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UNITED STATES DISTRICT
COURT SOUTHERN DISTRICT OF CALIFORNIA

WOSBELY ISAAC VASQUEZ GONZALES
Proceeding Pro Se,
Petitioner,
v.
Warden, Imperial Regional Detention Facility
Respondents.

Civil Action No.: **3:26-cv-03121-CAB-AHG**

PETITIONER'S REPLY TO RESPONDENTS' SUPPLEMENTAL BRIEF

INTRODUCTION

Petitioner Wosbely Isaac Vasquez Gonzales, proceeding pro se, respectfully submits this Reply to Respondents' Supplemental Brief (ECF No. 8). Petitioner's continued detention is statutorily unauthorized and violates the Due Process Clause of the Fifth Amendment. As established below, Respondents' re-detention of Petitioner—a long-term resident of the United States who was previously released by immigration authorities as an unaccompanied child—was an unlawful deprivation of a protected liberty interest that occurred without notice, a hearing, or any change in material circumstances. Respondents' attempt to justify this detention under the wrong statute, 8 U.S.C. § 1225(b), fails as a matter of law. Because Respondents have identified no lawful authority for Petitioner's confinement, the Court should grant the writ of habeas corpus and order his immediate release.

ARGUMENT

I. PETITIONER WAS PREVIOUSLY DETAINED AND RELEASED BY IMMIGRATION AUTHORITIES IN 2015.

1. The central fact compelling Petitioner's release is that his current detention is a *re-detention*. Petitioner entered the United States on or about December 5, 2015, as an

unaccompanied alien child (UAC) at the age of 15. Upon his entry, he was taken into the custody of immigration authorities, processed, and subsequently released into the community. This prior detention and release are not just historical facts; they are events with profound legal significance that created a protected liberty interest and frame the due process analysis of his current confinement.

2. Petitioner's release was governed by the Trafficking Victims Protection Reauthorization Act (TVPRA), 8 U.S.C. § 1232. The TVPRA mandates that UACs be transferred to the custody of the Office of Refugee Resettlement (ORR). The statute further provides that ORR may only release a child after considering the child's danger to self, danger to the community, and risk of flight. 8 U.S.C. § 1232(c)(2)(A). Therefore, Petitioner's release in 2015 necessarily reflected an affirmative determination by the government that he was neither a danger nor a flight risk.

3. The Ninth Circuit has unequivocally recognized that a prior release by ORR creates a protected liberty interest that cannot be revoked without due process. In *Saravia v. Sessions*, 905 F.3d 1137 (9th Cir. 2018), the court held that revoking a UAC's placement and re-detaining them requires, at a minimum, notice of the reason for the action and an opportunity to respond before a neutral decision-maker. *Id.* at 1143. The court affirmed that the government's unilateral internal review was insufficient to justify re-detention without a prompt, neutral hearing because "due process always requires, at a minimum, notice and an opportunity to respond." *Id.* (citation omitted). Petitioner received no such process before he was summarily arrested and detained in October 2025.

II. SECTION 1226(a), NOT SECTION 1225(b), GOVERNS PETITIONER'S DETENTION.

4. Respondents err in attempting to justify Petitioner's detention under 8 U.S.C. § 1225(b).

That statute governs the detention of "applicants for admission" who are actively "seeking admission" at a port of entry. It has no application to Petitioner, who was arrested in the interior of the United States—in Salisbury, Maryland—after having resided here for approximately ten years. He was not at a border seeking admission; he was on his way to work in the community he has called home since he was a child.

5. The Supreme Court has repeatedly recognized the fundamental distinction between these two statutory schemes. In *Jennings v. Rodriguez*, 583 U.S. 281, 289, 303, 306 (2018), the Court explained that § 1225(b) mandates detention for a specific class of arriving aliens, while § 1226 governs the discretionary detention of aliens already present in the country pending their removal proceedings. Applying § 1225(b) to a long-term resident like Petitioner, who was arrested in the interior and was previously released under a different statutory framework, would render § 1226(a) and its provision for bond hearings entirely superfluous.

6. Courts have consistently rejected the government's overbroad interpretation that any person who once entered without inspection remains a perpetual "applicant for admission." Such a reading would improperly eliminate § 1226 from the Immigration and Nationality Act, producing an absurd result contrary to established principles of statutory interpretation. The law must be read to give each provision its own function and effect. Accordingly, Petitioner's detention must be analyzed under the discretionary framework of 8 U.S.C. § 1226(a).

III. PETITIONER'S BIA APPEAL IS PENDING; NO FINAL ORDER OF REMOVAL EXISTS.

7. Respondents cannot justify Petitioner's detention under 8 U.S.C. § 1231, which governs detention *after* a final order of removal. Although an Immigration Judge ordered Petitioner

removed on March 5, 2026, Petitioner filed a timely appeal with the Board of Immigration Appeals (BIA) on March 27, 2026. That appeal remains pending.

8. An order of removal is not "administratively final" while a timely appeal to the BIA is pending. *See Mirambeaux v. McAleenan*, No. 20-2212, 2020 U.S. Dist. LEXIS 45318 (D.N.J. Mar. 16, 2020); *Brissett v. Anderson*, No. 20-8025, 2020 U.S. Dist. LEXIS 170019 (D.N.J. Sep. 17, 2020). The removal period under § 1231(a)(1)(B) does not begin until the order becomes administratively final. Because the BIA has not yet ruled, the removal period has not commenced, and Petitioner's detention authority remains squarely under § 1226.

IV. THE DUI OFFENSE DOES NOT TRIGGER MANDATORY DETENTION UNDER SECTION 1226(c).

9. Petitioner's single conviction for driving under the influence (DUI) does not trigger mandatory detention under 8 U.S.C. § 1226(c). A simple DUI is not an aggravated felony, a crime involving moral turpitude, or one of the other enumerated offenses that would mandate custody. Petitioner has accepted full responsibility for this past mistake, attended court, and successfully completed all court-ordered requirements, including alcohol education classes and community service. This single, non-violent offense does not render him a danger to the community or justify his detention without a bond hearing.

V. RE-DETENTION WITHOUT NOTICE OR A HEARING VIOLATES DUE PROCESS.

10. Having been released by immigration authorities in 2015, Petitioner acquired a protected liberty interest in his freedom. Over the next decade, he built a life in Maryland. He graduated high school, worked, paid taxes, formed a family, and is the father of a United States citizen daughter who depends on him. This established liberty interest cannot be

stripped away without due process of law.

11. In *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972), the Supreme Court held that liberty, once granted, creates a protectable interest that cannot be revoked arbitrarily. The government must provide notice and a hearing before a neutral decision-maker before re-detaining an individual who was previously released. Respondents provided Petitioner with no process whatsoever before revoking his liberty.

12. The three-part test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), confirms that Petitioner's re-detention violated due process. First, Petitioner's private interest in his physical liberty and in the care and custody of his U.S. citizen daughter is fundamental. Second, the risk of an erroneous deprivation is extremely high where, as here, the government acts unilaterally without providing an individualized hearing. Third, the governmental burden of providing a routine bond hearing is minimal compared to the severe and irreparable harm caused by Petitioner's prolonged and arbitrary detention. The balance of these factors overwhelmingly required a pre-deprivation hearing.

VI. THE GOVERNMENT HAS NOT IDENTIFIED MATERIAL CHANGED CIRCUMSTANCES.

13. Respondents have failed to identify any material change in circumstances that could possibly justify re-detaining Petitioner after a decade of liberty. The core facts of his case—his manner of entry and lack of immigration status—were known to the government in 2015 when it determined he was safe to release. His single DUI offense, for which he has demonstrated rehabilitation, does not constitute a material change justifying his summary arrest and detention without a hearing nine months after he completed court requirements.

VII. IMMEDIATE RELEASE IS THE PROPER REMEDY.

14. The traditional function of the writ of habeas corpus is to secure release from unlawful custody. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Here, Respondents have detained Petitioner under the wrong statute (§ 1225(b)) and without the constitutionally required due process for revoking a prior grant of liberty. They have failed to identify any valid legal basis for his confinement.

15. When the government's asserted basis for detention fails and no alternative lawful authority is presented, immediate release is the proper remedy. *See Baez Rufino v. Tsoukaris*, No. 20-3331, 2020 U.S. Dist. LEXIS 92957, at *12 (D.N.J. May 27, 2020) ("Once the statutory basis invoked by Respondents is rejected, and Respondents identify no alternative lawful authority supporting custody, immediate release is required."). A future bond hearing cannot retroactively cure the due process violation that has already occurred and cannot restore the months of liberty Petitioner has already lost.

16. The only appropriate remedy is to restore the status quo that existed before the unlawful re-detention: Petitioner's freedom. At a minimum, if this Court does not order his immediate release, it should order an immediate bond hearing before an Immigration Judge at which the government bears the burden of proving by clear and convincing evidence that Petitioner's detention is necessary. *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017).

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant his Petition for a Writ of Habeas Corpus, order his immediate release from custody, or, in the alternative, order Respondents to provide him with an immediate bond hearing before a neutral adjudicator where the government bears the burden of proof.

VERIFICATION

I, Wosbely Isaac Vasquez Gonzales, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: July 21, 2026

Respectfully submitted,

/s/ Wosbely Isaac Vasquez Gonzalez
Wosbely Isaac Vasquez Gonzalez
Pro Se