UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Bryon De Leon-Godinez, Petitioner, v. *SOTO, et al.*, Respondents.	Civil Action No. 25-17600 (JKS)

REPLY TO GOVERNMENT'S ANSWER TO PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

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PRELIMINARY STATEMENT

Petitioner, Byron DeLeon-Godinez ("Mr. DeLeon-Godinez"), respectfully submits the instant Reply to Respondent's Opposition to the Petitioner's Writ for Habeas Corpus ("Petition"). Petitioner submits this Reply pursuant to Rule 5(e) of the Federal Rules Governing §2254 cases.

Petitioner's case is materially similar to this Court's decision in *Perez Silva v. Soto*, No. 2:25-cv-16577 (JKS) (D.N.J. Dec. 4, 2025), and countless other decisions in this District that have held noncitizens arrested in the interior are not subject to mandatory detention under § 1225(b). In fact, every court in this District that has considered this issue has rejected the Respondents' expansive interpretation of § 1225(b)(2)(A). *See Diaz Rudecindo v. Florentino, et. al.,* No. 25-16942 (ES), 2025 WL 3480299 (D.N.J. Dec. 3, 2025). [1]

While the Government argues that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(1), that is simply not true. Although the Petitioner initially entered on August 15, 2019, and had a credible fear interview, those initial proceedings were terminated on joint

[1] See *Kaly Bah v. Soto*, No. 25-17337, 2025 WL 3295569, at *1 (D.N.J. Nov. 26, 2025); *Mejia v. Cabezas*, No. 25-17094, 2025 WL 3294405, at *2 (D.N.J. Nov. 26, 2025); *Ochoa Molina v. Soto*, No. 25-16880, 2025 WL 3281820, at *2–3 (D.N.J. Nov. 25, 2025); *Garcia-Alvarado v. Warden*, No. 25-16109, 2025 WL 3268606, at *2–3 (D.N.J. Nov. 24, 2025); *Valerio v. Joyce*, No. 25-17225, 2025 WL 3251445, at *2–3 (D.N.J. Nov. 21, 2025); *Valasquez-Gomez v. Soto*, No. 25-17327, 2025 WL 3251443, at *1–3 (D.N.J. Nov. 21, 2025); *Ramos v. Soto*, No. 25-15315, 2025 WL 3251447, at *1 (D.N.J. Nov. 21, 2025); *Sandhu v. Tsoukaris*, No. 25-14607, 2025 WL 3240810, at *3–6 (D.N.J. Nov. 20, 2025); *Vasquez Lucero v. Soto*, No. 25-16737, 2025 WL 3240895, at *1–2 (D.N.J. Nov. 20, 2025); *Perez*, 2025 WL 3238540, at *1–3; *Illescas v. Chu*, No. 25-17273, 2025 WL 3216850, at *1–2 (D.N.J. Nov. 18, 2025); *Sandoval v. Rokosky*, No. 25-17229, 2025 WL 3204746, at *2 (D.N.J. Nov. 17, 2025); *Da Silva v. Laforge*, No. 25-17095, 2025 WL 3173859, at *1 (D.N.J. Nov. 13, 2025); *Guaman Naula v. Noem*, No. 25-16792, 2025 WL 3158490, at *3–4 (D.N.J. Nov. 12, 2025); *Vicens-Marquez v. Soto*, No. 25-16906, 2025 WL 3097496, at *1–2 (D.N.J. Nov. 6, 2025); *Lopez v. Noem*, No. 25-16890, 2025 WL 3101889, at *2–3 (D.N.J. Nov. 5, 2025); *Ramos v. Rokosky*, No. 25-15892, 2025 WL 3063588, at *3–9 (D.N.J. Nov. 3, 2025); *Mboup v. Field Office Director of N.J. Immigr. & Customs Enf't*, No. 25-16882, 2025 WL 3062791, at *1–2 (D.N.J. Nov. 3, 2025); *Ayala Amaya v. Bondi*, No. 25-16428, 2025 WL 3033880, at *2–3 (D.N.J. Oct. 30, 2025); *Patel v. Almodovar*, No. 25-153045, 2025 WL 3012323, at *2–4 (D.N.J. Oct. 28, 2025); *Maldonaldo v. Cabezas*, No. 25-13004, 2025 WL 2985256, at *3–6 (D.N.J. Oct. 23, 2025); *Lomeu v. Soto*, No. 25-16589, 2025 WL 2981296, at *4–9 (D.N.J. Oct. 23, 2025); *Lopez v. Soto*, No. 25-16303, 2025 WL 2987485, at *3 (D.N.J. Oct. 23, 2025); *Bethancourt Soto v. Soto*, No. 25-16200, 2025 WL 2976572, at *2–8 (D.N.J. Oct. 22, 2025); *Buestan v. Chu*, No. 25-16034, 2025 WL2972252, at *1 (D.N.J. Oct. 21, 2025); *Castillo v. Lyons*, No. 25-16219, 2025 WL 2940990, at *1 (D.N.J. Oct. 10, 2025); *Zumba*, 2025 WL 2753496, at *4–11.

motion with the DHS. Petitioner had been previously granted bond by an immigration judge and has deferred action through approval of a Special Immigrant Juvenile Petition.

"Courts have given great weight to the manner in which [the Department of Homeland Security] treated the petitioner in determining which detention statute applies." *See Rivera Zumba v. Bondi*, 2025 WL 2753496, at *11 (D.N.J. Sept. 26, 2025).

In this case, and on paper, DHS has treated Petitioner as though he was detained under § 1226(a). When DHS re-arrested Petitioner six years after they agreed to dismiss his initial proceedings so that he could pursue adjustment based on approval of a Special Immigrant Juvenile Petition, it arrested him pursuant to a warrant of arrest under § 236. Notably, the second Notice to Appear, dated October 25, 2025, does not have a checked box indicating that "this notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture." *See* ECF No. 1-11. And the Immigration Judge denied bond based on "Matter of Hurtado," not on the authority addressing credible-fear processing or the detention consequences of a credible-fear determination. *See* ECF No. 1-12.

Petitioner's arrest and detention are blatantly unlawful from the start and the only commensurate and appropriate remedy to even partially restore [Petitioner] is to immediately release him and enjoin the Government from further similar transgressions. *See Rivas Rodriguez v. Rokosky*, Civ. No. 25-17419 (CPO), *2025 WL 3485628, (D.N.J. Dec. 3, 2025), quoting *Martinez v. McAleenan,* 385 F. Supp. 3d 349, 366, 371-73 (S.D.N.Y. 2019)("[T]he Supreme Court has repeatedly upheld prisoners' rights to challenge the constitutionality of their detentions, and allow[ed] courts to implement corrective remedies, regardless of whether there were other bases for the petitioners to be subsequently detained."). In the *Rodriguez* case, the Court declined to allow Respondents to "transform an unlawful detention into a lawful one

through alternative, retrospective, *post hoc justification…*" *Rivas Rodriguez v. Rokosky*, Civ. No. 25-17419 (CPO), 2025 WL 3485628, at *13 (D.N.J. Dec. 3, 2025).

Accordingly, because ICE arrested Petitioner despite a prior bond grant, and his deferred action was current, this case requires immediate release, and not another bond hearing.

BACKGROUND

Petitioner has done everything that he was required to do. His guardian, Lucrecia Godinez, a United States Citizen, filed a petition for custody over the Petitioner, which was granted by the family court. ECF No. 1-6. Petitioner subsequently filed for Special Immigrant Juvenile ("SIJ") status with U.S. Citizenship and Immigration Services ("USCIS") on November 16, 2021. *Id.* Petitioner was granted Special Immigrant Juvenile Status and deferred action by USCIS and has a priority date of November 16, 2021. *Id.* In its approval, USCIS determined Petitioner warranted a "favorable exercise of discretion to receive deferred action. "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 specified period. *Id.* Petitioner was granted employment authorization by USCIS on December 22, 2022, which remains valid until August 24, 2026. As a result, Petitioner's removal proceedings were terminated by the Immigration Court upon a joint motion of the US Department of Homeland Security and Counsel on December 13, 2022. ECF No. 1-10. In said joint motion, the Department of Homeland Security states that the circumstances of the case have changed after the notice to appear was issued, to such an extent that continuation is no longer in the government's best interest under 8 C.F.R. § 239.2(a)(7). *Id.* Petitioner will be eligible to apply for adjustment of status when his priority date becomes current. The current visa bulletin for October 2025 shows Special Immigrant Juvenile petitions as available up to February 15, 2021.

Petitioner was working delivering packages on October 25, 2025, when Immigration and

Customs ("ICE") Officers pulled up behind his car. ECF No. 1-7. ICE Officers did not have a judicial warrant for his arrest or reasonable suspicion to question Petitioner. *Id.* Although ICE Officers confirmed that Petitioner had no criminal record and an approved SIJ petition with deferred action, ICE issued him a second Notice to Appear under 1229a, charging him as being present without admission or parole, pursuant to section 212(a)(6)(i) of the Immigration and Nationality Act ("INA"). Despite processing him under 1229a and charging him as someone who is "present," [and not "arriving,"], not having checked off the box on the NTA regarding credible fear, and not raising this issue during the bond hearing, Respondents now argue that he is actually subject to mandatory detention under 8 U.S.C. § 1225(b)(1), despite his entry as a minor six years ago.

Given the fact that Mr. DeLeon Godinez was present in the United States for over 6 years, with the knowledge and consent of DHS, before he was taken into custody a second time in 2025, it makes little sense to treat him now as someone who is "arriving," especially considering that he had been present since 2019 with the knowledge and approval of the Department of Homeland Security. In fact, the DHS had not appealed the Immigration Judge's prior bond re-determination. DHS also agreed to close his case so that he could pursue an adjustment based on his SIJ application.

Despite this, Petitioner was re-arrested, and now DHS does a roundabout to argue that he is subject to mandatory detention under § 1225(b)(1).

Petitioner's detention violates both the Immigration and Nationality Act ("INA") and Petitioner's Fifth Amendment rights and due process of law.

ARGUMENT

I. THE COURT HAS JURISDICTION

The Court has jurisdiction under 28 U.S.C. § 2241(c)(3) to grant a writ of habeas corpus to a person in custody in violation of the Constitution, laws, or treaties of the United States. *Demore v. Kim,* 538 U.S. 510, 517 (2003). "[A]bsent suspension, the writ of habeas corpus remains available to every individual detained within the United States." *Hamdi v. Rumsfeld,* 542 U.S. 507, 525 (2004)(citing the Suspension Clause). A habeas petitioner has "the burden of sustaining his allegations by a preponderance of evidence." *Walker v. Johnston,* 312 U.S. 275, 286 (1941). A court considering a habeas petition must "determine the facts, and dispose of the matter as law and justice require." 28 U.S.C. § 2243. When the Court finds a petitioner's constitutional rights have been violated, the petitioner is entitled to the issuance of a writ. *Id.*

II. PETITIONER IS NOT SUBJECT TO MANDATORY DETENTION UNDER THE EXPEDITED REMOVAL STATUTE, 8 U.S.C. § 1225(b)(1)

Respondents argue that Mr. DeLeon-Godinez is subject to mandatory detention under the expedited removal statute, 8 U.S.C. § 1225(b)(1). Respondents assert that Petitioner, who entered the U.S. in 2019, and was re-detained in 2025, cannot be detained under Section 1225(b)(1). See *Rodriguez v Rokosky*, No. 25-17419(CPO), 2025 WL 3485628. However, in *Rodriguez v Rokosky,* the Court granted relief and found that a Petitioner who had been residing in the United States for several years prior to his arrest "that (1) his continued detention under Section 1225(b)(1) violates his procedural due process rights, and (2) he can only be properly detained under Section 1226 where he would be entitled to an individualized bond hearing".

Respondent's reliance on § 1225(b)(1) is foreclosed by the statute's limiting text. Congress authorized expedited removal for "certain other [noncitizens] only where the noncitizen "has not been admitted or paroled" and "has not affirmatively shown … that the alien has been

physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility." 8 U.S.C. § 1225(b)(1)(A)(iii)(II). Here, Petitioner entered the United States approximately six years ago and has been continuously present well beyond that two-year period. What makes Petitioner's re-arrest even more egregious is that DHS granted Petitioner deferred action, "an act of administrative convenience to the government which gives some cases lower priority for removal from the United States for a specified period of time." ECF No. 1-6. That specified period began on August 24, 2022, and is valid until August 24, 2027. Based on these facts, Petitioner falls outside the class Congress permitted DHS to place into expedited removal under § 1225(b)(1)(A)(iii), and DHS cannot lawfully subject him to § 1225(b)(1) procedures and detention on this record.

The implementing regulation likewise recognizes that if a person "establishes … continuously physically present … for the 2-year period immediately prior," expedited removal is not available and DHS must proceed in § 240 proceedings. 8 C.F.R. § 235.3(b)(1)(ii). Respondents do not dispute Petitioner's long-time presence in the U.S., but want this Court to treat him as if he is again at the port of entry *seeking* admission, even after those initial proceedings have already been completed.

Respondents knowingly arrested Petitioner under an unlawful detention practice for approximately two months, notwithstanding countless decisions in the District, and nationwide litigation rejecting this practice, including binding class-wide relief in *Maldonado Bautista v. Wolf*, No. 2:20-cv-11731 (C.D. Cal.), where the court was required to issue a clarifying order after DHS and DOJ failed to comply with the court's injunction prohibiting precisely this form of detention. Now—only after being hauled into court—they ask the Court to (1) refrain from finding their conduct unlawful, and (2) if the Court does find it unlawful, to transform it after the

fact into § 1226(a) det` ```ention by invoking a different statutory basis mid-litigation. Despite the *unlawful* arrest where Petitioner was encountered without any reasonable suspicion and asked for his "papers," and the subsequent *unlawful* detention that is going on two months of his loss of liberty, Respondents would ask this Court to continue to place the burden on Petitioner to demonstrate to an Immigration Judge why he should be awarded a bond while it bears no consequence for its unlawful activity.

Courts in this District have declined to allow Respondents to transform an unlawful detention into a lawful one through alternative, retrospective, post hoc justification presented mid-litigation, as doing so would give the government a free pass to violate a person's statutory and constitutional rights first and search for authority later. *Rivas Rodriguez v. Rokosky*, WL 3485628 (D.N.J. Dec. 3, 2025); see, e.g. *Lopez Campos v. Raycraft*, No. 25-12486, 2025 WL 2496379, at *7 &n.4 (E.D. Mich. August 29, 2025)(citing cases)("The Court cannot credit this new position that was adopted post-hoc, despite clear indication that Lopez-Campos was not detained under this provision.").

III. PETITIONER HAS THE RIGHT TO DUE PROCESS IN THE IMMIGRATION PROCEEDINGS

Noncitizens who have entered the United States are entitled to basic procedural protections, including notice and an opportunity to be heard. The Supreme Court has long held that noncitizens within the United States are entitled to procedural due process. *Yamataya v. Fisher*, 189 U.S. 86, 23 S. Ct. 611, 47 L. Ed. 721 (1903); *Bridges v. Wixon*, 326 U.S. 135, 65 S. Ct. 1443, 89 L. Ed. 2103 (1945). Our immigration laws distinguish between individuals seeking initial admission and those who have already entered the country. *Leng May Ma v. Barber*, 357 U.S. 185, 187, 78 S. Ct. 1072, 2 L. Ed. 2d 1246 (1958). Noncitizens who are physically present

in the United States "undeniably have due process rights." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 191, 140 S. Ct. 1959, 207 L. Ed. 2d 427 (2020).

The problem with this is that Petitioner is not in the same position as the petitioner in *Thuraissigaiam*, who was detained miles away from the border and detained upon entry. The Government attempts to Petitioner in a position he was already in six years ago, when he was detained, required to litigate, and dismissed. Yet, Respondents would like this Court to find that he lacks due process protections because he should once again be treated as an "applicant for admission." That assertion is inconsistent with this record, or any precedent. Petitioner is not an arriving alien, nor is he charged as such on the 2025 Notice to Appear. DHS arrested him using an administrative warrant in New Jersey over six years after his initial entry and immediately placed him in full removal proceedings under 8 U.S.C. § 1229a. Those proceedings are governed by 8 C.F.R. § 1003.12-1003.41 and § 1240.26. Individuals in § 240 proceedings are detained, if at all, under 8 U.S.C. § 1226(a). DHS treated Petitioner accordingly, and he remains in those proceedings today.

Accordingly, Petitioner, who remains in full § 240 removal proceedings, is entitled to the due-process protections afforded to individuals in those proceedings. DHS's effort to deny him those protections by mischaracterizing his statutory posture has no basis in fact or law.

To the extent the Government suggests that district court decisions in this Circuit rejecting the application of § 1225(b)(2) to long-term interior residents should yield to the BIA's recent precedential decisions in *Matter of Q-Li* and *Matter of Yajure-Hurtado*, that argument misstates both the law and the current judicial landscape. After *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 144 S. Ct. 2244, 219 L. Ed. 2d 832 (2024), courts—not agencies—

exercise independent judgment in interpreting statutory meaning. Chevron deference no longer applies, and agencies are owed no special weight on pure questions of statutory construction.

Consistent with this framework, federal courts evaluating the same issue have declined to follow *Q-Li* and *Yajure-Hurtado* and have held that § 1225(b)(2) does not govern the detention of noncitizens arrested in the interior. See *Hyppolite v. Noem*, Slip Op. (E.D.N.Y. 2025); *Placido Romero Perez v. Francis*, Slip Op. (S.D.N.Y. 2025); *Rueda Torres v. Francis*, Slip Op. (S.D.N.Y. 2025); *J.U. v. Maldonado*, Slip Op. (E.D.N.Y. 2025); *Artiga v. Genalo*, Slip Op. (E.D.N.Y. 2025). Although these decisions arise outside the Third Circuit, they apply the same statutory text and post-*Loper Bright* interpretive principles and reinforce the growing national consensus that *Q-Li* and *Yajure-Hurtado* cannot be read to impose mandatory detention on long-term residents who were never processed as applicants for admission. Courts across jurisdictions have recognized that DHS's treatment of an individual under § 236(a) and § 240 forecloses later reliance on § 235(b)(2). These decisions mirror the conclusions reached by courts in this District, including *Rivera Zumba* and *Bethancourt Soto*, and confirm that § 1225(b)(2) does not apply to Petitioner's interior arrest and ongoing § 240 proceedings.

DHS's failure to issue a Form I-220A or I-286 further proves that § 1225(b)(2) never applied

DHS has not produced a Form I-220A Record of Custody or any contemporaneous custody advisal identifying § 1225(b)(2) as the statutory basis for detention. The regulations mandate issuance of such documentation. 8 C.F.R. § 236.1(b), 287.3(a). Failure to comply with these mandatory procedural requirements renders custody unlawful and ultra vires. *See Matter of Garcia*, 17 I. & N. Dec. 319 (BIA 1980). The New Jersey District Courts have treated this

omission as further evidence that DHS is retroactively attempting to impose § 1225(b)(2) detention where it never applied. See *Bethancourt Soto v. Soto* (D.N.J. Oct. 22, 2025).

IV. THE APPROPRIATE REMEDY IS RELEASE, NOT A BOND HEARING

Where a petitioner's arrest and detention are unlawful from the outset, the only commensurate and appropriate equitable remedy is immediate release, not a remand or a re-labeling of custody authority after the fact. Courts have repeatedly recognized that habeas relief must restore liberty where the government lacked lawful authority to detain in the first instance. *See, e.g., Martinez v. McAleenan*, 385 F. Supp. 3d 349, 366, 371–73 (S.D.N.Y. 2019) (ordering release and explaining that courts may implement corrective remedies for unconstitutional detention "regardless of whether there were other bases for the petitioners to be subsequently detained"). Allowing continued detention in these circumstances would improperly reward statutory and constitutional violations rather than remedy them.

Consistent with this principle, courts routinely reject the Government's attempt to salvage unlawful detention through alternative, retrospective, post hoc justifications raised mid-litigation. *See Lopez-Campos v. Raycraft*, No. 25-12486, 2025 WL 2496379, at *7 & n.4 (E.D. Mich. Aug. 29, 2025) (declining to credit a new custody theory adopted post hoc and ordering release); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 486 (S.D.N.Y. 2025) (releasing petitioner and holding the court "cannot credit Respondents' new position as to the basis for detention, which was adopted post hoc and raised for the first time in this litigation"); *Arias Gudino v. Lowe*, 785 F. Supp. 3d 27, 46 n.8 (M.D. Pa. 2025) (ordering release and rejecting reliance on "post hoc justifications for detention"). This rule reflects a broader administrative-law principle long recognized by the Third Circuit: a reviewing court must evaluate the actual authority relied upon at the time of detention, not a hypothetical or newly invented rationale supplied after the fact. *See*

Marshall v. Lansing, 839 F.2d 933, 943–44 (3d Cir. 1988). To hold otherwise would give the Government a "free pass" to violate statutory and constitutional rights first and search for authority later. *See R*ivas Rodriguez, 2025 WL 3485628, at 5. Such an approach would incentivize unlawful detention practices by allowing the Government to maintain custody without lawful authority unless and until a noncitizen is able to secure federal court review—an outcome fundamentally incompatible with habeas jurisprudence and due process.

Due Process Considerations

Here, the Petitioner is not challenging prolonged mandatory detention; he is alleging that he is detained in violation of due process rights and the unlawful use of statutory authority to detain him since he had been granted of deferred action. *See* e.g., *M.S.L. v. Bostock,* No. 6:25-cv-01204, 2025 WL 2430267, at *15 (D. Or. Aug. 21, 2025). Release is appropriate because when the DHS arrested Petitioner, it intentionally attempted to deprive him of constitutional rights, and subjecting him unnecessarily to prolonged detention. On December 17, 2025, *Gokham Polat v Soto, et al*, 2:25-cv-16893-JKS; the Court found that when Respondent's fail to demonstrate a lawful basis for detention under Section 1225(b), and with the Court's authority to "dispose of the matter as law and justice require, 28 U.S.C. Section 2243, immediate release is the appropriate remedy.

To determine whether a civil detention violates a detainee's due process rights, courts apply a three-part test set forth in *Mathews v. Eldridge,* 424 U.S. 319 (1976). Those factors are: (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 "the Government's 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. "The essence of procedural due process is that a person risking a serious loss be given notice and an opportunity to be heard in a meaningful manner and at a meaningful time." *M.S.L. v. Bostock,* No. 25-cv-1204 WL 2430267, at *8 (*citing Mathews*, 424 U.S. at 348). See also *Zumba v. Bondi*, No. 25-CV-14626 (KSH), 2025 WL 2753496, at *12 (D.N.J. Sept. 26, 2025)(finding that immediate release is appropriate).

A. Private Interest

Petitioner presented himself near Naco, Arizona, and was arrested by DHS. He was arrested, detained, and processed upon arrival. The Immigration Judge also determined that Petitioner was not a flight risk, or a danger and issued him a bond. *See* ECF No. 1-8. On November 16, 2021, he filed and was approved special immigrant juvenile status with deferred action. *See* ECF No. 1-8. He received a work authorization. *See* ECF No. 1-5. His removal proceedings were terminated upon joint motion and Petitioner's immigration Counsel. He was not re-detained for violating any terms of bond or having a criminal record. Petitioner was detained soling for the color of his skin. Petitioner was re-arrested, detained, and now takes the position that he is not bond eligible, despite there being no material change from the time he was given bond in 2019. As Courts have recognized, the interest in being free from physical detention is the "most elemental of liberty interests." *See Hamdi v. Rumsfeld,* 542 U.S. 507, 529 (2004).

Courts have recognized that those granted conditional parole have a protected liberty interest in their continued liberty. *Morrissey v. Brewer,* 408 U.S. 471, 482 (1972). A number of district courts have held that in the immigration context, once detained and released from

immigration custody, noncitizens acquire "a protectable liberty interest in remaining out of custody on bond." *See Diaz v. Kaiser,* No. 25-cv-05071, 2025 WL 1676854, at *2 (N.D. Cal. June 14, 2025); *Ortega v. Bonnar,* 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019); *Rosado v. Figueroa,* No. 25-CV-02157, 2025 WL 2337099 at *12 (D. Ariz. Aug. 11, 2025).

B. Risk of Erroneous Deprivation

The Court must also consider whether 8 U.S.C. § 1225(b) creates a risk of "erroneous deprivation of individuals' private rights" and the degree to which alternative procedures could ameliorate these risks. *Martinez v. Sec. of Noem,* No. 5:25-CV-01101 JLT SKO, 2025 WL 2581185, at *11 (E.D. Cal. Sept. 5, 2025). In Petitioner's case, like so many others who are arrested and detained in the interior, immigration judges decline to exercise jurisdiction, finding that the Board has stripped them of the ability to consider anyone for bond who hasn't been admitted. Petitioner's hearing did not provide an opportunity to contest the existence, nature, or significance of any supervision violations, or to otherwise make an individualized assessment of the need to re-detain him. Therefore, without relief from this Court, Petitioner will continue to be erroneously deprived of his liberty.

C. Government Interest

Civil detention is different from imprisonment. While the Government has an interest to ensure that noncitizens are not flight risks or dangers to the community, its detention process cannot be punitive. Petitioner entered the US in August 15, 2019. *See* ECF No. 1-8. He was released from custody on a $5000 bond and placed into removal proceedings. Petitioner was an approved status of SIJ with deferred action. As a result, the DHS decided to join in on a motion

to terminate removal proceedings. *See* ECF No. 1-4, p. 2. This decision to release Petitioner six years ago, and then agree to terminate removal proceedings, in and of itself reflects the DHS's determination by the government that he was not a danger to the community or a flight risk. *See Saravia v. Sessions,* 280 F. Supp. 3d 1168, 1176 (N.D. Cal 2017), *aff'd* 905 F.3d 1137 (9th Cir. 2018). Petitioner did not abscond, nor has he committed any crime. In fact, Petitioner was re-arrested while working on the weekends to pay for his college education.

Since Petitioner has met the *Mathews* test, this Court should find that his detention without any individualized assessment of flight risk or danger deprives Petitioner of his constitutional rights. Petitioner, therefore contends that release is the appropriate remedy to this deprivation.

CONCLUSION

For the reasons described above, Petitioner's Petition should be granted, and Respondents should be ordered to release Petitioner immediately pursuant to his statutory eligibility for release.

Respectfully Submitted,

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Dated: December 22, 2025