UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN DOE, Petitioner, v. ANTONE MONIZ, et al. Respondents.	C.A. No. 25-12094-IT **Leave to file granted on August 8, 2025**

SUR-REPLY IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS

The government's reply does not dispute any of the factual information submitted by Mr. Doe, and it does not offer any new factual information. The government's reply also does not offer any substantive argument that Mr. Doe is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) or that the Laken Riley Act ("LRA") is constitutional as applied to Mr. Doe. The Court can grant relief solely on those grounds (although Mr. Doe respectfully suggests it would be appropriate and efficient to decide all issues presented together).

The government's reply is limited to the question of whether Mr. Doe falls within the scope of the LRA, where the LRA only applies to people who meet certain inadmissibility triggers, *see* 8 U.S.C. § 1226(c)(1)(E)(i)), and where Mr. Doe's Special Immigrant Juvenile Status ("SIJS") exempts him from certain grounds of inadmissibility. *See* 8 U.S.C. § 1255(h)(2). As far as counsel are aware, no court has yet interpreted the outer bounds of LRA's text creating the inadmissibility triggers. And as far as counsel are aware, no court has yet interpreted the intersection of those triggers with the inadmissibility exemptions of § 1255(h). These appear to be questions of first impression.

Although the government points to *Cortez-Amador v. Attorney General*, 66 F.4th 429 (3d Cir. 2023), and *United States v. Granados-Alvarado*, 350 F. Supp. 3d 355 (D. Md. 2018), neither case decided this issue. *Cortez-Amador* involved a Petition for Review addressing questions of ultimate removability following the completion of full removal proceedings. *See* 66 F.4th at 432-45. And *Grandos-Alvarado* interpreted a federal criminal statute prohibiting firearms possession. *See* 350 F. Supp. 3d at 366. These cases did not interpret the LRA (which had not yet been enacted when they were decided)—they did not address the government's civil detention authority at all.[1]

Cortez-Amador also focused on the parole grant language of § 1255(h)(1), not the inadmissibility waiver of § 1255(h)(1). *See* 66 F.4th at 433. The court's analysis relied almost exclusively on the language of § 1255(h)(1) that the parole is "for purposes of subsection (a) [of § 1255]." *See id.* However, § 1255(h)(2)—the separate subsection that exempts SIJ recipients from certain inadmissibility grounds—contains no similar limiting language. *See* 8 U.S.C. § 1255(h)(2). Rather, § 1255(h)(2) applies "in determining the alien's admissibility as an immigrant." *See id.* Thus, even assuming that the Third Circuit correctly limited the scope of the parole grant, there would be no reason to imply a similar limitation on the more broadly worded language exempting SIJ applicants from certain inadmissibility grounds. *See Russello v. United States*, 464 U.S. 16, 23 (1983) ("Where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion."). Whether or not Mr. Doe can ultimately be deported (a question not before this Court), there is no reason to conclude that the LRA's

[1] The government also cites the decision in *Vasquez v. Moniz*, C.A. No. 25-11737-NMG, 2025 WL 1737216 (D. Mass. Jun. 23, 2025), but that case is distinguishable as it appears that the petitioner presented himself as an *applicant* for SIJS, not an SIJS recipient. *See* Petition (D.E. 1), *Vasquez v. Moniz*, C.A. No. 25-11737-NMG (D. Mass.) ¶14.

inadmissibility triggers can be activated by grounds that Congress chose specifically to exempt for SIJS recipients like Mr. Doe.

Indeed, the government's proposed interpretation of the LRA would be highly incongruous with Congress's intentions in enacting the SIJS program. "[T]he requirements for [SIJS] . . . show a congressional intent to assist a limited group of abused children to remain safely in the country with a means to apply for [Lawful Permanent Resident ("LPR")] status, and . . . in effect . . . establish a successful applicant as a ward of the United States with the approval of both state and federal authorities . . . ." *Osorio-Martinez v. Attorney General*, 893 F.3d 153, 168 (3d Cir. 2018). "The protections afforded to children with [SIJS] include an array of statutory and regulatory rights and safeguards, such as eligibility for application of adjustment of status to that of [LPR], exemption for various grounds of inadmissibility, and robust procedural protections to ensure their status is not revoked without good cause." *Juarez Morales v. Noem*, C.A. No. 24-12518-JDH, 2025 WL 1923096, at *3 (D. Mass. Jun. 24, 2025). SIJS recipients consequently do not stand on the same footing as all other noncitizens. For example, in *Osorio-Martinez*, the Third Circuit held that they are likely exempt from expedited removal. *See* 893 F.3d at 178. There is no reason to conclude that, in passing the LRA's provisions creating mandatory detention without any due process based solely on unproven accusations, Congress intended the inadmissibility triggers to sweep up vulnerable SIJS recipients who have been granted a literal exemption from the LRA-triggering inadmissibility grounds, simply because they experience the misfortune of being arrested for an accusation as minor as shoplifting that has not led to a conviction and may never even be charged. *See San Francisco v. EPA*, 145 S. Ct. 704, 717 (2025) ("It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with view to their place in the overall statutory scheme." (internal quotation marks omitted)).

Dated: August 8, 2025

Respectfully submitted,

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Pro hac vice motion forthcoming

Certificate of Service

I hereby certify that the foregoing document is being electronically served on counsel for all parties via the Court's CM/ECF system.

Date: August 8, 2025

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