

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

MIGUEL RAYMUNDO COBO,

Petitioner,

v.

JEFFREY CRAWFORD, *in his official capacity as Warden of the Farmville Detention Center*; ROBERT GUADIAN, *in his official capacity as Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations Washington Field Office*; KRISTI NOEM, *in her official capacity as Secretary of the Department of Homeland Security*; PAMELA BONDI *in her official capacity as Attorney General of the United States,*

Respondents.

**PETITION FOR WRIT OF
HABEAS CORPUS**

Case No.

INTRODUCTION

1. Petitioner Miguel Raymundo Cobo, a native and citizen of Guatemala has lived in the United States for five years, was initially apprehended by immigration officials within the country, was designated as an unaccompanied minor, was placed in the custody of the Office of Refugee Resettlement (ORR), and was released to a sponsor in the United States after ORR determined that he did not pose any danger to the community or risk of flight.
2. Petitioner applied for and was granted Special Immigrant Juvenile Status (“SIJS”). *See* 8 U.S.C. § 1101(a)(27)(J). SIJS provides unaccompanied minors with a pathway to lawful permanent residence status and eventual U.S. citizenship. *See* 8 U.S.C. §§ 1255(a) and (h) and 1422. Petitioner received deferred action on October 22, 2024, which is a promise by

the government not to initiate enforcement against them absent a new justification after his SIJS application was approved. *See* Exhibit E.

3. DHS is now seeking to remove Petitioner based on the allegation that he entered the United States without inspection. *See* 8 U.S.C. §1182(a)(6)(A)(i); *see also* Exhibit A.
4. Respondents have effectively rewritten the laws and regulations governing civil immigration detention in a manner that has no basis in the text of those enactments, or the precedent interpreting them, and have imposed a system of punitive immigration detention that violates Petitioner's due process rights.
5. Accordingly, Respondents' detention of the Petitioner violates the plain language of the Title 8 of the United States Code, the implementing regulations, and the United States Constitution.
6. Petitioner seeks immediate release and other relief as set forth below.

CUSTODY

7. Petitioner is currently in the custody of ICE at Farmville Detention Center in Farmville, Prince Edward County, Virginia. *See* Exhibit B, ICE Detainee Locator information. He is therefore in "custody" of the Department of Homeland Security within the meaning of the habeas corpus statute." *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION

8. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. §§ 2201, 2202 (Declaratory Judgment Act).

9. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

VENUE

10. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (c)(1) because Petitioner is detained within this district at Farmville Detention Center (Farmville). *See* Exhibit B. Furthermore, a substantial part of the events or omissions giving rise to this action occurred and continues to occur within this division at Immigration and Customs Enforcement's (ICE) Washington Field Office in Chantilly, Virginia.

REQUIREMENTS OF 28 U.S.C. § 2243

11. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).
12. 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).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

13. Administrative exhaustion is unnecessary as it would be futile. *See, e.g., Aguilar v. Lewis*, 50 F. Supp. 2d 539, 542–43 (E.D. Va. 1999).
14. It would be futile for Petitioner to seek a custody redetermination hearing before an Immigration Judge (“IJ”) because of the Board of Immigration Appeals (“BIA”) decision holding that anyone who has entered the U.S. without inspection is now considered an “applicant for admission” who is “seeking admission” and therefore subject to mandatory detention under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *see also Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025) (noting that BIA’s decision in *Yajure Hurtado* renders exhaustion futile).
15. Additionally, the agency does not have jurisdiction to review Petitioner’s claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies. *Reno v. Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999) (finding exhaustion to be a “futile exercise because the agency does not have jurisdiction to review” constitutional claims).

PARTIES

16. Petitioner Miguel Raymundo Cobo (“Miguel”) is a native and citizen of Guatemala who entered the U.S. in June 2021, was designated as an unaccompanied minor, and released in March 2022 by the Office of Refugee Resettlement (ORR) to an approved sponsor. Miguel was granted SIJS and deferred action on October 22, 2024. He was arrested by ICE on February 19, 2026, and is currently detained in Farmville Detention Center.
17. Respondent Jeffrey Crawford is the Director of the Farmville Detention Center (Farmville), which is owned and operated by CoreCivic and contracts with ICE to detain non-citizens.

Mr. Crawford is the immediate physical and legal custodian of Petitioner. He is sued in his official capacity.

18. Respondent Robert Guadian is the Field Office Director of the ICE Enforcement and Removal Operations (ERO) Washington Field Office. He is the federal agent charged with overseeing all ICE detention centers in Virginia, including Farmville. Mr. Guadian is the legal custodian of Petitioner. He is sued in his official capacity.

19. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security. DHS oversees ICE, which is responsible for administering and enforcing immigration laws. She is sued in her official capacity.

20. Respondent Pamela Bondi is the Attorney General of the United States. She oversees the immigration court system, housed within the Executive Office of Immigration Review, and includes all immigration judges and the Board of Immigration Appeals (BIA). She is sued in her official capacity.

STATEMENT OF FACTS

21. Petitioner, Miguel Cobo, was apprehended by immigration officials after entering the United States as a minor in 2021. He was issued Form I-200, warrant for arrest, citing INA Section 236 (8 U.S.C. §1226(a)) as the authority for his detention and a Notice to Appear (NTA) charging him as a “[noncitizen] present in the United States who has not been admitted or paroled.” *See* Exhibit C. Shortly thereafter, the government filed the NTA with the immigration court, initiating removal proceedings.

22. He was subsequently placed in the custody of the ORR and then released into the care and custody of his sponsor in Lithia, Florida. *See* Exhibit D.

23. Since arriving in the United States over four years ago, Miguel has built meaningful ties to his community and a stable life for himself. He is in the custody of the Fairfax, Virginia, Department of Family Services (DFS) and, since 2023, lives with a foster family with his younger brother, who is also in the custody of Fairfax DFS. When Miguel turned 18, he signed a voluntary agreement to continue services and support to enter into the Fostering Futures Program with the Fairfax DFS, which provides financial and social support until age 21 and aids transition to independent living. He graduated from Centreville High School in June 2025, received the prestigious Faculty Award at graduation, and received numerous awards for achievement in athletics and business and finance courses. He is enrolled in Northern Virginia Community College on a scholarship from the Herb Block Foundation and plans to pursue a degree in business.
24. On March 22, 2024, Miguel applied for SIJS and his petition was approved on October 22, 2024. Along with SIJS, he was granted deferred action for four years until October 22, 2028. *See* Exhibit E.
25. On March 19, 2024, the immigration court dismissed his removal proceedings upon joint motion of the parties in an exercise of prosecutorial discretion by the DHS. *See* Exhibit F.
26. Miguel's only criminal offense is one misdemeanor traffic-related offense for speeding at an excessive speed. He has never been charged or convicted of any crime that would subject him to mandatory detention under 8 U.S.C. §1226(c) or render him statutorily ineligible to adjust his status to lawful permanent resident.
27. On February 19, 2026, Miguel was arrested by ICE without prior notice or a pre-deprivation hearing and issued a new NTA, charging him under 8 U.S.C. §1182(a)(6)(A)(i) as a noncitizen "present in the United States without being admitted or paroled." *See*

Exhibit A. DHS subsequently filed this new NTA with the immigration court to commence removal proceedings against him. Petitioner is currently detained at Farmville Detention Center. *See* Exhibit B.

28. In a letter dated February 19, 2026, USCIS terminated Miguel's deferred action, simply stating that the agency "has individually reviewed your case and exercised discretion to terminate your period of deferred action..." The letter also purports to notify him of the agency's intent to revoke his work authorization. *See* Exhibit G.
29. On March 3, 2026, Petitioner filed a bond motion, which will be heard on March 17, 2026. It is anticipated that the immigration court will deny his release based on *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), holding that he is ineligible for bond under 8 U.S.C. §1225(b).

LEGAL FRAMEWORK

A. *Title 8 of the United States Code prescribes different forms of detention for noncitizens in removal proceedings.*

30. First, individuals detained pursuant to 8 U.S.C. § 1226(a) are generally entitled to a bond hearing, unless they have been arrested, charged with, or convicted of certain crimes and are subject to mandatory detention. *See* 8 U.S.C. §§ 1226(a), 1226(c) (listing grounds for mandatory detention); *see also* 8 C.F.R. §§ 1003.19(a) (immigration judges may review custody determinations made by DHS), 1236.1(d) (same).
31. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) as well as other recent arrivals deemed to be "seeking admission" under § 1225(b)(2).
32. Third, the INA authorizes detention of noncitizens who have received a final order of

removal, including those in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

33. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104-208, Div. C, §§ 302-03, 110 Stat. 3009-546, 300-582 to 3009-583, 3009-585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).
34. Following the enactment of the IIRIRA, the U.S. Department of Justice’s Executive Office of Immigration Review (“EOIR”) drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination”).
35. Thus, in the decades that followed, most people who entered without inspection and were thereafter detained and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an Immigration Judge (“IJ”), unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 220 (1996) (noting

that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

36. For decades, long-term residents of the U.S. who entered without inspection and were subsequently apprehended by ICE in the interior of the country have been detained pursuant to § 1226 and entitled to bond hearings before an IJ, unless barred from doing so due to their criminal history.
37. In July 2025, however, ICE began asserting that all individuals who entered without inspection should be considered “seeking admission” and therefore subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
38. On September 5, 2025, the BIA issued a precedential decision adopting this interpretation, departing from the INA’s text, federal precedent, and existing regulations. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
39. Respondents’ new legal interpretation is plainly contrary to the statutory framework and its implementing regulations. Indeed, for decades, Respondents had applied § 1226(a) to people like the Petitioner. Respondents’ new policies are thus not only contrary to law, but are arbitrary and capricious in violation of the Administrative Procedure Act (“APA”). They were also adopted without complying with the procedural requirements of the APA.
40. Numerous federal courts have rejected this interpretation and instead have consistently found that § 1226, not § 1225(b)(2), authorizes detention of noncitizens who entered without inspection and were later apprehended in the interior of the country. *See e.g.*, *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (noting court’s disagreement with BIA’s analysis in *Yajure Hurtado*); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025);

Kostak v. Trump, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Cuevas Guzman v. Andrews*, 2025 WL 2617256, at *3 n.4 (E.D. Cal. Sept. 9, 2025); *see also Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO (HC) (E.D. Cal. Sept. 23, 2025), *Lopez v. Hardin*, No. 2:25-cv-830-KCD-NPM (M.D. Fla. Sept. 25, 2025), and *Chafila v. Scott*, No. 2:25-cv-00437-SDN (D. Maine Sept. 21, 2025).

41. Under the Supreme Court's recent decision in *Loper Bright v. Raimondo*, this Court should independently interpret the statute and give the BIA's expansive interpretation of § 1225(b)(2) no weight, as it conflicts with the statute, regulations, and precedent. 603 U.S. 369 (2024).
42. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Following IIRIRA, the Executive Office for Immigration Review ("EOIR") issued regulations clarifying that individuals who entered the country without inspection were not considered detained under § 1225, but rather under § 1226(a). *See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").
43. The statutory context and structure also make clear that § 1226 applies to individuals who have not been admitted and entered without inspection. In 2025, Congress added new mandatory detention grounds to § 1226(c) that apply only to noncitizens who have not been

admitted. *See* The Laken Riley Act, Pub. L. No. 119-1, § 2, 139 Stat. 3, 3 (2025) (8 U.S.C. § 1226(c)(1)(E)).

44. By specifically referencing inadmissibility for entry without inspection under 8 U.S.C. § 1182(6)(A), Congress made clear that such individuals are otherwise covered by § 1226(a). Thus, § 1226 plainly applies to noncitizens charged as inadmissible, including those present without admission or parole.
45. The Supreme Court has explained that § 1225(b) is concerned “primarily [with those] seeking entry,” and is generally imposed “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, 297, 2987 (2018). In contrast, Section 1226 “authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings.” *Id.* at 289 (emphases added).
46. Furthermore, § 1225(b)(2) specifically applies only to those “seeking admission,” and the implementing regulations at 8 C.F.R. § 1.2 address noncitizens who are “coming or attempting to come into the United States.” The use of the present progressive tense would exclude noncitizens like Petitioner who are apprehended in the interior years after they entered, as they are no longer “seeking admission” or “coming [...] into the United States.” *See Martinez v. Hyde*, 2025 WL 2084238 at *6 (D. Mass. July 24, 2025) (citing the use of present and present progressive tense to support conclusion that INA § 1225(b)(2) does not apply to individuals apprehended in the interior); *see also Al Otro Lado v. McAleenan*, 394 F. Supp. 3d 1168, 1200 (S.D. Cal. 2019) (construing “is arriving” in INA § 235(b)(1)(A)(i) and observing that “[t]he use of the present progressive, like use of the present participle, denotes an ongoing process”).

47. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to Petitioner, who had entered the U.S. five (5) years ago and who is the beneficiary of an approved I-360 SIJS petition and had been granted deferred action and employment authorization in the U.S. *See* Exhibits E and K.
48. The overwhelming majority of courts—including in this Circuit—have rejected the government’s interpretation and agree that noncitizens like Petitioner are subject to § 1226(a) and eligible for a bond hearing. *See Barco Mercado v. Francis*, No. 25-cv-6582, --- F. Supp. 3d ---, 2025 WL 3295903, at *13 (S.D.N.Y. Nov. 26, 2025) (listing 350 decisions rejecting government’s position); *Jacobo Ramirez v. Noem*, No. 2:25-CV-02136-RFB-MDC, 2026 WL 310090, at *1 (D. Nev. Feb. 5, 2026) (noting “more than 300 federal judges in over 1,600 cases across the country have rejected the government’s new detention policy, with over 100 new lawsuits filed daily, while 14 federal judges have found in favor of the government’s position” (citation omitted)); *Hasan v. Crawford*, 2025 WL 2682255, at *9 (E.D. Va. Sept. 19, 2025) (“Before July 8, 2025, ‘DHS’s long-standing interpretation has been that § 1226(a) applic[d] to those who have crossed the border between ports of entry and are shortly thereafter apprehended.’”) (quoting Transcript of Oral Argument at 44:24–45:2, *Biden v. Texas*, 597 U.S. 785 (2022)); *Sarmiento v. Perry*, 2025 WL 3091140, at *2 (E.D. Va. Nov. 5, 2025) (collecting cases).
49. On November 20, 2025, the district court in *Maldonado Bautista v. Santacruz* granted partial summary judgment on behalf of individual plaintiffs, holding that DHS’s no-bond policy violates the plain language of the INA and that petitioners were detained under 8 U.S.C. §1226(a). On November 25, 2025, the court certified a nationwide class and extended declaratory judgment to the certified class. No. 5:25-CV-01873-SSS-BFM, --- F.

Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

50. On December 18, 2025, the district court issued an order clarifying that the November 20 and November 25 orders are binding, final judgments on Defendants-Respondents. *Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3713982, at *5–6 (C.D. Cal. Dec. 18, 2025); *see also Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), Dkt. No. 93 (amended order consolidating prior orders on motion for partial summary judgment, class certification, and application for reconsideration or clarification).
51. That same day, the district court entered final judgment, declaring that the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista v. Noem*, 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025). The court also vacated DHS's no-bond policy under the Administrative Procedure Act as applied to class members. In an order dated February 18, 2026, the court explicitly vacated *Matter of Yajure-Hurtado* on the basis that respondents violated and continue to violate the law by detaining bond eligible class members in contravention of the final judgment, and that respondents proffered frivolous arguments that “aim to insulate unlawful policies from judicial review while taking positions that seek to bludgeon

separation of powers into oblivion.” *Maldonado Bautista v. Noem*, 5:25-cv-1873-SSS-BFM, Document 116, at page 15.

52. Petitioner Miguel Cobo is a member of the Bond Eligible Class, as:

- a. He does not have lawful status in the United States and is currently detained at Farmville Detention Center. He was apprehended by immigration authorities on February 19, 2026;
- b. He entered the United States without inspection five (5) years ago; therefore, his February 19, 2026, arrest was not upon his arrival (*see* Exhibit A); and
- c. He is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

53. After apprehending Petitioner on February 19, 2026, DHS placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection.

54. As of the time of filing this petition, the Ninth Circuit has issued a temporary stay in *Maldonado-Bautista*. However, to the extent that such stay is lifted or other developments occur in that matter during the pendency of this petition, Petitioner reserves his right to claim benefits as a member of the class recognized in that matter.

B. Protections for Unaccompanied Minors

55. Children under the age of 18 who arrive in the U.S. without a parent or other legal guardian are considered “unaccompanied minors” and receive special treatment under the immigration laws because of their vulnerable status. The Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) (22 U.S.C. Ch. 78), and the Homeland Security Act of 2002 (Pub.L. No. 107-296). This includes their treatment in detention and numerous legal protections that guarantee that they are not removed without due process and are able

to pursue forms of relief from deportation for which they may be eligible. 8 U.S.C. § 1232 and 8 C.F.R. § 236.3.

56. Before 2002, the care and placement of unaccompanied minors in the United States was the responsibility of the Office of Juvenile Affairs in the former Immigration and Naturalization Service (“INS”). *See F.L. v. Thompson*, 293 F. Supp. 2d 86, 96 (D.D.C. 2003). In 2002, Congress passed the Homeland Security Act (“HSA”), which created DHS and its components, including U.S. Citizenship and Immigration Service (“USCIS”), Customs and Border Protection (“CBP”), and ICE. *See* Department of Homeland Security Reorganization Plan Modification of January 30, 2003, H.R. Doc. No. 108-32 (2003) (also set forth as a note to 6 U.S.C. § 542).
57. Congress transferred to the Office of Refugee Resettlement (“ORR”), within the Department of Health and Human Services (“HHS”), the responsibility for the care of unaccompanied minors “who are in Federal custody by reason of their immigration status.” 6 U.S.C. § 279(a), (b)(1)(A). The HSA defined an unaccompanied minor as a child who: (A) has no lawful immigration status in the United States;¹ (B) has not attained 18 years of age; and (C) with respect to whom (i) there is no parent or legal guardian in the United States or (ii) no parent or legal guardian in the United States is available to provide care and physical custody. *Id.* § 279(g)(2). Congress also transferred to ORR the responsibility for making all placement decisions for unaccompanied minors and required ORR to coordinate those placement decisions with DHS and ensure that unaccompanied

¹ “The lack of lawful immigration status results from entering the country ‘without inspection’ (illegally), entering legally with fraudulent documents, or entering the country legally but overstaying the duration of admittance (i.e., a visa overstay).” Cong. Research Serv., *Unaccompanied Alien Children: An Overview*, n. 2 (Sept. 5, 2024), <https://www.congress.gov/crs-product/R43599#fn2>.

minors are released to the care of a suitable adult or other placement for their safety. *See id.* § 279(b)(1)(C), (D), (b)(2).

58. In 2008, the Trafficking Victims and Protection Reauthorization Act (“TVPRA”) was enacted, requiring that “the care and custody of all unaccompanied [noncitizen] children, including responsibility for their detention, where appropriate, shall be the responsibility of the Secretary of Health and Human Services,” under whose purview the ORR operates. 8 U.S.C. § 1232(b)(1). The TVPRA also requires any other federal agency to transfer the custody of an unaccompanied minor to HHS within 72 hours, except in exceptional circumstances. *Id.* § 1232(b)(3).

59. In requiring an unaccompanied child to be placed “in the least restrictive setting that is in the best interest of the child,” the statute directs the government to “consider danger to self, danger to the community, and risk of flight.” 8 U.S.C. § 1232(c)(2)(A). The implementing regulations confirm that the decision to release a child to a sponsor requires a determination about danger and flight risk:

[W]hen ORR determines that the detention of the unaccompanied child is not required either to secure the child’s timely appearance before DHS or the immigration court, or to ensure the child’s safety or that of others, ORR shall release a child from its custody without unnecessary delay . . .

45 C.F.R. § 410.1201. This determination is memorialized in the ORR’s “Verification of Release” form when releasing an unaccompanied minor to the care of a sponsor. *See e.g.*, Ex. D.

C. Right to Removal Proceedings under 8 U.S.C. § 1229a

60. Because the INA authorizes the detention of noncitizens only “pending a decision on whether the [noncitizen] is to be removed from the United States,” 8 U.S.C. § 1226(a), unaccompanied minors are issued an NTA upon their initial apprehension, informing them

of the immigration charges against them and the authority for immigration action. See 8 C.F.R. § 236.1(b). If DHS elects to commence removal proceedings against an unaccompanied minor, the NTA must then be filed with the immigration court.

61. Pursuant to the TVPRA, any unaccompanied minor sought to be removed from the United States by the DHS, except for certain unaccompanied minors from contiguous countries, shall be (i) placed in removal proceedings under 8 U.S.C. § 1229a; (ii) eligible for relief under 8 U.S.C. § 1229c at no cost to the child; and (iii) provided access to counsel in accordance with 8 U.S.C. § 1232(c)(5). 8 U.S.C. § 1232 (a)(5)(D).
62. Removal proceedings under § 1229a are adversarial proceedings that take place in immigration court and provide noncitizens the opportunity to contest the basis for removal, present evidence, and apply for relief from removal. Thus, the TVPRA prohibits unaccompanied minors from placement in expedited removal proceedings, which allows for removal without a hearing. 8 U.S.C. § 1225(b); 8 U.S.C. §§ 1232(a)(2)(B), (a)(3), (a)(5)(D).
63. In 2013, the TVPRA was amended as to minors who reach the age of 18 after entry into the United States. This amendment requires unaccompanied minors transferred from HHS to DHS custody after turning 18 to be placed in the least restrictive setting available, including alternatives to detention and placement with a sponsor. *See* Senate Bill 47, passed into law on Mar. 7, 2013. This requirement demonstrates congressional intent to exempt unaccompanied minors, even those who have reached the age of majority, from the mandatory detention provisions of 8 C.F.R. § 1003.19.
64. The TVPRA also included amendments strengthening protections for unaccompanied minors with SIJS, a status established in 1990 to “protect abused, neglected, or abandoned

children who . . . illegally entered the United States.” *Osorio Martinez v. Att’y Gen. United States of Am.*, 893 F. 3d 153, 163 (3d Cir. 2018) (citations omitted). To obtain SIJS, a noncitizen child must meet a set of rigorous, congressionally defined eligibility criteria, including that a juvenile court find it would not be in the child’s best interest to return to his country of nationality and that he cannot be reunified with one or both of parents because of abuse, abandonment, neglect or similar basis under state law. 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11(c).

65. In creating SIJS, Congress included in the INA certain protections against removal for this class of young immigrants. *See* 8 U.S.C. § 1227(c) (certain grounds for deportation “shall not apply to a special immigrant described in section 101(a)(27)(J) based upon circumstances that existed before the date the alien was provided such special immigrant status”). Accordingly, although a juvenile with SIJS can be removed on certain grounds, such as having been convicted of a serious criminal offense, they cannot be removed simply for having entered the country illegally. *See id.*
66. Further, “Congress has granted SIJ designees various forms of support within the United States, such as access to federally funded educational programming and preferential status when seeking employment-based visas.” *Joshua M. v. Barr*, 439 F. Supp. 3d 632, 659 (E.D. Va. 2020) (citing 8 U.S.C. §§ 1232(d)(4)(A), 1153(b)(4)). These benefits reflect Congress’ intent “to assist a limited group of abused children to remain safely in the country ... as a ward of the United States with the approval of both state and federal authorities.” *Osorio-Martinez*, 893 F.3d at 168 (citing *Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011)).
67. Recognizing the special considerations surrounding young people eligible for SIJS, it was DHS’s standard practice to provide deferred action for people once their applications for

SIJS had been approved. See USCIS, *Policy Alert, Special Immigrant Juvenile Classification and Deferred Action*, Mar. 7, 2022, <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20220307-SIJAndDeferredAction.pdf>.²

68. Deferred action is a form of prosecutorial discretion to defer removal action against an individual for a specific time, providing a host of additional benefits to the recipient, including eligibility for employment authorization.³ Notably, recipients of deferred action are considered “lawfully present.” *Arizona Dream Act Coal. v. Brewer*, 855 F.3d 957, 974 (9th Cir. 2017) (en banc); *Texas v. United States*, 809 F.3d 134, 147-48 (5th Cir. 2015) (explaining that deferred action recipients are “lawfully present” based on agency memoranda); see also 8 C.F.R. § 1.3(a)(4) (defining recipients of deferred action as “lawfully present in the United States” for purposes of applying for social security benefits).

D. Due Process Right to an Individualized Determination Pre-Detention

69. By statute and regulation, ICE has the ability to revoke an immigration bond and re-arrest the noncitizen. 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9). However, in *Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981), the BIA has recognized an implicit limitation on ICE’s

² In a policy alert dated June 6, 2025, DHS eliminated “automatic consideration of deferred action” for people with SIJS but explains that people “with current deferred action based on their SIJ classification will generally retain this deferred action, ... [and] employment authorization provided based on this deferred action, until the current validity period expires.” USCIS, *Policy Alert, Special Immigrant Juvenile Classification and Deferred Action*, Jun. 6, 2025, <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250606-SIJDeferredAction.pdf>.

³ See generally, Ben Harrington, *An Overview of Discretionary Reprieves from Removal: Deferred Action, DACA, TPS, and Others* (CRS Report No. R45158) (2018), <https://www.congress.gov/crs-product/R45158>.

authority to re-arrest noncitizens. There, the BIA held that “where a previous bond determination has been made by an immigration judge, no change should be made by [DHS] absent a change of circumstance.” *Id.* In practice, DHS “requires a showing of changed circumstances both where the prior bond determination was made by an immigration judge and where the previous release decision was made by a DHS officer.” *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).

70. ICE has further limited its authority as described in *Sugay*, and “generally only re-arrests [noncitizens] pursuant to § 1226(b) after a material change in circumstances.” *Saravia*, 280 F. Supp. 3d at 1197 (quoting Defs.’ Second Supp. Br. at 1, Dkt. No. 90) (emphasis added). Thus, under BIA case law and stated ICE practice, ICE may re-arrest a noncitizen who had been previously released on bond only after a material change in circumstances. *See id.* at 1176; *Matter of Sugay*, 17 I. & N. Dec. at 640.

71. This rule applies when the government releases an unaccompanied minor without requiring any bond because the government has already made a determination about flight risk and dangerousness and found that there is no risk. Thus, re-detention of an already-released unaccompanied minor is not permitted without demonstrating to a neutral arbiter that there has been a material change in circumstances.

72. ICE’s power to re-arrest a noncitizen who is at liberty is constrained not only by regulation and statute but also by the demands of due process. *See Miranda v. Garland*, 34 F. 4th 338, 352-353 (4th Cir. 2022) (permitting review of constitutional challenges “to the procedures adopted by the Attorney General for all detention decisions under §1226(a)”.); *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) (“[T]he government’s discretion to

incarcerate non-citizens is always constrained by the requirements of due process”). Under these circumstances, DHS is required to provide a pre-deprivation hearing in order to determine whether it may re-detain an individual.

73. Federal courts have repeatedly recognized this due process right. *See e.g., Sarmiento v. Perry*, 2026 WL 131917, at *9 (E.D. Va. Jan. 19, 2026); *Meza v. Bonnar*, 2018 WL 2554572 (N.D. Cal. June 4, 2018); *Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. 2019); *Vargas v. Jennings*, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Jorge M. F. v. Wilkinson*, at *2 (N.D. Cal. Mar. 1, 2021); *Garcia v. Bondi*, 2025 WL 1676855, at *4 (N.D. Cal. June 14, 2025); *Diaz v. Kaiser*, 2025 WL 1676854, at *4 (N.D. Cal. June 14, 2025); *Guillermo M.R. v. Polly Kaiser*, 2025 WL 1983677, at *7 (N.D. Cal. June 30, 2025); *Phan v. Becerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1808702, at *3 (E.D. Cal. June 30, 2025); *Domingo v. Kaiser*, No. 25-CV-05893 (RFL), 2025 WL 1940179, at *10 (N.D. Cal. July 14, 2025); *Quoc Chi Hoac v. Becerra*, 2025 WL 1993771, at 3 (E.D. Cal. July 16, 2025); *Soto Garcia v. Andrews*, 2025 WL 1927596, at * 5 (E.D. Cal. July 14, 2025); *Pinchi v. Noem*, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025); *Zakzouk v. Becerra*, 2025 WL 2097470, at *4 (N.D. Cal. July 26, 2025); *Salam v. Maklad*, 2025 WL 2299376, at *9 (E.D. Cal. August 8, 2025); *Ramirez Tesara v. Wamsley*, 2025 WL 2637663, at *3 (W.D. Wash. Sept. 12, 2025).

CLAIM FOR RELIEF
Count I
Unlawful Denial of Release on Bond

74. Petitioner restates and realleges all paragraphs as if fully set forth in the preceding paragraphs.

75. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

76. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. *See* 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

77. Petitioner has not been, and will not be, provided with a bond hearing as required by law.

78. Petitioner's continuing detention is therefore unlawful

Count II
Violation of the INA:
Unlawful Detention under 8 U.S.C. § 1225(b)(2)(A)

79. Petitioner restates and realleges all paragraphs as if fully set forth in the preceding paragraphs.

80. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to Petitioner.

The text and structure of § 1226 and § 1225 reflect that Congress provided for discretionary detention under § 1226(a) to govern Petitioner's detention.

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

82. Accordingly, Petitioner is entitled to immediate release, or, in the alternative, consideration for release on bond by Respondents.

COUNT III
Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19
Unlawful Denial of Release on Bond

83. Petitioner restates and realleges all paragraphs as if fully set forth in the preceding paragraphs.

84. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service (“INS”) issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies 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. at 10323. The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

85. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

Count IV
Violation of the Fifth Amendment of the U.S. Constitution
(Procedural Due Process)
Unlawful Re-Detention

86. Petitioner restates and realleges all paragraphs as if fully set forth in the preceding paragraphs.

87. Due Process mandates that Petitioner receive notice and a hearing before a neutral adjudicator prior to any re-arrest or re-detention.

88. Petitioner was released from ORR custody and allowed to develop meaningful ties and relationships within the United States. As such, he possesses a weighty liberty interest under the Due Process Clause in avoiding re-detention. *See Young v. Harper*, 520 U.S. 143, 146-47(1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey*, 408 U.S. at 482-483.

89. The Supreme Court “usually has held that the Constitution requires some kind of a hearing before the State deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). Only in a “special case” where post-deprivation remedies are “the only remedies the State could be expected to provide” can post-deprivation process satisfy the requirements of due process. *Zinermon*, 494 U.S. at 985. Moreover, only where “one of the variables in the *Mathews* equation—the value of pre-deprivation safeguards—is negligible in preventing the kind of deprivation at issue” such that “the State cannot be required constitutionally to do the impossible by providing pre-deprivation process,” can the government avoid providing pre-deprivation process. *Id.*
90. Because here, the provision of a pre-deprivation hearing was both possible and valuable in preventing an erroneous deprivation of liberty, ICE was required to provide Petitioner with notice and a hearing prior to any re-detention. *See Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at 1355-56; *Zinermon*, 494 U.S. at 985; *see also Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir. 1984) (holding that individuals awaiting involuntary civil commitment proceedings may not constitutionally be held in jail pending the determination as to whether they can ultimately be recommitted). Under *Mathews*, “the balance weighs heavily in favor of [Petitioner’s] liberty” and required a pre-deprivation hearing before a neutral adjudicator, which ICE failed to provide.
91. The re-detention of Petitioner without a pre-deprivation hearing violates his liberty interest under the Due Process Clause of the Fifth Amendment.

Count V
Violation of the Administrative Procedures Act, 5 U.S.C. § 706(2)(A),
Arbitrary and Capricious Agency Action

92. Petitioner restates and realleges all paragraphs as if fully set forth in the preceding paragraphs.

93. Respondents' practice or policy of re-arresting and re-detaining noncitizens like Petitioner without changed circumstances is arbitrary and capricious, an abuse of discretion, contrary to constitutional right, and in excess of statutory jurisdiction. 5 U.S.C. §706 (2)(A), (B), (C), and violates the Accardi doctrine and federal agencies' rules. *See Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

94. In addition, Respondents' failure to provide Petitioner with the required pre-deprivation hearing before re-arresting and re-detaining him is arbitrary and capricious, an abuse of discretion, contrary to constitutional right, and in excess of statutory jurisdiction. 5 U.S.C. §706 (2)(A), (B), (C).

95. Accordingly, Respondents' policy or practice violates the APA and should be held unlawful and set aside.

Count VI
Violation of the Administrative Procedures Act, 5 U.S.C. § 706(2)(A),
Arbitrary and Capricious Agency Action

96. Petitioner restates and realleges all paragraphs as if fully set forth in the preceding paragraphs.

97. Courts must "hold unlawful and set aside agency action" that is "arbitrary capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

98. Respondent's policy of arresting individuals, like Petitioner, with SIJS and SIJS-based deferred action, subjecting them to mandatory detention without bond, and stripping them of their deferred-action-based employment authorization is arbitrary, capricious, and contrary to law, in violation of the APA.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside of the Eastern District of Virginia while this case is pending;
- c. Issue a writ of habeas corpus requiring that, Respondents immediately release Petitioner;
- d. Enjoin Respondents from redetaining Petitioner without first providing him with a pre-deprivation notice and a hearing, at which Respondents must show materially changed circumstances by clear and convincing evidence;
- e. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner and require Respondents to provide a bond hearing under 8 U.S.C. § 1226(a) after his release, should they seek to continue his detention;
- f. Set aside Respondents revocation of the Petitioner's SIJS-based deferred action and employment authorization.
- g. Grant any other and further relief that this Court deems just and appropriate.

Dated: March 10, 2026

Respectfully submitted,

/s/ Elizabeth Kohler Maya
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**Pro hac vice application forthcoming*

LIST OF EXHIBITS

Exhibit:	
A.	Second Notice to Appear issued to Petitioner dated February 19, 2026.
B.	DHS-ICE Detainee Locator webpage showing Petitioner is detained in Farmville Detention Center.
C.	First Notice to Appear issued to Petitioner dated June 17, 2021.
D.	Office of Refugee Resettlement Verification of Release of Petitioner dated March 3, 2022.
E.	USCIS Form I-797 Notice of Action I-360 SIJS Approval Notice with grant of Deferred Action dated October 22, 2024.
F.	Order of the Immigration Court in Orlando, FL, terminating previous removal proceedings against Petitioner.
G.	USCIS Notice dated February 19, 2025, terminating Petitioner's deferred action and work authorization.
H.	USCIS Form I-797 Notice of Action I-765 Approval Notice approving Petitioner's application for work authorization.

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S
BEHALF PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner, as Petitioner's attorney. I or my co-counsel have discussed the events described in this Petition with Petitioner. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: March 10, 2026

Respectfully submitted,

/s/ Sylvia A. Martin
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**Pro hac vice* application forthcoming

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system, which will provide notice to each of the following individuals:

Jeffrey Crawford, Warden
Farmville Detention Center
508 Waterworks Road
Farmville, VA 23901

Robert Guadian, Field Office Director
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Kristi Noem, Secretary
U.S. Department of Homeland Security
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Dated: March 9, 2026

Respectfully submitted,

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