

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

WILLIAMS ROBYERY GUIX-MENDEZ,

Petitioner,

v.

**PETITION FOR A WRIT OF
HABEAS CORPUS**

Case No. 25-1798

JEFFREY CRAWFORD, *in his official capacity as Warden of the Farmville Detention Center*; JOSEPH SIMON, *in his official capacity as Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations Washington Field Office*; TODD LYONS, *in his official capacity as Acting Director of Immigration and Customs Enforcement*; DAREN K. MARGOLIN, *in his official capacity as Acting Director of the Executive Office of Immigration Review*; KRISTI NOEM, *in her official capacity as the Secretary of Homeland Security*; PAMELA JO BONDI, *in her official capacity as Attorney General of the United States*,

Respondents.

INTRODUCTION

1. This petition arises out of the unlawful detention of Williams Robyery Guix-Mendez (“Petitioner” or “Williams”), a 20-year-old District of Columbia resident with approved Special Immigrant Juvenile Status (SIJS). He has lived in the United States for six years, since he entered the country at the age of 14 as an unaccompanied child.

2. On September 7, 2025, immigration agents arrested Williams, without a warrant, while he was peaceably walking to his girlfriend’s apartment in Washington, D.C.

3. Petitioner remains in the physical custody of Respondents at the Farmville Detention Center in Farmville, Virginia. He now faces indefinite detention because the

Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have erroneously concluded that Petitioner is subject to mandatory detention.

4. Petitioner sought bond in front of EOIR in the Annandale Immigration Court on September 22, 2025, and was denied the opportunity for his case to be heard on the merits because the Immigration Judge determined that they lacked jurisdiction to conduct a bond hearing due to a new DHS and DOJ agency policy that all persons who entered without inspection are deemed “applicants for admission” to the United States, and are ineligible for bond determination under 8 U.S.C. § 1225. Exhibit E, Denial of Bond.

5. Section 1225(b)(2)(A) states that applicants for admission who are also “seeking admission” shall be detained for removal proceedings. Contrary to 30 years of precedent, DOJ and DHS have newly adopted the position that 8 U.S.C. § 1225(b)(2)(A) applies to *all* individuals who arrive in the United States without being admitted, regardless of previous designation as an Unaccompanied Child (UC) under the TVPRA or how long they have lived in the United States.¹

6. Section 1225(b)(2)(A) does not apply to individuals, like Petitioner, who are present in the United States, *and* who are granted special protection under the TVPRA as a recipient of Special Immigrant Juvenile Status. *See* Exhibit B, SIJS Approval Notice. Rather, Petitioners, and others like him, are subject to detention under 8 U.S.C. § 1226(a), and eligible for release on bond.

7. This novel misclassification policy is contrary to almost 30 years of settled law and practice. It violates 8 U.S.C. § 1226, the Fifth Amendment’s Due Process Clause, and the

¹ DOJ houses the immigration court system, including the Board of Immigration Appeals (BIA) and trial level immigration judges.

Administrative Procedure Act (APA). In the short time that this new policy has been in effect, courts around the country—including multiple judges in this District—have soundly rejected this interpretation as contrary to the statutory text.

8. Petitioner brings this action to prevent the government from unlawfully depriving him of liberty in violation of the law, and without due process of law.

9. Accordingly, the Petitioner seeks a writ of habeas corpus requiring that he be released immediately, or in the alternative, provided a bond hearing under § 1226(a) within seven days.

JURISDICTION AND VENUE

10. This Court has jurisdiction under 28 U.S.C. § 2241 (federal habeas statute); 28 U.S.C. § 1331 (federal question); 28 U.S.C. §§ 2201-2202 (declaratory judgment); and the United States Constitution Article I, Section 9 (Suspension Clause).

11. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

12. This Court has federal question jurisdiction through the Administrative Procedure Act (APA), to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). APA claims are cognizable on habeas petitions. *Id.* at § 703 (allowing for judicial review by “any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus”). Petitioner has a right to review under the APA as a person “adversely affected or aggrieved by agency action,” *id.* at § 702, because Respondents’ detention of Petitioner without a bond hearing has deprived him of liberty.

13. Venue is proper in this District and division pursuant to 28 U.S.C. § 2241(c)(3), 28 U.S.C. § 1391(b)(2) and (e)(1), and Local Civil Rule 3(C) because a substantial part of the events or omissions giving rise to this action occurred within this division at ICE's Washington Field Office in Chantilly, Virginia, and Annandale Immigration Court in Fairfax County. *See, e.g., Quispe-Ardiles v. Noem*, No. 1:25-cv-1382, 2025 U.S. Dist. LEXIS 194069, 2025 WL 2783800 (E.D. Va. Sept. 30, 2025) (noting the Farmville Detention Center is "within this Court's jurisdiction").

PARTIES

14. Petitioner, a 20-year-old SIJS beneficiary who entered the U.S. at age 14, resides in Washington D.C. and is detained by ICE at Farmville Detention Center.

15. Respondent Jeffrey Crawford is the Warden of Farmville Detention Center and is Petitioner's immediate custodian.

16. Respondent Joseph Simon is the Acting Washington Field Office Director for U.S. Immigration and Customs Enforcement.

17. Respondent Todd Lyons is the Acting Director for U.S. Immigration and Customs Enforcement.

18. Respondent Daren K. Margolin is the Acting Director of EOIR and has ultimate responsibility for overseeing the operation of the immigration courts and the Board of Immigration Appeals, including bond proceedings.

19. Respondent Kristi Noem is the U.S. Secretary of Homeland Security and administers the Department of Homeland Security.

20. Respondent Pamela Bondi is the Attorney General of the United States and administers the Department of Justice, including the EOIR, the Board of Immigrant Appeals (BIA), and the immigration courts.

21. All respondents are named in their official capacities. One or more of the respondents is Petitioner's immediate custodian.

FACTUAL BACKGROUND

22. Petitioner was born on [REDACTED] in Guatemala. He entered the United States on October 16, 2019 when he was 14 years old. As a minor arriving without a parent or guardian, DHS officials designated Petitioner an Unaccompanied Child (UC), pursuant to the Williams Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), and transferred him to the custody of Office of Refugee Resettlement (ORR), until he was released to his mother's custody. Exhibit A, ORR Verification of Release. Petitioner was also issued a Notice to Appear ("NTA") on October 17, 2019, charging him with having entered the United States without inspection and being present without valid immigration documents pursuant to 8 U.S.C. §1182(a)(6)(A)(i) and 8 U.S.C. §1182(a)(7)(A)(i). Exhibit B, First Notice to Appear.

23. In 2021, after receiving a custody determination from a juvenile court in Washington D.C., where the judge appointed his mother as his guardian and found that it was in Petitioner's best interest to remain in Washington D.C., Petitioner filed an I-360 Petition for SIJ status.

24. On July 29, 2022, U.S. Citizenship and Immigration Services (USCIS) approved the petition and awarded Petitioner a four-year, renewable grant of deferred action, valid until July 29, 2026. Exhibit C, SIJS Approval Notice. Petitioner will be eligible to adjust to a legal permanent resident once his priority date is current, and there is a visa available. Petitioner's

“priority date” refers to the filing date of the SIJS petition. This date establishes when the applicant becomes eligible to apply for permanent residency once a visa becomes available.

25. Williams’ removal proceedings under his first NTA, were terminated by an immigration judge at Annadale Immigration Court on November 28, 2022, pursuant to a joint motion by Office of the Principal Legal Advisor (OPLA), after Petitioner’s SIJS petition was approved. Exhibit F, Order Dismissing 2022 Removal Proceedings.

26. Petitioner has no criminal record. He resides peacefully in the United States, where he was gainfully employed in construction and residing with his mother and minor U.S. citizen siblings.

27. On September 7, 2025, while walking to his girlfriend’s apartment in Washington D.C., U.S. Immigration and Customs Enforcement (ICE) and/or other federal agents acting on ICE’s behalf apprehended Petitioner without a warrant. The warrantless arrest occurred in public.

28. Petitioner told the agents who stopped him that he had an approved I-360 petition for SIJS. The officers took him to the ICE Enforcement and Removal Operations Washington Field Office in Chantilly, Virginia, where they served him with an NTA. Exhibit D, Second Notice to Appear.

29. Petitioner sought bond in front of EOIR in the Annandale Immigration Court on September 22, 2025, and was denied the opportunity for his case to be heard on the merits because the Immigration Judge determined that they lacked jurisdiction to conduct a bond hearing due to DHS and DOJ agency policy that all persons who entered without inspection are deemed “applicants for admission” to the United States, and are ineligible for bond determination under 8 U.S.C. § 1225. Exhibit E, Denial of Bond.

30. As of the date of filing of this petition, Petitioner is currently detained in the Farmville Detention Center. Exhibit H, Screenshot of ICE Detainee Locator.

31. On September 23, 2025, Petitioner received a ‘Notice of Intent to Revoke’ his employment authorization document. Exhibit G, Notice of Intent to Revoke. In that notice, Respondents informed Petitioner that their records indicate that USCIS terminated his deferred action on September 15, 2025, **eight** days after Respondents arrested Petitioner without a warrant. Exhibit G. This was the first time that Petitioner or his counsel learned that USCIS had terminated his deferred action. To date, USCIS has still not provided Petitioner, or his counsel, with a notice of termination of Petitioner’s deferred action, or any basis for its termination.

32. Petitioner is detained at Farmville Detention Center where he shares a cell with approximately **100** or more other detainees—who are, in most cases, older than him. Petitioner’s cell has only **6** toilets to accommodate **100** detainees. This is the first time since coming to the United States, and reuniting with his mother at 14 years of age, that Petitioner is being held outside of the custody of his mother. Petitioner’s mental health has taken a serious decline as he experiences cramped, unsanitary, and unsafe conditions in Farmville Detention Center.

LEGAL FRAMEWORK

I. The Government’s Statutory Authority to Detain Noncitizens

33. The Immigration and Nationality Act (INA) sets forth three mutually exclusive pathways to detention for noncitizens in removal proceedings.

34. First, at the border, “arriving aliens” who are “seeking admission” and placed into removal proceedings are subject to detention without a bond hearing under 8 U.S.C. § 1225(b)(2). *See Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (describing § 1225 as relating

to “borders and ports of entry”). Further, the INA provides for mandatory detention of noncitizens whom DHS subjects to expedited removal under 8 U.S.C. § 1225(b)(1).

35. Second, the detention of individuals previously ordered removed is governed by 8 U.S.C. § 1231(a)–(b). (That provision is not at issue in this case.)

36. Third, noncitizens in standard, non-expedited removal proceedings under 8 U.S.C. § 1229a—subject to certain exceptions not relevant here—are governed by the detention authority set out in 8 U.S.C. § 1226. These individuals are entitled to a bond hearing before an Immigration Judge under § 1226(a) to determine whether they should be released or detained, unless they fall into Section 1226(c)’s exception for certain criminal conduct. *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (U.S. immigration law “authorizes the Government to detain certain aliens **already in the country** pending the outcome of removal proceedings under §§ 1226(a) and (c)” (emphasis added)).

37. The detention provisions in Sections 1226(a) and 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Shortly after the IIRIRA’s enactment, EOIR promulgated new regulations explaining the statute’s coverage, stating, “[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.” *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (hereinafter “1997 Interim Rule”). Thus, noncitizens in removal proceedings who entered the country without inspection were not subject

to mandatory detention under Section 1225, but rather, allowed to seek bond under Section 1226(a).

38. The text of Section 1226 makes clear that its provisions govern even noncitizens who have not been “admitted” but who are not presently at the border “seeking admission” from an officer conducting an inspection. Section 1226 contains multiple provisions that apply to individuals who are “inadmissible,” including those who entered without inspection. *See* 8 U.S.C. § 1226(c) (as amended by the Laken Riley Act, Pub. L. No. 119-1, § 3, 139 Stat. 3 (2025)). Subparagraph (E)’s requirement of mandatory detention for a certain subset of inadmissible noncitizens who have committed crimes makes clear that, by contrast, other immigrants charged with inadmissibility who do *not* meet the criminal criteria are afforded a bond hearing under subsection (a). Consistent with that understanding, for almost 30 years, noncitizens who are arrested within the United States have been eligible for a bond hearing and potential release under § 1226(a), regardless of their manner of entry. *See Quispe-Ardiles*, 2025 U.S. Dist. LEXIS 194069, at *15.

39. By contrast, § 1225(b)’s plain text refers to people arriving at ports of entry, or who recently entered the United States. By its terms, § 1225(b)(2) applies only when three conditions are met: (1) an “examining immigration officer” conducting “inspection” (2) determines that a person is an “applicant for admission” who is also (3) “seeking admission.” The phrase “seeking admission” is written in the present tense, signifying an ongoing act of attempting to enter the country. *See United States v. Wilson*, 503 U.S. 329, 333 (1992) (“Congress’s use of a verb tense is significant in construing statutes.”). In other words, § 1225(b) governs the detention of noncitizens seeking entry into the United States (*i.e.*, noncitizens “seeking admission”).

II. The Government's Current Policy in Detaining Noncitizens

40. In the almost three decades following the IIRIRA's adoption, most immigrants who entered without inspection—unless they were subject to some other detention authority—received bond hearings. So much so that in 2022, during Supreme Court oral arguments in *Biden v. Texas*, the Solicitor General stated that “DHS's long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended.” Transcript of Oral Argument at 44:24–45:20, *Biden v. Texas*, 597 U.S. 785 (2022) (No. 21-954); *Martinez v. Hyde*, 2025 U.S. Dist. LEXIS 141724, __ F.Supp.3d __, 2025 WL 2084238 at *12 (D. Mass. July 24, 2025) (citing the same).

41. Respondents' new policy unjustly upends this well-established understanding and violates the statutory scheme set out in the INA.

42. Before this year, immigration officials had occasionally attempted to detain aliens who were not “seeking admission” under the mandatory detention policy of § 1225(b). In those cases, Respondents' legal theory that noncitizens who entered the United States without admission or parole are ineligible for bond hearings was rejected by multiple courts in this District. *See Abreu v. Crawford*, No. 1:24-cv-01782-MSN-WBP, 2025 U.S. Dist. LEXIS 4328, 2025 WL 51475, *10 (E.D. Va. Jan. 8, 2025) (quoting *Rodriguez v. Perry*, 747 F. Supp. 3d 911, 916 (E.D. Va. 2024)). In *Abreu v. Crawford* and *Rodriguez v. Perry*, this Court held that § 1225 applies to individuals who are seeking entry to the United States, while § 1226 governs those noncitizens “present in the United States pending their removal,” thus entitling them to bond hearings before an immigration judge. *Id. Rodriguez*, in particular, recognized that persons who received SIJS were not subject to detention under § 1225(b). 747 F. Supp. 3d at 916.

43. Despite this, and similar holdings from other federal courts, on July 8, 2025, DHS, “in coordination” with DOJ, released a memorandum instructing its attorneys to argue that immigration judges lacked authority to provide bond hearings to noncitizens who entered the United States without inspection, relying on § 1225(b)(2).

44. Subsequently, on September 5, 2024, the BIA (an entity within EOIR, which is part of DOJ), issued a precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), requiring all immigration judges to misclassify any noncitizen who entered the United States without having been admitted as subject to mandatory detention under § 1225(b)(2).

45. In the following weeks, dozens of federal courts have overwhelmingly rejected Respondents’ reading of § 1225(b)(2). *See, e.g., Quispe-Ardiles*, 2025 U.S. Dist. LEXIS 194069, at *15 (concluding that applying “§ 1225 to all persons who have not been admitted into the United States would conflict with the statute’s broader structure, the Supreme Court’s traditional understanding of the relationship between §§ 1225(b) and 1226(a), and decades of immigration practice”); *Pizarro Reyes v. Raycraft*, No. 25-12546, 2025 WL 2609425, at *7 (E.D. Mich. Sept. 9, 2025) (“[T]he BIA’s decision to pivot from three decades of consistent statutory interpretation and call for [petitioner’s] detention under § 1225(b)(2)(A) is at odds with every District Court that has been confronted with the same question of statutory interpretation.”); *Chogllo Chafla v. Scott*, No. 25-437, 2025 U.S. Dist. LEXIS 184909, 2025 WL 2688541 at *7 (D. Me. Sept. 21, 2025) (listing over a dozen cases rejecting Respondents’ statutory interpretation); *accord* Order (D.E. 22), *Hilario Rodriguez v. Moniz*, No. 25-12358, at 4 (D. Mass. Sept. 18, 2025); *Sampiao v. Hyde*, No. 25-11981, 2025 WL 2607924, at *8 (D. Mass. Sept. 9, 2025).

III. Noncitizens' Due Process Rights

A. Due Process under the Fifth Amendment of the United States Constitution

46. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including non-citizens, whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693; *see also Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (“[A]liens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law”).

47. The Supreme Court has “repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection,” including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979); *see also United States v. Salerno*, 481 U.S. 739, 755 (requiring individualized hearing and strong procedural protections for detention of people charged with federal crimes). Courts have recognized that noncitizens have a liberty interest in continued freedom from civil confinement. *See Lopez v. Sessions*, 2018 U.S. Dist. LEXIS 98712, 2018 WL 2932726, at *28 (S.D.N.Y. June 12, 2018) (“Petitioner’s re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment.”).

48. To determine whether a civil detention violates a detainee’s Fifth Amendment due process rights, courts apply the three-part balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See Hasan v. Crawford*, 2025 U.S. Dist. LEXIS 184734, __ F.Supp.3d __, 2025 WL 2682255, at *29 (E.D. Va. Sept. 19, 2025). The Court must weigh: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such

interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the United States' interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Mathews*, 424 U.S. at 335. In assessing the first *Mathews* factor, courts consider "conditions under which detainees are currently held, including whether the detainee is held in conditions indistinguishable from criminal incarceration." *Hasan*, 2025 U.S. Dist. LEXIS at *30 (quoting *Günaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. 2025)).

49. Where a noncitizen is re-detained without prior notice, a showing of changed circumstances, or a meaningful opportunity to object, their right to due process is violated. *See Chipantiza-Sisalema v. Francis*, No. 25 Civ. 5528, 2025 U.S. Dist. LEXIS 132841, 2025 WL 1927931, at *10 (S.D.N.Y. July 13, 2025) (ruling that Respondent's re-detention violated the basic principles of due process when they failed to provide prior notice, a showing of changed circumstances, or an opportunity to be heard); *see also Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176-1177 (N.D. Cal. 2017) ("Once a noncitizen has been released, the law prohibits federal agents from rearresting him merely because he is subject to removal proceedings.")

50. To safeguard a noncitizen's liberty interest, the Government has the burden of justifying their ongoing detention. *See Rodriguez*, 747 F. Supp. 3d, at 920-921 (holding that to provide petitioner with the process he is due at a bond hearing, the Government bore the burden of demonstrating by clear and convincing evidence that petitioner was a flight risk or danger to the community).

51. Further, federal courts also have the authority to conduct a curative bond hearing themselves rather than remanding the case to the immigration court that originally violated the noncitizen's rights. *See, e.g., Akinola v. Weber*, No. 09-3415, 2010 U.S. Dist. LEXIS 5780, 2010

WL 376603, at *5 (D.N.J. Jan. 26, 2010) (finding it appropriate for the district court to hold the bond hearing given the immigration judge’s pattern of decisions); *see also L.G.M. v. LaRocco*, No. 2:25-CV-2631, 2025 U.S. Dist. LEXIS 147451, 2025 WL 2173577, at *5 (E.D.N.Y. June 25, 2025) (explaining that, to avoid further delay and dissatisfaction in a protracted process, the court would “cut to the chase” and hold the bail hearing itself to evaluate the evidence firsthand).

B. Due Process Rights of Special Immigrant Juvenile Designees under the TVPRA

52. The procedural protections granted by the Fifth Amendment’s Due Process Clause apply to all noncitizens in the United States, and the TVPRA grants extra statutory to protections to noncitizens who are designated UCs and recipients of SIJS. Unlike individuals encountered at a port of entry and detained under Section 1225(b), UCs are governed under Section 1226.

53. Courts have recognized that in establishing SIJ status, Congress created not just an immigration classification, but a “*legal relationship*” between the SIJS beneficiary and the United States that is distinct from “arriving aliens who cannot lay claim to constitutional rights.” *See Rodriguez*, 747 F. Supp. 3d at 918 (quoting *Osorio-Martinez v. Attorney General United States of America*, 893 F.3d 153, 168 (3d. Cir. 2018)).

54. In enacting the SIJS statute and subsequent amendments, Congress afforded SIJS beneficiaries significant protections, with the intent to allow them to remain safely in the United States in order to pursue adjustment of status. For example, the INA exempts SIJS beneficiaries from certain grounds of inadmissibility, and these beneficiaries are eligible for “various forms of support . . . such as access to federally funded educational programming, and preferential status when seeking employment-based visas.” *See id.* (citing *Joshua M. v. Barr*, 439 F. Supp. 3d 632, 659 (E.D. Va. 2020); 8 U.S.C. §§ 1232(d)(4)(A), 1153(b)(4)).

55. Indeed, a Court in this District has held that SIJS beneficiaries are “accorded significant benefits and procedural protections” *See Rodriguez*, 747 F. Supp. 3d at 919 (finding that as a SIJS beneficiary, petitioner was entitled to procedural due process under the Fifth Amendment, thus mandating a prompt individualized bond hearing). Further, in the same case, the Court ordered that the Government would bear the burden of proving by clear and convincing evidence that the petitioner’s ongoing detention was required because he was either a flight risk or a danger to the community. *Id.* at 921.

IV. Standard of Review of DHS and DOJ’s Policy Under the APA

56. Under the APA, a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law.” 5 U.S.C. § 706(2)(D). One such procedure required by law is that, generally, agencies must engage in public notice-and-comment rulemaking before amending existing regulations (or promulgating new ones). *See id.* at § 553(b), (c).

57. Pursuant to the 1997 Interim Rule, relevant agencies have—for nearly thirty years—determined that individuals who entered the United States without inspection were eligible for consideration for bond and bond hearings under 8 U.S.C. § 1226 and its implementing regulations (8 C.F.R. §§ 236.1, 1236.1, and 1003.19), which remain in effect. *See* 1997 Interim Rule. Under this longstanding rule, “[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.” *Id.*

58. Further, the APA authorizes courts to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). Agency action is arbitrary and capricious if “the agency has relied on factors

which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Motor Vehicle Mfrs. Ass’n v. State Farm Auto Mut. Ins. Co.*, 463 U.S. 29, 43 (1983).

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF 8 U.S.C. § 1226(a)

59. Petitioner realleges and incorporates by reference each and every allegation contained above.

60. Respondents have violated 8 U.S.C. § 1226(a) by denying Petitioner a bond hearing. As a noncitizen in removal proceedings who is **already in** the United States, Petitioner is subject to detention, if at all, under the statutory scheme of § 1226(a). *Abreu*, 2025 U.S. Dist. LEXIS 4328, at *9.

61. Due to DHS and DOJ’s misclassification policy, Petitioner was denied a bond hearing. His ongoing detention is therefore unlawful and this Court should order Petitioner’s immediate release, or otherwise direct Respondents to provide him a bond hearing within seven days.

COUNT TWO

VIOLATION OF THE FIFTH AMENDMENT RIGHT TO DUE PROCESS

(Failure to Provide Individualized Consideration Before Domestic Civil Detention)

62. Petitioner realleges and incorporates by reference each and every allegation contained above.

63. Petitioner has not and will not be provided with an individualized determination, such as a detention hearing, as required by the Due Process Clause of the Fifth Amendment. Accordingly, he faces a significant deprivation of liberty without the individualized determination that the law requires. *See Addington*, 441 U.S. at 425; *see also Salerno*, 481 U.S. at 755; *Zadvydas*, 533 U.S. at 693.

64. Courts have recognized that Congress in establishing SIJS, and expanding protections under the TVPRA, created a “legal relationship” between SIJS beneficiaries and the United States that is distinct from “arriving aliens who cannot lay claim to constitutional rights.” *See Rodriguez*, 747 F. Supp. 3d at 918 (quoting *Osorio-Martinez*, 893 F.3d at 168). Thus, Petitioner, as a SIJS beneficiary, has a particularly strong private interest, and Respondents’ actions in detaining him without a bond hearing is unlawful and violates his due process rights under the Fifth Amendment.

65. In determining what due process requires, the Court should apply the test articulated by the Supreme Court in *Mathews*. *Mathews*, 424 U.S. at 335.

66. Petitioner’s private interests here are particularly strong as he was previously determined to be a UC, has an approved SIJS petition, and will be eligible for adjustment to permanent residency when a visa is available. However, he is currently detained in Farmville Detention Center where he shares a cell with approximately 100 or more other detainees—who are, in most cases, older than him. Petitioner’s cell has only 6 toilets to accommodate 100 detainees. This is the first time since coming to the United States, and reuniting with his mother at 14 years of age, that Petitioner is being held outside of the custody of his mother. Petitioner’s mental health has taken a serious decline as he experiences cramped, unsanitary, and unsafe conditions in Farmville Detention Center.

67. Petitioner's liberty interest is also significantly eroded under DHS and DOJ's new policy, as they are enforcing indefinite detention without providing Petitioner a meaningful opportunity to challenge his detention.

68. With respect to the Government's interest, it is required to take steps to effectuate its substantive obligation to ensure that immigration detention bears a "reasonable relation" to the purposes of immigration detention (*i.e.*, the prevention of flight and danger to the community during the pendency of removal proceedings) and is not impermissibly punitive. *See Zadvydas*, 533 U.S. at 690; *Demore v. Hyung Joon Kim*, 538 U.S. 510, 532-33 (2003) (Kennedy, J., concurring). Respondents have not offered any permissible purpose for Petitioner's detention—rather, Respondents only allege (mistakenly) that Petitioner's detention was obligatory pursuant to Section 1225(b). Exhibit E.

69. A balancing of the *Mathews* factors favors, at minimum, requiring Respondents to provide Petitioner with an individualized bond hearing which assesses the factors specific to Petitioner's case, including, his entrance to the U.S. as an unaccompanied child, his lack of any criminal history, his designation as a Special Immigrant Juvenile, his close family ties with his minor U.S. citizen siblings, and his continued habitation with his mother, who is his court-appointed guardian.

70. For the foregoing reasons, Respondents' continued detention of Petitioner violates the Due Process Clause of the Fifth Amendment, and Petitioner requests immediate release, or in the alternative, that this Court require Respondents to provide him with a bond hearing within seven days.

COUNT THREE

VIOLATION OF THE FIFTH AMENDMENT RIGHT TO DUE PROCESS

(Based on Re-detention)

71. Petitioner realleges and incorporates by reference each and every allegation contained above.

72. Respondents re-detained Petitioner on September 7, 2025, without prior notice, and without a showing of changed circumstances. Petitioner still has UC status, and is now an approved SIJS beneficiary. There has been no change in circumstances that warrant his re-detention. Further, Respondents are enforcing Petitioner's detention under Section 1225(b) with no meaningful opportunity to challenge his confinement. This violates Petitioner's right to due process under the Fifth Amendment. *Chipantiza-Sisalema*, 2025 U.S. Dist. LEXIS 132841, at *10 (ruling that Respondents' re-detention violated the basic principles of due process when they failed to provide prior notice, a showing of changed circumstances, or an opportunity to be heard).

73. For the foregoing reasons, Respondents' continued detention of Petitioner violates the Due Process Clause of the Fifth Amendment, and Petitioner requests immediate release, or in the alternative, that this Court require Respondents to provide him with a bond hearing within seven days.

COUNT FOUR

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A)

(Arbitrary and Capricious Agency Action)

74. Petitioner realleges and incorporates by reference each and every allegation contained above.

75. When Petitioner entered the United States at 14-years-old, he was designated a UC, transferred to the custody of ORR, and then released to his mother's custody. Respondents designated him a UC pursuant to the TVPRA, which requires that unaccompanied children be held in the "least restrictive environment." 8 U.S.C. § 1232(c)(2). Petitioner remains a UC and is now an approved SIJS beneficiary.

76. Without explanation, and without any change in circumstance, Respondents now take the position that Petitioner is subject to mandatory detention under Section 1225. That is arbitrary and capricious in violation of the APA. See 5 U.S.C. § 706(2)(A).

77. Separately, even if Respondents had provided an explanation for Petitioner's reclassification, any explanation, then or before this Court, would necessarily be a post-hoc justification. Post-hoc justifications are arbitrary and capricious in violation of the APA. See 5 U.S.C. § 706(2)(A); *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 22, 24 (2020) ("The basic rule here is clear: An agency must defend its actions based on the reasons it gave when it acted," not on "impermissible post hoc rationalizations.").

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- a. Assume Jurisdiction over this matter;
- b. Order Respondents to show cause why the writ should not be granted and order briefing and a hearing;
- c. Order that Petitioner shall not be transferred outside the District of Eastern Virginia pending the Court's consideration of this Petition;
- d. Declare that Petitioner's detention is unlawful;

- e. Issue a Writ of Habeas Corpus requiring the Respondents immediately release Petitioner, or in the alternative;
- f. Provide Petitioner with a bond hearing before this Court, or in the alternative;
- g. Order Respondents to provide Petitioner with a bond hearing before an Immigration Judge, in which Respondents bear the burden of demonstrating by clear and convincing evidence that Petitioner is either a flight risk or a danger to the community to justify detention, in accordance with 8 U.S.C. § 1226(a), within seven days after the Court's order;
- h. Grant any further relief this Court deems just and proper.

Dated: October 17, 2025

Respectfully Submitted,

/s/Reedy C. Swanson
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**Pro hac vice application
forthcoming*

Counsel for Petitioner

VERIFICATION BY SOMEONE ACTING
ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am the attorney for Petitioner. I or my co-counsel have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: October 17, 2025

Respectfully submitted,

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