UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

ANGEL JESUS GUAMAN CHIMBORAZO, Petitioner, v. CRAIG SHEPLEY, Deputy Chief Patrol Agent of Fort Fairfield Sector, U.S. Customs and Border Protection; RODNEY S. SCOTT, Commissioner of Customs and Border Protection; PETER R. FLORES, Customs and Border Protection Field Operations Executive Assistant Commissioner; DIANE J. SABATINO, Acting Executive Assistant Commissioner Office of Field Operations; and KRISTI NOEM, U.S. Secretary of Homeland Security, Respondents.	No. 1:25-cv-00552-LEW

RETURN AND RESPONSE TO ORDER TO SHOW CAUSE
IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

Respondents, by and through undersigned counsel, oppose the Amended Verified Petition for Writ of Habeas Corpus filed by Petitioner Angel Jesus Guaman Chimborazo under 28 U.S.C. § 2241. Dkt. #6, Nov. 6, 2025 (the "Amended Petition" or "Am. Pet."). Petitioner's detention was initiated by U.S. Customs and Border Protection ("CBP") on November 2, 2025, in the area of Hampden, Maine. *See* Ex. 1, I-213 Record of Deportable Alien, at 3-4. Petitioner was subsequently transferred to the CBP Station in Fort Fairfield, Maine. Am. Pet. ¶¶ 8, 16. Government counsel has confirmed that Petitioner remains in CBP custody in Fort Fairfield. He will not be removed from the District of Maine pending further order from this Court.

Petitioner was granted Special Immigrant Juvenile ("SIJ") status via an approved Form I-360 petition on March 15, 2023. Am. Pet. ¶¶ 6, 13; *see also* Dkt. #6-1 at 1. His approval notice provided as follows:

> Your **Form I-360** petition has been approved, but you do not yet have a visa available to file an application for adjustment of status. USCIS has determined that you warrant a favorable exercise of discretion to receive deferred action. As a result, you have been placed in deferred action and you may be issued an employment authorization document. Deferred action is an act of administrative convenience to the government which gives some cases lower priority for removal from the United States for a specified period of time.
>
> Your grant of deferred action will remain in effect for a period of four years from the date of this notice unless terminated earlier by USCIS.

Dkt. #6-1 at 1.

CBP maintains that the true cause of Petitioner's detention is pursuant to 8 U.S.C. § 1225(b)(2). *See* 28 U.S.C. § 2243. Despite being "deemed, for purposes of [8 U.S.C. § 1255(a)], to have been paroled into the United States," *see* 8 U.S.C. § 1255(g), Petitioner is not thereby exempted from removal. *See Del Cid v. Bondi*, 3:25-cv-00304, 2025 WL 2985150, at *3-4 (W.D. Pa. Oct. 23, 2025) (collecting cases).[1] For example, as the Form I-360 notes, the "[d]eferred action" at issue is simply "an act of administrative convenience to the government which gives some cases lower priority for removal from the United States for a specified period of time." *Id.*; *but see F.R.P. v. Wamsley*, 3:25-cv-01917, 2025 WL 3037858, at *3-6 (D. Or. Oct. 30, 2025) (collecting cases holding that immigration authorities may not detain a deferred action recipient without a pre-detention hearing or individualized determination). The Form I-360 itself "is not a

[1] USCIS only "may revoke an approved petition for classification as a special immigrant juvenile for good and sufficient cause as provided in 8 C.F.R. § 205.2." 8 C.F.R. § 204.11(j)(2). Here, such notice has been provided. *See* Ex. 2, USCIS Termination Notice; *see also* 8 C.F.R. § 205.2 (setting required procedures for SIJ status revocation).

visa," nor may it be used "in place of a visa." *Id.* Indeed, prior to being granted SIJ status, Petitioner was subject to active removal proceedings initiated pursuant to 8 U.S.C. § 1229a. Am. Pet. ¶ 5. Those removal proceedings remain pending. *See* Ex. 3, EOIR Automated Case Information.

The Government acknowledges, however, the recent caselaw holding that SIJs similar to Petitioner are subject to detention, if at all, pursuant to 8 U.S.C. § 1226—and therefore must receive a bond hearing—rather than detained on a mandatory basis under 8 U.S.C. § 1225(b)(2). *See, e.g., Del Cid v. Bondi*, 3:25-cv-00304, 2025 WL 2985150, at *14-15 (W.D. Pa. Oct. 23, 2025); *Inlago Tocagon v. Moniz*, 25-cv-12453, 2025 WL 2778023, at *4-5 (D. Mass. Sept. 29, 2025); *Rodriguez v. Perry*, 747 F. Supp. 3d 911, 916 (E.D. Va. 2024). The position of CBP nonetheless remains that Petitioner must be detained pending the outcome of his removal proceedings, with the agency following the precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025), to which it must adhere. The Government adopts by reference its prior arguments made to this Court in that regard concerning the applicability of § 1225 versus § 1226. *See, e.g., Chogllo Chafla v. Scott*, 2:25-cv-00437-SDN, 2025 WL 2688541 (D. Me. Sept. 22, 2025).

WHEREFORE, CBP submits that Petitioner is not entitled to a writ of habeas corpus. The Government respectfully submits that the court should dispose of and dismiss the Amended Petition as law and justice require. 28 U.S.C. § 2243. The Government will be prepared for and attend any hearings set in this matter.

Dated: November 7, 2025
Bangor, Maine

Respectfully submitted,

ANDREW B. BENSON
United States Attorney

/s/ ANDREW K. LIZOTTE
Andrew K. Lizotte
Civil Chief
United States Attorney's Office
202 Harlow Street
Bangor, Maine 04401
(207) 262-4636
Andrew.Lizotte@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on November 7, 2025, I caused the foregoing to be electronically filed with Clerk of Court using the CM/ECF system, which sent such notice to any individuals and entities who have entered appearances in this case to date, pursuant to the Court's ECF system.

ANDREW B. BENSON
United States Attorney

/s/ ANDREW K. LIZOTTE
Andrew K. Lizotte
Civil Chief
United States Attorney's Office
202 Harlow Street
Bangor, Maine 04401
(207) 262-4636
Andrew.Lizotte@usdoj.gov