

in *Servellon Martinez*.” ECF No. 4. On the same date, the Court found that Petitioner’s detention is governed by 8 U.S.C. § 1226(a), that Petitioner’s continued detention without a bond hearing violates due process, and ordering that Petitioner be provided a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days of filing a motion for custody redetermination. ECF No. 5. According to its order, the Court entered judgment. ECF No. 6.

On April 1, 2026, the EOIR Immigration Court held a bond hearing pursuant to 8 C.F.R. § 1236, at which bond was denied. *See* Ex. 1, EOIR Order of the Immigration Judge. Appeal was reserved by Petitioner while the Department of Homeland Security waived appeal, and the period to file the notice of appeal runs through May 1, 2026. *Id.* Accordingly, Petitioner remains detained.

However, to date, Petitioner’s Third Claim for Relief “Unlawful Detention during Period of Deferred Action” has yet to be considered by the Court. And so Petitioner returns to this Court, to seek an amendment to the Court’s March 16, 2026, judgment, for consideration of his claim that his current grant of deferred action precludes his detention by Respondents altogether. Accordingly, Petitioner seeks an order directing his immediate release.

FACTS

On December 26, 2018, Petitioner’s mother filed a Form I-918, Supplement A, Petition for Qualifying Family Member of U-1 Recipient for Petitioner. *See* ECF No. 1-3. On January 12, 2024, USCIS issued a bona fide determination notice on Petitioner’s I-918, Supplement A, which then entitled him for consideration of work authorization and deferred action under 8 U.S.C. §§ 1184(p), 1103(a). *Id.* (“USCIS grants employment authorization based on the bona fide determination and favorable exercise of discretion described above under 8 U.S.C. 1184(p)(6), as well as under 8 CFR 274a.12(c)(14), which give the agency the authority to provide employment authorization to noncitizens placed in deferred action.”). On January 9, 2024, USCIS issued

Petitioner an employment authorization document, valid through January 8, 2028. *See* ECF No. 1-4. To date, upon information and belief, neither Petitioner's bona fide determination nor his grant of deferred action pursuant to his U bona fide determination have been terminated or otherwise rescinded by USCIS.

ARGUMENT

Petitioner is currently held in civil immigration detention. The *only* viable basis to hold someone in civil immigration detention is for the purposes of removal. However, "deferred action" is a determination by the immigration agencies that they will forestall removal for a given time period. Deferred action is not a creature of statute or regulation, but rather is simply an act of "administrative discretion." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999). It may be granted at any phase of the removal process, including, *inter alia*, to "decline to execute a final order of deportation." *Id.* At bottom, deferred action "means that, for the humanitarian reasons described below, no action will thereafter be taken to proceed against an apparently deportable alien, even on grounds normally regarded as aggravated." *Id.*

In Petitioner's case, as an individual with a bona fide I-918, Supplement A, USCIS has retained jurisdiction over his grant of deferred action. USCIS Policy Manual Vol. 3, Part C, Ch. 5.¹ *See also* Pet. ¶ 11-14 (background on U visas and bona fide determinations). Petitioner's deferred action and work authorization were granted following an extensive background check and as a matter of discretion. *Id.* To date, upon information and belief, USCIS had never revoked the bona fide determination, or terminated or rescinded Petitioner's deferred action and work authorization based on that determination. If USCIS, who retains jurisdiction over the deferred

¹ Available at: <https://www.uscis.gov/policy-manual/volume-3-part-c-chapter-5> (last visited April 6, 2026).

action, wanted to terminate Petitioner's deferred action, it is within its sole discretion to do so. As it stands, Petitioner remains today a *current holder of deferred action* by DHS.

Because Petitioner has been granted deferred action, he cannot be removed whilst it is still in place. *Am.-Arab Anti-Discrimination Comm.*, 525 U.S. at 484. If Petitioner cannot be lawfully removed during this deferred action period, it follows then that he also cannot lawfully be subject to civil immigration detention, if its sole purpose cannot be served. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). "[W]here detention's goal is no longer practically attainable, detention no longer 'bear[s][a] reasonable relation to the purpose for which the individual [was] committed.'" *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

Accordingly, for these and all reasons raised in the Petition, Petitioner seeks an Amended Judgement from this Court, and an order granting his Third Claim for Relief and ordering his immediate release from custody.

Respectfully submitted,

Dated: April 6, 2026

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date, I uploaded the foregoing, along with all attachments thereto, to this Court's CM/ECF case management system, which will send a Notice of Electronic Filing (NEF) to all counsel of record.

Respectfully submitted,

Dated: April 6, 2026

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