**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF NEW YORK**

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ORTIZ PAREDES, GENDRI
(A[redacted])

*Petitioner*,

v.

KENNETH GENALO, Et al.,
*Respondents*

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**CIVIL ACTION NO. 9:26-cv-324(MAD)**

**PETITIONER'S REPLY AND OPPOSITION TO RESPONDENTS' MOTION TO DISMISS THE PETITION FOR WRIT OF HABEAS CORPUS**

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Wilkinson v. Garland, 601 U.S. 209 (2024)

Black v. Decker, *103 F. 4th 133 (2d Cir. 2024)*

## Introduction

Petitioner Gendri Ortiz Paredes, respectfully submits this memorandum of law in Reply to the Respondents' response and opposition to the Respondents' motion to dismiss his petition for writ of habeas corpus. The Court should grant Mr. Ortiz Paredes' relief because the Petition challenges the authority and constitutionality of the Petitioner's present immigration detention and seeks classic habeas relief from custody, not review for a final order of removal. Further, the Respondents' reply has failed to establish that the detention at issue in this case falls within the mandatory detention powers under USC section §1226(c).

**Statement of Facts**

Petitioner Gendri Ortiz Paredes, entered into the United States on September 12, 2024 as an unaccompanied minor. On or about November 13, 2024, he subsequently filed an I-589 Asylum application in compliance with the regulations and proper practice for filing asylum as an Unaccompanied minor. He then filed an application for special juvenile status in Family Court. Subsequently, in October 2025, Mr. Ortiz Paredes filed a Form I-360 petition for Special Immigrant Juvenile Status.

On October 25, 2025, Mr. Ortiz Paredes was detained and arrested by the Nassau County Police Department on charges of Petit larceny. He was a high school student at the time. At the time of his arrest, he was not produced before a criminal court judge for arraignment, nor given any opportunity to defend himself against those charges. Instead, he was immediately handed over into Ice Custody. Despite the fact that the Petitioner has not been charged or arraigned for any crime, DHS and ICE continue to detain him under the pretenses of mandatory detention.

March 25, 2026 marked the fifth (5th) month of Mr. Ortiz Paredes' detention. In that time, he has remained detained without any bond.

## Legal Standard

A motion to dismiss for lack of subject-matter jurisdiction should be denied where the petition plausibly invokes federal habeas jurisdiction to challenge present custody and raises colorable statutory and constitutional questions. *Hechavarria v. Sessions,* 891 F.3d 49 (2d Cir. 2018). District courts retain habeas jurisdiction to review the lawfulness of immigration detention, including threshold questions concerning the source of detention authority and whether the Government is proceeding under the correct statutory framework. *Hechavarria v. Sessions,* 891 F.3d 49 (2d Cir. 2018).

Where constitutional violations are alleged, courts must avoid overbroad construction of jurisdiction-stripping provisions that would foreclose meaningful judicial review. *Ragbir v. Homan,* 923 F.3d 53 (2d Cir. 2019).Statutory review-limiting language does not eliminate review of questions of law, including disputes over the correct legal standard to apply, and mixed questions involving the application of law to established facts may remain reviewable as questions of law. Guerrero-*Lasprilla v. Barr,* 589 U.S. 221 (2020); *Wilkinson v. Garland,* 601 U.S. 209 (2024).

## Argument

I. The Respondents Cannot Legally Detain Mr. Ortiz Paredes pursuant to 8 U.S.C. §1226(c)

Respondents claim that they lawfully detained the Petitioner, citing the Laken Riley Act and its extension of the enumerated crimes to include Larceny and shoplifting. However, the Respondents have been unable to provide any evidence to indicate that the Petitioner was indeed arrested and charged for those crimes.

The characterization of the events leading up to the Petitioner's ICE detention is in itself an admission that Mr. Ortiz Paredes' due process rights were denied. The Nassau County police have no legal authority to try or to convict a person charged with a crime in New York State. A proper arrest should have been made and the Respondent subsequently arraigned and charged under the applicable laws of New York State.

Since the proper legal procedure was not followed, ICE has no legal right to detain the Petitioner as a person arrested and charged under the Laken Riley Act. They cannot assert a mandatory right to detain him based on a criminal charge where no criminal charge exists.

II. Even Assuming the Laken Riley Act applies, the Detention of Mr. Ortiz Paredes Is Unreasonable in Duration

Further, although the Laken Riley Act expanded who may initially be detained, it did not repeal constitutional due process protections recognized by the Second Circuit. Nothing in the Laken Riley Act abrogates the constitutional rule articulated in *Black v. Decker* that once detention becomes unreasonable in duration, individualized review is constitutionally required notwithstanding 1226(c). *Black v. Decker, 103 F. 4th 133 (2d Cir. 2024).* Further, Congress expanded detention to persons "charged with" theft-related conduct, but did not authorize indefinite detention based solely on uncharged accusation unsupported by criminal process.

Petitioner, a 19 year old high schooler, has been detained for five months now without the opportunity of a bond. His life has been disrupted and significantly derailed based on an unfounded claim for which he was not charged.

The detention of Mr. Ortiz Paredes has now crossed from initial statutory custody into constitutionally prolonged detention. Even where DHS invokes section 1226(c), the Second Circuit requires an individualized hearing once detention becomes unreasonable in duration. In the instant case, no conviction exists, no formal criminal prosecution exists, and DHS has not shown clear and convincing evidence of present danger or flight risk, continued detention violates the Petitioner's due process and release is warranted.

## Conclusion

For the foregoing reasons, Petitioner respectfully requests that the Court deny Respondents' request to dismiss the Petition for Writ of Habeas Corpus. Petitioner further requests that the Court order the immediate release of the Petitioner, or in the alternative that the Respondents schedule him immediately for a bond redetermination hearing.

Petitioner requests such other and further relief as the Court deems just and proper.

Respectfully Submitted,

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Dated: March 26, 2026