

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

AXEL ALESSANDRO CAMPOS-FLORES,

Petitioner,

v.

PAMELA BONDI, U.S. Attorney General;
KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security;
TODD M. LYONS, in his official capacity as
Acting Director of U.S. Immigration and Customs
Enforcement;
JAMES A. MULLAN, in his official capacity
As Assistant Field Office Director of Washington
Field Office, U.S. Immigration and Customs
Enforcement; and
JEFFREY CRAWFORD, in his official capacity
as warden of the Abyon – Farmville Detention Ctr

Respondents.

Case No. 3:25CV797

**FIRST AMENDED
PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Axel Campos-Flores, a citizen and national of El Salvador, challenges his continued custodial detention by the United States Department of Homeland Security, through its component arm, U.S. Immigration and Customs Enforcement (“ICE”).
2. Mr. Campos-Flores entered the United States as an unaccompanied child on January 16, 2021. *See* Exhibit A (Form I-213). He was then fifteen years old. That same day, a border patrol officer arrested Mr. Campos-Flores and paroled him into the United States to live with his father in Washington, D.C. *See id.*

3. Concurrent with their parole of Mr. Campos-Flores, immigration officers initiated removal proceedings against him by serving him with a Notice to Appear (“NTA”) in the Harlingen, Texas Immigration Court, to defend against the charge under 8 U.S.C. § 1182(a)(6)(A)(i), that he was present in the United States without being admitted or paroled. *See* Exhibit B. The NTA did not contain a date or time for the initial hearing.
4. On August 6, 2022, U.S. Citizenship and Immigration Services (“USCIS”), a component agency of the Department of Homeland Security, granted Mr. Campos-Flores’s petition to be classified as a Special Immigrant Juvenile (“SIJ”). *See* 8 U.S.C. § 1101(a)(27)(J); Exhibit C (Form I-360). This resulted from a District of Columbia judge’s finding that his mother had neglected and abandoned him. *See* Exhibit D (Order of Family Court of District of Columbia). Congress established special immigrant status in 1990 to protect abused, neglected, or abandoned children who illegally entered the United States. *See Rodriguez v. Perry*, 747 F. Supp. 3d 911, 917 (E.D. Va. 2024) (citation omitted).
5. In conjunction with its grant of special immigrant juvenile status, USCIS granted Mr. Campos-Flores deferred action. Deferred action is a form of discretion that the government exercises not to pursue removal proceedings against an individual or class of individuals otherwise eligible for removal from this country. *See Casa de Maryland v. Dep’t of Homeland Security*, 924 F.3d 684, 691-692 (4th Cir. 2018) (citation omitted). On October 20, 2025, immigration officials terminated Mr. Campos-Flores’s grant of deferred action.
6. Mr. Campos-Flores has been waiting for an immigrant visa to become available for over three years. *See* Exhibit C (Form I-360). Once an immigrant visa is available, he will be

eligible to apply to adjust his status to lawful permanent resident. *See* 8 U.S.C. § 1153(b)(4). He has no criminal record in the United States or elsewhere.

7. On August 19, 2025, U.S. Immigration and Customs Enforcement officers arrested Mr. Campos-Flores while he was at work. They later served him with a Notice to Appear in immigration court to defend against the charges under 8 U.S.C. §§ 1182(a)(6)(A)(i) and 1182(a)(7)(A)(i). *See* Exhibit E.
8. During a September 11, 2025, custody redetermination (bond) hearing, the Immigration Judge advised Mr. Campos-Flores, through his attorney, to withdraw his bond request. The Immigration Judge indicated that he lacked jurisdiction to hold a bond hearing under *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
9. Mr. Campos-Flores's detention without a bond hearing is unconstitutional and an unlawful restraint and he seeks an order from this Court requiring his immediate release or, alternatively, that the Respondents provide him with a bond hearing before a neutral and impartial adjudicator.
10. Mr. Campos-Flores's continued detention by Respondents without any mechanism to challenge his confinement violates the Due Process Clause of the Fifth Amendment to the United States Constitution, the Immigration and Nationality Act, (8 U.S.C. § 1101 et seq.), and the Administrative Procedure Act (5 U.S.C. § 551 et seq.).
11. Mr. Campos-Flores petitions this Court for a writ of habeas corpus as a remedy for his unlawful detention and respectfully requests that this Court order the Respondents to: 1) immediately release him from their custody or, alternatively, provide him with a bond hearing forthwith; 2) refrain from returning him to their custody during the pendency of his removal proceedings absent clear and convincing evidence that he is either a flight

risk or a danger to the community and a bond hearing during which he can challenge that evidence.

JURISDICTION AND VENUE

12. Mr. Campos-Flores is detained in the Abyon-Farmville Detention Center in Farmville, Virginia, which is within the jurisdiction of the United States District Court for the Eastern District of Virginia.
13. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (“habeas corpus”), 28 U.S.C. § 1331 (“federal question”), U.S. CONST. amend. V (the “Due Process Clause”), and 5 U.S.C. § 702 (“Administrative Procedure Act”).
14. This Court may grant relief under the 28 U.S.C. § 2241 and the All Writs Act, 28 U.S.C. § 1651.
15. This Court has jurisdiction to adjudicate habeas corpus claims brought by foreign nationals who challenge the legality of their detention by U.S. immigration officials. *See Reno v. Flores*, 507 U.S. 292, 307 (1993). (“It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings.”); *Rodriguez*, 747 F. Supp. 3d at 915 (“The federal habeas corpus statute gives a district court jurisdiction to review immigration-related detention cases”) (citing 28 U.S.C. § 2241(c)(30); *Demore v. Kim*, 538 U.S. 510, 517-518 (2003)). Title 8 U.S.C. § 1252(g) does not operate as a jurisdictional bar because that statute does not apply to actions taken to detain foreign nationals. *See Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (“Section 1252(g) ‘applies only to three discrete actions,’ i.e. commencement of removal proceedings, adjudication of removal cases, and execution of removal orders”). Additionally, 8 U.S.C. § 1252(b)(9), does not preclude

jurisdiction because that statute applies to review of removal orders and not to detention decisions made prior to the issuance of a removal order. *See Demore v. Kim*, 538 U.S. 510, 517 (2003) (“where Congress intends to preclude judicial review of constitutional claims its intent to do so must be clear.”) (quoting *Webster v. Doe*, 486 U.S. 592, 603 (1988)).

EXHAUSTION

16. A petitioner seeking habeas corpus under 28 U.S.C. § 2241 need not exhaust administrative remedies because the statute does not require it. *Compare* 28 U.S.C. § 2241 *with* 28 U.S.C. § 2254(b)(1)(A); *see McCarthy v. Madigan*, 503 U.S. 140, 144 (1992) (“where Congress has not clearly required exhaustion, sound judicial discretion governs.”) (citation omitted); *see Aguilar v. Lewis*, 50 F. Supp. 2d 539, 541 (E.D. Va. 1999) (clarifying that “there is no federal statute that imposes an exhaustion requirement on aliens taken into custody pending their removal”).
17. Although exhaustion is not required, on September 11, 2025, Mr. Campos-Flores sought administrative redress by requesting a bond hearing before an Immigration Judge. The Immigration Judge refused to provide a bond hearing, citing a precedential decision of the Board of Immigration Appeals in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In *Matter of Yajure Hurtado*, the Board interpreted 8 U.S.C. § 1225(b)(2)(A) as prohibiting immigration judges from hearing bond requests or granting bond to foreign nationals who are alleged to be present in the United States without admission.
18. Although Campos-Flores can appeal this refusal to the Board of Immigration Appeals, Mr. Campos-Flores has no reasonable expectation that the Board will act contrary to the decision it issued in *Yajure Hurtado* just over three weeks ago. *See Aguilar*, 50 F. Supp.

2d at 541 (“there is no federal statute that imposes an exhaustion requirement on aliens taken into custody pending their removal”).

REQUIREMENTS OF 28 U.S.C. § 2243

19. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the Respondents forthwith, unless Mr. Campos-Flores is not entitled to relief. *See* 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within three *days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

PARTIES

20. Mr. Campos-Flores is a native and citizen of El Salvador and is now detained by Respondents at Abyon-Farmville Detention Center in Farmville, Virginia. He is in the custody, and under the direct control, of Respondents and their agents.
21. Respondent Jeffrey Crawford is sued in his official capacity as the Warden of the Abyon-Farmville Detention Center in Farmville, Virginia. Respondent Crawford has immediate physical custody of Mr. Campos-Flores and has the authority to release him.
22. Respondent James A. Mullen is sued in his official capacity as Assistant Field Office Director of Washington Field Office, U.S. Immigration and Customs Enforcement and supervises and oversees Respondent Crawford.
23. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement and supervises and oversees Respondent Mullen.
24. Respondent Kristi Noem is sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Respondent Kristi Noem is responsible for the implementation and enforcement of the Immigration and Nationality

Act (“INA”), and oversees ICE, the component agency directly responsible for Mr. Campos-Flores’s detention. *See* 8 U.S.C. § 1103(a). Respondent Kristi Noem is a legal custodian of Petitioner.

25. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States. The Attorney General oversees the Executive Office for Immigration Review and, within the Executive Branch, is the arbiter of all questions of law pertaining to the Immigration and Nationality Act. *See* 8 U.S.C. § 1103(a)(1), 1103(g).

STATEMENT OF FACTS

26. Mr. Campos-Flores is a 20-year-old citizen of El Salvador. He arrived in the United States as a fifteen-year-old unaccompanied child in 2021. He has no criminal history in the United States or elsewhere.
27. On January 16, 2021, Mr. Campos-Flores was a fifteen-year-old unaccompanied child when he sought to enter the United States. *See* Exhibit (I-213). An immigration officer arrested him and then served him with a Notice to Appear in the Harlingen, Texas Immigration Court, to defend against the charge under 8 U.S.C. § 1182(a)(6)(A)(i), that he was present in the United States without being admitted or paroled. *See* Exhibit B.
28. On August 6, 2022, U.S. Citizenship and Immigration Services (“USCIS”), a component agency of the Department of Homeland Security, granted Mr. Campos-Flores’s petition to be classified as a Special Immigrant Juvenile (“SIJ”). *See* 8 U.S.C. § 1101(a)(27)(J); Exhibit C. This resulted from a District of Columbia judge’s finding that his mother had neglected and abandoned him. *See* Exhibit D.

29. Congress established special immigrant status in 1990 to protect abused, neglected, or abandoned children who illegally entered the United States. *See Rodriguez*, 747 F. Supp. 3d at 917 (citation omitted).
30. In conjunction with its grant of Mr. Campos-Flores's petition for Special Immigrant Juvenile status, USCIS granted him deferred action. See Exhibit (I-360). Deferred action is a form of discretion that the government exercises not to pursue removal proceedings against an individual or class of individuals otherwise eligible for removal from this country. *See Casa de Maryland*, 924 F.3d at 691-692 (citation omitted).
31. Since the approval of his petition for Special Immigrant Juvenile protection in 2022, Mr. Campos-Flores has been waiting for an immigrant visa to become available so he can apply to adjust his status to lawful permanent resident.
32. On April 25, 2023, an Immigration Judge sitting in the Hyattsville, Maryland, Immigration Court granted Mr. Campos-Flores's unopposed motion to dismiss his prior removal proceeding without prejudice. *See* Exhibit F. In her order, the Immigration Judge noted that the Department of Homeland Security had exercised its prosecutorial discretion in Mr. Campos-Flores's favor. *See id.*
33. On August 19, 2025, just after the third anniversary of the approval of his Special Immigrant Juvenile petition, and while he was still the beneficiary of deferred action, immigration officers arrested Mr. Campos-Flores. They arrested him while he was working as a landscaper on the National Mall. The Respondents had previously provided Mr. Campos-Flores work authorization.
34. Following the arrest, immigration officers took Mr. Campos-Flores from the National Mall to an ICE facility in Chantilly, Virginia and served him with a Notice to Appear

- (“NTA”) in immigration court to defend against the charge under 8 U.S.C. § 1182(a)(6)(A)(i), that he was present in the United States without having been admitted or paroled, and under 8 U.S.C. § 1182(a)(7)(A)(i)(I), that he is present in the United States without a valid entry document. *See* Exhibit E.
35. During a September 11, 2025, master calendar hearing in the Annandale, Virginia, Immigration Court, Mr. Campos-Flores, through counsel, contested the charges of removability.
36. At the beginning of the September 11 bond hearing, the Immigration Judge stated that he did not have jurisdiction to conduct a bond hearing. The Immigration Judge opined that he lacked jurisdiction to hold a bond hearing because of a recent decision of the Board of Immigration Appeals, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
37. On October 20, 2025, an Immigration Judge denied Mr. Campos-Flores’s asylum application. The removal order that issued is not administratively final. *See* 8 U.S.C. § 1101(a)(47)(B).
38. Mr. Campos-Flores has been in immigration custody since his August 19, 2025, arrest. He is presently detained at

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

39. Mr. Campos Flores incorporates and realleges all paragraphs as if fully set forth here.
40. It is settled that the Fifth Amendment’s Due Process Clause applies to all “persons” within the United States. *See Matthews v. Diaz*, 426 U.S. 67, 77 (1976). The term “persons” includes foreign nationals such as Mr. Flores-Campos. *See id.*

41. It is equally well settled that freedom from confinement is a core liberty interest and violation of that liberty interest raises a colorable substantive due process claim. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)); *Reno v. Flores*, 507 U.S. 292, 301 (1993) (collecting cases); *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (bodily freedom is the “most elemental of liberty interests”). Mr. Campos-Flores has been in the United States since 2021. The Department of Homeland Security, through its component agency, USCIS, has granted him special immigrant juvenile status. *See* 8 U.S.C. § 1101(a)(27)(J); Exhibit C. He has a right to substantive due process. *See Doherty v. Thornburgh*, 943 F.2d 204, 209 (2d Cir. 1991) (“[A]liens . . . have a substantive due process right to be free of arbitrary confinement pending deportation proceedings.”) (quoted in *Rodriguez*, 747 F. Supp. 3d. at 917 (alterations in original)).
42. Mr. Campos-Flores has been in the United States for over four years and is the beneficiary of special immigrant juvenile status and deferred action while he waits his turn for an immigrant visa to become available. This Court has held that foreign nationals in this situation have a right to substantive due process. *See Rodriguez*, 747 F. Supp. 3d at 917. The Respondents’ continued detention of Mr. Campos-Flores and their concomitant refusal to even consider him for a bond violates his right to substantive due process.
43. Mr. Campos-Flores also has a right to procedural due process. Immigration proceedings are civil and they are intended to be “nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690. Over a century of Supreme Court precedent instructs that the Fifth Amendment entitles foreign nationals to procedural due process. *See Reno*, 507 U.S. at 306 (citing *The Japanese Immigrant Case*, 189 U.S. 86, (1903). The Immigration Judge’s

refusal to provide any process whatsoever contravenes that century-plus of Supreme Court precedent interpreting the Due Process Clause as applying to foreign nationals such as Mr. Campos-Flores. *See, e.g., Matthews v. Eldridge*, 424 U.S. 319, 335 (1976).

44. “In 1990, Congress established SIJ status ‘to protect abused, neglected or abandoned children who . . . illegally entered the United States. . . .’” *Rodriguez*, 747 F. Supp. 3d at 917 (quoting *Osorio-Martinez v. Att’y. Gen. of U.S.*, 893 F.3d 153, 163 (3d Cir. 2018)).
45. This Court has repeatedly held that “[o]nce attained, SIJ classification conveys a host of important benefits.” *Rodriguez*, 747 F. Supp. 3d at 918 (quoting *Joshua M. v. Barr*, 439 F. Supp. 3d 632, 659 (E.D. Va. 2020)). “Congress also afforded [SIJ beneficiaries] a host of procedural rights designed to sustain their relationship to the United States and to ensure they would not be stripped of SIJ protections without due process.” *Osorio-Martinez*, 893 F.3d at 171 (quoted in *Rodriguez*, 747 F. Supp. 3d at 918). As recognized in *Rodriguez*, the Third Circuit has instructed that SIJ beneficiaries such as Mr. Campos-Flores “enjoy at least ‘minimum due process rights’” and that their “statutory rights and attendant constitutional rights . . . bespeak a substantial legal relationship between them and the United States’ that distinguishes them from arriving aliens who cannot lay claim to constitutional rights.” *Rodriguez*, 747 F. Supp. 3d at 918 (quoting *Osorio-Martinez*, 893 F.3d at 174).
46. The en banc Fourth Circuit has also remarked on “Congress’s efforts to expand eligibility for SIJ status and increase protections for vulnerable immigrant children.” *Perez v. Cuccinelli*, 949 F.3d 865, 878 (4th Cir. 2020) (en banc). The Respondents’ detention of Mr. Campos-Flores and their attendant denial of his right to any process whatsoever violates his right to procedural due process that Congress has provided to him.

COUNT TWO

The Respondents' Detention of Mr. Campos-Flores Is Unlawful Because the Removal Charges They Have Brought Against Him are Legally Unsound

47. Mr. Campos Flores incorporates and realleges all paragraphs as if fully set forth here.
48. The Respondents have charged Mr. Campos-Flores as removable under 8 U.S.C. § 1186(a)(6)(A)(i), i.e., a foreign national who is present in the United States without having been admitted or paroled. *See* Exhibit E. They have also granted him SIJ status. *See* Exhibit C.
49. “SIJ status is a form of parole that confers eligibility for adjustment to LPR status to noncitizen minors who have been abused, abandoned, or neglected.” *Murillo-Chavez v. Bondi*, 128 F.4th 1076, 1085 (9th Cir. 2025) (citing 8 U.S.C. § 1101(a)(27)(J)(i); *id.* § 1255(a), (h)(1); *see also* USCIS, Special Immigrant Juveniles, <https://www.uscis.gov/working-in-US/eb4/SIJ> (last updated June 6, 2025)). The Notice to Appear alleges that upon his arrival in the United States, he was “not then admitted or paroled after inspection by an Immigration Officer.” Exhibit E.
50. Because Mr. Campos-Flores has been, at a minimum, paroled into the United States, it follows that he is not properly charged as an alien who has not been admitted or paroled. *See* 8 U.S.C. § 1182(a)(6)(A)(i); *see also* 8 U.S.C. § 1255(h)(1) (exempting SIJ grantees from removability under 8 U.S.C. § 1182(a)(6)(A)(i); *Joshua M. v. Barr*, 439 F. Supp. 3d 632, 660 (E.D. Va. 2020) (noting that “in the immigration context, not all types of parole are treated equally” and that an SIJ grantee’s “status puts him in a special parole status”). It further follows that the Immigration Judge’s finding that he is removable on this ground – despite Mr. Campos-Flores’s contesting the charge – was error.

51. To the extent the Respondents purport to hold Mr. Campos-Flores in their custody for purposes of seeking his removal under 8 U.S.C. § 1182(a)(6)(A)(i), the Court should order Mr. Campos-Flores's immediate release because he cannot lawfully be detained on a ground of removal that has no basis in fact.
52. The Respondents have also charged Mr. Campos-Flores as removable under 8 U.S.C. § 1182(a)(7)(A)(i)(I). *See* Exhibit E. That too is an invalid charge. *See Orsorio-Martinez*, 893 F.3d at 163 (“the INA exempts SIJ designees from inadmissibility based on the lack of ‘valid entry document[s],’ . . .”). The Immigration Judge's finding that he is removable on this basis was also legal error.
53. To the extent the Respondents purport to hold Mr. Campos-Flores in their custody for purposes of seeking his removal under 8 U.S.C. § 1182(a)(7)(A)(i)(I), the Court should order Mr. Campos-Flores's immediate release because he cannot lawfully be detained on a ground of removal that has no basis in law.
54. The Respondents are detaining Mr. Campos-Flores on two immigration charges, both of which are legally unsound as applied to Mr. Campos-Flores. Under these circumstances, the Court should order the Respondents to release Mr. Campos-Flores from their custody because there is no lawful basis for his detention.

COUNT THREE

Violation of 8 U.S.C. § 1227(c)

55. Mr. Campos Flores incorporates and realleges all paragraphs as if fully set forth here.
56. Under 8 U.S.C. § 1227(c), foreign nationals such as Mr. Campos-Flores who are SIJ designees “can be removed on certain grounds, such as having been convicted of a serious criminal offense” but “cannot be removed for having entered the country

illegally.” *See Rodriguez*, 747 F. Supp. 3d at 917 (citing 8 U.S.C. § 1101(a)(27)(J)); *see generally*, 8 U.S.C. §§ 1227(a)(1)(A) (foreign nationals who were inadmissible to the time of entry are deportable); 1227(a)(1)(B) (foreign nationals present in violation of the law are deportable).

57. The bar to removing SIJ grantees on the basis of having entered the United States illegally originates in the Immigration Act of 1990. *See* Pub. L. No. 101-649, 104 Stat. 4978, 5005-5006, § 153 (Nov. 29, 1990). At that time, the Immigration and Nationality Act distinguished between “deportation and “exclusion.” *See Sale v. Haitian Ctrs. Council, Inc.*, 509 U.S. 155, 175 (1993) (discussing distinction between deportable and excludable foreign nationals). Deportation proceedings were the method of proceeding against foreign nationals physically present in the United States while exclusion proceedings were the method of proceeding against foreign nationals seeking admission. *See Vartelas v. Holder*, 566 U.S. 257, 261 (2012); *Landon v. Plasencia*, 459 U.S. 21, 25-26 (1982).
58. Following passage of the Illegal Immigration Reform and Immigrant Responsibility Act, “[a]n inadmissible alien is one who was not admitted legally to the United States and is removable under § 1182, whereas a deportable alien is in the United States lawfully and is removable under § 1227.” *Joshua M.*, 439 F. Supp. 3d at 662 (quoting *Vasquez-Hernandez v. Holder*, 590 F.3d 1053, 1055 (4th Cir. 2010)). Although Congress maintained the bar to removing SIJ grantees in § 1227, it did not enact a corresponding bar in § 1182.
59. “[W]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally

and purposely in the disparate inclusion or exclusion.”” *Nken v. Holder*, 556 U.S. 418, 430 (2009) (quoting *INS v. Cardoza-Fonseca*, 480 U.S. 421, 432 (1987)) (alteration in original). The purpose of the SIJ status is to “protect abused, neglected or abandoned children who, with their families, illegally entered the United States.” *Osorio-Martinez*, 893 F.3d at 163 (internal quotation omitted). Given the statute’s purpose, Congress’s omission of a corresponding bar on to removability in § 1182 is evidence of its understanding that such a provision was not necessary because charges under either §§ 1182(a)(6)(A)(i) or 1182(a)(7)(A)(i)(I) do not properly lie for SIJ grantees.

60. Despite the statutory prohibition against removing SIJ grantees such as Mr. Campos-Flores, on August 19, 2025, the Respondents detained Mr. Campos-Flores and charged him as removable for having entered the country illegally. *See* Exhibit E. He has remained in their custody ever since. Because 8 U.S.C. § 1227(c) prohibits the respondents from removing Mr. Campos-Flores from the United States, it follows that the Respondents’ detention of him in order to effectuate removal is unlawful. *See Rodriguez*, 747 F. Supp. 3d at 917. The Court should order the Respondents to release Mr. Campos-Flores from their custody forthwith.

COUNT FOUR

Violation of 8 U.S.C. §§ 1225(b) and 1226(a)

61. Mr. Campos Flores incorporates and realleges all paragraphs as if fully set forth here.
62. As we have shown, Mr. Campos-Flores is being unlawfully detained by Respondents for removal proceedings because he has not properly been charged. The Court should therefore order the Respondents to release him from their detention forthwith.

63. Assuming the Court finds that Mr. Campos-Flores is lawfully detained, he is entitled to a bond hearing because his detention would be under 8 U.S.C. § 1226(a). Mr. Campos-Flores entered the United States on January 16, 2021, and immigration officials served him with a notice to appear alleging that he was an alien present in the United States who had not been admitted or paroled, *see* 8 U.S.C. § 1182(a)(6)(A)(i). *See* Exhibit B. He became a SIJ beneficiary on August 6, 2022. *See* Exhibit I-360. On April 25, 2023, an Immigration Judge sitting in the Hyattsville, Maryland Immigration Court granted Mr. Campos-Flores's Unopposed Motion to Dismiss Without Prejudice based on the Department of Homeland Security's exercise of its prosecutorial discretion in his favor. *See* Exhibit F (order of the Immigration Judge, Hyattsville Immigration Court).
64. When Mr. Campos-Flores became a SIJ grantee in 2022, that "converted him from being an arriving alien to an alien present in the United States." *Rodriguez*, 747 F. Supp. 3d at 916. Thus, assuming that either of the two charges alleged in the 2025 NTA applied to Mr. Campos-Flores, he would be entitled to a bond hearing under 8 U.S.C. § 1226(a). *See id.* ("§ 1226 generally governs the process of arresting and detaining aliens present in the United States pending their removal") (citing *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018)).
65. Mr. Campos-Flores's entitlement to a bond hearing under § 1226(a) finds further support in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). In *Jennings*, the Supreme Court instructed that 8 U.S.C. § 1225(b) "applies primarily to aliens seeking entry into the United States ('applicants for admission' in the language of the statute)." *Id.* at 297. Section 1226, on the other hand, applies to aliens already present in the United States." *Id.* at 303. "Section 1226(a) creates a default rule for those aliens by permitting—but not requiring—the

Attorney General to issue warrants for their arrest and detention pending removal proceedings.” *Id.* “Section 1226(a) also permits the Attorney General to release those aliens on bond . . .” *Id.*

66. Assuming that either of the two removability charges that the Respondents brought against Mr. Campos-Flores were supportable, case law from this Court (*Rodriguez*) and the Supreme Court (*Jennings*) instructs that he is entitled to a bond hearing under 8 U.S.C. § 1226(a). Should the Court decline to order Mr. Campos-Flores’s immediate release, it should order the Respondents to hold a bond hearing before a neutral and impartial adjudicator forthwith.
67. The Respondents’ claim that they are detaining Mr. Campos-Flores under authority set forth in 8 U.S.C. § 1225(b) is unsupported by law or fact. To begin with, 8 U.S.C. § 1225(b)(1) applies only to “arriving aliens.” Mr. Campos-Flores is not an “arriving alien.” *See* 8 C.F.R. § 1.2 (limiting definition of “arriving alien” to “an applicant for admission coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry, or an alien interdicted in international or United States waters and brought into the United States by any means, whether or not to a designated port-of-entry, and regardless of the means of transport”).
68. Nor is he properly detained under 8 U.S.C. § 1225(b)(2)(A), as the Department of Homeland Security alleged, and an Immigration Judge found, during a September 11, 2025, hearing. For § 1225(b)(2)(A) to apply, “the examining immigration officers” must determine that the individual is: (1) “an applicant for admission”; (2) “seeking admission”; and (3) “not clearly and beyond a doubt entitled to be admitted.” *Id.* “Seeking” means “asking for” or “trying to acquire or gain.” Merriam-Webster

69. Dictionary, <https://www.merriam-webster.com/dictionary/sccking>. Plainly, Mr. Campos-Flores was not “seeking admission” when immigration officers arrested him; rather, he was a SIJ grantee working lawfully on the National Mall while waiting for the Respondents to issue him an immigrant visa that they had promised him.
70. Further, the Respondents’ position that Mr. Campos-Flores is detained under § 1225(b)(2)(A) is inconsistent with two published Attorney General opinions stating that 8 U.S.C. § 1226(a) would apply.
71. On June 30, 2025, the Board of Immigration Appeals issued a precedential decision in *Matter of Akhmedov*, 29 I. & N. Dec. 166 (BIA 2025). On August 4, 2025, the Attorney General issued an order designating *Akhmedov* “as precedent in all proceedings involving the same or similar issues.” *See Akhmedov*, 29 I. & N. Dec. at 166 n.1 (citing 8 C.F.R. § 1003.1(g)(3)).
72. *Akhmedov* involved the Department of Homeland Security’s appeal of an Immigration Judge’s grant of bond to a foreign national who had entered the United States unlawfully and who immigration officers arrested in the interior of the United States. *See* 29 I. & N. Dec. at 166-167. The Board’s decision - as adopted by the Attorney General – could hardly be clearer: “The respondent’s custody determination is governed by the provisions of section 236(a) of the Immigration and Nationality Act, 8 U.S.C. § 1226(a) (2018).” *Id.* at 166.
73. Just like the foreign national in *Akhmedov*, Mr. Campos-Flores was arrested by immigration officers in the interior of the United States. To the extent there is a principled distinction between the respondent in *Akhmedov* and Mr. Campos-Flores, it is Mr. Campos-Flores who has greater ties to the United States because he is a SIJ grantee.

74. Under a regulation promulgated by the Department of Justice, “[t]he Board shall be governed by the provisions and limitations prescribed by applicable law, regulations, and procedures, and by decisions of the Attorney General (through review of a decision of the Board, by written order, or by determination and ruling pursuant to section 103 of the Act).” 8 C.F.R. § 1003.1(d)(1)(i).
75. By statute, the Attorney General’s determinations and rulings on all questions of law pertaining to the Immigration and Nationality Act bind the Executive Branch. *See* 8 U.S.C. § 1103(a)(1).
76. On September 5, 2025, the Board of Immigration Appeals issued its decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In that case, the Board determined that a foreign national who has not been admitted to the United States is not entitled to a bond hearing and is detained under 8 U.S.C. § 1225(b)(2)(A). *See id.* at 220. *Yajure Hurtado* cannot be reconciled with the Attorney General’s decision in *Akhmedov* where the Attorney General determined that 8 U.S.C. § 1226(a) governs foreign nationals who enter the United States unlawfully and who immigration officers later encounter. *See Akhmedov*, 29 I. & N. Dec. at 166.
77. The Board’s inability to reconcile the Attorney General’s decision in *Akhmedov* with its decision in *Yajure Hurtado* underscores this point. *See* 29 I. & N. Dec. at 226. In *Yajure Hurtado*, the Board articulated no reasoning for its disagreement with the Attorney General other than to state its opinion that a foreign national’s presence in the United States “does not somehow eviscerate or nullify section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), or vest the Immigration Judge with authority over the respondent’s bond

request.” *Id.* at 226. But the Attorney General’s decision controls so the Board’s opinion on this issue is beside the point.

78. The Board’s observation in *Yajure Hurtado* that 8 U.S.C. § 1225(b) was not before the Attorney General in *Akhmedov* does not give license to the Board to act contrary to both statutory and regulatory authority declaring that the Attorney General – and not the Board – speaks for the Executive Branch with respect to “all questions of law.” 8 U.S.C. § 1103(a)(1); *see* 8 C.F.R. § 1003.1(d)(1)(i). Nor can it vitiate the Attorney General’s determination that custody determinations of foreign nationals arrested in the United States interior are “governed by the provisions of section 236(a) of the Immigration and Nationality Act, 8 U.S.C. § 1226(a) (2018),” particularly where she determined that her decision applies to all proceedings involving the same or similar issues. *See Akhmedov*, 29 I. & N. Dec. at 166 and n.1.
79. *Yajure Hurtado* is also inconsistent with a 2003 Attorney General opinion. In *Bond Proceeding of Undocumented Aliens Seeking to Enter the United States Illegally*, the Attorney General considered the case of a Haitian citizen who entered the United States illegally aboard a vessel and who immigration officials arrested after he attempted to evade them. 27 Op. O.L.C. 1, 1 (A.G. 2003) (attached as Exhibit G).¹ After immigration officials charged the Haitian citizen under 8 U.S.C. § 1182(a)(6)(A)(i), he sought asylum and applied for bond. *See Bond Proceedings*, 27 Op. O.L.C. at 1. When assessing the Haitian citizen’s request for bond, the Attorney General stated, “[t]he law governing the

¹ For an explanation of the role of the Justice Department’s Office of Legal Counsel, *see Casa de Maryland v. Dep’t of Homeland Security*, 924 F.3d 684, 692 (4th Cir. 2019).

detention or release of aliens such as respondent (i.e., aliens arrested and detained pending a decision on removal) is set forth in section 236(a) of the INA.” *Id.* at 3.

80. *Akhdemov* is entirely consistent with *Bond Proceeding of Undocumented Aliens Seeking to Enter the United States*, 27 at 3. The sole outlier with respect to authoritative Department of Justice opinions on this issue is the Board’s decision in *Hurtado*. Because Attorney General decisions control Board decisions, it follows that *Hurtado* did not – and could not have – controlled the Immigration Judge when he refused to conduct a bond hearing for Mr. Campos-Flores on September 11, 2025. If the Court finds that Mr. Campos-Flores is properly in immigration detention, it should order the Respondents to hold a bond hearing forthwith under 8 U.S.C. § 1226(a).

COUNT FIVE

**Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)
Not in Accordance with Law and in Excess of Statutory Authority
Unlawful Detention**

81. Mr. Campos Flores incorporates and realleges all paragraphs as if fully set forth here.
82. Under 5 U.S.C. § 706(2)(A), a 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.”
83. “Agency action is arbitrary and capricious ‘if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.’” *Avail Vapor, LLC v. United States FDA*, 55 F.4th

409, 419 (4th Cir. 2022) (quoting *Motor Vehicle Mfrs. Ass'n of U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

84. The Respondents' detention of Mr. Campos-Flores is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." As discussed above, the Respondents purport to detain Mr. Campos-Flores to facilitate his removal from the United States, but neither charge of removability applies to him. For this reason alone, the Respondents' detention of Mr. Campos-Flores is not in accordance with law. *See* 5 U.S.C. § 706(2)(A).
85. Further, and as we demonstrated above, Mr. Campos-Flores's removal would be contrary to 8 U.S.C. § 1227(c). This provides a second, independent reason for this Court to find that the Respondents' detention of Mr. Campos Flores is not in accordance with law. *See* 5 U.S.C. § 706(2)(A).
86. Assuming the Respondents' detention of Mr. Campos-Flores comported with the Immigration and Nationality Act, their refusal to provide him with a bond hearing is arbitrary and capricious. Their theory that he is "seeking admission" to the United States is factually unsound – he is a SIJ grantee who is waiting for an immigrant visa to become available. Further, their stated refusal to provide him with a bond hearing -- *Yajure Hurtado*'s applicability -- is arbitrary and capricious because *Yajure Hurtado* contradicts two different Attorney General opinions stating that foreign nationals in Mr. Campos-Flores's position are entitled to a bond hearing under 8 U.S.C. § 1226(a). The Respondents' failure to abide by their own interpretation of the pertinent provisions of the Immigration and Nationality Act is arbitrary and capricious.

87. There is a fourth independent reason why the Respondents' detention of Mr. Campos-Flores is arbitrary and capricious. In *Matter of Q Li*, the Board observed that immigration officials can choose to "place aliens arriving in the United States in either expedited removal proceedings under section 235(b)(1) of the INA, 8 U.S.C. § 1225(b)(1), or full removal proceedings under section 240 of the INA, 8 U.S.C. § 1229a (2018)." 29 I. & N. Dec. 66, 68 (BIA 2025). In Mr. Campos-Flores's case, the Respondents chose the latter. Their decision to change horses midstream and claim that he is in detention under the statute governing expedited removal proceedings was arbitrary and capricious, and is contrary to constitutional right and in excess of statutory authority. *See* 5 U.S.C. § 706(2)(A)-(C).
88. The Court should set aside these arbitrary, capricious, and unlawful actions.
89. Mr. Campos-Flores's unlawful detention prejudices him and results in irreparable harm.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare that Mr. Campos-Flores's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1236, and is arbitrary and capricious 5 U.S.C. § 706.
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or, alternatively, order that a neutral and impartial adjudicator conduct a bond hearing pursuant to 8 U.S.C. § 1236(a); and
- (5) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Khalid Shekib

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Pro Hac Vice

Attorneys for Petitioner

Dated: October 29, 2025

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Dated this 29 day of October, 2025.



Axel Alessandro Campos-Flores

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

CERTIFICATE OF SERVICE

I, Khalid Shekib, hereby declare that, pursuant to Federal Rule of Civil Procedure 4(i), on October 29, 2025, I caused to be served the following documents in the above-captioned matter:

- First Amended Petition for Writ of Habeas Corpus;

I caused the aforementioned documents to be served by USPS certified mail, return receipt requested, at the following addresses:

Dennis Barghaan, Chief
Civil Division
U.S. Attorney's Office
Justin W. Williams United State Attorney's Building
2100 Jamieson Ave.
Alexandria, VA 22314

Jeffrey Crawford
Warden
Abyon-Farmville Detention Center
508 Waterworks Road
Farmville, VA 23901

James Mullen, Field Office Director
Department of Homeland Security
Immigration and Customs Enforcement ERO
Washington Field Office
14797 Murdock Street
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Todd Lyons, Director
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Pamela Bondi, Attorney General
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Washington, DC 20530

Kristi Noem, Secretary of Homeland Security
Office of General Counsel
U.S. Department of Homeland Security 277
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 29, 2025 at Alexandria, VA

/s/ Khalid Shekib
Khalid Shekib
Virginia State Bar No. 72271
Law Group International, PLLC
124 S. West Street, Suite 201
Alexandria, VA 22314

Attorney for Petitioner

Dated: October 29, 2025