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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

SANDRO ZAMORA

Petitioner,

v.

WARDEN,
Baker Correctional Institute; et al.
Respondents.

Case No. 3-26-cv-01238-WWB-MCR

**PETITIONER'S REPLY TO
RESPONDENTS' OPPOSITION**

**PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO PETITION
FOR WRIT OF HABEAS CORPUS**

Petitioner, Sandro Zamora, by and through undersigned counsel, files this Reply to Respondents' Opposition and states that the Opposition should be denied. Respondents argue that this case is moot because Petitioner received a bond hearing on May 19, 2026. But the issue before this Court is not whether a hearing occurred in name only. The issue is whether Respondents' continued detention of Petitioner is lawful after the hearing resulted in continued detention based on a stale danger finding tied to a DUI from 2001.

Because Petitioner remains detained and this Court can still grant meaningful relief, this case is not moot.

The Immigration Judge denied bond after concluding that Petitioner was a danger to the community based on a single DUI offense from 2001. That reasoning does not establish present dangerousness more than two decades later. It also does not deprive this Court of jurisdiction to review the legality of Petitioner's continued detention. Nor is exhaustion required where, as here, Petitioner challenges the lawfulness and constitutional adequacy of the detention and bond process itself, and where administrative review cannot cure the ongoing deprivation of liberty in time to provide effective relief.

I. BACKGROUND

Petitioner filed this habeas action challenging his continued detention and seeking a constitutionally adequate individualized bond hearing. As alleged in the Petition, Petitioner entered the United States in 1998, has lived here for decades, has strong family and community ties, and has a long work history. He was detained by DHS on January 14, 2026, while arriving to work, and transferred to Baker Correctional Institute, where he has remained in ICE custody. At the time of his arrest, he had ongoing immigration proceedings, a future immigration hearing date, and had complied with the requirements imposed during the pendency of his case.

Respondents now contend that the Petition is moot because Petitioner received a bond hearing on May 19, 2026. But the bond denial order attached to the Response as Exhibit

A shows that bond was denied because the Immigration Judge deemed Petitioner a danger to the community based on driving under the influence and cited that offense as a serious adverse factor. The order identifies no recent criminal conduct and no current facts showing that Petitioner poses a present danger to the community. Instead, the denial rests on an offense from 2001, more than twenty years ago, notwithstanding Petitioner's long residence in the United States, longstanding work and community ties, and continued detention since January 14, 2026.

II. ARGUMENT

A. THE PETITION IS NOT MOOT BECAUSE PETITIONER REMAINS DETAINED AND THIS COURT CAN STILL GRANT EFFECTIVE RELIEF.

Respondents' mootness argument fails because Petitioner has not received the ultimate relief to which he is entitled: a lawful basis for continued detention or release following a constitutionally adequate custody determination. A case becomes moot only when the court can no longer grant meaningful relief. *See Al Najjar v. Ashcroft*, 273 F.3d 1330, 1335-36 (11th Cir. 2001). That is not the situation here. Petitioner was detained on January 14, 2026, while arriving to work, was transferred to Baker Correctional Institute, and remains detained there despite his long residence in the United States, his ongoing immigration proceedings, and his prior compliance with the requirements of his case. The Court can still determine whether the post-petition bond process actually cured the illegality challenged in the Petition and whether continued detention remains lawful. Where a subsequent bond hearing results in continued detention through an allegedly

defective or legally insufficient determination, the controversy remains live because the Court can still order release or direct a lawful new hearing.

Here, the hearing did not render the case moot because it culminated in a no-bond decision that continues the very detention challenged in this case. Respondents' position would mean that any post-filing hearing, no matter how deficient, would automatically extinguish habeas review. That is not the law. Habeas relief would be meaningless if the Government could defeat judicial review simply by providing a hearing in form while maintaining detention on an unlawful or constitutionally inadequate basis. *See Spencer v. Kemna*, 523 U.S. 1, 7-8 (1998); *Fregis v. Holder*, No. 3:13-cv-1396-J-34MCR, 2014 WL 54839, at *1-*3 (M.D. Fla. Jan. 7, 2014). Because Petitioner remains incarcerated and because this Court can still remedy that injury, the case presents a live controversy.

**B. THE BOND DENIAL DOES NOT ESTABLISH PRESENT
DANGEROUSNESS BECAUSE IT RESTS ON A DUI FROM 2001**

The Immigration Judge's written order denied bond on dangerousness grounds based on a DUI from 2001. That offense is remote by any measure. Dangerousness under § 1226(a) must be a present, individualized determination, not a categorical label untethered from current risk. *See Matter of Patel*, 15 I&N Dec. 666, 666 (BIA 1976); *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006).

The Petition alleges that Petitioner has lived in the United States since 1998, has strong family and community ties, a long work history, pending immigration proceedings, and a record of compliance before DHS detained him on January 14, 2026.

(ECF No. 1). Those facts undercut any claim that a single offense from more than two decades ago establishes present dangerousness.

Those same facts also defeat any claim of flight risk. Under *Matter of Guerra*, relevant factors include residence, family ties, employment history, and appearance history. 24 I&N Dec. at 40. Petitioner's decades-long residence, work history, community ties, pending proceedings, and prior compliance all show stability and a concrete incentive to appear.

This case is unlike *Matter of Siniauskas*, 27 I&N Dec. 207, 208-09 (BIA 2018), where the Board relied on multiple DUI convictions, a later DUI arrest, and accidents associated with impaired driving. Here, the order identifies no subsequent DUI, no pattern of alcohol-related offenses, no recent criminal conduct, and no other facts suggesting a current public-safety risk. A single DUI from 2001 does not establish present dangerousness now. Even under *Matter of Siniauskas*, the question is present danger, not whether Petitioner ever had a DUI. The inquiry must remain individualized and tied to the current record. See *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006); *Matter of Patel*, 15 I&N Dec. 666, 666 (BIA 1976). A twenty-five-year-old DUI, without more, has little probative value on current dangerousness.

This case illustrates the problem with rote reliance on *Matter of Siniauskas*. When that decision is invoked without a genuine analysis of remoteness, rehabilitation, and current risk, a remote conviction is effectively treated as establishing present dangerousness forever. That is not what § 1226(a) permits, and it is not what due process

tolerates. The dangerousness inquiry must remain individualized and anchored in present facts, not reduced to a permanent presumption based on a single decades-old offense. That is precisely what appears to have happened here, where the bond denial order attached to the Response cites *Matter of Siniauskas* and *Matter of Choc-Tut* yet does not identify any recent conduct showing that Petitioner presently endangers the community.

The same remoteness also supports rehabilitation. A quarter-century without similar conduct shows that the 2001 incident was isolated, not ongoing. The exhibits attached as Exhibits A and B to this Reply likewise reflect contemporaneous 2001 court and probation materials, underscoring the age of the offense. On this record, continued detention cannot rest on dangerousness.

C. THE CONTINUED DETENTION VIOLATES DUE PROCESS UNDER *MATHEWS v. ELDRIDGE*

The Fifth Amendment requires constitutionally adequate procedures before the Government may continue to restrain a person's physical liberty. Under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), courts consider: (1) the private interest affected; (2) the risk of erroneous deprivation under the procedures used and the value of additional safeguards; and (3) the Government's interest. All three factors favor Petitioner here. First, the private interest is at its apex because Petitioner remains physically confined. *See Velasco Lopez v. Decker*, 978 F.3d 842, 853-57 (2d Cir. 2020). Second, the risk of error is substantial where continued detention rests on a bond denial based on a stale 2001 DUI rather than a current, individualized showing of danger or flight risk, despite Petitioner's decades of residence, work history, family and community ties, pending

proceedings, and prior compliance. Additional safeguards—most fundamentally, requiring a constitutionally sufficient justification for continued detention—would directly reduce that risk. Third, the Government has a legitimate interest in ensuring appearance and protecting the community, but it has no legitimate interest in continuing to incarcerate a person without an adequate present-tense justification for detention. For that reason, due process requires the Government to bear the burden of proving that continued detention is necessary, and several courts have held that dangerousness must be shown by clear and convincing evidence. *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 31-33 (1st Cir. 2021); *Velasco Lopez*, 978 F.3d at 855-57; *J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1337-42 (M.D. Ga. 2020).

Courts applying due process principles in the § 1226(a) context have recognized that detention cannot continue merely because the noncitizen failed to disprove danger or flight risk. *See J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1337-42 (M.D. Ga. 2020); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 31-33 (1st Cir. 2021); *Velasco Lopez*, 978 F.3d at 855-57. Those decisions confirm that due process requires a meaningful, individualized custody determination supported by an adequate showing that detention is necessary. That did not occur here. The written order identifies only a DUI from 2001 and does not explain why, more than two decades later, Petitioner's continued detention is necessary notwithstanding the many record facts showing stability, community ties, and incentive to appear. Under *Mathews*, that is an intolerable risk of erroneous deprivation of liberty and an insufficient basis for continued detention.

The hearing was inherently unfair because it did not function as a genuine, individualized safeguard against erroneous detention. A bond hearing is not constitutionally adequate merely because it occurred; it must meaningfully test whether continued incarceration is justified on the present record. Here, the written decision identifies only a stale 2001 DUI and a conclusory danger finding, without explaining why Petitioner's decades of residence, employment, family and community ties, pending proceedings, compliance history, and absence of any identified recent criminal conduct did not defeat detention. A process that reduces the liberty determination to a conclusory invocation of "danger" based on a remote conviction is not a meaningful hearing at all. Under *Mathews*, such a truncated process creates an intolerable risk of erroneous deprivation because it gives the appearance of review while failing to supply the substantive protections that due process requires.

D. EXHAUSTION IS NOT REQUIRED.

Respondents' exhaustion argument also fails. Exhaustion in this setting is prudential, not jurisdictional, and it need not be required where the challenge is constitutional, where administrative review would be futile, or where delay would prolong unlawful detention. See *Haitian Refugee Ctr. v. Nelson*, 872 F.2d 1555, 1561-62 (11th Cir. 1989), *vacated on other grounds*, 498 U.S. 479 (1991); *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 237-38 (W.D.N.Y. 2019); *Davis v. Garland*, 708 F. Supp. 3d 283, 292-96 (W.D.N.Y. 2023). Petitioner does not merely disagree with how the Immigration Judge weighed discretionary bond factors. He challenges the lawfulness of continued detention after a

bond denial that rests on a stale offense and fails to establish present dangerousness. He also challenges whether the post-petition bond process cured the defects raised in the habeas petition. Those are issues properly reviewable in habeas.

Requiring a BIA appeal is not the proper course here. Petitioner is not presenting an ordinary challenge to the Immigration Judge's discretionary weighing of bond factors. He is challenging the constitutional adequacy and fundamental fairness of the process that resulted in continued detention. The Board cannot supply the timely judicial protection that habeas exists to provide against ongoing unlawful confinement, and it cannot transform an inherently deficient hearing into a constitutionally sound one after the fact. *See Matter of Rodriguez-Carrillo*, 22 I&N Dec. 1031, 1035 (BIA 1999); *Francis v. U.S. Att'y Gen.*, 603 F. App'x 908, 912 (11th Cir. 2015); *Lopez Perez v. Paulk*, No. 7:26-cv-00029-WLS-ALS, 2026 WL 961948, at *1 (M.D. Ga. Apr. 6, 2026); *D.Y.E.H. v. Warden, Irwin Det. Ctr.*, No. 7:25-cv-201-WLS-AGH, 2026 WL 84574 (M.D. Ga. Jan. 12, 2026). Where, as here, the injury is the ongoing deprivation of physical liberty through a constitutionally inadequate custody process, habeas review in this Court is the proper vehicle. Sending Petitioner back into the same administrative track would only prolong detention while leaving the core due process violation unremedied.

III. CONCLUSION

For these reasons, Petitioner respectfully requests that the Court reject Respondents' mootness and exhaustion arguments, find that Petitioner's continued detention remains subject to habeas review, and grant appropriate relief. Because the current detention

continues after a bond denial based on a DUI from 2001 that does not establish present dangerousness or flight risk, and because the continued detention fails the due process balancing required by *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), the Court should order Petitioner's release or, at minimum, order a constitutionally adequate custody determination consistent with due process and the requirements of 8 U.S.C. § 1226(a). Where the hearing itself was inherently unfair and failed to provide a genuine safeguard against erroneous detention, release is the appropriate remedy because another round of process through the same deficient framework would only prolong the unconstitutional deprivation of liberty.

Dated: May 25, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 25, 2026, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Michelle M. Reyes
Michelle M. Reyes, Esq.