

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

MARLON ONAN RAMIREZ-BAMACA,

Petitioner,

v.

Case No. 2:26-cv-701-KCD-NPM

PAMELA BONDI et al.¹,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Marlon Onan Ramirez-Bamaca challenges his detention by U.S. Immigration and Customs Enforcement (ICE), arguing he is entitled to immediate release. *See generally* Pet., ECF No. 1. While reserving all rights, including the right to appeal, Federal Respondents submit this abbreviated brief in lieu of an exhaustive memorandum to preserve their arguments and conserve judicial resources. Should the Court prefer a more exhaustive discussion, Federal Respondents request leave to submit additional briefing.

¹ Pursuant to its Inter-Governmental Service Agreement with Glades County Detention Center, Federal Respondents request Respondent David Harden, Warden of Glades County Detention Center, be terminated from this case. *See* Inter-Governmental Serv. Agreement with Glades County Det. Ctr., Ex. 6 at 12; *Mota-Constanzo v. Noem et al.*, No. 2:26-cv-369-KCD-DNF, 2026 WL 681819, at *2 n.3 (M.D. Fla. Mar. 11, 2026) (“Because ICE is already listed as a Respondent, substitution isn’t necessary. The Warden needs to simply be terminated from the case.”).

FACTS

Marlon Onan Ramirez-Bamaca is now-25-year-old national and citizen of Guatemala who last entered the United States without inspection at an unknown place and time as an unaccompanied minor (“UAC”) at the age of 17. Ex. 1 at 1 (2025 I-213); Ex. 2 (2017 I-213); *see also* Pet. at Exs. A, B. On December 14, 2017, he was served with a Notice to Appear, informing him that he was “an alien present in the United States who has not been admitted or paroled” and subject to removal pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality Act. Ex. 3 (2017 NTA); *see also* 8 U.S.C. § 1182(a)(6)(A)(i) (“An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.”). On December 16, 2017, Petitioner was placed in immigration custody. Ex. 4 (Detention History). On February 17, 2018, Petitioner was released as a UAC into the custody of his aunt pursuant to section 462 of the Homeland Security Act of 2002 and section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008. *Id.*; *see also* Pet. at Ex. B.

On October 25, 2018, U.S. Citizenship and Immigration Services (USCIS) received Petitioner’s Form I-589, Application for Asylum and for Withholding of Removal (“Asylum Application”). Pet. at Ex. C. On August 13, 2021, USCIS approved Petitioner’s Form I-360, Petition for Special Immigrant Juvenile (“SIJ Petition”). *Id.* at Exs. E, F. On May 12, 2022, USCIS notified Petitioner that, subject

to his approved SIJ Petition, USCIS granted him deferred action for a period of four (4) years, through May 12, 2026, and notified him he was eligible to apply for employment authorization. *Id.* On July 14, 2022, the U.S. Department of Homeland Security (DHS) filed a Motion for Administrative Closure with the West Los Angeles Immigration Court, which was granted. *Id.* at Ex. G.

Petitioner was placed in immigration custody on or about November 30, 2025, after being arrested pursuant to a traffic stop. *See* Ex. 1; *but see* Ex. 4 (Detention History) (showing Petitioner has been in ICE custody since January 11, 2026). As a result, ICE represents DHS filed a motion to reopen Petitioner's removal proceedings, which was granted.²

On January 28, 2026, Petitioner filed a Motion to Terminate Removal Proceedings because he has a pending Asylum Application, is a member of a class action settlement pertaining to UACs, and has an approved SIJ Petition. Pet. at Ex. I. Petitioner argued, in part, that pursuant to the class action settlement, of which he argues he is a member, DHS will generally join or non-oppose a class member's motion to dismiss or terminate to await USCIS adjudication of their asylum application and that ICE will refrain from executing a class member's final removal order until USCIS adjudicates their asylum application. *See id.* ICE represents that the

² The undersigned has asked for documents to support this assertion but has not received them as of the date of this filing. If the undersigned receives these documents before the Court rules, she will supplement this response with the same.

assigned immigration judge denied Petitioner's Motion on March 16, 2026, and Petitioner filed another Motion to Terminate Removal Proceedings on March 17, 2026, which remains pending.³ Petitioner has a master calendar hearing on April 6, 2026. Ex. 5 (Notice of Hearing).

On March 12, 2026, Marlon Onan Ramirez-Bamaca filed a petition for writ of habeas corpus alleging his custody violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. *See generally* Pet. He is currently detained at the Glades County Detention Center. Ex. 4.⁴

CERTIFIED HABEAS RETURN

ICE is detaining Marlon Onan Ramirez-Bamaca under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2)(A). *See* 28 U.S.C. § 2243 ("The person to whom the writ or order is directed shall make a return certifying the true cause of the detention."). Petitioner "has the burden of establishing his right to federal habeas relief and of proving all facts necessary to show a constitutional violation." *Romine v. Head*, 253 F.3d 1349, 1357 (11th Cir. 2001).

³ *Id.*

⁴ *See Online Detainee Locator System*, U.S. Immigr. & Customs Enft, <https://locator.ice.gov/odls/#/search> (last accessed April 1, 2026) (enter Petitioner's A-Number and Guatemala as Country of Birth under "Search by A-Number").

ARGUMENT

I. Special Immigrant Juvenile (SIJ) Classification

Petitioner's prior grant of deferred status does impact his detention and removal, but it does not preclude it. The Parties do not dispute Marlon Onan Ramirez-Bamaca entered the United States without authorization or that he has an approved SIJ Petition, classifying him as a Special Immigrant Juvenile (SIJ).

“Congress established SIJ status in 1990 in order to protect abused, neglected or abandoned children who, with their families, illegally entered the United States ... and it entrusted the review of SIJ petitions to USCIS, a component of DHS.” *Osorio-Martinez v. Attorney General United States of America*, 893 F.3d 153, 162 (3d Cir. 2018) (quotations and citations omitted). An individual classified as an SIJ may be eligible in the future to submit an application for adjustment of status upon availability of a visa but the SIJ classification itself creates no lawful immigration status and the SIJ is still subject to arrest, detention, and removal from the United States if a final order of removal is entered against such individual. *United States v. Granados-Alvarado*, 350 F. Supp. 3d 355, 357 (D. Md.2018) (explaining that while “[t]he SIJ program offers aliens a multitude of benefits and protections, including the opportunity to seek lawful permanent resident status[,] ... [i]n and of itself, though, an SIJ designation does not strip the U.S. government of all removal powers.”). An individual with SIJ classification can apply for adjustment of status if they are eligible, admissible, and an immigrant visa is immediately available.

In 2022, USCIS recognized that, “[d]ue to ongoing visa number unavailability, the protection that Congress intended to afford SIJs through adjustment of status is often delayed for years.” USCIS Policy Alert-2022-10, <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20220307-SIJAndDeferredAction.pdf> . However, USCIS emphasized in its policy guidance (as of February 3, 2026) that “USCIS reserves the right to terminate prior grants of deferred action and revoke the related employment authorization as a matter of discretion. <https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4> . USCIS also issued an alert on February 19, 2026, as follows:

ALERT: USCIS had a backlog of approved Special Immigrant Juvenile (SIJ) petitions that could not apply for adjustment of status to lawful permanent residence. In response, USCIS announced a deferred-action policy for individuals with approved SIJ classification. On June 6, 2025, USCIS rescinded the 2022 SIJ automatic consideration of deferred action policy.

On November 19, 2025, a single district judge issued a stay of USCIS’s June rescission of the policy to categorically consider deferred action for SIJs with an approved Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, when an immigrant visa number is not immediately available. See *A.C.R., et al., v. Noem, et al.*, 1:25-cv-03962-EK-TAM (E.D.N.Y.). The court did so even though deferred action is entirely committed to the discretion of USCIS. While USCIS strongly disagrees with the erroneous actions of this district judge, USCIS is automatically considering SIJ beneficiaries for deferred action, and accepting requests for renewal of deferred action within six months of expiration on Form G-325A.

Here, USCIS’s approval of Petitioner’s SIJ Petition did not provide him with lawful immigration status in the United States and did not bar ICE from eventually

effectuating his removal. SIJ designation does not forestall detention and removal from the United States. *See Cortez-Amador v. Att’y Gen.*, 66 F.4th 429, 432 (3d Cir. 2023) (considered, and answered in the affirmative, the question of whether an SIJ recipient “is subject to removal simply for presence in the United States ‘without being admitted or paroled’”); *but see Herrera v. Baltazar*, 2026 WL 91470 at FN 9 (D. Col. Jan. 13, 2026) (disagreeing with *Cortez-Amador* and other cases that have addressed SIJ classification, and releasing SIJ petitioner who was previously found not to be a flight risk or danger). In a Massachusetts case, an alien’s SIJ classification was held to have no effect on the government’s statutory or regulatory authority to either detain or remove an alien as such SIJ classification alone does not render the alien lawfully present in the United States. *See Vasquez v. Muniz*, 2025 WL 1737216, at *2 (D. Mass. June 23, 2025); *but see Primero v Mattive*, 2025 WL 1899115 (D. Mass. July 9, 2025) (court applied *Zadvydas* to petitioner with SIJ with deferred action, and ordered a bond hearing); *Inlago Tocagon v. Moniz*, 802 F. Supp. 3d 93 (D. Mass. Sept. 29, 2025) (SIJ petitioner subject to § 1226(a)’s “discretionary detention framework” for bond and so ordered such a hearing); *Rodriguez v. Perry*, 747 F. Supp. 3d 911 (E.D. Va.2024) (requiring government to bear the burden of proving by clear and convincing evidence that SIJ petitioner should not be released on bond because he poses a risk of flight or danger to the community).

II. Petitioner's Detention is Lawful

As to Petitioner's detention, Federal Respondents acknowledge that questions of law in this case, and the challenges to the government's policy and practice, substantially overlap with *Hernandez-Lopez v. Hardin, et al.*, No. 2:25-cv-830-KCD-NPM, 2025 WL 3022245 (M.D. Fla. Oct. 29, 2025). Federal Respondents respectfully disagree with the Court's decision in *Hernandez-Lopez*. That said, in the interest of judicial economy and to expedite the Court's consideration of this matter, Federal Respondents make the following arguments for preservation purposes:

1. Title 8 U.S.C. § 1252(g) bars review of Petitioner's claims. *Hernandez-Lopez*, No. 2:25-cv-830-KCD-NPM, Doc. 19 at 5-6, (M.D. Fla. Oct. 29, 2025).
2. Title 8 U.S.C. § 1252(b)(9) bars review of Petitioner's claims. *Id.* at 7-8.
3. Petitioner failed to exhaust his administrative remedies. *Id.* at 8.
4. Petitioner is properly detained under 8 U.S.C. § 1225. *Id.* at 8-14; *see also Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026); *Avila v. Bondi*, No. 25-3248, 2026 WL 819258 (8th Cir. Mar. 25, 2026).

Finally, Federal Respondents contend that should this Court determine that Petitioner's detention is subject to 8 U.S.C. § 1226, outright release is inappropriate. To the extent the Court orders a bond hearing before an Immigration Judge for the purpose of determining whether Petitioner is a flight risk or danger to the community—*see, e.g., Hernandez-Lopez*, 2025 WL 3022245, at *5—Federal

Respondents aver that such bond hearings are not conducted or managed by ICE, rather by the Executive Office for Immigration Review, which is not a proper party to this suit. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004) (“[I]n habeas challenges to present physical confinement . . . the default rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official.”).

CONCLUSION

Federal Respondents argue Marlon Onan Ramirez-Bamaca’s Petition for Writ of Habeas Corpus should be denied.

DATED this 1st day of April, 2026.

Respectfully submitted,

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