UNITED STATES DISTRICT COURT
FOR THE 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.	Case No. 1:25-cv-00552-LEW

PETITIONER'S REPLY TO GOVERNMENT OPPOSITION TO PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

Petitioner Angel Jesus Guaman Chimborazo, by and through his attorney, Shantanu Chatterjee, respectfully submits this Reply to Respondents' Opposition to Petitioner's Petition for Writ of Habeas Corpus. *See* Doc. 7. Petitioner submits this Reply pursuant to Rule 5(e) of the Federal Rules Governing Section 2254 cases and Local Rule 7(d)(1)[1].

Respondents' proffered basis for the Petitioner's detention is unlawful. The Government contends that the Petitioner is ineligible for release on bond "pursuant to 8 U.S.C. § 1225(b)(2)." Doc. 7 at 2. However, after the Petitioner arrived to the United States border, the Department of

[1] The Government's Return and Response to the Orders to Show Cause is effectively a dispositive motion to dismiss the Petitioners' habeas corpus petitions because the Government has requested dismissal. *See* Doc. 7 at 3 ("the court should dispose of and dismiss the Amended Petition as law and justice require."). Local Rule 7(d)(1) provides that "A memorandum of law in support of or in opposition to a motion to dismiss…or any other dispositive motion may not exceed 20 pages." *Id.*

Homeland Security ("DHS") released the Petitioner into the United States on his own recognizance, which constitutes a form of conditional parole under 8 U.S.C. § 1226(a)(2)(B). *See* Petitioner's Order of Release on Recognizance; *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) ("It is apparent that the [government] used the phrase 'release on recognizance' as another name for 'conditional parole' under § 1226(a)"). DHS then placed Petitioner in the custody of the United States Department of Health and Human Services ("HHS") pursuant to 8 U.S.C. § 1232 and *Flores v. Sessions*, 862 F.3d 863, 879 (9th Cir. 2017) because the Petitioner arrived as an unaccompanied alien child ("UAC"). Therefore, the Petitioner is not, and was not at any point, detained under 8 U.S.C. § 1225(b)(2).

The Petitioner maintains that 8 U.S.C. § 1226, not 8 U.S.C. § 1225, is the statute that governs his detention because he was released on his own recognizance into the United States pursuant to 8 U.S.C. § 1226, and has resided in the United States for over four years prior to his recent arrest by the Respondents. In *Jennings v. Rodriguez*, the Supreme Court ruled that § 1225 applies "where the Government must determine whether an alien **seeking to enter** the country is admissible," whereas "**§ 1226 applies to aliens already present in the United States.**" *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (emphases added). However, § 1226(a) permits the detention of a noncitizen only "**[o]n a warrant issued by the Attorney General.**" 8 U.S.C.A. § 1226 (West) (emphasis added). In this case, the Government does not assert that a warrant ever issued for the Petitioner's detention. *See generally* Doc. 7. "As such, it follows that absent a warrant a noncitizen may not be arrested and detained under section 1226(a)." *Chogllo Chafla v. Scott*, No. 2:25-CV-00437-SDN, 2025 WL 2688541, at *11 (D. Me. Sept. 22, 2025). Therefore, Petitioner's detention under § 1226(a) would be unlawful, as well, which supports ordering the Respondents to immediately release Petitioner. *See id.*

Furthermore, the Petitioner is the beneficiary of Special Immigrant Juvenile Status ("SIJS"). *See* Doc. 6-1. "**[A] special immigrant [juvenile] described in section 1101(a)(27)(J) of this title…shall be deemed…to have been paroled into the United States.**" 8 U.S.C.A. § 1255(h)(1) (West). The Government now contends that, on November 5, 2025—one day after the Petitioner filed his Petition for Writ of Habeas Corpus—Respondents terminated the Petitioner's SIJS. *See* Doc. 7-2. However, this does not undo the fact that when USCIS approved the Petitioner's Form I-360 SIJS Petition—**which remains approved**, *see* Doc. 7-2—the Petitioner was "deemed…to have been paroled into the United States" under the Immigration and Nationality Act, 8 USC § 1255(h)(1). This negates the Government's assertion that the Petitioner is mandatorily detained under 8 U.S.C. § 1225, which applies only to "an applicant for admission." 8 U.S.C.A. § 1225(a)(1) (West).

In addition to the statutory violations by Respondents, Respondents' detention of the Petitioner also violates procedural due process of law. On March 15, 2023, USCIS granted the Petitioner SIJS with Deferred Action for four years. *See* Doc. 6-1 at 1. This classification may "not revoked without good cause.'" *Inlago Tocagon v. Moniz*, No. 25-CV-12453-MJJ, 2025 WL 2778023, at *3 (D. Mass. Sept. 29, 2025) (quoting *Juarez Morales v. Noem*, No. 24-cv-12518, —— F.Supp.3d ——, ——, 2025 WL 1923096, at *3 (D. Mass. June 24, 2025)); *see also* 8 C.F.R. § 204.11(j)(2) ("USCIS may revoke an approved petition for classification as a special immigrant juvenile for good and sufficient cause."). However, the "Termination Notice" of the Petitioner's SIJS-based Deferred Action states no cause whatsoever for the termination of his Deferred Action. *See* Doc. 7-2. Therefore, insofar as Respondents have detained the Petitioner on the basis of his termination of his Deferred Action, Respondents' detention is unlawful under the

Mathews v. Eldridge factors, which also weigh in favor of the Petitioner's immediate release. *See Mathews v. Eldridge*, 424 U.S. 319 (1976).

PROCEDURAL HISTORY

Petitioner is a citizen of Ecuador and was born on [redacted]. *See* Doc. 6, 1. Petitioner entered the United States on May 13, 2021, when he was sixteen (16) years old. *Id.* 3. On May 14, 2021, DHS detained Petitioner pursuant to Immigration and Nationality Act § 236, 8 U.S.C. § 1226. *See* Notice of Custody Determination. DHS then placed Petitioner in the custody of Peco's Children's Center: a shelter in Pecos, Texas that was operated by the Office of Refugee Resettlement ("ORR"). *See* Petitioner's Verification of Release. ORR is a sub-agency of the United States Department of Health and Human Services ("HHS"). On June 5, 2021, ORR released Petitioner into the custody of his first cousin, [redacted] pursuant to 8 U.S.C. § 1232. *See id.* On July 6, 2021, DHS released Petitioner on his own recognizance into the United States pursuant to 8 U.S.C. § 1226. *See* Petitioner's Order of Release on Recognizance. On March 15, 2023, United States Citizenship and Immigration Services ("USCIS") approved the Petitioner's Form I-360 Petition for SIJS,with Deferred Action for four years, from removal from the United States. *See* Doc. 6-1

On November 2, 2025, Customs and Border Protection detained Petitioner after the Maine State Police stopped a vehicle in which Petitioner was the passenger. *See* Doc. 6, 8; Doc. 7-1. Respondents then transferred Petitioner to Fort Fairfield Station in Fort Fairfield, Maine, where Petitioner remains detained. *See* Doc. 6, 8; Doc. 7 at 1. Petitioner filed his Motion for Custody Redetermination with the Chelmsford Immigration Court on November 6, 2025, and is set for a bond hearing on November 13, 2025. *See* Petitioner's Notice of Custody Redetermination Hearing.

ARGUMENT

1. Legal Framework for Immigration Detention.

Two statutes principally govern the detention of noncitizens: 8 U.S.C. § 1225 and 8 U.S.C. § 1226[2]. The general distinction between § 1225 and § 1226 is that § 1225 applies to noncitizens *seeking* to enter the United States, whereas § 1226 applies to noncitizens that have already entered the United States. The statute upon which the Government relies to justify the Petitioners' detention—8 U.S.C. § 1225[3]—is effectively a border processing statute that applies to noncitizens "seeking to enter the country." *Jennings v. Rodriguez*, 583 U.S. 281 (2018) ("That process of decision generally begins at the Nation's borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is admissible") (citing 8 U.S.C. § 1225). In the immigration context, the term "admission" means "the lawful entry of [an] alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A).

8 U.S.C. § 1225 applies to noncitizens seeking entry to the United States that are either "arriving in the United States" or "who have not been admitted or paroled." *Id.* § 1225(b)(1) applies primarily to noncitizens formerly in expedited removal proceedings and the "Credible Fear Interview" procedure. 8 U.S.C. § 1225 contains a provision governing "Asylum interviews," or "Credible Fear Interviews," when a noncitizen that is seeking to enter the United States and is in the custody of DHS "indicates either an intention to apply for asylum under [8 U.S.C. § 1158] or a fear of persecution." *Id.* § 1225(b)(1). "Any alien subject to the procedures

[2] Another statute, 8 U.S.C. § 1231, governs the detention of noncitizens who have been ordered removed. The Government does not contend that the Petitioner has a prior order of removal. *See generally* Doc. 7.
[3] 8 U.S.C. § 1225 also governs expedited removal proceedings. However, the Government does not claim that the Petitioner is subject to expedited removal. *See generally* Doc. 7.

under this clause shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed." § 1225(b)(1)(B)(IV).

8 U.S.C. § 1225(b)(2) applies to the "Inspection of other aliens" seeking to enter the United States. *See id.* § 1225(b)(2)(A) provides that "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title." *Id.* "Section 1225(b)(1) mandates detention for further consideration of the application for asylum, § 1225(b)(1)(B)(ii), and §1225(b)(2) requires detention for a [removal] proceeding, § 1225(b)(2)(A)." *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (internal quotations omitted).

Whereas 8 U.S.C. § 1225 applies to noncitizens *seeking* to enter the United States, "**§ 1226 applies to aliens already present in the United States**." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (emphases added). "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.* § 1226(a) "authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings." *Id.* § 1226(a) establishes a discretionary detention framework for noncitizens arrested and detained "[o]n a warrant issued by the Attorney General." *Id.* For such individuals, the Attorney General (1) "may continue to detain the arrested alien," (2) "may release the alien on . . . bond of at least $1,500," or (3) "may release the alien on . . . conditional parole." *Id.* §§ 1226(a)(1)- (2). The arresting immigration officer makes an initial custody determination, but noncitizens have the right to request a custody redetermination (i.e., bond) hearing before an Immigration Judge. *See* 8 C.F.R. §§ 1236.1(c)(8), (d)(1). Noncitizens detained under 8 U.S.C. § 1226(a) have the Due Process

right to a bond hearing in which the government must "either (1) prove by clear and convincing evidence that [the noncitizen] poses a danger to the community or (2) prove by a preponderance of the evidence that [the noncitizen] poses a flight risk." *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021).

2. Respondents Have Wrongfully Detained Petitioner under 8 U.S.C. 1225(b)(2).

The Government contends that "the true cause of Petitioner's detention is pursuant to 8 U.S.C. § 1225(b)(2)." Doc. 7 at 2. However, § 1225(b)(2) does not apply to Petitioner. "§ 1225(b) of Title 8 of the U.S.Code authorizes the detention of certain aliens **seeking to enter the country**." *Jennings v. Rodriguez*, 583 U.S. 281, 281, 138 S. Ct. 830, 833, 200 L. Ed. 2d 122 (2018) (emphasis added). On the other hand, "to detain certain aliens **already in the country**…Section 1226(a)'s default rule permits the Attorney General to issue warrants for the arrest and detention of these aliens pending the outcome of their removal proceedings." *Id.* (emphasis added). *See also Del Cid, v. Bondi*, No. 3:25-CV-00304, 2025 WL 2985150, at *16 (W.D. Pa. Oct. 23, 2025) (*Jennings* does stand for the general principle that § 1225 is tethered closely to the border and § 1226 is tethered closely to the interior of the country.").

In this case, Respondents detained Petitioner on November 1, 2025, after he effected an entry into the United States on May 13, 2021. *See* Doc. 6, ¶¶ 3-8. "The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law." *Zadvydas v. Davis*, 533 U.S. 678, 693, 121 S. Ct. 2491, 2500, 150 L. Ed. 2d 653 (2001) (citing *Kaplan v. Tod*, 267 U.S. 228, 230, 45 S.Ct. 257, 69 L.Ed. 585 (1925)). "[O]nce an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* "The distinction between an alien who

has effected an entry into the United States and one who has never entered runs throughout immigration law." *Id.*

Here, Petitioner "effected an entry into the United States" when DHS released Petitioner pursuant to 8 U.S.C. § 1232, to the custody of HHS, which released Petitioner into the custody of his cousin, R[redacted] on June 5, 2021. *See* Petitioner's Verification of Release. DHS then conditionally paroled Petitioner into the United States on July 6, 2021. *See* Petitioner's Order of Release on Recognizance. "[A]n Order of Recognizance…is a form of conditional parole." *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *2 (D. Mass. July 7, 2025) (citing *Matter of Cabrera-Fernandez*, 28 I.&N. Dec. 747, 747 (B.I.A. 2023)). *See also Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) ("It is apparent that the [government] used the phrase 'release on recognizance' as another name for 'conditional parole' under § 1226(a)."). Therefore, § 1226(a), not § 1225(b)(2), applies to Petitioner's current detention. Petitioner "was already conditionally paroled into the United States. And he is still here." *De Andrade v. Moniz*, No. 25-CV-12455-FDS, 2025 WL 2841844, at *6 (D. Mass. Oct. 7, 2025). "Congress provided a mechanism for paroling applicants for admission into the United States without changing their status." *Id.* (citing 8 U.S.C. § 1182(d)(5)(A)). "The government elected not to use that mechanism. It cannot now turn back the clock, and neither can the Court." *Id.*

Insofar as the Government argues in the alternative that Petitioner's detention is lawful under 8 U.S.C. § 1226, Respondents' detention of Petitioner under § 1226(a) is also unlawful because Respondents failed to arrest Petitioner "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C.A. § 1226(a) (West). The Government has failed to produce a

warrant for Petitioner's arrest, and indeed does not even assert that Respondents detained Petitioner on a warrant. *See generally* Doc. 7. **A warrant is a necessary condition for lawful detention under 8 U.S.C. § 1226(a).** *See, e.g., Chogllo Chafla v. Scott*, No. 2:25-CV-00437-SDN, 2025 WL 2688541, at *11 (D. Me. Sept. 22, 2025) ("absent a warrant a noncitizen may not be arrested and detained under section 1226(a)"); *Chiliquinga Yumbillo v. Stamper*, No. 2:25-CV-00479-SDN, 2025 WL 2783642, at *5 (D. Me. Sept. 30, 2025) ("the plain language of section 1226(a)—which the Court finds is the proper framework for this action—requires a warrant for arrest and detention and, therefore, 'absent a warrant a noncitizen may not be arrested and detained under section 1226(a).'"). Therefore, 8 U.S.C. § 1226(a) does not legitimize the Respondents' detention of Petitioner.

3. Respondents' Detention of Petitioner under 8 U.S.C. § 1225(b)(2) Because Petitioner has Special Immigrant Juvenile Status.

On March 15, 2023, USCIS approved the Petitioner's Form I-360 Petition for SIJS with Deferred Action from removal from the United States. *See* Doc. 6-1. A "special immigrant juvenile" is a minor noncitizen "who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law." 8 U.S.C.A. § 1101 (West). **"[A] special immigrant [juvenile] described in section 1101(a)(27)(J) of this title…shall be deemed…to have been paroled into the United States."** 8 U.S.C.A. § 1255(h)(1) (West). Petitioner's parole into the United States pursuant to his SIJS further negates the Government's contention that Petitioner is lawfully detained under 8 U.S.C. § 1225, which applies only to "an applicant for admission." *Id.* § 1225(a)(1).

."The protections afforded to children with SIJ status include an array of statutory and regulatory rights and safeguards, such as eligibility for application of adjustment of status to that of lawful permanent residents ('LPR'), exemption from various grounds of in admissibility, and **robust procedural protections to ensure their status is not revoked without good cause.**'" *Inlago Tocagon v. Moniz*, No. 25-CV-12453-MJJ, 2025 WL 2778023, at *3 (D. Mass. Sept. 29, 2025) (quoting *Juarez Morales v. Noem*, No. 24-cv-12518, —— F.Supp.3d ——, ——, 2025 WL 1923096, at *3 (D. Mass. June 24, 2025)) (emphasis added). Moreover, as the Government concedes, there is "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)." Doc. 7 at 3. *See also Inlago Tocagon*, No. 25-CV-12453-MJJ, 2025 WL 2778023, at *4 (ruling that because petitioner's "I-360 petition was granted on with a grant of deferred action for four years…[he] was deemed to have been paroled into the United States…[which] further affirm[s] that [he] is subject to Section 1226(a)'s discretionary detention framework and is thus eligible for bond"); *Rodriguez v. Perry*, 747 F. Supp. 3d 911, 916 (E.D. Va. 2024) (concluding that petitioner's "SIJ status weighs in favor of finding that, when ICE arrested and detained him…he was an 'alien present' in the United States and was entitled to a bond hearing under § 1226(a)"); *Del Cid, v. Bondi*, No. 3:25-CV-00304, 2025 WL 2985150, at *16 (W.D. Pa. Oct. 23, 2025) (ruling that "the Petitioners have shown a very strong likelihood of success on the merits of their claim that, so long as [the petitioner is] re-detained while he possesses SIJ Status and no criminal record, he may only be detained pursuant to § 1226(a), not § 1225.").

To the extent that the Government cites *Yajure Hurtado* to support the proposition that 8 U.S.C. § 1225(b)(2) applies to all noncitizens—including the Petitioner—that entered the

country without admission or parole, the Court should reject the BIA's sweeping expansion of mandatory detention under § 1225(b)(2). "[C]ourts must exercise independent judgment in determining the meaning of statutory provisions," and they "may not defer to an agency interpretation of the law simply because a statute is ambiguous." *Loper Bright Enters.* v. *Raimondo*, 603 U.S. 369, 394, 413 (2024). The BIA's decision in *Yajure Hurtado* contradicts the plain meaning of § 1225 and § 1226, as well as factually similar decisions in other districts that rejected the extension of § 1225(b)(2) to noncitizens already in the United States. *See, e.g., Diaz Martinez v. Hyde*, — F. Supp. 3d —, 2025 WL 2084238 (D. Mass. July 24, 2025); *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025) (same); *Garcia v. Hyde*, Civ. No. 25-11513 (D. Mass. July 14, 2025) (same); *Lopez Benitez v. Francis*, — F. Supp. 3d —, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025) (same); *Dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025) (same); *Chang Barrios v. Shepley*, No. 1:25-cv-00406, 2025 U.S. Dist. LEXIS 152874 (D. Me. Aug. 8, 2025); *Chogllo Chafla v. Scott*, No. 2:25-cv-00437, 2025 U.S. Dist. LEXIS 184909 (D. Me. Sept. 21, 2025); *Rodriguez v. Bostock*, 2025 WL 2782499, at *1 & n.3 (W.D. Wash. Sept. 30, 2025) (collecting cases).

4. The Respondents' Detention of Petitioner based on Respondents' Termination of Petitioner's Deferred Action Violates Procedural Due Process of Law.

The Government further contends that Respondents' detention of Petitioner under 8 U.S.C. § 1225(b)(2) is lawful because USCIS revoked Petitioner's SIJS-based Deferred Action, and that "prior to being granted SIJ status, Petitioner was subject to active removal proceedings initiated pursuant to 8 U.S.C. § 1229a." Doc. 7 at 2-3. This argument amounts to a red herring, and attempts to obfuscate the fact that Respondents detained Petitioner four days *before* USCIS terminated his Deferred Action, without advanced notice or an opportunity to challenge the

termination. *See* Doc. 7-2. Moreover, the termination of Petitioner's Deferred Action has no bearing on the impropriety of Respondents' classification of Petitioner as mandatorily detained under 8 U.S.C. § 1225(b)(2).

"At its core, procedural due process guarantees the right to notice and an opportunity to be heard." *Joshua M. v. Barr*, 439 F. Supp. 3d 632, 678 (E.D. Va. 2020) (citing *Fuentes v. Shevin*, 407 U.S. 67, 80, 92 S.Ct. 1983, 32 L.Ed.2d 556 (1972)). "As the Supreme Court recently reiterated, '[t]he defining feature of deferred action is the decision to defer removal (**and to notify the affected alien of that decision**).'" *F.R.P. v. Wamsley*, No. 3:25-CV-01917-AN, 2025 WL 3037858, at *5 (D. Or. Oct. 30, 2025) (quoting *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1911 (2020)) (emphasis added). "Decades prior, the Supreme Court described deferred action as meaning that 'no action will thereafter be taken to proceed against an apparently deportable alien, even on grounds normally regarded as aggravated.'" *Id.* (quoting *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999)). "**Civil immigration detention must be 'nonpunitive in purpose'** and thus reasonably related to the statutorily authorized purposes of preventing flight and reducing the risk of danger to the community." *Id.* at *4 (quoting *Zadvydas*, 533 U.S. at 690-91) (emphasis added).

"SIJ status may constitute a protected liberty or property interest, and it may be revoked only for what the Secretary of Homeland Security deems 'good and sufficient cause.'" *Joshua M. v. Barr*, 439 F. Supp. 3d 632, 679 (E.D. Va. 2020) (quoting 8 U.S.C. § 1155; 8 C.F.R. § 205.2). In this case, the Government seeks to justify Respondents' detention of Petitioner based on USCIS's termination of Petitioner's Deferred Action. *See* Doc. 7 at 2-3. However, USCIS—a sub-agency of DHS—terminated Petitioner's Deferred Action on November 5, 2025, days *after* Respondents detained Petitioner. *See* Doc. 7-1; Doc. 7-2. Respondents did not provide Petitioner

with "the right to notice and an opportunity to be heard" before terminating his Deferred Action. *Joshua M.*, 439 F. Supp. 3d at 678. Moreover, the Termination Notice produced by Respondents fails to identify any reason or basis whatsoever for the termination of Petitioner's Deferred Action. *See generally* Doc. 7-2. Thus, Petitioner's Deferred Action appears to have been terminated without cause whatsoever, let alone "good and sufficient cause" as required as a matter of procedural due process. *Joshua*, 439 F. Supp. 3d at 679. "*Post hoc* explanations of agency action by counsel cannot substitute for the agency's own articulation of the basis for its decision." *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *14 (D. Or. July 9, 2025). Therefore, Respondents' termination of Petitioner's Deferred Action amounts to a *post hoc* rationalization for Petitioner's detention and fails to satisfy the requirements of procedural due process of law.

Furthermore, the termination of Petitioner's Deferred Action is a red herring as to the central issue in this case, because it does not render Petitioner an "applicant for admission" under 8 U.S.C. § 1225. As noted in the Termination Notice, "USCIS approved [Petitioner] Form I-360, which granted [Petitioner] SIJ classification on March 14, 2023, and **it remains approved**." Doc. 7-2 (emphasis added). "Although USCIS has discretion to terminate grants of deferred action to SIJS," Petitioner's March 14, 2023 grant of SIJS rendered Petitioner "deemed to have been paroled into the United States." *Inlago Tocagon v. Moniz*, No. 25-CV-12453-MJJ, 2025 WL 2778023, at *4 (D. Mass. Sept. 29, 2025) (citing 8 U.S.C. § 1255(h)(1)). Therefore, in this case, like in *Inlago Tocagon*, "[t]hese facts further affirm that [Petitioner] is subject to Section 1226(a)'s discretionary detention framework and is thus eligible for bond." *Id.*

5. The Court May Order the Respondents to Immediately Release the Petitioner as a Matter of Procedural Due Process of Law.

Courts in the First Circuit and in other districts have also determined that a habeas corpus petitioner may be ordered released pending the merits of their case. "[A] district court entertaining a petition for habeas corpus has inherent power to release the petitioner pending determination of the merits." *Woodcock v. Donnelly*, 470 F.2d 93 (1st Cir. 1972). *See also Martinez v. Hyde et al.*, No. 1:25-cv-11613-BEM, slip op. at 4 (D. Mass. June 17, 2025) (ordering that the respondents release the petitioner without conditions because 8 U.S.C. §1225 did not apply); *Sampaio v. Hyde et al.*, 1:25-cv-11981-JEK, slip op. at *26 (D. Mass. Sept. 9, 2025) (concluding that "[t]he balance of the *Mathews* factors favors [the petitioner]" and that his detention "violates his procedural due process rights under the Fifth Amendment, and he is entitled to immediate release."); *Valdez v. Joyce*, 25-Civ. 4627, slip op. at *8 (S.D. N.Y. Jun 18, 2025) (ordering the petitioner's immediate release because "Respondents' ongoing detention of Petitioner with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates his due process rights"); *Lopez Benitez v. Francis et al.*, 25-cv-5937, 2025 WL 2371588, at *29 (S.D.N.Y. Aug. 13, 2025) (ordering the petitioner's immediate release because the respondents "offer no explanation whatsoever of their purported 'exercise of discretion' to detain [the petitioner] other than their initial assertion that his detention was non-discretionary.").

To qualify for release, a petitioner must show: (1) a substantial claim of law based on the facts surrounding the petition, and (2) the existence of "some circumstance making the [motion for bond] exceptional and deserving of special treatment in the interests of justice." *Aronson v. May*, 85 S. Ct. 3, 5 (1964). "[A] court considering a habeas petitioner's fitness for bail must inquire into whether the habeas petition raises substantial claims and whether extraordinary circumstances exist that make the grant of bail necessary to make the habeas remedy effective."

Kiadii v. Decker, 423 F.Supp.3d 18 (S.D. N.Y. 2018) (quoting *Mapp v. Reno*, 241 F.3d 221 (2d Cir. 2001)). Courts in other districts have granted similar relief to habeas corpus petitioners seeking release while the merits of the case were pending. *See, e.g.*, *Kordia v. Noem*, 3:25-cv-01072-L-BT (N.D. Tex. Jun 27, 2025) (recommending the petitioner's release because the petitioner "has a significant liberty interest in being free from detention" and prolonged detention "creates a serious risk of erroneous deprivation of Petitioner's liberty interest"); *but see Kostak v. Trump*, Civil Action 3:25-1093 (W.D. La. Aug 27, 2025) (denying the petitioner's motion for release "in light of the injunctive relief granted to the Petitioner" in the form of "an individualized bond hearing before an immigration judge pursuant to Section 1226(a).").

In this case, Petitioner has raised "substantial claims and [shown] that extraordinary circumstances exist." *Mapp v. Reno*, 241 F.3d 221 (2nd Cir. 2000). Petitioner has raised a substantial claim of law, videlicet that Respondents have denied him the right to a bond hearing in which the Government has the burden of proof by wrongfully classifying him under § 1225(b)(2), and that the Government has not met its burden to justify the detention under § 1226(a). *See, e.g., Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021). Moreover, "extraordinary circumstances exist that make the grant of bail necessary to make the habeas remedy [of immediate release] effective." *Kiadii*, 423 F.Supp.3d at 20. Respondents have deprived the Petitioner of "freedom from physical detention [which] is 'the most elemental of liberty interests.'" *Sampaio v. Hyde et al.*, 1:25-cv-11981-JEK, slip op. at *20 (D. Mass. Sept. 9, 2025) (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). "[E]ven when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody she has a protected liberty interest in remaining out of custody." *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *3

(N.D. Cal. July 24, 2025) (holding that "[e]ven individuals who face significant constraints on their liberty or over whose liberty the government wields significant discretion retain a protected interest in their liberty."). Respondents have also deprived Petitioner's relatives, including his sister, M[redacted] of a cherished member of their family based on a statute that does not apply to him. *See* Doc. 6, 1. All of these facts weigh in favor of granting the Petitioner's request for immediate release.

6. The *Mathews v. Eldridge* Factors Weigh in Favor of the Petitioner's Immediate Release.

The *Mathews v. Eldridge* factors also weigh in favor of the Petitioner's release. *See Mathews v. Eldridge*, 424 U.S. 319 (1976). Under that test, a court must weigh the following three factors: (1) "the private interest that will be affected by the official action"; (2) "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 (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335. *See also Hernandez-Lara*, 10 F.4th at 27-28 (analyzing procedural due process challenge to the detention of noncitizen held pursuant to Section 1226(a) using the *Mathews* test).

The facts of the Petitioner's case strongly support his immediate release. "'Freedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty that Clause protects.'" *Zadvydas v Davis*, 533 U.S. 678 (2001) (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). "[C]ivil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protections." *Addington v. Texas*, 441 U.S. 418, 425 (1979). In this case, Petitioner's "private interest in freedom from imprisonment is strong, given his I-360 petition was granted on October 31, 2024, with a grant of deferred action

for four years." *Inlago Tocagon v. Moniz*, No. 25-CV-12453-MJJ, 2025 WL 2778023, at *4 (D. Mass. Sept. 29, 2025) (internal quotations omitted). Therefore, "the private interest that will be affected by the official action" strongly weighs in favor of the Petitioner's release. *See Mathews*, 424 U.S. at 335.

Regarding the second *Mathews* prong, the Petitioner will suffer "the risk of an erroneous deprivation of such interest through the procedures used." Respondents have asserted that the Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See generally* Doc. 7. Therefore, it is likely that the Immigration Judge will deny Petitioner's request for a bond hearing in which the Government bears the burden of proof pursuant to *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021). Even if the Petitioner was to appeal the Immigration Judge's denial of his bond request to the Board of Immigration Appeals, according to data released by the Executive Office for Immigration Review, the average processing time for bond appeals exceeded 200 days in 2024. *See Rodriguez v. Bostock*, --- F. Supp. 3d ---, 2025 WL 1193850, at *5 (W.D. Wash. Apr. 24, 2025). Furthermore, the BIA is likely to deny the Petitioner's bond appeal pursuant to its own precedential decision in *Yajure Hurtado*. Therefore, the Respondents' denial of the Petitioner's eligibility for bond yields a tremendous "risk of an erroneous deprivation of such interest through the procedures used" within the channels of the Immigration Court and the Board of Immigration Appeals. Moreover, in this case, like in *Inlago Tocagon*, "when [Petitioner] was released from custody on Order of Recognizance, Respondents 'necessarily determined that he was 'not a danger to the community or a flight risk." *Inlago Tocagon v. Moniz*, No. 25-CV-12453-MJJ, 2025 WL 2778023, at *4 (D. Mass. Sept. 29, 2025) (quoting *Bermeo Sicha v. Bernal*, No. 25-cv-00418, 2025 WL 2494530 at *5 (D. Me. Aug. 29, 2025)). "Therefore, to re-detain him, the

government had to show a change of circumstances…Without a hearing on the basis for detention, there remains a risk that [Petitioner] is detained even though the circumstances do not warrant it." *Id.*

Lastly, "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail," also weigh in favor of releasing the Petitioner. *Mathews*, 424 U.S. at 335. Petitioner's release from custody during the pendency of a new bond hearing would obviate the need for any additional government resources or expenditures to be allocated towards the Petitioner's continued confinement. "[U]nncessary detention," the First Circuit reasoned, "imposes substantial societal costs," as it "'separates families and removes from the community breadwinners, caregivers, parents, siblings and employees.'" *Hernandez-Lara v. Lyons*, 10 F.4th 19, 33 (1st Cir. 2021) (quoting *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020)). In this case, the Respondents' detention of the Petitioner has separated him from his family and his community in Bangor. *See* Doc. 6, 1. As the First Circuit aptly stated, "given the risk that the current procedures lead to many instances of needless detention, entailing substantial social and financial costs, the public interest in placing the burden of proof on the detainee is uncertain at best, and may well be negative." *Hernandez-Lara*, 10 F.4th at 33.

CONCLUSION

For the reason described above, the Court may and should order the Respondents to immediately release the Petitioner, consistent with ample precedential authority.

Dated: November 10, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Shantanu Chatterjee, Counsel for Petitioner hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

Dated: November 10, 2025

Respectfully submitted,

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