

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

Kevin Alexander QUINONEZ TORRES,

Petitioner,

v.

Laura HERMOSILLO, Acting Seattle Field
Office Director, Enforcement and Removal
Operations, U.S. Immigration and Customs
Enforcement (ICE); Bruce SCOTT, Warden,
Northwest ICE Processing Center; U.S.
DEPARTMENT OF HOMELAND
SECURITY; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW,

Respondents.

Case No. 2:26-cv-76

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Kevin Alexander Quinonez Torres is currently detained in the physical custody of Respondents at the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington.

2. Mr. Quinonez first entered the United States in August 2019 and was then apprehended by the Department of Homeland Security (DHS). DHS then released him on his own recognizance and placed him in removal proceedings. USCIS granted him Special Immigrant Juvenile Status (SIJS) on September 6, 2023, also granting him deferred action for four years. Mr. Quinonez's removal proceedings were subsequently terminated.

3. In March 2025, despite his valid SIJS and deferred action, DHS re-detained Mr. Quinonez and placed him in removal proceedings again, charging him as being inadmissible as a noncitizen "present in the United States without being admitted or paroled." 8 U.S.C. § 1182(a)(6)(A)(i).

4. On July 9, 2025, Immigration Judge (IJ) Theresa Scala denied Mr. Quinonez's bond request, finding that he is an "applicant for admission" and thus subject to mandatory detention under 8 U.S.C. § 1225(b)(2). The IJ found, however, she would set a bond in the amount of \$4,000 if she had jurisdiction to redetermine his custody.

5. This Court, like numerous others around the country, has already declared Respondents' interpretation of § 1225(b)(2) violates the Immigration and Nationality Act (INA). *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d ----, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025).

6. While the certified Bond Denial Class in *Rodriguez Vazquez* does not include those apprehended at the time of initial entry and thereafter released, this Court has applied the same reasoning to find that individuals similarly situated to Petitioner are detained under § 1226(a) and thus entitled to a bond hearing. *Del Valle Castillo v. Wamsley*, No. 2:25-cv-02054-TMC, 2025 WL 3524932, at *1, *5–6 (W.D. Wash. Nov. 26, 2025). These rulings confirm that Petitioner's detention without any custody determination violates the plain language of the INA.

7. Furthermore, Respondents violated Mr. Quinonez's constitutional rights by detaining him without any notice that explains the basis for revoking his release or any pre-deprivation hearing to assess whether Petitioner presented a flight risk or danger to the community *prior to* his re-detention. Respondents provided failed to provide such notice and hearing even though Mr. Quinonez had valid SIJS and deferred action, and he had previously been released on his own recognizance by DHS. By failing to provide a pre-deprivation hearing, Respondents have violated Petitioner's constitutional right to due process. *See, e.g., E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1321–24 (W.D. Wash. 2025); *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, 2025 WL 2637663, at *2–4 (W.D. Wash. Sept. 12, 2025).

8. Accordingly, this Court should grant a writ of habeas corpus to Petitioner and order his immediate release.

JURISDICTION

9. Petitioner is detained at NWIPC, in Respondents' physical custody.

10. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

11. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), venue lies in the United States District Court for the Western District of Washington, the judicial district in which Petitioner is currently detained.

13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Washington.

REQUIREMENTS OF 28 U.S.C. § 2243

14. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

15. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

16. Petitioner Kevin Alexander Quinonez Torres is a 21-year-old citizen of Guatemala who was arrested by U.S. Immigration and Customs Enforcement (ICE) on March 4, 2025. He is detained at NWIPC.

17. Respondent Laura Hermosillo is the Acting Director of the Seattle Field Office for ICE’s Enforcement and Removal Operations division. As such, Ms. Hermosillo is Petitioner’s immediate custodian and is responsible for his detention and removal. She is named in her official capacity.

18. Respondent Bruce Scott is employed by The GEO Group, Inc., as Warden of the NWIPC, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

19. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

20. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

FACTUAL ALLEGATIONS

21. Petitioner Kevin Alexander Quinonez Torres initially entered the United States without being inspected or admitted on August 23, 2019, and was apprehended by U.S. Border Patrol. Ex. A,¹ DHS Form I-213, at 3.

22. DHS subsequently released Mr. Quinonez on his own recognizance and placed him in removal proceedings, charging him as being inadmissible as being present in the United States without admission or parole under 8 U.S.C. § 1182(a)(6)(A)(i). *Id.* He began residing in Massachusetts after being released.

23. On September 6, 2023, U.S. Citizenship and Immigration Services (USCIS) granted Mr. Quinonez's Petition for Special Immigrant Juvenile Status (SIJS). *Id.* Ex. B, USCIS Approval Notice, at 1.

24. At the same time, USCIS granted him deferred action because a visa was not yet available to permit him to apply for adjustment of status. *Id.* The deferred action, valid for four years, reflected USCIS's determination that Mr. Quinonez "warrant[s] a favorable exercise of discretion." *Id.*

25. Based on the deferred action, Mr. Quinonez was also granted an employment authorization document, valid from May 14, 2024 until September 6, 2027. Ex. C, Employment Authorization Document.

26. On November 24, 2024, his removal proceedings were terminated. *Id.* Ex. A, at 4.

27. On March 4, 2025, ICE re-arrested Mr. Quinonez after he attended an arraignment at the Framingham District Court in Massachusetts and placed him removal proceedings, charging him as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i). *Id.*

¹ All cited exhibits are attached to and authenticated by the Declaration of Leila Kang, filed concurrently with this Petition.

28. Mr. Quinonez's SIJS and deferred action were both valid at the time of his re-detention and have not been rescinded or revoked.

29. Mr. Quinonez was initially detained at the Wyatt Detention Center in Central Falls, RI, then transferred to Florence, AZ, before he was brought to NWIPC in late March 2025.

30. On July 9, 2025, an IJ of the Tacoma Immigration Court issued a decision holding that the court lacked jurisdiction to conduct a bond redetermination hearing pursuant to its policy of deeming individuals like Mr. Quinonez an “applicant for admission” and thus subject to mandatory detention under § 1225(b)(2). Ex. D, Memorandum of the IJ in Custody Proceedings, at 1, 8.

31. The IJ, however, set an alternative bond amount of \$4,000. *Id.* at 9. In determining this amount, she considered “evidence of work authorization, an approved SIJ application, a fixed address where he will reside, and . . . the support of from his family and the community.” *Id.*

32. On July 11, 2025, an IJ ordered Mr. Quinonez removed. His administrative appeal to the BIA is pending.

33. As a result of the IJ's order, Mr. Quinonez remains in detention, thousands of miles away from his home, community, and immigration counsel.

LEGAL FRAMEWORK

The INA's Detention Framework for Noncitizens in Removal Proceedings

34. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

35. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

1 36. Second, the INA provides for mandatory detention of noncitizens subject to
2 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission,
3 as provided in § 1225(b)(2).

4 37. Last, the INA also provides for the detention of noncitizens who have been
5 ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C.
6 § 1231(a)–(b).

7 38. This case concerns DHS’s detention authority under § 1226(a) and § 1225(b)(2).

8 39. The detention provisions § 1226(a) and § 1225(b)(2) were enacted as part of the
9 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
10 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585.

11 40. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining
12 that, in general, people who entered the country without admission or parole were not considered
13 detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and
14 Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
15 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

16 41. Thus, in the decades that followed, nearly everyone who entered without
17 admission or parole and were placed in standard removal proceedings received bond hearings,
18 unless their criminal history rendered them ineligible. That practice was consistent with many
19 more decades of prior practice, in which noncitizens who were not deemed “arriving” were
20 entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994);
21 *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the
22 detention authority previously found at § 1252(a)).

23 42. Section 1226 was most recently amended in January 2025 by the Laken Riley Act
24 (LRA), Pub. L. No. 119-1, 139 Stat. 3 (2025). The LRA amendments require mandatory
25 detention for noncitizens charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A), (C), or (a)(7),
26 *and* charged with or convicted of certain crimes. 8 U.S.C. § 1226(c)(1)(E).

1 43. On July 8, 2025, ICE issued a new policy entitled “Interim Guidance Regarding
2 Detention Authority for Applicants for Admission,” claiming that all persons who entered the
3 United States without admission or parole shall now be deemed “applicants for admission” under
4 8 U.S.C. § 1225, and therefore are subject to mandatory detention under § 1225(b)(2)(A).

5 44. On September 5, 2025, the BIA adopted this same position in *Matter of Yajure*
6 *Hurtado*. There, the Board held that all noncitizens who entered the United States without
7 admission or parole are considered applicants for admission who are seeking admission and are
8 ineligible for IJ bond hearings.

9 45. Notably, long before ICE or the BIA changed its position nationwide, IJs in the
10 Tacoma Immigration Court had stopped providing bond hearings for persons who entered the
11 United States without admission or parole and who have since resided here.

12 46. As this Court declared in *Rodriguez Vazquez*, 2025 WL 2782499—and as
13 hundreds of decisions across the country have now held—Respondents’ interpretation of
14 § 1225(b)(2) violates the INA.

15 47. Subsection 1226(a) applies by default to all persons “pending a decision on
16 whether the [noncitizen] is to be removed from the United States.” These removal hearings are
17 held under § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

18 48. The text of § 1226 also explicitly applies to people charged as being inadmissible,
19 including those who entered without admission or parole. *See* 8 U.S.C. § 1226(c)(1)(E).
20 Subparagraph (E)’s reference to such people makes clear that, by default, such people are
21 afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained,
22 “[w]hen Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent
23 those exceptions, the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257
24 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

25 49. Section 1226 therefore leaves no doubt that it applies to people who face charges
26 of being inadmissible to the United States, including those who are present without admission or
27 parole.

50. By contrast, § 1225(b) applies only to people arriving at U.S. ports of entry or, at most, to those who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

51. This Court has "incorporate[d] the reasoning and conclusions from *Rodriguez Vazquez*" to conclude that § 1226(a), not § 1225(b)(2), governs the detention of petitioners in that case—individuals who had been apprehended at the border at the time of their entry but subsequently "resided in the United States for months or years prior to his or her most recent apprehension." *Del Valle Castillo v. Wamsley*, 2025 WL 3524932, at *5; *see also id.* (listing cases from "courts across the country" reaching the same conclusion).

52. In particular, the Court recognized that a grant of SIJS "weighs in favor of a finding that a petitioner is not 'seeking admission' under § 1225(b)(2)." *Id.* at *6 (citation modified) (granting writ of habeas corpus to individual petitioner who had been granted SIJS after their re-detention).

53. Numerous courts have likewise found that individuals with SIJS are detained under § 1226(a) because they were present in the United States at the time of their detention, even if they had previously been apprehended and released at the border. *See, e.g., Martinez v. Hyde*, --- F. Supp. 3d ---, 2025 WL 3152847, at *8 & n.33 (D. Mass. Nov. 12, 2025) ("Petitioner's SIJ status appears to be incompatible, whether by direct operation of statute or simply as indicative of presence, with finding that he was an 'arriving alien,' as would be required to sustain mandatory detention under section 1225."); *Rodriguez v. Perry*, 747 F. Supp. 3d 911, 916 (E.D. Va. 2024); *Singh v. Andrews*, No. 1:25-cv-01543-DCJ-SCR, 2025 WL 3248059, at *6 (E.D. Cal. Nov. 19, 2025); *Del Cid v. Bondi*, No. 3:25-cv-00304, 2025 WL 2985150, at *16–17 (W.D. Pa. Oct. 23, 2025); *cf. Osorio-Martinez v. Att'y Gen. United States of*

1 *Am.*, 893 F.3d 153, 174 (3d Cir. 2018) (“Because of the rights and benefits they have been
2 accorded, SIJ designees stand much closer to lawful permanent residents than to aliens present in
3 the United States for a few hours before their apprehension.”).

4 54. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to
5 noncitizens who have already entered, were released, and have since been residing in the United
6 States at the time they were most recently apprehended.

7 **Due Process Principles**

8 55. Due process requires that if DHS seeks to re-arrest a person like Mr. Quinonez—
9 individuals who were released and later granted SIJS and deferred action pending the availability
10 of a visa for purposes of adjustment of status—the government must afford a hearing before a
11 neutral decisionmaker to determine whether any re-detention is justified because the person is a
12 flight risk or danger to the community.

13 56. “Freedom from imprisonment—from government custody, detention, or other
14 forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause.”
15 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As this Court recently recognized, this is “the most
16 elemental of liberty interests.” *E.A. T.-B.*, 795 F. Supp. 3d at 1321 (quoting *Hamdi v. Rumsfeld*,
17 542 U.S. 507, 529 (2004)); *see also Ramirez Tesara*, 2025 WL 2637663, at *3 (stating that the
18 petitioner had “an exceptionally strong interest in freedom from physical confinement”).

19 57. Consistent with this principle, individuals released on parole or other forms of
20 conditional release have a liberty interest in their “continued liberty.” *Morrissey v. Brewer*,
21 408 U.S. 471, 482 (1972).

22 58. To protect against arbitrary re-detention and to ensure the right to liberty, due
23 process requires “adequate procedural protections” that test whether the government’s asserted
24 justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally
25 protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (citation modified).

26 59. Due process thus guarantees notice and an individualized hearing before a neutral
27 decisionmaker to assess danger or flight risk *before* the revocation of an individual’s release.

1 *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) (“The fundamental requisite of due process of law
2 is the opportunity to be heard . . . at a meaningful time in a meaningful manner.” (citation
3 modified)); *see also, e.g., Morrissey*, 408 U.S. at 485 (requiring “preliminary hearing to
4 determine whether there is probable cause or reasonable ground to believe that the arrested
5 parolee has committed . . . a violation of parole conditions” and that such determination be made
6 “by someone not directly involved in the case[.]” (citation modified)).

7 60. Several courts, including this one, have recognized that these principles apply
8 with respect to the re-detention of the many noncitizens that DHS has arbitrarily begun taking
9 back into custody, often after such persons have been released for months and years.

10 61. For example, in *E.A. T.-B. v. Wamsley*, this Court applied the three-factor test
11 under *Mathews v. Eldridge*, 424 U.S. 319 (1976), to hold that even in a case where the
12 government asserted that mandatory detention initially applied, a person’s re-detention could not
13 occur absent a hearing.

14 62. In applying the three *Mathews* factors, the *E.A. T.-B.* court held that the petitioner
15 had “undoubtedly [been] deprive[d] . . . of an established interest in his liberty,” which, as noted,
16 “is the most elemental of liberty interests[.]” 795 F. Supp. 3d at 1321 (citation modified). The
17 Court further explained that the risk of erroneous deprivation of liberty without a hearing was
18 high because a hearing serves to ensure that the purposes of detention—the prevention of danger
19 and flight risk—are properly served. *Id.* at 1322–23. Finally, the Court determined that “the
20 government’s interest in re-detaining a previously released noncitizen is low,” and that the
21 “expenditure of finite resources” required to provide a pre-deprivation hearing were “far
22 outweighed by the risk of erroneous deprivation of the liberty interest at issue.” *Id.* at 1324. As a
23 result, this Court ordered the petitioner’s immediate release. *Id.*

24 63. This Court subsequently applied a similar analysis in *Ramirez Tesara v. Wamsley*,
25 first recognizing that a previously paroled petitioner had a “weighty” interest in his liberty and
26 was entitled to the “full protections of the due process clause.” 2025 WL 2637663, at *3. When
27 examining the value of additional safeguards, the Court noted that despite the alleged violations

1 of release conditions, “the fact ‘that the Government may believe it has a valid reason to detain
2 Petitioner does not eliminate its obligation to effectuate the detention in a manner that comports
3 with due process.’” *Id.* at *4 (quoting *E.A. T.-B.*, 795 F. Supp. 3d at 1322). Finally, the Court
4 reasoned that any government interest in re-detention without a hearing was “minimal.” *Id.*
5 Accordingly, there too, the Court ordered the petitioner’s immediate release. *Id.* at *5.

6 64. Numerous courts in this District have subsequently affirmed that due process
7 demands a hearing *prior* to the government’s decision to terminate a person’s liberty. *Ledesma*
8 *Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *7–9 (W.D. Wash.
9 Oct. 7, 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *2–4
10 (W.D. Wash. Sept. 17, 2025); Report & Recommendation, *Lopez Reyes v. Wamsley*, No. 2:25-
11 cv-01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt. 13; *Y.M.M. v. Wamsley*, No. 2:25-CV-
12 02075-TMC, 2025 WL 3101782, at *2 (W.D. Wash. Nov. 6, 2025); *P.T. v. Hermosillo*, No. C25-
13 2249-KKE, 2025 WL 3294988, at *4 (W.D. Wash. Nov. 26, 2025); Order, *Francois v. Wamsley*,
14 No. 2:25-cv-02122-RSM-GJL, 2025 WL 3496557, at *4 (W.D. Wash. Dec. 5, 2025).

15 65. Many district courts across the country addressing similar situations have also
16 held the same. *See, e.g., Valdez v. Joyce*, --- F. Supp. 3d ---, 2025 WL 1707737 (S.D.N.Y. June
17 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Garro Pinchi v.*
18 *Noem*, 792 F.Supp.3d 1025 (N.D. Cal. July 24, 2025) (similar).

19 66. The liberty interest and risk of erroneous deprivation are particularly salient
20 where, as here, an individual has been granted SIJS and deferred action.

21 67. SIJS is a form of immigration relief intended to provide “permanent protection for
22 certain at-risk children.” 8 U.S.C. § 1232(d) (capitalization omitted). Even though it is not an
23 “admission,” it is “a form of parole that confers eligibility for adjustment to [lawful permanent
24 resident] status to noncitizen minors who have been abused, abandoned, or neglected.” *Murillo-*
25 *Chavez v. Bondi*, 128 F.4th 1076, 1085 (9th Cir. 2025); *see also, e.g., Moreno Galvez v.*
26 *Cuccinelli*, 387 F. Supp. 3d 1208, 1211 (W.D. Wash. 2019) (noting that SIJS provides “a
27 pathway to lawful permanent residency and, ultimately, citizenship”).

68. Accordingly, “SIJ status . . . reflects the determination of Congress to accord those abused, neglected, and abandoned children a legal relationship with the United States and to ensure they are not stripped of the opportunity to retain and deepen that relationship without due process.” *Osorio-Martinez*, 893 F.3d at 174.

69. Courts have thus recognized these interests and held that individuals granted SIJS and deferred action are constitutionally entitled to a pre-deprivation hearing, ordering their release. *See, e.g., Vieira v. De Anta-Ybarra*, --- F. Supp. 3d ---, 2025 WL 2937880, at *5 (W.D. Tex. Oct. 16, 2025) (holding that petitioner with SIJS, detained while in deferred action, was “entitled to the Fifth Amendment’s Due Process Clause protections”); *Amaya-Quinteros v. Corecivic, Inc.*, No. 1:25-cv-1672 ACP, 2025 WL 3687642, at *11 (E.D. Cal. Dec. 19, 2025) (recognizing substantial private interest in liberty and risk of erroneous deprivation where, “[a]t the time of his detention, [the petitioner] had approved SIJS, deferred action, and work authorization”); *F.S.S.M. v. Wofford*, No. 25-01518, 2025 WL 3526671 (E.D. Cal. Dec. 9, 2025) (“The length of time Petitioner has been in the United States and had expected to remain through deferred action, as well as his connection to his local community, create a powerful interest for Petitioner in his continued liberty.”); *De Leon Hernandez v. Bondi*, 25-cv-1384, 2025 WL 3217037 (W.D. La. Nov. 18, 2025) (“To continue to detain would only be penal in nature.”).

70. This Court and others have also found that the government has no legal basis to detain individuals with deferred action, which “prevents recipients’ removal from the United States.” *Sepulveda Ayala v. Bondi*, 794 F. Supp. 3d 901, 912 (W.D. Wash. 2025) (granting preliminary injunctive relief and ordering release of individual who had received deferred action based on bona fide eligibility for U nonimmigrant status after a final removal order); *see also, e.g., Aguilar Gama v. Bondi*, No. 2:25-CV-01925-TL, 2025 WL 3559942, at *4 (W.D. Wash. Dec. 12, 2025) (similar); *cf. B.D.A.A. v. Bostock*, No. 6:25-CV-02062-AA, 2025 WL 3484912, at *7 (D. Or. Dec. 4, 2025) (“[B]y detaining her without prior notice and hearing[,] Respondents . . . nullified Petitioner’s bona fide U visa determination and its attendant benefits, including Petitioner’s work authorization and deferred action status without due process.”).

1 71. The IJ's July 2025 bond determination—issued four months *after* his re-
2 detention—only underscores that an erroneous deprivation of liberty has already taken place: the
3 IJ categorically denied him an opportunity to seek release on bond, while also finding that he
4 was not a danger to the community and that he would alternatively be entitled to release under a
5 bond in the amount of \$4,000.

6 **CLAIM FOR RELIEF**

7 **Count I**
8 **Violation of INA:**
9 **Unlawful Detention under § 1225(b)(2)**

10 72. Petitioner incorporates by reference all allegations set forth in paragraphs 1–71.

11 73. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
12 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
13 relevant here, it does not apply to those who previously entered the country and have been
14 residing in the United States prior to being apprehended and placed in removal proceedings by
15 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
16 § 1225(b)(1), § 1226(c), or § 1231.

17 74. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued
18 detention and violates the INA.

19 **Count II**
20 **Violation of Fifth Amendment of U.S. Constitution:**
21 **Unlawful Detention without Procedural Due Process**

22 75. Petitioner incorporates by reference all allegations set forth in paragraphs 1–71.

23 76. Due process does not permit the government to re-detain Petitioner and strip him
24 of deferred action without legal justification.

25 77. Due process does not permit the government to re-detain Petitioner and strip him
26 of his liberty without written notice and a pre-deprivation hearing before a neutral decisionmaker
27 to determine whether re-detention is warranted based on danger or flight risk. Such written
notice and a hearing must occur *before* any re-detention.

1 78. Respondents revoked Petitioner's release and deprived him of liberty without
2 providing written notice and a meaningful opportunity to be heard by a neutral decisionmaker
3 prior to their re-detention.

4 79. Accordingly, Petitioner's re-detention violates the Due Process Clause of the Fifth
5 Amendment.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 8 (a) Assume jurisdiction over this matter;
- 9 (b) Require Respondents to show cause within fourteen days of this Petition's filing as to
10 why this Petition should not be granted as required by 28 U.S.C. § 2243, and permitting
11 Petitioner to file a traverse within five days of Respondents' return, *see* W.D. Wash. Gen.
12 Order No. 10-25 & App. A;
- 13 (c) Issue an order that prohibits Respondents from transferring Petitioner out of this district
14 during the pendency of the court's adjudication of this petition, or, alternatively, order
15 Respondents to notify Petitioner and their habeas counsel in advance of any transfer or
16 removal, *see* W.D. Wash. Gen. Order No. 10-25 & App. A;
- 17 (d) Declare that Petitioner is detained under 8 U.S.C. § 1226(a) and not subject to mandatory
18 detention under § 1225(b);
- 19 (e) Declare that Petitioner's re-detention despite without any basis to revoke his deferred
20 action and without a pre-deprivation hearing violates the Due Process Clause of the Fifth
21 Amendment;
- 22 (f) Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner
23 from custody, or in the alternative, ordering his immediately release upon payment of the
24 alternative bond set by the IJ;
- 25 (g) Issue a writ of habeas corpus enjoining Respondents from re-detaining Petitioner absent
26 written notice and a pre-deprivation hearing at which DHS must justify any re-detention
27

by clear and convincing evidence of flight risk or danger to the community and demonstrate that no alternatives to detention would mitigate any such risks;

(h) Order that upon Petitioner's release, Respondents must return to Petitioner any personal property, including personal identification documents and employment authorization documents;

(i) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

(j) Grant any other and further relief that this Court deems just and proper.

DATED this 8th of January, 2026.

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