IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

ALFA CHAVEZ ALVAREZ, et al., Petitioners, v. KRISTI NOEM, *et al.*, Respondents.	Case No. 25-cv-11853

PETITIONERS' REPLY IN SUPPORT OF THEIR PETITION FOR WRIT OF HABEAS CORPUS AND TRO REQUEST

INTRODUCTION

Respondents' challenges to the Court's ability to hear this case fail, and Respondents' arguments on the merits rely on an incorrect reading of 8 U.S.C. § 1225 and § 1226.

ARGUMENT

I. Respondents' Threshold Justiciability Arguments Fail.

A. Chavez Alvarez's Case is Not Moot.

While Respondents have released Chavez Alvarez and her two minor children from custody on an ankle monitor, their claims are not moot. The Seventh Circuit has recognized that a habeas petition under Section 2241 "does not require actual physical restraint to establish custody" for purposes of Section 2241. *Vargas v. Swan*, 854 F.2d 1028, 1030 (7th Cir. 1988). Instead, "[w]hether someone who is not under physical constraint can be considered in custody depends on the amount of restriction placed on his or her individual liberty." *Id.* Release "that it is conditional and revocable if the terms of the parole are violated, … [is] sufficiently confining to qualify as custody." *Id.* Accordingly, under *Vargas,* Chavez Aguilar remains "in custody."

Moreover, Respondents have not met their burden of demonstrating mootness. "[A] defendant's voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice." *Friends of the Earth, Inc. v. Laidlaw Env't Servs., Inc.*, 528 U.S. 167, 189 (2000). The burden for proving mootness is stringent, and the burden of proving "that the challenged conduct cannot reasonably be expected to recur lies with the party asserting mootness." *N. Texas Equal Access Fund v. Thomas More Soc'y*, 728 F. Supp. 3d 887, 898–99 (N.D. Ill. 2024) (internal cites omitted). Respondents voluntarily ceased holding Chavez Alvarez, but there is no indication that they would not resume doing so, or that they would not repeat their conduct of taking her into custody without any changes in her personal circumstances. Under these circumstances, their claim is not moot.

B. Section 1252(g) Does Not Bar Jurisdiction in Ambrosio's Case.

Respondents' reliance on 8 U.S.C. § 1252(g) fails. Section 1252(g)'s application is narrow: It "limits review of cases 'arising from' decisions 'to commence proceedings, adjudicate cases, or execute removal orders,'" and the Supreme Court has "rejected as 'implausible'" any claim that it covers "all claims arising from deportation proceedings." *DHS v. Regents of the Univ. of California*, 591 U.S. 1, 19 (2020) (quoting *Reno v. American-Arab Anti–Discrimination Comm. (AADC)*, 525 U.S. 471, 482 (1999)). Respondents claim that this Court lacks jurisdiction under Section 1252(g) because they detained Ambrosio "based on" and "in order to execute" his "reinstated removal orders." Dkt. 14, p. 2, 10.[1] That claim is flawed both legally and factually.

First, this contention is counterfactual. Respondents detained Ambrosio in Millennium Park while on an outing with his children, and Respondent Bovino has admitted that such actions were based on an individual arrestee's appearance. *See* Chip Mitchell, "Transcript: Gregory Bovino says arrestees in Downtown Chicago chosen based partly on 'how they look,'" WBEZ Chicago (Sept. 30, 2025).[2] Moreover, Respondents detained Ambrosio two years *after* they encountered him at the border and placed him in standard removal proceedings, prior removal orders notwithstanding. There is no evidence whatsoever that Respondents targeted Ambrosio for detention *because* he has a prior order.

More importantly, Respondents statements about reinstatement fail because Ambrosio is currently in regular removal proceedings. The government is not required to reinstate a prior removal order; such an action is discretionary. *See, e.g.*, *Perez-Guzman v. Lynch*, 835 F.3d 1066,

[1] Page references in this document are to internal pagination.
[2] Available at https://www.wbez.org/immigration/2025/09/30/transcript-audio-gregory-bovino-immigrant-arrests-downtown-chicago-chosen-how-they-look

1081 (9th Cir. 2016) ("[T]he government has discretion to forgo reinstatement and instead place an individual in ordinary removal proceedings."); *Villa-Anguiano v. Holder*, 727 F.3d 873, 879 (9th Cir. 2013) (same). Ambrosio's original removal order was not reinstated when he was initially encountered at the border in 2023 or at any point since. To the contrary, Respondents do not dispute that Ambrosio is in full removal proceedings—he is set for a hearing on October 4, 2027. If Respondents wish to dismiss those proceedings, they must move to do so and demonstrate that such action is appropriate under criteria spelled out by regulation. 8 C.F.R. § 239.2(c) (providing that, after a case has begun, ICE "may move for dismissal" if one of several enumerated grounds is satisfied). In that case, Ambrosio would be entitled to notice and an opportunity to respond. *See* 8 C.F.R. § 1003.23(a) (requiring motions be made in writing except with leave of judge); Immigration Court Practice Manual § 3.1(b)(1)(A)-(B) (outlining opportunity to respond to motions). None of that has occurred. As such, Respondents cannot rely on their hypothetical future reinstatement of Ambrosio's prior order to suggest that Section 1252(g) bars jurisdiction now.

In any event, courts have consistently recognized that challenges to the legality of a noncitizen's detention are independent of removal-based claims and not barred by Section 1225(g). *See, e.g., Carrera-Valdez v. Perryman*, 211 F.3d 1046, 1047 (7th Cir. 2000) ("[N]othing in § 1252(g) precludes review of the decision to confine."); *Hamama v. Adducci*, 912 F.3d 869 (6th Cir. 2018) (acknowledging that "the district court had jurisdiction over the detention-based claims and that this jurisdiction is an independent consideration that is not tied to whether the district court has jurisdiction over the removal-based claims.").[3] Further, Section 1252(g) does not prohibit

[3] In *Hamama*, the Sixth Circuit ultimately concluded that the detention-related claims were also barred from review; but that was because 8 U.S.C. § 1252(f)(1) bars claims seeking class-wide, non-habeas, injunctive relief, something Petitioner does not seek. *Hamama*, 912 F.3d at 877.

purely legal challenges that do not challenge the Attorney General's discretionary authority. *United States v. Hovespian*, 359 F.3d 1144, 1155 (9th Cir. 2004) (en banc); *Kong v. United States*, 62 F.4th 608, 617 (1st Cir. 2023) (Section 1252(g) does not bar review of the "lawfulness" actions that are "collateral" to the discretionary decisions immunized by that provision.).

Respondents' arguments and citation to the contrary are unavailing. They rely primarily on *E.F.L. v. Prim*, 986 F.3d 959 (7th Cir. 2021), which is inapplicable. In *E.F.L.*, a noncitizen sought habeas relief after the conclusion of removal proceedings in which an order of removal was issued, based on a separate application for administrative relief before the United States Citizenship and Immigration Service (USCIS). *Id.* at 961-62. The court found this claim barred by Section 1252(g) because it merely sought to prevent the execution of the removal order "while [the noncitizen] seeks administrative relief." *Id.* at 964. But Ambrosio is not attempting to prevent execution of the removal order while he "seeks administrative relief" before USCIS. He challenges the legality of his detention while he has pending regular removal proceedings and has not received individualized consideration for release that should be afforded to people in that position.

Instead, Petitioner's case is closer to *Fornalik v. Perryman*, 223 F.3d 523 (7th Cir. 2000), which *E.F.L.* acknowledges and distinguishes. *E.F.L.*, 986 F.3d at 964. In *Fornalik*, the court exercised jurisdiction over a noncitizen's habeas petition where Chicago INS (now DHS) officials decided to execute a noncitizen's removal order in contravention of an earlier decision by Vermont INS officials who had granted deferred action, notwithstanding that removal order. *Id.* at 528. The court explained that "the INS is the INS" and that one component of INS could not "simply ignore" the actions of the other. *Id.* at 530. In 2023, DHS placed Ambrosio in full removal proceedings

and released him on recognizance, his prior removal notwithstanding. DHS cannot now claim to have detained Ambrosio to "execute" a prior order when they have not in fact done so.

Respondents' remaining cases are also inapposite. None involves an attempt by the government to enforce a prior removal order while separate removal proceedings are ongoing. In fact, all of them involve a removal order issued after proceedings before the immigration judge had concluded. And none involve a situation, like here, where the government's decision to detain conflicts with its own earlier decision to release. Further, several cases do not even involve individuals seeking habeas relief from allegedly unlawful detention. *See Silva v. United States*, 866 F.3d 938 (8th Cir. 2017) (FTCA); *Foster v. Townsley*, 243 F.3d 210 (5th Cir 2001) (*Bivens*). Many cases arising in those different contexts acknowledge that habeas relief would be available notwithstanding any limits on judicial review of *Bivens* or FTCA claim. *See, e.g.*, *Khorrami v. Rolince*, 493 F. Supp. 2d 1061, 1069 (N.D. Ill. 2007) ("[Petitioner] had a remedy available to him" apart from *Bivens*: "he could have raised his challenges in a petition for habeas corpus.").

C. The Government's Custodian Arguments Are Incorrect.

Respondents' argument that Petitioners sued Ambrosio's incorrect custodian likewise fail. Though Respondents initially agreed that Ambrosio was detained in Broadview, Illinois, they have since changed their position. Respondents now represent that Ambrosio was in transit at the time of the habeas filing. *See* Dkt. 9. Taking Respondents' representations as accurate, Ambrosio was "booked out" of the Broadview facility at 9:46 A.M. on September 29, 2025, and booked into the Port Isabel Service Processing Center at 10:35 P.M. *See id.* In the intervening hours (including when Petitioners submitted their filing), Ambrosio was driven to Gary, Indiana, flown to Indianapolis, Indiana, and then flown to Harlingen, Texas. Dkt. 9-1, Morales Decl.

For individuals in jail, "there is generally only one proper respondent to a given prisoner's habeas petition," who is the "immediate custodian." *Padilla v. Rumsfeld*, 542 U.S. 426, 434–35 (2004). The immediate custodian is generally "the person having a day-to-day control over the prisoner." *Robledo-Gonzales v. Ashcroft*, 342 F.3d 667, 673 (7th Cir. 2003) (quoting *Guerra v. Meese*, 786 F.2d 414, 416 (D.C. Cir. 1986)). For someone not in jail, the custodian can be someone else, even a court. *See, e.g., Braden v. 30th Judicial Circuit Court*, 410 U.S. 484, 495 (1973). The Seventh Circuit says courts should look for "someone (or some institution) who has both an interest in opposing the petition if it lacks merit, and the power to give the petitioner what he seeks if the petition has merit." *Reimnitz v. State's Att'y of Cook Cnty.*, 761 F.2d 405, 409 (7th Cir. 1985).

When this habeas was initiated, Ambrosio was either in air or at the airport in Harlingen, Texas.[4] He was not received at the Texas facility until hours later, so that warden is an unlikely custodian. Respondents do not assert that any other person was the immediate custodian at the time of filing. The pilot or transport officer would not be a likely custodian, since they exercised only brief control. *See Yacobo v. Achim*, No. 06-cv-2432, 2007 WL 1238918, at *2 (N.D. Ill. Apr. 27, 2007) (custodian "must not merely exercise control over the Petitioners *at the moment of filing*; rather, the proper respondent must exercise day-to-day control over the Petitioners at the time of filing.") (emphasis in original).

Immigration authorities did not allow Ambrosio to receive calls on September 29 or allow him to communicate with his wife and children as to his whereabouts. Indeed—given Respondents

[4] To the extent it is relevant, the initiation of a habeas matter involves two-steps: first, the case is "created"; then, the habeas petition is filed. *See* https://www.ilnd.uscourts.gov/_assets/_documents/_forms/_cmecf/Opening%20a%20Civil%20Case%20in%20CMECF.pdf. Counsel for Petitioners "created" the case at 3:43 P.M. on September 29, 2025.

representations to Judge Harjani—it appears that Respondents' systems did not enable even Respondents' own counsel to accurately know and confirm his location at the time of the filing and hearing on September 29, 2025. Petitioners do not allege bad faith on the part of the Respondents, but the unique circumstances of this situation call for the applicability of exceptions to the immediate custodian rule.

In particular, the Supreme Court has held that when a prisoner is held "in an undisclosed location by an unknown custodian, it is impossible to apply the immediate custodian and district of confinement rules." *Padilla*, 542 U.S. at 450 n.18. Yet it cannot be the case that individuals are barred from seeking habeas corpus for hours or days until they reach a new destination; that would not only frustrate the purpose of the writ, but it would also be inconsistent with its history. 3 W. Blackstone, Commentaries *131 ("[T]he sovereign is at all times entitled to have an account, why the liberty of any of her subjects is restrained," "not only in term-time, but also during the vacation"); *Khalil v. Joyce*, 777 F. Supp. 3d 369, 410 (D.N.J. 2025) ("The implication of not applying the unknown custodian exception" in such circumstances would be that "the Petitioner, detained in the United States, would not have been able to call on any habeas court.").

In the "unknown custodian" context, many courts permit naming the ultimate custodian, rather than the immediate custodian. *See, e.g.*, *United States v. Moussaoui*, 382 F.3d 453, 465 (4th Cir. 2004) (citing *Demjanjuk v. Meese*, 784 F.2d 1114, 1116 (D.C. Cir. 1986) (Bork, J., in chambers)). In that circumstance, Respondent Lyons (Acting Director of ICE) is the custodian.

Alternatively, if this case were treated more like the non-custodial setting described above, Respondent Olson would be considered Ambrosio's ultimate custodian. That is because at the time of the initiation of the habeas matter with this Court, removal proceedings were pending against

Ambrosio in Chicago; he had been arrested in Chicago; agents of the ICE Chicago Field Office were transporting Ambrosio elsewhere; and other agents of the Field Office were detaining his wife and children. As the Chicago Field Office Director, Olson was the one person with the most direct control over Ambrosio at that point. Respondents have suggested no other individual with a stronger claim to be custodian. The Court should decline to dismiss on this basis.

II. Respondents' Claims on the Merits Fail.

A. Respondents Are Not Properly Detained under Section 1225(b)(2).

Respondents' response to Petitioners' statutory argument fails to meaningfully distinguish between detention under Section 1225 and 1226. Federal courts, including the Supreme Court, have long held that detention under Section 1225 applies to those at the border while Section 1226 applies to those already present in the United States. In *Jennings*, the Supreme Court held that Section 1225 authorizes the Government "to detain certain [noncitizens] seeking admission into the country," while Section 1226 "authorizes the Government to detain certain [noncitizens] already in the country." 583 U.S. at 289. *Jennings* therefore forecloses Respondents' position. *See, e.g.*, *Lopez Benitez*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025) at *8 ("[T]he line historically drawn between sections 1225 and 1226, which makes sense of their text and the overall statutory scheme, is that section 1225 governs detention of non-citizens 'seeking admission into the country,' whereas section 1226 governs detention of non-citizens 'already in the country.'") (cleaned up) (citing *Jennings*, 583 U.S. at 288-89); *Martinez v. Hyde*, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) ("The idea that a different detention scheme would apply to non-citizens 'already in the country,' as compared to those 'seeking admission into the country,' is consonant with the core logic of our immigration system ") (cleaned up) (citing *Jennings*, 583 U.S. at 289).

Further, Respondents do not dispute that, upon entry, Petitioners were released and placed in regular removal proceedings. The Department of Homeland Security (DHS) charged Petitioners as being "*present* in the United States without being admitted or paroled." *See* Exs. A-D. Notices to Appear (emphasis added). In other words, Petitioners were not "arriving" at a border when they were apprehended. Nor do Respondents dispute that following entry, Petitioners were detained, placed in standard removal proceedings, and released on their own recognizance under Section 1226(a)(2)(B). But for recent illegal and counterfactual policy choices, these facts render Petitioners eligible for release on bond. Indeed, legacy INS (now DHS) explicitly stated that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) *will be eligible for bond and bond redetermination*." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (emphasis added). Respondents have no retort to this historical position.

Instead, Respondents repeat the novel interpretation of Section 1225 as applying *within* the United States that the government has taken since July 2025 and has been affirmed in *Matter of Yajure Hurtado*, 25 I. & N. Dec. 216 (BIA 2025). *See, e.g.*, Dkt. 14, p. 17-23. But as discussed in Petitioners' motion and petition, that reading is contrary to the plain language of the INA and nullifies various provisions of Section 1226—including amendments made earlier this year—that allow individuals who entered the United States outside of a port of entry to be considered for release on bond. Dkt. 1, p. 7-8, Dkt. 2-1, p. 5-7. Respondents' reading is also impermissible in that it ignores congressional intent, regulatory text, and decades of agency practice. *See id.* at 1, p. 5-6; 2-1, p. 7-9. The result is that the reading that Respondents advance violates the INA. And detention that is contrary to statutory authority violates the due process clause, which applies to

all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693 (emphasis added).

Indeed, dozens of courts across the country have overwhelmingly rejected the government's novel interpretation of Section 1225 as incompatible with the statutory text and have found resulting detention thus in violation of due process. *See, e.g., Beltran Barrera v. Tindall,* 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025) (holding that the title of Section 1225 which references "arriving" noncitizens, Supreme Court precedent in *Jennings* that Section 1226 is the default rule and applies to noncitizens already present in the United States, and the recent amendments to Section 1226 in the Laken Riley Act, all support argument that petitioner is detained under Section 1226); *Lopez Benitez*, 2025 WL 2371588 at *5–8 (analyzing "the plain text of the statute" and reaching the same conclusion); *Samb v. Joyce*, 2025 WL 2398831, at *3 (S.D.N.Y. Aug. 19, 2025) (following *Lopez*); *Doe v. Moniz*, 2025 WL 2576819 at *4-5 (D. Mass. Sept. 5, 2025) ("Respondents' argument that Section 1225's detention provisions apply is a nonstarter[.]"); *Romero v. Hyde*, 2025 WL 2403827, at *1 (D. Mass. Aug. 19, 2025) (collecting cases and concluding that "the interpretation [of Section 1225] being advanced by the Government, which would require the mandatory detention of hundreds of thousands, if not millions, of individuals currently residing within the United States, is contrary to the plain text of the statute"); *Leal-Hernandez v. Noem*, 2025 WL 2430025, at *2 (D. Md. Aug. 24, 2025) ("The Government appears willfully blind to the operation of 8 U.S.C. § 1226(a)"); *Kostak v. Trump*, 2025 WL

2472136, at *3 (W.D. La. Aug. 27, 2025) ("Respondents' interpretation of Section 1225 would render Section 1226 unnecessary").[5]

Not only do Respondents advance a position that leaves multiple provisions of Section 1226 with no work to do, they also "completely ignore or even read out the term 'seeking' from 'seeking admission.'" *Beltran Barrera v. Tindall,* 2025 WL 2690565, at *4. The court in *Beltran Barrera* noted that "'seeking' implies action and that those who have been present in the country for years are not actively 'seeking admission.'" *Id.* (cleaned up). If, as Respondents contend, *see* Dkt. 14, p. 18-20, 22-23, admission can only mean a lawful entry, then those who already entered into the United States unlawfully cannot be said to be seeking a lawful entry. *See id.; see also Lopez-Campos v. Raycraft*, 2025 WL 2496379, at *7 ("There is nothing in the record to suggest that he ever attempted to gain lawful entry (e.g. lawful status in this country) until he was apprehended and detained. Therefore, the Court finds that 1225(b)(2)(A) applies when people are being inspected, which usually occurs at the border, when they are seeking lawful entry into this country. … There is no logical interpretation that would find that [Petitioner] was actively "seeking admission" after having resided here, albeit unlawfully, for twenty-six years."). Because Petitioner is not "seeking admission" he is not subject to mandatory detention under Section 1225.

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[5] *See also Lopez-Campos v. Raycraft*, 2025 WL 2496379, at *5 ("The plain language of the statutes, the overall structure, the intent of Congress, and over 30 years of agency action make clear that Section 1226(a) is the appropriate statutory framework for determining bond for noncitizens who are already in the country[.]"); *Anicasio v. Kramer*, 2025 WL 2374224, at *2 (D. Neb. Aug. 14, 2025) ("Courts have repeatedly held that § 1225 applies to arriving aliens, while § 1226 governs detention of 'noncitizens] already in the country.'"); *Mosqueda v. Noem*, 2025 WL 2591530, at *4-5 (C.D. Cal. Sept. 8, 2025) ("The Court agrees with petitioners that the plain text of section 1226(a) applies to them . . . The Court disagrees with respondents' contention that Congress intended to create a conflict between juxtaposing sections of the same statute."); *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *7 (E.D. Mich. Sept. 9, 2025) (collecting 15 cases).

Respondents attempt to justify their position by pointing to the few court decisions that seemingly support their novel interpretation of Section 1225. Dkt. 14, p. 20-21. At least one case Respondents cite is inapposite because the petitioner in that case was "seeking admission" by having applied to be the beneficiary of an I-130 petition. *Id.* (citing *Pena v. Hyde*, No. 25-cv-11983-NMG, 2025 WL 2108913, at *1 (D. Mass. July 28, 2025)). The few remaining divergent cases ignore the statutory text, statutory framework, congressional intent, and longstanding agency practice that dozens of federal courts around the country have considered in rejecting Respondents' position. Dkt. 2-1, p. 7-8.

B. Respondents' Due Process Arguments are Wrong.

Respondents' due process arguments fail. Respondents argue that Petitioners' due process rights are limited because they have not effected a lawful entry. Dkt. 14, p. 11. Respondents rely on *DHS v. Thuraissigiam*, 591 U.S. 103 (2020), which held that an "applicant for admission" under Section 1225 who is "seeking initial entry" into the country "has only those rights regarding admission that Congress has provided by statute." *Id.* at 139-40. But as noted, Petitioners are not seeking initial entry and are not applicants for admission; so Respondents' placement of Petitioners in that category is incorrect and the holding in *Thuraissigiam* is inapplicable here.

Respondents argue that Section 1225 governs "applicants for admission, including those who entered the country unlawfully," and Section 1226 governs "foreign nationals who have been admitted." Dkt. 14, 15. That is not the dividing line. As discussed, Dkt. 2-1, p. 6-8, Section 1225 is limited to arriving noncitizens seeking admission at a border or port of entry, whereas multiple provisions of Section 1226 make it clear that it applies not only to those "who entered the country

lawfully" but also to people who entered without inspection and have not been admitted. *See* 8 U.S.C. § 1226(c)(1)(A), (D), (E).

Respondents' reliance on the "entry fiction," that noncitizens who arrive at ports of entry and those paroled under 8 U.S.C. § 1182(d)(5)(A) are "treated" for due process purposes "as if stopped at the border," is similarly inapplicable. Petitioners were not apprehended at a port of entry. After entering the United States, they were released into the interior on their own recognizance, under the detention framework outlined in Section 1226, and placed into full removal proceedings. Therefore, because Petitioners have "been subject to Section 1226(a)'s discretionary detention framework since [2023]," they are "not treated for due process purposes as if [they] were stopped at the border" but instead are "entitled to full due process protections." *Sampiao*, 2025 WL 2607924, at *9, n. 12 (citation omitted).

Instead, where, as here, the government has previously considered a noncitizen's facts and circumstances, determined that she is not a flight risk or danger to the community, and granted release, detaining the noncitizen anew requires an individualized determination that the noncitizen has become a danger or a flight risk. *See Jimenez v. Bostock*, No. 3:25-CV-00570-MTK, 2025 WL 2430381, at *7 (D. Or. Aug. 22, 2025) (finding revocation of release without individualized determination of danger or flight risk unlawful). Respondents' failure to do so violates due process.

III. The Remaining Injunctive Relief Factors Favor Petitioners.

Respondents' claim that Petitioners have failed to show that they are likely to suffer irreparable harm fails. Respondents do not dispute any of the authority cited by Petitioner and instead argue that Chavez Alvarez and her children are no longer detained and Ambrosio's detention "will be done with soon enough." Dkt. 14, p. 23-24. However, this ignores the fact that,

as discussed, Chavez Alvarez and her children remain in custody, and she remains subject to the physical discomfort and social stigma of GPS monitoring. Meanwhile, Ambrosio's prior removal order has not been reinstated, and it cannot be reinstated without the completion of his existing full removal proceedings, a process that would likely take some time. As such, Petitioners continue to face violations of their constitutional rights. And whatever public interest favors the detention of noncitizens, Dkt. 14, p. 24, that interest cannot outweigh the public interest in faithful application of the constitution and laws that Congress drafted.

CONCLUSION

This Court should grant the petition for writ of habeas corpus, order Chavez Alvarez's electronic monitor be removed, and order Ambrosio's release or, at minimum, afford him a prompt bond redetermination hearing with an express indication that the IJ has authority to order release.

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Respectfully submitted,

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