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 No.: 1:25-cv-78-LM-**TSM**

PETITIONER'S SUPPLEMENTAL BRIEF ON THE COURT'S QUESTIONS

INTRODUCTION

In the July 3, 2025 order, the Court directed Petitioner to address the following questions: (i) Petitioner "shall be prepared to address *Sanchez v. Mayorkas*, 593 U.S. 409 (2021), and *Murillo-Chavez v. Bondi*, 128 F.4th 1076, 1085 (9th Cir. 2025)" for the questions of "whether the petitioner is no longer an 'applicant for admission' on the basis of his SIJ [Special Immigrant Juvenile] status and is therefore no longer subject to mandatory detention under 8 U.S.C. § 1225(b)," and (ii) Petitioner "shall be prepared to discuss whether, assuming petitioner remains an applicant for admission despite his SIJ status, he has a due process right to a bail hearing either because (1) his detention has become unreasonably prolonged despite lasting less than two months . . ., or (2) his SIJ status give him a due process right to a bail hearing regardless of whether his detention has become unreasonably prolonged." Document Number (DN) 11 at 1-2. Petitioner submits this brief to answer these questions before the July 7, 2025 hearing.

ARGUMENT

I. NEITHER *SANCHEZ V. MAYORKAS*, 593 U.S. 409 (2021) NOR *MURILLO-CHAVEZ V. BONDI*, 128 F.4TH 1076 (9TH CIR. 2025) ANSWER THE DISPOSITIVE QUESTION OF WHETHER PETITIONER IS DETAINED UNDER EITHER 8 U.S.C. § 1225(B) OR 8 U.S.C. § 1226(A).

Neither the Supreme Court's decision in *Sanchez v. Mayorkas*, 593 U.S. 409 (2021) nor the Ninth Circuit's decision in *Murillo-Chavez v. Bond*, 128 F.4th 1076 (9th Cir. 2025) answer the dispositive question of whether Petitioner is detained under either 8 U.S.C. § 1225(b) or 8 U.S.C. § 1226(a). Indeed, to be clear, Petitioner is *not* arguing that the approval of the SIJ petition renders him *admitted* to the United States where this admission makes Section 1225(b)'s mandatory detention provisions inapplicable.

In *Sanchez*, the Supreme Court held that "[t]he TPS statute permits him to remain in the country; and it deems him in nonimmigrant status for purposes of applying to become an LPR"

but "the statute does not constructively 'admit' a TPS recipient – that is, 'consider[] him as having entered the country 'after inspection and authorization.'" *Sanchez*, 593 U.S. at 416. Similarly, in *Murillo-Chavez*, the Ninth Circuit held that the SIJ designee did not render the petitioner admitted. 128 F.4th at 1085-86. However, once again, Petitioner does *not* claim that his SIJ designation (i.e., the approval of his SIJ petition) has rendered him "admitted." Here, even assuming that the SIJ designation does not render Petitioner "admitted" – a question this Court need not answer[1]—8 U.S.C. § 1225(b) detention does not apply to him because the approval of the SIJ petition after his parole into the United States rendered him detained under 8 U.S.C. § 1226(a).

As a preliminary matter, there are two detention statutes for an arriving alien: 8 U.S.C. § 1225(b)(1) and 8 U.S.C. § 1225(b)(2). Respondents appear to suggest that Petitioner was initially detained under both 8 U.S.C. § 1225(b)(1) and 8 U.S.C. § 1225(b)(2) (or, at best, Respondents do not clarify this). Govt's Br. at 3. Thus, because "[w]hen parole granted by DHS is terminated, 'the alien shall forthwith return or be returned to the custody from which he was paroled[,]" Respondents claim that Petitioner is now detained under both statutes. Govt's Br. at 4-5 (quoting *Matter of Q.LI*, 29 I. & N. Dec. 66, 69-70 (2025)); 8 U.S.C. § 1182(d)(5)(A) ("when the purposes of such parole shall . . . have been served the alien shall forthwith return or be returned to the custody from which he was paroled"); 8 C.F.R. § 212.5(e)(2)(i). However, Petitioner could not have been detained under two separate and distinct detention authorities. 8 U.S.C. § "1225(b) differentiates between the 'inspection' of applicants for admission described in (b)(1) and those described in (b)(2)." *Bollat Vasquez v. Mayorkas*, 520 F. Supp. 3d 93, 109 (D. Mass. 2021) (citing *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018)). There is "no statutory language authorizing the

[1] Because the First Circuit has not opined on the question presented in the Ninth Circuit's *Murillo-Chavez* decision, Petitioner does not ask that this Court answer this question definitively. Instead, for the purpose of this habeas petition, Petitioner assumes that he has not been "admitted" even with the SIJ designation.

government to re-categorize an applicant for admission between (b)(1) and (b)(2)[.]" *Id.* at 110. In other words, "(b)(1) and (b)(2) are different groups." *Id.* at 110; *Innovation Law Lab v. Wolf*, 951 F.3d 1073, 1083 (9th Cir. 2020) (same).

Regardless of which detention provision of Section 1225(b) applies, the approval of the SIJ petition after his parole into the United States render him to be detained under 8 U.S.C. § 1226(a)—not 8 U.S.C. § 1225(b)(1) or (b)(2) when Respondents rearrested him pursuant to the administrative arrest warrant. DN 3 ("pursuant to [8 U.S.C. § 1226,] 236 and 287"); *cf.* 8 U.S.C. § 1226(a) ("On warrant issued by the Attorney General, an alien may be arrested and detained. . . ."). Section 1225(a)(1) defines that a noncitizen "present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed . . . an applicant for admission." And Respondents' argument appears to be that because 8 U.S.C. § 1225(b)(2)(A) mandatory detention requires a noncitizen "who is an applicant for admission . . . [to be] detained for" removal proceedings under 8 U.S.C. § 1229a or that, because 8 U.S.C. § 1225(b)(1)(B)(ii) requires a noncitizen to be "detained for further consideration of the applicant for asylum[,]" Petitioner's rearrest returned his detention status to the earlier mandatory detention. However, Respondents' reading that all noncitizens who have not been admitted to the United States shall be mandatorily detained is erroneously broad. This is because another detention statute, 8 U.S.C. § 1226, also covers noncitizens who have not been admitted to the United States. *See Vazquez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 U.S. Dist. LEXIS 78395, at *39 (W.D. Wash. Apr. 24, 2025) ("[I]f the immigration court's interpretation of Section 1225 is correct and its mandatory detention provisions apply to 'all noncitizens who have not been admitted . . . then it would render superfluous provisions of Section 1226 that apply to certain categories of inadmissible noncitizens."). Thus, Section 1225(b)(2)(A) should be narrowly interpreted. *See id.* at *36-37

(agreeing that "the phrase 'a[] [noncitizen] seeking admission' in Section 1225(b)(2)(A) should be read to narrow mandatory detention under that subsection to noncitizens who are apprehended while seeking to enter the country").

For Petitioner, 8 U.S.C. § 1255(h)(1) provides that a SIJ designee "shall be deemed . . . to have been paroled into the United States" for the purpose of adjusting his immigration status to lawful permanent resident. 8 U.S.C. § 1255(h)(1). Thus, Petitioner's prior parole status as an arriving alien "expired once his SIJ application was approved[.]" *Diaz-Calderon v. Barr*, No. 2:20-CV-11235-TGB, 2020 U.S. Dist. LEXIS 173509, at *33 (E.D. Mich. Sep. 22, 2020). Based on the narrow reading of 8 U.S.C. § 1225(b)(2), Petitioner is no longer the type of noncitizen seeking entry at the border and thus should be detained under 8 U.S.C. § 1226(a). *See* 8 U.S.C. § 1101(a)(27)(J) (defining SIJ as "an immigrant present in the United States").

This reading of Section 1225(b) and Section 1226(a) is consistent with Congressional intent on the SIJ designation. "Once attained, SIJ classification conveys a host of important benefits." *Osorio-Martinez v. AG United States*, 893 F.3d 153, 163 (3d Cir. 2018). These benefits include "various forms of support within the United States, such as access to federally funded educational programming and preferential status when seeking employment-based visas." *Id.* Obviously, a SIJ designee has to be released from detention to enjoy the privilege and benefits Congress provided. But Section 1225(b) requires noncitizens to be mandatorily detained. It is illogical to assume that Congress required a SIJ designee to be mandatorily detained, but at the same time, expect him or her to enjoy the exceptional benefits Congress provided.

II. SIJ STATUS GIVES PETITIONER CONSTITUTIONAL RIGHT TO A BAIL HEARING.

Even assuming that Petitioner is detained under 8 U.S.C. § 1225(b), the SIJ status provides Petitioner a constitutional right to a bail hearing to contest his detention regardless of whether his

detention becomes prolonged. As explained above, it is undisputed that Congress created a special class of the SIJ. *See Osorio-Martinez*, 893 F.3d at 168. Petitioner, as a SIJ designee, "enjoy[s] at least 'minimum due process rights' by virtue of [his] SIJ designation" that distinguishes Petitioner's prior status as an arriving alien seeking admission at the border. *Osorio-Martinez*, 893 F.3d at 173-74 ("the children's statutory rights and attendant constitutional rights as SIJ designees bespeak a substantial legal relationship between them and the United States—a relationship far more significant than what we considered upon the petitioners' initial entry in *Castro*"). Again, Petitioner is unaware of Congressional intent to mandatorily detain SIJ designees as uniquely classified individuals to be mandatorily detained while being removed, like those seeking entry at the border without visa documents or those having serious convictions rendering them ineligible for most immigration relief and deportable. As the Third Circuit explained, "Congress granted SIJ designees a clear set of rights, including eligibility to apply for adjustment to LPR status, protection against having their SIJ status revoked without statutorily prescribed process, and the due process rights that automatically attach to statutory rights." *Osorio-Martinez*, 893 F.3d at 178. "Yet each of these rights and protections would be summarily stripped from Petitioner[]" if he is mandatorily detained for the next four years under the deferred action or until his visa for lawful permanent resident becomes available. *Id.* at 179. While Petitioner acknowledges that there is little caselaw directly addressing a case like Petitioner's, this is because it is rare for the Government to detain a noncitizen like Petitioner. *See* DN 10-1. At a minimum, Petitioner's claim that mandatory detention without a bond hearing is unconstitutional as applied to him demonstrates a substantial claim of constitutional error. *See Osorio-Martinez*, 893 F.3d at 178 ("likelihood of success on the merits . . . is easily established given the incompatibility of expedited orders of removal with the statutory and constitutional rights of SIJ designees").

Date: July 5, 2025

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