UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

Ibey Chaviano Juvier,	)	
Petitioner,	)	
v.	)	**Case No. 26-CV-20405-JB**
PAMELA JO BONDI, et al,	)	
Respondents.	)	

PETITIONER'S REPLY IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Mr. Chaviano Juvier, by and through undersigned counsel, respectfully submits this reply in further support of his petition for a writ of habeas corpus.

First, Petitioner asserts that the factual and legal issues presented in this habeas corpus petition do not differ materially from those considered and decided by this Court in *Boffill v. Field Office Director*, No. 25-CV-25179-JB, 2025 WL 3246868 (S.D. Fla. Nov. 20, 2025), and *Nguyen v. Parra*, No. 25-CV-25325-JB, 2025 WL 3451649 (S.D. Fla. Dec. 1, 2025). Like *Boffill* and *Nguyen*, Respondents released Mr. Chaviano Juvier on his own recognizance on March 13, 2021, *see* ECF No. 10 at *2, No. 10-5 at *1; charged as removable pursuant to 8 U.S.C. 1182(a)(6)(A)(i) as a noncitizen present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General, *see* ECF No. 10-8 at *1, No. 10-9 at *4; and later re-arrested him pursuant to an immigration detainer, *see* ECF No. 10 at *2. Those decisions, as well as the instant Petition, concern violations of the Immigration and Nationalities Act and due process for noncitizens erroneously considered to be subject to mandatory detention under § 1225(b)(2).

Herein, Petitioner asserts the following: (1) this Court has jurisdiction in this matter; (2) Petitioner's proper detention authority falls under § 1226(a), not § 1225(b)(2); and (3) Petitioner is entitled to due process and his continued detention is a violation of his right to due process.

ADDITIONAL FACTUAL BACKGROUND

Although Petitioner was originally charged with leaving the scene of an accident, the Office of the State Attorney for the Third Judicial Circuit declined to prosecute this charge.

LEGAL STANDARD

As this Court previously explained, "[d]istrict courts have the authority to grant writs of habeas corpus. *Nguyen*, 2025 WL 3451649, at *2 (citing 28 U.S.C. § 2241(a)). "Habeas corpus is fundamentally 'a remedy for unlawful executive detention.'" *Id.* (citing *Munaf v. Green*, 553 U.S. 674, 693 (2008). "A writ may be issued to a petitioner who shows that he is being held in custody in violation of the Constitution or federal law." *Id.*

ARGUMENT

I. THIS COURT HAS JURISDICTION OVER THE INSTANT CASE.

Respondents contend that 8 U.S.C. § 1252(e)(3) bars review of Petitioner's claims. This Court correctly analyzed this legal issue in *Boffill* and should reach the same conclusion in this case, finding that § 1252(e)(3) does not deprive this Court of jurisdiction in this matter. *Boffill*, 2025 WL3246868, at *2.

First, § 1252(e)(3) relates to challenges to the "validity of the system." *Id.* Like *Boffill*, "Petitioner does not raise any systemic challenges, nor does he challenge the implementation of section 1225(b)(2)" but instead "challenges the lawfulness of *his* detention without a bond hearing." *See id.* Second, "Petitioner does not challenge the lawfulness of any particular statute, regulation, or written policy or procedure" and instead "asserts that Respondents lack authority to detain him under section 1225(b)(2)'s mandatory detention scheme because his detention is governed by section 1226(a)." *See id.* For these reasons, as outlined in *Boffill*, § 1252(e)(3) does not bar this Court's jurisdiction over Petitioner's claim for habeas relief. *See id.*

Finally, § 1252(e)(3) "is inapplicable as it is limited, by its express terms, to determinations under section 1225(b)" which, as argued herein, does not apply to Petitioner. *See id.* As such, in line with this Court's prior decision and those of numerous courts in this Circuit and across the country, § 1252(e)(3) does not deprive this Court of jurisdiction over Petitioner's claims. *See id.* (collecting cases).[1]

II. PETITIONER'S PROPER DETENTION AUTHORITY IS § 1226(a).

The proper detention authority over Petitioner is § 1226(a). The INA contemplates two detention regimes for noncitizens pending removal proceedings: "Section 1225 governs the inspection, detention, and removal of applicants for admission" who are also seeking admission into the country." *Boffill*, 2025 WL 3246868, at *5. Detention under § 1225(b)(2) is mandatory without access to a bond hearing before an Immigration Judge. *Id.* Section 1226, on the other hand, "authorizes the Government to detain certain [noncitizens] *already in the country* pending the outcome of removal proceedings." *Id.* at *6 (emphasis in original) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018)). Individuals detained pursuant to § 1226(a) "receive bond hearings at the outset of detention." *Id.*

Like the Petitioner in *Boffill*, "[f]rom the outset of Petitioner's case," Respondents proceeded under § 1226 by releasing Petitioner on his own recognizance, which occurs "'in accordance with section 236 of the Immigration and Nationality Act,' codified at section 1226." *Id.* Also like *Boffill*, "the NTA that DHS issued to Petitioner did not classify him as an 'arriving alien.'"—both the NTA from 2024, *see* ECF No. 10-8, and the NTA from 2025, *see* ECF No. 10-9, classify Petitioner as a noncitizen "present in the United States who has not been admitted or

[1] Respondents did not ask for dismissal due to administrative or prudential exhaustion. *See* ECF No. 10. For the reasons outlined in *Boffill*, this Court should not require prudential exhaustion because "any bond appeal to the BIA is nearly a foregone conclusion under *Matter of Yajure Hurtado*" and would be futile. *Boffill*, 2025 WL 3246868 (collecting cases reaching the same conclusion).

paroled. "This classification places him squarely within section 1226." *See Boffill*, 2025 WL 3246868, at *6. Additionally, as outlined in *Jennings*, 583 U.S. at 303, and explained in *Boffill*, 2025 WL 3246868, at *7, section 1226's catchall provision creates a default rule that applies to noncitizens already present in the United States. For these reasons, Petitioner's detention occurs pursuant to § 1226(a) and he is entitled to a bond hearing before an Immigration Judge. *Boffill*, 2025 WL 3246868, at *7.

Additionally, Congressional amendments clarify that § 1226(a) apply to noncitizens like Petitioner, and legislative and statutory history support the conclusion that Petitioner is eligible for a bond hearing.

A. *Congress's Amendments to the § 1226 through the Laken Riley Act further support the conclusion that Petitioner's detention occurs under § 1226(a).*

Congress's amendment of the Laken Riley Act further supports this interpretation that § 1226(a) applies to individuals arrested within the United States. If § 1225(b) applied to all noncitizens that entered the United States without admission or parole, it would render significant portions of § 1226 meaningless. *See Corley v. United States*, 556 U.S. 303, 314 (2009) ("[under] one of the most basic interpretive canons . . . [a] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant[.]") (cleaned up). "This principle . . . applies to interpreting any two provisions in the U.S. Code, even when Congress enacted the provisions at different times." *Bilski v. Kappos*, 561 U.S. 593, 607-08 (2010).

Congress passed the Laken Riley Act ("LRA") in January 2025, amending several provisions of the INA, including §§ 1225 and 1226. *See* Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). The newly added section explicitly encompasses noncitizens who entered without admission or inspection, *see* § 1226(c)(1)(E)(i), *and* have certain criminal issues outlined therein,

see § 1226(c)(1)(E)(ii), and are thus subject to mandatory detention. If § 1225(b) already applied to all noncitizens who were not admitted, that would render superfluous § 1226(c)(1)(E)(i). *See Stone v. Immigration and Naturalization Svc.*, 514 U.S. 386, 397 (1995) ("When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect.") (internal citations omitted). Congress would not have included inadmissibility under § 1182(6)(A) as a requirement for mandatory detention under the LRA if all individuals present without being admitted or paroled were already subject to mandatory detention. *See Shady Grove Orthopedic Assocs., P.A.*, 559 U.S. at 400.

Additionally, "[w]hen Congress adopts a new law against the backdrop of a 'longstanding administrative construction,'" courts "generally presume the new provision should be understood to work in harmony with what has come before." *Monsalvo Velasquez v. Bondi*, 604 U.S. 712, 713 (2025) (quoting *Haig v. Agee*, 453 U.S. 380, 397-98 (1981)). With regards to bond eligibility, Congress adopted the LRA against a decades-old agency practice of applying discretionary detention under § 1226 to inadmissible noncitizens.

As such, the amendment of the Laken Riley Act further supports the conclusion that Petitioner's detention occurs pursuant to § 1226(a).

B. *Legislative and Statutory History Support The Conclusion That The Petitioner Is Eligible For A Bond Hearing.*

Legislative and statutory history support the interpretation of § 1226 applying to noncitizens who have not been admitted. Prior to IIRIRA, noncitizens like Petitioner were not subject to mandatory detention. *See* 8 U.S.C. § 1252(a) (1994) (authorizing the Attorney General to arrest noncitizens for deportation proceedings, which applied to all persons within the United States). In passing IIRIRA, Congress explained that it intended for the new § 1226(a) to continue to govern the detention of those apprehended inside the United States and that the new provisions

at § 1226(a) merely "restate[d] the current provisions in [the predecessor statute] regarding the authority of the Attorney General to arrest, detain, and release on bond a[] [noncitizen] who is not lawfully in the United States." H.R. Rep. No. 104-469, pt. 1, at 229; see also H.R. Rep. No. 104-828 at 210. "Because noncitizens like [Petitioner] were entitled to discretionary detention under Section 1226(a)'s predecessor statute and Congress declared its scope unchanged by IIRIRA, this background supports [Petitioner's] position that he, too, is subject to discretionary detention." *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1260-61 (W.D. Wash. 2025).

When EOIR promulgated regulations implementing the custody provisions of IIRIRA, it explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination. 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (". . . inadmissible [noncitizens,] except for arriving [noncitizens], have available to them bond redetermination hearings before an immigration judge, while arriving [noncitizens] do not.").

The relevant regulations remain in effect. Specifically, the regulation governing IJs' bond jurisdiction, 8 C.F.R. § 1003.19(h)(2), does not preclude an IJ's jurisdiction over all inadmissible noncitizens, and instead precludes jurisdiction to inadmissible noncitizens subject to § 1226(c) and certain other classes of noncitizens, like arriving noncitizens. Such a longstanding and consistent interpretation "is powerful evidence that interpreting the Act in [this] way is natural and reasonable." *Abramski v. United States*, 573 U.S. 169, 203 (2014) (Scalia, J., dissenting).

III. PETITIONER IS ENTITLED TO DUE PROCESS AND HIS CONTINUED DETENTION WITHOUT A BOND HEARING IS A VIOLATION OF DUE PROCESS.

The Fifth Amendment's Due Process Clause forbids the government to "deprive" any "person of liberty without due process of law." U.S. CONST. amend V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at

the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). "[O]nce a[noncitizen] enters the country, the legal circumstances change, for the Due Process Clause applies to all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* Thus, Petitioner is clearly entitled to due process. *See id.*

Next, the Court determines how much process Petitioner is due. "[I]dentification of the specific dictates of due process generally requires consideration of three distinct factors": (1) "the private interest that will be affected by the official action"; (2) "the [g]overnment's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail," and (3) "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." *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

First, Petitioner has acquired a private liberty interest by being present in the United States for the last five years. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects." *Zadvydas*, 533 U.S. at 690. Petitioner has called the United States home since 2021; the Court should find that he possesses a strong liberty interest in his freedom from detention because he has established a life here, albeit without authorization, and that this interest deserves great weight and gravity. The second *Mathews* factor also weighs in favor of Petitioner: the government certainly has an interest in ensuring noncitizens appear for their removal hearings and do not pose a risk to their communities. However, Respondents can easily vindicate this interest in a bond hearing. *See Cortina v. De Anda Ybarra*, No. EP-25-CV-00523-DB, 2025 WL 3218682 (W.D. Tex. Nov. 18, 2025). Any fiscal or administrative burdens Respondents may claim should be considered along

with the fact that the government conducted such hearings until just a few months ago. As such, the second *Mathews* factor weighs in Petitioner's favor. Finally, the third *Mathews* factor also weighs in Petitioner's favor. Section § 1225(b)(2) as applied to an individual who has lived in the United States for five years creates a substantial risk of erroneous deprivation of Petitioner's interest in being free from arbitrary confinement pending resolution of his removal proceedings. The government has built-in additional safeguards in the form of a bond hearing that allows an Immigration Judge to decide on specific facts whether Petitioner's continued detention is necessary to ensure presence at removal hearings and safety for the community.

As such, the Court should find that § 1225(b)(2) as applied to Petitioner violates his Fifth Amendment Due Process rights.

IV. CONCLUSION

In conclusion, this Court should grant Petitioner's request for habeas relief in line with its prior decisions in *Boffill*, 2025 WL 3246868, and *Nguyen*, 2025 WL 3451649.

Petitioner asks this Court to order the immediate release of Petitioner in line with their prior decision to release him on his own recognizance, given his lack of criminal convictions since his arrival in the United States. There has been no material change in Petitioner's circumstance since Respondents' prior decision to release Petitioner on his own recognizance that calls for a different calculus now. *See, Y.S.G. v. Andrews,* No. 2:25-CV-1884-SCR, 2025 WL 2979309 (E.D. Cal. Oct. 22, 2025) (ordering petitioner's release from custody after finding that the Immigration Judge abused his discretion in finding petitioner to be a danger and flight risk without materially changed circumstances from a 2023 decision that petitioner was not a danger or flight risk); *Meza v. Bonnar*, No. 18-CV-02708-BLF, 2018 WL 2554572, at *3 (N.D. Cal. June 4, 2018) (holding that where a noncitizen was detained and released, "due process would seem to require an administrative

hearing to show a material change in circumstances" *before* she can be re-detained"); *Qazi v. Albarran*, No. 2:25-CV-02791-TLN-SCR, 2025 WL 2769837, at *3 (E.D. Cal. Sept. 29, 2025) ("Petitioner was previously released pursuant to a finding that he was not at risk of fleeing or harming others, and as such, due process prevents him from being redetained except upon a showing of a material change in circumstances.").

In the alternative, Petitioner requests an individualized bond hearing, during which the government bears the burden to show that Petitioner is a danger to the community or a flight risk, and to justify any change from their prior decision to release Petitioner on his own recognizance in 2021. *See Soto-Medina v. Lynch*, No. 1:25-CV-1704, 2026 WL 161002, at *5 n.2 (W.D. Mich. Jan 21, 2026) (analyzing in-depth the Circuit split regarding burden of proof in this scenario).

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