

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

**JAIME IVAN DUCHI-NAULA**

**Petitioner,**

**v.**

**E.L. TATUM, JR.**, Warden of the Federal Correctional Institute, Berlin; **PATRICIA H. HYDE**, Acting Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations, Boston Field Office; **TODD LYONS**, Acting Director, U.S. Immigration and Customs Enforcement; **KRISTI NOEM**, Secretary of U.S. Department of Homeland Security; **PAMELA BONDI**, U.S. Attorney General,

**Respondents.**

**Case Number:**

**PETITION FOR WRIT OF HABEAS CORPUS  
PURSUANT TO 28 U.S.C. § 2241**

**INTRODUCTION**

Petitioner Jaime Ivan Duchi-Naula is a noncitizen from Ecuador whose Form I-360 (Special Immigrant Juvenile) has been approved. Ex. 2 at 25. Further, as part of the SIJ approval, the United States Citizenship and Immigration Service (USCIS) has granted deferred action, which permits Petitioner for work authorization and temporarily delays his removal until 2028. *Id.* Nonetheless, Respondents decided to arrest pursuant to an administrative warrant (Form I-200) during a worksite enforcement operation and detain him for no reason on May 16, 2025. Ex. 2 at 124. This is despite Respondents' acknowledgement that Petitioner has no criminal record. *Id.* ("Subject has no criminal history in the United States.").

After the arrest, Petitioner sought a bond hearing pursuant to 8 U.S.C. § 1226(a) before an Immigration Judge (IJ) at the Chelmsford Immigration Court in Massachusetts. However, the IJ held that Petitioner was ineligible for a bond hearing under 8 U.S.C. § 1225(b) pursuant to *Matter of Q.LI*, 29 I. & N. Dec. 66 (B.I.A. 2025). Ex. 3. This is presumably because the IJ relied on the fact that Petitioner was initially paroled into the United States at the time of his entry. *See Matter of Q.LI*, 29 I. & N. Dec. at 66 (“An applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under . . . 8 U.S.C. § 1225(b)” and “[a]n alien detained under . . . 8 U.S.C. § 1225(b), who is released from detention pursuant to a grant of parole under . . . 8 U.S.C. § 1182(d)(5)(A) (2018), and whose grant of parole is subsequently terminated, is returned to custody under [8 U.S.C. § 1225(b)] pending the completion of removal proceedings.”).

However, Petitioner is entitled to a bond hearing for the following reasons.

*First*, Petitioner is detained under 8 U.S.C. § 1226(a) instead of 8 U.S.C. § 1225(b) because of the SIJ status. Although Petitioner was initially classified as an arriving alien at the time of his entry to the United States, the SIJ status changed the classification to “an immigrant who is present in the United States.” *Rodriguez v. Perry*, 747 F. Supp. 3d 911, 916 (E.D. Va. 2024) (quoting 8 U.S.C. § 1101(a)(27)(J)). Indeed, the newly filed charging document states that Petitioner “is subject to removal as an alien present under INA § 212(a)(6)(A)(i), and not as an arriving alien under § 212(a)(7)(A)(i)(I).” *Id.*; Ex. 1 (Notice to Appear; charged with § “212(a)(6)(A)(i)”). Thus, Petitioner is entitled to a bond hearing under 8 U.S.C. § 1226(a). *See Hernandez Lara v. Lyons*, 10 F.4d 19, 41 (1st Cir. 2021) (“in order to continue detaining [Petitioner] under [8 U.S.C. §] 1226(a), due process requires the government to either (1) prove by clear and convincing evidence

that [h]e poses a danger to the community or (2) prove by a preponderance of the evidence that [h]e poses a flight risk”).

*Second*, Petitioner’s detention without a bond hearing violates the Due Process Clause as a noncitizen with the SIJ status. “SIJ designees stand much closer to lawful permanent residents than to aliens present in the United States for a few hours before their apprehension.” *Rodriguez*, 747 F. Supp. 3d at 918 (quoting *Osorio-Martinez v. AG United States*, 893 F.3d 153, 174 (3d Cir. 2018)). In light of the SIJ grantee status, Petitioner “is entitled to procedural due process under the Fifth Amendment. Procedural due process mandates that [Petitioner] receives a prompt, individualized bond hearing.” *Id.* at 919.

Petitioner further alleges as follows:

#### **PARTIES**

1. Petitioner Jaime Ivan Duchi-Naula is a noncitizen from Ecuador who resides in Medway, Massachusetts, and is currently detained by Respondents at Federal Correctional Institution (FCI) Berlin in Berlin, New Hampshire.

2. Respondent E.L. Tatum, Jr. is the warden of FCI Berlin, and he is being sued in his official capacity as the warden. He is Petitioner’s immediate custodian.

3. Respondent Patricia Hyde is the Acting Boston Field Office Director, U.S. Immigration and Customs Enforcement, and she is being sued in her official capacity. She is Petitioner’s legal custodian.

4. Respondent Todd Lyons is the Acting Director, U.S. Immigration and Customs Enforcement, and he is being sued in his official capacity. He is Petitioner’s legal custodian.

5. Respondent Kristi Noem is the Secretary of U.S. Department of Homeland Security, and she is being sued in her official capacity. She is Petitioner’s legal custodian.

6. Respondent Pamela J. Bondi is the United States Attorney General, and she is being sued in her official capacity. She oversees Immigration Judges and the Board of Immigration Appeals. She is also Petitioner's legal custodian.

#### **JURISDICTION AND VENUE**

7. The Court has jurisdiction under 28 U.S.C. § 1331, 2241 (habeas corpus) and Article I, Section 9, Clause 2 of the U.S. Constitution ("Suspension Clause").

8. Venue is proper in the District of New Hampshire because Petitioner is currently detained at FCI Berlin in Berlin, New Hampshire, which is in the territorial jurisdiction of this Court. 28 U.S.C. § 1391; *Vasquez v. Reno*, 233 F. 3d 688, 696 (1st Cir. 2000)..

#### **FACTS**

9. Petitioner is 21 years old and from Ecuador. Ex. 2 at 19.

10. Petitioner entered the United States on or about December 26, 2022 without lawful entry near the Texas-Mexico border. Ex. 2 at 127-128.

11. Petitioner was paroled into the United States on December 27, 2022. Ex. 2 at 128.

12. Since arrival in the United States, Petitioner has resided in Massachusetts.

13. Petitioner has applied for asylum, withholding of removal, and protection under the Convention Against Torture (CAT). Petitioner has also applied for the Special Immigrant Juvenile (SIJ) visa process.

14. On June 11, 2024, USCIS approved Petitioner's Form I-360, the SIJ petition. Ex. 2 at 25. USCIS also granted deferred action, which has not been revoked or terminated despite the recent changes to the USCIS policies to discontinue the issuance of deferred action for SIJ cases moving forward. *Id.*

15. In the United States, Petitioner has developed a career in construction and landscaping, most recently as a subcontractor in roofing.

16. Petitioner has substantial ties to the United States, particularly in Massachusetts, including his cousin, extended family, friends, and coworkers.

17. Petitioner has no crime in the United States or elsewhere. *See, e.g., Ex. 2* at 124 (“Subject has no criminal history in the United States.”).

18. On May 13, 2025, Respondents encountered and arrested Petitioner during a worksite operation with “a Warrant of Arrest (Form I-200) at the location.” *Ex. 2* at 124.

19. On or about May 22, 2025, Respondents transferred Petitioner to FCI Berlin in Berlin, New Hampshire.

20. Subsequently, Respondents filed a notice to appear (charging document) against Petitioner in the Chelmsford Immigration Court in Massachusetts.

21. On May 30, 2025, Petitioner filed a motion for a bond hearing. *Ex. 2*.

22. On June 9, 2025, the IJ denied the motion because the IJ found that Petitioner was “statutorily ineligible for IJ custody redetermination” pursuant to *Matter of Q.LI*, 29 I. & N. Dec. 66 (B.I.A. 2025). *Ex. 3*.

23. On June 16, 2025, the IJ terminated Petitioner’s removal proceedings without prejudice because the charging document “contain[ed] the wrong name and A number.” *Ex. 4*.

24. On June 17, 2025, Respondents refiled the notice to appear. *Ex. 1*.

25. According to this new charging document, Respondents charged Petitioner under the Immigration and Nationality Act (INA) § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), and classified him as a noncitizen “present in the United States who has not been admitted or paroled” instead of “an arriving alien.” *Ex. 1*.

**CLAIMS FOR RELIEF**

**COUNT 1**

**8 U.S.C. § 1226 & 8 C.F.R. § 1236.1(d)(1)**

26. The foregoing allegations are realleged and incorporated herein.

27. Although Petitioner was classified as an arriving alien at the time of his initial entry to the United States, the SIJ status changed the classification to “an immigrant who is present in the United States.” *Rodriguez v. Perry*, 747 F. Supp. 3d 911, 916 (E.D. Va. 2024) (quoting 8 U.S.C. § 1101(a)(27)(J)).

28. “Because [Petitioner] was awarded SIJ status [o]n [June 11, 2024], which converted him from being an arriving alien to an alien present in the United States, he [i]s entitled to a bond hearing . . . under § 1226(a).” *Id.*: 8 C.F.R. § 1236.1(d)(1) (a right to a bond hearing).

**COUNT 2**

**U.S. CONSTITUTION - FIFTH AMENDMENT**

29. The foregoing allegations are realleged and incorporated herein.

30. The Due Process Clause of the Fifth Amendment to the United States Constitution provides that “[n]o person shall . . . be deprived of life, liberty, or property, without due process of law.” U.S. Const. amend V.

31. “SIJ designees stand much closer to lawful permanent residents than to aliens present in the United States for a few hours before their apprehension.” *Rodriguez*, 747 F. Supp. 3d at 918 (quoting *Osorio-Martinez v. AG United States*, 893 F.3d 153, 174 (3d Cir. 2018)). In light of the SIJ grantee status, Petitioner “is entitled to procedural due process under the Fifth Amendment. Procedural due process mandates that [Petitioner] receives a prompt, individualized bond hearing.” *Id.* at 919.

32. This relief is further warranted when Petitioner's removal has been deferred through USCIS's grant of the deferred action. Ex. 2 at 25 ("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 period of "four years from" June 11, 2024).

**PRAYER FOR RELIEF**

Petitioner asks that this Court grant the following relief:

- (1). Assume jurisdiction over this matter;
- (2). Issue a Writ of Habeas Corpus directing Respondents to provide a bond hearing at which Respondents justify his detention under 8 U.S.C. § 1226(a) and the Due Process Clause;
- (3). Order any further relief this Court deems just and proper.

Respectfully submitted this 29th day of June 2025.

Jaime Ivan Duchi-Naula,

By and through his Counsel,

*/s/ SangYeob Kim*

Gilles R. Bissonette (NH Bar: 265393)

SangYeob Kim (NH Bar: 266657)

Chelsea Eddy (NH Bar: 276248)

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