1(c)(9).

Revocation decisions under 8 U.S.C. § 1226(b) are entrusted to DHS who must exercise their discretion lawfully. 8 C.F.R. § 236.1(c)(9). The regulation provides that "[w]hen a [noncitizen] who, having been arrested and taken into custody, has been released, such release may be revoked at any time *in the discretion* of the [enumerated official].") *Id.* Discretion is cabined by law and here the lawful exercise of discretion for civil detention requires that DHS determine on an individualized basis whether Petitioner is a flight risk or a danger to the community. If Respondents fail to exercise their discretion because they are applying a categorical rule (such as subjecting Petitioner to mandatory detention), fulfilling a quota or mandate, or disregarding the flight risk or dangerousness factors, they are not lawfully exercising discretion, and their revocation decision is reviewable in habeas. *See, e.g., Morales Jimenez v. Bostock*, 3:25-cv-00570-MTK, (May 13, 2025) Transcript at 57 (Court making findings that "[t]here was no individualized decision that was made when considering the revocation of [petitioner's] person from the District of Oregon); at 59 (Court holding that "the revocation of [the petitioner's] conditional parole without individualized determination was unlawful" and ordering that "respondents may not detain" the petitioner "unless an authorized official under the regulations and statutes makes an individualized finding of probable cause that [the petitioner] is a flight risk or danger to the community.").

Here, Respondents have not complied with the statute or regulation because they made *no* individualized decision under 8 U.S.C. § 1226(b) *at all*; instead, they purported to categorically detain Petitioner under § 1231(a), even though he was not and still cannot be in reinstatement proceedings. *See* ECF 14 at 6 ("Petitioner's detention is lawful under 8 U.S.C. § 1231(a)(2)(A) because he is subject to a reinstated removal order."). Respondents have provided no evidence to demonstrate that any appropriate officer made a lawful revocation decision that considers Petitioner's individualized facts and circumstances, as required by statute and regulation. *See Morales Jimenez*, ECF. 26 at 58:23-59:10 (D.Or. May 13, 2025) (granting the writ of habeas corpus where the same respondents failed to conduct an individualized determination when revoking a custody determination under 8 U.S.C. § 1226(b)).

Petitioner has conscientiously complied with the terms of his release, attending scheduled ICE appointments as requested on at least five occasions, and he has committed no crimes. Pet. Decl. ¶ 7; ECF 15-3; ECF 26 ¶ 4 (detailing Petitioner's compliance). Indeed, the declaration submitted by Respondents contains no individualized assessment that seeks to justify Petitioner's detention on August 7, 2025; the only justification offered is the desire to reinstate his prior order of removal. *See* ECF 16 at ¶¶ 9, 11-12.

Because Respondents conducted no individualized analysis of Petitioner's facts or circumstances, including the *Matter of Guerra* factors, when deciding to detain him, their detention of Petitioner violated his due process rights, the INA and implementing regulations. *See* 8 U.S.C. § 1226(b); 8 C.F.R. § 1236.1(c)(9). Additionally, as Respondents have articulated no explanation for their decision to change course dramatically to seek to end Petitioner's asylum proceedings under § 1229a in favor of § 1231 reinstatement proceedings, and to re-detain and transfer him after having released him previously, their decision violates his due process rights and the APA. *See* 5 U.S.C. § 706(2)(A) (directing courts to "hold unlawful and set aside agency action" that is arbitrary and capricious); *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (requiring an agency to articulate a "satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made").[3]

C. L-J-P-L's due process rights were violated by the Respondents' actions in seizing and re-detaining him.

The Petitioner's due process rights were violated when Respondents re-detained him without making an individualized determination and without considering that he was fully in compliance with their own orders. "No person shall be . . . deprived of life, liberty, or property without due process of law." U.S. Const. amend V. It is well-established that the Due Process Clause of the Fifth Amendment to the U.S. Constitution applies to "all 'persons' within the United States," irrespective of their immigration status. *J.G.G.*, 145 S. Ct. 1003, 1005 (2025) (citing *Reno v. Flores*, 507 U.S. 292, 306 (1993)); *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Due process

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[3] As far as the factual record exists at this point in the litigation, it appears that DHS had no cause to make a traffic stop of the van in which L-J-P-L- was a passenger. Respondents do not suggest that the actual driver of the van was violating any traffic law. ECF 15-3 at 2-3; MLMC Decl. at ¶8. The only information provided by DHS is an unsupported assertion, not made under oath, that the van L-J-P-L- was a passenger in was associated with a person whose name the Respondents have redacted (and did not file unredacted under seal) and a hearsay statement, again not made under oath, that "ERO officers observed" the van and then stopped the van. *Id.* There is no indication that this unknown person was actually in the van. *Id.* The record demonstrates no articulable reason for Respondents to have stopped the van; even if there had been, once it was determined that L-J-P-L- was not the unknown man, there was no further reason to interrogate him or detain him. Yet, that is exactly what Respondents did: after breaking the window of the vehicle, they surrounded Petitioner, refused to allow him to leave, interrogated him, and then – in spite of him being lawfully present in the United States and in compliance with his reporting conditions – they arrested him. Under the INA, immigration agencies' statutory authority only allows warrantless stops and arrests for violations of immigration law and federal criminal law. 8 U.S.C. § 1357(a)(2)-(5). Their statutory authority does not include enforcing or regulating highway use. *United States v. Brignoni-Ponce*, 422 U.S. 873, 883 n.8 (1975). Moreover, regulations only allow ICE officers to briefly detain individuals for questioning if the officer has a "reasonable suspicion, based on specific articulable facts, that the person being questioned is, or is attempting to be, engaged in an offense against the United States or is [] illegally in the United States." 8 C.F.R. § 287.8(b). Here, none of that was in question.

requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

Where the government seeks to deprive an individual of a protected interest, the Supreme Court has directed that courts balance three factors to determine what process is due:

> First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Mathews v. Elridge, 424 U.S. 319, 335 (1976). In applying this balancing test, it is clear that Respondents provided inadequate process when they detained L-J-P-L- in spite of his compliance with their orders and the conditions of his release.

The private interest at stake here is grave: Petitioner has a strong private interest in the rights that attached to his properly filed asylum application available in § 1229a proceedings. *See Board of Regents v. Roth*, 408 U.S. 564, 577 (1972) (requiring an opportunity to be heard where an individual has "a legitimate claim of entitlement" to a benefit). Loss of that interest could mean improper removal to Guatemala, where he fears for his life after his brother was killed and he continued to be persecuted by the same group who committed the murder. Pritchard Decl. Ex A at 6.

By contrast, Respondents' interest is weak if not negligible, as they were already required by the Due Process Clause to at minimum provide Petitioner with notice and an opportunity to respond to their intent to reclassify his case into reinstatement proceedings, which they claim to have done in a language that Petitioner does not fully understand and without opportunity to consult with counsel. ECF 14 at 6-7; Pet. Decl. at ¶ 18; Pritchard Decl. at ¶ 2-9. Respondents' interest is further undercut by the fact that it was *Respondents* who made the decision to place

Petitioner in § 1229a removal proceedings by electing this forum for the adjudication of his asylum claim in February 2024. Respondents' interest in complying with the Refugee Act and upholding the law, *see* U.S. Const. art. II, § 3, is best served by upholding the rights that Petitioner acquired when he properly filed for asylum, particularly where Petitioner has maintained compliance with the conditions of his release under § 1226(a) and continues to assert his fear of return to Guatemala.

V. CONCLUSION

For the reasons set forth above, Petitioner respectfully requests that the Court order Respondents to order his release from unlawful executive detention.

Dated: August 18, 2025.

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