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7
8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 CRISTIAN AMAYA-QUINTEROS,

11 Petitioner,

12 v.

13 CORECIVIC, INC., et al.,

14 Respondents.
15
16

CASE NO. 1:25-CV-01672-AC

RESPONDENTS' RETURN TO AMENDED
PETITION FOR WRIT OF HEABEAS CORPUS
AND RESPONSE TO MOTION FOR
PRELIMINARY INJUNCTION

17 On November 29, 2025, Petitioner Cristian Amaya-Quinteros filed a writ of habeas corpus (ECF
18 1) and an emergency motion for temporary restraining order (TRO) and preliminary injunction (ECF 2).
19 The government submitted its response on December 3, 2025. Following a hearing on December 8,
20 2025, the court denied the motion for TRO as moot and directed Petitioner to file an amended Petition
21 and motion for Preliminary Injunction (PI) by December 10, 2025, with respondents to file their return
22 and response no later than December 12. Petitioner failed to file proper supporting documentation
23 alongside his motion for preliminary injunction, and the court ordered Petitioner to file those documents
24 by December 12, 2025. Respondents' return was extended to December 15, 2025.

25 In compliance with the court's order, respondents hereby submit their return to the habeas
26 petition and response to the motion for PI. The Court should dismiss the habeas petition and deny the
27 motion for PI. Petitioner is an applicant for admission under the INA and is detained pursuant to his
28 ongoing proceedings under 8 U.S.C. § 1225(b). Petitioner's claims alleging violations of statute and due

1 process fail on the merits. Petitioner's is detained pursuant to 8 U.S.C. § 1225(b) as an applicant for
2 admission. Petitioner's due process argument fails because Petitioner has re-detained in compliance
3 with mandatory detention required by statute, and further process is not required. Finally, Petitioner's
4 claim that the government violated 8 U.S.C. § 1255(h)(2) fails because Petitioner's Special Immigrant
5 Juvenile (SIJ) does not grant any effect until Petitioner applies for an adjustment of status, and
6 Petitioner's deferred action was revoked on December 2, 2025, meaning Petitioner's SIJ status has no
7 effect on removal proceedings.

8 **I. FACTUAL BACKGROUND**

9 Respondents previously laid out the factual background in their response to the TRO. *See* ECF
10 12. Respondents now repeat that background and include developments since Respondents' last filing.¹

11 Petitioner is a native and citizen of El Salvador. ECF 1 at 4. He entered the United States
12 without inspection, admission or parole on November 21, 2021.² *See* Declaration of Patrick J. Cruz
13 ("Cruz Decl.") at ¶ 6. DHS encountered Petitioner near the border and initiated expedited removal
14 proceedings. *Id.* at ¶ 6. During the pendency of those proceedings, Petitioner claimed a fear of harm if
15 returned to El Salvador on January 26, 2022. *Id.* at ¶ 7. Shortly thereafter, Petitioner was released from
16 custody pending his credible fear interview. *Id.* at ¶ 8. Petitioner was released because he had "been
17 identified as having one or more of the Risk Factors identified by the district court as placing you "at
18 heightened risk of severe illness and death upon contracting the COVID-19 virus." ECF 16 at 38.
19 Specifically, Petitioner was found to have a chronic care condition stemming from his tobacco use. *Id.*

20 _____
21 ¹ Respondents acknowledge the Court's order requiring production of petitioner's A-file (ECF
22 15), and are in the process of obtaining a complete and properly-redacted copy of that file. However,
23 Respondents respectfully request reconsideration of that portion of the Court's order. Alien files contain
24 many documents that are not relevant to the questions presented by this habeas petition, including
25 applications for immigration benefits and immigration court pleadings. Some of these documents may
26 be sensitive, including tax materials, asylum materials, and documents related to ongoing criminal
27 investigations. Furthermore, alien files range in volume from modest to quite large, and should be
28 certified as complete by one of the immigration agencies before filing with the Court as needed.
Because this process requires additional time and resources, and because Respondents have included
additional documentation responsive to the Court's inquiries, respondents submit that this case can be
appropriately resolved on the basis of the documents already submitted in this case and accompanying
this pleading.

² Petitioner's birthdate which was provided in Petitioner's documents was in 2001. ECF 16 at
25. Therefore, Petitioner was approximately twenty years old when he first entered the United States and
is approximately twenty-four now.

1 Contrary to Petitioner’s assertions, he never had a credible fear interview prior to 2025. Cruz
2 Decl. at ¶ 10. During his period of release pending his credible fear interview, Petitioner filed for and
3 received Special Immigrant Juvenile (SIJ) status. *Id.* at ¶ 9. Petitioner also received deferred action
4 when he received SIJ status. ECF 16 at 56. SIJ status does not vest until a visa becomes available, and
5 no visa was or is available for Petitioner. Cruz Decl. at ¶ 9. On November 24, 2025, U.S. Citizenship
6 and Immigration Services (USCIS) conducted a credible fear interview and made a negative finding. *Id.*
7 at ¶ 10. Petitioner then requested an immigration court review the negative credible fear determination.
8 *Id.*; ECF 16 at 9. Petitioner was then warrantlessly re-detained as an applicant for admission subject to
9 expedited removal. Supplemental Declaration of Patrick J. Cruz (“Supp. Cruz Decl.”) at ¶ 6.

10 On December 2, 2025, an immigration court noticed a hearing to review Petitioner’s negative
11 credible fear finding, and USCIS terminated Petitioner’s deferred action related to his SIJ status. Cruz
12 Decl. at ¶ 12–13. The next day, an immigration judge vacated the negative determination of credible
13 fear. *Id.* at ¶ 14. On December 10, 2025, ERO served Petitioner with a Notice to Appear (NTA) to
14 adjudicate his status as removable and resolve his asylum claim. Supp. Cruz Decl. at ¶ 7. Petitioner has
15 a hearing in immigration court scheduled for December 22, 2025. *Id.* Pending Petitioner’s asylum
16 proceedings, Petitioner remains detained under 8 U.S.C. § 1225(b)(1)(B)(ii). *See id.* at ¶ 8.

17 **II. LEGAL BACKGROUND**

18 **A. Applicants for Admission**

19 The Immigration and Nationality Act (“INA”) defines an “applicant for admission” as an “alien
20 present in the United States who has not been admitted or who arrives in the United States (whether or
21 not at a designated port of arrival . . .).” 8 U.S.C. § 1225(a)(1); *Dep’t of Homeland Sec. v.*
22 *Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that “an alien who tries to enter the country
23 illegally is treated as an ‘applicant for admission’” under 8 U.S.C. § 1225(a)(1)); *Jennings v. Rodriguez*,
24 583 U.S. 281, 287 (2018) (“an alien who ‘arrives in the United States,’ or ‘is present’ in this country but
25 ‘has not been admitted,’ is treated as ‘an applicant for admission.’”) (citing 8 U.S.C. § 1225(a)(1));
26 *Matter of Lemus*, 25 I&N Dec. 734, 743 (BIA 2012) (“Congress has defined the concept of an ‘applicant
27 for admission’ in an unconventional sense, to include not just those who are expressly seeking
28 permission to enter, but also those who are present in this country without having formally requested or

1 received such permission”).

2 **B. Detention under 8 U.S.C. § 1225**

3 Section 1225 applies to “applicants for admission,” as defined above. Applicants for admission
4 “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).”
5 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

6 Section 1225(b)(1) applies to arriving aliens and “certain other” aliens “initially determined to be
7 inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.*; 8 U.S.C.

8 § 1225(b)(1)(A)(i), (iii). These aliens generally are subject to expedited removal proceedings. *See* 8
9 U.S.C. § 1225(b)(1)(A)(i). But if the alien “indicates an intention to apply for asylum . . . or a fear of
10 persecution,” immigration officers will refer the alien for a credible fear interview. 8 U.S.C.

11 § 1225(b)(1)(A)(ii). An alien “with a credible fear of persecution” is “detained for further consideration
12 of the application for asylum.” 8 U.S.C. § 1225(b)(1)(B)(ii). If the alien does not indicate an intent to
13 apply for asylum, express a fear of persecution, or is “found not to have such a fear,” he is detained until
14 removed. 8 U.S.C. §§ 1225(b)(1)(A)(i), (B)(iii)(IV).

15 Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*, 583 U.S. at 287.
16 It “applies to all applicants for admission not covered by § 1225(b)(1).” *Id.* Under § 1225(b)(2), an alien
17 “who is an applicant for admission” shall be detained for a removal proceeding “if the examining
18 immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt
19 entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A); *see Pena v. Hyde*, 2025 WL 2108913, at *1 (D.
20 Mass. July 28, 2025) (“[§ 1225] authorizes the detention of any alien who 1) is ‘an applicant for
21 admission’ to the country and 2) is ‘not clearly and beyond doubt entitled to be admitted.’” (citing 8
22 U.S.C. § 1225(b)(2)(A)); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (“[F]or aliens arriving in
23 and seeking admission into the United States who are placed directly in full removal proceedings,
24 section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention ‘until removal
25 proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299). Still, the Department of Homeland
26 Security (“DHS”) has the sole discretionary authority to temporarily release “any alien applying for
27 admission to the United States” on a “case-by-case basis for urgent humanitarian reasons or significant
28 public benefit.” 8 U.S.C. § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

1 **C. Detention under 8 U.S.C. § 1226**

2 Section 1226 provides for arrest and detention of an alien “pending a decision on whether the
3 alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Under § 1226(a), the government
4 may detain an alien during his removal proceedings, release him on bond, or release him on conditional
5 parole. By regulation, immigration officers can release aliens if the alien demonstrates that he “would
6 not pose a danger to property or persons” and “is likely to appear for any future proceeding.” 8 C.F.R.
7 § 236.1(c)(8). An alien also can request a custody redetermination (i.e., a bond hearing) by an
8 immigration judge (“IJ”) at any time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8
9 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19.

10 At a custody redetermination, the IJ may continue detention or release the alien on bond or
11 conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1). IJs have broad discretion in deciding
12 whether to release an alien on bond. *In re Guerra*, 24 I. & N. Dec. 37, 39–40 (BIA 2006) (listing nine
13 factors for IJs to consider).

14 **D. Special Immigrant Juvenile Status under 8 U.S.C. § 1255**

15 Certain aliens who have received SIJ status as described in 8 U.S.C. § 1101(a)(27)(J) are eligible
16 to apply for adjustments of status as laid out in 8 U.S.C. § 1255(a), 1255(h). At the time SIJ aliens apply
17 for adjustments of status, they are deemed as paroled into the United States. 8 U.S.C. § 1255(h)(1).
18 Additionally, when an SIJ alien applies for an adjustment of status, they cannot be considered
19 inadmissible for lack of valid entry documents under 8 U.S.C. § 1182(a)(7)(A). 8 U.S.C. § 1255(h)(2).
20 However, SIJ status does not itself confer any legal status or admission into the United States before an
21 adjustment of status application. *See Murillo-Chavez v. Bondi*, 128 F.4th 1076, 1086 (9th Cir. 2025).
22 Further, while USCIS previously granted deferred action to SIJ aliens as a matter of discretion, that
23 policy was rescinded, and USCIS may terminate prior grants of deferred action on a case-by-case basis.
24 USCIS Policy Manual, vol. 6., pt. J, ch. 5, § G, [https://www.uscis.gov/policy-manual/volume-6-part-j-](https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4)
25 [chapter-4](https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4). Deferred Action is an unreviewable and discretionary act, and the grant or rescission of
26 deferred action status does not give rise to causes of action. *See Barahona-Gomez v. Reno*, 236 F.3d
27 1115, 1119 n.3 (9th Cir. 2001).

III. ARGUMENT

Petitioner has been constitutionally detained as a non-citizen with no legal status seeking admission into the United States. Petitioner is subject to mandatory detention due to his status as an applicant for admission and expedited removal proceedings. While Petitioner claims that DHS “abandoned” his expedited removal proceeding, he cites no authority for the proposition that a properly started expedited-removal proceeding can be “abandoned,” nor does Petitioner provide any argument or explanation as to when in his proceeding his expedited removal changed from active to “abandoned.” Further, Petitioner’s SIJ status does not alter the applicability of expedited removal, as it confers no benefit until Petitioner actually applies for an adjustment of status. Petitioner’s deferred action related to his SIJ status was also terminated, meaning Petitioner’s removal process and asylum adjudication can proceed. Under these circumstances, neither statute nor the Due Process Clause require Petitioner’s release from custody or a prohibition on his removal from the United States. The Court should therefore deny the amended Petition.

Likewise, because Petitioner cannot succeed on the merits, the Court should deny Petitioner’s motion for PI. *Winter v. NRDC, Inc.*, 555 U.S. 7, 22 (2008) (citing *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (per curiam)) (“A [petitioner] seeking a preliminary injunction must show that: (1) *he is likely to succeed on the merits*, (2) he is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in his favor, and (4) an injunction is in the public interest.”) (emphasis added).

A. Petitioner is Subject to Mandatory Detention under 8 U.S.C. § 1225 because he is an applicant for admission to the United States

Petitioner is a noncitizen subject to removal, as he entered the country unlawfully on November 11, 2021, without valid documents and at which time he had not been admitted or paroled after inspection by an immigration officer. As a noncitizen subject to the mandatory detention framework of Section 1225(b), Petitioner is not entitled to custody redetermination hearings by immigration judges or hearings before detention or re-detention. *Jennings*, 583 U.S. at 297 (“neither § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever about bond hearings”); *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. at 107 (finding that an alien apprehended near the border “has no entitlement to procedural

1 rights other than those afforded by statute”). Further, as the Supreme Court described in *Johnson v.*
2 *Arteaga-Martinez*, 596 U.S. 573, 582 (2022) that, unlike federal agencies, “[r]eviewing courts are
3 generally not free to impose [additional procedural rights] if the agencies have not chosen to grant
4 them.”

5 Just as Petitioner is not entitled to a custody redetermination by statute, his release is not
6 otherwise authorized by statute. *Jennings*, 583 U.S. at 297 (“[R]ead most naturally, §§ 1225(b)(1) and
7 (b)(2) mandate detention for applicants for admission until certain proceedings have concluded.”); *see*
8 *also Matter of Q. Li*, 29 I & N. Dec. at 69 (“[A]n applicant for admission who is arrested and detained
9 without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently
10 placed in removal proceedings is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is
11 ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a).”).
12 Likewise, because Petitioner is subject to 8 U.S.C. § 1225(b), his detention or re-detention do not
13 require arrest warrants. *See Jennings*, 583 U.S. at 302 (explaining that the government may detain an
14 applicant for admission without a warrant under 8 U.S.C. § 1225(b), but must obtain a warrant under 8
15 U.S.C. § 1226(a) for other aliens). Petitioner admits that he was placed in expedited removal
16 proceedings following his apprehension near the border. ECF 16 at 1–2. Aliens, like Petitioner, who
17 are placed in expedited removal proceedings but claim credible fear of returning to their country of
18 origin are subject to mandatory detention pending the outcome of their credible fear determination. 8
19 U.S.C. § 1225(b)(1)(B)(iii)(IV). Once an alien is determined to have a credible fear of returning, as
20 Petitioner does, the alien is still mandatorily detained pending the outcome of their asylum application.
21 8 U.S.C. § 1225(b)(1)(B)(ii).

22 The Court should reject Petitioner’s argument that 8 U.S.C. § 1226(a) governs his detention,
23 instead of § 1225(b), and deny the Petition. When there is “an irreconcilable conflict in two legal
24 provisions,” then “the specific governs over the general.” *Karczewski v. DCH Mission Valley LLC*, 862
25 F.3d 1006, 1015 (9th Cir. 2017). Section 1226(a) applies to aliens “arrested and detained pending a
26 decision” on removal. 8 U.S.C. § 1226(a). In contrast, § 1225 is narrower. *See* 8 U.S.C. § 1225. It
27 applies only to “applicants for admission”; that is, as relevant here, aliens present in the United States
28 who have not been admitted or paroled. *See id.*; *see also Florida v. United States*, 660 F. Supp. 3d 1239,

1 1275 (N.D. Fla. 2023). Because Petitioner falls within that category, the specific detention authority
2 under § 1225 governs over the general authority found at § 1226(a).

3 Further, Petitioner admits that he was subject to expedited removal when he was first
4 encountered. ECF 16 at 1–2. However, Petitioner attempts to distance himself from the mandatory
5 detention required for aliens in expedited removal by arguing that DHS somehow “abandoned” the
6 expedited removal proceeding against Petitioner (ECF 16 at 2–3) and that he was re-detained in the
7 “interior” (ECF 16 at 9–10). As to Petitioner’s first argument, he identifies no authority to support the
8 novel assertion that DHS can abandon an expedited removal proceeding, nor does he provide any
9 authority for the court to rely on when determining when an expedited removal proceeding changes
10 from active to abandoned. Nothing in the INA places an expiration date on expedited removal
11 proceedings, and the court should not read in a provision not contained by the plain meaning of the
12 statute. *Hutcherson v. Arizona Health Care Cost Containment Sys. Admin.*, 667 F.3d 1066, 1070 (9th
13 Cir. 2012) (“If the plain meaning is clear, our analysis generally ends and we apply that plain
14 meaning.”). Likewise, there is no distinction between an arrest at the border or an arrest in the interior
15 contained in 8 U.S.C. § 1225 or § 1226. The distinction contained in the statutory language relates to
16 whether the alien is an applicant for admission or not. Those who are applicants for admission, like
17 Petitioner, are subject to the processes of 8 U.S.C. § 1225, while those who are not applicants for
18 admission, such as those officially admitted or paroled into the United States, are subject to 8 U.S.C.
19 § 1226.

20 The fact that Petitioner was conditionally released based on a medical concern stemming from
21 his tobacco use (ECF 16 at 38) does not change the applicable law. DHS has the discretionary authority
22 to temporarily release on parole “any alien applying for admission to the United States” on a “case-by-
23 case basis for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A); *see*
24 *Biden v. Texas*, 597 U.S. 785, 806 (2022). Here, Petitioner’s conditional release reflected practical
25 concerns posed by COVID-19, and Petitioner was granted discretionary release due to the concern of his
26 “heightened risk of severe illness or death” from potentially contracting COVID. ECF 16 at 38. This
27 discretionary grant of release did not somehow change Petitioner’s status as an applicant for admission
28 nor grant him new substantive rights. Petitioner’s conditional release also was not “parole into the

1 United States” for the purposes of expedited removal proceedings. *See Ortega-Cervantes v. Gonzales*,
2 501 F.3d 1111, 1116–17 (9th Cir. 2007).

3 Therefore, because Petitioner was initially detained at the border and placed in expedited
4 removal proceedings, because he remains an applicant for admission to the United States, and because
5 his release was pursuant to DHS’s case-by-case authority, Petitioner is subject to mandatory detention
6 during the pendency of his proceedings and his current detention is lawful.

7 **B. Petitioner’s Due Process Claims Lack Merit**

8 Petitioner also argues that his continued detention violates due process. However, Petitioner’s
9 argument rests on alleged violations of the process spelled out in 8 U.S.C. § 1226(a). As discussed
10 above, § 1226(a) does not apply to Petitioner. Petitioner is currently detained under 8 U.S.C. § 1225(b)
11 while his removal proceedings and asylum application are pending. Petitioner was found and placed in
12 expedited removal proceedings shortly after he crossed the border, and so “has only those rights
13 regarding admission that Congress has provided by statute.” *Thuraissigiam*, 591 U.S. at 140. Nor is this
14 a case where detention is indefinite. Rather, detention under § 1225(b), like detention under § 1226(c),
15 “has a definite termination point: the conclusion of removal proceedings.” *Jennings v. Rodriguez*, 583
16 U.S. 281, 304 (2018) (internal quotation marks and citation omitted).

17 The Supreme Court has long held that “the Government may constitutionally detain deportable
18 aliens during the limited period necessary for their removal proceedings.” *Demore v. Kim*, 538 U.S.
19 510, 526 (2003) (describing this conclusion as the Court’s “longstanding view”). In *Demore*, the Court
20 upheld the constitutionality of a similar mandatory detention provision—8 U.S.C. § 1226(c), which
21 mandates the detention during removal proceedings of aliens who have been convicted of an aggravated
22 felony. *Id.* at 513. In reaching this holding, the Court explained that “[i]n the exercise of its broad
23 power over naturalization and immigration, Congress regularly makes rules that would be unacceptable
24 if applied to citizens.” *Id.* at 521. The Court noted that, for over a century, it has “recognized detention
25 during deportation proceedings as a constitutionally valid aspect of the deportation process” because
26 “deportation proceedings ‘would be vain if those accused could not be held in custody pending the
27 inquiry into their true character.’” *Id.* at 523 (quoting *Wong Wing v. United States*, 163 U.S. 228, 235
28 (1896)).

1 Based on this established principle, the Court in *Demore* reaffirmed that immigration detention
2 can be constitutional even in the absence of any showing that an individual detainee posed a flight risk
3 or a danger to the community. *See id.* at 523–27 (discussing *Carlson v. Landon*, 342 U.S. 524 (1952),
4 and concluding that detention was constitutional “even without any finding of flight risk” or
5 “individualized finding of likely future dangerousness” (quotation marks omitted)). In short, in *Demore*
6 “the Supreme Court recognized [that] there is little question that the civil detention of aliens during
7 removal proceedings can serve a legitimate government purpose, which is ‘preventing deportable ...
8 aliens from fleeing prior to or during their removal proceedings, thus increasing the chance that, if
9 ordered removed, the aliens will be successfully removed.’” *Prieto-Romero v. Clark*, 534 F.3d 1053,
10 1065 (9th Cir. 2008) (quoting *Demore*, 538 U.S. at 528).

11 Based on the reasoning of *Demore*, mandatory detention under 8 U.S.C. § 1225(b)(1) is facially
12 constitutional for the same reasons as is mandatory detention under § 1226(c). Therefore, Petitioner’s
13 detention is consistent with the requirements of due process.

14 C. **The Government is not in Violation of 8 U.S.C. § 1255(h) Because SIJ Status Does**
15 **not Impart new Rights to Petitioner and Petitioner’s Deferred Action was Revoked**
16 **on December 2, 2025.**

17 Petitioner also argues that his Special Immigrant Juvenile status precludes his continued
18 detention because “he is no longer inadmissible under (6)(C) or (7)(A), of section 1182(a).” ECF 16 at
19 13. Petitioner does not provide authority supporting his position that SIJ status renders him admissible
20 before an adjustment of status application, and his argument misunderstands the effect of SIJ status. SIJ
21 status, absent deferred action, does not preclude expedited removal or Petitioner’s detention under 8
22 U.S.C. § 1225(b)(1). By the plain text of 8 U.S.C. § 1255(h), a SIJ alien is deemed paroled into the
23 United States and 8 U.S.C. § 1182(a)(7)(A) is not a ground for inadmissibility when “applying *this*
24 *section . . .*” By applying only to “this section”—meaning 8 U.S.C. § 1255—Special Immigrant
25 Juvenile status only waives the inadmissibility and parole bars to entry at the time the SIJ alien applies
26 for an adjustment of status, which the alien must affirmatively apply for when a visa is available. 8
27 U.S.C. § 1255(a). Prior to such an application, SIJ status does not impart any change in status or rights.

1 *C.f. Murillo-Chavez v. Bondi*, 128 F.4th at 1085 (an alien was not “admitted” under the INA until he
2 applied for and received an adjustment of status).

3 Petitioner has not yet applied for adjustment of status because a visa is not available, so he
4 remains inadmissible under 8 U.S.C. § 1182(a)(7)(A) owing to his lack of valid entry documents. Until
5 he applies for adjustment of status, he remains inadmissible and removable under § 1225(b)(1) because
6 he remains an alien present in the United States who has been neither admitted nor paroled. Petitioner’s
7 SIJ status does not confer admission to the United States or alter the immigration laws to which
8 Petitioner is subject unless and until he applies for and receives an adjustment of status. Only then
9 would Petitioner be considered “admitted” to the United States under the INA, and so ineligible for
10 expedited removal. *Murillo-Chavez*, 128 F.4th at 1085–86.

11 Petitioner also argues that the Court should reinstate Petitioner’s deferred action, which was
12 terminated December 2, 2025. Petitioner claims that “DHS violated Petitioner’s grant of deferred action
13 by revoking it solely because he filed a habeas corpus petition and without a case-by-case analysis.”
14 ECF 16 at 16. Petitioner provides no evidence of such retaliatory intent. The evidence that is available
15 contradicts Petitioner, with the notice provided to Petitioner affirmatively stating that the termination
16 was made after an individual review. *Cruz Decl.* at ¶ 13. In fact, USCIS possessed good reason to
17 effect termination, as Petitioner was an adult at the time he came into the country, admitted he crossed
18 the Rio Grande illegally, admitted that he left El Salvador and came to the United States looking for
19 work, and wanted to stay for only about ten years. ECF 16 at 24–26. Respondents are aware of no
20 indication from Petitioner prior to this Petition that he was trafficked into the United States for use in
21 labor services by a trafficker; in fact, Respondents are aware of no evidence that Petitioner was not
22 simply working with a smuggler to effect his illegal entry into the United States. *C.f. United States v.*
23 *Maka*, 237 F. App’x 225, 227 (9th Cir. 2007) (unpublished) (concluding that human trafficking and alien
24 smuggling were not multiplicitous offenses because trafficking requires the intent to use the individual
25 for labor services while alien smuggling does not).

26 Further, the court lacks jurisdiction, in habeas or otherwise, to review decisions regarding the
27 discretionary actions of the Attorney General or Secretary of Homeland Security. 8 U.S.C.
28 § 1252(a)(2)(B); 8 U.S.C. § 1252(g). Grants of deferred action are exercises of discretion and sit at the

1 heart of the INA’s jurisdiction limitations. *Barahona-Gomez*, 236 F.3d at 1119 (concluding that
2 “[s]ection 1252(g) was aimed at preserving prosecutorial discretion” and considering deferred action as
3 the archetypical example of such discretion). USCIS exercised its discretionary authority to terminate
4 Petitioner’s deferred action on December 2, 2025. Cruz Decl. at ¶ 13. That discretionary action is not
5 subject to judicial review.

6 With deferred action terminated for Petitioner, he is in no different a situation than any other
7 applicant for admission in expedited removal proceedings. Therefore, his continued detention pending
8 his asylum proceedings is lawful.

9 **D. In the Alternative, Petitioner Also Fails to Meet His Heavy Burden to Qualify for a**
10 **PI**

11 The government’s position is that Petitioner fails to carry the merits, and thus his habeas petition
12 should be dismissed and his motion for PI denied. However, even if the court were to conclude
13 Petitioner demonstrated likelihood of success on the merits, a PI would still not be appropriate because
14 Petitioner fails to carry his burden as to the other prongs of the PI analysis. Injunctive relief is “an
15 extraordinary remedy that may only be awarded upon a clear showing that the [petitioner] is entitled to
16 such relief.” *Winter v. NRDC, Inc.*, 555 U.S. 7, 22 (2008) (citing *Mazurek v. Armstrong*, 520 U.S. 968,
17 972 (1997) (per curiam)). “A [petitioner] seeking a preliminary injunction must show that: (1) he is
18 likely to succeed on the merits, (2) he is likely to suffer irreparable harm in the absence of preliminary
19 relief, (3) the balance of equities tips in his favor, and (4) an injunction is in the public interest.” *Id.*,
20 *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). The last two factors “merge when the
21 Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009).

22 “[I]f a [petitioner] can only show that there are ‘serious questions going to the merits’—then a
23 preliminary injunction may still issue if the ‘balance of hardships tips sharply in the [petitioner’s] favor,’
24 and the other two *Winter* factors are satisfied.” *Friends of the Wild Swan v. Weber*, 767 F.3d 936, 942
25 (9th Cir. 2014) (quoting *Shell Offshore, Inc. v. Greenpeace, Inc.*, 709 F.3d 1281, 1291 (9th Cir. 2013);
26 *see also Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017).

27 Importantly, “a preliminary injunction is an extraordinary and drastic remedy, one that should
28 not be granted unless the movant, *by a clear showing*, carries the burden of persuasion.” *Mazurek*, 520

1 U.S. at 972 (emphasis in original). Indeed, the moving party bears the burden of meeting all prongs of
2 the *Winter* test. *DISH Network Corp. v. FCC*, 653 F.3d 771, 776 (9th Cir. 2011) (“To warrant a
3 preliminary injunction, [the petitioner] must demonstrate that it meets all four of the elements of the
4 preliminary injunction test established in *Winter*[.]”).

5 **1. Petitioner has not met his Burden to Show Likely Irreparable Harm.**

6 Petitioner’s contention that he maintains a protected liberty interest in his release status is based
7 on authority that does not apply to parole in the context of immigration proceedings and misreads the
8 INA’s detention statutes. Petitioner cites *Kansas v. Hendricks* as support for his liberty interest, but that
9 case does not support Petitioner’s interest. In fact, the Supreme Court noted in *Hendricks* that “an
10 individual’s constitutionally protected interest in avoiding physical restraint may be overridden even in
11 the civil context.” *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997). Detention here is such a context.

12 Temporary release from DHS custody after unlawfully crossing the United States border does
13 not compare to parole imposed by a court, as post-incarceration supervision, following a citizen’s
14 conviction of a crime. Parole in that context is a judicially imposed term, during which a parolee’s
15 liberty interests are curtailed to a lesser extent than full incarceration, allowing the parolee to live in the
16 community while still under a sentence of judicial punishment. In contrast, here, Petitioner was released
17 subject to conditions due to the exigencies of the COVID-19 pandemic. ECF 16 at 37–38. Had
18 Petitioner not had an elevated risk of severe illness or death from COVID, there would be no dispute
19 that DHS could detain him pending the outcome of his removal proceedings. It cannot be the case that
20 Petitioner’s liberty interest is determined by the exigencies of a once-in-a-century pandemic and
21 Petitioner’s chronic healthcare conditions.

22 More on point, in *Thuraissigiam* the Supreme Court identified a “century-old rule regarding the
23 due process rights of an alien seeking initial entry” that “rests on fundamental propositions: the power to
24 admit or exclude aliens is a sovereign prerogative, the Constitution gives the political department of the
25 government plenary authority to decide which aliens to admit; and a concomitant of that power is to set
26 the procedures to be followed in determining whether an alien should be admitted.” 591 U.S. at 139
27 (citations omitted and cleaned up). Although not cited in the Petitioner’s motion, the United States
28 acknowledges this Court’s decisions to grant TROs in *Garcia v. Andrews*, No. 1:25-cv-01006, 2025 WL

1 2420068 (E.D.Cal. Aug. 21, 2025) and *J.S.H.M. v. Wofford*, No. 1:25-cv-01309, 2025 WL 2938808
 2 (E.D.Cal. Oct. 16, 2025). However, Respondents respectfully maintain that the plain text of the
 3 applicable statutes and the weight of Supreme Court authority in *Thuraissigiam* and *Jennings* indicate
 4 that the Petitioner does not have a strong liberty interest, after entering the country unlawfully, being
 5 promptly interdicted, and falling squarely within 8 U.S.C. § 1225(b).

6 Petitioner’s additional contention that he would be irreparably harmed by removal because he
 7 would lose the opportunity to file for adjustment of status is both speculative and overstated. ECF 17 at
 8 8–9. Petitioner’s statements about potential harm at an unknown future date, presuming Petitioner does
 9 apply for an adjustment of status, are properly subject to the plenary authority of “the political
 10 department of the government.” *Thuraissigiam*, 591 U.S. at 139. Petitioner argues that a removal would
 11 subject Petitioner to a decision by the Attorney General in their “unreviewable discretion to grant or
 12 deny [Petitioner] parole to complete the adjustment of status process.” ECF 17 at 8. However,
 13 Petitioner’s position is not meaningfully harmed by removal, as any adjustment of status is made by “the
 14 Attorney General, in his discretion and under such regulations as he may prescribe.”³ 8 U.S.C.
 15 § 1255(a). This decision regarding adjustment of status is also unreviewable by the courts. 8 U.S.C.
 16 § 1252(a)(2)(B)(i) (“no court shall have jurisdiction to review . . . any judgment regarding the granting
 17 of relief under section 1182(h), 1182(i), 1229b, 1229c, or 1255 of this title . . .”) (emphasis added).
 18 Whether Petitioner is removed or remains, Petitioner’s ability to complete the adjustment of status
 19 process will be properly subject to the plenary power of the executive and Congress to determine
 20 “whether an alien should be admitted.” *Thuraissigiam*, 591 U.S. at 139. Therefore, Petitioner’s
 21 argument that he will suffer irreparable harm due to his pending removal is overstated, as he will not be
 22 subject to any unreviewable discretionary decision he was not already subject to.

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 25 ³ Petitioner argues that he has “prima facie eligibility for adjustment of status based on his
 26 approved Special Immigrant Juvenile status application.” ECF 17 at 8–9. However, simply having SIJ
 27 status does not establish prima facie eligibility for adjustment of status. *See Cordoba Rivas v. Bondi*,
 28 2025 WL 1201419, at *1 (9th Cir. Apr. 25, 2025) (unpublished) (“To obtain remand, an applicant is
 required to establish prima facie eligibility for adjustment of status . . . which requires an ‘immediately
 available’ visa . . . Although USCIS has approved A.E.’s Form I-360 application, the visa for which he
 has applied is not yet available.”).

1 **2. The Balance of Equities and Public Interest Do Not Favor Petitioner.**⁴

2 “It is well settled that the public interest in enforcement of the United States’ immigration laws is
3 significant.” *See, e.g., United States v. Martinez-Fuerte*, 428 U.S. 543, 556–58 (1976); *Blackie’s House*
4 *of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) (“The Supreme Court has recognized that
5 the public interest in enforcement of the immigration laws is significant.” (collecting cases)); *see also*
6 *Nken v. Holder*, 556 U.S. 418, 435 (2009) (“There is always a public interest in prompt execution of
7 removal orders[.]”).

8 Contrary to Petitioner’s assertions, and as described above, Petitioner’s SIJ status does not confer
9 additional rights or benefits to him until he applies for an adjustment of status, and Petitioner’s deferred
10 action has been terminated. While Petitioner cites to PL 110-457 and claims that law alters the public
11 interest here, Petitioner has submitted no evidence establishing that he was the victim of human
12 trafficking. To the extent information is available, Petitioner affirmed in a sworn statement that he
13 swam across the Rio Grande and came to America to work, not because he was smuggled or trafficked
14 into the country. ECF 17 at 24–27. Therefore, the court should treat the public interest similarly to
15 other aliens who entered the country illegally and are placed in expedited removal proceedings.

16 The addition of a judicially created process not contemplated by authorizing statute or
17 regulation—and not required by the due process rights of aliens in Petitioner’s position—represents a
18 significant burden on the public interest of enforcement of immigration laws. Such additional
19 administrative burdens would significantly reduce the government’s capacity to effectuate final removal
20 orders, which courts have held to be a weighty interest. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189,
21 1208 (9th Cir. 2022). This public interest in carrying out the system Congress created and effectuating
22 final removal orders outweighs Petitioner’s private interest here.

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28 ⁴ When the government is a party, the third and fourth preliminary injunction factors merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014).

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IV. CONCLUSION

For the foregoing reasons, the government respectfully requests that the Court dismiss the Amended Petition for Writ of Habeas Corpus and deny Petitioner's amended motion for a Preliminary Injunction.

Dated: December 15, 2025

ERIC GRANT
United States Attorney

By: /s/ J. DOUGLAS HARMAN
J. DOUGLAS HARMAN
Assistant United States Attorney